



City of Montgomery City Council & Board of Adjustment Regular Meeting Agenda

February 25, 2025 at 6:00 PM
Montgomery City Hall – Council Chambers
101 Old Plantersville Rd. Montgomery, TX 77316

NOTICE IS HEREBY GIVEN that a Regular Meeting of the City Council & Board of Adjustment will be held on **Tuesday, February 25, 2025** at **6:00 PM** at the City of Montgomery City Hall, 101 Old Plantersville Road, Montgomery, Texas.

Members of the public may view the meeting live on the City's website under Agenda/Minutes and then select **Live Stream Page (located at the top of the page)**. The meeting will be recorded and uploaded to the City's website.

OPENING AGENDA

1. Call Meeting to Order.
2. Invocation.
3. Pledges of Allegiance.

PUBLIC FORUM

The City Council will receive comments from the public on any matters within the jurisdiction of the City of Montgomery, Texas. Speakers will be limited to three (3) minutes each. Persons wishing to participate (speak) during the Public Forum portion of the meeting must sign-in to participate prior to the meeting being called to order. Please note that the City Council's discussion, if any, or subjects for which public notice has not been given, are limited to statements of specific factual responses and recitation of existing policy.

BOARD OF ADJUSTMENT

4. City Council will convene into Board of Adjustment meeting.
5. Consideration and possible action on a variance request of the side yard setback for a proposed new accessory structure (garage) on the property located at 914 College Street.
6. City Council will close the Board of Adjustment meeting and reconvene into regular session.

CONSENT AGENDA

All Consent Agenda items are considered to be routine by the City Council and will be enacted by a single motion. There will be no separate discussion on these items unless a Councilmember requests an item to be removed and considered separately.

7. Consideration and possible action on the City Council Special Meeting Minutes of November 18, 2024.
8. Consideration and possible action on the City Council Regular Meeting Minutes of January 14, 2025.
9. Deliberate and take appropriate action on the acceptance of the Certification of Unopposed Candidates for the City of Montgomery, Texas, in accordance with Section 2.052, Texas Election Code.

- 10.** Deliberate and take appropriate action on an Ordinance of the City Council of the City of Montgomery, Texas, declaring unopposed candidates in the May 3, 2025 City of Montgomery General Election elected to office; Canceling the election; Providing a severability clause; and Providing an effective date.

PUBLIC HEARING

The City Council will receive comments from the public on the below listed item(s). Speakers will be limited to three (3) minutes each. Persons wishing to participate (speak) during the Public Hearing portion of the meeting must sign-in to participate prior to the meeting being called to order.

- 11.** Convene into the Public Hearing on the Resolution to create Public Improvement District.
- 12.** Convene into the Public Hearing on the Ordinance amending Chapter 78.

REGULAR AGENDA

All items on the Regular Agenda are for discussion and/or action.

- 13.** Consideration and possible action on a Resolution regarding the creation of The Crossing at Montgomery Public Improvement District and ordering public improvements to be made for the benefit of such district; Providing for a severability clause; Providing an effective date; and Containing other matters relating to the subject.
- 14.** Presentation by SiEnergy, L.P. regarding a request for a Franchise Agreement to install a gas utility pipeline within Montgomery city limits to serve the surrounding communities.
- 15.** Consideration and possible action on a permit approval for construction of model homes by Johnson Development.
- 16.** Consideration and possible action on a first and only reading of an Ordinance by the City Council of the City of Montgomery, Texas, amending Chapter 78, "Subdivisions" of the City Code of Ordinances in its entirety; Providing for a penalty for a violation of this ordinance; Repealing all Ordinances and parts of Ordinances in conflict therewith; Providing a saving and severability clauses; Providing a Texas Open Meetings Clause; and Providing an effective date after publication.
- 17.** Consideration and possible action on a Resolution setting a date, time, and place for a public hearing on the proposed annexation of certain property by the City of Montgomery, Texas, and authorizing and directing the Mayor to publish notice of such public hearing.
- 18.** Consideration and possible action on the possible award of a contract for Request for Qualifications (RFQ) for Professional Engineering Services for Water Plant No. 4 project and authorizing the WGA to negotiate professional services for the same.
- 19.** Consideration and possible action to authorize WGA, City Attorney, and City Staff to prepare and negotiate an interconnect with Stanley Lake MUD and a cost sharing agreement with the Developer.
- 20.** Consideration and possible action on acceptance of a Utility and Economic Feasibility Study for the KHR Properties Commercial Tract (Dev. No. 2415).
- 21.** Discussion and possible action to waive Hotel Occupancy Tax penalty for Quarter 4 – 2024 for The Caroline House.

DEPARTMENTAL REPORTS

22. Departmental Updates: Engineering

COUNCIL INQUIRY

Pursuant to Texas Government Code Sect. 551.042, the Mayor and Council Members may inquire about a subject not specifically listed on this Agenda. Responses are limited to the recitation of existing policy or a statement of specific factual information given in response to the inquiry. Any deliberation or decision shall be limited to a proposal to place on the agenda of a future meeting.

EXECUTIVE SESSION

23. Closed Session

City Council will meet in Closed Session pursuant to the provisions of Chapter 551 of the Texas Government Code, in accordance with the authority contained in:

- A. Section 551.074 Consultations with Attorney - Town Creek Hydrology.
- B. Section 551.074 Consultations with Attorney - pending or contemplated litigation.

24. Open Session

City Council will reconvene in Open Session at which time action on the matter(s) discussed in Closed Session may be considered.

- A. Section 551.074 Consultations with Attorney - Town Creek Hydrology.
- B. Section 551.074 Consultations with Attorney - pending or contemplated litigation.

CLOSING AGENDA

25. Items to consider for placement on future agendas.

26. Adjourn.

The City Council for the City of Montgomery reserves the right to adjourn into executive session at any time during the course of this meeting to discuss any of the matters listed below, as authorized by the Texas Government Code Sections 551.071 (Consultation with Attorney), 551.072 (Deliberations about Real Property), 551.073 (Deliberation Regarding Prospective Gifts), 551.074 (Personnel Matters), 551.076 (Deliberations regarding Security Devices), and 551.087 (Deliberation regarding Economic Development Negotiations).

I, Ruby Beaven, certify that this notice of meeting was posted on the website and bulletin board at City Hall of the City of Montgomery, Texas, a place convenient and readily accessible to the general public at all times. This notice was posted at said locations on the following date and time: **February 21, 2025 by 5:00 PM**, and remained so posted continuously for at least 72 hours preceding the scheduled time of said meeting.

/s/ Ruby Beaven

City Secretary

This public notice was removed from the official posting board at the Montgomery City Hall on the following:

Date: _____ Time: _____

By: _____
City Secretary's Office
City of Montgomery, Texas

This facility is wheelchair accessible and accessible parking spaces are available. Please contact the City Secretary's office at 936-597-6434 for further information or for special accommodation.

Montgomery City Council
AGENDA REPORT

Meeting Date: February 25, 2025	Budgeted Amount: N/A
Department: Administration	Prepared By: Corinne Tilley

Subject

Consideration and possible action on a variance request of the side yard setback for a proposed new accessory structure (garage) on the property located at 914 College Street.

Recommendation

Staff recommends approval of a 6' side yard setback for a 4' variance (northwest corner) and 8' side yard setback for a variance of 2' (southwest corner) for the proposed construction of a new accessory structure (detached 2-car-garage 22'x30'), subject to the following conditions:

1. Appropriate building and trade permits must be approved and issued prior to the commencement of any work.

Discussion

914 College Street is located in the Residential Zoning District and the Historic Preservation District.

The property owner proposes to build a new accessory structure (detached 2-car garage) that is 22' wide and 30' deep. The proposed side yard setback of the structure will be 6' at the northwest corner and 8' at the southwest corner from the west property line.

Residential district setback regulations:

- 25' front yard – proposed > 25'
- 10' side yard – proposed 6' and 8'
- 10' rear yard – proposed > 10'

On February 4, 2025, the Planning and Zoning Commission recommended approval of the side yard setback variance.

For reference, the following findings were made:

1. The literal enforcement of the controls will create an unnecessary hardship or practical difficulty in the development of the affected property.
This finding is met. An unnecessary hardship and practical difficulty is created due to the narrow width of the property and the construction constraints of attaching the accessory structure to the principal structure. The proposed placement of the detached garage near the principal structure is essential for maintaining the functional use of the property. Strict adherence to the setback requirements would significantly limit the available space for the garage, potentially rendering it unusable or requiring extensive and costly modifications to the existing layout.
2. That the situation causing the hardship or difficulty is neither self-imposed nor generally affecting all or most properties in the same zoning district.
This finding is met. The hardship is not self-created, as it arises from the specific physical characteristics of the property, the width, which is beyond the control of the property owner. Granting the variance will allow for a reasonable and customary improvement that is consistent with other properties in the area, ensuring that the property can be developed in a manner that is both practical and equitable.

Montgomery City Council
AGENDA REPORT

- 3. That the relief sought will not injure the permitted use of adjacent conforming property.
This finding is met. The proposed variance maintains adequate separation between structures, ensuring sufficient light, air circulation, and privacy for neighboring properties. The design and placement of the detached garage are consistent with the character of the neighborhood, minimizing any potential visual or functional impact on adjacent properties.
- 4. That the granting of a variance will be in harmony with the spirit and purpose of these regulations.
This finding is met. The variance allows for a reasonable use of the property that aligns with the intended residential nature of the area,
- 5. Financial hardship alone is not an “undue hardship” if the property can be used, meeting the requirements of the zoning district it is located in.
This finding is met. Although the property is currently being used as a single-family dwelling in a residential zoning district and meets the requirements of the zoning district, the requested variance to build a new detached garage at the proposed setback is a desired enhancement by the property owner. This variance allows for the addition of a feature that enhances the property's functionality and aesthetic appeal, providing the owner with the convenience and benefits of a detached garage without compromising the overall integrity and character of the neighborhood. The reasons mentioned above indicate that this enhancement does not constitute a financial hardship (alone) in requesting the variance.

Note: The plans in this packet have not been reviewed by the City Building Official.

Approved By		
City Secretary & Director of Administrative Services	Ruby Beaven	Date: 02/19/2025
Interim City Administrator & Police Chief	Anthony Solomon	Date: 02/19/2025



SR

MERRILY A THOMPSON REVOCABLE
LIVING TRUST
124063

MERRILY A THOMPSON REVOCABLE
LIVING TRUST
352075

DOVEY PENNY
124061

COLLEGE

GLYNN, JAMES E
544049

TOBABEN, TRAVIS R & JENNIFER B
TOBABEN
367547

M



01/14/2025 10:37



Variance Request Application

City of Montgomery
101 Old Plantersville Road
Montgomery, Texas 77316
(936) 597-6434

Item 5.

Upon completion return application to dmccorquodale@ci.montgomery.tx.us

Contact Information

Property Owner(s): Merrily Thompson
 Address: 25637 W FM 1097 Rd., Montgomery TX Zip Code: 77356
 Email Address: merrily.thompson@gmail.com Phone: 936-672-3853
 Applicants: same as above
 Address: _____
 Email Address: _____ Phone: _____

Parcel Information

Property Identification Number (MCAD R#): R352075 (0072800700111)
 Legal Description: Montgomery Townsite 07, Tract 1-A, Area G, Lot 2 (College St. Add 01)
 Street Address or Location: 914 College Street
 Acreage: .30 Present Zoning: residential Present Land Use: residential

Variance Request

Applicant is requesting a variance from the following:
 City of Montgomery Ordinance No.: 98-122 Section(s): A2
 Ordinance wording as stated in Section (A-2):
SIDE YARD ON MAIN THOROUGHFARE. THERE SHALL BE A SIDE YARD ON EACH SIDE OF THE LOT HAVING A WIDTH OF NOT LESS THAN 10'.
ORDER# 2014-03 §1, 5-20-2014 (SEE ATTACHED)

Detail the variance request by comparing what the ordinance states to what the applicant is requesting:
Applicant is requesting ability to go to 5' building line on west property line to build a garage.

Owner(s) of record for the above described parcel:

Signature: Merrilyn Thompson Date: 1-20-2025

Signature: _____ Date: _____

Signature: _____ Date: _____

Note: Signatures are required for all owners of record for the property proposed for variance. Attach additional signatures on a separate sheet of paper.

Additional Information

The following information must also be submitted:

Cover letter on company letterhead stating what is being asked.

A site plan.

All applicable fees and payments. **All fees paid by credit card are subject to a 5% merchant fee.**

The application from must be signed by the owner/applicant. If the applicant is not the owner, written authorization from the owner authorizing the applicant to submit the variance request shall be submitted.

Date Received

Office Use

Public Hearings

Parties in interest and citizens shall have an opportunity to be heard at public hearings conducted by the Planning and Zoning Commission and the City Council before any variance to a district regulation, restriction, or boundary shall become effective. Regularly scheduled meetings are as follows and will be held accordingly unless public notice has been given of a change of dates:

Planning and Zoning Commission: **1st Tuesday of every month at 6:00 p.m.**

City Council: **2nd and 4th Tuesday of every month at 6:00 p.m.**

Finding of Undue Hardship

In order to grant a variance, the Board must make the following findings to determine that an undue hardship exists:

1. That literal enforcement of the controls will create an unnecessary hardship or practical difficulty in the development of the affected property; and
2. That the situation causing the hardship or difficulty is neither self-imposed nor generally affecting all or most properties in the same zoning district; and
3. That the relief sought will not injure the permitted use of adjacent conforming property; and
4. That the granting of a variance will be in harmony with the spirit and purpose of these regulations.
5. Financial hardship alone is not an "undue hardship" if the property can be used, meeting the requirements of the zoning district it is located in.

Factors not Considered

A variance shall not:

1. Be granted to relieve a self-created or personal hardship,
2. Be based solely upon economic gain or loss,
3. Permit or allow any person a privilege or advantage in developing a parcel of land not permitted or allowed by these Regulations to other parcels of land in the same particular zoning district,
4. Result in undue hardship upon another parcel of land.

Sec. 98-122. - Area regulations.

(a) *Size of yards.* Size of yards in District R-1 shall be as follows:

(1) *Front yard.* There shall be a front yard having a depth of not less than 25 feet from the property line, except that, where lots face on a major street, the front building line shall be 35 feet from the property line.

* (2) *Side yard on main thoroughfare.* There shall be a side yard on each side of the lot having a width of not less than ten feet. A side yard adjacent to a side street shall not be less than 15 feet from the property line to the building line, except, where the lots side on a major street, the building line shall be not less than 25 feet from the side street property line.

(3) *Rear yard.* There shall be a rear yard having a depth of not less than ten feet from the property line.

(b) *Size of lots.* Size of lots shall be approved by the city council on the basis of the district in which they live.

(1) *Lot area.* No building shall be constructed on or moved onto any lot of less than 9,000 square feet.

(2) *Lot width.* The width of the lot shall not be less than 75 feet. Radial lots shall have a minimum width of 75 feet at and for a distance of 30 feet behind the building line.

(3) *Lot depth.* The average depth of the lot shall not be less than 120 feet.

(4) *Corner lots.* Corner lots with a width of less than 90 feet are to be at least five feet wider than average of the interior lots in the block. Corner lots with a width of less than 90 feet adjacent to a major thoroughfare are to be at least 15 feet wider than the average of interior lots in the block.

(5) *Lots on cul-de-sacs.* Lots on cul-de-sacs shall be 9,000 square feet, with the width and depth to be determined by the development of the cul-de-sac.

(6) *Existing substandard lots.* Where a lot having less area, width or depth than required in this section existed upon the effective date of the ordinance from which this chapter is derived, the regulations in this section shall not prohibit the lot owner from erecting a single-family dwelling thereon or moving a single-family dwelling onto the property.

(Ord. No. 2014-03, § 1, 5-20-2014)

Merrily Thompson
25637 West FM 1097, Montgomery, Texas 77356
936/672-3853
merrily.thompson@gmail.com

January 21, 2025

City of Montgomery
101 Old Plantersville Road
Montgomery, TX 77316

To Whom it May Concern:

I am respectfully requesting a variance be considered for the property I own at 914 College Street. I am planning to do some repairs and remodeling of the subject property which I have owned for 25+ years, and will then be moving into the property, claiming it as my primary residence. I would like to erect a 2-car garage on my property and will need a few extra feet on the west side building line to construct this property improvement. Please see the attached survey with the proposed placement of the garage.

It is my opinion, granting permission of the variance would not create any ill affect to adjacent properties, and that if granted, the variance will keep in harmony the spirit and purpose of regulations imposed by the City. Many properties within the city limits and within the historic district have smaller than 10' side building line set backs than the current ordinance requires. Some of these properties were developed long before the current ordinances came into effect, others appear to be very recent builds. When I purchased this property, there were no side building lines (as noted on the survey at the time of purchase) and there was no "Historic District".

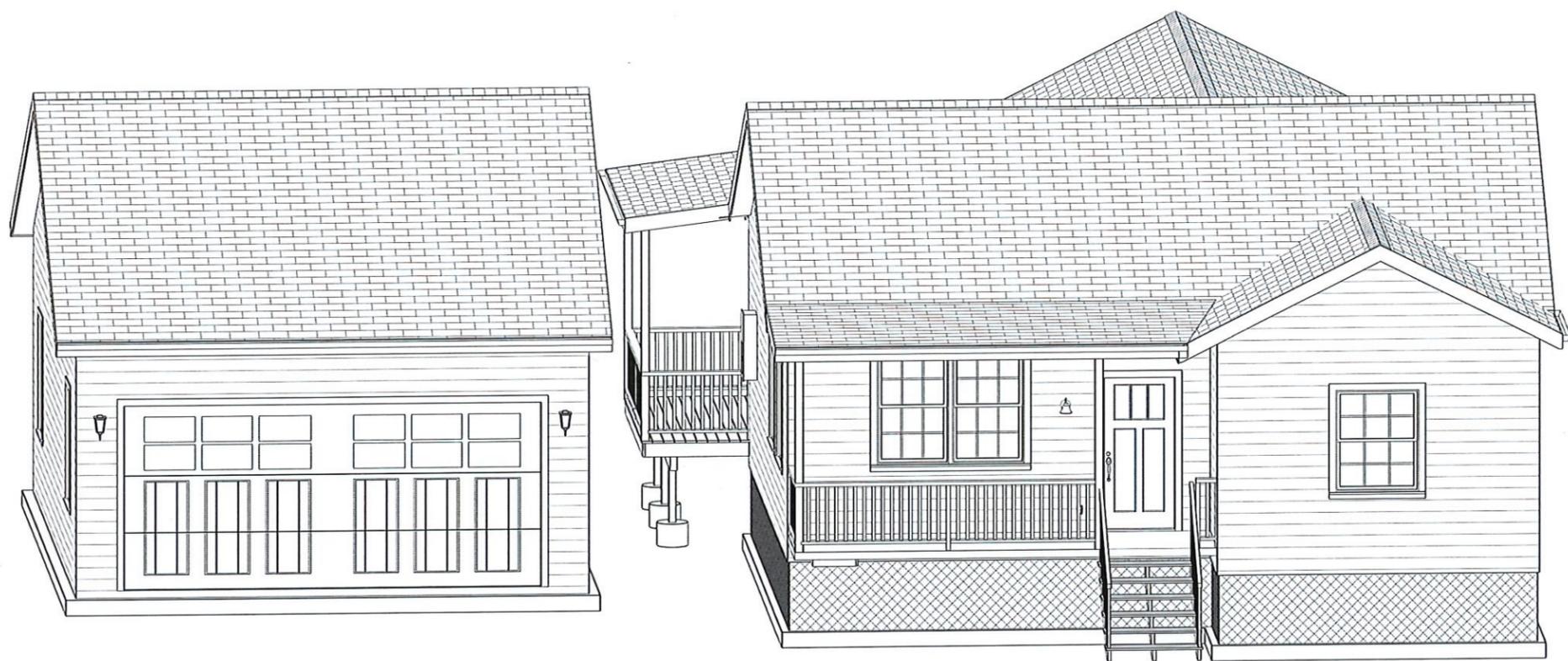
I believe this improvement (the garage addition) will be an overall enhancement to the neighborhood and will allow me the opportunity to properly garage my vehicles and provide additional storage area so accumulated personal articles will not be visible to the neighbors (as some properties within the historic district have).

Respectfully submitted,


Merrily Thompson

Gracie Solomon, C.P.E.D.

	
Feb. 17, 2025	
NO.	DESCRIPTION
BY	DATE



PROJECT DESCRIPTION:

1) REFIT OF MAIN RESIDENCE:
 - RE-LEVEL HOUSE FOUNDATIONS
 - ADDITION OF A NEW BATHROOM AND LAUNDRY ROOM, RECONFIGURE OF KITCHEN LAYOUT
 - INTERIOR WORK INVOLVES REMOVAL AND REPLACEMENT OF ALL WALL COVERINGS AND INSULATION, FLOORING FINISHES, ETC;
 - PROJECT ALSO INCLUDES FULL ELECTRICAL UPGRADE, REPOSITIONING OF HVAC SYSTEM AND WATER HEATER, RELOCATION OF SELECT PLUMBING FIXTURES

2) ADD TWO-CAR GARAGE:
 - PROPOSED NEW CONSTRUCTION OF 22x30 2-CAR GARAGE ON SLAB
 - ELECTRICAL SERVICE FOR GARAGE TO BE PROVIDED VIA BURIED CABLE FROM MAIN BREAKER PANEL AT HOUSE; NO WATER/SEWER ARE PLANNED FOR GARAGE PROJECT
 - FINAL LOCATION AND BOUNDARIES OF DRIVEWAY TBD PENDING SCHEDULED REPAIRS BY CITY OF MONTGOMERY TO RESOLVE DRAINAGE ISSUES
 - GARAGE WILL REQUIRE VARIANCE FOR BUILDING LINE

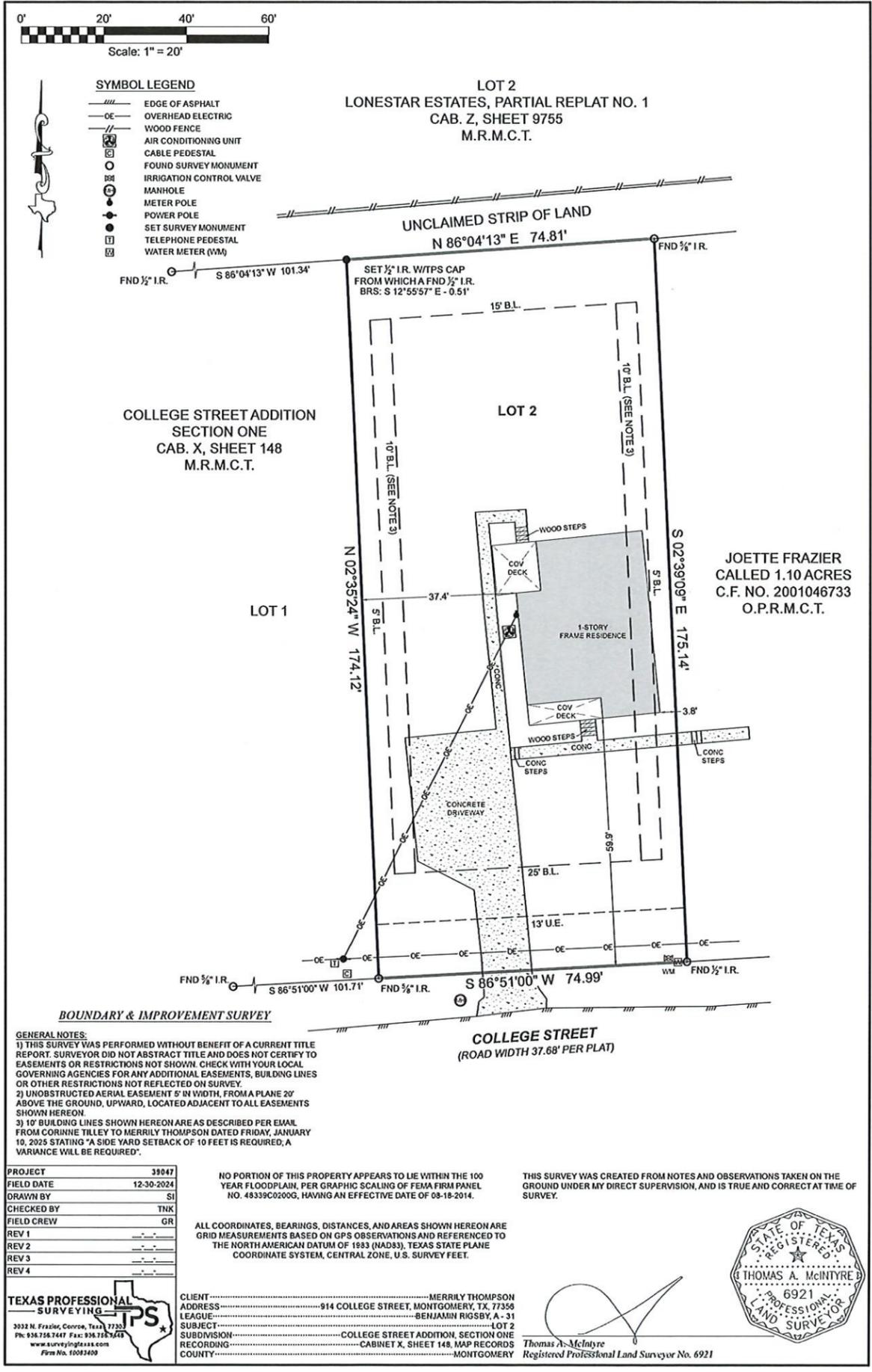
SHEET TITLE:
OVERVIEW

PROJECT DESCRIPTION:
**THOMPSON -
COLLEGE STREET**

DATE:
1-15-2025

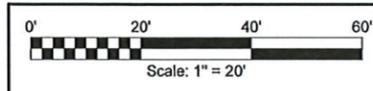
SCALE:
1/4"

SHEET:
G-0



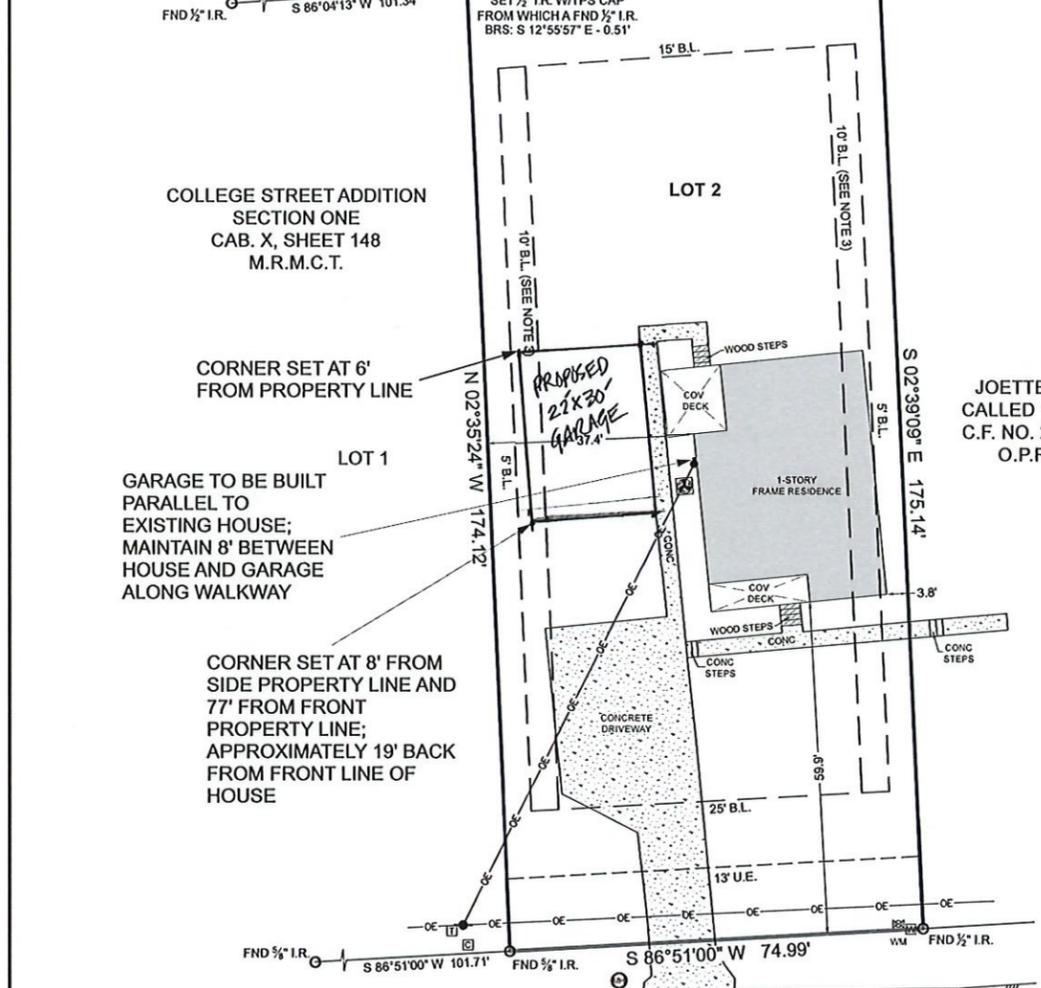
Jrue Salazar, C.P.A.D.

Feb. 17, 2025	
NO.	DATE
SURVEY	
THOMPSON - COLLEGE STREET	
SRVY	



SYMBOL LEGEND

	EDGE OF ASPHALT
	OVERHEAD ELECTRIC
	WOOD FENCE
	AIR CONDITIONING UNIT
	CABLE PEDESTAL
	FOUND SURVEY MONUMENT
	IRRIGATION CONTROL VALVE
	MANHOLE
	METER POLE
	POWER POLE
	SET SURVEY MONUMENT
	TELEPHONE PEDESTAL
	WATER METER (WM)



BOUNDARY & IMPROVEMENT SURVEY

GENERAL NOTES:
 1) THIS SURVEY WAS PERFORMED WITHOUT BENEFIT OF A CURRENT TITLE REPORT. SURVEYOR DID NOT ABSTRACT TITLE AND DOES NOT CERTIFY TO EASEMENTS OR RESTRICTIONS NOT SHOWN. CHECK WITH YOUR LOCAL GOVERNING AGENCIES FOR ANY ADDITIONAL EASEMENTS, BUILDING LINES OR OTHER RESTRICTIONS NOT REFLECTED ON SURVEY.
 2) UNOBSTRUCTED AERIAL EASEMENT 5' IN WIDTH, FROM A PLANE 20' ABOVE THE GROUND, UPWARD, LOCATED ADJACENT TO ALL EASEMENTS SHOWN HEREON.
 3) 10' BUILDING LINES SHOWN HEREON ARE AS DESCRIBED PER EMAIL FROM CORINNE TILLEY TO MERRILY THOMPSON DATED FRIDAY, JANUARY 10, 2025 STATING 'A SIDE YARD SETBACK OF 10 FEET IS REQUIRED, A VARIANCE WILL BE REQUIRED'.

PROJECT	39947
FIELD DATE	12-30-2024
DRAWN BY	SI
CHECKED BY	TNK
FIELD CREW	GR
REV 1	
REV 2	
REV 3	
REV 4	

NO PORTION OF THIS PROPERTY APPEARS TO LIE WITHIN THE 100 YEAR FLOODPLAIN, PER GRAPHIC SCALING OF FEMA FIRM PANEL NO. 48339C0200G, HAVING AN EFFECTIVE DATE OF 08-18-2014.

