

**CAMPBELL COUNTY & MUNICIPAL PLANNING & ZONING COMMISSION
MINUTES OF THE NOVEMBER8, 2011 MEETING**

MEMBERS PRESENT:

Mr. Larry Barrow
Mr. Dennis Bass
Ms. Lauri Harding
Mr. Tony Pfeffer
Ms. Deborah Blake, TPO
Mr. Justin Verst, Vice Chair

MEMBERS ABSENT:

Mr. Michael Williams
Ms. Cindy Minter, Chair

STAFF PRESENT:

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

Mr. Verst called the meeting to order at 7:03 PM. Prior to the roll call being requested, Mr. Klear noted for the record that Mr. Dennis W. Bass has been appointed by the City of Silver Grove to fill the vacancy left due to the retirement of Ms. Kay Wright. Mr. Bass has been sworn in prior to the start of the meeting and can participate in the meeting tonight if he so chooses. Mr. Verst welcomed Mr. Bass and asked for a roll call. Following roll call, a quorum was found to be present. Mr. Verst asked if everyone had reviewed the October 11, 2011 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 October 11th meeting minutes as submitted. Ms. Blake seconded the motion. A roll call vote found Mr. Barrow, Ms. Harding, Mr. Pfeffer and Ms. Blake in favor of the motion. Mr. Bass and Mr. Verst abstained. Motion passed.

Mr. Verst introduced case #101-11-PPL-01, Horn Subdivision by applicants Randall & Vicky Horn, a request for approval of a preliminary plat consisting of one lot and a remainder tract with no public improvements. Mr. Verst asked Mr. Hutchinson to present the staff report and staff's recommendation to the Commission.

SUBDIVISION:	101-11-PPL-01 Horn Subdivision
APPLICANT:	Randall & Vicky Horn
LOCATION:	An approximate 2.4796-acre area at 3738 Dead Timber Road, Unincorporated Campbell County.
REQUEST:	To approve a Preliminary Plat consisting of one (1) lot and remainder tract, with no public improvements.

Considerations:

1. The 2008 Campbell County Comprehensive Plan Update designates the site for agricultural and rural uses. A portion of the building lot is PRDA, a Physically Restrictive Development Area due to steep slopes. The Campbell County Zoning Ordinance classifies the plat within the A-1 Zone, Agriculture Zone, requiring a minimum lot size of one acre, lot widths of 100 feet, minimum setback dimension of 50 feet, side yards of 10 feet (one side) and 25 feet (total both sides), and a minimum rear yard depth of 35 feet, not including flag lots and/or mobile home lots.
2. Review of the Preliminary Plat in accord with the Comprehensive Plan, Zoning Ordinance and Subdivision Regulations results in the following issues:

- a) The plat indicates a proposal to subdivide 2.4796 acres leaving a remainder tract of 8.8561-acres.
- b) The proposed lot has approximately 271' feet of road frontage. The plat does not indicate if the right-of-way is existing or to be dedicated.
- c) The proposed and remainder tract is vacant and wooded land.
- d) The plat indicates bearings and distance on the property lines.
- e) The Plat correctly notes that the new building development on areas containing slopes of 20% or greater will require implementation of "Hillside Development Controls" contained within the Campbell County Zoning Ordinance.
- f) The plat indicates water lines fronting the proposed division.
- g) The width of Dead Timber Road is 15' feet wide, in conflict with minimum county standards of 20' feet. The escrow funds required for widening this portion of road fronting the proposed Plat will need to be submitted prior to approval of the Final Plat.

Recommendation:

To approve the proposed Preliminary Plat with the following conditions:

- 1. That the funds required to widen one-half (1/2) of Dead Timber Road to a minimum of 10' feet in accord with minimum subdivision regulation standards, for the portion contiguous to the proposed development, be escrowed with the Campbell County Fiscal Court.
- 2. That the right-of-way be dedicated fronting the proposed division.

