MEMBERS PRESENT

MEMBERS ABSENT

Todd Hildebrand, Chairman
Bob Jordan, Member
Harry Averett, Member
Kurt Siebenaler, Vice Chairman
Anna Land, Member

STAFF MEMBERS PRESENT
Sam Proffer, Planner and Zoning Administrator
Clark Melinkovich, Senior Engineer & County Recorder
Matt Olsen, Public Works Director

The meeting was brought to order at 7:00 p.m. by Chairman Hildebrand. He thanked the public for attending and reminded them of how to address their comments to the Commission.

Approval of Minutes:

Chairman Hildebrand asked if the Commissioners had read the minutes and if there were any changes or corrections that needed to be made. Commissioner Land noted that her name was misspelled, and Vice Chairman Siebenaler noted that Commissioner Jordan was listed as Vice Chairman his own title was shown as co-chairman rather than Vice Chairman.

Chairman Hildebrand asked for a motion to approve the October 21st, 2021 minutes as amended. Commissioner Jordan moved and Commissioner Siebenaler seconded.

All voted aye. Motion carried.

Public Hearings:

Case No. 21.05.COZ– Ludog Minor Subdivision Zoning Request

Mr. Proffer presented the case and explained that the application was for a proposed 3-lot subdivision that is contiguous with the Overbrook Subdivision currently zoned R-S, Rural Suburban and that the applicant has requested R-R, Rural Residential. Mr. Proffer noted that R-S zoning does not allow for HUD manufactured homes and the R-R zoning does. He also pointed out that there is a large area of un-zoned property to the west, east, and south of the subject property. This presents a problem because if approved R-R, future development might be forced to either continue with the R-R zoning or risk creating a 3-lot ‘spot-zoned’ subdivision. Mr. Proffer explained what spot zoning is. Mr. Proffer noted that the applicant has an existing HUD home on the property but that this could be classified as a legal non-conforming use if the Commission approves the subdivision as R-S. Mr. Proffer recommended zoning the subdivision as R-S in keeping with standard planning practice.

Chairman Hildebrand opened the floor for comments. Ms. Sheila Slocum approached the Commission and noted that her client was not against zoning the property as R-S if that was what was needed.

Mr. Tyler Miller of 199 Overbrook then approached the Commission and noted that he was presenting on behalf of the homeowners and stated that they were opposed to zoning the property R-R and cited hurting home values, etc., among other potential problems.

Ms. Alison Gee of 183 Overbrook then approached the Commission and expressed her opposition to the zoning as proposed citing similar issues as stated by Mr. Miller including a concern for higher density if allowed to go forward.

Chairman Hildebrand asked for a motion to approve the zoning to R-R as requested by the applicant. Commissioner Siebenaler made a motion to approve and was seconded by Commissioner Jordan.

Senior Engineer Melinkovich polled the commissioners.

Voting was as follows:

Commissioner Averett:	No
Commissioner Jordan:	No
Commissioner Land:	No
Commissioner Siebenaler:	No
Chairman Hildebrand:	No

Motion failed 5-0.

Chairman asked for a motion to approve the zoning to R-S as recommended by staff. Commissioner Averett made a motion and seconded by Commissioner Jordan.

Senior Engineer Melinkovich polled the commissioners.

Voting was as follows:

Commissioner Averett:	Yes
Commissioner Jordan:	Yes
Commissioner Land:	Yes
Commissioner Siebenaler:	Yes
Chairman Hildebrand:	Yes

Motion passed 5-0.

Case No. 21.03.COMP– Ludog Minor Subdivision Request

Mr. Proffer presented the case and noted all the reports etc. that had been submitted by the applicant and reviewed and approved by staff. Mr. Proffer noted that the applicant has requested to receive an exception to connecting to the regional water supply which the staff recommends is acceptable.

Mr. Proffer then went on to explain that the applicant has requested a variance to the Chapter 6 requirement of building a road to the furthest property line as required. The applicant has agreed to extend the Right of Way to the furthest point but feels that because of the steep terrain, building the road is not really feasible without encroaching onto neighboring properties. Mr. Proffer went on to explain the Right of Way was required to provide for interconnectivity to other properties and to avoid landlocking those properties without access to public roads.

The applicant's agent Sheila Slocum provided feedback for the Commission regarding the topography, connectivity, etc.

