

TO: Kenton County Joint Board of Adjustment Members

FROM: Patrick Denbow, AICP, Senior Planner

SUBJECT: BOA2004-0002

DATE: June 10, 2020

Staff has published notice for a public hearing of the Kenton County Joint Board of Adjustment at **2:00 PM on Wednesday, June 17, 2020 via video conference due to the COVID-19 virus restrictions**. We submit this case review and recommendation or your consideration prior to the hearing.

The applicant will explain his/her reasons for this request during the hearing and address how he/she believes it meets legal requirements established in law. Staff will lay out the case, provide our findings and a recommendation, and address your comments and/or questions.

Please visit the PDS website at www.pdskc.org/services/general-government/boards-of-adjustment for information on how to join and participate in this meeting.

If you need additional information or clarification prior to then, don't hesitate to contact me.

pd

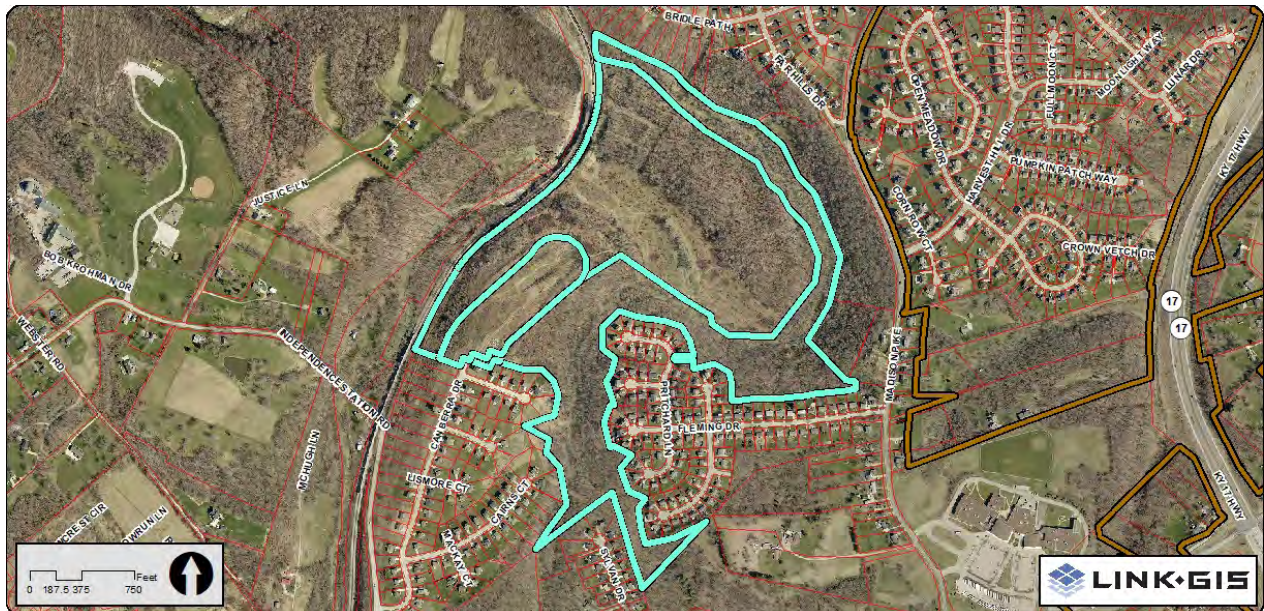
cc: Gary Wolnitzek, Kenton Conservancy – Applicant
James Wenstrup, Si Si Si LLC - Owner

**BOARD OF ADJUSTMENT – CONDITIONAL USE,
VARIANCES, APPEAL**

Case No: BOA2004-0002
Jurisdiction: Independence
Applicant: The Kenton Conservancy and Si Si Si, LLC
Staff Review: Patrick Denbow, AICP, Senior Planner

GENERAL CASE INFORMATION

1. **Request:** A conditional use under the independence zoning ordinance to establish a nature preserve (park); variances for landscape buffers, building setback, and drive aisle width; and, an appeal of the Zoning Administrator's decision regarding parking surface material; the applicant proposes to establish a nature preserve for public use, passive recreation, and ecosystem restoration including signage, parking, accessory structures, and trails, with access off Canberra Drive.
2. **Location:** An area of approximately 104 acres located at the end of Canberra Drive in Independence.



SITE LOCATION AND BACKGROUND

1. The site in question, containing an area of approximately 104 acres, is located at the end of Canberra Drive. Canberra Drive is classified within the mobility element of *Direction 2030: Your Voice Your Choice* as a local street.
2. The site is currently vacant and open space, with some pre-existing trails located throughout the property. The area is largely wooded with streams traversing through the site.

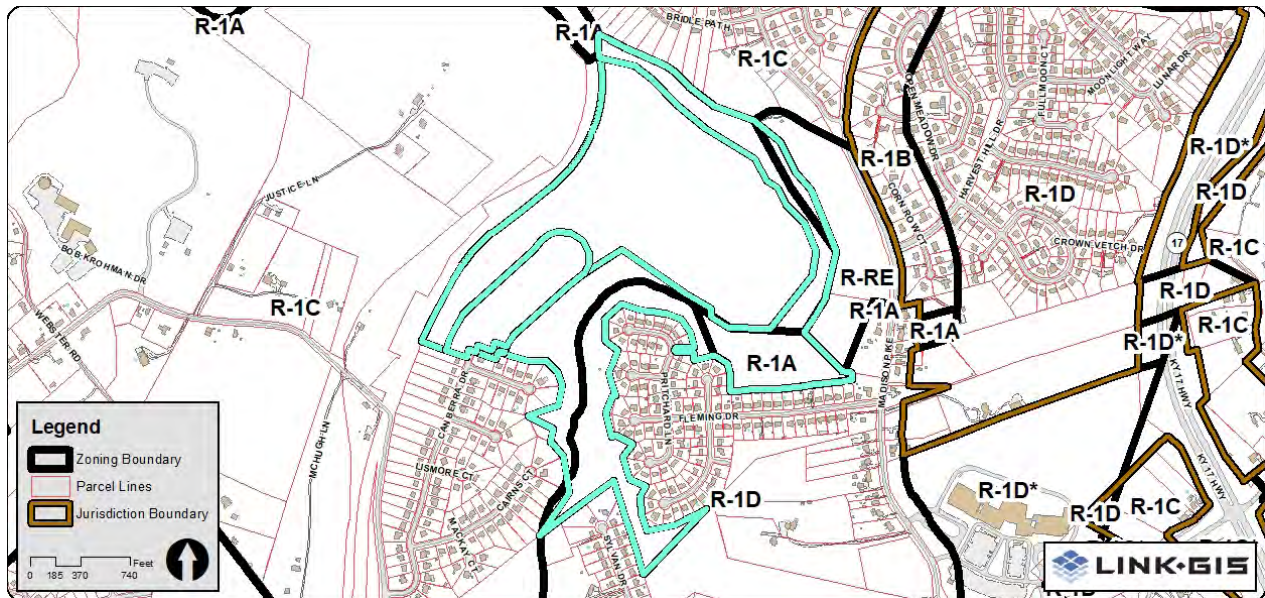
3. One of the properties included in this request is to be subdivided into several residential lots. This parcel has been included in this request because one of the future lots is proposed to be the ingress/egress point for the proposed nature preserve.

