

MINUTES OF REGULAR MEETING

March 25, 2019

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, Jeffrey Waddell, William Simpson

Absent: Carol Langley, Arnette Easley

Also Present: Jack Yates, City Administrator

Susan Hensley, City Secretary

Dave McCorquodale, Assistant to City Administrator

Chris Roznovsky, City 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.

Arnette Easley arrived at 6:02 p.m.

1. Consideration and possible action regarding regular meeting minutes of February 25, 2019.

Jeffrey Waddell moved to approve the minutes as presented for the February 25, 2019 meeting.

William Simpson seconded the motion, the motion carried unanimously. (4-0)

2. Consideration and possible action regarding request for tree variance – The Shoppes at Montgomery development.

Mr. McCorquodale advised that Jonathan White from L Squared was present as the Engineer for the development. Mr. McCorquodale said what is being requested specifically is the driveway tree removal. Mr. White stated they put in a request for a tree preservation ordinance variance, because they are trying to install two driveways on SH 105. Mr. White stated the driveways are in alignment with the ones that are installed in front of Kroger and that facility. Mr. White said TxDOT does not have any leniency with shifting a driveway off one side or the other, they like them aligned and across the street from one another. Mr. White said to be able to install the driveways, they will have to take out approximately ten trees. Mr. White said the trees are sitting directly on the property line, so they are not doing any paving on the property, only up to the property line. Mr. White said under the current ordinance, they would have to replace around 40 trees if they were to remove these 10-11 trees, to adhere to the existing ordinance. Mr. White said there is another new ordinance that is being proposed that was discussed at the developer's round table meeting, which will be more consistent as a whole throughout the City.

Mr. White said they do not propose to take any trees out for any other portion of the property. Mr. White said each pad site, as it develops out will be responsible for doing their own mitigation plan, whether it falls under the current existing ordinance or the new proposed ordinance. Mr. White said they are requesting a variance so they can install the two driveways.

Mr. Yates asked Mr. White if he was sure that he was required to have a variance, since this is a driveway. Mr. White said they have been trying to get this permit for months, probably since November, and they were told that because they are removing trees, they do have to adhere to the ordinance. Mr. White said there is actually an exception to the ordinance when it is within existing right-of-way or existing easements, and the trees do fall within an existing 26 foot utility easement, but since the water and sewer that were installed within that easement was able to be installed without removal of those tree, they could not remove the trees. Mr. Yates said he did not want to get in the way of getting an answer from the Commission, but he knows there is a section in the ordinance that addresses when a tree would prevent a building from being built, and he thought it included driveways. Mr. White said it did include driveways,

and the fact it is sitting in an existing utility easement, he thought with one of their recent submittals to the City they wrote a letter pointing out that exception to the rule and they were denied. Mr. Yates asked if it was by the City Engineer, Mr. Roznovsky. Mr. Yates said he did not want to get in the way of an action by the Commission, but he thought that he needed to research that matter. Mr. White said there are no sites going in today, but they are under the gun because the TxDOT permit has an expiration date, and it took them over a year to get the permits, which they were able to renew one time, and the new one is up in May 2019. Mr. White said for them to renew the permits again will be difficult to do, so they are trying to get the driveways in with the existing permit.

Chairman Cox asked if this would go before City Council. Mr. Yates said he would need to verify the information as to whether it will be required to go before City Council, but he asked that the Commission take action appropriately and then he will review the ordinance and make a determination on behalf of the City. Mr. Yates said he would talk to Mr. Roznovsky regarding the matter. Mr. Yates said even if the Commission would say they did not recommend the action, he will verify the information with the City Attorney, and would send Mr. White and The Shoppes a letter of the findings, and if the trees can be removed, it will be stated in the letter. Mr. Waddell said they have always taken a common sense approach to not slow things down for anyone, and in his mind, if the trees are in the way of the driveway, then the trees have to go. Mr. Yates said no other trees, except for the ones needed to put in the driveway, would be cut down. Mr. Yates said, in his mind, that is an agreeable variance. Mr. Yates said he apologized to everyone included for not verifying the information and not realizing this was the issue prior to the meeting.

William Simpson said they were saying that to install the driveways, they have to take out ten trees, but because they are large trees, they would have to replace them with 40 trees. Mr. White said that is why the tree ordinance makes it very hard. Mr. White said there are currently two other developments being proposed on the property, so those will be coming to the City in the next few weeks. William Simpson asked how close they are to adopting the new ordinance. Mr. Yates said he thought they would have it ready next month. William Simpson said since this is basically what the new ordinance is going to read, he did not see a problem with it, and it is being dictated by TxDOT.

