



AGENDA  
Jefferson County Planning Commission  
Tuesday, January 9, 2018 7:00 PM

Planning Commission meetings are held in the Old Charles Town Library Meeting Room located at 200 East Washington Street, at the side entrance on Samuel Street in the City of Charles Town.

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**All Citizens that desire to speak must sign-in prior to the Agenda Item being addressed.**

1. Election of Planning Commission Officers
2. Approval of Meeting minutes:
  - December 12, 2017.
  - December 19, 2017
3. Citizen Communications: If you wish to comment, please sign-in to speak for issues that are not on the agenda or items that are not open for public comment. Items not open for public comment will be so noted.
4. Request for postponement.
5. **Public Hearing:** Final Plat Amendment to the Sandra K. Armstrong Minor Subdivision (PC File #08-20) for the purpose of lifting the Single Family restriction from lots 1, 2, and 3 (Residue) in accordance with Section 24.202.A(1) of the Subdivision Regulations. The property is designated as Tax District: Middleway (07); Tax Map 4; Parcel: 9.2. Zoned: Rural.
6. **Public Hearing:** Proposed text amendment to the Jefferson County Zoning and Land Development Ordinance, File #ZTA17-03. The text amendment, in accordance with WV Code §8A-7-13 proposes revisions to Section 5.7(D) Maximum Number of Lots Allowed [in the Rural zoning district].

**There is no public comment for the following items.**

7. Reports from Legal Counsel and legal advice to the Planning Commission.
  - a) Active Litigation:
    - Shiloh Citizens Association: Report on legal action in Supreme Court, Docket #15-1031.
8. Planners Memo
9. President's Report.
10. Actionable Correspondence.
11. Non-Actionable Correspondence;

**DRAFT**

Jefferson County Planning Commission  
December 12, 2017

The Jefferson County Planning Commission met on December 12, 2017 with the following Commission members present: Donnie Fisher, President; Steve Stolipher, Vice President; Wade Louthan, Secretary; Peter Onoszko, County Commission Liaison; Jack Hefestay, Gene Taylor, J Ware, Ron Thomas and Ray Bruning. Staff members present included Jennifer Brockman, County Planner; Jonathan Saunders, County Engineer; Alex Beaulieu, Zoning Administrator; Nathan Cochran, Assistant Prosecuting Attorney; and Rhonda Greenholtz, Planning Clerk

Mr. Donnie Fisher called the meeting to order at 7:00 PM.

1. Approval of the November 14, 2017 minutes.  
The minutes were approved with no objections.  
Approval of the November 28, 2017 minutes.  
The minutes were approved with no objections.
2. Citizen Communications. None
3. Request for postponement. None
4. A Public Hearing was held by the Planning Commission for applicant Bradley & Paloma Dugan (PCW#16-06) for a waiver from Section 20.201(A)2 of the Subdivision Regulations which allows lots in the Rural District with a minimum road frontage of 200' to front on an existing road right of way having a width of 50'. The proposed lot has 30' of access via a pipestem from Possum Trot Lane.

Applicant Bradley and Paloma Dugan presented their request. The applicant stated that they are requesting the waiver to be able to utilize the current 30' pipestem for access to a future Family Transfer Lot.

Ms. Jennifer Brockman stated that in the Rural zoning district there are two access alternatives; 1) is to access a 50' access easement or; 2) is to have a minimum of 200' of road frontage onto an existing right of way. Part of Possum Trot is a right of way and part of it is an easement. The applicant will be creating a "Family Transfer lot" and is requesting to be able to access the newly created lot via the 30' pipestem. The balance of the remaining lot will be required to access via the right of way portion of Possum Trot Lane.

Mr. Donnie Fisher opened the floor to Public Comment. No Public comment was made.  
Mr. Fisher closed the floor to Public Comment.

Mr. Steve Stolipher made a motion to approve the waiver request to access the 30' pipestem easement as requested.

Mr. Jack Hefestay seconded the motion, which carried unanimously.

5. **Discussion and Possible Action:** Petition by Mr. Richard Nickell, in conformance with Section 12.4(b) of the Jefferson County Zoning Ordinance, to amend Section 5.7(D) the Zoning Ordinance Text to allow for the continuation of subdivisions utilizing pre-existing development rights.