ANALYSIS – Current Zoning

	ZONING	MIN LOT SIZE	MAX DENSITY
SITE: CURRENT	R-1C	12,000 sq. ft.	3.5 du/na
	R-1D	9,000 sq. ft.	4.8 du/na
	R-1A	1 acre	1.0 du/na
NORTH OF THE SITE	R-1C	12,000 sq. ft.	3.5 du/na
	R-1A	1 acre	1.0 du/na
	R-RE	1 acre	1.0 du/na
SOUTH OF THE SITE	R-1C	12,000 sq. ft.	3.5 du/na
	R-1D	9,000 sq. ft.	4.8 du/na
EAST OF THE SITE	R-1C	12,000 sq. ft.	3.5 du/na
	R-1D	9,000 sq. ft.	4.8 du/na
	R-RE	1 acre	1.0 du/na
	R-1A	1 acre	1.0 du/na
WEST OF THE SITE	R-1C	12,000 sq. ft.	3.5 du/na
	R-1A	1 acre	1.0 du/na

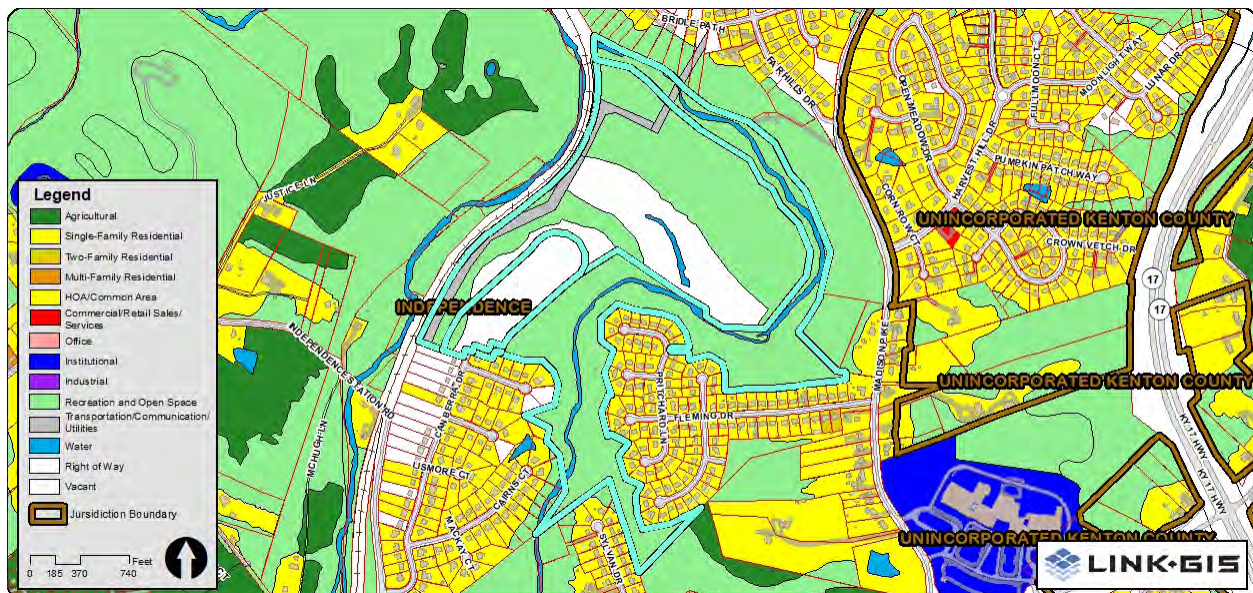
The majority of the site in question, and the portion of the site containing the proposed improvements, is currently zoned R-1C (Residential-One C). The R-1C Zone currently permits “publicly owned and/or operated parks, playgrounds, golf courses, community recreation centers, swimming pools and libraries” as a conditional use subject to the following area and height requirements:

- a. Minimum lot area – 22,500 square feet;
- b. Minimum lot width at building setback line – 150 feet;
- c. Minimum front yard depth – 50 feet;
- d. Minimum side yard width – 50 feet;
- e. Minimum rear yard depth – 50 feet; and
- f. Maximum building height – 35 feet.



ANALYSIS – Current Land Use

	DESCRIPTION
SITE: CURRENT	Vacant, open space, utilities
NORTH OF THE SITE	Open space, single-family
SOUTH OF THE SITE	Single-family, vacant, open space
EAST OF THE SITE	Single-family, open space
WEST OF THE SITE	Open space, agriculture, single-family



SUBMISSION MATERIALS

The applicant has submitted the following information and materials (attached):

- a. a letter detailing the nature and reasons for the submitted requests; and
- b. a site plan and drawings detailing the proposed nature preserve.

PETITION REVIEW

1. The submitted site plan and application materials show the following (see attached):
 - a. Entry monument sign
 - i. 15-20 sq. ft.
 - ii. Located off Canberra Drive
 - b. Access Drive off Canberra Drive
 - i. The first 35 feet to be paved (back to the front setback of the surrounding lots)
 - ii. The rest of the drive to be gravel/porous paving
 - c. Parking Area
 - i. 8 off-street parking spaces
 - ii. Surfaced with gravel
 - d. Gate
 - i. To be installed part-way down the access drive
 - ii. Opened for community events or special occasions
 - iii. Gate operations may change to daily use down the road
 - e. Kiosk structure
 - i. Located off parking area
 - ii. To provide property and trail information
 - f. Accessory structure
 - i. Multi-purpose structure
 - ii. Serve as maintenance/storage space, outdoor community space
 - iii. Setback 15 feet from rear lot lines of lots 94 and 95 (future Canberra Drive lots)
 - g. Native plantings / landscape buffers
 - i. Landscaping to utilize local native species
 - ii. 10-foot buffers adjacent to lots 91-96 (future Canberra Drive lots) including along the sides of lots 93 and 94.
 - iii. 20-foot buffer of native/existing plantings to remain surrounding the rest of the entire acreage
 - h. Trails
 - i. Future project
 - ii. Expand/stabilize/improve on pre-existing trail network
 - i. Ecosystem enhancement
 - i. Stream restoration / wetland enhancement
 - ii. Dependent on future funding
 - j. Park operations
 - i. Dawn to dusk
 - ii. No staff, clients, or other daily traffic to site

There are multiple requests within the submitted application. These requests are reviewed separately within this report to provide the clearest comprehensive review.

REQUEST 1: Conditional use to establish a park/nature preserve

1. **Section 9.14, A.,** of the Independence Zoning Ordinance states that the board of adjustment may authorize a conditional use to be located within any zone in which such conditional use is permitted, if the evidence presented by the applicant is such as to establish, beyond any reasonable doubt;
 - a. That the proposed use at the particular location is necessary or desirable to provide a service or facility which will contribute to the general wellbeing of the neighborhood or the community; and
Staff findings: The proposed use provides a necessary and desirable service and facility that contributes to the general wellbeing of the community. The proposed use will preserve the community's natural resources while providing an option for passive recreation.
 - b. That such use will not be detrimental to the health, safety, or general welfare of persons residing or working in the vicinity, or injurious to property or improvements in the vicinity.
Staff findings: Passive recreation and ecosystem restoration is by its nature a benefit to a community's health, safety, and general welfare. According to the submitted materials, the use will not be a major generator of additional traffic.

RECOMMENDATION 1: Favorable recommendation for a conditional use to establish a park nature preserve.

SUPPORTING INFORMATION/BASES FOR STAFF RECOMMENDATION 1

1. This proposed facility is necessary or desirable to provide a service or facility which will contribute to the general wellbeing of the neighborhood or the community.
2. This facility will not be detrimental to the health, safety, or general welfare of persons residing or working in the vicinity, or injurious to property or improvement in the vicinity.

REQUEST 2: Variance to decrease the width of landscape buffers, decrease the required building setback, and decrease the width of the drive isle.

1. **Section 9.17** of the Independence Zoning Ordinance states:
 - a. When the developing use is a conditional use, a minimum planting strip of 20 feet is required when the developing use is adjacent to any residential zone or land use.
2. **Section 10.5** of the Independence Zoning Ordinance states:
 - a. 50-foot building setback is required on all sides for conditional uses within the R-1C Zone
3. **Section 11.1, B.,** of the Independence Zoning Ordinance states:
 - a. A drive aisle for two-way traffic may not be decreased below 20 feet.
4. **Section 18.6., A., 1.,** of the Independence Zoning Ordinance states:
 - a. Before any variance is granted, the board of adjustment must find the granting of the variance will not adversely affect the public health, safety, or welfare, will not alter the essential character of the general vicinity, will not cause a hazard or a nuisance to the public, and will not allow an unreasonable circumvention of the requirements of the zoning regulations. In making these findings, the board shall consider whether:
 - i. The requested variance arises from special circumstances which do not generally apply to

land in the general vicinity, or in the same zone;

Staff finds that the existing topography of the site does present a special circumstance in this case. The area of the site that is capable of being developed for parking, buildings, etc. is limited due to the topography. This creates a special circumstance for the landscape buffers and building setbacks. The lot that is being acquired from the Canberra Drive developer is 50 feet wide. This creates a special circumstance, as the drive aisle and landscape buffer on each side would require 60 feet total width under the provisions of the regulations.

