



KC&MP&ZC MINUTES

KENTON COUNTY & MUNICIPAL PLANNING & ZONING COMMISSION REGULAR MEETING

September 4, 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. Tom France - Ludlow
Mr. Al Hadley - Elsmere
Mr. Eugene Meyer - Covington
Mr. Phil Ryan - Park Hills
Mr. Greg Scheper - Crescent Springs
Ms. Maura Snyder - Independence
Mr. Bernie Wessels - Ft. Wright
Mr. Paul Swanson, Secretary/Treasurer - Erlanger
Mr. Joe Price - Vice Chairman - Crestview Hills*

*arrived at 9:20 a.m.

LEGAL COUNSEL PRESENT:

Mr. Matt Smith, 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. Phil Ryan.

APPROVAL OF THE MINUTES:

There were no minutes to approve from August as no meeting was held.

SUBDIVISION ITEMS:

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

PP-589 REVISED TEWES PARK

APPLICANT: KZF, Inc., in behalf of Pilot Contracting Corporation.

LOCATION: An approximate 56 acre area along the west side of Crescent Springs Road, bordered by interstate I-71/I-75 to the south, and by the west fork of Dry Creek to the north, Erlanger.

REQUEST FOR ACTION: To approve a revised Preliminary Plat consisting of thirteen (13) lots for industrial development. The revised Preliminary Plat includes no proposed revisions to the public infrastructure approved as part of the original Preliminary Plat containing seven (7) lots.

Staff presentation and Staff recommendations by Mr. Scott Hiles.

NKAPC STAFF RECOMMENDATION

To approve a Preliminary Plat for REVISED TEWES BUSINESS PARK, but only subject to compliance with the following conditions:

1. The access points along the Dolwick Connector be spaced a minimum distance of 600 feet (Section 6.1 E);
2. That the access point along Sierra Drive servicing Lot #3A be spaced a minimum distance of 100 feet from point of curb return to point of curb return from the Sierra Drive / Dolwick Connector intersection (Section 6.6); and
3. That common access points #1 through #5 be located within a common ingress / egress easement that will provide for the permanent maintenance of the common access way (Section 6.6).

Bases for Recommendation:

The proposed REVISED TEWES BUSINESS PARK is consistent with the recommendations of the 2001 Area-Wide Comprehensive Plan Update, the Kenton County Subdivision Regulations and the Erlanger Zoning Ordinance, except as noted under the above Conditions.

Mr. Mike Schleper, Mr. Bob Tewes and Mr. Mike Tewes registered to speak on the issue.

Mr. Schleper addressed the Commission on the issue. He stated the real issue is the spacing of the access points. He stated they do not want to have access points every 100 feet. He further stated there are no lots on the other side of the road and there never will be. Mr. Schleper stated they feel there will be less congestion due to lots only being located on one side of the road and are therefore requesting a spacing of 500 feet. He stated the back portion of the property is a hillside and they've tried to protect that. He further stated in doing that they have limited the amount of usable frontage. Mr. Theissen noted his concerns with allowing the waiver of spacing. He stated he feels it sets a precedent to allow the reduction in spacing required. Mr. Theissen also noted his concerns with the property being "sold out" for a lesser product development than what was originally planned for the property. Mr. Schleper stated they've been trying to develop the land for 2 ½ years. He further noted they've been approached by businesses who have requested smaller building lots. He also stated they have a strict ten page protective covenant document of regulations and requirements for the properties as to what type of construction materials would be allowed in the office park. He stated because of those restrictions they feel it will be a much nicer office park and does not feel they are selling out in this regard. Mr. Schleper stated to use the 600 feet spacing would use up a lot of the land. He further stated they are concerned with the overall look and appearance of the office park and want it to be the best it can be. He also stated it will be highly visible from the interstate and they have turned down lesser developments and proposals in the past.

