

**CAMPBELL COUNTY & MUNICIPAL PLANNING & ZONING COMMISSION
MINUTES OF THE SEPTEMBER 11, 2012 MEETING**

MEMBERS PRESENT:

Mr. Larry Barrow
Mr. Dennis Bass
Mr. Edward Stubbs
Mr. Michael Williams, TPO
Mr. Justin Verst, Vice Chair
Ms. Cindy Minter, Chair

MEMBERS ABSENT:

Ms. Deborah Blake
Ms. Lauri Harding
Mr. Tony Pfeffer

STAFF PRESENT:

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

Ms. Minter called the meeting to order at 7:20 PM at the Campbell County Courthouse at 8352 E. Main Street, Alexandria, Kentucky. Following roll call, a quorum was found to be present. Ms. Minter apologized for the late start and the confusion to the applicants regarding the change in the location of the meeting. Ms. Minter asked if everyone had reviewed the July 10, 2012 meeting minutes and asked if there were any additions or corrections. There being none, Ms. Minter called for a motion. Mr. Williams made a motion to approve the July 10th meeting minutes as submitted. Mr. Verst seconded the motion. A roll call vote found Mr. Barrow, Mr. Stubbs, Mr. Williams and Mr. Verst in favor of the motion. Mr. Bass and Ms. Minter abstained. Motion passed.

Ms. Minter introduced case #ID-25-12, Jerry & Judy Mitchell, with a request to approve a Conveyance Plat consisting of a 3.26 acre land division with no public improvements and asked Mr. Hutchinson to present the staff report and staff's recommendation to the Commission.

SUBDIVISION:	ID-25-12
APPLICANT:	Jerry & Judy Mitchell
LOCATION:	10737 Flagg Springs Pike, Unincorporated Campbell County.
REQUEST:	To approve a Conveyance Plat consisting of a 3.26 acre land division with no public improvements.

Considerations:

1. Review of the Conveyance Plat in accord with the Zoning Ordinance and Subdivision Regulations results in the following issues:
 - a) The proposed plat indicates a 3.26 acre flag lot division along the north side of Flagg Springs Pike. The applicant is proposing a new lot with a 25' foot flag stem going back 250' feet, at which point the lot widens out to 100' feet.
 - b) The current zoning for the site in question is Agricultural One (A-1). The A-1 Zone requires a minimum 100 foot lot width.
 - c) The property currently has 400.74' feet of road frontage. It is possible to configure the new lot such that the new lot and remainder tract can both contain the required frontage without creating a flag lot. If the flag lot is denied, the applicant still has more than enough road frontage to create a conforming lot.

- d) The plat indicates a 25' ingress/egress easement for access to the flag lot.
- e) The proposed flag lot is vacant land.
- f) The remainder tract has a barn. The barn appears to meet setback requirements. The aerial shows a mobile home on the property; however, it was removed.
- g) County records indicate an 8" inch water main fronts the property.
- h) County records indicate centralized sanitary sewers are not available for this area.
- i) Campbell County Subdivision Regulations Section 415 Lot Arrangement and Sizes states "... Rectangular shaped lots shall be encouraged in all commercial, industrial and residential zones. Extremely irregularly shaped lots shall be avoided... Side lot lines shall be as close to right angles with the street centerline as possible, or radial to curve street centerlines... Lot lines of a subdivision, should display an organized and uniform development pattern."

Recommendation for Conveyance Plat:

To deny the Conveyance Plat for the Mitchell Land Division.

Bases for Recommendation for Identification Plat:

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

- A) CAMPBELL COUNTY SUBDIVISION REGULATIONS SECTION 415.D states: "Flag Lots - All flag lots require submission to the Planning Commission for review and approval. Flag lots shall only be permitted in those locations where because of existing geometric, topographic, or other natural features, it would be impractical to extend a public street as determined by the Planning Commission. Flag lots shall have a panhandle extending directly to a publicly dedicated street for the purpose of access."

The property currently has 400.74' feet of road frontage. It is possible to configure the new lot such that the new lot and remainder tract can both contain the required frontage without creating a flag lot.

Mr. Hutchinson concluded his presentation by asking if there were any questions he could answer for the Commission. Ms. Minter asked the Commission if they had questions for staff. Mr. Bass asked Mr. Hutchinson to confirm that staff wanted to see another seventy-five feet of road frontage along the road to be added to the proposed lot stem. Mr. Hutchinson replied that was correct – that was what the Regulations ask for. Mr. Williams asked Mr. Hutchinson to repeat what was just said as he did not hear Mr. Bass's question. Mr. Hutchinson repeated the question and answer. Mr. Williams asked what was meant by "extremely irregular shape". Mr. Hutchinson explained that the Regulations try to assist in avoiding property boundary disputes and confusion on where your property line is actually located. The proposed lot has several angles in the current design. There could be a dispute in the future as to where a fence or outbuilding could go. If it were a straight line, it would reduce the possibility of this type of issue arising.