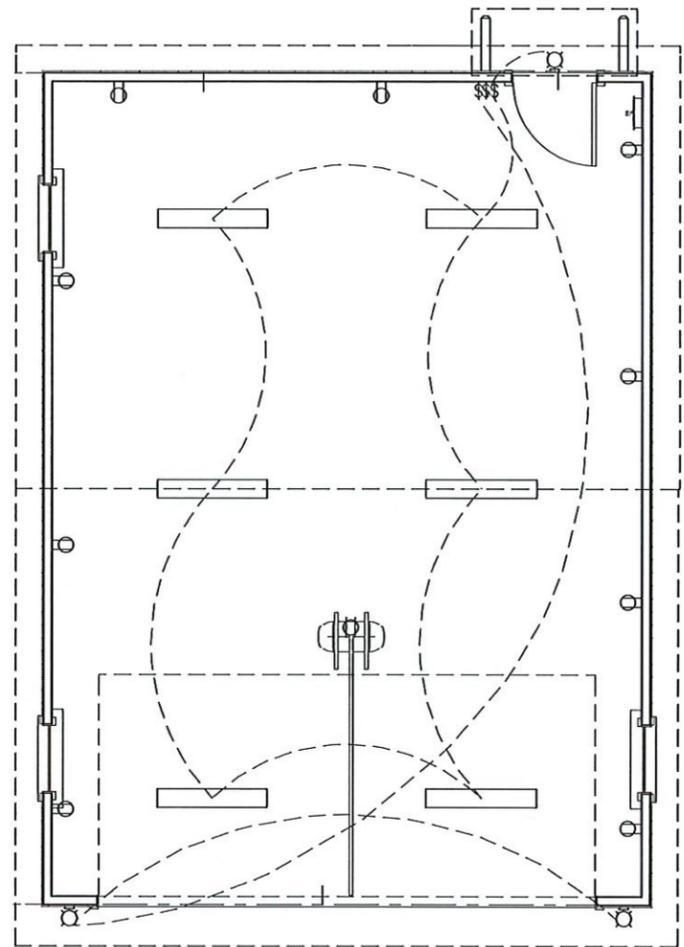
THIS SURVEY WAS CREATED FROM NOTES AND OBSERVATIONS TAKEN ON THE GROUND UNDER MY DIRECT SUPERVISION, AND IS TRUE AND CORRECT AT TIME OF SURVEY.

ALL COORDINATES, BEARINGS, DISTANCES, AND AREAS SHOWN HEREON ARE GRID MEASUREMENTS BASED ON GPS OBSERVATIONS AND REFERENCED TO THE NORTH AMERICAN DATUM OF 1983 (NAD83), TEXAS STATE PLANE COORDINATE SYSTEM, CENTRAL ZONE, U.S. SURVEY FEET.

TEXAS PROFESSIONAL SURVEYING
 TPS
 3932 N. Frazier, Carroll, Texas 77301
 P.O. Box 754, 7447 Fax: 936.752.7447
 www.surveyingtexas.com
 Firm No. 60083409

CLIENT.....MERRILY THOMPSON
 ADDRESS.....914 COLLEGE STREET, MONTGOMERY, TX, 77359
 LEAGUE.....BENJAMIN RIGSBY, A-31
 SUBJECT.....LOT 2
 SUBDIVISION.....COLLEGE STREET ADDITION, SECTION ONE
 RECORDING.....CABINET X, SHEET 148, MAP RECORDS
 COUNTY.....MONTGOMERY

Thomas A. McIntyre
 Registered Professional Land Surveyor No. 6921



GARAGE
660 SQ FT

PROPOSED GARAGE SUBJECT TO APPROVAL OF VARIANCE FOR BUILDING LINE
 SEE SHEETS G-3 and G-4 FOR PROPOSED ELEVATIONS

Jriva Salazar, C.P.A.D.



Feb. 17, 2025

NO.	DESCRIPTION	BY	DATE

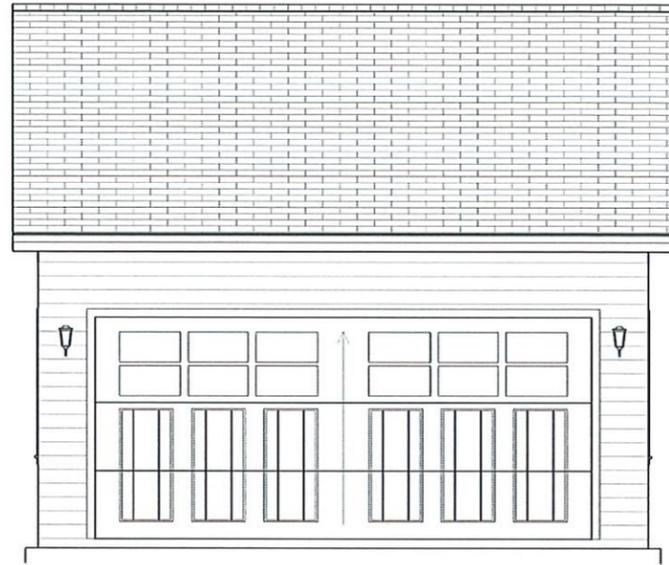
SHEET TITLE:
PROPOSED GARAGE ADDITION PLAN

PROJECT DESCRIPTION:
THOMPSON - COLLEGE STREET

DATE:
1-15-2025

SCALE:
1/4"

SHEET:
A-3



PROPOSED GARGE ELEVATION - FRONT



PROPOSED GARAGE ELEVATION - LEFT SIDE

Jrue Salazar, C.P.A.D.



Feb. 17, 2025

NO.	DESCRIPTION	BY	DATE

SHEET TITLE:
**PROPOSED
 GARAGE ELEVATION**

PROJECT DESCRIPTION:
**THOMPSON -
 COLLEGE STREET**

DRAWINGS PROVIDED BY:

DATE:

1-19-2025

SCALE:

1/4"

SHEET:

G-4

Tricia Salzman, C.P.A.D.



NO.	DESCRIPTION	BY	DATE



PROPOSED GARAGE ELEVATION - REAR



PROPOSED GARAGE ELEVATION - RIGHT SIDE FACING HOUSE

SHEET TITLE:
**PROPOSED
GARAGE ELEVATION**

PROJECT DESCRIPTION:
**THOMPSON -
COLLEGE STREET**

DRAWINGS PROVIDED BY:

DATE:
1-19-2025

SCALE:
1/4"

SHEET:
G-5

Montgomery City Council
AGENDA REPORT

Meeting Date: February 25, 2025	Budgeted Amount: N/A
Department: Administration	Prepared By: Ruby Beaven

Subject

Consideration and possible action on the City Council Special Meeting Minutes of November 18, 2024.

Recommendation

Staff recommends approval of meeting minutes, as presented.

Discussion

Please see the accompanying minutes:

Special Meeting Minutes of November 18, 2024

Approved By

City Secretary & Director of Administrative Services	Ruby Beaven	Date: 02/06/2025
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City Council Special Meeting
Meeting Minutes
November 18, 2024

CALL TO ORDER

The Special City Council Meeting of the City of Montgomery was called to order by Mayor Countryman at 5:00 p.m. on November 18, 2024, at City Hall 101 Old Plantersville Rd., Montgomery, TX and live video streaming.

With Council Members present a quorum was established.

Present:	Mayor	Sara Countryman
	Mayor Pro-Tem	Casey Olson
	Council Member Place 1	Carol Langley
	Council Member Place 4	Cheryl Fox
	Council Member Place 5	Stan Donaldson

INVOCATION

Council Member Donaldson led the invocation.

PLEDGES OF ALLEGIANCE

Council Member Donaldson led the Pledge of Allegiance and Pledge of Allegiance to the Texas State Flag.

PUBLIC FORUM

Mayor Countryman read citizen email correspondence as follows:

James Greene:

Dear Mayor Countryman,

I am writing this statement explaining my decision to leave employment with the City of Montgomery, Texas for the record.

On Monday, July 29, 2024, at approximately 5:00 p.m., I was having a conversation with Maryann Carl in her office. Gary Palmer was on his way past her office on his way out, and I remember needing to ask him a question. While he and I were speaking, I noticed that he had a USMC (United States Marine Corps) tattoo on his arm. I said, "that's cute Gary." He said, "yeah, you wish you had one." I said, "no, I think I am ok," and I laughed. He then abruptly left.

I arrived to work the next morning, July 30, 2024, at approximately 8 a.m. Palmer was parked in the parking spot that I typically park in. This was unusual for two reasons: (1) he typically parks in the gravel lot behind the row of police vehicles; and (2) I rarely ever saw him in the office prior to 10 a.m. When I went to my office, I found a sticky note on my door that said, "Come see me. -gp." When I went to his office, he told me to close the door and have a seat. I asked him what's up, and he told me: "I am not your fucking buddy, and I am not your fucking friend." He went on to explain that I was unprofessional and it was not ok for me to act like that especially around his subordinates (referring to Patricia Campuzano who was in her office adjacent to us.) He then lectured me for a while and told me that I was still in my probationary period and asked what I had to say. I apologized to him and said that it would not happen again. He then went on for a while again about the same topic and again asked me what I had to say. I told him, "I already said it Gary, it won't happen again." He then released me to go back to work and I went back to my office.

I reflected on the incident for a while and ended up taking an early lunch. I called my wife and discussed with her what happened and she and I both agreed that it was not a healthy work environment. My specific reasoning behind the decision to leave are as follows:

- 1. I am an Army veteran of 9 years. I have never interacted with another service member either during active duty or after my service and bantered about the other branches of service. When I met Gary for the first time at my interview for the City Secretary Position, he noted that I was a veteran and that he had served in the Marine Corps. I told him then and there that "nobody is perfect," to which he laughed. I will continue to banter with other branches of service regardless of their position as either a subordinate or supervisor of mine. This is an important and well-known part of the camaraderie between the branches of service whether active duty or not. I could understand being upset if I were criticizing his actions as the City Administrator, however, this was clearly not the case.*
- 2. The way Gary handled this entire situation was at a minimum unprofessional. First, I believe that he purposefully parked in the spot that I usually parked in to send some kind of message of intimidation and power. Second, the way that he spoke to me was uncalled for and unnecessary. His behavior was weird and unsettling and I felt that was an indication of how his behavior would continue during my employment, something that I am clearly not interested in dealing with.*
- 3. I have never in my working career (twenty-seven years) had a supervisor threaten my job. I found it interesting that he even communicated that to me as he actually does not have the authority to fire the City Secretary. With that being said, the city has much more invested in the City Administrator than the City Secretary, and I am not interested in working in the toxic environment that he was creating and the potential of him influencing Councilmembers.*

When I returned from lunch, I went to Palmer's office and explained pretty much what I have written here. He asked me if I was going to give him notice and I told him that I was not. I told him that probationary periods work both ways, and I had decided that is in my best interest to leave immediately. He told me that if I changed my mind to let him know.

I left the City of Madisonville with the intention of gaining experience in the role of Director of Administrative Services as well as the continuation of my experience as the Secretary. In my case, I took a major risk in leaving the City of Madisonville. I left a job that was secure as well as a short fifteen minute commute from my home. Up to that day, I had zero intentions of leaving the City of Montgomery. Had the environment been different, I would likely still be in that role. Whatever the cost to me personally or professionally, I will not work for or around Gary Palmer.

Mayor, thank you very much for your confidence and the opportunity to serve the City of Montgomery, no matter how briefly. I am happy to know you, the Council, and the staff at the city. I continue to believe that the City of Montgomery has a very bright future and I look forward to hearing great news about its growth.

Meagan Tuttle:

Dear Mayor and Council members,

As much as I would like to be at the council meeting tonight, due to my work schedule, I don't think I will be able to attend. However, I thought it was important to share my thoughts with you all regarding some of the agenda topics.

Let me start by mentioning, I have watched EVERY council meeting since the city started streaming the meetings 4 + years ago. I have watched as the people in the council seats have changed, I have followed along in the agenda packet as items have been discussed, and researched ordinances to get the full picture of what the city standards are.

After many years of watching, I'm disheartened by the fact that we don't seem to be making really any progress. It seems like these meetings keep circling around the same topics over and over again. We are wasting time and effort on trivial issues instead of focusing on topics that really matter.

I have seen in multiple meetings, Council target city staff for what seems to be personal aim or retaliation for a staff member having a differing opinion. We have been down this road before with the Assistant City Administrator, I watched it play out. I don't think it is wise to go down this road again, and I don't think there is another person who has as much knowledge and history about the city of Montgomery as Mr. McCorquodale.

In regard to the City administrator position, you have already voted not to renew his contract. Terminating immediately does nothing but leave a gap for other staff members to try to fill in and cost the city additional money. (roughly \$19,000 if my calculations are correct) Not to mention, we have barely even gotten the City Secretary spot filled. If you terminate the City Administrator and Assistant City Admin are each of you planning on coming up here to train the new secretary?

*Before you go into the meeting tonight, I'd challenge each of you to reflect and think:
Why did I want to join city council?*

*What did I intend to accomplish by holding this position?
and then flash forward to current day and think:*

Am I accomplishing what I set out to do?

What does my resume of accomplishments look like while I've been on council?

Are my actions based on my personal feelings towards individuals and/or discussion topics? Or are they REALLY in the best interest of my community?

Final, unrelated thought- Why haven't we appointed a 5th council member after 6 months?

We are asking for trouble by not having someone in that 5th spot and relying on the mayor to be the tiebreaker should we need one. I feel THIS should be a priority topic.

I appreciate you all taking the time to read this, and I truly thank you all for the time and dedication you are putting into this city. I recognize this is not an easy position to hold and I applaud you all.

This email needs no response, consider it my "public forum" comment, although I am surely over my 3 minute limit.

Phillip Lefevre, 19971 FM 2854, addressed the Council. This whole issue basically started over private versus public roads and I think it's important that people realize that you cannot have a public road that then goes private, but you can have a private that goes public so long as it is being built properly to standards and to the city ordinances. In this case, the homeowners, and I think this is the homeowners, are the ones that should be given the consideration on whether they wanted to have the roads go public again. Personally, I'd keep them private because you can lock the gates, and you can keep bad people out. Generally, in the long run, homes on private roads are worth more money, but it's their choice and they wanted to do it and I respect that. So, these roads were built with that opportunity in mind, and it's taken the homeowners almost a year if I'm not mistaken to get any support from the City. The City should have known, did know, that these roads were done properly. Mr. McCorquodale was on City Council and signed off on two of these subdivisions being passed. He was in meetings with us we had disputed engineering invoices from Jones and Carter he was in meetings with us when we went over those with Jones and Carter and actually got refunds for ourselves and the City. Mr. Roznovsky was with Jones and Carter, he was in meetings, he knew that these roads had been inspected and checked. There is not much you can say when all of a sudden you get a full court press and four City people come up and basically say substandard, not to grade, do not take them over. That is basically saying you are in an inferior location. Your houses are worth less and we the City are not going to help you. When the reality was when you look at all the facts, they knew that the City roads have been inspected. They kept quiet. If you look at the tape they basically tried to misinform Council. They knew Mr. Finke had already shown that the roads had tested, the concrete had been tested, and actually the test brakes were much stronger than they needed to be. They basically almost kept that from Council. It was only at the last minute that that was produced and their whole intention was for Council to refuse to take their advice and refuse to accept the roads and that would accord a big fuss. I think it was a big shock to them because it's normal for councils to accept the advice of staff that's what paid to do and it's not a rubber stamp but generally if you have employees and they're qualified, you trust and it's really great and it is a credit to council that council having also received those concrete tests elected not to take their advice and elected to have the roads come back into the city. Council was basically looking after the city people the people who work for the city were ignoring. So when you come down to it, and I will finish quickly, you've got the takes and you've got them aligning the homes and the people in the basically how they live you have now got Hillary has

already read all of the many emails she's going to read you some more tonight and then you have basically a situation where they have created something that is very unfortunate and to me the worst thing and the most unforgivable thing is they were using homeowners to basically get to us and or to get at the city. Thank you.

Michael Ciaccio, 138 Anna Springs Lane, addressed the Council. The agenda tells us City Council is here to rule on the careers of two sitting City Administrators one of whom risked his life to protect us and he is an honorably discharged United States Army Veteran. Thank you for your service to our nation. I salute you. Before we focus on the City Administrators, the ones that are being looked at, let us turn that lens and focus on the City Council. Let us take a deeper look. Let us talk about personal bankruptcy. Is there a member of City Council currently going into bankruptcy? Has the City Council shared that bankruptcy with voters. My whole thrust is going to be not something like the bankruptcy but was it shared with the voters so the Texas voters walk into the knowledge. If one cannot manage one's finances how or why can one be trusted to manage a driving municipality. Carol, Casey, Cheryl, Stan did you communicate the City Council Members personal bankruptcy with the voters, the bad judgment on City Council that never makes it for the voting. Driving while intoxicated and I've done it. I was not arrested you know why. I got behind the wheel I was scared to death, drove real slow and followed people so you got to make two mistakes You got to be foolish enough to drink too much and then get in the car and create another crime driving. Is there a City Council Member with a DWI conviction? Has the City Council communicated and that it is not so much that the DWI happened, but was it communicated to the voters. Communicated to the DWI convictions. Carol, Casey, Cheryl, Stan did you communicate the DWI to voters so when they walk into the booth they know who and what they are voting for. Pedophile endorsements. Has any sitting Montgomery City Council Member received multiple endorsements from Mark Wayne Shorton 63 of Splendora who was found guilty of continuous sexual abuse of a child under the age of 14. Carol, Casey, Cheryl, Stan, did you communicate those endorsements to the voters. Again, the fact that somebody endorsed somebody not my point, not a big deal but was the voting public informed so they walk into the booth and they know what they were doing. Summary, bankrupt while in a lucrative space software engineering software sales. Think about that bank and information technology today's day and age. DWI, children put at risk, the voters never know endorsed by a child predator. Voters never know Carol, Casey, Cheryl, Stan. If you do not fix it I will. Dave thanks again for your service to our nation.

Hilliary Dumas, 8560 Majestic Lake Ct., addressed the Council. After last week's public comment, I went home and finished watching the City Council meeting at home on video. The video is really glitchy by the way so I hope in the future we can fix that but after the meeting adjourned the video still running, Mr. McCorquodale was speaking to Council Member Casey Olsen and although the audio is bad it is clear he is still implying and backing up staff that our information was incorrect in defending city actions. So, tonight I am going to give you the facts not from me, not from city staff, but from Jones and Carter and invoicing directly. Here is a copy of the invoices (handout provided to City Council Members) from Jones and Carter line by line for section two of Lake Creek Village. I have the same for section three if you would like. If you look at the tabbed pieces, the first one we have talked about. The City was involved in meetings and preconstruction, but if you start at page four (4) it talks about we are billed for plan review email about private streets and private drainage. Okay it mean does not necessarily mean that much. Go to page seven (7), I'm

sorry six (6) where billed for a call from Roan RE: paving, a call from Troy Tolen who was our engineer at the time of final inspection and paving. Page seven (7) we are billed multiple times rebar inspection site visit 1:00 am concrete pour, rebar inspection, concrete pour finishing rebar inspection, filling behind back of curb. If you continue on to page eight (8), you will see that it continues, introduction to site, inspection of road, discussion concerning pavement, scheduled pavement inspection, review of paving areas. So you can see throughout this document, the \$13,000 we paid Jones and Carter for section two alone, there are numerous instances and it is very clear they were involved at each step of the way. This was not done in secret; this was not done without City knowledge. This was done hand in hand. The last thing you will see is another email because I am sure you enjoyed my highlights last week. An email from our contractor to Jones and Carter regarding Lake Creek Village section two concrete paving cast will be out there for inspection. So, I hope this puts an end and without beating a dead horse everybody can clearly see that these were done with the city that everything done in the city requires inspecting, testing, and oversight. A private house requires a soil for a slab the same with the roads even though the roads were platted as private, they still require the same testing, the same inspection, the same process. If you will look at the cover you will see highlighted at the top Client Manager Ed Shackelford, Project Manager Chris Roznovsky. To be transparent, unlike city staff was about this project or us. Chris Roznovsky was not the engineer at the time, it was Glenn Fleming. This printout was done after the fact, so Chris should have never been commenting or stating with fact that he was specifically told not to inspect the roads because quite clearly the facts show otherwise. Thank you.

SPECIAL AGENDA

1. Consideration and possible action on the employment contract between the city administrator and the City of Montgomery.

Gary Palmer addressed the Council and stated in a matter of three (3) days we went from “*do you plan to move your family to Texas*” to voting not to renew my contract to now, attempting to terminate me for cause. No notice. No discussion. Three (3) days.

In the 20 months I have been your City Administrator, I have had numerous conversations with each of you. None of them were negative or unproductive conversations. No unsolvable issue ever came up and I have done my best for you during that time.

My perception of our work was that we were getting stuff done and tracking positively on our identified priorities. I was blindsided when without notice or explanation, my employment contract was put on the Tuesday November 12th agenda for discussion.

When the item came up for discussion at Tuesday’s meeting the only question I received was a personal one, not one related to my job: “*Are you planning to move your family to Texas?*” I answered honestly “*I told you I did not know*” and that was the truth.

Without any further discussion or notice to me, five (5) minutes later when we were back in the regular meeting, the motion was made to “not renew the City Administrator’s

contract” which passed again without any discussion. This was a formal and binding decision by the City Council. After that motion passed, I asked the Council about the notice requirement, my last day with the City, and severance payout in which the Mayor and Council Members responded in the affirmative. The City attorney also asked about the contract provisions in which he was told to follow the contract. It was also stated that no one had a copy of my contract even though it was on the agenda for discussion. This was Tuesday evening November 12, 2024 at around 7:30 pm and you can view it and hear it on the meeting video.

After the meeting at around 9:00 p.m. that same evening I and the City Attorney received an email from the Mayor requesting to add my contract again to an agenda. Add the termination of the Assistant City Administrator to the agenda and then add the appointment of an interim City Administrator.

Two days later still hearing nothing from anybody, I had to track down the City Attorney who informed me the City Council is now wanting to terminate me for cause. This was Thursday, two days after the meeting, maybe a day and a half.

It appears to me that Council did not like the “I do not know” response I gave when asked if I was going to move my family to Texas. It also seems to me the immediate decision to “not renew my contract” last Tuesday was either a preplanned or an arbitrary and capricious decision. I do not believe the Council understood that the City voting not renew my contract would kick in the severance requirement. After the meeting when you realized this, you came up with a plan to just throw it back on the agenda tonight and do it again but this time add “for cause” which gets you out of having to pay the severance. And why not? It puts the burden on me to now have to sue the City which will then take it out of your hands and put it in the hands of the Texas Municipal League. This relieves you all from owning your actions, admitting to any mistakes, and any settlement will likely be paid by the Texas Municipal League. Who cares if it ruins my name and reputation in the process? Who cares if it damages me and my family financially. Who cares it is not your money; it is City money.

1. You already all voted not renew my contract on Tuesday. You cannot arbitrarily change your mind because you did not understand the impact of your decision.
2. I was not provided any reason or notice for “the cause”.
3. Our contract specifically defines the reasons you can terminate me “for cause”.
4. If I acted in any way that reached the level of “cause” as defined in our contract I should have been immediately suspended pending an investigation.

This toxicity at the leadership level spreads like a virus throughout your organization. What do you think your actions are doing to the psychology of your employees here, your city workers? Watching your City Council arbitrarily dismiss the City Administrator on a whim who has a contract and they do not. How do you think they believe they will be treated? It is telling them either bow and kiss the ring or you will get tossed out. It will turn your organization into survival, your city services will tank, and you will lose the confidence of your community. It is a downward spiral from there.

What do you think your next City Administrator is going to be like knowing he/she has to try to manage while taking grenades with their back against the wall. Are you going to honor their contract. What business is going to want to come to the City of Montgomery and plant roots when they see this kind of venomous conflict going on in the city in which they plan to invest. What outside agency is ever going to respect and take a city seriously that is behaving like this?

I took this job and moved out here based on our contract. I made sacrifices and rearranged my life and the life of my family based on our contract. I made many life altering decisions based on our contract. I would not have accepted this job and moved here had the city not agreed to the terms of that contract. I upheld my end of the agreement. I honored the contract. Be honorable people and do the same.

I have had no performance issues, you have no cause, I have done nothing wrong, and you all know it. I am owed nine (9) months of salary in accordance with our contract. If it's not paid out I have retained legal counsel and immediately intend on suing the City for breach. I am not going anywhere.

Councilmember Olson said he agrees with Gary Palmer 100 percent. He said here is the problem. We have had many conversations about your contract. I helped Caleb write that contract and we went back and forth lots and lots so he is very well aware what is in it. He agrees 100 percent that he is not going to let an ego or emotional decision damage his reputation and we should not allow it to damage the City of Montgomery's reputation. If we sign a contract with someone and you have not read it you need to read it again. It states exactly what causes for and we did none of those things to provide him those causes. He tried to tell Council and they all argued with him on numerous occasions. There is no cause. He has done everything we have asked him to do, end of story. We follow a contract. When I put my name on a line I am going to honor that. End of story. If anybody here thinks their ego is better than their word you need to go somewhere else. Resign, do something else. Councilmember Fox asked Councilmember Olson if he helped author the contract. Councilmember Olson said you bet. Councilmember Olson asked Caleb Villarreal, City Attorney how many emails did we go back and forth on that contract. Caleb Villarreal said it was several emails. Councilmember Fox said she was not aware of that. Councilmember Olson said back and forth to make sure that they got certain things that were left out of the last contract captured. He said when it comes to my integrity, the integrity of this town, if we make an agreement with someone we better uphold it. To sit back and say oh well we do not want to pay it because we do not like this person, I'm sorry but that is not right. Councilmember Fox said but you are wrong Casey. Councilmember Olson said no I am not wrong. He said that contract is iron clad and we did nothing to inform him of anything. Councilmember Fox said she likes Gary. Councilmember Olson said he is just very, very disappointed that this is even on this agenda and if Alan was here he could read my text messages when I said this was totally wrong and it should not be on the agenda.

Mayor Countryman said Alan told her today I agree with the best result for the City and this is the best result. There are two reasons why the contract was breached and I guess we will talk about that in court. Actually there are a number of reasons, but Alan said two for sure. One is under item two and the addendum. Mayor Countryman said that is all she will say.

Councilmember Donaldson said he is going to speak up for himself. He said he has no ego involved in this situation and has no interest in it either financially or otherwise. I am just trying to do the right thing for the City and sometimes it is a blurry picture of what we have to deal with on a day-to-day basis. He said just like Gary said in an email to them he does not have any personal anything against anybody on Council but by the same token we do not, at least him personally, this is not an issue of emotion, it is not an issue of trying to get back at somebody. He has no ulterior motive. He just wants the City to move forward, wants it to move functionally, and there are a lot of other instances involved which they cannot really discuss right now because this is not a forum to bring out dirty trash. This is a forum to do business and if they see the direction that the leadership is going is not in our best interest then they have a right to say no it has to turn and go another way. He said there is a lot of undercurrent he knows from the time he got here to now and the time that he has observed the Council there is a lot of bickering, a lot of personal animosity, and a lot of hate. We cannot have that and at some point in time we have to find a way to find medium ground. We have to learn to respect each other's opinion and we have to learn to forgive, but people do not seem to want to do that. They want to take it to the next level and this is the next level. He said I am sorry it does not look good. It is going to look ugly, that is the way it goes down when things are not going right. When you are disrespected, which he cannot go into but this Council has been disrespected by the City and things have been going on undercover without them knowing it and if they had not brought it to light through this procedure they would never know about it because there was a gag order on them and that is the way it is. If you are going to elect us then you are going to respect us and let us make our own opinion and own decisions. They are not here to play games. He is not here to play games. He said he is sorry but they have to take action in what they perceive is the best interest of the City. Councilmember Donaldson said he likes Dave; he loves his service and he is a good man but he crossed the line and they cannot have people that cross the line get away with it. People have to be punished when they do something out of the ordinary and make extenuating steps to make a personal attack on somebody. We cannot have that. He said he does not care what anyone says. Right is right and wrong is wrong. There is a right way to do things and a wrong way and nobody seems to want to do the right way. He said he is sorry they have to do it this way. He hates it and he does not like it either. He does not like it any more than Gary does. We have to find some way where we can get along and if it takes moving people out for whatever reason then they are going to do it. I am sorry but we are going to do it. He said he does not like the process, he wishes they would have handled it better and he apologizes to the people here and the people in the City. Yes, it is going to make them look bad, he cannot help that. They have to do what they feel is right. There are two sides to every story and they have their side. Right now it looks like they are going to stick with it.

Councilmember Fox said since everyone is having this open conversation with Casey starting it she does apologize also. She said I have lived here for 50 years and has never seen quite this much but there have been things that have been breached that she feels is absolutely irreparable. She said one of the things and she does like Gary but he sent Council a letter on June 5th that said he does not feel he is successful in this City. She said actually I am a grandmother so I can say this, he was actually telling me my child was ugly and I have lived here for 50 years. She does not understand why he could not be successful so she kind of brought it on to the fact that at this point if he was not successful why were they spending so much money in the City, so maybe they just needed to move forward. She said she does apologize herself and hopes everyone understands.

Councilmember Olson said he would like to make the comment it is not open consent he commented on agenda item one as it was all about his contract and that is all he talked about. He said it is not open discussion.

Motion: Council Member Langley made a motion to terminate the City Administrator for cause effective immediately. Council Member Fox seconded the motion.

Councilmember Olson asked if this is a debate, somebody name the cause for him. Mayor Countryman said she believes there is going to be a lawsuit and per Alan he asked that they not state this. Councilmember Fox said Alan said not to discuss it. Councilmember Olson said this is what he does not understand. Everyone here has been privy to Alan's comments on what to do with this except for him and he has not missed an executive session. He said they did not talk about it then. Mayor Countryman said you are always able to call the City Attorney. Councilmember Olson said here is the thing people and asked what happened outside of this building. Councilmember Fox asked what are you saying Casey. Councilmember Olson said there is a whole lot of information that is not being shared and everybody has it. Mayor Countryman said you have it and you have been on the emails. Councilmember Olson said no he has not. He has been on the email from you to Gary and back but he has no information from Alan. Mayor Countryman said well she called Alan. Councilmember Casey Olson asked how did everyone else get the information from Alan on what to do and whether or not they should name the cause because if there is cause he would by all sure like to hear what it is because this contract is very specific on what is cause. Councilmember Fox said you will have the opportunity to vote. Councilmember Olson said he has the opportunity to vote but this is a debate and somebody should give him some information so he knows what to vote on. Councilmember Donaldson said insubordination and dereliction of duties. Councilmember Olson said insubordination is not called out for cause in his contract word for word. He said you need to read his contract as it is not in there. Contracts are written for a reason and signed. It is not a suggestion; it is our guide. It is what we do by it. The contract does not say anything about insubordination and I warned you that it did not. Like he said, if you want to bring the City's reputation down because you do not want to honor a contract that we signed, that is on you. He said my integrity and the City's integrity you are all playing with it, not just Gary's. You are messing with the City's integrity and other council members integrity by not honoring a contract that we agreed to. Councilmember Olson said he sent it to you in

the text message when you asked what are you talking about. He said here is a picture of his contract. Councilmember Fox asked me. Councilmember Olson said yes. Councilmember Fox asked I have his contract. Councilmember Olson said yes it is highlighted exactly what is for cause and insubordination is not one of them. Mayor Countryman said willful misrepresentation to the City is what Alan stated as well as material breach is what he told her today right before we got here. Councilmember Olson said that is the other thing his contract says that we have to inform him. Mayor Countryman said Alan did not say that and he did not tell her that. Councilmember Olson said it is in the contract. Mayor Countryman said she is just saying what Alan told her. Councilmember Olson said if we are going to vote let us vote but just understand the reputation if you want to throw it down the drain for that, it is on you.

Motion carried 3:1.

For Motion: Council Member Langley, Council Member Fox, and Council Member Donaldson
Against Motion: Mayor Pro-Tem Olsen

2. Consideration and possible action of terminating the current assistant city administrator/director of planning and development.

Dave McCorquodale addressed the Council and stated he wanted Gary Palmer to be able to talk on his behalf.

Gary Palmer addressed the Council to talk on behalf of Dave McCorquodale. Gary Palmer, Dave McCorquodale’s immediate supervisor since January of 2023 to now. During that time, Mr. McCorquodale has performed at a high standard, is reliable, knowledgeable about his job, is an outstanding team player and an asset to the City. I have had no disciplinary or performance issues with Mr. McCorquodale. Also during my tenure, I have observed Mr. McCorquodale being publicly vilified over and over again by the same person for no reason. You all know who that person is yet you fail to address the issues. I do not understand why the personal attacks against him are continue and why or how he is on tonight’s agenda for termination.