Ms. Brockman explained that while State Law does not have a provision by which an individual or group of citizens can initiate a Zoning Ordinance text amendment, a process by which an individual can request a text amendment has been incorporated into Article 12 of the Zoning and Land Development Ordinance. Ms. Brockman explained the process and stated that is the purpose of this petition.

Mr. Paul Raco, Representative for the applicant, explained that when the Zoning Ordinance was amended to eliminate the LESA system, previous subdivision rights that had used the 1 lot per 10 acres provision had inadvertently been impacted. The "1 per 10" had been removed and replaced with a higher density of "1 lot per 5 acres" with a required 50% greenspace retention in an effort to implement one of the recommendations of the "*Envision Jefferson 2035 Comprehensive Plan*". Mr. Raco stated that property owners that had once utilized the 1 per 10 provision, and still had rights under that provision, should be able to continue to do so provided there is a note included on either the Plat, CIS (Community Impact Statement) or PPC (Pre-Proposal Conference) memo stating the maximum lots anticipated with full build out under the 1 lot per 10 acre provision.

Mr. Raco requested that the Planning Commission schedule a Public Hearing on this proposed text amendment.

Mr. Peter Onoszko suggested adding a date to the amendment. Possible language, "If previously subdivided utilizing the 1 lot per 10 acres as of March 16, 2017".

Mr. Donnie Fisher stated that this will not exclude the 1 lot per 5 acre provision (if any rights remain on the property) as stated in Section 5.7 (D) of the Zoning and Land Development Ordinance.

Mr. Steve Stolipher made a motion to hold a Public Hearing at the next Planning Commission meeting scheduled for January 9, 2018 with the addition of the proposed language.

Mr. Wade Louthan seconded the motion, which carried unanimously.

6. **Discussion and Possible Action:** Planning Commission action to recommend approval of the proposed text amendment to the Jefferson County Zoning and Land Development Ordinance, File #ZTA 16-02, to the County Commission. The text amendment, in accordance with WV Code §8A-7-13 proposes revisions and additions to multiple sections of the Zoning Ordinance including Section 2.2, Terms Defined; Section 3.4 Boards and Commissions; Section 4.6, Distance requirements; Section 4.14 Historic Preservation; Section 5.10, Village (V) District; Section 8.19, Adaptive Reuse of Historic Structures; Section 10.4, Signs Requiring a Zoning Permit and Appendix C: Principal Permitted and Conditional Uses Table.

Ms. Alex Beaulieu presented both a clean copy and the previously “red-lined” version for a comparison of the revisions that were made to the proposed document for review. A discussion ensued regarding the revisions made.

Mr. Peter Onoszko made a motion to send ZTA16-02 to the County Commission with the recommended changes incorporated for the purpose of scheduling a Public Hearing and with the Finding that the proposed revisions are consistent with the *Envision Jefferson 2035 Comprehensive Plan*.

Mr. Ron Thomas seconded the motion, which carried unanimously.

7. Review and approval of the revised 2018 Planning Commission Meeting Schedule. The revision was due to the approval of the Holiday schedule by the County Commission which included May 8, 2018 as a holiday due to it being an Election Day.

Mr. Donnie Fisher made a motion to move the May 8, 2018 Planning Commission meeting to May 1, 2018.

Mr. J Ware seconded the motion, which carried unanimously.

8. Reports from Legal Counsel and legal advice to the Planning Commission.

a) Active Litigation:

- Shiloh Citizens Association: Report on legal action in Supreme Court, Docket #15-1031 Possible Executive Session.

No new updates on this item.

9. Planners Memo.

- Next PC Meeting:  
Special-called Meeting: December 19, 2017 Re: Colonial Hills Phase 3A Preliminary Plat Public Hearing
- WV45 Gateway Design Standards review and update on Shepherdstown Planning Commission meeting
- Upcoming PC meeting:  
Next Regular Meeting: January 9, 2018

Minutes  
Planning Commission  
December 12, 2017

10. President's Report. None

11. Actionable Correspondence.

- Letter from Corporation of Shepherdstown regarding SDA (Special Design Area)

12. Non-Actionable Correspondence. None

Mr. Fisher motioned to adjourn the meeting at 8:02 PM with no objections.

