



## KC&MP&ZC MINUTES

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### KENTON COUNTY & MUNICIPAL PLANNING & ZONING COMMISSION REGULAR MEETING

August 1, 2002  
9:00 A.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. Al Hadley - Elsmere  
Mr. Eugene Meyer - Covington  
Ms. Maura Snyder - Independence  
Mr. Bill Snyder - Bromley  
Mr. Bernie Wessels - Fort Wright  
Mr. Paul Swanson - Secretary/Treasurer - Erlanger  
Mr. Joseph Price, Vice Chairman - Crestview Hills

#### LEGAL COUNSEL PRESENT:

David Schneider, Esq.

Mr. Theissen, Chairman, called the meeting to order at 9:00 a.m. Mr. Theissen opened the meeting with the pledge of allegiance and a prayer by Mr. Joe Price.

#### APPROVAL OF THE MINUTES:

Mr. Theissen stated the minutes for June were distributed and asked for any questions or comments. Mr. Swanson noted on page 11 that Mr. Theissen was reported as voting and he was not present. Mr. Theissen then noted at the top of the last page it should read Mr. Theissen instead of Mr. Swanson. Mr. Snyder additionally noted that he had left early at the morning meeting and should be deleted from voting on the last issue. There being no further changes, Mr. Price made a motion to approve the minutes as amended. Mr. Hadley seconded the motion. A roll call vote on the matter found Mr. Price, Mr. Hadley, Mr. Bertram, Ms. Carlin, Mr. Meyer, Ms. Snyder, Mr. Snyder, Mr. Wessels, Mr. Swanson and Mr. Theissen in favor. The motion carried.

#### SUBDIVISION ITEMS:

a. PRESENTATION OF PRELIMINARY PLATS, OTHER PLATS, AND OTHER ISSUES REQUIRING COMMISSION ACTION AT A REGULAR MEETING FOR REVIEW: None.

\*Mr. Bertram stated he would be withdrawing from the following issue due to his firm's involvement with the project.

#### PP-620 GARNER SUBDIVISION

APPLICANT: Center Line Engineering & Surveying, P.L.L.C. in behalf of Center Line Development, L.L.C.

GENERAL LOCATION: A 13.01 acre area at the terminus of existing Garner Court, Covington.

REQUEST FOR ACTION: To approve a Preliminary Plat consisting of nine (9) residential building lots including public improvements such as street, storm drainage, sanitary sewer, and water system.

Staff presentation and Staff recommendations by Mr. Scott Hiles.

#### NKAPC STAFF RECOMMENDATION:

To approve a Preliminary Plat for GARNER SUBDIVISION, but only subject to compliance with the following CONDITIONS:

#### CONDITIONS:

1. 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);

2. That a temporary turnaround be provided at the terminus of the extended Garner Court (Section 7.3H); and

3. That a stormwater runoff control facility be provided (Section 7.0).

#### BASES:

The proposed GARNER SUBDIVISION is consistent with the recommendations of the 2001 Area-Wide Comprehensive Plan Update, the Kenton County Subdivision Regulations, and the Covington Zoning Ordinance, except as noted under the above Conditions.

#### ADDITIONAL INFORMATION

A study should be initiated with the Sanitation District No. 1 to provide the most appropriate centralized sanitary sewer service for the development and surrounding areas. Gravity systems have significant advantages over grinder pumps and force mains. Pump stations have historically been characterized by high operating and maintenance costs.

Mr. Theissen questioned Staff regarding the street name and whether or not it was worth getting the street name changed. Mr. Hiles agreed on the issue. Mr. Theissen further noted he probably wouldn't recommend a street name change if there were houses on the street, which there are not. He further noted it can be confusing with similar street names in emergency situations. Mr. Theissen then added a condition could be added to have the street name changed.

Mr. Tim Reese registered to speak on the issue. He stated he was present to answer any questions. He further stated they have no problems with changing the street name. He stated they are looking forward to working with the Sanitation District on the project.

There were no other questions or comments. No others registered to speak on the issue. Mr. Theissen noted a condition would be added requiring the applicant to pursue the change of the name of Garner Court through the Covington City Commission. He stated they are not conditioning approval of the plat upon the name change but recommending to the city that the name be changed. Mr. Wessels then motioned to approve with the conditions of Staff along with the condition regarding changing the street name. Mr. Price seconded the motion. A roll call vote on the matter found Mr. Wessels, Mr. Price, Ms. Carlin, Mr. Hadley, Mr. Meyer, Ms. Snyder, Mr. Snyder, 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 noted approval of the plats and plans over the past month would be put off until the

evening meeting.

c. CONSTRUCTION REVIEW PROGRAM - Following review of separate handout as previously mailed, the Committee took no action.

