



KC&MP&ZC MINUTES

KENTON COUNTY & MUNICIPAL PLANNING & ZONING COMMISSION SUBDIVISION REGULATION REVIEW COMMITTEE

April 5, 2001
9:00 A.M.

NKAPC Meeting Room
2332 Royal Drive
Fort Mitchell, Kentucky

MINUTES

COMMISSION MEMBERS PRESENT:

Mr. Tim Theissen - Edgewood
Ms. Barbara Carlin - 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:

Mr. Theissen asked for any questions or comments regarding the minutes from March. There being none, Mr. Price motioned to approve. Mr. England seconded. A roll call vote on the matter found Mr. Price, Mr. England, Ms. Carlin, Mr. Gaiser, Mr. Hadley, Mr. Wessels and Mr. Theissen in favor. Mr. Meyer and Mr. Swanson abstained. The motion carried.

SUBDIVISION ITEMS:

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

PP-592 DONALD L. NEWSOM

APPLICANT: McNeely Surveying, Inc., in behalf of Donald L. Newsom.

GENERAL LOCATION: An approximate one (1) acre area located along the west side of Stephens Road (S.R. 1486), approximately 0.5 miles west of Taylor Mill Road (S.R. 16), Independence.

REQUEST FOR ACTION: To approve a Preliminary Plat consisting of one (1) lot for partial platting existing residential building from remaining property totaling approximately 124 acres, with request for waiver of sidewalks along Stephens Road and no public improvements.

Staff presentation and Staff recommendation by Mr. Scott Hiles.

NKAPC STAFF RECOMMENDATION:

RECOMMENDATION: To approve a Preliminary Plat for DONALD L. NEWSOM, SECTION 2, LOT 2, but only subject to the following Condition:

CONDITION: That a sidewalk be provided along the portion of Stephens Road (S.R. 1486) fronting the proposed lot (Section 7.3 F).

BASES:

The proposed DONALD L. NEWSOM, SECTION 2, LOT 2 is consistent with the recommendations of the 1996 Area-Wide Comprehensive Plan Update, the Kenton County Subdivision Regulations, and the Independence Zoning Ordinance, except as noted under the above Condition.

Mr. Swanson questioned Staff as to where sidewalks exist presently on Stephens Road. Mr. Hiles stated there are presently no sidewalks on Stephens Road.

Mr. Donald Newsom registered to speak in favor of the issue. No one registered to speak against.

Mr. Newsom addressed the Commission and stated the only thing he could mention in addition to Staff's report is that there are no sidewalks on Stephens Road. He stated this particular plat contains a rather old home which at one time was part of a dairy project. He stated the house was rented for years by his mother and father and has been rented by him for fifteen (15) years. He further stated the people want very much to own the property and either re-do the home that's on there or tear it down and build another one. He stated the reason is because their daughter has recently moved within the existing lot. He stated he was asked to sell a piece of the property and did not want to sell any property as he was not in the real estate business. He further stated he has no interest in developing the 124 acres and stated his children could do that at sometime in the future. Mr. Newsom stated he sees no reason for the sidewalk as there are none on Stephens Road at all.

Mr. Theissen then stated the reasons used in granting a waiver for a sidewalk and asked Mr. Newsom what the basis would be for the Commission to grant a waiver. Mr. Newsom stated the reason being that there are currently no sidewalks on Stephens Road and that if the sidewalk was put in, no one would use it other than the property owner. Mr. Swanson stated his concerns of not requiring a sidewalk but also agreed with Mr. Newsom that there were in fact no other sidewalks on Stephens Road. Mr. Swanson also stated that by not requiring a sidewalk now the Commission loses an opportunity to have sidewalks should development occur years down the road. Mr. Theissen then stated at some point the land would probably be developed whether by the applicant or his children and grandchildren. He further noted concerns about the precedent it would set by not requiring the sidewalk. He then stated there is no good basis for a waiver in this particular issue. Mr. Wessels then stated that if Mr. Newsom came back to the Commission with a request for a waiver and had a basis for one of the options to give him that to grant the waiver. He stated an economic hardship might be one of the options. He further stated it was somewhere around four (4) or five (5) thousand dollars to put the sidewalk in. Mr. Wessels then stated he agreed with Mr. Theissen that it was a bad situation without having a basis for the decision to grant the waiver. Mr. Newsom then stated that he is not interested in selling the property and is only doing so because he was approached by an older couple who would like to live near their daughter and he is honoring their request. He further stated that it is a very good chance that if the sidewalks are required, he won't sell the property since he is not interested in selling anyway. He additionally stated that the people buying the property would have to pay for the sidewalks because he really doesn't want to sell the property.

There being no further discussion regarding the issue, Mr. Wessels then made a motion to approve the application on the bases set by Staff. Mr. Swanson seconded the motion. A roll call vote on the motion found Mr. Wessels, Mr. Swanson, Ms. Carlin, Mr. England, Mr. Gaiser, Mr. Hadley, Mr. Meyer, Mr. Price and Mr. Theissen voted in favor. The motion carried unanimously.

PP-484 BATTLERIDGE SUBDIVISION

APPLICANT: Viox & Viox, Inc., in behalf of Hoppenjans Development, Inc., and Chesire Ridge, Inc.

GENERAL LOCATION: An approximate 13-acre area at the terminus of existing street "Cannonball Way" within the existing Battleridge Subdivision, Independence.

REQUEST FOR ACTION: To approve a Preliminary Plat consisting of 60 residential building lots, for

BATTLERIDGE, PHASE F, including public improvements such as streets, storm drainage, sanitary sewer and water system.

Staff presentation and Staff recommendation by Mr. Scott Hiles.

NKAPC STAFF RECOMMENDATION:

To approve a Preliminary Plat for BATTLERIDGE, PHASE F, but only subject to compliance with the following CONDITIONS:

CONDITIONS:

1. That strict erosion control measures be implemented to protect Brushy Fork Creek from siltation (Section 7.12);
2. That a minimum fire flow of 500 gpm at 20 psi based upon exposure distances of 14 feet be provided/ensured by certified flow test and fire hydrant spacing be maximum of 450 (Section 7.2);
3. That detention (dry) pond be sized to ensure sufficient stormwater controls for additional runoff from the entire development for separate branches or tributaries of Brushy Fork Creek (Section 7.0); and
4. That steep slopes (20% and greater) along hillsides rears of lots be considered for the Kenton Conservancy.

BASES:

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

Mr. Rodney Crice and Mr. Vincent Kahman registered to speak in favor of the application. Mr. Eric Russo registered to speak against.

Mr. Crice addressed the Commission and stated he didn't have a whole lot to add, just to say that the extension of the existing subdivision is using R-1C zoning. He stated they looked at the conditions and doesn't have a problem with conditions 1, 2 and 3. He stated the developer would be willing to speak with someone concerning condition four (4).

Mr. Russo addressed the Commission against the issue. He stated he is with the Hillside Trust. He stated they were asked to review the project and he would like to add a couple additional comments onto Staff's recommendations. He then stated the site is not overly steep however, he noted that there was no indication of a cut and fill plan. He also stated that there is a risk that any base excavation that is taken out could be spread over the back of the slopes thereby creating steeper slopes and uncontrolled fill on

the slopes as well. He then stated that when a homeowner moves in and makes improvements such as decks, patios, stone walls and even swimming pools, they run the risk of putting undo stress on the hill if it's not controlled and thereby causing slippage. Mr. Russo then stated that for this reason they are recommending that the engineer work with them on that condition. He further suggested that a detention basin needs to be between Antitum Ridge and Burnside Way as there is presently not one indicated on the plan.

Following a brief discussion amongst the Commissioners, Mr. Swanson made a motion to approve. Mr. Price seconded the motion. A roll call vote on the motion found Mr. Swanson, Mr. Price, Ms. Carlin, Mr. England, Mr. Gaiser, Mr. Hadley, Mr. Meyer, Mr. Wessels and Mr. Theissen in favor. The motion carried unanimously.

PP-283 SQUIRE VALLEY LANDMINIUMS

APPLICANT: James W. Berling Engineering, P.L.L.C, in behalf of Toeppen Builders & Developers, Inc.

