

MINUTES OF SPECIAL MEETING

May 29, 2018

MONTGOMERY PLANNING AND ZONING COMMISSION

CALL TO ORDER

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

Present: Nelson Cox, Arnette Easley, Jeffrey Waddell, William Simpson and Carol Langley

Absent:

Also Present: Jack Yates, City Administrator
Susan Hensley, City Secretary
Chris Roznovsky, City Engineer
Katherine Vu, Engineer

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.

1. Consideration/take action regarding April 23, 2018 minutes.

Jeffrey Waddell moved to approve the minutes as presented. Arnette Easley seconded the motion, the motion carried unanimously. (5-0)

2. Request for six month extension of Preliminary Plat of Hills of Town Creek Section 3.

Mr. Yates advised that the owner of the property has requested a six month extension to their preliminary plat due to delay of the project construction, they are not ready for the final plat. Mr. Yates advised that their engineer, Jonathan White was present. Mr. Yates stated that the City Code provides that the preliminary plat can be extended for another 12 months, but not beyond two years. Mr. Yates said that he and the City Engineer are recommending approval of this action. Mr. Yates said that the final plat will probably be received in six months.

William Simpson moved to grant a six month time extension for the preliminary plat approval of the Hills of Town Creek Section 3. Arnette Easley seconded the motion, the motion carried unanimously. (5-0)

3. Request for six-month extension of Preliminary Plat of Emma's Way Extension.

Mr. Yates stated that this developer is also asking for a six month extension for their preliminary plat because they are not ready for a final plat, due to a delay in the project construction. Mr. Yates advised that he and the City Engineering are recommending approval of this action. Mr. White advised that they would probably be ready for submittal at the next meeting of the Commission.

Carol Langley asked if everything was going okay on the Emma's Way project. Mr. Yates advised that it was going okay.

Arnette Easley moved to grant the request for the six month extension for the Preliminary Plat of Emma's Way Extension. Jeffrey Waddell seconded the motion, the motion carried unanimously. (5-0)

4. Consideration and possible action regarding scheduling a public hearing for rezoning of the property located at 1005 Old Plantersville Rd., Montgomery, from R1 single-family to I-Industrial to be held on June 25, 2018 at 6:00 p.m., as requested by Theresa Fisher.

Mr. Yates advised that this is a situation where the original zoning of the City split this piece of property into one half Industrial Use (where a large building now sits) and one half R1 Single Family Residential Use.

Mr. Yates advised the Commission that what they are doing tonight is calling the public hearing and not making any decisions regarding the property. Mr. Yates said that if there are any questions regarding the matter, they can either discuss it tonight or they can contact him individually or he can send out more information.

Mr. Yates said that the current zoning map does not have zoning for this property at all, so he had to go back to the 2003 map to see how the property was zoned. Mr. Yates advised that in looking back at the ordinances, he could not find any ordinances from 1994 to present changing the zoning of the property. Mr. Yates said that he has spoken to the City Attorney, Larry Foerster and what they have to go on is the most recent zoning map. Mr. Yates said that what they are thinking is this is a Scrivener's error whenever someone fails to mark something down, when it should have been repeated on the new map. Mr. Yates advised that the City Attorney will probably be at the next meeting because of this issue.

Mr. Yates stated that he had included the letter of the request for the zoning from R1 to Industrial from Mr. Fisher to the Mayor at that time, along with the Mayor's response letter. Mr. Yates said that the Mayor's response letter advised that both uses they had discussed were alright, but it did not specify the uses. Mr. Yates said that there is also an aerial map showing the property. Mr. Yates said Mrs. Fisher and her attorney were both present at the meeting. Mr. Yates said that all they were really doing tonight is calling the public hearing. Mr. Yates stated that at the City Council meeting held last week there were a couple of property owners that spoke against the Industrial Zoning, but ultimately City Council voted 3-1 to schedule the public hearing, not to make a decision but just calling the public hearing.

Chairman Cox asked if Mr. Foerster had given any indication how difficult this would be to fix. Mr. Yates said that Mr. Foerster said the rezoning would be the way to fix the

matter, that way they could be sure of the zoning designation by the Planning and Zoning Commission making their recommendation to City Council and then City Council taking action, there would be no questions regarding the zoning. Chairman Cox asked if the matter would still come before the Commission after the public hearing. Mr. Yates said that was correct, they could decide on the night of June 25, 2018 if they want to make a recommendation to City Council. Mr. Yates said if they were not ready to make their decision that night, they could delay a meeting or two to get more information. Chairman Cox said that he would like to hear from the people involved, either the buyer or the seller, someone to state their case at the public hearing.