Jeffrey Waddell moved to approve the requested variance due to the location of the two driveways as dictated by TxDOT. William Simpson seconded the motion, the motion carried unanimously. (4-0)

3. Consideration and possible action regarding approval of an exterior freestanding ATM and canopy at the Cozy Grape Restaurant.

Mr. McCorquodale presented the information to the Commission, and said Spirit Texas Bank has expressed interest in locating an ATM site somewhere in downtown Montgomery, and they have reached an agreement with the Cozy Grape Restaurant to locate it there. Mr. McCorquodale said the Historic District requires any exterior modifications be approved by the Commission. Mr. McCorquodale said they will still have to go through the building permit process with the City for the canopy and the ATM.

Mr. McCorquodale said he spoke to the contractor this morning and the information that he had given to the Commission regarding their site plan states the ATM will be grey, and they called this morning and amended the color to white, and said the canopy would still be bronze.

Jeffrey Waddell confirmed that the LED lights would be shining down. Mr. McCorquodale said the lighting ordinance does require full cut off for exterior lighting, so it would not shine to the side and would be located inside the canopy. Jeffrey Waddell asked about the clearance for someone using the ATM, and said they currently have two way traffic there and the way they have it facing, the person using the ATM will have their back to the street, so it is close. Mr. Yates said where the ATM is located there is no parking allowed next to it. Mr. McCorquodale said the ATM would be wholly on private property, so any other improvements in the area would not be in conflict. Jeffrey Waddell said the clearance from where the cars will be driving by is about four to five feet, and asked if they considered turning it 90 degrees so the person's back is not to the street. Mr. McCorquodale said that was a good point and he would raise that point with the contractor. Mr. McCorquodale said one of the considerations for the ATM is the visibility from FM 149 for police patrol, so he will bring up Jeffrey Waddell's suggestion. Jeffrey Waddell said if they are going to incorporate the ATM into the downtown walking area, it does make sense as long as it is located correctly. Arnette Easley said he would suggest putting the view mirrors on each side of the ATM so the person using

the machine can see on either side of them. Jeffrey Waddell said his concern was the vehicles driving along the street because it is pretty close to the machine. Jeffrey Waddell asked if they could place posts around the machine to keep people from hooking a chain to it and dragging it away. Mr. McCorquodale said he did not know the answer to that question. Mr. Yates said the City was thinking about putting three bollards around the ATM for security. Arnette Easley said the other bank by Phil's Roadhouse has a freestanding ATM with barriers around the outside.

Arnette Easley moved to approve an exterior freestanding ATM machine and canopy at the Cozy Grape Restaurant. William Simpson seconded the motion, the motion carried unanimously. (4-0)

4. Consideration and possible action regarding painting of building, replacing existing windows, rebuilding the ADA ramp and handrail at 21012 Eva Street, (Northeast corner of McCown and SH 105)

Mr. McCorquodale said this is the old schoolhouse building and the new owner, Ms. Michelle Cannon, is present. Ms. Cannon advised she was the broker/owner of RE/MAX office, and she is moving from The Woodlands to Montgomery. Ms. Cannon said she just purchased the old schoolhouse building and she would like to turn it into their RE/MAX office. Ms. Cannon said she was planning on painting the outside of the building white. Ms. Cannon said the windows are the original windows and she wants to replace those with windows that are more efficient windows, which will still look the same as the current windows. Ms. Cannon said the ADA ramp is falling apart and does not have a railing in the front, which they will be redoing and adding a rail as well. Ms. Cannon said the pedestal lamp post with the four globes is going away.

William Simpson said he thought that everything that Ms. Cannon has in her presentation will bring the old building back to life. Ms. Cannon said she is very excited about the project. William Simpson said it looks like everything that Ms. Cannon is doing will meet or exceed what they will require.

William Simpson moved to approve the painting of the building, replacing the existing windows, rebuilding the ADA ramp and handrail at 21012 Eva Street. Arnette Easley seconded the motion, the motion carried unanimously. (4-0)

5. Consideration and possible action regarding approval of a sign at 21012 Eva Street.

Arnette Easley moved to approve the sign at 21012 Eva Street as presented. William Simpson seconded the motion.

Discussion: Mr. Yates asked if the sign was going to be at the same location. Ms. Cannon said it could be at the same location if where they want to move it is not okay. Mr. Yates said it does not have to be. Ms. Cannon said they wanted to provide more parking area, so they wanted to move it closer to their property line. Mr. Yates said that is fine. Jeffrey Waddell asked if the sign had lighting that would not be too bright. Ms. Cannon said that was correct and it will only be the box that will be lighted and she is aware of the times when the sign is allowed to be lit.