Mr. Bob Tewes addressed the Commission and stated the whole project started and has been zoned industrial since the early '80's. He stated they have had restrictive covenants since the '80's on the property. He further noted their intention is not to subdivide the properties and noted it is the family's intention to not subdivide. Mr. Tewes stated they want high quality, good paying companies to come into the office park. He noted it will be a busy road but it will be a dead-end road. He stated he understands the Commission wanting to keep this an upscale development as do they. Mr. Hadley asked if this is a state highway or not. It was noted that Dolwick is to be a state highway. Mr. Tewes then stated that all infrastructures are in place. He stated all electric, water, cable and phone lines are underground and in place, ready to be utilized. He stated they want the presence of a Fortune 500 company in the development. He further noted they respect the opinion of the Commission and wish to honor them as best they can. Mr. Theissen then asked Staff for some appropriate wording to add as a condition to protect the wishes of the family and see that the covenants are adhered to. Mr. Wessels then suggested a motion using the wording that a waiver be granted just for certain lots. Mr. Hiles then suggested approving the application as is, which would include the access points. He also suggested the basis for the waiver of the site distances be to modify condition (1) one to read "...that a waiver be granted for the access points along (the) Dolwick Connector be spaced consistent with the submitted and approved development plat." He then noted a basis as being "for the physical conditions that exist along Dolwick Connector and also for the economic reasons because I think along the Dolwick Connector we

would not be utilizing the property in it's best use." Mr. Theissen then recommended the following wording: "that part of the justification for the waiver includes the fact that there is going to be shared driveways and that those driveways are located on the common boundary lines between the lots and that there is an anticipation that there will be less congestion on the Dolwick Connector when developed because of the fact (we have) development on one side of the road." Mr. Wessels then amended his motion to include Mr. Theissen's language and wording. Mr. Price then seconded the motion. Mr. Swanson stated as a representative for the City of Erlanger, the city is in agreement with the application and proposal as evidenced by the fact that no one from the city was present to speak on the issue. A roll call vote on the motion found Mr. Wessels, Mr. Price, Ms. Carlin, Mr. France, Mr. Hadley, Mr. Meyer, Mr. Ryan, Mr. Scheper, Ms. 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 his withdrawal from item FP-619 due to a conflict of interest with his employer. There being no further withdrawals, Mr. Price made the motion to ratify and approve. Mr. Meyer seconded the motion. A roll call vote on the matter found Mr. Price, Mr. Meyer, Ms. Carlin, Mr. France, Mr. Hadley, Mr. Ryan, Ms. Snyder, Mr. Wessels, Mr. Swanson and Mr. Theissen in favor. Mr. Scheper had left the meeting prior to the vote being taken. The motion carried by a vote of 10-0.

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

PUBLIC HEARINGS ON SCHEDULED PUBLIC FACILITIES:

*Mr. Scheper had to leave the meeting at 10:15 due to a prior commitment so would therefore not be voting on the following issue.

TF-2003-32

APPLICANT: VoiceStream Wireless/T-Mobile.

LOCATION: An approximate 10,000 square foot area located approximately 1,200 feet north of the intersection of Independence Road with Maher Road, Unincorporated Kenton County. The site in question is located on property at 1254 Maher Road, Unincorporated Kenton County.

REQUEST: Location and extent of a Wireless Communications Facility, including a 199 foot high monopole, including associated ground structures.

Staff presentation and Staff recommendations by Mr. Michael Schwartz.

STAFF RECOMMENDATION:

To approve the location and extent of a Wireless Communications Facility, including a 199 foot high monopole and associated ground structures, but only subject to compliance with the following conditions:

1. Unless required by state and/or federal regulations, the proposed monopole shall be a uniform gray color.
2. Unless required by state and/or federal regulations, the proposed monopole shall not have any lighting.
3. That the use of barbed wire be prohibited.

Comprehensive Plan Documentation:

o Date of Adoption by the Kenton County and Municipal Planning and Zoning Commission: December 18, 2001.

Supporting Information/Bases For Recommendation:

1. The proposed Wireless Communications Facility, in general proximity to the proposed location, is necessary to provide for the ongoing reasonable coverage of the applicants service area.
2. The location and extent of the proposed Wireless Communications Facility is in conformity with the 2001 Area-Wide Comprehensive Plan Update and the KCPC's Administrative Policy No. 6.

