



KC&MP&ZC MINUTES

KENTON COUNTY & MUNICIPAL PLANNING & ZONING COMMISSION REGULAR MEETING

July 5, 2001
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. Russell England - Independence
Mr. Al Hadley - Elsmere
Mr. Eugene Meyer - Covington
Mr. Joseph Price - Crestview Hills
Mr. Bernie Wessels - Fort Wright
Mr. Paul Swanson, Secretary/Treasurer - Erlanger

COMMISSION MEMBERS NOT PRESENT:

Mr. Jay Bayer - Park Hills
Mr. James Bertram - Taylor Mill
Mr. Barry Coates - Covington

Mr. James Cook - Kenton County
Mr. John Dorsey - Fort Mitchell
Mr. Jeff Gaiser - Ludlow
Mr. David Hilgeford - Villa Hills
Mr. Frank Smith - Lakeside Park
Mr. William Snyder - Bromley
Mr. James Sucher - Crescent Springs
Mrs. Alex Weldon, Vice Chair - Covington

LEGAL COUNSEL PRESENT:

David A. Schneider, Esq.

Mr. Theissen, Chairman, called the meeting to order at 9:00 a.m. Mr. Theissen opened the meeting with the Pledge of Allegiance and a prayer by Mr. Price.

APPROVAL OF THE MINUTES:

Mr. Theissen stated the minutes were distributed to the Commissioners and asked for any questions or comments. There being none, Mr. England made a motion to approve the minutes from June. Mr. Hadley seconded. A roll call vote on the motion found Mr. England, Mr. Hadley, Ms. Carlin, Mr. Meyer, Mr. Price, Mr. Wessels, Mr. Swanson and Mr. Theissen in favor. The motion carried.

SUBDIVISION ITEMS:

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

PP-550 REVISED ERLANGER COMMERCIAL PARK

APPLICANT: James W. Berling Engineering in behalf of B&Z Development, Inc.

GENERAL LOCATION: An approximate 30-acre area located on the west side of I-75, the east side of Houston road (formerly Hartman road), contiguous to /Viox Drive on the south and to Erlanger Road on the north, Erlanger.

REQUEST FOR ACTION: To approve a Revised Preliminary Plat for ERLANGER COMMERCIAL PARK consisting of one (1) lot for institutional development and seven (7) lots for commercial development, including public improvements such as street, storm drainage, sanitary sewers, and water systems.

*Mr. Theissen noted that this item had been withdrawn. Mr. Hiles further noted that the item would appear on the evening agenda as a map amendment.

W-561 GRAND GARDEN ESTATES

APPLICANT: Raymond Erpenbeck Consulting Engineers in behalf of Grand Garden Estates, L.L.C.
GENERAL LOCATION: An approximate 36.82-acre area located at the terminus of Kruer Court in Edgewood (i.e., existing Grand Gardens Estates) and generally to the north of Doe Run Lake, Erlanger.
REQUEST FOR ACTION: Waiver to Section 7.0 STORM WATER DRAINAGE SYSTEMS, thereby not requiring construction of a storm water detention/retention facility.

Staff presentation and Staff recommendations by Mr. Scott Hiles.

NKAPC STAFF RECOMMENDATION: To grant the requested Waiver to Section 7.0 STORM WATER DRAINAGE SYSTEMS, thereby not requiring construction of a storm water detention / retention facility, but only subject to the following Condition:

That peak discharges through routing channels be computed and analyzed and improvements made, where necessary.

BASES:

The Kenton County Subdivision Regulations allow certain factors to be used as a basis for granting Waivers for on-site storage design, such as the following:

Detention/retention storage design is not appropriate due to result of hydrograph analyses, and peak discharge and runoff volumes do not pose a problem or result in damages within the length of open channel or closed conduit determined by the time of concentration or duration of the design storm required (Section 7.e.2.g).

Information submitted by Raymond Erpenbeck, P.E., substantiates the adequacy of the existing regional storm water runoff control facility, Doe Run Lake, to accommodate the storm water runoff generated by the Addition to Grand Garden Estates.

Mr. Theissen asked Staff for clarification regarding Subdivision Regulations "C" or "G" regarding the issue. Mr. Price noted that the applicant's letter references Section "C" of the Subdivision Regulations in two places. Mr. Hiles noted there would be a condition added if the waiver is granted and stated it is noted in Staff's report.

Mr. Ray Erpenbeck, Mr. Tom Schreiber and Mr. Eric Russo registered to speak regarding the issue.

Mr. Erpenbeck addressed the Commission in favor of the application. He addressed the detention facility issue and stated if constructed, the detention facility would hold 40,000 cubic feet of water based on a 50 year event. He further stated that the Doe Run Lake drainage area is so large that it will take over 80 minutes for the maximum flow to reach the lake. Mr. Erpenbeck stated that the detention facility would reach its maximum at 78 minutes. He further stated the detention facility would be virtually dry by the time Doe Run Lake meets its maximum and begins to discharge.

Mr. Schreiber had nothing to add.

Mr. Eric Russo addressed the Commission on behalf of the Hillside Trust. He stated the Trust's concern is not so much the amount of water going into the lake but the siltation. He recommended checking with the Army Corps of Engineers regarding water drainage and 2001 standards for water drainage.

Mr. Erpenbeck stated in rebuttal that to build the detention facility they will have to tear out trees, do more grading, build the dam, etc., which will create more siltation than by not building it. He further stated that the subdivision is complete and that houses are being built, streets are going in, etc., and to go back in and build the detention facility will cause more siltation.

Mr. Hiles then presented the Chairman with a letter from the Hillside Trust and it was marked as an exhibit to the minutes.

