



## KC&MP&ZC MINUTES

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

April 3, 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. France - Ludlow  
Mr. Al Hadley - Elsmere  
Mr. Phil Ryan - Park Hills  
Mr. Bernie Wessels - Fort Wright  
Mr. Paul Swanson, Secretary/Treasurer - Erlanger  
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.

#### APPROVAL OF THE MINUTES:

Mr. Theissen stated the minutes were distributed in the Commissioners packets. Mr. Price noted on page three, line 21 the words "of being" should be removed. There being no further corrections or comments, Mr. Price then motioned to approve the minutes from April. Mr. Hadley seconded the motion. A roll call vote on the matter found Mr. Price, Mr. Mr. Hadley, Ms. Carlin, Mr. France, Mr. Ryan, Mr. Wessels, Mr. Swanson and Mr. Theissen in favor. The motion carried unanimously.

#### SUBDIVISION ITEMS:

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

###### W-624 FORT WRIGHT POINTE

APPLICANT: Grand Communities, Ltd.

GENERAL LOCATION: An approximate 16-acre area along the east side of Fort Henry Drive, the north side of Amsterdam Road, and the west side of Devou Village Apartments, directly opposite Redwood Drive, Fort Wright.

REQUEST FOR ACTION: Waivers to Sections 6.0, B. STREET EXTENSION and 7.3, J. 1.

INTERCONNECTION/EXTENSION. Granting the requested waiver will eliminate the requirement that a street connection be provided within FORT WRIGHT POINTE to access Devou Park property to the north of the subdivision.

Staff presentation and Staff recommendations by Mr. Scott Hiles.

#### NKAPC STAFF RECOMMENDATION:

To grant the requested Waivers to Sections 6.0 B STREET EXTENSION and 7.3 J.1 INTERCONNECTION / EXTENSION.

#### BASES FOR STAFF RECOMMENDATION:

That strict compliance with 6.0 B STREET EXTENSION and 7.3 J.1 INTERCONNECTION / EXTENSION could cause an unsafe situation, further defined as follows:

Unnecessary and disruptive traffic should be minimized in residential areas. The generation of traffic through residential areas creates noise, pollution, and potential safety hazards which would be detrimental to the residential character of the area in question. It would also result in overloading the design capacity of streets not intended for such purposes, thus reducing the safety in residential areas. It is unnecessary, disruptive and a safety hazard to route high volumes of vehicular traffic accessing a

regional park system through a street system designed and intended for low volumes of residential vehicular traffic, in staff's opinion.

Mr. Theissen gave a brief background synopsis of the issue for the new members of the Commissioners who were not members at the time this issue was originally heard. Mr. Theissen further noted an appeal is currently pending on the matter as a direct result of the previous decision by the Commission in December. Mr. Schneider then stated there was no conflict in discussing legal matters pertaining to this issue.

Ms. Elizabeth Horowitz registered to speak in favor of the matter. She addressed the Commission and stated the City of Covington was not happy about having a connection at this site. She stated the city cited traffic concerns with the increased traffic that would be generated through the subdivision. She also noted the city stated their intentions to build a museum of the batteries that exist in the area. She further noted the city was not in favor of having vehicular access to the park and would rather see a pedestrian walkway. She also noted they are proposing a mulched, framed pathway versus a paved pedestrian access. She then stated by having a paved pedestrian pathway would only encourage more vehicular traffic. She also noted the city is planning the museum and parking off Sleepy Hollow with a pedestrian pathway leading up in to the park to connect the civil war sites. Ms. Horowitz stated the amount of vehicular traffic was not determined but that having vehicular access to a park through a residential subdivision is not a good idea. She further noted that they do not feel it is fundamentally their responsibility to provide access to a regional park. She then stated they are concerned that the vehicular access would encourage the wrong type of people to the area versus those using a pedestrian access to view the civil war history. Mr. Ryan then noted he sat on the Devou Park advisory board in the early '90's. He stated at that time there was always a concern of undesirable traffic in the area. He also stated in the past there were always discussions of having hiking trails and not vehicular access to the area. Mr. Theissen stated it has to be assumed that persons other than those that live within walking distance of the park will use the park. He noted to provide parking for those visiting the area would be a benefit. Mr. Price also questioned where the people accessing the walkways would park. Mr. Wessels noted he did not want to create a situation that would leave Ft. Wright without any control over the situation. He stated if the road was actually stubbed where proposed it would be closing the door on any Ft. Wright development or any say to that development. Mr. Wessels asked who would be responsible for the upkeep of the pathway. Ms. Horowitz stated it was her understanding that this would be a public pedestrian pathway.

