

# MINUTES OF PUBLIC HEARING and REGULAR MEETING

June 25, 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

### 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.

There were no comments during this portion of the meeting.

1. Public Hearing to receive citizen input regarding rezoning of the property located at 1005 Old Plantersville Rd., Montgomery, From R-1 single-family to I-Industrial as requested by Theresa Fisher.

Chairman Cox convened the Public Hearing at 6:03 p.m.

Mr. David Potter stated that he resides southeast of the property that is being discussed and he was completely against rezoning from residential because he feels if they give them an inch they will take a mile. Mr. Potter stated that they have enough problems as it is on Old Plantersville Road with the Travis Mabry dump. Mr. Potter said that they have containers full of garbage that stay full all the time and now he has two trailer houses over there that he has been complaining about. Mr. Potter said that he hoped that the Commission would look at that matter because it is a residential area. Mr. Potter apologized to Mrs. Fisher but said he had to look after his own interest. Mr. Potter said he was surprised that there were not more people here tonight, but he understood there was going to be another meeting tomorrow night on this matter with City Council. Mr. Potter said that this is a residential area with several nice homes. Mr. Potter said that Mr. and Mrs. Wade are out of town and he thought that Mr. Washington would bring a letter from the Wades.

Mr. Steve Weisinger, Attorney for Mrs. Theresa Fisher, said that addressing Mr. Potter's issue regarding trash, and said they can do whatever is necessary to assure who ever needs to be assured that won't be the situation. Mr. Weisinger said that the purpose that is intended for that property right now is storage with nothing out in the open.

Mr. Weisinger said that the agenda seems to indicate that the 2.148 acres that Mrs. Fisher owns is what is being considered for rezoning. Mr. Weisinger said that right now half of the tract is not zoned residential and it is not clear from the maps whether it is zoned light industrial or commercial, but if you look at the information in the agenda pack, you can see that half of her property is already zoned as shown in the blue "x's. Mr. Weisinger said that based on the historical use of property that has been commercial and based to some extent on a letter that the owners were given that was written by a previous Mayor, the Fisher's did believe that the tract was zoned nonresidential. Mr. Weisinger said, in his opinion, the City maps are really confusing and if you look at the map that is in the agenda pack you can see how checker boarded it is as to the zoning of the districts. Mr. Weisinger said that right now Mrs. Fisher has a commercial building on half of the tract and across the street there are homes built on property that would appear to say that it is zoned light industrial. Mr. Weisinger said that they have missing maps, missing ordinances and the

City's position as he understands it, is that the latest map from 2017 is in error and they need to revert back to the 2003 map. Mr. Weisinger said that that the zoning ordinance that the City has, with one of its purposes stated is to put property to its highest and best use. Mr. Weisinger said that the property in question, which is approximately half of the 2.148 acres that Mrs. Fisher owns, has a railroad located 50 feet from it and is configured long and skinny and certainly not usable for residential purposes. Mr. Weisinger said that what Mrs. Fisher is asking for is that the City not be too concerned about what has or has not happened in the past, because the records are not there to prove anything. Mr. Weisinger said that Mrs. Fisher is asking that her one tract, which has two zones be zoned the same as the rest of the tract. Mr. Weisinger said that the agenda appears to say that what is in question here is zoning of the 2.1 acres, which is not the issue, they are trying to rezone half of the property to match the zoning of the other half of the property.

