

**KENTON COUNTY PLANNING COMMISSION  
REGULAR MEETING**

**Minutes**

Ms. Weldon, Chairperson, called the meeting to order at 6:15 PM on Thursday, February 2, 2006, and opened the proceedings with the Pledge of Allegiance and an invocation by Mr. Eilerman. The meeting was held in the Commission Chambers of the NKAPC Building in Fort Mitchell. Attendance of members (for this meeting as well as those during the year to date) was as follows.

Member	Jurisdiction	2006											
		Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
Mark Barnett	Taylor Mill	x	x										
Barbara Carlin	Kenton Co	x	x										
Barry Coates	Covington	x	x										
James Cook	Kenton Co	x	x										
Paul Darpel	Edgewood	x	x										
Chuck Eilerman	Covington	x	x										
Tom France	Ludlow	x	x										
Al Hadley	Elsmere	x	x										
David Hilgefard	Villa Hills	x	x										
Phil Ryan	Park Hills	x	x										
Maura Snyder	Independence	x	x										
Paul Swanson, Treas	Erlanger	x											
Joe Tewes	Bromley	x	x										
John Wells, V Chair	Fort Mitchell		x										
Bernie Wessels	Crescent Spgs	x	x										
Gil Whitacre	Lakeside Park	x	x										
Alex Weldon, Chair	Covington	x	x										
Lynn Hood	Crstvw Hills		x										
Rick Wolnitzek	Fort Wright		x										

Also present were Matthew Smith, Legal Counsel, David Schneider, Legal Counsel, and the following NKAPC staff: Michael Schwartz, AICP, Deputy Director for Current Planning; Melissa Jort-Conway, AICP, Senior Planner; and Andy Videckovich, Associate Planner.

**AGENDA:**

Ms. Weldon introduced Lynn Hood as the new representative for Crestview Hills. She then asked for a motion to accept the appointment. A motion was then made by Mr. France to accept and seconded by Mr. Wells. All in favor, none opposed. There were no other changes to the

agenda for the evening. A motion was then made by Mr. Wessels and seconded by Mr. Hilgefjord as to the agenda. All in favor; none opposed.

**APPROVAL OF THE MINUTES:**

The minutes for January were distributed in the Commissioner's packets. Mr. Whitacre noted on page 21 and 23 the minutes should read that he withdrew from voting, not abstained. Ms. Weldon noted in that same paragraph Mr. Coates' name was misspelled. She also noted on page 3 the word "effects" should read "affects"; on page 17 the word "precused" should read "recused." Ms. Weldon also questioned Mr. Darpel as to his motion on issue 1788R on page 9 as being to approve or disapprove. She then asked that he review the minutes and approval of same would be postponed until the end of the meeting.

**FINANCIAL REPORT:**

There were no questions or comments with regard to the report. A motion was made by Mr. France and seconded by Mr. Eilerman to accept the report as submitted. All in favor; none opposed.

**ACTIONS SINCE LAST MEETING:**

The memorandum regarding the actions taken by Staff over the past month was distributed for informational purposes only. There were no questions or comments. Mr. Hiles spoke briefly with regard to the subdivision issues from the past year. He referred to a packet of information which he distributed to the Commission. Mr. Hiles noted Staff typically was reviewing 90% of subdivision items for the Commission. He stated there was one change which occurred in March wherein Staff now reviews all preliminary plats for the Commission which were previously heard at a public hearing before a subdivision review committee. He reminded the Commission of the letters sent to the members of the Commission each month with regard to new subdivisions and encouraged comments or questions by the Commission at any time.

Mr. Keith Logsdon spoke briefly regarding a handout as to the Comprehensive Plan task force. He stated they are organizing a kickoff meeting on February 16 at 6:15 p.m. to get the process started with regard to the Comprehensive Plan for the year. Ms. Weldon thanked the Commission members for volunteering to work on the Comprehensive Plan. She stated there were eight volunteers interested in serving on a committee. Mr. Logsdon proposed setting up quarterly meetings to review current projects and get discussions going. He noted this will qualify as continuing education credits as well.

**PUBLIC HEARINGS:**

**TF-2005-35**

**APPLICANT:**

Cincinnati Bell Wireless.

**LOCATION:**

An approximate 2,500 square foot area located approximately 550 feet northwest of the intersection of Palomino Drive with Amsterdam Road, Villa Hills. The site in question is located on property at 2500 Amsterdam Road, Villa Hills.

**REQUEST:** Location and extent of a Wireless Communications Facility, including a 140 foot monopole, including associated ground structures.

Staff presentation and recommendations by Mr. Michael Schwartz.

**NKAPC STAFF RECOMMENDATION**

To approve the location and extent of a Wireless Communications Facility, including a 140 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 warning or identification lighting.
3. The proposed Cincinnati Bell Wireless antennas shall be mounted internally.

**Comprehensive Plan Documentation:**

- 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, except as noted under conditions, 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, as conditioned, is consistent with the following criteria items:

- 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.
- To provide for proper separation, adequate setbacks should be provided based upon adjacent land uses.
- The type of tower (e.g., monopole, carillon, etc.) should be evaluated based upon adjacent land uses and the character of affected areas.

- Adequacy of the proposed site, considering such factors as the sufficiency of the size of the site to comply with the established criteria, the configuration of the site, and the extent to which the site is formed by logical boundaries (e.g., topography, natural features, streets, relationship of adjacent uses, etc).
- Extent to which the proposal responds to the impact of the proposed development on adjacent land uses, especially in terms of visual impact.
- Extent to which the proposed cellular antenna tower is camouflaged (i.e., use of "stealth technology").
- Extent to which the proposed facility is integrated with existing structures (i.e., buildings, signs).

