



## KC&MP&ZC MINUTES

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

February 6, 2003  
9:00 A.M.

NKAPC Meeting Room  
2332 Royal Drive  
Fort Mitchell, Kentucky

### MINUTES

#### COMMISSION MEMBERS PRESENT:

Mr. Tim Theissen - Chairman - Edgewood  
Ms. Barbara Carlin - Kenton County  
Mr. Al Hadley - Elsmere  
Mr. Mark Hushebeck - Lakeside Park  
Mr. Eugene Meyer - Covington  
Mr. Phil Ryan - Park Hills  
Mr. Greg Scheper - Crescent Springs  
Ms. Maura Snyder - Independence  
Mr. Bernie Wessels - Fort Wright  
Mr. Joe Price - Vice Chairman - Crestview Hills

#### LEGAL COUNSEL PRESENT:

Mr. Dave 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. Mr. Theissen introduced three new appointees to the Commission; Mr. Mark Hushebeck for Lakeside Park, Mr. Greg Scheper for Crescent Springs and Mr. Phil Ryan for Park Hills. Mr. Theissen then welcomed the new members after each having given a brief background on themselves. Mr. Theissen noted that item W/I-3971 had been withdrawn entirely and therefore no action was needed as to a motion to table or withdraw.

#### APPROVAL OF THE MINUTES:

Mr. Theissen stated the minutes were distributed in the Commissioners packets. There being no corrections or comments, Mr. Hadley motioned to approve the minutes from January. Mr. Price seconded the motion. A roll call vote on the matter found Mr. Hadley, Mr. Price, Ms. Carlin, Mr. Meyer, Ms. Snyder, Mr. Wessels and Mr. Theissen in favor. Mr. Ryan, Mr. Hushebeck and Mr. Scheper 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-627 GIBBS LAND DIVISION

APPLICANT: Hicks and Mann, Inc., in behalf of Alberta Gibbs

GENERAL LOCATION: An approximate 80-acre area along the south side of Rector Road (C.R. 1112), approximately 1.2 miles east of Moffet Road (S.R. 2042), unincorporated Kenton County.

REQUEST FOR ACTION: To approve a Preliminary Plat consisting of two (2) residential building lots with no public improvements for GIBBS LAND DIVISION.

Staff presentation and Staff recommendations by Mr. Scott Hiles.

###### NKAPC STAFF RECOMMENDATION:

To approve a Preliminary Plat for GIBBS LAND DIVISION, but only subject to compliance with the following CONDITION:

###### CONDITION:

That all existing structures on the proposed lots comply with all applicable setback requirements within the A-1 Zone (Section 6.6.). Note: Such verification shall be required on a subsequent Final Plat.

###### BASES:

The proposed subdivision GIBBS LAND DIVISION is consistent with the recommendations of the 2001 Area-Wide Comprehensive Plan Update, the Kenton County Subdivision Regulations, and the Kenton County Zoning Ordinance, except as noted under the above Condition and recommended

Waivers to Section 7.3 I, and Section 7.3 F.

**SUBSEQUENT RECOMMENDATIONS:**

1. That a Waiver of Section 7.3 F be granted, thereby not requiring sidewalks along the portion of Rector Road fronting the Plat on the following basis:

The Preliminary Plat exists in an area identified as a Non-Urban Service Area, not requiring urban type services. In addition, the plat for development contains low densities and contains large rural estate type lots. Provision for a sidewalk in this specific area, not recommended to develop at urban densities, is impracticable and unnecessary at this time.

2. That a Waiver of Section 7.3 I be granted, thereby not requiring improvements to Rector Road on the following basis:

That strict compliance with these regulations creates an extraordinary hardship in the face of exceptional conditions. The requirement to widen approximately 660 lineal feet of Rector Road fronting only two (2) lots, makes compliance with such requirement financially impractical, in Staff's opinion.

Mr. Hadley questioned where the driveway for the properties is located. Mr. Hushebeck stated he drove past the properties and one driveway has an existing driveway and one lot does not. Mr. Meyer then asked about the 50-foot right of way.