GENERAL LOCATION: An approximate 32-acre area at the terminus of existing street "Squire Valley Drive" within Squire Valley Landominiums, bordered on the north by Lakeview Place Subdivision, and on the south by Emerald Springs Condominiums, Crescent Springs and Villa Hills.

REQUEST FOR ACTION: To approve a Preliminary Plat for SQUIRE VALLEY LANDMINIUMS, S.E. ADDITION including public improvements such as streets, storm drainage, sanitary sewer and water system, to be constructed in accordance with the existing approved Stage I Plan for Squire Valley Landominiums.

Staff presentation and Staff recommendation by Mr. Scott Hiles.

NKAPC STAFF RECOMMENDATION

To approve a Preliminary Plat for SQUIRE VALLEY LANDMINIUMS SE ADDITION, but only subject to compliance with the following CONDITIONS:

CONDITIONS:

1. That the development of SQUIRE VALLEY LANDMINIUMS SE ADDITION be in accord with the existing approved Stage I Plan for SQUIRE VALLEY LANDMINIUMS (Z-85-08-04/673R and Z-85-08-05/673R) (Section 6.6);
2. That Sight Distances (Right and Left) for vehicles exiting the proposed intersection with Bromley Crescent Springs Road 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 full intersection improvements (left-turn storage lane and right-turn deceleration lane), including roadway and right-of-way widening for an arterial street be provided along Bromley Crescent Springs

Road at the intersection with Squire Valley Drive (Section 6.1);

4. That the proposed water main along Squire Valley Drive be extended and connected to the existing water mains along Bromley Crescent Springs Road and within the Emerald Springs Condominiums, subject to Water District approval (Section 7.2);
5. That a minimum fire flow of 500 gpm at 20 psi be provided/ensured by certified flow test and fire hydrant spacing be maximum of 450 feet (Section 7.2);
6. That sidewalks be provided along both sides of all streets including along Bromley Crescent Springs Road (Section 7.3); and
7. That 10' x 10' box culvert enclosing Pleasant Run Creek be approved by NREPA/Division of Water via proper permit.

BASES:

The proposed subdivision is consistent with the recommendations of the 1996 Area-Wide Comprehensive Plan Update, the Kenton County Subdivision Regulations, and the Villa Hills and Crescent Springs Zoning Ordinances, except as noted under the above Conditions.

SUBSEQUENT RECOMMENDATIONS:

1. That a Waiver be granted to Section 6.1 E INTERSECTIONS, thereby not requiring the proposed intersection of Squire Valley Drive with Bromley Crescent Springs Road to be spaced 600 feet from existing intersections (i.e. driveways) along Bromley Crescent Springs Road on the basis that exceptional physical conditions exist, further defined as follows:

a) Existing approved Stage I Plans for SQUIRE VALLEY LANDOMINIUMS (Z-85-08-04/673R and Z-85-08-05/673R) included the intersection of Squire Valley Drive with Bromley Crescent Springs Road. In fact, separate City of Villa Hills Ordinance No. 1998-9 requires such intersection be accomplished on or before July 1, 2002; and

b) Provision of a third entrance to SQUIRE VALLEY LANDOMINIUMS will provide better pedestrian and vehicular circulation, lessening the impact at the two (2) existing entrance intersections.

In addition, ensuring compliance with recommended Conditions #2 and #3 (ensuring proper sight distance and intersection improvements), will provide an "as safe as practicable" intersection of Squire Valley Drive with Bromley Crescent Springs Road.

2. Result of initial meeting held between County Judge/Executive office and NKAPC staff concerning this development generates the need for more detailed discussions and actions between the developer,

county, and cities of Crescent Springs and Villa Hills. To further ensure the proper coordination of on-site and off-site safety improvements along Bromley Crescent Springs Road, an arterial roadway as identified within the Comprehensive Plan, issues evident such as bridge relocation, intersection channelization, roadway slippage, guard rails, and eventual pavement widening, must be addressed prior to ultimate built out of the project proposed.

Mr. Jim Berling, Mr. Steve Berling, Mr. John Toeppen, Mr. Denny Stein, Mr. Chris Warneford and Mr. Elliot Liev registered to speak in favor of the application.

Mr. Tom Vergamini, Ms. Marjorie Turner, Mr. Vince Celbanese, Ms. Ann Kaiser, Ms. Rene Stacey, Mr. Rich Stacey, Mr. Ched Thornton, Ms. Sue Akinson, Mr. Rick Wessels and Ms. Mary Helen Von Handorf registered to speak against.

Mr. Schneider at this time noted that he would not be answering any legal questions or taking a position on this issue due to the fact that his firm has a conflict with some of the parties involved through representation of those parties.

Mr. Jim Berling stated he has been the engineer for Squire Valley, along with his son, since back in the early '80's when the project started. He stated they found the Staff report to be very thorough and correct. He stated they agree with conditions 1, 2, 3, 4, and 5. He stated as to condition 6 regarding the sidewalks on both sides that Squire Valley Drive has already been started and has sidewalks on one side. He requested that they be allowed to continue with one sidewalk on the major road from its present end down to Bromley Crescent Springs Road. He stated that Bromley Crescent Springs Road is scheduled for major improvement in the near future by the county. He stated it is not scheduled or budgeted at this time but it is being planned. He stated that until the sidewalk goes someplace they would prefer to escrow the funds needed to construct the sidewalk at a later date. He then stated that condition 7 regarding a 10x10 box culvert enclosing Pleasant Run Creek be approved by the Division of Water for a permit. He stated they will have to approve their permit and they will not build without it.

Mr. Steve Berling and Mr. John Toeppen had nothing to add.

Mr. Denny Stein, city council, addressed the Commission in favor of the application. He stated this development has been around for a long time. He stated the original plan shows six connections with one of those streets being Cecelia, which happens to be the street he lives on. He stated his only intention here was to make sure another connection takes place and in agreement with Mr. Toeppen, he is present to support that. He stated Mr. Toeppen agreed to do that. He stated his only intention for being at the meeting is to ensure that another connection takes place in the development.

Mr. Chris Warneford, Kenton County Public Works Superintendent, addressed the Commission in favor of the application. He stated he was present to address the issue of Bromley Crescent Springs Road. He stated that it is a county road that is somewhat underdeveloped for the area it serves. He additionally stated it is in need of major rebuilding and realignment. He stated that due to the topographical parts of

the area and the creek it's a somewhat costly realignment. He further stated it would be somewhere in the area of 2.5 to 3 million dollars. He stated they are not opposed to them making the connection as long as all site distances can be met. He further stated that meetings have been held with the City of Crescent Springs and Villa Hills to try to achieve this point. He stated he agrees with escrowing the money for sidewalks and putting them in later rather than possibly have to tear them up later. He further stated that it is probably three to four years out before the realignment begins on Bromley Crescent Springs Road because it's a matter of money. He additionally stated it is a high priority road due to the number of people that travel that road and the numbers have increased as development increases. Mr. Theissen asked if there was any deadline for repairing the road and using the escrow funds. Mr. Warneford stated there is no deadline to using the escrow funds. Mr. Wessels asked when the engineering would be done on the project. Mr. Warneford stated the preliminary engineering they would hope to have done by the end of September.

Mr. Elliot Liev had nothing further to add.