As proposed, the proposed tower would be located a minimum distance of six hundred (600) feet from any residential dwelling, providing for a reasonable setback, given the character of development that has occurred within the neighborhood. Additionally, the proposed tower is located centrally to the athletic fields on the property. A monopole structure, with internal antennas, will be less intrusive than a self supporting lattice tower or a guyed structure. A monopole structure, would also be compatible with the large athletic fields.

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 size of the proposed lease area should be granted. The design of the compound, as submitted, provides reasonable space for future ground mounted equipment. Additionally, the location of the proposed lease area, as recommended, could have a negative impact on the existing athletic fields if the lease area were required to be enlarged.

**Additional Information:**

1. The location of the proposed monopole and its proximity to the existing WCKY (AM) transmission facility may require a "detuning skirt" to be installed on the proposed monopole. This would be a requirement pursuant to FCC regulations that is outside the purview of the commission. The possible installation of this "detuning skirt" is being noted here because, if installed, may affect the appearance of the proposed monopole.

Ms. Weldon read a letter into the record with regard to the application. The letter was then marked as an exhibit and made a part of the record on the matter.

Mr. Steve Carr, Mr. Thomas Bosse, Mr. John Schola and Mr. Mesh Prekash registered to speak on the issue. Ms. Lisa Cassetta, Mr. Joe Schutzman and Ms. Kim Shaker registered to speak against. Ms. Alex Schaeffer registered as a neutral party.

Mr. Carr addressed the Commission and stated they will locate the wireless equipment within the leased area. He additionally stated that landscaping will be provided around the whole perimeter. Mr. Carr indicated that three co-locators will be provided for on the pole. He also stated this type of facility is considered a stealth facility because the antennae are located on the interior. He noted any provider wishing to co-locate will have to have their antennae on the inside as well. He further noted they are agreeable to all of Staff's conditions. He further indicated that no flag would fly on the pole, even though it is shown as a flag pole. Mr. Carr stated they feel they have met all of Staff's requirements. He noted they are asking for a waiver as to the 2500 square foot leased area. He stated the equipment is smaller as technology has improved so they are requiring less space and are thus asking for the waiver. Mr. Hadley asked about the proximity to the scoreboard. Mr. Carr indicated it would be 10-15 feet away from the scoreboard. Mr. Wessels stated the scoreboard is near the soccer field as well. He stated it seemed like a lot of balls would be going into that area.

Mr. Schola addressed the Commission and stated there is a 24 hour number where a technician could be reached if anyone needed to access that area.

Mr. Bosse addressed the Commission and stated he was available to answer any questions.

Ms. Cassetta addressed the Commission and asked about the diameter of the pole and whether or not it is graduated from top to bottom. She also asked if there are any regulations regarding surrounding areas because she noted the area is brush and not trees. She stated this would be unsightly on a beautiful campus. She additionally asked if the lease was entered into before or after the fields were installed.

Ms. Schaeffer addressed the Commission and stated a concern with safety and health issues with the tower. She stated she has a concern with the chain link fence that will be surrounding the facility. She also indicated she is close to the area and is not happy with the location of the tower.

Mr. Schutzman addressed the Commission and stated up until this point they had no complaints. He stated they are more concerned with the equipment being secured within the facility. He stated the pole is located in the back of the ball field and it is very limited in its view due to screening. He stated the city is neither for nor against it. He stated this is a dead spot for Cincinnati Bell. He also noted there are two other towers in the city but they are down the hill and with other carriers.

Mr. Carr addressed the Commission in rebuttal and stated the pole is 33 inches in diameter and 26 inches in diameter at the top of the pole. He stated Cincinnati Bell Wireless feels they have gone the extra step as to the aesthetics of the pole. He then noted the fields were in place before the lease agreement was signed. He further stated the facility is locked as well as the equipment. He noted it is also monitored if anyone tries to open the cabinets and that an alarm system would notify a technician. Mr. Hadley asked if they would be opposed to giving a key to the city police department. Mr. Carr then stated they would not be opposed to that. A motion was then made by Mr. Hadley to approve based on Staff's report and to grant the waiver as to the 2500 square feet. Mr. Barnett seconded the motion. A roll call vote on the matter found Mr. Hadley, Mr. Barnett, Ms. Carlin, Mr. Coates, Mr. Cook, Mr. Darpel, Mr. Eilerman, Mr. France,

Mr. Hilgeford, Ms. Hood, Mr. Ryan, Ms. Snyder, Mr. Tewes, Mr. Wessels, Mr. Whitacre, Mr. Wolnitzek, Mr. Wells and Ms. Weldon in favor. The motion carried with a vote of 18-0.

**1792R**

**APPLICANT:** City of Fort Mitchell, per Steve Hensley  
**LOCATION:** an approximate .5-acre area located approximately 400 feet west of Dixie Highway and approximately 500 feet south of Interstate 71/75 in Fort Mitchell.  
**REQUEST:** a proposed map amendment to the Fort Mitchell Zoning Ordinance changing the described area from SC (a shopping center zone) to R-1F (a single-family residential zone).

Staff presentation and recommendations by Mr. Michael Schwartz.

**NKAPC STAFF RECOMMENDATION**

To approve the proposed map amendment from SC to R-1F.

**Comprehensive Plan Documentation:**

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

**Supporting Information/Bases For Recommendations:**

1. The proposed map amendment from SC to R-1F is generally consistent with the Recommended Land Use Map of the 2001 Area Wide Comprehensive Plan Update. While the site in question is currently identified for Commercial – Retail/Service uses and Right-Of-Way, the area located to the west of the site in question is identified for Community Facilities – School Park. It is the understanding of the NKAPC staff that a land division will take place and that the site in question will be transferred to the Beechwood Independent School District. In anticipation of this transfer occurring, it would be appropriate that the entire school property be identified with the same zoning district. The remainder of the school property is currently zoned R-1F. Therefore, the proposed R-1F Zone would be generally consistent with the Community Facilities – School Park designation.
2. The proposed map amendment from SC to R-1F represents a logical extension of the existing R-1F Zone located to the west of the site in question. The current zoning line follows the old alignment of the I-71/75 ramps. The proposed map amendment would straighten these lines out, thus providing for a logical boundary.

