

# PROJECT LABOR AGREEMENTS

## Summary

The purpose of this investigation was the determination of any increased cost associated with bidding construction projects in the City of Kent with the inclusion of a Project Labor Agreement (PLA). After review of literature and interview of unions, contractors and owners a definitive answer has not developed. For every citation regarding cost associated with PLAs from one source is countered in another source. What has developed is a considerable in depth understanding of the issue relative to PLAs. The common underlying effective use is with projects that have complexity, both in scope and schedule that estimated to cost at or above \$5,000,000.

Intuitively \$5,000,000 seems high but the costs associated with some of the other local benefits language typically found in PLAs does come with a related cost and a project of five million dollars seems to be the threshold where the PLA cost disappears by being absorbed into the project costs. Having said all of the above the best determination for the City of Kent most likely came from Dave Ruller, City Manager on October 7, 2009 when he recommended "just trying it". The only method to know the cost (increase or decrease) as well as any other local benefit for the City of Kent will be from trying a PLA.

As an alternative to PLAs the expanded use of the current Council approved Local Vendor Preference (Service Department defined as 5%) to provide financial incentives for contractors bidding work in the City and using local residents could be used thus providing a cap on the increased cost for the local benefits.

## Literature and Interview Review

As of January 17, 2011 twenty four (24) documents were reviewed in detail after downloading from the internet website Wikipedia<sup>1</sup> and using the references made therein to Project Labor Agreements (PLAs). Additionally a brief review of other available documents on the internet was made; the majority of the additional references were determined to generally provide similar information and as such the detailed review of documents was limited to the initial 24 that were found referenced on Wikipedia.

Of the 24 documents reviewed 9 provided a pro position, 8 provided a con position, 6 were both pro and con and one was found not applicable to the discussion. The documents provided both historical information of the use of PLAs and in most cases provided discussion and guidance regarding their use. The attached Exhibit A lists all 24 documents with some descriptive information.

As a part of this investigation there have been a number of interviews conducted in addition to the literature reviewed. The literature and those interviews represented both union and non-union contractors, unions and other public entities. Each of those interviewed offered valuable insight into this matter and universally the response to questions was positive, forthright and professional. A decision, for or against the

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utilization of a PLA must be based upon the benefits both economic and non-economic that a project delivery approach will bring to the work, thus providing the best and least expensive project completion for Kent. As a matter of opinion this matter is not, and should not be a matter of union versus non-union.

From the literature and discussions with union representatives, contractors and other public entities the following summary is presented for consideration by Kent City Council.

### Description of PLAs

“A Project Labor Agreement is a type of pre-hire agreement. Pre-hire bargaining means that construction unions and contractors have bargaining rights and can enter into agreements before any workers are hired and without a particular union having to demonstrate majority support among employees of an ascertained bargaining unit. Most pre-hire agreements cover work within a geographically defined jurisdiction for a particular craft and continue from project to project. A PLA, by contrast, is a project-specific, uniform agreement covering all the crafts on a project, and lasting only as long as the project. It is a comprehensive labor relations agreement — the “job site constitution” — that governs over various area craft agreements, setting uniform terms and conditions, for a particular project. Where the PLA is silent, the area agreements’ terms are not impacted.

Because they are negotiated pre-bid and specifically tailored to the needs of particular projects, PLAs give project owners, building contractors and trade unions a unique opportunity to anticipate and avoid potential problems that might otherwise arise and possibly impede project progress. They maximize project stability, efficiency and productivity and minimize the risks and inconvenience to the public that often accompany public works projects. This is why Project Labor Agreements have long been used in the private and federal sectors, and more recently by state, county and municipal agencies.”<sup>ii</sup>

### Historical Background to PLAs

“PLAs in the United States originated in the public works projects of the Great Depression, which included the Grand Coulee Dam in Washington State in 1938 and the Shasta Dam in California in 1940. PLAs have continued to be used for large construction projects since World War II, from the construction of the Cape Canaveral Space Center in Florida to the current Central Artery program (the “Big Dig”) in Boston. The private sector has likewise utilized PLAs for certain projects, including the Alaskan Pipeline and Disney World in Florida.”<sup>iii</sup>

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### The Controversy with PLAs

Project Labor Agreements divide the contractors, trade unions and owners into two camps, those in favor of PLAs and those opposed to PLAs.

“Controversy exists around using PLAs in public sector construction projects. The main arguments made by opponents to using PLAs in public sector construction are that PLAs increase construction costs to taxpayers, are anti-competitive by excluding or discouraging non-union contractors from bidding on public construction projects, and are an organizing tool to coerce construction workers into union membership.

The main argument made by advocates to use project labor agreements in public sector construction is that PLAs reduce the risk of construction delays (and increased costs) from worker shortages or labor disputes through the no-strike provisions and centralized referral systems or hiring halls. Proponents also maintain that PLAs foster cooperation between the construction workforce and management.”<sup>iv</sup>

“In addition, inherently imbedded in the viewpoints fueling the debate are opposite ideological perspectives of construction workforce management: union versus non-union, or “merit shop.”

“Distinguishing between non-union (or open shop) and unionized construction sites “illustrates a central argument over the issue of flexibility” on the job site. Construction firms that adhere to a non-unionized view of workforce management contend rigid divisions of labor and work rules slow down productivity rather than improve it.”<sup>vi</sup>

“Construction industry collective bargaining proponents maintain that defined lines of responsibility are created, “producing a more harmonious work site in terms of subcontractor relations and employee attitudes” at the construction site. Some of the state’s largest construction firms agree with this view. For example, Bechtel views the centralized union referral systems, training and apprenticeship programs as “positive not negative, well-proven systems,” especially on large, complex projects. A project labor agreement, as a tool of workforce management, falls into the collective bargaining category.”<sup>vii</sup>

“It seems somewhat strange that no legal or public relations attack, of which I am aware, has been made on project agreements covering projects for private business or non-profit owners, which have constituted the largest proportion of all project agreements in the past decade. One would have thought that if private organizations, such as Toyota, Boeing, Inland Steel, Arco and Harvard University – to name a few – as well as a host of paper product, electric utilities and chemical plant owners, indeed hundreds of projects in the past decade, have voluntarily used project agreements for new construction that these arrangements and

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processes would be appropriate for certain projects for state and local governments and their authorities in their managerial as distinct from their regulatory functions. Many of the private owners are repeat users of project labor agreements. It is apparent that project labor agreements have met the private market test. The private experience would seem to validate the public use of project labor agreements for appropriate new construction projects and to override much of the criticism, particularly that based on costs, economy and efficiency.”<sup>viii</sup>

### **PLA for City of Kent Construction Contracts and Competitive Bidding**

The underlying concern for the City Administration is the potential for cost increase if a PLA were to be included in City Construction Contracts. The placement of PLA requirements in bid documents would require a bidder to become signatory to the PLA if they were awarded the contract. What is unknown is the cost that a bidder would charge associated with the PLA and once bid if the total bid amount were to be greater than what the City would be willing to spend. If a high non acceptable bid were received the only option would be not to enter into the Contract and re-bid without the PLA requirements. If such an event were to happen the City would loose upwards of 60-days to allow for re-bidding. Given the Projects that are currently being considered for inclusion of PLA language and the tight time frame to complete the projects in relation to other ongoing construction investments the delay could have other ramifications yet identified.

The following common points were found in multiple documents reviewed and are presented in no specific order:

#### **Increased Cost**

The cost increases that have been reported where PLAs have been used have been identified as being related to decreased bidders and/or the actual cost incurred by a contractor to implement the Contract requirements of the PLA.

#### Bidding:

The objectives of competitive bidding can be summarized as guarding against favoritism, fraud and corruption, to prevent the waste of public funds and to obtain the best economic result for the public. Inviting competition is the purpose of competitive bidding procedures thus securing the best work for the lowest price practicable.

#### The bidding process including PLAs:

“The agreement” (PLA) “is then included within the bid specifications so that potential bidders can better project their costs and schedule timctables. Bidding on a PLA project cannot, under state competitive bidding laws, be restricted to union

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contractors; public sector PLAs are not — and cannot lawfully be — union-only agreements. Bidding is open to all contractors — union and non-union. All successful bidders must become signatory to the PLA but are not necessarily bound thereby to other jurisdiction-based agreements.<sup>xix</sup>

### The Cost increase due to decreased number of bidders:

“It is intuitively obvious that the larger the number of bidders, the greater the competition, and the higher the probability of obtaining the best economic result for the public. A study conducted for the Roswell Park project in Buffalo was conducted to determine if there was a correlation based on the number of bidders and an impact on bid prices. It was found that there existed a significant correlation between the number of project bidders and the results suggest that the rate of cost increase for each bidder lost is approximately 3.45%.<sup>xx</sup>

From the Price Waterhouse Coopers “Economic Evaluation of Project Stabilization Agreement for Construction Projects Funded” for the Los Angeles Unified School District, November 2, 2004 stated “we are unable to conclusively determine whether the “PLA “has to date had either a net positive or net negative economic impact”. “In the absence of adequate empirical data, we have compiled anecdotal evidence that suggest that at least to date there has been neither a significant positive nor a significant negative net impact as a result of implementing the” PLA.<sup>xi</sup>

“A criticism leveled at project labor agreements on public projects, it is argued, is their adverse impact on competition by reducing the number of bidders, particularly non-union contractors, willing to submit bids under project labor agreements. The smaller number of bidders, due to the unwillingness of non-union contractors to work under the terms of project labor agreements, it is said, result in higher prices to public owners. The more contractors you can bring to a bid opening, the better your chances of saving money.<sup>xxii</sup>

### The project size or threshold amount at which PLAs are considered:

“Project agreements, as has been observed, are applied to large-scale and complex projects of considerable duration, and major bid offerings attract contractors from a wide area, if not nation-wide. The pool of contractors is typically larger than for a routine project in an area.<sup>xxiii</sup>

“Most interviewees agreed that PLAs are not suited to every project in every location. In considering whether to use PLA, owners usually consider the importance of scheduling the project, the need for skilled labor, whether there are sufficient number of union contractors in the major trades needed for the project to support competitive bidding and whether the work is likely to be done by union contractors with or without the PLA. In general, larger and more complex

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projects, for which scheduling is important, are good candidates for the use of a PLA.”<sup>xiv</sup>

“Although different interviewees suggested different parameters, generally PLAs start to make sense when projects are at least in the five to ten million dollar range. Further factors include the complexity of the work, how tight a schedule the construction user is on and how high the likelihood of essential work going union anyway. According to our interviewees, when such conditions exist, PLAs make sense. Otherwise, the recommended open bidding and construction under area agreements.”<sup>xv</sup>

“Whether a PLA is appropriate for a particular project is determined on a case-by-case basis following standards established in 1996 by the New York State Court of Appeals. The burden is on the New York public owner to demonstrate, typically through a consultant’s feasibility or due diligence report, that a PLA has a proper business purpose, that it will provide direct and indirect economic benefits to the public and promote the particular project’s timely completion. PLAs are more likely found appropriate — and experience has demonstrated great value — for larger, more complicated projects that last more than a few months and that often present unique scheduling issues.”<sup>xvi</sup>

“Accordingly, it is the policy of the Federal Government to encourage executive agencies to consider requiring the use of project labor agreements in connection with large-scale construction projects in order to promote economy and efficiency in Federal procurement.”<sup>xvii</sup> Large-scale construction projects are defined at \$25,000,000.

“Studies and high-court opinions show that PSAs do not increase cost nor decrease the number of bidders on a project, but may be advantageous for complex projects where timeliness is crucial.”<sup>xviii</sup>

“Public agencies expressed a wide range of views about using PLAs. Most agency spokespersons commented positively that PLAs are useful on large, specific projects, especially contributing to decreased work stoppages and delays. Many agency spokespersons also stated that they would not use PLAs on small projects that did not need a large workforce to complete the project.”<sup>xix</sup>

“A further form of project agreement addressed to a specialized type of construction is the Heavy and Highway Agreement that was first developed in 1954 by four constituent crafts, apart from the Building and Construction Trades Department. For the limited period, 1997-2002, the National Joint Heavy and Highway Construction Committee merged into the Department, constituting a Division with eight affiliated international unions – Laborers, Carpenters, Operating Engineers, Cement Masons, Bricklayers, Ironworkers, Painters and Teamsters. The division states that “simply put, its goal is to increase union market share by winning projects against nonunion competition. Our primary tool

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to accomplish this objective is the Heavy and Highway Construction Project Agreement.

The Heavy and Highway Division reports that in the ten year period, 1990-99 it obtained \$4.5 billion dollars of construction work on 249 projects in 27 states and the District of Columbia built by 52 different general contractors. The types of projects include marine, bridge, rapid transit and light rail, highway and hydro/pump station work. The arithmetic average of the dollar size of these heavy and highway projects approximates \$18 million, much smaller than the new construction projects referenced above under the National Construction Stabilization Agreement with an arithmetic average approximating \$200 million.<sup>xxx</sup>

### The increased cost of Construction with PLAs:

PLA agreements do hold a benefit for adjusting differences between all local union agreements such as setting standard start and end time for a work day, holidays and lunch periods and breaks.

Based on the requirement that Prevailing Wage governs the wages paid on projects funded by public funds a PLA holds limited benefit for adjusting wage rates. Federal, State or Local funding sources determines the Prevailing Wage that governs wage rates. In the City of Kent for federally funded project the Davis Bacon wage rates regulate and when state and local funds are used the state prevailing wage rates are used. In the event of mixed funding on a project if federal funds are used then Davis Bacon wage rates apply.

Studies have found differences between the architect's/engineer's estimated probable cost for construction of a project versus the amount bid to complete the work required in a construction project. Cost differences between different projects are possibly explained based on construction project differences such as complexity, scope and schedule and can not solely be attributed to PLAs.

