

City of Montgomery  
Planning, Zoning and Landmarks Committee  
September 3, 2019

**Staff Present**

Brian Riblet, City Manager  
Connie Gaylor, Clerk of Council  
Tracy Roblero, Community Development Director  
Melissa Hays, Zoning Code and Compliance Officer

**Council Committee Members Present**

Craig Margolis, Chair  
Ken Suer  
Lee Ann Bissmeyer

**Guests and Residents**

Toni Lehmkuhl

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The meeting of the Planning, Zoning and Landmarks Committee of City Council convened in Council Chambers at 5:30 p.m., with Mr. Margolis presiding.

**Guests and Residents**

Toni Lehmkuhl, 9853 Knollbrook Terrace-Ms. Lehmkuhl stated that she was here at the invitation of Chairman Margolis regarding the Residential Teardown Report but was also interested in the progress of the status of the microbrewery going in at Main St. and Remington Road.

Ms. Roblero explained that the business is in fact going in at the former Pomodori's restaurant site and have presented a plan with an outdoor patio area for the consideration of the Landmarks Commission to be discussed at their September 11 meeting. Ms. Roblero informed Mrs. Lehmkuhl that the meeting would be held at the Safety Center beginning at 7:00 p.m.

**Communications**

Ms. Roblero provided an update on the Planning Commission, Landmarks Commission and Board of Zoning Appeal recent activities to the Committee.

Ms. Roblero explained that the Tree of Life has submitted their final development plans to the Planning Commission for approval. She stated that they are addressing concerns over an issue with the design of the steeple and are working with the Planning Commission to resolve that issue. Ms. Roblero stated that the Planning Commission is also reviewing the signage of the Thomas Comprehensive Care Center as submitted by TriHealth.

Ms. Roblero explained that the Landmarks Commission have reviewed the Heritage District Guidelines and are working to integrate solar panels into the guidelines. She stated that the Commission has also approved the final version of the Morgan's Raid Historical Marker and map. She stated that she hopes to begin the improvements to the Neuilly-Plaisance Plaza that will incorporate the respite area where the historical marker will be placed yet this year.

Ms. Roblero updated that Committee on the actions of the Board of Zoning Appeals regarding minor residential variances included working with homeowners on Stone Court to clear up odd guidelines for irregular lots regarding the placement of play equipment.

**New Business**

**Residential Teardown Report**

Mr. Margolis began the discussion by stating the goals of the Committee regarding the residential teardown program. He listed the following goals:

- Maintain the City’s brand as a wonderful residential community to live
- Mitigate the perceived impact of a new house in the neighborhood
- Encourage the new be sensitive to the old
- Minimize environmental impact of a new home to existing by addressing massing, water runoff, materials, “other”
- Minimize government intrusion
- Preserve property rights, that is to enjoy property/home use
- Preserve right of existing neighbors/ new homeowner
- Mitigate intrusion of builder/contractor team in neighborhood

Mr. Margolis asked Ms. Hays to provide some background as to the research that she performed for the Residential Teardown Report.

Ms. Hays explained that in the spring of 2018, the City conducted a survey regarding teardowns within the community and how they have impacted residents. The survey was conducted to gain insight into the specific negative impact’s residents are experiencing, as well as their viewpoint on teardowns within the community. She explained that staff updated the Residential Teardown and Rebuild Construction Report taking into account feedback from residents obtained in the survey as well as feedback gathered from developers and comparable communities. She stated that approximately 200 responses were received, and that dust and noise control were identified as the most common nuisances.