Mr. Schwartz stated he did get a call from the mayor stating he would not be able to attend the meeting on the issue. No one registered to vote for or against the issue. A motion was made by Mr. France to approve based on Staff's recommendations. Mr. Wolnitzek seconded the motion. A roll call vote on the matter found Mr. France, Mr. Wolnitzek, Mr. Barnett, Ms. Carlin, Mr. Coates, Mr. Cook, Mr. Darpel, Mr. Eilerman, Mr. Hadley, Mr. Hilgeford, Ms. Hood, Mr. Ryan, Ms. Snyder, Mr. Tewes, Mr. Wessels, Mr. Whitacre, Mr. Wells and Ms. Weldon in favor. The

motion carried by a vote of 18-0.

**1793R**

- APPLICANT:** Kreutzjans Yeager Properties, LLC, per William Kreutzjans, on behalf of K.S.C., LLC
- LOCATION:** An approximate 93-acre area located on the northwest side and southeast side of Marshall Road between Petty Road and Pruett Road, approximately 1,600 feet north of Petty Road in Unincorporated Kenton County
- REQUEST:** A proposed map amendment to the Kenton County Zoning Ordinance changing the described area from R-1B (a detached single-family residential zone) and R-RE (a residential – rural estate zone) to R-1C (PUD) (a detached single-family residential zone with a planned unit development overlay zone).

Staff presentation and Staff recommendations by Mr. Andy Videckovich.

**NKAPC STAFF RECOMMENDATION**

To approve the proposed map amendment, but only subject to compliance with the following conditions:

1. That a public sidewalk and/or bike path be provided on both sides of the main through street.
2. That a public sidewalk be provided along the portion of Marshall Road fronting the development.
3. That two (2) off-street parking spaces be provided for each residential dwelling unit.
4. That the location, height, and type of all fences, walls, and signs be in general conformity with the underlying R-1C Zone.
5. That Open Spaces 'A' and 'B' be dedicated to a public and/or private entity for operation and maintenance.
6. That a mulch and/or gravel trail be extended from the cul-de-sac east of the existing cemetery to Open Space 'A', and the developer consult with the Home Owners Association of the Manor Hill Subdivision to provide a trail connection from Open Space 'A' to the existing trail system within the Manor Hill Subdivision.
7. That a public access easement be recorded through Open Space 'B'.
8. That a left turn storage lane be provided along Marshall Road fronting the development.
9. That a public vehicular connection be provided to either public right-of-way of Sugar Camp Drive or Skyway Drive. Such vehicular connection may be a limited use

connection for emergency vehicles only.

**Comprehensive Plan Documentation:**

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

**Supporting Information/Bases For Recommendations:**

1. The proposed map amendment from R-1B and R-RE to R-1C (PUD), is consistent with the Recommended Land Use Map of the 2001 Area Wide Comprehensive Plan Update, which identifies the site in question for Residential Development at a density ranging from 2.1 to 4.0 dwelling units per net acre and PRDA. The proposed R-1C (PUD) Zone will allow residential development at a maximum density of approximately 3.5 dwelling units per net acre.
2. The proposed map amendment is consistent with the stated purpose of the PUD Overlay Zone, which reads as follows:

“The purposes of the Planned Unit Development (PUD) Overlay Zone are to: promote flexibility in design and permit planned diversification in the relationships between location of and types of uses and structures; promote the advantages of modern large scale site planning for community development through the efficient use of land, facilitating a more economic arrangement of buildings, circulation systems, land uses, and utilities; preserve, to the greatest extent possible, the existing landscape features and amenities, and to utilize such features in an harmonious fashion; provide for more usable and suitably located recreation facilities, other public and common facilities, than would otherwise be provided under conventional land development procedures, but always with the intention of furthering the public health, safety, and general welfare.”

The Recommended Land Use Map of the 2001 Area Wide Comprehensive Plan Update identifies a portion of the site in question as PRDA. Use of the PUD Overlay Zone allows the design of a residential development while maintaining steep hillsides and flood-prone areas.

3. The proposed map amendment from R-1B and R-RE to R-1C (PUD), is consistent with the following Goals and Objectives and Development Concepts, as contained within the text of the 2001 Area Wide Comprehensive Plan Update

To provide a variety of housing types and residential development to accommodate different needs and desires of the population.

*Effort should be made to encourage a variety of residential densities and housing types to meet the needs and desires of a range of family sizes, age groups, and income levels and to ensure that equal opportunity in choice of housing by all elements of the population is provided throughout the region.*



To preserve a pleasant environment for the population.

*Constant effort should be made to ensure that all areas are provided with adequate light and air and pleasing surroundings. Provision of sufficient open space in conjunction with all types of new development and redevelopment will also be necessary if this objective is to be achieved.*

A variety of residential densities are desirable.

*Various densities would accommodate a variety of housing types to serve a variety of economic and social desires and capabilities.*

The type of development that should occur within an area should be based, in part, upon the unique characteristics of the development site and the character of adjacent development.

*Such a concept would insure that the proposed development would be compatibly incorporated into the area and would enable the development to best utilize the area's existing features.*

Areas which are flood-prone (within the 100-year floodplain) and/or landslide prone (slopes of 20% and greater and/or areas which contain known soil and/or geologic formation problems) should be preserved, or very rigidly controlled.

*Such a concept would prevent unnecessary construction problems that might consequently result in hazardous or dangerous conditions, and encourage certain areas to be maintained in their natural open state as an integral part of the landscape.*

To achieve the goals of this element without unduly disrupting the goals of other elements.