Jeffrey Waddell asked to clarify, from the map it looks like this must be the strip that goes along the railroad tracks and is long and narrow on the right side. Mr. Yates said that was correct, it is the area with the tin building located on it. Mr. Yates said that on the aerial map the driveway is just about the dividing line between the industrial to the west and residential to the east. Jeffrey Waddell said that back in the day the City probably looked at the area close to the railroad tracks as being more commercial and industrial use. Mr. Yates said that the 2003 map shows several industrial properties in that area that people might not realize are zoned industrial and there is an area they had called unknown and that is called industrial right now according to the map that they are using as the authoritative map. Mr. Yates said that it is odd, but it does happen where property is split, such as along SH 105 on the south 300-400 feet is zoned commercial, which is owned by Mr. Randall. Mr. Yates said that from speaking with Mr. Kirk Jones and Carol Langley and other people, the people at that time must have asked for their property to be zoned industrial. Mr. Yates said the idea is generally not to split a properties use, especially since this is such a small property. Mr. Yates said he and the City Secretary, Susan Hensley, went through all the ordinances and there is no ordinance from 1994 to current that speaks to any of these properties.

Carol Langley said that she remembered the Merdian family had that property and were using it as a shavings place, bagging and selling them from that property, but to her knowledge at that time they did not have zoning. Mr. Yates said that Mrs. Fisher told him

that the most recent use for the property was rebuilding antique cars. Jeffrey Waddell said the stated purpose that they are projecting seems ideal for that type of building, it is light industrial and would fit that purpose very well. Mr. Yates said he needed to confirm a possible solution of using the residential portion of the property for the parking and the industrial use for the business. Mr. Yates advised that they do not have light industrial, it is only industrial use.

Carol Langley moved to schedule a public hearing for rezoning the property located 1005 Old Plantersville Rd., Montgomery to be held on June 25, 2018 at 6:00 p.m. Jeffrey Waddell seconded the motion.

Discussion: Carol Langley asked Ms. Hensley about the notice letters that go out to the property owners and whether it was within 300 feet. Ms. Hensley advised that the notice letters are mailed to property owners within 200 feet from the property. Arnette Easley asked if the setback would be different for different uses. Mr. Yates said it would be the same and is stated in the ordinance.

The motion carried unanimously. (5-0)

5. Consideration and possible action regarding scheduling a public hearing for rezoning at 2512 Lone Star Pkwy., Montgomery, from I-Industrial to R2 Multi-Family to be held on June 25, 2018 at 6:00 p.m. as requested by Emanuel Glockzin.

Mr. Yates advised that this is a request from the owner Larry Jacobs to change the zoning from the current I- Industrial Use to R-2 Multi-Family Use. Mr. Yates said that action is to schedule the public hearing for the Star of Texas Seniors development plan for this property, which is located behind the Lone Star Community Center on Lone Star Parkway. Carol Langley said that when this came before City Council it was for a Special Use Permit but now they are asking for rezoning and asked if this is being requested by the owner of the property. Mr. Yates advise that Mr. Larry Jacobs owns the property and said that Mr. Jacobs submitted an email stating that he is authorizing Mr. Glockzin to speak on his

behalf. Mr. Yates said he also spoke to Mr. Jacobs about the change from Special Use Permit to rezoning and Mr. Jacobs is fine with the change.

Carol Langley asked if this is supposed to be Multi-Family before the developer goes and does all of his paperwork. Mr. Yates said that he could have stayed with the Special Use Permit, but in talking with City Council, they preferred the zoning changes because it would be permanent based upon what the R2 use is, but with a Special Use Permit is usually given for a brief period of time. Mr. Yates said that Mr. Glockzin responded after he heard that information. Carol Langley asked if Mr. Glockzin was going through a process to put these units in or he is buying the property from Mr. Jacobs and if the property gets rezoned then there will be apartments there no matter what. Mr. Yates said that he is only going to build the senior apartments if he receives housing tax credits from the State. Carol Langley asked if they do not receive the tax credits and the property has been rezoned to Multi-Family, then Mr. Jacobs has a Multi-Family piece of property. Mr. Yates said that is correct. Jeffrey Waddell asked if they are talking about the same plans, which were like cottages. Mr. Yates said that they are four-plexes and are the same plans that they had originally presented. Chairman Cox said that it would be fairly similar to what is behind the Community Center now. Mr. Yates said that is correct.

