



CITY OF MONTGOMERY
10101 Montgomery Road • Montgomery, Ohio 45242
• (513) 891-2424 • Fax (513) 891-2498

Public Hearing Agenda

April 3, 2024
Montgomery City Hall
10101 Montgomery Road

5:45 P.M.

1. Call to Order
2. Roll Call
3. Guests and Residents
4. Old Business
5. New Business
 - a. Planning Commission Request for the Prohibition of Recreational Marijuana Sales within the City of Montgomery.
6. Other Business
7. Approval of Minutes
8. Adjournment

March 22, 2024

TO: Brian K Riblet, City Manager

FROM: Kevin Chesar, Community Development Director

Cc: Tracy Henao, Assistant City Manager

SUBJECT: Forward Planning Commission Request for the Prohibition of Recreational Marijuana Sales within the City of Montgomery.

Background

Following the passage of Issue 2, Recreational Marijuana has gained approval for both consumption and sale within Ohio. Under this legislation, local cities have been granted Home Rule authority to oversee and potentially restrict the operation of marijuana dispensaries, cultivators, and processors within their jurisdiction, mirroring the framework established for the Medical Marijuana Program sanctioned in 2018.

In 2018, after a thorough evaluation by the Planning Commission, the City Council passed the recommendation to modify the Zoning Code, thereby prohibiting the establishment of Medical Marijuana-related businesses or any associated home occupations within the City.

Given the authority vested in the City through the enactment of Issue 2, the question arose regarding whether Recreational Marijuana sales should likewise be prohibited as a sanctioned activity within the City limits. City Council recommended that Planning Commission study and review the issue to determine if a zoning amendment would be recommended in accordance with Chapter 150.22 of the Zoning Code.

Regulations regarding licensing still require development at the State level. It's anticipated that cultivation or processing of Recreational Marijuana may not align with permitted uses within the City, as these activities resemble more of a manufacturing or commercial nature, which currently isn't recognized under the existing Code. Any regulatory measures would not entail a complete ban on marijuana use but would rather focus on limiting the presence of dispensaries or home occupation sales.

Planning Commission Recommendation

The Planning Commission met on February 19, 2024, to consider the question of whether retail sales should be prohibited within city limits. After discussing the options, the Planning Commission voted unanimously to recommend a prohibition of retail sales of recreational marijuana within city limits to the City Council with the intent that the Law Director prepare the appropriate code language.

Planning Commission

**Proposed Text Amendment
Chapter 151.1202 Use Regulations or Chapter 1502.02 General Provisions
Regarding Retail Sales of Recreational Marijuana**

February 16, 2024

Applicant: City of Montgomery, Ohio
10101 Montgomery Road
Montgomery, Ohio 45242

Nature of Request:

City Council, at the regularly scheduled December 20, 2023 meeting requested that that Planning Commission review and make a recommendation to City Council whether to regulate and/or prohibit Recreational Marijuana businesses within the City consistent with the restrictions already in place for Medical Marijuana facilities.

Background:

The following informational background has been provided by the City Law Director:

With the passage of Issue 2, Recreational Marijuana has been approved for use and sale in the State of Ohio. A portion of Issue 2 allows local cities by Home Rule authority to regulate and/or prohibit marijuana dispensaries, cultivators or processors in the City. This is similar to the Medical Marijuana Program which was approved in 2018.

In 2018, after review by the Planning Commission, Council accepted the recommendation to amend the Zoning Code to prohibit Medical Marijuana related businesses or related home occupations in the City.

With the authority reserved to the City with the enactment of Issue 2, the question to be posed is whether or not Recreational Marijuana similarly should be prohibited as a permitted use in the City. The zoning amendment can be initiated by Council by motion which will refer the issue to the Planning

Commission for recommendation under Chapter 150.22 to amend the Zoning Code.

As we know, regulations still need to be developed at the State level for licensing. The cultivation or processing of Recreational Marijuana likely would not be a permitted use in the City as this is more of a manufacturing or commercial use which is not recognized under the Code. The regulations would focus upon dispensaries. Any regulation would not ban the use of marijuana, but only limit dispensaries in the various zoning districts. The Planning Commission can recommend restrictions which Council can then, after public hearing, enact or amend.

Updated information has also been provided by the Law Director in the Packet.

For reference the current Medical Marijuana Prohibitions Regulations are as follows:

§ 150.0205 MEDICAL MARIJUANA.

(A) *Legislative purpose.* Although medical marijuana is in some respects legal under applicable state law, it remains illegal under federal law. The purpose of this section is to prohibit the use of real property in the city for a medical marijuana-related business or home occupation, whether as a cultivator, processor, distributor or dispensary. This section is expressly adopted as authorized by ORC § 3796.29 and as an exercise of the city's power of local self-government and Home Rule authority reserved to the city under the City Charter, and Section 3, Article XVIII of the Constitution of the State of Ohio.

(B) *Definitions.* The following definitions shall apply for all purposes under the zoning code:

(1) **MARIJUANA.** As defined in ORC § 3719.01.

(2) **MEDICAL MARIJUANA.** Marijuana that is cultivated, processed, dispensed, tested, possessed, or used, for a medical purpose, regardless of whether such marijuana is, or is not, in a form or intended for incorporation into a form permitted under ORC § 3796.06.

(3) **MEDICAL MARIJUANA- RELATED BUSINESS OR HOME OCCUPATION.** A business or home occupation use, involving in whole or in part, the cultivation, processing, distribution, and/or wholesale or retail sale of medical marijuana on the premises. This definition shall specifically include, but is not limited to, dispensaries of medical marijuana; facilities for the

cultivation, packing, transportation, processing, storage, and/or sale of medical marijuana; and bakeries or kitchens producing edible forms of medical marijuana or products containing the same.

(C) *Prohibition.* No medical marijuana-related business or home occupation may be established, operated, or maintained within the city, nor shall any provision of the zoning code be construed to permit the use of any property for that purpose. This prohibition shall apply within all zoning districts within the city.

(Ord. 8, 2018, passed 7-11-18)

Staff Comments and Recommendations:

With the passage of Issue 2, Recreational Marijuana Dispensaries are currently under a rule making process that will not be finalized for many months. Additionally, as pointed out in the included Law Director correspondence, the initial licenses proposed to be issued will first go to existing medical marijuana facilities with the remaining licensing rounds proposed to be limited and competitive.

City Council is requesting that to order to make appropriate code regulations in a timely manner, Planning Commission review the issue of whether to permit or prohibit Recreational Marijuana Retail Facilities in Montgomery like the Medical Marijuana prohibition. It is important to note that any prohibition or regulation would not impact an individual's right to grow or utilize recreational marijuana within the City as authorized and regulated by Issue 2. Only the retail sales of such within our corporation limits would be impacted.

If the Planning Commission wishes to recommend a prohibition, the Law Director would then craft regulations, similar to section 150.0205, for City Council review and adoption. If the Planning Commission wishes to permit sales of recreational marijuana, they would need to determine which commercial zoning district(s) would be most appropriate for the location as well as recommend any other potential regulations. Included in the packet is the Use Regulations for Business Districts.