*Effort should be made to ensure the incorporation of design for recreation and open spaces as an integral part of emerging urban development or redevelopment. Such effort should result in recreation and open space areas which complement and enhance surrounding development, rather than take on the appearance of appendages added out of necessity. Constant effort should be made to protect recreational areas from intrusion of other type uses so that they may continue to serve their intended function adequately.*

As previously indicated, the applicant submitted a Stage I Development Plan indicating development of single-family residential dwellings at a proposed density of approximately 2.8 dwelling units per net acre. This density is compatible with existing development in the vicinity of the site in question.

The site in question is characterized by rolling topography divided by streams and creeks. The proposed R-1C (PUD) Zone allows for a variety of housing types and lot sizes, and requires a minimum of twenty (20) percent open space. The submitted Stage I Development Plan indicates that approximately twenty-two (22) percent of the site in question will be retained as open space, which includes preservation of the major stream and creek valleys through the site.

4. The proposed map amendment is consistent with a previous recommendation by the NKAPC Staff and the KCPC on a previous issue in the vicinity of the site in question:

On September 15, 1999, Keeney Development, per Mr. Ray Keeney, submitted an application for review and recommendation on a proposed map amendment to the City of Independence Zoning Ordinance (Z-99-09-08/1441R) and Kenton County Zoning Ordinance (Z-99-09-08/1442R) changing an approximate eighty-nine (89) acre site located along the north side of Marshall Road approximately one (1) mile east of Taylor Mill Road, from R-1B to R-1C (PUD). On October 1, 1999, the NKAPC Staff recommended approval of the proposed map amendments, subject to compliance with five (5) conditions. On October 7, 1999, the KCPC held a public hearing and recommended approval of the proposed map amendments, subject to compliance with five (5) conditions.

5. The proposed map amendment from R-1B and R-RE to R-1C (PUD) meets the minimum requirements of the Kenton County Zoning Ordinance, except as follows:
  - a. Section 10.13, A., states that the purpose of the PUD Overlay Zone is to promote the advantages of modern large scale site planning for community development through the efficient use of land, facilitating a more economic arrangement of buildings, circulation systems, land uses, and utilities; preserve, to the greatest extent possible, the existing landscape features and amenities, and to utilize such features in an harmonious fashion. Providing sidewalks along Marshall Road and on both sides of the main through street will better accomplish this purpose.
  - b. Section 10.13, I., states that off-street parking shall be in accord with Article XI of the Kenton County Zoning Ordinance. Section 11.2, K., requires that each dwelling unit be provided with a minimum of two (2) off-street parking spaces. Insufficient information has been submitted to determine compliance with this regulation. Therefore, it is recommended that two (2) off-street parking spaces be provided for each residential dwelling unit.
  - c. Section 10.13, J., of the Kenton County Zoning Ordinance states that the location, height and type of all fences, walls and signs shall be as approved in the plan. Insufficient information has been submitted to determine compliance with these regulations. It is therefore recommended that the location, height, and type of all fences, walls, and signs be in general conformity with the underlying R-1C Zone.
  - d. Section 10.13, L., of the Kenton County Zoning Ordinance sets forth regulations pertaining to common open spaces/recreation areas within the PUD Overlay Zone. Open spaces/recreation areas shall be dedicated to a public and/or private entity for operation and maintenance. Insufficient information has been submitted to determine compliance with this regulation.
  - e. Section 10.13, L., of the Kenton County Zoning Ordinance sets forth regulations pertaining to common open spaces/recreation areas within the PUD Overlay Zone. Such open spaces/recreation areas shall be physically situated so as to be readily accessible, available to, and usable by all residents of the PUD. Extending and connecting the mulch and/or gravel trails within Open Space 'A'

to the existing trail system in the Manor Hill Subdivision will provide a better system of connected open spaces for residents within both communities.

Although Open Space 'B' is separated from the main development by Marshall Road, a public access easement will accommodate future development to the south and east of this open space.

- f. Section 11.3, A., of the Kenton County Zoning Ordinance sets forth regulations pertaining to access control. At those access points where vehicles turning to and from the arterial and collector streets will affect the roadway capacity, reserved turn lanes shall be constructed by the developer. Anticipating the majority of the vehicular traffic approaching the development from the west, the entrance intersection along Marshall Road serving 218 lots will affect roadway capacity and safety without provisions of a left turn storage lane. Insufficient information has been submitted to determine compliance with this regulation.
6. Section 4.0, B., 1., of the Kenton County Subdivision Regulations requires the arrangement of streets in new subdivisions to make provisions for the proper continuation of existing streets in adjoining areas. The ability to provide a vehicular connection to an existing, abutting public right-of-way for emergency purposes is an important safety element for a proposed development of 218 lots with only one primary means of ingress/egress.

Mr. Whitacre recused himself due to a conflict of interest with his employer.

Mr. Jerry Dusing, Mr. Jim Viox, Mr. Bill Kreutzjans and Mr. Jack Gehrum registered to speak in favor. Ms. Melanie Sebastian, Mr. Peter Sketch, Mr. Jeff Baoni and Mr. Daniel Stapleton registered to speak against. Mr. Dale Wilson and Mr. Kurt Koenig registered to speak as neutral parties on the matter.

Mr. Dusing addressed the Commission and introduced the members of his team to speak on the issue.

Mr. Kreutzjans addressed the Commission and stated briefly the various developments in Boone and Kenton County that Ashley Development was involved in. He stated he was available to answer any questions.

Mr. Viox addressed the Commission and stated they thought it would be appropriate to follow the creek with the park as the other subdivision had. He stated water and sewer were available. He stated they opted to provide a street connection to the adjacent development. He also noted they were not opposed to an emergency access as long as it is only used for emergency purposes. He stated they intended to place a bike path along the one side but they do not see a need to provide sidewalks along the other side as well. He stated they opted to put a biker/hiker trail near the park and would appreciate any consideration in that regard. He stated as to the sidewalks they are concerned how they will make a connection across the bridge. He also indicated they would like to do a modified left storage lane. Mr. Viox stated he would appreciate any relief on the items mentioned, and if not if the language could be softened as to

the requirements.