**Noise Control**

Ms. Hays explained that following the Teardown White Paper earlier this year, noise was identified by many residents as a cause for concern with teardowns and infill construction. Currently, the City’s regulations do not differentiate between construction noise and general violations of the noise ordinance. Several comparable communities do make a distinction between construction noise and general noise violations. The existing regulations allow for construction work to occur between the hours of 7 a.m. and 10 p.m., seven days a week with no restrictions on holidays. Ms. Hays presented a comparison of neighboring entities noise regulations as follows:

<b>City</b>	<b>Hours</b>	<b>Days of Week</b>
Blue Ash	7 a.m. - 7:30 p.m.	M-F
	9 a.m. - 7:30 p.m.	Saturday
	9 a.m. - 5:00 p.m.	Sunday
Madeira	6 a.m. - 11:00 p.m.	All
Sycamore	7 a.m. - 10:00 p.m.	All
Indian Hill	7:30 a.m. - 7:30 p.m.	M-F
	8 a.m. - 4:00 p.m.	Saturday
	No Construction	Sunday

Anderson	7 a.m. - 11:00 p.m.	All
Evendale	7 a.m. - 11:00 p.m.	All
Sharonville	7 a.m. - 10:00 p.m.	All

Ms. Hays explained that while Montgomery's current noise hour regulations are similar to other jurisdictions, additional restrictions could be instituted. She stated that should an updated noise ordinance be put into place, it will be imperative to ensure that utility and/or infrastructure work in the right of way for a public purpose or by a public agency be permitted outside of the hours, when required. In addition, many residents complete their routine landscaping and minor home repairs in the evenings and on weekends. With the focus of the noise complaints being in regard to the operation of larger construction equipment, Staff is of the opinion that any modifications to the noise hours should not prohibit residents from general home maintenance.

Ms. Hays explained that staff is of the opinion that noise as a result of certain construction and development activities can negatively impact the full enjoyment of neighboring properties. Therefore, based upon research of neighboring jurisdictions, internal city department discussion and feedback provided in the residential re-construction survey, Staff recommends creating construction hours from 7:00 a.m. - 9:00 p.m., Monday thru Friday and further restricting the hours to 9:00 a.m. - 8:00 p.m. on Saturday and Sunday. Staff would suggest maintaining the current exceptions from enforcement of the noise regulations in regard to emergency services, emergency repairs, noise from the normal operation of churches, schools, athletic fields and parks as well as temporary work authorized by the City. Staff would also suggest adding an exemption for utility and infrastructure repair when authorized by the City as well as an exemption for routine landscaping and minor home repairs.

Mr. Suer stated that he felt the recommended hours were very reasonable.

Mrs. Bissmeyer that she would like to see the hours reduced through the week to earlier than 8:00 p.m.

Mr. Riblet stated that typically contractors don't work as much on weekends.

Ms. Roblero added that the contractors are limited by daylight and that working later into the night is not common as we get closer into the fall and winter months. She stated that by limiting the construction hours we are lengthening the time of the project as well. Ms. Roblero reminded the Committee that amending the noise hours would require an Ordinance change as the regulation of noise falls under the General Code of Ordinances.

Mr. Margolis asked Ms. Hays what is included in the review of tear down/rebuild projects.

Ms. Hays replied that staff reviews the projects in three phases. She explained that in Phase I there is the review of the teardown of the existing home, in Phase II staff reviews the site plan and in Phase III site reviews the construction and grade plans. She explained that along with Nick Miller, Construction Compliance Officer, she holds a preconstruction meeting with the contractor to go over zoning code requirements, how the process should be managed and the City's expectation and involvement. She stated that having these meetings has streamlined the process greatly and improved the relationships with the builders. She stated that the builders appreciate these meetings as it provides them with a proactive approach and typically eases tensions with neighboring property owners as well.

Ms. Roblero added that the biggest control measure the City has is the use of bonds. She stated that having the Street Cleaning Bond of \$500 has been valuable in ensuring that the streets stay clean and

free of debris. She stated that the contractors complain because they do not have to provide bonds in other communities.

Mr. Margolis asked Ms. Hays how we could better manage the preservation of trees on these construction sites.

Ms. Hays stated that staff have looked into this in the past. She stated that any type of policy regarding trees would have to be consistent and applied to all types of permits. She explained that it is difficult to operate the large equipment needed for the process on sites that are denser in trees.

Ms. Bissmeyer stated that she would like to have stormwater regulations included.

Ms. Roblero explained that for tear downs and large additions, we require an engineer review which looks at drainage.