The motion carried unanimously. (4-0)

6. Consideration and possible action regarding approval of a sign at 14740 N. Liberty Street – China Chapel Church.

Mr. McCorquodale said it was his understanding from Arnette Easley this sign will go over the existing sign and will be the same dimensions as the existing sign. Arnette Easley said it won't be the same location, they will put it on the corner of the building. Mr. Yates said that was fine. Mr. Yates asked if they would be removing the existing posts that are holding up the current sign. Arnette Easley said that is correct. Mr. Yates asked if the new sign would be the same size as the old sign. Arnette Easley said that was correct. Arnette Easley said they were landscaping the area at that location.

William Simpson moved to approve the sign at 14740 N. Liberty Street – China Chapel Church as presented. Jeffrey Waddell seconded the motion.

Discussion: Chairman Cox asked if the name is being changed to Life Giving Life. Arnette Easley said yes. Chairman Cox asked if they need to reflect the fact that the name is changing. Mr. Yates said no, they were just approving the sign. Jeffrey Waddell asked if the shadow on the drawing was included in the sign. Arnette Easley said no, that was how they took the photo.

The motion carried unanimously. (4-0)

7. Consideration and possible action regarding approval of a sign at 305 Caroline Street –Heritage Insurance Services.

Mr. McCorquodale said this sign is also in the Historic District and requires approval from the Commission.

William Simpson said he understood where the hanging sign is going to go, but asked where the future parking lot where the 4 x 4 sign will be located. Mr. McCorquodale said it was to the right of the rectangle that says “future parking area.” William Simpson said he understood that, but asked where the future parking is located because that is a street. Mr. Daniel Skelton, owner of Heritage Insurance Services, stated they are having to cut into the parking lot and then they will have the boundaries where they can actually put in the sign. William Simpson asked if there is actually going to be a parking lot cut into the curb. Mr. Skelton said yes, according to what Mr. Shockley has told them. Mr. Clover advised that it would probably be similar to the parking lot they have at the Garret House, which is all Mr. Shockley’s property. Mr. Clover advised there is a big space in the middle for parking, but he did not know how he was going to do it.

William Simpson asked when Mr. Skelton was planning on opening. Mr. Skelton said they originally wanted to open April 1, 2019, but it looks like that will be pushed back because they do not have occupancy, which they can’t obtain until they finish the parking lot. Mr. Skelton said they wanted to get pre-approval for the sign before they started having it made. William Simpson said all the colors are in line with the Historic District, but the only problem is he does not know where the large sign is exactly going to be located. Mr. Yates said the future parking area would have to be approved separately and would require a curb cut approval,

which has not been discussed. William Simpson asked to confirm that they could approve the signs tonight and then the rest is out of their hands after tonight. Mr. Yates said that is correct.

William Simpson moved to approve the signage for 305 Caroline Street - Heritage Insurance Service. Arnette Easley seconded the motion, the motion carried unanimously. (4-0)

8. Discussion regarding proposed schedule for City-initiated rezoning.

Mr. McCorquodale discussed the proposed schedule for the City- initiated rezoning process, and the idea of trying to consolidate the legal notice for the Public Hearing requirements. Mr. McCorquodale said there are two reasons why they brought this to the Commission; one is to show where they are in the process and what the future dates are, with the most important of these dates being May 21, 2019. Ms. Hensley advised that because this is a Special Meeting, a super majority of four members would be required to be present at the meeting. Mr. Yates said they will easily be spending \$2,500 in notices, preparation and publication for the meetings, which is the reason this is before you to make sure that everyone will be able to meet on May 16th and May 21st. Mr. Yates said that Mr. McCorquodale has spoken with all the property owners, and they are not expecting to have a large crowd or opposition. Ms. Hensley advised that both May 16 and May 21 will require a super majority to be present since they are both special meeting dates and will not be held on the regular meeting date. Mr. Yates said they could use one of those dates to conduct the Commission business as if it was their regular meeting, so they would not have to have three meetings that month.

William Simpson said he can't foresee the future, but he plans on being here. The Commission concurred that they would be present for the meetings. Mr. Yates said the public hearings will be called at the April meeting. Mr. Yates said they need to get a head start on preparing the legal notices and letters, so hearing at the April meeting that members will not be able to make the meeting would not be alright because they would have already invested in getting everything ready. Mr. Yates said they are going to have the letters prepared and ready to mail out because of the time involved to prepare for the public hearings. Chairman Cox asked if the time for both hearings would be 6:00 p.m. at City Hall. Mr. Yates said that is correct.

Arnette Easley asked if Mr. McCorquodale had gotten with Ms. Hensley to review his information. Mr. McCorquodale said yes he had, but he still needed to meet with him to go over the information on both of the pieces of property. Arnette Easley said he would come by this week.