Motion: Council Member Fox made a motion to terminate the current Assistant City Administrator and Director of Planning and Development immediately. Council Member Donaldson seconded the motion. Motion carried 3:1.

For Motion: Council Member Langley, Council Member Fox, and Council Member Donaldson
Against Motion: Council Member Olsen

3. Consideration and possible action on appointing an interim city administrator.

Councilmember Olson asked if they have a candidate in mind. Councilmember Donaldson said yes. Councilmember Olson asked when did that come about. Mayor Countryman said people are independent thinkers. If they knew that this was on the agenda of course they are going to come. Councilmember Olson said the agenda was on three days ago. Mayor Countryman said right you have 72 hours that is what it is. Councilmember Olson said in three days we popped out an interim city manager in three days. He said we cannot seem to do anything else around here in less than a month. Mayor Countryman said that is what was asked to be put on the agenda. Councilmember Olson said all he has to say is there is a whole lot of very choreographed information. Interim on the agenda. He said never even heard and did not even know we were going to talk about interim. His whole thought process is they let Gary finish out so if now they are going to terminate him, they cannot do that so they have to have an interim. He said this has all been planned and he has not been involved. Mayor Countryman said no it has not. Councilmember Fox said you have all these things but you know what. You are the person that she has seen up here all the time. Councilmember Olson said the evidence is right here and asked how did it happen so quickly. Councilmember Fox said she comes to City Hall when they do have Council but you seem to know that we are having some kind of conspiracy. Councilmember Olson asked how is it that you are all informed of hey we have interim we are going to vote on. Mayor Countryman asked wouldn't you want someone in there. She said she does not even know if they will vote on one tonight but you should want someone at the helm. Councilmember Olson said absolutely. Mayor Countryman said it is only natural to have this on here. Maybe there is nobody that has voted in. Councilmember Olson said before they try to vote somebody in they should at least go out and reach out for one, do some interviews or something. Mayor Countryman said absolutely. Councilmember Olson said this is action, this is not let us talk about getting one. Mayor Countryman said you can choose to table it, you can choose to pick someone. Councilmember Olson said he is just saying it looks very strange from his point of view. Mayor Countryman said it looks natural really. Councilmember Donaldson said I told you the process stinks.

Motion: Council Member Donaldson made a motion to appoint Chief Solomon. Council Member Fox seconded the motion. Motion carried with present voting in favor.

4. **Consideration and possible action on an Ordinance of the City Council of the City of Montgomery, Texas, canvassing the returns and declaring the results of the City of Montgomery, Texas, Special Election held on the 5th day of November, 2024, 1) for the creation of the Montgomery Crime control and Prevention District; and 2) extending the term of office for Mayor and Council from two years to four years.**

Mayor Countryman said she has the numbers by Suzie Harvey and read the following: I Suzie Harvey, County Elections Administrator do hereby certify that the attached pages are the final results to the City of Montgomery Special Election held in Montgomery County on November 5, 2024. For Proposition A which is the Crime Control and Prevention District the numbers are 967 for, 391 against. That is a 72.45 percent turnout. Total ballots cast were 1,491. For Proposition B – failed. Totals for it were 585, against 758. Total ballots cast was 1,491 and it did not pass by 72.45 percent.

Motion: Mayor Pro-Tem Olsen made a motion to accept the ordinance as presented and adopt the CCPD. Council Member Donaldson seconded the motion. Motion carried with present voting in favor.

- Councilmember Langley – Yes
- Councilmember Olson – Yes
- Councilmember Fox - Yes
- Councilmember Donaldson - Yes

COUNCIL INQUIRY

No Council inquiry was presented at this meeting.

ADJOURNMENT

Motion: Mayor Pro-Tem Olsen made a motion to adjourn the Special City Council Meeting of the City of Montgomery at 5:54 p.m. Council Member Fox seconded the motion. Motion carried with present voting in favor.

APPROVED:

Sara Countryman, Mayor

ATTEST:

Ruby Beaven, City Secretary

Montgomery City Council
AGENDA REPORT

Meeting Date: February 25, 2025	Budgeted Amount: N/A
Department: Administration	Prepared By: Ruby Beaven

Subject
 Consideration and possible action on the City Council Regular Meeting Minutes of January 14, 2025.

Recommendation
 Staff recommends approval of meeting minutes, as presented.

Discussion
 Please see the accompanying minutes:
 Regular Meeting Minutes of January 14, 2025

Approved By		
City Secretary & Director of Administrative Services	Ruby Beaven	Date: 02/19/2025



Montgomery City Council Regular Meeting Minutes January 14, 2025

OPENING AGENDA

1. **Call Meeting to Order.**

The City Council Regular Meeting of the City of Montgomery was called to order by Mayor Countryman at 6:00 p.m. on January 14, 2025, at City Hall 101 Old Plantersville Rd., Montgomery, TX and live video streaming.

With Council Members present a quorum was established.

Present:	Mayor	Sara Countryman
	Mayor Pro-Tem	Casey Olson
	Council Member Place 1	Carol Langley
	Council Member Place 4	Cheryl Fox
	Council Member Place 5	Stan Donaldson

2. **Invocation.**

Council Member Donaldson led the invocation.

3. **Pledge of Allegiance.**

Mayor Countryman led the Pledge of Allegiance and Pledge of Allegiance to the Texas State Flag.

PUBLIC FORUM

Mayor Countryman said she would like to make an announcement that we have some visitors here. Ms. Elizabeth Woods who is the Executive Director and Director of Philanthropic Endeavors for the Montgomery County Veterans Memorial is here and we should be expecting her to do a presentation for us here soon, but thank you for being here this evening. We appreciate it. Also, we have MLK Day on Monday. We always have our annual MLK celebration at the Lone Star Community Center on Lone Star Parkway that begins at 11:00 a.m. and our very own Chief Solomon will be the Speaker of Honor this year so that is fantastic.

Mayor Countryman stated she has received two speaker forms. The first one received is from Ms. Debra Galka who will speak about traffic on Lone Star Bend.

Ms. Debra Galka, 19073 Villa Lane, Montgomery, Texas 77356. Ms. Galka thanked Mayor Countryman and Council for the opportunity to speak. She said she is here on behalf of the residents of Villa Mia Lago to request a three-way stop at the intersection of Lone Star Bend and Bois D Arc Bend. As the community grows the traffic at this intersection is creating a safety issue and we have the same concerns with Lone Star Parkway and Lone Star Bend. The residents also believe that possibly one street light on Bois D Arc at that intersection and speed bumps on Lone Star Bend may help reduce the excessive speeding and racing at night on these roads. She has reached out to the County Commissioners. She reached out to Precinct Three and Precinct one. Mayor Countryman asked if she received a response from Commissioner Walker because this is his Precinct? Ms. Galka said yes. Mayor Countryman asked, did he acknowledge or say he could

help? We just looked at the map and the one stop sign that is there is definitely in our city limits. She thinks we may be able to do a second, we will have to look, but he certainly would be the other person that we would need to get engaged to get one headed west on Bois D Arc since that is his jurisdiction. Mayor Countryman said she thinks we are most likely all in agreement with you. She said Lone Star Parkway is owned by the County so again it would be him to help mitigate that intersection because she has been a victim and part of that as well. It is not good. Certainly we can help be a conduit and help you get with his office and see what kind of solutions they can come up with and be standing next to you as well. Mayor Countryman said she is supporting Ms. Galka.

Mr. Bradley Shiples, 34 Hillsborough Drive, E., Montgomery, Texas 77356. Mr. Shiples said He is an American Polish public advocate in Montgomery. He holds strong to the values of unity and freedom for both America and Poland and all of our NATO allies and for his polish friends he says “Ameryka i Polska są jednością i na zawsze wolne” which means America and Poland unity and freedom forever. He said today he is reaching out about the dangerous intersection on Lone Star Parkway and Highway 105 near Simmons Bank. This area poses serious safety concerns due to a poor development and a significant pothole that worsens the situation. Drivers turning onto Lone Star Parkway must often stop farther back in the turn lane to avoid obstructing other cars attempting to turn. This creates confusion and increases the risk of accidents. He kindly requests this intersection be reviewed and repaired promptly.

Mayor Countryman said she is going to break protocol here for a second. She has some questions under the public forum and her questions are for WGA.

Mayor Countryman said in 2024 are you aware of how much we spent with WGA? City Engineer Vu said off the top of her head she could not tell you that number but it is a number that she has reviewed in the last couple of weeks. Mayor Countryman said it has come to her attention that WGA is now employing Nici Browe a previous employee here at the City. Is this correct? City Engineer Vu said yes. Mayor Countryman asked what capacity does she work for you? City Engineer Vu said she is a project coordinator. Mayor Countryman asked will she be working on any of our projects, anything with our city business, developer business, or anything regarding Montgomery Texas at all? City Engineer Vu said yes she does work in some capacities on the City of Montgomery. She also works for our other clients so it is not exclusively City of Montgomery business, but yes we have had her help out with a couple of city related items. Mayor Countryman said she wants to be clear and emphasize that this person she hopes is not going to be involved in our city business moving forward. Based on the reckless recordkeeping and lack of professionalism and still ongoing negative rhetoric about the City of Montgomery, herself, this Council, and as a taxpayer and elected official in this city, it is her wish that we are all protected as taxpayers. Everything that you do has information, sometimes proprietary information regarding our city and someone that has nefarious ways or speaks such negatively about our city, she would like to ask that Ms. Browe does not have anything to do with our city. She would not want us to be compromised in any way due to her reckless record keeping and behavior. City Engineer Vu said yes she can make that adjustment. Mayor Countryman said she appreciates it and thank you.

CONSENT AGENDA

- 4. Consideration and possible action on the Special Joint Public Meeting Minutes of December 09, 2024.**
- 5. Consideration and possible action to amend Resolution No. R-2024-20 to strike out a WHEREAS section from the document.**

Amending Resolution 2024-20

6. **Consideration and possible action on a Resolution of the City Council of the City of Montgomery, Montgomery County, Texas, appointing board members to the Montgomery Economic Development Corporation Board of Directors.**

Proposed Resolution 2025-01

7. **Consideration and possible action on a Resolution of the City Council of the City of Montgomery, Montgomery County, Texas, appointing members to the Montgomery Planning and Zoning Commission.**

Proposed Resolution 2025-02

8. **Consideration and possible action regarding the adoption of the Election Services Agreement by and between the City of Montgomery and Montgomery County Elections for May 03, 2025, City General Election and to authorize the Mayor to sign the agreement.**
9. **Consideration and possible action regarding the adoption of the Joint Election Agreement with Montgomery County Elections for May 03, 2025, City General Election and to authorize the Mayor to sign the agreement.**
10. **Consideration and possible action on an Ordinance of the City Council of the City of Montgomery, Texas, providing for the Ordering of a General Election to be held on May 3, 2025, for the purpose of electing three (3) City Council Members, Places 1, 3 and 5; Approving Election Service Agreement with Montgomery County, Texas; and Providing details relating to the holding of such election.**

Proposed Ordinance 2025-01

Consideración y posible acción sobre una Ordenanza del Concejo Municipal de la Ciudad de Montgomery, Texas, que establece la Ordenación de una Elección General que se llevará a cabo el 3 de mayo de 2025, con el propósito de elegir tres (3) Miembros del Concejo Municipal, Lugares 1, 3 y 5; Aprobar el Acuerdo de Servicio Electoral con el Condado de Montgomery, Texas; y Proporcionar detalles relacionados con la celebración de dicha elección.

Ordenanza propuesta 2025-01

Council Member Langley said she would like to pull number five and have it separate.

Motion: Mayor Pro-Tem Olson made a motion to approve items 4 and 6 through 10 of the Consent Agenda, as presented. Council Member Donaldson seconded the motion. Motion carried with all present voting in favor.

REGULAR AGENDA

5. **Consideration and possible action to amend Resolution No. R-2024-20 to strike out a WHEREAS section from the document.**

Council Member Langle said she personally does not have a problem with the resolution itself other than where the second whereas says assistant city administrator and we do not have that title anymore so if we could get that removed then she is good. Chief Solomon said yes it has been taken out. Mayor Countryman said then she will not sign the resolution tonight. She can come back tomorrow with that modification.

Motion: Council Member Langley made a motion to approve to amend Resolution No. R-2024-20 to strike out a WHEREAS section from the document. Mayor Pro-Tem Olson seconded the motion. Motion carried with all present voting in favor.

11. Presentation and discussion regarding enhancing water safety in our community with an emphasis on pool and spa inspections.

Mr. Hanna, Building Official, said when he took the position of Building Official, he had Chief Solomon sign off a letter that he was not responsible for anything that has happened beforehand, and he wants to make record of that. He said in the past, the prior administrators have not really concentrated on some of the requirements of the code, specifically swimming pools. He pulled a report, and we have had 65 pools built in the last six years. He thinks only a handful comply with all the requirements. The big concern that he has is, as he has noted in some of the information, a lot of drownings occur throughout the year for children who get into a pool area unseen, and they have a drowning incident. We have a lot of pools that have been built that have not passed all their inspections. What he proposed to the Council to do is to adopt a national program for May that is pool safety or water safety month. Along with the he also wants to present about building safety month. We will get to that later, to try to help our ISO ratings. If we can just get a go-ahead from Council that this is something we want to pursue. He would like to try to educate the community on the need to have their pools protected from outside sources so that we do not have any incidents in Montgomery. All he is asking for is to go ahead to pursue getting these different proclamations set up so that we can look at adopting them in April and try to make May a month that we really emphasize trying to get everybody into compliance with their pools. Mayor Pro-Tem Olson asked what exactly are your proclamations going to entail? What are we talking about? Are we going into people's backyards and telling them their stuff is wrong, and they have to fix it? Mr. Hanna said no. What he would propose that we do is the proclamations are a national thing just emphasizing safety issues, but because we have a lot of folks that are not in compliance what we would like to do is in the next few months send them a letter and say you did not pass inspections, here are the reasons you did not, and we would like for you to try to come into compliance. We do not want to be heavy-handed with anybody but see if we can voluntarily get folks to come into compliance. There are some that have had a pool for two or three years that did not pass their inspections and what do we do with it? That is a problem we will bring back to Council later on, but what he would like to try to do is get folks in voluntary compliance first.

Mayor Countryman asked City Attorney Petrov now that we know that some have not had their final inspection, if something were to happen are we liable? City Attorney Petrov said he would not say that we are liable, but we should try to encourage people to come into compliance. He just heard about this situation last month as well and he does not know exactly the facts of why people were not getting some inspections, but you need to try to correct that issue. Mayor Countryman said certainly. She just wants to make sure that between now and the correction if something were to happen because we have the knowledge that we are not and somehow held responsible because we did not do the final inspection on the front end anyway. Council Member Fox asked how do you determine what type of records have been kept to determine which have final inspections? Do you have all that backup? Mr. Hanna said yes, through their system. In many cases, folks just stop asking for inspections and that is another thing we are going to try to now correct. Hopefully our permit tech can now keep an eye on things and know that when somebody is getting close to them with their permit that we can notify them and say you have not gotten all your inspections, are you finished with your project and then you go out and inspect. The key thing is to try to keep it all within the time

frame of their permit. What he proposes to do going forward is anybody that requests to have a pool built we are going to try to educate them on the front end that it is necessary to have all these pool barrier requirements as part of their application process so they know going into it that they have to comply, but now it is kind of an education process just going back. We know which addresses have not completed the projects. Just looking back on the last two dozen there have only been four that were in total compliance and six are still active permits. Council Member Fox asked what would happen about an existing pool where the ownership changed? Mr. Hanna said that is the problem. These things sit around for a while and what he would like to do is to voluntarily try to bring them into compliance. We will see what we can do with that and then come back to Council after our big push through May and see what we want to do about it then. Mayor Countryman said maybe make them aware and give them a yearlong to get compliant, maybe like at a six-month point say you are six months into your year, then nine months, and then at the year point. Council Member Fox said for someone who has bought a house that had an existing pool to make them aware that there are issues possibly. Mayor Countryman said correct. That is probably already on his permit page. Mr. Hanana said that is what he learned from his mentor Mr. John Fox. Mayor Countryman said thank you very much for bringing this to our attention. We appreciate it.

Council Member Donaldson said basically you are saying we have the proper ordinances in place, and we just have not been administering the property. Mr. Hanna said yes, the previous administrations have not really enforced it. It has basically been the contractor and the homeowner who would call and request their inspections and if we did not get a call we did not go out. He thinks word got around that if you do not call in for an inspection you do not fail. It is different with a home because they have to have a certificate of occupancy in many cases for their insurance or mortgage purposes whenever they finish the house to be able to move in, but when you add-on something like a pool nobody really asks. It is just something that had to be closely monitored with the permit tech. Code Enforcement Officer and Planning/Zoning Administrator Tilly is trying to monitor this stuff more closely. Hopefully we can avoid it in the future. Council Member Donaldson said we had a citizen come in probably a year ago and he was complaining about his lighting for his pool that it was dangerous, and he was in a bad place. There was not much that he knew that the City could do for him, but he thinks this is a good program to try to eliminate some of the stress that people go through when things do not work out right. Mr. Hanna said that is the point that he tries to make with homeowners, that inspections seem like they are cumbersome, but in reality, we are trying to help them make sure they are safe, sound, and sanitary. What we are trying to do is if we do the proper inspections at the correct stages we can stop some of the problems that may come up later on, but we just miss some of those opportunities and we are trying to make it right now. Mayor Countryman said the final inspection is part of the protocol, but it is up to the City too to also manage when that permit is about to expire and ask the homeowner where they are in the process and then we have to manage that and chase it and we have not been doing so. Now, based on what Mr. Hanna is saying, she thinks we will have eyes on it and that protocol in place and that workflow. Mr. Hanna said he is asking for approval to move ahead with trying to do the May safety month and get the proclamation done. Mayor Countryman said she thinks that is great right before the summertime.

12. Consideration and possible action regarding an Escrow Agreement by and between the City of Montgomery, Texas and KHR Properties (Dev. No. 2414) and authorizing the city engineer to prepare a Feasibility Study for a proposed 0.76 Acre Jack in the Box.

City Engineer Vu said this is the second time this has come before Council. Just a reminder this is the standard beginning of the development process as it comes to Council at this point. You are entering into an escrow agreement to allow the developer to deposit funds to fund a utility and economic feasibility study that we perform, again with the developer funds. These are the same feasibility studies that we have presented to you many times before and as a reminder, taking action on this tonight does not necessarily approve or give the green light to the development to continue to go forward. This simply allows us to do a feasibility study which we will bring to you at your first February meeting should this get authorized this evening.

Council Member Donaldson said his understanding is the feasibility study is just to provide us with information on how we can serve the property and give them water and sewer. City Engineer Vu said that is correct. As part of the feasibility study, we look at how exactly like you said how is the City going to provide water and sewer service to the property, what kind of drainage situations do we need to consider if there needs to be a pond, where would the drainage go if there needs to be annexation, what would the tax increase to the City be, what would the tax benefit be, if there are any impact fees what would those be, and then should the developer choose to go forward with the development, what are the next steps? Is it a development agreement that the City and the developer then begin to enter into negotiations, what would be the expected fees for that, are there any utility extensions or work that needs to be done on the utility side, and what is the expected cost for that? It simply outlines all of that for the City's benefit so you can see and as well it benefits the developers so they can see what their anticipated costs would be should they choose to move forward. Mayor Countryman asked and then after the feasibility study we have the discussion about variances. City Engineer Vu said yes, that is correct. Again, in that study it would outline what would the variances need to be that they need to request and so after the study is completed then the variance requests come in either individually or previously that had been done under a development agreement if an agreement was appropriate for that specific property. Mayor Countryman asked, was that the time too they would present the easement agreements as well? City Engineer Vu said yes, after the study is completed any easements that need to be dedicated come at that time. Council Member Donaldson asked if easement agreements mean we would be able to see where the building is going to sit on the property? Mayor Countryman said and if it has to go through an adjacent properties' easement, there has to be an agreement between both property owners, what does that look like, and let us ensure that is in place. Council Member Fox asked, does it also include anything TxDOT or driveways, etc.? City Engineer Vu said there is a transportation section of the study that we outline where do they need to get their driveway permits from, what roads they are tying into, who owns those roads, and outlining what studies would need to be done ahead of time. Would they need to do a traffic impact analysis and intersection analysis, and if there are any road improvements for city roads that would need to be done for that development. We outline those at that time as well. Council Member Donaldson said he wants to make sure they take into consideration the fact that FM 149 according to TxDOT is going to be a four lane and so we are going to have an additional lane. He does not know what they are going to do with the turning lane we put in but still, he does not want to have any problems with us being able to put a four lane intersection right there and have issues with Jack in the Box's traffic because that is his main concern. He does not see how we can get around a traffic issue in that small lot. Mayor Pro-Tem Olson said considering your four lanes, TxDOT has an easement that they will use that Jack in the Box cannot build in. The only way there would be a conflict is if TxDOT needed more land and they would have to purchase that from Jack in the Box, from the people that own Jack in the Box. There is an easement next to FM 149 that belongs to TxDOT and they

will absorb that when they put in their four lane. Mayor Pro-Tem Olson said that turn lane is probably going to disappear and be your second lane.

Motion: Mayor Pro-Tem Olson made a motion to accept an Escrow Agreement by and between the City of Montgomery, Texas and KHR Properties (Dev. No. 2414) and authorizing the city engineer to prepare a Feasibility Study for a proposed 0.76 Acre Jack in the Box. Council Member Langley seconded the motion.

Mayor Pro-Tem Olson asked City Attorney Petrov what happens when we say no to a feasibility study? City Attorney Petrov said he has never had that happen. Mayor Pro-Tem Olson said his understanding is as long as they follow the ordinances, we cannot legally stop them. By the choices that we make it puts the City in liability. You can vote however you want, but understand choices have consequences. City Attorney Petrov said there is potential liability for that.

Mayor Countryman said she has heard the feedback from the residents and no one is in favor of this. She personally is not; however, she does not want to put the City liable to be sued by not accepting the feasibility study. She said it is quite the conundrum because we are sitting up here because we are the voice of people. For a number of reasons, the people do not want to see this development in Montgomery at that corner. Anywhere else, but not that corner. For that reason, she would like to say no, however she does not want to be sued over saying no and she needs to be certain that we do not get in that predicament. Council Member Donaldson said he will change his vote to avoid a suit. Mayor Pro-Tem Olson said that is the thing. As the feasibility study does not agree to any agreements, we are not agreeing to anything. City Attorney Petrov said he will reiterate the fact that agreeing to the feasibility study you are not agreeing to the project necessarily. City Engineer Vu said even when the feasibility study is presented, typically the motion is to accept the feasibility study. To be clear, that motion by accepting the feasibility study you are not necessarily accepting the development. You are simply accepting the report as presented to you as a statement of information, not necessarily agreeing to the development itself. That is not what that step is for. That comes at a later time.

The motion carried with the following votes:

Mayor Pro-Tem Olson – Aye Council Member Donaldson – Aye
Council Member Langley – Aye Council Member Fox - Nay

The motion carried with 3-Ayes and 1-Nays.

13. Consideration and possible action regarding an Escrow Agreement by and between the City of Montgomery, Texas and KHR Properties (Dev. No. 2414) and authorizing the city engineer to prepare a Feasibility Study for a proposed 0.76 Acre Jack in the Box.

City Secretary Beaven said this item is a duplicate and asked to pull it. Mayor Countryman agreed to pull the item from the agenda.

14. Consideration and possible action on acceptance of the Buffalo Springs Roadway Improvements project.

City Engineer Vu said what is in front of you is acceptance of the roadway which has been open since September. If you remember back to your September Council meeting this project was deemed substantially complete as the road was open and allowed for traffic to drive on it. All we have been waiting for since then is for some final vegetation to be established for

the grass to grow essentially. Now that vegetation has been sufficiently established, we are ready to close out this project and for the City to accept the roadway. We are continuing with the one-year warranty period, so this is simply accepting the infrastructure. One thing that she knows the question that has come up in the past was how did we end up on cost of this project? The final construction cost was \$610,730.75 which as a reminder, we did have a negative change order during the project so there will be a refund issued to Home Depot when the final true up is completed for both this project and the signal project because of that reduction change order during the project. Mayor Countryman asked are all monies paid except for this change order refund, are we up to date financially? City Engineer Vu asked from Home Depot to the City? Mayor Countryman said yes. City Engineer Vu said she will defer to Finance Director Carl. Finance Director Carl said on this particular item you may recall that Home Depot set up an escrow fund that was held with First American Title. There is a process for getting that money released from First American Title. That process was not done prior to her being more oversight on this item with escrows. She has reached out to First American Title and Home Depot. Three occasions to First American Title and two occasions to Home Depot and we are still awaiting a response from them. The last time she reached out was on Friday where her contact is their senior counsel, but we have not received any funds from that Home Depot escrow. Council Member Langley asked is it at that place? Finance Director Carl said she has confirmation that the first round of funding was put on deposit at First American Title. She knows there was a request for confirmation on the second round of funding. She does not have confirmation on that second round of funding. She does not know if that is something that you all have. City Engineer Vu said if her memory is serving her correctly, we did not authorize the contractor to proceed until we had confirmation that the funds had been deposited. We wanted to avoid putting anybody at risk so we would not have started the project unless those funds were deposited. Mayor Countryman asked do you have confirmation of that? She said she understands you are saying that you would not have allowed them to move forward, but do you have confirmation that the second round is there? City Engineer Vu said she would have received it in an email. She had not gone back and looked through her emails to find that exact one so what exact day she could not say. If she could have a chance to look through it, she can certainly send it to you after the meeting when she finds that confirmation. Council Member Fox asked why would Finance Director Carl not have been advised? Finance Director Carl said she was not always included on that information. Mayor Countryman said previous administration. Mayor Pro-Tem Olson asked do we need to get City Attorney Petrov involved to call American Title and tell them what is going on? Finance Director Carl said it is possible. She said she had this conversation with City Engineer Vu on Friday letting her know that she reached out. She was going to allow them a couple of days based on her follow-up message from last week. She expects tomorrow or Thursday she is planning to make a phone call to see if she can reach this individual and if she cannot, then that is going to be her next step. Mayor Countryman asked can we withhold the refund until we get this done? Mayor Pro-Tem Olson said the refund is not us, it is from the contractor. The question is does Home Depot have to release the funds? Finance Director Carl said correct. Council Member Olsan said so the call really needs to go to Home Depot. Finance Director Carl said right. When the money first went into escrow with First American Title we had asked them what the process was for getting these funds released. They said that basically we send them the pay app, we send them the proof of payment, and they will release the funds. When she did that the response from First American Title was has Home Depot signed off on this? She said she is not sure because she is taking this over and she does not know if there has been a process if this information has been sent to them or not. She then initiated that first contact with Home Depot copying First American Title and got nothing and then she sent the follow-up message asking for any guidance or information. We want to know

what the process is and what we need to do and that is where we are sitting right now. Mayor Pro-Tem Olson said we need to get hold of Home Depot. Finance Director Carl said she followed up last week and figured that by Wednesday or Thursday of this week she would. Mayor Pro-Tem Olson asked so you said your contact with Home Depot is their lead counsel? Finance Director Carl said yes, it is like their senior legal counsel at Home Depot. Council Member Fox asked City Engineer Vu if she will find her email for the confirmation and send it to Finance Director Carl? City Engineer Vu said yes, she will find that confirmation email that she has and will send it to Finance Director Carl and can forward it to everyone. Mayor Countryman said that would be great just for us to feel easy.

Mayor Pro-Tem Olson asked City Attorney Petrov how long should we give this lead counsel before you need to call them? City Attorney Petrov said at the end of this week and would not wait any longer than that. Mayor Pro-Tem Olson asked Finance Director Carl if she was good with that? Finance Director Carl said yes.

Council Member Donaldson asked, have we paid the contractors? Have they received their money? City Engineer Vu said yes, the contractor has been paid. Council Member Donaldson asked through us? City Engineer Vu said yes. The City entered into the contract with Scythe which was the contractor, so between the City and the contractor you are square on payments. There is one final pay estimate to be issued after acceptance which was essentially releasing retainage and that was the only item on this final pay estimate. Between the City and Scythe you are clear on your contract. This would close it out with the contractor itself. The contractor was not affiliated with Home Depot in any way. City Attorney Petrov said that way it could be refunded or paid from the escrow account for the amount we paid for the contract. City Engineer Vu said that is correct. Mayor Countryman asked do we want to accept it without payment or how do you want to handle this? Council Member Donaldson said he wants to table it. Mayor Pro-Tem Olson said this is about the project, this is not about the payment. This is about-is the roadway completed? Council Member Donaldson said okay that is fine. Council Member Langley said our contract was with the road people so we need to take care of them. City Engineer Vu said yes. Accepting the roadway tonight allows the contractor to close it out on their books. You do have a maintenance bond that we received from the contractor should any issues come up with the road during the warranty period but again, that warranty period started back in September when it was deemed substantially complete and opened up.

Motion: Council Member Donaldson made a motion to accept the Buffalo Springs Roadway Improvements project as presented. Mayor Pro-Tem Olson seconded the motion. Motion carried with all present voting in favor.

15. Consideration and possible action on approval of the Final Plat for Hills of Town Creek Section Five (Dev. No. 2206).

City Engineer Vu said this is the approval for the final plat for Hills of Town Creek Section 5. This went to Planning and Zoning back in December. We were waiting on them to get their final documents and financial guarantee in which is why you did not see it at your December meeting. Our memo is included with a couple of reminders on what is included in this plat. On December 14, 2021 the developer was granted a variance to allow the side yard setbacks to be five feet with no conditions and a minimum lot size of 50 foot lot width, 100 foot lot depth and a lot area of 5,500 Square feet at a minimum so they met those requirements in the plat. This is the same as what was in the preliminary plot and again went to Planning and

Zoning Commission in December. As far as impact fees, this development specifically in the agreement did not outline that impact fees would be paid at the time of platting so this will follow your standard impact fee procedure so they are assessed at the time of platting and their impact fee rate is locked in when that final plat is recorded. They are due at the time of connection as each home comes onto the system. This will be a total ultimately of \$148,409 for water impact fees and \$142,423 for waste water impact fees. Mayor Countryman said that is a total of \$290,000. Is this part of the development that we pay those impact fees back of that \$380,000 so that we really are not receiving those dollars, we are holding it until the end of the year? City Engineer Vu said this is part of that development, but the balance remaining on paying out the agreement is less than \$290,000. She does not have the final number in front of her but Finance Director Carl does. Finance Director Carl said it is less than \$25,000. City Engineer Vu said this would be used to pay that back and then the remainder goes into the City's impact fee. Mayor Countryman said then we will see some goodness here.

Motion: Council Member Donaldson made a motion to approve the Final Plat for Hills of Town Creek Section Five (Dev. No. 2206). Mayor Pro-Tem Olson seconded the motion. Motion carried with all present voting in favor.

16. Consideration and possible action on authorizing the City Engineer to begin work on the College Street Drainage Improvements project.

