

SUMNER COUNTY PLANNING COMMISSION MINUTES

JANUARY 28, 2020

5:00 P.M

**SUMNER COUNTY ADMINISTRATION BUILDING
COUNTY CHAMBERS
355 N. BELVEDERE DRIVE
GALLATIN, TN. 37066**

MEMBERS PRESENT:

**LUTHER BRATTON, CHAIRMAN
BILLY GEMINDEN, VICE-CHAIRMAN
JERRY KIRBY
GENE RHODES
TOM TUCKER
JIM WILLIAMS
MIKE HONEYCUTT
CHRIS TAYLOR**

STAFF PRESENT:

**JOSH SUDDATH, DIRECTOR OF DEVELOPMENT SERVICES
KATHY YOUNG, ASSISTANT TO THE DIRECTOR
RICHARD JONES, COUNTY ENGINEER
LEAH MAY DENNEN, COUNTY ATTORNEY
BEN ALLEN, STAFF ATTORNEY**

Mr. Bratton called the meeting to order.

**APPROVAL OF DECEMBER 2019 MEETING MINUTES BY MR. TAYLOR,
SECONDED BY MR. RHODES. MOTION APPROVED UNANIMOUSLY.**

APPROVAL OF JANUARY 2020 AGENDA

PUBLIC COMMENT

Mr. Bratton opened the floor for public comment.

Mr. Suddath informed the Board that Item #2 will have a separate public hearing.

Mr. Bratton turned the meeting over to Vice-Chairman, Billy Geminden, for the election of officers.

1. ELECTION OF OFFICERS FOR CALENDAR YEAR 2020

Mr. Geminden called for nominations for Planning Commission Chairman.

**Mr. Rhodes nominated Mr. Bratton for Chairman.
Mr. Tucker made a Motion to close the nominations, seconded by Mr. Williams. Motion passed unanimously.**

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Mr. Bratton thanked the Board and called for nominations for Planning Commission Vice-Chairman.

Mr. Honeycutt nominated Billy Geminden for Vice-Chairman, seconded by Mr. Kirby. Motion passed unanimously.

At this time, Mr. Bratton announced that he had received a request from Mr. Bruce Rainey that the following Item #2 be deferred for thirty days. Mr. Bratton stated that upon discussing this with Mr. Suddath and several board members, consensus is that this topic be discussed statically, understanding that this is not the last time this item will be discussed, as it will pass from this Board to Legislative and then on to the County Commission. Mr. Bratton asked if the Board feels a deferral is warranted.

Mr. Tucker stated that in light of the fact that there is a good chance this may return to the Planning Commission for modification, he sees no advantage to a deferral.

Mr. Bratton concurred but stated that he felt it appropriate to recognize the request.

Ms. Dennen stated that the request is noted.

Mr. Bratton turned the meeting over to Mr. Suddath for staff comments.

2. SUMNER COUNTY REGIONAL PLANNING COMMISSION RESOLUTION 2020-01: A RESOLUTION RELATED TO ADOPTION OF A SET OF COMPREHENSIVE AMENDMENTS TO THE ZONING RESOLUTION AND OFFICIAL ZONING MAP OF SUMNER COUNTY, TENNESSEE.

Mr. Suddath began his presentation by displaying a portion of the TCA Title 13, Chapter 7 entitled "Planning Commission's Role in Adoption/Amending the Zoning Code". Mr. Suddath explained that this hearing satisfies the state requirement stated therein.

Next, Mr. Suddath provided a history of the County's Zoning Code, stating that it was adopted July 1973. Mr. Suddath stated that the Code has been amended many times since, to add chapters related to Planned Unit Developments, Airport Zones, Mining and Quarrying Zones, Floodplain Requirements and to remove and change others.

Mr. Suddath stated that the current official copy of the County's Zoning Code has issues that can cause interpretation problems from a staff perspective.

Mr. Suddath noted that other jurisdictions have conducted comprehensive rewrites of their Zoning regulations in recent years, including Rutherford County in 2012, Williamson County in 2012 and Montgomery County in 2016.

Mr. Suddath pointed out that some obvious issues with the current zoning code are that the document is not editable or searchable. Also, Mr. Suddath stated that there are various typos, misspellings and handwritten notes, crossed out pages and obsolete language within the document.

