

**MINUTES OF REGULAR MEETING**  
**February 22, 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 January 25, 2016 minutes.

William Simpson moved to approve the January 25, 2016 minutes as presented. Carol Langley seconded the motion, the motion carried unanimously. (4-0)

2. Consideration and possible action on sign at 308 Caroline Street – Lance DeLoach.

Mr. Lance DeLoach was not present at the meeting.

Mr. Yates advised that they had received a black and white photo of the sign. Carol Langley and Jeffrey Waddell asked about the neon white sign and neon yellow star. Mr. Yates advised that he did not have a picture of the colors they were using, nor had he seen them.

Carol Langley said that she did not want to approve a sign in the Historic District without knowing the colors. Carol Langley then asked Mr. Yates when the business would be opening, and asked if they were to hold up the item until the next meeting would they be keeping him from opening his business. Mr. Yates advised that Mr. DeLoach could put a banner up at his location. William Simpson said that there was a black and white banner at that location right now. Jeffrey Waddell mentioned that the sign was supposed to have white letters and the only yellow is the star, which is mentioned in the permit information. Carol Langley said that the information states that it is a neon sign with white and yellow wording and outlines, translucent backing, with a yellow star.

William Simpson asked whether a neon sign was permitted in the Historic District. Mr. Yates said that was up to the Planning and Zoning Commission.

Jeffrey Waddell said that they needed to see what type of yellow was going to be used. William Simpson said that Mr. DeLoach was not here to explain the information or answer questions. Mr. Yates advised that the banner could stand for the meantime. William Simpson said if Mr. DeLoach is getting ready to open, he did not want to delay his opening, but he needs to see what type of sign he is requesting. Carol Langley said that neon in her mind would be way too bright.

Carol Langley moved to table action on Agenda Item #2 on the sign to be located at 308 Caroline Street until they can either get a color picture or someone in person to answer questions at the next meeting, and they will allow the existing banner. William Simpson seconded the motion, the motion carried unanimously. (4-0)

3. Consideration and possible action on Final Plat and construction drawings for Pizza Shack.

Mr. Fleming presented the Pizza Shack Final Plat to the Commission advising that everything was in keeping with the City's Code of Ordinances, with the exception of a few minor text corrections that need to be made. Mr. Fleming said that he had also received the final set of construction drawings, and at first review they appear to be in order as well, however, he has been told that the owner is still working on some engineering items regarding their drainage. Mr. Fleming said that they had elected to go ahead and put both items before the Commission tonight for approval because he felt that the engineers would be able to resolve the issue within the next week. Mr. Fleming stated that the minor items omitted from the plat were the bank name and one of the owner's names, otherwise it was in good shape.

Jeffrey Waddell asked about the 25 foot vegetative setback and asked whether that was natural native plants. Mr. Fleming said that there were several different criteria that can be used to satisfy that requirement. First and foremost it is a buffer anywhere you have a commercial that abuts residential single family areas or what could become single family residential areas. Mr. Fleming said that it could be a vegetative barrier which is a certain type of mature hedges, fence, either masonry or cedar, so there are several options available.

Williams Simpson asked when the construction drawings would be submitted. Mr. Fleming advised that he had them on his desk, materially they are fine, but he will still need to review the engineering, but per the Code the final plat has to be accompanied by an approved set of construction drawings.

Carol Langley asked where the driveway would be located. Mr. Fleming advised that it would be two driveways located off of Stewart Creek Road. Mr. Levi Love advised that there would be two driveways, both off of Stewart Creek Road. Mr. Fleming advised that the driveway cut would not appear on the plat, but would appear on the construction drawings.

Mr. Love stated that there are some trees on the front of the property, and there are a couple of large oak trees. Mr. Love advised that the plans had been done to try and save at least

two of the trees, which are the two largest oak trees. Mr. Love stated that this was a voluntary thing and that is why they set the development as far back as they did because the trees are towards the front of the property.

Mr. Fleming said that his recommendation to the Commission was approval pending some minor text corrections on the plat, and some drainage corrections on the construction plans. Mr. Fleming advised that if the Commission does offer their approval he will take the documents to City Council tomorrow evening.

William Simpson moved to approve the Final Plat and construction drawings for Pizza Shack, as per the recommendation made by the City Engineer regarding the corrections to be submitted. Jeffrey Waddell seconded the motion, the motion carried unanimously. (4-0)

4. Consideration and possible action on Final Plat submission for the King Land.

Mr. Fleming presented the final plat, to the Commission with the recommendation for approval. Mr. Fleming stated that all the comments from the preliminary plat review have been addressed satisfactorily. Mr. Fleming said that he finds this plat to be 100% percent correct and staff recommends approval of the plat. Mr. Fleming said that there were not any construction drawings with the plat because this is a subdivision of existing land.

