CAMPBELL COUNTY & MUNICIPAL PLANNING & ZONING COMMISSION
OCTOBER 11, 2011
7:00 PM
AGENDA

1. Meeting called to order

2. Roll call and determination of quorum

3. Approval of the September 13, 2011 minutes

4. FILE: ID-20-11
   APPLICANT: Gregory & Michelle Beagle
   LOCATION: A 1.08-acre land division at 9380 Washington Trace Road, Unincorporated Campbell County.
   REQUEST: To approve an Identification Plat consisting of a land division and a remainder tract (flag lot) with no public improvements.

5. FILE: ID-25-11
   APPLICANT: Robert L. Boden
   LOCATION: A 0.12 acre land addition at 8026 Stonehouse Road, Unincorporated Campbell County.
   REQUEST: The applicant has a two-part request: 1. To approve a 0.12 acre land addition to an existing tract with 142.52 feet of road frontage 2.To divide 2.27 acres from the existing tract. This division will result in the creation of a flag lot for the existing tract.

6. Director's Report

7. Adjournment

IF YOU CANNOT ATTEND THE MEETING,
PLEASE CALL THE P&Z OFFICE AT 859-292-3880

The Commission will make every reasonable accommodation to assist qualified persons attending the meeting, if there is a need for the Commission to be aware of, contact the office.

CAMPBELL COUNTY & MUNICIPAL PLANNING & ZONING COMMISSION
MINUTES OF THE OCTOBER 11, 2011 MEETING

MEMBERS PRESENT:
Mr. Larry Barrow
Ms. Lauri Harding
Mr. Tony Pfeffer
Mr. Michael Williams
Mr. Justin Verst, Vice Chair *arrived shortly before 7.15 PM*
Ms. Cindy Minter, Chair

MEMBERS ABSENT:
Mr. Robert Huck
Ms. Deborah Blake, TPO

STAFF PRESENT:
Mr. Peter Klear, AICP, Director of Planning & Zoning
Mr. Matt Smith, Legal Counsel
Mr. Ryan Hutchinson, Planner
Ms. Stephanie Turner, Secretary

Ms. Minter called the meeting to order at 7:10 PM and asked for a roll call. Following roll call, a quorum was found to be present. Ms. Minter asked if everyone had reviewed the September 13, 2011 meeting minutes and asked if there were any additions or corrections. There being none, Ms. Minter called for a motion. Mr. Barrow made a motion to approve the September 13th meeting minutes as submitted. Mr. Williams seconded the motion. A roll call vote found Mr. Barrow, Ms. Harding, Mr. Pfeffer and Mr. Williams in favor of the motion. Ms. Minter abstained. Motion passed.

Ms. Minter introduced case #ID-20-11, Gregory & Michelle Beagle, a request for approval of an identification plat consisting of a land division and a remainder tract (flag lot) with no public improvements. Ms. Minter asked Mr. Hutchinson to present the staff report and staff's recommendation to the Commission. Mr. Hutchinson had barely begun his presentation when Ms. Minter recognized Mr. Verst's arrival at shortly before 7:15 PM. Mr. Hutchinson continued with the presentation of his report.

SUBDIVISION:	ID-20-11
APPLICANT:	Gregory & Michelle Beagle
LOCATION:	A 1.08-acre land division at 9380 Washington Trace Road, Unincorporated Campbell County.
REQUEST:	To approve an Identification Plat consisting of a land division and a remainder tract (flag lot) with no public improvements.

Considerations:

1. Review of the Identification Plat in accord with the Zoning Ordinance and Subdivision Regulations results in the following issues:

   a) The proposed plat indicates a 1.08 acre land division and a remainder tract (flag lot) of 6.16 acres on the south-west side of Washington Trace Road.

   b) The current zoning for the site in question is Agricultural One (A-1). The A-1 Zone requires a minimum 100 foot lot width.

   c) The flag lot design for the remainder tract does meet our minimum standards for a flag lot. Flag lots are only to be used in those locations where due to geometric, topographic, and other physical features, it would be impractical to extend a publicly dedicated street to serve lots located in said areas

d) The Plat does not indicate an access easement serving the proposed flag lot.

e) The Plat indicates an existing 25' foot right-of-way to be dedicated along Washington Trace Road for the proposed 1.08 acre division.

f) The Plat shows the remainder tract to be vacant land.

g) The Plat shows an existing house and shed on the 1.08 acre division. These structures appear to meet setback requirements.

i) County records indicate water lines front the proposed division.