Following a brief discussion on the matter Mr. Theissen asked for action regarding the issue. Mr. Wessels then motioned to approve W-561 on the basis of Staff's report and added Section 7.e.2.c as an additional basis. Mr. Hadley seconded the motion. A roll call vote on the matter found Mr. Wessels, Mr. Meyer, Ms. Carlin, Mr. Meyer, Mr. Wessels, Mr. Swanson and Mr. Theissen in favor. Mr. Price abstained. The motion carried by a vote of 7-1.

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 asked for any conflicts regarding the matter. There being none, Mr. Meyer moved to ratify and approve the actions taken over the past month. Mr. England seconded the motion. A roll call vote on the motion found Mr. Meyer, Mr. England, Ms. Carlin, Mr. Hadley, Mr. Price, Mr. Wessels, Mr. Swanson and Mr. Theissen in favor. The motion carried unanimously.

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

PUBLIC HEARINGS ON SCHEDULED PUBLIC FACILITIES:

TF-2001-23

APPLICANT: SprintCom, Inc.

GENERAL LOCATION: An approximate 2,960 square foot area located approximately 1,000 feet west of Old Taylor Mill Road and approximately 1,000 feet south of Lakewood Drive, Taylor Mill. The site in question is located on Scott High School property at 5400 Old Taylor Mill Road, Taylor Mill.

REQUEST TO BE REVIEWED: Location and extent of a Wireless Communications Facility including a 175 foot high flag pole, enclosing the antenna array, and associated ground structures.

Staff presentation and Staff recommendations by Mr. Michael Schwartz.

NKAPC RECOMMENDATION:

To approve the location and extent of a Wireless Communications Facility, including a 175 foot high flag pole, enclosing the antenna array, and associated ground structures, but only subject to compliance with the condition that the proposed flag pole be designed and constructed to accommodate a minimum of two (2) service providers.

COMPREHENSIVE PLAN DOCUMENTATION:

o Date of Adoption by the Kenton County and Municipal Planning and Zoning Commission: December 11, 1996.

SUPPORTING INFORMATION/BASES FOR NKAPC RECOMMENDATION:

1. The proposed wireless facility is necessary to meet the coverage objectives of the applicant at, or near, the site in question.
2. The location and extent of the proposed Personal Communications Services facility is in conformity with the 1996 Area-Wide Comprehensive Plan Update.

The specific criteria items, as contained within the 1996 Area-Wide Comprehensive Plan Update, are as follows:

- o When located in residential areas, 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. 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 character of affected areas.
- o Extent to which the proposal is consistent with the purposes of these regulations.
- o 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.).

- o Extent to which the proposal responds to the impact of the proposed development on adjacent land uses, especially in terms of visual impact.
- o Extent to which the proposed cellular antenna tower camouflaged (i.e., use of "stealth technology").
- o Extent to which the proposed facility is integrated with existing structures (i.e., buildings, signs).

While the site in question is currently zoned R-1D, the applicant is proposing to camouflage the facility by installing a 175 foot high flag pole, which will encompass the proposed antenna array. Such a design will help to minimize the visual impact of the proposed facility on adjoining properties.

The site in question is comprised of approximately 70 acres. The applicant has located the proposed facility in such a manner that it is: (a) approximately four hundred eighty (480) feet from the nearest property line; (b) approximately six hundred forty (640) feet from Scott High School; (c) approximately seven hundred eighty (780) feet from the nearest adjoining principal structure; and (d) approximately eight hundred thirty (830) feet from the nearest adjoining residential structure.

3. A previous NKAPC staff recommendation, dated May 25, 2001, placed a condition that the flag pole not exceed one hundred twenty-five (125) feet in height. This condition was based upon the NKAPC's RF Consultant report which indicated that a facility at one hundred twenty (120) feet could meet the primary coverage objectives as stated by the applicant. This report also stated that the applicant should demonstrate the need for a taller facility.

Based upon the applicant's additional information and the NKAPC's RF Consultant evaluation of that additional information, the applicant has reasonably demonstrated the need for a facility at the proposed height of one hundred seventy-five (175) feet.

4. The location and extent of the proposed Personal Communications Services facility is in conformity with the adopted design standards, as contained within the 1996 Area-Wide Comprehensive Plan Update, except for the following requested waivers.

a. It is required that cellular antenna towers be designed and constructed to accommodate a minimum of three (3) service providers. The applicant has proposed to camouflage the proposed facility by installing a flag pole which will encompass the antenna array. In order to provide for three (3) service providers, the shaft of the flag pole would have to be larger in circumference. To provide for a pole which looks like a flag pole instead of a flag on top of a common monopole structure, it is important to keep the circumference of the shaft to a minimum. The applicant has stated that this objective can be met by providing a pole that serves two (2) service providers. It is therefore recommended that the requested waiver be granted and that the proposed flag pole be designed and constructed to accommodate a minimum of two (2) service providers.

b. It is required that the lease area be a minimum of 5,000 square feet in area. The purpose of this requirement is to ensure that there is sufficient compound area for the mechanical equipment of three (3) service providers. Since the waiver regarding co-location has been recommended for approval, it is not necessary to have a 5,000 square foot lease area. It is therefore recommended that the requested waiver be granted.

c. It is required that screening be provided where the site in question abuts residentially zoned property. The proposed lease area is located between several ball fields. Additionally, the proposed facility is located: (a) approximately four hundred eighty (480) feet from the nearest property line; (b) approximately six hundred forty (640) feet from Scott High School; (c) approximately seven hundred eighty (780) feet from the nearest adjoining principal structure; and (d) approximately eight hundred thirty (830) feet from the nearest adjoining residential structure. Screening of the proposed facility will not serve a legitimate public purpose. It is therefore recommended that the requested waiver be granted.

Mr. Greg Scheper, Mr. Vance Mosser, Mr. Larry Van Druten, Mr. Christian Mohan and Mr. Mark Baumann registered to speak regarding the issue.