Mr. Larry Klein then addressed the Commission on the matter. He distributed a copy of the 1998 Devou Park Master Plan. Mr. Theissen then marked the entire packet as an exhibit to be made a part of the record. Mr. Klein also stated he would like the related subdivision regulations to be included in the record, as well as the minutes from the December meeting. Mr. Theissen then stated the subdivision regulations are included as part of Staff's report so they would not need to be entered. He also noted that by way of reference the December meeting minutes would be included as part of the record. Counsel for Grand Communities then indicated they only appealed the one condition regarding the access and the others are not in dispute. Mr. Klein then noted he has not heard sufficient evidence regarding vehicular traffic to substantiate the claims of hardships or topographical difficulties. He noted he would like the

Commission to stand with its original unanimous decision to require the street stub. He further noted there was no objection by the city to that proposal. He also indicated this portion of the park is not subject to the original conditions of the Devou Trust. He then explained that portions of this area could be developed later that may not be able to be developed in other areas of the park. He stated a larger goal should be to encourage usage of the park as referenced in the master plan. He also reiterated Ms. Carlin's comments that most access points to Devou Park are through residential areas. Mr. Klein also noted that there are only 108 parking spaces for the 18-hole golf course. He further noted he doesn't feel there has been any evidence to show a hardship in providing the access. He asked the Commission to consider the testimony and evidence provided on the issue and that no evidence has been provided to show a hardship in creating the access point. Mr. Ryan noted prior problems with the expansion at the time with the golf course that resulted in a lawsuit by homeowners in the area.

Ms. Horowitz stated in rebuttal that had planners had the opportunity in previous years the access would not be what it is today.

At this time Mr. Theissen called for a five minute recess at 10:15 a.m. The meeting then resumed at 10:20 a.m. wherein Mr. Theissen closed the public hearing on the matter. Mr. Hadley stated there are really two properties to consider. Mr. Wessels noted that access needed to be provided and to have control over it but to do that is another question. He suggested an unpaved right of way as an option. Mr. France noted if the situation did change down the road and the city did construct a lodge or similar building, then the funds might then be available to allow for the construction of an access road off Sleepy Hollow. Mr. Wessels stated the only part that is bothering him is the fact that if the city decides to do something with the property they would not have to come before the Commission as an individual property owner would. He stated his concern over the City of Ft. Wright not having any control or say in the matter. Ms. Carlin then stated that Ft. Wright would have the option of not installing signs directing traffic to the park. Mr. Theissen further noted that any amenity could have adverse consequences to it, no matter what it is. He additionally stated it is not something that's going to have a major adverse effect on the residents living there. He then noted the level of traffic that could be generated and stated this does not outweigh the benefits of having the access. He further stated that after having heard the testimony on the issue he did not think there is a basis for waiving the requirement of a street connection. Mr. Hadley suggested rather than putting the stub in now to have a right of way for future development to encourage people to park on the streets and walk into the park. Mr. Theissen then discussed dedicating the street without paving the street as was done once before in years past. He suggested that way the land is available for future development opportunities but would basically be a paper street until that time. He further noted he feels it is poor planning on the Commission's part to not provide for future development. Ms. Horowitz asked if it really needs to be a 50-foot access and whether or not it could be 16 or 18 feet of roadway that may eventually lead to a parking lot. Mr. Swanson stated he feels that anything less than 50 feet could limit future development that would require a 50-foot wide street. Mr. Schneider then stated there is a waiver before the Commission to be denied or granted. He stated if denied, the pending lawsuit would go forward and it might not possibly be a favorable outcome. Mr. Theissen then suggested tabling the matter to try to resolve the matter and think through all options. Following discussion on the matter, Mr. Wessels then made a motion to table for a period of up to 6 months or less to allow for more time to come up with a solution on the issue. Mr. Ryan then seconded

the motion. A roll call on the motion found Mr. Wessels, Mr. Ryan, Ms. Carlin, Mr. France, Mr. Hadley, Mr. Swanson, 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 a conflict and withdrew from any action on item I-3910 as his firm drafted the deeds on the matter. There were no additional conflicts. Mr. Price motioned to ratify and approve. Mr. Ryan seconded the motion. A roll call vote on the matter found Mr. Price, Mr. Ryan, Ms. Carlin, Mr. France, Mr. Wessels, Mr. Swanson and Mr. Theissen in favor. The motion carried unanimously.

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

PUBLIC HEARINGS ON SCHEDULED PUBLIC FACILITIES: None.

OTHER COMMITTEE BUSINESS:

There being nothing further to come before the Commission, the meeting was recessed at 11:25 p.m. until 6:15 p.m.

KENTON COUNTY & MUNICIPAL PLANNING & ZONING COMMISSION  
REGULAR MEETING

April 3, 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. Mark Hushabeck - Lakeside Park  
Mr. Eugene Meyer - Covington  
Ms. Maura Snyder - Independence  
Ms. Alex Weldon, Covington  
Mr. John Wells - Ft. Mitchell  
Mr. Paul Swanson, Secretary/Treasurer - Erlanger  
Mr. Joseph Price, Vice Chairman - Crestview Hills  
Mr. Tim Theissen - Chairman - Edgewood

COMMISSION MEMBERS NOT PRESENT:

Mr. David Hilgefurd - Villa Hills  
Mr. Phil Ryan - Park Hills  
Mr. Greg Scheper - Crescent Springs  
Mr. Bernie Wessels - Ft. Wright

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 recognized Mr. John Dorsey with a plaque for his years of commitment and dedication to the Planning Commission as a representative of Fort Mitchell. Mr. Dorsey then offered a few words of thanks.

APPROVAL OF THE MINUTES:

Mr. Theissen noted the minutes from March had been distributed in the Commissioner's packets and asked for any questions or comments. Mr. Price noted on page 6 it should read "moved" not "motioned;" he further noted on page 8 it should read "conflict of interest" instead of "conflict." He further noted the conference date should read March 17th. There being no further changes or comments, Mr. Price motioned to approve. Mr. Hadley seconded the motion. A roll call vote on the matter found Mr. Price,

Mr. Hadley, Ms. Carlin, Mr. Coates, Mr. Cook, Mr. Denham, Mr. France, Mr. Hushabeck, Mr. Meyer, Ms. Snyder, Mr. Wells, Mr. Swanson and Mr. Theissen in favor. Mr. Bertram abstained. The motion carried.