Bases for Recommendation:

The proposed subdivision is consistent with the recommendations of the 2008 Campbell County Comprehensive Plan Update, Zoning Ordinance and Subdivision Regulations except as noted below:

- 1. CAMPBELL COUNTY SUBDIVISION REGULATIONS SECTION 7.3 states: "When a subdivision is located on only one side of an existing street, and where pavement width of such existing street is less than that required by these regulations, the subdivider may be required to construct one-half (1/2) the required pavement width, as per these regulations, along the side fronting his property on such street. The planning commission, in its discretion, may . . . require the subdivider to deposit sufficient funds within an escrow account, maintained by the Campbell County Fiscal Court, to accomplish the street improvements contemplated by this ordinance, on the basis of the reasonably anticipated, future burden the development will have" upon Dead Timber Road.
- 2. CAMPBELL COUNTY SUBDIVISION REGULATIONS SECTION 6.0, D2, B STREETS states: "When the subdivision is located on only one side of an existing street, one-half (1/2) of the required right-of-way width, measured from the centerline of the right-of-way, shall be dedicated. However, the owner or owners of such property shall not be required to dedicate more than one-half (1/2) of the required rights-of-way width."

Mr. Hutchinson asked if there were any questions for staff. There being none, Mr. Verst asked the applicant to come forward. Vicky & Randall Horn, the property owners, came forward to address the Commission. Mrs. Horn explained that the couple had been born and raised in Campbell County. They left the area for awhile and recently came back. They had been residing in a subdivision until they

decided they wanted to live in the country and found this beautiful rural property. The divided portion is separated from the remainder by the huge lot in the middle. Mrs. Horn indicated that they have already been approved by the Building Department to build their home on the flatter terrain lot they are separating. They intend to sell off the steeper remainder lot which is the reason for their subdivision request. It is a very rural area and there is not a lot of traffic. Mr. & Mrs. Horn respectfully request that the condition for the road escrow be removed.

Mr. Verst thanked the applicant for their comments and asked the Commission if they had any questions. There being none. Mr. Verst asked the audience if anyone wished to speak either for or against the subdivision request. There being no one wishing to speak, Mr. Verst opened the floor for discussion among the Commission. Mr. Barrow asked staff to clarify that the road escrow was for half or 10 feet for the widening of the road. Mr. Hutchinson explained the applicant would be responsible for only 10 feet of the road width. The county minimum is 20 feet and the applicant's responsibility is half of that amount. The current road width is 15 feet maximum in spots. Mr. Hutchinson explained that the applicant would need to get an engineer to calculate the estimate for them. Mr. Barrow asked if previous applicants have been held responsible for deposits to the road escrow funds as well. Mr. Klear and Mr. Hutchinson responded that they have.

Mr. Verst asked Mr. Hutchinson to clarify that the applicant is only responsible for lot #1. Mr. Hutchinson agreed that was correct. Ms. Harding asked for a clarification of this statement. Mr. Hutchinson stated that the escrow amount was based on their road frontage of the lot being subdivided by the applicant. The remainder tract is not liable for road escrow funds. Mr. Hutchinson further explained that the escrow was created to prevent piecemeal improvements to the road which would create safety issues along roadways. If a road was inconsistently improved and varied in width from 20 feet to 15 feet then back to 20 feet, this would create traffic and safety issues for the general public. Mr. Klear supported this with a statement that anytime you have a subdivision along a county road, the subdivider is responsible for the improvement of that portion of the road to current standards. An engineer provides an estimate for staff review. The county engineer confirms the estimate is correct. The amount is then placed into escrow until the time that the rest of that road is brought into current standards. Mr. Bass asked if there was a dollar amount associated with these costs. Mr. Verst stated that there is not a cost at this time, but the Commission has seen these situations in the past.

Mr. Verst asked if there were any other comments or questions among the Commission. There being none. Mr. Barrow was about to make a motion when Mr. Verst asked him to delay for a moment and recognized Mrs. Horn who wanted to make an additional comment. Mrs. Horn stated that the road is in a very rural area and it does not appear there is any demand to improve this road any time in the near future. She continued that if the money was paid into escrow it would just be sitting there and no purpose would be served. The road is not falling apart or in disrepair. Mrs. Horn stated she just doesn't see that this road is going to be widened. She feels that county taxes should cover the minor repairs incurred upon the road. Mrs. Horn stated that by subdividing this lot and building her home she is making an improvement to the beauty and appearance of the community. She is contributing to the development of the county and still respectfully requests this road escrow be waived. Mr. Verst thanked her for her comments and stated the Commission understood her request.