From: [Terry Donnellon](#)
To: [Kevin Chesar](#)
Subject: Recreational Marijuana Regulations
Date: Monday, February 12, 2024 11:57:19 AM
Attachments: [Recreational Marijuana Regulations Summary.pdf](#)

Kevin: Attached is a quick summary I received this week after the Commission released its proposed rules for licensing Marijuana Retailers. I do not know that it impacts any recommendation from the Planning Commission but it does provide more information.

As you can see we are months away yet from any licenses being issued, and the first round of licensing is limited to existing medical marijuana license holders. Since we have none within the City, it would not impact us. The second level of licensing is the first option for someone to open a facility in Montgomery. As I read it these are 10(b) license holders who are eligible for licensing as a standalone retail outlet if they hold an existing medical license. A cultivator can obtain up to three dispensary licenses and a current medical dispensary can obtain one 10(b) license. These are the licenses which could be placed in Montgomery although we do not have any medical licenses. These licenses in the second takedown while limited to existing license holders does not seem to restrict them to the same jurisdictional location as their existing license.

The final group which could locate within the City are the catch all licenses limited to 50 in the state and are open to anyone . These are to be issued at a future unknown date.

Given that the regulations call for a lottery for 10(b) licenses I believe they expect applications in numbers from existing medical licensees well beyond the current available recreational retail licenses.

If the practical effect may be that there will not be enough licenses to go around and come to Montgomery, the long term *use categorization* for our Code and the City is to be able to control location for any future licensed retailer if the regulations change down the road and new opportunities arise. The new statute allows us to opt out. If we opt out now we are prohibiting this use now and in the future no matter what the expanded licensing regulations may be. If we opt in, we are deciding now under the regulatory authority given to us, where we would permit these retail uses, ie. Limited Business versus General Business.

In the future the legislature could try to override or pre-empt or right to control the zoning, but we need to decide now where we land while we have the limited control.

I hope this helps.

Terrence M. Donnellon,
Attorney at Law

REMINER

Ohio Division of Cannabis Control Announces Proposed Rules and Deadlines for First Round of Adult-Use Cannabis Retail Licenses

Feb 12, 2024

by Nathan A. Lennon, Esq. & Mark R. Bush, Esq.

On December 7, 2023, Ohio passed its adult-use cannabis statute, making it legal for adults ages 21 and older to buy and possess up to 2.5 ounces of cannabis for recreational use. With the passage of this statute, legal adult-use sales are projected to exceed \$1 billion annually. In addition to cannabis possession, the statute also regulates the cultivation, processing, sale, purchase, and home growth of cannabis.

Because Ohio has already had a medical cannabis market for several years, the new adult-use statute creates opportunities for new growers, processors, and retail dispensaries to join the Ohio marketplace. The Ohio Division of Cannabis Control ("DCC") is promulgating new rules regarding adult-use cannabis license applications. The DCC recently published its proposed rules, which

provide for two application rounds for adult-use licenses for existing medical marijuana growers, processors, and dispensaries. The rules provide for a first application round which would simply convert an existing facility to a “dual license” facility. This type of “dual license” conversion allows the licensee to participate in both the recreational and medical cannabis markets. Currently, the dual license application for this round has no application fee.

The rules then set out the process for a second round of competitive applications for the other type of license, which is designated a 10(B) license. Although this type of license also requires that the applicant be a currently licensed Level I or II medical marijuana cultivator, the advantage of the 10(B) license is the right to open additional retail dispensaries (which is the distinction between this class and the “dual use” license).

Applications for a 10(B) license carry a \$5,000 application fee. Licensed Level I cultivators are eligible for up to three 10(B) dispensary licenses. Level II cultivators and standalone medical dispensaries can obtain one 10(B) license. All 10(B) applicants who are determined eligible will be entered into a ranked drawing conducted by a third-party operator, which will be separated into two phases. Once a dispensary has a provisional license, it then must obtain a certificate of operation within 12 months.

Applications for both of these types of licenses will be available by June 7, 2024. On September 7, 2024, the DCC will begin granting provisional recreational licenses to these types of facilities. The DCC has also indicated that

Attorneys



Mark Bush
859.426.3661



Nathan Lennon
859.426.7222

Practice Areas

Cannabis and Hemp Law

for applicants who do not currently hold a medical marijuana license, it will hold a round of applications for up to 40 Level III adult-use cultivator licenses, and 50 adult-use dispensary licenses at a future time, with deadlines to be established later.

Should you have any questions about this legislation, please contact one of the co-chairs of Reminger's Cannabis and Hemp Law Liability Practice Group, Mark Bush and Nathan Lennon.

Issue 2

To Commercialize, Regulate, Legalize, and Tax the Adult Use of Cannabis

Proposed Law

Proposed by Initiative Petition

To enact Chapter 3780 of the Ohio Revised Code

A majority yes vote is necessary for the law to pass.

To enact Chapter 3780 of the Ohio Revised Code, which would:

- Define adult use cannabis to mean marijuana as defined in Section 3719.01 of the Revised Code and establish the Division of Cannabis Control (the “Division”) within the Department of Commerce;
- Authorize the Division to regulate, investigate, and penalize adult use cannabis operators, adult use testing laboratories, and individuals required to be licensed;
- Legalize and regulate the cultivation, processing, sale, purchase, possession, home grow, and use of cannabis by adults at least twenty-one years of age;
- Create additional protections for individuals who engage in permitted adult use cannabis conduct;
- Establish the cannabis social equity and jobs program and require the Department of Development to certify program applicants based on social and economic disadvantage;
- Define “social disadvantage” to include membership in a racial or ethnic minority group, disability status, gender, or long-term residence in an area of high unemployment;
- Shield certain confidential information from disclosure to the public, including but not limited to any information reported to or collected by the Division that identifies or would tend to identify any adult use cannabis consumer and prohibit the Department of Development from releasing certain application information as public records;
- Require the Division to provide preferential treatment to applicants who have qualified for the cannabis social equity and jobs program based on social disadvantage when issuing level III adult use cannabis cultivator licenses and dispensary licenses;
- Prohibit certain local government entities from limiting specific research, levying a tax, or charge on adult use operations, their owner, or their property not generally charged on other business, and prohibit certain local government entities from prohibiting or limiting adult use cannabis home grow or prohibiting or restricting an activity authorized by the proposed law;
- Authorize a landlord or an employer to prohibit the adult use of cannabis in certain circumstances, and prohibit the operation of a motor vehicle while using or under the influence of adult use cannabis and from using any other combustible adult use cannabis while a passenger in a motor vehicle;
- Limit criminal liability for certain financial institutions that provide financial services to any lawful adult use cannabis operator or testing laboratory licensed under the proposed law;

- Require the Division to enter into an agreement with the Department of Mental Health and Addiction Services to create a program for cannabis addiction services;
- Provide for the creation of five funds in the state treasury: the adult use tax fund; the cannabis social equity and jobs fund; the host community cannabis fund; the substance abuse and addiction fund; and the division of cannabis control and tax commissioner fund; and
- Provide for taxation of 10 percent on the sale of adult use cannabis by dispensaries in addition to usual sales taxes and require that all monies collected from the 10 percent tax levied to be deposited into the adult use tax fund and quarterly distributed as follows: 36 percent to the cannabis social equity and jobs fund; 36 percent to the host community cannabis facilities fund; 25 percent to the substance abuse and addiction fund; and three percent to the division of cannabis control and tax commission fund.