Mr. Tom Vergamini, council member of the City of Crescent Springs, addressed the Commission against the issue. He stated he some documentation and a film to present to the Commissioners regarding the issue. He further stated he is present on behalf of the city. He stated he also is chair of the public works committee. He stated the concern is not so much the development itself but the encroachment on Bromley Crescent Springs Road. He stated they expect, as a city, a good traffic plan and this is not a good traffic plan. He stated there needs to be some substantial conditions before the encroachment occurs on Bromley Crescent Springs Road. He stated he is a frequent user of the road and very familiar with it. He stated the way they found out about the project in January was the entire subdivision in the area came forward and said somebody is clear cutting this site, what can we do. He stated there wasn't much at the time because it was in the City of Villa Hills. He further stated that they found out the whole project was approved in 1985 by both cities. He stated the City of Crescent Springs approved the plan in October with several conditions. He stated one of the conditions was that improvements be made in the vicinity of the intersection of Pleasant Run Pike and the proposed road from the site to provide safe vehicular access. He then further stated that in 1985 Waterford Estates, Emerald Springs, Triple Lake, Crescent Point, Forrest Hills, Ashley Point and a small portion of Riverwatch did not exist as well as Zalla subdivision did not exist at the time this was approved. He stated in the past fifteen years there has a huge change in the demographics and the traffic in the use of these roads. He further stated the one thing that hasn't changed is the condition of the road. He stated he had done some research and this road has been in the same configuration for approximately 150 years. He stated he tried to get an accurate traffic count for the area and looked at previous comprehensive plans including the most recent data you can get and found that there is no accurate road count in this vicinity. He stated at a minimum this should be done. He stated a major concern is that there is no accurate traffic count so the exact criteria is not known. He stated the second issue is how wide is the road. He then referred to the handout of varying road widths along the road. He stated to add more traffic to the area is asking for a disaster to happen absent a professional traffic study as a precondition for any action taken on this road. He further stated it is a problem that the City of Crescent Springs will not accept and that is one of the conditions that they will require. He then stated another concern was that this was approved in 1985. He stated that the zoning code required that the developer take action

within twenty (24) months of the approval of a plan. He stated that was never done. He stated a concern is that the City of Crescent Springs was never notified of the change involving the request by the developer to get rid of one of the connections that substantially effects the plan. He stated they were never notified of the agreement between the developer to build the road on Bromley Crescent Springs until recently when they obtained a copy of the ordinance. He further stated that there are some problems the city has with the development. He additionally stated the development is fine as far as the city is concerned. Mr. Vergamini stated their major concern has to deal with the entry point on Bromley Crescent Springs Road. He stated what exists there now could never be accepted as a city street and the city does not want that imposed upon them as a city street. Mr. Vergamini then showed the video tape taken at his request by the Crescent Springs Police showing the approximate access point that is going to be on the Bromley Crescent Springs Road. He then stated there is a reason there have been no subdivisions on that road for nearly a hundred years; because it was not wide enough. He further stated that they are not opposed to the subdivision, the concern is absent a professional and complete traffic study to approve an encroachment on that road is unacceptable and bad planning and they don't want to see that. Mr. Vergamini then noted that Mr. Wessels has a family relationship with the developer and he lives in that subdivision so he would be directly impacted. He further stated that whether or not Mr. Wessels would preclude himself or not would be his call. Mr. Wessels then noted for the record that he did check with legal counsel prior to the meeting and there is no conflict of interest. Mr. Vergamini then stated it was not an objection, it was just a suggestion. He additionally stated there has been no major improvement on that road. He stated the road existed at the time of the Civil War. He stated the traffic didn't exist in 1985 when this was originally approved and the subdivisions weren't there. He further stated those factors have come into play since that time. He stated the traffic study done on short Amsterdam in May of 1987 revealed "the speed limit on short Amsterdam...the fact that acceptable intersection standard site distance requirements for both directions of Amsterdam Road will not be achieved with the Rosewood connection together with the grades and curves of the existing roadway indicate that a potential dangerous and substandard intersection would be created. This dangerous condition would be compounded under nighttime conditions or periods of inclement weather, especially if emergency vehicles were present at the intersection." Mr. Vergamini stated it is not a very safe road as it exists and they do not want to make it any more dangerous than it is now.

Mr. Theissen noted that Mr. Vergamini's handout would be marked as Exhibit 1 to the minutes. Mr. Theissen also stated the videotape would be copied and marked as Exhibit 2 and made a part of the minutes as well.

Ms. Rene Stacey addressed the Commission and stated that in addition to the concerns about the road, they have concerns about the safety of the road where it comes along her property. She stated it runs along the backside of their property and they are concerned with safety of the area. She stated the original plan was approved back in 1985 before their subdivision was in place. She asked what considerations were taken where one subdivision effects the other. She asked if the plan was still valid in terms of safety and what was there then. She asked if the plan was changed enough to be looked at again. She further stated that the road is going to be ten feet from their backyard with nothing blocking the end of the backyard from the road. She stated that once the connection is made it will be the main pass through from Country Squire coming from both directions. She stated there is a street in front of her

home and they would then be sandwiched between that road and a major through road. She stated her concerns with safety and questioned why the road has to be the width that is required versus being farther from her property. She stated they were told in meetings that they would not be able to see the road from their property unless they walked to the end and looked down. She stated that no longer seems to be the case and stated the plan seems to be changing. She stated a major concern with safety and the implications this road causes against their yards and their families. She further noted the current drainage situation and stated her concerns with water runoff from the development.

Ms. Marjorie Turner addressed the Commission and stated when she built their home she asked what was going to be built behind her and was told it would be landminiums. She also stated that when she asked how close the road would be she was told there was a sewer easement and the road could not go over the easement so it wouldn't be close. She stated her concern with the egress and that it increases the traffic in back of her house. She stated it is a very big concern in terms of safety and small children. She also stated her concerns with increased theft with through traffic in back of her home. She stated that things have changed remarkably since 1985. She stated the traffic flow has increased and the road is an extremely dangerous road, especially when it is raining.

Mr. Vince Albanese addressed the Commission and stated for as long as the land has been around Mr. Toebben's land has fed the lake in his subdivision. He stated his concern with the lakes in the area as they are not man-made. He stated there are migratory birds on the lakes. He stated it has been a natural flow in those lakes for years. He stated he would also like to see a culdesac made because it is such a dangerous intersection.

Ms. Ann Kaiser addressed the Commission and gave a handout to the Commissioners of a document that was given to her when she moved into her property. She stated there are inconsistencies with the plan approved fifteen years ago and the current plan. She stated there is some erosion down on the Pleasant Run area and sited concerns with future development causing more erosion and more problems. Ms. Kaiser noted a grading change with the old and current plan. She stated this is a change from the original plan that they were told of.

Mr. Rich Stacey addressed the Commission and stated his concerns have been covered by those speaking before him. He also mentioned concerns with drainage and the road. He stated the water will drain into the street and suggested moving the road back to give the water natural flow and allow it to drain back into the lake. He sited safety concerns and stated moving the road back a little would help with that issue. He also stated that grading in the area will damage the root system of the remaining trees and stated the trees will not last.

Mr. Ched Thornton addressed the Commission and stated when he moved there he knew there was going to be building in that area. He stated the access was supposed to go out to Amsterdam and provide the access in and out. He further stated he never knew of the proposed plan. He sited concerns with traffic and stated 35 mph is too fast for that road. He also sited concerns with his neighbors and proposed installing a buffer to make it safer for the children.

All others registered to speak against had nothing to add.

Mr. Elliot Leiv addressed the Commission regarding the issue. He stated he was very informed and knew about the development going in, unlike a lot of his neighbors. He stated Squire Valley is a great place to live as do his neighbors. He stated that they will continue to be good neighbors to those being effected by this development. He reiterated that he was aware of the proposed development because he was informed. He stated he checked the public records on his own to make sure he knew exactly what was going in. He stated he just wanted to let the people know that Squire Valley is a good place and they will be good neighbors to everyone.

Mr. Steve Berling addressed the Commission in rebuttal and stated that a thing to remember is that the Toebben's were there first in 1985 before the Fischer developments, the Ashley development and the Drees developments. He stated this road connection was always part of the 1985 plan. He additionally stated the density is greater when it was approved than it is today and will be less at the end of the project. Mr. Berling stated as to the site distance that the place the policeman stood in the video presented by Mr. Vergamini is not the correct place so he doesn't know how good it is. He further stated that they feel confident that they can get those site distances required. Mr. Berling stated that reducing the speed by five would be good but to reduce it by ten would be that much better. He stated the county has talked about reducing the speed by even doing five to ten, possibly to 25 mph. He further stated that the reasoning behind the island is to slow people down and to put stop signs in so people do not use it as a cut through street. Mr. Berling stated there is an average of six feet depth behind resident's homes. He further stated as far as the lakes not being able to replenish he doesn't feel that is the case. He stated he offered to put water into the lake if all five people gave an easement saying they could do that. Mr. Berling stated as far as the traffic study they could also produce that.

