

**CAMPBELL COUNTY & MUNICIPAL PLANNING & ZONING COMMISSION
MINUTES OF THE SEPTEMBER 22, 2014 SPECIAL MEETING**

MEMBERS PRESENT:

Mr. Larry Barrow
Mr. Dennis Bass
Ms. Deborah Blake
Ms. Lauri Harding
Mr. Steve Stapleton
Mr. Edward Stubbs
Mr. Michael Williams, TPO
Mr. Tony Pfeffer, Vice Chair
Mr. Justin Verst, Chair

STAFF PRESENT:

Ms. Cynthia Minter, Director
Mr. Matt Smith, Legal Counsel
Ms. Stephanie Turner, Secretary

STAFF ABSENT:

Mr. Ryan Hutchinson, Planner

Mr. Verst called the special meeting to order at 7:01 PM. Following roll call, a quorum was found to be present. Mr. Verst asked if everyone had reviewed the July 15, 2014 meeting minutes and asked if there were any additions or corrections. There being none, Mr. Verst called for a motion. Mr. Williams made a motion to approve the July 15th meeting minutes. Mr. Stapleton seconded the motion. A roll call vote found Mr. Barrow, Ms. Blake, Mr. Stapleton, Mr. Williams and Mr. Pfeffer in favor of the motion. Mr. Bass, Ms. Harding, Mr. Stubbs and Mr. Verst abstained. Motion passed.

Mr. Verst reminded the Commission that this was a public hearing tonight as he introduced case #135-14-TXA-01, Campbell County Planning & Zoning Department on behalf of the Campbell County Fiscal Court, with a request for approval to modify Article X, Section 10.1 Agriculture Zone and Article VII Definitions of the Campbell County Zoning Ordinance. Mr. Verst called for Ms. Minter to present the staff report and recommendations. Ms. Minter presented the staff report and recommendation as follows:

FILE NUMBER: 135-14-TXA-01

APPLICANT: Campbell County Planning & Zoning Department on behalf of the Campbell County Fiscal Court

REQUEST: Proposed update to Section 10.1 Agricultural Zone, of the Zoning Ordinance and Article VII Definitions. Modifying text reflecting permitted uses, conditional uses, and development controls.

PROPOSED TEXT AMENDMENTS:

Addition and deletions of text as underlined and struck below including the renumbering of items within this section (See attachment)

ARTICLE X SECTION 10.1 A-1 AGRICULTURAL ZONE

USES PERMITTED –

Agricultural uses

Stands for the sale of products that are raised, produced, and processed on the premises, provided that no roadside stands of any type for the sale or display of agricultural products shall be permitted within fifty feet from any street.

Greenhouses and nurseries, including both wholesale and retail sales of products grown on the premises, ~~provided that the storage of manure shall not be permitted nearer the front of a street than one hundred feet, or not nearer a side lot line than fifty (50) feet.~~

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Bed and breakfast establishments.

Sanitary landfills as regulated by Section 9.25 of this ordinance

CONDITIONAL USES –

Sanitary landfills as regulated by Section 9.25 of this ordinance

Timber Cutting and Sawmills;

Plants for the processing and storage of agricultural products;

Boat harbors, and marinas, and the like as outlined in RES. 15-87 as a conditionally permitted use for the use and transport of products that are raised, produced, and processed on the premises;

LIMITATIONS ON SIGNS: No signs intended to be read from off the premises except the following On-site Signs:

~~Non-illuminated real estate signs, advertising the sale, rental or lease of only the premises on which they are maintained, such signs shall not be over twelve (12) square feet in area, and not more than one (1) sign shall be permitted on any one lot frontage;~~

~~Non-illuminated subdivision signs advertising the sale, rental or lease of premises within new subdivision on which they are maintained, such signs shall not exceed two hundred and fifty (250) square feet in area~~

~~Non-illuminated signs advertising products for sale at roadside stands, not over six (6) square feet in area;~~

~~An announcement sign or a bulletin board in connection with a church, school, community center or other public or institutional building, not over twelve (12) square feet in area.~~

OTHER DEVELOPMENT CONTROLS –

Storage of manure shall not be permitted within one hundred (100) feet of a public or private street, or within fifty (50) feet of a side or rear lot line.

ARTICLE VII DEFINITIONS

Bed and Breakfast Establishment - An owner occupied dwelling unit where short term lodging rooms and meals are provided for compensation on a small scale, typically in an agricultural or small community setting. A bed and breakfast inn shall be limited to a maximum of eight guest rooms or suites on the premises.

Marina - A facility designed and used for storing, fueling, berthing, and launching of watercraft.

STAFF RECOMMENDATION:

To adopt the proposed text amendments to the Campbell County Official Zoning Ordinance.

SUPPORTING INFORMATION/BASES FOR STAFF RECOMMENDATION:

1. Per Kentucky Revised Statutes (KRS) 100.203, the Campbell County Fiscal Court has the authority to enact zoning regulations within its jurisdiction. This authority includes the provision to amend its zoning classifications, uses, etc.
2. Pursuant to the Campbell County Zoning Ordinance Article XVII AMENDMENT PROCEDURE, the Planning and Zoning Commission has the authority to amend the zoning ordinance.

3. Proper notice has been given in accordance with Article XVII Amendment Procedure of the Campbell County Zoning Ordinance.
4. The proposed changes are consistent with the 2008 Campbell County Comprehensive Plan Update and the Campbell County Subdivision Regulations.

[A copy of the proposed text is attached to these minutes.] Ms. Minter began her reporting by showing the Commission a presentation board showing 2 maps that had been supplied to her by a member of the public prior to the meeting. The first map is a representation of active farms in Campbell County. The farms are registered and active and the Conservation District is aware of the product they are producing. The second map illustrates property in the A-1 Zone, but which have either no truly agricultural activity occurring on site or they are unaware of what farming activity/product is produced on site. Ms. Minter also stated for the record that the intent of this proposed text change would not interfere in any way with the Right to Farm provisions of KRS.

Ms. Minter presented her staff report. In her presentation, Ms. Minter identified the changes being proposed. Staff proposed to add "agriculture uses", "stands for the sale of those products raised, produced or processed on site", "greenhouses and nurseries", and "bed and breakfast establishments". Staff would propose that sanitary landfills should actually be considered a conditional use of the property. This is an item that we would want the Commission to review and provide recommendations on site plans submitted to staff for approval. There were also some clerical corrections and updates that are proposed. For starters, the limitations on signs were removed because it was redundant. There is a whole article in the Zoning Ordinance dedicated to the type, size and location of signs on property in Campbell County. Also, under conditional uses, "timber cutting and sawmills" was intended to be one line item and "plants for the processing and storage of agricultural products" was intended to be another. Staff would like to correct this typing and formatting error as well. Under Other Development Controls, Ms. Minter added the condition pertaining to the location of the storage of manure.

Ms. Minter stated that the changes to Article VII would be to include the definitions of the terms "bed and breakfast establishment" and "marina" since these are the first time we are bringing these items up for discussion. Ms. Minter provided historical data as to the nature of the changes to the conditional use of "boat harbors". It was originally adopted in 1987. There was a motion to add boat harbors and marinas and the definitions were taken straight from the river conservation zone. When it came time for the resolution by the Planning Commission, not the Fiscal Court, there was a more in-depth discussion on the boat harbors and marinas when they approved their resolutions 15-87. Ms. Minter reviewed the minutes in detail and proposes that their intention was not to be opening the area for recreational boat harbors and marinas, but rather for how they would relate to the agriculture uses in the A-1 Zone. Recreational uses were already included in item Article X, Section 10.1, C. 7. g. This separate line item of boat harbors and marinas were specifically for how boat harbors and marinas would assist with the agricultural uses of the land.

At the conclusion of her report, Ms. Minter added that there were some items that have been submitted to her from the public for consideration by the Commission to consider adding to the text changes and which may be brought up by the public tonight. The first one she wished to bring up concerns the change to the addition of "Agricultural uses" to include the phrasing "for parcels with minimum lot acreage of 5 acres". Their intent is to zero in on those properties being used for farming as opposed to just global agricultural uses within the A-1 Zone. Ms. Minter asked the Commission to keep in mind that the minimum lot acreage in the A-1 Zone is 1 acre. The second change that was requested to be made concerned regarding the conditional use of "timber cutting and sawmills". The conversation she had was if there needed to be some distinguishing between the 2 items. Is the conditional use for the timber cutting? For sawmills? Or do we need both? These may be additional discussion items to have tonight.

Ms. Minter concluded her report asking if there were any questions she could answer for the Commission. Mr. Verst thanked Ms. Minter for the report and asked if there were any questions for staff at this time. Mr. Stapleton stated that by definition the Campbell County Zoning Ordinance states agriculture is 5 acres, even though the zoning side permits lots as small as 1 acre. Isn't that correct? Ms. Minter replied that he was correct and this would clarify that issue.

Mr. Verst asked if there were any other questions of staff at the moment. There being none, Mr. Verst asked if anyone in the audience would like to speak. Mr. Verst asked that the audience member come to the podium and state his name and address for the record.