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Further, Mr. Suddath explained deeper issues with the existing Code which include:

- Difficult for staff to interpret
Examples: Illogical zoning district boundaries; Placement of accessory structures in different zones; cell towers (no permitting/approval process outlined)
- Contradictory requirements and verbiage
Example: Multiple sets of definitions scattered across the document for the same terms; unclear which ones actually apply and where
- Vague or nonexistent sign regulations and permits,
- Commercial and Industrial Site Plan review standards virtually nonexistent;
- Vague landscaping requirements for commercial/industrial development
- No dedicated “Office” zoning.
- Neighborhood meetings not required for PUD’s or other rezonings
- Traffic Studies not a requirement for any application of any size
- Official Zoning Maps last formally updated by County Commission in 2008
- Planning Regions: status of some totally unclear, esp. White House and Goodlettsville Planning Regions
- Unusual/ Illogical Zoning District Boundaries
- Uses Upon Appeal (“Conditional Use Permits” or “Special Exceptions”):
 - Many Uses Upon Appeal are not defined in much, if any, detail
 - Courts have ruled that if a use is allowed upon appeal and no specifics are attached to it, then it is allowed as written
 - For most “upon appeal” uses, it is very important to specifically define the thresholds for approval
 - In most cases, the existing County Zoning Resolution just does not do this

Mr. Suddath stressed that the key question is to determine what level of detail is necessary in the zoning code. Mr. Suddath pointed out that with zoning regulations, not only is more detail better, the courts have maintained that it’s absolutely necessary if the governing body wants to have influence over how their jurisdiction is developed. Also, by defining where certain uses can go and under what conditions, a degree of certainty is provided to the development community, and more importantly, to the community at large, stated Mr. Suddath. Thus, if applications don’t meet requirements, Mr. Suddath added, they must either be rezoned, or look for a more appropriate location.

Next, Mr. Suddath explained some rules for special exceptions/conditional uses that include:

- The Board of Zoning Appeals may not act in a legislative capacity.
- The BZA cannot substitute its judgement for the County Commission’s
- County Commission legislates, BZA interprets and implements the code as written
- Special exceptions are permitted uses.
- The BZA cannot refuse to grant the special exception when the applicant proves that all required conditions and standards have been met.

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At this point, Mr. Suddath displayed pages from the current zoning code.

Next, Mr. Suddath provided a brief history of the County's Planning Regions, stating that:

- Most Municipal Planning Commissions in Sumner County were changed to Regional Planning Commissions beginning with Gallatin in the late 1950's/early 1960's, and continuing through to when White House was designated as a Regional Planning Commission by the State on March 23, 1972.
- In March 1973, the Sumner County Quarterly Court (Commission) voted to allow the Cities of Gallatin, Hendersonville, Portland and White House to establish zoning one mile outside of their municipal boundaries.
- The County adopted its first zoning resolution on July 9, 1973, extending zoning to the entire unincorporated area, except the Planning Regions of Gallatin, Hendersonville, Portland and White House
- These Planning Regions were excluded from the area zoned by the County and city zoning applies there.

Mr. Suddath went on to explain the mutual responsibilities within the Planning Regions, stating that:

- Cities implement their Subdivision Regulations and Zoning Codes
 - Including Preliminary and Final Plats, Commercial/Industrial Site Plans, Building Permits; also Variances and Special Exception (Conditional Use Permit) requests to Board of Zoning Appeals, etc. Enforce property maintenance requirements
- County enforces Stormwater Regulations
 - TDEC sent the County a letter in 2011, clarifying that Cities may not assume responsibility for enforcement of Stormwater Regulations outside their municipal limits.
 - Any Stormwater issues that arise in the Planning Regions must be addressed by the County.
- County maintains roads
 - County Road Superintendent is required to maintain roadways outside of municipal jurisdictions unless an agreement has been worked out with the city for the city to assume maintenance.

Mr. Suddath gave an overview of the issues that may be involved with the County assuming Zoning responsibility for the Planning Regions, including the enforcement of the Zoning Codes, perceptions of fairness, regulation compatibility, and staffing levels in the Planning, Codes, and Legal Offices.

Next, Mr. Suddath provided a timeline of how the comprehensive set of revisions to the Zoning Resolution developed, stating that staff began working internally on these amendments a little

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over a year ago, beginning in December, 2018. Mr. Suddath explained that the Planning Commission has had monthly public work studies related to these revisions beginning in July, 2019. Notice of each work study was included on agendas and was sent via email each month along with electronic Planning Commission agenda packets. Likewise, Mr. Suddath stated, work studies were conducted with the Board of Zoning Appeals during the fall of 2019.