Mr. Theissen read three letters received regarding the issue into the record and marked them as exhibits to the minutes.

Mr. Scheper addressed the Commission and gave a presentation with a brief background of SprintCom. He stated their objective is to relieve the capacity at the tower located at Ky. 17 and 275.

Mr. Theissen asked if the applicant had another co-lessee for the tower. Mr. Scheper stated they did not. Mr. Theissen then asked what the considerations were regarding two versus three co-lessees. Mr. Scheper stated that having three would increase the width of the pole and require additional wiring. He further stated there were concerns regarding whether the pole could withstand the weight of three co-locators without the pole being wider to accommodate the weight.

Mr. Mohan addressed the Commission and stated after the meeting held last week on the issue, the tower manufacturer was contacted. He stated they inquired about two co-locators versus three on the flag pole. Mr. Mohan indicated the manufacture stated in order to place additional co-locators on the pole it would become more bulky and appear less like a flag pole. He further stated they are working with the manufacturer to come up with a solution to accommodate the requirements. Mr. Scheper stated they will try to get three providers on the pole based on the structural aspects of the pole. Mr. Scheper further stated the school would benefit by having additional providers on the pole. Mr. Theissen then suggested making a requirement of three co-locators and if it is found at a later date that the applicant cannot provide for three, that they then come back of the requirement of two.

Mr. Baumann addressed the Commission and stated he is the vice president of Glenco Construction and is not opposing the tower. He stated his question is whether or not the tower would interfere with their

cell phones or radios they use in their business. It was then noted by the Sprint frequency engineer that they are required by the FCC to not interfere with other business operations in the area. It was additionally noted that SprintCom has a much smaller equipment package than other cell tower providers, therefore requiring a smaller area to be used.

Mr. Scheper stated in rebuttal that another issue to consider is the fact that there really is no other area on the property for the tower. Mr. Theissen stated he does not want the 3,000 square foot waiver to come back to haunt them by Sprint coming back and saying the area is not longer big enough. Mr. England further commented about the proposed screening of the area. Mr. Theissen then noted that it is the Board of Education's issue as to the screening and not necessarily one to be determined by the Commission. Mr. Theissen then suggested adding and additional information comment as to the screening to suggest that some screening could be provided other than the coated fence. Ms. Carlin noted that she is familiar with another site that uses green netting that's more appealing than the green slats. She further noted the slats have a tendency to become bent and disfigured. She also noted the netting would be easier to maintain than the slats and that visually the netting is very effective.

Following the discussion Mr. Wessels made a motion to approve TF-2001-23 based on the recommendations of Staff and the basis contained in Staff's report and to include the two waivers of Staff; 1) going from 5,000 square feet to 3,000 square feet of leased area and 2), the waiver for the screening requirements from Staff's report on page four. The motion also included the elimination of Staff's waiver as to the minimum number of three providers, due to the technology and the smaller amount of space required for the tower. A roll call vote on the issue found Mr. Wessels, Mr. Hadley, Ms. Carlin, Mr. Meyer, Mr. Price, Mr. Swanson and Mr. Theissen in favor. Mr. England voted against. The motion carried.

OTHER COMMITTEE BUSINESS: None.

There being nothing further to come before the Commission, the meeting was recessed at 10:58 a.m. until 6:15 p.m.

KENTON COUNTY & MUNICIPAL PLANNING & ZONING COMMISSION
REGULAR MEETING

July 5, 2001
6:15 P.M.

NKAPC Meeting Room
2332 Royal Drive
Fort Mitchell, Kentucky

MINUTES

COMMISSION MEMBERS PRESENT:

Mr. Tim Theissen - Chairman - Edgewood
Mrs. Alex Weldon, Vice Chair - Covington
Mr. Jay Bayer - Park Hills
Ms. Barbara Carlin - Kenton County
Mr. Barry Coates - Covington
Mr. James Cook - Kenton County
Mr. John Dorsey - Fort Mitchell
Mr. Russell England - Independence
Mr. Al Hadley - Elsmere
Mr. David Hilgefurd - Villa Hills
Mr. Eugene Meyer - Covington
Mr. Joseph Price - Crestview Hills
Mr. Frank Smith - Lakeside Park
Mr. William Snyder - Bromley
Mr. James Sucher - Crescent Springs
Mr. Bernie Wessels - Fort Wright
Mr. Paul Swanson, Secretary/Treasurer - Erlanger

COMMISSION MEMBERS NOT PRESENT:

Mr. James Bertram - Taylor Mill
Mr. Jeff Gaiser - Ludlow

LEGAL COUNSEL PRESENT:

David A. Schneider, Esq.

Mr. Theissen, Chairman, called the meeting to order at 6:15 p.m. Mr. Theissen opened the meeting with the Pledge of Allegiance and a prayer by Mr. Price.

APPROVAL OF THE MINUTES:

Mr. Theissen stated the minutes were distributed to the Commissioners and asked for any questions or comments. There being none, Mr. Swanson made a motion to approve the minutes from June. Mr. Hadley seconded. A roll call vote on the motion found Mr. Swanson, Mr. Hadley, Ms. Carlin, Mr. Coates, Mr. Cook, Mr. Dorsey, Mr. England, Mr. Hilgefurd, Mr. Meyer, Mr. Price, Mr. Smith, Mr. Snyder, Mr. Sucher, Mr. Wessels, Mr. Swanson and Mr. Theissen in favor. Mr. Bayer abstained. The

motion carried.

FINANCIAL REPORT:

Mr. Theissen noted the financial report had not been distributed and asked Mr. Swanson if there was anything noteworthy to discuss from the report. He stated the \$12,000 figure that was listed on last month's report was in error. He noted it should in fact read \$1,000.