Mr. Don Girtan, Upper Tug Fork Road, stepped forward. Mr. Girtan stated that he has been managing a Christmas tree farm for the past 50 years in the R-RE Zone. The A-1 and R-RE Zones are the largest zones in the county. Mr. Girtan wanted to give a little background information before getting specifically to his requests. Mr. Girtan passed out a copy of his presentation to the Commissioners. [A copy of the information supplied by Mr. Girtan is attached to these minutes.] Mr. Girtan continued that he did not want to overwhelm the Commission with his numbers, but he feels they are important to at least review a few of them. Mr. Girtan stated that he was not only speaking as a landowner in Campbell County, but also on behalf of the Campbell County Conservation District.

Mr. Girtan reviewed his outline and stated he was going to provide an overview of the agricultural lands in Campbell County; then he wanted to spend some time reviewing the statutes in KRS in relation to agricultural operations; and finally address his specific requests for text changes to the A-1 zone. Mr. Girtan thanked Ms. Minter for bringing copies of the maps he supplied to her to the meeting for the Commission to see. Mr. Girtan looked at the map and identified that there has been several endeavors over the years to try to quantify the agriculture operations in the county. The agriculture parcels as identified by the PVA. In 2010, there were 1,600 parcels and it grew in 2014 to 1,823 parcels. What they have been doing is consolidating some smaller parcels that are adjacent to the folks that had existing farming parcels. So there has been a slight increase in agriculture acres. With 95,360 acres in the whole county, you can see that 57,608 acres have been classified as agriculture. That doesn't mean that farming is taking place on all of them, but potentially, it could be.

The second set of figures Mr. Girtan presented is from the USDA Farm Census and the most recent census from 2012 has just been released over the past couple of months. You can see that the number from 2002 we had 581 farms; in 2007, it decreased to 535 farms and in 2012 it was down to 504 farms. That means we have lost approximately 80 farms over that 10 year period. Acreage-wise, we have lost about 8,000 acres of farmland.

The third project was the Green Infrastructure Task Force Farm Identification Project undertaken by the Campbell County Conservation District in 2009. What we tried to do was to identify where, with all these agricultural parcels, was farming taking place and what type of agriculture product were they involved in. This was a challenging project. Mr. Girtan had a larger copy of a map he supplied to Ms. Minter. He stated that you could see the green parcels indicating active farm enterprises and then you could see the gray color which represents the properties that have agriculture evaluations from the PVA, but to the best of their knowledge you could not identify any agriculture activity taking place. Their work group categorized those as woods and wildlife, but they were not engaged in agriculture. They had 4 meetings where they pulled together farms from all areas of the county and broke them down into groups. They showed these participants the maps and basically you picked out your house and then worked your way out to identify who was doing what. Mr. Girtan acknowledged this was not very scientific way of doing it, but with the census information you can determine who is doing what, but that information was considered confidential and was not able to be shared with us. This was an effort to determine where was farming taking place. The reason for doing this is that 7-8 years ago a 5 year 5 point plan was devised to identify and protect farmland in Kentucky. In order to protect farmland, you need to know where it is going on at. An additional item to keep in mind is that the US Census had an additional qualifier to determine who is farming and that was that they must have at least \$1,000 gross income. Many of the farms fell through the cracks because they don't have any income.

Mr. Girtan continued that this text change is important to the Farmland Work Group because they are trying to proposed, identify and maintain agricultural and economically valuable agriculture activity. Guidelines and restrictions need to be carefully thought out. If you look at the census data, most farms are operating at a loss. Many farmers have a day job to keep their farms going. Mr. Girtan stated that they looked at programs instituted in Lexington in Fayette County, but there is not enough money in the world for us to make this work in every county in Kentucky. Mr. Girtan believes that the future of agriculture and maintaining agriculture, in Campbell County, is to have an economically viable edge in common with the County and then the private landowners and citizenry will maintain the farm environment that so many people say we like about Campbell County.

Mr. Girton moved on to his second point regarding statutory authority. There are many things that KRS gives the Commission to regulate and there are many authorities KRS takes away. KRS 100 has a couple of sections that deal with agriculture. One involves definitions (KRS100.111) which defines agriculture and is used in many points of KRS that basically states that it must occur on a tract of 5 acres and includes many items including timber.

[The actual definition per KRS 100.111 is below.]

(2) "Agriculture use" means the use of:

- (a) A tract of at least five (5) contiguous acres for the production of agricultural or horticultural crops, including but not limited to livestock, livestock products, poultry, poultry products, grain, hay, pastures, soybeans, tobacco, timber, orchard fruits, vegetables, flowers, or ornamental plants, including provision for dwellings for persons and their families who are engaged in the agricultural use on the tract, but not including residential building development for sale or lease to the public;
- (b) Regardless of the size of the tract of land used, small farm wineries licensed under KRS 243.155;
- (c) A tract of at least five (5) contiguous acres used for the following activities involving horses:
 - (1) Riding lessons;
 - (2) Rides;
 - (3) Training;
 - (4) Projects for educational purposes;
 - (5) Boarding and related care; or
 - (6) Shows, competitions, sporting events, and similar activities that are associated with youth and amateur programs, none of which are regulated by KRS Chapter 230, involving seventy (70) or less participants. Shows, competitions, sporting events, and similar activities that are associated with youth and amateur programs, none of which are regulated by KRS Chapter 230, involving more than seventy (70) participants shall be subject to local applicable zoning regulations; or
- (d) A tract of land used for the following activities involving horses:
 - (1) Riding lessons;
 - (2) Rides;
 - (3) Training;
 - (4) Projects for educational purposes;
 - (5) Boarding and related care; or
 - (6) Shows, competitions, sporting events, and similar activities that are associated with youth and amateur programs, none of which are regulated by KRS Chapter 230, involving seventy (70) or less participants. Shows, competitions, sporting events, and similar activities that are associated with youth and amateur programs, none of which are regulated by KRS Chapter 230, involving more than seventy (70) participants shall be subject to local applicable zoning regulations.

This paragraph shall only apply to acreage that was being used for these activities before July 13, 2004.

Mr. Girton continued that there are a few deviations from the 5 acres rule for any size tract of land for small farm wineries licensed under KRS 243.155 and there is a deviation to 10 acres before you can get an agriculture evaluation. So that means all those parcels that receive an agriculture evaluation from the PVA must be at least 10 acres. There are certain limitations in KRS that pertain to agriculture. Mr. Girton identified that it is very specific language that has a direct bearing as to what we are discussing this evening. Mr. Girton read KRS 100.203: Text provisions to the effect of land on which is used for agriculture purposes shall have no regulations except: a) setback lines may be required for the protection of existing and proposed streets and highways; b) all buildings or structures in a designed floodway or

flood plain which tend to increase flood heights and obstruct the flow; c) mobile homes and other dwellings may be permitted but shall have regulations proposed which are applicable such as building, zoning and certificates of occupancy; and d) tracts of 5 acres used for horse activities.

Those are the 4 exceptions. Mr. Girton stated he still has the certificate of occupancy that was issued to him over 25 years ago when he built his home. He believes that changes have occurred as urban legislators have had more influence over the rural legislators. Over time, things have just changed.

As he reads KRS, text changes for land that is used for agriculture shall have no regulations. That is pretty clear in his mind. Different people have different perspectives, but those who deal with the law, one part of KRS give authority and another part takes that authority away.

Mr. Girton stated he also wants to address KRS 413.072: Relationship of agriculture and silvicultural operations to law of nuisance and trespass – Preemption of local ordinances – Sustainable agriculture and best management practices. Mr. Girton stated he did not want to get into any specifics of this act. However, when you get into it, it states there shouldn't be any regulations or ordinances that will impede agriculture that is carried out in a prudent manner. As you probably know, there is the agriculture quality of water act and forest conservation acts that put specific requirements on agriculture activities. That's probably more background than you need, but he feels very strongly that the Commission needs to understand how big this A-1 Zone is in our county.

Mr. Girton stated he was just going to go down the text and point out items that he is concerned about. In regards to the "USES PERMITTED", Mr. Girton stated he was happy to see "Agricultural uses" added. This has been a long time in coming. To his knowledge, it has never been specifically listed in the A-1 Zone. For that matter, until about 20 years ago, the Comprehensive Plan did not include any information regarding agriculture use of property. He assisted in writing up something to put into the Comprehensive Plan and then they only inserted 2 paragraphs. Mr. Girton was ok with the addition of the stands for the sale of products; greenhouses and nurseries; and bed and breakfast establishments. Mr. Girton was ok with the move of the sanitary landfills to the "CONDITIONAL USES", but had a question regarding the terminology of taxidermy and "other related wildlife resources". What does that mean exactly? Mr. Girton wanted to ask the Commission to consider adding another permitted use of agritourism. Agritourism is defined in KRS 247.801 as:

- (1) "Agritourism" means the act of visiting:
 - (a) A farm or ranch; or
 - (b) Any agricultural, horticultural, or agribusiness operation;
for the purpose of enjoyment, education, or active involvement in the activities of the farm, ranch, or operation;

Mr. Girton proposed that, under "ACCESSORY USES", fences and walls should be agriculturally exempt and should not be regulated. Mr. Girton returned to reviewing "CONDITIONAL USES". Specifically, proposed item #11 of "Commercial animal farms" could be a conflict. He would argue that this does not purport with permitted uses of agriculture uses and then turn around and stated under conditional uses that animal farming is a conditional use. Mr. Girton stated that this would be an agriculturally exempt. Looking at proposed item #12, timber cutting is a long time agriculture use and Mr. Girton suggests that this item is agriculturally exempt and controlled by the forest conservation act. People manage timber cutting and have land management plans. Sawmills on the other had is a different thing altogether. Mr. Girton thinks that should be a permitted use not as a conditional use. It would be limited to processing logs on their own property. Mr. Girton wanted to clarify on proposed item #13 that we are talking about processing plants and not agricultural/horticultural plants. People that raise corn have storage facilities and grain drying facilities. These are all associated with an agricultural use and are thereby agriculturally exempt. Mr. Girton stated that he does not know of a single enterprise that uses boat harbors or marina other than the grain storage facility in Silver Grove. Mr. Girton stated he has to question if that is even necessary.