Mr. Williams asked for Mr. Hutchinson to point out on either the topographical or aerial slide what the applicant would have to do to bring the proposed lot into compliance. Mr. Williams stated he knew we were talking hypothetically but Mr. Hutchinson previously indicated that there were actions the applicant could take to bring the lot into compliance with the Regulations. Mr. Hutchinson asked Mr. Williams to

clarify what element of the proposed plat he wanted to discuss – the lot width, the lot configuration in regards to the angles, or another issue. Ms. Minter interposed that, if Mr. Williams looks at paragraphs 1 b) and c) under the “Considerations:” portion of the staff report, it states that the applicant needs a minimum lot width of one hundred feet of road frontage to create a lot in the A-1 Zone. Right now, the applicant has proposed only twenty-five feet of road frontage. Mr. Bass asked, if the Regulations asked for a width at the road of one hundred feet, how far back was the allowed distance before it could flare out. Mr. Hutchinson replied the regulations allowed for a “flag stem” of no longer than two hundred fifty feet before the lot has to widen out to one hundred feet which is exactly what the applicant has shown.

Mr. Williams stated he could not previously determine there was a space between the “red” and “blue” lines on the slide. He did not realize there was a twenty-five foot gap between the two. Mr. Bass asked Mr. Hutchinson to follow, with a pointer on the slide, the flag stem up to the first time the lot widens. Mr. Hutchinson did so. Mr. Bass asked Mr. Hutchinson to confirm that, if the applicant took the line from the first flare out and followed it down to the road, is that staff’s request – that only the stem be widened to one hundred feet. Mr. Hutchinson replied that was correct. Mr. Hutchinson offered that, if the applicant did not want to widen the stem on that side of the lot, the applicant could place the road frontage of one hundred feet on the opposite side of the lot. Mr. Verst asked if the structure just to the right of the blue line was a house. Mr. Hutchinson stated that structure is a barn and proceeded to point out the barn site and the previous mobile home site to the Commission on the slide.

Mr. Williams asked if the applicant indicated to staff why they could not make the road frontage one hundred feet wide. Is there something physically preventing the applicant from widening the road frontage? Ms. Minter stated this was a question that would best be answered by the applicant and asked Mr. Williams to hold his question for the applicant. Mr. Barrow asked if the zone being A-1 is the reason the road width must be one hundred feet. If this were a residential zone, would the road width requirement be twenty-five feet? Mr. Hutchinson stated that was not correct. The A-1 Zone is for agricultural and residential purposes allowing for single family detached homes. The lot width has nothing to do with a residential home being placed in the A-1 Zone.

Mr. Stubbs asked if the twenty-five foot easement was also legal. Mr. Hutchinson replied that the easement is required where the Commission is going to approve a plan where someone is not going to gain access directly to their lot via a driveway. Staff’s goal is to eliminate property disputes in the future just like we try to eliminate potential conflicts where property lines may be confusing. We are trying to help the property owner as much as possible from potentially creating future problems.

Mr. Williams asked Mr. Hutchinson to identify where the red line intersects with the blue line at the road frontage. Mr. Hutchinson did so. Mr. Williams asked who owned the property to the left of the red line. Mr. Hutchinson explained that the red line is a line that he drew in there. The blue lines identify the property owned by the applicant. The red line is the proposed new lot line showing how the applicant wants to divide his property. The applicant owns all land to the left of the red line. Mr. Williams asked again who owned the property to the left of the red line. Mr. Hutchinson replied the applicant owned the land. The applicant has over four hundred feet of road frontage.

Ms. Minter asked if there were any other questions for staff. There being none, Ms. Minter asked the applicant to step forward and state his name for the record. Mr. Jerry Wayne Mitchell, Jr. stepped forward to answer questions for the Commission. Ms. Minter asked Mr. Williams if he wished to ask his previous question at this time. Mr. Williams stated that he would ask his questions later. Ms. Minter asked if there were any other questions of the applicant. Mr. Verst stated that from looking at the small aerial maps, the Commission was having difficulty isolating why the applicant could not provide one hundred feet of road frontage. Mr. Verst asked Mr. Mitchell Jr. to explain the reasoning behind the request for a flag lot.

