

**CAMPBELL COUNTY & MUNICIPAL PLANNING & ZONING COMMISSION
MINUTES OF THE FEBRUARY 10, 2015 MEETING**

MEMBERS PRESENT:

Mr. Larry Barrow
Ms. Lauri Harding
Mr. Steve Stapleton
Mr. Edward Stubbs
Mr. Michael Williams, TPO
Mr. Justin Verst, Chair

MEMBERS ABSENT:

Mr. Dennis Bass
Ms. Deborah Blake

STAFF PRESENT:

Ms. Cynthia Minter, Director
Mr. Matt Smith, Legal Counsel

STAFF ABSENT:

Mr. Ryan Hutchinson, Planner
Ms. Stephanie Turner, Secretary

Mr. Verst called the meeting to order at 7:00 PM. Following roll call, a quorum was found to be present. Mr. Verst asked if everyone had reviewed the January 13, 2015 meeting minutes and asked if there were any additions or corrections. There being none, Mr. Verst called for a motion. Mr. Barrow made a motion to approve the January 13th meeting minutes as submitted. 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. Verst in favor of the motion. Motion passed.

There were several audience members that wished to address the Commission pertaining to a recent waiver as described in Case #144-14-WAV-01 by applicant Carol (Leap) Sipple. Mr., Verst asked Ms. Minter to provide an update to the Planning Commission on this case. Ms. Minter stated that following the direction from the Commission taken at its last meeting, staff acted accordingly and approved the waiver request as submitted with conditions as specified by the discussion held among the Commission. [Mrs. Sipple's request was for a dimensional waiver of the Subdivision Regulations, Section 415 Lot Arrangement and Size, (D) Flag Lots.]

Mr. Verst recognized the guest present and asked if she would like to speak. An unidentified woman spoke from the audience indicating that her family had been delayed they went to the wrong location. Following a brief delay, the family arrived. Mr. Rudy Bamforth, co-owner of 331 Poplar Thicket Rd, Alexandria, stepped forward to the microphone and requested to be introduced to the Planning Commission. Mr. R. Bamforth indicated that he had gone to the wrong location for the meeting and wanted to know if the location had been changed. Mr. Verst apologized for any confusion and conformed that the Planning and Zoning Department is located on Monmouth Street in Newport but that the Alexandria location is the regular meeting place for the Planning Commission. Mr. Verst stated that to his knowledge this has been the regular meeting place for nearly 30 years.

Ms. Minter introduced herself followed by each member of the Planning Commission. Mr. R. Bamforth asked if Mrs. Sipple or her attorney were present tonight. Mr. R. Bamforth wanted to know why they were not in attendance. Ms. Minter indicated that the matter was heard last month and there was no need for them to be present tonight.

Mr. R. Bamforth indicated that he was a neighbor to Mrs. Sipple's farm and that he was opposed to the action taken by the Planning Commission. He did not want another home near his home as he felt that the home would devalue his property. He was also concerned about the use of the shared private roadway which is co-

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owned by Mrs. Leap [Sipple] and the Bamforths. Mr. Verst explained that this case was reviewed and approval was recommended by the Commission at the prior meeting. Mr. R. Bamforth asked for an understanding what was approved and the conditions of the approval, specifically Item 5 which stated that "a maintenance agreement serving all parcels on the private road be recorded". Mr. R. Bamforth stated that he did not feel that the previous agreements allowed an additional home to use the road.

Mr. Verst explained that the Planning Commission commonly requests that an agreement be in place when more than one owner wishes to share a driveway but does not get into the details of the agreement. He explained that the details and disputes regarding these types of maintenance agreements are between two or more property owners. Mr. Verst asked Ms. Minter if staff had a copy of the agreement concerning the shared driveway. Ms. Minter referenced the recorded documentation that was signed by Rudy Bamforth, Lynne Bamforth, Melvin Leap and Carol Leap in 1974. Ms. Minter noted that these documents were prepared by Lambert Hehl. Ms. Minter asked Mr. R. Bamforth if Mr. Hehl was his attorney at the time these agreements were drafted. Mr. Bamforth stated that he believed that Mr. Hehl was his attorney, but that he was not in concurrence with the details of the agreement. Mr. Verst and Mr. Smith each suggested that Mr. R. Bamforth should consult his own legal counsel if he is disputing the details of the agreements. Mr. Smith stated that the Planning Commission must decide subdivision applications based upon existing subdivision standards. Mr. R. Bamforth's issue appears to deal with a private shared access agreement between two private parties. The Planning Commission has no authority to hear or decide private land rights. If Mr. R. Bamforth believes someone is violating a shared access agreement he really needs to consult with a private attorney to determine if there is an issue, but unfortunately that issue is well beyond our authority as a Planning Commission.