**DRAFT**

Jefferson County Planning Commission  
December 19, 2017

The Jefferson County Planning Commission met on December 19, 2017 with the following Commission members present: Steve Stolipher, Vice President; Wade Louthan, Secretary; Peter Onoszko, County Commission Liaison; Jack Hefestay, J Ware, and Ray Bruning. Staff members present included Jennifer Brockman, County Planner; Jonathan Saunders, County Engineer; and Rhonda Greenholtz, Planning Clerk.

Mr. Donnie Fisher, was absent without prior notification.

Mr. Gene Taylor and Mr. Ron Thomas were absent with prior notification.

Mr. Steve Stolipher presided over the meeting in Mr. Fisher's absence and called the meeting to order at 7:02 PM.

As this was a special called meeting, the December 12, 2017 meeting minutes were postponed to the January 9, 2018 meeting agenda for approval.

1. Citizen Communications. None
2. Request for postponement. None
3. A Public Hearing was held by the Planning Commission for applicant KE Colonial Hills, LLC to approve the Preliminary Plat for Colonial Hills Phase 3A (File#17-06) in accordance with Sections 24.114 and 24.115 of the Subdivision Regulations.

Mr. Ryan Perks, Gordon, and Mr. Rick Fink, with Kinsley, representatives for KE Colonial Hills, the owner, were present.

Mr. Perks presented a brief overview of the project, stating that the project consists of 61 townhome lots. The site will have a single access off of the extension of Lowe Drive. The stormwater management facility will be shared with the proposed Shepherdstown Public Library. All the required permits are in place for this project.

Mr. Stolipher opened the floor up to Public comment.

No Public comment was made.

Mr. Stolipher closed the floor to Public comment.

Mr. Jack Hefestay made a motion to approve the Preliminary Plat application as presented. Mr. Ray Bruning seconded the motion, which carried unanimously.

Minutes  
Planning Commission  
December 19, 2017

4. Reports from Legal Counsel and legal advice to the Planning Commission.

a) Active Litigation:

- Shiloh Citizens Association: Report on legal action in Supreme Court, Docket #15-1031 Possible Executive Session.

No new updates on this item.

5. Planners Memo. None

6. President's Report. None

7. Actionable Correspondence. None

8. Non-Actionable Correspondence. None

Mr. Stolipher motioned to adjourn the meeting at 7:06 PM with no objections.



Staff Report  
Jefferson County Planning Commission Meeting  
January 9, 2018

Background

On August 29, 2008, the 10-acre parcel owned by Sandra K. Armstrong was divided into three parcels utilizing a 40 foot access easement through the Minor Subdivision Plat process in effect at the time (Jefferson County Subdivision Ordinance, July 18, 1979). Under that Subdivision Ordinance, all Minor Subdivision Plats were required to place a note on the plat restricting the use of the lots created to occupancy by one single family dwelling (Note #3), which is not a requirement of the 2008 Subdivision and Land Development Regulations, as amended. None of the three lots created have developed and all are still under single ownership.

Plat Amendment Requirements

Section 24.202A of the Jefferson County Subdivision and Land Development Regulations, “Amendment, Modification, and the Vacating of Subdivision Plats”, states that the Planning Commission (or staff, in the case of a minor subdivision plat) may approve an amendment to a subdivision plat in the same manner as the plat was originally approved, provided:

1. All of the property that is affected by the amendment is under the ownership of the applicant;
2. The amendment will not affect the ownership or right of convenient access of persons owning other parts of the subdivision; and
3. The amendment complies with all of the standards of these Regulations, including verification of compliance with the Zoning Ordinance.

Because all plats, including Minor Plats, were approved by action of the Planning Commission under the 1979 Subdivision Ordinance, this amendment is required to be placed on the Planning Commission agenda for a Public Hearing and Planning Commission action. The required 30-day public notice has been advertised in the Spirit of Jefferson newspaper.

Recommendation

It should be noted that lifting this single family restriction allows the properties to utilize other Principal Permitted Uses listed in the current Zoning Ordinance or to apply for a Conditional Use Permit.

Staff recommends approving the requested plat amendment to include deleting Note #3 and revising the setbacks for Lot 2 as specified in the request. Staff also recommends that the Planning Commission authorize the staff to review and approve the plat amendment reflecting these requested changes prior to recordation.