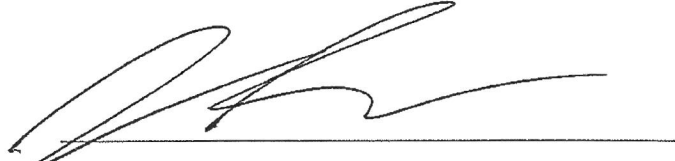
If passed, the law will become effective 30 days after the election.

	YES	SHALL THE PROPOSED LAW BE ADOPTED?
	NO	

CERTIFICATION

Acting in my capacity as the secretary of the Ohio Ballot Board, I hereby certify to the Secretary of the State of Ohio that the foregoing text is the ballot language prescribed by the Ohio Ballot Board, acting pursuant to Article II, Section 1g of the Ohio Constitution and Section 3505.062 of the Revised Code of Ohio, for this initiated law proposed by petition for submission to the Ohio electorate at the election to be held on November 7, 2023.

In testimony whereof, I have subscribed my name in Columbus, Ohio, this 24th day of August, 2023.

A handwritten signature in black ink, consisting of a large, stylized initial 'D' followed by a series of loops and a long horizontal stroke extending to the right.

Secretary, Ohio Ballot Board

These minutes are a draft of the proposed minutes from the City Council meeting. They do not represent the official record of proceedings until formally adopted by the City Council. Formal adoption is noted by signature of the Clerk within the minutes.

City Council Work Session Minutes

December 20, 2023

Page 6

249 **Mr. Margolis**

250

251 Mr. Margolis shared his appreciation for staff and Council members and wished everyone a wonderful Christmas
252 and Happy New Year.

253

254 **MINUTES**

255

256 Mr. Margolis moved to accept the December 4, 2023 Special Session and December 6, 2023 Business Session
257 minutes as written. Mrs. Mills-Reynolds seconded. City Council unanimously agreed.

258

259 **OTHER BUSINESS**

260

261 Vice Mayor Naiman informed Council that she would be out of town from January 9 thru January 18.

262

263 Mr. Donnellon explained that with the passage of Issue 2, Recreational Marijuana has been approved for use and
264 sale in the State of Ohio. A portion of Issue 2 allows local cities by Home Rule authority to regulate and/or prohibit
265 marijuana dispensaries, cultivators or processors in the City. This is similar to the Medical Marijuana Program
266 which was approved in 2018.

267

268 In 2018, after review by the Planning Commission, Council accepted the recommendation to amend the Zoning
269 Code to prohibit Medical Marijuana related businesses or related home occupations in the City.

270

271 With the authority reserved to the City with the enactment of Issue 2, the question to be posed is whether or not
272 Recreational Marijuana similarly should be prohibited as a permitted use in the City. The zoning amendment can
273 be initiated by Council by motion which will refer the issue to the Planning Commission for recommendation under
274 Chapter 150.22 to amend the Zoning Code.

275

276 While the issue is studied in the community, Council is asked to make a motion with a voice vote for the Planning
277 Commission to study whether or not Recreational Marijuana should be similarly restricted as a permitted use in the
278 City. The Planning Commission, after a public meeting, would make a recommendation to Council, which would
279 then be reviewed to potentially amend the Code.

280

281 As we know, regulations still need to be developed at the State level for licensing. The cultivation or processing of
282 Recreational Marijuana likely would not be a permitted use in the City as this is more of a manufacturing or
283 commercial use which is not recognized under the Code. The regulations would focus upon dispensaries. Any
284 regulation would not ban the use of marijuana, but only limit dispensaries in the various zoning districts. The
285 Planning Commission can recommend restrictions which Council can then, after public hearing, enact or amend.

286

287 Mr. Dobrozi explained that consistent with Chapter 150.22 of the Code of Ordinances, the Planning Commission
288 is asked to review and make a recommendation to City Council whether or not to regulate and/or prohibit
289 Recreational Marijuana businesses within the City consistent with the restrictions already in place for Medical
290 Marijuana facilities. Mr. Margolis seconded. City Council unanimously agreed.

291

292 **EXECUTIVE SESSION**

293

294 Vice Mayor Naiman stated that as Mr. Riblet had requested an Executive Session, a motion would be needed to
295 adjourn. She stated that there would be a short recess prior to adjourning to the Executive Session and that there
296 would be no further discussion or vote of legislation when returning to Public Session.

297

298 Mr. Margolis made a motion to adjourn into an Executive Session for separate matters related to:

FREQUENTLY ASKED QUESTIONS - RECREATIONAL MARIJUANA (OR CANNIBIS)

What does the passage of Issue 2 allow?

The passage of Issue 2 allows adults over 21 and older to use and possess up to 2.5 ounces of marijuana and 15 grams of extracts or edibles. The legislation also allows adults 21 and over to grow up to six plants per individual or 12 plants per household.

Does the City have a Drug-Free Workplace Policy?

Yes, see the attached Policy Number VI-2: Drug/Alcohol Free Workplace Policy. This policy prohibits the use of drugs and alcohol in the workplace, including the unlawful manufacture, distribution, dispensation, possession, or use of controlled substances or alcohol on City premises while conducting City business. **This includes recreational marijuana.** Violations of this policy will result in disciplinary action, up to and including discharge.

Can I get in trouble at work if I use marijuana outside of working hours?

That is a complicated question, but the short answer is yes, use of marijuana during off-hours can still lead to negative consequences at work. It is important that employees understand marijuana absorbs into the body differently than alcohol. Unlike alcohol which can leave your system within a day, marijuana can stay in your system for up to 30 days. Put another way, employees who smoked, took a gummy, or ate an edible on their own time can test positive later that week, or even later that month. There is currently no test on the market to pinpoint when marijuana was ingested, just that it had been ingested. Employees who test positive for marijuana can face disciplinary action, up to and including discharge.

As a reminder, a mandatory drug test is required in any accident involving city vehicles or equipment that involves loss of life, injury or in which the driver receives a citation under state or local law for a moving violation arising from the accident. Additionally, the City may require a drug test in the event of an accident involving city vehicles or equipment in which there is a reasonable suspicion that the usage of alcohol or drugs was involved.

Furthermore, there are additional random drug testing and reporting requirements from the US Department of Transportation and the Federal Motor Carrier Safety Administration which could result in the forfeiture of a Commercial Driver's License (CDL) for an employee who tests positive for drugs (including marijuana/THC) and/or alcohol. The City can also require a drug/alcohol test at any time, if there is reasonable suspicion that an employee is under the influence while performing their duties.

Is marijuana permitted under Federal Law?

No, medical and/or recreational marijuana is not permitted under Federal Law.

Can I legally purchase recreational marijuana in Ohio?

No, currently there are no state-licensed dispensaries in the State of Ohio for purchase of recreational marijuana. The State has nine months to complete the rulemaking and licensing processes for non-medical marijuana.