Jeffrey Waddell asked about the dotted line that shows the flood plain area and whether that was the only area where the flood plain was included. Mr. Fleming advised that was correct. Mr. Fleming stated that he had requested from the owner and received a City drainage easement along that creek, so the City will have access to that area.

Carol Langley moved to approve the Final Plat submission for King Land. Jeffrey Waddell seconded the motion, the motion carried unanimously. (4-0)

5. Consideration and possible action on Preliminary Plat submission for GC-HWY 105 Retail Center.

Mr. Fleming presented the plat to the Commission, advising that there were minor comments but that it was in keeping with the City's Code, and recommended accepting the Preliminary Plat, as submitted, and Mr. Fleming would work with Mr. Strauss to get the minor comments corrected. Mr. Fleming advised that the developer has not advised what they have planned for the property other than it will be a commercial tract.

Nelson Cox asked about the construction plans. Mr. Fleming advise that it was a commercial tract.

Jeffrey Waddell moved to approve the GC-Hwy 105 Retail Center Preliminary Plat as presented. William Simpson seconded the motion, the motion carried unanimously. (4-0)

6. Consideration and possible action on request for variance to required minimum driveway spacing at the proposed Heritage Place Medical Center.

Mr. Fleming presented the variance request for the property, located at SH105 and Houston Street, which is currently a home site that will be developed commercial. Mr. Fleming said that there are a couple of driveways planned, one driveway will use and improve the existing driveway on Houston Street and they will cut a second driveway on SH105.

Mr. Fleming advised that Chapter 78 Section 133 of the Code addresses minimum driveway spacing, but states that if there is not enough thoroughfare frontage to meet those requirements, the City will not deny the developer access or point of egress onto their property. Mr. Fleming said that his recommendation would be to approve the variance request as submitted. Mr. Love stated that they have received their TxDOT permit for driveway access on SH105.

William Simpson said that his big concern is on Houston Street in the Cedar Brake Park and the traffic, because that road is basically a one-lane road. William Simpson asked what effect that would have on the City, would they need to widen the road and the traffic going around the Cedar Brake Park. Mr. Yates said that he would expect the building plans would call for the widening of that street. Mr. Fleming said that he did not believe that the plans called for the widening of that street.

William Simpson asked how they were going to control the traffic when someone is coming out of that location to SH105 when someone is trying to get home turning onto Houston from SH105 or trying to get to the Park. Jeffrey Waddell said that during busy times, they will want to use the traffic light by coming out on Houston Street instead of out onto SH105. Jeffrey Waddell said that they would have to consider the size of the street.

Mr. Love said that they have the traffic light located right next to the property and all indications are that the City knew that the property would be commercial when the Zoning Ordinance was adopted. Mr. Love said that he thought it was adopted in early 2000.

William Simpson said that the only question that he had was pertaining to the traffic through town and around the Park and the width of the street.

Mr. Yates asked Mr. Fleming why the City would request the widening of Houston Street. Mr. Fleming stated that the only reason that the City would request the widening, other than traffic impact, would be for a safety concern. Mr. Fleming said that there is a larger issue regarding widening Houston Street, such as, where do they acquire the right of way to widen Houston Street, because it is all residential along the east side of the street, and there are houses just north of the property. Mr. Fleming said that any widening of Houston Street would probably go west to the Park. Mr. Yates asked why they would not go east. Mr. Fleming said that there are residential lots with existing homes north of the tract.

Mr. Love said that he is using Houston with the traffic light when he leaves the property because it is protected. William Simpson said that if a person was leaving the property on Houston and a resident was turning in on Houston to get to their house, there would not be enough room for both vehicles. William Simpson said that the residents that live on Caroline Street will not be able to use that traffic light to get home if there are cars exiting out on Houston from the property.

Mr. Love stated that they still have not gotten plan approval for the property. Mr. Love said that it sounds like they needed to have some more discussion on the plans at least regarding the driveways. Mr. Love said that the property has been zoned commercial the whole time and now they have the possibility of having to widen a City street located next to the property.

Mr. Fleming asked Mr. Love about abandoning the driveway on Houston Street. Mr. Love said that he had more of a safety issue with the driveway on SH105 because of the traffic without the benefit of a traffic signal. Mr. Love said that it will be a medical center and there will be people of all ages and abilities coming out and exiting east bound they would be crossing the traffic and when they are coming in they would be crossing the traffic, but with a signal it would be safer.