PUBLIC HEARINGS ON SCHEDULED PUBLIC FACILITIES: None.

OTHER COMMITTEE BUSINESS:

Mr. Theissen noted the next subdivision review committee meeting would be held next Tuesday where site distances and chain link fences will be discussed. Mr. Hiles noted they will be going into specifics of those topics at the meeting. Mr. Swanson further noted that Barry Levinson has done extensive research into the issues to be discussed.

Mr. Wessels noted that he would like to commend Mr. Swanson for his chairing of the meeting last month regarding the Ft. Mitchell issue.

Mr. Theissen noted the new proposed logo for the Planning Commission was available for those who would like to stop by and review it.

There being nothing further to come before the Commission, the meeting was recessed at 9:25 a.m. until 6:15 p.m.

KENTON COUNTY & MUNICIPAL PLANNING & ZONING COMMISSION  
REGULAR MEETING

August 1, 2002  
6:15 P.M.

Covington City Commission Chambers  
658 Madison Avenue  
Covington, Kentucky

MINUTES

COMMISSION MEMBERS PRESENT:

Mr. Jay Bayer - Park Hills  
Ms. Barbara Carlin - Kenton County  
Mr. Barry Coates - Covington

Mr. Al Hadley - Elsmere

\*\*Mr. David Hilgeford - Villa Hills

Mr. Eugene Meyer - Covington

Mr. Frank Smith - Lakeside Park

Mr. Bill Snyder - Bromley

Ms. Maura Snyder - Independence

\*Mr. James Sucher - Crescent Springs

Ms. Alex Weldon, Covington

Mr. Bernie Wessels - Ft. Wright

Mr. Paul Swanson, Secretary/Treasurer - Erlanger

Mr. Joseph Price, Vice Chairman - Crestview Hills

Mr. Tim Theissen - Chairman - Edgewood

\*arrived 6:25 p.m.

\*\*arrived 6:30 p.m.

#### COMMISSION MEMBERS NOT PRESENT:

Mr. James Bertram - Taylor Mill

Mr. James Cook - Kenton County

Mr. John Dorsey - Fort Mitchell

Mr. Jeff Gaiser - Ludlow

#### 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. Joe Price.

#### APPROVAL OF THE MINUTES:

Mr. Theissen noted the minutes from July had been distributed in the Commissioner's packets and asked for any questions or comments. Mr. Hadley noted on page 20 where it reads "There being no discussion, Mr. Hadley made a motion ..." the word "seconded" was left out after Mr. Snyder. There being no further comments or corrections, Mr. Hadley made a motion to approve. Mr. Price seconded the motion. A roll call vote on the matter found Mr. Hadley, Mr. Price, Ms. Carlin, Mr. Coates, Mr. Meyer, Mr. Smith, Ms. Snyder, Mr. Snyder, Mr. Wessels, Mr. Swanson and Mr. Theissen in favor. Mr. Bayer abstained. The motion carried.

#### FINANCIAL REPORT:

There were no questions or comments regarding the report. Mr. Swanson noted if there were any Commission members who had not yet filed their expense report they need to do so.

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

Mr. Theissen read the memo from the subdivision review committee held in the morning. There were no questions or comments. Mr. Price made a motion to ratify and approve. Mr. Swanson seconded the motion. Mr. Bayer noted he would be withdrawing from voting on issue PP-609 as his employer is involved with the issue. He further noted he would be abstaining from the other issues. Mr. Wessels also noted he would be withdrawing from issue PP-609. A roll call vote on the matter found Mr. Price, Mr. Swanson, Mr. Bayer, Ms. Carlin, Mr. Coates, Mr. Hadley, Mr. Meyer, Mr. Smith, Ms. Snyder, Mr. Snyder and Mr. Theissen in favor. Mr. Bayer withdrew as noted and abstained from the remaining issues. Mr. Wessels withdrew from voting. The motion carried.