Can I purchase recreational marijuana in another state and bring it into Ohio?

No, Federal Law prohibits traveling across state lines with marijuana.

Can I purchase recreational marijuana and have it shipped in the mail?

No, Federal Law prohibits mail order marijuana.

Where can I smoke marijuana?

Smoking marijuana follows the same rules as cigarettes in the State of Ohio.

Can I operate a vehicle while under the influence of marijuana?

No, Ohio's OVI law makes it illegal to operate a vehicle under the influence of drugs, alcohol, or both.

Can I use marijuana if I own a gun?

No, under Federal Law, gun owners are not permitted to possess or use marijuana.

§ 151.1203 SCHEDULE OF PERMITTED USES.

<i>Land Use Category</i>	<i>Office District "O"</i>	<i>Office Commercial District "OC"</i>	<i>Limited Business District "LB"</i>	<i>General Business District "G-B"</i>	<i>Old Montgomery Gateway District "OMG"</i>	<i>Old Montgomery District "OM"</i>
<i>Land Use Category</i>	<i>Office District "O"</i>	<i>Office Commercial District "OC"</i>	<i>Limited Business District "LB"</i>	<i>General Business District "G-B"</i>	<i>Old Montgomery Gateway District "OMG"</i>	<i>Old Montgomery District "OM"</i>
(A) Residential						
(1) Single-family attached dwellings					P	P
(2) Two-family dwellings					P	p(a)
(3) Multi-family dwellings			p(e)	p(e)	P	p(a)
(4) Retirement villages	C	C				
(5) Bed and Breakfasts					C	C
(6) Residential uses as conversions from retail and office uses						p(a)
(7) Residential units on upper floor of a commercial/office building		P			P	P
(8) Mixed Use Developments		P	C	C	P	p(a)
(B) Community Facilities						
(1) Places of worship	C	C	C	C	C	C
(2) Daycare within churches, schools	P	P	P	P	P	P
(3) Day care center (child and adult)	P	P	P	P	P	P
(4) Public utility substations	C	C	C	C		
(5) Libraries, museums	P	P	P	P	P	P
(6) Public offices	P	P	P	P	P	P
(7) Public safety facilities	P	P	P	P	P	P
(8) Public service facilities				C		
(9) Schools, public & private	C	C	C	C	C	C
(C) Medical Facilities						
(1) Hospitals	C(d)	C(d)		C		
(2) Nursing Homes	C	C		C		
(D) Office and Professional Services						
(1) Administrative, executive and professional offices including the management of commercial businesses, and religious institutions	P	P	P	P	P	P
(2) Banks and other financial institutions	P	P	P	P	P	P
(3) Public offices	P	P	P	P	P	P
(4) Medical offices of physicians, dentists, health and allied services and clinics	P	P	P	P	P	P
(E) Retail						

(1) Bakery, confectionery (retail/storefront operation only)			P	P	P	P
(2) Greenhouses				P		
(3) Freestanding automated teller machines		P	A	A	A	
(4) Drive-through facility in association with a permitted use	P	P	P	P	C	C/
(5) Retail, specialty including jewelry store, clothing boutique, vitamin store and other similar uses		P(f)	P	P	P	P
(6) Retail, general including furniture store, grocery, drug store and other similar uses		A	P	P	P	P
(F) Eating Establishments						
(1) Restaurants						
(a) Table Service			P	P	P	P
(b) Counter Service			P	P	P	P
(2) Taverns, bars, cocktail lounges				P	P	P
(3) Outdoor dining			P	P	P	P
(G) Services						
(1) Animal boarding facility			C	C		
(2) Animal grooming facility (excluding open kennels or open runs)			P	P		P
(3) Animal hospital or clinic; grooming facility (excluding open kennels or open runs)			P	P		P
(4) Barber and beauty shops		P	P	P	P	P
(5) Dry cleaning / laundry pickup station			P	P	P	P
(6) Funeral home, mortuaries	P	P		P		
(7) Motels, hotels				P	P	P(a)
(8) Studios for instruction		P	P	P	P	P
(9) Shoe repair, tailoring		P	P	P	P	P
(10) Construction and Mechanical Services				P		
(H) Automotive/Transportation						
(1) Parking as principal use (lot or garage)				P	P	C
(2) Automobile, truck, trailer sales and rental				C		
(3) Car wash				C		
(4) Gasoline station				C		
(5) Vehicle maintenance and repair facility				C		
(I) Entertainment/Recreation						
(1) Indoor recreation such as bowling lanes, tennis, fitness, etc.				P	P	P
(2) Theaters				P	P	P

(3) Public and private parks	P	P	P	P	P	P
(4) Clubs, lodges or other assembly halls	P	P		P	P	p(a)
(5) Outdoor recreation including miniature golf courses, swimming pools and other similar uses				C		
(J) Trade Businesses/Services						
Repair and service shop for such items as bicycles; typewriters; keys and locks; electrical, radio and television appliances in completely enclosed buildings			P	P	P	P
(K) Other						
(1) Outdoor displays			p(f)	p(f)	p(f)	p(f)
(2) Wireless Telecommunications Facilities	See Chapter 151.36					
(3) Sexually oriented businesses				p(g)		
(L) Accessory						
(1) Restaurants and pharmacies in connection with a principal use when conducted and entered only from within the principal building	A	A	A	A	A	
(2) Off- street parking and loading areas	A	A	A	A	A	A
(3) Fences, walls, landscape features	A	A	A	A	A	A
(4) Trash receptacles	A	A	A	A	A	A
(5) Signs	A	A	A	A	A	A
(6) Outdoor recreation, including basketball courts, swimming pools and other similar uses in association with an approved multi-family development or hotel/motel	A	A			A	A
(M) Sexually Oriented Businesses				p(g)		

Notes to § 151.1203:

- (a) Permitted in the "outer area" only. See City Zoning Map for boundaries of outer area.
- (b) Uses above the first floor.
- (c) Uses on the first floor.
- (d) Except as permitted by right per § 151.1215.
- (e) Only as part of a Mixed Use Development.
- (f) Permitted subject to supplemental regulations of § 151.1209.
- (g) See sexually oriented business regulations in Chapter 151.18.

P = Use Permitted by Right C = Conditional Use A = Accessory Use

(Am. Ord. 6-2006, passed 4-5-06; Am. Ord. 7-2006, passed 4-19-06; Am. Ord. 12-2008, passed 9-3-08; Am. Ord. 16-2013, passed 11-6-13; Am. Ord. 2-2014, passed 3-5-14; Am. Ord. 19-2014, passed 12-3-14; Am. Ord. 2-2017, passed 1-4-17; Am. Ord. 7-2022, passed 10-5-22)

**CITY OF MONTGOMERY
PLANNING COMMISSION ANNUAL MEETING**

CITY HALL • 10101 MONTGOMERY ROAD • MONTGOMERY, OH 45242

February 19, 2024

<u>PRESENT</u>		
<u>GUESTS & RESIDENTS</u>		<u>STAFF</u>
Kevin Bleichner, RA Elevar Design Group, LLC 555 Carr Street Cincinnati, Ohio 45203		Kevin Chesar Community Development Director
		<u>ALL COMMISSION MEMBERS PRESENT</u>
Sam Cooper 9301 Montgomery Road Montgomery, Ohio 45242		Dennis Hirotsu, Chairman Barbara Steinebrey, Vice Chairman Vince Dong Peter Fossett Andy Juengling Alex Schneider
		<u>MEMBERS NOT PRESENT</u>
		Pat Stull

Mr. Chesar announced the Election of Officers.