An audience member asked permission to address the Commission to ask a question about the road escrow fund. Mr. Verst recognized the audience member and asked him to state his name and address for the record. Mr. Jim Grath, 9347 Royal Oak Drive, Alexandria stepped forward. He asked if this lot was recently subdivided within the past few years, if the road escrow amount was not already paid previously. Mr. Verst explained that if the lot was previously divided on an identification plat then a road escrow would not have been required. Mr. Verst asked Mr. Klear to confirm it is two divisions allowed prior to the road escrow requirement being activated. Mr. Klear confirmed this information. Mr. Verst continued that once you have met a certain number of criteria, which this lot division has met, it must be submitted as a subdivision plat. At that time, you are required to submit payment to be held in the road escrow fund. Mr. Verst further commented that there is a difference in the way a city can make road

improvements versus the way a county makes road improvements. A city has the ability to make the improvements and then assess each property owner a portion to cover the cost to widen that road. A county does not legally have the right to do this. It is just a difference in the way cities and counties are set up. As a result, it is covered in our Subdivision Regulations that we will have subdividers contribute to a road escrow fund so that we will have the money to improve our county roads. Mr. Verst understands it is not something that is favorable by many applicants and that it is not understood by some, but it is fairly common in engineering practices.

Ms. Harding asked Mr. Smith if it was even feasible for the Commission to waive the road escrow condition. Mr. Smith stated it was not within the parameters of the Commission to justify a waiver. Mr. Verst asked if there was any further discussion or comments. There being none, Mr. Verst called for a motion. Mr. Barrow made a motion to approve #101-11-PPL-01, Horn Subdivision by applicants Randall & Vicky Horn, a request for approval of a preliminary plat consisting of one lot and a remainder tract with no public improvements with the two conditions stated in the staff report being that the funds required to widen one-half (1/2) of Dead Timber Road to a minimum of 10' feet in accord with minimum subdivision regulation standards, for the portion contiguous to the proposed development, be escrowed with the Campbell County Fiscal Court; and that the right-of-way be dedicated fronting the proposed division. Mr. Barrow cited that the proposed subdivision is consistent with the recommendations of the 2008 Campbell County Comprehensive Plan Update, Zoning Ordinance and Subdivision Regulations as his finding of facts. Mr. Pfeffer seconded the motion. A roll call vote found Mr. Barrow, Mr. Bass, Ms. Harding, Mr. Pfeffer and Ms. Blake in favor of the motion. Mr. Verst abstained. Motion passed.

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

DIRECTOR'S REPORT

Mr. Klear welcomed Mr. Bass to the Commission as Ms. Wright's replacement. Mr. Klear reminded the Commission that there would be another working session on the review of the Subdivision Regulations on November 17th at the County Administration Building. Mr. Klear concluded his report and asked if there were any comments or questions he could answer.

Mr. Barrow asked if the road escrow amount that was required to be deposited was 100% percent of the estimate prepared by the engineer or was it a lesser percentage. Mr. Klear responded it was 100% percent of the estimate amount. Mr. Klear explained that the applicant's engineer calculates an estimate and submits it to staff. The County engineer reviews the amount. The applicant submits the amount into the road escrow fund. The amount sits in the fund for that road and the county can not touch it until that specific road is improved and widened to current standards. It does not go into any other fund and can't be touched for any other purpose. Mr. Bass asked how much the applicant would have to pay. Mr. Klear responded that it is based on the amount of road frontage. Mr. Bass asked for confirmation that the county would not go back to those people that have paid into the road escrow account and ask for additional payment. Mr. Klear stated the county would not go back to those people. Instead, the county would have to pay for any amount over and beyond what the applicant originally paid.

Mr. Verst asked if there was any other business to discuss. There being none, Mr. Verst asked for a motion to adjourn. Mr. Barrow made a motion to adjourn. Ms. Blake seconded the motion. An oral vote found everyone in favor, none opposed. Motion passed. Meeting adjourned at 7:27 PM.

Respectfully Submitted,

Approved:

Peter J. Klear, AICP
Director of P&Z

Justin Verst
Vice Chair