Mr. Theissen noted the review of plats and plans was not available at the morning meeting so these issues would need to be reviewed at the evening meeting. Mr. Snyder made a motion to ratify and approve. Mr. Hadley seconded the motion. A roll call vote on the matter found Mr. Snyder, Mr. Hadley, Ms. Carlin, Mr. Coates, Mr. Meyer, Mr. Smith, Ms. Snyder, Mr. Sucher, Mr. Wessels, Mr. Swanson, Mr. Price and Mr. Theissen in favor. Mr. Bayer abstained. The motion carried.

Mr. Theissen acknowledged that Larisa Hughes is now an AICP member after months of schooling. He stated her AICP results were found out this week and congratulated her on all her hard and work and efforts for the Commission.

**PUBLIC FACILITIES:** None.

**PUBLIC HEARINGS ON SCHEDULED ITEMS:**

Mr. Theissen noted that a request to table had been received regarding one of the sites of item 1572R. He further noted a letter was received July 30 requesting a tabling of the matter and withdrawing the other site for consideration. He noted the second matter involving the property off Mary Laidly was requested to be tabled for a period of six months. Mr. Wessels then made a motion to table. Mr. Meyer seconded the motion. A roll call vote on the matter found Mr. Wessels, Mr. Meyer, Mr. Bayer, Ms. Carlin, Mr. Coates, Mr. Hadley, Mr. Smith, Ms. Snyder, Mr. Snyder, Mr. Sucher, Mr. Swanson, Mr. Price and Mr. Theissen in favor. The motion carried. Mr. Theissen noted the letter received would be marked as an exhibit and made a part of the record.

1571R

APPLICANT: City of Covington, per Ms. Annalee Duganier.

GENERAL LOCATION: N.A.

REQUEST TO BE REVIEWED: A proposed text amendment to the Covington Zoning Ordinance, adding "general office uses, to be permitted on all floors of buildings with a minimum of 9,000 square feet of lot area", as a conditional use the TSC (Tourist Service Commercial) Zone.

Staff presentation and Staff recommendation by Ms. Larisa Hughes.

NKAPC STAFF RECOMMENDATION:

Approval of the proposed text amendment, but only subject to compliance with the condition that the use be added as a permitted use within the TSC (Tourist Service Commercial) Zone.

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 18, 2001.

SUPPORTING INFORMATION/BASES FOR NKAPC STAFF RECOMMENDATION:

1. The proposed text amendment adding "general office uses, to be permitted on all floors of buildings with a minimum of 9,000 square feet of lot area", as a conditional use in the TSC (Tourist Service Commercial) Zone (See Attachment A), except as noted under the condition, is allowed to be included within the text of the zoning ordinance, as authorized by Kentucky Revised Statute (KRS) 100.203 (1).

2. The purpose of the TSC (Tourist Service Commercial) Zone is to encourage and accommodate a limited range of specialized retail and service commercial and public and semi-public functions which orient to visitors and tourist trade. It is also the purpose of this zone of special character to provide a transition between high intensity use areas and surrounding residential areas by accommodating a limited mixture of uses related to and serving the residential areas. The location of the lots that are

greater than 9,000 square feet in size is such that they will not impact the commercial character or purpose of the zone. Additionally, the allowance of offices on all floors of buildings on these lots will stimulate economic development and help to stabilize the general area.

3. The proposed text amendment adding "general office uses, to be permitted on all floors of buildings with a minimum of 9,000 square feet of lot area", as a conditional use in the TSC (Tourist Service Commercial) Zone is not consistent with the definition of a conditional use, as interpreted by the NKAPC staff. Kentucky Revised Statute (KRS) KRS 100.111 defines 'Conditional Use' as follows:

"Conditional use means a use which is essential to or would promote the public health, safety, or welfare in one (1) or more zones, but which would impair the integrity and character of the zone in which it is located, or in adjoining zones, unless restrictions on location, size, extent, and character of performance are imposed in addition to those imposed in the zoning regulation".

The NKAPC staff has interpreted this definition to include public and semi-public uses, such as schools, hospitals, day care centers, and recreational facilities. The proposed use is commercial in nature and is more appropriate as a permitted use in the TSC Zone.

Ms. Annalee Duganier and Mr. Joe Baker registered to speak in favor of the issue.

Ms. Duganier addressed the Commission and stated the Lawrence Firm bought a building in the Mainstrasse area and they needed the entire building for office space. She stated the current zoning would not support their needs. She stated they made the use a conditional use to prevent other properties from being divided into lots with a permanent use.