Mr. Proffer then brought up the applicant's proposal to use a road maintenance covenant agreement rather than a Homeowner's Association (HOA) or Improvement Service District (I&S District) as noted in Chapter 6 Subdivision Regulations. It was noted that this is allowed but that staff asked the applicant to petition the Overbrook I&S District to try and join them rather than a covenant agreement, HOA, or creating a new I&S District.

Chairman Hildebrand opened the floor for comment.

Mr. Tyler Miller approached the Commission and detailed concerns that he and the residents of Overbrook Subdivision have. He noted density concerns, road usage, maintenance costs incurred by the possible addition of more lots using the existing road, etc. Mr. Miller also cited safety concerns of the increased traffic. Mr. Miller noted that the Overbrook I&S District would like for this subdivision to become a part of their existing District to ensure that everyone pays their fair share of maintenance—he noted that this is a critical point. Mr. Miller asked that the right of way not continue to the property line. There was general discussion regarding deviating from Subdivision regulations, etc.

Ms. Alison Gee then approached the Commission to speak in opposition to the subdivision. She noted that her and her family felt that road as it currently is built is unsafe and adding more traffic makes it even less safe. Ms. Gee asked that the roads be made safe if approved. There was general discussion about number of lot sizes, numbers, etc. She also stated that the applicant had never shared in the maintenance costs of the road. Mr. Sean Gee (Alison's husband) then spoke against the subdivision as well.

After the Gee's spoke there was more discussion with Mr. Miller and general comments regarding costs of road maintenance, number of lots, history of the Overbrook Subdivision, etc.

Mr. Tracy Overton 122 Overbrook Rd., then approached the Commission to give his support behind the information presented by Mr. Miller and Ms. Gee. He stated that his main concern was that another subdivision might access and use Overbrook Road and not share in the expense of road maintenance.

Mr. Miller approached the Commission again to discuss costs of maintenance of the road, water issues, etc.

Ms. Barb Pilon, 158 Overbrook Rd., then approached the Commission and explained that she did some of bookkeeping for the Overbrook I&S District and that she had approached the applicant some time ago and tried to get him to share in road maintenance costs.

Mr. Don Cool, 220 Overbrook then approached the Commission. Mr. Cool explained that he was not in the Overbrook Subdivision but that he was connected to the water system and paid road maintenance fees. Mr. Cool opposed the extension of the right of way that would provide connectivity from the Ludog Subdivision to the landlocked property to the south of the proposed subdivision. He cited several personal reasons why he did not want additional traffic that might negatively affect his property. Mr. Cool wanted to know why connectivity was required. The Commission tried to explain connectivity requirements to Mr. Cool.

Ms. Gee then joined Mr. Cool to give her input and opposition to the connectivity to the property to the south. Ms. Gee said that she felt that the Subdivision Regulations allowed for exceptions in this case. Mr. Proffer responded to a question by Mr. Cool about why connectivity is required and tried to explain that connectivity is part of the County Comprehensive Plan to try and steer residential development into areas already residential and away from commercial areas, etc.

Mr. Mike Sullivan, 84 Overbrook then approached the Commission and expressed his opposition to the subdivision and cited the same concerns that Mr. Tyler, Ms. Gee, and Mr. Cool expressed.

Mr. Leslie Richards, 104 Overbrook Rd., the approached the Commission and said that he had moved here from Maryland and expressed his opposition to the subdivision and cited the same concerns that Mr. Sullivan, Mr. Tyler, Ms. Gee, and Mr. Cool expressed stating that he had seen the same things happen in Maryland and he was trying to get away from those problems.

Chairman Hildebrand then asked the applicant Mr. Randy Wirfel and his agent Ms. Sheila Slocum to approach the Commission. Chairman Hildebrand then asked Mr. Wirfel if had contacted the Overbrook I&S District to try and become part of the road maintenance and water service. Mr. Wirfel gave a history of how he had at one time considered being part of the District by ultimately felt that he would be better off on his own. He said that he had paid some money to the Overbrook I&S District for road maintenance but had a falling out with those that he dealt with and had refused to participate anymore. There was lengthy discussion on water wells, road maintenance sharing, right of way issues, road construction costs, etc.

There was also discussion about reducing the number of lots from 3 to 2 as requested by the residents of Overbrook Subdivision. Mr. Wirfel and his agent pointed out that the subdivision as proposed meets the minimum Campbell County regulations.

The discussion then moved on to feasibility of building the road in the proposed subdivision given the difficult topography. Commissioner Siebenaler questioned if the agent was using survey data to make the case that the topography was too difficult or just assuming. Ms. Slocum stated that you could visually see that it would be a problem.

