

**KENTON COUNTY PLANNING COMMISSION  
REGULAR MEETING**

**Minutes**

Mr. Wells, Chair, called the meeting to order at 6:15 PM on Thursday, June 3, 2010, 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.

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<b>Member</b>	<b>Jurisdiction</b>	<b>Ja</b>	<b>F</b>	<b>M</b>	<b>A</b>	<b>M</b>	<b>J</b>	<b>J</b>	<b>A</b>	<b>S</b>	<b>O</b>	<b>N</b>	<b>D</b>	
		<b>n</b>	<b>e</b>	<b>a</b>	<b>p</b>	<b>a</b>	<b>u</b>	<b>u</b>	<b>u</b>	<b>e</b>	<b>c</b>	<b>o</b>	<b>e</b>	
			<b>b</b>	<b>r</b>	<b>r</b>	<b>y</b>	<b>n</b>	<b>l</b>	<b>g</b>	<b>p</b>	<b>t</b>	<b>v</b>	<b>c</b>	
Mark Barnett	Taylor Mill	X	X	X	X	X								
Barbara Carlin	Kenton Co	X	X	X	X	X	X							
Barry Coates	Covington	X	X	X		X	X							
James Cook	Kenton Co	X	X		X	X	X							
Paul Darpel	Edgewood	X	X	X		X	X							
Chuck Eilerman	Covington	X	X	X	X	X	X							
Tom France, V.Chair	Ludlow	X	X	X	X	X	X							
David Hilgeford	Villa Hills	X	X	X	X	X	X							
Lynne Hood	Crestview Hills	X	X	X	X	X	X							
Marc Hult	Covington	X	X	X	X	X	X							
Dan Ruh	Fort Wright	X	X			X								
Brandon Raybourne	Elsmere		X	X	X	X								
Mark Rogge	Crescent Spgs	X	X			X	X							
Phil Ryan, Treasurer	Park Hills	X	X	X	X	X	X							
Maura Snyder	Independence	X	X	X	X	X	X							
Diane Brown	Erlanger	X	X	X	X	X	X							
				*	*									
Joe Tewes	Bromley	X		X	X	X	X							
				*										
John Wells, Chair	Fort Mitchell	* X	X	X		X	X							
Mark Hushebeck	Lakeside Park	X			X	X								

“X” denotes attendance at the regular meeting and “x” denotes attendance at the continuation

meeting.

“\*” denotes arrival after roll call was taken.

“-“ denotes not on the planning commission.

Also present were Mr. Matt Smith, Legal Counsel, and the following NKAPC staff: Martin Scribner, AICP, Deputy Director for Current Planning.

**APPROVAL OF THE MINUTES:**

Ms. Snyder made the motion to accept the minutes from May with Mr. Rogge seconding the motion. A roll call vote on the matter found Ms. Snyder, Mr. Rogge, Ms. Brown, Ms. Carlin, Mr. Coates, Mr. Cook, Mr. Darpel, Mr. Eilerman, Mr. France, Mr. Hilgefurd, Ms. Hood, Mr. Hult, Mr. Ryan, Mr. Tewes and Mr. Wells in favor. The motion carried.

**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.

**RECEIPTS AND EXPENDITURES:**

There were no questions or comments. Ms. Snyder made the motion to accept the report. Mr. France seconded the report as submitted. All in favor. None opposed. The motion carried.

**RECENT ACTIONS BY LEGISLATIVE BODIES:**

No action required.

Prior to the start of the public hearings Mr. Wells recognized Kent Marcum and Brandon Raybourne for their years of service and contributions to the commission. He then presented them with a plaque for their dedication.

**PUBLIC HEARING:**

**TF-2010-38**

**APPLICANT:** Burgess and Niple per Timothy C. Sturm, on behalf of AT&T Mobility.  
**LOCATION:** 4302 Boron Drive; an approximate 9,600 square foot area located between Howard Litzler Road and West 43<sup>rd</sup> Street, approximately 950 feet north of Howard Litzler Road and approximately 350 feet east of Boron Drive in Covington  
**REQUESTS:** To review the location for a Wireless Communications Facility that includes a 180 foot monopole and associated ground structures; and, to review a waiver from Administrative Policy 6 as it relates to minimum required setbacks

Mr. Rogge recused himself due a conflict of interest.