Recommendation for Identification Plat:

To approve the proposed flag lot due to geometric features, subject to the following condition.

1. That the plat shows an ingress / egress easement to access the remainder tract.

Bases for Recommendation for Identification Plat:

The proposed division is consistent with the Campbell County Subdivision Regulations and Zoning Ordinance, except as noted below:

EASEMENT: A right, distinct from the ownership of the land, to cross property with facilities such as, but not limited to, sewer lines, water lines, and transmission lines, or the right, distinct from the ownership of the land, to reserve and hold an area for drainage or access purposes.

At the conclusion of the report, Mr. Hutchinson asked if there were any questions. Ms. Minter asked if Mr. Hutchinson could return to the slide showing the topography of the site and point out the geometric features of the site that qualified as "special" circumstances that led staff to recommend approval of the request. Mr. Hutchinson did as requested.

Ms. Minter asked if there were any other questions of staff. Ms. Harding asked, after the division, what would be the road frontage on the lot with the house. Mr. Hutchinson replied it would be 25 feet. Ms. Harding stated that did not look correct. Mr. Hutchinson asked for clarification if Ms. Harding was asking about the existing house or proposed house. Ms. Harding stated the existing house. Mr. Hutchinson stated the existing house would have approximately 110 to 111 feet of road frontage and the proposed home would have 25 feet of road frontage.

Ms. Minter asked if there were any other questions for staff. There being none, Ms. Minter asked the applicant if he wanted to come forward to address any comments made. Mr. Gregory Beagle stated that Mr. Hutchinson stated the facts perfectly and he had nothing to add. Mr. Bill Reis, the surveyor for the applicant stated he would be willing to address the comments and concerns of the Commission. Mr. Reis stated that the easement for the access can be shown on the final drawing.

Ms. Minter asked if there were any questions for the applicant. Mr. Verst stated he had a question for staff and the applicant. Mr. Verst wanted to know the zoning requirement for the distance from the property line to the shed that is located on the division property. Mr. Hutchinson replied the requirement is for 10 feet. Mr. Verst asked the applicant what the actual distance was. Mr. Reis stated he believes the distance is 20 feet. Mr. Hutchinson stated staff had worked with the applicant on several design layouts and he knows they had discussed and reviewed it several times but he cannot recall the exact measurement on this final drawing either. Mr. Reis stated they worked with staff to meet the 1 acre requirement for the land division while still meeting the flag lot requirements.

Ms. Minter asked if there were any other questions for staff or the applicant. There being none, Ms. Minter asked if there were any other questions or items for discussion. There being none, Ms. Minter called for a motion. Mr. Barrow made a motion to approve case #ID-20-11, Gregory & Michelle Beagle, a request for approval of an identification plat subject to the following condition being added: that the plat shows an ingress / egress easement to access the remainder tract. He cited that the proposed division is consistent with the Campbell County Subdivision Regulations and Zoning Ordinance as the basis for his motion. Mr. Pfeffer seconded the motion. A roll call vote found Mr. Barrow, Ms. Harding, Mr. Pfeffer, Mr. Williams and Mr. Verst in favor of the motion. Ms. Minter abstained. Motion passed.

Ms. Minter introduced case #ID-25-11, Robert Boden, a request for approval of a land addition to an existing tract with road frontage as well as a separate land division. This division will result in the creation of a flag lot for the existing tract. Ms. Minter asked Mr. Hutchinson to present the staff report and staff's recommendation to the Commission.