Mr. Theissen stated there was no financial report for the month.

**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. Bertram and Mr. Theissen noted a conflict of interest regarding item I-3910. Mr. Hushabeck noted a conflict of interest regarding item 590-CDR. There being no further conflicts noted, Mr. Hadley made the motion to ratify and approve. Mr. Bertram seconded the motion. A roll call vote on the issue found Mr. Hadley, Mr. Bertram, Ms. Carlin, Mr. Coates, Mr. Cook, Mr. Denham, Mr. France, Mr. Hushabeck, Mr. Meyer, Ms. Snyder, Mr. Wells, Mr. Swanson, Mr. Price and Mr. Theissen in favor. The motion carried.

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:**

1610R

APPLICANT: City of Lakeside Park, per Mayor Karen Gamel.

GENERAL LOCATION: N.A.

REQUEST TO BE REVIEWED: Proposed text amendment to the Lakeside Park Zoning Ordinance: (1) amending various sections of Article IX, General Regulations; (2) adding "municipally owned or operated parks, playgrounds, or other community facilities" to the list of permitted uses in all zoning districts within the city; (3) adding customary accessory structures and uses not requiring conditions to offset safety conditions or negative effects to the list of permitted accessory uses in all zoning districts

within the city; (4) modifying the paragraph pertaining to conditional uses in all zoning districts within the city; (5) deleting certain paving requirements for access drives serving single-family residential uses; and (6) amending Article XIV, Sign Regulations pertaining to the location of special signs.

Staff presentation and Staff recommendations by Ms. Melissa Jort.

#### NKAPC STAFF RECOMMENDATION:

##### RECOMMENDATION A:

1. To approve the proposed text amendment deleting the sentence "only those accessory and uses specifically identified in this ordinance shall be permitted."
2. To approve the proposed text amendment replacing the word "city" with "legislative body" when making reference to the regulations pertaining to exceptions to height limits.
3. To approve the proposed text amendment modifying the minimum side yard setback requirements for nonconforming lots of record in any residential zone.
4. To approve the proposed text amendment amending the regulations pertaining to the parking or storing of trailers, recreational vehicles, campers, inoperable vehicles, and other such type equipment.
5. To approve the proposed text amendment deleting the requirement that access drives, serving single-family residential uses where the depth of the front yard is 100 feet or more, may be paved with gravel in any residential zoning district.

##### RECOMMENDATION B:

1. To disapprove the proposed text amendment reducing the period of time for which a nonconforming use may be no operative, nonused, or abandoned prior to such use being terminated by the board of adjustment from twelve (12) consecutive months to six (6) consecutive months.
2. To disapprove the proposed text amendment deleting the condition that the board of adjustment make a determination that (1) a nonconforming use and (2) a nonconforming structure should not be reconstructed.
3. To disapprove the proposed text amendment deleting the regulations pertaining to above-ground private swimming pools.
4. To disapprove the proposed text amendment deleting public telephone booths from the list of items permitted to be installed or constructed in the public right-of-way.

5. To disapprove the proposed text amendment modifying the paragraph pertaining to conditional uses in all zoning districts within the city.
6. To disapprove the proposed text amendment permitting real estate and political signs to be located no closer than ten (10) feet from any property line or street.

#### RECOMMENDATION C:

1. To approve the proposed text amendment adding "municipally owned or operated parks, playgrounds, or other community facilities" to the list of permitted uses in all zoning districts within the city but only subject to compliance with the condition that "municipally owned or operated parks, playgrounds, or other community facilities" be added as a conditional use.
2. To approve the proposed text amendment adding "customary accessory structures and uses not requiring conditions to offset safety conditions or negative effects" to the list of accessory uses in all zoning districts within the city, but only subject to compliance with the condition that the wording be changed to read as follows: "Customary accessory structures and uses."

#### 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 text amendments amending various sections of Article IX, General Regulations 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 amendment deleting the wording to permit additional accessory structures and uses to be considered in the ordinance is reasonable as additional accessory structures and uses have been proposed within all zoning districts in the city (see Attachment B).
3. The proposed text amendment replacing the word "city" with "legislative body" when making reference to the regulations pertaining to exceptions to height limits is reasonable and consistent with the wording of KRS 100 and most Kenton County ordinances.
4. The recommendation of approval for the proposed text amendment modifying the minimum side yard setback requirements for nonconforming lots of record in any residential zone is consistent with a

previous recommendation made by the NKAPC staff and the KC&MP&ZC.

a. On July 13, 1992, the City of Ryland Heights, per Mr. George Johnson submitted a request for a proposed text amendment to the Ryland Heights Zoning Ordinance modifying the minimum side yard setback requirements for nonconforming lots of record which are located within the A-1 (Agricultural One) or R-RE (Residential Rural Estate) Zones (Z-92-07-03/1051R). On July 31, 1992, the NKAPC staff recommended approval of the proposed text amendment. On August 6, 1992, following the public hearing, the KC&MP&ZC recommended approval of the proposed text amendment.

b. The proposed text amendment will allow the development of nonconforming lots of record in a manner which is consistent with the adjacent developed lots in residential zones.

c. The proposed text amendment will allow the development of nonconforming lots of record without the need to go before the Board of Adjustment for variances, thus streamlining the permit process.