Jeffrey Waddell moved to schedule a public hearing for rezoning at 2512 Lone Star Pkwy., Montgomery, from I-Industrial to R2 Multi-Family to be held on June 25, 2018 at 6:00 p.m. as requested by Emanuel Glockzin. William Simpson seconded the motion, the motion carried unanimously. (5-0)

6. Consideration/take action regarding proposed Benchmark Ordinance.

Mrs. Katherine Vu presented the proposed Benchmark Ordinance to the Commission, stating that it would amend the ordinance to require the final plat for a development to be surveyed under the same benchmarks as the construction plans and vice versa, which would be tied to the City benchmark system. Mrs. Vu advised that the idea being that everything is on a unified system to reduce the potential for errors. Mrs. Vu stated that there is also

language requiring any discrepancies found while the surveyor is performing their survey, to be reported to the City Engineer so that it can be rectified.

William Simpson asked if this is for checks and balances and for correcting discrepancies. Mrs. Vu stated that right now the final plats are required to be tied to the City's system, but the plans are not, so this is addressing the plans so that they are tied back to the City's benchmark system.

Carol Langley asked if everyone would be familiar with this procedure, and are they currently doing this but it is not written down. Mrs. Vu said that the only thing that will really be changing is the starting elevation for the surveyor, it would not add any additional work for them, instead of picking a benchmark and they will start at the City's established benchmark. Mrs. Vu said that there have been a couple times where this issue has come up and they have had to establish a conversion factor to get it back on track. Arnette Easley asked if people could still come and ask for variances. Mrs. Vu advised that they could still ask for variances, but this was just a starting point so she could not see a need for a variance. Mr. Yates said that they just wanted to make sure that everyone started at the same starting point.

Mr. Roznovsky advised that there were two examples to help shed light on this item. Mr. Roznovsky said that one was a sanitary sewer that was stubbed out on public line using City benchmark and stubbed out on the private side using a different benchmark. Mr. Roznovsky said that when you looked at the plans the numbers were the same, but since they are talking different languages they were actually six inches off. Mr. Roznovsky said that another example was a street where it was set on the City's benchmark and the developer had their street set on a different benchmark, so that difference in the grade was a two foot difference. Mr. Roznovsky said that they want to make sure everyone is using the same system.

After discussion, William Simpson moved to recommend approval of the Benchmark Ordinance. Arnette Easley seconded the motion, the motion carried unanimously. (5-0)

Chairman Cox stated that he could not see any downside to this ordinance. Mr. Roznovsky said that once this ordinance goes to City Council notification to the developers, design engineers will need to be sent out so that they are aware of the transition to the new system. Mr. Yates said that as a practical matter, he asked Mr. Roznovsky to confirm that most surveyors call him about getting the common benchmark. Mr. Roznovsky said that there is a benchmark handbook, but most of the surveyors and engineers have worked with the benchmarks and know what they are.

7. Consideration and possible action regarding proposed Sidewalk Ordinance.

Mrs. Vu advised that this is to require sidewalks to be included on the construction plans for new developments and redevelopments. Mrs. Vu said that it would require sidewalks to be included on all new and existing streets where the new developments are occurring and any adjacent streets. Mrs. Vu stated for example, if there was a new residential development occurring off of Lone Star Parkway, it would require sidewalks to be installed on that side of Lone Star Parkway where the development was located. Mrs. Vu said that the intent behind this ordinance is to start filling in the holes of sidewalks throughout the City to start making it more user friendly. Mrs. Vu stated that any property that is zoned Industrial or in the Historic District would be treated on a case by case basis. Mrs. Vu stated that currently the ordinance only states that sidewalks have to be installed per ADA Standards, which is all that it states, so this is laying out when and where sidewalks need to be placed. Mr. Roznovsky said that the design manual tries to help pick up where the ordinance left off. Mr. Roznovsky stated that the design manual has been interpreted that if you are developing on an existing street you did not have to put in a sidewalk, but if you are building a new street you have to install a sidewalk. Mr. Roznovsky said that the main difference is clarification of the Code and as areas get developed they will have direction on where the sidewalks need to be placed.

Carol Langley asked who would review the Historic District cases and make that decision. Mrs. Vu said that would either be the City Engineer or the City Administrator, or it could be the Planning and Zoning Commission.

William Simpson asked if the developers in town are grandfathered in so that they will not have to comply with this ordinance, or is it going to be retroactive for everyone. Mr. Roznovsky said that with the development agreements, such as Mr. LeFevre, it would not apply because he has the agreement. William Simpson said that there is a group of developers that will not have to comply with this ordinance. Mr. Roznovsky said that it was his understanding that anything within Mr. LeFevre's development district, which is SH 10 to Town Creek, FM 149 to Lone Star Parkway is tied to the 2004 City ordinances, would be grandfathered.