Mr. John Toebben addressed the Commission in rebuttal. He stated the safety concern is an issue to him as well in the respect of having an investment and being able to sell the property. He stated they have introduced the island as a means to slow traffic down. He stated he expressed his willingness to connect his sidewalk system with the Lakeview subdivision because those people are entrapped. He stated he would like to see an interconnection of the sidewalks done for this reason. He stated the road was placed as low as they possibly could and maintain the contours that they needed to build the structures that they have planned there. Mr. Toebben additionally stated that also controls things such as lights off of cars with having the road below backyards. Mr. Toebben stated they agreed with the county to do a study all the way down to Amsterdam Road just so they he knows where the road is going to be and to help them and assist them in any way they can. He stated they would continue to do that. He further stated that the road will go in as soon as possible because it's a marketability issue with him. He stated it is unmarketable without that connection. Mr. Toebben stated he would do everything in his power to make the road as safe as possible for the entrance way and further stated he has worked with the City of Crescent Springs also on that. Mr. Theissen asked Mr. Toebben if he could agree that if a condition were imposed on approval that said he would provide some sort of protective buffering of landscaping or fencing on the north side of Squire Valley along the lots. Mr. Toebben then stated that it will be definitely be landscaped and he intends to do that. He further stated that he would either install either a

fence and/or landscaping in there working with the residents.

Mr. Vergamini addressed the Commission on rebuttal and stated that just doing the rough calculation from what Mr. Toebben was saying, if the ultimate build out is 580 units and you multiply that by six and just assume that for the sake of discussion that half of the people go down Crescent Springs Road, add that into your equation as to the traffic going down Crescent Springs Road. Mr. Toebben then replied that's what was planned. Mr. Toebben stated there are only 65 units in there now and they are over halfway finished with the development. Mr. Vergamini then asked if it would be fair to say that it will exceed 250. Mr. Toebben then replied that it isn't going to get anywhere near that. Mr. Vergamini then read the summary of evidence and testimony presented in 1996 when the request was made to eliminate the entrance way onto Amsterdam. He then asked Mr. Toebben where the fifth entrance was that is referred to in the document. The current proposal references three and the minutes from 1996 reflect the fact that "ultimately there will be five entrances and exits into the development." Mr. Vergamini stated that ultimately he doesn't know what the entire plan called for. He stated he's heard five and he's heard six and he knows there are three. He then encouraged the Commission to look at the minutes because it appears the same concerns raised by the residents are the same concerns raised by the folks that are living up there. He also stated the speed limit should probably be reduced but further stated that absent a traffic study you won't know what the speed limit should be.

Mr. Theissen then closed the public hearing and opened the matter up for discussion amongst the Commissioners. Discussion was had as to where the sidewalks would be contained in the development. Mr. Theissen stated that he was under the assumption that RC-D approved - that they couldn't be required to put sidewalks on both sides of the street now and that this was kind of grandfathered in under the old rule and that the plan reads that way now. Mr. Hiles noted that these sidewalks will connect into the larger part of Squire Valley and Country Squire so there would be a short section where you would have to cross the street to get to them. Mr. Theissen stated he appreciated both sides of the issue but that some reasonable compromise would have to be arrived at. Following a discussion amongst the Commissioners regarding the issue, Mr. Theissen then stated the conditions would read as follows: (7) that sidewalks would be on one side of all roads within the development, that the sidewalk along Squire Valley will be on the south side, and that the funds for the sidewalk on Bromley Crescent Springs Road would be escrowed with the county for their use. He further added condition eight (8) that requires the developer to provide some effective buffering on the north side of Squire Valley from the west line of lot 44 to the east line of lot 56 in Lakeview Place subdivision. Mr. Theissen further noted that the motion would need to include the waiver of subsequent recommendation number one (1) on the spacing. Mr. Hiles noted that issue is an additional information comment. Mr. Theissen noted that that needs to be part of their action. Following a brief discussion, Mr. Swanson then made a motion to approve. Mr. Price seconded the motion. A roll call vote on the issue found Mr. Swanson, Mr. Price, Ms. Carlin, Mr. England, Mr. Gaiser, Mr. Hadley, Mr. Meyer, Mr. Wessels 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 asked for any conflicts regarding the plats and plan over the last month. Mr. England stated he had a conflict on item PP-582 and would be withdrawing from any consideration and action regarding this issue. Mr. Theissen then asked for a motion to ratify and approve those actions. Mr. Price made a motion to ratify and approve. Mr. Hadley seconded the motion. A roll call vote on the matter found Mr. Price, Mr. Hadley, Ms. Carlin, Mr. England, Mr. Gaiser, Mr. Meyer, Mr. Wessels, Mr. Swanson and Mr. Theissen in favor. The motion carried.

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 12:35 p.m. until 6:15 p.m.

KENTON COUNTY & MUNICIPAL PLANNING & ZONING COMMISSION
REGULAR MEETING

April 5, 2001
6:15 P.M.

NKAPC Meeting Room
2332 Royal Drive
Fort Mitchell, Kentucky

MINUTES

COMMISSION MEMBERS PRESENT:

Mr. Tim Theissen - Chairman - Edgewood
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 Hadley - Elsmere
Mr. David Hilgefurd - Villa Hills
Mr. Eugene Meyer - Covington
Mr. Joseph Price - Crestview Hills
Mr. Frank Smith - Lakeside Park
Mr. William Snyder - Bromley
Mr. James Sucher - Crescent Springs
Mr. Bernie Wessels - Fort Wright
Mr. Paul Swanson, Secretary/Treasurer - Erlanger
Mrs. Alex Weldon, Vice Chair - Covington

COMMISSION MEMBERS NOT PRESENT:

Mr. Jay Bayer - Park Hills

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 stated the minutes were distributed to the Commissioners and asked for any questions or comments. Mr. Theissen noted on page one he was listed as a representative of Ft. Wright, not Edgewood. He also noted that page numbers were not shown on the evening minutes from March and should be added. Mr. Swanson noted that he was listed as being present and he was absent. Mr. Theissen additionally noted on page two under subdivision items, third paragraph last line should read "public" where there is a typo. He also noted on page seven regarding filling the vacancy on the board. He stated the board should be identified as "Board of Adjustment" instead of Board. There being no other changes or revisions, Mr. Wessels made a motion to accept the minutes. Mr. Hadley seconded. A roll call vote on the matter found Mr. Wessels, Mr. Hadley, Mr. Bertram, Ms. Carlin, Mr. Coates, Mr. Cook, Mr. Dorsey, Mr. England, Mr. Gaiser, Mr. Hilgefurd, Mr. Meyer, Mr. Smith, Mr. Snyder, Mr. Sucher and Mr. Theissen in favor. Mr. Swanson and Ms. Weldon abstained. The motion carried.

FINANCIAL REPORT:

Mr. Theissen stated the financial report was distributed in the packets to the Commissioners. There were no questions or comments regarding the report.

SUBDIVISION ITEMS:

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

b. CONSIDERATION 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

c. CONSIDERATION OF THE REPORT OF ACTIONS TAKEN BY THE SUBDIVISION/PUBLIC FACILITY REVIEW COMMITTEE AT A MEETING PRIOR TO, BUT ON THE SAME DAY, AS THE REGULAR MEETING

Mr. Theissen read the report of actions taken at the morning meeting. He stated that plats and plans during the month were ratified and approved. Mr. Theissen then asked for a motion to ratify and approve. Mr. Swanson made a motion to approve. Mr. Price seconded. A roll call vote on the matter found Mr. Swanson, Mr. Price, Mr. Bertram, Ms. Carlin, Mr. Coates, Mr. Cook, Mr. Dorsey, Mr. England, Mr. Gaiser, Mr. Hadley, Mr. Hilgefurd, Mr. Meyer, Mr. Smith, Mr. Snyder, Mr. Sucher, Mr. Wessels, Ms. Weldon and Mr. Theissen in favor. The motion carried.

d. 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:

1495R

APPLICANT: The City of Erlanger, per Mr. P. David Hahn, Zoning Administrator.

GENERAL LOCATION: N.A.

REQUEST FOR ACTION: Proposed text amendments to the Erlanger Zoning Ordinance: (1) adding a definition for "Professional Office"; (2) adding a new zoning district, the PO-1 (Professional Office - One) Zone, along with the necessary cross references to other portions of the zoning ordinance (i.e., landscape regulations, sign regulations, etc.); and (3) adding a new class of sign, Class 12 (ground) sign;
AND

1496R

APPLICANT: The City of Erlanger, per Mr. P. David Hahn, Zoning Administrator

GENERAL LOCATION: N.A.