Chapter IX of the 2001 Area-Wide Comprehensive Plan Update, and the KCPC's Administrative Policy No. 6 contain criteria which are to be used when evaluating such facilities. The proposed facility is consistent with the following criteria items:

- o Such facilities should be heavily screened from view and towers should be camouflaged or designed in such a manner to blend into the surrounding area when located in residential areas. Changes in topography of the land can be used effectively to separate such facilities from adjacent residential uses.
- o To provide for proper separation, adequate setbacks should be provided based upon adjacent land uses.
- o The type of tower (e.g., monopole, carillon, etc.) should be evaluated based upon adjacent land uses and the character of affected areas.

The proposed tower is to be located in an area which is currently heavily wooded. This existing vegetation should provide sufficient screening around the proposed lease area. The proposed tower is to

be located more than eight hundred (800) feet from the nearest residential structure. This separation should provide for a sufficient setback, given the residential character of the adjoining area. The applicant is proposing to construct a monopole structure. This type of structure will be less intrusive than a self supporting lattice tower or a guyed structure.

3. The location and extent of the proposed Wireless Communications Facility is in conformity with the KCPC's Administrative Policy No. 6.

The applicant has provided sufficient evidence: (1) that there is no tower within two (2) miles of the proposed location that would meet the applicant's radio frequency coverage objectives; and (2) that there is no alternative site which is better than the one proposed.

4. The waiver pertaining to the use of barbed wire on top of the proposed chain link fence to be installed around the proposed lease area should not be granted. The proposed lease area is located approximately 1,200 feet off of Maher Road in an area with low to medium density residential development. The potential for the public to be near the proposed site is negligible, thus reducing the need for additional safety around the site in question. Therefore, it is recommended that the use of barbed wire be prohibited.

5. The waiver pertaining to screening should be granted. The proposed tower is to be located in an area which is currently heavily wooded. Additionally, the proposed tower is to be located more than eight hundred (800) feet from the nearest residential structure. The combination of existing vegetation and the setback should provide sufficient screening around the proposed lease area.

6. The waiver pertaining to the requirement that the proposed driveway be constructed of asphalt should be granted. The existing driveway, at a length of approximately 700 feet, is currently constructed of gravel. The additional access road to the site in question, at a length of approximately 1,000 feet, will be used infrequently. As such, requiring this length of access road to be constructed of asphalt would serve no public purpose and is therefore unnecessary.

Mr. Jim Wagner addressed the Commission regarding his RF analysis on the issue and gave his report. Mr. Wessels asked why the tower is being placed on the side of the hill where there is probably a 50-foot drop when it could be placed on the top of the ridge. Mr. Schwartz stated the reasoning provided to them was that by placing the tower down on the hill it will allow the upper portion of the site to be available for residential development at a later time.

Ms. Sandra Keene, Mr. Mike Rollins, Mr. Greg Thompson, Mr. Toby Carpenter and Ms. Linda Dietz addressed the Commission on the issue.

Ms. Keene addressed the Commission and stated they are fine with eliminating the barbed wire. She stated T-Mobile only builds new towers when they actually need to. She further stated they would rather co-locate wherever possible due to the expense in building a new tower. Ms. Keene then distributed a handout to the Commissioners regarding the issue. She stated because of the terrain it is necessary to

place the tower where indicated to avoid any empty gaps or pockets in coverage. She also stated the proposed facility does meet the setback requirements. She further noted the FAA is not going to require lighting on the tower. Ms. Keene noted with regard to the color of the tower that they will meet the requirement that it be gray. She also noted they are seeking a waiver of the screening requirement due to the natural screening existing at the site. She also noted the property owner prefers the access road to remain a gravel road. She noted there would be no signs on the property unless required by local agencies. Ms. Keene stated the tower would be designed to accommodate three additional carriers if necessary. Mr. Theissen then marked the documents distributed as exhibits to be made a part of the record.

Mr. Rollins addressed the Commission and stated he is the radio engineer for T-Mobile and he was available to answer any questions. He then showed a map indicating coverage in the area of which a copy was distributed to the Commissioners to be included in the record. A second map was then distributed indicating separate coverages for the area. Mr. Theissen then marked both as exhibits to be made a part of the record. Mr. Rollins then distributed a third map indicating the proposed coverage with the new tower. He then indicated that due to the terrain the coverage will be somewhat limited but they will do the best they can considering the terrain. Mr. Wessels then asked again why the tower is being placed where indicated. Ms. Keene then stated by placing the tower where indicated allows it to be less seen by area residents due to the terrain. Mr. Rollins also stated the property owner indicated he would like to keep the upper area open for further development.