5. The proposed text amendment pertaining to the parking or storing of trailers, recreational vehicles, campers, inoperable vehicles, and other such type equipment (see Attachment A) is appropriate in that it provides reasonable regulations for the protection of residential areas within the city. The proposed text amendment will regulate the parking of trucks and commercial vehicles while providing for parking and storage of non-commercial vehicles in all residential district zones.

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

6. The proposed text amendment deleting provisions for access drives where the depth of the front yard is one hundred (100) feet or more to be paved with gravel is appropriate. The proposed text amendment would require that all off-street parking areas in all residential zoning districts be paved with asphalt concrete or Portland Cement concrete.

a. The provisions for gravel paving were originally intended to defray the cost to the property owner of laying or pouring a minimum of one hundred (100) linear feet of concrete in a rural area. Given the suburban nature of the city, the proposed text amendment deleting these provisions is reasonable.

#### RECOMMENDATION B:

1. The proposed text amendment to reduce the period of time for which a nonconforming use may be no operative, nonused, or abandoned prior to such use being terminated by the board of adjustment from twelve (12) consecutive months to six (6) consecutive months is an unreasonable amount of time to adequately make a determination that a nonconforming use has been entirely no operative, nonused or abandoned.

a. The existing provision of twelve (12) consecutive months is consistent with all other zoning

ordinances in Kenton County, except for the cities of Park Hills and Covington. Park Hills requires that nonconforming uses be no operative or nonused for a period of 6 months or more consecutive calendar months, or for 18 calendar months during any 3 consecutive calendar year periods. Covington requires that nonconforming uses be discontinued or abandoned for 12 consecutive months or for 24 months during any 4 year period.

b. The second part of the proposed text amendment deleting the condition that the board of adjustment make a determination that (1) a nonconforming structure and (2) a nonconforming structure in which a nonconforming use is operated should not be reconstructed whenever the structure is damaged in any manner whatsoever; or the structure becomes obsolete or substandard under any applicable ordinance of the city, is necessary in that the board of adjustment has the obligation to make this determination following a public hearing. This provision should, therefore, remain.

2. The proposed text amendment deleting the regulations for above-ground swimming pools is unreasonable and is inconsistent with all other zoning ordinances in Kenton County. The existing regulations are necessary for ensuring that adequate safety measures are instituted for all above-ground swimming pools within the city, including setbacks, fencing and gating.

3. The proposed text amendment deleting public telephone booths from the list of permitted obstacles within public rights-of-way is unreasonable in that public telephones pose neither a hazard nor a nuisance and can assist the public when situated appropriately in the public right-of-way.

4. The proposed text amendment modifying the paragraph pertaining to conditional uses in all zoning districts within the city is intended to provide the Zoning Administrator with the authority to decide which conditional uses and customary accessory structures or uses would require a conditional use permit.

a. Only the Board of Adjustment has the authority to hear and decided on applications for conditional use permits. The proposed text amendment requiring approval of a conditional use permit by the Zoning Administrator is not permitted.

5. The proposed text amendment amending Article XIV, Sign Regulations pertaining to the location of special signs is not consistent with the zoning ordinances in Kenton County. A review of Article XIV - Sign Regulations of the zoning ordinances, indicates setback requirements from the property line for various types of special signs, and not from the street.

a. A typical street right-of-way is approximately fifty (50) feet, assuming a paved street and gutter of twenty-five (25) feet, there would be 12-1/2 feet of right-of-way from the curb line. The proposed amendment would allow real estate and political signs to be located within the street right-of-way. Allowing real estate and political signs in the right-of-way may cause potential traffic safety concerns with signs interfering with visibility and driveway exits.

## RECOMMENDATION C:

1. The proposed text amendment adding "municipally owned or operated parks, playgrounds, or other community facilities" to the list of permitted uses in all zoning districts within the city, except as noted under condition, is allowed to be included within the text of the zoning ordinance, as authorized by Kentucky Revised Statute (KRS) 100.203 (1).

a. The proposed condition, adding "municipally owned or operated parks, playgrounds, or other community facilities" to the list of conditional uses in all zoning districts within the city is consistent with the purpose of the residential zoning districts in the city. Proposed park, playground and community facility uses are compatible with adjacent residential areas, however, such uses entail both pedestrian and vehicular traffic in excess of that generally generated by a single family residences.

b. The Board of Adjustment has the power and authority to address adjacent property owners' concerns regarding the possible impact of additional traffic and parking storage created by future expansion via review and approval of a conditional use.

c. The alternative text amendment, identifying municipally owned or operated parks, playgrounds, or other community facilities as conditional uses, is reasonable in that it is consistent with other conditional uses serving residential areas.

2. The proposed text amendment adding customary accessory structures and uses not requiring conditions to offset safety conditions or negative effects to the list of accessory uses in all zoning districts within the city does not provide a clear and effective regulation for which customary accessory structures and uses can be controlled. There is no clear definition of "customary accessory structures and uses not requiring conditions to offset safety conditions or negative effects."

a. The proposed text amendment also prohibits above-ground swimming pools, detached garages, and detached storage facilities as customary accessory structures. This proposed regulation is overly restrictive and would deprive residents of the reasonable use and enjoyment of their property.

b. The recommended wording provides for additional accessory structures and uses to be considered within all zoning districts in the city, including above-ground swimming pools, detached garages and detached storage facilities.