Staff presentations and Staff recommendations by Andy Videckovich.

**NKAPC Staff Recommendations:**

To approve the location and extent of a Wireless Communications Facility, including a 190 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.

**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 applicant's service area.

The NKAPC's RF Consultant concluded that "an additional wireless facility at the proposed location or within the general vicinity of the proposed site is necessary to meet the coverage objectives of the provider. A suggested, alternative site (at the Independence Court House) may meet the objectives of the provider if a tower was constructed with the antenna center of radiation located at the same height above mean sea level as that proposed. Other alternative sites proposed did not satisfactorily meet the objectives of the provider compared with the performance of the proposed site since these were too far away. No alternative structures were found to exist within a practical distance on which to collocate. It was not evident through this evaluation that lowering the antenna height would seriously compromise the operation of this facility in meeting the objectives of AT&T. In any event, reducing the tower height is not recommended since this would result in a tower that would appear to be of little change to the casual observer but would be less appealing to other users for collocation purposes and therefore could result in the proliferation of towers in the area."

2. The location and extent of the proposed Wireless Communications Facility, except as noted under conditions, is in conformity with the *Comprehensive Plan Update 2006-2026* and the KCPC's Administrative Policy No. 6.

Chapter 3 of the *Comprehensive Plan Update 2006-2026*, as an extension of 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.
- 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.

As proposed, the proposed tower would be located a minimum distance of one hundred (180) feet from any residential dwelling and approximately two hundred fifty (250) feet from the nearest structure on an adjoining property, providing for a reasonable setback, given the character of development that has occurred within the vicinity of the proposed monopole. Additionally, the proposed monopole is located within a large tract of land that has existing vegetation along its northern boundary. A monopole structure, as proposed, will be less intrusive than a self supporting lattice tower or a guyed structure.

The base of the proposed tower is also located approximately fourteen (14) feet lower than the grade of Madison Pike at the entrance to the site in question. While this certainly does not shield the entire tower from view, it will significantly screen the ground equipment from the view of Madison Pike.

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

There is no tower within two (2) miles of the proposed location that would meet the applicant's radio frequency coverage objectives.

### **Additional Information**

1. It is the policy of NKAPC staff to encourage the collocation of cellular antennas whenever practical. This reduces the propagation of cellular towers, reduces the visual impact of cellular towers (in most cases, the new antenna can use stealth technology and incorporate into an existing structure, such as a church steeple, and there would be no visual impact), and eliminates the need for a public hearing.

NKAPC staff, by way of its RF Consultant, looked very closely at whether there were any suitable alternatives to the proposed location. While each review is conducted on a case-by-case basis, the general hierarchy for cellular tower placement is as follows:

#### Collocation (preferred)

- Existing towers
- Existing tall buildings or structures

#### New Towers

- Industrial areas
- Commercial areas
- Multi-family residential areas
- Single-family residential areas
  - Public land

- Institutional uses
- Large tracts of land

In this case, a more suitable location *that still met the provider's coverage objective* was not found by NKAPC staff.

2. As stated in the RF Consultant's report, lowering the height of the antenna might be possible to still meet the needs of the provider's coverage objective. However, this could result in the propagation of additional antennas in the area since it may discourage the collocation of additional facilities on this single antenna. For this reason, the NKAPC staff does not see the benefit of a shorter antenna.

Mr. Holiday, AT&T representative, addressed the commission and stated he was available to answer any questions. He stated the first alternate location is an A.M. tower so a cell couldn't co-locate at that location. He noted the second option was on a building and they would essentially have to build a tower on the building and there were already three co-locators. Ms. Hood asked if they were in favor of the five conditions. Mr. Holiday indicated they were.