Mr. Suddath informed the Board that this hearing constitutes the required Planning Commission public hearing on these proposed amendments.

Additionally, Mr. Suddath stated that the draft Resolution and Zoning Maps were added to the County's website on January 15, 2020 and the public notice was placed on the County's sunshine board the same day.

Mr. Suddath provided newspaper clippings of the Public Notices for this hearing, which was advertised in the Gallatin News and Hendersonville Standard on January 16, 2020.

Next, Mr. Suddath provided an overview of the proposed amendments, stating that this is a comprehensive rewrite of the entire resolution and of the County's Official Zoning Map. Mr. Suddath explained that Zoning codes from peer jurisdictions around the state, and particularly in Middle Tennessee, were consulted, and best practices were emulated and adapted to the unique needs of Sumner County. Mr. Suddath stated that staff sought to address common or recurring problems that the current resolution may not address, from the mundane (placement of sheds etc.) to the complex (commercial/industrial site plan requirements, sign codes).

Mr. Suddath pointed out that the Zoning Resolution document is a searchable PDF, and the table of contents is clickable, meaning it will bring the user to the page desired with one mouse click. Also, Mr. Suddath explained that within the proposed zoning map, multiple zoning districts have been consolidated and Zoning within the Planning Regions for Gallatin, Hendersonville, and Portland has been replaced with County Zoning (Rural Residential District).

Next, Mr. Suddath displayed the proposed Zoning Map, explaining that the current Agricultural, R1A, RA, Estate A and Estate B Zoning will be absorbed into the new Rural Residential (RR) Zoning.

At this point, Mr. Suddath explained, in detail, the 17 Chapters of the Zoning Resolution, explaining the Use Classification, Standards, Regulations, Requirements, Overlays, Administration and Enforcement and Appendices of the proposed Zoning Resolution.

In conclusion, Mr. Suddath stated that the Goal of this effort has been to evaluate the policies in place among our peer Counties in order to put together a Zoning Resolution that:

- Allows quality development to occur while seeking to maintain the quality of rural areas in the County

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- Ensures that existing property owners are protected from the negative effects of development, while maintaining fairness toward members of the development community;
- Guarantees adequate public notice, as well as staff review and oversight
- Provides staff with the tools and detailed guidance they need to enforce the spirit and letter of the Zoning Resolution
- Addresses the issues staff deals with day in and day out,
- Is understandable and predictable from the perspective of the developer and their representatives
- Seeks to shift the mindset from “What will staff allow?” to “What does the Zoning Resolution actually say?”

Mr. Suddath explained the next steps that would be followed if the Planning Commission recommends approval of this item, stating that it will be referred to the County Commission. Mr. Suddath noted that the item will first need to be heard by the Legislative Committee for two hearings, at which time it will be placed on the agenda for the Full Commission. If the County Commission approves the proposed resolution and proposed zoning map, Mr. Suddath continued, they would become effective July 1, 2020.

Mr. Suddath explained that the effective delay date is provided in order to ease the transition for the Planning Regions; MOU's will need to be worked out among the County and City Planning Staff and to create new forms and processes that will be needed in order to administer the resolution, such as sign permits, Floodplain Administration duties, training for relevant staff, etc.

Mr. Suddath concluded his presentation with example motions, adding that there have been several amendments/tweaks to the Resolution draft prior to this meeting. Mr. Suddath provided a copy of the amendments which include the Portland Airport Zone wording, wording clarification that easement language must be included on the deed, wording related to fences around swimming pools, a requirement of site plan regulations for the design of bridges be increased from 50 years to 100 years and wording regarding election signage, referencing the Tennessee Freedom of Speech Act.

Therefore, Mr. Suddath requested that the aforementioned amendments be added to the proposed Zoning Code Resolution for consideration.

Mr. Bratton asked for the dates that this Resolution was publically noticed.

Mr. Suddath stated that the Public Notice was printed in The Gallatin News and The Hendersonville Standard on January 16, 2020, adding that the publication date met the required notice.

Mr. Bratton opened the Public Hearing.

Seeing that no one wished to speak to the request, Mr. Bratton closed the Public Hearing.

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Mr. Geminden made a Motion to approve Planning Commission Resolution 2020-01, related to the adoption of a comprehensive set of revisions to the County Zoning Resolution, including the six additional amendments and the Official Zoning Map, and to forward a positive recommendation to the County Commission, seconded by Mr. Honeycutt. Motion passed unanimously.