Mr. Foerster stated that he understood that there was an individual that was interested in purchasing this property and use it for light industrial use, but he was not sure if he was aware of exactly what the proposed use of the purchaser would be, and asked if Mr. Weisinger knew of what that use would be. Mrs. Fisher said that he understood that they wanted to build storage buildings for RV's. Mrs. Fisher said that she emphatically advised them that the whole property was light commercial and that everything would have to be stored on the inside of the building and nothing could ever be on the outside because that was part of the requirements that were put on the property. Mr. Foerster asked if that was related to the property deed restrictions. Mr. Weisinger said that was what the zoning ordinance states. Mr. Foerster said this is an effort to try and assist the Commission and ultimately City Council in making what would be the best decision, not only for the property owner but for the next door neighbors. Mr. Foerster said that the kind of activity and appearance certainly has some bearing on how the City Council would act. Mr. Foerster said that at the last City Council Meeting there were some people, Mr. Potter being one of them that expressed a concern about having a light industrial business immediately across the street from what are described as large estates with nice homes on them, which is why he was asking the question about the usage. Mr. Weisinger said that he thought the more appropriate zoning designation would be commercial as opposed to light industrial.



Mr. Yates said that he did not think that light industrial required things to be stored inside but it does for commercial use. Mr. Weisinger said commercial would be more appropriate and easily contained and less offensive to the adjoining landowners.

Mr. Weisinger said if the issue is the surrounding landowners they might work with them and put something in place that is not offensive to them. Mr. Weisinger said that one of the missions of the zoning ordinance was trying to put property to its best use and that property can't be residential unless you want a railroad running through the backyard. Mr. Weisinger said that the map that was presented to them is so checker boarded that the property right across the street is zoned light industrial and it has residences built on it.

Mr. Potter said that he did not see how it could be completely contained on the inside of the building on the property. Mr. Potter asked what they are going to do when they finish these buildings, are they going to put them outside. Mr. Potter said that Mr. Weisinger said that no one wants a railroad running through their backyard but he has one that parallels his home and he puts up with it. Mr. Potter said that he was completely against the rezoning and hopes that this is considered and said that he would be here tomorrow night to say the same thing. Mr. Potter said he has a nice place and there are other people there with nice places that they try to keep clean and appropriate for residential use. Mr. Potter said that his understanding is that they are trying to beautify Montgomery and that is not beautifying Montgomery. Mr. Potter said that he picks up garbage every day along Old Plantersville Road and there is going to be more garbage out there. Mr. Potter said that he does not like it and he does not want it and he hopes that the Commission will keep that in consideration. Chairman Cox stated that they would consider that information.

Chairman Cox adjourned the Public Hearing at 6:20 p.m.

2. Public hearing – To receive input regarding rezoning at 2512 Lone Star Pkwy., (north/west of 2500 Lone Star Parkway) Montgomery, from I-Industrial to R-2 Multi-Family as requested by Larry Jacobs for the Star of Texas Seniors Development.

Chairman Cox convened the Public Hearing at 6:20 p.m.

Mr. Nathan Kelly, Vice President of Blazer who is the owner and operator of Heritage Apartments at 325 Flagship Blvd. stated that they have an application with the Texas Department of Housing and Community Affairs (TDHCA) for housing tax credits for Phase 2, Heritage Seniors Development that City Council supported via a resolution on January 23, 2018. Mr. Kelly said that Heritage Seniors is a planned 80-unit senior apartment community with the tract already zoned R2 multi-family. Mr. Kelly said that currently there are only two applications seeking an award for housing tax credits in Rural Region 6, which is the region that Montgomery falls in. Mr. Kelly said that both of those potential awardees happen to be in the City limits of Montgomery, Heritage Seniors and Star of Texas Seniors. Mr. Kelly said at this time only one of those developments will receive an award of the housing tax credits from the State and be able to start construction this year. Mr. Kelly said that currently the Star of Texas Seniors Development is one point ahead of Heritage Seniors Development and in line to receive the award, but in order to do so they have to receive the approval to rezone the tract prior to the July 26, 2018 Board Meeting of the TDHCA.