- ii. The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship of the applicant; and ***Staff finds that without the variances, the applicant would be deprived of reasonable use of the property. The access drive would be impossible to create while maintaining the required landscape buffers, meaning some alternative access would be required. As stated above, the buildable area is quite limited on the site as well and without the setback variances, the applicant would have additional expense in potentially severe grading on the property, which goes against the mission of restoration.***

- iii. The circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought.

Staff finds that the circumstances are not the result of actions of the applicant.

- b. The board shall deny any request for a variance arising from circumstances that are the result of willful violations of this ordinance by the applicant subsequent to the adoption of this ordinance.

Staff finds that no construction has taken place prior to receiving proper permits.

RECOMMENDATION 2: Favorable recommendation for a variance to reduce the landscape buffers from 20 feet to 10 feet wide (where noted on the site plan), reduce the building setback from 50 feet to 15 feet, and reduce the drive aisle width from 20 feet to 15 feet.

SUPPORTING INFORMATION/BASES FOR STAFF RECOMMENDATION 2

- 1. The variance requests will not adversely affect the public health, safety, or welfare, will not alter the essential character of the general vicinity, will not cause a hazard or a nuisance to the public, and will not allow an unreasonable circumvention of the requirements of the zoning regulations.

REQUEST 3: To appeal the Zoning Administrator's decision regarding parking surface material.

- 1. **Section 11.1, F.,** of the Independence Zoning Ordinance states:
 - a. All new off-street parking areas shall be paved with asphalt, concrete, or Portland cement concrete and shall be designed and constructed in accordance with applicable standards.
- 2. **Section 18.2,** of the Independence Zoning Ordinance states:
 - a. Appeals to the board of adjustment may be taken by any person or entity claiming to be injuriously affected or aggrieved by an official action, order, requirement, interpretation, grant, refusal, or decision of the zoning administrator.

RECOMMENDATION 3: To uphold the decision of the zoning administrator that all new off-street parking area be paved per the provisions of the ordinance.

SUPPORTING INFORMATION/BASES FOR STAFF RECOMMENDATION

1. There is no error in the action, order, requirement, interpretation, grant, refusal, or decision of the zoning administrator. The zoning administrator's decision is based on the literal interpretation of the zoning ordinance. **Section 11.1, F.**, of the Independence Zoning Ordinance uses clear and unambiguous language when setting forth regulations for paving of any new off-street parking areas.



THE KENTON CONSERVANCY

1840 Simon Kenton Way, Covington, KY 41011
Phone: (859) 331-8980 • Fax: (859) 331-8987
www.KentonConservancy.org

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April 22, 2020

Board of Adjustment
1840 Simon Kenton Way, 4th Floor
Covington, KY 41011-2999

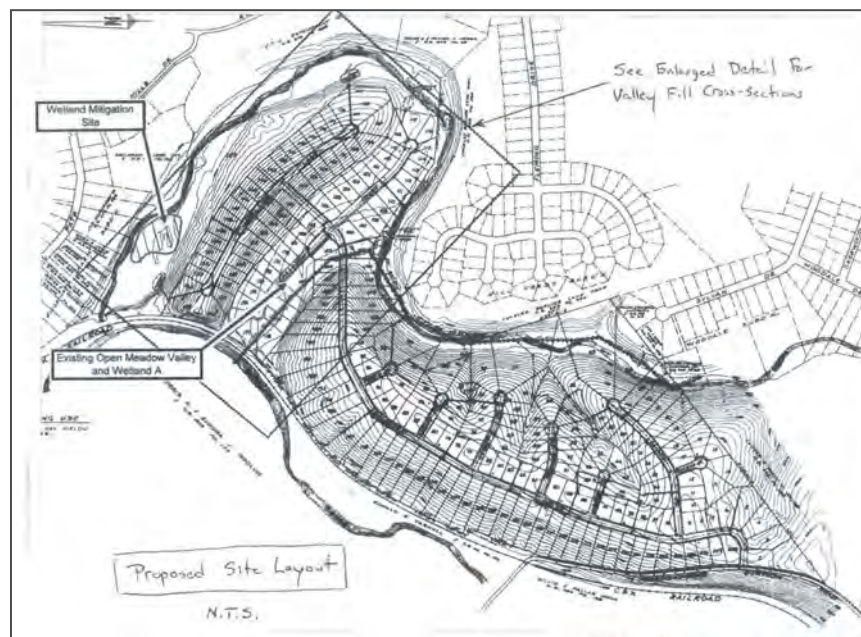
Re: Board of Adjustment Application for the Brushy Fork Nature Preserve

Board of Adjustment-

The Kenton Conservancy is applying for a conditional use permit, appeal, and variances for our property located along Brushy Fork Creek in Independence, Kentucky (PIDNs 032-00-05-007.00 and 032-00-05-002.00). For almost 16 years, we have worked towards the acquisition and conservation of this ecologically sensitive area. Comprised of a riparian corridor, high-quality forest, and unique wetland area, the Brushy Fork Property represented a rare opportunity to preserve over 100 acres of natural greenspace within a rapidly developing suburban area.

Brushy Fork Project Background

The Brushy Fork Property was initially purchased by a developer for the construction of the Canberra Ridge Subdivision. In 2004, plans for the development included the leveling of the forested ridgeline, filling of the wetland valley, and the loss of the ecological function of the site. Even as construction progressed, local conservationists continued to reach out to the developer expressing concern and interest in the preservation of the creek and wetlands located in the back of the property, searching for ways to protect the ecologically important portions of the site.



In subsequent years, the Banklick Watershed Council, Kenton County Conservation District, and The Kenton Conservancy maintained communication with the landowner and continually pursued grants or other means to preserve the property.

Successful acquisition of the Brushy Fork Property ultimately involved a number of community partners, taking several years and two phases. In 2014, the first 47 acres along the creek (PIDN 032-00-05-002.00) were purchased by the Banklick Watershed Council using funding from the Kentucky Division of Water (KDOW). In 2019, the project partners formed a coalition of funding partners including KDOW, the City of Independence, Kenton County Fiscal Court, and the Northern Kentucky Community and Urban Forestry Council to purchase the remaining 56 acres of land that included the forest, wetland, and floodplain (PIDN 032-00-05-007.00). In all, the community has invested over \$425,000 to acquire and protect the area.

Ultimately, the final plans for the neighborhood will include a compromise between the landowner and the Conservancy. The developer will finish off a cul-de-sac at the end of Canberra Drive with an additional 27 lots, and the remaining 56 acres, (which would have been an additional ~110 homes) will now become a nature preserve and greenspace to be owned and managed by The Kenton Conservancy.



Additionally, the landowner and Conservancy agreed to swap the existing access lot (PIDN 032-00-05-001.00) for a space between along the new portion of Canberra Drive. This new access location will allow The Kenton Conservancy to facilitate better public access and use of the site.

Part I - Brushy Fork Nature Preserve Proposal

With The Kenton Conservancy now owning 104 contiguous acres, the project partners are planning for the next phase for the property: establishing a nature preserve for public use, passive recreation, and ecosystem restoration.

Working together, The Kenton Conservancy and the Banklick Watershed Council, both nonprofit organizations, were awarded \$25,000 by the Duke Energy Foundation in October 2019 to move forward with the public access component. The partners have developed a site plan that details the public access off Canberra Drive, sign, gate, parking area, kiosk, and other possible future amenities for the preserve. It was determined that a Conditional Use Permit would be necessary, along with an adjustment and variances, given the nonprofits' financial constraints, lot shape, and topographical features.

The landowner/developer (SiSiSi, LLC), agreed to be a party in the application, since they are still listed as the landowner of the future access parcel. The Kenton Conservancy will assume ownership of the access parcel once the final plat is complete, in exchange for the previous access parcel.