“Proponents and opponents of the use of PLAs said it would be difficult to compare contractor performance on federal projects with and without PLAs because it is highly unlikely that two such projects could be found that were sufficiently similar in cost, size, scope, and timing. Also, through our own observations, we know that many of the federal construction projects using PLAs involve unique facilities. . . . In addition, a PLA in use on a project that might be appropriate for comparison with a non-PLA project may not be representative of all PLAs because the specific provisions of PLAs can vary based on local negotiations. Finally, in our opinion, based on varied evaluation experience, any contract performance differences that might be discerned between a project with a PLA and one without a PLA could be attributable to factors other than the PLA. Therefore, drawing definitive conclusions on whether or not the PLA was the cause of any performance differences would be difficult.”<sup>xxxi</sup>

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“While our model suggests that a PLA adds 7.8% to projects costs, the result is not statistically significant. In fact, the PLA variable is so weakly predictive, the actual effects could range anywhere from -14.4% to 29.9%.”<sup>xxii</sup>

“PLA bid amounts deviated from architect/engineer base bid cost estimates by an average of \$194,890 with a percentage variation between 2.11% and 12.96%. Architect/engineer cost estimates were \$328,000 lower to \$324,000 higher than base bid amounts. Bids for five of the eight projects subject to the PLA policy were lower than the architect/engineer cost estimate.”<sup>xxiii</sup>

“Moreover, it has long been federal policy on public construction, or federally financed construction, to standardize wage and benefit rates, requiring bidding contractors to compete on the basis of efficiencies rather than on variation in wage and benefit rates. Many states have adopted similar policies. These policies eliminate considerable variation in bidding prices that arise on privately financed construction work where government pre-determinations of wage rates and benefits do not apply.”<sup>xxiv</sup>

Of the 24-documents reviewed 4 made recommendation as to the lowest project amount that would be feasible for a PLA; the average recommended minimum amount was \$15,000,000. The lowest reported project noted in the literature as being completed with a PLA was \$350,000.

### Other local benefits to PLAs:

“Local hire requirements increase the number of local residents hired on public works projects. Residents in Los Angeles complained about the lack of employment opportunities for them on the \$218 million Los Angeles City Hall renovation and reconstruction project. A resulting audit showed that only 2% of worker hours on the project were performed by local residents. In response, the LA Department of Public Works passed a policy requiring PSAs for major projects.

Currently, LADPW has similar agreements on nine major projects in various stages of completion. From the \$931 million combined project cost, more than 2,600 local residents have been hired and more than \$41 million in wages and compensation has therefore stayed local.”<sup>xxv</sup>



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<sup>i</sup> ([http://en.wikipedia.org/wiki/Project\\_Labor\\_Agreement](http://en.wikipedia.org/wiki/Project_Labor_Agreement))

<sup>ii</sup> **Project Labor Agreements in New York State: In the Public Interest**; Cornell University ILR School, Fred B. Kotler, J.D., Pg. 2

<sup>iii</sup> **Project Labor Agreements and Public Construction Costs in New York State**, Beacon Hill Institute at Suffolk University, Paul Bachman, MSIE & David G. Tureck, PhD

<sup>iv</sup> **Constructing California: A Review of Project Labor Agreements**; Prepared at the Request of Senator John L. Burton, President pro Tempore; California Research Bureau, California State Library; By Kimberly Johnston-Dodds; Pg. 57

<sup>v</sup> **Constructing California: A Review of Project Labor Agreements**; Prepared at the Request of Senator John L. Burton, President pro Tempore; California Research Bureau, California State Library; By Kimberly Johnston-Dodds; Pg. 57

<sup>vi</sup> **Constructing California: A Review of Project Labor Agreements**; Prepared at the Request of Senator John L. Burton, President pro Tempore; California Research Bureau, California State Library; By Kimberly Johnston-Dodds; Pg. 58

<sup>vii</sup> **Constructing California: A Review of Project Labor Agreements**; Prepared at the Request of Senator John L. Burton, President pro Tempore; California Research Bureau, California State Library; By Kimberly Johnston-Dodds; Pg. 58

<sup>viii</sup> "Project Labor Agreements"; Joint Center for Housing Studies, Harvard University John T. Dunlop; Pg. 21

<sup>ix</sup> **Project Labor Agreements in New York State: In the Public Interest**; Cornell University ILR School, Fred B. Kotler, J.D.; Pg. 3

<sup>x</sup> **Analysis of the Impacts on the Jefferson County Courthouse Complex through Project Labor Considerations**, Professor Paul G. Carr, P.E.

<sup>xi</sup> "Price Waterhouse Study of PLA for Los Angeles Unified School District"; Associated Builders and Contractors, Inc.; Golden Gate Chapter

<sup>xii</sup> "Project Labor Agreements"; Joint Center for Housing Studies, Harvard University John T. Dunlop; Pg. 21

<sup>xiii</sup> "Project Labor Agreements"; Joint Center for Housing Studies, Harvard University John T. Dunlop; Pg. 22

<sup>xiv</sup> **Project Labor Agreements**; ELECTRI International; Dale Bolman, Ph.D., Matthew M. Bodah, Ph.D. & Peter Phillips, Ph.D.; pg. 2

<sup>xv</sup> **Project Labor Agreements**; ELECTRI International; Dale Bolman, Ph.D., Matthew M. Bodah, Ph.D. & Peter Phillips, Ph.D.; pg. 33

<sup>xvi</sup> **Project Labor Agreements in New York State: In the Public Interest**; Cornell University ILR School, Fred B. Kotler, J.D.; Pg. 3

<sup>xvii</sup> **Presidential Executive Order 13502 of February 6, 2009 Use of Project Labor Agreements for Federal Construction Projects**; Pg. 1

<sup>xviii</sup> **Project Stabilization Agreements Provide Community Benefits**"; Corinne Wilson, Center on Policy Initiatives SAN DIEGO, CA; Pg. 6

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<sup>xix</sup> **Constructing California: A Review of Project Labor Agreements; Prepared at the Request of Senator John L. Burton, President pro Tempore; California Research Bureau, California State Library; By Kimberly Johnston-Dodds; Pg. 39**

<sup>xx</sup> **"Project Labor Agreements"; Joint Center for Housing Studies, Harvard University John T. Dunlop; Pg. 9**

<sup>xxi</sup> **"Project Labor Agreements, The Extent of Their Use and Related Information"; US General Accounting Office Report to Congressional Requesters; Pg. 12**

<sup>xxii</sup> **Project Labor Agreements; ELECTRI International; Dale Belman, Ph.D., Matthew M. Bodah, Ph.D. & Peter Philips, Ph.D.; pg. 37**

<sup>xxiii</sup> **"Project Labor Agreement Report (May 2002 - November 2003)"; Contra Costa County California; Bart Gilbert, Director of General Services; Pg. 2**

<sup>xxiv</sup> **"Project Labor Agreements"; Joint Center for Housing Studies, Harvard University John T. Dunlop; Pg. 21**

<sup>xxv</sup> **"Project Stabilization Agreements Provide Community Benefits"; Corinne Wilson, Center on Policy Initiatives SAN DIEGO, CA; Pg. 2**

Date	Publisher	Title	Author	File Name	Type Doc / No. Pgs	Gen. Opinion Pro-Con	Notes	Reported % Change Due to PLA	Recomend. Min. PLA (Mill \$)
Apr 2006	Beacon Hill Institute at Suffolk University	Project Labor Agreements and Public Construction Costs in New York State	Paul Bachman, MSIE & David G. Thierck, PhD	W:\FILES\Serv Dept\City Council\2010\PLA\Supporting\PLA Reports CONN\Beacon Hill\NY\PLA\Report06045.pdf	PDP/20	CON	Study finds PLAs increase NEW York State school projects by 20%. Adds \$275F vs non-PLA Projects	20%	No Recommend.
Sep 2004	Beacon Hill Institute at Suffolk University	Project Labor Agreements and the Cost of Public School Construction Projects in Connecticut	Paul Bachman, MSIE, Jonathan Haughton, PhD & David G. Thierck, PhD	W:\FILES\Serv Dept\City Council\2010\PLA\Supporting\PLA Reports CONN\Beacon Hill\PLA\NY\04062004.pdf	PDF/20	CON	Study finds PLAs increase Connecticut State school projects by 18%. Adds \$308SF vs non-PLA Projects	30%	No Recommend.
Sep 2003	Beacon Hill Institute at Suffolk University	Project Labor Agreements and the Cost of School Construction in Massachusetts	Paul Bachman, MSIE, Daviene C. Chisholm, PhD, Jonathan Haughton, PhD & David G. Thierck, PhD	W:\FILES\Serv Dept\City Council\2010\PLA\Supporting\PLA Reports CONN\Beacon Hill\PLA\polystudy12903.pdf	PDF/14	CON	Study finds PLAs increase Massachusetts school projects by 14%. Adds \$18.85/SF vs non-PLA Projects. Data with 97% confident.	14%	No Recommend.
May 2006	Beacon Hill Institute at Suffolk University	BEACON HILL STUDY FINDS PLAS INCREASE COST OF SCHOOL PROJECTS IN NEW YORK		W:\FILES\Serv Dept\City Council\2010\PLA\Supporting\PLA Reports CONN\Beacon Hill\Beacon Hill Institute at Suffolk University.pdf	DOC/1	CON	Study finds PLAs increase NY school projects by 20%. Adds \$27.5F vs non-PLA Projects, same information as reported in Doc. ID #1	N/A	No Recommend.
May 2001	Worcester Municipal Research Bureau	PROJECT LABOR AGREEMENTS ON PUBLIC CONSTRUCTION PROJECTS: THE CASE FOR AND AGAINST	Report No. 01-4	W:\FILES\Serv Dept\City Council\2010\PLA\Supporting\PLA Reports CONN\01-4\pla Worcester.pdf	PDF/25	CON	Reviews school construction in Worcester, MA, and lists pros & cons but generally does not favor use of PLAs as noted in conclusion	N/A	No Recommend.
Sep 2000	Albion College	Project Labor Agreements in Minnesota	Zachary C. Kleinsasser	W:\FILES\Serv Dept\City Council\2010\PLA\Supporting\PLA Reports CONN\Albion Minnesota.pdf	PDF/8	P/C	PLAs in Minn., reports on projects in Minn. But provides no conclusion or recommendations	N/A	No Recommend.
Sep 2000	Jefferson County Board of Legislators	Analysis of the Impacts on The Jefferson County Courthouse Complex through Project Labor Considerations	Professor Paul G. Carr, P.E.	W:\FILES\Serv Dept\City Council\2010\PLA\Supporting\PLA Reports CONN\Jefferson.pdf	PDF/26	CON	Conclusion: reduce bidders, increase cost, few quantifiable cost savings and union labor is not a factor in their project, fair wages, PLA not recommended	N/A	No Recommend.
Apr 1995	Associated Builders and Contractors, Inc.	Roswell Park Cancer Institute Project Buffalo, NY	ABC Empire State Chapter	W:\FILES\Serv Dept\City Council\2010\PLA\Supporting\PLA Reports CONN\Roswell Park Cancer Institute Letters.pdf	PDF/15	CON	Same project, packages for w/ PLAs averaged 10% over budget and without PLAs averaged 13% below budget; the PLA increased project cost 26%	26%	No Recommend.

PLA Research Documents

Date	Publisher	Title	Author	File Name	Type Doc (No. Pgs)	Gen. Opinion Pro/Con	Notes	Reported % Change Due to PLA	Recommend. Min. PLA (Mil. \$)
Jun 2000	Clark County School District	Project Labor Agreement (PLA) Study; Task Order No. 99-1	Resolution Management Consultants, Inc.	W:\FILES\Serv Dept\City Council\2010\PLA\Supporting\PLA Reports CONN\TaskOrder991.pdf	PDF/43	PC	Appeared to be no compelling reason to use PLA for Clark County, Nevada, School District. Note Pg 9, Ohio approved a bill that would ban union-only PLAs on public construction	-23%	\$25
Dec 2000	Associated Builders and Contractors, Inc.	Price Waterhouse Study of PLA for Los Angeles Unified School District	Golden Gate Chapter	W:\FILES\Serv Dept\City Council\2010\PLA\Supporting\PLA Reports CONN\Waterhouse.pdf	PDF/24	CON	Price Waterhouse study of Los Angeles School District PLA; PLAs unable to conclusively determine PLA plus or minus	N/A	No Recommend.
Jun 2005	The University of Maine	Project Labor Agreements and Construction in Maine	Promoted as a public service by the Bureau of Labor Education, University of Maine	W:\FILES\Serv Dept\City Council\2010\PLA\Supporting\PLA Reports PRO\2005 PLA State of Maine.pdf	PDF/4	PRO	Facilitate the completion of the project by getting all the participants to agree to certain ground rules; useful mechanism in any construction project involving a contractor and a range of skilled workers in different trades	N/A	\$5
Jun 2007	ELECTRI International	Project Labor Agreements	Dale Belman, Ph.D., Matthew M. Boddah, Ph.D., & Peter Phillips, Ph.D.	W:\FILES\Serv Dept\City Council\2010\PLA\Supporting\PLA Reports PRO\2007 Michigan PLA-report.pdf	PDF/74	PC	Long standing history and current events in the arena of PLA, which can be crafted to promote the interests of all parties	7.8%	\$5
Mar 2009	Cornell University I.R. School	Project Labor Agreements in New York State: In the Public Interest	Fred E. Kottler, J.D.	W:\FILES\Serv Dept\City Council\2010\PLA\Supporting\PLA Reports PRO\2009 Cornell Univ Study.pdf	PDF/36	PRO	public authority must show more than a rational basis for its determination that its use of a project labor agreement had as its purpose and likely effect the advancement of the interests embodied in the competitive bidding statutes	N/A	No Recommend.
Oct 2004	The Iowa Policy Project	Project Labor Agreements in Iowa An Important Tool for Managing Complex Public Construction Projects	Ralph Selkman & Michael F. Sheehan	W:\FILES\Serv Dept\City Council\2010\PLA\Supporting\PLA Reports PRO\041201 PLAs in Iowa.pdf	PDF/6	PRO	Executive Summary Project Labor Agreements in Iowa, workers are dispatched from union halls; better coordinated project the greater the savings	N/A	No Recommend.
2007	Center for Economic and Policy Research	The Benefits of Unions for Low-Wage Workers		W:\FILES\Serv Dept\City Council\2010\PLA\Supporting\PLA Reports PRO\benefits-unions-low-wage.pdf	PDF/1	N/A	Center for Economic and Policy Research, pro-union statistics	N/A	N/A
	www.onlinespi.org	Construction Careers Project Stabilization Agreement Q&A	Center on Policy Initiatives	W:\FILES\Serv Dept\City Council\2010\PLA\Supporting\PLA Reports PRO\CCPSA FACT SHEET.pdf	PDF/4	PRO	Construction Careers Project Stabilization Agreement Q&A; large-scale project public works; union and non-union; are required to pay prevailing wage	N/A	N/A