Election of Officers

Mr. Dong moved to nominate Mr. Hirotsu as Chairman for a period of one (1) year, beginning February 1, 2024.

Ms. Steinebrey seconded the motion.

No other nominations were brought to the floor.

Mr. Fossett moved to close nominations. Mr. Schneider seconded.

The Commission unanimously approved the motion to close all nominations.

The Commission unanimously approved Mr. Hirotsu as Chairman.

Mr. Hirotsu moved to nominate Ms. Steinebrey as Vice Chairman for a period of one (1) year, beginning February 1, 2024.

Mr. Fossett seconded the motion.

No other nominations were brought to the floor.

Mr. Juengling moved to close nominations. Mr. Dong seconded.

The Commission unanimously approved the motion to close all nominations.

The Commission unanimously approved Ms. Steinebrey as Vice-Chairman.

Planning Commission Meeting

February 19, 2014

26 **Call to Order**

27 Chairman Hirotsu called the meeting to order at 7:03 p.m. He reminded all guests and residents
28 to sign in, and please turn off all cell phones.

29

30 **Roll Call**

31

32 *The roll was called and showed the following response/attendance:*

33

34 ***PRESENT: Mr. Dong, Mr. Schneider, Ms. Steinebrey, Mr. Juengling, Mr. Fossett,***

35 ***Chairman Hirotsu*** (6)

36 ***ABSENT: Mr. Stull*** (0)

37

38 **Guests and Residents**

39 Chairman Hirotsu asked if there were any guests or residents who wished to speak about items
40 that were not on the agenda. There were none.

41

42 Chairman Hirotsu explained the process for this evening's meeting to all guests and residents:

43 "Mr. Chesar reviews his Staff Report and the Commission asks any questions they might have.

44 The applicant presents their application and the Commission then asks any questions. The floor
45 is opened to all residents for comments. If a resident agrees with a comment that was previously
46 stated, they could simply concur, instead of restating the entire comment to save time.

47 The Commission discusses the application and residents are not permitted to comment or
48 question during this discussion. The Commission will then decide to table, approve or deny the
49 application.

50

51 **Old Business**

52 There was no old business to report.

53

54 **New Business - 1**

55 ***Application for a modification of a Conditional Use and for Final Development Plan approval***
56 ***regarding a facade change for Camargo Cadillac.***

57

58 **Staff Report**

59 Mr. Chesar reviewed the Staff Report dated February 16, 2024, "Application for a Modification
60 of a Conditional Use and Final Development Plan at Camargo Cadillac at 9880 Montgomery
61 Road". Mr. Chesar noted that he had given the Design Guidelines to all Commission members,
62 with their packets.

63

64 He reported a paragraph on page 5 that was not meant to be in this Staff Report:

65

66 Chapter 151.2002 lists 12 general standards that are applicable to all conditional uses.

67 Staff has reviewed these 12 conditions and found that the site and the proposed

68 expansion of the body shop meets all the conditions.

69

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70 He showed drawings on the wide screen for all to see, to provide more understanding of the Staff
71 Report.
72
73 Regarding page 4 of the Staff Report, Mr. Chesar pointed out that “c. Other materials that are not
74 listed as prohibited may be approved by the review board on a case by case basis as a primary or
75 accent building material.”
76
77 Mr. Chesar noted that the signage would require separate approval. He read from the Zoning
78 Code, “For one and two-story buildings, signs can not be above the uppermost limit of the
79 windows.” This means that the applicant will need to apply for a variance or comply with the
80 Code regarding a potential new Montgomery Road facing wall sign. He stated that he spoke
81 with Camargo, and if the applicant chooses to keep the sign location on the south side of the
82 building, where it is currently, Staff may be able consider this as a sign face change. He noted
83 that more discussion needs to take place, when this application comes forward. Ultimately, it
84 could be a Staff approval or a Board of Zoning Appeals approval.
85
86 Mr. Schneider asked if there had been a variance approval for the signage above the windows.
87 Mr. Chesar stated that there was a signage code change in April of 2022, and this is what is now
88 impacting many of the signs that are above the windows.
89
90 On page 5 of the Staff Report, Mr. Chesar wanted to know if there would be some type of
91 lighting along the band on the building. And if that is the case, he will be sure that they meet the
92 photometric requirements.
93
94 He indicated that there had been no calls or emails received regarding this application.
95
96 Mr. Chesar stated that he had some questions prior to this meeting from Commission members of
97 what buildings have been approved by Planning Commission (PC) in the past, that are relatively
98 close to the proximity and that are newer. Mr. Chesar showed images of the Fifth Third Bank
99 building, from a previous application. He showed a mix of ACM panels and a brick and rock
100 exterior facade.
101
102 Chairman Hirotsu referred to the Staff Report, noting that the metal panels were not prohibited,
103 but should be used as accent only. Mr. Chesar concurred that other materials that are not
104 prohibited can be used, such as ACM, as it has not been considered as steel siding in the past; but
105 again it has only been utilized in a limited amount, on buildings. He stated it was used as an
106 accent material, not a primary material. He showed some examples of buildings on the wide
107 screen including First Financial Bank.
108
109 He pointed out the primary materials that the Code called for: brick, stone, natural wood
110 clapboard, wood board and batten, wood shingles or modern manufactured materials that create
111 the appearance of the materials listed above.
112

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113 Mr. Chesar asked for any questions, noting that the architect was also in attendance to answer
114 any questions.

115

116 Mr. Juengling asked if the Code specified the facade that was facing the street (the front facing
117 facade). Mr. Chesar stated that it applied to the entire exterior. However, Staff noted that this
118 building was extremely long, and it did have auto body repair and oil changes in the back.
119 Staff was mainly concerned with the front facing facade, but the Code states “the exterior of the
120 building.”

121

122 Chairman Hirotsu asked if this facade was wrapped around the entire building. Mr. Chesar
123 deferred to the applicant.

124

125 Mr. Juengling asked if the pole sign in the front was non-conforming. Staff confirmed, noting
126 that it was previously approved. Mr. Juengling asked if the face change meant smaller, or closer
127 to conforming. Mr. Chesar stated that there was a face change to the sign in 2011. It is proposed
128 to remain, as is (about 35 or 36 feet tall). The owner is permitted to maintain the sign, and may
129 not add to it, but can change the face of it. Mr. Chesar stated that he had discussed with the
130 applicant, the thought of having the sign being lower.

131

132 Mr. Dong stated that right now there were blocks/stone above the glass. He asked if the glass
133 would stay there, and if they were just adding on top of the block. Mr. Chesar deferred to the
134 applicant. He showed all attendees the drawing, noting that the glass will not be removed.