Mr. Girton commented that, in regards to the storage of manure restrictions added under "OTHER DEVELOPMENT CONTROLS", this is actually something the Commission does have the authority to do. The authority given to the Commission by KRS states you can regulate setback lines for the protection of existing and proposed streets and highways. He would argue that you could have a front setback, but not

a side or rear setback. Mr. Girtton concluded his presentation by offering to answer any questions the Commission may have for him.

Mr. Verst stated that, before the Commission presented any questions they may have for Mr. Girtton, he would like legal counsel if he had any follow up comments concerning all the references to KRS. Mr. Smith thanked Mr. Girtton for his presentation. The agriculture definitions throughout KRS 100 were correctly identified as well as the 3 statutes that land use planners struggle with. Mr. Smith has a different interpretation for agriculture use. The only place where the term "agriculture use" appears with KRS 100 is with respect to the subdivision of land. That was intended to permit the legitimate farmer from having to go through subdivision approval if they were subdividing more than 5 acres of land and that is where the term "agriculture use" comes from.

In the second statute cited [KRS100.203 (4)], it says land to be used for agricultural purposes (not "use") shall have no regulations except for the 4 items Mr. Girtton outlined as: 1) setback lines; 2) floodway or flood plain; 3) mobile homes; and 4) the ability to regulate something of a racetrack. Mr. Smith is of the same opinion in that if you designate land as a permitted use for agriculture purposes that the land for agriculture purposes cannot be regulated beyond the 4 items he previously mentioned.

Now the third statute Mr. Girtton quoted [KRS 413.072], actually falls outside of planning and zoning and outside of KRS Chapter 100. Mr. Smith refers to that statute as the "coming to the nuisance" doctrine. The purpose of that statute was to protect legitimate farmer's operations from being impeded by urban sprawl or subdivision growth and then when they bump up against a farm the subdivision complains that the farmer who has been engaging in that activity for the past however many years now constitutes a nuisance onto their property. This was a problem throughout the state. As long as the farmer is engaging in normal customary accepted practices, a homeowner cannot claim it is a nuisance and neither can a local city cannot declare them a nuisance and they are protected to do what they have been doing all along. Just because people have now moved into the area, they cannot be denied the right to conduct a prudent operation.

As we look at our zoning ordinance, Mr. Smith thinks there was merit [just on his belief on what KRS 100.203 (4) means], in the sense that for B. Accessory Uses, Item 2, "Fences and wall as regulated by Article XIII of this ordinance." We are allowed to regulate the setback of fences and walls within this ordinance, but as to its uses for agricultural purposes then it would be protected as agriculturally exempt. Again, because the statutes state we can only regulate those 4 specific items. Mr. Smith does agree that with respect to conditional uses it would seem that if we are allowing "agricultural uses" as a permitted use, then items 11, 12 and 13 appear to him to be an agricultural purpose. It would seem that the Commission may want to give consideration to rolling these items into the permitted uses, but Mr. Smith would be interested in seeing what staff has to say about these topics.

Mr. Stapleton commented it is his opinion that under "CONDITIONAL USES" item 11 when they refer to "Commercial animal farms" that they are actually talking about "commercial feed lots" where they commercially place 400 cows in the same pen and fatten them up for slaughter. Tripp County recently had a lawsuit against one of these feed lots and that was one of the few lawsuits that the State determined they were not covered by the Right to Farm or the Agriculture Supremacy Act. In KRS 100.111 (2), which he referred to, is where it talks about specifically about agriculture and the rights to not regulate it. Then under (2) (c), planning and zoning only has the right to regulate horse farms when it involves more than seventy (70) participants. Mr. Smith restated that, for agricultural purposes, it is his opinion you can only regulated the setback lines, floodway or flood plain, mobile homes and horse farms or tracks like Mr. Stapleton just described.

Ms. Blake and Ms. Harding could not hear any of the discussion from Mr. Smith. Mr. Stapleton and Mr. Smith switched seats so that a microphone could be made available for Mr. Smith. Mr. Smith proceeded to repeat his opinion. He added that if you are in the A-1 Zone and have a bed and breakfast that you can claim agriculture exemption from any regulations pertaining to that use because a bed and breakfast is not an agriculture purpose. There are uses in an agriculture zone that have nothing to do with agriculture so there are regulations that can be stated for those particular activities.

Ms. Minter asked Mr. Smith to address agriculture items that are occurring when you have less than 5 acres. Mr. Smith stated he wasn't certain what staff's question is, but if you have less than 5 acres and

you have someone engaged in agriculture purpose like growing hay then that is a protected activity. You don't need 5 acres to do that. You don't get to regulate that agriculture purpose. The only way the 5 acres comes in is if you subdivide your property, you must divide off a minimum of 5 acres. They wanted to make sure that if it was the family farm, you would not have to go through the full blown subdivision process to subdivide. They wanted to make sure that a legitimate farmer who wanted to subdivide his property would have to have at least 5 acres. Mr. Smith stated he did not want the Commission to become confused and drawn into issues pertaining to if they had 5 acres or more because it plays no bearing except in a subdivision and this is a text amendment. The only guidance we have is those 4 items mentioned previously regarding the setback lines, floodway or flood plain, mobile homes and horse farm activities that involve 70 participants.

Mr. Williams asked for a clarification. This request for a text amendment was sent to us by the Fiscal Court and they only mention specific items. Can we address other issues at the same time or are we restricted to just for those provisions for which they sought amendments? Mr. Verst stated that the Commission is welcome to review and make any recommendations they see fit. It would still have to go before the Fiscal Court for review, approval and adoption. Mr. Smith agreed with Mr. Verst stance. Ms. Minter added that the resolution passed by Fiscal Court gave us authority to take up the language to address permitted uses, conditional uses, accessory uses and other development controls which is basically the entire text of this zone.

Mr. Williams asked Mr. Girton if he was in favor of the changes proposed or does he completely disagree. Mr. Girton stated that his approval is mixed. As he stated previously when he went through the proposed changes, he agrees with some of the changes and disagrees with others. Mr. Williams stated he wasn't certain if the Commission could entertain suggestions made by Mr. Girton. We're not here to approve changes to parts A, B, C and D of the A-1 Zone. Correct? Mr. Verst stated that certain changes were requested to be approved, but the Commission can address any issue in any of those parts of the zone. Mr. Girton stated that he was just here to present his opinion. Mr. Verst stated the Commission could review all items presented by staff, requests from the audience, and any items we choose to add. We only make recommendations to the Fiscal Court. They are the final authority to take action on our recommendations. Mr. Verst added that he felt it was our responsibility to address any issues we feel are pertinent and necessary.

Ms. Blake asked staff if they had any issues with the curious wording that accompanied the permitted use of taxidermy. Those words were "other related wildlife resources". Ms. Blake stated she was not familiar with taxidermy or what this entails. Ms. Minter stated that she had no concerns.

Mr. Verst advised the Commission that if there were no additional questions for Mr. Girton he would like to move forward and allow the other members of the audience to speak. There being no further questions, Mr. Verst recognized Mr. Dennis Walter and Mr. Tom Greiser who both stated Mr. Girton had covered their concerns. Mr. Verst stated he was going to leave the public hearing open for the time being in case there were any additional questions for the audience members. Mr. Verst asked staff if they had any additional comments to add. Ms. Minter stated that she did not have anything to add at this point.

At this point, Mr. Verst opened the floor for discussion among the Commission by stating that he wanted to have the definition of "agricultural use" as adopted into the Campbell County Zoning Ordinance. While Mr. Stapleton looked for the definition, Mr. Verst stated he also had a question for legal counsel. Mr. Verst asked about an agriculture classification for property taxing purposes as determined by the Property Valuation Administrator (PVA). Mr. Smith answered that the criteria used by the PVA for determining that property will be taxed as agriculture is completely separate and unrelated to the criteria used in zoning ordinances. There is absolutely no correlation between the two. A person can be in a different zone such as R-RE, R-1, or whatever, but be taxed by the PVA under the agriculture rate.