Mr. Doug Bamforth, 3819 Lisa Ln, Alexandria, approached the microphone and indicated that he was a son to Mr. Rudy Bamforth. He wished to continue his father's request for clarifications drawing attention to the finding of fact as noted in the staff report to support the granting of the waiver. Mr. D. Bamforth skimmed through Item "1. This finding of facts must include: a) The waiver is not in conflict with the intent and purpose of these Subdivision Regulations, the zoning ordinance and the adopted comprehensive plan; and, b) The waiver will not be detrimental to the public welfare" and focused his questions on the second portion, "AND at least one of the following: 2. a) Unusual topographic or exceptional physical conditions exist on the proposed site that are or were not created by actions of the subdivider or anyone on his/her behalf; OR b) Strict compliance with these Subdivision Regulations would deprive the subdivider of reasonable use of the land; OR, c) The waiver will provide for an innovative design layout of the subdivision."

As requested by Mr. D Bamforth, Mr. Verst, Mr. Smith and Ms. Minter provided examples of items 2a and 2c. Mr. Bamforth asked how the waiver has unusual topographic conditions or was an innovative design. Ms. Minter stated that the within Item 2, the finding of fact is based on either A, B "**OR**" C not "**AND**". Ms. Minter stated that Item 2B was used for this case. Mr. R Bamforth stated that he felt that the conditions were created by actions of the subdivider [Item 2a]. Ms. Minter stated that the configurations of this property predated Planning and Zoning.

Mr. D. Bamforth stated that they had not seen the written agreement concerning the shared driveway and did not believe that it existed. Ms. Minter provided him with a copy of the agreement noting the signatories. Ms. Minter suggested that, if he wishes to dispute the agreement, it must be done by a court of law rather than the Planning Commission. Mr. D. Bamforth asked where he could find additional records related to the properties without engaging an attorney. Ms. Minter indicated that research could be done through the County Clerk's office.

Mr. Mark Bamforth, 503 Carlisle Ave, Melbourne, stepped forward to the podium to speak and identified himself as a son of Mr. Rudy Bamforth. Mr. M. Bamforth repeated his father's concern regarding devaluation of their property due to another home close by and stated that Ms. Sipple had objected to previous division suggested by his family. Mr. M Bamforth, that he would like to do a division as well, so the he can sell off a lot and make a little money. Mr. M. Bamforth proceeded to give examples of conceptual division and asked if the Planning Commission would grant those too. Ms. Minter clarified that each property has to be examined on a cases by case basis and that it would be inappropriate for the Planning Commission to give an opinion on an arbitrary case. Mr. Smith interjected that Ms. Minter was correct and that the Planning Commission must take action based upon the information presented to them in an application and consistent with their rules, ordinances and regulations.

Mr. Verst thanked all three citizens for their comments and asked if anyone else wished to speak. Mr. R Bamforth repeated his objection to the waiver. Mr. Verst thanked Mr. R. Bamforth for his comments and asked if anyone else wished to speak. No other comments were received.

Mr. Verst asked Ms. Minter if there were any other unfinished business items to discuss. Ms. Minter congratulated the Commission for their review of the Vision, Goals and Objectives of the Comprehensive Plan. Ms. Minter highlighted a few changes for consideration based upon comments received since the last working session. Ms. Minter asked for the Commission's approval to share the Vision, Goals and Objectives with the municipalities and the public to obtain their input.

Mr. Smith asked for confirmation on the process. Ms. Minter stated that the draft text will be taken out for public review and comment. Public comments will be summarized and brought back before the Commission. The Commission can then incorporate any needed changes to the goals and objectives. The finalized vision, goals and objectives will be taken back out to each municipality for their adoption. Mr. Verst called for a motion. Mr. Barrow made a motion to authorize staff to present the revised Vision, Goals and Objectives to the public and applicable municipalities. 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. Verst in favor of the motion. Motion passed.

There being no other unfinished business to discuss. Mr. Verst introduced case #108-15-TXA-06, a request submitted by the Campbell County Planning & Zoning staff on behalf of the Campbell County & Municipal Planning & Zoning Commission to modify articles of the Subdivision Regulations to clarify the authority of the administrative official; correct minor typographical items; update the corresponding table of contents; and update the list of modifications. Ms. Minter presented the staff report as follows:

FILE NUMBER: 108-15-TXA-06

APPLICANT: Campbell County Planning & Zoning Department on behalf of the Campbell County & Municipal Planning & Zoning Commission

REQUEST: Proposed amendment to the Campbell County Subdivision Regulations updating the authority of the Administrative Official.

On behalf of the Campbell County Planning and Zoning Commission, the Campbell County Planning & Zoning staff is submitting this request to modify select articles from the Campbell County & Municipal Planning and Zoning Commission Subdivision Regulations. These text amendments are proposed to clarify the authority of the administrative official, correct minor typographical items, update the corresponding table of contents and update the list of modifications.

PROPOSED TEXT AMENDMENTS:

Addition and deletions of text as underlined and struck below (See attachment)

Article 1

SECTION 140

Waiver of Subdivision Regulations

Upon request to the Administrative Official, an applicant, developer or property owner may seek a waiver of any subdivision regulation in this document based upon a written request (including a completed application and related fees). The Administrative Official shall review the individual request and may grant a waiver under unusual or extreme circumstances or refer the request to the Planning Commission for action. An action ; however, the Administrative Official must make a finding of facts to support the granting of the waiver.