REQUEST FOR ACTION: Proposed map amendments to the Erlanger Zoning Ordinance: (1) changing an approximate 4.6 acre area located along the northeast and southwest sides of Erlanger Road, at its intersection with Crescent Avenue/Dixie Highway, from R-1G (a single-family residential zone at a maximum density of approximately 6.7 dwelling units per net acre), PO (a professional office building zone), and NC (a neighborhood commercial zone) to PO-1 (a professional office one) (AREA A); (2) changing an approximate .7 acre area located along the northwest side of Home Street, extending between Commonwealth Avenue and Erlanger Road, from NC to R-1G (AREA B); and (3) changing an approximate 2,500 square foot area located along the southwest side of Locust Street, between Crescent Avenue and Queen Street, approximately 100 feet northwest of Crescent Avenue, from PO to R-1G (AREA C); AND

*these two issues were combined.

Staff presentation and Staff recommendation by Mr. Mike Schwartz.

NKAPC STAFF POSITION:

NKAPC STAFF RECOMMENDATION - ERLANGER ZONING ORDINANCE:

RECOMMENDATION A: To disapprove the proposed text amendment adding a definition for "Professional Office" (see Attachment A).

RECOMMENDATION B: To approve the proposed text amendments adding a new zoning district, the PO-1 (Professional Office - One) Zone, along with the necessary cross references to other portions of the zoning ordinance (i.e., landscape regulations, sign regulations, etc.) (see Attachments B, C, D, E, and G), but only subject to compliance with the condition that Section 10.13 A, D. be revised to read 'AREA AND HEIGHT REGULATIONS'.

RECOMMENDATION C: To approve the proposed text amendment adding a new class of sign, Class 12 (ground) sign (see Attachment F).

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:

RECOMMENDATION A:

1. The definition section of the zoning ordinance is intended to provide definitions that are either unique to the zoning ordinance or have a different meaning that is commonly found in other dictionaries. The proposed definition of "professional office" (see Attachment A) is neither unique or an uncommon term.
2. The proposed definition of "professional office" (see Attachment A) is too restrictive and does not provide for any interpretation or modification.

RECOMMENDATION B:

1. The proposed text amendments adding a new zoning district, the PO-1 (Professional Office - One) Zone, along with the necessary cross references to other portions of the zoning ordinance (i.e., landscape regulations, sign regulations, etc.) (see Attachments B, C, D, E, and G) are 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 amendments adding a new zoning district, the PO-1 (Professional Office - One) Zone, along with the necessary cross references to other portions of the zoning ordinance (i.e., landscape regulations, sign regulations, etc.) (see Attachments B, C, D, E, and G) will allow the city to regulate those areas that are characterized by a mixture of office and single-family residential uses.
3. Section 10.13 A, D. states that no building within the proposed PO-1 Zone shall be structurally altered hereafter, in such way that it would cause the building to not fit with the residential character of the area. The proposed regulation does not provide any criteria by which to evaluate such proposals. The administration of such a regulation would be inconsistent and arbitrary. Therefore, it is recommended that all such wording be deleted from the proposal and that Section 10.13 A, D. be revised to read 'AREA AND HEIGHT REGULATIONS'.

RECOMMENDATION C:

1. The proposed text amendment adding a new class of sign, Class 12 (ground) sign (see Attachment F) 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 adding a new class of sign, Class 12 (ground) sign (see Attachment F) provides for a reasonable size and height and is significantly different from other sign classes currently listed.

NKAPC STAFF RECOMMENDATION - ERLANGER ZONING ORDINANCE:

RECOMMENDATION A: To approve the proposed map amendment for AREA A, from R-1G, PO, and

NC to PO-1, but only subject to compliance with the following condition:

1. That the proposed text amendments: (1) adding the PO-1 Zone, along with the necessary cross references; and (2) adding the class 12 sign, be adopted by the legislative body.

RECOMMENDATION B: To approve the proposed map amendment for AREA B, from NC to R-1G.

RECOMMENDATION C: To approve the proposed map amendment for AREA C, from PO to R-1G.

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:

RECOMMENDATION A:

1. The proposed map amendment for AREA A, from R-1G, PO, and NC to PO-1 is generally consistent with the Land Use Plan Element of the 1996 Area-Wide Comprehensive Plan Update which identifies the site in question for Residential Development at a density ranging from 7.1 to 14.0 dwelling units per net acre and Commercial - Retail/Service uses.

The proposed PO-1 Zone would allow the development of professional office uses and single-family residential dwellings, at a maximum density of 6.7 dwelling units per net acre, within the same zoning district.

2. The proposed map amendment for AREA A, from R-1G, PO, and NC to PO-1 is consistent with the purpose of the proposed PO-1 Zone.

The purpose of the proposed PO-1 Zone is to allow appropriate non-residential uses to integrate with single-family dwellings, while preserving the residential character of the buildings in the zone, and not interfering with existing dwellings in adjacent zones.

The site in question is currently occupied by a mixture of single, two, and multi-family residential dwellings, and office uses. The proposed PO-1 Zone would allow for a mixture of residential and office uses within the same zoning district.

RECOMMENDATION B:

1. The existing zoning of AREA B -- NC is inappropriate and the proposed R-1G Zone is appropriate.

The site in question, including the area located to the northwest of the site in question, is currently occupied by an off-street parking facility serving a church. Within the R-1G Zone, churches are identified as conditional uses while they are prohibited within the NC Zone.

The proposed map amendment from NC to R-1G would eliminate a possible nonconforming status on the site in question.

2. The proposed map amendment for AREA B, from NC to R-1G, represents a logical extension of the existing R-1G Zone located to the northwest of the site in question.

The proposed map amendment from NC to R-1G would place the entire church property within a single zoning district.

RECOMMENDATION C:

1. The existing zoning of AREA C -- PO is inappropriate and the proposed R-1G Zone is appropriate.

The site in question is currently occupied by a detached single-family residential structure. The area located to the northwest of the site in question is under the same ownership and is occupied by a garage structure. Within the R-1G Zone, detached single-family residential dwellings are identified as permitted uses while they are prohibited within the PO Zone.

The proposed map amendment from PO to R-1G would eliminate the nonconforming status on the site in question.

2. The proposed map amendment for AREA C, from PO to R-1G, represents a logical extension of the existing R-1G Zone located to the northwest and northeast of the site in question.

The proposed map amendment from PO to R-1G would place the entire property within single ownership within a single zoning district.

Mr. P. David Hahn, Ms. Carrie Kirby and Mr. Larry McMillan registered to speak in favor of the application. Ms. Christa Reed and Mr. Tony Nienaber registered to speak against.

Mr. Hahn addressed the Commission and gave a brief history of the application. He stated it was started back in 1999 with a person who wanted to extend the neighborhood commercial zone. He stated at that time the city didn't feel that was proper. He then stated that the city did see the changes being made in

the area and at that time they got together with the city and the Planning Commission on the issue. He stated council thought it would be best to include everything in that area. Mr. Hahn then stated he was available to answer any questions regarding the application.

Ms. Kirby addressed the Commission and read a letter into the record that she sent to the city council regarding the issue. She stated she was a cosmetologist for 12 years and feels her type of business would generate less traffic than other types of businesses. She then asked that her type of business be added to the wording of the ordinance.

Mr. McMillan addressed the Commission and stated he owns property on Miller Road. He stated he is present because he thinks the text amendment will provide property incentives for the area. He stated he feels the proposed change makes sense.

Ms. Krista Reed addressed the Commission against the issue. She stated she has been a resident for going on 24 years. She stated one of the reasons she and her family chose the area was because of its park-like setting. She stated she organized a petition against the re-zoning and everyone on Locust Street signed it. She further stated she presented it to the mayor. She stated she does not want to look out over her property in back and see parking lots and Rumpke containers. She stated her concerns with parking and does not want to see parking spill out onto their street. She stated their street is maxxed out now. She stated she is not against the parking lot for the Baptist Church.

