



KC&MP&ZC MINUTES

KENTON COUNTY & MUNICIPAL PLANNING & ZONING COMMISSION REGULAR MEETING

February 1, 2001
6:15 P.M.

NKAPC Meeting Room
2332 Royal Drive
Fort Mitchell, Kentucky

MINUTES

COMMISSION MEMBERS PRESENT:

Mr. Tim Theissen - Edgewood
Ms. Barbara Carlin - Kenton County
Mr. James Cook - Kenton County
Mr. Russell England - Independence
Mr. Jeff Gaiser - Ludlow
Mr. Al Hadley - Elsmere
Mr. Eugene Meyer - Covington
Mr. Joe Price - Crestview Hills
Mr. Paul Swanson - Erlanger
Mr. Bernie Wessels - Ft. Wright

LEGAL COUNSEL PRESENT:

David A. Schneider, Esq.

Mr. Theissen, Chairman, called the meeting to order at 9:00 a.m. Mr. Theissen led the meeting with the

Pledge of Allegiance and a prayer by Mr. Price.

APPROVAL OF THE MINUTES:

There were no minutes to approve as there was no subdivision review committee held in January.

SUBDIVISION ITEMS:

a. PRESENTATION OF PRELIMINARY PLATS, OTHER PLATS, AND OTHER ISSUES REQUIRING COMMISSION ACTION AT A REGULAR MEETING FOR REVIEW:

PP-590 CHATEAUX DEVOU

APPLICANT: Viox & Viox, Inc., in behalf of Grand Communities, Ltd.

GENERAL LOCATION: An approximate 33-acre area located at the terminus of Uphill Street, bordered on the east by the Children's Home of Northern Kentucky, and on the south by Devou Park, Ludlow.

REQUEST FOR ACTION: To approve a Preliminary Plat consisting of 293 attached units for residential development CHATEAUX DEVOU, including public and private improvements such as streets, storm drainage, sanitary sewer and water systems.

Staff presentation and Staff recommendation by Mr. Scott Hiles.

NKAPC STAFF RECOMMENDATION:

RECOMMENDATION: To approve a Preliminary Plat for CHATEAUX DEVOU, but only subject to compliance with the following **CONDITIONS:**

CONDITIONS:

1. That the proposed public portion of "Bourdeux Rue" be constructed either 28 feet wide, or 25 feet wide with no on-street parking permitted, and city ordinance adopted and proper signage posted (Section 7.3);
2. That an exclusive left-turn lane be provided along S.R. 8 at the Uphill Street intersection (Section 6.1);
3. That a minimum fire flow of 2,025 gpm at 20 psi (ISO standard) be provided/ensured by hydraulic modeling, and fire hydrant spacing be maximum of 425 feet, be provided unless otherwise approved by the city's Fire Chief (Section 7.2);

4. That a geotechnical investigation for the public and/or private street(s) crossing ground slopes in excess of 20 percent be performed and submitted for review prior to approval of Improvement Drawings and Specifications (Section 6.6);
5. That sidewalks be provided along both sides of all proposed public and private streets (Section 7.3 F and Administrative Policy No. 2);
6. That pedestrian access to Devou Park be provided from the internal street system of Chateaux Devou via an easement, a minimum 10 feet in width (Section 6.7);
7. That a sidewalk be provided from the internal street system to S.R. 8 (i.e. along Uphill Street) (Section 7.3);
8. That turnarounds having minimum dimensions of 12 feet in width and 20 feet in depth be provided at the terminus of the proposed private streets serving more than 25 units (Section 7.3 H and Administrative Policy No. 2);
9. That the name of the street proposed for extension east of the Hazen Street intersection be the same as the existing portion west of the Hazen Street intersection (Section 6.0 G); and
10. That all streets be named and the proposed street names be limited to two words or less (including the suffix) and not be duplicated elsewhere in the county (Section 6.0 G).

BASES:

The proposed subdivision CHATEAUX DEVOU is consistent with the recommendations of the 1996 Area-Wide Comprehensive Plan Update, the Kenton County Subdivision Regulations, and the Ludlow Zoning Ordinance, except as noted under the above Conditions.

There were no questions of Staff by the Commissioners.

Mr. Theissen marked a letter received from Mr. Ed Thompson, Jr. of the Natural Resources Conservation Service as Exhibit 1 to the minutes.

Mr. Steve Feldman, Mr. Jim Viox, Mr. Jim Gorman, Mr. Larry Sprague, Mr. Jeff Talkers, Ms. Elisabeth Horowitz, Mr. Tom Stacey, Mr. Joe Schutzman and Mr. Terry Bandy registered to speak in favor of the

application.

Mr. Steve Feldman of Fischer Homes addressed the Commission in favor of the application. He stated Fischer Homes is the largest condo developer in Cincinnati. He stated they are very excited about the development and further stated that it is a great opportunity to develop an infill community as well as provide much needed housing in the area. He stated the community would market the development to young professionals and empty nesters. He further stated the price range of the condominiums would be in the \$80,000 - \$185,000 range. Mr. Feldman passed out a packet of information showing various descriptions and details of the development itself as done by Fischer Homes. In addition to the packet Mr. Feldman also passed out photographs of models of condominiums similar to the proposed development. He further stated they had reviewed the Staff report and thanked the Staff of the NKAPC for their cooperation in the project. He further stated they agree with most of the conditions and stated they accept conditions 1,2,4,8,9 and 10. He stated as to conditions 5,6 and 7 that they agree with the overall conditions but are proposing an alternative pedestrian access plan. He stated they also have a concern with condition number three and that will be discussed later by Fire Chief Terry Bandy.

Mr. Theissen then marked the packet of information as Exhibit number 2 to the minutes and noted the pictures would be returned to Mr. Feldman.