Mr. Scott Simpson registered to speak on the issue. He addressed the Commission and stated the 50-foot strip was left to provide access to the back of the property if needed at a later time. Mr. Simpson further stated the one of the lots was platted at one time but never got recorded. Mr. Simpson additionally noted at this time the applicant is not interested in making any improvements to Rector Road or adding sidewalks. Mr. Hiles noted that to widen 750 feet of roadway is impractical for two lots. Mr. Theissen then proposed adding a third condition regarding driveways as follows; that the existing driveways to these two lots are designated as temporary; if or when the 50-foot strip is developed into a street these lots should be modified such that their driveways would come off the new street. Mr. Wessels then made the motion to approve with the additional condition as stated by Mr. Theissen along with the two waivers. Mr. Price seconded the motion. A roll call vote on the matter found Mr. Wessels, Mr. Price, Ms. Carlin, Mr. Hadley, Mr. Meyer, Mr. Hushebeck, Mr. Ryan, Mr. Scheper, Ms. Snyder and Mr. Theissen in favor. The motion carried unanimously.

**W/I-3979 MR. GREG BRINKMAN**

**APPLICANT:** Mr. Greg Brinkman

**GENERAL LOCATION:** An approximate two (2)-acre parcel along the west side of Madison Pike (S.R. 17), opposite Callant Road (C.R. 1207), unincorporated Kenton County.

**REQUEST FOR ACTION:** Waiver to Section 6.6 LOTS (maximum number of lots served by a common driveway). Granting the requested waiver will allow more than four (4) lots to use a single common driveway.

Staff presentation and Staff recommendations by Mr. Scott Hiles.

## NKAPC STAFF RECOMMENDATION:

To grant the requested Waiver to Section 6.6 LOTS, but only subject to the following Conditions:

### CONDITIONS:

1. That the portion of the common driveway used to access the proposed lot / residence be widened to a minimum of 16 feet prior to issuance of an occupancy permit for the proposed residence (Section 6.6);
2. That the applicant verify their legal right to use the driveway prior to approval of any subdivision plat creating the proposed lot in question;
3. That a maintenance agreement be recorded in the office of the county clerk that provides assurance that the portion of the driveway located on the proposed lot will be properly maintained.

### BASES FOR STAFF RECOMMENDATION:

That strict compliance with Section 6.6 and 6.1E could cause an unsafe situation, further defined as follows:

Compliance with the particular regulations not to allow more than four (4) lots to use a common driveway, and that driveways be spaced a minimum distance of 600 feet along Madison Pike would require that ingress / egress to the proposed lot be provided by the existing driveway on the southern property boundary that contains limited sight distances for vehicles exiting. However, allowing the proposed lot to be provided ingress / egress from the driveway on the northern property boundary widened to 16 feet would provide emergency service vehicles reasonable access to the proposed lot, comply with the driveway spacing requirement along an Arterial roadway, and increase the level of safety for vehicular traffic exiting the proposed lot.

Mr. Hiles indicated this is purely a waiver request. He also noted that Staff does agree that the driveway to the north is safer than the driveway to the south. Mr. Hiles further noted to widen the existing roadway would satisfy the requirements.

Mr. Greg Brinkman registered to speak on the issue. He addressed the Commission and stated the existing house is on 3 acres. It was further noted that they basically want to divide it into a 2-acre and 1-acre lots. Mr. Wessels suggested that Paul Swanson's committee look into maintenance agreements as they relate to the issue. Following the discussion on the issue, Mr. Hadley made a motion to approve based on Staff's recommendations and to include the three conditions as stated by Staff. Mr. Meyer seconded the motion. A roll call vote on the matter found Mr. Hadley, Mr. Meyer, Ms. Carlin, Mr. Hushebeck, Mr. Ryan, Mr. Scheper, Ms. Snyder, Mr. Wessels, Mr. Price 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 his withdrawal from consideration and voting on I-3980 due a conflict as he prepared the deed on the issue. Mr. Wessels notes his withdrawal from consideration and voting on FP-598 due a conflict of being an adjoining property owner. Mr. Price then made a motion to ratify and approve. Ms. Carlin seconded the motion. A roll call vote on the matter found Mr. Price, Ms. Carlin, Mr. Hadley, Mr. Meyer, Mr. Wessels and Mr. Theissen in favor. Mr. Ryan and Mr. Scheper abstained. The motion carried.

#### PP-628 VISALIA POINTE SUBDIVISION

APPLICANT: Bayer-Becker Engineers, in behalf of Keeney Development, L.L.C.

GENERAL LOCATION: An approximate 73-acre area along the west side of Decoursey Pike (S.R. 177), approximately 50 feet north of Visalia Road (S.R. 536), Visalia and unincorporated Kenton County.