SUBDIVISION:	ID-25-11
APPLICANT:	Robert Boden
LOCATION:	8026 Stonehouse Road, Unincorporated Campbell County.
REQUEST:	The applicant has a two-part request: 1. To approve a 0.12 acre land addition to an existing tract with 142.52 feet of road frontage 2.To divide 2.27 acres from the existing tract. This division will result in the creation of a flag lot for the existing tract.

Considerations:

1. Review of the Identification Plats in accord with the Zoning Ordinance and Subdivision Regulations results in the following issues:

   a) The first proposed plat indicates a 0.12 acre land addition to the existing tract. This addition would create a dual frontage lot. The second proposed plat indicates subdividing 2.27 acres from the existing tract. This division would result in the existing tract becoming a flag lot.

   b) The current zoning for the site in question is Rural Residential Estate (R-RE). The R-RE Zone requires a minimum 100 foot lot width.

   c) The resulting flag lot design for the existing tract does not meet our minimum standards for a flag lot. The existing tract has the required frontage. The proposed division will create geometric conditions that would necessitate the creation of a flag lot.

   d) The first plat indicates a 25' foot right-of-way to be dedicated along Stonehouse Road for the proposed land addition.

   e) The first plat shows the proposed flag lot has an existing house on the lot.

   f) The second plat (2.27 acre division) exceeds the 4 to 1 width to depth ratio.

   g) The second plat (2.27 acre division) does not indicate if the right of way is existing or needs to be dedicated.

   h) The second plat (2.27 acre division) does not indicate an ingress / egress easement for the existing driveway.

   i) County records indicate water lines front both proposed plats.

Recommendation for Identification Plats:

To deny the proposed land addition, the proposed land division and resultant flag lot.

Bases for Recommendation for Identification Plats:

The proposed division is not consistent with the Campbell County Subdivision Regulations and Zoning Ordinance.

The proposed flag lot is not consistent with the Campbell County Subdivision Regulations and Zoning Ordinance. The existing tract meets current Campbell County Subdivision Regulations and Zoning Ordinance standards. The applicant is creating the conditions that would necessitate the creation of a flag lot.

Mr. Hutchinson asked if there were any questions for staff. Mr. Verst asked to see the slide showing the slope of the site where the road access would be. Mr. Hutchinson stated that the road access is fairly flat. Mr. Verst commented that if the applicant were required to construct a driveway from the existing house across to the new "flag stem" there would be very steep slopes to be considered. It could be done, but it would be a challenge. Mr. Hutchinson agreed and stated there were 20 percent slopes in that area.

Ms. Minter asked if there were any other questions for staff. There being none, Ms. Minter asked the applicant to come forward. Mr. Bill Reis, the surveyor, came forward to answer concerns of the Commission. Mr. Reis explained that the property before the Commission tonight actually consists of three existing separate parcels that were transferred together in one deed when Mr. Boden purchased the property. Mr. Reis explained that the owner originally proposed to build a new home on one of the five acre tract and just leave the rest of the tracts alone. Staff determined that we couldn't do that because we would be cutting off the entire road frontage for the remaining two tracts. Mr. Reis explained that was when the idea came to them to obtain the stem on the other side to service the remaining two lots and then cut the five acre tract down to the 2.27 acres. The applicant has no objection to leaving that parcel intact so it remains at 5.34 acres.

Ms. Minter asked Mr. Hutchinson to return the slides to one that shows an overall picture of the property. Mr. Hutchinson did so and commented that what Mr. Reis stated about being three tracts happened all the time. There are times when multiple tracts are sold to an owner within the same deed and are never consolidated into one tract by either Planning & Zoning or by the Property Valuation Administration. Mr. Reis pointed out on the slide the individual tract lines for the Commission. Mr. Reis also advised the Commission that the applicant had already prepared an easement for the shared driveway. Mr. Reis stated that if it makes it easier for the Commission to approve, they can approve the flag stem and then they will leave the land division as the entire five acre tract. Mr. Reis explained that the reason the applicant is requesting the flag lot and subsequent division is that the location of the current home is higher on a hill which was not an issue when Mr. Boden was younger. However, Mr. Boden is getting older and, especially since his wife passed, he has difficulty getting emergency vehicles up the driveway. Mr. Boden wants to build a home closer to the roadway to allow emergency vehicle access to reach him due to his declining health.