Mr. Jim Viox addressed the Commissioners in favor of the application. He stated since 1968 he's worked on the site six or seven times. He further stated they made several efforts to develop plans for the property and that it only made sense to develop the land from the top since the land to be developed is on top of the ridge. He additionally stated the roads within Devou Park were in the Devou Trust and there was some concern about accessing this land through those roads. He stated that because of the steep topography of the land it necessitated some concern to manage the water, manage the geology and also keep down the steepness of the slopes so they can be preserved or maintained. He stated they recognize from previous involvement with Mr. Martin that there has always been some concern about the storm water runoff of that hillside that comes down onto Hazen and uphill so in grading the area they have actually reduced the water shed somewhat from the current watershed on the current property that comes down there. He further stated that they are providing a storm water detention facility in agreement with the conservation service request to manage the storm water and also provide some siltation collection. He further stated that to keep from generating any additional water is really the reason they came up with the 25-foot wide street. He stated that the only

reason the sidewalk was indicated to be on one side is to keep from generating any more hard surface. He stated that parking would be on one side of the street. He further stated that they are proposing an alternate pedestrian system due to the problems the steep grade causes in having sidewalks on both sides throughout the development. He stated they are proposed a pedestrian system that does allow each building in the site to have access to a sidewalk and allows that pedestrian way to extend all the way down to Hazen Street. He stated the water issue seemed to be more critical to the Staff and maybe to the Commissioners. He stated they recognize that the regulations require 500 gallons a minute. He further stated they can gain the 500 gallons per minute by simply going through private property which would involve gaining an easement to get the water to Home Drive. He stated there is a water main on Home Drive that would allow them to get that kind of flow but they recognized that that probably wasn't in the best interest of the site. He further stated they asked the Water District to have their consultant do a study for them. He additionally stated the Water District did not particularly want to get involved in the fire flow issue but they allowed their consultant to provide a letter indicating what could be done to improve the water. He stated they would have to deal with going through Devou Park to gain access to the water but the Fischer Company is taking the responsibility of making that extension for the water. He stated they have already met with the Water District and discussed how the second source of water might be accomplished. He further stated that they all recognize that it is a very old system and it is quite a distance to get to more water.

Mr. Wessels questions Mr. Feldman regarding the 1000 gallons per minute issue and whether or not that could be accomplished providing an easement is obtained from a private person. Mr. Feldman stated an easement would have to be obtained anyway. Mr. Wessels further questioned Mr. Feldman as to whether or not the 1000 gallons per minute requirement is going to reduce any water pressure or flows going to the surrounding community. Mr. Feldman stated that it would not.

Mr. Theissen stated he needed to have some idea of what the economic feasibility would be to get o 2000 on the water issue and at least what the expense would be to get to the 1000 and the impact on the economic viability of the project. Mr. Viox stated he did not have the specific numbers, however, they did meet with the Water District and they looked at alternatives to get water. He stated they are going to have to extend approximately 1800 feet not to just to the water main on Home Drive but up into Devou Park to get to a source of water to provide the 1000. He further stated that at this particular point he can't provide the numbers because he

does not have them and the Water District doesn't have them either. Mr. Theissen then further stated that the Commission needs to be convinced that what is being proposed is economically feasible and that doing anything more than that isn't. Mr. Viox stated he understood what Mr. Theissen is saying, but when he reads number three if Staff felt that way they would have written it in there. He further stated that Staff indicated that they say unless otherwise approved by the city's fire chief so at that point they met with the Water District and made them aware of what the condition was.

Mr. Gorman then addressed the Commission in favor of the application. He stated they are very optimistic about the potential of the proposed community with the City of Ludlow for both current and future residents. He stated they are also realistic about the physical constraints offered by the specific infill site. He further stated with this site in mind they wish to address condition number 3 and conditions number 5-7. He stated they believe these proposed conditions require construction not in keeping with the physical site in their efforts to make the community a reality. He stated the conditions fall into two categories: fire flow and pedestrian walkways. He further stated with respect to fire flow, they believe that 1000 gallons permitted is more than satisfactory for property protection and that it exceed the available fire flow in many areas of northern Kentucky and is twice the minimum flows required. Secondly, Mr. Gorman stated it is appropriate to establish minimum flows so that water suppliers, fire departments and planning may size infrastructure in developing areas. He additionally stated that as an infill site the surrounding infrastructure was constructed under older guidelines. He then stated that substantial expenditure is required to obtain 1000 gallons per minute. He further stated the with respect to pedestrian walkways they have worked with Staff to develop a solution which they believe addresses the need for walkways and recognizes the challenges of the site. He stated they propose the plan for approval amended to a five-foot walk width. He further stated they support the provision of pedestrian access easement to the property per discussions with Staff. He lastly stated if the proposed walkway plan is accepted they would be willing to construct and off-site sidewalk in one side of the uphill street right of way from their entrance to highway 8 provided the city also approves of the construction.

Mr. Theissen asked Mr. Gorman if he could address the questions proposed to Mr. Viox about the economic feasibility of getting more than 1000 gallons per minute. Mr. Gorman stated that conceptually it is tens of thousands of dollars. He further stated that he couldn't quantify it more than that.

Mr. Joe Schutzman addressed the Commission in favor of the application. He stated he is the zoning administrator and building inspector for the City of Ludlow. He stated the only thing he wanted to address was what Mr. Viox and Mr. Gorman had discussed. He stated they met with Mr. Sprague on the sidewalk issue and part of their discussion with the city was whether two sidewalks coming up the uphill made a lot of sense. He further stated it is a very steep grade going up and one sidewalk provides the access from the site down to Route 8. He stated there is not going to be a whole lot of pedestrians going up and down the steep hill. He stated the layout of the design is almost detrimental to a whole lot of pedestrian traffic so the regulation did make a lot of sense. He further stated that as far as the conservation issues, he stated that most of those issues are being addressed and will be addressed. Mr. Theissen then asked if the revised plan was satisfactory to the city. Mr. Schutzman stated that it was satisfactory and the only stipulation they had was the additional section, the lower section that doesn't already have a sidewalk. Mr. Theissen then stated that condition 5 was the only condition that needed to be modified and that hopefully 6 and 7 can stay the way they are. He stated he would like to hear from somebody before the meeting is over on whether condition 6 and 7 can stay if condition 5 is modified.

Mr. Terry Bandy then addressed the Commission regarding the issue. He stated regarding the fire flow issue that he called the water department and he was told that it was feasible to go to 1000-1250 by taking the line up the other line at Park Road. He stated that would give approximately 1000-1250 is what he was told. He stated that would be sufficient for the plan proposed.

Mr. Tom Stacey addressed the Commission in favor of the application. He stated as a representative of the community he is squarely behind the project. He stated he thinks it benefits the city as they don't have very many opportunities for development and new revenue generation. He further stated the project could surely help Ludlow considerably and stated he supports the project and that any obstacles regarding the project are not insurmountable and that they could be overcome.

