

MINUTES OF REGULAR MEETING

December 5, 2023

MONTGOMERY PLANNING AND ZONING COMMISSION

CALL TO ORDER

Vice-Chairman Simpson declared a quorum was present and called the meeting to order at 6:08 p.m. and noted two new members on the Commission. Both Commissioners introduced themselves.

Present: Bill Simpson, Merriam Walker, Daniel Gazda, Thomas Czulewicz, John Fox

Absent: None

Also Present: Gary Palmer, City Administrator

Alan Petrov, City Attorney

VISITOR/CITIZENS FORUM

None.

1. **Consideration and possible action on the October 3, 2023 Regular Meeting Minutes (tabled on 11/07/23).**

Merriam Walker said the missing items look to be in the minutes now. Merriam Walker moved to approve the minutes. Dan Gazda seconded the motion, which carried unanimously. (3-0) (Commissioners Fox and Czulewicz abstained from voting since they were not on the Commission during the meeting covered by the minutes).

2. **Consideration and possible action on exterior architectural accent lighting at 202 McCown Street in the Historic Preservation District, as submitted by Jim & Denise Czulewicz (one-month approval granted at 11/07/23 meeting).**

Tom Czulewicz recused himself from the discussion and action since the applicant is his son. Merriam Walker said since the last meeting it has become the holiday season and everyone is now decorating for Christmas. Merriam Walker said she saw the lights over the past month and that they are not noticeable during the day. She said while appropriate during the holidays, the lights weren't appropriate all the time. She continued that other accent string lights were underneath porches and awnings. Dan Gazda said he also reviewed the lights over the past month and he felt

the lights were not cohesive with the downtown. Bill Simpson referenced the Historic District Design Guidelines and the fact that they do not speak to accent lighting. Therefore, Mr. Simson said, we have to revert to the commercial lighting ordinance for the city. He said he knows the city is trying to unify things but he is not at the point where he wants to handcuff businesses, either. Dan Gazda agreed. Bill Simpson said his feeling if the lights are not flashing or blinking then they will look good. He said he would like to see if a uniform system of lights if building owners wish to add accent lighting. Bill Simpson said in his opinion he liked the lights. Merriam Walker mentioned other Christmas lights in downtown and setting precedents if these lights are approved. Mrs. Walker continued listing various businesses downtown. John Fox said if there is not a formal rule on a matter, the Commission should consider that rules can't be created at will. Gary Palmer mentioned that holiday lights are exempt from review and allowed for 60 days. Merriam Walker mentioned the public comment she made at a recent city council meeting. Gary Palmer offered the comment that it's hard to apply the city's ordinance when there is no criteria for approval. The current ordinance doesn't provide the Commission with enough guidance and leaves decisions to subjective criteria. He said he understands any frustrations on both sides—both the city and business owners. He suggested on this matter his recommendation is to look at past practice as available and make a rational decision. Merriam Walker said the cohesiveness of downtown is the Commission's most available criteria. Merriam Walker asked how to enforce no flashing or chasing lights. Mr. Petrov noted that is an enforcement issue it's up to the city to enforce what the Commission's decision was and clarified that a citation is the tool to address violations. He added that cities currently regulate lighting of LED signs and similar to prevent flashing or chasing colors and lights. Merriam Walker said what the applicant is doing is not bad, it's just not what everyone else is doing. She mentioned more downtown properties with accent lighting. Mr. Palmer said while a forthcoming planning project to update the ordinance is underway, but it is possible to break out the lighting regulations if the Commission is running into issues repeatedly with lighting. Dan Gazda asked the Commission if a color other than white (the applicant had previously suggested a red color to match the exterior of the building) is acceptable. He also asked staff if a timeframe or duration of approval would be allowed. Mr. Palmer advised against a duration of approval. Dan Gazda said he wanted to approve the item but wanted to base the decision on a measurable criteria. John Fox said an important key is to distinguish between permanent lighting and seasonal lighting when considering a regulatory update. Mr. Czulewicz noted that while he was recusing himself from voting, he wanted to add that a key distinction was made about architectural accent lighting that was soft white.

Dan Gazda moved to approve the lights with the following conditions: 1) Monochromatic lighting as soft white lighting, 2) No chasing or strobing lights, and 3) Compliance with Sec. 18-56 of the Commercial Lighting Ordinance. Merriam Walker seconded the motion, which carried unanimously. (4-0) (Tom Czulewicz abstained from voting).