Ms. Hays explained that in 9 out of 10 project the drainage is improved for the site and even for neighbors. She added that many of the older houses never had drainage lines and downspouts tied into the storm drain systems at the street.

#### Dust Control

Ms. Hays explained that the demolition of homes can cause dust in the air during the razing process. She stated that complaints regarding the amount of dust dispersed into the air were noted by residents in the residential re-construction process. According to regulations set by the Ohio Environmental Protection Agency, builders are not required to water down a single house during demolition. In addition, the City does not have a regulation in place that requires builders to keep water on the building during demolition to control dust; however, some demolition crews do, in fact, utilize this dust control method.

Ms. Hays stated that options to obtain water include bringing a water truck to the site or connecting to the nearest fire hydrant. The City has a hydrant permit form for contractors looking to connect to a hydrant within the City. Following approval by the Fire Department, the contractor obtains a water meter from Cincinnati Waterworks. She added that they recently had a builder who followed this process and he reported that it was very successful.

#### Sensitive Infill Award

Ms. Hays explained that the idea for an annual award type program was discussed by the Planning, Zoning and Landmarks Committee at their meeting on March 4, 2019. She stated that the concept of the "Sensitive Infill Award" was instituted by a village outside of Chicago, Winnetka, Illinois, in order to encourage builders to design homes to fit within the existing community. Based on discussions at the previous Planning, Zoning and Landmarks meeting, Staff developed the following list of potential criteria to be evaluated when ranking the projects for an award:

- Overall architectural design and compatibility with surrounding properties
- Trees maintained and/or planted
- Green construction
- Recycling during construction
- Stormwater management

Ms. Hays explained that a submission process would need to be developed and the above items would be justified by the applicant. A review of the submissions would be completed by a panel and ranked. Once a builder is selected for the award, Staff would suggest the builder be recognized at a City Council meeting. Staff would also suggest that an article with a photograph of the home be included in the Montgomery Bulletin to provide the builder with some exposure in the community.

Ms. Roblero asked the Committee if this is the direction the Committee would want to pursue.

The Committee discussed the award program and was very supportive of moving forward with the design and implementation of it.

Mr. Margolis suggested that the components of the award could serve as a baseline reflective of our building guidelines.

Mrs. Bissmeyer suggested following up with the survey respondents with the qualifiers for the award to gather their insights.

Ms. Roblero stated that a bulletin article could be ran regarding the changes regarding dust control as well as the Infill Award.

Mr. Suer stated he felt the proposed changes would make marked improvements and are achievable.

Ms. Hays asked if there were any changes or additions to the qualifiers.

Mr. Margolis asked if it would make sense to test these ideas with residents who have worked with teardowns.

Ms. Roblero stated that was a good idea and could provide staff with information that may have been missed.

Mrs. Lehmkuhl stated that she thought the ideas that were discussed at the meeting were excellent. She stated that she didn't know that builders were not required to water the sites. She added that in reference to noise, that the more rules and regulations there were, they may be harder to manage. She felt that the noise restrictions should be the same seven days a week. She added that regarding the award, that builders should not have any violations to be considered.

#### Other Business

Ms. Roblero updated the Committee on the production of the Landmark Ornaments. She explained that she was able to find a company that can make the ornaments to look similar to the existing ones. She explained that they would be slightly more expensive. She explained that if we purchased a quantity of 200, the cost would be \$1,200. She stated that she has forwarded the information to the Montgomery Historic Preservation Association (MHPA) for their feedback. Ms. Roblero stated she will ask for a sample and also if ordering the production of the remaining 10 landmark ornaments would provide us with a lower price since we would be ordering in bulk.

The Committee was supportive of using the new vendor and approved Ms. Roblero further investigating bulk pricing.

Minutes

Mr. Suer moved to adopt the minutes of the May 6, 2019 meeting of the Planning, Zoning and Landmarks Committee. Ms. Bissmeyer seconded. The Committee unanimously agreed.

Adjournment

Mrs. Bissmeyer moved for adjournment. Mr. Suer seconded. The Committee unanimously agreed.

The Planning, Zoning and Landmarks Committee meeting adjourned at 6:40 p.m.

  
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Chair