Mr. Schneider then gave clarification on the standards of section 7.2 surrounding the issue of fire flow standards. Mr. Theissen asked if someone could address the sidewalk issue from Fisher Homes before hearing what those opposed to the issue had to say.

Ms. Elisabeth Horowitz addressed the Commission regarding the issue. She stated she was going to ask that the condition regarding the fire flow standards be revised to require 1000 on the basis of the economic

feasibility. She further stated that they would agree to a condition that increase it over the 500 to the 1000 level because they've done the analysis and believe that that's economically feasible and they are willing to do that. She stated she wanted to express concerns that anything over and above that she does not believe the Water District or anybody is in a position to know whether it's economically feasible to do anything more than that. She further stated regarding the sidewalk issue that if in fact they can get relief from condition number 5 which is requiring sidewalks on both sides of the street, they don't have a problem with doing that because they're asking for relief from sidewalks on both sides in order to have a pedestrian system that makes sense. She further stated they are willing to do the offsite improvement, the extra connection to Devou Park as part of the pedestrian system that they think works for this develop as consistent with the topography and the difficulty of the infill site. She additionally stated they have a problem with going offsite and making improvements that are offsite and that are not going to benefit their community but the community of Route 8. She further stated that if it part of an overall pedestrian system they are willing to agree to the extra conditions because they feel it is part of an alternate pedestrian plan.

Mr. Wessels stated that historically sidewalks are a big issue with a lot of the Commissioners. He further questioned what alternatives the Fischer group can give besides just saying they don't want it. Ms. Horowitz stated that that's how condition 6 and 7 were viewed, as alternatives. Mr. Theissen then stated for clarification that their conditional approval is that 6 and 7 can stay as long 5 is revised to basically adopt the plan submitted. Ms. Horowitz stated that was correct. Mr. Hiles then added that Staff is not completely in agreement with the amended sidewalk plan. He stated it does not include sidewalks on one side of all streets and it doesn't include them at the terminus streets. He further stated that they would agree with part of what was said in keeping 6 and 7 and modify condition 5 slightly. He stated he would like to hear how Fischer feels about providing sidewalks on one side of every street and to the terminus of every street.

At this point Mr. Theissen asked that those registered to speak against the issue address the Commission.

Mr. John Day addressed the Commission regarding the application. He stated that he owns adjoining property. He stated by way of background information that he was trustee of the Albert S. and William S. Ludlow estates for many years. He further stated he sold this original site to Gordon Martin and he also sold the original subdivision for that development. Mr. Day stated that he purchased lot A of the Ludlow Heights Subdivision along

with other property in the area. He stated he hired a surveyor at the time he purchased the lot and Uphill Street ran several hundred feet up the hill up to parcel A. He further stated that he depends on Uphill Street to develop his property, running water and putting in a street. He stated that Uphill Street ran up to that property that he owned according to plats that he has. He further stated he is concerned about access for water along the new street because it is a dedicated street. He further stated that he has the same zoning as the proposed property and he adjoins it, although the plat indicates he does not. He stated that regardless of what is done, he thinks the Commission should have the correct information. He stated he is not speaking for or against the issue, he is just supplying information that the Commission should have.

Ms. Kathy Stephens, CEO of the Children's Home of Northern Kentucky. She addressed the Commission regarding the issue. She stated they became aware of the project just a few days ago so they are not in a position to take a stand one way or the other. She further stated that she was hoping to perhaps get a couple questions answered. She stated that in looking at the plan it appears that there would be no easements required from their property and she wanted to clarify that that is correct. Mr. Theissen questioned whether or not the easement that would be required for the water line would be through the Children's Home or some other property. Mr. Viox then stated that they have to get the water system so it would be a matter of doing the deal with the Children's Home or the City of Covington. Ms. Stephens then stated that her second question pertained to green space and whether or not any would be maintained between the project and any neighbors surrounding the area. Mr. Theissen stated he did not know and that the plan did not show any proposed trees. Mr. Viox stated that he is sure they are going to grade down the current elevation there. Ms. Stephens then stated that it is a matter of concern to maintain as much privacy for the children at the home. She then questioned pedestrian access into Devou Park. She stated she was curious as to whether or not that had been decided or discussed as to where that pedestrian access would go. Mr. Sprague then addressed the matter and stated that they have not investigated that issue yet and when they get to the improvement plan stage they will be in a better position to figure out where is the best way to go.

Mr. Ben Cloud then addressed the Commission regarding the issue. He stated he is not sure he is against or for the project but there are several things that haven't been addressed. He stated the statement Mr. Hiles made as to no parking being on the left side of the highway is incorrect. He stated there has always been parking in that area. He stated there was a handicapped sign there until just recently. He further stated that most people

in that area don't have driveways and 25-30 parking spaces will be eliminated to put a through lane in there. He stated that one issue that hasn't been addressed is how much in taxes Ludlow is going to get a year and whether or not it was going to cost the city more by way of adding more police force.

Mr. Earl Soward addressed the Commission regarding the issue. He stated he lives on Hazen Street. He stated that some years ago Mr. Martin in his attempt to develop the property cleared the land only enough to allow surveyors to get in. He stated the property owners on Hazen Street had 2 and 3-feet of water coming off of that hill. He stated that city council at that time would not address it. He further stated that the water comes down at such a tremendous rate that it tore off and completely ruined his back patio. He stated the water goes not only to the property owners that he asked, but it went across the street and it went down to Mr. Cloud's house. He stated that Route 8 was covered by six or eight inches of water and debris. He stated he is going to require from the City of Ludlow in writing the protection that they are going to put into their input into this to see what he can do just to protect the people there.

Mr. Sprague then addressed the Commission on rebuttal. He stated there is an existing right of way for Uphill Street and it does in fact extend to Mr. Day's property as well as serving the Martin property. He additionally stated that as far as the impact on schools, they anticipate about thirty (30) children in the development. He also stated that is basically using the calculation of about 1 child generated per ten units built in these developments. He further stated that they have not done tax benefit to the City of Ludlow. Mr. Sprague stated that as to the water runoff issue, they will follow guidelines and subdivision regulations.