Mr. Stapleton located the definition and Mr. Verst read:

"AGRICULTURAL USE: The use of a tract of land of at least five (5) contiguous acres for the production of agricultural or horticultural crops, including but not limited to livestock, livestock products, poultry, poultry products, grain, hay, pastures, soy beans, tobacco, timber, or orchard fruits, vegetables, flowers or ornamental plants including provision for dwelling for persons and their families who are engaged in the above agricultural use on

the tract, but not including residential building development for sale or leasing to the public."

Mr. Pfeffer commented that we have had ample discussion tonight regarding "purposes" and "uses". Do we as a Commission need to provide a definitive measure for the difference between the two? Mr. Verst and Mr. Smith concurred there was no need. Mr. Smith did ask staff to clarify if by adding "agriculture uses" staff was in fact trying to define a new category of uses for consideration for the public. Ms. Minter replied emphatically that was not staff's intention.

Mr. Verst asked staff if they had an objection to adding "agritourism" as a permitted use. Ms. Minter stated she had no objection. She did have time to look up a definition for agritourism and it is defined in KAR 39:010 as "a seasonal agricultural related tourism activity held on a working farm." There are additional code requirements for agritourism related to parking spaces and restroom facilities available to the public. Mr. Pfeffer asked if we don't already do this in Campbell County. Ms. Minter replied that we do in fact enjoy agritourism in the county. Mr. Stapleton added that agritourism is going on in a big way in Campbell County. Neltner's Farm and Stonybrook Winery have big events coming this fall. Mr. Verst asked if agritourism has requirements for parking and restrooms what about greenhouses or other uses listed with retail sales. Do we need to address these issues in our zoning ordinance? Ms. Minter stated that it was not staff's intention to detail every requirement that would need to be addressed in the zoning ordinance. Those are items that would be addressed at the site plan stage. Mr. Barrow stated he fully supported adding this use to our zoning ordinance. Mr. Verst stated it does fit our purposes. Mr. Williams stated that, if it is already going on in the county without any regulations regarding it, why even address it? Let it go until it becomes an issue in the county. Mr. Verst stated that if it is already happening, something that you think is in conformance with our comprehensive plan and what we expect then it is better to address it than to wait for something to come up. Mr. Williams stated that once you impose a regulation by definition then it becomes a legal issue for the courts. Whereas, right now if it isn't a problem, just let it go. There is no reason to regulate it.

Mr. Verst asked Ms. Minter in a meeting last year about Herbst Tour in Camp Springs if there wasn't some kind of discussion about parking or some other issue. Mr. Smith stated that it could be a gray area because tourism is a separate industry than agriculture. But if you feel they coincide in Campbell County and you want to attract agritourism to properties. If you want to permit that, then you need to add that. Ms. Minter stated that there have been several discussions about agritourism and it is included in several locations in the Comprehensive Plan, but there has never been discussion regarding this topic in the Zoning Ordinance. Mr. Verst stated that if we are going to add "agritourism" as a permitted use then we should probably add a definition for it while we are doing these changes. Mr. Williams asked Ms. Minter to repeat the definition of agritourism which she did. Mr. Williams asked why the word "seasonal" was included. Mr. Stapleton commented that agritourism brings in a lot of money each year. Ms. Minter stated that the definition she read came from KAR, but if we wanted to modify the definition for our purposes in our zoning ordinance then we could do so and this would be the time to do it. Mr. Williams that he knows there are farms in this region they have continuous tours that occur in the winter as well as the summer and he just wanted to find out if there was a reason they included "seasonal".

Mr. Stapleton stated that he would like to see us add agritourism as the 10th permitted use for Campbell County agriculture. Ms. Minter stated there was no issue with staff for adding it as a permitted use, but staff strongly encourages the Commission to develop a definition for what they would consider acceptable. Ms. Harding thanked Mr. Girton for bringing up the addition of agritourism to this zone and, while she would very much like to comply, she is not comfortable with making a decision like this tonight. What concerns her is determining a definition of what agritourism would be in Campbell County. What happens to those people who are not on a working farm, but contribute and participate in the agritourism industry in this county? Ms. Harding would like to have additional time to think about this topic and research additional definitions of agritourism. At the next meeting, we could continue this discussion. Ms. Harding restated that she really doesn't think she could make a decision tonight.

Mr. Pfeffer asked Ms. Harding to give a specific example of her concern. Ms. Harding restated that her concern was the definition states "seasonal" and "working farm". There are many citizens who contribute to the agritourism events in this county. They are not located on working farms. They are residential zone citizens who delight in participating in these events. If you state it must be seasonal and it can only occur on working farms, these citizens are being directly prohibited from participating. Ms. Harding

doesn't feel comfortable presenting language to the Fiscal Court that would do this. Ms. Minter asked if she could interject a comment. She feels that we need to make a distinction between a working farm marketing them and participating as an agritourism business on a day to day basis and a special celebration event that is scheduled to take place in the county. Some of the events that have been discussed tonight would not be considered agritourism in and of itself. These events are special community events that the Fiscal Court passes resolutions regarding the scope of the activities and its participants. These resolutions spell out what type of activities are planned and do not specify strictly one zone or the other. They are community wide events. Having said that, it is not an activity we would want to see citizens in the residential zones pursuing as an every day business.

Mr. Verst proposed that we could add agritourism as a permitted use in this text change and then add the definition for agritourism at a later point. Mr. Stapleton brought up a log cabin down on Four Mile Road where they have the museum, the Grant's Lick Museum. They are on the Backroads Farm Tour every year. They have the antique farming equipment and other items. They are a part of the agritourism, but they are not open every day. Mr. Smith asked if they were a working farm. Mr. Stapleton stated they were not. Ms. Minter stated just because they participate in the tour does not mean they are an agritourism business. She could not recall the zone of the property off the top of her head. This is a museum business not an agritourism business. It is just a complimentary business, but Ms. Minter did not feel this would qualify as agritourism.

Mr. Verst and Mr. Smith discussed potentially having staff pursue definitions of agritourism that would apply to all zones and not just the A-1 Zone. Maybe state the agritourism is a temporary event and not just within the A-1 Zone. Ms. Harding stated that she agreed and felt that any determination should be postponed to our next meeting. Staff would be able to present their findings and it could be discussed at that time. There appears to be a lot of clean up language that needs to be investigated including the "other related wildlife resources" in the taxidermy use. Ms. Harding stated that she would like to have the additional time to investigate an alternative language to determine a more definitive and appropriate description. Ms. Harding reiterated that she is not confident on voting on this topic tonight.

Mr. Verst asked staff for a clarification. This is a special meeting tonight. Is there a time sensitive issue that requires action be taken tonight? Ms. Minter replied there was no time sensitive issue for the A-1 Zone text amendment being heard tonight, but there was for the R-RE Zone text amendment. Mr. Verst proposed we continue discussion regarding other items in the A-1 Zone and then we can address the R-RE Zone. Mr. Verst acknowledged that Ms. Harding did not want to vote on this issue tonight, but the Commission should proceed to see if there were any other items brought up tonight that needed to be discussed. Mr. Verst asked if there were any comments or concerns regarding any other items presented by staff or Mr. Girton.

Ms. Harding asked if currently in Campbell County there existed any slaughtering or rendering of animals as a commercial operation. Ms. Minter asked for a clarification. Ms. Harding stated she was aware the Mr. Walters was the president of some kind of farming group, but does anyone have this information tonight. Mr. Walter started to answer when Mr. Verst asked him to please approach the podium and state his name and his reply. Mr. Dennis Walters approached the podium and identified himself as the vice chair of the Campbell County Conservation District and the owner of Stonybrook Winery. He continued that there is no slaughter facility or rendering facility, but there are meat processors in the county. Ms. Harding asked if they received material from outside the county. Mr. Walters answered that they usually receive material from farmers and they are USDA approved. They do not do the slaughter; the farmer does that on his site. They would bring the material to the facility and it is a USDA approved facility so that then the farmer can then sell that processed meat. But there is no wholesale commercial slaughter facility in Campbell County.

Ms. Harding asked if the taxidermy business addresses waste material within the county. It already exists, but is there more to it than that in regards to the waste. She had a neighbor come up to her when she first moved here complaining that their neighbor was disposing of his waste by just throwing it in a pile on his property. The smell was horrible and they didn't know what to do in that instance. Mr. Verst stated that was something that would probably be addressed under the nuisance ordinance or the Health Department. Mr. Smith stated that in this example it is a perfect reflection of what was discussed earlier tonight. If the manner in which the farmer was discarding the waste material is not ordinary and

customary for that practice, that farmer would not be protected under KRS 403. It does give rise to a nuisance claim.

Ms. Blake asked if the definition Mr. Smith was discussing regarding customary uses could be applied to the use of kennels. With kennels potentially becoming what is referred to as "puppy mills", would that be a customary use. Ms. Minter stated she just wanted to back up for a minute. When we are discussing taxidermy, the zoning ordinance states "other *related* wildlife resources". This implies that the business must be related to taxidermy, but there are taxidermy businesses that also sell supplies related to hunting such as bows and arrows and things of that nature. In respect to kennels, there are several kennels in Campbell County that are approved as conditional uses. Mr. Verst asked if a kennel would be considered an agriculture use. Ms. Minter replied it would not. Ms. Blake replied that a kennel would be any place that boarded dogs, right? Ms. Minter stated that we do actually have a definition for a kennel. Mr. Verst read into the record that a kennel is defined as:

KENNEL: An area specifically used for the raising, boarding, or harboring of small domestic animals.

