

**CAMPBELL COUNTY & MUNICIPAL PLANNING & ZONING COMMISSION  
MINUTES OF THE FEBRUARY 14, 2017 MEETING**

**MEMBERS PRESENT:**

Ms. Deborah Blake  
Ms. Lauri Harding  
Mr. Edward Stubbs  
Mr. Larry Barrow, Vice Chair  
Mr. Justin Verst, Chair

**STAFF PRESENT:**

Ms. Cynthia Minter, Director  
Mr. Kirk Hunter, Principal Planner  
Ms. Stephanie Turner, Recording Secretary  
Mr. Justin Sanders, Legal Counsel

**MEMBERS ABSENT:**

Mr. Dennis Bass  
Mr. Steve Stapleton  
Mr. Mark Turner  
Mr. Michael Williams, TPO

**STAFF ABSENT:**

Mr. Matt Smith, Legal Counsel

Mr. Verst called the meeting to order at 7:00 PM. Following the Pledge of Allegiance, Mr. Verst called for a roll call. The roll call found a quorum was present. Mr. Verst asked if everyone had reviewed the January 10, 2017 meeting minutes and if there were any additions or corrections. There being none, Mr. Verst called for a motion. Ms. Harding made a motion to approve the January 10 meeting minutes as submitted. Mr. Verst seconded the motion. Mr. Verst called for a roll call vote. A roll call vote found Ms. Harding and Mr. Verst in favor of the motion. Ms. Blake, Mr. Stubbs and Mr. Barrow abstained. Motion passed.

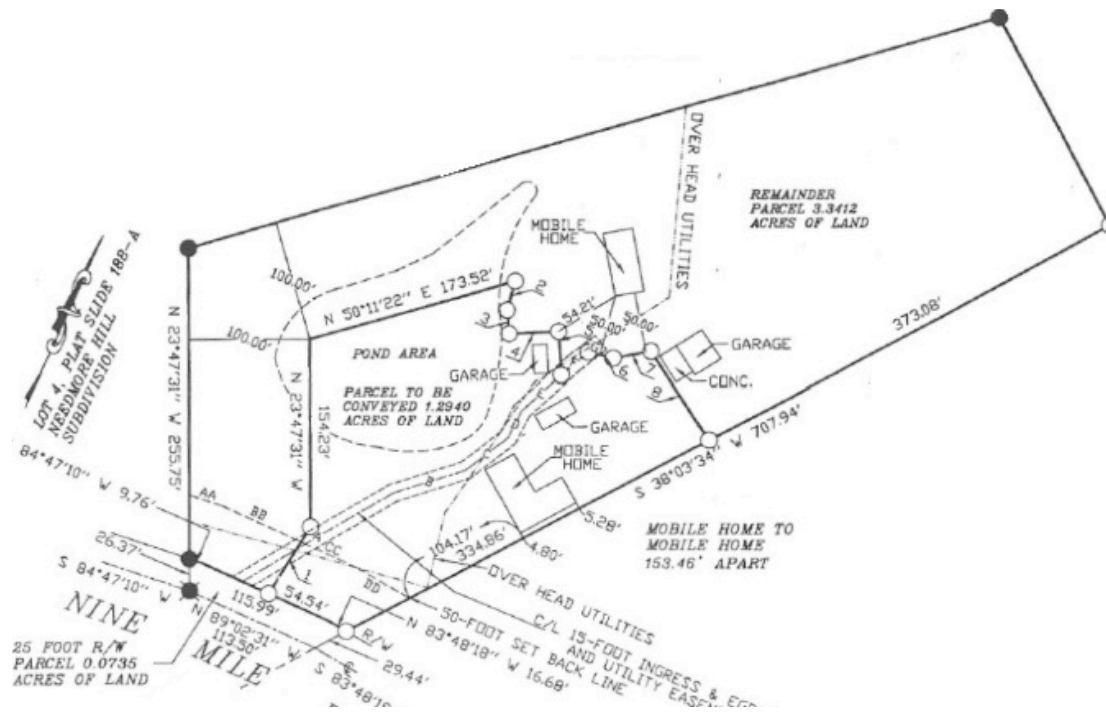
Mr. Verst introduced case #167-16-SPD-01, an application by Mr. Allen Norwich for the property identified as 2988 Nine Mile Road in the Unincorporated Campbell County for proposed site development plan to divide property. Mr. Verst asked staff to present the staff report. Mr. Hunter presented the staff report as follows:

**File Number:** 167-16-SDP-01  
**Applicant:** Allen Norwich  
**Location:** 2988 Nine Mile Road, Unincorporated Campbell County  
**Request:** A proposed site development plan to divide property

**BACKGROUND:**

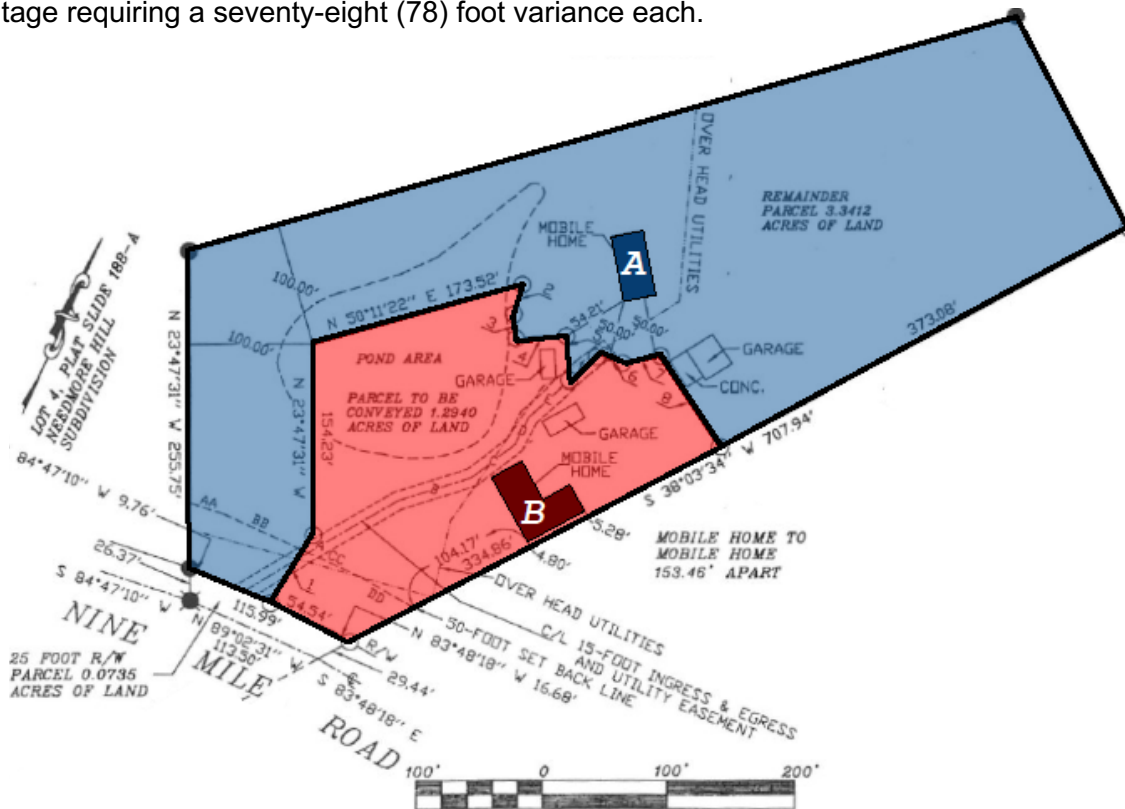
This site includes two (2) mobile homes located around a small pond. Zoning Regulations Section 10.1 B 4. Permits "Living quarters for person employed on a farm" as an accessory structure. This site is not a farm. The second home on this site is considered a preexisting non-conforming use. A review of the aerial records confirms that two home sites have existed on this property prior to 1982 (zoning).