Jeffrey Waddell asked if May 16, 2019 was the regular Planning and Zoning Commission Meeting day. Mr. McCorquodale said it is not, it is earlier and would require a super majority to be in attendance. Mr. Yates said he will email the Commission about their schedule and confirm they will be able to attend the meetings. Mr. Yates said City Council will hear the same speech tomorrow night.

9. Report regarding the Tree Ordinance.

Mr. McCorquodale said this is nearing the homestretch for revisions and will bring the updated version or the proposed draft at the April meeting. Mr. McCorquodale advised they had a very productive developers' meeting last week and they are looking at a couple meetings planned with developers to follow up on the information, to see the type of work they do and how the updated ordinance will affect them and perhaps make some more modifications, if necessary. Mr. McCorquodale said he wanted to make sure that he understood the type of facilities they are building to understand their land use in relation to the proposed ordinance.

Mr. McCorquodale said the rationale behind the canopy coverage requirement by land use type, is to be able to adjust it based on the type of site layouts they have. Mr. McCorquodale said he was also talking with some of the developers that work on the residential side to look at the number of trees required for a residential lot. Mr. McCorquodale said right now there are three trees in the draft, and he has spoken to some about going down to two trees instead of three on each residential lot, which still puts them way over the 20 percent canopy coverage required for residential areas. Mr. McCorquodale said he would have that all finalized in the next week or two, and then in the following week, send out the updated draft so he can answer any questions that they might have.

Chairman Cox said it sounded good to him and wished they would have had the ordinance a while back because there would be more trees in town.

William Simpson said he was asked about Jim's Hardware property, and what would be the process of extending the Historic District. Mr. McCorquodale said it would be a land use change. Mr. Yates said they have to petition the City with a written request or the City can initiate the change, but it would have to have an explanation and then would go to the Planning and Zoning Commission. William Simpson asked if that direction would be a good way to go instead of a Special Use Permit and put more restrictions on what would go in there. William Simpson said the problem is there have been some other places where it is the owner selling the property, with the intent of keeping it the way that they would see it, but as soon as they sell the property that goes out the window. William Simpson said if they had more control of it or the seller puts more control over it, then it will stay what the owner deems it to be. Mr. McCorquodale said the Historic District essentially functions as a form of "form based zoning" which is looking more at the form of the building and less on the use of a building, obviously in our case, the underlying land use is still there, whether it is residential or commercial, etc. Mr. McCorquodale said what the Historic District overlay does is start to look at the form of the building that can be either landowner driven or City initiated. Mr. McCorquodale said when he was on the Planning and Zoning Commission, it was all they could do to get what they had in the Historic District. William Simpson said it could be an option for Mr. Ward for his property. Mr. Yates said he spoke to Mr. Ward at the meeting, but he has not spoken to him privately about this matter, and said he thought it would be good to talk to him about including that property into the Historic District.

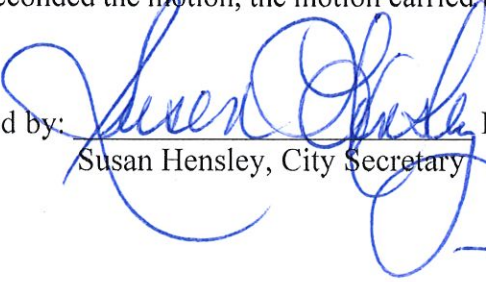
William Simpson asked Mr. Clover if he thought that would be a good idea to bring in more of the Historic District area. Mr. Clover said he felt that it would be a good idea. Mr. Yates said as long as you have approval of the applicant. William Simpson said that question had been brought up to him. Mr. Clover said the main problem with the Ward property, just for discussion purposes, all along that area to where the Cluxton's house is, there is an additional ten acres that slopes down to Buffalo Springs. Mr. Clover said the runoff from that sloped land is already causing some problems in Buffalo Springs, and legally you are not supposed to dump water onto someone else's property. If it is natural, that is okay, but if you start developing it, somebody is going to have a problem with it and they will end up in court somewhere. William Simpson said the property is going to be developed so if they can get a foot in the door, it might help. Mr. Clover said they just have to figure out what they will do with the runoff. Jeffrey

Waddell said the City Engineer had mentioned that information. Mr. Yates commented the drainage would be checked and then it would be determined what could be done.

Ms. Hensley advised that Carol Langley was doing very well after her surgery and is at home recuperating, and will be back next month.

10. Adjournment

William Simpson moved to adjourn the March 25, 2019 meeting at 6:38 p.m. Arnette Easley seconded the motion, the motion carried unanimously. (5-0)

Submitted by:  Date approved: 04/22/2019
Susan Hensley, City Secretary


Chairman Nelson Cox