PLA Research Documents

Date	Publisher	Title	Author	File Name	Type Doc / No. Pgs	Gen. Opinion Pro/Con	Notes	Reported % Change Due to PLA	Recomend. Mfr. PLA (Mil. \$)
Nov 2001	Codsworth's Construction Labor News - Opinion	Evaluating PLA Performance Studies find project labor agreements offer many benefits supporters claim		W:\FILES\Serv Dept\City Council\2010\PLA\Supporting\PLA Reports PRO\Cookshaws PLA nov2001.pdf	PDF/3	PRO	Evaluating PLA Performance; problem assessing the validity of pros & cons is the scarcity of reliable data on PLAs; highly unlikely that two projects similar in size, cost and timing	N/A	N/A
Jul 2004	Contra Costa County California	Project Labor Agreement Report (May 2002 - November 2003)	Best Gilbert, Director of General Services	W:\FILES\Serv Dept\City Council\2010\PLA\Supporting\PLA Reports PRO\contra_costa state of the law 2004.pdf	PDF/4	P-C	Contra Costa County, Calif. 2004 report of PLAs; 3-8 projects waived PLA req.; -2.11% to 12.96% difference with Fsub.	N/A	N/A
Apr 2009	Center on Policy Initiatives	Project Stabilization Agreements Provide Community Benefits	Corinne Wilson, Center on Policy Initiatives	W:\FILES\Serv Dept\City Council\2010\PLA\Supporting\PLA Reports PRO\CPI-Meeting-Prop-5-IDD-4-29-09.pdf	PDF/7	PRO	many critical variables that more significantly impact project cost over than PLAs	N/A	N/A
Feb 2009	Presidential Documents	Presidential Executive Order 13502 of February 6, 2009 Use of Project Labor Agreements for Federal Construction Projects		W:\FILES\Serv Dept\City Council\2010\PLA\Supporting\PLA Reports PRO\EO13502.pdf	PDF/3	PRO	Executive Order 13502 of February 6, 2009; Use of Project Labor Agreements for Federal Construction Projects	N/A	\$25
Oct 2001	Prepared at the Request of Senator John L. Burton, President pro Tempore	Constructing California: A Review of Project Labor Agreements	By Kimberly Johnson-Dodds	W:\FILES\Serv Dept\City Council\2010\PLA\Supporting\PLA Reports PRO\full_text_california_state_library_project_labor_agreement_report.pdf	PDF/102	PRO	Constructing California: A Review of Project Labor Agreements Oct. 2001; usually applies to only one construction project, usually a large one; construction firm agrees to hire workers through a union hiring hall	N/A	N/A
May 1998	Report to Congressional Requesters	US General Accounting Office	Project Labor Agreements, The Extent of Their Use and Related Information	W:\FILES\Serv Dept\City Council\2010\PLA\Supporting\PLA Reports PRO\GAO Report 1998.pdf	PDF/35	PRO	PLA: The Extent of Their Use and Related Information; construction contracts that are over \$5 million; require recognition of the signatory unions as the sole bargaining representatives for covered workers, whether or not the workers are union members; decided not to require a PLA because it had no reason to believe that a PLA was needed and because the agency believed that a neutral posture should be maintained regarding use of union versus nonunion labor	N/A	N/A

PLA Research Documents

Date	Publisher	Title	Author	File Name	Type Doc. / No. Pgs	Opinion Pro/Con	Notes	Reported % Change Due to PLA	Remand. Min. PLA (Mil. \$)
1998	Morgan, Lewis & Bockius	Legal Considerations Affecting the Use of Public Sector Project Labor Agreements: A Proponent's View	Bradford W. Couge	W:\PLA\S\Serv Dept\City Council\2010\PLA\Supporting\PLA Reports (PRO) Project Laborers Agreement 3 New York.pdf	PDF/15	P/C	Detailed review of Federal law relative to use of PLAs	N/A	N/A
Sep 2002	Joint Center for Housing Studies, Harvard University	Project Labor Agreements	John T. Dunlop	W:\PLA\S\Serv Dept\City Council\2010\PLA\Supporting\PLA Reports (PRO) W-02-7_4\1010 Harvard Univ.pdf	PDF/28	P/C	Lengthy history of PLAs with Federal perspective. These projects widely distributed through the country tended to be large scale, with the medium-sized project in recent years in the range of \$150 to \$250 million dollars. "simply put, its goal is to increase union market share; The arithmetic average of the dollar size of these heavy and highway projects approximates \$18 million. In part there was concern that projects of limited size, duration and scope might be included that were more appropriate to regular craft locality or area collective bargaining agreements.	N/A	N/A
Average Reported % Change Due to PLAs:								12%	In Mill. \$
Oldest Apl. 1995; published by Associated Builders and Contractors, Inc., con doc									\$15.00
Newest Mar 2009; published by Cornell University ILR School, pro doc									\$4.00
Total No. of Reports w/ Recommended Min.:									
Total number of Documents Reviewed:								24	
No. Documents Pro Learning:								9	
No. Documents Con Learning:								8	
No. Documents Pro & Con:								6	
No. Documents N/A:								1	

**MEMORANDUM**  
**DEPARTMENT OF COMMUNITY DEVELOPMENT**  
**City of Kent**

Date: January 11, 2011

To: Dave Ruller, City Manager

From: Jennifer Barone, Development Engineer *JAB*

Re: Planning Commission Recommendation Zoning Map Amendment to rezone an irregularly shaped area from R-3: High Density Residential District to R-4: Multifamily Residential District

Copy: Gary Locke, Director of Community Development  
Linda Copley, Clerk of Council  
Jim Silver, Law Director  
Eric Fink, Assistant Law Director  
file

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I hereby respectfully request City Council agenda time on February 2, 2011 to consider an amendment to the zoning map.

On Tuesday, December 7, 2010 the Kent Planning Commission conducted a public hearing to consider a zoning map amendment request by Edwards Community Development Company involving 10.061 acres of land located on the east side of South Lincoln Street, south of East Summit Street and west of Morris Road. The applicant's amended request seeks to have the property in question rezoned from the current classification of R-3: High Density Residential District to R-4: Multifamily Residential District. The Planning Commission voted 3-1 to recommend against the proposed map amendment to Council.

The proposed map change involves eight (8) parcels of land. See attached map and list of owners. The initial request was to rezone this area to the U: University District which was presented to Planning Commission on September 21, 2010. After hearing the concerns from the Planning Commission, neighbors and staff regarding a change to the U: University District, the applicant amended the request to the R-4: Multifamily Residential District. The amended request was presented to Planning Commission on December 7, 2010. The analysis section of 09/21/10 staff report and Mr. Locke's supplemental to the 12/07/10 staff report provide the staff's concerns regarding rezoning this area. The applicant's initial & amended requests plus David Williams's presentation document have been provided to explain the applicant's arguments for the rezoning.

Copies of the following documents are attached.

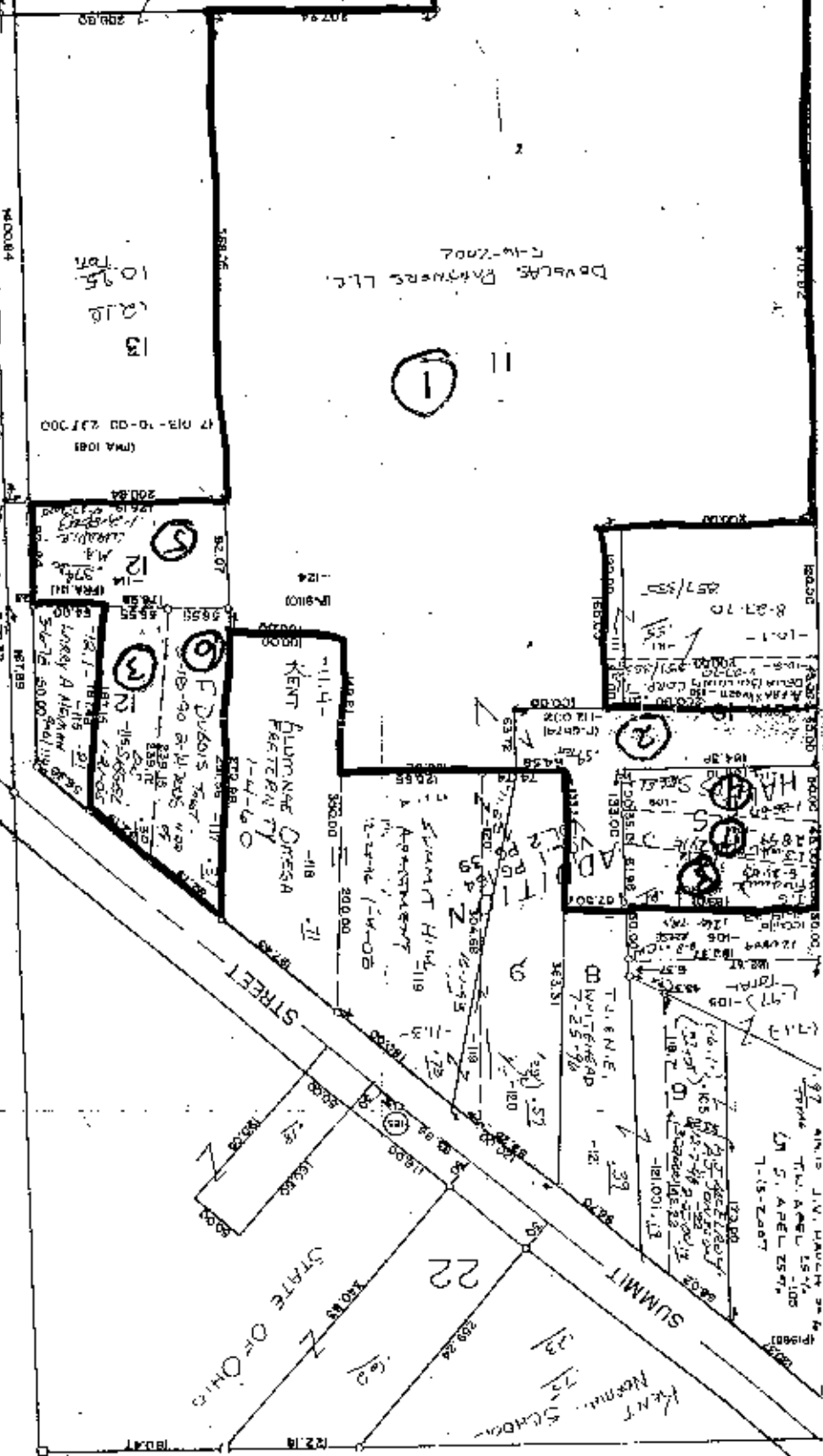
- Map of the requested area to be rezoned (Exhibit 1)
- List of the 8 parcel owners in the area to be rezoned (Exhibit 2)
- Applicant's initial request (Exhibits not included) dated August 3, 2010
- Applicant's amended request dated November 29, 2010
- Section from the September 21, 2010 Planning Commission staff report regarding this request
- Section from the December 7, 2010 Planning Commission staff report regarding this request
- Gary Locke's supplemental to the staff report regarding the amended request dated December 1, 2010
- Planning Commission presentation by David Williams Esq. (attorney for the applicant) which was provided at the meeting on December 7, 2010.

Council shall, upon receipt of such recommendation from the Planning Commission, set a time for a public hearing on such proposed amendment or supplement, which date shall not be more than sixty (60) days from the date of the receipt of such recommendation from the Planning Commission. Since this proposed amending ordinance intends to rezone ten (10) or less parcels of land, as listed on the tax duplicate, written notice of the hearing shall be mailed by the Clerk of Council by first class mail, at least fifteen (15) days before the date of the public hearing to the owners of property within and contiguous to and directly across the street from such parcel or parcels, to the addresses of such owners appearing on the County Auditor's current tax list and to such other list or lists that may be specified by Council. As such, this item will need to be scheduled for a public hearing and Land Use Committee review by Kent City Council.



MORRIS ST  
40' R/W

S.B. Hall Addn. 2/39



LOT 14

Summit Street

State of Ohio

Summit

Kent Normal School

T. & E. S. Building

ENTIRE

1

- EXHIBIT 2  
Properties to be Rezoned

Mail Info

Property Location

1. Douglas Partners LLC  
30195 Chagrin Ste 205 BV  
Cleveland, OH 44124

SB Hall Lot 10, 11, 13 & SB Hall Div 13 Lot 28

2. Douglas Partners LLC  
30195 Chagrin Ste 205 BV  
Cleveland, OH 44124

SB Hall Lot 11

3. Siegel Daniel S.  
628 Summit Road  
Kent, OH 44240

628 Summit

4. Siegel Daniel S.  
557 S. Lincoln St.  
Kent, OH 44240

557 Lincoln

5. Waddle Michael A & Barbara  
598 Morris Road  
Kent, OH 44240

598 Morris

6. Dubois Harold B.  
401 Overlook Drive  
Kent, OH 44240

624 Summit

7. Starzyk Lawrence & Mary Celeste  
553 South Lincoln Street  
Kent, OH 44240

553 Lincoln

8. Frederick Joshua G.  
And Czapp, George, E.  
549 South Lincoln St.  
Kent, OH 44240

549 Lincoln

WILLIAMS, WELSER, KRATCOSKI & CAN, LLC

ATTORNEYS AT LAW  
ELEVEN SOUTH RIVER STREET  
POST OFFICE BOX 808  
KENT, OHIO 44240  
TELEPHONE 330-679-9444  
TELEFAX 330-679-0400

AUG 3 2010

August 3, 2010

City of Kent Planning Commission  
730 Overholt  
Kent, OH 44240

RE: Request to Rezone a portion of the area between S. Lincoln St. and Morris Street from R-3 to U; University District


Dear Planning Commission:

The undersigned represents Edwards Communities Development Company, the Applicant. Accompanying this letter are the following documents:

1. 18 copies of the Application for Rezoning which includes an explanation of the reasons for the rezoning which is attached to the request as well as Exhibits 1, 2, 3, and 4 attached to the Explanation. The Application for Rezoning has been signed by Dan Siegel, owner of part of the property requested to be rezoned and by the undersigned as the attorney for the Applicant.
2. A list of names and addresses of all owners within 500 feet of the area proposed to be rezoned together with County Auditor card for each owner which are attached to the list.
3. Certified copies of the following tax maps, Kent City page 13 south part, Kent City page 13 north part, Kent City page 13-C, Kent City page 13-S, Kent City page 14-A, Kent City page 14, and Kent City page 24-D.
4. A check payable to The City of Kent for \$1031.00. (Filing fee of \$200.00 and a mailing fee of \$831.00. 150 owners x \$5.54).

