

MINUTES OF REGULAR MEETING

August 2, 2022

MONTGOMERY PLANNING AND ZONING COMMISSION

CALL TO ORDER

Chairman Waddell declared a quorum was present and called the meeting to order at 6:05 p.m.

Present: Jeffrey Waddell, Bill Simpson, Merriam Walker, Britnee Ghutzman, Daniel Gazda

Absent: None

Also Present: Dave McCorquodale, Interim City Admin. / Director of Planning & Development

VISITOR/CITIZENS FORUM

No comments given.

1. Consideration and possible action on the July 5, 2022 Regular Meeting Minutes.

Britnee Ghutzman moved to approve the minutes as presented. Merriam Walker seconded the motion, the motion carried unanimously. (5-0)

2. Consideration and possible action on a request to relocate the rear property fence at 14335 Liberty Street in the Historic Preservation District.

Staff presented the information and noted the item was tabled at the July meeting to allow staff to ensure the adjacent property owners were aware of the request and that any requirements related to the county fire code were not in conflict with the proposed fence location. Staff spoke with the Montgomery County Fire Marshal office who stated the proposed fence would not violate any access requirements though they preferred having access around properties. The adjacent owners were not as apprised of the request as staff initially understood from the applicant and they were in attendance at the meeting. Bill Simpson asked if the surveys included in the agenda packet were legal surveys and staff confirmed the surveys were prepared by a licensed surveyor. The adjacent property owners, Mr. & Mrs. Fauss, stated they purchased their property through a quit claim deed and did not have a survey of their property. They also stated the sidewalk that would be blocked

by the proposed fence was in place when Mr. Haynes bought the property and that Mr. Haynes water meter was located on their property. Additionally, they said that if the proposed fence was allowed to be built that there would only be 11 inches between their building wall and the proposed fence, leaving no way to access the exterior of the wall for maintenance. Merriam Walker asked if there was a discrepancy in who owned the property where the water meter for Mr. Haynes building was located. Mr. McCorquodale confirmed that the water meter was on the Fauss' property and that there was no easement in place for the water line or the meter.

Mrs. Walker said there were three unresolved questions: 1) how would the existing water line be repaired or serviced without an easement, 2) the electrical outlets shown on the side of the Fauss' building would not be accessible if the proposed fence was built, and 3) a rule of thumb is that a fence should be offset from the actual property line at least 3 inches and whether the owner planned to adhere to that. Staff stated there was no requirement that a fence be 3 inches from a property line, but that fences would usually be set off a property line enough to ensure the surveying property pin would not be disturbed by a fence post. Mrs. Walker stated that the Planning & Zoning Commission had a responsibility to ensure all the downtown properties had connectivity with each other. The Fauss' confirmed the sidewalk was existing when Mr. Haynes bought his property. Mr. Waddell stated they were all good points to consider and asked if Photo A showed a water meter box. Staff confirmed it was the water meter and was not in a dedicated easement. Bill Simpson asked if Mr. Haynes could post a "no trespassing" sign on his property to prevent use of the sidewalk that is on his property. Mr. McCorquodale said he could do that and the Commission's role was looking at the aesthetic appearance of the proposed fence and the cohesiveness of the Historic Preservation District.

Bill Simpson asked if the Commission was liable for decisions made on an item and staff said the City was liable to the extent that City Code was legal and enforceable. Britnee Ghutzman said Mr. Haynes also had liability if someone was injured on his property and Mr. McCorquodale said the applicant articulated that concern. Merriam Walker asked if there was an incident on the property recently because Mr. Haynes bought the property in its current condition and didn't have an issue with it before now. Mr. Waddell stated he may also be looking to added storage space behind the restaurant and that could be another reason why he wants the fence. He continued by stating that both property owners receive benefit in working out a solution. Mr. & Mrs. Fauss stated they would be willing to purchase the property from Mr. Haynes if he was willing to sell it and asked if

it was possible to table the item to pursue the possibility of purchasing the property. Merriam Walker and Britnee Ghutzman both stated a desire to see the matter worked out privately and Ms. Ghutzman noted a lack of perimeter property fences in downtown generally.

Merriam Walker moved to table the item to allow an opportunity for the owners to work the issue out before moving forward. Daniel Gazda seconded the motion, the motion carried unanimously. (5-0)

3. **Consideration and possible action on proposed exterior modifications to the building at 504 Caroline Street located in the Historic Preservation District.**

Staff presented the information and said that the new owners of the building have revised their plans after getting into the interior demolition of the existing building and seeing what portions of the building can be salvaged. The new submittal is for the addition of a front porch roof on the second floor and a two-story addition to the back of the building to allow space for restrooms. The owners had a concept for a phase two that was previously presented to the Commission. Phase 2 includes a large addition to the building that would face Liberty Street. Mr. Waddell noted the elevation drawing on page 20 appears to accommodate the connection of a future phase 2. Mr. Waddell asked if there was an old well on the property and staff did not have knowledge of one. Merriam Walker asked for certainty that while the P&Z looks at the historical district compliance, the City looks at building permits and development. Staff confirmed that they did. Merriam Walker stated she would like to ensure that some trees were left on the site. Mr. McCorquodale stated part of the development process was to show compliance with the city's tree preservation ordinance.

Bill Simpson moved to approve the exterior modifications as presented on the submitted drawings dated 6/27/2022. Britnee Ghutzman seconded the motion, the motion carried unanimously. (5-0)

Commission Inquiry


Britnee Ghutzman asked if there was an ordinance related to commercial fencing. Mr. McCorquodale stated there was not and that fencing in the Historical Preservation District were reviewed. Merriam Walker asked if there should be an ordinance or whether it is more practical to review on a case-by-

case basis. Merriam Walker asked about dumpsters downtown and wanted to ask about moving the project forward. Mr. McCorquodale stated that if an ordinance was adopted that any existing sites would be considered existing non-conforming uses and exempt from the new ordinance as long as the business was still in operation.

Bill Simpson asked if the city had an ordinance in the past for dumpsters. Mr. McCorquodale said he'd been told of one that was in place but staff and the engineers had not been able to find where it was a part of city code. The Commission and staff agreed that one way to address the current exposed dumpsters in the downtown was to work with the business owners to voluntarily enclose the dumpsters. Mr. McCorquodale said the MEDC currently has business grants that could be used for this type of project. Merriam asked what the best way to move the item forward was. Mr. McCorquodale stated he would be the appropriate staff member to take the project on but was limited in time due serving as the interim city administrator in addition to his normal workload.

Adjournment

Merriam Walker moved to adjourn the meeting at 6:55 p.m. Bill Simpson seconded the motion, the motion carried unanimously. (5-0)

Prepared by:  Date approved: 09/06/2022
Dave McCorquodale


Chairman Jeffrey Waddell

Attest: 
Nici Browe, City Secretary