As the result of an estate settlement, Mr. Allen Norwich and Mr. Ronnie Norwich are co-owners and occupants of the property. The complexity of the case and presence of the mobile homes necessitated a review by the Planning Commission. Mr. Allen Norwich has submitted an application for a land division from the property.



## REQUEST:

The requested land division creates two flag lots, each containing one of the mobile homes. Neither parcel would have the required one hundred and fifty (150) foot road frontage required for a mobile home site. The applicant is requesting dimensional variances for the two (2) flag lots created by this land division. The lots will be left with approximately seventy-two (72) feet of road frontage requiring a seventy-eight (78) foot variance each.



## CONSIDERATIONS:

1. The site, containing 4.87 acres, is located on the north side of Nine Mile Road, Unincorporated Campbell County.
2. The Campbell County Zoning Ordinance classifies the site within the A-1 Agriculture Zone, requiring:

| <u>Zone Requirements</u> | <u>A-1 Zone</u>                                              |
|--------------------------|--------------------------------------------------------------|
| Minimum lot area         | - One (1) acre                                               |
| Minimum lot width        | - One hundred (100) feet                                     |
| Minimum front yard depth | - Fifty (50) feet                                            |
| Minimum side yard width  | - Twenty-Five (25) feet total with one side at ten (10) feet |
| Minimum rear yard        | - Thirty-Five (35) feet                                      |
| Maximum building height  | - Thirty-Five (35) feet                                      |

3. Mobile home lots are permitted in the A-1 Zone, but zoning requirements are increased to:
  - a minimum frontage of one hundred and fifty (150) feet
  - a one hundred (100) foot front yard setback
  - a fifty (50) foot side yard setback
4. Mobile homes must also be located further than one hundred twenty-five (125) feet from other dwelling units.
5. The site contains two (2) mobile homes and five (5) accessory structures.
6. The site contains a pond that would span both of the proposed parcels.
7. The homes are currently accessed by a shared driveway.
8. The minimum fifty (50) feet of right-of-way has not been dedicated.
9. In regards to the home sites, a review of the aerial records confirms that two (2) home sites have existed on this property prior to the establishment of zoning.
  - Mobile Home **A** is the older of the two homes. Public records were not able to confirm the age of the home.
  - A zoning permit for Mobile Home **B** was approved in October 1987, indicating that this home was replaced at least once.
10. The proposal is to divide the 4.87-acre parcel into Parcel **A** with 3.34 acres and Parcel **B** with 1.29-acre. Each parcel contains one Mobile Home and at least one accessory structure.
  - The non-uniform division of the parcel is due to the location of the existing accessory structures.

11. The current road frontage is 113.5 feet wide. The applicant's surveyor has determined that, after dedicating additional right of way to twenty-five (25) feet from the centerline, the road frontage would increase to approximately 144 feet. At the fifty (50) foot setback line, each proposed parcel would widen to approximately 100 feet of width.
12. With the proposed division, both mobile homes would meet front and rear setbacks. Mobile Home **A** meets all setback requirements. However, Mobile Home **B** would continue to encroach in the side yard approximately five (5) feet. *[The 1987 zoning permit shows a six-foot seven-inch (6' 7") side yard setback.]*
13. With the proposed division, both mobile homes would exceed the required one hundred twenty-five (125) foot distance from other residential structures.

**Information submitted by applicant:**

*"Allen Norwich and Ronnie Norwich, who are brothers, own 4.87 acres at 2988 Nine Mile Road in Melbourne. It was a gift to them from their parents in 1989.*

*The parents lived there in a mobile home.*

*In 1981 Allen Norwich and his wife situated a doublewide on the property further up the hill from Nine Mile Road. Allen still lives there.*

*In 1988 Ronnie Norwich replaced the mobile home in which his parents had lived with a new doublewide in which he and his mother now live.*

*Allen Norwich would like to divide the property into 2 parts –one where his doublewide is located and the other where Ronnie's doublewide is located.*

*The problem is that at Nine Mile Road, there is only 115.99 feet of road frontage. At the 50-foot setback line, there is 200.28 feet of frontage.*

*Allen Norwich had the property surveyed by Gary Menetrey who worked with the Planning and Zoning office to come up with a division which gives both of the parcels access to Nine Mile Road.*

*The survey is attached hereto.*

*Ronnie Norwich's mobile home and out-buildings are located on the 1.294-acre front parcel which will have 100.14 feet of road frontage at the setback line.*

*Allen Norwich's mobile home and out-buildings are located on the 3.3412-acre back portion of the property. His parcel will have 100.14 feet of frontage at the setback line.*

*Allen and Ronnie can't meet the regulations which require a mobile home to have 150 feet of road frontage per lot. However, they can meet the minimum standard for the A-1 Zone for a stick built home which is 100 feet of road frontage at the setback line.*

*Allen Norwich is asking the Planning and Zoning Commission to grant a variance and approve the division of property set out on the survey prepared by Gary Menetrey."*

## **ADDITIONAL INFORMATION:**

### **1. Campbell County Official Zoning Ordinance, Section 9.10 Application of Zoning Regulation Item B.**

"Every public or private structure hereafter erected shall be located on a lot as herein defined and in no case shall there be more than one (1) principal building and permitted accessory structure on one (1) lot, nor shall any building be erected on any lot which does not abut at least twenty-five (25) feet on a deeded and accepted public right-of-way, except for mobile homes on individual mobile home sites which are required to abut at least one hundred fifty (150) feet on a deeded and accepted public right-of-way, as required by Section 9.28 of this Ordinance."

### **2. Campbell County Official Zoning Ordinance, Section 9.28 Individual Mobile Home Sites Item A.**

No person shall use or locate a trailer or mobile home on any premises outside an approved mobile home park, or in the recreational use trailer zone, or in a mobile home park subdivision, except in A-1, Zones of Campbell County subject to the following regulations:

- The mobile home shall be so located that no other dwelling or business conventional or mobile, exists within a radius of one hundred twenty-five (125) feet of the mobile home.
- The mobile home site shall be minimum area of one acre with a minimum road frontage of one hundred fifty (150) feet.
- The mobile home shall be set back at least one hundred (100) feet from the front property line and fifty (50) feet from the side property lines:
- The mobile home shall be the only principal building;
- Because of the inherent ability of a mobile home to be moved from one site to another, no permit granted for the installation of such a unit shall be considered perpetual.

### **3. Campbell County Official Zoning Ordinance, Section 18.6 Variance.**

It must be found that the granting of the variance will not adversely affect the public health, safety, or welfare; will not alter the essential character of the general vicinity; and will not cause a hazard or nuisance to the public.

*The granting of the variance will not adversely affect the public health, safety, or welfare; will not alter the essential character of the general vicinity; nor will cause a hazard or nuisance to the public. Two homes have been on this site prior to the adoption of the zoning ordinance.*

That the requested variance arises from special circumstances exist which do not generally apply to land in the general vicinity, or in the same zone.

*Two homes have been on this site prior to the adoption of the zoning ordinance. A division of the parcel would improve compliance with Zoning Ordinance Section 10.1. Item B 4.*

That the manner in which the strict application of the provisions of this Ordinance would deprive the applicant of a reasonable use of the land or would create an unnecessary hardship on the applicant.

*The denial of a variance would create a hardship in that it requires the demolition or removal of one home. Due to the age of the structure, it is unlikely the home would be relocated. Either lot can be used for a stick built home or modular home.*

That the circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought.

*Two homes have been on this site prior to the adoption of the zoning ordinance.*

Reasons that the variance will not allow unreasonable circumstance of the requirements of the zoning regulations and will not alter the essential character of the neighborhood.