Mr. Baker addressed the Commission on behalf of the Lawrence Firm. He stated they appreciate the city's concerns in requesting it be a conditional use. He stated the Lawrence Firm is essentially moving their firm from Cincinnati and restoring the building to its original state. He stated they agree with Staff and are requesting the zone change as a permanent use. Mr. Hadley asked if the use was permitted could it then be changed back into retail on the 1st floor. Mr. Theissen noted if someone wanted to convert the building back to a restaurant, bar, etc., they could always do that. He further stated it is not set in stone. Mr. Theissen then noted his law partner is Joe Baker for the record. Mr. Hilgefurd stated part of the reason why conditional uses are attractive is that the Board of Adjustment can set the conditional uses and specifications of the zone change. Following the discussion on the matter, Mr. Price made a motion to approve as proposed by the city as a conditional use. Mr. Meyer seconded the motion. A roll call vote on the matter found Mr. Price, Mr. Meyer, Mr. Bayer, Ms. Carlin, Mr. Coates, Mr. Hadley, Mr. Hilgefurd, Mr. Smith, Ms. Snyder, Mr. Snyder, Mr. Wessels, Mr. Swanson and Mr. Theissen in favor. The motion carried unanimously.

\*Mr. Bayer withdrew from the following issue due to the fact that his employer provided services to the applicant in the past. He then left the meeting.



1573R

APPLICANT: Mr. Jerry Neiheisel

GENERAL LOCATION: An approximate 13,000 square foot area located at the southwest corner of the intersection of Southern Avenue with Eugenia Avenue, Covington.

REQUEST TO BE REVIEWED: A proposed map amendment to the Covington Zoning Ordinance changing the area described herein from R-1G (a detached single-family residential zone with a maximum density of approximately 8.7 dwelling units per net acre) to IU (an urban industrial zone), including the review and action on variances, as permitted by the Covington Zoning Ordinance.

Staff presentation and Staff recommendations by Mr. Michael Schwartz.

NKAPC STAFF RECOMMENDATION - COVINGTON ZONING ORDINANCE:

RECOMMENDATION A: To approve the proposed map amendment from R-1G to IU, but only subject to compliance with the following conditions:

1. That the KC&MP&ZC, acting as the city's Board of Adjustment, approve the requested variances.
2. That the development plan be revised to meet the minimum requirements of the Covington Zoning Ordinance.

RECOMMENDATION B: To approve the requested variances.

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 18, 2001.

SUPPORTING INFORMATION/BASES FOR NKAPC STAFF RECOMMENDATION:

RECOMMENDATION A:

1. The proposed map amendment from R-1G to IU is generally consistent with the Recommended Land Use Map of the 2001 Area-Wide Comprehensive Plan Update. Although the site in question is identified for residential Development at a density ranging from 7.1 to 14.0 dwelling units per net acre, the area located to the east of the site in question is identified for Industrial uses.

The land use plan element is not intended to provide precise boundaries between proposed land uses.

Rather, it is designed to provide land use recommendations for general areas. Additionally, various areas may be suitable for more than one type of land use. The question/evaluation of whether a given land use might be appropriate for a given area must be viewed considering the comprehensive plan as a whole, including the goals and objectives, development concepts, other elements (i.e., land use, transportation, community facilities), and other regulations that are determined to serve the purposes of the Comprehensive Plan.

The site in question, and other properties located immediately to the south of the site in question along Eugenia Avenue, generally face and are oriented towards the east, facing similar uses within the adjacent IU Zone. Additionally, the applicant is proposing to re-orient the entrance to the site from Southern Avenue to Eugenia Avenue. This orientation seems to indicate that this block, bounded by Eugenia Avenue on the east and an unnamed alley on the west, lends itself best to commercial and/or industrial uses, as both sides of Eugenia Avenue primarily contain non-residential uses. Therefore, the unnamed alley between Eugenia Avenue and Grace Avenue provides the most logical dividing line between the existing residential uses and commercial/industrial uses along Eugenia Avenue.

2. The recommendation of approval is consistent with a previous recommendation made by the NKAPC staff relative to the site in question.

On August 12, 1999, Mr. Thomas W. Breidenstein, on behalf of Gerald and Jeanne Neiheisel, submitted an application for NKAPC and KC&MP&ZC review and recommendation on a proposed map amendment changing the zoning of the site in question from R-1G to IU, along with several variances (Z-99-08-04/1429R). On August 27, 1999, the NKAPC staff recommended: (1) approval of the proposed map amendment, subject to two conditions; and (2) approval of the proposed variances, subject to two conditions. On September 2, 1999, following the public hearing, the KC&MP&ZC recommended disapproval of the proposed map amendment and disapproval of the proposed variances. The applicant withdrew the application prior to action by the Covington City Commission.

