


MEMORANDUM

TO: MEMBERS OF THE BOARD OF COMMISSIONERS OF THE CITY OF BELLE MEADE; MEMBERS OF THE MUNICIPAL PLANNING COMMISSION

FROM: DOUGLAS BERRY, CITY ATTORNEY 

DATE: August 13, 2019

RE: AUTHORIZATION OF HISTORIC OVERLAY ZONING WITHIN THE CITY OF BELLE MEADE---PUBLIC MEETINGS AND PROCESS--TIMELINE

As you know, the Board of Commissioners (“Board”) is currently considering two ordinances, Ordinance 2019-7 and 2019-8. The former authorizes the City to appoint an historic zoning commission. The latter authorizes the Board to create historic overlay zoning in the City.¹ Both ordinances passed first reading on July 17, 2019. Both ordinances are set for second and final reading on August 21, 2019. At the August meeting, the Mayor will also nominate five (5) persons to the Historic Zoning Commission (“HZC”) and submit their names to the Board for approval.

The purpose of this memorandum is to brief both the Board and the Planning Commission (“MPC”) about the procedural steps that still must be followed before any actual overlay zone is created in the City and also to suggest a time-line within which these actions might be taken.

AUGUST 20, 2019 MEETING OF MPC

Because Ordinance 2019-8 will be an amendment to the Zoning Ordinance, the MPC is required to review the Ordinance and make a recommendation to the Board. A negative recommendation must be overridden by a 2/3 majority of the Board. **All future recommendations from the HZC to the Board concerning the creation of a particular overlay zone must also be reviewed by the MPC, because this will involve an amendment to the Zoning Ordinance.**

¹ Tennessee state law authorizes the creation of historic districts based not only on historical significance, but also architectural value--“distinctive characteristics of a type, period, or method of construction. . .” Metro Nashville refers to this type of historic zoning as “neighborhood conservation overlay.” The latter has been interpreted less restrictively than an overlay covering an historic site. Ordinance 2019-8 authorizes both pure historic zoning, such as might be appropriate for Belle Meade Plantation, and neighborhood conservation overlay.

AUGUST 21, 2019 MEETING OF THE BOARD

1. Consideration of Ordinance 2019-7, creating the HZC.
2. If Ordinance 2019-7 passes, appointment of the HZC.
3. Public Hearing on Ordinance 2019-8. **All future recommendations from the HZC and MPC to the Board concerning the creation of a particular overlay zone will likewise require a public hearing,² because this will involve an amendment to the Zoning Ordinance.**
4. Consideration of Ordinance 2019-8. If Ordinance 2019-8 passes, this **DOES NOT**, in and of itself, create any overlay zones within the City. It simply authorizes their creation.

INAUGURAL MEETING OF HZC- SEPTEMBER 2019

Ideally, the HZC would set a meeting within two (2) weeks of its appointment to adopt by-laws and rules of procedure, elect its officers, and be briefed by staff on what the HZC's role and authority are.

SUBSEQUENT MEETINGS OF HZC TO ADOPT AND RECOMMEND GUIDELINES AND HISTORIC ZONES—OCTOBER 2019.

Prior to the establishment of any overlay zone, the HZC is required under state law (and Ordinance 2019-8) to adopt a set of review guidelines to govern the grant or denial of certificates of appropriateness for building permits that come before it for review. By state law: "Reasonable public notice and opportunity for public comment, by public hearing or otherwise" is required before the HZC may adopt any such guidelines.

I do not recommend that the newly-created HZC attempt to adopt guidelines or make recommendations to the Board concerning specific overlay zones at its inaugural meeting. The staff of the Tennessee Historical Commission ("THC") has been assisting the City since mid-July to catalogue architecturally significant properties and buildings, assess neighborhood character, and so forth, to be able to recommend objective guidelines for the creation of overlay zones.

BOARD ACTION ON PROPOSED OVERLAY ZONES—NOVEMBER/DECEMBER 2019

Assuming that the HZC met in September and October, had adopted guidelines for a particular district or zone, and was prepared to recommend an overlay zone to the Board, the Board might consider such an ordinance on first reading at its November 20 meeting. If any

² All meetings of City boards and agencies are public meetings, that is, open to the public. At a public hearing, members of the public are allowed to actually speak and be heard.

recommended ordinance passed first reading, then it would be scheduled for public hearing and second and final reading on December 18. MPC review would be on December 17.

The above time-line maybe too ambitious. All three bodies—the Board, MPC, and HZC, will have the power to control their own meeting dates and actions.

Cc: Jim Hunt, Mayor
Lyle Patterson, Building Official
Beth Reardon, City Manager