*The existing parcel contains two homes. The proposed division would separate the homes but requires a variance of the minimum requirements for a mobile home.*

That granting the variance requested will not confer on the applicant any special, privilege that is not conferred by this ordinance to other lands, structures or buildings in the same zone. No nonconforming use of neighboring lands and structures in the same zone shall be considered grounds for the issuance of a variance.

*There have been no other variances granted in this area for mobile homes on lots with less road frontage.*

That the variance will be in harmony with the general purpose and intent of the Zoning Ordinance as well as the Adopted Comprehensive Plan for the County.

*The comprehensive plan defines this site for agricultural use which include single-family dwellings. The granting of the division would improve its compatibility with the plan.*

#### **STAFF RECOMMENDATION:**

Approval of the division as two (2) flag lots subject to the following conditions:

1. That a lot width variance not to exceed eighty (80) feet be granted for each mobile home lot.

2. That the property owner(s) dedicate a minimum of twenty-five (25) feet from the centerline of Nine Mile Road as public right-of-way.
3. That all property owners' sign plat submitted for conveyance.
4. As per Campbell County Subdivision Regulations Section 375, P., the following statement shall appear on the plat;  
  
"This plat shall be void if not filed with the Campbell County Clerk for recording purposes within six (6) months of Planning Commission approval."
5. That a statement be placed on the deed that, if either home it is replaced, it will be replaced with a modular or stick built home which complies with the Zoning Ordinance.
6. That a maintenance agreement for any shared amenities such as the pond and driveway be recorded.
7. That all utility and access easements, including the pond and driveway, be recorded.

**SUPPORTING INFORMATION AND BASES FOR RECOMMENDATION:**

1. Per Section 18.6, A., 2., Notice: Notice of public hearing was given in accordance with Section 18.2 of the Campbell County Zoning Ordinance.
2. Findings for the variance were done in compliance with Section 18.6, A., 4.
3. Kentucky Revised Statute (KRS) 100.241 Variances, defines that the board of adjustment shall have the power to hear and decide on applications for variances. The board may impose any reasonable conditions or restrictions on any variance it decides to grant.
4. Per KRS 100.281, the planning commission shall assume all powers and duties otherwise exercised by the board of adjustment related to applications for variances when a proposed development requires a subdivision and one (1) or more variances.

**ADDITIONAL NOTES TO THE APPLICANT:**

1. The setback for Home A granted through the 1987 building permit does not apply to future structures.
2. The replacement of a mobile home with a modular or stick built home negates the need for a lot width variance for the parcel.
3. The demolition, construction, relocation of any structure on the property is subject to a zoning and/or building permit.

**Discussion/Comments:**

Mr. Hunter stated that the different structures on the site does make the division difficult. The owners are essentially trying to get two (2) flag lots out of this parcel. For manufactured homes,

Article IX requires a more restrictive road frontage and setback requirements. Neither home can meet these requirements. However, these structures are pre-existing non-conforming. Mr. Hunter concluded his report asking if the Commission had any questions for staff.

Mr. Verst advised the Commission that the Commission and the public needed to be clear on the role of the Commission tonight. Two (2) brothers jointly own this site and we (the Commission) are being asked to review the proposed land division plat and decide if this is an appropriate division according to our Subdivision Regulations and Zoning Ordinance. We have received several letters from the applicant's attorney and the attorney of the applicant's brother. There is a lot of information in those letters that is not relevant to this case from the Commission's point of view. Background history is contained in the letters and that portion is important as it clarifies how long the structures have been present on site. The mobile homes are pre-existing non-conforming meaning they are there legally as they were placed there prior to the adoption of our Zoning Ordinance. However, there is also a lot of information that is contained in those letters as it pertains to the lawsuits themselves of which this Commission plays no part in.

Mr. Verst wanted to make sure that all parties were clear on the fact that the Commission is not actually dividing the property. We are giving our opinion as to if this division would be appropriate or not. The typical next step would be that the owners would have to sign the plat and/or deed and then take the plat to the Clerk's office for recording. The Commission does not do this. These are actions by the property owners themselves. The parcel is not officially split until the deeds are recorded. We are just asked to determine if we think the proposed division is appropriate and acceptable to be recorded. As we are going through our discussions, I am going to keep that in mind. If we start to take our discussions off the parameters of our role in this situation, I may cut your discussion short and bring the topic back to the conversation that we are having on hand.

Mr. Sanders commented that it is important that we all remain clear as to the Commission's purpose is tonight and what function we will play in this request. For the benefit of those in the audience, there is no effect as a result of the advisory opinion or recommendation of this Commission. It does not affect any property rights. It does not divest anyone of property rights. They do not divide the property in any way. As Mr. Verst explained, that would require several additional steps those primarily being that (for the division to take affect) the parties would have to agree, sign the deed and have it recorded or otherwise by court order; but again those are not issues before the Commission. The sole question is whether the proposed division would comply with any applicable subdivision standards and/or zoning ordinances with the proposed variances.

Mr. Verst advised that he would allow the Commission to ask questions of staff and then the applicant will have an opportunity to speak. At that time, any member of the audience that wishes to speak will have an opportunity to do so. We may ask you questions. Once you sit down, we may call you back up to the podium to provide additional insight or information. With this, Mr. Verst asked the Commission if there were any questions for staff. Mr. Barrow asked if this was the same case scheduled originally for the October 2016 meeting. Mr. Hunter replied that it was. Mr. Barrow continued to ask if the recommendation at that time was to approve or was there any changes. Mr. Hunter replied staff's recommendation was to approve the request at that time and that has not changed.

Ms. Harding stated she did not want to get into the legal issues involved in the correspondence received from the attorney's, but she did have a question regarding the septic system leach fields that was stated to be encroaching and/or trespassing onto the neighboring proposed parcel. Would that be something that would have to be included in staff's preconditions for approval

(Recommendations) or would that be covered separately by SD1 (Sanitation District 1). Mr. Verst stated he was going to respond to this question. Staff has covered it pretty well with their proposed condition #7 where it states: *"That all utility and access easements, including the pond and driveway, be recorded."* The septic system leach field would be considered a utility. If one party has a leach field that is on the others property, they would have to arrive to a private easement to cover that issue. It is not the Commission's ability to force a private easement upon any property.

Mr. Verst asked staff about the requested dimensional variances. If these were not mobile homes, but rather stick built homes, the variance would not be required because both of the lots as proposed would have 100 feet as the building setback. Is that correct? Mr. Hunter agreed. Mr. Verst continued to ask if, at some time in the future, the mobile homes went away would the variance go away as well. Mr. Hunter stated that it would go away as the additional road frontage would not be required by Article IX for a stick built home.

Mr. Verst asked Mr. Hunter to go back to the slide that has the proposed division on it. We can see that at the point roughly 50 feet from the road that each parcel would have approximately 100 feet of road frontage. The line further back, where it kind of zigs and zags, was this in an effort to go around existing structures. Mr. Hunter stated it also maintains a 100 foot width of the lot and agreed that it was to separate out existing structures.

Mr. Verst asked if there were any other questions of staff. There being none, Mr. Verst asked the applicant to approach the podium and identify himself for the record. Mr. Bob Bathalter, attorney for Mr. Allen Norwich, approached the podium.

Mr. Bathalter stated that his client's portion of the property would be the one highlighted as blue. Their parents gave this land to both brothers. One brother (Mr. A. Norwich) put his mobile home up above and then the other brother (Mr. R. Norwich) used the old home site to put a new mobile home in 1987 or 1988. Mr. A. Norwich would like to be able to sell his property. He has a mobile home and a garage as well as other improvements he has made. If it is all one piece, it is impossible for him to do anything on his own. You may have been able to detect that the brothers do not get along very well these days. Mr. A. Norwich just wants the opportunity to own his own property free and clear; to be able to keep it if he wants to; or to sell if he wants to. He and Mr. Gary Menetrey, the surveyor, worked with staff to try to make this work because it was all built before the planning and zoning rules came into effect. We think this is as good a result as we could possibly get. It benefits both parties and both parties, after the property is divided, will be able to move on and do whatever they want to do with their individual piece of property. We would urge you to seriously consider and approve the proposal that your staff has recommended to be approved.