3. Consideration and possible action on the Preliminary Plat for Montgomery Bend Section Three.

Katherine Vu, PE reviewed the preliminary plat and details of the approved Development Agreement with the developer. She also referenced the included development timeline in the packet. She said the engineers had reviewed the Preliminary Plat and found it to be in compliance with all applicable city ordinances and the Development Agreement and recommended approval. John Fox asked to clarify that City Council approved the variances before the Commission reviewed. Dan Gazda said the development did come before the Commission. Mr. Fox said he appreciated the answer. Dan Gazda asked about greenspace for the development and Mrs. Vu pointed out the reserves within these sections and that they aligned with greenspace in previous sections. Mr. Fox asked when reviewing a plats if the police and engineers are in the loop. Mr. Palmer said while staff coordinates on service coverage, the police and emergency services are not part of the process. Mrs. Vu added that utility availability is determined in the Feasibility Study before the project starts and considers all developments within the city when looking at available capacity. John Fox said he worries that the city only has one sewer plant. Mrs. Vu said the engineers don't have material concerns about the sewer plant and that the city is working on expansion plans. Mr. Fox asked about the planning for an elevated water storage tank. Mrs. Vu said they are also evaluating and planning for that project. Dan Gazda asked about progress related to the FM1097 work at the development entrance. Mrs. Vu said the developers have to complete turn lanes before the first three sections are completed and a signal installed before completing additional sections. Merriam Walker asked for clarification about the entrance road and existing guardrails on FM1097. Chris Roznovsky clarified the developers plans to connect to FM1097. Merriam Walker also asked whether the existing trees were to remain. Mrs. Vu said she didn't have that information at hand, but could check the landscape plans to confirm. She added that typically tree clearing is done at the beginning of the project the current trees will likely remain. Merriam Walker asked if the engineers went out during construction, Mrs. Vu said they do. John

Fox asked about tree replacement on the lots, Mrs. Vu referenced the requirements of the tree and landscape ordinances to handle those things. Dan Gazda asked about tree sizes, Mrs. Vu didn't know the specifics but could follow up with Mr. Gazda. Mr. Roznovsky confirmed 2-inch caliper trees were required. Mr. Czulewicz asked if the Commission had reviewed the Development Agreement. Mrs. Vu said she was not sure because the agreement was by City Council. She added that the Commission reviews Feasibility Reports so they are aware of developments before seeing Preliminary Plats.

Dan Gazda moved to approve the Preliminary Plat for Montgomery Bend Section Three. Tom Czulewicz seconded the motion, which carried (4-1; John Fox dissenting).

4. Consideration and possible action on the Preliminary Plat for Montgomery Bend Section Four.

Mrs. Vu reviewed the details of Section Four and explained this was for the final 67 homes in the development. Dan Gazda asked if there was a future extension of a road based on the plans. The engineers said there was originally talk of an extension of the road and they are likely leaving options open but nothing is currently planned. Dan Gazda asked to confirm the 5-foot side yard setbacks are part of the Development Agreement. Mrs. Vu affirmed they were. John Fox asked if the utilities were in the front or back yards. Mrs. Vu said the city does not review dry utilities and that public utilities are in the front. Discussion about no mechanical equipment in the side yards was had. Mr. Fox noted his concerns about not allowing equipment in the side yards. John Fox asked about the road right-of-way width. Mrs. Vu stated that they were 50-foot ROW with a 28-foot pavement width. Mr. Czulewicz asked about on-street parking and noted again his thought of having first responders approve development plans. He said it's important to citizen safety to have neighborhood covenants that prohibit on-street parking after dark. More discussion was had about safety and subdivision design.

Tom Czulewicz moved to approve the Preliminary Plat for Montgomery Bend Section Four. Merriam Walker seconded the motion, which carried (4-1; John Fox dissenting).

Commission Inquiry

Dan Gazda asked staff about an update on the church project from the last meeting. Mr. Petrov stated there is a federal law that overrides our city zoning relating to religious and institutional land uses that

prohibits a city from restricting a religious institution to locate in commercial zoning districts. He said the federal law will override that and there is no need to proceed with a rezoning Public Hearing. Bill Simpson said the Commission has a lot of questions on the Historic District. He asked if there were no or few agenda items in January a workshop would be possible to review existing planning regulations. Mr. Simpson added that including the Historical Society would be beneficial. Dan asked if we could move forward with officer elections with a full Commission now. Staff affirmed it would be on the January agenda.

Adjournment

Dan Gazda moved to adjourn the meeting at 8:06 p.m. Merriam Walker seconded the motion, which carried unanimously. (3-0)

Prepared by: _____ Date approved: _____
Dave McCorquodale

Attest: _____
Nici Browe, City Secretary

Bill Simpson, Vice-Chairman