Mr. Nienaber addressed the Commission and stated he is the one residence on the southwest side. He stated the parking now is terrible. He stated those that have parking lots are not using them. He further stated his property is currently for sale and if the zone change goes through it will hurt his chances of selling the property. Ms. Weldon asked whether the parking lot at the Baptist Church is going to be used and stated it is a concern that parking is available and it is not being used. Mr. Hadley asked what the city's policy is on dumpsters. Mr. Hahn stated there are requirements that any type of dumpster unit be screened. Mr. Theissen asked if the two larger office buildings in the area used dumpsters or street pick up. Mr. Hahn noted that he thought they utilized street pick up. Mr. Theissen noted that sometimes professional office neighbors can make better neighbors because they are only there a certain number of hours per day. Mr. Sucher suggested adding the word "person" instead of "man" to the ordinance. Mr. Sucher asked if a beauty shop was an accessory use in a PO zone. Mr. Schwartz stated it is not.

Following a brief discussion Mr. Swanson then made a motion to approve to include counsel's definition of professional office (attachment A) eliminating Staff's definition of professional office and inserting it in its place. Mr. Theissen then recommended the motion be for disapproval of the definition the Staff has recommended but then to add an additional information comment that in the event that the city were to overrule their recommendation and implement a definition of professional office that the beauty shop use be added to the list of uses. Mr. Swanson then stated that that would be his motion. Mr. Theissen then stated that after recommendation A would be to disapprove the definition of professional office altogether with an additional information comment in the event that they implement a definition of professional office that beauty shop be added as a permitted use. Mr. Theissen then asked what Mr.

Swanson's motion would be fore recommendation B. Mr. Swanson then stated that he recommended approval as to recommendation B. Mr. Swanson also recommended approval for recommendation C. Ms. Weldon seconded the motions. Mr. Theissen then noted that recommendation B would be revised to read "no building shall be structurally altered hereafter in such a way that as observed by a reasonable person it would not contrast or conflict with surrounding residential architectural style, however, all approved alterations shall be in accord with the following requirements..." He then stated that a vote of yes is to support the motion. A roll call vote on the motion found Mr. Swanson, Ms. Weldon, Mr. Bertram, Ms. Carlin, Mr. Coates, Mr. Cook, Mr. Dorsey, Mr. England, Mr. Gaiser, Mr. Hadley, Mr. Hilgefurd, Mr. Meyer, Mr. Price, Mr. Smith, Mr. Snyder, Mr. Sucher, Mr. Wessels and Mr. Theissen in favor. The motion carried. Mr. Theissen then asked for a motion as to the map amendment, 1496R. Mr. Swanson then made a motion to approve as presented by Staff. Mr. Price seconded. A roll call vote on the matter found Mr. Swanson, Mr. Price, Ms. Carlin, Mr. Coates, Mr. Cook, Mr. Dorsey, Mr., England, Mr. Gaiser, Mr. Hadley, Mr. Meyer, Mr. Smith, Mr. Snyder, Mr. Wessels and Mr. Theissen in favor. Mr. Bertram, Mr. Hilgefurd, Mr. Sucher and Mr. Weldon voted against. The motion carried by a vote of 14-4.

1497R

APPLICANT: The City of Independence, per Mr. Kevin Barbian, Zoning Administrator.

GENERAL LOCATION: N.A.

REQUEST FOR ACTION: Proposed text amendments to the Independence Zoning Ordinance: (1) pertaining to the size of accessory storage buildings, garages or carports; and (2) prohibiting accessory structures from being located within any front yard or required minimum side yard.

Staff presentation and Staff recommendation by Ms. Larisa Hughes.

NKAPC STAFF POSITION:

NKAPC STAFF RECOMMENDATION - INDEPENDENCE ZONING ORDINANCE:

To approve the proposed text amendments adding regulations pertaining to the size and placement of accessory structures.

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 amendments to amend regulations pertaining to customary accessory structures in

Article IX - General Regulations (see Attachment A) are 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 amendments to the City of Independence Zoning Ordinance, Section 9.10, C., allow the City of Independence to limit accessory building size in relation to the size of the available yard area and prohibits accessory structures from the front yard. The proposed amendment creates a minimum ratio that determines the size of the accessory structure so that it will fit in aesthetically with the property on which it is located.

3. The proposed text amendments to amend regulations pertaining to customary accessory structures in Article IX - General Regulations are reasonable.

No one registered to speak either for or against.

Mr. Snyder noted that he did not see anything listing existing structures. Mr. Theissen then noted that any existing structures would be non-conforming but would be grandfathered in. Ms. Weldon motioned to approve 1497R based on the recommendations of Staff. Mr. Snyder seconded. A roll call vote on the matter found Ms. Weldon, Mr. Snyder, Mr. Bertram, Ms. Carlin, Mr. Coates, Mr. Cook, Mr. Dorsey, Mr. Gaiser, Mr. England, Mr. Hadley, Mr. Hilgefurd, Mr. Meyer, Mr. Price, Mr. Smith, Mr. Sucher, Mr. Wessels, Mr. Swanson and Mr. Theissen in favor. The motion carried unanimously.

1498R

APPLICANT: Kris Huiet, on behalf of Blaise Huiet, Mary Jane Foy and Lucille Ryan, William and Elizabeth Cowen, Abel and Cora Goff, and Thomas and Dana Koehler.

GENERAL LOCATION: N.A.

REQUEST FOR ACTION: A proposed map amendment to the City of Taylor Mill Zoning Ordinance, changing a 9-acre area located along the western side of Decoursey Pike, south of Locust Pike, east of Manor Hill Drive in Taylor Mill, from the I-4 (Industrial Four River) Zone to the R-1C (Single-Family Residential) Zone; AND

Staff presentation and Staff recommendation by Ms. Larisa Hughes.

NKAPC STAFF POSITION:

NKAPC STAFF RECOMMENDATION - TAYLOR MILL ZONING ORDINANCE:

To approve the proposed map amendment from I-4 to R-1C.

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 I-4 to R-1C is generally consistent with the Land Use Plan Element of the 1996 Area-Wide Comprehensive Plan Update which identifies the site in question, as well as adjacent areas, as PRDA and Residential Development at a density ranging from 2.1 to 4.0 dwelling units per net acre.

Areas designated as PRDA are not intended to imply that such areas should not be developed, but rather that most of these areas should remain undeveloped and thus would become an integral part of the natural open landscape of Northern Kentucky. Where development is proposed in such areas, this land use category should alert developers and regulating bodies to potential problems which must be solved prior to any construction. Any development of areas designated PRDA should be a type of use that is compatible with the recommended land use of adjacent properties, unless sound bases can be shown for other use types. It is further recommended that the development of these areas be adequately controlled through local land use regulations.

2. The proposed R-1C (Residential Single Family) Zone will bring the current residential dwelling units on the site in question along Decoursey Pike into conformance and will allow residential building to take place on the other currently vacant parcels. The proposed R-1C Zone will better reflect the current activity taking place in the area.

3. The current I-4 (Industrial Four River) Zone permits bulk storage or transfer stations, carting, express, hauling or storage yards, freight terminals, transportation facilities, including railroad rights-of-way, marshaling yards, maintenance and fueling facilities, and warehousing. The purpose of this zone is to allow industrial activities that orient toward the river, railroad, and highway, as a point of exchange and distribution.

The topography of the site in question, noted as PRDA, is not ideal for these types of facilities in this area. Although Decoursey Pike is designated by the 1996 Area-Wide Comprehensive Plan Update as an arterial and the railroad and river are both near to the site, the existing access to and condition of the roadways, the topography, and the current land use do not make the site in question optimal for industrial development of this type.

ADDITIONAL INFORMATION

If the proposed zone change is adopted, it is the opinion of NKAPC staff that the City of Taylor Mill should examine the remaining area to the south of the site in question along the west side of Decoursey Pike for an additional map amendment from I-4 to R-1C. This would bring the remaining single-family dwelling units and lots into conformity and eliminate the inconsistency in this area. NKAPC staff is available to assist in this effort.

Mr. Wessels asked Staff if the land-locked properties were owned by the same person. Ms. Hughes stated they were. Mr. Wessels stated with the need of industrial land in the area it's hard to give up the land zoned industrial in Kenton County. Ms. Hughes then stated the site has a steep topography and would be unsuitable for industrial uses. She further stated the terrain is unsuitable for that type development.