## ADDITIONAL INFORMATION:

Although staff has recommended disapproval of the proposed text amendment deleting public telephone booths from the list of permitted obstacles within public rights-of-way, it is suggested that the city may want to adopt specific guidelines pertaining to the proper placement of public telephone booths in the public rights-of-way.

Mr. Jack Kleymeyer and Mayor Karen Gamel registered to speak on the issue. Ms. Pamela Reedy registered to speak as a neutral party.

Mr. Kleymeyer addressed the Commission and thanked the Staff for their hard work. He stated this is a result of about eighteen months of work by a committee. Mr. France asked about the 6,000 pound weight limitation with regard to vehicles parked in driveways. Mr. Kleymeyer then clarified the definition as detailing what would be allowed versus what would not. He basically stated commercial vehicles or vehicles that have a commercial license would then not be allowed. Mr. Bertram asked how many above ground pools there are currently in Lakeside Park. Mr. Kleymeyer stated there are currently none. Mr. Bertram also asked about detached garages in Lakeside Park. Mr. Kleymeyer noted they are not allowed as well and that they must be attached garages. Mr. Hadley asked about the vehicle weight limitation issue. Mayor Gamel addressed the Commission and stated they have had issues lately with commercial vehicles with gold signage on the side. Mr. Kleymeyer stated this type of thing would not be allowed. Mr. Hadley then suggested that a special permit could possibly be issued to those persons driving a SUV that weighs over 6,000 pounds, is used for work, but has no signage on the side. Mayor Gamel stated that was an excellent idea that would be brought back to the committee.

Ms. Reedy addressed the Commission as a neutral party with questions on the issue. She stated she had a concern as she owns a rental property in Lakeside Park and questioned whether or not a plumber working on her property would be allowed to park in the driveway. Mr. Kleymeyer stated the text would read that the vehicle would not be allowed overnight. She also asked about detached garages in Lakeside Park. Mr. Kleymeyer reiterated that there were some that existed prior to the ordinance but were no longer allowed. Following discussion on the matter, Mr. Price motioned to adopt the recommendations of Staff. Mr. Hadley seconded the motion. Mr. Theissen then suggested adding four additional information comments as follows: 1) that the city reconsider the language on the signs; 2) that the city reconsider the language regarding the parking of vehicles in the city; 3) to reconsider the language about the parking of vehicles in the city and whether or not that would include only overnight parking versus the plumber who is coming in and just parking while he's doing repairs; and 4) that the city reconsider the language about customary accessory structures and uses. A roll call vote on the motion found Mr. Price, Mr. Hadley, Ms. Carlin, Mr. Coates, Mr. Denham, Mr. France, Mr. Hushabeck, Mr. Meyer, Mr. Wells, Mr. Swanson and Mr. Theissen in favor. Mr. Bertram, Mr. Cook and Ms. Snyder voted against. The motion passed by a vote of 11-3.

1613R

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

GENERAL LOCATION: N.A.

REQUEST TO BE REVIEWED: Proposed text amendments to the Erlanger Zoning Ordinance adding: (1) Corporate, regional and administration offices; and (2) Professional, medial and dental offices, to the list of Permitted Uses in the IP-1 (Industrial Park-One), IP-2 (Industrial Park-Two), and IP-3 (Industrial Park-Three) Zones.

Staff presentation and Staff recommendations by Ms. Larisa Hughes.

## NKAPC STAFF RECOMMENDATION:

### RECOMMENDATION A:

To approve the proposed text amendment to the Erlanger Zoning Ordinance adding "Corporate, regional and administration offices" to the list of permitted uses in the IP-1 (Industrial Park-One), IP-2 (Industrial Park-Two), and IP-3 (Industrial Park-Three) Zones.

### RECOMMENDATION B:

To disapprove the proposed text amendment to the Erlanger Zoning Ordinance adding "Professional, medical and dental offices" to the list of permitted uses in the IP-1 (Industrial Park-One), IP-2 (Industrial Park-Two), and IP-3 (Industrial Park-Three) Zones.

## 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 text amendment adding "Corporate, regional and administration offices" to the list of permitted uses in the IP-1 (Industrial Park-One), IP-2 (Industrial Park-Two), and IP-3 (Industrial Park-Three) Zones, is allowed to be included within the text of the zoning ordinance, as authorized by Kentucky Revised Statutes (KRS) 100.203 (1).

2. The proposed text amendment adding "Corporate, regional and administration offices" to the list of permitted uses in the IP-1 (Industrial Park-One), IP-2 (Industrial Park-Two), and IP-3 (Industrial Park-Three) Zones is reasonable and will provide for additional uses that will be coordinated and compatible with the current uses permitted within these zones.

3. The purpose of the IP (Industrial Park) Zones is to provide for coordinated development in a "park-like" atmosphere. Including corporate, regional and administration offices as permitted uses in IP (Industrial Park) Zones is appropriate and will permit offices of a specific nature that will compliment and support industrial activity.