The vision for the Brushy Fork Nature Preserve includes the following elements:

- **Entry Monument:** An entry marker of approximately 15-20 sq. feet will be located off Canberra Drive, just outside the right of way.
- **Access Drive off Canberra Drive:** the sidewalk, apron, and top of the drive will be paved consistent with zoning regulations to blend in with the rest of the neighborhood. The paved surface will extend back approximately 35' from the right-of-way, where it will transition to gravel to reduce expense and blend into the parking area.
- **Parking Area:** Gravel parking will be limited to 8 spaces due to topography and site constraints. It is anticipated that the most frequent use will be neighborhood pedestrian traffic. On-street parking would be used in the rare need for overflow parking. Based on the Conservancy's other properties, we anticipate that the 8 spaces will be sufficient to support the peak use of weekend hikers.
- **Gate:** A gate will be installed partway down the drive to deter possible unauthorized access. The Gate will be opened for community events or special occasions. Gate management may change once relationships with neighbors are established, which may serve to open and close the gates daily, or by the City of Independence, similar to the Conservancy's other locations.
- **Kiosk:** A kiosk with property and trail information will be located off the parking area.
- **Accessory Structure:** A possible future improvement may include an accessory multi-purpose structure that will serve as a maintenance storage facility for the property with an integrated outdoor community gathering space.
- **Native Plantings:** Proposed landscaping will utilize native, low-maintenance species that are consistent with a naturalized area.
- **Trails:** Another possible future improvement would be the expansion of the existing trail network and trail improvement/stabilization.

- **Ecosystem Enhancement:** Stream restoration and wetland enhancement would be considered if additional funding could be secured.
- **Park Operations:** Park use will be between dawn and dusk. There will be no staff, clients, or other daily traffic to the site.

The plan for the Brushy Fork Nature Preserve will require a phased approach and is largely dependent upon the availability of donations and grant funding. The Banklick Watershed Council and The Kenton Conservancy have a long history of working together to obtain and implement various grants, and will continue to work towards implementation of the plan for the Brushy Fork Nature Preserve.

Part II - Brushy Fork Nature Preserve - Reasons for Request

The Kenton Conservancy's Board of Adjustment application is intended to address the anticipated zoning-related needs for the development of the Brushy Fork Nature Preserve. Based on discussions with Planning and Development Services, this includes:

1. **Conditional Use Permit:** The planned improvements for the site would necessitate classification under #11 – Publicly owned and/or operated parks, which is consistent with the adjacent residential land use and will serve as a community amenity for the development.

Parking for this conditional use permit should be considered under, Condition GG (All other uses not listed herein) which allows for the number of spaces to be determined based on the owners study. The need has been identified for eight off street spaces, a parking study has been provided.
2. **Appeal – Alternative Driveway & Parking Material:** The paved driveway and parking requirement is excessive for a nature preserve and the project partners will be aggrieved by the expense of this standard. We are proposing pavement for the first 35' of the driveway to maintain visual continuity with the neighborhood, but gravel is preferred for the areas behind the homes. The pavement material would also reduce runoff.
3. **Variance – Building Setback:** Due to topographical constraints (20% slope at the edge of the ½ acre meadow), the buildable area for the parking lot and possible future multi-use structure is a narrow strip of land behind the new building lots and necessitates reducing the setback to 15 feet.
4. **Variance – Landscaping Buffer:** As a conservation area, we propose the required 20' buffer around the majority of the property be fulfilled by preserving existing native vegetation. Setbacks at the access drive and rear lot lines at the new Canberra Drive lots are onerous due to topography and lot shape, so we are proposing a 10' planted buffer in these areas.

The Kenton Conservancy strongly believes that this proposal presents a unique opportunity in Kenton County to make a beautiful, natural area available for public use and enjoyment of nature. This application presents the next step in a multi-year effort to preserve the area, which was achieved with numerous community partners, including the Kentucky Division of Water, Banklick Watershed Council, City of Independence, Kenton County Fiscal Court, Northern Kentucky Community and Urban Forestry Council, the Kenton County Conservation District, and the Duke Energy Foundation.

Depending on costs, our current grant funding should allow us to grade and install the drive, parking, gate, sign, and kiosk. We look forward to installing these this fall, pending your decision.

Please feel free to contact me (gwolnitzek@kentonconservancy.org) should you have any questions.

Sincerely,

A handwritten signature in blue ink, appearing to read "Gary R. Wolnitzek". The signature is fluid and cursive, with a large initial "G" and "W".

Gary R. Wolnitzek, Chair
The Kenton Conservancy



1840 Simon Kenton Way, Covington, KY 41011
Phone: (859) 331-8980 • Fax: (859) 331-8987
www.KentonConservancy.org

#5 SUPPLEMENTAL MATERIAL DESCRIPTION OF REQUESTS BEING MADE

REQUEST #1) CONDITIONAL USE REQUEST

ARTICLE X ZONES

SECTION 10.5 R-1C (RESIDENTIAL ONE-C) ZONE

C. CONDITIONAL USES: The following uses, or any customary accessory buildings or uses, subject to the approval of the board of adjustment, as set forth in Sections 9.14 and 18.7 of this ordinance:

11. Publicly owned and/or operated parks, playgrounds, golf courses, community recreation centers, swimming pools and libraries.

Respectfully, we request the Board of Adjustment to consider our conservancy property as a publicly owned and/or operated park.

Parking for this conditional use permit should be considered under condition GG of the *Off-Street Parking and Access Control Regulations*:

<p align="center">ARTICLE XI</p> <p align="center">OFF-STREET PARKING AND ACCESS CONTROL REGULATIONS</p>	
SECTION 11.2 SPECIFIC OFF-STREET PARKING REQUIREMENTS:	
GG. All other uses not listed herein:	Based on a study to be prepared by the owner or operator; number of spaces to be required determined according to:(a) type of use and estimated number of total trips generated during peak conditions (inbound and outbound);(b) estimated parking duration per vehicle trip (turn-over rates);(c) based on estimated number of trips generated and average parking duration per trip, calculate number of spaces required;(d) estimated number of employees -(one(1) parking space to be provided for each two (2) employees based on shift of maximum employment)

See attachment for the required Parking Study (Page 8 of Supplemental Materials).

REQUEST #2) APPEAL FOR ALTERNATE MATERIAL FOR DRIVEWAY

<p align="center">ARTICLE XI</p> <p align="center">OFF-STREET PARKING AND ACCESS CONTROL REGULATIONS</p>	
SECTION 11.1 DESIGN AND LAYOUT OF OFF-STREET PARKING AREAS	
A. SIZE OF OFF-STREET PARKING SPACES:	For the purposes of this ordinance, one (1) parking space shall be a minimum of nine (9) feet in width and eighteen (18) feet in length, exclusive of access drives or aisles. Such parking space shall have a vertical clearance of at least seven (7) feet.
B. WIDTH OF ACCESS DRIVES:	All off-street parking areas shall be laid out with the following minimum aisle or access drive widths: <ol style="list-style-type: none"> 1. Ninety (90) degrees (perpendicular) parking --Twenty-two (22) feet (either one- or two-way circulation) 2. Sixty (60) degree (angle) parking --Fifteen (15) feet (one way circulation only) 3. Forty-five (45) degree (angle) parking --Twelve (12) feet (one way circulation only) 4. Thirty (30) degree (angle) parking --Eleven (11) feet (one-way circulation only) 5. Zero-degree (parallel) parking --Twelve (12) feet (one way circulation) <p>When any combination of these types of parking is used (facing the same aisle) the most restricted aisle or access drive width requirements shall prevail. In addition, a two (2) foot overhang may be permitted on the external sides of a parking area.</p> <p>If the width of the parking space is increased over nine (9) feet, the drive aisle width can be decreased proportionally (two (2) foot width in drive aisle per one (1) foot increase in space width) except that a drive aisle for two-way traffic may not be decreased below</p>

twenty (20) feet in width and a drive aisle for one-way traffic may not be decreased below eleven (11) feet in width.

- C. ACCESS TO OFF-STREET PARKING SPACES:** Each required parking space shall be connected with a deeded public right-of-way by means of aisles or access drives as required by Section 11.1, B. The parking area shall be so designed to ensure that all maneuvering into and out of each parking space shall take place entirely within property lines of lots, garages, and/or storage areas.

**APPENDIX A
SPECIFICATIONS FOR PAVING OF OFF-STREET PARKING AND LOADING
AND/OR UNLOADING AREAS**

All new off-street parking facilities shall be paved with asphalt or Portland cement concrete and shall be designed and constructed in accordance with the standards and procedures herein established.