SECTION 145

Appeals

Any person or entity claiming to be injured or aggrieved by an official action, order, requirement, interpretation, grant, refusal, or decision by the Administrative Official ~~or the Campbell County Planning Commission's Staff~~ relative to the administration of these subdivision regulations may appeal such decision to the Planning Commission within thirty (30) consecutive calendar days. Such appeal shall follow the procedures and notice requirements for an appeal of the Administrative Official's decision as stated in Article XVIII of the Zoning Ordinance.

Article 4

SECTION 402

Open Space, Cluster and Conventional Residential Subdivision Design

- A 25 foot street pavement with parking is required for all local streets, cul-de-sacs, and courts, although ~~the Administrative Official may consider~~ a waiver may be considered to allow a narrower court when it serves six or less lots and additional off-street parking is provided beyond that required for each dwelling unit.
- At Improvement Plan stage, the developer must provide documentation of the organizational and financial viability of the HOA home owner's association, including a proposed budget for review by the Planning Commission staff.

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Appendix Z Modifications to Subdivision Regulations

STAFF RECOMMENDATION:

To adopt the proposed text amendments to the Campbell County and Municipal Subdivision Regulations.

SUPPORTING INFORMATION/BASES FOR STAFF RECOMMENDATION:

1. Per Kentucky Revised Statutes (KRS) 100.273, the Campbell County & Municipal Planning & Zoning Commission has the authority to adopt subdivision regulations.
2. The proposed modifications to the Subdivision Regulations are consistent with KRS 100.281.
3. Proper notice of the public hearing has been given in accordance with KRS 424 and the bylaws of the Campbell County & Municipal Planning & Zoning Commission.
4. The proposed changes are consistent with the 2008 Campbell County Comprehensive Plan Update and the Campbell County Subdivision Regulations.

Mr. Verst commented that the request seems clear and concise on what is being changed. Mr. Verst asked if there were any questions of staff. There being none, Mr. Verst commented that there were no members of audience remaining to speak and advised that he was closing the public hearing. Mr. Verst opened the floor for discussion among the Commissioners. There being no comments, Mr. Verst stated he would entertain a motion.

Mr. Williams made a motion to approve #108-15-TXA-06, a request submitted by the Campbell County Planning & Zoning staff on behalf of the Campbell County & Municipal Planning & Zoning Commission to modify articles of the Subdivision Regulations to clarify the authority of the administrative official; correct minor typographical items; update the corresponding table of contents; and update the list of modifications as submitted in the staff report. Mr. Williams stated that the bases for his motion is that per Kentucky Revised Statutes (KRS) 100.273, the Campbell County & Municipal Planning & Zoning Commission has the authority to adopt subdivision regulations; that the proposed modifications to the Subdivision Regulations are consistent with KRS 100.281; that proper notice of the public hearing has been given in accordance with KRS 424 and the bylaws of the Campbell County & Municipal Planning & Zoning Commission; and that the proposed changes are consistent with the 2008 Campbell County Comprehensive Plan Update and the Campbell County Subdivision Regulations. Mr. Verst asked if there were any questions on the motion. There

being none, Mr. Verst called for a second to the motion. Mr. Stubbs 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. Verst in favor of the motion. Motion passed.

Ms. Minter thanked the Commission for their approval of the text changes. She continued that the next item for consideration by the Commission is the approval of training obtained by Ms. Sharon Haynes of the Board of Adjustment. Ms. Haynes attended training for "The Great Tree Summit". Ms. Minter advised the Commission a motion would be required to approve the training. Mr. Verst asked if anyone wanted to make a motion to approve the training. Mr. Williams made a motion to approve the training obtained by Ms. Haynes. Mr. Verst called for a second to the motion. Mr. Barrow 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. Verst in favor of the motion. Motion passed.

Mr. Verst asked if there were any other new business to discuss. Ms. Minter stated she had no other new business to discuss. With that, Mr. Verst called for the Director's Report.

DIRECTOR'S REPORT

Ms. Minter stated that she did contact Fiscal Court to obtain input outdoor wood burning furnaces. As this time the Fiscal Court has declined to take up this topic. The general consensus was that setback guidance and nuisance laws were available to regulate the furnaces. Ms. Harding sated her disappointment in that we regulate the placement of a gazebo but not the placement of the furnaces. Ms. Minter reaffirmed that all structures are regulated in terms of setbacks. Ms. Harding felt that we should also regulate the height of the smoke stack. Ms. Harding, Mr. Williams and Mr. Smith had a general discussion regarding nuisance laws relating to dust.

Mr. Verst asked if there was any other business to discuss. There being none, Mr. Verst called for a motion to adjourn. Mr. Barrow made a motion to adjourn. Mr. Stapleton seconded the motion. An oral vote found everyone in favor, none opposed. Motion passed. Meeting adjourned.

Respectfully Submitted,

Approved:

Cynthia Minter
Director of Planning & Zoning

Justin Verst
Chair