Mr. Kelly said that based on some data that he pulled from their application and that of the Star of Texas Seniors Development, their Heritage Seniors Development is projected to pay nearly \$4,900 more in real estate taxes to the City of Montgomery and nearly an additional \$23,500 real estate taxes to the other taxing jurisdictions. Mr. Kelly said that if you assume that one person per bedroom will live in the units at both properties, Heritage Seniors Development will house 68 more seniors than the Star of Texas, which would translate into more sales tax revenue, more support to local businesses and more available housing for Montgomery seniors. Mr. Kelly said that the applications also showed that Heritage Seniors Development will serve a broader section of incomes with 16 market rate units alongside 64 affordable units versus the Star of Texas 32 affordable units with no market rate units. Mr. Kelly said that Section 98-30 of the City of Montgomery Code of Ordinances provides that Planning and Zoning Commission shall make a preliminary report, hold public hearings on that report before submitting a final report to City Council,

and City Council may not hold a public hearing until it receives the final report of the Planning and Zoning Commission. Mr. Kelly said that City Council may not take action on the matter until it receives the final report from the Commission. Mr. Kelly said at the June 12, 2018 Council Meeting they authorized Jones and Carter to prepare a Utility and Economic Feasibility Study of the Star of Texas Seniors Development and considering that the request is to rezone this industrial site to multi-family R2 designation, he believed that the Commission and members of the community should have time to adequately review the impacts of that rezoning and the Jones and Carter report. Mr. Kelly said at this point to his knowledge that report has not been completed. Mr. Kelly said that the Planning and Zoning Commission and the community have not been provided with the report and have not been given time to review the findings and as such he would respectfully request that the Commission wait to issue its final report to City Council until Jones and Carter has had the opportunity to finalize its report and present it to the Commission and the community. Mr. Kelly said that he appreciated the opportunity to present his information.

Mr. Matt Fuqua, one of the owners of Heritage Apartments and the adjoining property located at 325 Flagship Blvd., stated he was here to address the staff report regarding the rezoning of the property. Mr. Fuqua said he would like to point out a few observations from the staff report. Mr. Fuqua said that his question was why be forced to make a recommendation regarding a zoning change to City Council before determining the feasibility from Jones and Carter and their report. Mr. Fuqua said that reading through the general description prepared by City staff that was published as part of the booklet, he wanted to point out a few of the comments with regard to the general description and the economic and utility feasibility study, to his understanding this study is to be prepared and published by the end of July. Mr. Fuqua said that from a recommendation perspective he sees that is conflicting from an information standpoint. Mr. Fuqua said that regarding streets and traffic, just analyzing the speed limit on Lone Star Parkway is 45 mph along with a bridge that is located about 500 feet from where the approximately entrance is located for the Star of Texas. Mr. Fuqua asked whether a traffic study was to be performed regarding that entrance on Lone Star Parkway. Mr. Fuqua said that his third question was regarding the health and general welfare on the comment by staff that the property would



be meeting the building code and therefore the welfare of the occupants. Mr. Fuqua said that he wanted to point out that the zoning change would put industrial zoned property adjacent to R2 multi-family so what could be developed on industrial zoned property next door might not be safe or desirable for the senior apartments or residents there 5-10 years from now. Mr. Fuqua said that his fourth question was regarding public service requirements, stating there is a note that preliminary discussion with the City Engineer determined that utilities were available and adequate capacity was there to serve the property. Mr. Fuqua said that from his research it appears that the waterline there is a dead end line on Lone Star Parkway and there is no available gravity sewer there on site as well. Mr. Fuqua said that he would like to reiterate to the Planning and Zoning Commission with regard to a recommendation to City Council, he felt that the Commission should be delivered the entire amount of information to know what they are being asked to make a recommendation. Mr. Fuqua thanked the Commission for their time.

Mr. Larry Jacobs current owner of the property stated that he wanted the Commission to consider the history of his property and stated that they already have R2 zoning for the Independence Place Project, which is north of the Community Center. Mr. Jacobs said that he did that project with the City and the County back in 2003. Mr. Jacobs said that this was rezoning was for his adjoining property. Mr. Jacobs said they did not have to do the Feasibility Study until they have zoning in place. Mr. Jacobs said that they have a development agreement with the City to extend the lines for the development of Lone Star Parkway just west of their property. Mr. Jacobs said they have a major 12 inch line that was put in the south side of Lone Star Parkway and they extended an 8 inch line north of the Parkway, they also put in a lift station that can be expanded to serve as a gravity line coming out of Independence Place, so he submitted the planning has been done several years ago. Mr. Jacobs said that he thought this was simply a situation where they have an R2 zoning that they would like the Commission to consider zoning some more R2 zoning next to it and not be distracted by all the other incidentals issues that sometimes get brought before them. Mr. Jacobs thanked the Commission.