Mr. Pfeffer stated, just so we can move on, that the way he understand this issue thus far have been the wording "other related wildlife resources" which Ms. Minter has identified could be something such as hunting supplies. Correct? Everyone agreed. Mr. Pfeffer stated the next item is adding "agritourism" as a permitted use which everyone agrees with but we need to further define that perhaps at a later date. Mr. Verst agreed that it is prudent that if we add that use that we go further and define that activity. Ms. Minter stated that she is prepared to define that tonight using the KAR definition. Mr. Verst added that the Commission could accept that definition or pursue alternate definitions. Mr. Williams asked if the definition of agritourism was the issue then he wants to make sure that the definition is broad enough that any activity that is currently going on would suddenly become prohibited. Mr. Williams stated he felt that the definition proposed by Ms. Minter seemed broad enough.

Mr. Stapleton brought up a suggestion. First, staff has recommended certain changes to the agriculture zone in so far as definitions, permitted uses, conditional uses, etc. that we can look at to approve as they have recommended. Other things have been brought up such as this "commercial animal farm". Mr. Stapleton stated that a farm is a commercial business. They have an occupational license and pay taxes based upon that activity. He is uncertain why that would be under a conditional use unless they are specifically trying to address a commercial feed lot which he explained earlier. That would be someone who gets 20 acres of land and then pens up a 1,000 hogs and then throws garbage in their feed. Most counties in Kentucky do not want a commercial feed lot and he is certain that Campbell County doesn't either. To his knowledge, we don't have any. Mr. Smith asked if a commercial feed lot was the same thing as a slaughter house. Mr. Stapleton stated it was not. A commercial feed lot is not really considered agriculture. It is not a processing facility. Someone tried to open one in Tripp County and the state attorney ruled that this operation was not an agricultural use of the land. A commercial feed lot is completely different than an agricultural farm. Penning up 5,000 cows and then fattening them up to sell them for processing is not an agriculture use in Kentucky. Mr. Stapleton stated he does not even think they are considered USDA. Mr. Stapleton stated he has to agree with Mr. Gorton that any farm over 10 acres that has to have an occupational license and pay taxes is a commercial farm. Mr. Smith stated that he would propose that you adjust "commercial animal farm" to identify these commercial feed lots. Mr. Stapleton stated you could probably strike the whole item. Mr. Smith stated it would be best to leave it in so that Commission get the opportunity to review any such facility before the begin operation. Ms. Minter agreed that she would prefer it to remain and just modify the language to address the real concern. If you want to adjust the language to state "commercial animal feed operation". Mr. Williams agreed and stated that he could foresee issues with additional traffic with trucks hauling those animals back and forth.

Mr. Stapleton asked Mr. Walters if he agreed with the approach of just changing the language. Mr. Walters proposed that the correct language was what is commonly called CAFO or a "commercial animal feed operations". Mr. Williams stated it sounds like that would solve that problem. Mr. Verst stated that we could ask staff to pursue a definition for that to submit to the Commission at a later date.

Mr. Verst directed the conversation to Mr. Gorton's comments previously regarding the fences and walls for agricultural purposes. Mr. Smith stated that the language could be adjusted to identify that fences and walls for agriculture purposes are exempt from the zoning ordinance except as related to setbacks. Ms.

Minter stated that she would prefer to leave the language as is for this item. This is an agriculture zone, but we have parcels that are only 1 acre and may not actually be used for agricultural purposes. Ms. Minter understands and respects KRS 100.111. Mr. Smith asked if she believed that it has broader implications. Ms. Minter stated she did. When a farmer comes in, staff honors KRS 100.111, but we need this regulation in place for those people that come in that do not meet the agricultural purposes. Mr. Smith stated that was a wise idea. Mr. Verst asked if Mr. Smith was advising it be left where it is and he agreed that was the case.

Mr. Verst asked if there were any other discussion regarding conditional uses specifically the timber cutting and sawmills. Mr. Smith stated that he feel timber cutting would be covered under agriculture uses. Mr. Verst commented that he would have to agree and added that timber cutting wasn't even defined in our zoning ordinance. Mr. Williams asked the concern could be alleviated if we added the word "commercial" to identify we are not talking about the person who is processing their own timber, but rather a business who is shipping in product to process. Ms. Minter stated that this use has been in the zoning ordinance forever. She knows there has been concern in other counties in regards to the sawmill activity. Mr. Smith repeated that his view would be timber cutting would be an agriculture use, but sawmill would be more of a production business such as a slaughter house and would be different from agriculture purposes. Mr. Verst asked if he was saying we just delete the timber cutting and leave sawmills as a conditional use. Ms. Minter agreed that, in her opinion, timber cutting would be an accepted agriculture use, but she prefers that sawmills remain a conditional use. Ms. Blake asked if perhaps sawmills was there to prevent a company from coming into the community and just razing the land and causing soil erosion problems. Mr. Verst stated that could be a likely reason. It could also be because what they would be doing on that property could impact surrounding properties. Mr. Stapleton stated that they would not be able to just go in and remove trees on the side of the hill. There are steep slope regulations. There was some general discussion among the Commissioners.

Mr. Verst asked if there were any other issues to discuss. Ms. Harding commented that Mr. Girton also expressed concern for proposed item 13 in regards to "Plants". It states that it is plants for the processing and storage of agricultural products. Mr. Girton previously stated that people that raise corn have storage facilities and grain drying facilities and that these should all be considered agriculturally exempt. Mr. Verst stated that a plant that is actually associated with the normal use and operation of a farm would be considered part of the agriculture use. When you throw the word "plant" in there, it implies that it is a commercial operation not associated with the direct farming operation of that property. Mr. Smith stated that he would consider this an ancillary or subordinate to farming activity in the area.

Mr. Verst asked if there were any other items for discussion on this case. There being none, Mr. Verst asked if the Commission would be ready to consider a motion. Mr. Verst stated that the way he interprets what has been discussed tonight is that the motion would be to recommend to the Fiscal Court to approve the following text changes:

Proposed Text Amendments to Article X, Section 10.1, A-1 Agriculture Zone

1. Permitted Uses:
 - a) Add the following uses:
 1. Agricultural uses
 2. Agritourism
 3. Bed and breakfast establishments.
 - b) Modify the following uses as shown below:
 1. ~~Stands for the s~~Sale of products that are raised, produced, and processed on the premises, provided that no roadside stands of any type for the sale or display of agricultural products shall be permitted within fifty feet from any street.
 2. Greenhouses and nurseries, including both wholesale and retail sales of products grown on the premises. ~~provided that the storage of manure shall not be permitted nearer the front of a street than one hundred feet, or not nearer a side lot line than fifty (50) feet.~~
 - c) Delete the following uses:
 1. ~~Sanitary landfills as regulated by Section 9.25 of this ordinance~~

2. Conditional Uses:
 - a) Add the following uses:
 1. Sanitary landfills as regulated by Section 9.25 of this ordinance
 - b) Modify the following uses:
 1. Commercial ~~combined~~ animal farms feed operations provided that any lot or tract of land in such use shall be not less than ten (10) acres and that any building or enclosure in which animals are kept shall be distant at least four hundred (400) feet from any lot in any Residence Zone, or any lot occupied by a dwelling other than a farm dwelling, or by any school, church or any institution for human care;
 2. ~~Timber-Cutting and~~ Sawmills
 3. ~~Plants~~ for the processing and storage of agricultural products
 4. Boat harbors, and marinas, ~~and the like as outlined in RES-15-87 as a conditionally permitted use~~ for the use and transport of products that are raised, produced, and processed on the premises
3. Limitations on Signs:
 - a) Delete the following item:
 1. Delete the entire section as it is covered in another article of the zoning ordinance.
4. Other Development Controls:
 - a) Add the following control:
 1. Storage of manure shall not be permitted within one hundred (100) feet of a public or private street, or within fifty (50) feet of a side or rear lot line.

Proposed Text Amendments to Article VII Definitions:

- a) Add the following definitions:
 1. Bed and Breakfast Establishment - An owner occupied dwelling unit where short term lodging rooms and meals are provided for compensation on a small scale, typically in an agricultural or small community setting. A bed and breakfast inn shall be limited to a maximum of eight guest rooms or suites on the premises.
 2. Marina - A facility designed and used for storing, fueling, berthing, and launching of watercraft.
 3. Agritourism - A seasonal agricultural related tourism activity held on a working farm.

Mr. Verst asked if there were any discussion regarding what the motion would be. There was a brief discussion regarding the development control of storage of manure in relation to the side and rear lot lines and on the definition of agritourism. Upon conclusion of that discussion, it was determined that the items would remain as outlined by Mr. Verst above.

