

**MINUTES OF REGULAR MEETING**  
**March 28, 2016**  
**MONTGOMERY PLANNING AND ZONING COMMISSION**

**CALL TO ORDER**

Chairman Nelson Cox declared a quorum was present, and called the regular meeting to order at 6:00 p.m.

Present: William Simpson, Nelson Cox, Jeffrey Waddell and Carol Langley  
Absent: Arnette Easley  
Also Present: Jack Yates, City Administrator

**VISITOR/CITIZENS FORUM**

Any citizen with business not scheduled on the agenda may speak to the Commission. Prior to speaking, each speaker must be recognized by the Chairman. Commission may not discuss or take any action on any item, but may place the issue on a future agenda. The number of speakers along with the time allowed per speaker may be limited.

No comments were made.

**CONSIDERATION AND POSSIBLE ACTION**

1. Discuss/take action regarding February 22, 2016 minutes.

William Simpson moved to approve the February 22, 2016 meeting minutes, as presented. Carol Langley seconded the motion, the motion carried unanimously. (4-0)

2. Consider/take action regarding setting Public Hearing for rezoning of 19.34 acre site of McCoy's Center -SW Corner of Texas SH105 & Buffalo Springs Drive from Single-Family and Multi-Family Residential to Commercial.

Mr. Yates advised the Commission that the Public Hearing for rezoning this item would need to be scheduled for the next regular meeting to allow enough time for the legal notices to be published and the notice by mail sent out to the property owners within 200 feet of the property being considered for rezoning.

Carol Langley stated that on the agenda and in the comments the amount of acreage is listed as 19.34 acres, but in the documentation all she could see was 10.36 acres, and asked where she could find the other portion of land. Carol Langley also asked if McCoy's had purchased the land and presented the property deed. Mr. Yates advised that Mr. Rampy was requesting the rezoning of the property. Mr. Yates advised the Commission to use the 10.36 acres of land for the motion.

Jeffrey Waddell moved to schedule the public hearing regarding rezoning of the 10.36 acres, as stated in the survey, located at the southwest corner of Buffalo Springs and SH 105 to be held at the next Regular Meeting to be held on April 25, 2016 at 6:00 p.m. William Simpson seconded the motion, the motion carried unanimously. (4-0)

3. Consider/take action regarding Sample Courtyard Display area - Dominion Pool Group at 21000 Eva Street

Jeffrey Waddell said that the only question he had was regarding the gazebo, which looks like it will be over the outdoor kitchen area measuring 12' x 12' and said that he believed it was referred to as the arbor. Ms. Pendley, applicant, advised that was correct.

William Simpson asked about the drainage and whether there was a drainage ditch where the two bridges are located. Ms. Pendley advised that they were existing bridges. Mr. Yates said that they would have to get the water to the ditch, and once it is to the ditch it will be the City's drainage. William Simpson said that the ditch would have to be free flowing. Ms. Pendley said that it was free flowing up to the ditch.

Ms. Pendley advised that the parking had been shown on the drawings. Jeffrey Waddell said that on the left side of the fence, there is a gap in the fence. Ms. Pendley said that it would open to the sidewalk.

William Simpson asked what type of fence they would be using, since it is located in the Historical District. Ms. Pendley advised that it would be a wrought iron fence. Jeffrey Waddell said that it was a combination of wood picket fencing and wrought iron fencing, and asked if the wood picket would be higher than the wrought iron. Ms. Pendley advised that it would be higher right around the kitchen area they have enough antique wrought iron fencing that they are going to use in that area. Ms. Pendley said that their landscaping will hide most of it. Ms. Pendley said that the only place that she could see that they would want to continue the picket fence that is in the back around the air conditioner to extend and create an area that they could close off after hours so people won't be wandering around. Ms. Pendley advised that on the other side where it shows the arch/arbor would also have an access to the patios. Ms. Pendley said that this is to provide people with a vision of different types of landscaping ideas and floorscapes. Jeffrey Waddell said that it looks like it will be a real nice improvements. Ms. Pendley said that is what she is hoping people will think, and she is hoping to bring attention to the vendors along the street.