City Engineer Vu said she understands this project was discussed last night at your CIP workshop. She apologized that she was not able to be in attendance, but as discussed last night this project is for the repairs of the culverts along College Street essentially just up the street from Council Member Langley's house. What we are currently proposing, which is subject to change as we get further into design, is to replace the three 18-inch concrete culverts with three 18-inch concrete culverts. What has happened over time is the culverts have separated underneath the road which has caused potholing and causing the road to deteriorate. She was informed this evening that there are potentially some capacity issues with the size of the culverts. As we get into design, that is a very normal part of the design process to evaluate, do we need to go to a larger pipe size or what would need to be done to try to mitigate that and improve it as well? That would be considered as part of the design process. What we are also looking into here is regrading the culverts along College Street and then installing. There is one driveway along College Street that does not currently have a culvert. They would be installing a culvert at that property as well to allow drainage to continue to flow in the roadside ditches. Mayor Countryman said she has a question about the line items of the descriptions and the quantity and the unit price. On here, item number nine, it is traffic control complete in place for \$10,000, It is a road where there is she thinks only two or three houses past where this happens. She was curious as to what traffic control for \$10,000 looks like and signage for \$10,000. City Engineer Vu said with this being a narrow road there are a couple things. This is still in the estimate phase and as we get further into design we can narrow exactly what that is. What we have in mind at this point for traffic control and signage with it being a very narrow road, there really is not a way to do it one lane at a time. There are really not multiple lanes on this road in the first place so this includes the contractor's cost to rent signs to put them up, any barricades, signage, detour, if there needs to be a flagger, or steel plates to top off the road after they leave at the end of the day so that traffic can continue to flow through. Understanding that we want to try to minimize the impact even though it may be few homes, we still want to minimize impact on those who live on the other side of the bridge as we understand that is their only access in and out. We do have \$10,000 for each in here because of that situation. We do not want to block anybody out from being able to access their home.

Mayor Countryman said it is not a highly traveled road and so she just did not know if that was excessive. Council Member Donaldson said there is another item there for signage. Mayor Countryman said that is traffic control and signage underneath it for ten and ten. She just thought that was a large number for where this was. City Engineer Vu said it may be slightly on the high side, but she does not believe it to be largely on the high side. She would rather slightly overestimate and then the actual cost come back a little bit lower for City's budgeting standpoint. As a reminder this would be funded from ARPA funds for the construction of it.

Motion: Mayor Pro-Tem Olson made a motion to authorize the City Engineer to begin work on the College Street Drainage Improvements project. Council Member Donaldson seconded the motion. Motion carried with all present voting in favor.

17. Consideration and possible action on authorizing the City Engineer to begin work on the Water Plant No. 3 Booster Pump Addition project.

City Engineer Vu said similar to the previous one, you discussed this last night at your workshop. This is to add a fourth booster pump out at water plant number three. We have been talking about this project for a while. It does provide an additional 150,000 gallons approximately, 160,000 gallons a day in booster pump capacity so it will provide a good buffer as water plant four is being designed and ultimately entering into construction. It will give you a buffer on your capacity. This was previously designed with your water plant three improvements project which added that second cooling tower and gave you the new ground storage tank out at water plant three. It was ultimately removed from that project at the time due to budget constraints and so we are bringing this back to you. It is still a necessary project that we recommend for capacity purposes and redundancy out at the plant and would be funded by the ARPA funds as well.

Motion: Council Member Donaldson made a motion to authorize the City Engineer to begin work on the Water Plant No. 3 Booster Pump Addition project. Mayor Pro-Tem seconded the motion. Motion carried with all present voting in favor.

18. Consideration and possible action to call for a public hearing regarding a proposed annexation proceeding to enlarge and extend the City boundary limits.

Code Enforcement Officer and Planning/Zoning Administrator Tilley said this will be to call for a public hearing regarding the proposed annexation that is coming in for Tri Pointe Homes and the extension of 32.24 acres into the corporate city limits. This is between Lone Star Parkway and Eva Street and it is that roadway Westway Drive next to Napa. This is just to call for the public hearing that will be on February 11th at 6:00 p.m.

Motion: Mayor Pro-Tem Olson made a motion to call for a public hearing on February 11, 2025 at 6:00 p.m. in the City Council chambers of City Hall at 101 Old Plantersville Road, Montgomery, Texas regarding a proposed annexation proceeding to enlarge and extend the City boundary limits. Council Member Fox seconded the motion. Motion carried with all present voting in favor.

19. Consideration and possible action regarding approving expenses for repairs to McWashington Rd.

Public Works Director Muckleroy said this is on what we consider the home entrance to the stadium. We noticed some pretty good erosion going on under the road. We had a company come out and look at it and give us a quote. This is the same company that has done a couple of rounds of the street lifting for us in Hills of Town Creek where the roads have settled. We had to go in and drill and inject so we know it is a good product and we know it works. They do not have to do too much lifting on this. It is more stabilization to keep it from settling anymore. Mayor Countryman said she thought McWashington was the road right here that we renamed. Public Works Director Muckleroy said it is LA Washington. Mayor Countryman said she was wondering where this was. Public Works Director Muckleroy said the other one was named after Mr. Timothy McWashington. Mayor Pro-Tem Olson said ultimately, they injected soil stabilizing chemicals. Is that what they did? Public Works Director Muckleroy said yes, it is a polymer injection. The way he described it is kind of like great stuff foam. It swells up. They have it down to a science on how much they need to put in to get the lift they need. Like he said, there is not a lot of lift required on this. It is filling in voids and cracks to keep it from cracking. Once it starts breaking then we have to rip it out. Mayor Pro-Tem Olson asked so they use a poly or a not a poly, but similar to a poly? Did they do any soil stabilization injections? There is a chemical that you can inject into the soil that basically keeps it from absorbing more water or losing water and the water just passes through. They use it in foundation stabilization all the time and he was just wondering. Public Works Director Muckleroy asked, are you asking if they used it originally? Mayor Pro-Tem Olson said no, if they used it when they fixed it, used the poly to lift the road and fill the gaps. There is a chemical that you can use to stabilize your soil so it will not erode. Public Works Director Muckleroy said he is not 100 percent on an actual chemical but what they do does stabilize the soil. He said he is just not 100 percent on a chemical. He said he can find out. They have done good work for us so far and think they have done three different rounds out there in Hills of Town Creek with good results. He would like to get this handled before we start losing roadway out there. Council Member Donaldson said he has a question for anybody, you in particular Public Works Director Muckleroy. He asked what is the BuyBoard Cooperative Purchasing agreement? Public Works Director Muckleroy said a Cooperative Purchasing agreement is something that you can enter into to meet the legal requirements on the competitive bidding process. Whenever you go through a Cooperative Purchasing agreement you do not have to get multiple bids on something because that is already done on the front end. We actually have a couple of different agreements. We are under one with Omnia that covers all of our Home Depot and Amazon purchases. That is why we can buy something from there without going out and getting multiple quotes on it. This is a very specialized method of work that they are doing getting multiple quotes. Sometimes it is really hard so having the Cooperative Purchasing agreement, having this under that really helps with not having to get multiple bids on it. Mayor Countryman said for companies that are on BuyBoard it is for State and local government and education, and they have to be vetted and qualified to even be a partnership. Public Works Director Muckleroy and it is a guaranteed price through them.

Motion: Mayor Pro-Tem Olson made a motion to approve expenses in the amount of \$26,500 to Uretek USA, Inc. for repairs to McWashington Road. Council Member Langley seconded the motion. Motion carried with all present voting in favor.

- 20. Consideration and possible action on an ordinance of the City of Montgomery, Texas, amending its municipal budget for the fiscal year 2023-2024; appropriating the various amounts herein, as attached in Exhibit A; containing findings and a Texas Open Meeting Act clause, and providing an immediate effective date.**

Finance Director Carl said what you have before you is the annual year and audit adjustment for fiscal year 2024. We are set to begin our final audit in two weeks, and we have finally received all of the invoices from last fiscal year so we are able to present this to you this evening and ask for you to approve this so that we are in compliance with the final budget adjustment that is needed. You will notice that on your year-end surplus or deficit category you will see that we have a surplus in all funds with the exception of water and sewer. The water and sewer deficit is 100 percent attributed to the debt issuance that occurred in January and there was an interest payment that came due during the fiscal year and that would be funded from water and sewer. Mayor Pro-Tem Olson said very good. Mayor Countryman said she has to say this is the first time since 2018 she has been on Council that she has not heard audit every other word so good job. Finance Director Carl said the only other thing she would like to point out is under your capital projects you will see that there is a surplus in there, but you need to keep in mind that is because of that debt issuance so that balance is carried in there. It will be reduced as we continue to spend more of those bond funds.

Motion: Council Member Donaldson made a motion to approve Ordinance 2025-02, an Ordinance of the City of Montgomery, Texas, amending its municipal budget for the fiscal year 2023-2024; appropriating the various amounts herein, as attached in Exhibit A; containing findings and a Texas Open Meeting Act clause, and providing an immediate effective date. Mayor Pro-Tem Olson seconded the motion. Motion carried with all present voting in favor.

21. Consideration and possible action on a Resolution of the City of Montgomery, Texas, approving an amendment to the City of Montgomery Policies and Procedures Manual, Section III. Compensation, Reference Number 3.07, Subject: Compensation as attached as Exhibit A; and Further providing for effective date, severability, and finding and determining that the meeting at which this resolution is adopted was open to the public, that the public notice of time, place, and the subject matter of the public business to be considered was posted as required by law.

City Secretary Beaven said this is just a housekeeping resolution. The last time this policy was updated in the book was in 2009 and in 2021 a former city administrator made some revisions. Since she has come on board, she has been looking at cleaning up the books and the policies and this is the first one that she is cleaning up to clarify some confusion that staff had with payroll. It is not adding any additional funds to anything. These are just forms that she is putting all in one place so that way we can keep track of all the changes that have occurred. The list is currently in play that is being paid out to staff members, but we are just putting it all together for employees to be able to see it. The one change she is asking is that Council be the one to approve our compensation for certification pay instead of City administrator so that way it is consistent and uniform across the board and it is equal and transparent. Mayor Countryman said you rock City Secretary Beaven. Thank you for cleaning house. Council Member Fox said she has to say she has questioned Chief Solomon, she has questioned City Secretary Beaven, and she has questioned everybody about this, but thank you for making it totally clear. Mayor Countryman said that is her job and we do appreciate it.

Motion: Council Member Fox made a motion to approve Resolution 2025-03, a Resolution of the City of Montgomery, Texas, approving an amendment to the City of Montgomery Policies and Procedures Manual, Section III. Compensation, Reference Number 3.07, Subject: Compensation as attached as Exhibit A; and Further providing for effective date, severability, and finding and determining that the meeting at which this resolution is adopted was open to

the public, that the public notice of time, place, and the subject matter of the public business to be considered was posted as required by law. Council Member Donaldson seconded the motion.

Mayor Pro-Tem Olson asked City Secretary Beaven there is absolutely no change to pay from what it is today? City Secretary said not that she is aware of. If you see a discrepancy please let her know. Mayor Pro-Tem Olson asked if all the red is new? City Secretary Beaven said the red in regards to the scale for the education and the certification pay, that is her bringing it all together into like a table. She said in the policy book she is outlining how that needs to be addressed. She did ask as she said the one change is to take away the city administrator being the one to set the policy for the rates and letting Council do it. Mayor Countryman said and those funky rates that are in there, that \$267 that was based on the 2021, a percentage of how they calculated it to be the pay. It was some kind of formula and for the life of her she cannot remember it. Mayor Pro-Tem Olson asked are these degrees and certifications obtained after employment? Chief Solomon said after coming on. Mayor Pro-Tem Olson said he may be going to sound ignorant here but if we hire someone at a specific rate or a pay scale and say this is what we are willing to pay then this policy says they are going to get all this additional? I am not voting for that. Mayor Countryman said they already do. It was voted in 2021 that she is just making it now. Mayor Pro-Tem Olson said he does not remember voting on anything. If they get it after they have been employed and they have gone on and gotten these things on their own, but that is when you agree to a wage that is your wage. Mayor Countryman said but when you acquire certifications or if you come in with certifications too it is normal. Mayor Pro-Tem Olson said if you come in with a degree that means we are paying you for that degree. We are not going to pay you extra after we hire you. Mayor Countryman said that part is already in place. Mayor Pro-Tem Olson said that is the first he has heard of it. Mayor Countryman said no, in 2021. Mayor Pro-Tem Olson said when he looks at the scales, when he sees the pay scales that we have already gone over several times this is not broken out. Mayor Countryman said Mr. Gary Palmer gave us that big, long one, there was certification pay on there. Mayor Pro-Tem Olson said right, for certain certification, but for degrees? If I am going to hire somebody with a degree I am paying for that degree when I hire them. Mayor Countryman said but that degree was on there too. It has been there, I am telling you. Mayor Pro-Tem Olson said we need to adjust all of our starting wages then. Council Member Fox said we were going to have a company tell us all about that next month. Mayor Pro-Tem Olson said he is hoping because there is no point to say we are going to pay this much and then turn around and say by the way since you have all these things you had to have all those things to apply. Chief Solomon said not necessarily. Mayor Pro-Tem Olson said if the job description required it right? So the job says we need these things, we are going to pay you this much, but now after you get here since you have them we are going to pay you some more. That is just silly. As an employer that is ridiculous. Chief Solomon said the job description comes and once you get that the job description also says if you have a bachelor's degree we pay this much for a bachelor's degree. If you have a master's certification, we pay this much for master certification. Mayor Pro-Tem Olson said let me ask City Attorney Petrov a question. When you hire a lawyer for your firm do you give them more because they have a law degree, or did you hire them because they had a law degree? City Attorney Petrov said he hires them because they have a law degree. Mayor Pro-Tem Olson said thank you. City Attorney Petrov said he thinks what Chief Solomon is saying you actually do when you at the time you hire them, their pay is set based on the degrees that they have or the certifications they have. Mayor Pro-Tem Olson said he can totally understand getting it after. Chief Solomon said the pay is actually set on what the City says that we are paying. Once they come here if they have a degree then they get a certain amount for that degree. They get a certain

amount for having an intermediate degree, an intermediate certificate, a master certificate. It has been that way since 2021. Mayor Countryman said it is supposed to incentivize. Chief Solomon said it is all over the world. Mayor Pro-Tem Olson said it is not. Chief Solomon said yes, it is. Mayor Pro-Tem Olson said he has worked in the private industry his entire life and you do not get extra pay. Chief Solomon said it is all over the police world. Council Member Fox said this is housekeeping. It is already in place. Mayor Pro-Tem Olson said he is fine with it but he is looking at it saying maybe we should change it. Council Member Fox said well maybe we should, just not today. Mayor Pro-Tem Olson said but we do not have to pass it. Chief Solomon said it is not a matter of you passing it. These are things that are already in place. It is just cleanup of the policy. Mayor Pro-Tem Olson said but we are changing the ordinance. That is what it says. Chief Solomon said changing reference number 3.7. Mayor Pro-Tem Olson said we are changing it right so that is a change. Chief Solomon said you are changing the format; you are lining everything up. We have not changed one thing. City Secretary Beaven said one thing to ask is that in the future instead of City administrator setting the pay rate we would let Council and that is the only change. Mayor Pro-Tem Olson said I am with you. It just seems very strange. Like he said it is if the certifications are acquired after employment, absolutely, but we hired them at a specific rate for a reason. If they get to certification after then yes they deserve it for that effort. Chief Solomon said that may be the way it works in your world. When we as a City set a rate of what we will hire a police officer at and if that police officer comes in and if he has a little bit more experience or he has a bachelor's degree then that money is there and you say okay you went out, you went to school and you have earned your bachelor's degree so we will pay you this much more for a bachelor's degree, we will pay you this much more for a master certificate. Mayor Countryman said it is not atypical. Mayor Pro-Tem Olson said it is extremely atypical. In the private industry it is atypical. You agree to a wage when you get hired. Mayor Countryman said there are places that pay for additional certifications and degrees. That is what I am saying and that is how this City was set up and that is what is being presented here is cleaning up our policy manual, so it is better to understand and be more straightforward. Mayor Pro-Tem Olson said his question was just on the table, understanding when those were paid, but if that is the way it is we will have to look at it later.

Motion carried with all present voting in favor.

22. Consideration and possible action to select either AT&T FirstNet or Verizon Frontline as the city's cellular service provider for employee mobile devices.

Chief Solomon said at the last Council meeting we came to you with AT&T because we are moving everyone's City cell phones and we went with FirstNet. We went back and looked at Verizon. Verizon has the same thing and it is called the Frontline. It would serve us better for a couple reasons. They will give us free phones and not only that, but it is a \$100 credit on each phone it saves us. The Police Department, our MDTS run through Verizon and right now we set up with about eight MDTS that are on Verizon. If we had to make that change with the old MDTS we would have to go out and probably purchase another two or three that would cost us about \$8,000. The difference between the Verizon and the AT&T price for us is like five dollars and it will still save us \$2,700. Mayor Pro-Tem Olson asked how does this work with the mobile phone company we went with at the last meeting? City Secretary Beaven said AT&T has First Responders and during the process of trying to do the transition we discovered that Verizon also has that Frontline. It is the same concept. It is an emergency line that allows in case of emergencies these cell phones would have precedence over your general public for emergency purposes. Mayor Pro-Tem Olson said okay so this just an amendment to our last

meeting. Chief Solomon said yes. Council Member Langley said we are going to change from one to the other. Council Member Donaldson said with Verizon you have to sign a contract though. It is a two-year contract, but he is fine with it. Mayor Countryman said not for nothing, but this is a Verizon country. She used to have AT&T and it does not work here. It is very hard, so this makes sense. She does not know if that has anything to do with it, but she certainly feels better having Verizon. Mayor Pro-Tem Olson said he just wants to make sure we are just amending carriers. Chief Solomon said yes.

Motion: Council Member Donaldson made a motion to select Verizon Frontline as the city's cellular service provider for employee mobile devices. Council Member Fox seconded the motion. Motion carried with all present voting in favor.

COUNCIL INQUIRY

Mayor Countryman said she would like to commend all of city hall for doing a fantastic job and those that we contract out. Thank you for the transition and thank you my phone is no longer ringing every day. You all took the bull by the horns and she knows you are short staffed so thank you for the extra additional sweat and tears and blood.

Council Member Donaldson said he wanted to thank everybody for participating in the Christmas program this year. He is sorry to say he was not one of them. It was not intended that way, but just had a conflict. He heard it was wonderful, and we had much greater participation than we had last year and he is very happy to hear about that.

EXECUTIVE SESSION

23. Closed Session

City Council will meet in Closed Session pursuant to the provisions of Chapter 551 of the Texas Government Code, in accordance with the authority contained in:

A. Sections 551.071 Consultation with Attorney - Pending and Potential Litigation

At 7:12 p.m. Mayor Countryman convened the Montgomery City Council into a closed session pursuant to provision of Chapter 551 of the Texas Government Code, in accordance with the authority contained in Sections 551.071 Consultation with Attorney - Pending and Potential Litigation.

24. Open Session

City Council will reconvene in Open Session at which time action on the matter(s) discussed in Closed Session may be considered.

A. Sections 551.071 Consultation with Attorney - Pending and Potential Litigation

At 8:22 p.m. Mayor Countryman reconvened the Montgomery City Council into an open session pursuant to Chapter 551 of the Texas Government Code to take any action necessary related to the executive session noted herein, or regular agenda items, noted above, and/or related items.

Item A: No Action Taken.

CLOSING AGENDA

25. Items to consider for placement on future agendas.

Mayor Pro-Tem Olson said we need to set up a workshop with the developer and the landowners for the property around Ransoms with BCS. Mayor Countryman said with Mr. Jack Burger. Mayor Pro-Tem Olson said we want both parties in the workshop.

26. Adjourn.

Motion: Mayor Pro-Tem Olson made a motion to adjourn the Regular Meeting of the City of Montgomery at 8:24 p.m. Council Member Fox seconded the motion. Motion carried with all present voting in favor.

APPROVED:

Sara Countryman, Mayor

ATTEST:

Ruby Beaven, City Secretary

DRAFT

Montgomery City Council
AGENDA REPORT

Meeting Date: February 25, 2025	Budgeted Amount: N/A
Department: Administration	Prepared By: Ruby Beaven

Subject

Deliberate and take appropriate action on the acceptance of the Certification of Unopposed Candidates for the City of Montgomery, Texas, in accordance with Section 2.052, Texas Election Code.

Recommendation

Staff recommends Council approve the Certification of Unopposed Candidates Form, as presented.

Discussion

Sec. 2.052. CERTIFICATION OF UNOPPOSED STATUS. (a) The authority responsible for having the official ballot prepared shall certify in writing that a candidate is unopposed for election to an office if, were the election held, only the votes cast for that candidate in the election for that office may be counted.

The City Secretary is the authority responsible for having the official ballot prepared and certified in writing that a candidate is unopposed for election to an office. There were no opposed candidates for the General Election for Place #1, Place #3, and Place #5 scheduled for May 3, 2025, therefore the Certification of Unopposed Candidates Form 13-1 is being presented for Council approval.

Approved By

City Secretary & Director of Administrative Services	Ruby Beaven	Date: 02/20/2025
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13-1
Prescribed by Secretary of State
Section 2.051 – 2.053, Texas Election Code
9/2023

**CERTIFICATION OF UNOPPOSED CANDIDATES FOR OTHER
POLITICAL SUBDIVISIONS (NOT COUNTY) CERTIFICACIÓN DE
CANDIDATOS ÚNICOS
PARA OTRAS SUBDIVISIONES POLITICAS (NO EL CONDADO)**

To: Presiding Officer of Governing Body
Al: Presidente de la entidad gobernante

As the authority responsible for having the official ballot prepared, I hereby certify that the following candidates are unopposed for election to office for the election scheduled to be held on May 03, 2025.

Como autoridad a cargo de la preparación de la boleta de votación oficial, por la presente certifico que los siguientes candidatos son candidatos únicos para elección para un cargo en la elección que se llevará a cabo el 3 de mayo de 2025.

List offices and names of candidates:
Lista de cargos y nombres de los candidatos:

Office(s) Cargo(s)	Candidate(s) Candidato(s)
Council Member, Place 1 (Miembro del Concejo, Lugar 1)	Carol Langley
Council Member, Place 3 (Miembro del Concejo, Lugar 3)	Thomas Czulewicz
Council Member, Place 5 (Miembro del Concejo, Lugar 5)	Ray Stanley Donaldson



Signature (*Firma*)

Ruby Beaven

Printed name (*Nombre en letra de molde*)

(Seal) (*sello*)

City Secretary

Title (*Puesto*)

02/20/2025

Date of signing (*Fecha de firma*)

Montgomery City Council
AGENDA REPORT

Meeting Date: February 25, 2025	Budgeted Amount: N/A
Department: Administration	Prepared By: Ruby Beaven

Subject

Deliberate and take appropriate action on an Ordinance of the City Council of the City of Montgomery, Texas, declaring unopposed candidates in the May 3, 2025 City of Montgomery General Election elected to office; Canceling the election; Providing a severability clause; and Providing an effective date.

Recommendation

Staff recommends Council cancel the May 3, 2025, General Election for Council Members Place 1, 3, and 5 and declare each unopposed candidates elected to office.

Discussion

The Ordinance to Order the Cancellation of Election for the City of Montgomery, Texas for the General Election scheduled for May 3, 2025 and appoint the unopposed candidates. There were no opposed candidates for the General Election and the following candidates have been certified as unopposed and are hereby elected:

<u>Office Sought</u>	<u>Candidate</u>
Council Member, Place 1	Carol Langley
Council Member, Place 3	Thomas Czulewicz
Council Member, Place 5	Ray Stanley Donaldson

Approved By

City Secretary & Director of Administrative Services	Ruby Beaven	Date: 02/20/2025
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ORDINANCE NO. 2025-XX

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MONTGOMERY, TEXAS, DECLARING UNOPPOSED CANDIDATES IN THE MAY 3, 2025 CITY OF MONTGOMERY GENERAL ELECTION ELECTED TO OFFICE; CANCELING THE ELECTION; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Ordinance 2025-01, adopted by City Council on 14th day of January 2025, called the City of Montgomery, Texas General Election or the purposes of electing a three (3) City Council Members, Place 1, 3 and 5, for full terms; and

WHEREAS, at the deadline to file an application for a place on the ballot and the deadline to file as a declared write-in candidate, only one candidate for each position had filed to run for such position; and

WHEREAS, as prescribed in Section 2.052(a) of the Texas Election Code, the City Secretary has certified that each candidate whose name is to appear on the ballot for the May 3, 2025 General Election of the City of Montgomery is unopposed.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MONTGOMERY, TEXAS THAT:

Section 1. In accordance with Section 2.053 of the Texas Election Code, the City Council hereby authorizes the cancellation of the Election of the three City Council Members, Places 1, 3 and 5 called for May 3, 2025 and hereby declares the following unopposed candidates elected to the following offices:

Carol Langley – City Council Place 1

Thomas Czulewicz – City Council Place 3

Ray Stanley Donaldson – City Council Place 5

The candidates shall be issued a Certificate of Election following the time the Election would have been canvassed. A copy of the Certification of Unopposed Candidates as certified by the City Secretary is attached hereto as Exhibit “A”.

Section 2. The City Secretary is directed to cause a copy of the Order of Cancellation, as prescribed by the Secretary of State, and Section 2.053 of the Texas Election Code, attached hereto as Exhibit “B”, to be posted on Election Day at each polling place that would have been used in the Election.

Section 3. It is declared to be the intent of the City Council that the phrases, caluses, sentences, paragraphs, and sections of this ordinance are severable, and if any phrase, caluse, sentence, pragraphs or section of this ordinance is declared invalid by the judgement or decree of

the court of competent jurisdiction, the invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance since the City Council would have enacted them without the invalid portion.

Section 4. This Ordinance shall become effective immediately upon its passage.

PASSED AND APPROVED THIS 25TH DAY OF FEBRUARY, 2025.

Sara Countryman, Mayor

ATTEST:

Ruby Beaven, CPM, MMC, TRMC
City Secretary

APPROVED AS TO FORM:

City Attorney

EXHIBIT "A"

13-1
Prescribed by Secretary of State
Section 2.051 – 2.053, Texas Election Code
9/2023

**CERTIFICATION OF UNOPPOSED CANDIDATES FOR
OTHER POLITICAL SUBDIVISIONS (NOT COUNTY)
CERTIFICACIÓN DE CANDIDATOS ÚNICOS
PARA OTRAS SUBDIVISIONES POLITICAS (NO EL CONDADO)**

**To: Presiding Officer of Governing Body
Al: Presidente de la entidad gobernante**

As the authority responsible for having the official ballot prepared, I hereby certify that the following candidates are unopposed for election to office for the election scheduled to be held on May 03, 2025.

Como autoridad a cargo de la preparación de la boleta de votación oficial, por la presente certifico que los siguientes candidatos son candidatos únicos para elección para un cargo en la elección que se llevará a cabo el 3 de mayo de 2025.

**List offices and names of candidates:
Lista de cargos y nombres de los candidatos:**

Office(s) Cargo(s)	Candidate(s) Candidato(s)
Council Member, Place 1 (Miembro del Concejo, Lugar 1)	Carol Langley
Council Member, Place 3 (Miembro del Concejo, Lugar 3)	Thomas Czulewicz
Council Member, Place 5 (Miembro del Concejo, Lugar 5)	Ray Stanley Donaldson



Signature (Firma)

Ruby Beaven

Printed name (Nombre en letra de molde)

(Seal) (sello)

City Secretary

Title (Puesto)

02/20/2025

Date of signing (Fecha de firma)

EXHIBIT “B”

13-2
Prescribed by Secretary of State
Section 2.051 – 2.053, Texas Election Code
9/0023

**ORDER OF CANCELLATION
ORDEN DE CANCELACIÓN**

The City Council of Montgomery, Texas hereby cancels the election scheduled to be held on
(official name of governing body)

May 03, 2025 in accordance with Section 2.053(a) of the Texas
(date on which election was scheduled to be held)

Election Code. The following candidates have been certified as unopposed and are hereby elected as follows:

El Ciudad de Montgomery, Tejas por la presente cancela la elección que, de lo contrario,
(nombre oficial de la entidad gobernante)
se hubiera celebrado el 03 Mayo 2025 de conformidad, con la Sección 2.053(a) del Código de
(fecha en que se hubiera celebrado la elección)
Elecciones de Texas. Los siguientes candidatos han sido certificados como candidatos únicos y por la
presente quedan elegidos como se haya indicado a continuación:

Candidate (Candidato)	Office Sought (Cargo al que presenta candidatura)
Carol Langley	Council Member, Place 1 (Miembro del Concejo, Lugar 1)
Thomas Czulewicz	Council Member, Place 3 (Miembro del Concejo, Lugar 3)
Ray Stanley Donaldson	Council Member, Place 5 (Miembro del Concejo, Lugar 5)

A copy of this order will be posted on Election Day at each polling place that would have been used in the election.

El Día de las Elecciones se exhibirá una copia de esta orden en todas las mesas electorales que se hubieran utilizado en la elección.

**PASSED and APPROVED this 25th day of February 2025.
PASADO y APROBADO este día 25 de febrero de 2025.**

**CITY OF MONTGOMERY, TEXAS
CIUDAD DE MONTGOMERY, TEXAS**

Sara Countryman, Mayor (Alcaldesa)

**ATTEST:
DAR FE:**

Ruby Beaven, City Secretary (Secretaria de la ciudad)

(seal) (sello)

Montgomery City Council
AGENDA REPORT

Meeting Date: February 25, 2025	Budgeted Amount: N/A
Department: Administration	Prepared By: Ruby Beaven

Subject

Consideration and possible action on a Resolution regarding the creation of The Crossing at Montgomery Public Improvement District and ordering public improvements to be made for the benefit of such district; Providing for a severability clause; Providing an effective date; and Containing other matters relating to the subject.

Recommendation

For the council to approve or deny a Resolution regarding the creation of the Crossing at Montgomery Public Improvement District and ordering public improvements to be made for the benefit of such district.

Discussion

The City of Montgomery is authorized by Chapter 372, Texas Local Government Code to create a public improvement district and to levy special assessments against property within the district to pay the costs of public improvement projects that confer a special benefit on property within the district.

On December 23, 2024, there was submitted to and filed with the City Secretary of the City pursuant to the Act that certain "Petition for the Creation of a Public Improvement District" requesting the establishment of a public improvement district covering approximately 86.48 acres described in the Petition as the "The Montgomery Crossing Public Improvement District".

After providing the notices required by the Act and by the Texas Open Meetings Act, Chapter 551, Texas Government Code, the City Council conducted a public hearing on February 25th, 2025, to determine the advisability of creating and establishing the District and undertaking the public improvement projects described in the Petition.

Approved By

City Secretary & Director of Administrative Services	Ruby Beaven	Date: 02/06/2025
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RESOLUTION NO. 2025-XX

A RESOLUTION REGARDING THE CREATION OF THE CROSSING AT MONTGOMERY PUBLIC IMPROVEMENT DISTRICT AND ORDERING PUBLIC IMPROVEMENTS TO BE MADE FOR THE BENEFIT OF SUCH DISTRICT; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND CONTAINING OTHER MATTERS RELATING TO THE SUBJECT.

WHEREAS, the City of Montgomery, Texas (the "City") is authorized by Chapter 372, Texas Local Government Code, as amended (the "Act") to create a public improvement district and to levy special assessments against property within the district to pay the costs of public improvement projects that confer a special benefit on property within the district.

WHEREAS, on December 23, 2024, there was submitted to and filed with the City Secretary of the City pursuant to the Act that certain "Petition for the Creation of a Public Improvement District" (the "Petition") requesting the establishment of a public improvement district covering approximately 86.48 acres described in the Petition and Exhibit B attached hereto, and to be known as the "The Montgomery Crossing Public Improvement District" (the "District");

WHEREAS, the City Council of the City (the "City Council") received the Petition and determined that it satisfied the requirements of the Act;

WHEREAS, after providing the notices required by the Act and by the Texas Open Meetings Act, Chapter 551, Texas Government Code, as amended (the "Open Meetings Act"), the City Council conducted a public hearing on February 25th, 2025, to determine the advisability of creating and establishing the District and undertaking the public improvement projects described in the Petition;

WHEREAS, all owners of property located within the public improvement district and all other interested persons were given the opportunity at such public hearing to speak for or against the creation of the District and the proposed public improvements; and

WHEREAS, the City Council has made findings based on the information contained in the petition presented to the City Council and the comments received at the public hearing.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MONTGOMERY, TEXAS:

Section 1. The City Council hereby approves the statements contained in the preamble of this Resolution and finds that all statements are true and correct and incorporate the same in the body of this Resolution.