Mr. Mills had nothing to add.

Mr. Davidson had nothing to add.

Larissa Sims addressed the Commission and stated the City of Covington supports Staff's conditions and recommendations.

The public hearing was recessed for discussion.

Mr. Jim Wagner, RF consultant for the NKAPC addressed the commission and stated this is probably a good location and there will be space for co-locators down the road. On the other hand he stated he is a bit disappointed that AT&T's RF consultant is not available to answer questions as to why they need the taller tower. Mr. Ryan asked Mr. Scott if they would consider a flush mount antennae. Mr. Scott then stated he didn't feel they could get the triangular configuration they need so that is not very plausible here.

The public hearing was then closed for discussion. A motion was then made by Mr. Hilgeford to approve based on staff's recommendations, including the 5 conditions, and the testimony heard. Mr. Eilerman seconded the motion. A roll call vote on the matter found Mr. Hilgeford, Mr. Eilerman, Mr. Brown, Ms. Carlin, Mr. Coates, Mr. Cook, Mr. Darpel, Mr. France, Ms. Hood, Mr. Hult, Mr. Ryan, Ms. Snyder, Mr. Tewes and Mr. Wells in favor. Mr. Rogge recused himself due to a conflict of interest. The motion carried.

## **2006R**

**APPLICANT:** City of Covington per Larry Klein, City Manager

**LOCATION:** City of Covington

**REQUEST:** Adding "Multi-Unit (multi-family) Buildings" as a conditional use, subject to restrictions, as well as amending a component of the lot and building standards in the RU-2A (Urban Residential) Zone

Staff presentation and Staff recommendations by Mike Iona.

Mr. Coates stated he had a conflict of interest with regard to Request #2 so that item was placed

at the end to allow all other issues to be heard prior.

### **NKAPC Staff Recommendations**

**Request #1:** Favorable recommendation of the request to add Multi-Unit (multi-family) Buildings as a conditional use, subject to restrictions, within the RU-2A Zone.

Favorable recommendation of the request deleting the word “residential” from a component of the Table of Lot and Building Standards which specifically pertains to the RU-2A Zone.

**Request #2:** Favorable recommendation of the proposed text amendment adding banquet facilities associated with Golf Courses or Country Clubs as a conditional use as well as adding the dwelling of a caretaker or administrator as an accessory use within RP (Resource Protection).

**Request #3:** Favorable recommendation of the proposed text amendment amending the list of permitted and conditional uses within the ART (Art and Technology) Zone subject to the following conditions:

1. That the purpose of the ART Zone be revised to include “other uses that are found to enhance and contribute to arts and technology related uses.”
2. That the proposed use regulations, referenced as Section 6.24.03 for vintage clothing stores be removed.

**Request #4:** Unfavorable recommendation of the proposed text amendment allowing temporary signs to be located along property lines and on fences in all non-residential zones

Unfavorable recommendation of the proposed text amendment deleting the required five (5) foot setback for all types of signs within all zones

Favorable recommendation of the proposed text amendment deleting “(up to a total of four detached signs at any time)” from Section 10.08.02

**Request #5:** Favorable recommendation of the proposed text amendment amending the application requirements for Conditional Use Permits.

**Request #6:** Favorable recommendations of the proposed text amendment allowing for non-residents to be appointed to the Urban Design Review Board

Favorable recommendation of the proposed text amendment deleting the requirement that three (3) persons be nominated to fill vacancies on the Urban Design Review Board.

Larissa Sims addressed the Commission and stated with regard to Request #1 that this was brought about by a church and rectory that is in the RU2A zone that wants to reconfigure the use. As the zone stands they could not. She stated with regard to Request #3 that this request came about when Staff became aware that the permitted uses might be too restrictive. She noted

regulations were reviewed in other cities with similar uses and public hearings were held on the matter. She further noted this was also brought about to bring new business into the city. Request #4 came about around election time Ms. Simms noted they found there were property owners who did not have a yard but wanted to display political signs. The city wanted to allow them the same privilege as other property owners. Request #5 relates to conditional use permits and the application for that being accompanied by a site plan. She noted this will delete the requirement of having a site plan prepared. And finally she stated Request #6 relates to the urban design and review board and allowing for additional members to serve and opens it up to people that have a business in the city but do not necessarily reside there.