Our appeal is to install a concrete driveway/access way that is not more than 15' wide and extend back for approximately 35' from the right-of-way (equal to the 35' building setback along Canberra Drive.) After the 35' distance we would like to and transition to a pervious stone material for the remainder of the driveway and parking area.

REQUEST #3) VARIANCE REQUEST FOR BUILDING SETBACK

**APPENDIX B
ZONES REGULATED BY OTHER LEGISLATIVE BODIES**

E. AREA AND HEIGHT REGULATIONS FOR CONDITIONALLY PERMITTED USES

1. Minimum lot area - Twenty-two thousand five hundred (22,500) square feet
2. Minimum lot width at building setback line - One hundred fifty (150) feet
3. Minimum front, side (on each side of lot), and rear yards - Fifty (50) feet
4. Maximum building height - Thirty-five (35) feet.

We would like to petition that the setback at the rear of the lots 95 and 94 (only) be reduced to 15' whereas 50' is required.

We make this request to allow for the construction of an Accessory Multi-Purpose Structure to store Kenton Conservancy equipment and materials. This structure is currently proposed to be a 30' x 60' covered structure, and would be subject to all Building, Permit, and Zoning requirements, and less than 35' tall.

REQUEST #4) SIGNAGE IN R-1C

ARTICLE XIV SIGN REGULATIONS

SECTION 14.8 SIGNS ALLOWED IN SINGLE-FAMILY AND TWO-FAMILY RESIDENTIAL DISTRICTS (R-1A, R-1B, R-1C, R-1D, R-1DD, R-1EE, and R-1F Zones)

E. INSTITUTIONAL SIGNS

1. Any school, house of worship, recreation center or other institutional use permitted in the zoning district may have one detached sign, not to exceed fifty (50) square feet in area. Such signs may include a masonry wall, landscaping or other similar materials or features. This may include changeable copy signs, not to exceed sixty percent (60%) of the sign area. Such signs may be illuminated.

Our request is to confirm that The Conservancy's property is governed by the Institutional Sign provision of the Single-Family Residential Districts. A sign shall be a minimum of 5' beyond any property line.

REQUEST #5) VARIANCE REQUEST FOR LANDSCAPE BUFFER/ PLANTING MATERIALS

ARTICLE IX GENERAL REGULATIONS

SECTION 9.0 PURPOSE:

General regulations shall apply to all districts.

SECTION 9.17 LANDSCAPE REGULATIONS

A. PURPOSE: The purpose of these regulations is to promote and to protect the health, safety and welfare of the community through reduction of noise, air, and visual pollution, air temperature and headlight glare and to improve the aesthetic character of the community by improving the appearance of vehicular use areas and property adjoining public/private road rights-of-way and driveways, preserving existing trees, and requiring screening between land uses.

D. LANDSCAPE REQUIREMENTS TABLE: The Landscape Requirements Table (Table 9-1) contains landscape requirements for perimeter, vehicular use or interior landscaping per these regulations.

E. SITES AFFECTED: Landscaping as required in the Landscape Requirements Table (Table 9-1), shall be required as follows

As this site is a designated conservation area, we propose that the required 20' buffer around the majority of the property be fulfilled by preserving existing native vegetation.

Additional exemptions to the perimeter requirement are requested for the following areas:

- **Access drive:** We request a buffer reduced to 10' along both sides the 180' side lot lines of Lot 93A (From the street to the rear of 93A along both sides of the 15' access way/ driveway.)
- **Rear Lot Lines:** We request a buffer reduced to 10' along rear lot line of Lot 96, Lot 95, Lot 94, Lot 93A, Lot 93, Lot 92, Lot 91, and Lot 90.
- **Planting Schedule:** Since a native planting scheme is preferred, we will address the components of the planting schedule with the City of Independence and PDS when appropriate.

#6 SUPPLEMENTAL MATERIAL REASONS FOR REQUEST

BRUSHY FORK NATURE PRESERVE

REASON #1) CONDITIONAL USE REQUEST

The Kenton Conservancy is working to create a nature preserve at the Brushy Fork Properties in Independence, Kentucky (PIDNs 032-00-05-007.00 and 032-00-05-002.00). A Board of Adjustment application is necessary for this project to obtain a Conditional Use Permit for a “Publicly owned and/or Operated Parks” within the R-1C (Residential One- C) zoning of the property.

Parking minimums for this project should be considered under Condition GG (All other uses not listed herein) which allows for the number of spaces to be determined based on the owners study. Per our experience with a nearby conservation property we own and the site’s topographical constraints, our study (Page 8 of the Supplemental Materials) recommends that eight (8) spaces will both serve the limited need and the available area to park. Should the use and demand at the Brushy Fork Nature Preserve exceed this anticipated use, The Conservancy reserves the option to expand the parking area to add additional spaces.

REASON #2) APPEAL FOR ALTERNATE MATERIAL FOR DRIVEWAY

The paved driveway and parking requirement is excessive for a nature preserve and the project partners will be aggrieved by the expense of this standard. We are proposing pavement for the first 35’ of the driveway to maintain visual continuity with the neighborhood, but gravel is preferred for the areas behind the homes. This approach is consistent with a nature preserve and reduces the amount of impervious surfaces and associated stormwater runoff issues.

REASON #3) VARIANCE REQUEST FOR BUILDING SETBACK

Due to topographical constraints (20% slope at the edge of the ½ acre meadow), the buildable area for the parking lot and possible future multi-use structure is a narrow strip of land behind the new building lots and necessitates reducing the setback to 15 feet.

REASON #4) SIGNAGE IN R-1C

We believe The Conservancy’s proposed entry marker is consistent with the Institutional Sign provision of the Single-Family Residential District, but wanted to confirm this assertion. The

proposed sign will be between 15-20 square feet, landscaped, and be located 5' beyond the property line and outside the right of way.

REASON #5) VARIANCE REQUEST FOR LANDSCAPE BUFFER/ PLANTING MATERIALS

As a conservation area, we propose the 20' buffer around the majority of the property be waived and allow the existing perimeter vegetation to remain undisturbed. Setbacks at the access drive and rear lot lines at the new Canberra Drive lots are onerous due to topography and lot shape, so we are proposing a 10' buffer for the following reasons:

- **Access Drive:** The shape of the lot at the entryway is only 50' wide, which prevents a 20' buffer and 15' driveway. The proposed 10' buffer is more reasonable and will fit with the layout of the site. .
- **Rear Lot Lines:** The narrow topography of The Conservancy's property behind the homes limits the amount of buffer space available. The flat meadow is about 50' deep, before the land drops off. Reducing this buffer to 10' allows The Kenton Conservancy to utilize this level space and properly site the parking, kiosk, and multi-use building.
- **Planting Schedule:** A native approach is preferred because it is consistent with the objectives of the nature preserve. The City of Independence has expressed support of the utilization of less invasive species.

PARKING STUDY- OFF-STREET PARKING REQUIREMENTS

BRUSHY FORK NATURE PRESERVE

The Kenton Conservancy is working to create a nature preserve at the Brushy Fork Properties in Independence, Kentucky (PIDNs 032-00-05-007.00 and 032-00-05-002.00). A Board of Adjustment application is necessary for this project to obtain a Conditional Use Permit for a “Publicly owned and/or operated parks” within the R-1C (Residential One- C) zoning of the property.

As a nature preserve, the proposed project does not have the typical metrics for determining the minimum number of necessary parking spaces, i.e. employees, dwelling units, or building square footage,. In consultation with Planning and Development Services of Kenton County (PDS), The Conservancy was advised that the portion of “Section 11.2 Specific Off-Street Parking Requirements” applicable to this project would be “Type of Use: GG All Other Uses not Listed Herein”. This stipulation requires the Conservancy to determine the number of spaces based on:

- a) type of use and estimated number of total trips generated during peak conditions (inbound and outbound);
- b) estimated parking duration per vehicle trip (turn-over rates);
- c) based on estimated number of trips generated and average parking duration per trip, calculate number of spaces required;
- d) estimated number of employees - (one (1) parking space to be provided for each two (2) employees based on shift of maximum employment)

Since there will be no public buildings nor employees, many of these requirements do not apply. In an attempt to estimate the necessary number of parking spaces, The Conservancy has compiled the following relevant information to determine the recommended number of spaces.