Mr. Mitchell Jr. stated that, when the original plan to divide the lot was proposed, he went to staff and asked for the rules in dividing the lots. He was advised that there was a four to one (4:1) width to depth

ratio requirement in creating new lots. The proposed lot is over eight hundred feet deep which would have required him to obtain two hundred feet of road frontage. There are only two sites on this property that would be really buildable - the one at the top of the hill where he proposes to build his own home and the old mobile home site. Mr. Mitchell Jr. stated his father wanted to save the old mobile home site so that his parents could build their own home on that site. Because of the four to one (4:1) width to depth ratio, the two hundred feet of road frontage would have basically taken that entire side of the plot to create the new lot. Mr. Mitchell, Jr. stated his father wanted to save some of that area for his own home and Mr. Mitchell, Jr. did not want to take any more of his father's property than was absolutely necessary. Their decision to build a flag lot was determined by the fact that there is no width to depth ratio requirement for flag lots. Mr. Mitchell, Jr. stated they could probably have done the one hundred feet width of road frontage, but they could not meet the two hundred feet width so they decided to proceed with a flag lot submission.

Mr. Verst asked Mr. Mitchell, Jr. to go to the aerial photograph so they could see the potential home sites. Mr. Verst asked if the site to the right of the gas easement is the mobile home site he is referring to. Mr. Mitchell, Jr. stated that was correct. Mr. Verst asked if their goal was to preserve both homesites. Mr. Mitchell, Jr. stated that was also correct. Mr. Verst asked Mr. Hutchinson if the lot width was set at one hundred feet wide would there be enough room remaining on the old mobile home site to meet the side yard setback requirements. Mr. Hutchinson replied that the side yard setback in the A-1 Zone is twenty-five feet total with a minimum of ten feet. Mr. Hutchinson stated that he asked the surveyor, Mr. Gary Menetrey, if the applicant would be able to meet the setback requirements. Mr. Menetrey advised him that they would be close. Since the mobile home was removed, it was no longer an issue for review or consideration. Mr. Hutchinson did not further investigate this issue as a result. Mr. Mitchell, Jr. stated he thinks the setbacks requirements are different for a mobile home. Mr. Hutchinson stated that the side yard setback would be fifty foot for a mobile home and that the radius to another home is one hundred twenty-five feet with a fifty feet side yard setback and a minimum front yard setback of one hundred fifty feet. Ms. Minter wanted to clarify that the mobile home was no longer on that site so this was a past discussion. Mr. Hutchinson replied that was correct. The mobile home was removed.

Mr. Verst stated that looking at the aerial that the only potential homesites he sees are at the top of the hill, the barn site and the site of the previous mobile home. If the lot were one hundred feet wide, with the gas easement going right down the middle of the lot, it forces the homesites to be pushed further to the right which may make the applicant unable to utilize the old mobile home site. Mr. Hutchinson stated he understood Mr. Verst's concern and advised the Commission that if you are over five acres, the width to depth ratio no longer applies. Mr. Hutchinson advised the Commission that the applicant could always reconfigure the proposed lot to meet the one hundred foot width requirement. Mr. Verst asked the applicant if they could move the flag stem to the far left side of the lot. Mr. Mitchell, Jr. replied that, if they moved the flag stem to the left side of the property, it would basically go right through the barn and he wanted to keep his property separate from his fathers. Mr. Hutchinson asked if by moving to the far left side of the property would place the one hundred feet in the middle of the barn. Mr. Mitchell, Jr. replied that it would and then asked Mr. Hutchinson if they did move to the left side of the lot if they would have to follow the exact property line in creating the new lot. Mr. Hutchinson replied you would not be allowed to create an "island", but you could follow the property line straight up. Mr. Mitchell, Jr. stated that they felt the plan they presented would be the best way to divide the lot while still preserving his father's remaining portion so they would not be cutting it into pieces. Mr. Hutchinson advised that, at the time they begin to build on the old mobile home site, the applicant could apply for a variance from the setback requirements if they cannot meet them. Mr. Mitchell, Jr. replied he just wanted to divide a parcel off without taking any more of his father's land than necessary and without cutting it up. Ms. Minter stated the Commission appreciated his concerns.

Ms. Minter asked if there were any additional questions for the applicant. There being none, Ms. Minter asked if there were any additional questions for staff. Mr. Bass asked if the applicant agreed to widen the road frontage to one hundred feet on the side they are currently showing the proposed lot, would they have room to meet all setback requirements if they were to apply for a building permit on the old mobile

home site. Mr. Hutchinson replied it would be extremely close. He cannot be one hundred percent certain because he doesn't know the size of home they would propose. Mr. Hutchinson stated that, once he was advised the old mobile home was removed and would not be a concern to meeting the setback requirements, he did not further investigate to see if the applicant could meet setback requirements if they were to build a new home on that homesite. The land is graded out for that previously existing mobile home. If they wanted to build a new home on that site, the question would change to could they slide the home a little to the south to meet the requirements or perhaps even cut a little more out at the back of that area and put up a retaining wall so they could use this current location. Mr. Hutchinson stated that the site was very steep and would require the foundation to be engineered and a geo-technical engineer on site.