135

136 Chairman Hirotsu asked for Mr. Chesar’s recommendation. Mr. Chesar stated that the City’s
137 thinking has changed from Staff previously offering recommendations, to simply giving
138 comments, and allowing the Commission to make their own determinations. Mr. Chesar
139 suggested that the Commission discuss the ACM, in the context of the design.

140

141 Chairman Hirotsu referred to page 3 of the Staff Report, Building Materials 1.a. - the list of
142 primary materials. He asked if Staff would interpret that ACM was one of those primary
143 materials. Mr. Chesar did not consider it a primary material. Chairman Hirotsu asked if he felt
144 that ACM did or did not create the appearance of the primary materials listed. Mr. Chesar did
145 not believe it did. Chairman Hirotsu asked if his interpretation of that amount of ACM on the
146 building would be considered as an accent. Mr. Chesar did not consider it as an accent, he felt it
147 was more primary.

148

149 Mr. Juengling understood that ACM did not meet the guidelines. He asked if the Commission’s
150 role was to create an exception, or to simply approve or disapprove. He asked for their process
151 in analysis of this application. Mr. Chesar stated that the Commission’s role was to discuss with
152 the applicant and then a) make a recommendation to approve, as is, or b) make a
153 recommendation to deny, or c) request more from the applicant that would allow the
154 Commission to make an informed decision, and table the application. Mr. Chesar also pointed
155 out that, based on PC’s recommendation to City Council, it would take a Super Majority to
156 overrule the PC’s recommendation to City Council – this means five votes or more to overturn.

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157

158 Mr. Fossett believed that their decision was more straight-forward. He didn't feel they needed to
159 determine whether it was a primary material or an accent. If you look at the Building Material
160 Guidelines, there are specific ones listed as acceptable for primary, and those listed as acceptable
161 for accent.

162

163 And then, there are materials that aren't prohibited, and may be approved by us on a case-by-
164 case basis, as primary or accent: This is what we need to decide on – if ACM fits into this.

165

166 There were no more questions for Staff from the Commission.

167

168 Chairman Hirotsu reminded all of the process: The Commission may ask questions of the
169 applicant's analysis, then the applicant may give a presentation. The public will then be asked
170 for any comments. The Commission will then reconvene to discuss and come to a
171 determination.

172

173 Chairman Hirotsu asked if the architect representing the applicant, wished to speak.

174

175 **Kevin Bleichner, Elevar Design Group, LLC, 555 Carr Street, Cincinnati, Ohio 45203** was
176 representing the owner of Camargo Cadillac. He appreciated the Commission's comments
177 because he understood their concerns. He referred to the drawing on the wide screen, noting that
178 for the facade, they will not build any higher than the current facade. There is a portion on the
179 west elevation that bumps up a little bit, and they were going to take that down because they
180 really can't match that height. They can only match the height of the lower elevation that you
181 see.

182

183 Mr. Bleichner went on with his report:

184

185 As far as building materials, there are stone panels that are applied to the building, and they are a
186 very thin stone on a furring system. They will take those off at the base, and put the newer
187 materials back on – in a different color. These panels are actually a limestone panel, and at the
188 base it will be a hammered finish, to give more of a textured relief. The base will be stone
189 panels, about the same size, but they will be a light gray color, also hammered finish. Above
190 that, will be a water table – a thin stone panel. This will not be a hammered finish – more of a
191 honed or smooth-finished panel in gray. Above that, we will use a white textured brick. To cap
192 it off, we will go back to the ACM with the stone panel material, using the gray color that
193 matches the water table, as our corners.

194

195 Those are the primary materials that we will be using on the part of the building that does not
196 have the glass and the ACM facade. The remainder of the building is to be painted. Currently,
197 the garage has vertical metal panels – we will not change them, we will paint them with the gray
198 color that the brand recommends. We will do the same with the brick. It is a large, very long
199 building, and anything beyond the limits of the service garage and the showroom, will be
200 painted.

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201

202 We are not here for signage, but he did note that they originally showed the multi-color badge
203 from the Cadillac, and have since changed to a monochromatic badge – for the sign. They also
204 changed the Cadillac script to be printed letters, which may or may not be allowed, depending on
205 the size. This will come as another application separately. He stated that the brand has a
206 company, AGI, that does all of their signage; so Mr. Chesar will probably hear from them, and
207 not Mr. Bleichner.

208

209 Mr. Bleichner stated that the image you see with the ACM panels – on the northwest corner, they
210 project out, so they can go ahead and have the material guide back in and get that fold – that is
211 what they are looking for. Then, it turns the corner and it reverses on the south elevation. On
212 the front, the upper left folds back in, and as you turn the corner, it folds out. It is very unique, it
213 is their branding image, and this is what they want to do, moving forward, as far as the ACM
214 panels were concerned.

215

216 Regarding the lighting, he showed members on the wide screen, the projected fin, and behind it
217 was an LED light. The lighting is behind, above and turns the corner and returns back down. It
218 does not project light, it is more of a glow. It is a continuous LED band, and is part of the
219 branding.

220

221 The reason that they have the ACM extend down in that corner is because they found it difficult,
222 at best, to try to introduce a water table material and have the ACM wrap around and create that
223 cove in there. It is also one of the accents that Cadillac has, as far as their branding image. They
224 also want white on the ACM panels. Cadillac's branding image is all white. They wanted the
225 entire building to be like a white ice cube.

226

227 Recognizing this, and knowing it wasn't going to be acceptable, Elevar restricted the ACM to the
228 fascia only, and the element returns to the ground. This is why they introduced the stone, the
229 hammered stone and the white textured brick. From the aspect of the ACM panel, they extended
230 it to the limit that the brand would like to see. And the panels stop at the second floor line, on
231 the back side.

232

233 Also, note that the ACM will be less thick than is shown, at the top. Mr. Bleichner has had
234 discussions with Cadillac since this drawing, regarding the fin area. The front side, the corner
235 element, is incorporated in the brand, and will remain that size. He was not sure if that could be
236 made smaller, but would be happy to check on it. He noted that anything to do with the ACM
237 and its attachments, is done by Cadillac's vendor. It is a separate package, and a general
238 contractor is not permitted to touch that material because of the way the fold works – it is very
239 intricate. He reiterated that anything that has a stone facade will be removed and replaced by
240 their new materials.