Mr. Hoffman registered to speak to address a point on Request #3. He stated he wrote a letter concerning a building he and his partner renovated with art studios on the first and second floor and a residence space above. He then read the letter into the record and presented it as an exhibit for the record. He strongly urged the Commission to remove taverns and microbreweries as a permitted use. He stated this is not in line with the area and there are many bars within walking distance of Mainstrasse.

The public hearing was then recessed for discussion. A motion was then made by Mr. Eilerman with regard to Request #1 to approve based on Staff's findings. Mr. Darpel asked if he wanted to also remove the word residential from the language. Mr. Eilerman agreed. Ms. Brown seconded the motion. A roll call vote on the matter found Mr. Eilerman, Ms. Brown, Mr. Coates, Mr. Cook, Mr. Darpel, Mr. France, Mr. Hilgefurd, Ms. Hood, Mr. Hult, Mr. Rogge, Mr. Ryan, Mr. Tewes and Mr. Wells in favor. Ms. Carlin and Ms. Snyder had to leave the meeting prior to a vote being taken. The motion passed. With regard to Request #3 Mr. Hilgefurd stated he does not see microbreweries as permitted uses in this zone He stated he sees them as conditional uses. He then made the motion to approve Request #3 based on testimony heard and discussion by the commission as well as the letter submitted by Mr. Hoffman with the following changes under Section 4.06.02 to remove J, K and L as well as that portion of D that refers to microbreweries. Ms. Hood seconded the motion. A roll call vote on the motion found Mr. Hilgefurd, Ms. Hood, Ms. Brown, Mr. Coates, Mr. Cook, Mr. Darpel, Mr. France, Mr. Hult, Mr. Rogge, Mr. Tewes and Mr. Wells in favor. Mr. Eilerman voted against and Mr. Ryan abstained. The motion carried. Mr. Eilerman made the motion to approve Request #4 based on the discussion and the unique site of Covington and that this is a reasonable request. Mr. Brown seconded the motion. A roll call vote on the matter found Mr. Eilerman, Ms. Brown, Mr. Coates, Mr. Cook, Mr. Darpel, Mr. France, Mr. Hilgefurd, Ms. Hood, Mr. Hult, Mr. Rogge, Mr. Tewes and Mr. Wells in favor. Mr. Ryan voted against. The motion carried. Mr. Eilerman then made the motion to approve Request #5 as to conditional use permits based on Staff recommendations and discussion. Mr. Rogge seconded the motion. A roll call vote on the matter found Mr. Eilerman, Mr. Rogge, Mr. Coates, Mr. Cook, Mr. Darpel, Mr. France, Ms. Hood, Mr. Hult, Mr. Ryan, Mr. Tewes and Mr. Wells in favor. Ms. Brown and Mr. Hilgefurd voted against. The motion carried. With regard to Request #6 Mr. Eilerman made the motion to approve with regard to the urban design review board based on Staff's recommendations. Ms. Hood seconded the motion. A roll call vote on the matter found Mr. Eilerman, Ms. Hood, Ms. Brown, Mr. Coates, Mr. Cook, Mr. Darpel, Mr. France, Mr. Hilgefurd, Mr. Hult, Mr. Rogge, Mr. Ryan, Mr. Tewes and Mr. Wells in favor. The motion carried.