If there is anything else that you need to process this rezoning request please contact the undersigned.

Very truly yours,  
WILLIAMS, WELSER, KRATCOSKI & CAN

  
David E. Williams

## EXPLANATION OF REZONING REQUEST

There are 8 separate properties which the applicant seeks to have rezoned. These properties are designated as Parcel Numbers 1, 2, 3, 4, 5, 6, 7, and 8 on the map attached as Exhibit 1 and are listed by address and tax parcel number on Exhibit 2. For ease the combined properties are hereinafter referred to as the "Site". The Site consists of a total of 10.061 acres and is outlined in black on Exhibit 1.

The applicant has all of the properties within the Site under its option agreements and has the right pursuant to those options to apply for rezoning of the properties.

The applicant intends to construct a 612 bed upscale student housing facility on the Site. For ease the student housing project is referred to as the "Project". The Project will be similar to the ones that applicant has constructed at the University of Louisville ([www.livetheprovince.com](http://www.livetheprovince.com)). A preliminary rendering of the Project is attached as Exhibit 3 and information concerning the facilities and amenities proposed within the Project are attached as Exhibit 4.

The properties within the Site are all zoned R-3. In order to facilitate the construction of the Project on the Site, the applicant is requesting that the zoning for the Site be reclassified from R-3 to U: University District. The applicant is not requesting any change in the text of the U District, simply that the site be reclassified from R-3 to the U District.

Within the Site lots 1 and 2 are vacant and have been vacant for several years. Lots 3-8 are currently occupied by older homes which have been converted to student housing. The structures on lots 3 and 4 were built in 1900; on lot 8 1910; on lot 7 1915; on lot 5 1947; and on lot 6 1950.

The properties along the north side of the Site, (along Summit Street) consist of older homes which have been converted to student housing, a student housing apartment complex, and a sorority. Immediately across Summit Street to the north of the Site is the Kent State University. To the east of the Site are student apartments and the University. To the south of the Site is multifamily housing, mostly student housing, and some single family homes. To the west of the Site (across South Lincoln Street) are condominiums which are primarily student housing, some single family homes, and vacant land. The point is that the Site is located adjacent to the University and within an area dominated by student housing.

The R-3 zoning designation for this area is not practical or conducive to new development. R-3 only permits single family homes and duplexes. Some of the individual lots within the site can only be used for single family or in some

cases two family dwelling units due to the size of the lot. Single family housing is unlikely to be built in an area dominated by student housing. That leaves only duplexes for student housing, a perpetuation of the status quo. Multifamily housing is a conditionally permitted use. However, the size of the lots prohibit this. Even when the lots are combined, multifamily housing is not financially feasible in this area due to the R-3 zoning restrictions.

For example, the entire site is approximately 10.061 acres. The R-3 zoning would permit a maximum of 80 dwelling units on the entire site. Combine this with the fact that no dwelling unit is permitted to have more than two unrelated people under the Kent zoning. This limits the development to duplexes or two bedroom apartments. Combine that with the 30% open space requirement (over 3 acres) none of which can be within 20 feet of a building, and must be tracts of at least 50 by 100 feet, and the parking requirements (no front or side yard parking), makes use of the lots extremely difficult, if not impossible, from a practical and financial standpoint. The point is that the R-3 zoning designation for this area does not reasonably permit anything new to be built in this area. As a result, lots 1 and 2 have remained vacant for several years, even through the boom times when money was flowing fast and loose. The other properties have only continued to age and will do so in the future. Replacing the deteriorating properties or building anything new is impractical, if not impossible under the R-3 zoning. This area should be rezoned now to begin the new development process.

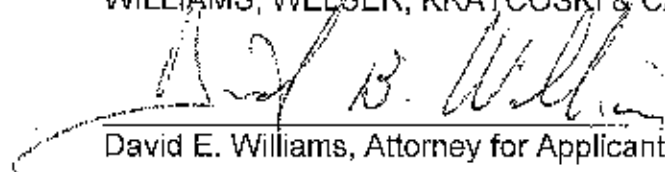
The University has grown over the years and is likely to continue to grow in the future. Growth of the University over the last two or three decades has put stress on housing in the area. What were once single family home areas have gradually become student rentals. Prime examples are along College Street and Erie Street to the west of the campus and the area north of 59 to the north of the campus. These areas were once thriving single family home districts. The housing and the buildings in these areas have done nothing but age and have not been replaced. No new development has gone into these areas. I would suggest that the reasoning for this is, in part, the restrictive zoning. The demands for student housing have also resulted in student housing being built far away from campus impacting traffic and residential and non residential areas alike.

The zoning plan put in place some years ago does not fit the realities of the University and the town today. Rezoning the Site to allow for upscale student housing immediately adjacent to the University will begin the process of relocating and centralizing students back in the university area in good upscale housing. This will begin the process of taking the stress off of neighborhoods and allow the city planners to revitalize other areas of the city rather than allowing them to be converted and developed in a haphazard manner, or to simply deteriorate.

This Project is also directly in line with the growth of the University and the plan to connect the University with downtown. While not directly in the path of the planned esplanade to the downtown, it is immediately adjacent to the campus and within walking distance of the esplanade. The same is true for the new multi modal project which will be between the downtown and the University. This Project will be within easy walking or biking distance of that facility.

Reclassifying the Site from R-3 to U to facilitate the development of the proposed Project makes great sense in the short term and in the long term.

WILLIAMS, WELSER, KRATCOSKI & CAN

A handwritten signature in black ink, appearing to read "D. E. Williams", is written over a horizontal line. The signature is fluid and cursive.

David E. Williams, Attorney for Applicant

WILLIAMS, WELSER & KRATCOSKI, LLC

ATTORNEYS AT LAW  
ELEVEN SOUTH RIVER STREET  
POST OFFICE BOX 998  
KENT, OHIO 44240  
TELEPHONE 330-870-8441  
TELE-FAX 330-870-8480

NOV 30 2010

November 29, 2010

Kent of City Planning Commission  
730 Overholt  
Kent, OH 44240

RE: Notice of Amendment to Rezoning Request

Dear Planning Commissioner Members,

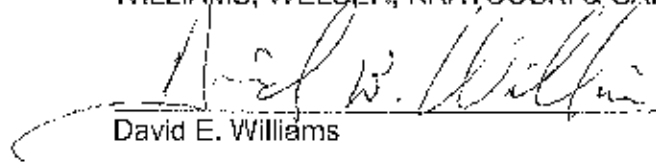
As you know, Edwards Communities Development Company has requested that certain lands between Morris Road on the East, Lincoln Street on the West, Summit Street on the North and it's Southern boundary line be rezoned. The original request was to rezone this area from R-3 to the U district. The U district was ideally suited for Edwards Communities Development Company's proposed project because it would have allowed the project with no variances. One of the concerns raised with respect to this request is what happens if the project area is rezoned to U and the project does not go forward. As Edwards Communities Development Company has demonstrated throughout this process, it has the experience and expertise to do the proposed project, having built several similar facilities at other universities, as well as having built multi-family housing for over thirty years. In addition, Edwards Communities Development Company has also demonstrated it has the financial ability to do this project. As such, Edwards Communities Development Company firmly believes that if all governmental approvals were received for this project there is little chance that the project would not go forward.

With that being said, Edwards Communities Development Company also appreciates the concerns of the city and the neighbors and has sought ways to address those concerns. One solution was to obtain additional property. Fortunately, Edwards Communities Development Company was able to reach an agreement with Tom Weise, for approximately 4.5 plus acres on the West side of Lincoln Street. With the addition of this property, Edwards Communities Development Company believes that it now has the property to allow its project to go forward if the area is rezoned from R-3 to R-4, rather than to U. To be absolutely clear the rezoning request would only involve the property East of Lincoln Street, the 4.5 plus acres West of Lincoln Street would remain R-3 and is not part of the rezoning request.

The reasons to rezone this area from R-3 to R-4 are more fully set forth in the memo attached to this letter.

As such, Edwards Communities Development Company hereby respectfully amends its request for rezoning. Edwards Communities Development Company no longer seeks to have the area rezoned to the U district; rather the rezoning request is hereby amended to rezone the area from R-3 to R-4.

Very truly yours,  
WILLIAMS, WELSER, KRATCOSKI & CAN



David E. Williams



## REASONS TO CHANGE ZONING FROM R-3 TO R-4

The Applicant, Edwards Communities Development Company, has requested that certain lands between Summit Street on the North, Morris Road on the East, Lincoln Street on the West and the Southern boundary of Applicant's proposed project site be rezoned from R-3 to R-4. To justify rezoning this area the standards in Section 1117.03 (e) and (h) must be met. The following are the reasons that the area should be rezoned from R-3 to R-4.

1. The change from R-3 to R-4 is not a radical change.

In terms of uses there are not many differences between R-3 zoning and R-4 zoning. With respect to permitted uses, they are the same except multi family is a permitted use under R-4 whereas it is a conditionally permitted use under R-3. The conditionally permitted uses under R-3 and R-4 are the same except multi family is a conditionally permitted use under R-3 and R-4 provides that rooming and boarding houses and temporary shelters, commercial parking and bed and breakfasts are conditionally permitted uses.

In terms of lot sizes the areas for single family dwellings and two family dwellings are a little smaller than the R-4 District as is the permitted density for multi family dwellings. All of this permits a higher density in the R-4 District than in the R-3 District.

The minimum lot widths are the same in the R-3 and R-4 Districts are the same, while the minimum lot frontage is 10 feet smaller in the R-4 District. The front yard depths in the R-4 district are 5 feet shorter than in the R-3 District. The rear yard depths are the same and the side yard depths are the same. However, in the R-4 District side and rear yards the depths actually increase if the building more than two stories. The maximum height of a building in a R-4 is 65 feet whereas it is 35 feet in the R-3. Unlike the R-3 District, all R-4 multi family uses are subject to site plan review and conformance and are subject to off street parking and loading requirements of Chapter 1167.

The most material difference between R-3 and R-4 is that R-4 allows a greater density and allows boarding houses. To safeguard the potential effects of higher density, all multi family developments are subject to Site Plan Approval and to parking regulations. The Site Plan Approval process assures that adequate water, sanitary sewer, storm water and traffic controls will be in place and that the concerns of the community and the neighbors will be taken into consideration. One of the concerns raised by Staff is that sewer, water and traffic studies should be done prior to any rezoning. Staff's position is to impose thousands of dollars of cost on a landowner prior to requesting rezoning, effectively making a rezoning request economically impossible. This position is

designed to prevent rezoning requests. The more logical position is already addressed in the R-4 zoning. Any impact on the City will be addressed in Site Plan Review based on the specific facts of a specific project. As has been correctly pointed out by members of the Planning Commission the determination of any request for rezoning is to be based on the merits of the request, not on the merits of a particular project. Staff would require project approval before rezoning.

Most of the properties within the project area are already R-4 in terms of both density and use. There are apartment houses and sorority houses on Summit Street as well as boarding houses. The boarding houses extend down Lincoln Street to the project. On Morris Road there is the apartment project and immediately to the South of the site are Cardinal Apartments. This entire area is already student housing. Changing from R-3 to R-4 is not a radical change in terms of the existing uses.

## 2. The R-4 zoning in this area is consistent with the City's Master Plan.

The City's Master Plan was approved by City Council in November 2004. It is a reflection of the vision and goals for the future of Kent, and, according to its terms, is a guide for future development. The Master Plan was the result of hard work by City planners, Community steering committees, community members at large, the university and Ohio State University. As noted in the Plan, the concepts and goals expressed in the Plan did not come about over night or in a haphazard manner. It is the result of hours of community meetings and input from varied points of view over an extended period of time.

Among the concepts seen as positive in the Plan is the notion of tying the university to the downtown in a pedestrian friendly manner. (page 43) Also, included in the vision for the "Campus Link Area" is new and upgraded housing including student and faculty and staff housing in multistory townhouses and row houses. (page 43) On page 71 the Plan notes that "Targeting students and faculty as a key market for both commercial and housing growth is a wise and sustainable economic development activity. The real emphasis is upon capturing local dollars that are currently escaping our community. Capturing these dollars is a wise sustainable strategy since local wealth increases without adding additional development demands on public services or increasing population since the targeted market is already part of the existing Kent demographics." On page 120 the Plan goes on to say "Many college communities enjoy a dynamic economic health with a physically adjacent campus and downtown. The impact of the Campus Link neighborhood redevelopment on the central business district, as outlined in the Special Planning Areas section of this document, will be quite significant. The concept of bringing the campus to downtown and the downtown to campus will be a redirection of campus growth as well as a new and unique partnership between Kent State University and the City of Kent. In the past, University expansions have been southeast of the main campus." On page 129

in a discussion of traffic management one of the goals noted was "to place emphasis on directing traffic to destinations while minimizing the negative effects on residential areas." On page 132 within the discussion of pedestrian traffic the Plan says that "Special emphasis may be placed on pedestrian access and movement to and in the downtown area. To enhance the presence of a strong downtown the pedestrian experience offers a competitive edge. Additional linkage to the university with an emphasis on pedestrian movement offers sustainable benefit." On page 136 there is a discussion of the economic impact of the university on the local economy. Within that discussion it is recognized that there is a "leakage" that is significant number of students and faculty that do not live in or spend money in Kent. The Plan recognizes that "College choices are based upon perceived quality of life at least as much as the prestige of the degree, and the City of Kent seems to have become a less desirable place of residence for many students." In keeping with that same topic on page 141 where the discussion is directly related to the Campus Link neighborhood it is recognized that this area is dominated by poorly repaired rooming houses. "These rooming houses represent the past student housing market and contrast sharply with the current market demand for housing." Among the 4 points for the redevelopment of the campus link area noted on page 142 is the notion that "The "Link" between the city and the university should become a well established and user friendly. This area also represents an opportunity to construct off campus housing concentrated in close proximity to the university and downtown area." On page 143 the Plan highlights many important goals which will benefit the community in the development of the Campus Link neighborhood including "Development of attractive housing of value to the university for recruitment of faculty, staff and students"; and "Redevelopment of the Campus Link Neighborhood could be a stimulus to commerce, especially if the neighborhoods primary pedestrian orientation is in and east-west direction"; and "Kent State University contributes to the Local Economy. The creation of attractive housing within walking distance of the university and downtown will help to attract faculty, staff and students"; and "the proximity of this neighborhood to both the university and downtown make walking, bicycling, and public transit rational choices for many trips." On page 33 the Plan highlights the consequences of the existing zoning. "The number of renter-occupied housing units in the city has increased dramatically over the last 30 years, with 53% in 1970 compared to 62.2% of all housing units being renter-occupied in 2000."