Mr. Verst asked if there were any questions of Mr. Bathalter while he was at the podium. There being none, Mr. Verst asked the applicant, Mr. Allen Norwich, if he had any comments he wanted to make. Mr. A. Norwich stated he had nothing to add to what Mr. Bathalter presented.

Mr. Verst stated the sign-in sheet reflected one other name and called Mr. Mark Wegford to the podium. Mr. Wegford identified himself as the attorney for the Mr. Ronnie Norwich, brother to the applicant. Mr. Wegford asked staff to go to the slide of the proposed site plan which they did so. Mr. Wegford pointed out that there were two parcels being proposed with parcel A being 3.3 acres. Mr. Wegford wants the Commission to be mindful that there is a large pond on parcel B which is proposed to be allocated to Mr. R. Norwich and the whole acreage of his parcel would be 1.29

acres. Then there is a proposal of an easement that cuts straight up the property. As far as the actual land acreage that you could do anything with and build on, you would only have about 0.75 acres. If you take out the large pond, which the pond is divided so that a portion goes to parcel A, but the majority goes to parcel B. You have an easement going straight up the property so really that only leaves .75 acres of actual land there that could be of any use.

Another note on this proposed division is that between this easement and the boundary is only about 70 feet. Mr. R. Norwich would be on parcel B, but he would not own this entire parcel. He would have to share ownership of this easement with his brother meaning he cannot build anything that encroaches upon this easement and limiting him to approximately 70 feet. If anything were to happen to his mobile home, there would really be no place to build anything. Let me show you these pictures so you can get a better idea. Mr. Verst advised that the photo would need to be submitted to staff to be retained in the case file. Mr. Wegford stated that was acceptable.

The photo of an aerial view of the mobile home site of Mr. R. Norwich was distributed. I would ask you to look at this picture so that you can get a better idea of the limitations of the width. If you look between the easement and the boundary line of the trees, you get an idea of what the actual width of the area would be. The area where you could actually build, you cannot because it would encroach on the easement. In addition, this is all the pond that is made part of the acreage that is allocated to Mr. R. Norwich. This (the small area surrounding his mobile home) is really what he is left with. We ask that you consider that we do not think this division is possible and we do not think the variance should be granted.



Mr. Verst asked for a clarification of Mr. Wegford's statement that he did not think the division is possible and that the variance should not be granted. Mr. Verst asked if the primary contention is that it is not possible to divide the property because there is no space to build a home or that the division as shown is not equitable between the parties. Mr. Wegford stated both. He does not think the division is possible. He does not feel that it would leave his client with any type of place to build a home without issues to setbacks. Whereas, parcel A has 3.3 acres and he has an easement going up parcel B so not only do I have more acreage, but I have part of your property because I have an easement. Mr. Verst clarified that an easement does not grant the other person partial ownership of the easement area. It only means that they have a right to use that portion of the property for access to their parcel. Mr. Wegford stated that was correct but that means he does not have complete control and ownership of his property.

Mr. Verst asked Commission's legal counsel to weigh in on those comments. Typically, access easements can be relocated or moved around as long as access is provided. Mr. Sanders agreed that was correct and typical. Mr. Wegford stated that they could not take it (the driveway) through the pond. He does not want to be difficult, but you cannot take it through the pond. Mr. Verst stated that the other option could be to relocate the access easement closer to the property line inside the setback requirements where you cannot build and then move the home site closer to the pond. Mr. Verst asked Mr. Wegford to confirm that it was his (Mr. Wegford's) opinion that there is not enough space to effectively build a new building on that piece of property without having setback issues. Mr. Wegford stated that Mr. Hunter, in the beginning of his presentation, stated, and this is no secret, that this division is complex and this is very difficult acreage to divide. Mr. Hunter nodded that he agreed.

Mr. Verst asked Mr. Wegford to clarify his objection to the request of a dimensional variance at the front of the property. Are you stating that, if it were a more equitable division of the property between the houses, and there were some solution that gave both pieces a fair place to build a house then what would be your issue be with the Commission granting a dimensional variance to allow the frontage to be split? Mr. Wegford did not understand the question. Mr. Verst stated that the Commission has two issues before them tonight. One is the division of the property. The second is the variance to allow the road frontage to be divided without the normal width required for two mobile homes. The variance would allow the property to be able to divide the property in total; and allow the necessary geometry up front to allow for the division. If the back part of the property could be divided to set two houses upon it, do you have an issue with the geometry up front in order to split up the road frontage. Mr. Wegford stated he had no issue other than it is not an equitable split. Mr. Wegford sees it as an issue of the easement area going up the property. He disagrees with it because of equity. He does not think it is fair and he does not know what it would take to make it fair.

Ms. Blake asked about the outbuildings. What do they consist of? Mr. Wegford asked Mr. R. Norwich to respond. Mr. R. Norwich stated they were both steel buildings with concrete slabs. Mr. Verst asked if, in consideration of the proposed division, all the outbuildings meet the setbacks or are there any other variances that need to be granted. Mr. Verst stated he believes the setbacks for this zone is 10 feet. He asked staff if the setback for an accessory structure the same as for a primary structure? Staff stated they did. Mr. Verst asked if the accessory structures meet that setback? Staff stated that they could not definitively answer that question at this time. Mr. Wegford pointed out the exception of the mobile home that was placed in 1987 which has its own variance to which Mr. Verst agreed.

Mr. Verst advised Ms. Blake that the type of structure is irrelevant and does not affect the Commission. It could be a doghouse or whatever. Our only concern is if the setback is met. Ms. Blake stated this appears to be the only route for this drive. Ms. Minter cautioned the Commission that she would not make that assumption. This is a proposal that has been brought forward and we need to make our decisions based on what is before the Commission.

Mr. Wegford asked Mr. Hunter if there were 10 feet between the outbuilding and the proposed property line. Ms. Minter stated that we have to rely on the information provided by the surveyor this is just a snapshot of that survey so we would need to refer back to the actual survey of the property. Mr. Wegford stated he thought staff stated there was 10 feet from the structure to the property line. Mr. Hunter stated he could not at this time confirm that this was 10 feet between the structure and proposed property line.

Mr. R. Norwich stated that the metal building above the pond is about 10 inches off the driveway and the other building is exactly 26 inches off the driveway. There is no variance for that. Mr. Verst stated it would be the setback between the structure and the proposed property line not the roadway. The roadway would be considered an easement and that could be right up on the structure. Mr. R. Norwich continued that, if you look at the picture, you can see that zig zag line between the 2 buildings. The part of the lot that they are proposing for me is on the other side of that driveway. I physically, as Mr. Wegford stated, there is no possible way to build because Duke Energy has energy lines running across my property. There is no way for me to build and stay away from those lines. Mr. R. Norwich added that the applicant forgot to tell you that PNC Bank owns the lien on this entire property and I do not think...Mr. Verst interrupted that any liens are irrelevant to this case. Getting back to the question on hand, the survey does not really call it out on there. It gives the dimensions from the mobile home to the property line but not the structures. Mr. R. Norwich stated that this drive here is 26 inches away; this here is 6 inches away; and my home is less than 16 inches from the front porch to the driveway. Not to mention his leach lines come across here and run right across here, where it evades where they (proposed) separating it and they would have to be moved.

Mr. Verst asked if there were any other question for Mr. Wegford or Mr. R. Norwich. There being none, Mr. Verst advised both that they could be called forward to answer questions. Mr. Verst stated there was no other signatures on the sign in sheet, but asked the audience if anyone else wanted to speak in regards to this case. Mr. Bathalter asked if he could respond to Mr. Wegford's comments. Mr. Verst asked Mr. Bathalter to approach the podium.