### RECOMMENDATION B:

1. The proposed text amendment to the Erlanger Zoning Ordinance adding "Professional, medical and

dental offices" to the list of Permitted Uses in the IP-1 (Industrial Park-One), IP-2 (Industrial Park-Two), and IP-3 (Industrial Park-Three) Zones is not consistent with the 2001 Area-Wide Comprehensive Plan Update for Kenton County, which states that there is a scarcity of industrial land within Kenton County, and emphasizes the need to retain industrial land for industrial uses. Professional, medical, and dental office uses are not industrial in nature and would permit land zoned for industrial activity to be developed with uses that are more appropriate in institutional or professional office zones.

2. The proposed text amendment is not consistent with the intent of the IP-1, IP-2, and IP-3 Zones. These zones are designed to provide for various manufacturing activities and similar kinds of uses, and to permit customary accessory buildings and uses, which are required to maintain or support any use permitted in these zones.

3. Office uses are permitted in the Erlanger Zoning Ordinance within the following zones: NSC (Neighborhood Shopping Center); SC (Shopping Center); NC (Neighborhood Commercial); NC-2 (Neighborhood Commercial-Two); HC (Highway Commercial); HC-2 (Highway Commercial-Two); HC-3 (Highway Commercial-Three); and I-1 (Industrial-One).

4. Disapproval of the proposed text amendment to the Erlanger Zoning Ordinance adding "Professional, medical and dental offices" to the list of Permitted Uses in the IP-1 (Industrial Park-One), IP-2 (Industrial Park-Two), and IP-3 (Industrial Park-Three) Zones is consistent with previous staff recommendations.

On February 10, 1993, the City of Erlanger, per Mr. P. David Hahn, submitted an application for NKAPC and KCPC review and recommendation on proposed text amendments to the I-1 (Industrial One) Zone adding several uses, including corporate, regional and administration offices, and professional, medical and dental offices to the list of permitted uses (Z-93-02-02/1079R). On February 26, 1993, the NKAPC staff recommended disapproval of the portion of the text amendment adding professional, medical, and dental offices to the list of permitted uses in the I-1 Zone. On March 4, 1993, following the public hearing, the KCPC also recommended disapproval of that portion of the proposed text amendment.

No one registered to speak for or against the issue.

Mr. Price stated that Staff did an excellent job and he recommended approval on the matter. Mr. Price then made the motion to adopt the recommendations of Staff. Mr. Cook seconded the motion. A roll call vote on the matter found Mr. Price, Mr. Cook, Mr. Bertram, Ms. Carlin, Mr. Coates, Mr. Denham, Mr. France, Mr. Hadley, Mr. Hushabeck, Mr. Meyer, Ms. Snyder, Mr. Wells, Mr. Swanson and Mr. Theissen in favor. The motion carried unanimously.

\*Mr. Coates withdrew from any consideration or action on the following item due to a conflict of interest.

1614R

APPLICANT: Mr. John Nie.

GENERAL LOCATION: An approximate 5-acre area situated along the east side of Madison Pike, approximately 1,800 feet north of Walton Nicholson Pike, Unincorporated Kenton County.

REQUEST TO BE REVIEWED: A proposed map amendment to the Kenton County Zoning Ordinance, changing the area described herein, from R-1B (a single-family residential zone) to RC (a rural commercial zone).

Staff presentations and Staff recommendations by Melissa Jort.

NKAPC STAFF RECOMMENDATION:

To disapprove the proposed map amendment from R-1B to RC.

SUPPORTING INFORMATION/BASES FOR NKAPC STAFF RECOMMENDATION:

1. The proposed map amendment changing the site in question from R-1B to RC is not consistent with the Area-Wide Land Use Map of the 2001 Comprehensive Plan Update. The site in question is identified for Residential Development at a density of Under 2.0 dwelling units per net acre. The proposed map amendment would result in commercial development being situated in an area recommended for Residential Development.
2. The proposed map amendment changing the site in question from R-1B to RC is not consistent with the Goals and Objectives and Development Concepts as they pertain to Commercial Development, as contained in the 2001 Area-Wide Comprehensive Plan Update:

GOODS AND SERVICES

2. To locate and design centers providing goods and services so as to maximize consumer safety and convenience while minimizing any adverse environmental effects.

Centers providing goods and services should be conveniently accessible to the population. Different types of centers should be provided which serve the unique needs and desires of different types of consumers - examples are as follows: centers oriented to serving immediately surrounding residents with daily convenience needs, centers intended to serve the transient public, major commercial centers offering both convenience and comparison goods and services.

COMMERCIAL

Spot and strip commercial developments are undesirable and should be discouraged. Such developments are usually characterized by: (a) inadequate room for expansion as the need for additional commercial services increases; (b) little or no coordination of vehicular or pedestrian access;

(c) inadequate parking; (d) multiplicity of curb cuts; and (e) additional trip generation between facilities, resulting in inconvenience for shoppers and unnecessary additional traffic volumes and hazards on the adjacent street network.

The proposed map amendment would result in commercial development being located outside of nearby centers intended to provide goods and services, resulting in a spot commercial development.

3. The proposed map amendment is not consistent with the intent of Community Service Areas and Crossroad Community Districts as identified within the Area-Wide Comprehensive Plan Update:

#### Community Service Areas

The intent and purpose of these areas is to concentrate increased residential density within areas with existing commercial land uses that can provide, or be expanded to provide, convenience goods and services to a growing population. Several of these areas also contain, or are located near, other services and facilities necessary to support increased residential density, such as fire stations and library and park facilities. Increased density will enhance the potential for business development to serve the needs of residents of nearby residential development. Furthermore, by providing such services within short distances of more residences, trip distances that residents travel for convenience goods and services are reduced and the use of alternate modes of transportation becomes more feasible (e.g. pedestrian and/or bicycle). This proposed increase in population density should also further enhance the potential for increased and more efficient mass transit service.