Ms. Minter asked for Mr. Hutchinson to identify what was located in the area that the grading was cut out on the right side of the lot. Mr. Hutchinson stated he was uncertain, but it could have been a stream. Mr. Mitchell, Jr. stated it was an old road. It used to be Lick Hill Road, but it has since washed out until it is just a ravine. Ms. Minter asked if the road used to go all the way down to Flagg Springs Pike. Mr. Mitchell, Jr. replied that it did. Mr. Barrow asked Mr. Hutchinson, if the flag stem was widened to one hundred feet straight down to the road, the area to the left would be all up-hill anyway. Mr. Hutchinson stated that was correct. Mr. Barrow stated that by making the stem one hundred feet wide that the applicant is not going to get any use out of the additional amount of road frontage anyway due to the steepness of the topography. The only thing that is gained is that it makes the lot "legal". Mr. Verst stated he believes that there would be room for a built home, but maybe not for a mobile home. Mr. Mitchell, Jr. reminded the Commission that there was a large gas easement and there is nothing that can be built over it. Mr. Verst asked if the area identified to the right of the property previously pointed out by Ms. Minter was really an old county road or a private driveway. Mr. Mitchell, Sr. stated it was an old county road. Mr. Verst stated that if it was an old county road that there were prescriptive rights that never go away. Mr. Mitchell, Sr. stated that they changed the law in 1980 and since the road was never kept up to county specifications the road was returned to the original property owner. Mr. Verst stated that would not alter the fact that the county would reserve some rights to use the road. Mr. Williams asked if they ever abandoned or vacated the road. Mr. Verst replied that it did not affect the lot layout because there was no dedicated right-of-way at that road frontage. Mr. Verst stated he previously encountered a situation in another county where they went back to the 1880 map to justify using an old county road as access.

Mr. Williams asked if he understood it correctly that the four to one (4:1) ratio is no longer an issue for this proposed plat. Mr. Hutchinson replied it was not an issue when discussing flag lots. However, it is an issue with a lot that is one hundred feet wide and eight hundred feet deep and under five acres. Ms. Minter asked if the five acres is for the remainder lot or the proposed lot. Mr. Hutchinson stated it applied to the proposed lot. The Regulations, Section 415, item E) on page 4.26, states that "*The maximum depth of a lot shall not be greater than four (4) times the width of the lot, except for flag lots and lots which contain over five (5) acres of area. Exceptional individual site conditions may require variation from these requirements as determined by the Planning Commission and/or its Administrative Official.*" This means that the Commission can require the applicant to put one hundred feet of lot width on this proposed dimension and then "vary" the width to depth ratio requirement. Mr. Hutchinson stated that this lot is eight hundred feet deep and the building sites are few and far between and basically he is trying to accommodate one building site for the proposed division.

Mr. Verst asked if it would be a fair summary to state that in order to allow this division the Commission either has option one to approve a one hundred foot wide road frontage and waive the four to one (4:1) ratio requirement or option two to approve the flag lot as presented if we find this meets the circumstances for a flag lot. Mr. Hutchinson added that there is a third option of: to deny the proposed lot division because there is a way to reconfigure the division to allow for the required road frontage and still obtain the division they are requesting. Mr. Verst asked, with the division the applicant is proposing, what is the physical benefit of having the flag stem be one hundred feet wide versus the twenty-five feet width the applicant has proposed. Mr. Verst asked what the benefit is – from a planning, surveying, and site condition frame of mind. Mr. Hutchinson stated it was staff's position that we are responsible to

interpret the Regulations. One of the items that staff has interpreted is that if an applicant has the road frontage to meet the Regulations and still meet the remainder tract standards, then the applicant should be held to that standard. The applicant has over four hundred feet of road frontage. There is no need for a flag lot in this situation. If they had only one hundred thirty feet of road frontage, that would be a completely different perspective and interpretation offered by staff. Mr. Hutchinson stated that the applicant does have over four hundred feet of road frontage and can divide in a way that would allow for two viable building lots if they designed this division differently – with building lots in the same locations they desire today. Mr. Verst asked Mr. Hutchinson to repeat his last statement and he did so.