Section 2. The City Council, after considering the Petition and the evidence and testimony presented at the public hearing, hereby finds and determines that:

- (a) the Petition was filed with the City Secretary and was signed by owners of taxable real property representing more than 50 percent of the appraised value of taxable real property liable for assessment under the proposal, as determined by the current appraisal roll of the appraisal district in which the property is located, and by the record owners of real property liable for assessment under the proposal who own taxable real property that constitutes more than 50 percent of the area of all real property that is liable for assessment under the proposal;
- (b) the proposed public improvements described in the Petition are of the nature of the public improvements described in Section 372.003 of Texas Local Government Code, V.T.C.A., as amended, and are advisable and desirable improvements for the District;
- (c) the proposed public improvements will promote the interests of the City and are of the nature that will confer a special benefit on all property within the District by enhancing the value of such property located within the District;
- (d) the nature of the proposed improvements and estimated costs thereof are set forth and described in Exhibit A attached hereto and made a part hereof for all purposes;
- (e) the boundaries of the District include all of the property that is set forth and described in Exhibit B attached hereto and made a part hereof for all purposes;
- (f) the assessment of costs of the proposed improvements will be levied on each parcel of property within the Public Improvement District in a manner that results in imposing equal shares of the costs on property similarly benefitted;
- (g) the costs of the improvements shall be apportioned between the District and City such that all such costs are paid from the assessments levied on the property within the District and other sources available to the owners and developers of the property within the District, as further described in Exhibit A; and
- (h) the District shall be managed without the creation of an advisory body.

Section 3. Based on the foregoing, The Montgomery Crossing Improvement District is hereby created and the public improvements described in Exhibit A are authorized to be made in accordance with the service and assessment plan to be approved by the City Council.

Section 4. After adoption of this resolution, the City Secretary is authorized and directed to cause a copy of this resolution to be published in a newspaper of general circulation within the City.

Section 5. If any section, article, paragraph, sentence, clause, phrase or word in this resolution or application thereof to any persons or circumstances is held invalid or unconstitutional by a court of competent jurisdiction, such holding shall not affect the validity of the remaining portions of this resolution; and the City Council hereby declares it would have passed such remaining portions of the resolution despite such invalidity, which remaining portions shall remain in full force and effect.

Section 6. The authorization of the District pursuant to this resolution shall take effect upon publication of this resolution as provided above.

PASSED, APPROVED AND EFFECTIVE this February 25th, 2025.

CITY OF MONTGOMERY, TEXAS

Mayor

ATTEST:

Secretary

[SEAL]

EXHIBIT A

Proposed Improvements and
Estimated Costs

General nature of the proposed public improvements. The proposed public improvements (collectively, the "Authorized Improvements") include : (i) landscaping; (ii) erection of fountains, distinctive lighting, and signs; (iii) acquiring, constructing, improving, widening, narrowing, closing, or rerouting of sidewalks or of streets, any other roadways, or their rights-of-way; (iv) construction or improvement of pedestrian malls; (v) acquisition and installation of pieces of art; (vi) acquisition, construction, or improvement of libraries; (vii) acquisition, construction, or improvement of off-street parking facilities; (viii) acquisition, construction, improvement, or rerouting of mass transportation facilities; (ix) acquisition, construction, or improvement of water, wastewater, or drainage facilities or improvements; (x) the establishment or improvement of parks; (xi) projects similar to those listed in Subdivisions (i)-(x); (xii) acquisition, by purchase or otherwise, of real property in connection with an authorized improvement; (xiii) special supplemental services for improvement and promotion of the district, including services relating to advertising, promotion, health and sanitation, water and wastewater, public safety, security, business recruitment, development, recreation, and cultural enhancement; (xiv) payment of expenses incurred in the establishment, administration, and operation of the district; (xv) the development, rehabilitation, or expansion of affordable housing; and (xvi) payment of expenses associated with financing such public improvement projects, which may include but are not limited to, costs associated with the issuance and sale of revenue bonds secured by assessments levied against the Property within the District. These Authorized Improvements shall promote the interests of the City and confer a special benefit upon the Property.

EXHIBIT B

Boundaries

METES AND BOUNDS DESCRIPTION
PID BOUNDARY

DRAFT

LEGAL DESCRIPTION OF BOUNDARIES

Tract 1:

Legal description of land:

Being a description of a 45.744 acre (1,992,589 Sq. Ft.) tract of land situated in the Zacharias Landrum Survey, A-22, Montgomery County, Texas. Said 45.744-acre tract being out of a called 55,389-acre tract of land conveyed to Agnes R. Stanley, Trustee, under the Stanley family living trust dated February 10, 1997, as amended Montgomery County Clerk's File (M.C.C.F.) No. 2011092980 Official Public Records of Montgomery County (O.P.R.M.C.), Texas being more particularly described by metes and bounds as follows (With bearing basis being the State Plane Coordinate System, Central Zone no. 4203, NAD 83. The coordinates shown herein are Grid Coordinates and may be brought to the surface by multiplying the combined scale factor of 1.000069595. All distances are surface distances)

BEGINNING N= 10,133,702.65, E= 3,750,438.47 at a 5/8-inch iron rod with cap stamped "WEISSER ENG HOUSTON, TX" set at the intersection of the northeast line of a tract of land conveyed to G.C. & S.F. Railroad Company, by deed recorded in Volume 6, Page 530 of the Montgomery County Deed Records (M.C.D.R.) and the south right-of-way line of Old Dobbin Plantersville Road (60' wide) as recorded under M.C.C.F. No. 9401426 of the O.P.R.M.C., Texas, from which a found fence corner post bears North 83 Deg. 45 Min. 25 Sec. West, a distance of 2.38 feet.

THENCE North 51 Deg. 03 Min. 16 Sec. East, with the southeast right-of-way line of said Old Dobbin Plantersville Road, with a northwest line of said 55,389-acre tract and with a northwest line of said tract herein described, a distance of 609.10 feet to a 5/8-inch iron rod with cap stamped "WEISSER ENG HOUSTON, TX" set for an angle point;

THENCE North 65 Deg. 32 Min. 16 Sec. East, with the southeast right-of-way line of Old Dobbin Plantersville Road, with the northwest line of said 55,389-acre tract and with a northwest line of said tract herein described, a distance of 153.21 feet to a 5/8-inch iron rod with cap stamped "WEISSER ENG HOUSTON, TX" set for the most westerly northwest corner of said tract herein described.

THENCE South 43 Deg. 36 Min. 11 Sec. East, over and across said 55,389-acre tract and with the northeast line of said tract herein described, a distance of 1,125.26 feet to a 5/8-inch iron rod with cap stamped "WEISSER ENG HOUSTON, TX" set in the west line of a called 8.81-acre tract of land conveyed to Billy G. Giles by deed recorded in volume 896, page 821, of the Montgomery County Deed Records and for an angle point in an easterly line of said tract herein described.

THENCE South 02 Deg. 35 Min. 44 Sec. East, with the west line of said 8.81-acre tract with an east line of said 55,389-acre tract and with an east line of said tract herein described, a distance of 75.04 feet to a 5/8-inch iron rod with cap stamped "WEISSER ENG HOUSTON, TX" set for an interior angle point said tract herein described;

THENCE North 70 Deg. 34 Min. 16 Sec. East, with the southeast line of said 8.81-acre tract with the southeast line of a called 13.05-acre tract conveyed to Billy G. Giles, by deed recorded in Volume 896, Page 825, of the Montgomery County Deed Records, with the south line of a called 34.831-acre tract of land conveyed to Alan Mann, by deed recorded in Montgomery County Clerk's File No. 2006-118991, Film Code No. 194-11-2542, with a northwest line of said 55,389-acre tract and with a northwest line of said tract herein described, a distance of 860.50 feet to a 5/8-inch iron rod with cap stamped "WEISSER ENG HOUSTON, TX" set for the north corner of herein described tract, said point being the west corner of a called 9.992-acre tract of land conveyed to Edward Lopez and Wife, Sonja Lopez by deed recorded in Montgomery County Clerk's File No. 2012107577 of the Official Public Records of Montgomery County, Texas, being the north corner of said 55,389-acre tract, from which a found 2-inch iron pipe bears South 43 Deg. 04 Min. 42 Sec. East, a distance of 0.85 feet;

THENCE South 02 Deg. 45 Min. 17 Sec. East, with the west line of said 9.992-acre tract, with the west line of a called 20,019-acre tract conveyed to C.A. Stowe, by deed recorded in Montgomery County Clerk's File No. 9612142, Film Code No. 136-00-0930 of the Official Public Records of Montgomery County, Texas, with the east line of said 55,389-acre tract and with the east line of said tract herein described, a distance of 1,497.73 feet to a 5/8-inch iron rod with cap stamped "WEISSER ENG

HOUSTON, TX" set in the northerly line of said G.C. & S.F. Railroad Company Tract, for the south corner of said 20.019 acre and the south corner of said tract herein described.

THENCE North 75 Deg. 51 Min. 44 Sec. West, with a northeast line of said G.C. & S.F. Railroad tract, with a southwest line of said 55.389- acre tract and with a southwest line of said tract herein described, a distance of 304.50 feet to a set 5/8-inch iron rod with cap stamped ("WEISSER ENG., HOUSTON TX") for an angle point in said tract the herein described:

THENCE North 63 Deg. 06 Min. 44 Sec. West, with a northeast line of said G.C. & S.F. Railroad tract with a southwest line of said 55.389 acre tract and with a southwest line of said tract herein described, a distance of 271.40 feet to a 5/8-inch iron rod with cap stamped "WEISSER ENG HOUSTON TX" set for an angle point.

THENCE North 52 Deg. 53 Min. 44 Sec. West, with a northeast line of said G.C. & S.F. Railroad tract with a southwest line of said 55.389- acre tract and with a southwest line of said tract herein described, a distance of 244.60 feet to a 5/8-inch iron rod with cap stamped "WEISSER ENG HOUSTON, TX" set for an angle point.

THENCE North 49 Deg. 42 Min. 44 Sec. West, with a northeast line of said G.C. & S.F. Railroad tract, with a southwest line of said 55.389- acre tract and with a southwest line of said tract herein described, a distance of 2.023.70 feet to the POINT OF BEGINNING and containing 45,744 acres (1,992,589 square feet) of land.

Tract 2:

BEING 40.741 ACRES OF LAND SITUATED IN THE ZACHARIAH LANDRUM SURVEY, ABSTRACT NUMBER 22 IN MONTGOMERY COUNTY, TEXAS, AND BEING ALL OF THAT CALLED 11 709 ACRE TRACT (SAVE & EXCEPT 1.000 ACRES) CONVEYED IN DEED TO C.A. STOWE RECORDED UNDER COUNTY CLERK'S FILE NUMBER 9764002 OF THE REAL PROPERTY RECORDS OF MONTGOMERY COUNTY, TEXAS, AND BEING ALL OF THAT CALLED 20 019 ACRE TRACT CONVEYED IN DEED TO C.A. STOWE RECORDED UNDER COUNTY CLERK'S FILE NUMBER 9612142 OF THE REAL PROPERTY RECORDS OF MONTGOMERY COUNTY, TEXAS, AND BEING ALL OF THAT CALLED 10 005 ACRE TRACT CONVEYED IN DEED TO CHARLES A STOWE & WIFE, FRANCES E. STOWE RECORDED UNDER COUNTY CLERK'S FILE NUMBER 9764002 OF THE REAL PROPERTY RECORDS OF MONTGOMERY COUNTY TEXAS; SAID 40 741 ACRES BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS WITH ALL BEARINGS AND COORDINATES REFERENCED TO THE TEXAS STATE PLANE COORDINATE SYSTEM, CENTRAL ZONE NAD 83 (ALL DISTANCE SHOWN ARE GROUND):

BEGINNING at a 1/2 inch iron rod, found for the Northwest corner of said 20.019 acre tract, being the Southwest corner of a called 9.992 acre tract conveyed in deed to Edward Lopez & wife Sonja Lopez recorded under County Clerk's File Number 2012-107577 of the Real Property Records of Montgomery County, Texas, and being in the apparent East line of a called 45 744 acre tract conveyed in deed to Nestor S. Salas & Spouse, Remedios M. Salas recorded under County Clerk's File Number 2016-059780 of the Real Property Records of Montgomery County, Texas, and being the lower Northwest corner of the herein described tract;

THENCE North 68°49'20" East, along the North line of said 20 019 acre tract and South line of said 9.992 acre tract, passing at 426.39 feet and 0.30 feet South a 1 inch iron pipe, found for the apparent Southeast corner of said 9.992 acre tract, being the apparent Southwest corner of a called 10.005 acre tract conveyed in deed to Brian Auld & wife Sonja Auld recorded under County Clerk's File Number 9714597 of the Real Property Records of Montgomery County, Texas, continuing a total distance of 850.78 feet to a 1/2 inch iron rod, found for the Southeast corner of said Auld 10.005 acre tract, being the Southwest corner of said Stowe 10.005 acre tract, and being an interior corner for the herein described tract;

THENCE North 10°40'39" West, along the West line of said Stowe 10.005 acre tract and East line of said Auld 10.005 acre tract a distance of 1,148.51 feet to a 5/8 inch iron rod with cap stamped "Jeff Moon R.P.L.S. 4639", set for the Northwest corner of said Stowe 10.005 acre tract, being the Northeast corner of said Auld 10.005 acre tract, being in the apparent South line of a called 34.831 acre tract conveyed in deed to Alan Mann recorded under County Clerk's File Number 2008-118991 of the Real Property Records of Montgomery County, Texas, and being the Northwest corner of the herein described tract;

THENCE North 70°43'15" East, along the North line of said Stowe 10.005 acre tract and apparent South line of said 34.831 acre tract a distance of 300.00 feet to a 1/2 inch iron rod, found for the Northeast corner of said Stowe 10.005 acre tract, being the Northwest corner of a called 10.005 acre tract conveyed in deed to Jerry D. McHam recorded under County Clerk's File Number 9749498 of the Real Property Records of Montgomery County, Texas, and being the Northeast corner of the herein described tract;

THENCE South 20°26'06" East, along the East line of said Stowe 10.005 acre tract and West line of said McHam 10.005 acre tract a distance of 1,061.37 feet to a 1/2 inch iron rod, found for the Southeast corner of said Stowe 10.005 acre tract, being the Southwest corner of said McHam 10.005 acre tract, being in the North line of said Stowe 20.019 acre tract, and being an interior corner for the herein described tract;

THENCE North 59°04'37" East, along the North line of said Stowe 20.019 acre tract and South line of said McHam 10.005 acre tract passing at 439.98 feet a bent 3/8 inch iron rod, found for the apparent Southeast corner of said McHam 10.005 acre tract, being the apparent Southwest corner of called 7.8417 acre tract conveyed in deed to Carl W. Kiser recorded under County Clerk's File Number 2007-102841 of the Real Property Records of Montgomery County, Texas, continuing a total distance of 858.38 feet to a 1/2 inch iron rod, found for the Northeast corner of said Stowe 20.019 acre tract, being the Southeast corner

of said Kiser 7.6417 acre tract, also being an angle point for a called 12.108 acre tract conveyed in deed to Lonestar Cowboy Church recorded under County Clerk's File Number 2008-057191 of the Real Property Records of Montgomery County, Texas, and being the lower Northeast corner of the herein described tract;

THENCE South 30°55'01" East, along the East line of said Stowe 20.019 acre tract and the Southwest line of said 12.108 acre tract a distance of 435.76 feet to a 1/2 inch iron rod inside a 3/4 inch iron pipe, found for the Southeast corner of said Stowe 20.019 acre tract, being the South corner of said 12.108 acre tract, also being in the North line of said Stowe 11.709 acre tract, and being an interior Corner for the herein described tract;

THENCE North 59°24'55" East, along the Southeast line of said 12.108 acre tract and the Northwest line of said Stowe 11.709 acre tract a distance of 600.56 feet to a 5/8 inch iron rod with cap stamped "Glezman", found for the West corner of a called 1.000 acre tract conveyed in deed to Christopher C. Stowe recorded under County Clerk's File Number 2014-084857 of the Real Property Records of Montgomery County, Texas, and being the Southernmost Northeast corner of the herein described tract;

THENCE South 30°34'15" East, along the West line of said 1.000 acre tract a distance of 199.94 feet to a 5/8 inch iron rod with cap stamped "Glezman", found for the South corner of said 1.000 acre tract, and being an interior corner for the herein described tract;

THENCE North 59°23'12" East, along the South line of said 1.000 acre tract a distance of 216.90 feet to a 5/8 inch iron rod with cap stamped "Glezman", found for the beginning of a curve to the right, being the Southeast corner of said 1.000 acre tract, being in the West Right-of-Way line of Old Plantersville Road (Undetermined right-of-way width), also being in the East line of said Stowe 11.709 acre tract, and being the East corner of the herein described tract;

THENCE with the West Right-of-Way line of Old Plantersville Road and East line of said Stowe 11.709 acre tract, with said curve to the right, having a radius of 388.18 feet, an arc length of 218.94 feet, a delta angle of 32°18'57", a chord bearing of South 02°38'46" East, and chord distance of 216.05 feet to a 5/8 inch iron rod, found for a point of tangency for the said Stowe 11.709 acre tract and for the herein described tract;

THENCE South 36°00'06" West, continuing along the above mentioned line a distance of 371.91 feet to a 1/2 inch iron rod, found for the beginning of a curve to the right for said Stowe 11.709 acre tract and for the herein described tract;

THENCE continuing along the above mentioned line with said curve to the right having a radius of 165.93 feet, an arc length of 70.30 feet, a delta angle of 24°16'31", a chord bearing of South 48°07'03" West, and a chord distance of 69.78 feet to a 1/2 inch iron rod, found for a point of tangency for said 11.709 acre tract and for the herein described tract;

THENCE South 66°16'46" West, continuing along the above mentioned line a distance of 92.79 feet to a 5/8 inch iron rod, found for the beginning of a curve to the left for said Stowe 11.709 acre tract and for the herein described tract;

THENCE continuing along the above mentioned line with said curve to the left having a radius of 226.55 feet, an arc length of 58.83 feet, a delta angle of 14°52'42", a chord bearing of South 52°47'24" West, and a chord distance of 58.66 feet to a 5/8 inch iron rod with cap stamped "Jeff Moon R.P.L.S. 4039", set for the South corner of said Stowe 11.709 acre tract, being in the North line of the residual of Burlington Northern & Santa Fe Railroad conveyed in Volume 3, Page 135 & Volume 6, Page 530 of the Deed Records of Montgomery County, Texas, and being the Southeast corner of the herein described tract;

THENCE along the South line of said Stowe 11.709 acre tract and North line of the residual of Burlington Northern & Santa Fe Railroad with a curve to the left, having a radius of 1,498.19 feet, an arc length of 1,231.91 feet, a delta angle of 47°10'32", a chord bearing of South 86°45'22" West, and a chord

distance of 1,197.41 feet to a 5/8 inch iron rod with cap stamped "Jeff Moon R.P.L.S. 4639", set for a point of compound curvature for said Stowe 11,709 acre tract and the herein described tract;

THENCE continuing along the above mentioned line with said compound curve to the left, having a radius of 2,073.58 feet, an arc length of 73.25 feet, a delta angle of 02°01'27", a chord bearing of South 62°09'21" West, and a chord distance of 73.25 feet to a 5/8 inch iron rod with cap stamped "Jeff Moon R.P.L.S. 4639", set for the point of termination for said compound curve and for the West corner of said Stowe 11 709 acre tract, being in the South line of said Stowe 20.019 acre tract, and being a corner of the herein described tract;

THENCE with the South line of said Stowe 20.019 acre tract and North line of the residual of the Burlington Northern & Santa Fe Railroad the following courses and distances:

1. South 57°03'00" West, a distance of 18.84 feet to a 5/8 inch iron rod with cap stamped "Jeff Moon R.P.L.S. 4639", set for an angle point for said Stowe 20.019 acre tract and the herein described tract;
2. North 32°31'58" West, a distance of 50.20 feet to a 5/8 inch iron rod with cap stamped "Jeff Moon R.P.L.S. 4639", set for an angle point for said Stowe 20.019 acre tract and the herein described tract;
3. South 60°19'44" West, a distance of 400.00 feet to a 5/8 inch iron rod with cap stamped "Jeff Moon R.P.L.S. 4639", set for an angle point for said Stowe 20.019 acre tract and the herein described tract;
4. South 70°48'44" West, a distance of 300.00 feet to a 5/8 inch iron rod with cap stamped "Jeff Moon R.P.L.S. 4639", set for an angle point for said Stowe 20.019 acre tract and the herein described tract;
5. South 81°23'44" West, a distance of 200.00 feet to a 5/8 inch iron rod with cap stamped "Jeff Moon R.P.L.S. 4639", set for an angle point for said Stowe 20.019 acre tract and the herein described tract;
6. North 88°31'30" West, a distance of 295.00 feet to a 5/8 inch iron rod with cap stamped "Jeff Moon R.P.L.S. 4639", set for the Southwest corner for said Stowe 20.019 acre tract, being the Southeast corner of said Sales 45,744 acre tract, and for the Southeast corner of the herein described tract;

THENCE North 02°46'49" East, along the West line of said Stowe 20.019 acre tract and the East line of said Sales 45,744 acre tract, a distance of 285.10 feet, back to the POINT OF BEGINNING and containing 40.741 acres of land, based on the survey and plat prepared by Jeffrey Moon and Associates, Inc., dated September 19, 2024

Montgomery City Council
AGENDA REPORT

Meeting Date: February 25, 2025	Budgeted Amount: N/A
Department: Administration	Prepared By: Ruby Beaven

Subject

Presentation by SiEnergy, L.P. regarding a request for a Franchise Agreement to install a gas utility pipeline within Montgomery city limits to serve the surrounding communities.

Recommendation

Presentation Only.

Discussion

SiEnergy, L.P. is seeking a franchise Agreement to furnish and supply gas to the general public in the City, and to transport, deliver, sell, and distribute gas in, out of, and through said municipality for all purposes.

Approved By

City Secretary & Director of Administrative Services	Ruby Beaven	Date: 02/18/2025
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The Premier Natural Gas Company

20+Year History

For over 20 years, SíEnergy has been a trusted provider of premium natural gas services to top-rated communities in Texas.

- ▶ 77,000+ active customers today
- ▶ 225,000+ total residential lots under contract
- ▶ Service areas from North Fort Worth to Southwest Houston\

Notable Franchise Agreements

- ▶ [City of Austin](#)
- ▶ [City of Azle](#)
- ▶ [City of Cedar Hill](#)
- ▶ [City of Conroe](#)
- ▶ [City of Ferris](#)
- ▶ [City of Fort Worth](#)
- ▶ [City of Forney](#)
- ▶ [City of Fulshear](#)
- ▶ [City of Grand Prairie](#)
- ▶ [City of Katy](#)
- ▶ [City of Kyle](#)
- ▶ [City of Manor](#)
- ▶ [City of Mansfield](#)
- ▶ [City of Missouri City](#)
- ▶ [City of Pearland](#)
- ▶ [City of Pflugerville](#)
- ▶ [City of Princeton](#)
- ▶ [City of Rosenberg](#)
- ▶ [City of Sugar Land](#)
- ▶ [City of Waxahachie](#)



Utility Regulation

Founded in the public's interest, these organizations build, maintain, and provide essential services. With the responsibility of providing essential services like water, electricity, and natural gas-- public utilities are **highly regulated** and **required**(by law) **to continually operate**.

All natural gas utilities report to the Railroad Commission of Texas -



The Railroad Commission of Texas



The Railroad Commission

- ▶ The state agency that regulates the oil and gas industry, gas utilities, liquefied petroleum gas, and surface energy mining. This organization sets service standards, rate, and safety requirements for all natural gas utilities in Texas.
 - ▶ For more information and public records please visit <http://www.rrc.state.tx.us/>

Earning Business

Building Partnerships

- ▶ Developers
- ▶ Home Builders
- ▶ Customers
- ▶ Communities

Our Customer-centric Focus

- ▶ Competitive Rates
- ▶ Flexible Solutions
- ▶ Quality Service
- ▶ Reliable Service

Our partnership guarantee-

“Swift and responsive, premium quality natural gas service through, reliable collaboration and reasonable rates”

Customer Service:

- ▶ Live customer service representatives are available to answer all calls from 8:00 am to 5:00 pm, Monday through Friday.
- ▶ Our customer service email line is monitored and responded to during the same hours.
- ▶ All customers have access to a 24-hour emergency line and our personnel will respond quickly to any emergency calls.
- ▶ Technicians are available on site at our developments to assist with any customer issues.
- ▶ Customers have access to SíEnergy by phone, email or through our internet site.
- ▶ Customer issues are monitored by the Railroad Commission of Texas and a public utility is required to satisfactorily resolve all customer issues. Natural gas customer service requirements are found in the Texas Administrative Code Title 16, Part 1, Chapter 7, Subchapter D.

Safety Regulations followed by SíEnergy

SíEnergy adheres to the following regulations, which are applicable to ALL natural gas distribution companies:

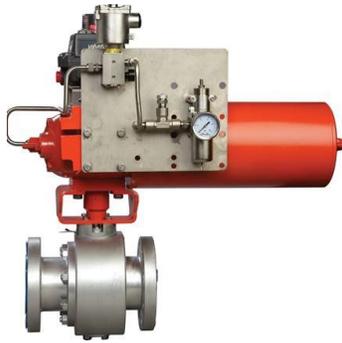
- ▶ Federal Regulations
 - ▶ Pipeline and Hazardous Materials Safety Administration
 - ▶ [49 CFR Part 191](#) - Annual reports and incident or safety related condition reporting
 - ▶ [49 CFR Part 192](#) - Pipeline design and operations
 - ▶ [49 CFR Part 199](#) - Anti drug and alcohol misuse plans and testing
- ▶ State Regulations
 - ▶ Texas Railroad Commission
 - ▶ [TAC Title 16 Chapter 8](#) - Pipeline safety rules
 - ▶ [TAC Title 16 Chapter 18](#) - Underground pipeline damage prevention

Safety Components of Design

- ▶ System design
- ▶ SíEnergy construction standards and inspection
- ▶ GIS mapping
- ▶ Monitoring system pressures through the use of SCADA (remotely controlled valves)
- ▶ Limiting pressure at the point of delivery using Excess Flow Valves
 - ▶ Pioneers in the use of Excess Flow Valves. Policy has existed for 20 years - SíEnergy has the most experience of all LDCs!

Meter Station Design

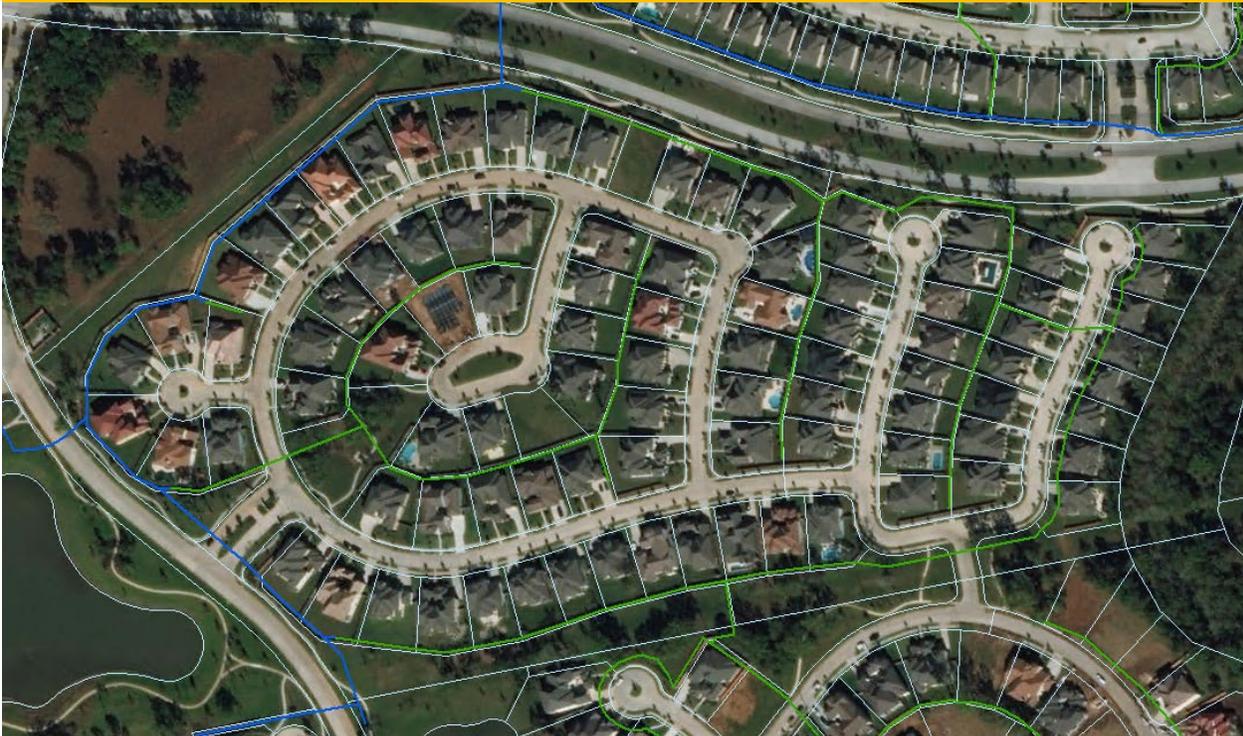
SíEnergy will design the systems with a remote-controlled valve that will allow for the immediate cut-off of gas from a remote location in the event of an emergency.



GIS Mapping

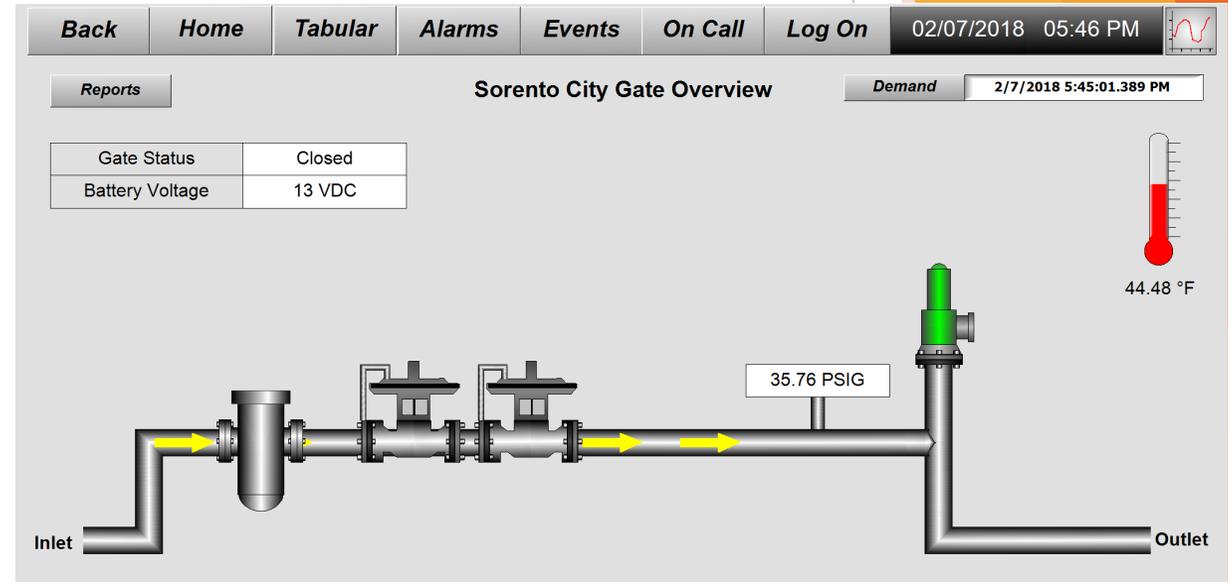
- ▶ All SíEnergy systems are mapped using highly-accurate GPS instruments (Trimble) to develop digital system maps supported by a GIS database.
- ▶ Digital system maps expedite locating the pipe requiring repairs or isolation.
- ▶ SíEnergy's system maps provide home-address locations, as well as subsurface information.