Mr. Kelly stated that he wanted to make a clarification stating that he was looking at the Zoning Map for the City of Montgomery and noted that Independence Place was zoned R1 residential not R2 Multi-family and the Community Center south of that location was zoned Industrial. Mr. Kelly stated that Independence Place is not an apartment complex it is a supported housing development with 16 units for persons with mental disabilities. Mr. Kelly said that property is not currently zoned multi-family.

Chairman Cox adjourned the Public Hearing at 6:31 p.m.

3. Consideration/take action regarding May 29, 2018 minutes.

William Simpson moved to approve the minutes of the May 29, 2018 meeting as presented. Jeffrey Waddell seconded the motion, the motion carried unanimously. (5-0)

4. Consideration/take action regarding rezoning at 1005 Old Plantersville Rd., Montgomery, from R-1 single-family to I-Industrial as requested by Theresa Fisher.

Mr. Yates said that it is checker boarded zoning as far as the original zoning of that area. Mr. Yates advised that the property was split and while that was not a normal thing to do, but he was convinced that they did it on purpose but he is not sure why. Mr. Yates said that in zoning you generally try not to split a property, but from what he understands in speaking with the people that did the original zoning, mostly Kirk Jones, was they would speak to the property owners and if they wanted a property zoned a certain way they would zone it that way. Mr. Yates said since the 2005 map the subsequent 2015 and 2017 maps show that area in grey, which there is not a grey zone so that is the reason that it is the half and half. William Simpson asked when they rezoned this area how did that get by them. Mr. Yates said that they have not done any rezoning lately and there is no rezoning for this parcel since the beginning of the zoning. Mr. Yates advised that he and the City Secretary went back and searched the ordinances for any rezoning and there were none found for that area or this particular piece of property. Chairman Cox asked Carol Langley if she remembered anything about that property. Carol Langley said that she thought at one time



that was two pieces of property but it may have always been one. Carol Langley said that she did not remember why it was split. Mr. Yates said that the letters that the Fishers wrote the Mayor, which are included in the meeting materials, state that it was all one piece of property.

Jeffrey Waddell said that it was a bit of a mess and he thought that they were all trying to get the big picture, but all indications are that originally it was industrial along the railroad tracks. Jeffrey Waddell said that from a legal standpoint Mr. Yates had mentioned that they would traditionally go by the routing document rather than other documents. Jeffrey Waddell said that from everything that has been said tonight it looks like both sides want to come to some kind of reasonable decision. Jeffrey Waddell said that what caught his ear was the commercial versus industrial. Mr. Yates said that commercial would require everything to be stored inside of the structure and how much traffic is produced is completely indifferent as far as residential type of traffic. Mr. Yates said that if it was zoned commercial a convenience store could go in there. Mr. Yates said that they had to remember that when they are zoning they are zoning for that classification not for the specific type of use. Mr. Yates said that while they could restore vehicles for many years and stay fine, but it could also be used as an auto repair shop, lawn service, barber shop, grocery store, convenience store, etc. Jeffrey Waddell said that their concern was if they got a boat repair dealer that could have large boats and what would be the reality of those boats being contained all the time. Mr. Yates said that would be part of the zoning enforcement. Mr. Yates stated that an industrial use can be quite an obtrusive use especially for a neighborhood. Jeffrey Waddell said that the City could enforce certain things depending on what is built.