241

242 Mr. Bleichner asked if there were any questions or comments.

243

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244 Mr. Fossett asked if it was possible to add a stone base, basically where those shadows were, on
245 the west facade, wrapping around to the north elevation. This would cover over or replace the
246 ACM with the stone. Mr. Bleichner stated that he would need to discuss this with the brand.
247
248 Mr. Dong referred to the section where they were adding to enclose the drive-through, if it was
249 stone underneath and above. Mr. Bleichner stated that it would be stone below and brick above.
250 Mr. Dong would like to see that in the front corner, in the area that Mr. Fossett just referred to.
251 Mr. Dong would like to see that, all the way to the top of that window, so that from Montgomery
252 Road, that is what everyone would see. Mr. Bleichner stated that he would go back and ask.
253 Mr. Fossett felt that it would make the fold quite difficult.
254
255 Mr. Bleichner stated that the corner element on the northwest corner is all light-weight framing,
256 and it was not on a foundation. He described the support within the glass panel system, and they
257 come in with metal studs and ACM panels and attach it. If they were to go ahead and provide
258 the stone material, he didn't feel that Cadillac's framing would support the stone panels. It could
259 still be done, but he would need to investigate the process further, and also discuss with the
260 brand.
261
262 Ms. Steinebrey asked if the lighting that was attached to the ACM on the front of the building,
263 wrapped around to the south side. Mr. Bleichner confirmed that it was on the west side, turned
264 the corner on the south, and then returned down to the ground on the south side.
265
266 Mr. Dong asked if the current glass on the building would remain. Mr. Bleichner confirmed.
267
268 Mr. Juengling asked if Mr. Bleichner had the breakdown of the percentage of glass versus
269 percentage of ACM. Mr. Bleichner did not have it, but could request it. Mr. Juengling would
270 like to see that. This would help him determine if the ACM was truly an accent material or a
271 primary material, from a percentage stance. Mr. Fossett believed there was more glass than
272 ACM. Mr. Bleichner stated that he could provide that information.
273
274 There was discussion and concern about the glass going down to the foundation.
275
276 Mr. Fossett asked if the enclosing of the porte-cochère was part of the branding. Mr. Bleichner
277 confirmed, noting that they want to have a new-car delivery shipment area. All of the major
278 brands do this now, and this one only had the showroom. If you buy a new car, they pull your
279 car in, you sit down in it, do your paperwork and drive it out.
280
281 Mr. Juengling asked if Mr. Bleichner thought the brand would be willing to comply to our
282 Codes. Mr. Bleichner felt that they would be willing to work with us and was encouraged.
283
284 Chairman Hirotsu asked Mr. Bleichner if he agreed that ACM did not fall into the Building
285 Materials primary selections that were shown on page 3 of the Staff Report, 1.a. Mr. Bleichner
286 agreed. Chairman Hirotsu asked if he felt that it was also not an accent, in this case; he
287 wondered what the rationale would be, to try and get this approved. Mr. Bleichner did not feel

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288 that he could have the ACM panels look like something else. He did not have any conversations
289 with the brand regarding the ACM panels being anything other than flat and white. He was not
290 that familiar with what could be done with them, either. He could make color changes, but was
291 unsure about texture changes. Mr. Bleichner felt it would be helpful to see the percentages, to
292 determine if it was an accent or not. He would discuss this with the brand, to see what
293 possibilities exist.

294

295 Mr. Juengling asked what the progression had been from when he first met with the City -- how
296 many iterations he had gone through, at this point. Mr. Bleichner explained that there were
297 probably about 5 and detailed the changes.

298

299 There were no more questions from the Commission.

300

301 Chairman Hirotsu asked if any guests or residents had questions or comments. There were none.

302

303 Chairman Hirotsu closed the meeting to public comment and asked for discussion among the
304 Commission.

305

306 Mr. Dong understood that this was not a black and white situation. He suggested that they make
307 it look more like brick/wood, like the Montgomery Corridor. It was important to him what was
308 in the front, what was seen from Montgomery Road. Mr. Dong felt that if you had all of these
309 materials in the back, and nobody saw it, it didn't matter as much. If they could have the ACM
310 panels above the stone and brick in the corner, he would be in favor of this.

311

312 Mr. Schneider was concerned because none of this met the Code. He wondered what
313 compromise there was; what do we want to see. He would like to see this come out of our
314 discussion.

315

316 Ms. Steinebrey agreed with Mr. Dong and would like to see the northwest corner come up to the
317 top of the windows. She would like to see the south side come to the top of the windows. And
318 then they could just put the lighting on the top, or even if they had the facade, and not go down.
319 She understood the brand, and she would be ok with the white facade, as long as it didn't come
320 down on both sides. She felt all of that ACM was just too much.

321

322 Mr. Fossett would like to see what the ACM looked like – did it look like aluminum siding?

323 Mr. Bleichner stated that it did not; they did Hyundai, just north of here. It was a flat panel, but it
324 had a design – like puzzle pieces. They are currently working on Genesis in Fairfield, using
325 ACM, more like a light gray, flat panel. It is very smooth, very sleek. It is contemporary.

326 Mr. Fossett asked if there was a recess where the panels came together. Mr. Bleichner stated that
327 there was no corner seam. Mr. Fossett asked about the western elevation, across the top, where
328 the panels were next to each other. Mr. Bleichner stated that it was hard to tell from a distance,
329 but there is about a 3/8" joint. So it doesn't just look like one solid piece, you can see some
330 recess – you will see the vertical lines. With the bend on the corner, it changes colors, because
331 of the fold – the top looks white, the bottom looks more gray.

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332

333 Mr. Juengling wanted to see the percentage of primary versus accent, and how was glass treated -
334 -as a material, or was it just treated as a window and not necessarily a building material. He was
335 glad that the ACM wasn't just a flat material, that it had the bend, and the vertical lines, so it
336 wasn't bland. He agreed with the others about the northwest corner going up further – and
337 would like to see if that could be accomplished – to have a Montgomery brand and a Cadillac
338 brand in one facade. He liked the look of it, thought that it looked sharp. He felt it should have a
339 little more intention toward the Montgomery guidelines. He asked if the ACM had a sheen to it
340 or if it was a flat color. Mr. Bleichner stated that it would not be flat, but also not shiny or too
341 reflective, more like a satin finish.

342

343 Mr. Fossett referred to the western elevation, and since the stone on the new enclosed part goes
344 about halfway up the wall, he felt it made sense that stone be added to the northwest corner, for it
345 to go up to the same height and create a visual line across the glass to the next piece of stone by
346 the enclosed porte-cochère. He would like to see it go all of the way up to the top of the glass.

347

348 Mr. Juengling was overwhelmed with the spectrum of designs. We could go full “Old
349 Montgomery” and comply with the Code or we could go completely modern. How aggressive
350 do we want to be, in our recommendation? Chairman Hirotsu felt that we should recommend
351 what we think is right, to Council.

352

353 Chairman Hirotsu stated that he was really struggling with this design, in general. He recalled
354 the Audi process that went back and forth; and he loved where it ended up – it is Montgomery,
355 but it is branded as Audi. If he saw this Cadillac building in Beverly Hills, he would think it was
356 great; but this was Montgomery and he felt that our guidelines were intended to fit. He was
357 struggling without really knowing the intent of their accent. He would like to see more of
358 Montgomery in this.

359

360 Mr. Fossett stated that if those panels had any kind of design in them, or a concrete or wood look
361 or brick look, then it would be within the guidelines and we wouldn't have these concerns. But,
362 it was a completely flat surface.

363

364 Chairman Hirotsu stated that, based on what he has seen of this, it has a metallic look to it. Are
365 we ok with that? Mr. Bleichner stated that it won't be like a metallic metal – it will be a uniform
366 color, not with a polished finish, it won't be like a car finish – that metallic look, it won't
367 sparkle. Mr. Fossett asked if someone was walking down the street, would they recognize it as
368 metal. Mr. Bleichner stated yes, but as much as it is used today, it is not something you haven't
369 seen. He noted that you couldn't mistake it for stone or brick, if that's your point.