Jeffrey Waddell asked if the existing stones were there for decoration and would not cause any blockage of the drainage flow. Ms. Pendley advised that it would not cause any blockage and they are already there and they are just going to embellish it so it will look better. Carol Langley asked if there would be any setback, and since they are not structures it would be okay to place them in the setback. Mr. Yates advised that was correct.

Jeffrey Waddell moved to approve the plan submitted by Dominion Pool. William Simpson seconded the motion.

Discussion: Mr. Yates advised that the approval would not be required to go to City Council, this was the final approval.

The motion carried unanimously. (4-0)

4. Consideration and possible action on preliminary plat submission for Heritage Place II

Mr. Fleming presented the Preliminary Plat to the Commission, previously referred to as the Heritage Place Medical Center. Mr. Fleming stated that they have reviewed the plat and found it to be in keeping with the City Code of Ordinances. Mr. Fleming advised that they have returned a plat review letter along with redlined comments to Mr. Love. Mr. Fleming said that it was his recommendation that the Commission approve the preliminary plat as submitted and he will coordinate with Mr. Love to ensure that the review comments are addressed prior to the final plat submission.

Carol Langley asked whether they had discovered the water well on the property. Mr. Fleming advised that would be addressed during the construction plan review phase. Mr. Fleming said if there is an existing well on the property it would be required to be decommissioned, per TCEQ criteria, which is why the comment is on the plat. Mr. Love said that they would have a final answer on the well during the final plat stage.

Carol Langley moved to approve the preliminary plat submission for Heritage Place II. William Simpson seconded the motion, the motion carried unanimously. (4-0)

5. Discuss/take action regarding setting a Public Hearing for 14375 Liberty Street regarding a Special Use Permit as a tattoo parlor

Ms. Michele Martin advised that she wants to have a studio in the Westmont Building that she wants to use as a massage/micropigmentation studio, not necessarily a tattoo parlor. Ms. Martin stated that the micropigmentation would be strictly a cosmetic procedure done on the eyebrows and eye shades, with no other part of the body or face being done. Ms. Martin said that this is a relatively new technique that has come to the United States in the last three or four years. Ms. Martin said that they use a manual hand stroke procedure with the pigment to implement feather strokes into the brows.

Mr. Yates said that tonight the Commission was only setting a Public Hearing.

Carol Langley said that the Special Use Permit will be in writing and asked if they would get it ahead of time. Mr. Yates said that they would have the information in the pack for the meeting. Mr. Yates said that there can be wording in the Special Use Permit will state the specific information for the permit. Carol Langley said that all the particular information will be included in the Special Use Permit stating exactly what Ms. Martin will be allowed to do and for how long.

Mr. Yates advised Ms. Martin that she needed to provide the mailing addresses for all the property owners within 200 feet of the location so that a notice by mail can be provided.

Carol Langley moved to set the Public Hearing to be held at the next Regular Meeting to be held on April 25, 2016 at 6:00 p.m. regarding a Special Use Permit for a tattoo parlor. William Simpson seconded the motion, the motion carried unanimously. (4-0)

6. Report regarding Dark Sky Ordinance

Mr. Yates stated that he was expecting Mr. Solomon and the City Attorney, Larry Foerster to be present tonight regarding this information.

Mr. Yates said that Mr. Solomon was going to explain what a full cut off fixture is, but said he would provide the short version. Mr. Yates advised that the fixture is basically like a shoebox that is turned upside down, so that the light shines down and out rather than horizontally or into the sky. Mr. Yates said that the proposed ordinance is that all commercial lighting would have to be full cut off fixtures.

Mr. Yates stated that Mr. Foerster has provided a very good memorandum on the Dark Sky Ordinance, where he talks about the procedures, scope of applicability, standards and pre-existing conditions, administration, enforcement, and public education.

Mr. Yates said that the memo also states that the City is four square miles and if the surrounding entities do not do something similar to what Montgomery is doing, then Montgomery could be a dark area on the map.

Mr. Yates said that if there was an interest in moving forward he could send out a note with the water bill on what the Commission is considering.