Mr. Dusing addressed the Commission and stated they have been in conversation with the owners of Manor Hill regarding this development. He stated he was going to suggest four additional conditions to satisfy the concerns of Manor Hill. He stated the home owner's association spent a considerable amount of money on the park and ball field. He stated the association pays a fee to maintain the area and it is not public space. He noted it would therefore not be fair to have the public access it. He stated they are suggesting constructing a fence to prohibit the connection of the path. He additionally noted they agree to make all lots 75 feet instead of 60 in that area. He noted they endorse the findings of Staff as to the density as well as the development criteria. He stated there would be a fence barrier on the back lots near the creek to prevent access to the creek and the open space of Manor Hill. Ms. Weldon asked how the proposed berm would affect drainage to the creek. Mr. Viox stated the berm doesn't have to be solid and they have ways to allow the drainage to pass through. Mr. Hadley asked if they would be agreeable to a sidewalk going to the bridge and then continuing beyond the bridge. Mr. Dusing stated they would be agreeable to that but not on the bridge due to the fact that the bridge is not wide enough for a pedestrian path and it would be extremely expensive to construct.

Ms. Sebastian addressed the Commission and stated there are trees and a bend leading to the bridge and you can't see the bridge. She stated she is against the sidewalks near the bridge. She stated her concerns with that many people using a road that is not made for two cars to pass in places.

Mr. Sketch addressed the Commission and asked about the minimum 75 foot width lot and the brick wrap of the homes. Ms. Weldon stated that is not a condition that is imposed by the planning commission but with the developer. He then asked about the green space of Manor Hill and the fence that is being proposed.

Mr. Baoni addressed the Commission and stated they appreciate the developer working with the property owners in the area of Manor Hill as to securing the area. He then asked about the water detention of the area.

Mr. Sebastian stated there is another creek that runs into Decoursey Creek. He asked how this is going to be affected once the development goes in. He stated they have a six foot culvert now to handle the water. He asked what will keep the water from flooding the bridge. He also asked about the open space. Mr. Sebastian asked if it will be left as it is or what will be done with it. He also noted if a minimum turn lane is required they will be asking for accidents to occur with 300 plus cars a day going in and out of the development. He also stated the feeder creek is too close to the road to build a sidewalk in the area of the bridge.

Ms. Weldon then read two letters into the record with regard to the issue. Both letters were then marked as exhibits and made a part of the record on the matter.

Mr. Wilson addressed the Commission as a representative of the Manor Hill Homeowner's Association. He urged the Commission to consider the representatives of the development as to Manor Hill.

Mr. Koenig addressed the Commission and stated all his concerns were addressed.

Mr. Dusing addressed the Commission in rebuttal and stated the concerns were mainly engineering concerns so Mr. Viox would address them.

Mr. Viox addressed the Commission and stated there is a stream and stated it will be difficult to put in the sidewalk and are asking for some relief in the area near the bridge.

After a brief discussion amongst the Commissioners, Ms. Snyder made a motion to approve with the conditions and recommendations of Staff as to conditions 3,4,5, 7 to remain the same and 8 as acceptable to the city. Under condition number 6 the connection to Manor Hill via the trail would be removed, changing the 70 foot minimum lot width, the fence and the berm at the back end of Cherry Wood, installing the sidewalk from the entrance to the east only and the hiker bike trail to the south, and that the sidewalk be extended to the east. As to condition number 9, a 50 foot right of way, a connection and the condition as to the storage lane be modified to include "as acceptable by the city." Mr. Hadley seconded the motion. A roll call vote on the matter found Ms. Snyder, Mr. Hadley, Mr. Barnett, Ms. Carlin, Mr. Coates, Mr. Cook, Mr. Darpel, Mr. Eilerman, Mr. France, Mr. Hilgeford, Ms. Hood, Mr. Ryan, Mr. Tewes, Mr. Wessels, Mr. Wolnitzek and Mr. Wells in favor. Ms. Weldon voted against. Mr. Whitacre recused himself from any consideration and voting on the matter. The motion carried by a vote of 16-1-1. Ms. Weldon asked that any consideration be given to honoring the name of the DeCoursey family and not changing the name of the creek.

**1794R**

**APPLICANT:** D. H. Gray Properties, LLC, per Orville Larry Thomas and Franklin Property Holdings, LLC, per J. F. Hodge.  
**LOCATION:** an approximate 6.7-acre area located along the east side of Kenton Lands Road, between Russell McClure Drive and Crescent Avenue, approximately 200 feet north of Russell McClure Drive in Erlanger.  
**REQUEST:** a proposed map amendment to the Erlanger Zoning Ordinance changing the described area from IP-1 (an industrial park one zone) to IP-4 (an industrial four zone)

Staff presentation and Staff recommendations by Mr. Michael Schwartz.

**NKAPC STAFF RECOMMENDATION**

**APPLICANT:** D. H. Gray Properties, LLC, per Orville Larry Thomas and Franklin Property Holdings, LLC, per J. F. Hodge.  
**LOCATION:** an approximate 6.7-acre area located along the east side of Kenton Lands Road, between Russell McClure Drive and Crescent Avenue, approximately 200 feet north of Russell McClure Drive in Erlanger.  
**REQUEST:** a proposed map amendment to the Erlanger Zoning Ordinance changing the described area from IP-1 (an industrial park one zone) to IP-4 (an industrial four zone).

Mr. Larry Thomas registered to speak in favor of the issue. No one registered to speak against. Mr. Dan Groth registered to speak as a neutral party with questions.

Mr. Thomas addressed the Commission and stated he was available to answer any questions. He stated he has been at the present location for three years and he was not aware that they could not do auto towing but could tow truck. He stated this is why they are requesting the zone change.