370

371 Chairman Hirotsu stated that the intent of the design was not to look like stone or brick or any of
372 those things. Mr. Bleichner confirmed. This was Chairman Hirotsu's concern; he acknowledged
373 that we have approved many synthetics that look like stone or brick, in the Corridor.

374

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375 Ms. Steinebrey felt that we would be in a pretty good place if they put in the brick and stone, to
376 give it the Montgomery look, but she also felt that the dealer should have their image there.
377 She believed it would accentuate the building. We wouldn't want that building to be all brick,
378 and in today's world, for a car dealership you want something exciting. Mr. Chesar showed a
379 Cadillac building in Tennessee on the wide screen, as an example. He asked Mr. Bleichner if he
380 could provide a sample of the ACM panel, for members.

381
382 Chairman Hirotsu summarized that the Commission was not in favor of the proposal, as is.
383 He suggested that Mr. Bleichner come closer to the Montgomery guidelines, and show them an
384 actual rendering, in order for them to make a recommendation.

385
386 Mr. Bleichner stated that the applicant's intention for this evening was to get a feel for the
387 Commission's thoughts, obtain some feedback. That is why Mr. Bleichner did not go any further
388 with his drawings. He would like to go back and discuss ideas with the brand, and come back
389 with more information that may provide a compromise for all parties. He was in favor of tabling
390 this application, or any decision the PC would like to make.

391
392 The Commission agreed to table this application, and give feedback to the applicant.

393
394 The Commission discussed the accent material, suggesting that it be 25% of what you see from
395 Montgomery Road. They could be flexible with the window. Mr. Bleichner did not feel he
396 could substitute brick material for the ACM panel at the top bend/fold. Mr. Fossett asked if there
397 was an ACM panel of the same color white, but with some texture on it, to look more like an
398 ethos or masonry panel. That might be a compromise. Mr. Bleichner would need to explore
399 that. Ms. Steinebrey did not feel that was necessary. She knew at one point, this dealer was one
400 of the highest in sales in the US. Mr. Bleichner agreed, noting that their service garage was
401 enormous, with 26 bays.

402
403 Mr. Schneider would like to make it more Montgomery. Mr. Fossett agreed.

404
405 Chairman Hirotsu would also like to have a rationale as to why we would like it, and not just
406 because we like the looks of it. Mr. Schneider stated that we could say that ACM can be a
407 permitted material on this building (because we have the option to choose), and we need other
408 materials, in order to be comfortable, to meet a balance.

409
410 Ms. Steinebrey suggested we ask for it all, and let them come back and tell us their thoughts.
411 By this, she meant asking for the stone to wrap around the building, above the glass, and then
412 brick and stone on the northwest and on the south side. Everything above the windows would be
413 ACM. She asked if anyone did not like that look. There was no opposition. Mr. Dong agreed
414 with this approach, but wanted to also see renderings.

415
416 Mr. Schneider was not in favor of that because you don't know what is possible; what if the
417 brand took it too far, would we be unhappy? Chairman Hirotsu felt that Mr. Bleichner could
418 come back with something that may work.

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419

420

Mr. Dong made a motion to table the application for a modification of a Conditional Use and for a Final Development Plan approval regarding a facade change for Camargo Cadillac.

421

422

423

Mr. Schneider seconded the motion.

424

425

A voice vote was called, and the Commission unanimously approved.

426

427

This motion is approved to be tabled.

428

429

Mr. Bleichner left the meeting.

430

431

New Business - 2

432

Proposed Text Amendment - Chapter 151.1202 Use Regulations or Chapter 150.0205

433

General Provisions Regarding Retail Sales of Recreational Marijuana.

434

435

Staff Report

436

Mr. Chesar reviewed the Staff Report dated February 16, 2024, "Proposed Text Amendment

437

Chapter 151.1202 Use Regulations or Chapter 150.0205 General Provisions

438

Regarding Retail Sales of Recreational Marijuana."

439

440

He showed the revised verbiage on the wide screen for all to see, to provide more understanding of the Staff Report.

441

442

443

He asked for any questions.

444

445

Mr. Fossett noted that there were 2 CBD stores, and asked what the relationship was between them and the prohibition on the sale of medical marijuana. Mr. Chesar stated that right now, they were not selling marijuana, maybe Delta 8, but he was not sure. He noted that the State was considering also banning Delta 8 sales, as this was available even at gas stations now.

446

447

448

449

He believed the percentage of THC in the Delta 8 products was under .3%, which is considered low.

450

451

452

As background, Mr. Chesar stated that the City conducted surveys of Christ Hospital, Bethesda North, as well as the retirement homes, and other medical regulators in Montgomery regarding the sale of medical marijuana. At the time, those surveyed stated that they would not be prescribing it or dealing with it, because it was (and is) still illegal, per Federal law. There were also other restrictions that could jeopardize their medical licenses.

453

454

455

456

457

458

There was discussion about how Commission members felt about this – medically and recreationally. It was determined that the Commission needed to look at this for the community, with Montgomery being a family-oriented community. The Commission agreed they did not want to allow the sales in the City.

459

460

461

462

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463 Chairman Hirotsu asked if any guests or residents had comments. There were none.

464

465 *Mr. Dong made a motion to approve the proposed text amendment - Chapter 151.1202 Use*
466 *Regulations and Chapter 150.0205 General Provisions Regarding Retail Sales of Recreational*
467 *Marijuana, as described in the Staff Report dated February 16, 2024.*

468

469 *Mr. Fossett seconded the motion.*

470

471 *The roll was called and showed the following vote:*

472

473 *AYE: Mr. Dong, Ms. Steinebrey, Mr. Juengling, Mr. Fossett, Mr. Schneider,*
474 *Chairman Hirotsu (6)*

475 *NAY: (0)*

476 *ABSENT: Mr. Stull (1)*

477 *ABSTAINED: (0)*

478

479 *This motion is approved.*

480

481

482 **Staff Update**

483 Mr. Chesar stated that the Comprehensive Plan Consultant will attend our next meeting of
484 March 4, to give us an update. Chairman Hirotsu, who is a member of the Steering Committee,
485 wanted to share that one of the major proposals was to make Montgomery Road one lane, each
486 way, going through downtown, with parking all of the time, on either side. He noted that the
487 City Manager was not in favor of this idea. The hospital was also concerned, as they were
488 worried about response time.

489

490 **Council Report**

491 There was no Council Report.

492

493 **Minutes**

494 Mr. Dong moved to approve the minutes of November 20, 2023, as written.

495 Ms. Steinebrey seconded the motion. The Commission unanimously approved the minutes.

496

497 **Adjournment**

498 Mr. Fossett moved to adjourn. Mr. Juengling seconded the motion.

499 The Commission unanimously approved. The meeting adjourned at 8:55 p.m.

500

501

502

503 _____
Karen Bouldin, Clerk

504 /ksb

505

Dennis Hirotsu, Chairman Date