1.0 CURRENT CONDITIONS

Currently, the site is bare and no parking facilities exist. The construction of Canberra Drive and the access drive to The Conservancy’s property is anticipated to be completed fall 2020. Currently, the open meadow that will become the parking area is a grassy field (Figure A).



Figure A: Current Conditions at Proposed Parking Location.

There is currently no parking facilities at the site. To reach the property, cars must be parked at the current terminus of Canberra Drive with a 0.1 mile hike to the future parking area.

2.0 ANTICIPATED UTILIZATION

With little references available to estimate the parking utilization and expectations for a nature preserve, The Kenton Conservancy based parking for the proposed Brushy Fork Nature Preserve on PDS' recommended metrics, as well as the observed usage of a comparable nearby property, the Wolsing Woods Trails. Wolsing Woods Trails is located approximately 1 mile away near 280 Webster Road, Independence, Kentucky.

2.1 Wolsing Woods Trails Parking Area Use and Description

The parking area at the Wolsing Woods Trails is irregularly shaped and approximately 0.13 acres in size. The area accommodates approximately 12 cars, but was designed to accommodate a school bus's turning radius.

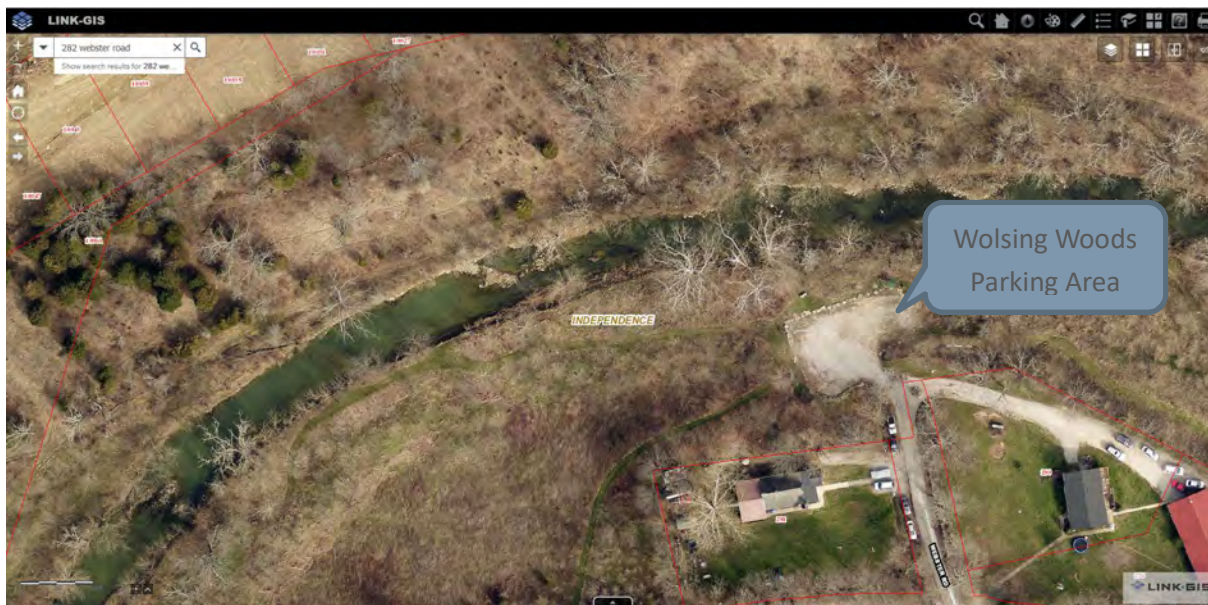


Figure B: Wolsing Woods Trails Parking Area.

The following are the Conservancy's observations of usage at the Wolsing Woods parking area:

Wolsing Woods Trails Parking Utilization	
Size	47 acres
Trails	~2.3 miles
Peak Days	Weekends
Parking Duration	30min – 1 hour
Typical Daily Use	Pedestrians from adjacent neighborhood in the evenings
Peak Use	5-6 cars
Special Event Usage	10-12 cars (capacity)

Parking at the Wolsing Woods Trails is predominately weekend traffic, with consistent excess capacity. The property manager recalls reaching capacity at the site on two special occasions; a tree planting event and a Green Umbrella sponsored weekend where 10-12 cars were present.

1.2 Brushy Fork Nature Preserve Parking Estimation

The Brushy Fork Nature Preserve is anticipated to have similar parking usage as the Wolsing Woods Trails. Daily traffic would be minimal, except for neighborhood pedestrian foot-traffic. Weekends are anticipated to be peak usage, with an occasional special event. The following are considerations for Brushy Fork's parking requirements.

Brushy Fork Nature Preserve Parking Considerations	
Size	104 acres
Trails	~2.25 miles
Peak Days	Weekends
Parking Duration	1-2 hours
Typical Daily Use	Pedestrians from adjacent neighborhood in the evenings

While the Brushy Fork site is much larger, there are comparable measured distances of trails. With expected use to be roughly the same, The Kenton Conservancy estimates that the weekend peak will be roughly the same as the Wolsing Woods property. Additionally, since Brush Fork will be connected to a well-developed residential street, on-street parking could be used in the rare event of overflow parking.

3.0 RECOMMENDATIONS

Zoning regulations state that determination of the number of spaces required should be based on:

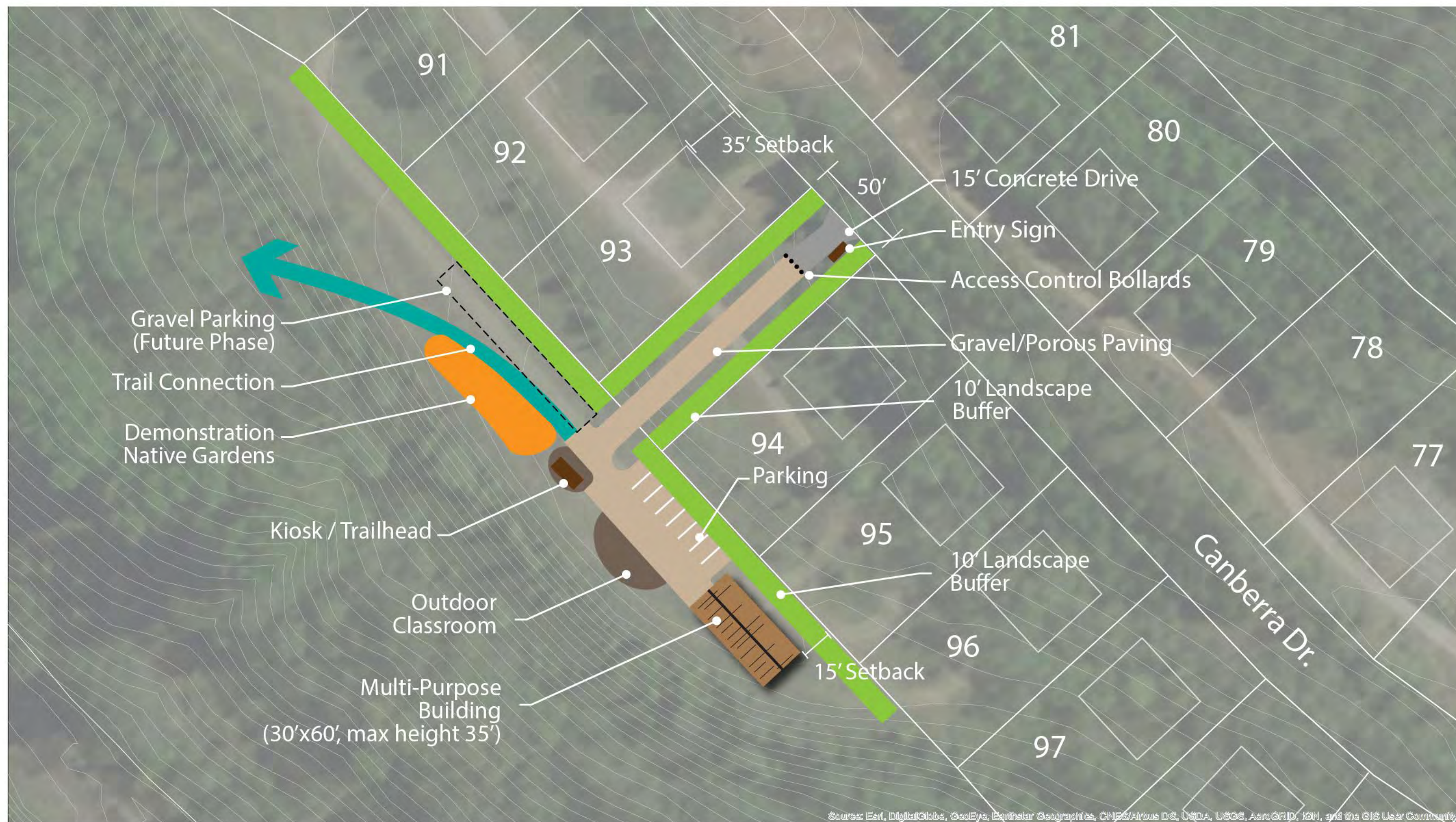
Requirement	Brushy Fork
a) number of total peak trips	5-6 per day
b) parking duration	1-2 hours
c) estimated minimum number of spaces required	8
d) number of employees	none