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

a. Section 158.111 (E) (4) requires a minimum front yard setback of fifteen (15) feet. The submitted development plan indicates a front yard setback of seven (7) feet. The applicant has requested a variance for this requirement.

b. section 158.111 (E) (5) requires a minimum side yard setback of fifteen (15) feet. The submitted development plan indicates a side yard setback of five (5) feet. The applicant has requested a variance for this requirement.

c. Section 158.111 (E) (6) requires a minimum rear yard setback of fifty (50) feet. The submitted development plan indicates a rear yard setback of thirty-five (35) feet. The applicant has requested a variance of this requirement.

- d. Section 158.111 (F) (3) requires that screening be installed around all dumpsters. Insufficient information has been submitted to determine compliance with this requirement.
- e. Section 158.111 (F) (4) requires that off-street parking areas be set back a minimum of ten (10) feet from any side or rear property line. The submitted development plan indicates that the off-street parking area will be set back a minimum of two (2) feet. The applicant has requested a variance of this requirement.
- f. Section 158.117 (C ) requires that curb cuts be a minimum of twenty-two (22) feet in width. The submitted development plan indicates the provision of a curb cut onto Eugenia Avenue seventeen (17) feet in width.
- g. Section 158.11 provides for off-street parking requirements for various uses. Insufficient information has been submitted to determine compliance with this requirement.

#### RECOMMENDATION B:

1. KRS Chapter 100.203 (5) and Section 158.190 (G) of the Covington Zoning Ordinance empowers the planning commission, when requested by the applicant, to hear and finally decide applications for variances when a proposed development plan requires a map amendment and one (1) or more variances.

Before any variance(s) is granted, the planning commission, per Section 158.206 (4) of the Covington Zoning Ordinance, must find that the granting of the variance(s) will not adversely affect the public health, safety, or welfare, will not alter the essential character of the area, will not cause a hazard or nuisance, and will not allow an unreasonable circumvention of the zoning regulations. In making these findings the planning commission shall consider the following:

- a. The requested variance arises from special circumstances which do not generally apply to land in the general vicinity, or in the same zone.
- b. The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant.
- c. The circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought.

2. The applicant has requested the following variances:

- a. A reduction of the minimum required front yard setback from fifteen (15) feet to seven (7) feet.
- b. A reduction of the minimum required side yard setback from fifteen (15) feet to five (5) feet.

- c. A reduction of the minimum required rear yard setback from fifty (50) feet to thirty-five (35) feet.
  - d. A reduction of the minimum required side and rear yard setback for off-street parking areas from ten (10) feet to two (2) feet.
3. Granting the requested variance for the front yard will provide for a consistent building setback along the west side of Eugenia Avenue. The proposed building addition will be in alignment with the building setback of the existing building.

Granting the requested side yard variance will provide for a consistent side yard setback of existing structures within the vicinity of the site in question. Many of these existing structures have a side yard setback of five (5) feet or less.

Granting the requested rear yard variance and the variance for the off-street parking area will not have a significant negative impact on adjacent properties. Areas adjacent to the rear of the site in question are occupied by the rear yards of a multi-family residential structure and a detached single-family residential structure, a detached garage, and an adjacent commercial structure. Additionally, much of the site in question, where the proposed variances are located is currently occupied by a concrete parking pad. Therefore, this area is already being used for a non-residential purpose.

4. Granting the requested variances will not adversely affect the public health, safety, or welfare, will not alter the essential character of the area, will not cause a hazard or nuisance, and will not allow an unreasonable circumvention of the zoning regulations.

Special circumstances such as lot size and shape exist in regards to the site in question which do not generally apply to other property within the vicinity of the site in question. The site in question is an L-shaped site. All other properties currently zoned R-1G within the vicinity of the site in question are either rectangular or triangular in shape.

The strict application of setbacks for the site in question would deprive the applicant of reasonable use of the land and likely not lead to improvements as proposed. If the site in question is allowed to be improved, it could lead to other improvements to existing conditions within the area.