Mr. Gorman addressed the Commission on rebuttal. He stated that in our mind they are not anti-sidewalks but getting to the last building, making connection to the last building on the very end of the street did satisfy the conditions or the intent at least to provide pedestrian walkways throughout the community. He further stated that they believe that extending the sidewalk down to Route 8 is extreme and there won't be that many people using it. Mr. Theissen then asked if there was any significant difficulty in simply extending the sidewalk as drafted and just going ahead and going past and in front of the last buildings on each street. Mr. Gorman stated it is simply a matter of grading. He stated it would be one more building they've got to push back.

Following further discussion regarding the issue, Mr. Hiles noted that Staff

will amend condition 3 and condition 5. He stated condition 3 would be amended to read that a minimum fire flow of 1000 gallons per minute at 20 psi be provided by hydraulic modeling and/or a certified flow test and the rest read exactly as written. He further stated that condition 5 would be amended to read that a five-foot wide sidewalk (singular) be provided along one side of all proposed public and private streets, to the terminus of each street. He then stated that that would require the Commission to waive the requirement that sidewalks be provided both sides of all streets. Mr. Theissen noted that condition 6 and 7 stay the same.

All others registered had nothing new to add.

At this point Mr. Theissen closed the public hearing on the matter and opened the issue up for discussion amongst the Commissioners.

Mr. Hadley asked if parking was allowed on Hazen Street. Mr. Hiles stated that parking was allowed on Hazen. Mr. Hadley then stated that he was concerned with the turning of six hundred or so cars going in and out of the development. He asked if there were any provisions for turn lanes. Mr. Hiles stated the only way into the subdivision is from Route 8 to Uphill, straight up the hill to what essentially will be a four way stop and straight through. He stated there won't actually be a turn, a movement, presumably from Hazen onto this new street.

Following a brief discussion amongst the Commissioners, Mr. Theissen reaffirmed the revised conditions regarding the fire flow and sidewalk issues. Mr. Wessels then made a motion to approve with amendments to conditions 3 and 5. Mr. Cook seconded. A roll call vote on the matter found Mr. Wessels, Mr. Cook, Ms. Carlin, Mr. Dorsey, Mr. England, Mr. Gaiser, Mr. Hadley, Mr. Meyer, Mr. Price, Mr. Swanson and Mr. Theissen in favor. The motion carried unanimously.

PP-591 ROLLING GREENE

APPLICANT: PBS&J, in behalf of David V. Webster.

GENERAL LOCATION: An approximate 9-acre area located on the east side of Green Road (S.R. 2043), bordered on the south by Kensington Road (C.R. 1068), unincorporated Kenton County.

REQUEST FOR ACTION: To approve a Preliminary Plat consisting of 6 lots for ROLLING GREENE residential building development, including public improvements such as street, storm drainage, and water system.

Staff presentation and Staff recommendation by Mr. Scott Hiles.

NKAPC STAFF RECOMMENDATION:

RECOMMENDATION: To approve a Preliminary Plat for ROLLING GREENE ESTATES, PHASE 1, but only subject to compliance with the following CONDITIONS:

CONDITIONS:

1. That one-half (1/2) of Kensington Road (C.R. 1068) for the portion contiguous to the proposed development be widened to a minimum of ten (10) feet, and be hard surfaced, in accord with minimum subdivision regulation standards for an existing local street (Section 11.3 F);
2. That Sight Distances (Right and Left) for vehicles exiting the proposed intersection with Green Road (S.R. 2043) be in accord with minimum standards. Sight Distance measurements shall be clearly indicated on subsequent Improvement Drawings and Specifications (Section 6.0 E);
3. That a minimum fire flow of 500 gpm be provided via a certified flow test and fire hydrant spacing be a maximum of 450 feet (Section 7.2);
4. That the proposed eight-inch water main extension along "Daltons Way" be constructed outside the limits of the paved portion of the street, not beneath the pavement (Section 7.2);
5. That sidewalks be provided along both sides of the proposed street "Daltons Way" (Section 7.3 F);
6. That Lot #2 and Lot #3 be accessed internally, and not from Green Road (S.R. 2043), where practicable (Section 6.0 C. 3);
7. That the existing storm sewer culvert under Kensington Road (C.R. 1068) be hydraulically evaluated for adequacy per applicable standards and submitted as part of the Improvement Drawings and Specifications (Section 7.0);
8. That at least one (1) random on-site sewage disposal test be performed and submitted, and the note "Plat approval for building development on lot (s) be contingent upon issuance of a final sewage construction permit and inspections by the Northern Kentucky Independent District Health Department" be placed on the Final Plat (Section 3.1 C); and

9. That an additional ten (10) feet of right-of-way be dedicated along the north side of Kensington Road (C.R. 1068), for the portion fronting Lot 1 and Lot 6, on a subsequent Final Plat (Section 6.0 D);

10. That a storm sewer system be provided at the end of the cul-de-sac (Section 7.0);

11. That proposed street named "Daltons Way", duplicated in Covington 41011, be changed (Section 6.0).

BASES:

The proposed ROLLING GREENE ESTATES, PHASE 1 is consistent with the recommendations of the 1996 Area-Wide Comprehensive Plan Update, the Kenton County Subdivision Regulations, and the Kenton County Zoning Ordinance, except as noted under the above Conditions.

SUBSEQUENT RECOMMENDATION:

1. That a Waiver of Section 7.3 F SIDEWALKS be granted, thereby not requiring sidewalks along Green Road (S.R. 2043), and Kensington Road (C.R. 1068) on the basis that:

a) The plat for development includes low densities and contains extremely large rural estate type lots; and

b) The development or request will generate low traffic volumes without adversely jeopardizing pedestrian safety; and

c) The provision for sidewalks abutting the existing roadways is impracticable and unnecessary.

Mr. Dwight Clayton, Mr. George Hoffman and Mr. David Webster registered to speak in favor of this issue. No one registered to speak against.