Mr. Williams asked Mr. Hutchinson to point out on the slide where the proposed new flag stem will be. Mr. Hutchinson did so. Ms. Harding asked if one part of the request was dependent on the approval of the second part of the request. Mr. Reis stated that if the flag lot was approved then the land division could be approved, but without the flag lot approval, the land division would be denied. Mr. Williams asked if the users of the driveway are family. Mr. Reis replied that they were. Mr. Reis stated that Mr. Boden lives in the house at the top of the hill and his daughter lives at the bottom of the hill and they share the driveway. His daughter has road frontage and could build her own driveway, but they share the existing driveway to share the cost and care of it. Mr. Reis stated again that they do have the shared driveway easement prepared and ready to be recorded regardless of the outcome of this case.

Mr. Williams asked why the applicant needed to create a flag lot. Mr. Reis stated it was necessary in order to divide off the five acre tract to meet the road frontage requirements. Mr. Smith added that each parcel is required to provide some type of road frontage. By the subdivision request, Mr. Boden is proposing to land-lock the remainder and is thereby required to obtain a minimum of 25 feet road frontage as a flag lot. Ms. Harding added that she doesn't believe the fact that the applicant is related to the other user of the driveway is of any value to the consideration of this decision as this is real property and they can sell the property tomorrow and that would have zero value to this decision. Mr. Smith agreed. Mr. Reis stated that was not really an issue as his daughter does have road frontage and they could build a driveway at any point. They just share the driveway for convenience sake.

Mr. Verst asked why they couldn't pull the 25 feet from the five acre tract. Mr. Reis stated they had reviewed that possibility. However, they could not meet the flag lot requirements of the flag stem being only 250 feet in length and the lot must be a minimum of 100 feet wide at the 250 foot mark. Mr. Verst asked how far back do you have to go on the proposed flag stem addition to get to the required lot width of 100 feet. Mr. Reis stated he was not certain as they had submitted multiple plans and is not certain of the final plan numbers. Mr. Reis stated he would have to go back to the office to measure that figure.

Mr. Pfeffer asked staff if the plan before the Commission was the best scenario that was reviewed since it appears there was multiple plans submitted to staff. Mr. Hutchinson stated that this was the only scenario to get road frontage for this site and allow the land division. Mr. Pfeffer asked if leaving the tract at five acres will solve the width to depth ratio issue of the land division. Mr. Hutchinson replied that leaving the tract at plus five acres would solve that issue or shrinking the tract down would solve the issue. The applicant has said he will do whichever the Commission prefers to solve that requirement. The real issue is the remainder tract losing its road frontage and the creation of the flag lot.

Ms. Minter asked legal counsel to read the applicable section of the Zoning Ordinance. Mr. Smith read Section 6.6 of the Subdivision Regulations which stated that flag lots shall only be used in those locations where due to geometric, topographic and other physical features where it would be impractical to extend public street to lots located in said areas and in no case shall said required flag lot area be further than 250 feet from the publicly dedicated right of way from which the flag lot originates. Mr. Williams asked Mr. Smith to repeat the last portion of that statement which Mr. Smith did. Mr. Williams asked for confirmation that the applicant was past the 250 feet mark with the current design. Mr. Hutchinson stated that was not correct. The proposed flag stem is 208 feet in depth from the publicly dedicated right of way. Mr. Verst felt the drawing may not clearly reflect enough information for the Commission to make a clear determination.

Mr. Williams stated there were not a lot of homes in that area and it did not appear to be a heavily populated part of the community. Mr. Hutchinson moved to an aerial slide that showed the overall community with nearby homes that are shielded by heavy natural vegetation. Mr. Hutchinson stated there are not many homes and some would probably only be visible in late fall or during the winter months.