REQUEST FOR ACTION: To approve a Preliminary Plat consisting of 127 residential building lots, including public improvements such as streets, storm drainage, and water systems, and private improvements such as a sanitary sewer system including a wastewater treatment plant and lagoon for VISALIA POINTE.

Mr. Hushebeck noted a conflict on the issue. He stated his employer does a lot of work with Keeney Development. He then withdrew from any consideration and voting on the issue. Mr. Theissen then noted his firm has a legal issue with Mr. Keeney and his attorney but it is not related in any way to the issue. After conferring with legal counsel and Mr. Williams on the issue it was felt there was no conflict with Mr. Theissen continuing to chair the meeting on the issue.

Staff presentation and Staff recommendations by Mr. Scott Hiles.

Mr. Hiles noted typographical errors contained in Staff's report to be changed with respect to recommended condition number 2: the word "distance" should read "distances", the word "right" should be deleted, and the word "A" should be removed from the beginning of the second sentence as well as adding the letter "s" to the word "measurement", which also appears in the second sentence.

Ms. Carlin noted the area where the subdivision is being proposed is not in a viable city. She further noted there is no government, no zoning and no building inspector. She stated her concerns with enforcing or overseeing the development if these agencies are not in place. Mr. Theissen then noted there are various cities and counties in Northern Kentucky that do not have zoning in place but do have a comprehensive plan. He also noted there are counties that have a comprehensive plan but no land use control. Mr. Theissen further stated that Visalia does have subdivision regulations because those are county-wide and apply whether the individual cities have zoning or land control in place. Mr. Hadley

asked about services (i.e. snow removal, etc.) and street maintenance. Mr. Theissen then stated since there is no city maintenance, there would no street maintenance. Mr. Hadley also asked about the nearest fire department. Ms. Carlin then stated the nearest fire department is eight (8) miles in one direction and seven (7) miles in the other. She further noted the fire department is all volunteer. Mr. Theissen discussed a recent newspaper article about Visalia School being closing. He also noted the article indicated it may be only a temporary closing until the population warrants the reopening of the school.

Mr. Keith Logsdon, Mr. Nathan Smith, Mr. Dennis Williams, Mr. Gil Whitaker and Mr. Jim Shoemaker registered to speak in favor of the issue. Mr. Larry Maxey registered to speak as a neutral party.

Mr. Logsdon addressed the Commission on behalf of the applicant. He stated they intend to meet all requirements of the Comprehensive Plan and that they did take into consideration the state of the City of Visalia. He stated with regard to transportation access that S.R. 536 is being improved. He stated they feel they have good access for the site. He further stated their first goal was conversations regarding revamping the sewage plant. He stated that while the community is designed to be a higher density, the plan would still be set at a 1-acre density. He further noted the lot sizes at 6000 feet conform with several requirements and criteria, even though typical standards are not in place. Mr. Theissen noted a letter was submitted on Kenton County School District letterhead by Mr. Rob Haney. He noted this would be entered as an Exhibit and included with the record. He also noted a letter was received from Eric Russo of the Hillside Trust in regard to the issue. He then submitted that letter as Exhibit #2 and included it as part of the record. Mr. Logsdon stated the subdivision will be equipped with fire hydrants and sufficient fire flow to provide fire protection.

Mr. Williams addressed the Commission as legal counsel for Keeney Development. He stated they are trying to bring a mini-regional sewer treatment plant to the area. He noted it has not yet been determined if and HOA will be formed. He did note that semi tractor trailers will not be permitted to park in driveways and yards. Mr. Theissen then asked who owned the land currently. Mr. Williams stated the land is currently owned by the school. He stated they are agreeable to all of Staff's conditions on the issue. He further noted the treatment plant will have to be built to meet guidelines and that it will be sufficient to service the area, the school and any businesses in the area.