Mr. Yates said that one aspect was that they could consider commercial use, and they could have the City Attorney analyze that information between tonight and tomorrow night to see whether or not the notice would be okay. Mr. Foerster said that as he looks at the agenda for the meeting tonight the only request that is being presented to the Commission is the request to rezone single family to industrial as requested by Mrs. Fisher. Mr. Foerster said that the Commission is not being requested to look at other zoning designations. Mr.

Foerster said that he did not think, in his view, the Commission could make a decision to go forward with the recommendation of commercial because they would need to go through the proper process to do that. Mr. Foerster said that to answer Mr. Yates question, he did not think that the Commission or City Council agenda would allow for commercial because it does not give proper public notice to individuals. Mr. Foerster said that there might be some that support commercial and there might be some that would be okay with industrial but opposed to commercial.

Chairman Cox asked if they needed to table this item until they have additional information and/or direction. Mr. Yates said that unless the Commission acts on this item he would not know how Mrs. Fisher would know which way to go, commercial or industrial. Chairman Cox said that he wanted to follow proper protocol if they have to have adequate public notice on the commercial question they still have to follow that procedure. Mr. Foerster said that was correct. Mr. Foerster said that if the Commission tables action on this item they will still be in the same situation the next time that they meet as long as in the interim Mrs. Fisher has not amended her request from industrial to commercial, and in that event they would still have to give public notice of the change of the request from industrial to commercial. Chairman Cox asked if they would have to have another public hearing. Mr. Foerster said that the same process would have to be followed because the public has the right to know what the request is and what the Commission and City Council will be doing, whether they leave it the same or change the use to industrial or if a new request change to commercial.

Mr. Foerster said they have a good real estate attorney present, Mr. Weisinger, and he asked Mr. Weisinger if there were deed restrictions related to the sale of that property as to how it would be used and how it would look and whether that might provide a little bit more comfort to the Commission and to the City Council that the use of it would not have any tacky vehicles or RV's or anything parked outside a garage type facility. Mr. Weisinger said that some issues have been brought up that might be appropriate for the Commission to certainly table this item tonight and let them circle the wagons because it is not anybody's intention to offend adjoining property owners. Mr. Weisinger said that he

thought that they could come back to the Commission with a possibly different application that might be accepted. Mr. Foerster asked Mr. Weisinger if he and Mrs. Fisher were contemplating commercial use and asked how they would feel about the Commission denying or not recommending this designation as industrial at this time with the possibility that they would reconsider it as commercial at another time. Mr. Weisinger said that he would prefer that it be tabled rather than denied. Mr. Yates said that the Commission could table the action and then City Council would not take any action tomorrow night. Mr. Foerster said that City Council can't take any action without a final report from the Commission, so if they table this item there will be no action for City Council to take tomorrow night.

Jeffrey Waddell asked if there is a difference between light industrial and heavy industrial. Mr. Yates said that industrial is the only listing in the zoning ordinance. Mr. Weisinger said that was not what the ordinance states, it distinguishes between commercial, light industrial and heavy industrial as stated in Section 98.61. Mr. Yates said that was the old Code of Ordinances that was attached to Mrs. Fisher's information is not the current Code. Mr. Foerster said that looking at Section 98-84, which is on the City's web site, there is currently under the zoning ordinance they have commercial and industrial use with no distinction between light and heavy. Chairman Cox asked if the information that was included in their packet was from the City's web site. Mr. Yates said no it came from Mr. Weisinger and Mrs. Fisher.

Carol Langley moved to table Agenda Item No. 4 regarding the rezoning at 1005 Old Plantersville Road, Montgomery, at this time. Jeffrey Waddell seconded the motion.

Discussion: Chairman Cox stated that this item is being tabled pending additional information and following proper protocol.

The motion carried unanimously. (5-0)



5. Consideration/take action regarding rezoning at 2512 Lone Star Pkwy., (north/west of 2500 Lone Star Parkway) Montgomery, from I-Industrial to R-2 Multi-Family as requested by Larry Jacobs for the Star of Texas Seniors Development.