Mr. Bathalter stated that, as staff stated, this is a very difficult piece of land. In a perfect world, everyone would get exactly half; everything would be level; and there would be no problems. However, we are doing the best we can with what we have. Secondly, if you approve this request, you are not forcing the brothers to do this. As Mr. Verst previously pointed out, they would have to sign off and agree on the plat. They would have to make deeds or go to a judge and have the judge order something. By approving this as a reasonable way to divide the property, you are not passing judgement on whether it is fair or equitable. You are just saying it can be done this way. The last thing I want to point out is that he has this area here to build his home on if he got rid of his mobile home or it burnt down or whatever. He has this area here to build a house and it is a good 100 feet wide. He bought his mobile home and placed it there and if he wanted to replace it, he would have enough room to do it. The argument that he has a useless piece of property is not a good argument. It is a difficult situation and staff has done a good job. We just want to move on and divide the property. We appreciate your consideration for recommendation of approval.

Mr. Sanders stated that, even if the proposal is approved, again the question being rather if the proposed subdivision complies with the zoning ordinance with the requested variance. Even if that is answered in the affirmative, just like it does not decide any property rights, it does not prevent another alternative proposal from being made with a redrawn easement or some other division that Mr. R. Norwich might believe is more equitable or a better use of the property. It does not prevent that from being submitted to this Commission for this exact same analysis for rather it complies with regulations or if the variances are appropriate.

Mr. Verst thanked Mr. Sanders for his comments. Mr. Verst asked legal counsel and staff if, looking at the proposed division in front of us, we are being asked to review the division and the dimensional variance to allow the split at the street when it is not be as wide as it would normally be required for 2 mobile homes. When I look at this, I believe it may be possible to split the

property and it may be possible and not problematic to allow those dimensional variances, but there may be another alternative to the drawing in as far as how far back each lot goes and/or the placement of the easement. Are we solely reviewing the actual line work strictly as it has been submitted tonight along with any dimensional variances we deem appropriate? Can we ask staff to review any alternative drawings submitted by the applicant or his brother and approve an alternative design without coming back before this Commission?

Mr. Sanders stated that he believes the answer would be that the approval tonight would be the decision to approve the survey as submitted as an acceptable division. It is not the Commission's responsibility to redraw the lines. It is simply a decision that the survey as proposed would meet the applicable ordinances and the dimensional variance be approved as an appropriate request. Ms. Minter asked, on behalf of staff, for a clarification. Staff does not have the ability to approve a variance. We need either the Board of Adjustment or the Planning & Zoning Commission to approve a variance. We have in our staff recommendation items that would allow a variance not to exceed 80 feet be granted to each mobile home lot. If that is not granted and the applicant (or any variation of the parties here tonight) were to come back with a different division, does the Commission then want to see this case again? Do you want to grant the variances and then allow staff the opportunity to approve an alternate design? If yes, would you put a limitation on the ability to approve, for example within 6 months?

Mr. Verst stated that made sense. He sees this request as two different issues: the division and the dimensional variances. Ms. Minter agreed. She continued that the proposed division given to us is just a proposal given to us. We do not know yet if it will be the final one for this piece of property. Mr. Verst asked if the Commission voted either for or against this request, would we vote on the items separately. Does that separate them so that if an alternative proposal comes in for a different division line that the variance would still stand? If we vote yes on the variance, but no on the division, would it make sense to vote on them separately? Even if we vote to approve them both on the same motion and then they submitted a different division would the variance granted tonight still stand.

Mr. Sanders asked Mr. Verst to clarify his questions. Mr. Sanders stated that if you vote on both under the same motion, then the variance would stand. Are you asking if you can split the question and approve the proposed division but not the variance? Mr. Verst stated his question was should they make sure it is 2 different motions and if we were to vote to approve both in the same motion and then an alternative proposal for the division line came back and had to be reviewed for a separate division would the variance still stand even though the division is different. Mr. Sanders stated yes it is his opinion it would stand. The Commission could vote them separate and then re-approve the variances at a future date.

Ms. Harding stated she originally had several points of concerns with the case before the Commission tonight. Testimony from Mr. Bathalter and Mr. Wegford, as well as the discussion between Mr. Verst and Mr. Sanders, has helped to answer many of her questions. She felt the work by staff to compose the staff report was well done, but the staff recommendation is to "approve" this request. Ms. Harding was concerned with the use of the term "approve". Ms. Harding feels the Commission should separate themselves from the status of the litigation surrounding this property; and knowing there are a lot of factual information that needs to be resolved in that forum. She was hoping that if the Commission's decision was that this was an acceptable division and the dimensional variances were warranted that the motion could be reworded to state, "the Commission feels it meets the applicable criteria" or "the Commission determines that the application meets the requirement". Ms. Harding does not want to be

prejudicial to either party. Although this is the only proposed division presented to us tonight, we have to remain open to other possibilities. Ms. Harding does not want our actions to be misconstrued to be front-loading one party over the other nor does she want to see either party go into courtroom and say, "I have an approved division/variance here". Ms. Harding suggested that somehow in our language, if we all agree on this, to word it in a way to show that it is not prejudicial to the either side. We are just simply saying that this request meeting the regulations and land division criteria.

Mr. Sanders stated he has been reviewing the notes and comments given to him by Mr. Matt Smith, the Commissions' usual legal counsel. Mr. Sander's interpretation of those notes would be that the Commission should make only one decision and not split the motion into multiple parts. The Commission should consider them together, exactly as they have been proposed. The Commission should give your "opinion"; make the "determination"; or "approve" the request as a whole as to rather, from a planning perspective, the plat proposed complies with zoning and rather the variances are appropriate.

Ms. Harding asked the other Commissioners if they had any concerns with the conditions staff has outlined to accompany staff's determination. Mr. Verst stated the conditions all seem to be straightforward and are almost recitation of what is in our ordinance. Ms. Harding asked if anyone else had any objections or finds that the proposed request has anything lacking other than what staff has cited. There being no other comments, Ms. Harding asked staff to clarify condition #5. It states if either mobile home is replaced it must be with a conventional built home. Is this something relating to the life of the current owner or would run with the land? Ms. Minter replied it would run with the land. Mr. Verst stated that, in this case, there are already criteria in our zoning ordinance that would support this condition.

Mr. Verst's belief is that, given the information we have from staff, the variance is appropriate; it is the minimal variance; and would make reasonable use of the land. In this particular situation if the mobile home were ever removed for placement of a stick built home, no variance would be needed. This is just a temporary variance. If this were a stick built home, they are only required to have 100 feet road frontage and the proposed division we have does have 100 feet of frontage at the building setback. The variance would only be needed while the mobile homes are on site. The need for that variance seems fairly appropriate based on our ordinances. For the division we are looking at, I have gone through our Zoning Ordinances and I cannot find any violations or contradictions. Going through our Subdivision Regulations, they do have a statement that property should not be highly irregular in lot design and this proposed plat does have a highly irregular property line between the 2 parcels going around the accessory structures. It seems it meets our regulations except for that one item. The division is possible within our regulations and that one item of irregular design would not warrant the rejection of a plat. We may recommend that the owners re-look at that portion of the design, but if it were to remain as it, we would not deny their request based on that alone. There are times where there are specific reasons that the irregular lines have to happen. This is just a part of life in Campbell County.

Ms. Harding agreed. She stated a court could decide later that there is a more equitable division of the property, but this is the plat proposed to us and I cannot find that it is not something we should deny. Again, she voiced her concern with the use of the word "approval" versus "determine". Mr. Sanders stated that was a very good point. He continued that the question raised is rather the proposed division, from a planning perspective, complies with the zoning ordinance and subdivision regulations and rather the variance is appropriate. This way you can make that determination without passing judgement on either party.