Mr. Stubbs stated that, if the flag stem was widened out to one hundred feet, we would in effect be crowding out the old mobile home site. Mr. Hutchinson stated that was possible, but why does the flag stem have to be on the right side of the lot. Why can't they move the flag stem or cut out the portion that is the old mobile home site and leave the remainder as is. Mr. Stubbs stated that it was his opinion that if we widened the flag stem out to one hundred feet, all you are doing is wasting that strip of land in there. Mr. Stubbs stated he could not see how we as a Commission could sit here and tell these guys what they can or cannot do with their land. This does not sound fair. They own the land and just want to divide it to suit their purposes. Mr. Stubbs tempered his statement by adding he is a property owner himself and would not want anyone to come in and tell him how he could or could not divide his property if he so desired. Mr. Stubbs added he just couldn't see the advantage of making the flag stem one hundred feet wide. Who does that really benefit? Mr. Verst agreed that he did not see the benefit either. Mr. Verst continued that, if there was a physical benefit for widening the flag stem, he couldn't see it. Our Regulations allows for flag lots and typically there needs to be a reason for that flag lot to be there and the reason I see for the flag lot is that it allows the applicant to put a mobile home back where the previous mobile home existed. However, mobile homes are not out of the ordinary for this area. If we make the road frontage one hundred feet and he moves the flag stem around, it would put the stem through the barn. Mr. Verst stated he could not see the benefit to making the stem one hundred feet wide other than saying that it meets the Regulation. If in fact, we require it to meet the Regulations, then we have to waive the four to one ratio. Mr. Verst stated that he does not like the zigzag in the property line that the proposed property line is currently reflecting. Mr. Verst stated that the lot lines really need to be cleaned up.

Mr. Williams asked how then would the Commission get around the flag lot requirements. Mr. Williams read that "*Flag lots shall only be permitted in those locations where because of existing geometric, topographic, or other natural features, it would be impractical to extend a public street as determined by the Planning Commission.*" There is already a public street there – so that element is eliminated as a potential reason. Mr. Williams asked if the Commission agreed and Mr. Verst stated he did. Mr. Williams finished reading "*Flag lots shall have a panhandle extending directly to a publicly dedicated street for the purpose of access.*" Mr. Williams asked for confirmation that the lot would have that as well. Ms. Minter agreed. Mr. Verst stated his question is since the street is there and there would be a panhandle extending to the road which only leaves "*existing geometric, topographic, or other natural features, it would be impractical to extend a public street as determined by the Planning Commission*". Is it impractical to make this a one hundred foot lot? The street is already there. Mr. Williams stated that the street is already there and as a result, to him, it does not sound impractical to make the lot width one hundred feet. Mr. Williams stated that, unless he is missing something and doesn't understand the issue properly, the applicant does not want to widen the lot to one hundred feet just because it is encroaching on his father's property. Ms. Minter stated she doesn't understand the situation the same way and maybe it calls for a question back to the applicant. Ms. Minter commented that the applicant previously stated that they were looking at a two hundred foot width because they were trying to meet that four to one ratio. The two hundred foot lot width made it a non-buildable site. Ms. Minter stated she doesn't know if anyone has outright asked the applicant if one hundred feet would create the same situation. Mr. Williams stated he thought the four to one ratio could be waived. Ms. Minter stated the Commission is either going to have to deny the request altogether, approve the plat with one hundred feet of road frontage and waiving the four to one ratio or approve the plat with the flag lot as presented which would cause the Commission to determine there are existing geometric, topographic or other natural features

present on the lot. Mr. Bass asked if the lot were approved with one hundred feet of road frontage, and waiving the four to one ratio requirement, could the Commission also approve a variance for the old mobile home site or is that too far down the pike to be addressed at this time. Mr. Hutchinson stated the applicant certainly has the right to request a variance of the setbacks in order to place a home on the old mobile home site. Ms. Minter clarified that the applicant could request a variance prior to submitting their building permit, but the Commission does not have the authority to approve a variance here. Mr. Hutchinson replied that was correct. Mr. Bass stated he was looking from the point of view that this was another option for the applicant.