Mr. Groth addressed the Commission and stated he was approached by the residents in the area and stated he is convinced the applicant will do a great job. He stated the residents just wanted him to go on record stating that things would not be any worse as far as noise than they are.

Mr. Wessels then made the motion to approve. Mr. Hadley seconded the motion. A roll call vote on the matter found Mr. Wessels, Mr. Hadley, Mr. Barnett, Ms. Carlin, Mr. Coates, Mr. Cook, Mr. Darpel, Mr. Eilerman, Mr. France, Mr. Hilgeford, Ms. Hood, Mr. Ryan, Ms. Snyder, Mr. Tewes, Mr. Whitacre, Mr. Wolnitzek, Mr. Wells and Ms. Weldon in favor. The motion carried by a vote of 18-0.

#### **1795R**

**APPLICANT:** Jack/son Land Development, LLC, per Jack Tatusko, on behalf of William Eubank, Sr., Carol Mirinelli, Wilma Edmonds, and the Estate of Edward Kunkel.

**LOCATION:** An approximate 40-acre area located along the west side of Old Madison Pike, approximately 0.25 miles south of Helen Ruth Drive, and approximately 0.5 miles north of Warren Street in Fort Wright.

**REQUEST:** A proposed map amendment to the Fort Wright Zoning Ordinance, changing the described area from R-1D and R-1D (P) IP (a single family residential zone phased to an industrial zone) and R-RE (a residential rural estate zone) to R-1D (RCD) (a single-family residential zone with a residential cluster overlay zone).

Staff presentations and Staff recommendations by Mrs. Melissa Jort-Conway.

#### **NKAPC STAFF RECOMMENDATION**

To approve the proposed map amendment from R-1D, R-1D (P) IP, and R-RE to R-1D (RCD), but only subject to compliance with the following conditions:

1. That the 20% open space requirement for development in the RCD Overlay Zone be confirmed upon the review of the Stage II Development Plan and that these areas be dedicated to a public/private entity for operation and maintenance.
2. That the proposed development consolidate all disturbance areas where there is the least slope and retain as much of the hillside's natural topographic character as possible.
3. That street stubs be provided at the property line of the site in question, in the area of

two (2) cul-de-sac streets with proposed “future” street extensions, as noted.

4. That the proposed pedestrian walkways along Old Madison Pike be required to provide public access by either locating in the public right-of-way, or, by means of reserving a public access easement.
5. That the height of structures not exceed thirty-five (35) feet.
6. That the location, height, and type of all fences, walls, and signs be in general conformity with the underlying R-1D Zone.
7. That each dwelling unit be provided with a minimum of two (2) off-street parking spaces,

**Comprehensive Plan Documentation:**

- Date of Adoption by the Kenton County & Municipal Planning & Zoning Commission: December 18, 2001

**Supporting Information/Bases For NKAPC Staff Recommendation:**

1. The proposed map amendment from R-1D, R-1D (P) IP and R-RE to R-1D (RCD) is consistent with the Land Use recommendations within in the 2001 Area-Wide Comprehensive Plan Update, which describe the site in question as Area 22. Those recommendations are to develop the site with residential uses, low to medium density. The proposed map amendment will allow the site in question to be developed with a combination of attached and detached residential dwellings at a density of approximately 4.8 dwelling units per net acre.
2. The proposed R-1D (RCD) Zone is recommended as a potential zoning designation that can assist with the implementation of the land use recommendations within the Madison Pike corridor. The proposed map amendment is also consistent with the recommended timing and priority for potential zoning amendments of the site in question, which is stated as an immediate priority. Specifically, the recommendations state that areas with immediate priority “should be implemented as soon as possible to minimize or eliminate the possibility of development that is not in conformance with the recommended land uses”. The existing zoning is therefore inappropriate and the proposed zoning is appropriate for providing additional housing opportunities within the Madison Pike corridor.
3. Section 10.14., K, of the Fort Wright Zoning Ordinance requires that at least twenty (20%) of the total acreage of the proposed Residential Cluster Development (RCD) Overlay Zone shall be retained as common open space/recreation area, and be dedicated to a public and/or private entity for operation and maintenance. Insufficient information has been submitted to determine compliance with this condition. It is therefore recommended that the 20% open space requirement be confirmed upon the

review of the Stage II Development Plan and that these areas be dedicated to a public/private entity for operation and maintenance.

4. The Greenway recommendations for the Madison Pike Corridor within in the 2001 Area-Wide Comprehensive Plan Update recommend that the design of development in areas containing slopes greater than 15% should consolidate all disturbance areas where there is the least slope and retain as much of the hillside's natural topographic character as possible by minimizing grading and the resulting creation of artificial slopes. The submitted development plan proposes to locate a number of residential dwellings and streets, within the steep hillsides on the site in question. It is therefore recommended that the proposed development consolidate all disturbance areas where there is the least slope and retain as much of the hillside's natural topographic character as possible.
5. The Kenton County Subdivision Regulations requires that where adjoining areas are not subdivided and are appropriate for future subdivision that provisions shall be made for the proper projection of streets to those adjoining areas to provide for the practical development of the adjacent property. It is therefore recommended that street stubs be provided at the property line of the site in question, in the area of two (2) cul-de-sac streets with proposed "future" street extensions, as noted.
6. The Kenton County Subdivision Regulations require sidewalks along both sides of local streets as well as along the frontage of adjacent roadways. It is therefore recommended that the proposed pedestrian walkways along Old Madison Pike within the proposed development be required to provide public access by either locating in the public right-of-way, or, by means of reserving a public access easement.
7. The proposed map amendment from R-1D, R-1D (P) IP, and R-RE to R-1D (RCD) meets the minimum requirements of the Fort Wright Zoning Ordinances, except for the following:
  - a. Section 10.14., G, of the Fort Wright Zoning Ordinance states that the height, yard and setback regulations shall be as approved in the plan. Insufficient information has been submitted to determine the height of the proposed structures. It is therefore recommended that the height of structures not exceed thirty-five (35) feet per the underlying R-1D Zone.
  - b. Section 10.14, H. states that off-street parking shall be in accord with Article XI of the Fort Wright Zoning Ordinance. Section 11.2, K. requires that each dwelling unit be provided with a minimum of two (2) off-street parking spaces. Insufficient information has been submitted to determine compliance with this requirement. It is therefore recommended that each dwelling unit be provided with a minimum of two (2) off-street parking spaces.
  - c. Section 10.14, I, of the Fort Wright Zoning Ordinance states that the location, height and type of all fences, walls and signs shall be as approved in the plan. Insufficient information has been submitted to determine the height of the



proposed structures. It is therefore recommended that the location, height, and type of all fences, walls, and signs be in general conformity with the underlying R-1D Zone.