Mr. Clayton, civil engineer with PBS&J, addressed the Commission in favor of the application. He stated he is a personal friend of Mr. Webster, the developer. He further stated by way of background that Mr. Webster has farmed this property at issue. He stated that Mr. Webster retired along with his wife and plan on building a home on one of the proposed lots. He stated they plan on giving one of the lots to their son and they're basically looking

towards the future of their children. He further stated they're just taking this farmland, realizing that Mr. Webster won't be able to farm it forever and he just wants to go ahead and take care of the future for his grandchildren. He stated the idea of the development is to maintain the rural nature of the area. He stated the developer wants to minimize the impact of the beautiful farmland and to maintain its rural nature since this is something that Mr. Webster is going to live in and wants to be proud of. He further stated they will minimize the improvements and that utilities will be put underground. Mr. Clayton addressed condition number 1 regarding Kensington Way. He stated the county presently maintains that road and up to this point they have not seen a necessary need to pave it. He stated they believe that after the development is completed with a total of three homes accessing that development there still won't be a need to pave that road. He stated that by leaving it a gravel road they will actually discourage traffic from coming back to the property. He stated if the road is paved then that is another road that the county would have to maintain versus just maintaining a gravel road. He further stated that Mr. Webster is agreeable to dedicating an additional 10-foot of right of way at the time the plat is required but they believe that it would cause an undo hardship for him to pave that road. He stated that they don't believe it would be setting any kind of precedent for someone else to come along and say that they need improve the road because of the limited number of residents served. He further stated that the lots would have large setbacks. Mr. Clayton then reviewed the conditions set by Staff regarding the development. He stated the only conditions they have major questions about would be item number 1 and item number 5. Mr. Clayton then deferred to Mr. Hoffman to speak to address some of the other issues.

Mr. Hoffman addressed the Commission in favor of the application. He stated he resided on Green Road and lived there all his life. He further stated there is no opposition to the development as far as he knows. He stated he would like to address the paving of Kensington. He stated it would seem to him that it is a somewhat unreasonable requirement to pave 600 feet of road to put two single-family homes. He further stated that it is not a through road so you would be dealing with a dead-end street. Mr. Hoffman additionally stated with regard to the site distance that the operating speed is not 55. Mr. Theissen asked for a number of an average speed of the vehicles on the road would be in his estimation. Mr. Hoffman stated it would be somewhere between 35 and 40 at this particular location. He additionally stated he wanted to clarify on condition number 9 that the right of way is actually 25 feet or close to it. He stated regarding that condition that he wasn't sure they were requiring an additional 10 feet or they wanted to be sure that there is twenty-five feet from the centerline. Mr. Hiles then

clarified that it is 25 feet from the centerline. Mr. Wessels stated that regardless of where the road is they are looking for 25 feet from the center of right of way.

Mr. David Webster had nothing new to add but verified for Mr. Theissen that the average speed on the road in question is between 35 and 40 mile per hour.

Mr. Theissen then questioned Staff as to condition number 1 and the paving of the road. He stated he was wondering if a more logical resolution regarding the paving might be to just require a one time additional gravel being added for the two lots that are being done rather than pave it. Mr. Hiles stated he would not want to encourage the widening of a county road with gravel. Mr. Theissen stated it would not be widening just improving the condition of the gravel road as it sits. He stated it seems like it would be difficult to have half of a county road paved. He stated his concern would be that you would end up having the traffic going the wrong way on the paved portion. Mr. Hiles then stated that you could always require that the whole road be paved. He further stated you could eliminate the widening and just pave what was there. He additionally stated it could be compromise to say don't widen it but hard surface what's there now. Mr. Hiles then stated that it could also be waived altogether. Mr. Wessels then asked if the applicant could be given an option that lots 1 and 6 be accessed off of Dalton's Way and that would be Dalton's Way internally until the road is paved. Mr. Meyer suggested having the applicant be required to pave the existing road that's there to the end of his property.

Following a short discussion, Mr. Theissen then suggested waiving condition 1 altogether and leave the road gravel and if somebody develops a big subdivision at the end of the street they'll worry about paving it then. Mr. Theissen stated it does not make sense to require a guy who is splitting two lots on an old county gravel road to pay a bunch of money to pave a road that's never going to get a lot of use. Mr. Theissen then suggested eliminating condition number 2 as well as to the speed limit of the road. In addition, Mr. Theissen stated he did not have any problem with waiving the sidewalks on Dalton's Way pertaining to condition number 5 in line with special sidewalk waiver of the regulations. He then stated condition 5 would also be eliminated. In addition Staff re-worded condition number 9 as to the right of way. Mr. Hiles stated that the word "and" should be taken out to read "that additional right of way be dedicated along the northside of Kensington Road for the portion fronting lot 1 and lot 6 for a total of 25 feet one side on subsequent final plat. Mr. Theissen then asked for a motion. Mr. England made a motion to approve. Mr. Theissen then clarified the motion for the record to read "to approve the plat subject to Staff's conditions with

the following changes; elimination of condition number 1 on the basis that it would be an excessive hardship and unusual circumstance; eliminating condition number 2 for the reasons that the regulatory speed is not the accurate speed used for sight distance regulations; and eliminating condition number 5 on the basis that it warrants waiver under subparagraph "f" of the regulations because of the large lots and low density and then revising condition number 9 to read "that additional right of way be dedicated along the north side of Kensington Road for the portion fronting lots 1 and 6 such that we maintain 25 feet from the center line of the right of way. Mr. Cook seconded. A roll call vote on the matter found Mr. England, Mr. Cook, Ms. Carlin, Mr. Gaiser, Mr. Hadley, Mr. Meyer, Mr. Price, Mr. Wessels, Mr. Swanson and Mr. Theissen in favor. The motion carried unanimously.

- b. CONSIDERATION OF ACTIONS TAKEN ON PLATS BY COMMISSION'S DULY AUTHORIZED REPRESENTATIVE, SINCE THE COMMISSION'S LAST REGULAR MEETING (e.g., GRADING PLANS, IMPROVEMENT DRAWINGS, FINAL DEVELOPMENT/STAGE II PLANS, FINAL PLATS, IDENTIFICATION PLATS, etc.)
- See listing of plans and plats recommended for approval on separate handout.

Mr. Theissen stated the actions of Staff for the past month needed to be ratified and approved. Mr. England made a motion to ratify and approve. Mr. Wessels seconded. A roll call vote on the matter found Mr. England, Mr. Wessels, Ms. Carlin, Mr. Cook, Mr. Gaiser, Mr. Hadley, Mr. Meyer, Mr. Price, Mr. Swanson and Mr. Theissen in favor. The motion carried unanimously.

- c. CONSTRUCTION REVIEW PROGRAM - See listing of subdivisions for construction inspections in progress on separate handout.