# Jefferson County, West Virginia

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## MEMO

**TO: Planning Commission**  
**FROM: Jennifer Brockman, AICP, County Planner**  
**DATE: January 9, 2018**  
**RE: ZTA17-03 Zoning Ordinance Text Amendment Public Hearing**

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On December 12, 2017, Richard Nickell presented a petition to the Jefferson County Planning Commission to amend Section 5.7(D) "Maximum Number of Lots Allowed" [in the Rural zoning district] of the 1988 Zoning and Land Development Ordinance (as amended, March 16, 2017). Submitted under the provisions of Section 12.4 "Procedure for Initiating a Zoning Ordinance Text Amendment", the Planning Commission accepted the petition and scheduled a Public Hearing on the proposed amendment for their regular January 9, 2018 Planning Commission meeting.

Attached is the proposed draft amendment in context with the adopted Zoning Ordinance with the amendment highlighted in red, as well as the applicant's statement as to why such proposal is consistent with the adopted *Envision Jefferson 2035 Comprehensive Plan*.

After receiving input at the public hearing, the Planning Commission will finalize the draft text and make a recommendation regarding the potential text amendment to the County Commission, who would also be required to hold a Public Hearing.

## Section 5.7 Rural (R) District<sup>23, 32</sup>

The purpose of this district is to provide a location for low density single family residential development in conjunction with providing continued farming activities. This district is generally not served with public water or sewer facilities, although certain size developments processed under the cluster provision of Section 5.7D(2) may choose to do so. A primary function of the low density residential development permitted within this section is to preserve the rural character of the County and the agricultural community. All lots subdivided in the Rural District are subject to Section 5.7D. The Envision Jefferson 2035 Comprehensive Plan recommends that the cluster provision of the Zoning Ordinance be the preferred method of residential development in the Rural zoning district.<sup>8, 23, 32</sup>

### A. Principal Permitted and Conditional Uses<sup>23, 27, 32</sup>

1. Uses that are permitted, conditional, and not permitted in this district shall be as indicated in Appendix C, Principal Permitted and Conditional Uses Table.<sup>27, 32</sup>
2. Uses shown as conditional uses (CU) for this district in Appendix C, Principal Permitted and Conditional Uses Table shall be subject to review and approval by the Board of Zoning Appeals in accordance with Section 6.3 of this Ordinance.<sup>27, 32</sup>

### B. Minimum Lot Area, Lot Width and Yard Requirements<sup>23</sup>

1. Setbacks, height, and other site development standards shall be as indicated in Appendix A, Residential Site Development Standards, and Appendix B, Non-Residential Site Development Standards, except as provided elsewhere in this Ordinance.<sup>27</sup>
2. Commercial and Light Industrial uses are subject to the requirements of Section 5.6D and the requirements for such standards in Article 8.<sup>23</sup>
3. Any building or feeding pens in which farm animals are kept shall comply with distance requirements specified in Section 4.6 and the requirements for barns and feeding pens specified in Article 8. Also, any buildings used to store manure shall comply with distance requirements specified in Section 4.6A.<sup>23</sup>

### C. Height Regulations

No structure shall exceed 45 feet in height except as provided in Section 9.2.<sup>32</sup>

### D. Maximum Number of Lots Allowed

All parcels of land that were on record as of October 5, 1988 are entitled to subdivide for single family detached residences based on Subsections 5.7D.1, 5.7D.2 or 5.7D.3 below.

A property owner may use a combination of these Subsections, provided that the number of lots are prorated by density. The density rights for any rural development shall be based on the parcel of record as of October 5, 1988 utilizing the following alternatives:<sup>8, 32</sup>

1. A property owner may create one (1) lot for every 15 acres with a minimum lot size of three (3) acres.<sup>17, 21</sup>
  - a. Maximum number of lots allowed (density) shall be computed using acreage on record as of October 5, 1988. Any divisions which have occurred since that time shall be subtracted from the maximum number of lots allowed.<sup>32</sup>
  - b. A property owner may transfer rights to adjacent parcels which are owned by the same entity.<sup>17, 21</sup>
2. Clustering
  - a. Purpose and Intent
    - i. To encourage the conservation of farmland in the Rural Zoning District by planning the residential development allowed in the zone to provide for the best obtainable siting, access and location of lots on a tract while retaining a portion of the property as green space<sup>32</sup>.
    - ii. To provide for a well planned development while minimizing the use of prime agricultural land.
  - b. Requirements
    - i. One (1) lot may be subdivided for every five (5) acres.<sup>17, 21, 23, 32</sup>