Mr. Andrew Piska and Mr. Jerry Neiheisel registered to speak in favor of the issue. Mr. Gailen Bridges, Mr. Jim Bauer and Mr. James Smith registered to speak against.

Mr. Piska, architect for the issue, addressed the Commission and stated they concur with Staff's report. He stated they are offering landscaping to help buffer the area versus green space. He further stated the area would be very difficult to develop for residential. Mr. Piska further noted they are maximizing the amount of parking on the site. He noted the regulations require one parking space for every resident. Mr. Piska stated they are basically in agreement with Staff's report. Mr. Wessels asked if the area could be

used for residential and noted that a building is available. Mr. Piska stated it would be very difficult to make it residential.

Mr. Neiheisel addressed the Commission and stated they brought the issue back again after having approached the Commission previously. He stated most of the area is light commercial. He further noted they are trying to be more conforming and added that most of the buildings in the area do not meet the requirements. Mr. Theissen noted the handout distributed would be marked as an exhibit and made a part of the record.

Mr. Bridges addressed the Commission against the issue and stated he appeared before the Commission previously in 1999. He stated at that time he owned buildings in the area adjacent to the property in question. Mr. Bridges reviewed the points in the handout distributed by the applicant and stated they are asking for four variances when they previously asked for two. He stated the applicant could have bought his two buildings as they were for sale at the time. He further stated the applicant then would not have to request the variance. Mr. Bridges noted there is supposed to be a buffer between buildings. He further noted that there are no buffers and no setbacks with the proposal. He stated it is crazy to come into a residential block and squeeze in an industrial zone. Mr. Bridges then went over proposed uses for the area as industrial. He stated according to the uses, metal products and finishing, textile, asbestos products, etc. are uses for the industrial zone. He further stated that these types of uses are not the type you want a foot away from where families live and play. He noted the applicant was asking for a variance for practically everything - front, back, setback, the side, etc. He additionally noted that he does not think the proposed zone is appropriate. He then asked the Commission to please turn down the zone change and variance.

Both Mr. Bauer and Mr. Smith waived and did not have anything to add.

Mr. Schwartz added that the definition of variance does extend to the structure and noted the width of a curb cut is acceptable as a variance. Mr. Sucher stated it looks like there are two conforming uses in the area and noted there are seven non-conforming uses. He stated for this reason he can't see any reason not to grant the zone change. Mr. Theissen stated he disagreed and noted if this was going to be changed it should have been discussed as part of the Comprehensive Plan update. He stated an industrial use just does not seem like the right use for the property. Mr. Hilgefurd stated he had the same problem with it in 1999. He stated what is being proposed is great, but unfortunately the zoning they are joining happens to be industrial use. He further stated if something should happen and the proposed use goes through, there is no guarantee that it will remain that way. He additionally noted that there are no guarantees that sometime in the future the property is sold, it would be sold as an industrial use property. He stated some pretty invasive uses could then go in next to a residential area. Mr. Meyer noted the industrial use zone is across the street already and that it's not making that much of a difference. Mr. Hadley noted that trains run through there and there is industrial across the road. He stated the train makes enough noise already and this isn't much of a change.

Following the discussion, Mr. Sucher made a motion to approve the map amendment with the one

condition based on the recommendations of Staff. Mr. Snyder seconded the motion. A roll call vote on the matter found Mr. Sucher, Mr. Snyder, Ms. Carlin, Mr. Coates, Mr. Hadley, Mr. Meyer, Mr. Smith, Ms. Snyder, Mr. Wessels, Mr. Swanson and Mr. Price in favor. Mr. Hilgefurd and Mr. Theissen voted against. Mr. Bayer abstained. The motion carried.

Mr. Schneider then explained that there has to be evidence substantiated to grant the variance. He then stated whoever makes the motion should site some evidence in the record. Mr. Hilgefurd then made the motion to grant the variance based on evidence given and testimony heard, that granting the variances will not adversely affect the area, and also based on the recommendations and basis contained in Staff's report. Mr. Hadley seconded the motion. A roll call vote on the matter found Mr. Hilgefurd, Mr. Hadley, Ms. Carlin, Mr. Coates, Mr. Meyer, Mr. Smith, Mr. Snyder, Ms. Snyder, Mr. Sucher, Mr. Wessels, Mr. Swanson and Mr. Price in favor. Mr. Theissen voted against. The motion carried.

\*At this time (8:00 p.m.) a ten minute recess was taken.