System Generated GIS Map



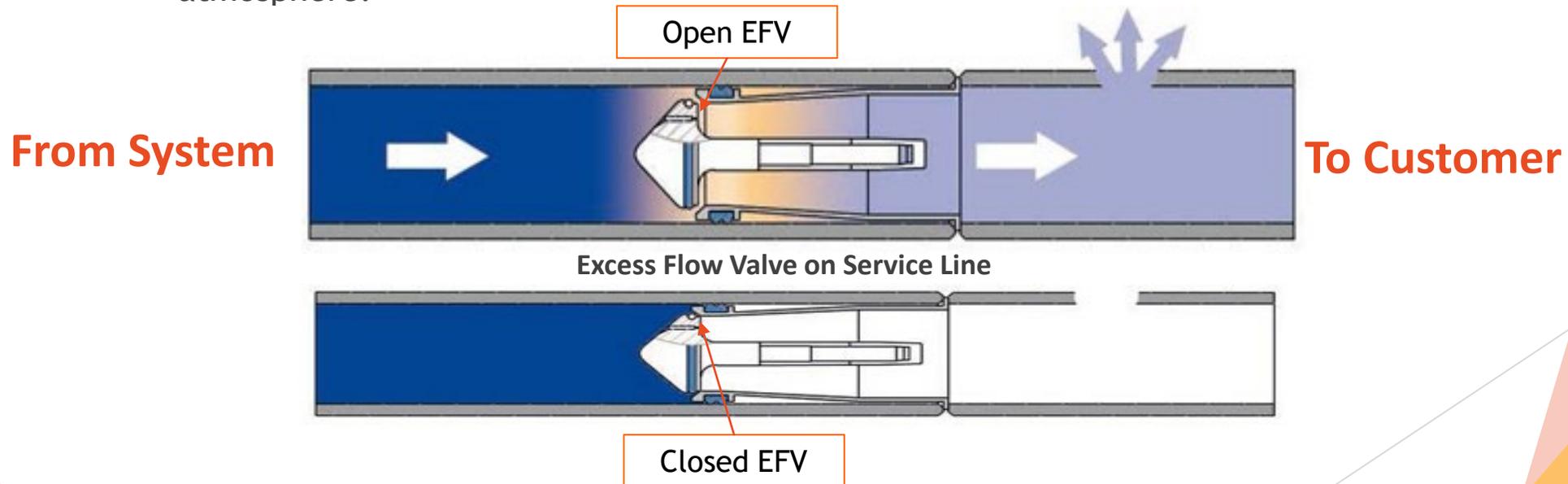
Station Monitoring with SCADA

- ▶ Shows real-time pressures, safety relief valve status, access gate status, flows, and ambient temperature.
- ▶ Allows operations personnel to assess call-out situations and to respond quickly.
- ▶ Allows observation of daily high, low, and current pressures.
- ▶ Historical data is stored on the server for one year for trend analysis.



Customer Safeguards Using Excess Flow Valves

- ▶ Every property (residential or commercial) in SíEnergy's system is guarded with an excess flow valve (EFV).
- ▶ EFVs are safety devices designed to stop excessive gas flow if abnormal activity occurs. Abnormal activity includes sudden pressure spikes, damage to a line, or any other instance that causes the pressure to change suddenly.
- ▶ EFVs prevent gas from entering the property or escaping to the ground or atmosphere.



Public Safety Programs

- ▶ **Public Awareness**
 - ▶ Safety information mailers are sent annually to every customer and every address within 220 yards of main pipelines with topics including (a) what to do if a leak occurs, (b) what not to do if a leak occurs, (c) how to recognize the location of a pipeline, (d) how to use your sight, sound and smell to recognize leaks, and (e) how to dig safely around a pipeline.
 - ▶ Annual meetings are held with emergency responders and excavators to review pipeline safety items such as (a) how to secure the area around a leak, (b) steps to prevent ignition of a pipeline leak, (c) ways to determine who the operator of the pipeline is, and (d) how to report leaks through the One Call system.
- ▶ **Distribution Integrity Management Plan (DIMP)**
 - ▶ SiEnergy maintains a DIMP to identify the greatest risks and minimize potential of incident. The DIMP is subject to periodic review and inspection by the Railroad Commission.
- ▶ **Leak Survey**
 - ▶ SiEnergy surveys its systems for leaks and necessary repairs with frequency based off potential leak migration and pipeline material.
- ▶ **Damage Prevention Program**
 - ▶ SiEnergy protects underground piping from excavation damages by joining a One Call system, marking excavation sites, and educating excavation contractors.

Public Safety Resources

- ▶ Customer service 8:00 am to 5:00 pm, Monday through Friday - monitors all safety events until resolved.
- ▶ 24 hour emergency hot line - immediately dispatches according to SíEnergy's Emergency Response Plan.
- ▶ Texas One Call - 811
 - ▶ SíEnergy provides a GIS interface to Texas One Call even before gas flows to allow for specific location of pipelines in the event of a safety event or for use by third-parties. The One Call system includes a central location for excavators to call to have pipelines marked and report incidents. The Texas One Call agencies also maintain a list of excavators throughout the state for ease of contact for public awareness and damage prevention education efforts



Know what's below.
811 before you dig.



Emergency Response

- ▶ A 24-hour emergency phone number is available and:
 - ▶ Communicated through annual mailings to Customers,
 - ▶ Posted on monthly bills,
 - ▶ Posted on our website, and
 - ▶ Posted on Pipeline Markers.
- ▶ An on-call employee is available at all times and is reachable by the 24-hour emergency dispatch.
- ▶ Local contacts are provided to emergency responders and City staff.
- ▶ Meetings are setup with Emergency Responders to familiarize one another with our Emergency Response Plan.

Rate Regulation Comments

- ▶ Cities have original jurisdiction to set rates for their citizens.
- ▶ SíEnergy looks forward to working cooperatively with Montgomery and other Texas cities, either separately or through a city coalition.
- ▶ A city coalition provides benefits to customers, cities, and SíEnergy.
 - ▶ Efficiently processes rate requests.
 - ▶ Increases likelihood of settlement in customer-company win-win manner.
 - ▶ Increases likelihood of avoiding a Railroad Commission hearing.
 - ▶ Enhances customer fairness through consistency in rates across cities.
 - ▶ Reduces rate case expenses paid by customers.

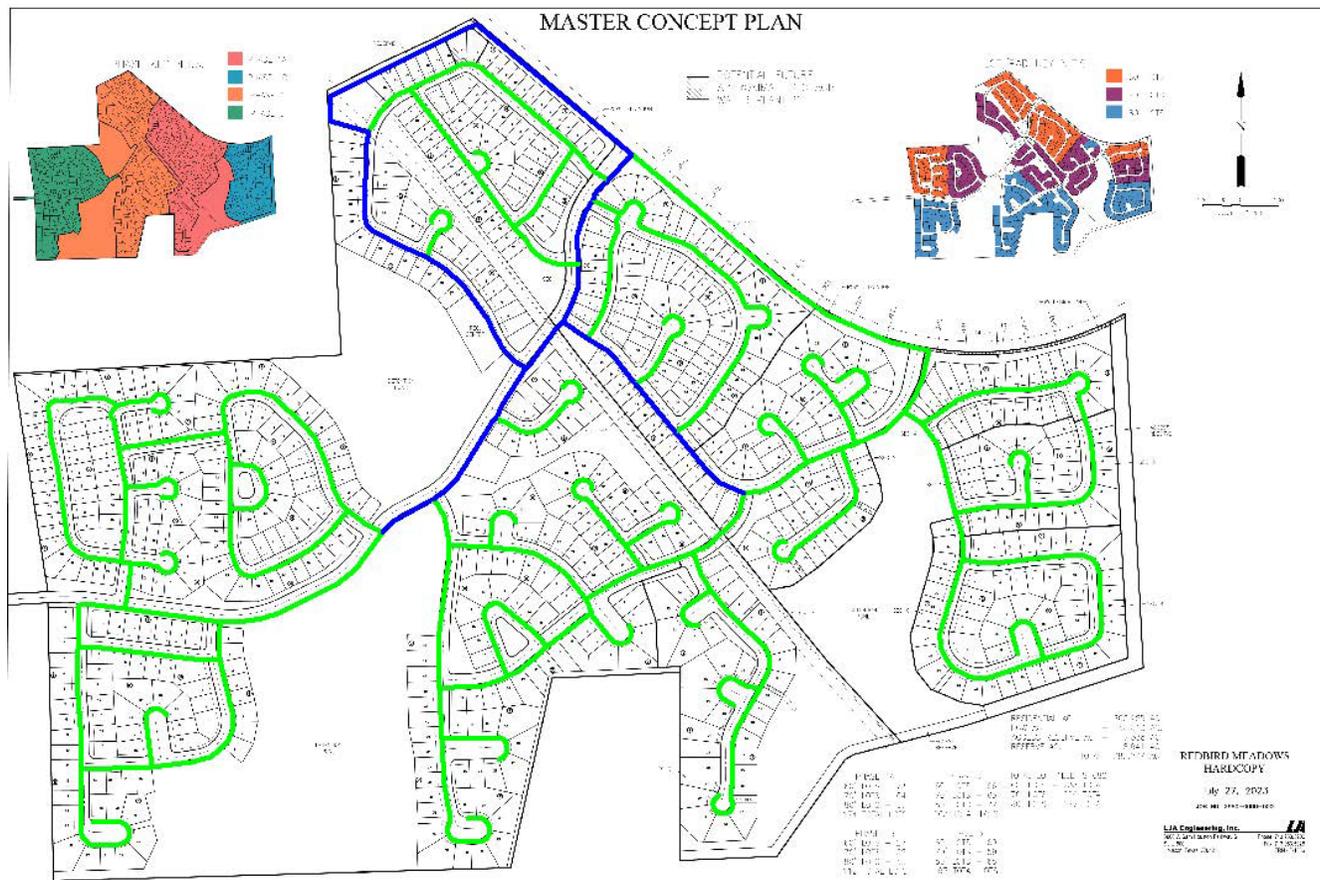
Growth in the Industry

DEVELOPMENT IN MONTGOMERY, TX

Development Location



Development Plan - Briarley



Distribution System Key: ● 8" HDPE ● 6" HDPE ● 4" HDPE ● 2" HDPE

CONFIDENTIAL - This document and the information contained herein is strictly confidential in nature and may not be shared with anyone without the express consent of SiEnergy

Thank You



The Premier Natural Gas Company

Montgomery City Council
AGENDA REPORT

Meeting Date: February 25, 2025	Budgeted Amount: N/A
Department: Administration	Prepared By: Ruby Beaven

Subject

Consideration and possible action on a permit approval for construction of model homes by Johnson Development.

Recommendation

For the council to approve or deny the permit request for construction of model homes by Johnson Development

Discussion

- Johnson Homes is asking for approval of permits for construction of six model homes within the MUD/Development while the District and City contracts are completed (Lift Station No. 1 and water, sewer, drainage, and paving to serve the District are the District Contracts. The Water Line is a City Contract);
- The MUD District Engineer has not requested, and Johnson Development does not intend to request, certificates of occupancy for the six model homes until final acceptance of all infrastructure;
- Three final plats for Sections 1, 2, and 3 in Phase 1A were recorded in the property records on September 18, 2024;
- Model homes to be located in Section 2 only;
- Johnson Development offering to put up a performance bond for the remainder of the contract for Lift Station No. 1 and escrow the funds to cover the cost of pumping and hauling sanitary sewage associated with the model homes; and
- Builder could utilize the offsite water line as needed for the six model homes.

Approved By

City Secretary & Director of Administrative Services	Ruby Beaven	Date: 02/06/2025
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HOUSTON
3200 Southwest Freeway,
Suite 2600
Houston, TX 77027
(713) 860-6400

Hannah Bradley
Senior Attorney
hbradley@abhr.com
(713) 860-6493

February 11, 2025

Re: Montgomery County Municipal Utility District No. 215 (the “District”)

To the Honorable Mayor and City Council of the City of Montgomery, Texas:

We are writing to request that the approval of permits for construction of six model homes within the District be placed on City Council’s agenda for Tuesday, February 25, 2025.

Johnson Development purchased approximately 208 acres of land within the District, and is actively developing within the District. On January 27, 2025, the District’s engineer, LJA Engineering, submitted a request to City Staff for the approval of permits for construction of six model homes only, while the District’s contracts for Lift Station No. 1 and for water, sewer, drainage and paving to serve Redbird Meadows Phase 1A, and the City’s contract for the water line to serve the District are completed. The District’s engineer has informed us that they are currently working through the substantial completion package for the contract for water, sewer, drainage and paving to serve Redbird Meadows Phase 1A, and construction of Lift Station No. 1 is expected to be completed by the end of March 2025. The District’s engineer has confirmed that all detention is in place. Additionally, it is our understanding that the City’s construction of the force main has been completed, and that the City’s construction of the water line is expected to be completed by the end of April 2025. The District’s engineer has not requested, and Johnson Development does not intend to request, certificates of occupancy for the six model homes until final acceptance of all the infrastructure noted above has occurred. The three final plats for Sections 1, 2 and 3 in Phase 1A were recorded in the real property records of Montgomery County on September 18, 2024. The six model homes are proposed to be located within Section 2 only.

With the spring sales season quickly approaching, it is critical that the homebuilders in the District timely complete their model homes to effectively market and sell homes to new residents. It is essential for the homebuilders in the District to take advantage of the spring sales season to create momentum for this new community and maximize its taxable value by the end of the year, which will help bring in new property tax revenue for the City. Without the delivery of model homes for the spring sales season,

1250483

CENTRAL TEXAS
919 Congress Avenue, Suite 1500
Austin, TX 78701
(512) 518-2424

NORTH TEXAS
4514 Cole Avenue, Suite 1450
Dallas, TX 75205
(972) 823-0800

abhr.com

February 11, 2025
Page 2 of 2

home construction will be delayed until the fall, which will delay residents moving into the District and subsequently delay the growth in the tax base for the City and the District.

Johnson Development has offered to put up a performance bond for the remainder of the contract for Lift Station No. 1, and to escrow funds to cover the cost of pumping and hauling sanitary sewage associated with the model homes. The District's engineer has confirmed that any sanitary waste from the model homes will be minimal, and the builders could utilize the offsite water line as needed for the six model homes.

The Development Agreement and Utility Agreement are both silent as to permit approvals for model homes, however both agreements provide for the approval of "minor modifications" by the City Administrator. While we believe the approval of permits for construction of six model homes only is a "minor modification" that can be approved by the City Administrator, we respectfully request that the Honorable Mayor and City Council approve permits for construction of six model homes only while the District's contracts for Lift Station No. 1 and for water, sewer, drainage and paving to serve Redbird Meadows Phase 1A, and the City's contract for the water line to serve the District are completed. If this request for permits for construction of six model homes is granted, we understand that the certificates of occupancy for the six model homes and the permits for the remaining 168 homes in Phase 1A to be built for sale to residents will be issued following final acceptance of all the infrastructure noted above. Should you require any additional information, please let us know.

Sincerely,



Hannah Bradley
Attorney for the District

Cc: David M. Oliver, Jr., Allen Boone Humphries Robinson LLP
Caleb D. Villarreal, Johnson Petrov LLP

Montgomery City Council
AGENDA REPORT

Meeting Date: February 25, 2025	Budgeted Amount: N/A
Department: Administration	Prepared By: Ruby Beaven

Subject

Consideration and possible action on a first and only reading of an Ordinance by the City Council of the City of Montgomery, Texas, amending Chapter 78, "Subdivisions" of the City Code of Ordinances in its entirety; Providing for a penalty for a violation of this ordinance; Repealing all Ordinances and parts of Ordinances in conflict therewith; Providing a saving and severability clauses; Providing a Texas Open Meetings Clause; and Providing an effective date after publication.

Recommendation

For the council to adopt or deny an Ordinance amending Chapter 78, "Subdivisions" of the City Code of Ordinances.

Discussion

Kendig Keast Collaborative has been contracted to update some of the City Code of Ordinances. Attached is an Ordinance amending Chapter 78, "Subdivisions" reflecting the interim ordinance amendments.

Approved By

City Secretary & Director of Administrative Services	Ruby Beaven	Date: 02/06/2025
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ORDINANCE NO. 2025 – 2025-XX

AN ORDINANCE BY THE CITY COUNCIL OF THE CITY OF MONTGOMERY, TEXAS, AMENDING CHAPTER 78, "SUBDIVISIONS" OF THE CITY CODE OF ORDINANCES IN ITS ENTIRETY; PROVIDING FOR A PENALTY FOR A VIOLATION OF THIS ORDINANCE; REPEALING ALL ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT THEREWITH; PROVIDING A SAVING AND SEVERABILITY CLAUSES; PROVIDING A TEXAS OPEN MEETINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE AFTER PUBLICATION.

WHEREAS, the City Council of the City of Montgomery, Texas ("Council") has investigated and determined that Chapter 78 "Subdivisions" of the City of Montgomery, Texas ("City") should be amended in its entirety; and

WHEREAS, the City has complied with all notices and public hearings as required by law; and

WHEREAS, the City Council finds that it will be advantageous, beneficial and in the best interest of the citizens of the City to amend Chapter 78 "Subdivisions" in its entirety of the City's Code of Ordinances as set forth below.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MONTGOMERY, TEXAS THAT:

Section 1. Findings Incorporated. The findings set forth above are incorporated into the body of this Ordinance as if fully set forth herein.

Section 2. Chapter 78 – "Subdivisions" of the City Code of Ordinances, is hereby amended and restated in its entirety, to reads as follows: See **Exhibit A**.

Section 3. This amendment shall prevail and all other Ordinances in conflict are hereby repealed to the extent of any conflict.

Section 4. If any section, subsection, sentence, clause, provision or part of this Ordinance shall be held invalid for any reason, the remainder of this Ordinance shall not be affected thereby but shall remain in full force and effect.

Section 5. It is hereby officially found and determined that the meeting at which this Ordinance was considered was open to the public as required and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551, of the Texas Government Code.

Section 6. This Ordinance shall take effect and be in force after its passage and publication as provided by law.

PASSED AND APPROVED by the City Council of the City of Montgomery, Texas, on the **25th** day of **February, 2025**.

THE CITY OF MONTGOMERY, TEXAS

Sara Countryman, Mayor

ATTEST:

Ruby Beaven, City Secretary

APPROVED AS TO FORM:

City Attorney

CHAPTER 78 SUBDIVISIONS¹

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City administrator

City engineer

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Berm

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¹State Law reference—Regulation of subdivision and property development, V.T.C.A., Local Government Code ch. 212.

ARTICLE I. IN GENERAL

Sec. 78-1 Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Amending plat means a revised plat correcting errors or making minor changes to a recorded plat pursuant to V.T.C.A., Local Government Code § 212.016.

Building setback restriction means a defined area designated on a subdivision plat in which no building or structure may be constructed and which is located between the adjacent street right-of-way line or other type of easement or right-of-way line and the proposed building.

City engineer means the registered professional engineer employed or designated by the city to provide professional engineering services for and on behalf of the city.

Develop means the act of improving and selling or using land for the purpose of constructing improvements thereon, to be sold or leased to others or otherwise handled for the personal gain or use of a developer.

Developer means a person, firm, corporation or any legal entity, whether one or more or a combination of one or more, engaged in a business of improving and selling or using land for the purpose of constructing improvements thereon, to be sold or leased to others or otherwise handled for their own personal gain or use.

Development means the man-made change to improved or unimproved real estate, including, but not limited to, the new construction or the enlargement of any exterior dimensions of any building or structures (excluding landscape structures), dredging, filling, grading, paving, excavation, clearing, or subdivision of property.

Extraterritorial jurisdiction (ETJ) means the unincorporated territory extending one-half of a mile beyond the corporate limits of the city, and contiguous to the corporate limits of the city, which has been established as a result of the provisions of the Texas Municipal Annexation Act, V.T.C.A., Local Government Code ch. 43 , and the state subdivision acts.

Flag lot means a lot that is divided in such a way that the main part of the property is set back at some distance from a roadway, which has a narrow portion of the property extending to the roadway primarily intended for access to the main part of the property.

Minor plat means a plat involving four or fewer lots fronting on an existing street and not requiring the creation of any new street or the extension of municipal facilities, which meets all other standards required of other plats.

Owner means the person designated as the owner of record of the property to be subdivided or platted.

Planning and zoning commission means the planning and zoning commission of the city formed by city council ordinance and appointment.

Plat.

- **Development plat** means a map or drawing that complies with the provisions of section 78-64 of this chapter.
- **Final plat** means a map or drawing of a proposed subdivision prepared in a manner suitable for recording in the records of the county containing accurate detailed engineering data, dimensions, dedicatory statements, and certificates, and prepared in conformance with the conditions of preliminary approval previously granted by the planning and zoning commission.
- **Preliminary plat** means a map or drawing of a proposed development to illustrate the features of the development for review and approval by the planning and zoning commission but not suitable for recording in the county records.
- **Re-plat** means the re-subdivision of an existing recorded subdivision together with any change of lot size therein or the relocation of any street line.

Semi-public means a use that is partly public; public in some respects, as a private institution offering some public services or facilities.

Site plan means a site development plan showing the use of the land, including existing and proposed locations of buildings, drives, sidewalks, parking areas, drainage facilities, and other structures.

Subdivision means the division of a tract or parcel of land into two or more parts or lots for the purpose, whether immediate or future, of sale or building development or transfer of ownership, and shall include resubdivision. Subdivision shall not become valid until approved by the city council and recorded in county records.

Vegetation setback means a maintained land area separating different zoning classifications or uses.

Visual barrier means a continuous unbroken and solid screen of masonry construction, or fencing, natural hedge or vegetation at maturity (two years), or a combination thereof, of not less than six feet measured from the existing natural ground level. Non-vegetative barriers must be a maximum of eight feet in height measured from the existing natural ground level. Vegetation must consist of any combination of trees, shrubs, berms, or other natural flora. The visual barrier improvements shall be adequate to accommodate the proposed screening, and must be a minimum of one foot in width for non-vegetative screening and five feet in width for vegetative screening, provided it creates a visual barrier. The city shall not be responsible for the maintenance of required screening. Deed restrictions and covenants, if any, filed of record and running with the land for any tract, shall make provisions for a maintenance entity authorized to provide maintenance of the visual barrier improvements through assessment of the costs thereof to lot owners.

(Ord. No. 2011-09 , § 1, 7-26-2011)

Sec. 78-2 Penalty.

No person shall subdivide or develop land until a valid subdivision plat or development plat exists in compliance with this chapter. Any person violating this chapter or any portion thereof shall, upon conviction, be guilty of a misdemeanor and be punished as provided for in section 1-13.

(Ord. No. 2011-09 , § 1, 7-26-2011)

Sec. 78-3 Purpose; statutory authority; territorial jurisdiction.

- (a) Under the authority of V.T.C.A., Local Government Code ch. 212 , which provisions are hereby made a part of this chapter, the city council does hereby adopt the regulations in this chapter to control the subdivision and/or development of land within the corporate limits of the city and the extraterritorial jurisdiction of the city, in order to provide for the orderly development of the area to secure adequate provision for traffic, light, air, recreation, transportation, water, drainage, sanitary sewers, and other facilities, and under the authority of V.T.C.A., Local Government Code chs. 42 and 43 , which provisions are hereby made a part of this chapter, the city council does hereby adopt the regulations in this chapter as to the extent of extraterritorial jurisdiction.
 - (b) Any owner of land located inside of or within the corporate limits of the city or within the extraterritorial jurisdiction of the city wishing to subdivide or develop such land shall submit to the planning and zoning commission a preliminary and final plat of the subdivision, or submit to the city a development plat, if the owner is not subdividing, of the development, which shall conform to the minimum requirements set forth in this chapter. It is urged that informal discussions be held between the developer, the city officials and the city engineer to ensure compliance with the basic requirements and to arrive at a coordinated plat layout.
 - (c) No subdivision plat shall be filed or recorded and no lot in a subdivision inside of the corporate limits of the city or within the extraterritorial jurisdiction of the city shall be improved, developed or sold until the final plat shall have been approved by the city council. The city shall have the authority to prohibit the installation of public utilities in unapproved streets and easements and to prohibit the issuance of building permits for structures on lots abutting on unapproved streets. The final plat must be approved by the city council.
 - (d) Water and sanitary sewer service will not be available to any property that has not been platted.
- (Ord. No. 2011-09 , § 1, 7-26-2011)

Sec. 78-4 Applicability.

- (a) This chapter shall govern every person owning any tract of land within the corporate limits of the city or within the extraterritorial jurisdiction of the city who may hereafter:
 - (1) Divide the land into two or more parts for the purpose of laying out any subdivision of any tract of land or any addition to the city;
 - (2) Divide the land into two or more parts for laying out suburban lots or building lots, streets, alleys, parks, or other portions intended for public use, or for construction of any commercial, public or residential structure on the land; or
 - (3) Develop any tract or parcel of land unless said tract or parcel of land has been previously subdivided and platted.
- (b) A division of land under this section does not include a division of land into parts greater than five acres, where each part has access and no public improvement is being dedicated (V.T.C.A., Local Government Code § 212.004 (a)).
- (c) A division of land under this section does not include a minor plat involving four or fewer lots fronting on an existing street and not requiring the creation of any new street or the extension of municipal facilities which meets all other standards required of other plats (V.T.C.A., Local Government Code § 212.0065).
- (d) The planning and zoning commission may allow the conveyance by metes and bounds of one or more portions of previously platted property without the necessity of a re-plat if:
 - (1) Each part has access to a public street;

- (2) Any resulting part which is less than the required minimum lot size is to be conveyed to the owner of an abutting property, and when combined with the abutting property will comprise a parcel which is not less than the required minimum lot size under this chapter;
 - (3) No dedication of public improvements is required in connection with the division;
 - (4) The requested division, considered in conjunction with other pending or reasonably anticipated requests, will not substantially alter a previously approved pattern of development; and
 - (5) The general purposes of this chapter may be served without the necessity of re-platting.
- (e) The authority to approve amending plats described by V.T.C.A., Local Government Code § 212.016 , minor plats involving four or fewer lots fronting on an existing street and not requiring the creation of any new street or the extension of municipal utilities, development plats, and a re-plat under V.T.C.A., Local Government Code § 212.0145 that does not require the creation of any new street or the extension of municipal facilities, is hereby delegated to the mayor, city administrator, city secretary and city engineer. Upon approval of any such plat by any one of such officers or employees, the city administrator and city engineer shall sign such plat on behalf of the city.
- (f) The person to whom the amending plat, minor plat or re-plat is presented for approval may, for any reason, elect to present the plat for approval to the municipal authority responsible for approving plats.
- (g) The person to whom the amending plat, minor plat or re-plat is presented for approval shall not disapprove the plat and shall be required to refer any plat which such person refuses to approve to the municipal authority responsible for approving plats within the time period specified in this chapter.

(Ord. No. 2011-09 , § 1, 7-26-2011)

Secs. 78-5—78-26 Reserved.

ARTICLE II. ADMINISTRATION

Sec. 78-27 Filing fees.

- (a) The fees and charges shall be paid into the general fund of the city when any map or plat is tendered to the city engineer. Each of the fees and charges provided in this section shall be paid in advance, and no action of the city council, the planning and zoning commission or the city engineer or any city agency shall be valid until the fees shall have been paid. The city engineer, deputies or assistants shall calculate the fees and charges according to the current established schedule or as hereafter adopted by resolution of the city council from time to time.
- (b) These fees shall be charged on all plats regardless of the action taken by the city council. These fees are subject to change without notice.

(Ord. No. 2011-09 , § 1, 7-26-2011)

Sec. 78-28 Variances.

When a subdivider or developer can show that a provision of this chapter would cause unnecessary hardship if strictly adhered to, or where because of some condition peculiar to the site or the unique nature of the development compliance with this chapter is not consistent with or required by good engineering and planning practices, and if in the opinion of the city council, planning and zoning commission and the city engineer, a departure from this chapter may be made without destroying the intent of this chapter, the city council may authorize a variance.

(Ord. No. 2011-09 , § 1, 7-26-2011)

Secs. 78-29—78-59 Reserved.

ARTICLE III. PLATS

Sec. 78-60 Preliminary plat.

- (a) *Required.* A preliminary plat of any proposed subdivision shall be submitted to the planning and zoning commission and approved before the subdivider proceeds with the final plat for recording, except in the case of minor plats.
- (b) *Scale; contents.* The preliminary plat shall be drawn to a scale of one inch equals 200 feet, one inch equals 100 feet, one inch equals 50 feet, one inch equals 40 feet, or one inch equals 20 feet. The preliminary plat shall contain at least the following information:
 - (1) *Existing features inside the platted area.*
 - a. The existing boundary lines of the land to be platted. Boundary lines shall be drawn in heavy for easy identification. Boundary lines shall be clearly tied to a minimum of two city monuments.
 - b. The location of all existing easements, pipelines, wells, watercourses, railroads, streets, and other similar drainage and transportation features.
 - c. The location and width of all existing streets, alleys, easements, buildings, and structures.
 - d. Topographical information with contour lines of two-foot intervals maximum, based on a datum approved by the city engineer.
 - e. Elevation of the 100-year floodplain and the extent, if any, that this occurs within the plat.
 - f. Location of any floodway within the plat.
 - g. Total acreage of platted area.
 - (2) *Existing features outside of the platted area.*
 - a. The names and property lines of all adjoining property owners.
 - b. The names and location of adjacent subdivisions, streets, easements, pipelines, watercourses, etc., within 100 feet of the plat boundary, with recording information on easements, streets, etc.
 - c. All lines outside of the proposed subdivision are to be dashed.
 - (3) *New features inside of the subdivision.*
 - a. The proposed name of the subdivision.
 - b. The location, width and names of proposed street rights-of-way, along with pavement widths.
 - c. Width and depth of all lots. If the side lot lines are not parallel, the distance between them at the building setback line and at the narrowest point should be given.
 - d. Location of building lines, vegetation barriers, alleys, and easements.

- e. Location and approximate size of sites for schools, churches, parks, and other special land uses and vegetative barriers, where required.
 - f. The area, in square feet and acres, of each of the subdivided parcels.
 - (4) *Key map.* A key map showing the relation of the subdivision to major and minor arterial and collector streets in all directions for a distance of at least one mile.
 - (5) *Title.* The date, scale, north arrow, title under which the plat is to be recorded, appropriate legal descriptions such as survey name and abstract, the name of the owner, and the name of the engineer or surveyor platting the tract.
 - (c) *Submission.* The owner shall furnish the city planning and zoning commission 14 days or more before the regular meeting of the planning and zoning commission with:
 - (1) A portable document format (PDF) digital copy of the preliminary plat.
 - (2) A minimum of ten legible prints of the preliminary plat.
 - (3) Ten copies of a letter of transmittal stating briefly the type of street surfacing, drainage, sanitary facilities and water supply proposed, and the name, address, email address and telephone number of the owner and engineer or surveyor.
 - (4) A title letter or certificate as defined in section 78-61(f).
 - (5) The preliminary plat fee.
 - (d) These documents shall be transmitted to the city engineer.
 - (e) *Approval.* The planning and zoning commission shall approve, conditionally approve, defer or disapprove within 30 days any preliminary plat submitted to it. Approval of the preliminary plat shall not constitute final acceptance of the plat. Failure to act within 30 days of the regularly scheduled meeting at which the plat would have been submitted shall constitute approval by the planning and zoning commission unless additional time is requested from the developer. After preliminary approval and final approval by the planning and zoning commission, the final plat shall then be sent to the city council for final approval. Reasons for the disapproval or conditional approval or deferral shall be put in writing attached to one copy of the plat and returned to the person submitting the plat. Preliminary approval will expire 12 months after the approval of the planning and zoning commission of the preliminary plat or the final sections thereof except that, if the subdivider shall apply in writing prior to the end of such 12-month period stating reasons for needing the extension, this period may be extended for another 12 months, but not beyond the total of two years.
 - (f) *Disapproval.* If any such plat is disapproved by the city council, such disapproval shall be deemed a disapproval of the offered dedication shown therein.
 - (g) *Fee.* The fee shall be as currently established or as hereafter adopted by resolution of the city council from time to time.
- (Ord. No. 2011-09 , § 1, 7-26-2011)

Sec. 78-61 Final plat.