Mr. Verst closed the public hearing. Mr. Verst called for a motion to be made. Mr. Pfeffer made a motion to approve the text changes as outlined by Mr. Verst above and cited the bases for his motion was as stated in the staff report including the dialogue and testimony heard here tonight. Mr. Verst asked if there were any last questions or discussion regarding this motion. There being none, Mr. Verst called for a second. Mr. Williams seconded the motion. Mr. Verst called for a roll call vote. A roll call vote found Mr. Barrow, Mr. Bass, Ms. Blake, Ms. Harding, Mr. Stapleton, Mr. Stubbs, Mr. Williams and Mr. Pfeffer in favor of the motion. Mr. Verst abstained. Motion passed.

Mr. Bass asked to be recognized by the Chair. Mr. Verst did so. Mr. Bass excused himself from the remainder of the meeting. Mr. Verst asked the record to reflect that Mr. Bass was excused at 8:50 PM.

Mr. Verst advised the Commission that this was a public hearing as he introduced case #136-14-TXA-01, Campbell County Planning & Zoning Department on behalf of the Campbell County Fiscal Court, with a request for approval to modify Article X, Section 10.2 Residential Rural Estate Zone of the Campbell County Zoning Ordinance. Mr. Verst called for Ms. Minter to present the staff report and recommendations. Ms. Minter presented the staff report and recommendation as follows:

FILE NUMBER: 136-14-TXA-01
APPLICANT: Campbell County Planning & Zoning Department on behalf of the Campbell County Fiscal Court
REQUEST: Proposed update to Section 10.2 Residential Rural Estate (R-RE) Zone, of the Zoning Ordinance. Modifying text reflecting permitted uses, conditional uses and development controls

PROPOSED TEXT AMENDMENTS:

Addition and deletion of text as underlined and struck below for the following sections. (See attachment.)

ARTICLE X SECTION 10.2 R-RE RESIDENTIAL RURAL ESTATE ZONE

USES PERMITTED –

Horse related uses, including riding and boarding stables for personal use with minimum lot area of 4 acres provided that the location for a detached single-family dwelling has been properly sited with no dimensional variance for either structure.

Greenhouse, nurseries or gazebo for personal use with minimum lot area of 4 acres provided that the location for a detached single-family dwelling has been properly sited with no dimensional variance for either structure.

ACCESSORY USES –

Accessory uses applicable to Permitted Use A. 1. only.
Fences and walls as regulated by Article XIII of this ordinance

Public Utility Stations, after approval of the Commission.

Accessory uses applicable to all permitted uses

Fences and walls as regulated by Article XIII of this ordinance

CONDITIONAL USES –

Essential services and public utility stations.

Noncommercial structure without a detached single-family dwelling provided that the location for a detached single-family dwelling has been properly sited with no dimensional variance for either structure.

OTHER DEVELOPMENT CONTROLS –

All buildings for the storage of animals and/or manure shall be located a minimum of ~~two hundred~~ (200) feet from all front, side, and rear property lines.

No outdoor storage of any material (usable or waste) shall be permitted in this zone except within enclosed containers.

STAFF RECOMMENDATION:

To adopt the proposed text amendments to the Campbell County Official Zoning Ordinance.

SUPPORTING INFORMATION/BASES FOR STAFF RECOMMENDATION:

1. Per Kentucky Revised Statutes (KRS) 100.203, the Campbell County Fiscal Court has the authority to enact zoning regulations within its jurisdiction. This authority includes the provision to amend its zoning classifications, uses, etc.
2. Pursuant to the Campbell County Zoning Ordinance Article XVII AMENDMENT PROCEDURE, the Planning and Zoning Commission has the authority to amend the zoning ordinance.
3. Proper notice has been given in accordance with Article XVII Amendment Procedure of the Campbell County Zoning Ordinance.
4. The proposed changes are consistent with the 2008 Campbell County Comprehensive Plan Update and the Campbell County Subdivision Regulations.

A copy of the proposed text is attached to these minutes. Ms. Minter wanted to clarify for the Commission that there are properties located within the R-RE Zone that have valid farming and agriculture uses taking place on their sites of less than 5 acres. Properties over 5 acres are protected by KRS 100.111 and the Right to Farm Act. Ms. Minter had prepared several slides depicting sites of different acreage and proposed uses to visually express to the Commission the types of requests that are being submitted to staff for review. Based upon the experience of what type of requests that have been submitted to staff and advice from Pendleton County, it was determined that the best interest of the county could be protected by requiring the applicant to site the proposed located of the future home before allowing the accessory or secondary structure to be submitted for approval. Ms. Minter concluded her report by asking if there were any questions she could answer for the Commission.

Ms. Minter added that staff did have some additional discussion with citizens who came in who requested that we add the permitted use of "Agricultural uses for parcels with minimum lot acreage of 5 acres." It was also requested that we add a development control of "No non-agricultural outdoor storage". Staff does not recommend either of those 2 changes.

Mr. Verst asked the Commission if they had any questions for staff. He wanted to start by asking if you have a property in the R-RE Zone that is participating with an agriculture use. What are the ways to regulate agriculture uses and purposed when they are *not* in the agricultural zone? Ms. Minter replied that KRS 100.111 does not mention the word zone. It mentions agricultural use. Zoning is somewhat irrelevant in this aspect. We do have actively farmed sites in the R-RE Zone. Mr. Verst asked if they could have, for example, a pig farm in the R-RE Zone. Ms. Minter replied that they could have a pig farm in the R-RE Zone as long as they have their paperwork in order which is why it is so important to reflect upon the acreage size. A pig farm on a 5 acre parcel is much different than a pig farm on a 1 acre lot. Mr. Verst stated that by putting that text in there, it is by default allowed, but they have to account for the primary function of the single-family zone.

Mr. Smith asked staff to clarify the terminology of "a detached single-family dwelling has been properly sited with no dimensional variance for either structure". Ms. Minter stated that their primary concern was to insure that a single-family home could be put on site meeting all the setback requirements for the home as well as the accessory structure. Staff runs into situations where a plan will come through and they pick the best location on the property and place the accessory structure there. When the land sells or they come in later to further develop that site, they are unable to place a home on the site because the initial process did not account for the primary function of this zone to serve as single-family residential dwellings. As a result, the subsequent request may require variances to be granted. We want them to think in terms of "Can I place my home on this site in addition to this accessory structure?" Mr. Smith confirmed that staff's intention is just to make certain that the land divisions be properly platted to insure a single-family home will be capable of being cited on the site. Ms. Minter agreed.

Mr. Smith proceeded to ask about the dimensional variance portion of the text as it would apply to either structure. Mr. Smith is concerned that it may violate the authority given to the Board of Adjustment. At any point in the future, they may desire to apply for a variance for a structure. Mr. Smith asked Ms. Minter to elaborate upon her reasoning as to include this terminology. Ms. Minter stated it was intended to be that at the time you are siting your accessory structure on the property to put forethought into the planning and insure you have taken into account the setback requirements for a single-family home. Mr. Smith

asked if the intention was just to take into consideration the existing setback requirements. Ms. Minter replied that was correct.

Mr. Verst asked Mr. Smith if he had alternative language that he could recommend. Mr. Smith stated that he believed a more adequate way to interpret the intention would be along the lines of "a detached single-family dwelling has been properly platted meeting all applicable setback requirements". Ms. Minter asked if the word would be "platted", or "appropriately sited". Mr. Verst stated that he does not think he likes the word "platted" because it makes him think of a subdivision plat. "Sited" would be ok, but maybe it could be as simple as just "identified". Mr. Smith stated that "sited" would work as would "identified".

Ms. Blake asked to be recognized by the Chair. Mr. Verst did so. Ms. Blake excused herself from the remainder of the meeting. Mr. Verst asked the record to reflect that Ms. Blake was excused at 9:05 PM.

Mr. Smith stated he feels upon further reflection that the word "sited" would probably be best. Mr. Verst agreed. He stated that from an engineering viewpoint, when you locate where on the site the home would be, you have "sited" the home. Mr. Smith stated that instead of "no dimensional variances" what if you phrase it as "meeting all other applicable zoning requirements". Ms. Minter considered his comments and then proposed it be stated as "a detached single-family dwelling has been properly sited meeting all applicable area and height regulations for all structures". Everyone seemed agreeable to that change.

Mr. Verst asked about the acreage limit of 4 acres. Was that in reference to another ordinance? How was that determined? Ms. Minter stated that she arbitrarily selected the limitation based upon experience of submission to staff for review and approval and because it seemed to be a manageable acreage. Mr. Verst asked for a clarification of the "noncommercial structures without a detached single-family dwelling". What would the implied definition of "noncommercial structure" be exactly? Ms. Minter replied that would any structure that is for private use such as a shed or pole barn. Ms. Minter stated she would be fine if the language was to be changed to "noncommercial storage structure" if it helps to clarify it. Ms. Minter stated that it could even be a picnic shelter they may want to build on the site.

Mr. Verst asked if there were any other comments or questions of staff. Mr. Verst identified that we discussed the changes proposed by staff and adjusting the terminology of in items A. 2., A. 3. And C. 11. to change "a detached single-family dwelling has been properly sited with no dimensional variance for either structure" to read as "a detached single-family dwelling has been properly sited meeting all applicable area and height regulations for all structures". Ms. Minter advised the Commission they may want to ask the public for guidance in case there are additional changes that need to be considered.