Mr. Yates asked about a new home on College Street that is outside the Historic District and whether they would be included. Mr. Roznovsky said that the way this ordinance is written and it is up for discussion, if it is inside the Historic District it is on a case by case basis. Mr. Roznovsky said that it could be worded to include single lots versus just developments. William Simpson said that if a person bought two pieces of property and built their house on one piece, the developer puts the sidewalk in front of the house and leaves the empty lot without a sidewalk, there would not be any rhythm or reason for that. Mr. Roznovsky said that it is typical that the construction drawings will show a required sidewalk inside the neighborhood, but the responsibility to build them is on the home builder. William Simpson asked if someone came in and bought a tract would they have to put sidewalks throughout not just hit and miss. Mr. Roznovsky said that if they combine the lots and they are building on both, then they would have to put the sidewalk in front of both, but if you own both and only build on one, what would be the trigger for them to install the sidewalk. Mr. Roznovsky said that the intent for not having to put the sidewalk in the front end is because if you are going to put in a driveway you will end up replacing the sidewalk. Mr. Roznovsky advised that this is being presented as a draft and discussion item. Mr. Roznovsky said that they will take all the comments and put them together and then speak to some residential and commercial developers in town to get additional

thoughts and opinions. William Simpson said that with all the ditch drainage going on in the new subdivisions it is going to be hard to incorporate sidewalks. Mr. Roznovsky said that this would not apply to an existing subdivision, like the Hills of Town Creek.

William Simpson asked if they had to use the ditch drainage and there was no room for sidewalks then they would have to apply for a variance. Mr. Roznovsky said that they could word the ordinance that if they are allowed to do estate lots with roadside ditches, if that is the general consensus, then they would not be required to have sidewalks. Jeffrey Waddell said that if a subdivision were to come in and said that some of them decide to do wider streets and not have sidewalks asked if that would be an option. Mr. Roznovsky said that would depend on what part of town they are in because there are so many different rules that apply to different areas so it would be mixed. Mr. Roznovsky said that the main thought was this applies more to the commercial along existing streets, like Lone Star Parkway and as those get developed there will be sidewalks, and not as much with the individual homes.

Chairman Cox said that it sounds like it needs to be discussed more. William Simpson asked if they have talked to any of the developers. Mr. Roznovsky said that they wanted to get the Commission's opinion first and see what direction they would want to go. William Simpson said that he would like to hear what the developers' thoughts were, because he does not want to come to every meeting where somebody is asking for another variance.

Chairman Cox asked if they could entertain a motion to table until there is more information to be discussed.

Carol Langley moved to table Agenda Item 7 until there is more information. William Simpson seconded the motion, the motion carried unanimously. (5-0)

8. Consideration and possible action regarding proposed Backflow Prevention Ordinance.

Mr. Yates advised that the backflow prevention is the technology that prevents water to backflow from a private or contaminated use to flow back into the public water system that can cause bacteria to contaminate the public water system causing possible serious health issues or at least a bad water sample that could lead to a boil order for part or the entire system.

Mrs. Vu advised that this is to prevent contaminated backflow into the public drinking water system. Mrs. Vu stated that this is a very common practice in cities across the state. Mrs. Vu said that developers have been installing backflow preventers on irrigation and nondomestic lines. Mrs. Vu said that what is different is the annual testing of the backflow preventers to make sure that they are properly operating and then going into the businesses that currently do not have the backflow preventers and installing them. Mrs. Vu said that there has never been an issue in the past to their knowledge, but this is good public management and prevention. Mrs. Vu stated that this is mainly a discussion item. Mrs. Vu said that this item was presented to City Council last week and will go again on June 12, 2018 for discussion, and then on the agenda for City Council action on June 26, 2018.

Mr. Yates said that he was not sure that this was a Planning and Zoning Commission item because it is mostly a public health issue and water system, but he wanted the Commission to have a chance to see the information. William Simpson asked if this was for commercial of high volume customers. Mrs. Vu stated that this is for nondomestic users, so commercial, industrial and institutional users and those that are qualified as high health hazards, which would be car washes, restaurants, automobile shops, etc.