Commissioner Averett questioned the need for the right of way connecting to the parcel to the south. Mr. Averett wondered if the land to the south of Mr. Wirfel could even be developed for homes given the topography. Further discussion was had regarding if the parcel needed to be connected via right of way. Mr. Averett then asked if Mr. Wirfel and the Overbrook Subdivision residents would be opposed to just a cul-de-sac ending at the proposed subdivision and not connect to the property to the south. Ms. Slocum said that is what they preferred.

After further lengthy discussion, Chairman Hildebrand asked if the Commissioners had any other questions for staff. There were none.

Chairman Hildebrand then asked for a motion to approve the request for a variance to building the road on to the furthest end of the property as requested by the applicant. Vice chairman Siebenaler made a motion to approve the variance as requested by the applicant and was seconded by Commissioner Jordan.

Chairman Hildebrand took a voice vote. The motion to approve the variance failed.

There was lengthy discussion after the variance failed. Commissioner Averett stated that he had misunderstood the motion for a variance and clarified that what he intended was to not require the right of way and road to extend to the furthest part of the property. There was more discussion regarding cul-de-sacs, connectivity, etc.

Commissioner Averett then made a motion to eliminate the right of way and break connectivity to the southernmost boundary of the proposed subdivision. The motion was seconded by Commissioner Jordan.

Senior Engineer Clark Melinkovich polled the Commission.

Commissioner Averett:	Yes
Commissioner Jordan:	Yes

Chairman Hildebrand: Yes
Vice Chairman Siebenaler: Yes
Commissioner Land: Yes

Motion for Variance to eliminate the right of way to the southern boundary passed.

After the vote Mr. Proffer explained that before the Commission could move forward with voting on the plat, they would need to consent to the road maintenance agreement in the form of a covenant to the subdivision rather than an I&S District or HOA. It was pointed out that staff's recommendation was for the applicant to try and join the Overbrook I&S District. After further discussion, both the applicant and Mr. Tyler Miller representing the Overbrook I&S District agreed that this would be the best way to move forward. The owner's agent Ms. Slocum asked the Commission that if an agreement couldn't be completed with the Overbrook I&S District, could the applicant move forward with a road maintenance agreement recorded with the plat for existing and future homeowners. The Commission discussed this second option and said no, they want the subdivision to become part of the Overbrook I&S District to ensure fair payment for all involved in road maintenance.

The Commission agreed that the proposed Ludog Subdivision become part of the Overbrook I&S District and gave direction for the two parties to finalize that as part of the Planning Considerations before taking the plat to the Board of Commissioners for final approval.

Commissioner Jordan asked Mr. Proffer asked if staff could ensure that any legal documents be reviewed as quickly as possible to avoid delaying the process for the applicant. Mr. Proffer said yes, they would make sure that it would be reviewed in a timely fashion.

After additional discussion between the Commissioners, the applicant, and Mr. Tyler Miller, Chairman Hildebrand asked for a motion to approve the Ludog Subdivision pending all Planning Considerations are completed.

Commissioner Jordan made a motion to approve the Ludog Subdivision Case Number 21.03.COMP with the noted changes and pending all Planning Considerations and was seconded by Commissioner Averett.

Senior Engineer Clark Melinkovich polled the Commission.

Commissioner Averett: Yes
Commissioner Jordan: Yes
Chairman Hildebrand: Yes
Vice Chairman Siebenaler: Yes
Commissioner Land: Yes

Vote is 5-0, Motion carries.

Old Business:

Nettle Creek Subdivision, 21.01.COMP

Mr. Sam Proffer, Planner and Zoning Administrator, explained that at the Oct 21, 2021 meeting the applicant had requested a variance from the requirements to build the existing underdeveloped road and cul-de-sac to current subdivision standards. The case was tabled, and the Commission instructed the developer to work with the surrounding landowners to develop an Improvement and Service District, Homeowners Association, or other mechanism for the purpose of future road maintenance that would be equitable to the involved parties.

Mr. Scott Brady, developer addressed the Commission, indicated that the Cook Road Water District had planned for this to be 2 lots with one tap each, stated that he has helped in the neighborhood with snow removal and cutting grass even though he didn't live there, and had widened and improved the road including adding multiple loads of rock from the water tower down the hill. He indicated frustration with a recent staff change in the Public Works office and he felt that additional items were now being required for this development by new staff. He said that he met with the homeowners and concluded that they do not want the road widened or the cul-de-sac installed. Proposed lot 2A currently has a home and Mr. Brady's plan is to place an attractive modular home on proposed lot 2B.