**Additional Information:**

1. The Greenway Plan for the Madison Pike Corridor within in the 2001 Area-Wide Comprehensive Plan Update identifies slopes greater than 15% within the site in question. Section 9.24., B., 2 of the Fort Wright Zoning Ordinance states that for any area containing slopes greater than 20%, a geotechnical analysis by a qualified, registered civil engineer and geologist must be submitted for review.
2. Local streets with a pavement width of less than twenty-five (25) feet are required to provide four (4) off street parking spaces per dwelling unit when there is no on street parking provided, per the Kenton County Subdivision Regulations. Insufficient information has been submitted to determine the pavement width of the proposed streets. Approval may also be required if a reduction in the amount of right-of-way submitted on the development plan is proposed, in order to meet the requirement that all maneuvering into and out of each parking space shall take place entirely within property lines of lots, garages, and /or storage areas.

Mr. Jack Tatusko, Mr. Mark Schumacher and Mr. Klein registered to speak on the issue.

Mr. Tatusko addressed the Commission and stated they are planning an upscale condo development. He stated they intend to preserve as much green space as they can. He further indicated they are in agreement with all conditions of Staff and that he was available to answer any questions.

Mr. Schumacher addressed the Commission and stated they do not believe the contours are correct and that is why they had the flyover done. He stated they are looking into the possibility of moving the second street to accommodate the hillside. Mr. Wolnitzek stated he doesn't see how 20% of the site can be left as open space in the development. Mr. Darpel stated he would like to see the area developed. He also stated he would like to see the actual contours. He then asked if they would consider tabling the matter until they got the grades back. He said he has difficult time approving a cluster development that may end up not being clustered.

Mr. Schumacher stated he feels a cluster development is the only type of development that would work here.

Mr. Klein addressed the Commission and stated he is in favor of the development on behalf of the city. He stated they understand the development would have to follow the guidelines and regulations. He further stated they think it is consistent with the city and market development. He then stated they would like to see the development make good economic use of the property. Mr. Klein then stated the developer has indicated they will add a deceleration lane at the entrance of the development.

Mr. Barnett stated he felt this was premature and has a hesitation about approving something that may not be accurate. Ms. Weldon stated if this is unbuildable then the developer will just not be able to build it and the number will have to come down. Mr. Darpel stated he does not

see it as a cluster development. A motion was then made by Mr. Cook to approve based on Staff's recommendations and to add condition number 7 to require sidewalks on the side that connects to the pool, and to include condition number 9 regarding a deceleration lane as suggested by the developer. Mr. Wessels seconded the motion. A roll call vote on the matter found Mr. Cook, Mr. Wessels, Mr. Coates, Mr. Eilerman, Mr. Hadley, Mr. Hilgefurd, Ms. Hood, Mr. Ryan, Ms. Snyder, Mr. Whitacre, Mr. Wells and Ms. Weldon in favor. Mr. Barnett, Ms. Carlin, Mr. Darpel, Mr. France, Mr. Tewes and Mr. Wolnitzek voted against. The motion carried with a vote of 12-6.

**W-661**

**APPLICANT:** Taylor Mill Congregation of Jehovah's Witnesses  
**LOCATION:** 5433 Taylor Mill Road in Taylor Mill  
**REQUEST:** To waive requirements of Section 4.1 of the Kenton County Subdivision Regulations to allow curb cut spacing along Taylor Mill Road to be less than the required 600 feet.

Staff presentations and Staff recommendations by Mr. Scott Hiles.

**NKAPC STAFF RECOMMENDATION**

To deny the requested Waiver to Section 4.1 and require that new access points along Taylor Mill Road be spaced a minimum distance of 600 feet apart.

**Bases:**

1. Kenton County Subdivision Regulations Section 4.1E states: *"The number of intersections with arterial streets shall be held to a minimum. Wherever practicable, such intersections shall be spaced not less than 600 feet apart"*. The existence of a paved access point on the applicant's property (irrespective of additional options outlined in Consideration #6) makes compliance with this regulation entirely practical.
2. The modifications, as requested, do not include the findings necessary to grant waivers to the regulations as set forth within Section 6.5 A, or B, or C, or D.
3. Limiting the number of intersections along Taylor Mill Road by providing a single, commonly shared access point limits potential conflict points along Taylor Mill Road and minimizes slowing or stopping movements of through traffic. This results in an increased level of vehicular safety and the protection of the intended functionality of Taylor Mill Road.
4. The prohibiting of unnecessary or duplicitous access points along Taylor Mill Road is a critical element that contributes to the safe function of this principle travel-way. As such, all other methods of complying with the access point spacing requirements should be explored before a waiver of the regulations is contemplated.

Mr. Gerald Gray registered to speak on the issue. No one registered to speak against.