William Simpson said that this will help someone next to the Commercial Building to keep them from being effected by the light. Jeffery Waddell said that it seems very timely for the City because there is going to be a lot of development close to commercial. William Simpson said that he knows the lights on the side of the Apache building lights up the back of his area. Carol Langley said that the light is on the Apache building, and asked if this ordinance would cover the building or just in the parking lot. Mr. Yates advised that it would be all lighting on new construction. Carol Langley asked whether City Council has reviewed the ordinance. Mr. Yates said that City Council has not seen the ordinance and have discussed very little about the matter. Chairman Cox said that City Council will expect the Commission to do our job and due diligence on the matter, and then bring them a recommendation from the public hearing. Mr. Yates said that he would forward the information to City Council.

Chairman Cox asked if they could set the public hearing for the next meeting. Mr. Yates said that he would try to get Mr. Solomon here for the public hearing. Chairman Cox said that he would like to hear from Mr. Solomon, along with the public.

Jeffrey Waddell said that there have been a lot of changes in lighting, so his question to Mr. Solomon would be whether or not Brookshire Bros. has what looks to be a box light fixtures, because he would assume full cut off fixtures would be different and improved compared to those lights.

Mr. Yates said that another part of the ordinance states that under awnings, the light must be flush with the awning itself and not hang down below the canopy.

Carol Langley asked if there was enough time to put something in the water bill. William Simpson said that it might have to wait. Mr. Yates said that they could put it in the May water bill. William Simpson asked what would be coming in the near future. Mr. Fleming said that McCoy's would be coming in, and since Kroger is already underway so they would be grandfathered. Mr. Yates said that it could be on May 9, 2016. Mr. Fleming said that McCoy's wants to be underway with the plans by July 1, 2016.

After discussion, William Simpson moved to set a Public Hearing regarding the Dark Sky Ordinance to be held on May 9, 2016 at 6:00 p.m. Jeffrey Waddell seconded the motion, the motion carried unanimously. (4-0)

7. Report regarding Tree Ordinance

Mr. Yates asked the Commission to read the proposed ordinance and come back with their questions and he will ask the City Attorney to be present to discuss the ordinance. Chairman Cox asked whether a public hearing would be required on this ordinance. Mr. Yates advised that a public hearing would be required. Chairman Cox asked if they could make the determination for the public hearing at the next meeting. Mr. Yates said that would be fine. Mr. Yates said that if the Commission had any questions, they are free to contact him to discuss the matter.

William Simpson moved to table the report on the tree preservation ordinance until the April 25, 2016 meeting. Jeffrey Waddell seconded the motion, the motion carried unanimously. (4-0)

8. Training for Planning Commission

Mr. Yates presented Chapter 4 – Zoning Regulations in Texas from the American Planning Association to the Commission as part of their training conducted each month. This chapter explains the basics of zoning law in Texas, and includes procedures, hearings and notice for Zoning Commission Meetings and City Council Meetings.

After discussion, Chairman Cox asked for a listing of the Board of Adjustments for the City. The City Secretary said that she would email out the information tomorrow.

The Commission was advised that the City's zoning map was also on the home page of the City's web site in pdf format. Mr. Fleming said that the map also included the updated boundary and ETJ map. Mr. Fleming said that one thing that he did notice in the map was the random nature of some of the zoning areas, and the map appears to be drawn fairly

loosely, because a lot of the zoning areas do not appear to line up as you would expect they would, basically with Montgomery Central Appraisal District's parcels of property lines. Mr. Fleming said that there were a lot of loosely defined areas where there are zoning boundaries that are bisecting individual properties, where a portion of the property might be zoned commercial and the other portion industrial. Mr. Fleming said that one thing that they have discussed internally is the need to go in and generally clean the zoning map up by overlaying the property lines better, and look at some areas that might need to be rezoned. Mr. Fleming said that the McCoy property is a good example, with the multiple zones on one property.