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.

c. CONSIDERATION OF THE REPORT OF ACTIONS TAKEN BY THE SUBDIVISION/PUBLIC FACILITY REVIEW COMMITTEE AT A MEETING PRIOR TO, BUT ON THE SAME DAY, AS THE REGULAR MEETING.

Mr. Theissen read the report of the subdivision review committee meeting held in the morning. He then asked for a motion to ratify and approve the actions taken. Mr. Price motioned to ratify and approve. Mr. England seconded the motion. A roll call vote on the matter found Mr. Price, Mr. England, Ms. Carlin, Mr. Coates, Mr. Cook, Mr. Dorsey, Mr. Hadley, Mr. Hilgefjord, Mr. Meyer, Mr. Smith, Mr. Snyder, Mr. Sucher, Mr. Wessels, Mr. Swanson and Mr. Theissen in favor. Mr. Bayer abstained. The motion carried,

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

PUBLIC FACILITIES: Refer to 9:00 AM agenda.

*Ms. Weldon arrived at the meeting.

**Mr. Bayer noted a withdrawal as to item PF-571 due to a conflict. He noted he neglected to make his conflict known at the time of voting. It was noted that he abstained and would be withdrawing from voting on this item.

PUBLIC HEARINGS ON SCHEDULED ITEMS:

Mr. Theissen noted a request to table had been received regarding item 1512R, City of Covington text amendments. Mr. Theissen then asked for a motion to approve. Ms. Weldon then made a motion to

approve. Mr. Hilgeford seconded the motion. A roll call vote on the matter found Ms. Weldon, Mr. Hilgeford, Mr. Bayer, Ms. Carlin, Mr. Coates, Mr. Cook, Mr. Dorsey, Mr. England, Mr. Hadley, Mr. Meyer, Mr. Price, Mr. Smith, Mr. Snyder, Mr. Sucher, Mr. Wessels, Mr. Swanson and Mr. Theissen in favor. The motion carried.

1510R

APPLICANT: Kenton County and Municipal Planning and Zoning Commission, per Mr. Timothy Theissen, Chairman.

GENERAL LOCATION: N.A.

REQUEST FOR ACTION: Proposed text amendments to the zoning ordinances of the political jurisdictions within Kenton County: (1) deleting the existing regulations pertaining to screening areas; and (2) adding landscape regulations, along with various cross references in other sections of the zoning ordinance (definitions, other development controls).

Staff presentation and Staff recommendations by Mr. Michael Schwartz.

NKAPC STAFF POSITION:

To approve the proposed text amendments: (1) deleting the existing regulations pertaining to screening areas; and (2) adding landscape regulations, along with various cross references in other sections of the zoning ordinance (definitions, other development controls, etc.) (see Attachments A, B, and C), but only subject to compliance with the condition that the legislative body adopt a planting manual prior to, or simultaneous with, the proposed text amendment (see Attachment D).

COMPREHENSIVE PLAN DOCUMENTATION / SUPPORTING INFORMATION / BASES FOR NKAPC STAFF RECOMMENDATION --

COMPREHENSIVE PLAN DOCUMENTATION:

o Date of Adoption by the Kenton County and Municipal Planning and Zoning Commission: December 11, 1996.

SUPPORTING INFORMATION/BASES FOR NKAPC STAFF RECOMMENDATION:

1. The proposed text amendments: (1) deleting the existing regulations pertaining to screening areas; and (2) adding landscape regulations, along with various cross references in other sections of the zoning ordinance (definitions, other development controls, etc.) (see Attachments A, B, and C), except as noted under condition, is allowed to be included within the text of the zoning ordinance, as authorized by Kentucky Revised Statute (KRS) 100.203 (1).

2. The proposed text amendments: (1) deleting the existing regulations pertaining to screening areas; and (2) adding landscape regulations, along with various cross references in other sections of the zoning

ordinance (definitions, other development controls, etc.) (see Attachments A, B, and C), except as noted under condition, provides for reasonable regulations for the landscaping of: street frontages; the perimeter of development sites; the interior of vehicular use areas; and dumpsters.

3. The proposed landscape regulations state that the legislative body shall have on file a plant manual that outlines recommended plant materials, illustrations of the landscape ordinance applications and minimum requirements for other landscape materials. The proposed regulations further state that this manual shall be used as a guideline to anyone preparing a landscape plan in order to meet the requirements of the proposed landscape regulations.

To meet this requirement, it is recommended that the legislative body adopt the proposed Plant Manual (see Attachment D) prior to, or simultaneous with, the adoption of the proposed text amendments: (1) deleting the existing regulations pertaining to screening areas; and (2) adding landscape regulations, along with various cross references in other sections of the zoning ordinance (definitions, other development controls, etc.) (see Attachments A, B, and C).

ADDITIONAL INFORMATION:

The attachments were derived from the NKAPC Model Zoning Ordinance, and therefore, may not reflect the exact wording in any given zoning ordinance. Upon adoption of the proposed text amendments, the NKAPC staff will ensure that they are properly incorporated into the individual city's/county's zoning ordinance.

Mr. Theissen asked Staff to briefly explain the regulations if adopted. Mr. Schwartz then gave a brief background and explained the amendment in more detail.

Mr. Dan Dressman and Mr. Steve Feldman registered to speak on the issue. No one registered to speak against.

Mr. Dressman addressed the Commission and complimented Staff and the Commission for their efforts in preparing the new regulations. He then distributed a letter noting his proposed changes or additions to the text of the regulations. Mr. Dressman then spelled out each change/addition as noted in his letter which was marked as an exhibit to the minutes. He noted on page 14 of Attachment A under section J. Planting Adjustments they would like to recommend an additional sentence be added as to Section 1 where it says "the zoning administrator should have the authority to grant a waiver of any requirement in this section upon receipt of a written request which outlines the rationale for the Planting Adjustments. The zoning administrator shall review each written request to grant a waiver only 1) under unusual or extreme circumstances which cause an unreasonable hardship such as the size of the lot; 2) when an innovative or alternative approach can be made which still meets the intent and purpose of this section. He stated the new clause they would like to see added is "or when the requirements of this article are impractical or unreasonable because of the existence of conditions specified in Section J-4 of this article or other similar circumstances.