Ms. Kris Huiet and Mr. Blaise Hueit registered to speak in favor of the application. No one registered to speak against.

Ms. Huiet addressed the Commission and stated she owns 2.5 acres on Decoursey that they've recently purchased alongside the proposed 9 acres. She stated the Cowens and the Goff's lived there over 30 years and they didn't know it was zoned industrial. She stated the soil is such that it doesn't absorb water well.

Mr. Huiet had nothing additional to add.

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

PP-594

APPLICANT: Bayer & Becker Engineers, in behalf of Finke Homes.

GENERAL LOCATION: An approximate 70-acre area on the south side of Walton Nicholson Road (S. R. 16), opposite Wilson Road (C.R. 1105), unincorporated Kenton County.

REQUEST FOR ACTION: To approve a Preliminary Plat consisting of 121 residential building lots and open space, including public improvements such as street, storm drainage, sanitary sewer (including a lift station), and water system.

Note: This Preliminary Plat includes a proposed map amendment from A-1 and R-1B to R-1B (RCD), to be presented concurrently at the 6:15 p.m. commission meeting.

1499R

APPLICANT: Finke Homes, Inc., per Mr. George Finke, on behalf of Marshall D. and Grace A. Hankinson.

GENERAL LOCATION: N.A.

REQUEST FOR ACTION: A proposed map amendment to the Kenton County Zoning Ordinance, changing an approximate 68 acre area located along the south side of Walton Nicholson Road, between Wynola Drive and Gene Street, approximately 800 feet west of Wynola Drive, unincorporated Kenton County, from A-1 (an agricultural one zone) and R-1B (a single-family residential zone at a maximum density of 2.0 dwelling units per net acre) to R-1B (RCD) (a single-family residential zone at a

maximum density of 2.0 dwelling units per net acre with a residential cluster development overlay zone).

*these two issues were combined.

Staff presentation and Staff recommendations by Mr. Michael Schwartz.

Mr. Wessels questioned Staff without the RCD zone if the density would be different. Mr. Schwartz stated it would be slightly lower. Mr. Wessels asked if there was a minimum lot size. Mr. Schwartz stated there was not.

Mr. Gil Whitaker, Mr. George Finke, Mr. Marshall Hankinson, Ms. Grace Hankinson, Mr. Dwayne Gatewood, Ms. Paula Gatewood and Mr. William Armstrong registered to speak in favor of the application.

Mr. Gailen Bridges, Ms. Teresa Campson, Mr. Tom Goeke, Mr. Terry Barns, Mr. Charles Wurth, Mr. Mike Harris, Mr. Jeff Hopkins, Mr. Warren Richardson, Mr. Bob Wells, Mr. John Braden, Mr. William Durr Mr. Wendell Tiellery, Mr. Roy Durr and Mr. Chuck Long registered to speak against.

Mr. Whitaker presented the Commissioners with a handout that was marked as Exhibit 1 to the minutes. Mr. Whitaker stated it is a residential cluster design to allow for smaller buildings. He stated their marketing strategy is to provide for an open space community with a key concept being to try to maintain the rural look of the area. Mr. Whitaker stated they tried not to propose any new homes to KY 16 any nearer than the existing home. He stated that all lots will face KY 16. He stated there are 1.7 miles of proposed open horse trails on the site. He further stated they tried to make the development pedestrian friendly with sidewalks throughout the development. Mr. Whitaker stated the lot sizes are generally 70 feet wide with a depth of 100 to 150 feet. He stated they will be 3 and 4 bedroom 2-story homes in the proposed development with a price range of \$150,000 and up. Mr. Whitaker stated the site is rolling in nature. Mr. Whitaker stated there is an existing water main along KY 16. He stated there is adequate capacity in regard to the water lines. He further stated that access is proposed off KY 16. Mr. Whitaker stated he received a letter from KDOT indicating the plan meets their requirements. Mr. Whitaker asked that condition number 2 regarding site distance be waived. He further stated that KDOT is preparing plans to work out the bend in the road. Mr. Whitaker stated that they prefer to keep the area green on King Arthur Court instead of putting in sidewalks there as there are no homes that front that area. Mr. Whitaker stated he feels they are in agreement with the comprehensive plan. He stated that urban services are available in the area. He further stated that he feels it is an innovative plan and it meets the purpose of the overlay zone. Mr. Whitaker then sited a newspaper article that states there are not public trails in Kenton County. He then stated that this plan will allow for trails.

Mr. Finke had nothing to add other than it is a good project. Mr. Gatewood had nothing to add.

Mr. Armstrong addressed the Commission and stated he lives across from the proposed development. He stated he has land to sell and stated two reasons as to why he would want to sell his 66 acres. Mr.

Armstrong stated he is getting older and he may not be able to take care of the property as he has the past 22 years. He sited the other reason is that he would like to get as much out of the property as possible and is therefore in favor of the project. He stated he was approached by people asking him to sign a petition but stated after seeing the proposal he thinks it's an excellent project that will enhance property values. He further stated that he does not think the project will hurt the area so he heartily supports it.

Mr. Gailen Bridges addressed the Commission and distributed a handout that was marked as an exhibit to the minutes. He stated he is an adjoining property owner to the proposed project. Mr. Bridges stated he bought a 43-acre farm in 1988 and in 1999 bought 66 acres more. He stated he has 4 barns and ten sheds or out buildings on his farm. Mr. Bridges also stated he raised cattle, horses and sheep on his farm. He stated he doesn't feel a person owning a \$150,000 home would appreciate the smells associated with a farm right next door. He further stated a creek runs all the way through their property and it's their water source. He sited concerns with runoff into the creek that could endanger his livestock that use the creek. He further stated that the farm was never advertised for sale He stated he lives next door and didn't know it was for sale. He further stated if the zone change was turned down he believes the property could be sold as a farm or two or three small farms. He additionally stated that they could deal with six or eight neighbors, not 119. Mr. Bridges stated he does not feel the proposal meets the comprehensive plan nor the three requirements necessary to get a zone change. Mr. Bridges stated there have been no homes built in the area in the last five years. He further stated if this plan is not urban sprawl he doesn't know what is. He additionally stated the comprehensive plan says this should not be encouraged. He further stated the plan bemoans the loss of farmland and stated this is a chance for the Commission to preserve farmland. Mr. Bridges stated that this is one of the best working farms in the area. Mr. Bridges then went through various applicable areas of the Comprehensive Plan, page by page. He stated the property is A-1 and is zoned A-1. He further stated that agricultural and residential do not mix. Mr. Bridges presented the Commissioners with a petition containing 212 names in opposition to the project which was marked as an exhibit to the minutes. He stated he thinks the neighborhood is standing together on the issue. He estimated current traffic to be 53-60 cars per day. He stated with the proposal that number would increase to 1500 per day. He further stated there are no plans to widen the road. He additionally stated that if this was approved, although he is strictly against it, he asked that the use of motorized vehicles be prohibited on the trails. He additionally asked that residents be prohibited from filing lawsuits regarding an agricultural nature.

Ms. Campson addressed the Commission and stated that there is currently an industrial park proposed for the area. Ms. Campson also sited concerns with the increased traffic and asked if extra policing would be required. She additionally asked where all the children would be attending school. She further stated that the schools in the area are full now and questioned where additional children would attend school.

Mr. Goeke addressed the Commission and stated the project would be doubling the amount of people in the area. He stated that last summer they had to limit their water use and wondered what will happen with the new development. He asked the Commission to plan for the future.

Mr. Barns addressed the Commission and stated he is not entirely opposed to new development. He stated he considers the proposed project a very high density for the area and hopes the property can be developed in some other fashion. Mr. Barns also questioned whether or not the riding stables would be considered a business or not. Mr. Theissen stated that was a concern of his and that would be addressed.

Mr. Harris addressed the Commission and stated he lives on the adjoining property. He stated he worked two full time jobs to pay for and purchase the 3 acres and build a nice home. He stated his concerns with traffic. He stated his other full time job was a police officer. He stated he is familiar with trails and has seen the litter they have caused as well as how they are used to access homes. He stated he does not want to see this happen here.