In summary, the goals noted in the Plan are:

- a. To make Kent more pedestrian friendly, to encourage walking, biking, and public transportation.
- b. To connect the university and the downtown.
- c. To increase quality housing, including multifamily housing, in proximity to the campus and the downtown.
- d. To move the campus from the east to the west.

All of these concepts and goals are particularly germane to the current rezoning request.

The area in question, although not within the Campus Link area, is immediately adjacent to that area and has many if not all of the attributes mentioned in the Plan as positive visions and goals. The project area is in close proximity to both the university class rooms which are for the most part directly across Summit Street as well as the esplanade and to the developing area between downtown and the university. This area will continue to grow together via the oncoming esplanade and its development by the university, the hotel, the multi modal project. The university's plan is attached as Exhibit A showing the continuing growth of the university to the west. The Applicant's proposed project will tie the area to the esplanade, the university and downtown in a pedestrian friendly manner. It is close enough to walk, to bike, and is right on the bus stop. Also, vehicle transportation, instead of being spread within the neighborhoods creating congestion in a haphazard manner, will be more directed to a destination, one of the goals recognized by the Plan. While students will drive to go to and from home and on longer jaunts, the location makes it less likely that students will, on a day to day basis, drive to get to class or even to downtown.

Kent over a number of years has experienced "student housing sprawl". It's once residential neighborhoods, particularly those between the university and downtown, and North of East Main Street have been transformed from single family owner occupied homes to student rentals. The sprawl is also slowly creeping into other traditionally single family neighborhoods and continues to be fueled in part by the lack of student housing near to campus. As evidenced by the statistics in the Plan, (62% of housing being student rental as opposed to 53% in 1970) the lower densities of the current zoning promotes this type of continued creep. Allowing higher densities immediately adjacent to the university in the areas which are already primarily student housing will promote the development and construction of new higher density student housing immediately around campus. This is one of the visions the Master Plan sees as a goal.

Furthermore, as noted above, most of the properties within the project area are already R-4 in terms of both density and use. There are apartment houses and sorority houses on Summit Street, as well as boarding houses. The boarding houses extend down Lincoln Street to the project site. On Morris Road there is the apartment project and immediately to the South of the site are Cardinal Apartments. This entire area is already student housing. As this housing ages it is not going to be replaced by single family housing or even two family housing. It will be replaced by more student housing. The Plan recognized this reality and that is why one of the goals of the Plan is redevelopment, not continuation of the status quo. The benefit of R-4 would be to allow redevelopment in this area, including replacing the existing properties as they age, to higher density student housing immediately adjacent to the campus.

Without such planning the sprawl and creep continues on an unregulated basis and continues to transform traditionally single family neighborhoods into student housing. R-3 does not prevent student housing, it only limits its size and density. Failing to change the zoning only serves to exacerbate what has been a decade's long issue in Kent. The areas North of Main Street and West of Lincoln Street are classic examples of what has happened and what will continue to happen. A step in the right direction is to get some high density upscale student housing right next to campus. The Master Plan recognized this reality. Rezoning this area will allow just the type of redevelopment project that is needed, right where it is needed.

3. Higher density housing is not in and of itself a negative.

The Staff's position, as well as some others who are questioning the zoning change and the project, begin from the premise that higher density is bad, and should be avoided. To the contrary, in the right places and circumstances higher density is exactly the right thing to do. Where this site is located with its proximity to the university, to the esplanade and downtown, the higher density actually makes good common sense. The Master Plan recognized this reality and the need for redevelopment to meet the goals of the Plan. Redevelopment will result in new high quality construction. The rezoning will allow the use of the site for its highest, best, and most appropriate use, high density student housing. It will promote upgraded utilities, upgraded storm water and sewer systems, sidewalk improvements, and street improvements in the area. It will result in state of the art construction in terms of building materials, and fire and safety protection attributes. This will result not only on the proposed project site but also will promote the replacement of existing aged structures with new structures. All of the older homes, although converted, typically are out of date and inefficient in terms of utility use, heating components and lighting components, water and safety components. Newer housing would upgrade all of these items making them better lit, more controlled, and safer. In other words, the rezoning will allow for the renewal of the area in a controlled environment by the requirement of Site Plan Approval. Without the change the R-3 District the areas will continue to deteriorate and age with no ability to replace them. Many of the buildings in the area are nearly 100 years old, some more than 100 years old. The apartment complexes in the area are more than 40-50 years old. These areas will not be converted to high density student housing because the R-3 will not allow it. They will continue to deteriorate and cannot be replaced with anything else. Due to the proximity to the university and other student housing these areas will remain student housing, so leaving the zoning the way it is will not change the use, and changing the zoning to R-4 will only increase the density of that use. In light of the problem of student housing creep, an obvious beginning to solving the problem is to orient the student population as close to campus as possible and downtown; exactly why the zoning should be changed. Attempting to fix the problem with higher degrees of code enforcement and new maintenance regulations is not only unrealistic, it does not address the root of the

problem; it only serves as a band aid. The City does not have the resources or the man power to go down this road.

There are still more reasons why higher density may have more positive than negative attributes. At one time it was thought that spreading population out and traveling by motor vehicle was the way to go. Now looking back we find that among the consequences of this theory are population sprawl, traffic congestion, and high costs for streets and infrastructure. Higher density is more environmentally friendly, particularly when it is strategically located. It promotes walking and cycling. The proposed R-4 area is ideally suited for that. It also reduces the use of the roads and congestion, and reduces emissions. True, students will come and go but there is no need to drive to class or to downtown. The bus stop is right outside of the proposed development. Students who live in the area can park their cars, ride bikes, walk or take the bus to class and downtown; a goal of the Master Plan.

The university is growing and is likely to continue to grow. Based upon the information provided by the university, in the next two years there will be anywhere from 1000-2000 students who will be needing places to live. See Exhibit B. Also based upon the information provided by the university, the university is not in the process of building new dorms to house juniors, seniors, and grad students. It will be remodeling its facilities and possibly extending by a few hundred beds its facilities for freshman and sophomores. This will not alleviate the additional 1000-2000 students who will be looking for housing. Although the university is expected to continue to grow and is actually promoting itself to grow, even if it remains static going forward there will be an additional 1000-2000 students every year who will be looking for places to live. This housing is just not available. The neighborhoods will continue to be transformed and deteriorate. Also, to the extent that quality housing is not conveniently available students will choose to live out of the immediate area and drive to class and to downtown. This promotes more use of cars, more traffic congestion, and drives students away from the downtown. All of these consequences are completely contrary to the Master Plan, and good common sense.

4. The current R-3 zoning is contrary to the goals and visions of the Master Plan and exacerbates the housing problems in Kent.

Students are good for business and the Master Plan recognized this fact. It was one of the reasons for the conclusion that it would be good to tie the downtown and the campus closer together. Under the current zoning what has occurred over the years is to drive new housing away. The only new student housing that has been constructed in the last 10 years is Campus Pointe and Pebble Creek. Campus Pointe is in Franklin Township and is located adjacent to the Acme Plaza Shopping Center. Pebble Creek is in Ravenna Township and is located next to the Wal-Mart. These students come and go to the university by bus or they drive in because these projects are too far from the campus to walk.

They promote congestion and use of automobiles. Also, they do not promote the students using downtown Kent. This is counter to the goal to tie the university to the downtown to help revitalize the downtown. The current zoning is not only destroying the neighborhoods in an uncontrolled manner, it is driving the student population away from downtown. The downtown is in the process of revitalization with the new hotel, the multimodal facility, Acorn Alley, and planned new retail facilities. Making these convenient to students in an environmentally friendly fashion only increases the customer base. The Master Plan recognized that and rezoning the area to accommodate new development is exactly the right thing to do.

5. R-3 zoning in this area creates and unreasonable burden on the owner and deprives the owner of reasonable use of the property.

While it cannot be said that the current zoning does not permit the owner any economical use of its property, the limitations of the R-3 do place an unreasonable burden on the owner thereby depriving the owner of reasonable use of the land. All the property around the area is already an R-4 higher density use, boarding houses and apartments that are all grandfathered in. The owner would have to get variances to allow such higher density. Redevelopment is what is needed. R-3 does not prevent student housing, it only limits its size and density. This area is not going to be single family housing, because the whole area is student housing in one form or another. It will be student housing at some point. Failing to change the zoning only serves to exacerbate what has been a decade's long issue in Kent, no new development. The lower density of R-3 with the required open space, set backs, parking requirements, etc. makes new development by these land owners nearly impossible from a financial point of view. From a geographic point of view, putting together enough land to meet the requirements is practically impossible due to the existing small lots. This fact is confirmed by the fact that these sites have remained vacant through even the boom times, Douglas Partners, LLC not being able financially to go forward with its project, see letter from Dan Siegal attached as Exhibit C, and by Mr. Wiese choosing to sell his parcel west of Lincoln Street rather than developing it himself. The areas around the project site further highlight the effects of the R-3 zoning. No new development is proposed, because it can't be done. The grandfathered uses will continue and will continue to age.

6. Having a quality upscale development ready to go by a reputable developer is just one more reason the R-4 zoning is better than the existing R-3 zoning.

Normally zoning is done in a vacuum, prospectively in hopes that the type of project envisioned by the rezoning will come along. The higher density upscale quality student housing that is proposed by the applicant can only become a reality if the zoning is changed. For the several reasons noted above

the R-4 zoning is better suited for this site than R-3. As such in the normal course of events it is right thing to do for the Community. The City's Staff and others believe that more time is needed to study the situation. As noted above, serious and considerate thought has gone into the needs and goals of the City. This area and this project fit right into those visions and goals.

The vacant land and the other properties that the Applicant has under its control for the time being will not last forever, it only has a short window of opportunity. So too, the Community has a short window to take advantage of this opportunity. If the property is not rezoned, it will undoubtedly be developed in some fashion as student housing, in the form of unregulated, absentee managed, duplexes and triplexes, more of the same. The problem facing the Community will continue, and the only available land to begin the process of centralizing students will be gone for the foreseeable future. Further, one of the other themes that permeates the Master Plan is parks and open space. The proposed project would leave more than 4.5 acres on the West side of Lincoln Street as open space, which among other things will be a buffer to the neighbors. Without the rezoning the open space on the West side of Lincoln may also be lost forever. This area is ripe for rezoning from R-3 to some higher density. It makes sense for all the reasons noted above. Rezoning of this area now to R-4, particularly when the City has a prominent, recognized developer ready to build a project that ideally fits into the City's redevelopment vision, is the right thing to do. To not grab this opportunity and begin the redevelopment process would be a mistake. Rezoning to deal with the City's problems is in the works. It is going to happen, it just may happen too late for any real progress to be made for a long time.

## 7. Conclusion

For all of the foregoing reasons the R-4 zoning will result in a better zoning than the R-3 and it will remove the unreasonable burdens the R-3 currently imposes on the land owners. Undertaking this rezoning now rather than later, and not missing the opportunity that currently exists is the prudent course of action. The R-4 designation through its Site Plan requirement protects the City from unanticipated infrastructure costs, and allows for protection of the neighbors and the community. It allows for the type of redevelopment that is needed and envisioned by the Master Plan. Rezoning now allows for the immediate redevelopment of the area directly in line the needs of the community. Keeping the R-3 zoning maintains the status quo, which from all points of view is not the best result. The zoning is going to be changed to higher density and based on the Master Plan maybe even mixed uses. Not changing the zoning now to allow the proposed project will miss an opportunity. The redevelopment has begun on the downtown side with the hotel and the multimodal project, Acorn Alley and the downtown project next to the hotel. The university is continuing its acquisition of lands to the west in accordance with its plan to grow toward the downtown. It is time to begin the process on the campus side of things by beginning to move



student housing from the township and the neighborhoods to high quality student housing adjacent to the campus and within walking distance of downtown.

Edwards Colletters/memo of 11.29.10

KENT STATE UNIVERSITY  
BOARD OF TRUSTEES  
September 16, 2009

Background

MASTER PLAN UPDATE FOR EXTENSION OF ESPLANADE  
TO HAYMAKER DRIVE

General Information

The university's Campus Master Plan, approved by the Kent State University Board of Trustees in April 1996, defined planning principles for future physical development needs of the university. The plan reflected on the strengths and assets of our past while establishing the framework for facility and land planning decisions in the future.

One of the primary planning principles outlined within the plan stated the university would:

*"Jointly identify campus and City of Kent initiatives that reinforce campus linkages to the Central Business District and adjacent campus neighborhoods."*

The university and the City of Kent have worked diligently to meet this goal and jointly created a plan to link the university with the central business district physically and functionally. A supplement to the 1996 master plan has been prepared to document and reinforce the facility and land planning goal associated with this physical town/university interconnection.

The university contracted the services of the KSU Cleveland Urban Design Collaborative (CUDC) in March 2008 to prepare the supplement and associated plans and text. Through a detailed planning process, the CUDC prepared plans, incorporating input received through public and private meetings with university and city leaders as well as with community members, business leaders, faculty, staff and students.

Simultaneously with the university's master plan review and supplement preparation, the City of Kent has commissioned a master plan for the redevelopment of sections of the downtown. Both plans have been carefully coordinated in order to ensure a positive impact to both entities.

The primary goal of this plan is to create a primary physical link to downtown business development by extending the University Esplanade. The attached document provides a visual framework for this extension.

By approving this resolution, the Kent State University Board of Trustees accepts the modifications to the 1996 Master Plan and declares its intent to continue to acquire property within the roadway boundaries indicated above. Further, this action will provide the necessary commitment to the city and county to permit preparation and submission for potential federal and state capital improvement grants.

#### **Alternatives and Consequences**

The proposed change will enable the university to acquire key land and permit the city to prepare grant applications for infrastructure and engineering improvements necessary to extend the Esplanade.

#### **Specific Recommendation**

It is recommended that the Board of Trustees accept the supplement as an addendum to the previously approved 1996 Master Plan.

#### **Timetable and Action Required**

Approval by the Board of Trustees is requested at its meeting on September 16, 2009.