Mr. Yates said that he was recommending that the Commission approve the variance, but withhold judgement on what to do about Houston Street. Mr. Love said that the Commission would still see the plans and this would allow them to submit the plans to make sure that they have everything correct. Mr. Love said that there was some debate about whether they needed the variance because of the language about the size of the tract, but they are here at the meeting.

Mr. Fleming stated that if the Commission does offer their approval it will then go to City Council tomorrow evening for their consideration of approval.

William Simpson asked Mr. Yates for clarification that they could approve the variance with consideration of what could happen and/or what needs to be done later on Houston Street. Mr. Yates advised that was correct. William Simpson said that he did not want to hold anyone up, but the issue of Houston Street still needs to be addressed somehow. Mr. Love advised that they would do that when they submit the plans if that will please the Commission.

Mr. Fleming said that there were still several steps that they needed to accomplish, such as the plat review and final construction drawings. Jeffrey Waddell asked if there was a 35 foot setback.

Mr. Cheatham said that one thing that they struggle with on SH105 and 149 as well, when zoning was implemented in Montgomery he is not sure what thought was given to the bands of commercial zoning. Mr. Cheatham said that they have a very narrow band of commercial property to develop, otherwise what do you do. William Simpson said that they just have to be careful and watch what they do during the growth. Jeffrey Waddell and William Simpson both stated that it was related to safety issues.



Jeffrey Waddell moved to approve the variance as presented, with the stipulation that Houston Street has to be reviewed. William Simpson seconded the motion, the motion carried unanimously. (4-0)

7. Report on Tree Ordinance and Dark Sky Ordinance.

Mr. Yates presented his report on the Tree Ordinance and advised that having a tree ordinance would not mean that trees could not be cut down, the draft ordinance states that if they remove 50% percent of the trees, then the developer or owner would have to put back 50% percent of coverage.

Mr. Yates said that the Kroger property will probably put much more coverage than what the three or four trees that they removed. Mr. Yates said if the City would have had a tree ordinance at the time Kroger would have had to file a report that would have shown that there were very few trees on that property, so they would have met the coverage. Mr. Yates said that City Council was generally in favor of having a tree ordinance, but they have not seen the ordinance yet.

Mr. Yates advised the Commission that a Dark Sky Ordinance deals with light pollution. Mr. Yates advised that 20-25 cities now have a Dark Sky Ordinance. Mr. Yates said that a Dark Sky Ordinance is used to try and diminish light pollution. Mr. Yates advised that light pollution is anything that goes beyond the area that you are trying to light something, or the light goes up into the sky are both called light pollution. Mr. Yates said that even when lights are pointed downward, if the light goes onto someone else's property, theoretically that pollutes their property.

Mr. Yates discussed suitable light fixtures that he found on the Dark Skies web site, which are commonly called full "cut off lights" or "shoebox lights" that shine light on a fixed surface. Mr. Yates presented a sample ordinance for Dark Skies to the Commission.

Mr. Waddell asked about Kroger's plans for their shopping center. Mr. Fleming stated that Kroger has shown a willingness to cooperate on some things, but the current Code does not



mandate lighting. Mr. Yates said that he thought he could have the ordinance ready for the next Commission Meeting. Mr. Fleming said that several of the City Council members have asked the same questions about the center. Mr. Fleming said that he would have some conversations with the engineer for Kroger regarding the lighting. Mr. Yates said that it made sense for the shopping center to use cut off lights, because they would want the lights to do the best and most efficient work.

The Chairman said that his questions regarding grandfathering the lighting is that they should take a time limit into consideration, such as a year or two or three, but if you have a flagrant violator, the reason for the ordinance, they should have some type of time limit to be considered.

Mr. Simpson asked if someone came in to replace lights in their shopping center would they be grandfathered. Mr. Yates said that he would check with the City Attorney regarding that information.

After discussion, Mr. Yates said that he would check on the cost of globe light versus a full cut off light. Mr. Yates said that they could also place the information regarding replacement in the new Code.

Williams Simpson asked if someone redoing their lights would have to get a permit and he would ask that they come before the Commission to replace the fixtures.

After discussion of how to determine who would be grandfathered with a new Dark Sky ordinance, Mr. Yates advised that he would check with Mr. Foerster for clarification.

## **ADJOURNMENT**

Jeffrey Waddell moved to adjourn the meeting at 7:00 p.m. William Simpson seconded the motion, the motion carried unanimously. (4-0)

Submitted by: *Susan Hensley* Date Approved: *3/28/2016*  
Susan Hensley, City Secretary

*Nelson Cox*  
Chairman Nelson Cox