Mr. Barrow commented that we have had plat submitted to us prior to this that have had to have irregular lot lines. What we have is the plat before us and staff states it meets our criteria for planning and zoning. We can only deal with what is right in front of us. It may not be the best, but it does meet our criteria. It does not have to be pretty and this may be as good as it gets under these circumstances.

Ms. Minter stated that staff would not have an issue rephrasing the recommendation. Staff could begin by making the following change to our recommendation to read: "The proposed division with the variances have been determined to comply with the zoning ordinance." thereby deleting the word "approval" from our recommendation. Mr. Sanders felt that was a fine solution.

Mr. Verst asked if anyone wanted to make a motion. After a brief discussion among the Commissioners on the exact wording of what the motion would be, Mr. Barrow made a motion on case #167-16-SPD-01, an application by Mr. Allen Norwich for the property identified as 2988 Nine Mile Road in the Unincorporated Campbell County for proposed site development plan to divide property. His motion was:

The proposed division and dimensional variance submitted to us for review are in compliance with the Campbell County Zoning Ordinance and Subdivision Regulations if the conditions specified by staff are incorporated.

His motion included the conditions as listed in the staff report as follows:

1. That a lot width variance of no more than eighty (80) feet be granted for each mobile home lot.
2. That the property owners dedicate a minimum of twenty-five (25) feet from the center line of the Nine Mile Road as public right-of-way.
3. That all property owners sign plat submitted for conveyance.
4. As per Campbell County Subdivision Regulations Section 375, P., the following statement shall appear on the plat;  
  
"This plat shall be void if not filed with the Campbell County Clerk for recording purposes within six (6) months of Planning Commission approval."
5. That a statement be placed on the deed that, if either home is replaced, it will be replaced with a modular or stick-built home which complies with the Zoning Ordinance.
6. That a maintenance agreement for any shared amenities such as the pond and driveway be recorded.
7. That all utility and access easements, including the pond and driveway, be recorded.

His motion included items listed as "Additional Notes to the Applicant" as recommended by staff as follows:

1. The granting of a variance does not exempt the applicant from complying with all of the requirements of the zoning ordinance, the building code, housing code, and other regulations.
2. The setback granted through the 1987 building permit does not apply to future structures
3. The replacement of a mobile home with a modular or site-built (stick-built) home negates the need for a lot width variance for the parcel.
4. The demolition, construction or relocation of any structure on the property is subject to a zoning and/or building permit.

Mr. Barrow stated the basis for his motion was the items listed in the staff report as well as testimony heard tonight and discussion by the Commission.

Mr. Verst asked if there were any questions on the motion. Ms. Harding requested that the record reflect that a different division of property may be submitted for review. Mr. Verst asked if there were any other comments or questions. There being none, Mr. Verst called for a second. Ms. Blake seconded the motion.

Mr. Verst stated there has been a motion and a second. He asked if there were any discussion regarding the motion up for consideration. There being none, Mr. Verst called for a roll call vote. A roll call vote found Ms. Blake, Ms. Harding, Mr. Stubbs, Mr. Barrow and Mr. Verst in favor of the motion. No one abstained. Motion passed.

Mr. Verst introduced case #173-17-TXA-01, an application by Mr. Luke Mantle, Campbell County Road Supervisor, for discontinuance and release of Krift Road as a public facility located off of Persimmon Grove Pike in the Unincorporated Campbell County.

Mr. Verst advised the Commission prior to the staff report being presented that the decision to discontinue this road will actually be a final decision of the Campbell County Fiscal Court. The Commission is being asked to provide a recommendation to the Fiscal Court that the discontinuance of this road would not be in contradiction to the Comprehensive Plan. Our action tonight does not "close the road".

Mr. Verst asked staff to present the staff report. Ms. Minter clarified that the road is not to be discontinued in the manner of closing the road. The action for consideration is the discontinuance of the maintenance for this road. With that, Ms. Minter presented the staff report as follows:

**File Number:** 173-17-TXA-01  
**Applicant:** Luke Mantle, Campbell County Road Supervisor  
**Location:** Krift Road, Unincorporated Campbell County.  
**Request:** For discontinuance and release of Krift Road as a public facility located off of Persimmon Grove in unincorporated Campbell County

**Background:**

1. Notice of this proposed action was published in the February 2nd edition of the Campbell County Recorder. Notice was also mailed to the adjacent property owners.

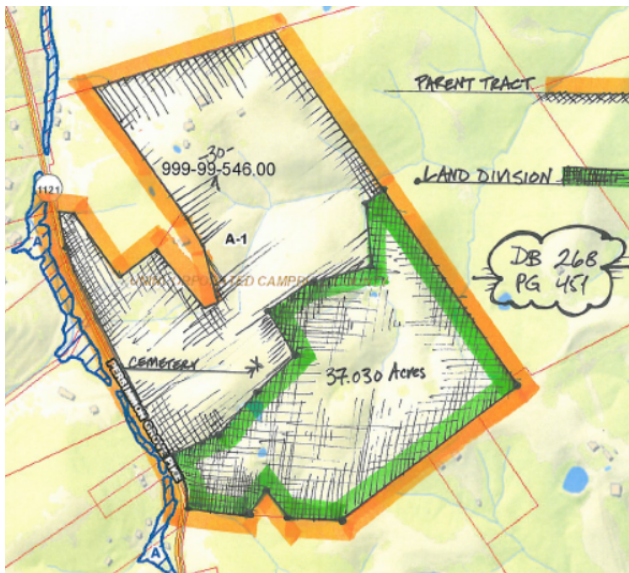
2. Krift Road is a dead end road located on the north side of Persimmon Grove Pike (State Route 1121) in unincorporated Campbell County.
3. In 1987, the County adopted Ordinance O-16-87 that established the official list of County Maintained Roads. This list identified Krift Road as County Road (CR) 1247. In 1993 Ordinance O-1-93 was adopted which further defined the beginning and ending points, length and width footages for the County Maintained Roads. Krift Road is described as a gravel road of 112 feet in length and 8.5 feet in width.

The road is located on private property. There is no right-of-way dedicated to County associated with Krift Road. Access beyond the 112 feet is fenced and gated.

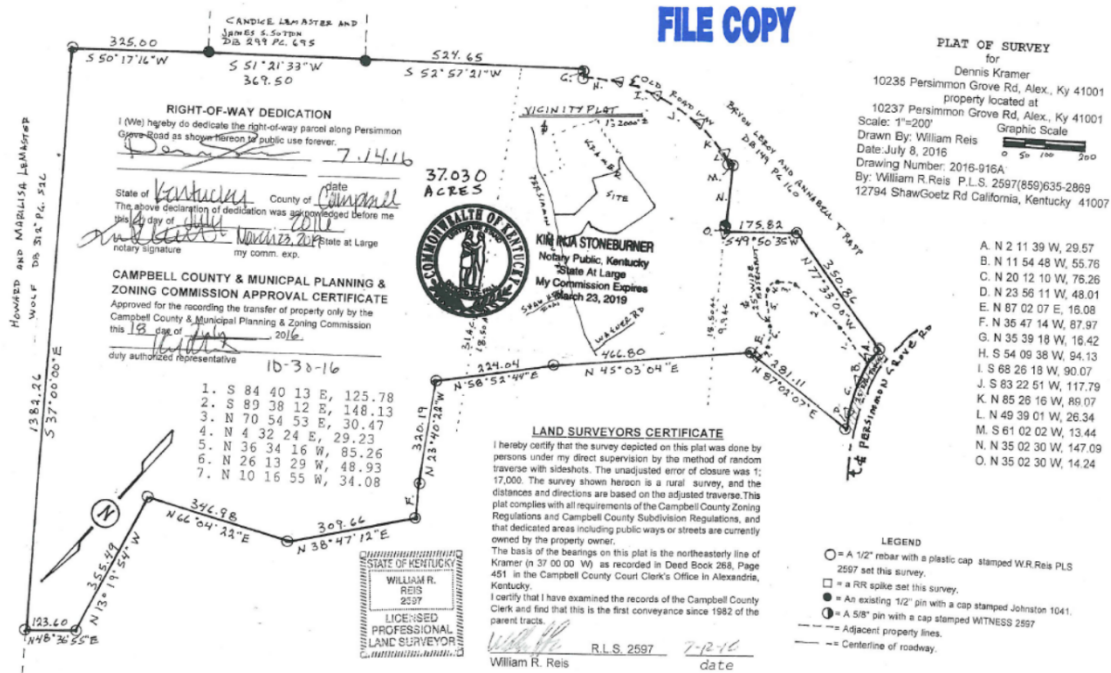


County Maintenance completed as the result of a prescriptive or unwritten easement has historically consisted primarily of a load of spread gravel.