Mr. Gil Whitaker addressed the Commission and stated the site does not have a lot of site distance but feels it will be more than adequate. He stated with regard to storm water management that they are trying to take advantage of storm water drainage already in place. He further noted they are trying to maintain the swales to control rain water. He also noted that the storm sewer system that runs through the development will have drainage culverts that will act as detentions areas. Ms. Carlin asked where the storm water will go after leaving the property and crossing the road. Mr. Whitaker then stated they have to maintain the existing water drainage. Ms. Carlin then asked how they plan to disguise the treatment plant so it is not sticking out right in the middle of the development. He stated in conversations with the school they do not want to close the school and they are hoping this helps the problem of having to close. Mr. Wessels asked if the existing treatment plant was just dumping raw sewage. Mr. Smith stated it is probably working at a standard from years ago. Mr. Hadley suggested making a condition regarding establishing an HOA if no government entity takes over maintenance of the streets in the subdivision.

Mr. Williams did not feel this was something that could be done. He then stated that they intend to build the subdivision at county regulation standards. He stated the developer is spending money to make money and plans to keep the subdivision looking good to build up the area.

Mr. Hiles noted the streets contained in the subdivision could not be private streets. He further noted there cannot be a subdivision off a private street. Mr. Schneider then clarified the issue of public versus private streets and the activity of the city government. Ms. Carlin stated an attempt was made back in the '80's to dissolve the city. She stated at that time the court denied the request. The issue regarding the city taking care of the streets versus the county maintaining the streets if the city is dormant was discussed at length. Mr. Theissen then stated a provision could be added that the streets be maintained until it is determined who will maintain them. Ms. Carlin also noted the fact that the treatment plant is not on their property.

Mr. Jim Schoemaker, Fire Chief for the Kenton County Fire Department, addressed the Commission on the issue. He stated the fire department is under five (5) miles from the proposed subdivision. He stated if this plan goes through there will be combined dispatch between Ryland Heights and Visalia. He further noted they are in favor of the proposal to bring more population to the area. He also noted with more fire hydrants in they area they have been dropped from a level 9 to a level 7. Mr. Schneider then noted that fire districts are not limited by city boundaries but cover an area.

Mr. Maxey addressed the Commission on the issue and stated he is a resident of the unincorporated part of Kenton County. He stated his concerns are that putting a development of this size is a radical change from other developments in this portion of the county. He stated it is a very wet area. He also noted it is not federally classified as a wetland and it should be. He further stated another concern is that the improvements to S.R. 536 will not be done in our lifetime. He noted the property is ideal property suitable for development, but further stated this is basically fabricated housing. He stated this will hinder any plans for upscale development in the future. He noted this is a lot of homes to be built on 1-acre lots. He further added that he is not against development but feels this is too much development by putting seven (7) homes per acre in the subdivision. He stated another concern is this development is in the southern end of the county. He stated if this development is put in, the property owners in other areas north, south and west of the development will then be faced with prospects of selling, i.e., losing the farms and green space.

Mr. Wessels asked about the treatment plant and extending the sewer lines up Decoursey both ways. Mr. Whitaker stated they have not considered that issue. Mr. Theissen then added that a condition could be added to include a provision for a stub to provide for the extension when necessary. Ms. Carlin then asked again about he treatment plant and the lagoon and how those would handle the water from the development. Mr. Whitaker stated it would go through the lagoon and after continuing down would follow nature's path down into the Licking River.

Following the discussion a motion was made by Mr. Meyer to approve based on Staff's report and adding the following conditions; condition #8; that provisions for permanent street maintenance be

assured before final platting; and condition #9; that sanitary sewer be stubbed to the north and south end of the development in the vicinity of Decoursey Pike for future tap in; and also to include the corrections in Staff's report as indicated earlier. Mr. Wessels seconded the motion. A roll call vote on the motion found Mr. Meyer, Mr. Wessels, Mr. Hadley, Mr. Scheper, Mr. Price and Mr. Theissen in favor. Mr. Ryan abstained, Mr. Hushebeck withdrew, Ms. Carlin voted against. Ms. Snyder had left the meeting prior to the motion and roll call. 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:

There being nothing further to come before the Commission, the meeting was recessed at 12:07 p.m. until 6:15 p.m.

KENTON COUNTY & MUNICIPAL PLANNING & ZONING COMMISSION  
REGULAR MEETING

February 6, 2003  
6:15 P.M.