Mr. Thompson addressed the Commission and submitted photos of the site indicating the natural screening and trees in the area. Ms. Keene stated they have been told by the Kentucky Heritage Council where the tower can be placed and to place it higher on the ridge will allow for less of the tower to be camouflaged. The documents and photos submitted were then marked as exhibits to be made a part of the record.

Mr. Carpenter addressed the Commission as the property owner. He stated the main reason the tower is being built where indicated is because the upper portion of the property could be a good development site later on. He also stated the area below the tower is a marshy area and he does not feel that area will be developed due to the wet conditions.

Ms. Dietz addressed the Commission on behalf of her sister who lives on Independence Road. She stated her main concern is could the tower be placed further north even though the area is not very populated. She stated her concern is why not take it further north because of the existing residents in the area versus the residents that may come later up on the hill.

Mr. Mike Schwartz then gave GPS elevations at various points on the ridge. He stated the difference in elevation from where the tower is proposed to where Mr. Wessels was proposing up on the hill is literally two feet. Mr. Wagner then noted the lighting requirement is usually for towers over 200 feet. Mr. Wessels suggested adding an additional information comment that the need for a paved roadway or additional screening be provided for if the property develops further. Following the discussion, Mr.

Hadley motioned to approve the application based on Staff's recommendations and to include the conditions of Staff, as well as the additional information comment. Mr. France seconded the motion. A roll call vote on the motion found Mr. Hadley, Mr. France, Ms. Carlin, Mr. Meyer, Mr. Ryan, Ms. Snyder, Mr. Wessels, Mr. Swanson, Mr. Price and Mr. Theissen in favor. Mr. Scheper had left the meeting and was not present for the vote. The motion carried by a vote of 10-0.

OTHER COMMITTEE BUSINESS:

There being nothing further to come before the Commission, the meeting was recessed at 11:05 a.m. until 6:15 p.m.

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

September 4, 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. Tom France - Ludlow
Mr. Al Hadley - Elsmere
Mr. David Hilgefard - Villa Hills
Mr. Mark Hushabeck - 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. Paul Swanson, Secretary/Treasurer - Erlanger

Mr. Joseph Price, Vice Chairman - Crestview Hills
Mr. Tim Theissen - Chairman - Edgewood

*arrived 6:20 p.m.

**arrived 6:35 p.m.

COMMISSION MEMBERS NOT PRESENT:

Mr. Mike Denham - Bromley

LEGAL COUNSEL PRESENT:

Mr. Matt Smith, 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 August had been distributed in the Commissioner's packets and asked for any questions or comments. There being none, a motion was made by Mr. Price to approve and seconded by Mr. France. A roll call vote on the matter found Mr. Price, Mr. France, Ms. Carlin, Mr. Coates, Mr. Cook, Mr. Hadley, Mr. Hilgefurd, Mr. Hushebeck, Mr. Meyer, Mr. Ryan, Ms. Snyder, Ms. Weldon, Mr. Wessels, Mr. Swanson and Mr. Theissen in favor. The motion carried.

FINANCIAL REPORT:

Mr. Theissen noted the draft of the budget had been delayed due to some last minute changes. He stated the budge would be complete by next month's meeting.

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 reviewed the report of actions taken at the morning subdivision review committee meeting. A motion was made by Mr. Wessels to ratify and approve. Ms. Snyder seconded the motion. Mr. Theissen noted his withdrawal from item FP-619 as stated at the morning meeting due to a conflict of interest with his employer. A roll call vote on the matter found Mr. Wessels, Ms. Snyder, Ms. Carlin, Mr. Coates, Mr. Cook, Mr. France, Mr. Hadley, Mr. Hilgefurd, Mr. Hushebeck, Mr. Meyer, Mr. Ryan, Ms. Snyder, Ms. Weldon, Mr. Swanson, Mr. Price 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: Refer to 9:00 a.m. agenda.