Considering a peak of roughly 5-6 vehicles a day on weekends, The Kenton Conservancy is proposing that a minimum of 8 parking spaces are necessary for the Brushy Fork Nature Preserve. These gravel spaces will be located behind the residential lots near the trailhead kiosk. Since depth of The Conservancy's level area at the back of the residential lots is minimal (averaging around 50'), The Conservancy has optimized the layout to orient parking along the buffer strip at the back of the residential lots.

Given the availability of on-street parking as an overflow area for parking in the case of a special event, the Conservancy estimates that the 8 spaces minimum is adequate. Should the use and demand at the Brushy Fork Nature Preserve exceed this anticipated use, The Conservancy reserves the option to expand the parking area to add additional spaces. The site plan for this Conditional Use Permit indicates the additional future gravel parking, which may be installed in later phases of this project.

SITE PLAN

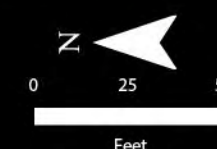
- BRUSHY FORK MASTER PLAN RENDERING
- BRUSHY FORK HUB DETAIL



990 St. Paul Dr., Cincinnati, OH 45206
 (513) 281-2211 www.humannature.cc

Brushy Fork - Hub Detail

Human Nature 4.20.2020





990 St. Paul Dr., Cincinnati, OH 45206
(513) 281-2211 www.humannature.cc

Brushy Fork - Master Plan

Human Nature 4.20.2020



LETTERS OF SUPPORT

- SI SI SI, LLC (with recent plat)
 - CITY OF INDEPENDENCE
 - KENTON COUNTY ADMINISTRATION
 - BANKLICK WATERSHED COUNCIL
 - KENTON COUNTY CONSERVATION DISTRICT
 - SANITATION DISTRICT NO. 1 OF NKY
-

April 20, 2020

Board of Adjustment
1840 Simon Kenton Way, 4th Floor
Covington, KY 41011-2999

Re: Brushy Fork Preserve – Letter of Support from Co-Applicant

To Whom It May Concern:

Si Si Si, LLC owns the property (PIDN: 032-00-00-039.00) that is adjacent to the Kenton Conservancy's proposed Brushy Fork Preserve (PIDN: 032-00-05-007.00) and would like to provide this Letter of Support for their efforts.


We have been working with the Kenton Conservancy for the past couple of years on the sale and development of this area. We have an agreement with the Kenton Conservancy and the Banklick Watershed Council to provide a 50' access parcel off the future extension of Canberra Dr. This parcel is denoted on our preliminary plat as lot 93A and will provide for public access to the future Brushy Fork Preserve.

As the current owner of lot 93A, we have agreed to serve as co-applicant on this application, with the understanding that this lot will ultimately be exchanged for the Kenton Conservancy's current access lot (PIDN: 032-00-05-0001.00). The exchange of these parcels will occur in the near future, at which point the Kenton Conservancy will assume ownership of lot 93A. *JBW*

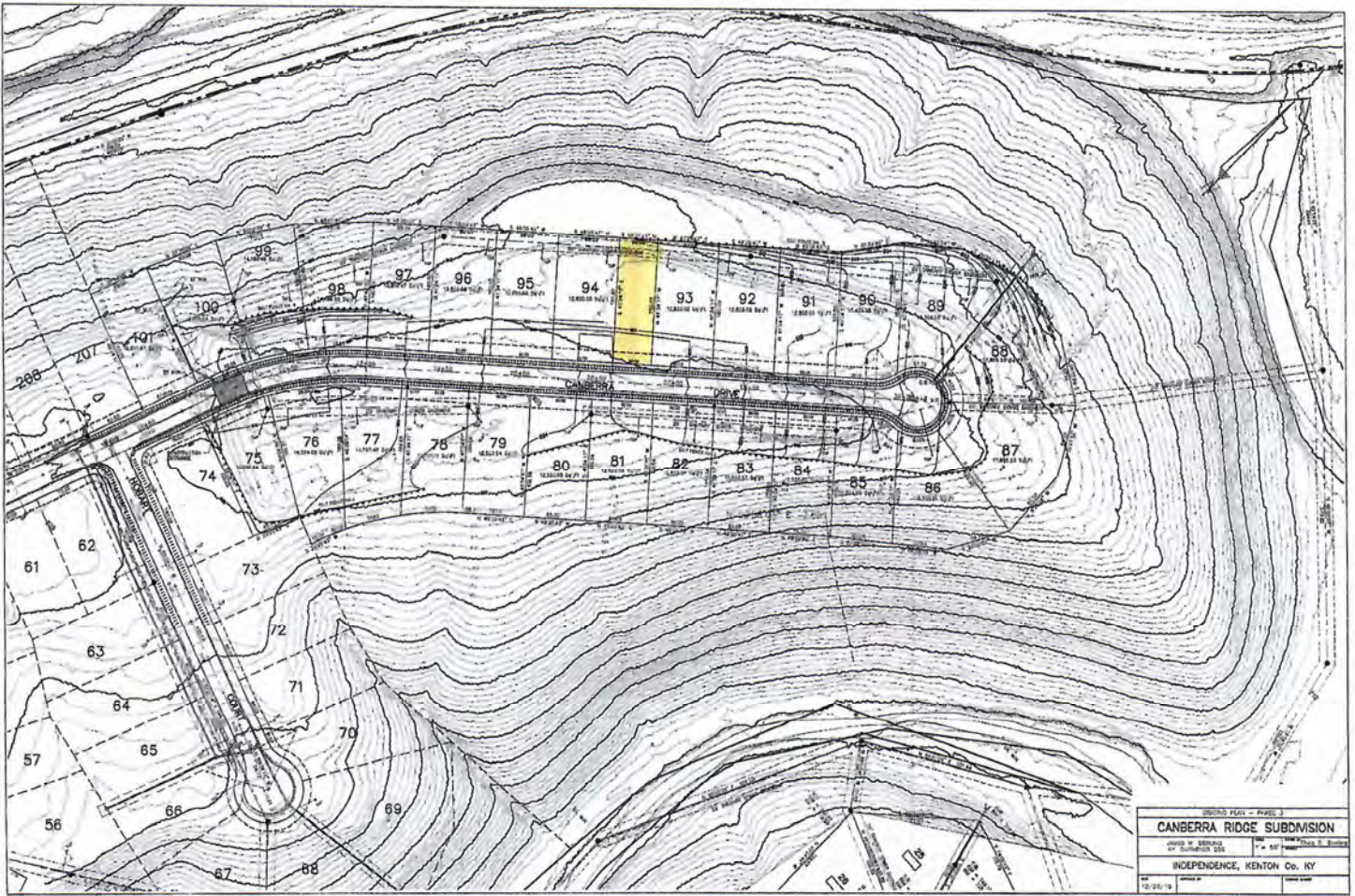
The intent of both Si Si Si, LLC and the Kenton Conservancy is to develop a community amenity that will provide greenspace and passive recreation for the residents of Independence. We have worked closely with the Kenton Conservancy on their plans for this area and support their application for a Conditional Use Permit for the 'park use' designation. We also understand and support their appeal of the paved parking requirements and variances for landscaping and setbacks.