Mr. Gray, pastor of Taylor Mill Baptist Church, addressed the Commission and stated they want to build another church so they are trying to sell off some back property to generate funds in order to do this. He stated if they can sell the property and get another church they can reduce the traffic by 2/3 because parishioners will be going to the other church. He stated there is a real issue with sharing the driveway. He stated they believe in Jesus Christ but they do not celebrate the holidays. He stated if the person purchasing the property decided to decorate at Christmas that would be in direct conflict with their people. He then stated he doesn't feel the people of his church will be able to sell the property if they have to share the driveway. He then questioned whether they are requesting a curb cut that they already are entitled to because when they purchased the property it was shown in two parcels. Mr. Smith stated the only issue before the Commission is whether or not to allow the waiver of the curb cut. A motion was then made by Mr. Hadley to deny based on Staff's findings and emphasizing safety concerns of Taylor Mill Road. Ms. Hood seconded the motion. A roll call vote on the matter found Mr. Hadley, Ms. Hood, Mr. Barnett, Ms. Carlin, Mr. Coates, Mr. Darpel, Mr. Eilerman, Mr. France, Mr. Hilgefurd, Mr. Ryan, Ms. Snyder, Mr. Tewes, Mr. Wessels, Mr. Whitacre, Mr. Wolnitzek, Mr. Wells and Ms. Weldon in favor. Mr. Cook voted against. The motion carried with a vote of 17-1.

#### **Old and Unfinished Business:**

As to the approval of the minutes, Mr. Darpel clarified that his motion for issue 1788R should read to approve, not to disapprove. A motion was then made by Mr. Hadley to accept the minutes as corrected. Ms. Snyder seconded the motion. A roll call vote on the matter found Mr. Hadley, Ms. Snyder, Mr. Barnett, Ms. Carlin, Mr. Coates, Mr. Cook, Mr. Darpel, Mr. Eilerman, Mr. France, Mr. Hilgefurd, Ms. Hood, Mr. Ryan, Mr. Tewes, Mr. Wessels, Mr. Whitacre, Mr. Wolnitzek, Mr. Wells and Ms. Weldon in favor. The motion carried with a vote of 18-0.

\*Mr. David Schneider, legal counsel, was present on the following remaining issues.

As to Administrative Policy 11, Ms. Weldon stated a draft was distributed to the Commissioners. Mr. Wessels referenced section Bb as to training hours. He gave the example of someone going to the convention and not attending any training sessions. He stated he felt a minimum training hour per day should be required. Mr. Ryan then made the motion to accept Policy 11 as amended to read under section Bb the word "may" should be changed to "shall." Mr. Wessels seconded the motion. A roll call vote on the matter found Mr. Ryan, Mr. Wessels, Mr. Barnett, Ms. Carlin, Mr. Coates, Mr. Cook, Mr. Darpel, Mr. Eilerman, Mr. France, Mr. Hadley, Mr. Hilgefurd, Ms. Hood, Ms. Snyder, Mr. Tewes, Mr. Whitacre, Mr. Wolnitzek, Mr. Wells and Ms. Weldon in favor. The motion carried with a vote of 18-0.

As to the FY06 Budget, Ms. Weldon distributed a version of the budget. She then gave a background history of the budget for the new members who may not be aware of the issue. After some discussion, Mr. Eilerman made a motion to approve the budget that contains the \$10,000 in the special project fund and not Staff services. Mr. Coates seconded the motion. Mr. Wessels stated he had another suggestion with regard to the \$10,000. He stated you're talking about taking \$100,000 from one government agency and putting it in another. He suggested the possibility of some ownership for the Commission for the \$10,000. He further stated if the motion passes it is then over, but if not, he would be prepared to make a motion to move the \$10,000 into a reserve fund to be used by the Commission. Ms. Weldon stated she attended the KCPC meeting and distributed an email from the KCPC legal counsel stating he didn't feel it was possible for the Commission to own property. Mr. Schneider then commented that he

agreed and disagreed with Mr. Edmondson's findings. Mr. Schneider went on to explain the reasoning behind his findings and cited case law in support. Much discussion was had as to the dollar figure, its purpose and how the whole situation came about. Ms. Weldon stated she felt the issue was discussed and researched as much as it could be and she was not inclined to appoint a new committee to research it further, but would do so if that was the request of the Commission. Further discussion was had as to the value the Commission was getting for the cost of the \$10,000. Mr. Whitacre stated he was not against the paying of the monies, but didn't feel it unreasonable to ask for some documentation with regard to how the money contributed was being spent. A roll call vote on the motion then found Mr. Eilerman, Mr. Coates, Mr. Barnett, Mr. Cook Mr. Darpel, Mr. France, Mr. Hadley, Mr. Wells and Ms. Weldon in favor. Ms. Carlin, Mr. Hilgeford, Mr. Ryan, Ms. Snyder, Mr. Tewes and Mr. Whitacre voted against. Mr. Wessels and Mr. Wolnitzek abstained. Ms. Hood had to leave the meeting prior to the vote being taken. The motion carried with a vote of 9-6-2.

**Reports from Committees:**

*Subdivision Regulations Review* -Nothing to report.

*By-Laws* - Nothing to report.

*Model Zoning Ordinance* - The committee has not met; no report.

*Executive*- The committee has not met; no report.

*Report from legal counsel* - Mr. Schneider stated something serious had come up with regard to the model zoning ordinance. He stated a lawsuit was filed by the city of Crescent Springs today challenging the sign ordinance. Mr. Schneider stated he is requesting a text amendment to amend the model zoning ordinance to avoid the effects of the lawsuits being filed across the country with regard to sign ordinances along the interstate. Mr. Wessels made the motion to authorize Staff and legal counsel to compose a text amendment to avoid the anticipated problems with the model zoning ordinance. Mr. Wolnitzek seconded the motion. All in favor. None opposed.

*Announcements from Staff* - Nothing to report.

*Correspondence* - None.

**New Business:**

There being nothing further to come before the Commission, a motion was then made by Ms. Snyder to adjourn. The motion was seconded by Mr. Eilerman. All in favor. None opposed. The meeting then adjourned at 11:36 p.m.