\*\*Mr. Swanson withdrew from the following issue as he is a member of the United Christian Volunteers.

1574R

APPLICANT: United Christian Volunteers, Inc., per Ms. Mira Runion, on behalf of Mr. Thomas H. Nuxoll.

GENERAL LOCATION: N.A.

REQUEST TO BE REVIEWED: A proposed map amendment to the Elsmere Zoning Ordinance changing the area described herein, from R-1GG (a single and two-family residential zone) to NC (a neighborhood commercial zone).

Staff presentation and Staff recommendations by Mr. Michael Schwartz.

NKAPC STAFF RECOMMENDATION - ELSMERE ZONING ORDINANCE:

To disapprove the proposed map amendment from R-1GG to NC.

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 18, 2001.

SUPPORTING INFORMATION/BASES FOR NKAPC STAFF RECOMMENDATION:

1. The proposed map amendment from R-1GG to NC is not consistent with the Recommended Land Use

Map of the 2001 Area-Wide Comprehensive Plan Update which identifies the site in question, as well as areas located to the northeast, east, south, and southwest of the site in question, for Residential Development at a density ranging from 7.1 to 14.0 dwelling units per net acre. The proposed NC Zone will allow commercial development to occur in an area recommended for residential uses.

2. The existing zoning classification given to the property is appropriate and the proposed zoning classification is inappropriate.

The existing R-1GG Zone permits detached single-family residential dwellings on a minimum lot area of 5,000 square feet and two-family residential dwellings on a minimum lot area of 7,500 square feet (a maximum density of approximately 8.7 to 11.6 dwelling units per net acre). This density range is consistent with the recommended density range indicated in the comprehensive plan.

The proposed NC Zone would represent an intrusion of commercial activity into a residential area. Within the vicinity of the site in question, the Elsmere Zoning map identifies that the NC Zone along Dixie Highway is one lot deep. The proposed map amendment would provide for the NC Zone to be two lots deep, thus significantly altering the basic development pattern of the area. Additionally, the site in question is physically lower than those fronting Dixie Highway. This grade difference provides for a physical separation between the commercial activity along Dixie Highway and the existing residential development.

3. There have not been any major changes of an economic, physical, or social nature within the area involved which were not anticipated in the adopted comprehensive plan and which have substantially altered the basic character of such area. Therefore, the proposed map amendment is not warranted.

4. While the proposed use for the site in question is not of a true commercial nature, it is important to note that once the zone is changed to NC, it might be difficult to prohibit the redevelopment of the site into a retail or service activity. Therefore, the proposed map amendment from R-1GG to NC is not reasonable or appropriate.

#### ADDITIONAL INFORMATION:

1. Insufficient information was submitted to determine if the Stage I Development Plan met the minimum requirements of the Elsmere Zoning Ordinance.

2. While the NKAPC staff has recommended disapproval of the proposed map amendment from R-1GG to NC, should the KC&MP&ZC recommend approval of the proposed map amendment, or the legislative body take action to approve the proposed map amendment, the following condition should be a part of that action: That the development plan be revised to meet the minimum requirements of the Elsmere Zoning Ordinance.

Mr. Schwartz stated he spoke with Mr. Ralph Hopper of the city who expressed his apologies for not

being able to be present due to a death in the family. He further noted Mr. Hopper stated the city council looked at the proposal but felt the vast majority was zoned R-1GG. Mr. Schwartz also noted that Mr. Hopper indicated the city thought about making the proposal a text amendment versus a map amendment.

Mr. David Whaley, Mr. Tom Nuxoll, Mr. Kent Davidson and Mr. Carl Runion registered to speak in favor of the issue. Ms. Cheryl Simpson registered to speak against the issue.

Mr. Nuxoll addressed the Commission and stated he is the owner of the property in question with his sister. He stated they operated a business out of the building for a number of years. He stated the building is zoned commercial and has been for quite a while. He also noted it had been a family business. Mr. Nuxoll indicated they don't do anything out of the ordinary there but work on and sell machines.

Mr. Whaley addressed the Commission and stated the United Christian Volunteers is a social group to help those in need with emergencies. He stated they provide help to those who need prescriptions, gasoline to get to work, money if their electricity has been cut off, food, etc. He further stated they also provide personal items for those items not covered. Mr. Whaley stated the organization is all-volunteer. He stated they hold food drives and depend on many donations to do the work of the organization. He also stated they became sort of quasi-commercial due to the fact that they have a thrift shop once a week for the needy. He noted their current operating hours are from 9-12, Monday, Tuesday, Wednesday and Friday. He stated they are adjacent to commercial property. He also stated they primarily serve Erlanger and Elsmere but in emergencies will go outside those boundaries. Mr. Hadley asked if the organization is run from the building by the church. Mr. Whaley stated the church owns the buildings they currently use and indicated they will be needing the space.