Mr. Pfeffer wanted confirmation that at this point with the drawing submitted there is no way for the Commission to absolutely confirm that the flag stem is 100 feet wide at the depth of 250 feet back. Mr. Hutchinson confirmed that neither he nor Mr. Reis could positively confirm that tonight. Mr. Hutchinson added that there were also plans to switch property to a neighbor in exchange for the twenty-five feet of property for the flag stem. Mr. Barrow stated that everything else is really supposition and what we really have to determine tonight is the flag stem and the land division submitted to staff already. Mr. Hutchinson stated that was correct.

Mr. Verst asked staff if the Commission wanted to approve the plan before them should a condition be imposed to cause the applicant to consolidate the remaining tracts. Mr. Klear replied that would be correct. Mr. Williams asked how long the applicant lived on the site. Mr. Boden replied he has lived

there a little over 50 years. Mr. Reis stated that the house was there before Mr. Boden moved in. Mr. Boden stated the house was about 100 years old.

Ms. Minter asked if there were any further question of staff or the applicant. There being none, Ms. Minter asked if there was any comments or discussion. Mr. Verst began the discussion stating that he understands the house has been at the top of the hill for a long time and sees that there is a place closer to the road that makes sense to build there. Mr. Verst looks at the plan and sees the design and it looks strange to him with the flag being at the opposite end of the driveway. Mr. Verst stated in regards to the lot division and the 4 to 1 ratio that he feels that leaving the tract as a whole five acre appeals more to him and makes a cleaner break than chopping it up worse than it already is. Ms. Harding added that while the Commission may be sympathetic to the reasons behind this request the Commission is considering permanent changes to the lot dimensions that may not be so pleasant to the future owners and users of that lot.

Mr. Williams asked for confirmation if the flag lot was approved and the home at the top of the hill had to create a driveway if they would encounter steep terrain. Mr. Hutchinson replied that the owner would indeed encounter steep slopes getting to the proposed flag stem. It's not to say it can't be done, but it would have to be done with careful consideration. Mr. Williams asked Mr. Smith if the flag stem was approved if it would be in violation of the Zoning Ordinance. Mr. Smith explained that in order for the flag lot to be approved when the lot does not meet the flag lot standards the Commission would have to find that a waiver of the Subdivision Regulations was warranted. The Commission could waive or modify the Regulations if one of the following findings were met: 1) said modification would find an innovative design of a subdivision; 2) said modification were not detrimental to public interest or welfare and said modification were not in conflict with the intent and purpose of the Subdivision Regulations and adopted Comprehensive Plan as modified; 3) strict compliance with these Regulations would create an extraordinary hardship in the face of exceptional conditions; and 4) that unusual topographical exceptional geographical conditions exist on the proposed site that were not created by the applicant or anyone on his behalf.

Mr. Reis stated on behalf of the applicant that the fact there are actually three tracts not one involved in this transaction and that fact should allow the Commission to find that there are unusual topographical geographical conditions existing on this site. Ms. Harding asked how long those three tracts been treated as one parcel. Ms. Minter stated Mr. Boden previously replied he had been on the property for over 50 years. Ms. Harding stated that was her point. It suited him to treat this as one property for his entire domicile on the property until now. Mr. Klear added that there is a provision in the Zoning Ordinance that states if you have multiple contiguous lots under common ownership they are considered one lot for zoning purposes. Mr. Verst agreed that in his experience as an engineer you frequently see owners buy property for the purpose of dividing it in the future but only one lot will have road frontage and this is the exact same issue they run into. Ms. Minter asked if it was worth going any further into consideration without those lot dimensions and without knowing specifically what land swaps were going to occur or if it would be better suited to table the situation until the Commission had additional information. Ms. Harding agreed that at the least the lot dimensions needed to be clarified. Mr. Smith stated the Commission could condition the lots be a certain length. Mr. Williams asked Mr. Smith if it was Section 8.6 of the Zoning Ordinance that he read a short time ago. Mr. Smith stated it was Section 8.5 of the Subdivision Regulations.

Mr. Verst stated he sometimes had a conflict with what the Regulations state versus what as a practical matter would be a better choice. In regards to the flag stem area, if the applicant were able to obtain 100 feet of road frontage instead of the 25 feet, we would not be having the same conversations. Mr. Klear replied that the Commission would never see an identification plat for a site with 100 feet of road frontage. Mr. Verst stated that the physical condition of the site doesn't change with the access on the south side and the flag stem on the north side. Mr. Klear replied that as a practical matter it is easier to go with the existing driveway, but that doesn't preclude them from going with a new driveway.

