

Special Called Planning Commission Minutes
November 20, 2023, 5:00pm

- I. Call to Order
 - Tom Carter called the meeting to order at 5:00pm
- II. Roll Call
 - All present, except Jim Stover and Wade Nicely
- III. Approval of Minutes:
 - July 10th, 2023
 - October 2nd, 2023
 - October 31st, 2023
 - November 6th, 2023

A motion to approve all the minutes listed was made by Karl Kamman. Doug Catt seconded. Motion passed 5-0.
- IV. Old Business-None
- V. New Business
 - Review and recommend updates to Ordinances and Codes related to building, site development/improvement, zoning, subdivision, and roads.
 - A. CM Phagan reviews items in each member's packet and references a handout with talking points for relevant Ordinances and Codes.
 - *See attached document
 - B. CM Phagan explained that there are several typographical errors throughout the documents. A motion can be made at the end of the meeting to address all of these. See end of minutes.
 - C. CM Phagan also reported that he had met with Charles Tipton and David Gaut concerning the drainage issue on West Atherton. He is waiting for further discussion and will present the results at the December Planning Commission meeting.
 - D. 12-201 (3) Ten Days versus 14 days
 1. CM Phagan explained that the BMC has 10 days, however there are discrepancies between Codes and Ordinances in reference to 10 and 14 days.
 2. Donna Hernandez and Tom Carter stated that the Planning Commission had decided on 14 days at the last meeting.
 3. CM Phagan explained the need for this to be represented through an ordinance.
 4. Donna Hernandez made a motion to change 10 days to 10 "working" days. Karl Kamman seconded. Passed 5-0.
- VI. Citizen Comment
 - Mark Howard, 353 Back Nine Drive Baneberry, Tennessee, inquired about the meaning of "working days". He stated that the City office is only open Monday through Thursday and the Board needed to clarify the intent. He also voiced that he disagreed with the board excluding prefab accessory buildings from BMC 12-402 (Ord 220-05). Lastly, Mr. Howard stated that the Planning Board needed to establish criteria for the Board of Zoning Appeals. He explained different aspects that can be involved in the appeals process and that the Planning Board needed to establish guidelines.
- VII. Adjournment
 - Donna Hernandez made a motion to adjourn. Doug Catt seconded. Passed 5-0.

SCM Planning Commission Meeting
November 20, 2023, 5:00pm

1. 12-201 (1) The Building Official approves the Building Permit.
 - a. CM Phagan explained the code and stated that the Building Inspector and the Building Official are one in the same per Ordinance 212-5. The CM went on to state that the Building Inspector (BI), David Gaut would not be available to attend Planning Commission (PC) meetings.
 - b. Doug Catt asked if the BI could write a report instead of coming to the meetings.
 - c. Tom Carter stated that the BI provides a signed building permit. His signature should represent approval.
 - d. Mark Plonski (citizen) stated that the BI also calls and facilitates with the owner before site plans are turned in.
 - e. Doug Catt stated, in his opinion, this was sufficient.
 - f. CM Phagan suggested to the PC that the language in 12-203 (6) would need to be changed to reflect that the building permit would suffice as approval from the BI.
 - g. Donna Hernandez made a motion that the completed building permit from the BI is sufficient with a written report on final inspection and Certificate of Occupancy. George Davis seconded. Passed 5-0.
2. 12-201 (4) Define who is owner/builder.
 - a. CM Phagan asked the PC what the intent was for owner/builder as referenced in 12-201 (4). Who is supposed to be collecting worker's compensation insurance in these cases?
 - b. Donna Hernandez stated that the City has not stipulated a 2-year residency for new construction.
 - c. Tom Carter suggested that they consult with David Gaut (BI) if it should read "resident/owner".
 - d. Doug Catt asked if the City would be on the hook for worker's compensation? Tom Carter replied, "No".
3. 12-201 (6) The BI approves excavation and construction.
 - a. CM Phagan read and explained 12-201 (6). No discussion followed.
4. 12-202 (3)(b) The PC, BI, and the Roads Commission (RC) are to approve alterations/design for roadside ditches.
5. 12-202 (3)(c) The Planning Commission approves alterations of natural drainage.
 - a. CM Phagan reads and explains 12-202 3 (b) and (c). Three entities (Baneberry PC, RC, and the BI) are required if an approved design for roadside ditches changes during new construction. (c) addresses natural drain water should the new construction alter the flow of natural water.
6. 12-202 (5) If a building plan changes after it has been approved, the changes must be approved by the Planning Commission and the Building Official.
 - a. CM Phagan read and explained 12-202(5). No discussion followed.
7. 12-202 (9) The Planning Commission and Building Official are to approve any materials where matching material is no longer available.