Ms. Minter recognized the applicant. Mr. Mitchell, Jr. stated that they were looking at this situation from the view that they would also need to have a septic system. If they crowd the lot too much, the septic system won't fit. There is also the issue of the gas easement that prevents them from putting anything over top the easement. Mr. Mitchell, Jr. stated they are just trying to get this approved with the least impact on the two building sites. Ms. Minter asked if the old mobile home had a septic system. Mr. Mitchell, Jr. stated it did but they would not be able to reuse that system. They have to install a new one. Mr. Verst asked if Mr. Mitchell knew the width of the gas easement as it was not listed on their plat. Mr. Mitchell, Jr. stated he believes it is fifty feet wide. Mr. Mitchell, Sr. stated it was twenty-five feet from the centerline of the easement. Mr. Verst acknowledged that the easement was likely fifty feet as it was fairly typical although they could generally go anywhere from forty feet to one hundred fifty feet in width. Ms. Minter advised Mr. Mitchell, Jr. that they will make a note that the width of the easement is missing from the plat.

Mr. Williams stated what he was trying to determine is if the one hundred feet of road frontage as impractical because it would hamper the use of the property. Mr. Williams asked for his understanding to be confirmed – that the applicant doesn't want the one hundred feet of road frontage because it would encroach upon the father's property and they wouldn't be able to use the property like they want. Mr. Hutchinson stated he thinks that is part of it and added that during their initial meeting the applicant stated he didn't want to have to meet the four to one width to depth ratio requirement. Mr. Williams stated the Commission should ask the applicant if the four to one width to depth ratio requirement was waived by the Commission how it would change his plan - how would that impact them. Mr. Mitchell, Jr. stated all he was looking for was a way to divide a lot that would allow his father to still build a home on the old mobile home site to the right of the gas easement. Mr. Williams asked if he thought they would still be able to do that if the four to one ratio requirement was waived. Mr. Mitchell, Jr. stated they would still be taking another seventy-five feet of property along the proposed stem from his father. This would leave maybe one hundred feet between the new proposed property line and the gas easement.

Mr. Williams asked if the Commission is assuming then that since the old mobile home is gone if there could be grading done to the old mobile home site to make certain that the new home would fit. Mr. Verst stated that he thinks they can fit a house on that site, but we don't know the true width of the gas easement. It is just a question of how much room would remain between the house and the gas easement for use as a yard. We can't really tell how much that would be. Mr. Williams asked if that information was important enough that the Commission did not want to vote on this issue tonight so that staff and the applicant have time to go out there and measure the distances between the gas line and the new house location. Mr. Williams stated he is just trying to think out loud here. Ms. Minter stated that was really the decision for the Commission to make. Mr. Verst stated that as the Commission may be aware he has no issue with creating a flag lot where one is warranted. Looking at this plan, Mr. Verst states he sees there is four hundred feet of road frontage. There are several ways to fit a one hundred foot lot in here without resorting to a flag lot. Mr. Verst stated he may not feel one hundred feet is really necessary, but you can fit a one hundred foot lot in this area without resorting to a flag lot. Mr. Verst stated his opinion is that the Commission should require the one hundred feet of road frontage and just waive the width to depth ratio, but if the applicant would like another month to review, work with staff and possibly submit a new design layout, he is always in favor of tabling the case for a month rather than deny the applicant and have them go through the expense of redesigning their layout and paying for another conveyance plat. Mr. Williams stated he feels Mr. Verst statement just put the ball back in the applicant's court. Mr. Verst

stated he wasn't trying to force anything, but he would like the feedback of the Commission on that possibility. Mr. Williams stated he was fully supportive of that concept. If it can be worked out so that the applicant can use the property to their liking then this would be a good thing. Mr. Williams asked the applicant if the Commission tabled the case for a month if it would be helpful to them. Mr. Mitchell, Jr. stated not really because they wanted to get started on construction.

Ms. Minter stated that the Commission was still in the discussion phase of this meeting. The option she sees is that the Commission could table the case until next month or the Commission could make their decision tonight. Just so the applicant understands, the options before the Commission are to deny the request out right; to approve the division with the lot being required to be one hundred feet wide at the road while waiving the four to one ratio for the width to depth; or to approve the division as submitted by the applicant if it can be determined that there are "*existing geometric, topographic, or other natural features*". If the applicant wants additional time to review this plan, the Commission is more than willing to accommodate that request. If the applicant wants the Commission to continue with their discussion and make a determination tonight, the Commission can continue their discussion. Mr. Verst asked if the Commission made a determination tonight for a one hundred foot lot width regardless if we waive the width to depth ratio if the applicant would be required to file a revised site plan to staff for review and approval whether it shows the flag stem on the left, the right or straight down the middle just so long as it were one hundred feet wide at the road frontage and met the remainder tract requirements. Mr. Hutchinson replied that was correct. Mr. Verst stated that if the Commission was thinking in that manner, they could approve the one hundred feet lot width with the waiver of the width to depth ratio tonight or they can table the request and allow the applicant to come back next month with new information.