4. In 2016, a land division (ID-30-16) was processed creating new parcel. Both the new division and the reminder tract have sufficient road frontage along Persimmon Grove Pike (SR 1121). As indicated on the ID Plat, the property owner did dedicate frontage from the new parcel up to 25' from the centerline of Persimmon Grove. The length of Krift Road as listed on the County Maintained Road List not been adjusted to reflect the dedication of this additional frontage along Persimmon Grove Pike.



- The new parcel identified as 999-99-30-546.02 completely encompasses Krift Road, as listed on the County Maintained Roads list.



- The ID Plat defines a twenty-five (25) foot wide easement through the new parcel to the remainder. This easement provides access through the new parcel to two existing homes and a private cemetery. The requested action does NOT modify the access easement between private property owners.

### Considerations:

- KRS 100.111(19) defines Public Facility as any use of land whether publicly or privately owned for transportation, utilities, or communications, or for the benefit of the general public, including but not limited to libraries, streets, schools, fire or police stations, county buildings, municipal buildings, recreational centers including parks, and cemeteries. KRS 100.111(20) defines Street as any vehicular way.

**Mr. Luke Mantle, County Road Supervisor has confirmed that there are no public improvements to be made on the site. A site visit concluded that the site serves as a private driveway and that no public inconvenience would result from the discontinuance.**

- KRS 100.324 states: Any proposal for acquisition or disposition of land for public facilities, or changes in the character, location, or extent of structures or land for public facilities excluding state and federal highways and public utilities and common carriers by rail mentioned in this section, shall be referred to the commission to be reviewed in light of its agreement with the comprehensive plan.

**The Comprehensive Plan does not indicate any public improvements for this property.**

**Additional Information:**

*For information purposes, following action by the planning commissions, the Fiscal Court shall follow KRS 178.070, Discontinuance of county roads. The fiscal court may direct any county road to be discontinued. Notice must be published, according to the provisions of KRS 178.050, and in addition, notices must be placed at three (3) prominent and visible public places within one (1) mile of the road. After posting the notices, the fiscal court shall appoint two (2) viewers who have no vested interest in the discontinuance of the road and who, together with the county road engineer, shall view the road and report in writing at the hearing what inconvenience would result from the discontinuance. Upon presentation of the report and other evidences, if any, at a public meeting of the fiscal court, the court may discontinue the road.*

**Staff Recommendation:**

To approve the disposition of the prescriptive easement for the use of Krift Road as a public facility and forward the recommendation to the Campbell County Fiscal Court for additional actions.

**Basis for Recommendation:**

1. As outlined in KRS 100.324, the proposed action has been reviewed in light of its agreement with the comprehensive plan. The proposed action is consistent with the recommendations of the Campbell County Comprehensive Plan Update, the Campbell County Subdivision Regulations and Zoning Ordinance.

**Discussion/Comments:**

Ms. Minter concluded her report by reiterating that the request is for the discontinuance of maintenance for this road and not the closure of this road. Ms. Minter asked if there were any questions she could answer for the Commission. Mr. Verst asked for question or comments from the Commissioners. Mr. Stubbs asked Ms. Minter to clarify that at the end of the 112 feet there is nothing but a private driveway. Ms. Minter responded that was correct. Ms. Blake asked if there was a school bus stop located on Krift Road. Ms. Minter replied there were no school bus stops in this area. Mr. Stubbs and Ms. Blake both asked why the road has been maintained for so long when it appears it is nothing but a long private drive. Ms. Minter stated she had no answer in response to that question.

Mr. Stubbs asked if there were houses located off of this road. Ms. Minter pointed out the homes on this site. Mr. Stubbs commented that those homes were a substantial distance from the 112 feet listed as Krift Road. Mr. Verst asked if the easement ended at the 112 feet or does it go all the way to Persimmon Grove. Ms. Minter replied that it goes to Persimmon Grove.

Mr. Verst asked if there were any other questions or comments for staff. There being none, Mr. Verst stated 1 person has signed in to speak in regards to this issue. Mr. Verst called Mr. Dennis Kramer to approach the podium. Mr. Dennis Kramer introduced himself as a resident of 10237 Persimmon Grove Pike off Krift Road. Mr. Kramer stated this is the first time he has been to a Planning & Zoning Commission meeting. He provided some history. Krift Road, at one point, went all the way up to Upper 10 Mile. In the 1970's, the county continued to maintained over one-half mile of Krift Road. In 1972, a property owner purchased another farm that it went to and they took the outlet out that went to Dead Timber Road which is now Wagoner Road. At that point the

county took the road down to 2 tenths of a mile which is where that little curve is at. There are still remnants of log homes all the way to Route 10 off that road. When the Sherlock Farm was purchased by the Masters family, they maintained that road up to that portion that our family used it. Krift Road is meaningful to my family. I am the 4<sup>th</sup> generation to live on that farm. It was originally named after my great-grandparents, and Ms. Minter's great-grandparents.

Other than sentimental value, KRS 100.111 (19) states:

"Public facility" means any use of land whether publicly or privately owned for transportation, utilities, or communications, or for the benefit of the general public including but not limited to libraries, streets, schools, fire or police stations, county buildings, municipal buildings, recreational centers including parks, and cemeteries;"

Mr. Kramer there is a small cemetery on this parcel. It is a deeded cemetery and we are in process of trying to find out exactly who owns the cemetery. When my ancestors purchased the property, it listed an exception to the cemetery.

Mr. Kramer stated that KRS 178.116 reads as follows:

"Any county road, or road formerly maintained by the county or state, shall be deemed discontinued and possession shall revert to the owner or owners of the tract of land to which is originally belonged unless at least one (1) of the following conditions exists:

- (a) A public need is served by the road;
- (b) The road provides a necessary access for a private person;
- (c) The road has been maintained and policed by the county or state within a three (3) year period."

Mr. Kramer stated he can understand that the Commission may find condition (a) as questionable; condition (b) it does serve as access to private property; and in regards to condition (c) I have a letter that was presented to the Commissions (County) from Mr. Matt Elberfeld (County Administrator) that states that the county maintained the road as recently as 2016. This means that it does fulfill criteria listed in (b) and (c) above.