**KENT STATE UNIVERSITY  
BOARD OF TRUSTEES  
September 16, 2009**

**Resolution**

**MASTER PLAN UPDATE FOR EXTENSION OF ESPLANADE  
TO HAYMAKER DRIVE**

WHEREAS, Kent State completed and the Board of Trustees approved a university master plan in 1996; and

WHEREAS, as part of this master plan, the university committed to "jointly identify campus and City of Kent initiatives that reinforce campus linkages to the Central Business District and adjacent campus neighborhoods;" and

WHEREAS, the university commissioned its Cleveland Urban Design Collaborative to prepare a supplement to the 1996 Master Plan that outlines the proposed extension of the University Esplanade to Haymaker Parkway and to create linkages to downtown development; and

WHEREAS, it is important to establish planning guidelines for the city and university linkage; and

WHEREAS, the commitment shown with the acceptance of this master plan supplement will create opportunities for grant submissions by the City of Kent; now, therefore,

BE IT RESOLVED, that the Kent State University Board of Trustees hereby accepts the supplement as an official amendment to the 1996 Master Plan.



**Kent State University**

**Kent Campus Master Plan Supplement  
Campus Gateway**

**August 2009 - Draft**

**Cleveland Urban Design Collaborative - KSU**

820 Popper Avenue East, Second Floor  
Cleveland, Ohio 44115  
(216) 857-4432

# Kent State University: Kent Campus Master Plan 2009 Supplement

## Purpose of the 2009 Master Plan Supplement

A Master Plan Supplement has been commissioned by the University to further thinking that has evolved since the 1996 Kent Campus Master Plan, completed by NBSJ.

This plan specifically looks at area located between Downtown Kent and the KSU campus, as a key redevelopment area for the City and the University, as identified in the Campus Link Special Planning area study completed in 2006 – a joint study commissioned by the City of Kent and Kent State University that sought extensive public input and was recognized by the International City/County Management Association for its citizen involvement.

The City of Kent is currently completing a master planning process, of its own, which will coordinate past and current plans into a cohesive planning document that the City, the University and private developers can use as a tool for future development activities.

The University Master Plan Supplement for this area illustrates updated opportunities for University development, retention and reuse of the existing residential fabric and pedestrian connections to strengthen the physical and functional links between the City and the University. This document is a supplement to the 1996 Kent State University: Kent Campus Master Plan.

## Study Area

The Master Plan Supplement is focused on the area located between South Water Street, east to South Lincoln Street and East Summit Street, north to Haymaker Parkway and East Main Street, SR. 59. Specifically, the plan looks first at neighborhood sensitive development opportunities in currently undeveloped land and looks more closely at the potential connections along College and Erie Streets.

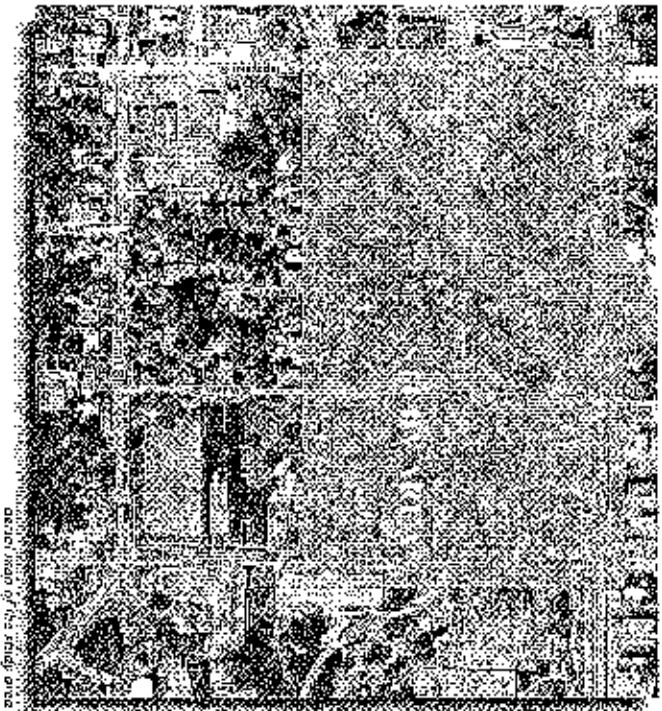
## Existing Conditions

The study area consists of mostly residential fabric, with significant differed residential maintenance of many properties. The area has predominantly commercial edges along South Water Street and East Main Street, with little fringe or architectural character along Haymaker Parkway. Little has changed since the Urban Design Center's work was completed in 2006. At that time a windshield inventory of physical property condition and architectural character were crossed referenced with tax records of the existing residential area. This evaluation determined that a majority of the property that is in disrepair is also absentee owned, which further deteriorates from the stress potential to act as a positive connection between the University and Downtown.

## Key Recommendations and Objectives

Many of the recommendations and objectives echo the 1996 plan as they are applied to the study area. Meaningful open space that balances development with campus yard spaces, thoughtful definition of future building sites and their integration onto the existing context, continued unification of the campus appearance and a seamless connection to downtown, fostering a pedestrian campus, and creating a plan that is linked to area-wide planning and future development are key to the planning recommendations detailed in the illustrative plan and sketches.

Perhaps more significantly than the 1996 planning effort, this 2009 supplement is being produced along side an important City planning effort and many of the ideas and recommendations in this plan are mirrored in the city document and vice versa. This planning effort speaks directly to planning principal and goal D3 of the 1996 plan... "Jointly identify campus and City of Kent initiatives that reinforce campus linkages to the Central Business District and adjacent campus neighborhoods..."



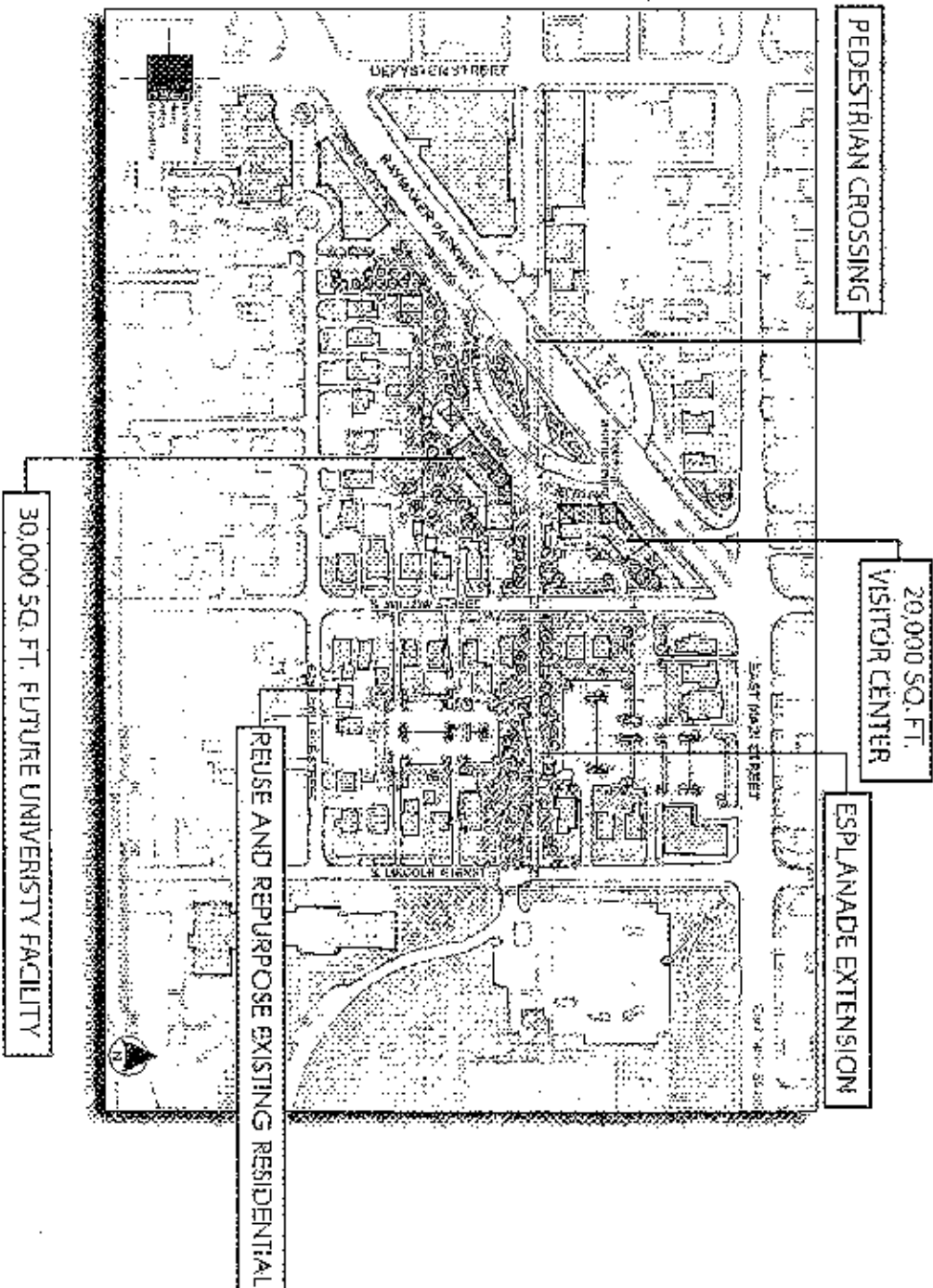
AERIAL PHOTO OF THE STUDY AREA

The 2009 Master Plan Supplement envisions six off-campus uses from residential to academic and institutional structures with retail activity being left to the existing private sector commercial development that currently exists along East Main Street.

Vacant space on campus, even for small office changes, is currently limited as many of the academic programs struggle for expansion space on campus. This reality sets up the opportunity for the two new university facilities shown on the plan along Laywarder Parkway and the Esplanade extension to downtown.

Design of new structures within the study area should be two and three story structures with significant first floor opacity as to create a "Main Street" appearance and integrate as much as possible into the character of downtown as well as be an extension of the significant character of the architecture that exists on Front Campus. These new facilities should be designed in plan, similar to speculative office buildings that can be flexible to accommodate the diverse mix of university, outreach activities.

Parking is distributed in four locations throughout the plan to avoid large surface parking lots for the University and Downtown. Small car-sharing lots are proposed adjacent to the new university facilities and two larger lots are consolidated within the existing residential block between South Willow Street and South Lincoln Street. On street parking is encouraged throughout the district to increase overall parking count and facilitate traffic calming for residents, visitors and pedestrians.



### Pedestrian Framework

The Campus core pedestrian link

"The Esplanade" serves to reconnect most of the university and has become the main space for movement. It is "The" place on campus where students, faculty, move and connect with the university and beyond with the esplanades connections to the regional park bike system "The Passage." This connection is nearly complete as it now extends to the intersection of South Lincoln Street and East Main Street.

The Master Plan Supplement includes in its recommendation the expansion of the Esplanade through the study area, making a physical pedestrian connection from the University in Davenport, Kent, Stutter to the on campus experience, the esplanades expansion is envisioned as an off street wide and meandering pedestrian experience.

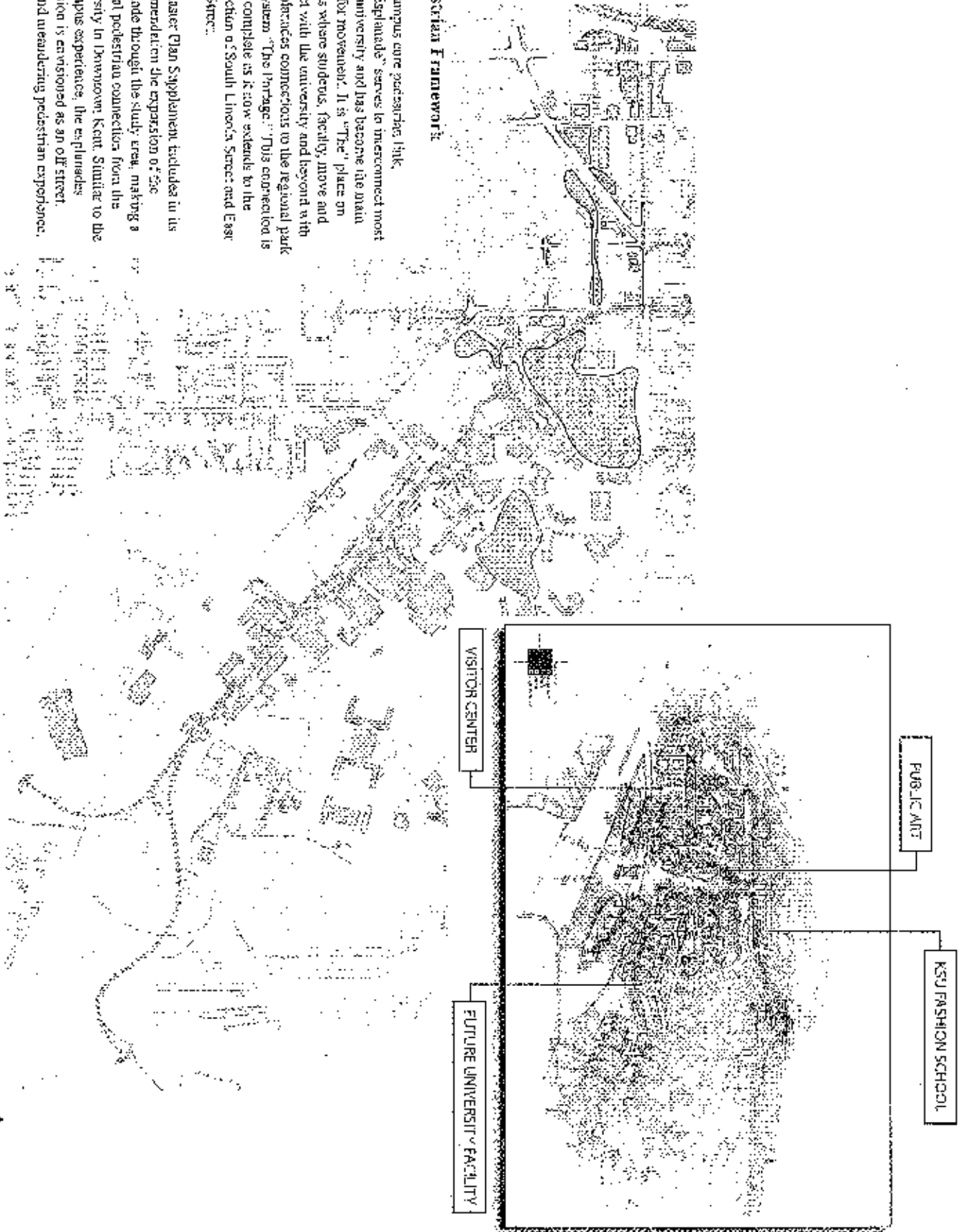


Diagram of University Esplanade and campus neighborhood connections





# Kent State University Enrollment Growth

Class Level	Fall 2008	Fall 2009	Fall 2010	Change	%
Freshman	5,616	6,296	6,120	504	8.97%
Sophomore	3,619	4,167	4,640	1,021	28.21%
Junior	3,438	3,679	4,191	753	21.90%
Senior	4,765	4,887	5,201	436	9.15%
Other	714	889	1,026	312	43.70%
<b>Total Undergraduate</b>	<b>18,152</b>	<b>19,918</b>	<b>21,178</b>	<b>3,026</b>	<b>16.67%</b>
Masters	3,307	3,578	3,764	457	13.82%
Doctoral	991	1,065	1,147	156	15.74%
Other	494	566	500	6	1.21%
<b>Total Graduate</b>	<b>4,792</b>	<b>5,209</b>	<b>5,411</b>	<b>619</b>	<b>12.92%</b>
<b>Grand Total</b>	<b>22,944</b>	<b>25,127</b>	<b>26,589</b>	<b>3,645</b>	<b>15.89%</b>



Douglas Partners LLC  
25700 Science Park Drive Suite 210  
Beachwood, Ohio 44122  
216-763-1004

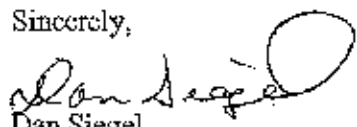
To Whom It May Concern:

The purpose of this letter is to address a specific comment that was made in the staff report regarding Case Number PC10-016 (South Lincoln Street Rezoning). The comment was in reference to the proposed 84-unit development on 8.508 acres of the current site that is seeking rezoning. This previous development was being sought by Douglas Partners LLC.