Mr. Davidson addressed the Commission and stated a commercial zone is probably the right use of the property. He stated he has no problem with them as a neighbor and has no problem with their use. He further indicated he has no problem with the proposal if the parking can be controlled. He stated he owns many properties and businesses in the area and has semi trucks making deliveries. He stated he will have a hard time getting those trucks in there if there will be cars parked in the area.

Ms. Simpson addressed the Commission and stated her main concern is parking.

Mr. Whaley stated in rebuttal that they rarely have more than 8-9 parking spaces used. He further noted that they are requesting ten additional spaces with the proposal.

Mr. Schwartz stated that based on the use of the property, that is how many parking spaces that will be required. He stated the problem was determining what type of use it is. Mr. Wessels asked about the conditional use of a church and what the city's definition of church is. Mr. Schwartz noted he discussed this with Mr. Hopper and there are no church services held at the location as noted in the definition. Mr. Hilgeford stated he doesn't feel the neighborhood commercial zone is appropriate. He stated he doesn't



want to be the one to say no to the organization but he doesn't feel the neighborhood commercial zoning is appropriate. Mr. Hadley stated there is no one objecting and the area is like an island. He stated it is a dead-end street with commercial across the street. He further stated he sees no reason to deny it. Mr. Hadley then made a motion to approve the proposed map amendment with the condition that the Stage I Development Plan be revised to meet the minimum requirements of the Elsmere Zoning Ordinance. Mr. Schneider then noted that the motion is generally in compliance with the Comprehensive Plan. Mr. Hadley then agreed that it was in compliance with the Comprehensive Plan. Mr. Theissen then clarified the additional basis with Mr. Hadley. A roll call vote on the issue found Mr. Hadley, Mr. Sucher, Ms. Carlin, Mr. Coates, Mr. Meyer, Mr. Smith, Mr. Snyder and Mr. Price in favor. Mr. Hilgefurd, Ms. Snyder, Mr. Wessels and Mr. Theissen voted against. Mr. Swanson noted his withdrawal. The motion carried.

OLD BUSINESS: None.

CORRESPONDENCE: None.

PLANNING, STAFF AND LEGAL COUNSEL ITEMS:

COMMISSION ITEMS:

Mr. Theissen noted a proposed change to the by-laws regarding digitally submitting plans. He stated the proposal that was submitted in the packets to the Commissioners was to allow a 10% versus 5% reduction in fees. Mr. Price made the motion for approval. Mr. Swanson seconded the motion. A roll call vote on the matter found Mr. Price, Mr. Swanson, Ms. Carlin, Mr. Coates, Mr. Hadley, Mr. Hilgefurd, Mr. Meyer, Mr. Smith, Mr. Snyder, Ms. Snyder, Mr. Sucher, Mr. Wessels and Mr. Theissen in favor. The motion carried unanimously.

Standing Committee Reports:

Subdivision Regulations Review Committee:

Mr. Swanson stated they are still meeting monthly, on the first Tuesday of each month. He stated they will be discussing site distances at the next meeting.

By-Laws:

Mr. Price had nothing to add.

Model Zoning Ordinance:

Mr. Wessels had nothing to add.

Mr. Theissen noted a memo was distributed regarding audio conferences. He encouraged the Commission members to attend. He additionally noted there would be a presentation at the Holbrook Student Center next Thursday from 6-8:30 for those interested.

Mr. Swanson noted there would be an APA Midwest Conference held in mid September. He noted that Larisa Hughes would be speaking and those interested in attending should contact her. He stated there are good workshops planned in addition to the normal planning sessions. Mr. Swanson also added that the Commission would cover the fees and registration for those interested in attending. He stated the conference would be held at the new convention center in Covington and a reception would be held at the Newport Aquarium.

Mr. Theissen noted the new logo for the Commission was available for review and stated comments or questions are appreciated.

#### COMMENTS/REQUESTS TO THE COMMISSION:

There being no further business to come before the Commission, the meeting adjourned at 9:15 p.m.