Mr. Williams asked Mr. Smith if all the conditions under Section 8.5 had to be met or just as Mr. Smith read them off. Mr. Smith stated the conditions were independent as he had read them off. Mr. Verst stated he saw no reason why the applicant couldn't come up with 100 feet of road frontage. The house on the other lot would not be in any danger. Mr. Williams stated he had not really heard anything that was really an unusual topographical issue on the site. Ms. Minter reminded the Commission that the reason the applicant stated he wanted to move the home closer to the road was so that emergency vehicles could get access to the home. The Commission is now considering a flag lot that would create an even greater distance to the home with potentially even rougher terrain for emergency vehicles. Ms. Minter asked the Commission to keep this in mind during their considerations.

Mr. Williams stated that if no one has done anything to that portion of the property over the past 50 years is there any real expectation that any development will occur on that portion over the next 50 years. Mr. Williams explained that his point is that an argument could be made that hardship does exist on the part of the applicant and there is no detriment to the general public welfare. It is not like this property is in the middle of the City of Fort Thomas where it would impact many and be highly visible. Mr. Williams states the issue is that we have a person who has owned this property for 50 odd years who just wants to build a home on another portion of the property. Mr. Williams wants to see if this can be made to work and still conform to the law.

Mr. Pfeffer stated that based upon the information in front of him tonight there is nothing present that would allow him to vote in approval of the plat. Mr. Williams asked if Mr. Pfeffer would be in support of a waiver and Mr. Pfeffer replied definitively that he would not. Mr. Pfeffer stated he did not have the information in front of him to allow him to confidently vote in approval of a waiver. Mr. Verst stated the flag lot they want to create will meet the regulations, but the reasons for the creation of a flag lot need to be justified. Mr. Pfeffer commented that he misunderstood the request before the Commission and took Mr. Verst's comment under consideration.

Mr. Klear stated land decisions are not based upon the physical needs of the owner, but on the physical basis of the land itself. The applicant was able to obtain 25 feet why can't he obtain 100 feet of road frontage needed so that this parcel is not considered a flag lot. There may be additional cost incurred, but that is not reason in itself to approve a flag lot. Mr. Klear also advised the Commission that they physical hardship of the applicant is not basis for hardship for the purposes of a waiver per the regulations. Mr. Verst stated he sympathizes with the applicant, but it does not sway his opinion. The thing Mr. Verst is having difficulty with is the actual justification for the flag lot. The house is at the top of the hill either way you look at it. It exists already. Mr. Verst stated his experience tells him by looking at the site plan that you could conceivable take 100 feet from the neighbor's site without interfering with the neighbor's home. With the possibility of creating a real lot that is not a flag lot, Mr. Verst is looking for a condition that exists that justifies the approval of a flag lot in the situation before the Commission tonight. It isn't going to change where the house sits and isn't really going to change the driveway location being used. Mr. Verst understands there is a flat portion to the front of the lot that the applicant wishes to build on, but nothing has changed to warrant a flag lot of 25 feet when he can potentially get 100 feet.

Mr. Smith states that the Regulations state that flag lots shall only be used in those locations when due to geometric, topographic and other physical features it will be impractical to extend a publicly dedicated street to serve lots in said areas. Mr. Smith continued that he believes staff is stating that the proposed division will create the grounds where a flag lot would be a necessity. It is a chicken or the egg situation of which actually came first. Mr. Klear clarified that was not correct as stated. There is not a geometric issue already in existence on this site. The land division would create the grounds where the flag lot would be necessary to prevent the remainder from being land locked; therefore, the applicant would in fact be creating a geometric issue upon the site himself.