Mr. Verst asked if there were any other comments from staff. There being none, Mr. Verst wanted to open the floor to allow the audience an opportunity to speak. Mr. Verst called for the first speak to come to the podium to state his name and address for the record.

Mr. Tom Greiser of 9723 Jerry Wright Rd stepped forward. Mr. Greiser stated that he wanted to start with addition of the new permitted uses. The Commission has already addressed his issue with dimensional variances. Mr. Greiser stated that in A. 2. with the reference to 4 acres it seems to be adequate for that proposed use. In A. 3., he has concerns about greenhouse, nurseries and gazebos for personal use provided you have 4 acres. Mr. Greiser stated that greenhouses and gazebos are structures, but nurseries are a use which does not actually require a building. If someone has 3 acres, he understands the concern with installing a gazebo and swimming pool, but he doesn't know how often that situation may present itself. If he had 3 acres and wants to build a gazebo or an 8 foot by 10 foot greenhouse, he really doesn't think that he should have to have 4 acres to put that on his property. It is his opinion that 1 to 2 acres should be adequate to install those structures. Restricting the acreage to 4 acres or more is a bit excessive. Mr. Greiser stated that, as far as nurseries, he doesn't know the definition of a nursery according to our zoning ordinance, but that could be as large or as small as a person would want that to be. He doesn't know if 4 acres would be an issue for that, but he certainly knows that it is an issue for installing a gazebo or greenhouse on their property.

Mr. Greiser asked that under C. 10., would that include Duke Energy switching stations, cell towers, or what exactly? Mr. Verst stated that cell towers have their own set of regulations for which they would have to appear before the Commission. As far as a Duke Energy station or water hauling station, Mr. Verst thinks they would qualify as essential service or public utility station. Mr. Greiser those items would

not be a big concern to him, but some of the more robust applications would be of a concern to him. This language seems a bit vague and he would like to see this clarified. Another concern would be if there would be screening requirements involved if a non-residential type of facility were to be put in. In other areas of the zoning ordinance, you require screening to be put in because of the type of facility being put in. It would make sense that item is required here. Mr. Stapleton stated that would be a conditional use anyway, so they couldn't just put in the "facility". It is not the same thing as a storage shed or greenhouse. They would need the Commission's approval of the project. Mr. Verst added that the Board of Adjustment would have the ability to place conditions upon their approval to account for screening and any other number of items that may be of concern. Mr. Greiser responded that everyone must have heard that "a good fence makes good neighbors". If you have it written down, then you don't need to worry 10 years down the road. You have something to protect you. Mr. Greiser thanked the Commission. Mr. Stapleton added that 10 years down the road someone could change everything that they do.

Mr. Greiser went to E. 4. It has come up several times over the past 20 years and he has a real problem with this. It states "no" outdoor storage of "any" materials". "No" and "any" are too vague. This could apply to tomato stakes, mulching, firewood, anything. You have just excluded absolutely everything from being capable of being stored outside. This appears to be more for a city than for a county. It may be more applicable for city environments, but definitely not in the county environment. It is too excessive and Mr. Greiser would ask that it be either modified or removed from this proposal.

Mr. Verst asked if the normal items associated with agriculture purpose would be exempt from this development control. Ms. Minter asked if she could address each of the items mentioned by Mr. Greiser. Mr. Verst stated that she could. Ms. Minter started with A. 3. with respect to the 4 acres. This is the reason item C. 11. was added. If you have 4 acres, you can go ahead and proceed with obtaining the necessary building permits to construct a greenhouse, gazebo, etc.. If you have less than 4 acres, we are not advising you that it is unacceptable; we just want you to file for a conditional use permit so that your proposal can be reviewed by the Board of Adjustment. There is a means in place to address those situations where you do not meeting the acreage requirement. With respect to the C. 10., it was previously listed as an accessory use. We have moved that to the conditional use so that the Board of Adjustment can review the type of station being proposed and be more thoroughly vetted for any additional requirements we may feel would be necessary to protect neighboring properties. Ms. Minter stated this would make it more restrictive than it is currently. Ms. Minter continued that in respect to E. 4., she would be willing to concede that this item could be struck in its entirety. It was added to assist staff in those situations where outside storage is no longer just outside storage, but rather it has become blight. Ms. Minter feels comfortable that staff can use the blight ordinance if the Commission prefers to strike that language, but Ms. Minter wants the Commission to consciously make this decision. Mr. Stapleton asked if the intent was just to address blight issues. Ms. Minter stated that was correct. Currently, we have a situation where someone has a bunch of junk stacked out there. Mr. Stapleton stated if he wanted to pile firewood in his backyard that would not be an issue. Ms. Minter replied it was not. The items his listed would all be viable items. Ms. Minter reminded the Commission that this language was added only to the R-RE Zone for the unincorporated Campbell County. It does not apply to any of the outlying cities.

Mr. Stapleton asked if the storage part could be reworded so that you can put in "waste" or "blight" and still make this work. Mr. Verst proposed we listen to the other speakers before trying to re-write this as they may have some input on this topic as well.

Mr. Verst asked who wanted to speak next. Mr. Dennis Walter stepped up to the podium and identified himself as the vice-chair of the Campbell County Conservation District as well as the owner of Stonybrook Winery. Mr. Walter stated he resides in the R-RE Zone. He has reviewed this text and nowhere does he see agriculture mentioned. Obviously, there are 10,000 acres of agriculture use in this zone. Mr. Walter stated he wanted to see "agriculture purposes" and "agritourism" added to this zone. He added that he also has the updated definition of agritourism from KRS 247.800 and it reads:

- (1) "Agritourism" means the act of visiting:
 - (a) A farm or ranch; or
 - (b) Any agricultural, horticultural, or agribusiness operation; for the purpose of enjoyment, education, or active involvement in the activities of the farm, ranch, or operation;

This is the definition by the latest KRS. Mr. Walter wants to see this added as a permitted use.

Going to D. Area and Height Regulations for Permitted and Conditional Uses, Mr. Walter wants to see the agriculture exempt listed here. Also in E. Other Development Controls, agriculture exempt would also fit in there. This would solve all the discussion regarding the outdoor storage. If you are not engaged in the community, and you see this as it is written, in 5 to 6 years from now you would assume that this could be read by the law of the letter. Mr. Walter stated that for protection of the farmers who are not engaged in these discussion he wants to see agriculture exempt written in there. If you get new staff and they interpret it differently then you have no protection. Years ago, he ran into this where what you don't know, they won't tell you. Mr. Walter stated that was why it was so important to have agriculture purposes listed in the permitted uses.

Mr. Verst asked if there were any questions for Mr. Walter. There being none, Mr. Verst if there was anyone else that wanted to speak at this time. No one spoke up so Mr. Verst stated it looked like we had everything covered. Mr. Verst opened the floor for discussion among the Commission. Ms. Minter returned to the podium in case the Commission had any additional questions of her.

Mr. Verst began by addressing Mr. Walter's comments about adding "agriculture uses" to be added as a permitted use. It is Mr. Verst's understanding that if they add "agriculture uses" to a residential zone then this becomes the same as the A-1 Zone. This is the one of the main defining factors that distinguishes the R-RE (Residential-Rural Estate) Zone from the A-1 (Agriculture) Zone. This is the R-RE Zone and its primary intent is for single-family residential dwellings. We allow agriculture because it exists there, but it is associated with a primary residence.

Mr. Verst opened the floor for discussion. Mr. Stapleton asked Mr. Verst to repeat his statement. Mr. Smith stated that we just went through the A-1 Zone and we spent a lot of time to approve the permitted uses in the A-1 Zone and we added "agriculture uses". This case is for the R-RE Zone. What staff is trying to do is that in addition to the use permitted of single-family dwellings is to accommodate some of the agriculture activities that are appropriate for a residential zone provided that they have a certain lot size of 4 acres or more. They have also provided for a conditional use for those parcels that cannot meet the lot size but desire the greenhouse, gazebo, etc. The request from the public tonight is to add "agriculture uses" to the permitted uses for a residential zone. If this was done, it would in effect convert your residential zone to any activities that could occur in an agricultural zone. Regardless of your lot size, you could have livestock or any other agriculture activity occurring in a residential zone. It would have far-reaching implications. Mr. Stapleton stated that he understood.

Mr. Verst reminded the Commission that agriculture purposes still have rights to do things in that zone. Mr. Stapleton stated that with the greenhouses, etc. staff is addressing the agricultural use especially since it is not there now. It is strictly for their personal use not for commercial use. Mr. Stapleton stated that staff did a great job of addressing that issue and making it more user-friendly. Ms. Harding stated she had no issue with the acreage requirement for the horse related uses, but is having a little bit of problem of why there needs to be an acreage requirement for nurseries, greenhouses and gazebos rather than adding restrictions regarding setbacks or height. Ms. Minter stated that the acreage is based on experience for what is proposed to be placed on the site in relation to the neighboring properties. To address those sites with less than 4 acres, we have added item C. 11. for noncommercial structures. This will allow them the opportunity to still have the additional structure while on a smaller lot. Staff just wants this to be something reviewed by the BOA so that additional conditions can be made to protect the neighbors. Mr. Stapleton reminded people too that in this zone there are a lot of septic system sites which you have to be careful where you can place homes and other structures. They have the opportunity on smaller lots to have those items, but it is as a conditional use.