#### Crossroad Community Districts

The purpose of these areas differs from the Community Service Areas designated within the "Urban Service Area" in that residential areas will be significantly less dense. Residential development in these areas should be established based on the capability to serve these areas with adequate water and sewer service.

The proposed map amendment would result in commercial development taking place outside of a Community Service Area to the north and a Crossroad Community District to the south, within an area intended for public facilities and residential uses. The existing zoning classification is therefore appropriate and the proposed zoning classification is inappropriate.

3. Section 17.0, F. of the Kenton County Zoning Ordinance states that "the zoning map shall not be amended, changed, or modified in such manner as to create a free standing zone of less than five (5) acres". The area of the site in question, at 4.5 acres, does not specifically meet this requirement.

4. There have been no major changes of economic, physical, or social nature that were not anticipated in the preparation and adoption of the Area-Wide Comprehensive Plan Update that have/will substantially alter the basic character of the area within the vicinity of the site in question.

## ADDITIONAL INFORMATION:

The submitted development plan meets the minimum requirements of the Kenton County Zoning Ordinance except for the following:

1. The submitted development plan indicates the relocation of the existing residence to the west side of the property. Single-family dwellings are not a permitted use within the proposed RC Zone as per Section 10.21, A. of the Kenton County Zoning Ordinance.
2. Section 9.15, B., 2. of the Kenton County Zoning Ordinance states that those areas within the Non-Urban Service Area, as identified by the Kenton County Comprehensive Plan, may be permitted to utilize on-site subsurface disposal systems, provided that said lots and systems are designed and constructed and approved on accordance with the Kenton County Subdivision regulations. Insufficient information has been submitted to determine compliance with this requirement.
4. Section 14.7 of the Kenton County Zoning Ordinance identifies permitted uses and locations of signs within the RC Zone. Insufficient information has been submitted to determine compliance with this requirement.

Mr. Meyer questioned the 5-acre minimum requirement with regard to the zone change. Mr. Theissen then stated the Commission would be making a recommendation only, but he did not feel the Fiscal Court could make a decision on a zone change on a property that is less than 5 acres. Mr. Schwartz then went into some detail on the minimum requirements as it relates to zone changes. There was a discussion amongst the Commissioners with regard to the minimum acreage requirement and permitting a zone change while complying with the Comprehensive Plan.

Mr. John Nie, Mr. Martin, Mr. Mike Schleper, Mr. Rusty Osterbrook and Mr. Lennie Collins registered to speak on the issue.

Mr. John Nie addressed the Commission and stated his family has operated the company since the 1900's. He stated they were relocated due to the construction of I-75 and noted they are now being relocated again. Mr. Nie further stated they looked at the map and determined they would need to stay in the general vicinity. He stated they are currently on the main road at eye level and they need to be there. He further noted the proposed site is less than a mile from their current location which was very desirable. He stated the area would not be ideal for residential use due to being between two highways when the new highway is constructed. He stated the plan calls for the relocation of the current home to the back of the property. He stated there has been a site assessment done by the health department and they have been approved. He also distributed a copy of the report to the Commissioners. Mr. Nie stated there is no problem with the new access driveway. Mr. Nie then distributed a photograph depicting a similar building to what the new proposed facility would look like. He stated they simply want to build the pharmacy and continue to serve the residents of the area. He further stated he spoke with several

neighbors and shared the site plan with them as well as asked for their input. He then noted that many stated it would be a benefit and that it would enhance the community. He further noted he had sixteen letters in support of the proposal. He then stated he in no way wants to offend his neighbors as they are his family, his friends and his customers. Mr. Theissen then marked the inspection report, the photo depicting the proposed building, and the sixteen pages of letters in support as exhibits 1-3 to be made a part of the record. Mr. Hadley asked about the curb cut as proposed and whether or not it was approved. Mr. Nie stated the curb cuts were the Highway Department's curb cuts and therefore they have already been approved. Mr. Theissen asked about the 5-acre requirement. Mr. Nie stated it is 4.51 acres and very close to the 5-acre requirement. He stated he did not think the 5-acre requirement was a hard-set requirement but one to eliminate strip commercial development. Mr. Theissen reviewed the requirement and stated that unfortunately there was a requirement involving the 5-acre minimum requirement issue. He stated if there was a contiguous property that could be figured along with the total acreage then he would meet those requirements.