Mr. Verst stated that in his opinion he does not feel there is enough information tonight to justify the need for a flag lot. Mr. Williams asked if there was any other way they could get around the Regulations to justify the flag lot. Ms. Minter stated there was nothing she was aware of, but the issue is the Commission doesn't have the necessary information before them tonight. Ms. Minter asked Mr. Hutchinson for the location of the information concerning the creation of a flag lot. Mr. Hutchinson directed the Commission to Section 415, D). The Commission took a minute to review this portion of the Regulations. Ms. Minter read "*Flag lots shall only be permitted in those locations where because of existing geometric, topographic, or other natural features, it would be impractical to extend a public street as determined by the Planning Commission.*" Ms. Minter stated that the section is very clear that the applicant must prove there is "*existing geometric, topographic, or other natural features*". Mr. Williams stated if a public street is already there, then it shouldn't be a problem to extend the street. Mr. Verst stated that the extending of the public street would only be considered if there was not enough road frontage and the cost of extending said street would be impractical. Mr. Verst reminded the Commission that the applicant has the road frontage that they need but they don't want to use it up. Mr. Verst stated that in his opinion there are no conditions that exist that would prevent the Commission from requiring one hundred feet of road frontage for this new site.

Mr. Mitchell, Jr. stated that the site is very steep. They basically followed the property line from the creek bed to a walkable path. It doesn't slope uphill from the old mobile home site. It slopes down into a ravine. The whole back section of the new lot is very steep to the point you can hardly walk it. Mr. Williams stated the problem or concern that we had with previous flag lots is that they did not have road frontage. Mr. Verst stated that the big concern is the access and if you are using an access easement where the access isn't even on your legal road frontage. It isn't an ideal situation, but we do allow it in the R-RE and A-1 Zones. Mr. Williams asked if there were any neighbors out that way. Who was on the right hand side of the property? Mr. Mitchell, Jr. stated Mr. Bill Floyd owned the property to the right. Mr. Williams asked if they were any family. Mr. Mitchell, Jr. answered they were not.

Mr. Verst stated he could see the justification for a flag lot if by widening the stem to one hundred feet we were eliminating the ability to build a home between the gas easement and the proposed lot line, but we haven't seen any information tonight that says that. Mr. Williams asked if the Commission could waive the one hundred feet road frontage. What if the Commission stated the road width had to be seventy-five

feet wide? Ms. Minter stated that would be a flag lot and you would have to find that there are “*existing geometric, topographic, or other natural features*”. Mr. Hutchinson stated that anytime you have a lot that, at the building setback line, is not one hundred feet wide then you have a flag lot. Mr. Williams asked if the gas easement qualified as a geometric, topographical or natural condition. It is obviously not a natural feature. Ms. Minter stated it could potentially qualify as a geometric condition, but we don’t know the true width of the easement, so we can’t determine that tonight.

Mr. Williams stated he feels the logical thing to do is to table the case if the applicant really wants this lot design. Otherwise, his only chance is that we say “yea” and that doesn’t seem likely or we have to deny them and they are out in the cold. Mr. Verst stated there was nothing stopping the Commission from approving the plat with one hundred feet of road frontage and waiving the width to depth ratio and leaving it up to the applicant to determine if they want to submit a plat to staff that complies for approval. Mr. Williams stated that he would be hesitant to say yes or no to any motion without the full information before us. Mr. Verst stated that would also be his position as well. Mr. Verst asked if he could ask the applicant a question. Ms. Minter recognized Mr. Verst to do so. Mr. Verst asked Mr. Mitchell, Jr. if the reason he wanted the plat approved tonight so that he could get started on construction of the home at the top of the hill. Mr. Mitchell, Jr. stated that it was. He wants to get the foundation in before it gets too cold. Mr. Verst asked Mr. Hutchinson if a building permit could be obtained for the house at the top of the hill without the land division being approved. Mr. Hutchinson stated that would be permitted because there is no other principal structure on site. Mr. Verst stated he didn’t know how that would go over with a mortgage company, but that was an option for the applicant as well. Mr. Hutchinson advised the Commission that he has been reviewing the plat and if there is only a fifty foot easement over that gas main then the applicant would have approximately one hundred ten to one hundred twenty feet of property between the gas easement and the lot line if the lot were approved at one hundred feet wide. Mr. Williams asked if this could be approved at a special meeting so that there was no delay to the applicant. Mr. Hutchinson pointed out there were special considerations for a special meeting. Ms. Turner advised the Commission that with the legal notice requirement on special meetings if a special meeting were to be requested it only moves the regularly scheduled meeting up by one week. Mr. Williams agreed because the legal notice has to go out in the Campbell County Recorder. Ms. Minter stated there may be issues for the October agenda as it stands and we could just add this case to the October agenda.