Mr. Yates advised that he would comment on Mr. Fuqua's comments on his report. Mr. Yates stated that the Feasibility Study is primarily a utility study that is more the details of access to water and sewer, and he said that he did not think that it was necessary to know the details of how much pressure is going to be up there rather than will there be enough adequate pressure and adequate line for water. Mr. Yates said the sewer will have to be extended up to the property that will be part of the Feasibility Study but the developer has said that he would do whatever utility extensions are required. Mr. Yates said that as far as the traffic study he did not think that there would any different type of uses other than what he has approximated in his report, with maybe as many as 150 trips per day, but he thought that it would be the same type of vehicles that go to the existing Community Center and complex that is currently there. Mr. Yates said that there might be delivery trucks but they are able to manage the bridge and two lane method of Lone Star Parkway. Mr. Yates said that he felt the question regarding the taxes and so forth, while it is important to the City that they give as much service to the seniors, he did not think that the property owners should be penalized just because their unit is not as big as another unit. Mr. Yates said that they would not turn down Kroger if Kroger and HEB came in at the same time and you would not decide a zone based on which one was going to produce more sales tax to the City. Mr. Yates said that he thought it was more on the merits of the application rather than the question of how much money the City will or won't get.

Arnette Easley asked Mr. Yates if they would have to put in another lift station or would the current one handle this development. Mr. Yates said that he did not know the answer for that question, the developer would be responsible for that if it were necessary. Mr. Yates asked Mrs. Katherine Vu, with Jones and Carter, about the lift station. Mrs. Vu stated that she did not know for sure whether or not another lift station would be required, but she did know that the City is trying to steer away from requiring anymore small single use lift stations as they have in the past and they were trying to go with a more regional

approach regarding lift stations that would be determined in the Feasibility Study. Arnette Easley asked if it would make any difference because it is closer to the lift station itself. Mrs. Vu said that would help and it would be determined in the Feasibility Study.

William Simpson asked Mr. Foerster about the fact that Mr. Kelly mentioned all the studies and asked if they were required to be presented to the Commission prior to them making their decision, like the Feasibility Study. Mr. Foerster said that the Zoning Ordinance does not require that to be done, and said that he agreed with Mr. Yates that he did not think that the City should be getting into the business of proving which application to select. Mr. Foerster said that he welcomes the competition and wishes both of them the best of luck and wished that they could have them both here because he thought they would serve the needs of our people adequately, but unfortunately apparently that is not going to be the case. William Simpson said that he did not feel that they were here to pick out competition. Mr. Foerster said that the City does require that the developer provide whatever extensions, and if need be lift stations, to serve the property that is going to be served, whether it is industrial or multi-family use residential, the same issue is going to arise as far as providing service. William Simpson said that if this was approved tonight, they would still have to meet the deadline for a Feasibility Study before they present to the State. Mr. Foerster said that he would defer to the people that know better than him, but he was assuming that the application does not require them to show that they have adequate utilities there. Mr. Yates said that it does require the zoning but does not require the utilities issue.

Mr. Yates stated that City Council was planning on making their decision on July 10, 2018, and they would conduct their public hearing tomorrow night. Mr. Yates said that would be in time for the applicant to make their application to the State following approval of the zoning. William Simpson said that his feeling is that with the property that Mr. Jacobs has there already, this will be basically an adjoining property and will not be put out in the middle of an industrial zone to be surrounded and is not to say that five years from now the property be extended out further with residential multi-family.

Mr. Yates said that both projects were supported by City Council at the same meeting and both received supporting resolutions. Chairman Cox said that only one of the properties has to be rezoned. Mr. Yates said that was correct.