- (a) *Generally.* After the approval of a preliminary plat by the planning and zoning commission, two sets of construction plans for public facilities shall be submitted to the city and a final plat showing an actual field boundary survey of the tract prepared by a registered public surveyor and bearing his seal shall be submitted to the planning and zoning commission by filing at city hall. The plat shall have all changes and alterations made on it that were required on the previously submitted preliminary plat.

- (b) *Sheet size and scale.* All final plats shall be drawn on reproducible sheets 20 inches by 24 inches and to a scale of one inch equals 100 feet. Where more than one sheet is required, an index sheet of a maximum size of 20 inches by 24 inches shall be filed showing the entire subdivision at a suitable scale.
- (c) *Contents.* The final plat shall contain the following information:
- (1) *Existing features inside the subdivision.*
 - a. The existing boundary lines of the land to be subdivided. Boundary lines shall be drawn in heavy for easy identification.
 - b. The location of all existing watercourses, railroads, easements, pipelines, wells and other similar drainage and transportation features.
 - c. The location of the 100-year floodplain and floodway according to the most recent best available data.
 - d. The location of all the existing streets, alleys, and easements, buildings and structures to be retained and to be removed.
 - (2) *Existing features outside of the subdivision.*
 - a. The names and property lines of adjoining subdivisions and of the adjoining property owners together with the respective plat or deed references.
 - b. The name and location of adjacent streets, alleys, easements, watercourses, etc., within 100 feet of the plat boundaries.
 - c. All lines outside of the plat subdivision boundaries are to be dashed.
 - (3) *Streets, alleys, and easements.* The lines and names of all proposed streets or rights-of-way or easements to be dedicated to public use with the following engineering data:
 - a. For streets, provide complete curve data, central angle, tangent, degrees of curvature shown on the centerline or on each side of the street, provide length and bearing of all tangents, and furnish dimensions of all angle points of curve to an adjacent side lot line.
 - b. For watercourses and easements, provide the distance along the side lot line from the front lot line on the high bank of the stream, and provide a traverse line along the edge of all large watercourses in a convenient location, preferably along the utility easements if paralleling the drainage easement or stream.
 - (4) *Name and acreage.* Name of subdivision and total acreage.
 - (5) *Lots and blocks.* The lines and numbers of all proposed lots and blocks with complete bearings and dimensions for front, rear, and side lot lines along with areas in square feet and acres.
 - (6) *Setback lines and vegetation barriers.* Building setback lines and vegetation barriers, which shall be shown on all lots.
 - (7) *Reservations.* The use and property dimensions for all special reservations, including sites for schools, churches, parks, and reserves.
 - (8) *Monument and control points.*
 - a. State on the plat what was found/set at all boundary corners of the tract being subdivided
 - b. All plats shall be tied to two city monumentation control points and state which monuments were used. Reference bearings to a city monument.
 - c. No final plat may be approved until actually surveyed upon the ground by, or under the supervision of, a registered professional land surveyor. The surveyor shall set, or leave as found, sufficient, stable and reasonably permanent markers to represent or reference the property or boundary

corner, angle points, and points of curvature or tangency of a tract being subdivided. All survey marks shall be shown and described with sufficient evidence of the location of such markers on the plat.

- d. One permanent monument with x, y, and z shall be placed within the boundaries of each new subdivision. Elevation benchmarks should be placed within a dedicated street right-of-way, but outside of the paved portion of the roadway, with the location of such benchmark reflected upon the plat. The benchmark shall consist of a three-inch brass disk set in a concrete column six inches in diameter and three feet deep and buried with the top flush with the natural grade. The disc shall be stamped with the surface elevation as determined from a known benchmark based on city monumentation and shall also bear the subdivision name and section number, if any.
 - e. Lot corners, street intersections, angle points, and street alignment monumentation must be installed prior to final acceptance of the subdivision.
 - f. Benchmarks shall be based on the City of Montgomery Control System and related to at least two of those published monuments. The plat shall indicate which City of Montgomery Control monuments were recovered and which one was used to set the plat benchmark elevation. Measured elevation differentials between specific City of Montgomery Control monuments that are greater than 0.1 foot relative to the differential in the published elevations of those monuments shall be communicated to the City of Montgomery City Engineer.
 - g. The requirement to set a new subdivision elevation benchmark is waived if a Texas Department of Transportation elevation benchmark, a City of Montgomery elevation benchmark or a previously set elevation benchmark within an existing recorded subdivision is located within 500 feet of the proposed subdivision plat boundary and the stamped elevation of the existing benchmark is referenced to the city's published datum. The location and description, including the elevation and datum of the existing benchmark to be used shall be reflected upon the plat.
- (9) *Certificates of approval.* The following will be placed on the face of the plat in addition to the requirements of the county. Each final plat must bear the owner's certification and dedication statement, signed and acknowledged, in substantially the following form:

OWNER'S CERTIFICATION AND DEDICATION

STATE OF TEXAS	§
COUNTY OF MONTGOMERY	§

That (Owner's name) herein acting individually or through the undersigned duly authorized agents, does hereby adopt this plat designating the herein described real property as the _____ Subdivision, and does hereby make subdivision of said property according to the lines, streets, alleys, parks, and easements therein shown, and dedicate to public use forever all areas shown on this plat as streets, alleys, parks, and easements, except those specifically indicated as private; and does hereby waive any claims for damages occasioned by the establishing of grades as approved for the streets and alleys dedicated, or occasioned by the alteration of the surface of any portion of streets or alleys to conform to such grades and does hereby bind Owner, and Owner's successors and assigns to warrant and forever defend the title to the land so dedicated.

Owner hereby certifies that Owner has or will comply with all applicable regulations of the city, and that a rough proportionality exists between the dedications, improvements, and exactions required under such regulations and the projected impact of the subdivision.

WHERE PRIVATE STREETS ARE DEDICATED ADD:

Where streets or alleys are dedicated for private use, such dedication shall include an easement covering the street area which permits the installation, operation and maintenance of water, sewer, gas, electric, telephone, cable television or other such utility facilities by the city and other utilities lawfully entitled to provide service to the abutting property. The easement shall also provide a right of access to public agencies engaged in both routine and emergency public services including law enforcement, fire protection, medical response, inspection and code enforcement.

The certification and dedication statement must be signed by each owner and acknowledged in the manner provided for the acknowledgement of deeds. If the number of owners makes it impractical for the signature of each such owner to appear upon the plat, then, the plat may be signed and acknowledged by an agent or attorney in fact on behalf of such owners, provided that a valid power of attorney or other appropriate instrument establishing such agency is filed in the real property records of the county.

KNOW ALL MEN BY THESE PRESENTS:

That I _____, do hereby certify that I prepared this plat from an actual and accurate survey of the land and that the corner monuments shown thereof were properly placed under my personal supervision, in accordance with the subdivision regulations of the City of Montgomery, Texas.

Signature and Seal of Registered
Professional Land Surveyor

I THE UNDERSIGNED, Engineer for the City of Montgomery, hereby certify that this subdivision plat conforms to all requirements of the subdivision regulations of the city as to which his approval is required.

City Engineer - Montgomery

This plat and subdivision has been submitted to and considered by the city planning and zoning commission, and is hereby approved by such commission.

Dated This ___ Day of _____, 20___.
By: _____

Chairperson Planning and Zoning
Commission

This plat and subdivision has been submitted to and considered by the city council of the City of Montgomery, Texas, and is hereby approved by such council.

Dated This ___ Day of _____, 20___.
By: _____

Mayor

ATTEST:

City Secretary

- (10) *Key map.* A key map showing the relation of the subdivision to major and minor arterial and collector streets in all directions for a distance of at least one mile.
 - (11) *Title block.* The date, scale, north arrow, and subdivision title, along with appropriate legal descriptions such as survey name and abstract, with the name of the owner and engineer or surveyor platting the tract.
 - (12) *Dedications and certificates.* Such dedications and certificates as are applicable.
 - (13) *Special restrictions.* Where restrictions of land use other than those given in this chapter are to be imposed by the subdivider, such restrictions shall be placed on the final plat or on a separate instrument filed with the plat.
 - (14) *Off-site easements.* Provide recorded off-site easements with final plat submittal.
- (d) *Water, sewer, paving and drainage plans.*
- (1) Two sets of plans and specifications for water, sanitary sewers, storm sewers, paving and drainage prepared by a registered professional engineer must be submitted with the final plat. The aforementioned plans must also be submitted in an electronic format acceptable to the city. As noted in article V of this chapter, all developers will be required to retain services of a professional engineer for the design and inspection of all public utilities that the city will maintain after development occurs. A sealed utility letter report shall be submitted by the design engineer that explains how water and sewer service will be provided to each lot, and that states the design shown within the construction plans is in accordance with the latest requirements of the city design criteria manual. An analysis of the projected demand, connection point, future extension, over-sizing, and capacity in existing facilities shall be included. A land study shall be submitted showing water and sanitary sewer improvements necessary to cover all contiguous land owned or controlled by the developer. The subdivision plat cannot be approved by the city council for recordation until the city council approves construction plans for the subdivision.
 - (2) Approval of construction plans shall expire 12 months after the approval of the city council except that the developer may apply, in writing, prior to the end of such 12-month period, for an extension of said approval, setting forth the reasons for the need for such an extension. The city council may, at its discretion, extend the approval period for an additional 12 months. However, in no event shall the city council approve construction plans beyond a total of two years from the date of approval.
- (e) *Tax receipt.* A receipt or tax certificate shall be submitted with the final plat showing that all taxes have been paid.
- (f) *Title letter or certificate.* A title letter or certificate from a title guarantee company or from an attorney duly licensed to practice law in the state shall be submitted certifying to at least the following concerning title to the land:
- (1) A statement of records examined and the date examined (within the last 60 days).
 - (2) Description of the property by metes and bounds.
 - (3) Name of the fee owner as of the date of examination along with the date, file number, volume, and page of the recording of the deed involved.
 - (4) The name of any lienholder together with a date of filing, volume, and page of lien. A copy of the recorded document shall be provided.
 - (5) A general description of any easement and fee strips granted along with the file number, date of filing, volume and page of such recording information. A copy of the recorded document shall be provided.

- (g) *Submission.* The planning and zoning commission shall be furnished with ten legible prints of the original tracing and a reproducible copy of the final plat and one copy of the plat in electronic form (Autocad or DXF format) ten days or more before the planning and zoning commission meeting. These documents shall be filed in the office of the city. City council shall also be furnished with ten legible prints of the original tracing and a reproducible copy of the final plat before the council meeting.
- (h) *Fee.* The fee shall be as currently established or as hereafter adopted by resolution of the city council from time to time.
- (i) *Public facility construction guarantee.* A fiscal guarantee of 100 percent of the construction cost of water, sewer, pavement, drainage facilities, and all public facilities for the subdivision, as approved by the city engineer and city attorney, shall be provided to the city council and approved by city council prior to the final plat being approved and recorded. The construction cost shall be based on an opinion of cost sealed by a professional engineer and approved by the city engineer. The guarantee may be provided in the form of a cash escrow deposit, surety bond, or irrevocable letter of credit.
- (j) *Approval.* The city planning and zoning commission shall approve or conditionally approve, defer or disapprove, within 60 days, any final plat submittal. The city council shall approve or disapprove any final plat submitted within 30 days after the date the plat is approved by the planning and zoning commission. Final approval will expire one year after the city council action granting approval of any final plat unless the final plat has been filed for record, except that, if the subdivider shall apply in writing prior to the end of such one-year period stating reasons for needing extension, this period may, at the discretion of the city council, be extended for another year, but not beyond that period.

(Ord. No. 2011-09 , § 1, 7-26-2011; Ord. No. 2018-10 , § 1, 6-12-2018)

Sec. 78-62 Minor plats.

Minor plats shall contain all the information required of final plats as set forth in this chapter. Minor plats shall be submitted to the city and may be approved and signed by the city engineer and city administrator. The fee for a minor plat shall be as currently established or as hereafter adopted by resolution of the city council from time to time.

(Ord. No. 2011-09 , § 1, 7-26-2011)

Sec. 78-63 Re-plats.

In addition to state law requirements as set out in V.T.C.A., Local Government Code ch. 212 , any re-platting shall follow the final platting rules as set forth in this chapter. A public hearing is required as directed by the Texas Local Government Code.

(Ord. No. 2011-09 , § 1, 7-26-2011)

Sec. 78-64 Development plats.

- (a) Any person who proposes the development of a tract of land within the limits or extraterritorial jurisdiction of the city must have a development plat of the tract prepared in accordance with this chapter and the applicable plans, rules or ordinances of the city.
- (b) A development plat must be prepared by a registered professional land surveyor as a boundary survey showing:

- (1) Each existing or proposed building, structure or improvement or proposed modification of the external configuration of the building, structure or improvement involving a change of the building, structure or improvement;
 - (2) Each easement and right-of-way within or abutting the boundary of the surveyed property; and
 - (3) The dimensions of each street, sidewalk, alley, square, park, or other part of the property which is intended to be dedicated to public use or for the use of purchasers or owners of lots fronting on or adjacent to the street, sidewalk, alley, square, park or other part of the property.
- (c) All proposed easements and dedications shown on a development plat shall be recorded by separate instrument.
- (d) A development may not begin on the property until the development plat is filed with and approved by the city in accordance with this chapter.
- (e) If a person is required under this chapter or a city ordinance to file a subdivision plat, a development plat shall not be required in addition to the subdivision plat.
- (f) Title letter or certificate. A title letter or certificate from a title guarantee company or from an attorney duly licensed to practice law in the state shall be submitted certifying to at least the following concerning title to the land:
- (1) A statement of records examined and the date examined (within the last 60 days).
 - (2) Description of the property by metes and bounds.
 - (3) Name of the fee owner as of the date of examination along with the date, file number, volume, and page of the recording of the deed involved.
 - (4) The name of any lienholder together with a date of filing, volume, and page of lien. A copy of the recorded document shall be provided.
 - (5) A general description of any easement and fee strips granted along with the file number, date of filing, volume and page of such recording information. A copy of the recorded document shall be provided.
- (g) Submission. The city shall be furnished with four legible prints of the original tracing and one copy of the plat in PDF format and one copy of the plat in electronic form (Autocad or DXF format). A title letter or deed of trust shall be provided to provide evidence of ownership of the property to be developed.
- (h) Fee. The fee shall be as currently established or as hereafter adopted by resolution of the city council from time to time.
- (i) Approval. Development plats shall be submitted to the city and may be approved and signed by the city engineer and city administrator. Final approval will expire one year after the approval of any development plat, except that, if the developer shall apply in writing prior to the end of such one-year period stating reasons for needing an extension, this period may, at the discretion of the city council, be extended for another year, but not beyond that period. The development plat will not be signed by lienholders.

(Ord. No. 2011-09 , § 1, 7-26-2011)

Secs. 78-65—78-86 Reserved.

ARTICLE IV. GENERAL DESIGN STANDARDS

Sec. 78-87 Streets.

- (a) *Street classification.* Streets shall be classified as follows:

- (1) *Major arterial streets.* Farm-to-Market 149, State Highway 105, FM 1097, and other streets shown on the Major Thoroughfare Plan, as city council may have adopted, are classified as major arterial streets.
 - (2) *Minor arterial streets.* Lone Star Parkway, Farm-to-Market 2853 and other streets shown on the Major Thoroughfare Plan, as city council may have adopted, are classified as minor arterial streets
 - (3) *Collector streets.* Collector streets are those platted for access to tracts where the zoning or land use is high-density residential (which may include one or more single-family residential neighborhoods); commercial office, retail or service; public or semi-public; and light or heavy industrial. Collector streets A collector street (sometimes referred to as a distributor road) is a low-to-moderate-capacity street which serves to move traffic from local to arterial streets.
 - (4) *Local streets, urban.* Urban local streets are those platted to serve low-to-moderate density residential neighborhoods.
 - (5) *Local streets, rural.* Rural local streets are those platted to serve acreage and estate lots with a density of one or fewer units per acre.
- (b) *Conformity to Major Thoroughfare Plan.* Subdivision layouts shall adhere to and substantially conform with the pattern, alignment, classification and ~~The width and location~~ of major and minor arterial and collector streets depicted by the ~~shall conform to such~~ Major Thoroughfare Plan adopted by ~~as the city council may have adopted, if any, both as to the horizontal and vertical alignment of pavements and right-of-way widths.~~
- (1) A proposed subdivision shall include street connections in the direction of the nearest existing or planned streets within one-half mile of the plat. The proposed subdivision shall also include street connections to any streets that abut, are adjacent to, or terminate at the plat.
 - (2) The proposed subdivision shall include streets that extend to undeveloped or partially developed land that is adjacent to the plat or that is separated from the plat by a drainage channel, transmission easement, survey gap, or similar property condition.
 - (3) The streets shall be in locations that will enable adjoining properties to connect to the proposed subdivision's street system.
 - (4) If where the plat to be submitted includes only part of the tract owned or intended for development by the subdivider, a tentative plan of a proposed future street system for the unplatted portion shall be prepared and submitted by the developer. Where it is obvious a street from another development should continue across the planned development, the plan shall provide for continuation of this street through the development. The tentative plan shall be filed of record, together with the plat, with the Montgomery County Recorder of Deeds Office. The plan shall also be maintained with the application records of the city. Upon submittal of an application for subdivision of the unplatted portion of the tract, such subdivision layout shall adhere to and substantially conform with the tentative plan. The tentative plan may be modified to account for changed conditions subject to a positive recommendation of the Planning and Zoning Commission and approval of the City Council.
- (c) *Marginal access streets.* Where a subdivision abuts or contains an existing or proposed arterial street, the city may require marginal access streets, reverse frontage lots with screen planting contained in a non-access reservation along the rear of the property line, or such other treatment as may be necessary for adequate protection of residential properties and to afford separation of through and local traffic.
- (d) *Relation to existing street system.* The proposed street system shall extend all existing major and minor arterial streets and such existing collector and local streets as may be desirable for convenience and circulation. Where possible, the width and the horizontal and vertical alignment of extended streets shall be observed primarily with respect to the Major Thoroughfare Plan of the City of Montgomery.

- (e) *Street jogs.* Where offsets of street alignment are in the opinion of the planning and zoning commission unavoidable, such offsets may be employed, provided the distance between centerlines is not less than 125 feet.
- (f) *Large lot subdivision.* If the lots in the proposed subdivision are large enough to suggest resubdivision in the future, or if part of the tract is not subdivided, consideration must be given to possible future street openings and access to future lots which could result from such resubdivision.
- (g) *Through traffic.* Local residential streets shall be designed so as to discourage high speed or through traffic.
- (h) *Topography.* The street system shall bear a logical relationship to the natural topography of the ground.
- (i) *Right-of-way widths.* Street right-of-way widths shall be measured from the front lot line to the front lot line of ~~opposite~~ lots on the opposite side of the street, as designated on the adopted Major Thoroughfare Plan, and shall be as follows:
 - (1) Major arterial streets, including the wide median and parkway alternates: ~~120~~100 feet., ~~or as designated on the thoroughfare plan.~~
 - (2) Minor arterial street, including the parkway alternate: 100 feet.
 - (3) Main street: 100 feet.
 - (4) Collector street with marginal access: 100 feet. ~~Commercial or secondary streets: 80 feet.~~
 - (5) Parallel street parking: 60 feet.
 - (6) Collector street with sidewalks or a combined trail: 60 feet.
 - (7) ~~Local Residential~~ streets, rural: 60 feet.
 - (8) ~~Local Minor~~ streets, urban: 50 feet.
- (j) *Horizontal alignment.* Horizontal curves in streets shall conform to the minimum radius and tangent requirements as follows:

Classification	Minimum radius	Minimum tangent
Major and minor arterial streets	2,000 feet	100 feet
Collector Secondary streets	800 feet	100 feet
Local Residential streets	300 feet	50 feet
Minor residential streets	300 feet	50 feet

- (k) *Cul-de-sacs.*
 - (1) The maximum length of all cul-de-sacs shall be 600 feet, measured along the centerline from its intersection with the centerline of another street to the center of the turn-around right-of-way;
 - (2) Cul-de-sac streets shall have a minimum 60-foot right-of-way and a 50-foot paved radius for single- and two-family uses, and 70-foot right-of-way and 60-foot paved radius for all other uses. Cul-de-sacs shall include a 25-foot inside, 50-foot outside turning radius. Hammerheads and other turnaround alternatives shall meet the standards provided in the adopted Fire Code; Cul-de-sac landscape islands may be permitted by the Planning and Zoning Commission when it is determined that such islands can safely accommodate emergency vehicles and legal provision is established to properly maintain the islands. The maximum mature height of vegetation within a landscape island shall be 30 inches.
 - (3) The intersection of the cul-de-sac street segment and cul-de-sac turnaround shall be rounded by a radii of at least 30 feet;

- (4) A sidewalk with a minimum width of five feet shall be provided around the entire turn-around of the cul-de-sac leaving a minimum of six feet for a tree lawn between the back of curb of the cul-de-sac pavement and the sidewalk;
- (5) Cul-de-sacs apply to urban local streets only;
- (6) A sidewalk shall be provided between two lots located on the turnaround of the cul-de-sac connecting the sidewalks adjacent to the turnaround with those on adjacent streets and/or within adjacent developments, as set out in Subsection 1.05, Requirements for Miscellaneous Items, of the Design Criteria Manual.

(l) *Dead-end streets* ~~(cul-de-sacs).~~

- (1) *Maximum length.* The maximum length of a dead-end street with a permanent turnaround shall be 800 feet, except in conditions of unusual topography.
- (2) *Temporary turnarounds.* Temporary turnarounds of 100 feet in diameter are to be provided at the end of streets more than 400 feet long that will be extended in the future. The following note should be placed on the plat: "Cross-hatched area is temporary easement for turnaround until street is extended (give direction) in a recorded plat."
- (3) *Prohibited in the DT, Downtown District and the HO, Historic Overlay District.* Dead-end streets or cul-de-sacs are expressly prohibited in any area zoned and designated as an historic overlay district.

(m) *Intersections.*

- (1) *Angle of intersection.* Except where existing conditions will not permit, all streets shall intersect at a 90-degree angle. Variations of more than ten degrees on local streets and more than five degrees on major and minor arterial or collector streets must first be approved by the city in writing.
- (2) *Radius at acute corners.* Acute angle intersections approved by the planning and zoning commission are to have 25 feet or greater radii at acute corners.
- (3) *Centerline tie with existing streets.* Each new street intersecting with or extending to meet an existing street shall be tied to the existing street on centerline with dimensions and bearing to show the relationship.

(n) *Partial or half streets.* Partial or half streets may be provided where the planning and zoning commission feels that a street should be located on a property line. The following note shall be used in all such dedications: "This ___-foot strip is dedicated as an easement for all utility street purposes when and insofar a ___-foot strip adjacent to it is so dedicated and the required improvements are installed." A suitable fiscal guarantee approved by the city council in the amount established by the city engineer shall be required from the developer for the construction costs of the half street within the plat.

(o) *Reserve strips.* Provisional one-foot reserves may be used along the side or end of streets that abut acreage tracts, accompanied by a note on the plat as follows: "One-foot reserve to become automatically dedicated for street purposes when adjacent property is recorded in a plat."

(p) *Monuments.* All street intersections, angle points, and street alignments of curves shall be monumented by the developer. Such monuments shall be of iron pipe not less than one inch in diameter and three feet long driven into solid ground or at finish grade of the street.

(q) *Street names.* New streets shall be named so as to provide continuity of names with existing streets and so as to prevent conflict with identical or similar names in other parts of the county. All street names will be approved by the planning and zoning commission and the city council.

(Ord. No. 2011-09 , § 1, 7-26-2011)

Sec. 78-88 Lots.

- (a) *Use.* All lots shown on the plat will be for residential purposes unless otherwise noted.
- (b) *Size generally.* Lot size shall be approved by the city council. On the basis of the appropriate zoning district in which they lie and the use to which they are to be put, all lots must conform to the regulations of the city council, including minimum area, width, and depth.
- (c) *Minimum width.* Minimum width is 75 feet. Radial lots on the inside of a curved street shall have a minimum width of 75 feet at and for a distance of 30 feet behind the building line. For radial lots on the outside of a curved street or cul-de-sac, the minimum width is established by measurement at the building line.
- (d) *Minimum depth.* Minimum depth is 120 feet.
- (e) *Minimum area.* Minimum area is 9,000 feet.
- (f) *Corner lots.* Corner lots with a width of less than 90 feet are to be at least five feet wider than the average of interior lots in the block. Corner lots with a width of less than 90 feet adjacent to a major or minor arterial street are to be at least 15 feet wider than the average of interior lots in the block.
- (g) *Flag lots.* Flag lots may not be used under any circumstances.
- (h) *Lots on major and minor arterial and collector streets.* Lots facing or backing on major and minor arterial and collector streets shall be at least ten feet deeper than the average of lots facing on adjacent local streets. Lots backing on major and minor arterial and collector streets shall not have access to any major or minor arterial or collector street.
- (i) *Double and reverse frontage lots.* Each lot in a subdivision shall front upon a public street. Double frontage and reverse frontage lots shall be avoided, except where essential to provide separation of residential development from major and minor arterial and collector streets or to overcome specific disadvantages of topography and orientation. A landscape buffer of at least 10 feet, across which there shall be no right of access, shall be provided along the line of lots abutting such arterial or collector street.
- (j) *Lots on drainage easements.* Minimum usable lot depths for lots backing on natural drainage easements shall be not less than 80 feet measured between the front lot line and the drainage easement.
- (k) *Orientation of side lot lines.* Side lot lines should be perpendicular or radial to street frontage.
- (l) *Access to street; lot frontage.*
 - (1) Each lot shall be provided with adequate access to an existing or proposed public street by frontage on such street.
 - (2) Wherever feasible, each lot should face the front of a similar lot across the street. In general, an arrangement placing adjacent lots at right angles to each other should be avoided.
- (m) *Lot numbering.* All lots are to be numbered consecutively within each block. Lot numbering may be cumulative throughout the subdivision if the numbering continues from block to block in a uniform manner that has been approved on an overall preliminary plat.

(Ord. No. 2011-09 , § 1, 7-26-2011)

Sec. 78-89 Blocks.

- (a) *Length.*
 - (1) *Residential lots.* Maximum block length for residential use shall be 1,400 feet, measured along the center of the block. Six hundred feet is a desirable minimum.
 - (2) *Lots on a major and minor arterial streets.* Maximum block length along a major or minor arterial street shall be 1,800 feet, except under special conditions and upon approval of the city council.

- (b) *Width.* Blocks shall be wide enough to allow two tiers of lots of at least minimum depth, except when prevented by the size of the property or the need to back up to a major or minor arterial street.
 - (c) *Numbering.* Blocks are to be numbered consecutively within the overall plat.
- (Ord. No. 2011-09 , § 1, 7-26-2011)

Sec. 78-90 Building lines.

- (a) *Front street line.* The front building line shall not be less than 25 feet from the front property line, except, where the lots face on a major or minor arterial street, the front building line shall not be less than 35 feet from the front property line. New commercial structures or improvements being built in the DT, Downtown District shall refer to Sec. 98-266. *Height and Area Regulations.*
 - (b) *Side street line.* The building line on the street side of corner lots shall not be less than 15 feet from the side street property line, except that, where the lots side on a major or minor arterial street, the building line shall not be less than 25 feet from the side street property line, and where the side of a corner lot is across the street from or adjacent to the front of other lots, the building line shall be at the same distance from the streets as the front building line of the opposite or adjacent lots.
 - (c) *Side and rear setbacks.* Side and rear setbacks vary depending on the zoning classification. These setbacks shall be in accordance with chapter 98. Vegetative setbacks may also apply and shall be in accordance with section 78-162.
 - (d) *Pipeline easements.* A 15-foot building setback line shall be provided on each side of any pipeline easement.
- (Ord. No. 2011-09 , § 1, 7-26-2011)

Sec. 78-91 Alleys.

- (a) *Width.* Where provided, alleys shall not be less than 20 feet in width.
 - (b) *Cut-offs.* In case of intersection alleys, a cut-off shall be required at each corner. Cut-offs shall be triangles having two equal sides, each of which shall be not less than ten feet in length.
 - (c) *Required alleys.* Alleys shall be required in all business areas and in those portions of new residential subdivisions where partial blocks are needed to complete existing blocks with alleys.
- (Ord. No. 2011-09 , § 1, 7-26-2011)

Sec. 78-92 Easements.

- (a) *Size.* The size of easements where alleys are not provided shall not be less than eight feet on each side of rear lot lines, with additional five feet aerial on each side beginning at a plane 20 feet above the ground. The full width of an easement shall be not less than 16 feet at ground level and not less than 26 feet above ground. The full width of a drainage easement containing a piped storm sewer line shall be not less than 16 feet. The full width of a drainage easement containing an open ditch drainage facility shall be not less than the width of the ditch top plus 12 feet.
 - (b) *Use.* Where necessary, easements shall be retained for power, telephone, cable TV, storm sewers, sanitary sewers, water lines, open drains, gas lines, or other utilities. Such easements may be required across parts of lots (including side lines) other than as described in this section if, in the opinion of the planning and zoning commission, such easements are needed.
- (Ord. No. 2011-09 , § 1, 7-26-2011)

Sec. 78-93 Reservations.

- (a) *Permitted purposes.* No land contained in the proposed subdivision shall be reserved for any use other than a use permitted by the city council for the zoning in which the land to be reserved is located.
- (b) *Designation on plat.* The specific use for which each piece of land is to be used must be shown by appropriate label or description on the plat, provided that land to be used for any purpose other than residential uses may, if the specific use is not known, be described as a restricted or unrestricted reserve.
- (c) *Parks and playgrounds.* The location and size of parks and playgrounds shall be in accordance with the city council's plan, if any, and with the requirements of the city council.
- (d) *Schools.* The location and size of schools shall be in accordance with the city council plan with respect to school location, if any, and with the requirements of the school district.
- (e) *Unrestricted reserves.* Reserves, tracts, or those individual parcels of land in the subdivision plat which are not divided into lots are established to accommodate some specific purpose such as a commercial center, industrial site, golf course, or other type of private facility. Since the use of reserve tracts cannot be completely determined by the subdivider or the developer at the time plats are prepared and submitted to the city planning and zoning commission, these reserved tracts may be established as "unrestricted reserve" which allows maximum flexibility in the determination of the ultimate use for such properties. All unrestricted reserves will be bound by a one-foot reserve within the adjacent street right-of-way which will not permit access to the reserve tracts before those plats are resubmitted to the city council or planning and zoning commission for re-platting.
- (f) *Restricted reserves.* Where a specific purpose is established for a reserve tract, such intended use must be noted and identified on the plat. The building of noted improvements within the restricted reserves require a site plan to be submitted to the planning and zoning commission and approved by the planning and zoning commission and city council before construction commences. Where public facilities or rights-of-way will be dedicated during future development of restricted reserves, a re-plat will be necessary of the restricted reserve.
- (g) *Minimum area.* Minimum area is 9,000 square feet.

(Ord. No. 2011-09 , § 1, 7-26-2011)

Sec. 78-94 Use of on-site sewerage facilities.

No plat submitted for a preliminary or final plat shall be approved within the extraterritorial jurisdiction of the city with on-site sewerage facilities for sanitary sewage disposal or treatment unless no alternative source of wastewater disposal is available.

(Ord. No. 2011-09 , § 1, 7-26-2011)

Sec. 78-95 Compensating open space requirements.

In those instances where proposed lots have an area less than the minimum established by the planning and zoning commission, compensating open space will be required and can be approved by the planning and zoning commission and city council. For planned unit development (PUD), compensating open space must be made available based on the density of development and in accordance with the general zoning requirements of the city. Such compensating open spaces remain undeveloped or landscaped and may be developed for recreational purposes within the PUD, both active and passive. They may be used to provide courtyard access from the groups or clusters of lots adjacent to public streets or for temporary stormwater detention structures within the planned stormwater facility plan of the city.