Larissa Sims then addressed the Commission on Request #2 and stated this request came about at a request from Twin Oaks. She stated she concurs with Staff on the issue. The public hearing was then recessed for discussion. The public hearing was closed. Mr. Eilerman made the motion

with regard to Request #2 adding banquet facilities as a conditional use, based on Staff's recommendation and discussion with an additional note to include the caretaker unit be an attached unit. Mr. France seconded the motion. A roll call vote on the matter found Mr. Eilerman, Mr. France, Ms. Brown, Mr. Cook, Mr. Darpel, Mr. Hilgefurd, Ms. Hood, Mr. Hult, Mr. Rogge, Mr. Ryan, Mr. Tewes and Mr. Wells in favor. The motion carried.

## **2007R**

**APPLICATION:** The City of Independence per Patrician Taney, city clerk

**LOCATION:** City of Independence

**REQUEST:** A proposed text amendment to the Independence Zoning Ordinance changing the development controls within the NSC (Neighborhood Shopping Center) Zone to allow for the exterior sales of seasonal garden supplies and plantings.

Staff presented by Mr. Mike Iona.

### **NKAPC Staff Recommendations**

To approve the proposed text amendment to the Independence Zoning Ordinance changing the development controls within the NSC (Neighborhood Shopping Center) Zone to allow for the exterior sales of seasonal garden supplies and plantings.

### **COMPREHENSIVE PLAN DOCUMENTATION:**

- Date of Adoption by the Kenton County Planning Commission: December 13, 2006.

### **SUPPORTING INFORMATION/BASES FOR KCPC RECOMMENDATION:**

1. The proposed text amendment is 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 is consistent with the intent and purpose of the NSC Zone which is to provide neighborhood oriented retail and service uses on a minimum lot area of five (5) acres.
3. The proposed text amendment is reasonable and appropriate in that it makes provisions for the exterior sales of seasonal garden supplies and plantings which will allow proprietors within the NSC Zone to provide a desirable service to the public without the burden of losing interior commercial retail / service space.
3. The proposed text amendment is consistent with previous Staff recommendations. In 1990 and 1997, staff recommended approval of similar text amendment proposals, both of which were subsequently adopted by the appropriate legislative body.

Mr. Rick Robinson stated Staff did a great job on their presentation. He stated this does go in line with seasonal goods and asked for approval. Mr. Rogge then made a motion to approve based on Staff recommendations and the testimony heard. Mr. Eilerman seconded the motion. A roll call vote on the motion found Mr. Rogge, Mr. Eilerman, Ms. Brown, Mr. Coates, Mr. Cook, Mr. Darpel, Mr. France, Mr. Hilgefurd, Ms. Hood, Mr. Hult, Mr. Ryan, Mr. Tewes and Mr. Wells in favor. The motion carried.



**Unfinished Business:**

Mr. Wells noted they were close to calling in bonds on three or four properties. He stated they are going to hold off at this time and not call the bonds in. He stated he will have a comment at the July meeting on this.

**Reports from Committees:**

*By-Laws* –Nothing to report.

*Executive*- Wells stated they met on the 2011 budget. Mr. Ryan stated a meeting was held with Dennis and John. He stated they have pretty much maintained expenses. The Staff agreed to reduce their fees again. He stated the budget will be presented for action at next month's meeting.

*Subdivision Regulations Review* – Nothing to report.

*Report from legal counsel* – A brief discussion was had with regard to cell tower issues and what the Commission should be looking at when considering them and what can and cannot be done with these issues.

*Announcements from Staff* – Mr. Scribner noted a continuing education event would be held on the Comprehensive Plan Small Area Study next Tuesday June 8 from 5:30 – 7:30 p.m. He asked that those interested in attending contact Lori for planning purposes. He additionally noted there would be an APA audio conference held on June 30<sup>th</sup> and that information was distributed to the commissioners. He also asked for everyone's reaction/opinion to the new staff report format. He asked if anyone had any comments to let them know.

*Correspondence:* None.

*New Business:*

*Public Comments:* None.

Mr. Wells congratulated Mr. Ruh on the arrival of his daughter Ava Grace who was born on June 1, 2010.

There being nothing further to come before the Commission, a motion was made to adjourn at 9:50 p.m. All in favor. None opposed.

APPROVED:

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Chair

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Date