NKAPC Meeting Room  
2332 Royal Drive  
Fort Mitchell, Kentucky

MINUTES

COMMISSION MEMBERS PRESENT:

Mr. James Bertram - Taylor Mill  
Ms. Barbara Carlin - Kenton County  
Mr. Barry Coates - Covington  
Mr. James Cook - Kenton County  
Mr. Mike Denham - Bromley  
Mr. Tom France - Ludlow  
Mr. Al Hadley - Elsmere

Mr. David Hilgeford - Villa Hills  
Mr. Mark Hushebeck - Lakeside Park  
Mr. Eugene Meyer - Covington  
Mr. Phil Ryan - Park Hills  
Mr. Greg Scheper - Crescent Springs  
Ms. Maura Snyder - Independence  
Ms. Alex Weldon, Covington  
Mr. John Wells - Ft. Mitchell  
Mr. Bernie Wessels - Ft. Wright  
Mr. Joseph Price, Vice Chairman - Crestview Hills  
Mr. Tim Theissen - Chairman - Edgewood

COMMISSION MEMBERS NOT PRESENT:

Mr. Paul Swanson, Secretary/Treasurer - Erlanger

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. Mr. Theissen then welcomed the five new members, Mr. John Wells, Mr. Tom France, Mr. Mark Hushebeck, Mr. Greg Scheper and Mr. Phil Ryan to the Commission. He introduced each new member and asked each to give a brief background of themselves.

APPROVAL OF THE MINUTES:

Mr. Theissen noted the minutes from January had been distributed in the Commissioner's packets and asked for any questions or comments. There were no questions or comments. Mr. Hadley motioned to approve the minutes for January. Ms. Carlin seconded the motion. A roll call vote on the matter found Mr. Hadley, Ms. Carlin, Mr. Bertram, Mr. Coates, Mr. Cook, Mr. Denham, Mr. Hilgeford, Mr. Meyer, Ms. Snyder, Ms. Weldon, Mr. Wessels, Mr. Price and Mr. Theissen in favor. Mr. Ryan, Mr. Wells, Mr. France, Mr. Hushebeck and Mr. Scheper abstained. The motion carried.

Mr. Theissen noted the budget was not completed in time to include in the packet for this month. He noted the financial report and budget will be included in next month's packet.

Mr. Theissen noted that a request to table had been received regarding issue 1607R. He noted a letter was received from Mr. Bill Oldfield as counsel for the applicant requesting a tabling of the matter for two months. Mr. Price then made a motion to table the matter for up to six (6) months. Ms. Weldon seconded the motion. A roll call vote on the matter found Mr. Price, Ms. Weldon, Mr. Bertram, Ms.

Carlin, Mr. Coates, Mr. Cook, Mr. Denham, Mr. France, Mr. Hadley, Mr. Hilgefurd, Mr. Hushebeck, Mr. Meyer, Mr. Ryan, Mr. Scheper, Ms. Snyder, Mr. Wells, Mr. Wessels and Mr. Theissen in favor. The motion carried unanimously.

**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.**

Mr. Theissen read into the record the report of actions from the morning meeting. Mr. Theissen noted to include the withdrawals by himself (I-3980), Mr. Wessels (FP-598) and Mr. Hushebeck (PP-628) from the earlier meeting. Mr. Bertram then noted his withdrawal from issue I-3965 as his firm prepared the plat. Mr. Hadley then made the motion to ratify and approve. Mr. Bertram seconded the motion. A roll call vote on the matter found Mr. Hadley, Mr. Bertram, Ms. Carlin, Mr. Coates, Mr. Cook, Mr. Denham, Mr. France, Mr. Hilgefurd, Mr. Hushebeck, Mr. Meyer, Mr. Price, Mr. Ryan, Mr. Scheper, Ms. Snyder, Ms. Weldon, Mr. Wells, Mr. Wessels and Mr. Theissen in favor. The motion carried.

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

**PUBLIC FACILITIES:** None.

**PUBLIC HEARINGS ON SCHEDULED ITEMS:**

1606R

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

**GENERAL LOCATION:** N.A.

**REQUEST TO BE REVIEWED:** Proposed text amendments to the Covington Zoning Ordinance: (1) permitting contractor's offices to have accessory storage yards, including storage of general construction equipment and vehicles, within the IP (Industrial Park) Zone; (2) adding the requirement of a 75 foot side or rear yard setback, with screening, where any yard of any use permitted in the IP Zone abuts a residential zone; (3) adding accessory construction equipment and construction vehicles to the list of items that are regulated by the Performance Standards for Industrial Zones, as it pertains to outside

storage; and (4) adding the necessary cross reference within the other development controls of the IP Zone for regulating the storage of general construction equipment and vehicles.