Mr. Mark Breeden, 22 Nettle Creek Court addressed the Commission and confirmed that the existing property owners had discussed roads with Mr. Brady. They are not in favor of widening the road because of increased maintenance cost for the neighborhood and the fact that it would be much wider and inconsistent with the other nearby roads. Mr. Todd Hildebrand, Planning Commission chairman stated, and Mr. Proffer clarified that new subdivisions require roads to be built or upgraded to current standards. Mr. Proffer explained to the commission that they could decide on whether to require the developer to upgrade the road or to grant a variance.

Mr. Bob Jordan, Planning Commission member thanked the developer for working together with the surrounding landowners, stated that the road was narrow, and asked what improvements could be done to the road. Mr. Brady offered to place additional rock on the road, said that the neighbors would split the cost, and explained that he was familiar with having to pay to maintain roads adjacent to a landowner's property as he has had to do that with some of his own properties. Mr. Breeden said he and the other neighbor (Randall, Lot 1B) felt that Mr. Brady should fix any damage to the road from construction of the house and then they would use the existing road agreement to all pitch in for maintenance of the roads. Mr. Brady said the construction of this next house will be quicker and have less negative impact, and that he has offered to place 3 belly dump loads of rock on the road. Chairman Hildebrand requested that any agreements for road improvements and maintenance be put in writing, Mr. Jordan agreed.

Mr. Harry Averett, Planning Commission member stated that he supported improving Nettle Creek road surfacing but not widening it to 22ft due to Cook Road being narrow. Chairman Hildebrand asked that the requirement for a written agreement regarding road maintenance be placed as a planning consideration.

Mr. Proffer discussed the existing road maintenance agreement and stated that it would need to be amended to include the new lots. Some discussion ensued regarding the road maintenance agreement and whether the proper solution would be to amend the existing agreement to make it work for the additional lots or to draft a new agreement. Discussion also took place on whether to have a Homeowners Association or Improvement and Service District and the pros and cons to each of those including the availability and requirements of the District Support grant program.

Mr. Kurt Siebenaler, Planning Commission member suggested that the developer review the existing covenants and potentially look at revising those as well. Mr. Siebenaler and Chairman Hildebrand pointed out that the current driveway on the proposed lot 2A connects with the extension road north of the cul-de-sac which is easement and not right-of-way. Mr. Clark Melinkovich, Senior Engineer spoke of this not being an issue since each lot borders publicly dedicated right-of-way and the driveway could be re-located should the easement ever be blocked off, Mr. Proffer concurred. Mr. Jordan and Chairman Hildebrand spoke in favor of an Improvement and Service District to guarantee that the money would be received from the neighbors for road maintenance. Mr. Brady and Mr. Breeden voiced some potential concern of the overhead cost of having a district for such a small number of lots.

Mr. Proffer asked for clarification that the plan was for Mr. Brady to improve the existing road at its current width and not the cul-de-sac. Mr. Brady and Mr. Breeden said that this was correct, and the Planning Commission did not disagree with this statement. Mr. Proffer and Chairman Hildebrand discussed whether the agreements for road maintenance that were formed would have to come back to the Planning Commission or be approved by staff. Mr. Jordan asked for verification that the staff understood the scenarios and Clark answered that they did understand and listed the 2 documents that were being developed: one for current improvement of the road, and the other being a mechanism for future maintenance which could include a new or modified neighborhood road maintenance agreement Homeowners Association, or Improvement and Service District. Mr. Jordan stated that they were not interested in modifying the old road agreement, but wanted a new one to be drafted, Chairman Hildebrand agreed, Mr. Brady and Mr. Breeden concurred. Mr. Averett told Mr. Proffer that the Commission did not need to see the documents, that staff could approve those.

Mr. Averett motioned, and Anna Land, Planning Commission member seconded to grant a variance from the requirement to widen the road and install the cul-de-sac on Nettle Creek Court. All voted yes. The motion carried 5-0.

Chairman Hildebrand thanked the applicant and Mr. Breeden for working together.

New Business: No new business

Adjournment: meeting was adjourned at 10:08 pm

Todd Hildebrand, Chairman

NOTE: Campbell County Planning Commission meeting minutes contain a summary of discussions and are not intended to be verbatim.