Arnette Easley moved to rezone 2512 Lone Star Pkwy. (north/west of 2500 Lone Star Parkway) Montgomery, from I-Industrial to R-2 Multi-Family as requested by Larry Jacobs for the Star of Texas Seniors Development. Jeffrey Waddell seconded the motion, the motion carried unanimously. (5-0)

6. Consideration/take action regarding the Emma's Way 80' R.O.W. Dedication Final Plat.

Mr. Yates advised that the City Engineer has recommended approval of this action. Mr. Yates said that he just spoke with Mr. Foerster and said that he is recommending that the Commission not look at the escrow amount question at all and determine the action on the purity of the plat submittal. Mr. Foerster said that would be an issue for the City Council to address and said that he did not know that the Commission needed to worry about that tonight.

Mr. Yates said this was a very simple R.O.W. that extends Emma's Way north and west far enough to get access to the Hills of Town Creek Section 3.

William Simpson moved to approve the final plat for Emma's Way R.O.W. dedication. Arnette Easley seconded the motion, the motion carried unanimously. (5-0)

7. Consideration/take action regarding scheduling a Public Hearing for rezoning of a portion of the property located at the southeast corner of Buffalo Springs Drive and SH 105, a portion of the Montgomery Shoppes Tract, from R1 (single-family), R2 (multi-family), and I(Institutional) to B (commercial) and I (Institutional), to be held on July 23, 2018 at 6:00 p.m., as requested by SH 105 Associates.



Mr. Yates said that this is to clearing up a zoning issue to get into compliance with their 380 Agreement with the City of Montgomery. Mr. Yates said that the institutional portion of this is the sewer plant. Mr. Yates said that what they are wanting to do is go to all commercial except for the institutional part, which would stay with the City of Montgomery. Mr. Yates said that this is only to approve scheduling the Public Hearing. Mr. Yates stated that they are wanting to get rid of the multi-family use and turn that into commercial and have the entirety of the tract as commercial except for where the sewer plant is going to be. Mr. Yates advised there has already been a transfer of the deeds, where they are giving up some property and the City is giving up some property for a new configuration of the sewer plant.

Jeffrey Waddell moved to schedule the Public Hearing on July 23, 2018 at 6:00 p.m. at City Hall regarding rezoning of a portion of the property located at the southeast corner of Buffalo Springs Drive and SH 105, a portion of the Montgomery Shoppes Tract, from R1 (single-family), R2 (multi-family), and I (Institutional) to B (commercial) and I (Institutional). Arnette Easley seconded the motion, the motion carried unanimously. (5-0)

Mr. Yates said that he wanted to advise the Commission that he had sent them a draft of the letter that he had sent to Mr. Madsen because he wanted to show them that he had some questions about his use of his building. Mr. Yates said that he understood that Mr. Madsen was possibly renting it to an auto repair shop. Mr. Yates said that the letter is just letting Mr. Madsen know that everything must be located inside the building, which includes the cars waiting to be repaired. Mr. Yates said he advised Mr. Madsen that even if there are vacant spaces outside they can't be used for cars waiting to be repaired. Mr. Yates said that he wanted to give Mr. Madsen a heads up on his interpretation of the ordinance so he would know before he rents the building.

William Simpson asked about the ordinance on dumpsters and where they are to be located, etc. and asked Mr. Yates to include that information in the letter to Mr. Madsen because he thought that somewhere it stated that dumpsters had to be located on the side or the back