Mr. Mitchell, Jr. advised the Commission he has been speaking with his father and they are in agreement with making the lot one hundred feet wide at the road frontage if the Commission will waive the width to depth ratio. Mr. Verst stated that the only issue the applicant may face when applying for a building permit on the old mobile home location may be if they decide they want to put a new mobile home in place. The applicant may need to apply for a variance in that situation. Mr. Mitchell, Sr. asked to be recognized. Ms. Minter asked Mr. Mitchell, Sr. to state his name for the record. Mr. Jerry Mitchell, Sr. asked if they could put the one hundred feet of easement over the top of the gas easement. Mr. Hutchinson replied that the Commission was not asking for an easement but actual property. Mr. Mitchell, Jr. advised his father that if they put the one hundred feet of actual property where the gas easement is then it would in effect cut his father’s property in half. Mr. Hutchinson stated in that situation Mr. Mitchell, Sr. would have two lot divisions and one remainder lot. Mr. Verst stated the applicant would actually have one lot division and two remainder lots. Mr. Hutchinson corrected Mr. Verst that the Regulations allow for only one remainder lot. That means the applicant has to consciously decide to do two land divisions and one remainder. Mr. Mitchell, Jr. stated he just wanted to get the division done with as little impact to his father’s property as possible. His father is doing this as a favor to him and he doesn’t want to abuse it.

Ms. Minter asked if there were anyone wishing to make a motion. Mr. Verst stated he is inclined to make a motion to approve the land division with the understanding that a revised site plan will be submitted to staff. Mr. Verst wants to include in that motion a recommendation that the irregular lot lines be resolved if at all possible. Mr. Hutchinson pointed out on the slide a proposal to straighten the lot lines and Mr. Verst stated he would leave that open to staff to interpret and for the applicant to discuss with staff and submit a new plan. Mr. Williams stated he was in favor of that motion. Mr. Verst asked for confirmation

that the Commission could in fact waive the width to depth ratio. Mr. Hutchinson read to the Commission Section 415, E) of the Regulations which states: *“The maximum depth of a lot shall not be greater than four (4) times the width of the lot, except for flag lots and lots which contain over five (5) acres of area. Exceptional individual site conditions may require variation from these requirements as determined by the Planning Commission and/or its Administrative Official.”* Mr. Hutchinson assured the Commission that staff’s interpretation is that the Commission does have the authority to waive the width to depth ratio requirement. Mr. Verst and Ms. Minter thanked Mr. Hutchinson for this information.

Ms. Minter asked if there were any discussion on the proposed motion. There being none, Ms. Minter called for a motion. Mr. Verst made a motion on case #ID-25-12 to approve a conveyance plat and to approve a waiver of the four to one (4:1) lot width to depth ratio requirement. Mr. Verst places two conditions to the approval: 1) That a revised conveyance plat be submitted that indicate a lot that meets the minimum one hundred foot width; and 2) That the revised conveyance plat eliminate irregular lot lines to the maximum as possible in an organized and uniform development pattern. Mr. Verst added a third condition: 3) That the revised conveyance plat indicates the width of the existing gas main easement. Ms. Minter asked Mr. Verst to clarify the exceptional site issues that cause the Commission to vary from the four to one width to depth ratio. Mr. Verst stated the basis for his motion is information provided tonight that the Commission could not find justification for a flag lot, but that given the irregularly long shape of the existing lot allowing the lot to be different from the four to one width to depth ratio is appropriate for this lot. Mr. Verst also found that the proposed subdivision is consistent with the recommendations of the 2008 Campbell County Comprehensive Plan Update, the Campbell County Subdivision Regulations and Zoning Ordinance. Mr. Williams seconded the motion. A roll call vote found Mr. Barrow, Mr. Bass, Mr. Stubbs, Mr. Williams and Mr. Verst in favor of the motion. Ms. Minter abstained. Motion passed.

DIRECTOR’S REPORT

There being no other cases to come before the Planning Commission, Ms. Minter asked if there was a Director’s Report this evening. Mr. Hutchinson replied that there was no Director’s Report.

Ms. Minter asked if there was any other business to discuss. There being none, Ms. Minter asked for a motion to adjourn. Mr. Barrow made a motion to adjourn. Mr. Williams seconded the motion. An oral vote found everyone in favor, none opposed. Motion passed. Meeting adjourned at 8:30 PM.

Respectfully Submitted,

Approved:

Peter J. Klear, AICP
Director of P&Z

Cynthia Minter
Chair