PUBLIC HEARINGS ON SCHEDULED PUBLIC FACILITIES: None.

OTHER COMMITTEE BUSINESS: None.

There being nothing further to come before the Commission, the meeting was recessed at 12:15 a.m. until 6:15 p.m.

KENTON COUNTY & MUNICIPAL PLANNING & ZONING COMMISSION
REGULAR MEETING

February 1, 2001
6:15 P.M.

NKAPC Meeting Room
2332 Royal Drive
Fort Mitchell, Kentucky

MINUTES

COMMISSION MEMBERS PRESENT:

Mr. Timothy Theissen, Chairman - Fort Wright
Mrs. Alex Weldon, Vice Chair - Covington
Mr. Jay Bayer - Park Hills
Mr. James Bertram - Taylor Mill
Ms. Barbara Carlin - Kenton County
Mr. Barry Coates - Covington
Mr. James Cook - Kenton County
Mr. John Dorsey - Fort Mitchell
Mr. Russell England - Independence
Mr. Jeff Gaiser - Ludlow
Mr. Al Hadly - Elsmere
Mr. Eugene Meyer - Covington
Mr. Joseph Price - Crestview Hills
Mr. Bill Snyder - Bromley
Mr. James Sucher - Crescent Springs
Mr. Paul Swanson, Secretary/Treasurer - Erlanger
Mr. Larry Thomas - Bromley
Mr. Bernie Wessels - Fort Wright

COMMISSION MEMBERS NOT PRESENT:

Mr. David Hilgeford - Villa Hills
Mr. Frank Smith - Lakeside Park

LEGAL COUNSEL PRESENT:

David A. Schneider, Esq.

Mr. Theissen, Chairman, called the meeting to order at 6:15 p.m. Mr. Theissen opened the meeting with the Pledge of Allegiance and a prayer by Mr. Price.

APPROVAL OF THE MINUTES:

Mr. Theissen asked if there were any comments or corrections. There being none, Mr. Hadley made a

motion to accept. Mr. Swanson seconded. A roll call vote on the matter found Mr. Hadley, Mr. Swanson, Mr. Bertram, Ms. Carlin, Mr. Coates, Mr. Cook, Mr. Dorsey, Mr. England, Mr. Meyer, Mr. Price, Mr. Snyder, Mr. Sucher, Mr. Wessels, Ms. Weldon and Mr. Theissen in favor. Mr. Bayer and Mr. Gaiser abstained. The motion carried.

FINANCIAL REPORT:

Mr. Theissen stated the financial report was distributed in the packets to the Commissioners. There being no questions or comments the Financial report was approved.

SUBDIVISION ITEMS:

CONSIDERATION OF PRELIMINARY PLATS AND OTHER PLATS AND ISSUES REQUIRING COMMISSION ACTION AT A REGULAR MEETING

CONSIDERATION/PRESENTATION OF ACTIONS TAKEN ON GRADING PLANS, IMPROVEMENT DRAWINGS AND SPECIFICATIONS, STAGE II PLANS, FINAL PLATS, AND IDENTIFICATION PLATS BY THE COMMISSION'S DULY AUTHORIZED REPRESENTATIVE SINCE THE COMMISSION'S LAST REGULAR MEETING

CONSIDERATION OF THE REPORT OF ACTIONS TAKEN BY THE SUBDIVISION/OYBKUC FACILITY REVIEW COMMITTEE AT A MEETING PRIOR TO, BUT ON THE SAME DAY, AS THE REGULAR MEETING -CONSTRUCTION REVIEW PROGRAM

Mr. Theissen gave the report of actions taken at the morning meeting of the subdivision review committee. Mr. Bertram questioned access through Ludlow only and not through Devou Park. Mr. Price motioned to ratify and approve. Mr. Hadley seconded. A roll call vote on the matter found Mr. Price, Mr. Hadley, Ms. Carlin, Mr. Coates, Mr. Cook, Mr. Dorsey, Mr. England, Mr. Gaiser, Mr. Meyer, Mr. Snyder, Mr. Sucher, Mr. Wessels, Mr. Swanson, Ms. Weldon and Mr. Theissen in favor. Mr. Bayer and Mr. Bertram abstained. The motion carried.

CONSIDERATION OF CONSTRUCTION REVIEW PROGRAM - See listing of subdivisions for construction inspections in progress on separate handout.

PUBLIC FACILITIES: None.

PUBLIC HEARINGS ON SCHEDULED ITEMS:

1488R

APPLICANT: City of Taylor Mill, per Jill Cain Bailey, City Administrator.

GENERAL LOCATION: N.A.

REQUEST TO BE REVIEWED: A proposed text amendment to the Taylor Mill Zoning Ordinance pertaining to the parking or storing of trailers, mobile homes, campers, inoperable vehicles, and other such type equipment and commercial vehicles.

Staff presentation and Staff recommendation by Mr. Michael Schwartz.

NKAPC STAFF POSITION

NKAPC STAFF RECOMMENDATION - TAYLOR MILL ZONING ORDINANCE:

To approve the proposed text amendment pertaining to the parking or storing of trailers, mobile homes, campers, inoperable vehicles, and other such type equipment and commercial vehicles.

COMPREHENSIVE PLAN DOCUMENTATION / SUPPORTING INFORMATION / BASES FOR NKAPC STAFF RECOMMENDATION --

COMPREHENSIVE PLAN DOCUMENTATION:

o Date of Adoption by the Kenton County and Municipal Planning and Zoning Commission: December 11, 1996.

SUPPORTING INFORMATION/BASES FOR NKAPC STAFF RECOMMENDATION:

1. The proposed text amendment pertaining to the parking or storing of trailers, mobile homes, campers, inoperable vehicles, and other such type equipment and commercial vehicles (see Attachment A) is allowed to be included within the text of the zoning ordinance, as authorized by Kentucky Revised Statute (KRS) 100.203(1).
2. The proposed text amendment pertaining to the parking or storing of trailers, mobile homes, campers, inoperable vehicles, and other such type equipment and commercial vehicles (see Attachment A) is appropriate in that it provides reasonable regulations for the protection of residential areas within the city.
3. The recommendation of approval is consistent with previous recommendations made by the NKAPC and the KC&MP&ZC and would bring the Taylor Mill Zoning Ordinance into conformity with the majority of zoning ordinances used in Kenton County.