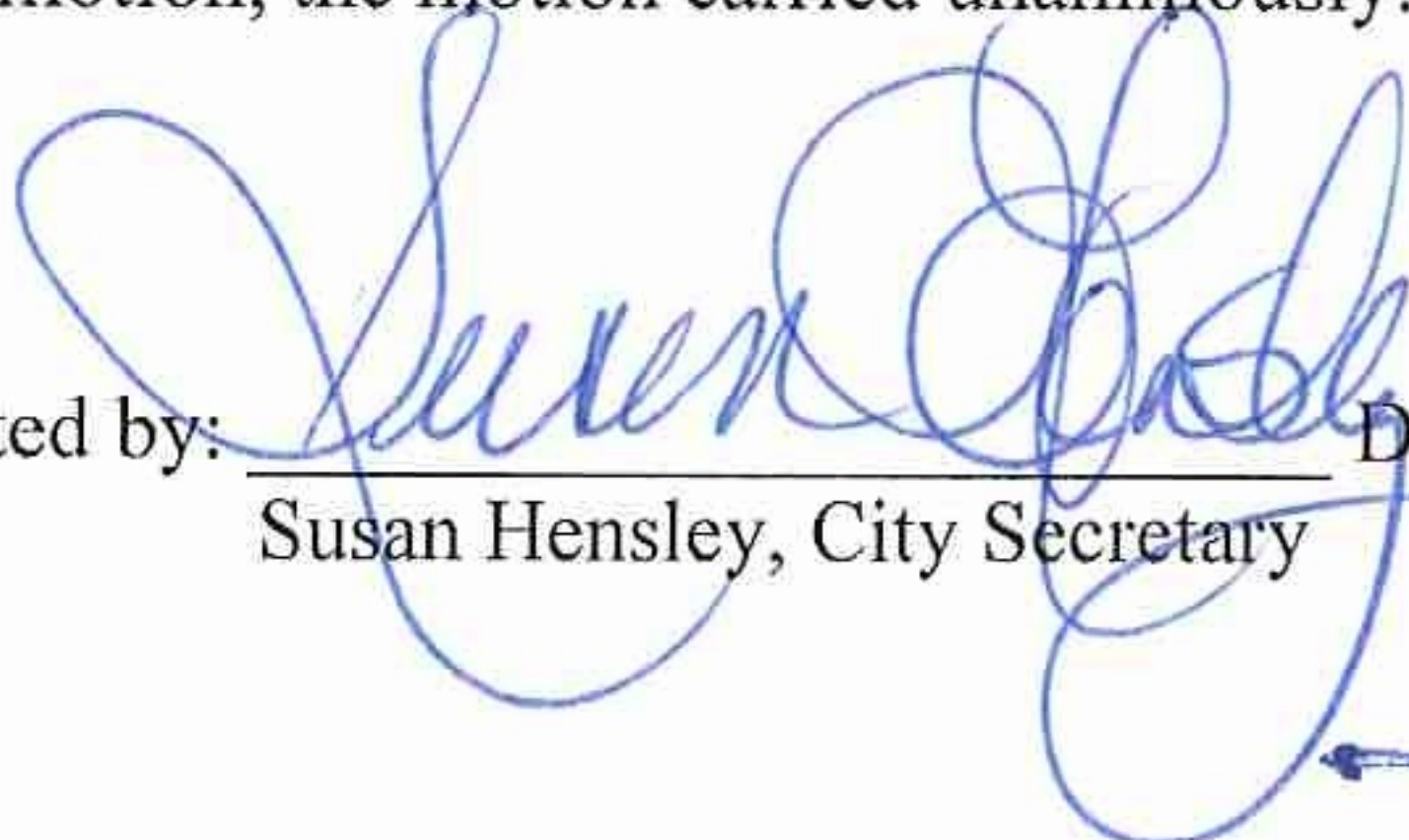


of the building. Mr. Yates said that he would check that information. Mr. Foerster advised that Section 98-179(d) states that “storing of containers and waste material will not be permitted in front and side yards.” William Simpson asked to confirm that the dumpster would need to be located in the back of the property. Mr. Foerster said that was correct. Carol Langley asked if Mr. Madsen would have room to put a dumpster in the back. Mr. Yates said that he would not have room. Carol Langley said that he should have asked for a variance but she bet that he did not know. Carol Langley said that they were just trying to get it so that Mr. Madsen could finish building his structure and they were not worried about the dumpster at the time. Mr. Yates said that perhaps they could have an option of building a brick wall to cover up the dumpster and enclose it.

8. Adjournment

Carol Langley moved to adjourn the meeting at 7:10 p.m. Jeffrey Waddell seconded the motion, the motion carried unanimously. (5-0)

Submitted by:

  
Susan Hensley, City Secretary

Date approved:

07/23/18

  
Chairman Nelson Cox