At this point, Mr. Chris Taylor excused himself from the meeting.

Mr. Bratton turned the meeting over to Mr. Suddath for staff presentation.

3. **CULBREATH-BIGGS ACRES – PRELIMINARY PLAT (Major)** – Represented by **Richard Graves – 12th Commission Voting District (Michael Guthrie and Justin Nipper)** - Applicant was requesting Preliminary Plat approval for a 3-lot subdivision located at **State Highway 76, Cottontown, TN 37048**. Subject property is located on Tax Map 057, p/o Parcel 049.01, contains 3.61 acres, and is zoned Agricultural (A).

Mr. Suddath provided an overview of the property and displayed the Preliminary Plat and an aerial photo of the property.

Mr. Suddath stated that with regards to the roads, adequate ROW is shown dedicated on the Plat, and as State Route 76 is classified as a Rural Major Collector along this segment per the County Major Thoroughfare Plan, the proposed lot widths meet requirements.

Mr. Suddath stated that in regards to Utilities and Fire Protection, an 8 inch water line is in place along road frontage; no fire hydrant depicted and if a fire hydrant cannot be installed, then new subdivision regulations require that some equivalent dedication (Approx \$3,000) be made to further the goal of fire protection in the County. Mr. Suddath stated that this monetary dedication will need to be made with the Final Plat.

Next, Mr. Suddath explained the Drainage Construction Plans that have been submitted, stating that the required EPSC Plan and Drainage Calculations have been submitted per County Subdivision Regulations and it finds that drainage improvements are not required for this development. Mr. Suddath noted that the applicant is proposing to utilize “sheet flow” method to satisfy County water quality requirements rather than installing treatment ponds, which will involve keeping the rear of yards in grass, designated as green space, not to be disturbed.

Mr. Suddath concluded his presentation with example motions.

Mr. Honeycutt made a motion to approve a Preliminary Plat for Culbreath-Biggs Acres, with the following conditions:

a) Applicant shall obtain stamped approval from County Consultant Engineer for Construction Plans prior to issuance of a Land Disturbance Permit.

b) Applicant shall provide proof of payment of hydrant escrow funds to the County upon submittal of any Final Plat for this phase.

c) Applicant shall pay applicable Construction Inspection fees in the amount of \$100 per lot to the County upon application for Final Plat approval, seconded by Mr. Williams.

Motion passed unanimously.

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Mr. Bratton turned the floor over to Mr. Suddath for staff presentation.

- 4. HOWARD CLARK PROPERTY – PRELIMINARY PLAT (MAJOR) –**
Represented by Richard Graves – 1st Commission Voting District (Moe Taylor and Terry Wright) - Applicant was requesting Sketch Plat approval for a 3-lot subdivision located at **Rogues Fork Road, Bethpage, TN, 37022**. Subject property is P/O Tax Map 063, Parcel 020.00, contains 5.43 acres, and is zoned Agricultural (A).

Mr. Suddath provided an overview of the property, displaying an aerial photo of the property and the Preliminary Plat. Mr. Suddath stated that with regards to the roads, 25 feet Right of Way from center line is dedicated on the Plat. Mr. Suddath stated that the lots meet all width requirements, adding that Rogues Fork Road is a Local Road, on which the county-wide minimum lot widths apply and this 50' requirement has been met.

With regards to utilities and fire protection, Mr. Suddath stated that a 3 inch water line is shown along with a proposed hydrant, on the Plat, but since it is unlikely that a hydrant will be able to be installed and it is unclear which water utility is responsible, a hydrant will need to be escrowed if installation isn't possible. Mr. Suddath added that if escrow funds won't be accepted by the utility, subdivision regulations require that some equivalent dedication be made to further the goal of fire protection in the County.

Mr. Suddath informed the Board that the Construction Plans and the Required EPSC Plan and Drainage Calculations have been submitted. Adding that Drainage Improvements will not be required for this development, Mr. Suddath stated that the applicant is proposing to utilize "sheet flow" method to satisfy County water quality requirements rather than installing treatment ponds, which will involve keeping the rear of yards in grass designated as green space that are not to be disturbed.

Mr. Suddath completed his presentation with example motions and clarified that the Agenda should have read "Preliminary Plat" instead of "Sketch Plat" Approval.