Ms. Minter commented that if the Commission desires to add "agriculture uses" or "agritourism" then add them as accessory or conditional uses to the primary residence. Mr. Verst stated that this would be opening the door for someone who is not really a farmer to take advantage of something they really don't qualify for. We really don't want to go in this direction. If you have a farmer who really wants to do something, they will take the time to research and discuss with staff how to accomplish their goals. If you place this as an accessory or conditional use, it just leads the ordinance to be taken advantage of by someone is not a real farmer. Mr. Stapleton restated that he thinks staff has addressed the necessary

issues. If you have a greenhouse in the A-1 zone, it is an agricultural use, but it is usually for some type of commercial gain. If you have a greenhouse in the R-RE zone, it is an agricultural use, but it is for their personal use. Mr. Stapleton stated that he knows there are wineries in the R-RE zone and that is agricultural. Ms. Minter commented wineries were an agricultural use in the R-RE Zone. Mr. Verst stated that he thinks the agricultural uses are pretty much spelled out. He doesn't want to cause confusion by adding agricultural use to every residential zone. Mr. Stapleton again mentioned that you only need a 1 acre lot to be in the A-1 Zone.

Ms. Minter stated that she wanted to address the topic of the proposed text for an additional item under "Other Development Controls" regarding outdoor storage of items. We have been dealing with this issue on a blight basis. In the residential zones, where the properties are a little bit closer together, it has not been firewood or hay bales that we have been having issues with. It has been car parts, cars, hot tubs and generally just junk. We have a residence that has 13 hot tubs in their front yard. We have been using the blight ordinance to handle this. We don't want to even attempt to regulate firewood piles or hay bales. That was never our intention. We just want to try to address the unusual items that people have been collecting and storing in their front yards. There was general discussion on this topic. Mr. Pfeffer asked Ms. Minter if handling these issues as blight was effective. Ms. Minter replied that it was working for us for the moment. After additional discussion among the Commission, it was determined the best action would be to strike this recommendation.

Mr. Greiser approached the podium to ask if the Commission would consider moving proposed item A. 3. to section B. Mr. Verst replied that would cause those items to be accessory to the primary structure and would prevent anyone from having those items unless they construct the home first. This would defeat staff's attempt to assist citizens who have not built a home on the site, but want to construct a structure to make use and enjoy their property. There was some additional discussion. Ms. Minter commented that she thinks everyone is getting confused over the "gazebo". Mr. Stapleton stated that if you move it to be an accessory structure you are right back where you started and haven't helped anyone.

Mr. Girton approached the podium and asked the Commission again to reconsider their decision to not add "agriculture uses" as a permitted use in this zone. Maybe we can add it as a "grandfather clause" type of situation. Mr. Girton proposed the Commission add as a permitted use the following language: "No agriculture or silvicultural operation on 10 acres or more will be in violation of this ordinance provided that the operation uses normal and customary operating practices and has been doing so for the past year." This would protect those of us who have been doing this for the past 50 years. Mr. Verst asked legal counsel to confirm if agriculture uses are occurring on sites in a residential zone would be protected under KRS. They would have right to farm rights. Correct? Mr. Smith does not think you can, in a residential zone, unilaterally engage in agricultural activities outside the zone. There are some protections that have been afforded, but if someone wanted to have chickens and horses in a residential zone. It is a direct conflict because as we stated before if you engage in agriculture purposes there are only 4 items that can be regulated. There was additional discussion among the Commission. Mr. Smith stated that he appreciated the effort to compromise on the language, but as far as his recommendation for adding this as a permitted use would be that it not be added at all. The burden on staff would be impossible to interpret or enforce. Mr. Girton stated that was a reasonable response and he thanked them for considering it. He had to at least try.

Mr. Verst closed the public hearing and asked if there were any other points of discussion for the Commission to discuss. Mr. Williams asked if we had arrived at a consensus on the phrasing for placing the home on the site. Mr. Verst stated from his viewpoint as an engineer when he places a building on a lot he is "siting" the home. He believes the best phrasing would be they "site" the home. Ms. Harding asked if we could remove the word "properly" from "properly sited". If you are looking at real estate, sometimes it will say "approved site" which means the soil tests have been done and it is basically ready to build on. Do we intend to have them go to this extent or are we just asking them to locate where the home would sit? If we remove the word "properly", it would greatly reduce the confusion. Mr. Verst asked Ms. Minter for some insight. Ms. Minter stated that what staff is asking for is for them to locate where on the property they could place the home where they would reasonably be able to fit the home and whatever accessory structure they want to build. We want to make certain that the residential structure is still the dominate structure on that site. There was additional discussion among the Commission regarding the term "sited", "located", "identified" and "platted". A general consensus was to state it was "sited", but to remove the word "properly" to prevent any confusion.

Mr. Verst asked if there were any other items for discussion on this case. There being none, Mr. Verst asked if the Commission would be ready to consider a motion. Mr. Verst stated that the way he interprets what has been discussed tonight is that the motion would be to recommend to the Fiscal Court to approve the following text changes:

Proposed Text Amendments to Article X, Section 10.2, R-RE Residential Rural Estate Zone

1. Permitted Uses:
 - a) Add the following uses as modified:
 1. Horse related uses, including riding and boarding stables for personal use with minimum lot area of 4 acres provided that the location for a detached single-family dwelling has been properly sited with no dimensional variance for either structure meeting all applicable area and height regulations for all structures.
 2. Greenhouse, nurseries or gazebo for personal use with minimum lot area of 4 acres provided that the location for a detached single-family dwelling has been properly sited with no dimensional variance for either structure meeting all applicable area and height regulations for all structures .
2. Accessory Uses:
 - a) Add the following text:
 1. Add subheading of "Accessory uses applicable to Permitted Use A. 1. only." above the list of all previously accepted accessory uses.
 2. Add subheading of "Accessory uses applicable to all permitted uses."
 - b) Modify the following uses:
 1. Move "Fences and walls as regulated by Article XIII of this ordinance." to go under the subheading of "Accessory uses applicable to all permitted uses."
 - c) Delete the following uses:
 1. Public Utility Stations, after approval of the Commission.
3. Conditional Uses:
 - a) Add the following uses as modified:
 1. Essential services and public utility stations.
 2. Noncommercial structures without a detached single-family dwelling provided that the location for a detached single-family dwelling has been properly sited with no dimensional variance for either structure meeting all applicable area and height regulations for all structures.
4. Other Development Controls:
 - a) Modify the following control as indicated:
 1. All buildings for the storage of animals and/or manure shall be located a minimum of two hundred (200) feet from all front, side, and rear property lines.

Mr. Verst asked if there were any discussion regarding what the motion would be. There being none, Mr. Verst called for a motion to be made. Mr. Barrow made a motion to approve the text changes as outlined by Mr. Verst above and cited the bases for his motion was as stated in the staff report including the dialogue and testimony heard here tonight. Mr. Verst asked if there were any last questions or discussion regarding this motion. There being none, Mr. Verst called for a second. Mr. Williams seconded the motion. Mr. Verst called for a roll call vote. A roll call vote found Mr. Barrow, Ms. Harding, Mr. Stapleton, Mr. Stubbs, Mr. Williams and Mr. Pfeffer in favor of the motion. Mr. Verst abstained. Motion passed.

Mr. Verst and Ms. Minter thanked the audience for their participation in tonight's discussions. It is always so helpful to have input from the public. Ms. Minter invited the audience to look for the upcoming discussion on the Comprehensive Plan. She would really appreciate their input on that document as well.

There being no cases to come before the Planning Commission, Mr. Verst called for the Director's Report.

DIRECTOR'S REPORT

Ms. Minter stated that she would like to propose an update to the By-Laws for the Commission and asked the Commission to make that recommendation to staff so that this could be discussed at our next meeting. Mr. Verst called for a motion. Mr. Barrow made a motion to recommend staff to review and propose an update to the By-Laws for the Commission. Mr. Verst asked if there were any questions. There being none, Mr. Verst called for a second. Mr. Stapleton seconded the motion. Mr. Verst called for a roll call vote. A roll call vote found Mr. Barrow, Ms. Harding, Mr. Stapleton, Mr. Stubbs, Mr. Williams and Mr. Pfeffer in favor of the motion. Mr. Verst abstained. Motion passed.

Mr. Verst asked the Commissioners if they had any other business to discuss. There being none, Mr. Verst asked for a motion to adjourn. Mr. Pfeffer made a motion to adjourn. Mr. Stubbs seconded the motion. An oral vote found everyone in favor, none opposed. Motion passed. Meeting adjourned at 10:00 PM.

Respectfully Submitted,

Approved:

Cynthia Minter
Director of Planning & Zoning

Justin Verst
Chair