Mr. Barrow asked if the applicant puts 100 feet of road frontage on the remainder portion and leaves the land division as either the 2.27 acre and reconfigures the lot with ratio or leaves it as the five acre tract if the issue would have come before the Commission. Mr. Klear stated that situation would never have

come before the Commission. Ms. Harding commented that maybe the applicant should make the neighbor an offer she couldn't refuse and buy out the 100 feet of road frontage he needs. Mr. Verst stated he just doesn't see the justification why the applicant cannot obtain the necessary 100 feet of road frontage from his neighbor. Ms. Harding stated Mr. Klear's comments are well taken as to the applicant would be creating the conditions requiring the flag lot approval as they are currently not in existence.

Ms. Minter asked if the Commission were at a point that they wanted to make a point. Mr. Verst asked if the Commission should be addressing the first part of the request first and the second part of the request separately or do they want to address them jointly. Mr. Williams wanted to revisit the discussion regarding the waiver. Mr. Williams stated he respectfully disagrees with Mr. Klear's position. Mr. Williams stated he believes the Commissions' position is not to serve what is on the printed page but to assist the people before the Commission. Mr. Williams continued that the printed words are there to guide the Commission and to meet our needs if possible. Mr. Williams stated he recognized we are a government of laws and not of men and called the Commissioners to review the waiver provisions again. Mr. Williams does not feel this request is a detriment to public welfare or interest even if he is in the minority. Mr. Williams stated he also does not find the modification in conflict with the "intent and purposes" of the Regulations. It might be in technically in conflict with the Regulation, but not with the intent of it. Mr. Williams stated we are not here to defend the Regulations; we are here to help the people before us.

Mr. Reis asked to be recognized and the Commission did not object. Ms. Minter recognized Mr. Reis. Mr. Reis stated first, he agreed with Mr. Verst that the request needed to be evaluated separately. If the flag lot is not approved, then the lot division will likely not occur. Second, Mr. Reis stated he did not know how to make it any clearer, but if the applicant changed his mind and wanted to put the home at the top of the lot where the flag stem is currently proposed, the Commission would likely be in support of the project. If this makes it easier for the Commission to reach a decision, Mr. Reis hopes they will approve the request before them tonight. Ms. Minter thanked him for his comments.

Ms. Minter stated Mr. Reis's example was not the case brought before them tonight and should not have an impact on the determination of the Commission. Ms. Harding agreed and stated that was just speculative. Ms. Harding stated that staff has mentioned topography conditions of the property and asked if that would be a viable alternative to this plan. Ms. Harding continued to ask about the amount of dirt movement that would require. Ms. Minter reminded everyone that the Commission needed to stay focused on the plan before the Commission. Ms. Harding agreed and apologized for thinking out loud. Mr. Williams stated he wanted to hear the answer to her question and we are not in a court of law so it can be heard. Ms. Harding stated she was addressing Mr. Reis who was sitting behind Mr. Williams and shooked his head "no" that it was not an alternative. Mr. Williams stated he had not seen him shake his head. Mr. Klear stated if the Commission was going to pursue alternatives then consider building a road to allow road frontage to provide the necessary frontage. They wouldn't need a road all the way to their house, just enough to provide 100 feet of road frontage. Mr. Verst stated he does not think building a road in a flood plain is a viable alternative.

Mr. Williams stated he read somewhere that you should not assert or interpret any law to the point of absurdness or impracticality. If this lot were in the middle of a city, this situation would be different, but this lot is not surrounded by heavy population or much of anything else. Mr. Verst stated he doesn't like having the flag stem somewhere other than where the driveway is located. If they had a dispute with their neighbor, it could create access issues even though they do have the flag access on the north end. Mr. Williams understood Mr. Verst statement.

Mr. Barrows asked again if the 2.27 acres became five plus acres then what happens to the flag stem on the north end. Mr. Klear replied that the timing of the sequence of events gets to be complicated. If you ignore the creation of the new parcel and you are just considering the addition of the 25 feet flag stem, it would be a flat out denial because they already have access to the lot. The land division is what drives the applicant to obtain the additional access for the remainder parcel to keep it from being land locked. The

land division has an issue of width to depth ratio that can be fixed by either reducing or increasing the size of the lot. The items have to be considered hand in hand and not individual as they are dependent upon the approval of one another.