Mr. Feldman addressed the Commission on the issues regarding the changes noted by Mr. Dressman. He stated in reading the regulations there were three things that popped into his mind. He stated there are certain circumstances that may not fall under the waivers such as things that may not be unusual or extreme or an unreasonable hardship or may not be an innovative alternative but nonetheless are unreasonable or impractical. He cited various developments in the area that he's been involved with that would have to undergo changes under the proposed amendments.

Mr. Dressman noted additional changes on Table 9-1 of the Zoning Amendments and Planting Manual as to multi-family residential land uses. He also cited the section of the manual relating to streetscapes and street trees. He stated they would like to see added "in order to enhance residential streetscapes, street trees may be planted and placed within a street right of way or within an easement immediately adjacent to the street right of way. If planted it is recommended that a tree be planted every 100 feet and are consistent with the speed limit of the street and the land use." Mr. Theissen questioned Mr. Feldman on inserting the wording "and placed" rather than just planted. He asked about the relevancy of the wording. Mr. Feldman stated it was for point of clarification to try to clarify the intent. Mr. Dressman then stated the one final item was in the Planting Manual Section 3. He referenced the first paragraph, last sentence beginning "Since trees are easily disturbed by changes in their environment, one should consider the following before disrupting the tree surroundings." Mr. Dressman suggested adding the words "one is encouraged to consider..." be added to that sentence. He further noted that in looking at the tables it appeared that they didn't match. He cited inconsistencies with the tables and diagrams in the manual. Mr. Schwartz then noted that the diagrams were meant as a suggestion as to what could be done, not a direct reference to Section 9-1. He stated they were never meant to be a one to one relationship. Mr. Theissen stated the planting manual is not an absolute. He further stated the planting manual was not intended to be regulatory but rather a useful tool for providing information. As a final note, Mr. Dressman asked for consideration for a waiver for multi-family and single family under those circumstances.

Mr. Theissen noted by way of clarification that the original draft of the manual was extremely thick. He stated they met with home builders first among others and then cut back the manual. He further stated that the home builders did not have an opportunity to review the last draft. Mr. Theissen then commented on the changes proposed by Mr. Dressman. He stated that as to their change on page 14 of the manual that he did not have a major problem with the substance. He stated he thought they provided a clarification that might be good to have. He stated he wanted to make two changes to their proposal; on the first page of their letter in bold to add an "or" and a "3" in parentheses. He stated he would also think that the last four words are probably overkill the "or other similar circumstances." He further stated he didn't think it would be a problem eliminating those words. Mr. Schwartz then stated that the word "article" twice should be changed to the word "section" and the word "section" should be changed to the word "subsection." To clarify the change, Mr. Theissen noted that on page 14 of the memo, J-1, the fifth line down before the word "under" will be added a (1) and on the next line down, in lieu of the "or" in the middle of that line it will be replaced with a (2), and then after the word "section" at the end of that sentence which is on the eighth line down, after the word "section" will be a ";or" (3) when the requirements of this section are impractical or unreasonable because of the existence of conditions

specified in subsection J-4 of this section. He further stated in regard to page 19 the next request for a change has to do with single-family residences. Mr. Theissen then noted that single-family versus multi-family residences does not have the same assumption because people do not take pride in their own property and plant trees. He further stated if you are a tenant you are not going to plant trees in front of your apartment building. He stated it was for this reason that single-family and multi-family are treated differently in that section. Mr. Theissen then stated that because of this fact he would recommend against that specific request. Mr. Schwartz then stated that the reason duplexes are put in the same category as single-family is in a lot of cities there are zones that permit single-family and two-family in the same zoning district. He then stated the next comment or request was on page 20 regarding street trees. Mr. Theissen stated that while he appreciated the comments about the 100 feet spacing, he stated it is set so trees would be every 60 feet and he feels it to be a good spacing. He further stated that his inclination would be to not change the wording regarding street trees. Mr. Theissen stated the last comment or request was on page 29 regarding changing the wording from "one should consider" to "one is encouraged to consider." He stated he didn't know if the language would make a lot of difference. Mr. Bayer noted on page 5 under the Perimeter Landscaping definition, he questioned whether it should read "landscape area" instead of "landscape application." Mr. Schwartz noted that it is not really the area, it is both the area and the type and quantity of the planting. Mr. Bayer also noted the definition and reference to replacing trees. He questioned whether or not that needed to be left in. Mr. Schwartz stated that definition was left in in case a city on their own wanted to go further than these regulations and that leaving it in would do no harm. Mr. Bayer further noted on page 9 he questioned whether the words "over a thousand feet" should be left in. He stated he thought it was covered in the rest of the table. Mr. Hilgefurd stated that maybe the language should be left in. He further stated that if a building is ten thousand square feet and a thousand is being added, then there would be no requirement to do any planting. Mr. Theissen then further stated that a nine hundred square foot addition would never activate the regulations regardless of the size of the existing building. Mr. Hilgefurd stated for these reasons he felt it should be left in. Mr. Bayer then also noted on page 28 the words "perpetually maintained" should not be included. He stated that perpetually is a long time as worded in the certification. Mr. Wessels then questioned why the certification was left in under the guidelines section. Mr. Schwartz stated it was left in so a city could decide what language they were to use. Mr. Theissen stated that if trees are planted and then die they have to be replaced. He stated under the minimum requirement they would have to be replaced. He further stated the regulations continue to be enforceable as time goes on. Mr. Schwartz explained that the word "perpetually" refers to the landscape regulations so if the use changes, the requirements may change. Following discussion on the proposed language and additions, Mr. Price made a motion to approve the proposed language in the model zoning ordinance as proposed by the Committee and as recommended by Staff with the following five changes; page 14 of the memo pursuant to the first page of Mr. Dressman's letter, page 29 of the regulations under "Tree Preservation Guidelines", the last sentence will read "...since trees are easily disturbed by changes in their environment one should consider..." to read "...one is encouraged to consider the following before disturbing the trees..."; page 5 the definition of perimeter landscaping will be changed to read "the landscaping surrounding a land use or vehicular use area" and deleting the words "landscape application" and inserting the word "landscaping"; page 9 on the second line of subparagraph "b" to simply delete the words "over one thousand (1,000) square feet; page 28 the word "perpetually" will be deleted the certification on item #13. He stated the bases for the motion are those bases as stated by