PUBLIC HEARINGS ON SCHEDULED ITEMS:

Mr. Theissen noted that item 1638R was withdrawn entirely and therefore no action would be taken on the matter. Mr. Theissen then marked the letter received requesting the withdrawal as an exhibit to be made a part of the record. Mr. Theissen further noted that item 1639R would be tabled pursuant to a letter received requesting that the matter be tabled for a period of up to six months. He then marked that letter as an exhibit to be made a part of the record. He also stated a letter was received from Mr. Erpenbeck who was an interested party in the issue. Mr. Theissen then marked that letter as an exhibit as well to be included with the record. Mr. Scheper noted his withdrawal on the issue due to a conflict of interest with his employer. Ms. Snyder then made a motion to table the matter. Mr. Hadley seconded the motion. A roll call vote on the matter found Ms. Snyder, Mr. Hadley, Mr. Bertram, Ms. Carlin, Mr. Coates, Mr. Cook, Mr. France, Mr. Hilgefurd, Mr. Hushebeck, Mr. Meyer, Mr. Ryan, Ms. Weldon, Mr. Swanson, Mr. Price and Mr. Theissen in favor. The motion carried.

Mr. Theissen noted a letter had been received regarding the BP station at 5th and Johnson Streets in Covington which was heard last month. He stated it was requested that the matter be tabled and that the request to withdraw was made in haste. He stated the letter would be marked as an exhibit to be made a part of the record. Mr. Theissen further noted there was no precedent that he could recall regarding withdrawing an issue and then requesting a tabling of the matter. He also noted the difference in cost to the applicant would be \$900+ if the issue is brought back versus \$100-150 to table and re-advertise. Mr. Cook withdrew due to a conflict of interest with his employer. Mr. Wessels suggested the by-laws committee look into the matter of having a time frame in which an applicant can request a tabling of a matter after having withdrawn the item. Mr. Hadley then made the motion to allow the change from a withdrawal to a tabling. Mr. Scheper seconded the motion. A roll call vote on the matter found Mr. Hadley, Mr. Scheper, Mr. Bertram, Ms. Carlin, Mr. Coates, Mr. France, Mr. Hilgefurd, Mr. Hushebeck, Mr. Meyer, Mr. Ryan, Ms. Snyder, Ms. Weldon, Mr. Wessels, Mr. Swanson, Mr. Price and Mr. Theissen in favor. The motion carried.

OLD BUSINESS: None.

CORRESPONDENCE: None.

PLANNING, STAFF AND LEGAL COUNSEL ITEMS: None.

COMMISSION ITEMS:

Standing Committee Reports: None to report.

Subdivision Regulations Review Committee: None.

By-Laws: None.

Model Zoning Ordinance: None.

COMMENTS/REQUESTS TO THE COMMISSION:

Mr. Theissen noted the January meeting falls on a holiday and therefore the meeting would be moved back a week to January 8, 2004. Mr. Hilgefurd motioned to approve the change. Mr. Bertram seconded the motion. A roll call vote on the matter found Mr. Hilgefurd, Mr. Bertram, Ms. Carlin, Mr. Coates, Mr. Cook, Mr. France, Mr. Hadley, Mr. Hushebeck, Mr. Meyer, Mr. Ryan, Ms. Snyder, Ms. Weldon, Mr. Wells, Mr. Wessels, Mr. Swanson, Mr. Price and Mr. Theissen in favor. The motion carried.

Mr. Theissen further noted the APA conference will be held in Washington DC. He stated reservations would be taken as early as November 1st to secure a spot close to where the conference will be held. Mr. Theissen also noted the budget would need to be discussed but he wanted a preliminary count on who was planning on attending.

It was noted that the next subdivision review committee would be held October 7th. Mr. Wessels stated the model zoning committee will actually be holding a public hearing for their next meeting to allow for those interested parties to appear and speak. He noted the public hearing would be held Wednesday October 1st at 12:30 p.m.

Mr. Theissen noted that Barry Burke resigned from his position with the NKAPC as of last month's meeting so he will no longer be with the Commission. He also noted that Donna is back after her illness, as well as Joe Price is back after a long absence due to illness.

There being no further business to come before the Commission, the meeting was adjourned at 6:50 p.m. None opposed.