If you have any questions, please feel free to contact us at jwenstrup@fuse.net or (859) 240-4433.

Sincerely,



James B. Wenstrup, Duly Authorized Member
Si Si Si, LLC



SUBDIVISION PLAN - PHASE 3	
CANBERRA RIDGE SUBDIVISION	
OWNER: W. B. BROWN	DATE: 10-25-18
BY: [Signature]	SCALE: 1" = 50'
INDEPENDENCE, KENTON Co. KY	

April 20, 2020

Board of Adjustment
1840 Simon Kenton Way, 4th Floor
Covington, KY 41011-2999

Re: Letter of Support: Brushy Fork Nature Preserve

Board of Adjustment:

The City of Independence would like to express our support for the Kenton Conservancy's application for the Brushy Fork Property.

The City has been working with the Kenton Conservancy and Banklick Watershed Council over the past two years on the purchase and preservation of this property, in hopes of creating greenspace and passive recreational opportunities for our residents. In fact, the City was first to contribute \$15,000 in support for the purchase of this property.

Since then, the project partners have successfully acquired a Duke Energy Foundation grant to establish access for the public and other amenities to begin to transform this property into a nature preserve. We understand that they hope to provide an access lane off Canberra Drive, entry sign, gate, gravel parking area, trailhead kiosk, and native plantings.

The project partners have kept the City apprised of their plans for the property, and we understand and support their application for the Conditional Use request, including:

- Using alternatives to paving for the portion of the driveway behind the houses and for the parking area.
- Reducing the landscaping buffer to 10' along the driveway and behind the residents, due to the lot shape and topography restrictions. Additionally, allowing the buffer around the remainder of the site to consist of existing, undisturbed vegetation.

The City looks forward to the prospect of this nature preserve and sees it as a valuable community amenity for our residents.

Please feel free to contact me if you have any questions.

Sincerely,



Chris Moriconi
City Administrator



March 11, 2020

Board of Adjustment
1840 Simon Kenton Way, 4th Floor
Covington, KY 41011-2999

Re: Letter of Support - Conditional Use Permit for Brushy Fork Property

To Whom It May Concern:

Kenton County Fiscal Court would like to express support for the Kenton Conservancy's Conditional Use permit application, including variances for landscaping/setbacks and appeal of the paved parking requirement.

The Fiscal Court has been working with the Kenton Conservancy and the Banklick Watershed Council in support of this project and provided financial support to purchase this land in August 2019.

The Brushy Fork Preserve property will provide greenspace and outdoor recreation opportunities for the residents of Kenton County, and this conditional use permit is the first step in establishing public access and bringing this vision to fruition.

We fully support the initiative taken by the Kenton Conservancy to design and install an access drive, sign, kiosk, gate, and other associated structures consistent with their master plan for the site.

Please feel free to contact me if you have any questions.

Sincerely,

Kris A. Knochelmann
Kenton County Judge/Executive



15 Silver Ave
Ft. Mitchell, KY 41017

March 9, 2020

Board of Adjustment
1840 Simon Kenton Way, 4th Floor
Covington, KY 41011-2999

Re: Letter of Support for Kenton Conservancy's Brush Fork Preserve Conditional Use Permit

To Whom It May Concern:

The Banklick Watershed Council (BWC) would like to provide this letter of support for the Kenton Conservancy's Conditional Use application, including variances for landscaping/setbacks and appeal of the paved parking requirement.

The BWC facilitated the purchase of this property for the Kenton Conservancy with the generous help of the Kentucky Division of Water, City of Independence, Kenton County, and Northern KY Urban and Community Forestry Council. Now, we've received \$25,000 from the Duke Energy Foundation to make this greenspace open and available for public use and recreation.

The 104 acre Brushy Fork Preserve will remain a natural greenspace, available to the public for the enjoyment of nature and passive recreation. The project partners are developing a vision for the site, which may include future trail development and wetland enhancement. Improvements at the public access area, located within the Canberra Drive subdivision, will include a sign, access road, gate, parking area, kiosk, and possibly a public shelter/maintenance structure.

The BWC supports the Kenton Conservancy in their application for a Conditional Use permit, variances, and appeal for the following reasons:

- *Park use is consistent with the adjacent residential land use.* As a nature preserve, the property will serve as an amenity and green space for the local residents. This conditional use is supported by both the developer of the Canberra Ridge subdivision and the City of Independence.
- *Paved parking standard is expensive and inconsistent with planned use.* The paved parking requirement is inconsistent with the natural greenspace aesthetic that is planned for the site. A more natural approach is preferred. Additionally, pavement is expensive and will create stormwater runoff and maintenance obligations.
- *Setback & landscape requirements are onerous due to topography and lot shape.* Since the vast majority of the property will remain as greenspace, the public access area is the only area where these requirements are a concern. The public access area is a narrow strip between the subdivision and railroad, which falls off steeply, prohibiting an extended setback and landscaping area. Additionally, the 20' landscape requirement is prohibitive in the 50' wide easement area, leaving little area for the access drive and gate.

The project partners are working to develop this nature preserve as a community amenity, and should be allowed this conditional use and variances from the current zoning regulations.

Sincerely,

A handwritten signature in blue ink, appearing to read "Nicole Clements", is placed over a light blue rectangular background.

Nicole Clements, Watershed Coordinator
Banklick Watershed Council
Admin@Banklick.org



KENTON COUNTY CONSERVATION DISTRICT

P. O. Box 647, 5272 Madison Pike, Independence, Kentucky 41051

Phone: 859.356.1019 / E-mail: Kenton@nkcd.org

Web Site: www.kentoncounty.org

Gailen Bridges, Chairman
Marc Hult, Vice Chairman
Chris Kaeff, Secretary/ Treasurer

Nancy Kloentrup
Jennifer Myka
Amy Powell

Bill Schneider
Zach Traylor, District Manager
Susan Ware, Secretary

Kenton County Board of Adjustments
1840 Simon Kenton Way
Covington, KY 41011

Dear Board Members:

The Kenton County Conservation District is pleased to support the Banklick Watershed Council and the Kenton County Conservancy's Conditional Use application. The District has had the privilege to work alongside these pillars of the community throughout the years on a multitude of projects revolving around soil and water stewardship, natural habitat restoration, and land conservation.

As Kenton County's urban and industrial sectors continue to grow, it is important to maintain a balance between developed and natural areas. Green space can provide citizens an escape from the hustle and bustle of everyday life, while also encouraging further outdoor engagement and increasing awareness of the benefits of natural areas in terms of soil and water quality.

We look forward to cooperating with the Banklick Watershed Council and the Kenton County Conservancy on this important endeavor.

Sincerely,

Gailen Bridges
Board Chairman
Kenton County Conservation District



March 11, 2020

Board of Adjustment
1840 Simon Kenton Way, 4th Floor
Covington, KY 41011-2999

Re: Kenton Conservancy - Conditional Use Permit for Brushy Fork Property

To Whom It May Concern:

It is our understanding that the Kenton Conservancy is applying for a Conditional Use permit and variances for the Brushy Fork Preserve. Sanitation District No. 1 (SD1) would like to express our support for the Kenton Conservancy's project.

As the regional storm water and wastewater utility, SD1 recognizes the importance of this property in managing floodwater within the Brushy Fork subwatershed. This property can also play an important role in storm water management by helping to mitigate stream instability to protect infrastructure and property, as well as improve water quality and habitat. Ultimately, the preservation and future enhancement of the riparian zone, stream corridor, floodplain, or wetlands at Brushy Fork will help to improve Northern Kentucky's water resources.

SD1 is also responsible for public education and outreach as part of the regional storm water management program. Establishing public access and trails along local creeks will help to engage the public's understanding and function of the region's water resources.

We support the Kenton Conservancy's proposal, which is consistent with SD1's mission in the community.

If you have any questions, please feel free to contact me at jgibson@sd1.org or (859) 578-6882.

Best Regards,

James P. Gibson, Jr.
Director of Water Resources