- (a) Maximum number of lots allowed (density) shall be computed using acreage on record as of October 5, 1988. Any divisions which have occurred since that time shall be subtracted from the maximum number of lots allowed.<sup>32</sup>
- (b) A minimum of 50% of the property shall be retained as green space and shall contain no further development rights unless the property is placed in another zone or further subdivision is allowed by ordinance. A note to this effect shall be placed on all cluster subdivision plats.<sup>32</sup>
- (c) For every additional 5% green space preservation, the following sliding scale may be utilized:<sup>32</sup>

55% green space	1 lot per 4.5 acres
60% green space	1 lot per 4 acres
65% green space	1 lot per 3.5 acres
70% green space	1 lot per 3 acres
75% green space	1 lot per 2.5 acres

- ii. The residue of a lot divided utilizing either 5.7D.1 or 5.7D.2 prior to the date of adoption of this amendment on March 16, 2017, shall have additional rights based on the provisions of this Subsection, provided that the total lots developed shall not exceed one lot per five acres based on the parent parcel on October 5, 1988 and all other provisions of this Subsection are complied with.<sup>32</sup>
- iii. Minimum lot size shall be 40,000 square feet for lots that will be served by individual wells and septic systems; 20,000 square feet for lots that will be served by a central water OR central sewerage system; and 10,000 square feet for lots that will be served by both a central water AND central sewerage system.<sup>17, 21, 32</sup>
  - (a) Setbacks shall be 25' front, 12' sides, and 20' rear.
  - (b) All clusters of three (3) or more lots shall be served by an internal road; provided that all clusters utilizing the sliding scale in 5.7D.2.b shall have an internal road with direct access to a public road identified as a Major Collector or a Minor or Principal Arterial on the Envision Jefferson 2035 Comprehensive Plan Roadway Classification Map.<sup>23</sup>
  - (c) Clusters of three (3) or more lots shall not be along an existing public road.
  - (d) A property owner may transfer rights to adjacent parcels which are owned by the same entity.<sup>17, 21</sup>
- iv. Procedures<sup>23</sup>
  - (a) Concept Plan. For the subdivision of tracts eligible for cluster lots, a concept plan must be submitted pursuant to the requirements of the Jefferson County Subdivision and Land Development Regulations. All cluster developments must be processed as a Major Subdivision.<sup>17, 21, 23</sup>
  - (b) The Concept Plan for a proposed Cluster Development can be combined with the required submittal and process requirements for a Concept Plan for a Major Subdivision as outlined in the Subdivision Regulations, provided that the Concept Plan includes all requirements of the Concept Plan in the Subdivision Regulations and includes the necessary soils and topographic data, together with a written narrative, required for the analysis listed below.<sup>32</sup>
  - (c) The Staff shall review and make a recommendation to the Planning Commission regarding the proposed design and layout of the proposed Cluster Development. Staff shall consider the following when reviewing the Cluster Concept Plan:<sup>32</sup>
    - (1) Soils: The cluster plan should minimize the use of the higher quality soils (class I, II and III as designated in the soils classification study) and maximize the use of steeper sloped areas, areas of poorer soils and areas which are otherwise less productive for agricultural uses.