Staff presentation and Staff recommendations by Ms. Jessica Morris.

**NKAPC STAFF RECOMMENDATION:**

**RECOMMENDATION A:**

To disapprove the proposed text amendments to the Covington Zoning Ordinance: (1) permitting contractor's offices to have accessory storage yards, including storage of general construction equipment and vehicles, within the IP (Industrial Park) Zone; (2) adding accessory construction equipment and construction vehicles to the list of items that are regulated by the Performance Standards for Industrial Zones, as it pertains to outside storage; and (3) adding the necessary cross reference within the other development controls of the IP Zone for regulating the storage of general construction equipment and vehicles (See Attachment A and B).

**RECOMMENDATION B:**

To approve the proposed text amendments (1) adding the requirement of a seventy five (75) foot side or rear yard setback, with screening, where any yard of any use permitted in the IP Zone abuts a residential zone and (2) correcting the reference error within Section 158.176, IP (Industrial Park) Zone, (E) (2) that refers to Section 158.167 (R) (See Attachment A), but only subject to compliance with the condition that it read as follows:

"Storage of any material (usable or waste) shall be subject to the provisions contained in Section 158.167 (K)."

**SUPPORTING INFORMATION/BASES FOR NKAPC STAFF RECOMMENDATION:**

**RECOMMENDATION A:**

1. The proposed text amendment permitting contractor's offices to have accessory storage yards, including storage of general construction equipment and construction vehicles, within the IP (Industrial Park) Zone is not reasonable in that currently the performance standards for industrial zones only permit outside storage of products and materials for all other permitted uses within the IP Zone. Products and materials of uses that are currently permitted within the IP Zone are less intrusive to surrounding developments than construction equipment and vehicles, which could potentially be oversized in nature. Therefore the storage of construction equipment and vehicles is not appropriate within the IP Zone.

2. The purpose of the IP (Industrial Park) Zone is to allow for light manufacturing uses in a more aesthetic park-like setting than the heavier manufacturing zones. Permitting outside storage of general

construction equipment and construction vehicles would potentially allow for storage that would be more visibly displeasing to surrounding development.

3. The recommendation of disapproval is consistent with the previous recommendation made by the NKAPC staff and the KC&MP&ZC.

On February 17, 1995, the City of Covington, per Mr. Ralph Hopper, submitted a request (Z-95-02-03/1190R) for a proposed text amendments to the Covington Zoning Ordinance, adding "Contractor's office and warehouses, excluding outside storage", as a permitted use in the IU (Urban Industrial) Zone and in the IP (Industrial Park) Zone. On February 22, 1995, the NKAPC staff recommended approval of the proposed text amendment. On March 8, 1995, following the public hearing, the KC&MP&ZC recommended approval of the proposed text amendment.

4. Permitting outside storage of construction equipment and construction vehicles is inconsistent with most other zoning ordinances in Kenton County. The cities of Park Hills, Fort Wright, Taylor Mill, Ryland Heights, Edgewood, and Erlanger do not permit outside storage in this zone.

5. Currently in the City of Covington there are two (2) IP (Industrial Park) Zones that are adjacent to several residential zones, the majority of which have densities ranging from 3.5 to 5.8 dwelling units per net acre. Permitting the storage of larger construction equipment and construction vehicles, such as cranes, would be disruptive to the surrounding residential development.

#### RECOMMENDATION B:

1. The proposed text amendments: (1) adding the requirement of a seventy five (75) foot side or rear yard setback, with screening, where any yard of any use permitted in the IP Zone abuts a residential zone; and (2) correcting the reference error within Section 158.176, IP (Industrial Park) Zone, (E) (2) that refers to Section 158.167 (R), 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, as conditioned: (1) adding the requirement of a seventy five (75) foot side or rear yard setback, with screening, where any yard of any use permitted in the IP Zone abuts a residential zone; and (2) correcting the reference error within Section 158.176, IP (Industrial Park) Zone, (E) (2) that refers to Section 158.167 (R), are reasonable and appropriate given that two omissions to the City of Covington Zoning Ordinance pertaining to the IP Zone will be corrected.