Mr. Collins addressed the Commission as a neutral party. He stated his garage and business sits on the corner and will be taken by the new highway. He asked if he bought five acres up the road would he be granted a zone change. Mr. Theissen then stated the Comprehensive Plan is not intended to be a strict requirement but a guideline. He then addressed the question of whether or not he could purchase the five acres and obtain the zone change. Mr. Theissen stated if it was a similar situation where there are busy roads on either side but in a residential area, he is fairly confident a similar resolution would occur. Mr. Theissen suggested tabling the matter to possibly get the police department to apply for a zone change in order to meet the acreage requirement. He also stated by tabling the matter it would also save the application fee. Mr. Theissen additionally noted he felt the Commission as a whole was in favor of the application but felt that tabling the matter might allow for a remedy to the situation. At this time a ten minute recess was requested at 9:05 p.m. Following the recess, Mr. Theissen stated a possible solution to the problem was discovered during the break. He stated that regulations allow for the Commission to authorize a request for a zone change on a piece of property. He then stated the Commission could then put the zone change on the agenda for next month. Mr. Theissen further stated if it is agreeable with the applicant the matter would be tabled until next month and then "piggyback" the application next month. He stated that by doing this there would then be plenty of acreage in order to meet the requirement. Following discussion on the matter, Mr. Price gave the authority to the chairman for the zone change request by way of a motion. Mr. France seconded the motion. Mr. Theissen then asked the applicant to agree to verbally amend the application and to table the matter for a standard period of up to six months. The applicant then agreed. The motion was then modified to include the tabling of the issue and to include the applicant's verbal agreement to amend the application. A roll call vote on the matter found Mr. Price, Mr. France, Mr. Bertram, Ms. Carlin, Mr. Cook, Mr. Denham, Mr. Hadley, Mr. Hushabeck, Mr. Meyer, Ms. Snyder, Mr. Wells, Mr. Swanson and Mr. Theissen in favor. Mr. Coates withdrew. The motion carried.

1615R

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

GENERAL LOCATION: N. A.

REQUEST TO BE REVIEWED: Proposed text amendment to the Covington Zoning Ordinance

eliminating the regulations pertaining to a stay of proceedings in the case of an appeal.

Staff presentation and Staff recommendations by Ms. Larisa Hughes.

#### NKAPC STAFF RECOMMENDATION:

To approve the proposed text amendment to the Covington Zoning Ordinance eliminating the regulations pertaining to a stay of proceedings in the case of an appeal.

#### 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 text within the City of Covington Zoning Ordinance, Section 158.204, regarding a stay of proceedings, is not authorized to be listed as a duty of the Board of Adjustment by Kentucky Revised Statutes (KRS) Chapter 100, and is not appropriate to be included within the text of the zoning ordinance
2. The stay of proceedings in the case of an appeal could unnecessarily delay development or prevent business from being conducted for a time limit beyond the appellants' control, and therefore could have a negative impact on economic development within the City of Covington.
3. There are sufficient alternatives within the court system to provide for an appropriate method of delaying construction or the opening of a business.

Ms. Annalee Duganier and Mr. John Flesch registered to speak on the issue.

Ms. Duganier addressed the Commission and stated this could prevent development unnecessarily, which is what the city is trying to avoid.

Mr. Flesch addressed the Commission in opposition and stated prior to this application he is now more skeptical of the city and feels that zoning should be taken away from the city. He stated that Covington is seeking to change a very discreet part of the code. He stated aggrieved parties would now have to seek other means to remedy their concerns. He further noted the current code provides for an appeal to a circuit court. He stated if the change is approved, aggrieved parties would now have to appeal to the Board of Adjustment and the circuit court when a situation occurs. He stated the delay that is occurring before the Board of Adjustment is a 1-2 month process. He asked why Covington would seek to do this when all other cities are happy with the way the code is. He stated Covington will be rewriting their code later this year or early in 2004.

Ms. Duganier stated if someone tries to stop something that has already been approved then the party has to go before the circuit court when the circuit court has already approved the matter. She stated it is a waste of time to take this route. Mr. Theissen then gave more insight into what was being proposed. Mr. Theissen stated that as it reads, the appellant has the power to stop a developer from proceeding. He also stated the developer then would be at a loss and would be out whatever monies were expended and lost due to the delay. Much discussion was heard on the issue as to whether the proposal would be taking away some rights of an individual and putting more power into the hands of the developer. Mr. France stated if eighteen other cities have this on the books and Covington currently does as well, then it must be a pretty important issue. Likewise Mr. Theissen stated that obviously Staff thought it was something that should be removed. Mr. Hadley then motioned to disapprove on the basis that it is being changed for one city and uniformity should be maintained as all other cities in the county currently have the language. Ms. Carlin seconded the motion. A roll call vote on the matter found Mr. Hadley, Ms. Carlin, Mr. Cook, Mr. Denham, Mr. France, Mr. Meyer and Mr. Swanson voted in favor. Mr. Bertram, Mr. Coates, Mr. Hushabeck, Ms. Snyder, Mr. Wells, Mr. Price and Mr. Theissen voted against. The motion resulted in a tie of 7-7. Mr. Theissen then stated the issue would revert back to the city for a decision.

OLD BUSINESS:

CORRESPONDENCE: None.

PLANNING, STAFF AND LEGAL COUNSEL ITEMS:

Mr. Theissen stated that anyone who attended the conference in Denver needs to fill out a form for expenses. He also stated there is a form to be filled out for the hours spent in session while at the conference.

COMMISSION ITEMS:

Standing Committee Reports:

Subdivision Regulations Review Committee:

The next meeting would be held on the 8th of April at noon.

By-Laws:

Mr. Price had nothing to report.

Model Zoning Ordinance:

The issues of manufactured housing and the definition of family are the topics being discussed. If anyone is interested in those topics they are encouraged to attend. The meeting was held on April 2nd.

COMMENTS/REQUESTS TO THE COMMISSION:

There being no further business to come before the Commission, the meeting was adjourned at 10:20 p.

m. None opposed.