Staff. Mr. Swanson seconded the motion. A roll call vote on the issue found Mr. Price, Mr. Swanson, Ms. Carlin, Mr. Coates, Mr. Cook, Mr. Dorsey, Mr. England, Mr. Hadley, Mr. Hilgefurd, Mr. Meyer, Mr. Smith, Mr. Snyder, Mr. Sucher, Mr. Wessels, Ms. Weldon and Mr. Theissen in favor. Mr. Bayer voted against. The motion carried by a vote of 16-1.

**The following two items were combined in Staff's presentation on the issues.

1511R

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

GENERAL LOCATION: N.A.

REQUEST FOR ACTION: Proposed text amendments to the Erlanger Zoning Ordinance adding a new zoning district, the HC-3 (Highway Commercial -Three) Zone, along with the necessary cross references to other portions of the zoning ordinance (i.e., landscape regulations, sign regulations, etc.).

Staff presentation and Staff recommendation by Mr. Michael Schwartz.

NKAPC STAFF POSITION:

NKAPC STAFF RECOMMENDATION - ERLANGER ZONING ORDINANCE:

To approve the proposed text amendments adding the HC-3 (Highway Commercial Three) Zone, along with the necessary cross references to other portions of the zoning ordinance (i.e., landscape regulations, sign regulations, etc.) (see Attachments A, B, C and D).

COMPREHENSIVE PLAN DOCUMENTATION / SUPPORTING INFORMATION / BASES FOR
NKAPC STAFF RECOMMENDATION --

COMPREHENSIVE PLAN DOCUMENTATION:

o Date of Adoption by the Kenton County and Municipal Planning and Zoning Commission: December 11, 1996.

SUPPORTING INFORMATION/BASES FOR NKAPC STAFF RECOMMENDATION:

1. The proposed text amendments adding the HC-3 (Highway Commercial Three) Zone, along with the necessary cross references to other portions of the zoning ordinance (i.e., landscape regulations, sign regulations, etc.) (see Attachments A, B, C and D), are allowed to be included within the text of the zoning ordinance, as authorized by Kentucky Revised Statute (KRS) 100.203 (1).

2. The proposed text amendments adding the HC-3 (Highway Commercial Three) Zone, along with the necessary cross references to other portions of the zoning ordinance (i.e., landscape regulations, sign regulations, etc.) (see Attachments A, B, C and D), would allow a limited variety of retail and service uses oriented towards serving the traveling public or those uses which require access to the regional transportation system.

3. While the Erlanger Zoning Ordinance currently contains an HC (Highway Commercial) Zone and an HC-2 (Highway Commercial Two) Zone, significant differences will exist between the proposed HC-3 Zone and the existing HC and HC-2 Zones.

The following provides a summary of the major differences between the existing HC and HC-2 Zones and the proposed HC-3 Zone:

Existing Existing Proposed

HC Zone HC-2 Zone HC-3 Zone

Permitted Automotive sales Banks Automobile sales, new

Uses Automotive services Restaurants Hotels

Banks Hotels Offices

Marine sales and service Offices

Bowling alley Police and fire stations

Restaurants Theaters

Hotels/Motels

Off-street parking facilities

Offices

Liquor and wine stores

Police and fire stations

Service stations

Theaters

Minimum

Site

Area 22,500 square feet 22,500 square feet Two (2) acres

Minimum

Front Yard

Depth 50 feet 50 feet 100 feet

Minimum

Side Yard

Width 15 feet 15 feet 25 feet

Minimum

Rear Yard

Depth 15 feet 15 feet 25 feet

Maximum

Building

Height 50 feet 80 feet 80 feet

*Mr. Wessels withdrew from consideration and voting due to a conflict.

1513R

APPLICANT: Mr. Tom Gill Chevrolet per Ms. Linda Fookes.

GENERAL LOCATION: Approximate 9.7-acre area located approximately 500 feet east of Houston Road and approximately 400 feet northeast of Viox Drive, Erlanger.

REQUEST TO BE REVIEWED: A proposed map amendment to the Erlanger Zoning Ordinance, changing the area described herein, from HC-2 (a highway commercial two zone) to HC-3 (a highway commercial three zone).

Staff presentation and Staff recommendations by Mr. Michael Schwartz.

NKAPC STAFF POSITION

NKAPC STAFF RECOMMENDATION - ERLANGER ZONING ORDINANCE:

To approve the proposed map amendment from HC-2 to HC-3, but only subject to compliance with the following conditions:

1. That Erlanger City Council adopt the proposed text amendments adding the HC-3 Zone, along with the various cross references (see Z-01-06-02/1511R) prior to, or simultaneous with, the adoption of this proposed map amendment.
2. That the development plan be revised to meet the minimum requirements of Section 9.17 of the Erlanger Zoning Ordinance, Landscape Regulations.
3. That the proposed structure not exceed eighty (80) feet in height.
4. That off-street parking spaces be a minimum of nine (9) feet in width.
5. That signage meet the minimum requirements of Article XIV of the Erlanger Zoning Ordinance, Sign Regulations.