- Mr. Honeycutt made a motion to approve a Preliminary Plat for Howard Clark Property, containing one flag lot with the following conditions:**
- a) Applicant shall obtain stamped approval from County Consultant Engineer for Construction Plans prior to issuance of a Land Disturbance Permit.**
 - b) Applicant shall provide proof of payment of hydrant escrow funds to the County upon submittal of any Final Plat for this phase.**
 - c) Applicant shall pay applicable Construction Inspection fees in the amount of \$100 per lot to the County, seconded by Mr. Kirby. Motion passed unanimously.**

Mr. Geminden asked about the rest of the development.

Mr. Richard Graves responded that there are no plans to develop the rest of the tract, since soils are not adequate.

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Mr. Bratton turned the floor over to Mr. Suddath for staff presentation.

5. BAKER PERDUE ESTATES, PHASE 4 – PRELIMINARY PLAT AMENDMENT–
Represented by Richard Graves – 1ST Commission Voting District (Moe Taylor and Terry Wright) – Applicant was requesting approval for an amendment to a Preliminary Plat approved April 9, 2019 and located on State Route 259 in order to expand the area under consideration to add an additional retention basin. Subject property is located on Tax Map 030, P/O Parcel 029.00, contains 30.81 acres and is zoned Agricultural (A).

Mr. Suddath gave an overview of the property, giving a history of the development, stating that this request is to relocate a detention pond shown in the original construction plans, therefore resulting in a request for a revision to the Phase 4 Approved Preliminary Plat.

Mr. Suddath displayed the Baker Perdue Final Plats Phases 1-3, the approved Phase 4 Preliminary Plat and the Phase 4 Proposed Amendment to the Approved Preliminary Plat. Displaying the revised construction plans, Mr. Suddath explained that the detention pond has been moved to the north, outside of the Development, as submitted to the Board, originally.

Mr. Suddath explained that, if approved, all previously approved conditions of approval still apply and the next steps include:

- Obtain approval for construction plans
- Install pond along with all other improvements
- Inspections conducted by staff
- Developer makes any changes required
- As-Builts submitted
- Final Plat submitted for approval.

Mr. Suddath completed his presentation with example motions.

Mr. Suddath stated that the County Engineer has reviewed the plans and with regards to the proximity of the right-of-way, there may be a requirement for a retaining wall. Mr. Suddath added that the County Road Superintendent is required to review and sign any approved plans.

Mr. Suddath concluded his presentation with example motions.

Mr. Bratton called on Mr. Richard Graves.

Mr. Graves stated that the soils map has just been completed and the soils to the north are not good, potentially resulting in the creating of just 3, 5-acre tracts, explaining that the stub on the Plat would be serving a 5-acre tract now.

Mr. Bratton asked for clarification.

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Mr. Graves stated that the lot with the detention pond on it was extended to the north in order to include the relocated detention pond, stating that this is the only change in the two plats. Mr. Graves explained that the lot with the detention pond, in the first submittal, was consumed with the detention pond.

Mr. Bratton asked about maintenance.

Mr. Suddath stated that the maintenance agreement for the three detention ponds on this development are still to be worked out, referencing Condition e) of the approval motion example.

Mr. Rhodes made a motion to approve Preliminary Plat Amendment #1 for Baker Perdue Estates, Phase 4, with the following conditions:

- a) Applicant shall obtain stamped approval from County Consultant Engineer for revisions to submitted construction plans prior to commencing construction on the proposed pond.**
- b) Applicant shall construct all infrastructure as shown upon approved construction plans to a point of substantial completion as determined by the County Road Superintendent and the Planning and Stormwater Department prior to submission of any Final Plat for the development. Improvements remaining at that time must be bonded with the final plat.**
- c) Applicant shall submit “as built” drawings as per the Sumner County Subdivision Regulations and County Stormwater Management Resolution concurrent with submission of each Final Plat for the development.**
- d) Applicant shall submit a signed Stormwater Inspection and Maintenance Agreement and maintenance plan to the Planning and Stormwater Department for recording concurrent with the submission of first Final Plat for this phase.**
- e) Applicant shall record restrictions submitted for the development with the Final Plat, and shall make note of their Record Book and Page number upon the Final Plat.**
- f) Applicant shall provide proof of payment of hydrant escrow funds to the County upon submittal of any Final Plat for this phase, seconded by Mr. Honeycutt. Motion passed unanimously.**

There being no further business, **Mr. Honeycutt made a motion to adjourn, seconded by Mr. Williams. Motion passed unanimously.**

Meeting adjourned at 6:14 pm.