The staff report states: "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 R-3 zoning."

As the principal of Douglas Partners LLC, I would like to make it clear that this project ended up no longer being a buildable project. While the density on the site was increased to accommodate the project, an ultimate decision was made that the construction and operating costs of the project did not allow for the project to move forward. As more and more information was gathered throughout the process, it became evident that the income generated off the project could not support the required costs. While a lot of time, effort and money was spent developing the site plan and building drawings, there is no longer any plans to move forward with this development.

Sincerely,



Dan Siegel

Managing member

Exhibit

C

**EXCERPT FROM  
SEPTEMBER 21, 2010  
PLANNING COMMISSION MEETING**

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

TRAFFIC: The parcels are accessed from South  
Lincoln Street, East Summit Street &  
Morris Road.

SURROUNDING LAND USES: The property is surrounded by  
residential uses (single family, rooming  
house and multi-family).

APPLICABLE CODE SECTIONS: 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.  
Zoning Code Map

**EXCERPT FROM  
DECEMBER 7, 2010  
PLANNING COMMISSION MEETING**

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 R-4: Multi-family Residential

ZONING: Currently R-3: High Density Residential

TRAFFIC: The parcels are accessed from South Lincoln Street, East Summit Street & Morris Road.

SURROUNDING LAND USES: The property is surrounded by residential uses (single family, rooming house and multi-family).

APPLICABLE CODE SECTIONS: Chapters 1117 and 1147 of the Kent Codified Ordinances

ANALYSIS:

UPDATE – Dec. 1, 2010

As you may recall, the applicant requested that this proposed amendment be tabled until the December 7, 2010 meeting. For the sake of saving paper and since you have already seen the analysis several times, I have deleted it from the section of the staff report for the South Lincoln Street Rezoning request.



The applicant has amended their rezoning request to be from the R-3 District to the R-4 District instead of from the R-3 District to U District as originally proposed. The applicant's reasoning for this zoning change is included in your packet. Please remember that the request is a zoning map amendment and not site plan approval. Staff's standpoint has not changed in that the density is still an issue and the impacts to the infrastructure are unknown.

The sanitary sewer study was initiated on November 29, 2010 and scheduled to run a minimum of two weeks. If the data is good, then the results should demonstrate what improvements, if any, are needed. Otherwise, additional monitoring may be required to compile additional data for determination of sewer capacity adequacy.

The traffic study is to begin the week of December 5, 2010. Some traffic count data is already available. Additional traffic count data for the peak intervals will be collected. Once the data is analyzed, a report will be written that will include recommendations for any improvements.

See Gary Locke's correspondence.

#### 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 dated November 29, 2010 and attachments.



# CITY OF KENT, OHIO

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## DEPARTMENT OF COMMUNITY DEVELOPMENT

December 1, 2010

TO: Members of the Kent Planning Commission

FROM: Gary Locke  
Community Development Director

RE: Supplemental To Staff Report: December 7, 2010 Meeting -  
Comments regarding Edwards Communities Amended Rezoning Request

On November 30, 2010, the Community Development Department received a letter dated November 29, 2010 from David Williams, Esq, the attorney representing the Edwards Communities Development Company. Said letter notified the City of Edward's request to modify their current application for rezoning by requesting that the property that they petitioned initially be rezoned from R-3 to U, now be rezoned from R-3 to R-4. The land that they have optioned on the west side of South Lincoln Street is not part of this request, nor was it part of the initial request. Attached to Mr. Williams letter is additional discussion submitted by the applicant in which the applicant articulates their reasons for seeking the rezoning and what they believe supports the standards set forth in Section 1117.03 (e) and (h). Staff has had an opportunity to review this information and would like to forward its comments to the Planning Commission as part of the staff report. Our comments are contained herein.

The applicant's first point of argument on behalf of the requested zoning amendment is that the R-4 zoning classification is not a radical change from the R-3 classification. They identify some of the differences between the types of uses permitted or conditionally permitted in each of the two districts and then goes on to talk about lot sizes. The applicant notes that the most "material" difference between the R-3 and R-4 is that the R-4 allows greater density and also allows boarding houses. The applicant does not state the actual difference in density between the two districts (8 units an acre in R-3 versus 36 units an acre in R-4), nor does the applicant point out that under R-3, up to two unrelated people can live in a unit as a single family household, whereas, under the R-4 classification anywhere from 3 to 20 (see Section 1109.01(g)(21)) unrelated people can live in a unit as a rooming and boarding house. Coupling the difference in density with the number of people that could populate each unit, staff is of the opinion that there is a substantial difference between R-3 and R-4.

**Supplemental To Staff Report: December 7, 2010 Meeting**

Furthermore in the same section, the applicant indicates that the R-4 allows a building height of 65 feet, whereas the R-3 allows a height of 35 feet. As such, the R-4 district allows a building almost twice the height of what can be built in R-3. Again the difference is substantial.

The final portion of the applicant's first point of argument states the applicant's opinion that the City's Site Plan Review process safeguard's adjacent property interests from the potential effects of higher density development. The applicant further states that, "The Site Plan Approval process assures that adequate water, sanitary sewer, storm water and traffic controls will be in place and that the concerns of the community and the neighbors will be taken into consideration." As the Planning Commission knows, a Site Plan Review of a project requires them to review a project based on the zoning requirements applicable to the property. Thus, if an applicant brings in a site plan showing a project that falls within the permitted density and zoning requirements for that zoning district, the Planning Commission would be powerless to argue that the project is too dense. If the Planning Commission tried to argue that a project had an adverse impact on the health, safety and welfare of the neighborhood or the community based on such density and therefore deny the project its approval, many developers would appeal that type of decision on the basis that the Commission acted arbitrarily and contrary to what the zoning code otherwise permitted. Furthermore, if such a denial was made in view of the fact that the City had just changed the zoning to allow the higher density, many, including the courts would have to question why the zoning was changed in the first place. Given the above, staff would disagree that the Site Plan Review process is a protection against a higher density, especially when it was just granted by the City through a separate zoning amendment process.

The applicant goes on to state that they believe City staff has tried to impose costly studies on them as a way to make the rezoning request economically impossible and that this position was designed to prevent rezoning requests. In our minds this statement suggests that the City has no right to question the potential negative impacts of a requested rezoning on the immediate area or the community and that it should grant a higher density without the benefit of knowing whether its infrastructure can handle the additional development. It would also suggest that the City should be expected to bear the cost of any infrastructure or traffic improvements that may be needed as a result of the project. The applicant makes a statement near the end of this section indicating that the determination of any request for rezoning is to be, "... based on the merits of the request, not on the merits of a particular project." This is an interesting statement in view of the fact that most of the applicant's presentation to the Planning Commission to date has been based on the merits of the project by presenting several variations of site plans and pictures of what they have built in other communities. Staff merely has questioned whether the potentially tripled density that the proposed amendment would result in can be handled without detriment to the surrounding neighborhood and community. Since the applicant has brought the issue to the table, we feel the applicant should bear the cost of the evaluations.

**Supplemental To Staff Report: December 7, 2010 Meeting**

The applicant's second point of argument on behalf of the requested zoning amendment is that it is consistent with the City's Master Plan. More specifically, it appears that this reference is made to the City's Bicentennial Plan which was adopted in 2004.

The applicant spends the next several pages discussing various quotes and sections in that document most of which are discussed in the context of the special planning area known as the "Campus Link Area". The applicant's project site, however, is not located in the Campus Link Area. It is located in a separate Planning District known as the Franklin District. This fact is indisputable. Nevertheless, the applicant makes numerous references to concepts and statements made within the sections applicable to the Campus Link Area but not one reference (that we could find) to the section related to the Planning District in which it is located. Staff disagrees with the applicant's position that their site should be treated as though it were in the Campus Link Area and that the attributes are the same. In fact, the applicant should have mentioned that one of the sustainability goals noted for the Franklin District (pg. 60) was to, "Encourage university student housing to be less invasive into the neighborhoods." To our knowledge, all of the testimony presented thus far to the Planning Commission by residents in the immediate area of the site have indicated their opinion that the rezoning and the resulting project would be more intrusive. In staff's opinion, the applicant's argument on this point is not at all persuasive nor does it substantiate their claim that their proposal is consistent with the City's Master Plan.

Another statement made by the applicant within this part of the narrative indicates the belief that the City's zoning policies have been the cause of the significant increase in the percentage of rental housing in the City between 1970 and 2000. This statement appears to be based on the belief that the lower densities of the R-3 Zoning actually promote "student housing sprawl" into the neighborhoods. Other than quoting the percentages of rental housing in the City both from 1970 (53%) and 2000 (62%), the applicant presents no factual data supporting this statement. Staff believes that the facts show that the construction of new student oriented housing has had no deterrent effect on rooming house encroachment into otherwise single family neighborhoods. During the time frame quoted by the applicant, a number of student oriented rental properties of significance were built in the City. Holly Park, Dartmouth Place Apartments, University Townhomes, and Whitehall East Apartments were all built during the 30 year period in relatively close proximity to the University. These four complexes combined are licensed for almost 1100 occupants according to the Kent Health Department. During the same time frame, the City saw substantial activity in regard to single family homes having been converted illegally to rooming houses. The only thing standing in the way of these conversions in some neighborhoods and especially those in the R-3 District is the fact that such conversions to rooming houses are still illegal. The applicant has attempted to make this argument several times in their presentations but it is staff's opinion and experience that there are two different markets in operation that are independent of each other.

**Supplemental To Staff Report: December 7, 2010 Meeting**

One market is composed of parents and/or students who are merely looking for place to live based on cost without regard to investment outcomes and those who regard the need for housing as an investment opportunity whereby they can reduce their college expenses by purchasing, renting out and eventually selling the house to someone else. In fact, staff would argue that some of the higher rents being charged at some of the newer facilities including this one if it were built, could actually further exacerbate the desire of some parents / students to deal with their housing needs on their own through more illegal conversions.

The applicant's third point of argument on behalf of the requested zoning amendment is that "higher density housing is not in and of itself a negative". The applicant goes on to state that higher densities can be productive and be appropriate in some places. While the applicant's site is close to or abuts the campus at several points, it is not that close to downtown or the proposed esplanade extension as they suggest. The applicant does raise a question that the city will have to address as it plans for the future: how should density be balanced with existing conditions and does the City have the capacity to accommodate the impacts of the higher density. As we stand today, we do not know the answer to that question. The argument for higher density may have some merit, but not without careful discussion and evaluation. That evaluation needs to look at larger areas, the overall net densities of those areas and whether the City can provide its services to those higher densities in view of its capital facilities, staffing and financial position. A higher density than the current R-3 density may be appropriate but not without this evaluation. This evaluation should also consider the market and issues being presented by the market, however the outcome and course of action that comes from the evaluation cannot be driven by the market alone. This applicant has not set a final density for their project and it appears that the density that has been set as the applicant's target is based on the developer's profit margin, not an evaluation based on what the City needs, desires or can accommodate. It is this careful evaluation that staff has advocated for since the beginning of this applicant's request.

The applicant's fourth point of argument on behalf of the requested zoning amendment is that the R-3 zoning is contrary to the goals and visions of the Master Plan and exacerbates the housing problems in the City. This appears to be a reiteration of several points made by the applicant previously in the submittal. The argument made in this section is that the zoning code is driving students away from downtown and creating congestion through the use of automobiles. The applicant also states that the current zoning is destroying the neighborhoods. Staff's previous discussion in this report as to the Master Plan have already been stated and do not need to be repeated. As to the argument that the zoning is creating congestion and traffic and is destroying the neighborhoods, we find these statements incredible. People choose to have cars and drive regardless of what the zoning code says. While they may walk to school, they may also have to drive to a part-time job, or choose to drive elsewhere. We are still a highly mobile society.

There was a time when many students did not have cars and did walk to various places and perhaps that time will come again but presently that is not the case. The congestion that the applicant speaks of is a result of roadways, intersections and other facilities that have been under-designed to meet current requirements. This is what we are trying to avoid potentially with this project and our reason for advocating studying these issues before taking action on the rezoning.

The applicant's fifth point of argument is that the R-3 zoning in the area creates an unreasonable burden on the owner and deprives the owner of a reasonable use of land. Reading through this portion of the applicant's letter, it would appear that applicant admits that the present R-3 zoning does not prevent an economical use of the property, but rather a reasonable use of the property. The current property owner, Dan Siegal (Douglas Partners LLC) provides a undated letter indicating that his company did not build a project that was previously approved by the City on part of the site, with variances, because as the project moved along, "...it became evident that the income generated off the project could not support the required costs." City staff worked very closely with Mr. Siegal and his project representatives at the time to move his project, proposed under the R-3 classification, through the review process. While Mr. Siegal is not specific with the reasons of why the project was not profitable, he does not say, nor should we assume that the zoning alone was the cause of the project not moving forward. In our minds, the City is not obligated to change the zoning in order to make a project profitable, especially when an applicant has not demonstrated that the project will not have other detrimental effects. The Commission is reminded that Section 1117.03(h) states in part that, "...a limitation upon the financial gain from the land in question shall not constitute unreasonable zoning."