- (2) Surrounding land use and zoning: The cluster plan shall consider the existing land uses and zoning in the vicinity. Generally, new lots which are adjacent to existing development or residential zoning are preferred to creating an isolated cluster of new houses.
  - (d) If the concept plan is approved by the Planning Commission, the applicant may then proceed with platting of the clustered development in accordance with the Jefferson County Subdivision and Land Development Regulations and the approved concept plan. The plat shall bear a statement indicating “The land lies within an approved rural cluster development and no further subdivision of the remaining land is permitted unless the property is placed in another zone or further subdivision is allowed by ordinance or regulation”.<sup>23</sup>
3. If the development rights under Subsections 5.7D.1 and 5.7D.2 above have not been utilized, any property that was a lot of record as of October 5, 1988 may create three (3) total lots (including the residue) during any five year period. Such application may process as a Minor Subdivision, in accordance with the Subdivision Regulations, and shall be exempt from density limitations provided that all subdivision requirements are satisfied. Applications which exceed this number during any five year period shall process under Subsection 5.7D.1 or 5.7D.2 above. Only the residue or parent parcel may qualify under this provision once the original subdivision takes place. All lots that qualify under this section must meet subdivision requirements.<sup>32</sup>
4. Subdivisions involving transfers of land between family members known as “Family Transfers”, as defined in Article 2, shall not be subject to the density requirements of this section. All lots that qualify under this section must meet subdivision requirements. Family transfers are not entitled to further subdivide except as another Family transfer.<sup>32</sup>
5. Once the maximum number of lots are created under 5.7D, the property cannot be further subdivided unless the Ordinance is amended to allow such.
6. Notwithstanding any other provision contained in Article 5, Section 5.7(D), if a property was previously subdivided under the one (1) lot per ten (10) acre provision after October 5, 1988 and before this Ordinance was amended on March 16, 2017 (ZTA 16-01), then the property may continue to subdivide, or finish subdividing, utilizing the property’s remaining development rights as they existed at the time(s) when the subdivision was previously processed. These vested rights may be shown on a previously approved Preliminary or Final Plat, Concept Plan or Community Impact Statement, or otherwise contained within the property’s subdivision files within the Department of Engineering, Planning and Zoning.

Proposed Text Amendment  
Jefferson County Zoning and Development Review Ordinance  
Article 5. Section 5.7D  
November 21, 2017

**Authority:** Article 12, Section 12.4.B.

**Applicant:** Richard S. Nickell  
P.O. Box 490  
Shepherdstown, WV 25443

**Section of Ordinance:** Article 5, Section 5.7.D.

**Proposed Amendment:** Attached with proposed section in Red

**Relevant Envision Jefferson 2035 Comprehensive Plan Support Recommendations:**

Page 24:

Rural/Agricultural Areas Rural/Agricultural properties outside the UGBs and PGAs are allowed to develop using the "by right" standard of one lot per 15 acres and a cluster development of one lot per ten acres. Over the past number of years, the Zoning Ordinance has been amended to allow many additional uses in the Rural District to promote more rural agricultural uses and value added operations. The 2008 Subdivision and Land Development Regulations have been amended to reduce the site improvement standards for rural business. This Plan proposes that a holistic review of Rural zoned properties should occur that would allow for greater scope and variety of agriculture related activities and rural recreation. It should be noted that regardless of location, whether in an UGB, GMB, or PGA, all Rural zoned properties shall be permitted to undertake the activities noted above. Additionally, this Plan proposes that the Zoning Ordinance be reviewed and amended to consider a higher density for rural/agricultural lots utilizing the cluster provision instead of allowing rural residential developments via the Condition Use Permit process.

As part of the Envision Jefferson 2035 process, there are no zoning map amendments (rezoning requests) or reductions in existing zoning rights proposed by the County. The existing zoning on any property in the County will not be affected by this process. This Plan, including the Future Land Use Guide, does not propose to reduce the rights of any property owner. The Plan and the Future Land Use Guide propose to retain vested property rights....

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**Urban Level Development Recommendations (Goal 1)**

1. Recognize the existing vested rights, development entitlements, and permitted density levels on properties in Jefferson County.



# Jefferson County, West Virginia

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## Planner's Memorandum Planning Commission Meeting January 9, 2018

### 1) Upcoming Zoning Ordinance Text Amendments

#### a) Landscape Standards

- Stakeholder meeting with staff held – draft amendment in progress.

#### b) Signage

- Various amendments including animated vs digital signs to be addressed.

#### c) Parking Standards

#### d) WV45 Gateway Design Standards

- Staff attended 12/18/17 meeting of Shepherdstown Planning Commission – they will follow up with correspondence, including concepts such as
  - Setbacks/ridge views
  - Signage
  - Plantings/screening/native tree stands
  - Access/safety concerns
  - Bike/pedestrian/walkability features

### 2) Upcoming Subdivision Regulation Text Amendments

#### a) Subdivision Regulations Amendments

- STA 16-01 County Commission Public Hearing: January 18, 2018 1:30 pm.
- Staff initiated effort on larger amendment including reorganization of Sub Reg. sections is underway.

### 3) Upcoming PC meeting

- a) Next Regular Meeting: **February 13, 2018**