A similar application has been reviewed within the City of Fort Mitchell (Z-99-12-03/1450R). In this issue, the NKAPC staff and the KC&MP&ZC recommended approval of the proposed text amendment.

All jurisdictions within Kenton County prohibit the outside storage of trucks within residential zones, except for the cities of Bromley, Crestview Hills, Latonia Lakes, and Park Hills.

No one registered to speak for or against this issue.

Mr. Theissen questioned Staff as to the definition of the word "truck" as used in the amendment. He stated and cited by example the Molly Maid vehicles. Mr. Theissen stated they are not trucks but under the definition of truck could fall under the regulations. Mr. Theissen stated he felt it was too restrictive a regulation. Following a brief discussion amongst the Commissioners, Mr. Wessels made a motion to deny the application based on the fact that the word "truck" creates an overly restrictive regulation. Mr. Price seconded. A roll call vote on the matter found Mr. Wessels, Mr. Price, Mr. Bayer, Ms. Carlin, Mr. Coates, Mr. Cook, Mr. Dorsey, Mr. England, Mr. Gaiser, Mr. Hadley, Mr. Meyer, Mr. Snyder, Mr. Sucher, Mr. Swanson, Ms. Weldon and Mr. Theissen in favor. Mr. Bertram abstained. The motion carried.

1491R

APPLICANT: LSI Industries, per Mr. Frank Dornbach.

GENERAL LOCATION: An approximate 4.3-acre area located along the east side of Turkeyfoot Road, between Industrial Road and Bottomwood Drive, approximately 250 feet south of Bottomwood Drive, Independence.

REQUEST TO BE REVIEWED: A proposed map amendment to the Independence Zoning Ordinance, changing the area described herein, from R-1B (a detached single-family residential zone with a maximum density of 2.0 dwelling units per net acre) to IP (an industrial park zone).

Staff presentation and Staff recommendation by Mr. Michael Schwartz.

NKAPC STAFF POSITION:

NKAPC STAFF RECOMMENDATION - INDEPENDENCE ZONING ORDINANCE:

To approve the proposed map amendment from R-1B to IP, but only subject to compliance with the following conditions:

1. That the proposed building addition not exceed forty (40) feet in height;
2. That the proposed off-street parking area be set back a minimum of seventy-five (75) feet from the side property line, unless a variance is granted by the Independence Board of Adjustment; and

3. That the required number of off-street parking spaces, pursuant to Section 11.2, EE. of the Independence Zoning Ordinance, be provided.

COMPREHENSIVE PLAN DOCUMENTATION / SUPPORTING INFORMATION / BASES FOR NKAPC STAFF RECOMMENDATION --

COMPREHENSIVE PLAN DOCUMENTATION:

o Date of Adoption by the Kenton County and Municipal Planning and Zoning Commission: December 11, 1996.

SUPPORTING INFORMATION/BASES FOR NKAPC STAFF RECOMMENDATION:

1. The proposed map amendment from R-1B to IP is consistent with the Land Use Plan Element of the 1996 Area-Wide Comprehensive Plan Update which identifies the site in question, as well as the area located to the south of the site in question, for Industrial uses. The proposed IP Zone permits a variety of manufacturing, compounding, processing, and assembly uses on a minimum lot area of one acre.

2. The site in question is part of a larger property containing a total of approximately 13 acres. The site in question, including the area located to the south of the site in question, being the remainder of the larger property, is currently occupied by a manufacturing facility. Therefore, the proposed map amendment from R-1B to IP represents a logical extension of the existing IP Zone which is located to the south of the site in question.

3. The submitted Stage I Development Plan meets the minimum requirements of the Independence Zoning Ordinance, except for the following:

a. Section 10.18, C., 7. prohibits structures within the IP Zone from exceeding forty (40) feet in height. Insufficient information has been submitted to determine compliance with this requirement.

b. Section 11.0, C., 1., d., (2) states that off-street parking areas within the IP Zone may be provide within side yards, provided that all minimum required side yard setbacks are maintained. Section 10.18, D., 4. requires a minimum side yard setback of seventy-five (75) feet when the side yard abuts property in a residential zone. The submitted development plan indicates that the proposed off-street parking area will be set back thirty-seven (37) feet from the side lot line.

c. Section 11.2, EE., regulates the number of off-street parking spaces that must be provided for manufacturing uses. Insufficient information has been submitted to determine compliance with this requirement.

Mr. Frank Dornbach, Mr. John Sullivan and Mr. Rick Jordan registered to speak in favor of the application. Mr. Delbert Marksberry, Mr. Jeff Neal, Ms. Thelma Marksberry, Ms. Sherri Creech, Mr. en Ritz, Mr. Roger Bray, Mr. Thurman Blade and Mr. Gordon Waldespohl registered to speak in opposition.

Mr. Frank Dornbach addressed the Commission in favor of the application. He stated he purchased the property in 1994 with the intent to use the property as industrial. He stated they have previously applied for and received approval for expansions over the years. Mr. Dornbach stated they were surprised that the side of the building they now wish to expand is zoned residential.

Mr. John Sullivan addressed the Commission in favor of the application. He stated the original property was zoned industrial back in the 50's. He additionally stated the part of the building that is in an industrial zone was built in the late 70's. Mr. Dornbach clarified a new addition was added to that same portion in 1978.

Mr. Rick Jordan addressed the Commission in favor of the application. He stated in 1994 LSI bought the building. He further stated the business has grown so much so that additional parking and space is now necessary.

Mr. Jeff Neal addressed the Commission in opposition to the application. He stated he would like to clarify some issues. He further stated the water runoff is terrible and the water runs right through his yard. Mr. Neal stated the land is not designed for and can't handle further construction. He further stated that every bit of water runs right to his property. He stated the company has shown in the past with recent additions how they intend on handling water runoff. He further stated they have pipes that have water runoff going right down the easement and it runs into his yard. Mr. Wessels then asked Mr. Neal if he had seen the proposed site plan because it makes allowances for water runoff. Mr. Neal then stated that he had a copy of the plan. Mr. Hadley asked how long Mr. Neal had lived at his residence to which Mr. Neal replied four (4) years. Mr. Hadley stated the building was there when he purchased his property. Mr. Hadley stated that walls could be built as sound barriers as is done along expressways to cut down on the noise element.