The sixth and final point of argument contains a statement by the applicant that, "Having a quality upscale development ready to go by a reputable developer is just one more reason the R-4 is better than the existing R-3 zoning." The applicant then goes on to say that the rezoning is the right thing for the community and that the applicant has given serious and considerate thought into the goals and needs of the City. This statement appears to be inconsistent with the applicant's earlier assertion that the proposed amendment should be reviewed on its merits, not on the project itself.

### Recommendation

In our analysis of the applicant's most recent submittal and revised request, we find little substance to the applicant's arguments in support of rezoning. The Planning Commission will need to consider what the applicant has submitted and determine an appropriate recommendation to City Council on whether to approve or deny the rezoning.

For our part, staff does not recommend that the revised request be granted or given a positive recommendation. The applicant's assertion that the City can approve the rezoning without having to be concerned about its ability to serve the project is troubling. The applicant suggests that any infrastructure issues can be dealt with in Site Plan Review, when in fact the Planning Commission would have no ability to deal with the density issue because the maximum density would be set by the R-4 Zoning. Should the further studies of the sanitary sewer and the traffic show at that point that there are problems or significant improvements needed, would the applicant accept a denial of the site plan on that basis or would they merely indicate that the City could not deny their project because the property had been rezoned to allow the density? Equally would the developer be willing to give the City assurances now that are binding and that would commit the developer to pay their share of the public improvement costs that are off-site even though we do not know what those are yet? These are just the unresolved technical questions. We still have not had a chance to explore and publicly vet the land use issues. A rezoning of the nature being sought, with the potential impacts it can produce should be based on sound planning and some open public discussion of the matter, not just what a developer wants to produce a profitable project.

Cc: Dave Ruller, City Manager  
Eric Fink, Assistant Law Director  
Jennifer Barone, Development Engineer  
David Williams, Esq.  
Planning Commission File

*Rec'd 12/7/10*

## DECEMBER 7, 2010 PLANNING COMMISSION PRESENTATION

### I. Introduction: Representing Edwards Communities Development Company David E. Williams and Ryan Szymanski

I would request 5 minutes at the conclusion of public comment and the staff report for rebuttal. I will not repeat my presentation, I will only briefly comment as needed on any statements made by the public or staff which were not specifically addressed in my original presentation.

### II. Background.

The Edwards Communities Development Company is here seeking a recommendation from you to the Kent City Council to rezone the area set forth in its application from R-3 to R-4. As you know Edwards Communities Development Company originally requested that this area be rezoned from R-3 to U. That would have been best for Edwards Communities Development Company and its proposed project because no variances would have been required. However, there were comments and concerns regarding the affects of U zoning in this area in the event that the proposed project did not go forward. Edwards Communities Development Company believes that if the appropriate zoning is in place there is little chance of its project not going forward. However, in light of the concerns Edwards Communities Development Company looked for other options. Fortunately, in November 2010 it was able to gain control of approximately 4.5 acres of land West of Lincoln Street. With this acquisition there is enough open space to make R-4 zoning available.

Since filing the application in August and first appearing before the planning commission on September 21, 2010 Edwards Communities Development Company has spoken with several community members, has held informal community meetings, and has met with staff on several occasions in an effort to get its arms around all of the issues to present to you so that you can be fully informed in order to make a decision. In addition since the acquisition of the 4.5 acres Edwards Communities Development Company has met with Staff and has submitted to Staff proposed plans which it believes meets all of the R-4 requirements, including the open space, except for some setbacks. We are awaiting confirmation from Staff.

I submitted a letter of November 29, 2010 together with an outline of the various reasons in favor of the rezoning. I assume that you have had an opportunity to read the submittal so I'm not going to go over those items specifically

Also, based on our previous appearances before you, you are familiar with the proposed project and with Edwards Communities Development



Company's reputation and experience with these types of projects as well as its ability to do the proposed project. What I do want to do is highlight the reasons for making the requested zoning change.

### III. First Criteria

As you all know Section 1117.03 (e) and (h) set forth the two criteria in order for a rezoning application to be successful. Under Section 1117.03 (e) the new zoning must be equal to or better than the existed zoning. It is the applicant's position that the R-4 zoning is not only equal to, it is better than the existing R-3 zoning.

Kent City Council adopted a master plan in 2004. The plan was a result of 2 years of study, evaluations by community groups, the city, Kent State University, and Ohio State University. This is clearly outlined in the plan itself. This was a comprehensive and thoughtful process. It identified existing issues facing the city, as well as visions and goals for future development and redevelopment. It also set forth action plans to implement the goals and visions. I cited several of the sections of the plan in my memorandum. Here is a summary of the issues and visions to permeate the plan, not in any particular order or priority.

- New and better student housing.
- Student housing with proximity to the campus.
- New multi-family housing in proximity to the city.
- Housing and development that promotes walkability and biking, i.e., pedestrian friendly.
- Development that promotes the use of public transportation.
- open space.
- Development and redevelopment that promotes the downtown area.
- Development impedes the continued sprawl of student housing into the neighborhoods.

Throughout the plan the vision is for development and redevelopment to take place to achieve these goals. In order for development and redevelopment to take place the zoning must be appropriate to allow the type of development and redevelopment contemplated. The Staff commented that the site in question is located in the Franklin District while many of the comments raised in the memorandum were regarding the Campus Link District. However, the issues and goals identified in the Franklin District are really no different than the goals and issues permeate the entire plan. Specifically, the site is located in the far Northeast corner of the Franklin District. In this area the Plan acknowledges that the closer you get to campus the more student housing, student apartments and student rental housing exist. It goes on to indicate that student rental units are intruding further into this district (page 59). As with the other districts included in the sustainability

goals for the Franklin District are the use of alternative forms of transportation, improved pedestrian orientation and encouraging university housing to be less invasive into the neighborhoods.

The R-4 zoning promotes and facilitates the development and redevelopment of this area in conformity with the goals and visions identified in the plan. The R-4 zoning will promote new and better housing, in proximity to the campus and the city, it promotes walking and biking, as well as public transportation, it moves the campus and the students closer to downtown rather than to the east, and it centralizes student housing by permitting higher density student housing in an area immediately adjacent to campus in an area that is already all student housing. The R-4 zoning will allow for consolidation and redevelopment. It literally meets most, if not all, of the plans visions, in the very location contemplated by the plan. The University's own projections contained in the memorandum I submitted shows that the student population is growing. This issue will not go away, if anything it is growing. The R-4 zoning will allow some of the growth to be absorbed right next to campus, in proximity to campus and downtown, right where it should be.

Normally zoning is done in a vacuum with the hope that certain types of development in an area will come along. In this instance, rezoning this area to R-4 to allow higher density not only makes sense philosophically, it makes actual sense because there is a reputable, experienced developer standing ready, willing and able to move forward with the exact type of project contemplated by the plan, if the rezoning is done. In this instance, the rezoning allows for the immediate redevelopment of this area in complete conformity with the visions of the master plan. Rezoning to R-4 will allow the project to go forward which will mean 4.5 acres West of Lincoln Street will be open space, which is something that cannot happen with the lower density R-3 zoning. If the area is not rezoned the open space buffer to the neighborhoods to the West will likely be lost. Maintaining this open space for lower density development is simply not financially feasible. Rezoning this area from R-3 to R-4 does not require any new text. R-4 zoning does not have to be rewritten, there are no codes to be dealt with, only a designation of an area to R-4 subject to all of the existing obligations and restrictions of R-4.

R-3 does not promote any of these goals, in fact it inhibits the redevelopment. This is confirmed by the fact that the Weise property to the West of the site has not been developed, that Lincoln Commons although approved in 2003 has died, and that the lands East of Lincoln Street have remained vacant despite the approval of the Siegel project. Even through the boom times there has been no development or redevelopment in this area. As a matter of fact all of the housing in this area continues to age and deteriorate. A major impediment to the development and redevelopment of this area is the R-3 zoning, which prohibits boarding houses, requires open space, and lacks density. The R-3 zoning has not permitted, and will not

permit, the redevelopment of this area. Redevelopment is the focus of the master plan. This area is already completely student housing, and will remain so. Unless the higher density is permitted the past will be repeated, scattered student duplexes, without amenities, with absentee landlords, and scattered open space. This only serves to continue the very issues the plan identifies as problems and impedes the very goals that the master plan seeks to implement. The R-4 zoning will allow central management, site control, centralized open space, and more amenities. R-4 in this area promotes redevelopment of this area with precisely the type of projects the master plan envisioned, in the ideal location for the redevelopment, whereas R-3 inhibits any sort of redevelopment.

#### IV. Second Criteria

The second criteria in Section 1117.03 (h) is that the existing zoning unreasonably inhibits the reasonable use and enjoyment of the property by the owner. Lincoln Commons, although approved in 2003, has gone nowhere. The Weise property has remained vacant for years, as has the Siegel property. No other development or redevelopment in this area is in the works. All the attempts to develop these properties have faltered. In the case of the Siegel and Lincoln Commons projects, they faltered even after complete approval. Whether single family or low density multifamily, the projects have not worked. This area is ideally suited for student housing, but as pointed out above, the R-3 designation does not really permit any new development in this area. The low density, lack of boarding houses, and open space requirements simply prohibit it.

The surrounding properties West of Morris Road, East of Lincoln Street and South of Summit Street are already R-4 uses. They are all grandfathered in to the R-4 uses although they are in an R-3 District. This places the existing site at a complete disadvantage because it can only be developed at an R-3 density, with open space requirements, and without boarding house provisions. Essentially the property is an island surround by R-4 use, while being limited to R-3 use. Furthermore, the density proposed by the project is not out of line with the existing densities. See the attachment.

This area is going to be multifamily student housing, and nothing else. History has borne that out. Restricting the applicant's site to R-3 while effectively allowing all the other properties to have R-4 uses, prohibits the site from being used for the purpose that it is most suited, not just for the benefit of the applicant, but as shown above, it prevents the highest and best use of the area in terms of the community as a whole. The existing R-3 designation is simply not reasonable under the circumstances.

## V. What are the reasons not to rezone the property?

First, it's certainly easier to do nothing, but that does not address any of the issues or visions of the plan, nor does it take advantage of the opportunity that now exists to redevelop this property in conformity with the plan. Doing nothing simply leaves the issues unaddressed. In fact, doing nothing is to continue what does not work. The concerns raised by the citizens will continue to exist and will grow. As shown in the memorandum, based upon the University's own figures, the students are coming, and they are coming in increased numbers. Now where will they go? Based on these known facts, doing nothing is a complete disservice.

Second, is the neighbors' concerns about having more students in this area. There will be students in this area because it is only suited for student housing. The question is whether it will be lower density or higher density housing, whether it will be controlled development with site plan approval, centrally managed housing with amenities, and centralized open space, or whether it will be scattered absentee landlords without amenities, and scattered disjointed open space.

Three, the unknown burden on the city infrastructure. These are all site plan issues that are tied to a specific project, not issues for rezoning. These matters are addressed in the code because any multi-family development in R-4 requires site plan approval, which includes technical review and the imposition of obligations on the developer to alleviate the burdens on the city. Furthermore, being a boarding house this project is a conditionally permitted use, which also gives you the power to condition the development. In fact the site plan review comes back to you, the planning commission. At the end of the day the planning commission has complete control of any negative impact on the city. Staff raises the question that if the property is rezoned and the infrastructure is not capable of handling the projects permitted in the area that a developer could somehow force the city to put in the improvements at the city's cost. This is simply not the case. A clear example is River Bend. That area was zoned R-1 for single family homes, but there was no water and sewer out there, so when the developer wanted to put in single family homes, the developer, not the city, had to run the water and sewer. What if the Lincoln street area was already zoned R-4? The same would be true. The staff's concern seems to be that because it was zoned R-4 that a developer could then force the city, at the city's cost, to put in an infrastructure to support an R-4 use. This is not the case and has never been the case.

Doing all the infrastructure studies prior to rezoning would impose enormous costs on the city prior to rezoning any area. Taking the Staff's position, the city would have to do infrastructure studies prior to any rezoning and would have to install the appropriate infrastructure prior to rezoning the area. There is no way to predict what actual uses will be installed in the

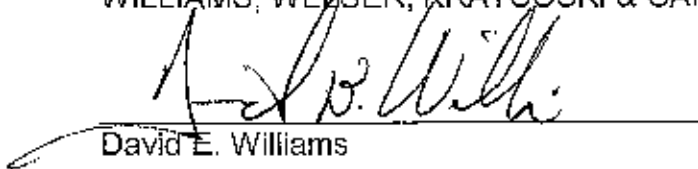
future. Any studies prior to zoning would be speculative. Site plan approval is the process that exists to make sure that a specific development does not have negative impact on the city.

Fourth, there needs to be more evaluation and study. This position does not give any guidance to you as to what type of study and for what reason. It also disregards the master plan and infers that all of the efforts of the master plan were really wasted. This approach does not give you any information on which to make a decision, it only tells you to wait.

VI. Conclusion.

All in all, there really is no factual basis for not doing the rezoning, only speculation: Edwards Communities Development Company knows from its experience that is the right place for this type of zoning. Common sense and the master plan bear this out. The area is ideally suited for the type of development the master plan envisions for the exact reasons envisioned. The Edwards Communities Development Company knows this is an opportunity for it, and likewise it is an opportunity for the city, an opportunity that may be lost by inaction, including the loss of the opportunity to create and preserve 4.5 acres of open space. You have a developer ready and willing to go. The downtown is developing, the university is moving toward the downtown, and more students are on the way. It is time to be proactive, to keep the ball rolling by beginning the implementation of the visions and ideas in the master plan by rezoning this area to R-4.

Very truly yours,  
WILLIAMS, WEISER, KRATCOSKI & CAN



David E. Williams

DEW/rs



Edwards Companies

Edwards Communities Development Company  
495 South High St. Suite 150  
Columbus Oh, 43215  
(614) 241-2070

**Density Comparison - Kent State University**



Property	D. HANCOCK	SUMMIT	WOOD POND	KENTON
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<b>Summary</b>				
Property Size (in units)	102	21	270	246
Land Size (in acres)	6.78	1.3	10.94	15.69
Density (units per acre)	15.04	16.15	24.68	15.68

\*information provided by Portage County Auditor's Office