Mr. Verst wanted to have a conversation on what a motion would sound like if the Commission were so inclined to approve the request. After some discussion among the Commission, Mr. Klear offered a hypothetical motion and requested they include a condition that the flag lot would have to meet all flag lot conditions listed in the subdivision regulations, specifically which at no more than 250 feet back the lot widens to 100 feet. Mr. Verst asked Mr. Smith to review a final time the reasons for a waiver which Mr. Smith did. Ms. Minter asked if there was any other discussion. There being none, Ms. Minter called for a motion. Mr. Verst made a motion to approve the 0.12 acre land addition to the existing tract and to approve the 2.27 acre land division from the existing tract with the following conditions 1) that the flag lot meet all subdivision requirements for a flag lot including a 100 feet width at a maximum 250 feet depth from the right of way and 2) that the lot division also meet the subdivision requirements for lot width to depth ratio. Mr. Verst cited that it was not practical to build a public street to that lot due to topographical conditions and that the flag lot would not be a detriment to public welfare and that the flag lot is consistent with the intent of the Campbell County Subdivision Regulations and Zoning Ordinance. Ms. Minter recognized Mr. Klear. Mr. Klear asked Mr. Verst to make changes to this motion to remove the specific acre references because those amounts might change when Mr. Reis submits his revised plan. Mr. Verst agreed and submitted his revised motion minus the acreage amounts. Ms. Minter asked Mr. Verst if he had intended to reference an easement. Mr. Verst agreed and amended his motion to add condition 3) that access and utility easements be provided to all properties sharing access and be recorded on the plats. Mr. Williams seconded the motion. A roll call vote found Mr. Barrow, Mr. Williams and Mr. Verst in favor of the motion. Mr. Pfeffer voted against the motion. Ms. Harding abstained but wanted it to go on the record in support of staffs comments. Ms. Minter abstained. Motion passed. Mr. Boden thanked the Commission for their approval.

There being no other cases to come before the Planning Commission, Ms. Minter requested that Mr. Klear present his Director's Report.

DIRECTOR'S REPORT

Mr. Klear requested the Commission to approve the training issued by the Kentucky Chapter of the American Planning Association on September 14th. Mr. Barrow gave a brief summary of his discussion groups' activities. Mr. Verst made a motion to approve the training attended by the Commissioners to satisfy a portion of the training requirements for Planning Commission as specified under House Bill 55. Mr. Barrow seconded the motion. A roll call vote found Mr. Barrow, Ms. Harding, Mr. Pfeffer, Mr. Williams and Mr. Verst in favor of the motion. Ms. Minter abstained. Motion passed. Mr. Verst and Mr. Klear gave presentations at that same conference. Mr. Verst spoke briefly about his experience as did Mr. Klear.

Mr. Klear reminded the Commissioners that the following two dates were reserved at our last meeting as Subdivision Regulations Work Sessions: October 27th and November 17th. The meetings will start at 5 PM both evenings at staff's office in Newport. This will have to be considered a special meeting and a notice will have to be issued. The Commission will reserve both dates with the understanding that if all business is resolved at the October session the November session will be cancelled.

Mr. Klear advised the Commission that Ms. Wright has retired from the Commission after 13½ years of service effective September 28th. We will be asking the Fiscal Court to have November 8th 2011 declared Kay Wright Community and Regional Planning Day in Campbell County. Mr. Klear continued that Mr. Huck will be retiring shortly due to health issues. The City of Silver Grove will be replacing Ms. Wright and we will begin looking for a replacement for Mr. Huck shortly after his retirement. Mr. Klear concluded his report.

Ms. Minter asked if there was any other business to discuss. There being none, Ms. Minter asked for a motion to adjourn. Mr. Verst made a motion to adjourn. Mr. Barrow seconded the motion. An oral vote found everyone in favor. None opposed. Motion passed. Meeting adjourned at 8:55 PM.

Respectfully Submitted,

Peter J. Klear, AICP
Director of P&Z

Approved:

-Justin Verst for:
Cynthia Minter
Chair