Mr. Verst asked Mr. Kramer to provide him with the specific KRS references. Mr. Kramer provided the Commission with a copy of the references. Mr. Kramer stated there was another KRS statute that states the Circuit Court may impose fines against members of Fiscal Court that fail to maintain a county road under this ordinance. Mr. Verst asked Mr. Kramer to confirm that condition (b) is the necessary access for a private person which he did. Mr. Verst commented that if the public maintenance was

Exhibit A  
2/14/2016  
Submitted by D. Kremer

**178.116 Discontinuance of a road.**

- (1) Any county road, or road formerly maintained by the county or state, shall be deemed discontinued and possession shall revert to the owner or owners of the tract of land to which it originally belonged unless at least one (1) of the following conditions exists:
  - (a) A public need is served by the road;
  - (b) The road provides a necessary access for a private person;
  - (c) The road has been maintained and policed by the county or state within a three (3) year period.
- (2) If the only condition which exists is for a necessary access for a private person, by a joint petition of all parties entitled to such access, the road shall be deemed discontinued and possession shall revert to the owner or owners of the tract of land to which it originally belonged.
- (3) If the only condition which exists is for a necessary access for a private person, by joint petition of all parties entitled to such access, the road shall be closed to public use but remain open in accordance with its condition and use for the access of the private parties involved.
- (4) If a county road has been discontinued under the provisions of KRS 178.070, then by a joint petition of all private parties entitled to necessary access the road shall be closed to public use but remain open in accordance with its condition and use for the access of the private parties involved, or by a joint petition of all parties entitled to necessary access the road shall revert to the owner or owners of the tract or tracts of land to which it originally belonged.
- (5) For the purposes of this chapter "necessary access" shall be construed to include access to any farm, tract of land, or dwelling, or to any portions of such farm, tract of land, or dwelling.

Effective: July 15, 1980

History: Created 1980 Ky. Acts ch. 243, sec. 3, effective July 15, 1980.

discontinued, the easement would remain and exist thereby providing the access to the property. The access does not end because the maintenance of the road is discontinued. Mr. Kramer stated that this has been a road since the beginning of time and there is a model t ford still sitting there by the side of the road and the county has been maintaining it for all this time why would they need to discontinue it. One more resident lives up there now than did in the year 2000.

Mr. Verst stated that, looking at this road, he does not believe there is a public need served by the road. There is a private home up there. When the road provides the necessary access and if the county does not maintain it you would not have access to the property then that is when a public need exist. Mr. Kramer stated that would something for someone legal to determine. Mr. Stubbs asked how many families lived off the road. Mr. Kramer replied there were two families. Ms. Blake asked Mr. Kramer about his comment that there was one more family on the road. Mr. Kramer stated his parents lived up there a few years ago. His son lives in the original farmhouse from 1870. His mother is not living there on the site at this time. Mr. Verst asked if Mr. Kramer had an idea where the cemetery was on the map. After a brief review, the cemetery was located as being on Mr. Kramer's private property near the recent property division line.

Mr. Verst asked if there were any other questions for Mr. Kramer. There being none, Mr. Verst opened the floor for discussion among the Commissioners. Ms. Minter apologized to the Commission for not stating at the start of the meeting that her maiden name is Krift, but she has no financial or any other vestment in this case. Ms. Minter stated she has never been to this site. Mr. Kramer apologized if he placed Ms. Minter in a difficult situation. Mr. Verst commented that there are some relations so far back that you cannot help but be related to many others in Campbell County.

Ms. Minter stated that she wanted to reemphasize to the Commission that the objective tonight is not to determine if this is a road or driveway. The purpose is to make a recommendation to the Fiscal Court as to if the discontinuance of maintenance of Krift Road would in any way impact the Comprehensive Plan. The final decision as to what becomes of the maintenance rests with the Fiscal Court and that is their case to resolve. We are also in terms of the easement there are many private driveways and or private roads that are names. We are not recommending any kind of absolution of the name.

Ms. Harding had a question for Mr. Kramer. The new parcel created, on the actual deed, does it exempt the area of the cemetery from ownership? Mr. Kramer stated that the property transferred does not include the cemetery. Ms. Harding stated so it was exempted on the deed itself. Mr. Kramer stated, on the original deed, which is not part of the area that was transferred off, but the part that he still owns, the cemetery is exempted. Mr. Verst asked Ms. Minter to go to the colored slide. The cemetery is marked on that slide. There is a note that says that the cemetery is on the parent tract and was not divided. Whatever ownership that was previously there, is still there. Mr. Kramer stated that he is still working on trying to find out exactly who owns the cemetery.

Mr. Verst asked if there were any other comments or thoughts from the Commission. Mr. Verst stated that his general comment is that, when he looks at this, he does not see a public benefit to this road at this time. In the past, when the road continued on to service other parcels, it was a necessity. He does not see there is a public need and it does not seem necessary for access to a private person. If the access easement stopped at the edge of Krift Road it would be an issue, but since it goes all the way to Persimmon Grove Pike, there is no issue. He does not see the county maintenance of this road to be vital to the community. Mr. Verst stated that Ms. Minter commented that there are private drives and private roads that have a name. Ms. Minter stated

there is a policy, based on the number of homes off a private drive, that each home is addressed and named off the private drive/road for emergency situations and 911 access. In this particular case, all the addresses are addressed off Persimmon Grove Pike and with two homes and potentially a 3<sup>rd</sup>; we would continue to address them at Persimmon Grove Pike. If at some point there are additional parcels off Persimmon Grove Pike, but they continued to use Krift Road for access, then we would probably use the Krift Road as the address point for 911 perspectives.

Mr. Verst asked if there were any other comments or thoughts from the Commission. Mr. Verst asked if anyone seen any issues with the comprehensive plan. Staff had recommended that the discontinuance of the maintenance would not be in conflict with the comprehensive plan. Does anyone see any issues or any impact to our goals and objectives if this were no longer maintained? There were no comments by the Commission. Mr. Verst stated that staff recommendation was to approve the disposition (which is to make a recommendation to the Fiscal Court) to approve the disposition of the prescriptive easement for the use of Krift road as a public facility.

Ms. Harding stated, with respect to case #173-17-TXA-01, a request for discontinuance and release of Krift Road as a public facility, she finds that based upon the staff report; feedback from Mr. Kramer; and the Planning Commission's review and discussion, the county has met its burden to show no need for continued prescriptive easement of the land in subject. The county has complied with the site visit requirement and confirms there would be neither public use nor public inconvenience if it were to be discontinued. Furthermore, it does not appear that a decision to discontinue maintenance of this road would cause any additional traffic or other issues on any other thoroughfare in the county. It does not conflict with the Comprehensive Plan. In the matter presented to us here, under KRS 100.324, I move to recommend approval of the disposition of the prescriptive easement and the use of Krift Road as a public facility and further move that this go forward to the Fiscal Court so it could proceed under KRS 178.070. Mr. Verst stated that we have a motion on the floor and the bases for the motion has been described. Is there a second? Ms. Harding stated that she would further add that she saw no conflict with the Subdivision Regulations. Mr. Verst called for a second. Mr. Stubbs seconded the motion. Mr. Verst called for a roll call vote. A roll call vote found Ms. Blake, Ms. Harding, Mr. Stubbs, Mr. Barrow and Mr. Verst in favor. No one abstained. Motion passed.

Mr. Verst asked Ms. Minter to clarify that this issue would be on the Fiscal Court's agenda. Ms. Minter stated that the Fiscal Court is anticipating an April agenda for this issue. Mr. Verst thanked Mr. Kramer for his participation in the public hearing tonight and invited him to attend the Fiscal Court meeting to have his discussion there.

Mr. Verst stated that the next point of business was to approve training obtained by the Commission, Board of Adjustment and staff. Staff advised they had no training to present for approval tonight.

Mr. Verst called for the Director's Report.

#### **Directors' Report:**

Ms. Minter stated the only item she had was to confirm with Mr. Barrow if he wished to accept the vote at the previous meeting appointing him as Vice-Chair. Mr. Barrow stated that he did accept their vote and appreciated their confidence in his performance of the duties of Vice Chair.

Ms. Minter advised the Commission that they would be meeting in March just to approve the meeting minutes from tonight's meeting.

Mr. Verst asked if there were any other items for discussion. There being none, Mr. Verst called for a motion to adjourn. Mr. Barrow made a motion to adjourn the meeting. Mr. Stubbs seconded the motion. An oral vote found all in favor, none opposed and none abstained. Motion passed. Meeting adjourned at 8:35 PM.

Respectfully Submitted,

Approved:

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Cynthia Minter  
Director of Planning & Zoning

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Justin Verst  
Chair