#### 9. Review of City Zoning Districts

Mr. Yates advised that he had provided the Commission with a copy of the City's zoning map showing the different zones in the City. Mr. Yates said that they needed to do two things. Mr. Yates said that the Commission needs to catch these individual issues, one being at the end of Baja where the property is zoned both industrial and part residential. The other is to create a Comprehensive Plan for the City. Mr. Yates said that the Comprehensive Plan is supposed to be the guideline for making zoning decisions. Mr. Yates said that there is an old Comprehensive Plan that if he was forced to say, he would say that was their Comprehensive Plan, but it is an old plan that has not been used to make zoning decisions.

Mr. Yates said that he would be willing to drive around the City with the Commission members, answer questions or do research to get information that they might need. Mr. Yates said that the Comprehensive Plan should determine the different areas and what type of use they will have.

Carol Langley asked if Mr. Yates had a list of areas that they were concerned about, other than the few that had been mentioned tonight. Mr. Yates said that SH 149 by Lone Star Parkway has for a while been considered as an area that could be zoned commercial, but it is primarily residential.



Carol Langley said that when the zoning became effective in 1993 they messed with the zones for about a year and a half and citizens did not understand their taxes would not go up if they zoned their property commercial, it would be based on how the property was used, which is why a lot of 149 is residential instead of commercial. Carol Langley said that the people on SH 105 did not live on their property, so they were more acceptable with commercial. Mr. Yates said that he could try and get a letter from the Tax Assessor/Collector stating that the property is taxed based on its use and not on its zoning. Carol Langley said that Arnette Easley will be able to help, because he wants to zone his property as commercial.

Mr. Fleming said that they really need to clean up the zoning lines to match the property lines. Mr. Yates said that they could take sectors and corridors of the City.

Mr. Yates said that he would get a plat sized zoning map for the Commission for them to use. Carol Langley confirmed that Mr. Yates was saying that the Comprehensive Plan was a looser document. Mr. Yates said that the Comprehensive Plan should show the planned use. Mr. Yates said that the Commission should take their time in determining the land use.

Mr. Fleming said that they have also talked about different colleges that are looking for class projects, and this would be a great class project. Carol Langley said that Prairie View Texas A&M did the original zoning map. Mr. Yates said that he would check into that information. Chairman Cox asked how long would it take for a group to prepare the Comprehensive Plan. Mr. Fleming said that it would probably take a semester. Mr. Fleming said that this was an issue that needs to be addressed. Carol Langley advised that Jay Rice came to the MEDC and did a wonderful presentation and got everyone involved, but after three meetings they dropped him after they got his opinion. Mr. Fleming said that when they have a Comprehensive Plan it shows that they have done their due diligence and have their ducks in a row. Mr. Yates said that the Plan also gives the City a better opportunity to say no if it does not match the usage planned.

Mr. Yates asked the Commission to think about the information over the month and if he comes up with some specific areas he will send the information out. Carol Langley asked

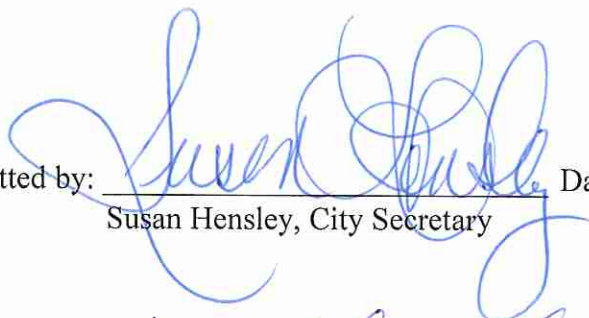
if they would have to hold all the public hearings. Mr. Yates said that was correct and they would have to hold the public hearings for the Comprehensive Plan. Mr. Fleming said that they would just be cleaning up the areas that needed clarification.

William Simpson asked what would be the least evasive place to start. Mr. Fleming said that the SH 105 frontage would be the best area to start. Mr. Yates said that the Comprehensive Plan would be planning out the City, not determining how someone is wanting their property zoned to sell their property. Mr. Yates said that they would take sectors of the City, they would not do all the zoning at one time.

**ADJOURNMENT**

William Simpson moved to adjourn the meeting at 8:02 p.m. Jeffrey Waddell seconded the motion, the motion carried unanimously. (4-0)

Submitted by:

  
Susan Hensley, City Secretary

Date Approved:

04/25/2016

  
Chairman Nelson Cox