Mr. Delbert Marksberry addressed the Commission in opposition to the application. He questioned whether or not a fence would be built around the proposed parking lot.

Ms. Thelma Marksberry addressed the Commission in opposition to the application. She stated there is very much noise at night coming from the factory. She stated she has been there twenty-six (26) years and the loud booms started when LSI bought the property. She stated she has a disabled daughter and the noises wake her at night.

Mr. Roger Bray addressed the Commission in opposition to the application. He stated he agrees with what his neighbors say regarding the noise. He stated the noise started about two years ago. He further stated the police have been called regarding the loud noises coming from the building in the middle of the night. He stated his windows can no longer be opened in the spring and fall due to the loud noise coming from the building. He stated he feels the company should move an industrial park where they belong.

Mr. Thurman Blades addressed the Commission in opposition to the application. He stated his property is right against LSI property so he hears all the noise night and day. He stated that now the company wants to expand further into their direction. He further stated the building is surrounded by residential areas on three sides of the property. He additionally stated that thought should be considered because is a residential area. He stated he has lived in his home since '89 and stated the noise has gotten completely unbearable over the past couple of years. He further stated the company should not be there.

Mr. Gordon Waldespohl addressed the Commission in opposition to the application. He stated he has been a resident for twenty-eight (28) years. He stated he did not notice the noise until recently. He stated one way to keep the noise down is to isolate the big presses. He further stated he travels a lot and needs his sleep and he has a hard time getting sleep.

Mr. Dornbach addressed the Commission in rebuttal and stated the storm water problem has been addressed in this stage of the planning. He further stated there are storm water catch basins throughout the property. He stated they built the new addition in '98 with expansion in mind. He further stated there are no open sewers on the property. He additionally stated that since LSI Manufacturing has taken over they have only purchased one (1) punch press and that the manufacturing has not changed.

Mr. Sullivan addressed the Commission in rebuttal and stated that no one has ever come to them with noise complaints. He stated no police department has ever come to his office. He further stated the punch presses were there when they purchased the property. Mr. Sullivan stated that when Metal Craft was started there were no residences in the area. He stated that for the eleven years he was at the company previously there were only two (2) shifts. He stated they now run three (3) shifts. He further stated the terret machines run at night and that is probably the noise the residents are hearing. Mr. Dornbach stated decibel levels have been checked by OSHA and the company meets the required levels. Mr. Sullivan stated all worker working on the terett machines are required to wear hearing protection. Mr. Bayer asked how many pipes outlet into the lake on the property. Mr. Dornbach stated there are no pipes but one drainpipe. He stated the down spouts drain down the hill. He further stated the water runoff is probably due to the erosion of the hill. Ms. Carlin questioned the applicant as to when he became aware there was a zone problem. Mr. Dornbach stated he found out a month ago about the residential zone. Mr. Hadley asked the applicant what exactly he wants to add to the building. Mr. Dornbach stated they want to add a parking lot and tear down old offices and build new. Ms. Carlin

asked if there was any way to insulate the building regarding the noise. Mr. Dornbach stated if the terrett machines are the problem that there is probably a way to insulate them somehow. Mr. Wessels asked if any storm water detention/retention was explored when the addition was put on in 1998. He further questioned whether or not storm detention/retention could be placed under ground.

Mr. Jeff Neal stated in rebuttal that when he first purchased his property the company had one shift Monday through Friday. He further stated as they are in a valley any noise gets amplified. He additionally stated he finds it hard to believe that a building is purchased without knowing how it is zoned. Mr. Theissen stated he would like to get decibel levels in the area as would Mr. Dornbach. He stated it doesn't make good sound sense to develop further land that is undevelopable. He further urged the Commission to visit LSI and look at the property. Mr. Neal stated it is littered with scrap metal and looks like a pigpen. Ms. Carlin asked Mr. Neal what it would take to make LSI a good neighbor. He then stated that LSI has outgrown their facility and should move.

Mr. Roger Bray stated if the zone is approved there is still going to be a sound problem. He stated he does not know why management is not aware of noise complaints. He stated the noise is probably the biggest problem.

Mr. Waldespohl stated that three or four years ago he heard a lot of booming in the middle of the night and went out on his porch to see what it was. He stated his neighbor was out too and was hitting golf balls in the direction of LSI.

Mr. Jordan stated he has heard the discussions regarding the condition of the property. He stated he can prove that tremendous improvements have been made to the building and landscaping, striping the parking lot and re-doing the exterior of the building. He stated he can prove it with before and after photographs. He further stated he has customers coming to and from the building and has therefore made improvements.

Mr. Theissen then suggested postponing any decision until information is received regarding decibel levels. He further stated there are issues related to the use of the building and decibel levels. He additionally stated he believes there is a possible potential problem and wants further information. He additionally stated there are standards that need to be met regarding storm drainage and noise levels. Mr. Theissen went on to say that he doesn't feel those criteria have been met. Following a discussion regarding the issue, Mr. Theissen suggested tabling the matter for a maximum of six (6) months in order to allow for additional information to be obtained. Ms. Weldon made a motion to table. Ms. Carlin seconded. A roll call vote on the matter found Ms. Weldon, Ms. Carlin, Mr. Coates, Mr. Dorsey, Mr. England, Mr. Gaiser, Mr. Hadley, Mr. Price, Mr. Sucher, Mr. Swanson and Mr. Theissen in favor. Mr. Bayer, Mr. Bertram, Mr. Cook, Mr. Meyer, Mr. Snyder and Mr. Wessels voted against. The motion carried by a vote of 11-6.

Mr. Theissen also asked the applicant to provide decibel levels to the Commission. Ms. Weldon also requested that Staff review further the drainage plan.

OLD BUSINESS: None.

CORRESPONDENCE: None.

PLANNING, STAFF AND LEGAL COUNSEL ITEMS:

Mr. Theissen stated the first orientation meeting will be held at 4 p.m. on February 6 for the joint task force of the Comprehensive Plan.

COMMISSION ITEMS:

Mr. Theissen stated that a memo had been sent out regarding committees and appointments for the various subcommittees of the Commission.

COMMENTS/REQUESTS TO THE COMMISSION:

There being no further business to come before the Commission, the meeting adjourned at 8:50 P.M.