COMPREHENSIVE PLAN DOCUMENTATION / SUPPORTING INFORMATION / BASES FOR NKAPC STAFF RECOMMENDATION --

COMPREHENSIVE PLAN DOCUMENTATION:

o Date of Adoption by the Kenton County and Municipal Planning and Zoning Commission: December 11, 1996.

SUPPORTING INFORMATION/BASES FOR NKAPC STAFF RECOMMENDATION:

1. The proposed map amendment from HC-2 to HC-3 is consistent with the Land Use Plan Element of the 1996 Area-Wide Comprehensive Plan Update which identifies the site in question as a Special Development Area and the text of the 1991 Area-Wide Comprehensive Plan Update, as it pertains to the site in question.

Land areas designated as Special Development Area are intended to identify locations for specialized activities, such as: entertainment and amusement type functions; extensive type commercial activities which require good access to the regional highway system; and riverfront development which relates to the special advantages of the Cincinnati/Northern Kentucky riverfront. This category is also used to identify areas with potential for mixed land uses (e.g., commercial/residential/recreational and public/semi-public).

Pertaining to the site in question, and its surrounding area, the text of the Land Use Plan Element of the 1991 Area-Wide Comprehensive Plan Update reads as follows:

o An approximate 150 acre area located at the northwest quadrant of I-75 and I-275 - Due to the Houston Road extension project and the amount of industrial land along I-275, the city of Erlanger has identified this area as having the potential to be developed for commercial activity. This area is recommended to be developed with a mixture of retail, service, office, and hotel uses. Development is recommended to begin near the intersection of Donaldson Road with Hartman Road and then continue along Hartman Road. Direct access onto Hartman Road should be limited. An internal street system should be developed to provide for safe and efficient access.

Although this text is not contained within the 1996 Area-Wide Comprehensive Plan, the 1996 Area-Wide Comprehensive Plan is an update of the 1991 comprehensive plan. Since the land use designation for this area was not changed as part of the 1996 comprehensive plan, this text is still valid and is made a part of the current comprehensive plan by reference.

The proposed map amendment for the site in question, along with the existing zoning of adjacent areas located immediately to the south and west of the site in question, would allow the development of a mixture of retail, service, public, semi-public, medical, and educational uses within this area.

2. Currently, the Erlanger Zoning Ordinance does not contain an HC-3 Zone. The City of Erlanger has submitted an application for NKAPC and KC&MP&ZC review and recommendation on proposed text amendments adding the HC-3 Zone, along with various cross references (see Z-01-06-02/1511R). Before Erlanger City Council can take action on the proposed map amendment, they must first take action to adopt the proposed text amendments adding the HC-3 Zone, along with various cross references.

3. The submitted Stage I Development Plan meets the minimum requirements of the Erlanger Zoning

Ordinance, except for the following:

- a. Section 9.17, G. requires a minimum ten (10) foot wide buffer yard to be provided along the perimeter of the site, adjacent to Interstate 71/75. The submitted development plan indicates the provision for a five (5) foot wide buffer yard.
- b. Section 9.17, H. requires that landscaping be installed in all vehicular use areas. Insufficient information has been submitted to determine compliance with this requirement.
- c. section 9.17, L. requires a minimum twenty (20) foot wide buffer yard to be provided along the perimeter of the site, adjacent to the existing concrete plant. The submitted development plan indicates a zero (0) foot wide buffer yard.
- d. Section 9.17, L. requires specific landscaping to be installed along the perimeter of the site. Insufficient information has been submitted to determine compliance with this requirement.
- e. The proposed HC-3 Zone (Section 10.20, C., 5.) prohibits structures from exceeding eighty (80) feet in height. Insufficient information has been submitted to determine compliance with this requirement.
- f. Section 11.1, A. requires off-street parking spaces to be a minimum of nine (9) feet in width. The submitted development plan indicates that the off-street parking spaces will be approximately eight (8) feet in width.
- g. Insufficient information has been submitted to determine compliance with Article XIV, Sign Regulations.

Mr. Theissen read into the record a letter received from Mr. Bill Scheyer and it was marked as an exhibit to the minutes.

Mr. Tom Gill and Mr. Jim Berling registered to speak in favor of the application. No one registered to speak against.

Mr. Gill addressed the Commission and gave a PowerPoint presentation regarding the proposed car dealership. He stated that he has been in the car business since 1976. He stated he built a dealership in 1989 in Columbus, Ohio and sold it in 1997 to take advantage of a great opportunity in Northern Kentucky. He further stated they have experienced tremendous growth since 1996. He stated due to this growth he needs to build a new dealership. He stated the proposed dealership would have a lot of green space. He stated he wants to project more than just a thousand cars from the highway and more of a lifestyle instead. He additionally stated they are a low traffic type facility.

Mr. Jim Berling addressed the Commission and stated he had nothing to add to Staff's presentation. He stated he is the present owner of the property and was available to answer any questions. Mr. Swanson

then asked about the detention/retention pond. Mr. Berling stated it was built to service the nursing facility in the area. He stated it would have to be redesigned with the new development.