Carol Langley said that somewhere she was that the City had 65 customers that do not have the backflow preventers. Mrs. Vu said the 65 customers are either industrial, commercial or institutional and they are not looking at residential, this all for the nondomestic users. Carol Langley asked if she owned a building that has a business located in it and that business is renting from her, as the property owner she would be the one responsible for the backflow preventer installation for \$1,000. Mrs. Vu said that the cost of the installation would be included on the water bill to the customer. William Simpson said that a retail

business is not considered a hazardous use. Mr. Roznovsky said that was for the irrigation connections, so for example, if Jim's has a domestic connection for irrigation that could be two devices. Mr. Roznovsky said that if a school has a fire line, irrigation and domestic line, that would three devices. Mr. Roznovsky said that was 65 connections not necessarily 65 businesses. Carol Langley said that it stated 65 customers, but connections is a different story. Mr. Roznovsky said that it varies off of the type of size of the backflow needed and said that the \$1,000 was the average cost. Carol Langley said that some of the businesses, such as the school could have six devices, so they will have \$6,000 or more, depending on how big the connection is. Mr. Roznovsky said that this does not apply to the quilt shop, antique stores, those downtown shops that are individual connections are not high health risks, they have a bathroom and that is it. Mr. Roznovsky said that a building or strip center that has multiple users, with one being a high health hazard, and there is only one connection, then they would have one put on for the entire building.

Arnette Easley asked about irrigation meters. Mr. Roznovsky said that irrigation sometimes has a separate water meter, so they would need a separate backflow preventer. Mr. Roznovsky said the issue with irrigation is a lot of homes do not have a separate water for irrigation, but he knew at the City they do. Mr. Roznovsky said that the biggest issue with irrigation is that you have water sitting and going bad, you put fertilizer on the lawn and so they could have backflow into the system. Mr. Roznovsky said the only time that this really applies is pressure loss in the system that is not a common problem. Mr. Roznovsky said that all the businesses that are coming into the City are installing backflow preventers because it is common practice. Mr. Roznovsky said that the annual testing is the key.

Arnette Easley asked if a customer wanted to install an irrigation system by teeing off of his line, would he have to get a backflow preventer. Mr. Roznovsky said that they typically do have to get one. Mr. Roznovsky said that they were talking about non-residential. Mr. Yates stated that if a residential customer gets an irrigation meter they have to have a backflow preventer. Mr. Roznovsky said that was correct it is required by the Plumbing Code.

Jeffrey Waddell asked if the water could go backwards through the meter. Mr. Roznovsky said that the automated meter system that the City has checks the flow and the City will get a notification if it senses backflow.

Mr. Roznovsky said that the big things that are going to be discussed are the annual certification and the hard issue is the 65 retroactive connections and whether there is a trigger to make them install the backflow preventers versus a blanket installation. Carol Langley said that there are a few houses that have wells that they are using for irrigation, but she did not think that they were hooked up to their houses anymore. Carol Langley asked about the 65 connections and whether they were restaurants. Mrs. Vu said yes a restaurant is considered a high health hazard because of the food, oils, etc. Mrs. Vu advised there was a list of high health hazards included in the information. Carol Langley said that she would hope out of the 65 connections, they would look at the highest ones to talk to first. Mrs. Vu said that part of the discussion will be the trigger of when they will be required to install the backflow preventers. Mrs. Vu advised that they will take this item to City Council for discussion on June 12, 2018 and action on June 26, 2018. Chairman Cox asked if this would come back to the Commission. Mr. Yates said that it could come back to the Commission if they want to hear the information again. Mr. Yates said that he would like to report back to the Commission on June 25, 2018 and then after the City Council takes action. Mr. Yates said that this is not really a Planning and Zoning Commission action but he wanted them to know that they were watching out for the public's health.

Jeffrey Waddell asked about the annual testing and if it would be for the new devices or would it be for all devices. Mrs. Vu said that she thought that the testing would be for all devices as a matter of good practice to make sure that they are operating correctly, and the City would keep the testing reports on file.

Mr. Yates said that he thought that City Council would be okay with the public management of the water system, he thought it would be more of an issue of how they implement the 65 connections and the fees. Mr. Yates said that even if it takes six months


they will be further ahead than where they are right now. Mr. Yates said the main goal is to accomplish the backflow preventers.

There was no action taken on this item and Mr. Yates will give a report back to the Commission at the next meeting.

9. Adjournment

William Simpson moved to adjourn the May 29, 2018 meeting at 7:10 p.m. Jeffrey Waddell seconded the motion, the motion carried unanimously. (5-0)

Submitted by:  Date approved: 06/25/18
Susan Hensley, City Secretary


Chairman Nelson Cox