- a. CM Phagan read and clarified 12-202(9). No discussion followed.
8. 12-204 (2) The Planning Commission Board of Appeals can approve a waiver for detached porches, decks, and additions.
 - a. CM Phagan asked if the Planning Commission Board of Appeals (PCBOA) was the same as Board of Zoning Appeals (BOZA) and inquired if anyone had been appointed to these boards. CM Phagan also suggested that 12-204 (2) only require the Planning Commission approval.
 - b. Donna Hernandez made a motion to remove PCBOA from 12-204 (2) and replace it with approval by the Planning Commission. George Davis seconded. Passed 5-0.
9. 12-204 (6) The Planning Commission and Building Official must approve a waiver requested for walls and roofs of additions, porches, decks, and accessory buildings if the new construction does not match the existing house.
 - a. CM Phagan asked the PC if they want both entities to approve 12-204(6) or the Planning Commission only.
 - b. Doug Catt inquired about docks. He was informed docks were under TVAs jurisdiction.
 - c. Donna Hernandez stated that the Building Official could provide approval in writing. Other board members agreed.
 - d. Donna Hernandez made a motion for the Building Official to provide written approval for 12-204(6). Doug Catt seconded. Passed 5-0.
10. 12-204 (7) No permit is required if the structural integrity is not disturbed.
 - a. CM Phagan read 12-204(1) and (7). He inquired as to who makes the determination if a permit is required and, if a permit is not required does the owner pay for an inspection.
 - b. Donna Hernandez asked if 12-204(1) and (7) contradict each other.
 - c. CM Phagan stated that existing decks are addressed in (1) and revisited in (7). He asked the board if they wanted a process for determining the requirement of a permit and inspection.
 - d. Tom Carter asked who determines the integrity of the structure.
 - e. Doug Catt did not see a reason to add extra fees.
 - f. CM Phagan also inquired about just replacing flooring.
 - g. Donna Hernandez made a motion that 12-204(7) require one inspection if no permit is required. Doug Catt seconded. Passed 5-0.
11. 12-206 (2)(a) The final site plan and request for Certificate of Occupancy must be approved by the Building Official prior to the final inspection leading to the issuance or denial of a Certificate of Occupancy. This takes place within 3 days of the request.
 - a. CM Phagan read 12-206 2(a) and inquired about a final site plan, showing the location of all structures, approval before a Certificate of Occupancy is provided to the owner. He also asked if a final site plan would be required only if the original site plan changed during the building process.
 - b. Tom Carter expressed concern that this process can be very expensive for the owner. He stated the final site plan should be the original site plan.

- c. George Davis made a motion to remove the requirement for a final site plan, certified by an engineer/surveyor, in 12-206 (2)(a). Doug Catt seconded. Passed 5-0.
12. 12-302 The Planning Commission must approve all decks, porches, and similar structures.
 - a. CM Phagan asked the PC if they wanted to be involved in the approval of 12-302 since they are not approving other construction. The Building Official determines these approvals.
 - b. Tom Carter stated he wants to leave 12-302 as it is.
 - c. Karl Kamman stated that the board had already addressed attached versus detached garages.
 - d. Donna Hernandez referenced Ordinance 220-05 as clarification to this issue. No further discussion was held.
13. 12-305 If there are no "special circumstances" the City Manager may approve.
 - a. CM Phagan stated that there is no criteria for "special circumstances" and that the City Manger is not involved in approving any other construction requiring a permit.
 - b. Karl Kamman made a motion to delete 12-305. Doug Catt seconded. Passed 5-0.
14. 12-308 Permit waiver doesn't include decks.
 - a. CM Phagan suggested that the board include decks in 12-308.
 - b. Doug Catt made a motion to include decks in 12-308. George Davis seconded. Passed 5-0.
15. 12-402 Prefab buildings are allowed if the criteria are met.
 - a. CM Phagan pointed out that BMC 12-402 allows for prefab buildings whereas Ord 212-5 702-5(1)(c) does not allow prefab buildings. CM Phagan noted Ord. 212-5 Article 13 1300, states that when a conflict exists the most restrictive shall in all cases apply.
 - b. George Davis stated that he thinks prefab buildings should not be allowed in 12-402.
 - c. George Davis made a motion to remove prefab buildings from BMC 12-402. Donna Hernandez seconded. Passed 5-0.
16. 12-409 The Planning Commission or Zoning Board of Appeals must approve variances to Baneberry Municipal Code (BMC)
 - a. CM Phagan suggested 12-409 remain as is.
 - b. Doug Catt asked for clarification on Zoning Board of Appeals. CM clarified. No further discussion.
17. 14-302 The Planning Commission approves sign permits.
 - a. CM Phagan wanted to ensure the Planning Commission was familiar with 14-302.
18. 14-307 The Board of Zoning Appeals (BZA) approves zoning variances.
 - a. CM Phagan wanted to ensure the Planning Commission was familiar with 14-307.
19. 16-205 The Planning Commission approves cuts on unpaved roads.
 - a. CM Phagan read and explained 16-205.

- b. Tom Carter stated that this approval should be the responsibility of the Roads Commission. Donna Hernandez agreed.
 - c. Doug Catt made a motion that the responsibility of approval in 16-205 be transferred to the Roads Commission. Donna Hernandez seconded. Passed 5-0.
20. 16-210 The Planning Commission approves a waiver of the requirement for tile/culvert at the connection of a driveway and street/highway.
21. 16-210 The Planning Commission approves all driveways across a curb or sidewalk (requires a permit)

Items Number 20 and 21 were discussed together.

- a. CM Phagan read and explained 16-210.
 - b. Tom Carter stated that driveways and curbs should be under the jurisdiction of the Roads Commission.
 - c. Donna Hernandez stated that driveways and curbs are still on the site plans for the Planning Commission.
 - d. Tom Carter stated that if an owner doesn't like what the Roads Commission decides they can go before the Board of Zoning Appeals (BOZA)
 - e. CM Phagan suggested separating the approval for a waiver of tiles/culverts where a driveway connects to a street from the approval of a driveway across a curb or sidewalk. He also stated that Charles Tipton recommends driveway permits be a requirement.
 - f. Donna Hernandez made a motion that 16-210 is to read that a tile/culvert requirement is waived by the Roads Commission and not the Planning Commission. George Davis seconded. Passed 5-0.
22. A motion was made by George Davis to correct all typing, grammar, and naming errors for Ordinance 2021-02, Ordinance 220-05, Ordinance 212-5, Ordinance 211-5, Ordinance 2023-009, and 2022-006. Doug Catt seconded. Passed 5-0.



Chairman Planning Commission/Date


12/11/23

City Manager/Date