Mr. Gill stated he would like to retain the 8-foot parking spaces due to the fact that he can fit more cars on the lot than with 9-foot spaces. He further stated the 1-foot difference would save him a lot on space as to parking all the cars. Mr. Schwartz stated the minimum requirement is 9-foot parking spaces. He further stated as this is actually a storage area that maybe it would be a better interpretation by the local zoning administrator as they are not actually off-street parking spaces. Mr. Theissen asked if Staff would have any problem with rewording the condition to say that off-street parking spaces (excluding display and storage areas) must be a minimum of 9 feet. Mr. Schwartz then stated that perhaps it would be better to say just meet the minimum requirements of the Erlanger Zoning Ordinance and let the zoning administrator interpret it. Following discussion on the matter, Mr. Theissen then stated that condition #4 would be worded to read "off-street parking spaces excluding display and storage areas would meet the minimum requirements of the Erlanger Zoning Ordinance." Mr. Hilgefurd then made a motion to approve 1511R as to the text amendment based on the recommendations of Staff. Mr. Snyder seconded the motion. A roll call vote on the motion found Mr. Hilgefurd, Mr. Snyder, Mr. Bayer, Ms. Carlin, Mr. Coates, Mr. Cook, Mr. Dorsey, Mr. England, Mr. Hadley, Mr. Meyer, Mr. Price, Mr. Smith, Mr. Sucher, Mr. Swanson, Ms. Weldon and Mr. Theissen in favor. Mr. Wessels withdrew from voting due to a conflict. The motion carried with a vote of 16-0.

Mr. Hilgefurd then made a motion to approve 1513R as to the map amendment, subject to the conditions of Staff to include the revised condition #4 as to the 9-foot parking spaces. Mr. Snyder seconded the motion. A roll call vote on the motion found Mr. Hilgefurd, Mr. Snyder, Mr. Bayer, Ms. Carlin, Mr. Coates, Mr. Cook, Mr. Dorsey, Mr. England, Mr. Hadley, Mr. Meyer, Mr. Price, Mr. Smith, Mr. Sucher, Mr. Swanson, Ms. Weldon and Mr. Theissen in favor. Mr. Wessels withdrew from voting due to a conflict. The motion carried with a vote of 16-0.

OLD BUSINESS:

Mr. Theissen discussed the matter of an old application involving the Oaks Subdivision on Bristow Road in unincorporated Kenton County. He stated the application has been tabled for a year and the applicant is now requesting to table the issue again. He stated until the highway department determines where the road is going to be he is holding off on where he's going to put the lots. Mr. Theissen stated he suggested to the applicant to withdraw the application rather than keep it perpetually tabled. Mr. Theissen then further stated that a letter was received from the applicant regarding the fee and asking for full or partial credit in his application. He stated he spoke with Staff and they are willing to give a fifty percent credit regarding the application if it is brought back within a year. Mr. Theissen then asked for a motion recognizing that the map amendment had been withdrawn and that one-half the fee be credited to the next application, provided that it is resubmitted within one year. Ms. Weldon made a motion seconded by Mr. Smith. All in favor responded in "aye." The motion carried unanimously.

Mr. Theissen further stated that with regard to cell tower issues as to adding cell towers on existing structures that it doesn't make sense to charge the fee, have another review, etc., when there will be little

impact to the community. Mr. Theissen then stated the proposed amendments to the By-Laws was distributed to the Commissioners. Mr. Swanson then noted the By-Laws list a height of 5 feet above the tallest structure on the building. He stated he felt this height distance to be too short and that it should be higher. Mr. Paul Quitty of Greenbaum Doll & McDonald in Louisville addressed the Commission regarding the issue. He stated he has a concern that 5 feet may be a bit conservative. He stated it might be a good idea to suggest a percentage of the building height. He further stated the Commission is on the right path in amending the By-Laws for cell tower issues. He further stated a concern with the specificity of the language of the By-Laws. Mr. Theissen stated he does not have a problem increasing the footage to 25 feet. Mr. Schwartz stated the By-Laws were written based on a structure and noted it could be a tower, a sign or an existing structure. Ms. Weldon stated she would rather err on the conservative side in the height requirements. Mr. Swanson stated after the discussion the 5-foot height requirement is adequate and he has no problem with it. Mr. Bayer then made a motion to adopt memorandum 1601. Ms. Weldon seconded the motion. A roll call vote on the issue found Mr. Bayer, Ms. Weldon, Ms. Carlin, Mr. Coates, Mr. Cook, Mr. Dorsey, Mr. England, Mr. Hadley, Mr. Hilgefurd, Mr. Meyer, Mr. Price, Mr. Smith, Mr. Sucher, Mr. Snyder, Mr. Wessels, Mr. Swanson and Mr. Theissen in favor. The motion carried unanimously.

Mr. Theissen stated that the KRS were modified to allow the Commission to act as the Board of Adjustment. Following a brief discussion on the matter amongst the Commissioners, Mr. Theissen stated that all that was needed was a motion to put the issue on the agenda for next month. Mr. Schwartz stated this would be an amendment to existing subdivision regulations. Ms. Weldon then made a motion to authorize the Chairman to make an application to consider the subdivision regulation modification. Mr. Price seconded the motion. All in favor responded with "aye." The motion carried unanimously.

CORRESPONDENCE: None.

PLANNING, STAFF AND LEGAL COUNSEL ITEMS:

COMMISSION ITEMS:

Standing Committee Reports:

Mr. Theissen stated the Comprehensive Plan Joint Task Force will now be meeting twice a month effective next month. He stated their next meeting will be next week on July 11th. He stated they've gotten through a lot of the housing data and employment data. He stated the last meeting was interesting where they went through transportation and talked about road improvements. He stated future meetings are going to get into land use issues, etc. He stated that everyone is encouraged and invited to attend the meetings. He also mentioned that the By-Laws Committee has until the end of December to have a set of regulations in place about the new education reform. He further stated that Mike has already started to put together a draft. Mr. Dorsey stated he had made a request several months ago to consider a change in the By-Laws regarding conflicts of interest. He stated he would hope that that issue would be included in the meetings.

COMMENTS/REQUESTS TO THE COMMISSION:

There being no further matters to come before the Commission, Mr. Theissen then adjourned the meeting at 9:05 p.m.