Ms. Annalee Duganier registered to speak on the issue. She addressed the Commission and stated that Lindsey Decker and his attorney had approached the city regarding developing a property when they discovered they were not allowed outside storage units. She noted when this was discovered it threatened the development of the property. Mr. Price interjected and asked if this would be a temporary text amendment or permanent. Ms. Duganier stated it would be permanent. Mr. Wells asked about the screening height and the fact that there are many hills and valleys so it would be impossible to screen

everything. Mr. Wessels questioned why this was being applied to construction equipment and not all items. Mr. Wessels then agreed that any other companies could go in and store items. Mr. Scheper asked how large the IP zone is. Ms. Duganier stated it is rather large, approximately 50-60 acres. Mr. Scheper then suggested changing the whole zone where this is proposed rather than amending the text. Mr. Schneider clarified the matter and specific standards for map amendments. Ms. Weldon stated the change is consistent with the zone. She then made the motion to approve and to correct the reference error in the subsection of Staff's report. Mr. Hadley seconded the motion. A roll call vote on the matter found Ms. Weldon, Mr. Hadley, Mr. Bertram, Ms. Carlin, Mr. Coates, Mr. Cook, Mr. Denham, Mr. France, Mr. Meyer, Mr. Price, Mr. Scheper, Ms. Snyder, Mr. Wessels and Mr. Theissen in favor. Mr. Ryan and Mr. Hushebeck abstained. Mr. Hilgefurd and Mr. Wells voted against. The motion carried.

#### OLD BUSINESS:

Mr. Theissen reminded the Commissioners to call and let the office know if they will not be able to attend an evening meeting. Mr. Theissen further noted the Northern Kentucky Area Planning Council dinner will be held February 20th at 6:00 p.m. He stated it is a great opportunity to meet fellow commissioners and encouraged the Commissioners to attend. Mr. Theissen stated the new logo has been decided and handed out a sample of the letterhead and also explained the logo. He stated unless there were any objections this will be the design used. Mr. Hadley noted the yellow lettering was difficult to read and that it should be darker. Mr. Theissen then stated there was also an issue of how the yellow color would copy on a copy machine.

CORRESPONDENCE: None.

#### PLANNING, STAFF AND LEGAL COUNSEL ITEMS:

Mr. Gary Edmondson, Kenton County attorney, addressed the Commissioners regarding ongoing litigation. He stated with regard to the sexually oriented businesses issue that Campbell County is on board for the first phase along with Kenton County.

He stated with regard to the city of Visalia, it is still a city. He noted a city is still a city until dissolved and the only way it can be dissolved is for someone to file a lawsuit to have it dissolved. He also noted that no one had come forward yet. As to Latonia Lakes, he noted it is no longer an operating city. He stated they have to be non-operating for one year before a suit can be filed. He stated this can affect the Commission by someone wishing to subdivide a property in those cities. He also stated he has a large stack of cases referencing "family" that will be sorted out. Mr. Edmondson noted he will be doing a seminar on planning and zoning in late March for those interested in attending and increasing their CLE hours. It will be held from 6:30-8:30 at the Erlanger Library sometime in mid to late March. He noted he did not have an exact date yet.

#### COMMISSION ITEMS:

Standing Committee Reports:

### Subdivision Regulations Review Committee:

Mr. Theissen noted the next meeting would be held March 4th at noon.

### By-Laws:

Mr. Price had nothing to report.

### Model Zoning Ordinance:

Mr. Wessels noted they had met and discussed three pending issues. He also noted on July 1st new standards will take place. Mr. Wessels reported another item to be discussed is the current definition of family. He stated all cities have a different definition. The next meeting will be held March 5th.

### COMMENTS/REQUESTS TO THE COMMISSION:

There being no further business to come before the Commission, Mr. Wessels made a motion to go into executive session to discuss pending litigation. Ms. Weldon seconded the motion. All in favor; none opposed. The executive session began at 7:32 p.m.

Following a discussion on legal matters, a motion was made to come out of executive session. The planning commission came out of executive session at 8:15 pm. There was a motion made by Mr. Hilgeford and seconded by Ms. Weldon that due to a real and/or perceived conflict of interest, as advised by Mr. Lawson Walker, Mr. Walker should not continue to represent the planning commission in the case of Grand Communities v. KCPC (01-CI-01835). The motion passed unanimously.

There was a motion made by Mr. Price, and seconded by Mr. Meyer authorizing an appeal in the case of Grand Communities v. KCPC (01-CI-01835). The motion passed with all in favor, except for Mr. Wessels opposing.

The planning commission adjourned the meeting at 8:20 pm.