Mr. Hopkins addressed the Commission and stated he adjoins the Hankinson property. He stated he knows growth is coming to the area but states this is a little too soon. He stated his main concern is the density of the homes and that it is not consistent with other homes in the area.

Mr. Richardson addressed the Commission and stated he is a lifelong resident of Kenton County. He stated he has an MBA but his first love is farming. He stated he is now a full time farmer. He stated subdivisions do not provide the work force he needs for his farm. He stated he has to go to Mexico to get good legal workers. He stated he has owned a farm since the early '80's and his mother has owned a farm in the area since the early '40's. He additionally stated that he is not opposed to growth. He stated if the development goes in there could be problems with the sewer. He stated he believes an agricultural district is just what it is. He stated there is a plenty of developable areas besides splitting up farmland.

Mr. Breeden addressed the Commission and stated he has a problem with traffic on Walton Nicholson Road. He stated his concerns with increased traffic with the proposed development. He stated the development would add 240 more cars per day and will create a traffic problem. He stated he is strictly against and opposed to a horse park in the area.

Mr. Durr addressed the Commission and stated he has nothing against the horse business. He stated even if a quarter of the people in the proposed development have horses then there is already a problem. He stated more barns will have to be built to accommodate the horses. He stated he doesn't feel there is a place in that neighborhood for a development of this type.

Mr. Roy Durr addressed the Commission and stated his concerns with traffic. He stated he doesn't feel the development should go in. He stated that the lights from cars in the new development will shine right in his living room.

Mr. Bridges addressed the Commission on rebuttal and stated the homes will be a substandard. He further stated that they object to the waivers; they can't make it fit in the area. He further mentioned litter and garbage coming from additional residents in the area. He stated he gets enough garbage from the few people that live around the creek and questions what would happen if the development goes through. He additionally stated the Comprehensive Plan is clearly agricultural and asked the

Commission to please follow the plan.

Mr. Whitaker addressed the Commission in rebuttal and stated that they are in agreement with the plan. He stated he thinks the plan offers a variety of housing. He stated the proposed plan follows the Comprehensive Plan as far as providing a development with openness.

Mr. Theissen asked about the water and sewer lines as to how long they have been in place. It was noted that they have just been completed and grass hasn't even grown over yet. Mr. Theissen asked about the commercial use of the property. Mr. Schwartz stated that given the area a horse stable is within the regulations. Mr. Schwartz additionally stated that it is permitted use within the zone. Mr. Dorsey stated he thought the recreation and open space of an overlay zone usually serves the people within the zone. He further stated he didn't feel it met the requirements of an overlay zone. Mr. Schwartz stated he didn't think the ordinance was written exclusively for the residents of the development. Mr. Price stated that commercial horse stables are relatively new in this part of the country. Ms. Carlin asked what the density was for the area across the road. Mr. Schwartz stated it would not be less than the zoning ordinance which is not more than two units per acre. Mr. Wessels stated the urban service boundary was never intended to be a line in the sand and questioned Staff about this issue. Mr. Schwartz stated it was never intended to be a line in concrete but rather a line that has to be put somewhere on a map. Ms. Weldon stated that in this case the urban service is primarily water and sewage and that is already present in this area. Mr. Hilgeford stated that the Finke plan is a very nice development. He further stated that Mr. Bridges' point by point reference to the Comprehensive Plan leads him to believe that this proposal is inappropriate. He stated that although it looks like a great development he doesn't feel like it belongs in this part of the county based on Mr. Bridges' explanation of the Comprehensive Plan. Mr. Hilgeford stated he is convinced that this is an isolated island and something that is inappropriate for this portion of the county. Mr. Bertram stated that since the plan was adopted there have been changes as far as putting in water and sewer recently. Mr. Hilgeford stated he doesn't see where urban sprawl needs to follow just because those things (water and sewage) exist. Mr. Snyder questioned Staff as to the density of the overlay zone because the handout received references a density of less than 1 dwelling unit per acre. Mr. Theissen stated there could be a strong argument to go either way on the issue. Mr. Sucher took the analogy that when you have water and sewer, development follows it. He further stated that if you bring water and sewer to all parts of Kenton County does that then mean there will be no more farms in the area? Mr. Cook noted that if there are horses on the property he questioned where the runoff would go for the animals. He stated if the people are complaining down stream now about farming, how will runoff be handled in the residential area. Mr. Hilgeford asked where the runoff from 150 yards being treated with ChemLawn would go. Mr. Sucher asked who would be responsible for cleaning up the horse trails. Mr. Wessels questioned whether turning down the development would be setting a precedent. He stated they needed to be careful as far as what type of development would come back in the future. Mr. Theissen then stated it would depend on the reasons for approval or denial. Mr. Schneider stated he has an obligation to make sure whatever is decided can stand up in court. He then stated that whoever makes the motion needs to be as specific as possible to support their position. Following further discussion on the issue Mr. Hilgeford made a motion to disapprove the zone change and stated the reasons for his motion as being that the existing classification given to the property is appropriate; that the proposed zoning classification is inappropriate and that there have not be enough or major changes

in an economic, physical or social nature in that area that would warrant an adoption of a change to the Comprehensive Plan or that the Comprehensive Plan is not appropriate as it stands now. He further stated that considering the testimony heard from Mr. Bridges is what was used as a basis for the denial of the request. Mr. Theissen then stated that Mr. Hilgefurd would be relying on Exhibit 2 as a basis, to which Mr. Hilgefurd agreed. Mr. Hilgefurd stated for clarification that the existing zoning classifications that are there now are appropriate to the surrounding areas and locale. He further stated the general use of the property as it now stands in its present form is appropriate. He additionally stated that the proposal is inappropriate because it provides a more dense use of the land that is warranted for that particular part of the county and because of what is stated in the goals and objectives section of the Comprehensive Plan and in the land use element portion of the plan as stated by Mr. Bridges. Mr. Cook seconded the motion. A roll call vote on the matter found Mr. Hilgefurd, Mr. Cook, Mr. Dorsey, Mr. England, Mr. Gaiser, Mr. Smith, Mr. Snyder, Mr. Sucher, Mr. Swanson, Ms. Weldon and Mr. Theissen in favor. Mr. Bertram, Mr. Coates, Mr. Meyer, Mr. Price and Mr. Wessels voted against. Mr. Hadley abstained. The motion carried by a vote of 12 to 5 to 1.

Mr. Bertram asked if reducing the curve would increase their site distance. Mr. Whitaker stated he did not know. Mr. Theissen stated that the state regulations are not as strict as the Commission's. Following further discussion regarding the issue, Mr. Hadley made a motion to approve PP-594 with the recommendation of Staff and including the waiver as recommended by Staff. Mr. Bertram seconded. A roll call vote on the motion found Mr. Hadley, Mr. Bertram, Ms. Carlin, Mr. Coates, Mr. Hilgefurd, Mr. Meyer, Mr. Price, Mr. Snyder, Mr. Wessels, Ms. Weldon and Mr. Theissen in favor. Mr. Cook, Mr. Dorsey, Mr. England, Mr. Gaiser, Mr. Smith, Mr. Sucher and Mr. Swanson voted against. The motion carried by a vote of 11-7.

OLD BUSINESS: None.

CORRESPONDENCE: None.

PLANNING, STAFF AND LEGAL COUNSEL ITEMS:

Mr. Theissen stated there has been one meeting of the Comprehensive Plan Joint Task Force since the commission's last meeting and they discussed environmental characteristics. He reported that there were no major substantive issues discussed although there were a few raised that will be discussed at a later date.

Mr. Theissen noted that the Kentucky Legislature has passed a statute effective June 17, 2001 requiring Commission members to receive eight hours of continuing education training out of every two years, or four hours a year. He stated they would have to get their first four hours within the first 120 days of their appointment. Mr. Theissen suggested that would be discussed to have this training done in house as it doesn't make sense to have Commission members pay to serve on the Commission. It was also noted that credit could be taken for the national conference to go towards this requirement.

COMMISSION ITEMS:

*These items were deferred until the May meeting in anticipation of a lengthy meeting in April.

COMMENTS/REQUESTS TO THE COMMISSION:

There being no further matters to come before the Commission, Mr. Theissen then adjourned the meeting at 10:50 p.m.