- (a) Open space parcels shall be convenient to the dwelling units they are intended to serve. However, because of noise generated by certain recreational activities, they shall be sited with sensitivity to surrounding development.
- (b) As a general principle, undeveloped open space should be left in its natural state. A developer may make certain improvements such as cutting trails for walking or jogging, equestrian use or the provision of picnic areas, etc. In addition, the Planning and Zoning Commission may require a developer to make other improvements, such as removing dead or diseased trees, thinning trees or other vegetation to encourage more desirable growth, and grading and seeding.
- (c) Any lands reserved for open space purposes shall contain appropriate covenants and deed restrictions approved by the City Attorney ensuring that:
 - (1) The open space area will not be further subdivided in the future;
 - (2) The use of the open space will continue in perpetuity for the purpose specified;
 - (3) Appropriate provisions will be made for the maintenance of the open space; and
 - (4) Common undeveloped open space shall not be turned into a commercial enterprise admitting the general public at a fee.
- (d) The type of ownership of land dedicated for open space purposes shall be selected by the owner, developer, or subdivider, subject to the approval of the City Council. Type of ownership may include, but is not necessarily limited to, the following:
 - (1) City of Montgomery, Montgomery County or a quasi-public organization subject to their discretion as to accepting the dedication of fee title or dedication of their discretion to accept the common open space provided that:
 - a. The common open space is accessible to the residents of the city and county;
 - b. There is access to maintain the common open space; and
 - c. Streets or other public ways have been constructed to city standards and have been inspected and approved by the city.
 - (2) Shared, undivided interest by all property owners in the subdivision;
 - (3) Property-owner, condominium, or cooperative associations or organizations, provided the developer shall file a declaration of covenants, conditions and restrictions or other suitable document that will govern the association, to be submitted with the application for the final plat approval. The provisions shall include, but are not necessarily limited to, the following:
 - a. The property-owners association shall be established before any lots are sold;
 - b. Membership shall be mandatory for each property owner;
 - c. The open space restrictions shall be permanent, not just for a period of years;
 - d. The association shall be responsible for liability insurance, local taxes, and the maintenance of recreational and other facilities;
 - e. Property owners shall pay their pro rata share of the cost, and the assessment levied by the association can become a lien on the property if allowed in the master deed establishing the property-owners association;
 - f. The property owners’ association bylaws or the declaration of covenants, conditions and restrictions contain the following information:
 - i. The legal description of the common land;
 - ii. A description of common facilities;

- iii. The restrictions placed upon the use and enjoyment of the lands or facilities;
 - iv. Persons or entities entitled to enforce the restrictions;
 - v. A mechanism to assess and enforce the common expenses for the land or facilities (e.g., utility systems, private roads and other public or quasi-public improvements) including upkeep and maintenance expenses, real estate taxes and insurance premiums;
 - vi. A mechanism for resolving disputes among the owners or association members;
 - vii. The conditions and timing of the transfer of ownership and control of land facilities to the association;
 - viii. Any other matter the developer deems appropriate.
- (e) Common open spaces within each development shall be linked with each other and with existing and future open spaces in adjacent developments through the required sidewalk system or through the use of pedestrian paths.
- (f) All common open spaces shall have at least 10 feet of frontage on a public street which includes sidewalks, and be linked to that sidewalk system by either a sidewalk or pedestrian path.
- (g) The open space shall be to the greatest extent practicable accessible to the general public and not for the exclusive use of a property owners' association or nonprofit organization.
- (h) The open space shall be suitable for and protected and maintained for wildlife habitat, conservation, historic preservation (landscapes and/or accessory structures), outdoor education, passive and active outdoor recreation, park and outdoor recreation purposes, agriculture, horticulture, forestry, and/or a combination of these uses. It shall also be served by suitable access for such purposes. A maximum of of five percent of the open space may be paved (pervious "paving" materials are encouraged) or built upon for structures accessory to the dedicated use or uses of such open space, (e.g., pedestrian walkways and bike paths). Parking areas and areas used for vehicular access or egress shall not constitute open space.
- (i) At the discretion of the City Council, private subsurface wastewater and stormwater management systems may be located within the open space unless a development agreement is executed between the subdivider and city council. Surface systems, such as retention and detention ponds, shall not qualify towards the required open space unless these systems are determined to be non-structural, natural-like stormwater management systems that do not create impervious surfaces, enable infiltration, and that are otherwise compatible with the contemplated uses of the adjacent open space.

(Ord. No. 2011-09 , § 1, 7-26-2011)

Sec. 78-96 Parking requirements.

- (a) All developments shall provide sufficient off-street parking in accordance with the requirements of chapter 98.
- (b) Any parking lots or drives, excluding single-family residential driveways, shall be paved with asphalt or concrete.

(Ord. No. 2011-09 , § 1, 7-26-2011)

Sec. 78-97Traffic flow between adjacent parking lots.

Adjacent commercial parking lots shall be constructed to allow proper traffic between parking lots.

(Ord. No. 2011-09 , § 1, 7-26-2011)

Secs. 78-98—78-122 Reserved.

ARTICLE V. ENGINEERING AND CONSTRUCTION STANDARDS

Sec. 78-123 General policies regarding improvements; payment of costs of improvements.

Policies, terms and conditions to be followed in paving work and the extending of water and sewer lines and drainage must be approved by the city council and city engineer. All improvements shall be installed by the developer at his expense. The city shall not participate in the development unless a larger facility or improvement is required by the city. ~~The city may participate in the cost of the facility to the extent of the difference in the cost of the facility and improvement required to serve the developer's land and that required by the city to be installed.~~ With approval of the City Council, the city may contribute to the cost of the facility to the extent of the difference between the cost of the facility required to serve the development and the cost of the facility that the city requires to be installed. For example, if a 10"-diameter water line is needed to serve the development and the city requires a 12"-diameter water line, then the city may reimburse the developer on a pro-rata basis for the oversized water line. An appropriate method of such reimbursement between the city and the developer will be agreed to in writing before construction begins.

(Ord. No. 2011-09 , § 1, 7-26-2011)

Sec. 78-124 Engineering and specifications for construction.

- (a) The city will reserve the right to approve all professional engineers that provide services to developers on public drainage, roads, streets, sewer and water facilities within the plat for utilities that will be dedicated to the public and operated and maintained by the city. The developer may retain an engineer of his choice registered in the ~~State of Texas~~ whose seal shall be placed on the drawings for the design of all private facilities for the purpose of drainage, roads, streets, sanitary sewers and water facilities within his plat.
- (b) All engineering construction plans, surveys, and standard specifications for construction of streets, drainage, and storm sewers or sanitary sewer lines shall be approved prior to commencement of construction of such facilities. The professional engineering services required of the developer for public utility work shall be done by an engineer approved by the city, and shall be as designated in the current issue of the manual entitled "~~Professional Practice General Engineering Service~~ Texas Engineering Practice Act and Rules Concerning the Practice of Engineering and Professional Engineering Licensure," published by the state society of professional engineers, and shall include both design and construction monitoring as defined therein, ~~at the developer's cost~~. Platting shall be done by the developer's engineer or surveyor.
- (c) The city has adopted the city design criteria manual. The current version of the design criteria manual is incorporated herein by reference and shall remain on file at the office of the city secretary.
- (d) Elevations included in all engineering construction plans and surveys must be based ~~two upon the~~ benchmarks and known city monumentation utilized in the final plat and must be clearly displayed on the construction plans and survey.

(Ord. No. 2011-09 , § 1, 7-26-2011; Ord. No. 2018-10 , § 1, 6-12-2018)

Sec. 78-125 Streets.

- (a) All streets shall be designed and constructed in accordance with the provisions of this chapter and the city design criteria manual, as adopted by city council. All streets shall be periodically inspected by the city's

engineer during the construction thereof. A developer shall deposit, in escrow with the city, an amount sufficient to offset costs incurred by the city for its engineer to inspect the streets during construction.

- (1) *Design criteria.* Street design, classifications, alignments, minimum pavement widths, and right-of-way widths shall be designed and constructed in accordance with the provisions of section 78-87 and the city design criteria manual, as adopted by city council.
- (2) *Residential street requirements.* Residential street classification is defined in section 78-87.
 - (a) Curb and gutter streets shall be used where residential lot widths are less than 100 feet.
 - (b) Open ditch drainage is allowed in areas where the residential lot width is 100 feet or greater.
- (3) *Driveway general requirements.*
 - (a) Nonresidential parking areas shall be designed to prevent backing of vehicles into a public street.
 - (b) Driveways shall be located and designed with respect to both the public street and the on-site circulation to provide maximum safety and to minimize interference with street traffic. To ensure this, the city engineer may require a traffic study to be performed **at the developer's/owner's expense.**
 - (c) Driveways shall be designed to accommodate all vehicle types having occasion to enter the site, including service, emergency or delivery vehicles.
 - (d) No single-family dwelling, townhouse, or duplex unit may take direct access to major or minor arterial streets if the property can be accessed by a collector or local street. If the property can only be accessed from a major or minor arterial street, then adequate maneuvering space shall be provided on the property, as vehicles shall not be allowed to back directly into the connecting street.
- (4) *Nonresidential driveway spacing.* All nonresidential driveways shall meet the following minimum spacing requirements:
 - (a) Adjacent left, adjacent right, and opposite right corner clearance and commercial driveway spacing is determined by the classification of the street as follows (where raised medians are present, the spacing can be reduced by 20 percent):
 1. Major arterial streets: 275 feet; 220 feet with raised medians.
 2. Minor arterial streets: 230 feet; 185 feet with raised medians.
 3. Collector streets: 185 feet; 150 feet with raised medians.
 - (b) Opposite left corner clearance and commercial driveway spacing is determined by the functional classification of the street as follows (where raised medians are present, the spacing can be reduced by 20 percent):
 1. Major arterial streets: 125 feet; 100 feet with raised medians.
 2. Minor arterial streets: 125 feet; 100 feet with raised medians.
 3. Collector streets: 90 feet; 75 feet with raised medians.
 - (c) In the event that a particular parcel or parcels lack sufficient street frontage to maintain the desirable spacing, the landowner shall have one of the following three options:
 1. In cases where a property owner desires multiple access points that do not meet minimum spacing requirements, or when the property owner requests access to a street other than the one approved by staff, they may seek a variance for minimum spacing, number, and/or location.
 2. The adjacent landowners may agree to establish a common driveway. Common driveways shall meet the standards set forth herein. Approval shall be conditional upon submittal of a perpetual joint use agreement which complies with the requirements set forth in this article.

- 3. In cases where a property cannot meet the desirable spacing and currently has no improved access to the site, the city will not deny the property owner an access point. However, the access must be located in such a place as to minimize safety concerns. A traffic study may be requested for review and approval by the City Engineer to confirm the location of the proposed driveway.
- (d) Specifications for construction of access aprons shall be equal to or exceed the specifications for the existing street and be in accordance with the rules, regulations and standards for subdivision construction in the city.
- (e) Driveways shall be designed to drain so that street drainage is contained within the street, storm sewer or appropriate drainageway in order to ensure protection to the private property. Typically, this is achieved by constructing the drive such that the elevation of the driveway at the property line is at least as high as the top of curb.
- (5) *Responsibility for Improvements on Existing Streets.* The subdivider shall be responsible for the construction of necessary improvements for existing public streets along any frontage of the proposed development and terminating at the next intersection from the nearest frontage point not to exceed 528 feet, ~~abutting the development to comply~~ with standards and the level of service required for such development by the adopted Major Thoroughfare Plan or by the City Administrator, or designee, if no such plan exists. Such streets shall be designed by the City Engineer at the subdivider's expense. The subdivider shall also be responsible for completing and submitting a traffic impact analysis for review of the City Engineer for all residential subdivisions with 100 or more lots and non-residential developments greater than five acres.

(Ord. No. 2011-09 , § 1, 7-26-2011)

Sec. 78-126 Drainage and storm sewers.

Adequate drainage shall be provided within the limits of the plat. A drainage plan shall be prepared by a licensed professional engineer in accordance with county drainage criteria or state department of transportation requirements (where drainage to a state department of transportation facility). The developer's engineer shall certify that improvements designed by the engineer will not unreasonably:

- (1) Impede the natural flow of the surface waters from higher adjacent properties;
- (2) Alter the natural flow of surface waters so as to discharge them upon adjacent properties at a more rapid rate, in greater quantities or in a different location than would result from the predevelopment natural flow of surface waters; or
- (3) Collect or concentrate the flow of surface waters for discharge into an existing natural or artificial drainageway in a manner which exceeds the capacity of the receiving watercourse.

(Ord. No. 2011-09 , § 1, 7-26-2011)

Sec. 78-127 Sanitary sewer system.

- (a) The developer shall be required to submit a letter from the state regulatory commission approving the sanitary sewer system. The developer shall provide sewer lines necessary to properly serve the subdivision and shall ensure that existing and/or new sewer facilities are adequate to carry the expected increase in load **as determined by the city engineer.**
- (b) Sanitary sewer lines shall have their locations and materials governed by the regulations of the state regulatory commission governing sanitary sewer systems and the **adopted** city plumbing code.
- (c) Pipe bedding and backfill details shall be approved by the city engineer.

- (d) The design of the sanitary sewer system shall be in accordance with the current requirements of the state commission on environmental quality and the city's design criteria manual.

(Ord. No. 2011-09 , § 1, 7-26-2011)

Sec. 78-128 Water system.

- (a) The developer shall be required to submit a letter from the state regulatory commission approving the water system.
- (b) Water distribution lines shall have their locations and materials determined by the rules and regulations for public water systems of the state department of health. The rules for "approved" systems shall govern.
- (c) Water gate valves shall be left-opening and AWWA-approved.
- (d) The design of the water distribution system shall be in accordance with the latest requirements of the state commission on environmental quality and the city's design criteria manual.
- (e) Water production and distribution improvements shall be sized to provide adequate capacity for the projected demand, including fire flow.
- (f) Water mains shall be located within a street right-of-way, an easement adjacent to a street right-of-way, or a recorded water line easement.
 - (1) Four-inch mains may be used on dead end lines within cul-de-sacs, after the end of the six-inch line providing for fire hydrants.
 - (2) Six-inch mains may be used if the main is less than 900 feet for commercial use or 1,500 feet for residential use, and if connecting between two mains which are eight-inch size or larger.
 - (3) Eight-inch mains shall be used for mains over 900 feet long, or where more than three fire hydrants are needed.
 - (4) Twelve-inch mains and larger shall be used for water lines located along major and minor arterial streets and in accordance with the water system master plan.

(Ord. No. 2011-09 , § 1, 7-26-2011)

Sec. 78-129 Sidewalks.

- (a) Sidewalks on both sides of the street shall be required for all new subdivisions.
- (b) Sidewalks shall be at least five feet in width and constructed in accordance with the [city design criteria manual](#). Sidewalks shall be shown on the construction plans for the subdivision, which shall note when sidewalks shall be installed and by whom. If the required width conflicted with an adopted Major Thoroughfare Plan, small area plan, etc., then the larger width shall apply.
- (c) Sidewalks shall be installed no later than the date of the warranty inspection for the subdivision.
- (d) Sidewalks shall comply with applicable state and/or federal accessibility standards and have design approval from the state and city where applicable.

(Ord. No. 2011-09 , § 1, 7-26-2011)

Sec. 78-130 Submission of as-built plans of completed improvements.

The developer must present to the city engineer reproducible complete as-built plans for all paving, drainage structures, water lines and wastewater lines within 60 days after completion of such utilities, whether private or public. The as-built plans **and corresponding GIS shapefiles (compatible with the City's GIS)** must also be submitted in an electronic format acceptable to the city engineer.

(Ord. No. 2011-09 , § 1, 7-26-2011)

Sec. 78-131 Maintenance bond.

- (a) Upon the completion of all public improvements, including, but not limited to, streets, proper street signing, sidewalks, drainage, water, and wastewater facilities, in accordance with the city specifications and standards, and their acceptance by the city, the developer or contractor shall furnish the city with a financial guarantee acceptable to the city. The financial guarantee shall equal 30 percent of the contract cost of such improvements and shall be in effect one year from the date of completion and acceptance by the city. The guarantee may be provided in the form of a cash escrow deposit, surety bond, or irrevocable letter of credit.
- (b) If any of the work performed by the developer or landowner is found or determined to be either defective, including obvious defects, or otherwise not in accordance with this article, the **city approved** designs, plans, drawings or specifications within one year after the date of the issuance of a certificate of final completion of the work or a designated portion thereof, whichever is longer, or within one year after acceptance by the city of designated equipment, or within such longer period of time as may be prescribed by law or by the terms of any applicable special warranty required by this article, the developer shall promptly correct the defective work, **to the city's standards**, at no cost to the city.
- (c) If within 20 calendar days after the city has notified the developer of a defect, failure, or abnormality in the work, the developer has not started to make the necessary corrections or adjustments, the city is hereby authorized but not required to make the corrections or adjustments, or to order the work to be done by a third party. The cost of the work shall be paid by the developer.
- (d) The cost of all materials, parts, labor, transportation, supervision, special instruments, and supplies required for the replacement or repair of parts and for correction of defects shall be paid by the developer, his contractors, or subcontractors, or by the surety.
- (e) The guarantee shall be extended to cover all repairs and replacements furnished, and the term of the guarantee for each repair or replacement shall be one year after the installation or completion. The one-year warranty shall cover all work, equipment, and materials that are part of the improvements made under this section of the ordinance.

(Ord. No. 2011-09 , § 1, 7-26-2011)

Secs. 78-132—78-160 Reserved.

ARTICLE VI. VISUAL BARRIERS AND SETBACK REQUIREMENTS

Sec. 78-161 Applicability.

The city council and the planning and zoning commission have established the requirements for visual barriers in this article for all areas where commercial or multifamily zoning adjoins zoning of any other type. Churches, public buildings, and schools located in residentially-zoned areas shall also be required to provide visual barriers.

(Ord. No. 2011-09 , § 1, 7-26-2011)

Sec. 78-162 Required setbacks.

- (a) Vegetative setbacks of 25 feet in width shall be maintained at all times where commercial, retail, office, or service; attached and multifamily residential, industrial, ~~church~~, public or semi-public building or gathering facility or school properties abut any single-family residential use or property or adjacent acreage that is designated for ~~may in the future become~~ single-family detached residential use on the Official Zoning Map (and Future Land Use Plan, upon adoption). The purpose of the vegetative setback is to visually shield or obscure one use from another. The vegetative setback may consist of a combination of required plantings, wall, screen fence, or berms. In the event walls, fences, or berms are used to provide screening, the Planning and Zoning Commission may reduce the required number of trees and shrubs by up to 50 percent if it is determined that the purpose of the vegetative setback will still be achieved. For each 100 linear feet, or portion thereof, such setback shall be planted as follows:
 - (1) No Subdivision Fence or Wall:
 - a. Four shade trees;
 - b. Five ornamental trees; and
 - c. 20 shrubs.
 - (2) With a Subdivision Fence or Wall:
 - a. Two shade trees;
 - b. Two ornamental trees; and
 - c. Eight shrubs.
 - (b) Existing trees within the designated vegetative setback may be credited toward meeting the planting requirements. Protected trees within the buffer area shall be preserved and regulated in accordance with Article VII, Tree Preservation and Replacement.
 - (c) If walls are incorporated into the vegetative setback, they shall be constructed of masonry material on both sides and be not less than six nor more than eight feet in height. The wall shall be placed along the interior side of the vegetative setback with the required plantings on the outer side facing the adjoining property.
 - (d) If fences are incorporated into the vegetative setback, they shall be constructed of standard pressure-treated wood fencing materials (but not woven wood), shadow-box design, provide at least 90 percent opacity and be not less than six nor more than eight feet in height. Fences shall be placed along the interior side of the vegetative setback with the required plantings on the outer side facing the adjoining property.
 - (e) Earthen berms, if incorporated into the vegetative setback, shall have a slope of 3:1 and a flat-topped crown at least two feet wide. Plant material shall be placed along the top of the berm and the side slope facing the adjoining property. Berms shall be undulated to provide a more natural appearance.
 - (f) Vegetation setbacks of not less than 15 feet in width will be required for commercial property that abuts any existing multifamily tract. All multifamily tracts shall have a vegetation barrier of at least ~~10~~ten feet within their property lines on all multifamily projects that abut single-family, multifamily or commercial zoning. For each 100 linear feet, or portion thereof, such setback shall be planted as follows:
 - (1) Three shade trees;
 - (2) Three ornamental trees; and
 - (3) 10 shrubs.
 - (g) ~~The vegetation setback must also provide a visual barrier.~~
- (Ord. No. 2011-09 , § 1, 7-26-2011)

ARTICLE VII. TREE PRESERVATION AND REPLACEMENT²

²Editor's note—Ord. No. 2019-13 , § 1, adopted June 25, 2019, in effect, repealed art. VII, §§ 78-171—78-179, and enacted a new art. VII. The ordinance designated these new provisions as §§ 78-171—78-184; to avoid duplication of section numbers, and at the editor's discretion, these provisions were redesignated as §§ 78-163—78-184. The previous article VII pertained to similar subject matter and derived from Ord. No. 2016-20, adopted September 27, 2016.

Sec. 78-163 Findings and intent.

- (a) The city council finds that trees are an important public resource that contributes to the unique character of the city and its physical, historical, cultural, aesthetic, ecological and economic environment. Trees reduce the effects of pollutants, provide wildlife habitat, shade and cooling, and add value to real property. It is the goal of the city council to secure these benefits by maintaining the tree canopy over a significant area of the city.
- (b) This article is intended to:
 - (1) ~~Prevent~~ the indiscriminate cutting of trees in advance of development;
 - (2) ~~to preserve existing trees of certain species; to provide for the replacement of trees that are necessarily removed during construction or development;~~ Encourage the protection of healthy and desirable trees, and provide for the replacement and/or replanting of trees that are necessarily removed before or during construction, development, or redevelopment of a property;
 - (3) Provide natural areas for more efficient drainage of land, thereby reducing the effects of soil erosion and the need for additional drainage facilities;
 - (4) ~~to~~ Require the consideration of trees as a component of site design; and
 - (5) Prevent clear-cutting of land containing trees with a ten-inch diameter at breast height (DBH) or larger.
 - (6) ~~to allow for the commercial development of private property subject to minimum standards for the preservation and planting of trees. The provisions of this article shall not be construed or applied to preclude development or prohibit ingress or egress.~~
- (c) ~~The city recognizes and appreciates the value of private property within its city limits and extraterritorial jurisdiction (ETJ) that is devoted principally to agricultural use for the production and support of timber, forest products and livestock. These lands devoted to the production of plant and animal products and agricultural timber farms shall not be subject to this article while being actively managed for such purposes and recognized by the county appraisal district as having agricultural or timber exemptions.~~

(Ord. No. 2019-13 , § 1, 6-25-2019)

Sec. 78-164 Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Caliper means the trunk diameter of nursery stock trees planted to satisfy a requirement of this article. Caliper is measured six inches above the root ball for trees that are four inches in diameter or smaller, and 12 inches above the root ball for larger nursery stock.

Canopy area means the extent of the uppermost crown of a tree or trees formed by the outer layer of leaves of an individual tree or group of trees.

City administrator means the person holding the office of city administrator or their designee acting in behalf of the city, with authority over the tree protection and preservation ordinance.

City engineer means the person or firm designated by the city council or the city administrator as the city engineer.

Critical root zone means the area within a radius extending out from the trunk of the tree one foot per each diameter inch of the trunk measured at breast height.

Diameter at breast height (DBH) means the diameter of trunk measured at 42 inches above natural grade.

Protected tree means any tree: ~~between the property line and existing or anticipated building setback lines on non single-family residential property~~

- (a) ~~w~~With a caliper of 1018 inches or greater that is not one of the following species: bois d'arc, thorny honey locust, hackberry, cottonwood, chinaberry, native black willow, native red or white mulberry, or Chinese tallow;
- (b) Possess a distinctive form, size, age, location or have historical significance; or
- (c) With a minimum caliper of five inches and are planted in the public right-of-way;

Tree preservation plan means a plan submitted by the owner in a form or manner specified by the city administrator or designee providing the method of protecting trees during construction that shall include protection details, standards, notes, and construction plans in accordance with generally accepted practices such as those provided in the Urban Forest Technical Manual, on file in the office of the city secretary. Total site area canopy area calculation shall also be included on the plan.

Urban Forest Technical Manual means the standards and specifications based on generally accepted practices developed by the city administrator or designee for sound arboricultural practices, techniques and procedures which shall serve as guidelines for trees regulated by this article, including, but not limited to, tree selection, planting, alteration, treatment, protection, and removal as approved by the city council, maintained by the city secretary and available through the city administrator.

Woodland tree stand means an area of contiguous wooded vegetation covering at least 2,500 square feet where the branches and leaves of the trees form a canopy over substantially all the area.

(Ord. No. 2019-13 , § 1, 6-25-2019)

Sec. 78-165 Applicability and exceptions.

~~Sec. 78-165 Applicability and exceptions.~~

- (a) Except as otherwise provided by this section, the requirements of this article are applicable throughout the corporate limits and extraterritorial jurisdiction of the city and apply to all types of development or development activity by both public and private entities, including but not limited to:
 - (1) The removal of any protected tree;
 - (2) Clearing of all or a portion of property ~~regardless if it as a~~ part of the development process ~~or done without connection to a specific development~~;
 - (3) Subdivisions of land for any purpose;
 - (4) Additions to non-residential buildings or parking lots that expand the footprint of the structure by 30 percent or more, or that add at least 3,000 square feet of area to the existing structure;

- (5) Construction of new multi-family or non-residential structures for which a building permit is required; and
 - (6) Construction of new one- or two-family residential structures.
- (b) This article does not apply to:
- (1) A tree removed from a **single** residential lot ~~or~~ at the direction of the homeowner residing on the property
 - (2) Harvesting of timber or forest products for commercial or personal purposes on private property **and lands devoted to the production of plant and animal products and agricultural timber farms shall not be subject to this article while being actively managed for such purposes and recognized by the county appraisal district as having agricultural or timber exemptions;**
 - (3) ~~Changes in the use or configuration of existing non-residential buildings or parking lots that does not expand the structure beyond the limits provided in (a)(4) of this section;~~
 - (4) Clearing, maintenance or tree trimming within an easement or right-of-way by a railroad or utility company;
 - (5) The construction of streets or highways by or on behalf of a state or local government entity; and
 - (6) The removal or trimming of trees or other vegetation within or adjacent to street rights-of-way to conform to traffic safety rules requiring unobstructed views; ~~or;~~
 - (7) Infill construction of single-family residences on lots in residential subdivisions vested in regulations in effect prior to September 27, 2016. **are subject to the requirements of section 78-177 but are otherwise exempt from the requirements of this article.**

(Ord. No. 2019-13 , § 1, 6-25-2019)

Sec. 78-166. General tree preservation standards.

- (a) **General tree preservation standards.**
- (1) The applicant shall configure a site in such a manner that the maximum number of protected trees will not be removed or damaged due to the building layout and construction within the site.
 - (2) Trees may be planted or preserved within storm water detention areas provided that the trees do not interfere with the drainage or substantially impair the storm water detention function.

(Ord. No. 2019-13 , § 1, 6-25-2019)

- (3) **No person shall remove or otherwise damage a protected tree without first securing a tree removal permit as specified in Sec. [78-168](#), *Tree removal and replacement*.**
- (4) **If a stop work order is issued, it is unlawful for a person to continue work or removal of trees.**
- (5) **Before the site is cleared for construction, each existing tree shall be protected by the placement of a barrier around the critical root zone that is at least four feet in height. Barriers shall be orange construction fencing or an alternative barrier approved by the Administrator.**
- (6) **A minimum of 75 percent of the critical root zone of a tree to be preserved shall be maintained as a permanent, landscaped area at grades existing before site development unless special provisions are made for the protection and survival of the tree. Such special provisions, including, but not limited to, the use of permeable paving materials, shall be subject to the approval of the Administrator.**
- (7) **No part of the critical root zone of trees to be preserved may be paved with concrete, asphalt, or other impervious material.**

(8) Soil or other materials shall not be temporarily or permanently stored in locations that would cause suffocation of root systems of trees to be preserved.

(b) ~~Sec. 78-166~~ *Additional requirements for residential development.*

(1) Each building permit for a new one- or two-family dwelling shall require the preservation or planting of at least two trees. At least one tree shall be located in the front yard of the dwelling; have a minimum caliper of two inches; and be classified as a large tree per Table 2 in section 78-16884. The remaining tree on the dwelling property may be placed in the front, rear or side yards of the dwelling; be at least a 30-gallon container size tree; and may be any size classification. No certificate of occupancy shall be issued for any new one- or two-family dwelling until this requirement has been satisfied.

(Ord. No. 2019-13 , § 1, 6-25-2019)

(c) ~~Sec. 78-166~~ *Tree preservation adjoining residential property.*

(8) Where non-residential property is developed adjacent to residential zoning districts, trees located within required side and rear yard setbacks classified as protected trees are subject to mandatory preservation. No permit shall be issued to authorize the removal of any healthy protected tree except where removal is necessary for the construction of infrastructure, driveways, or on-premise advertising signs.

(Ord. No. 2019-13 , § 1, 6-25-2019)

(d) ~~Sec. 78-166~~ *Parking lot trees.*

(9) In the case of new parking lots, or additions to existing parking that expand the footprint of the parking lot by more than 30 percent, 60 square feet of tree canopy must be preserved or planted for each additional parking space. Parking lot trees must be located in the interior of the parking lot or in an area immediately adjacent to the parking lot. For parking lots of 250 spaces or more, at least 50 percent of the tree canopy must be located within the interior of the parking lot. Only trees of the preferred species listed in Table 2 of section 78-16884 may be used to satisfy the planting requirements of this section; and all such trees must be at least two and a half-inch caliper and a minimum of ten feet in height. Additionally, no parking space shall be further than 125 feet away from the trunk of a tree.

(Ord. No. 2019-13 , § 1, 6-25-2019)

Sec. 78-167. Tree assessment.

(a) A tree ~~assessment~~~~preservation plan~~ must be included with all preliminary plat submittals to plat new subdivisions or developments, and again with the landscape plan for non-single-family residential construction. If the site of development or construction does not contain any protected trees, a verification letter of no protected trees shall be submitted to the city that attests that protected trees are not on the property and that the person making this determination is qualified to do so. Persons who may prepare the tree ~~assetment~~~~preservation plan~~ or verification letter include registered surveyors, professional engineers, architects, landscape architects, arborists, or other qualified licensed professional. The letter must contain a statement affirming the author is qualified to prepare such document and listing his state license number or other certificates of documentation.

(b) *Contents of the tree assessment.*

(1) **Photographs.**

a. Photographs of the site, taken at the property line from four geographical directions, in which any existing trees that are eight inches or larger in diameter (as measured at four feet above the ground) are visible.

- b. One or more photos of each existing eight-inch-diameter tree, taken at a distance from which its type, size, and condition are reasonably evident; and
 - c. All other photos that the applicant chooses to take and submit in support of the tree removal criteria in Sec. 78-168, *Tree Removal and Replacement*.
- (2) Labels and Tree List. The photographs shall include labels identifying each tree that shall correspond to a written list of the trees' species, approximate height, general appearance, and condition.
- (c) If the site of development or construction does not contain any protected trees, a verification letter of no protected trees shall be submitted to the city that attests that protected trees are not on the property and that the person making this determination is qualified to do so. Persons who may prepare the ~~tree preservation plan or~~ verification letter include registered surveyors, professional engineers, architects, landscape architects, arborists, or other qualified licensed professional. The letter must contain a statement affirming the author is qualified to prepare such document and listing his state license number or other certificates of documentation.
- (i) ~~The tree preservation plan shall be a scaled diagram overlaying the site plan and drawn to the same scale. Two copies of the plan shall be provided. The plan must include all details required for the preservation of existing trees during construction and for the installation of any new trees necessary to meet canopy area coverage required by this article. The tree preservation plan must include:~~
- (1) ~~The proposed location of all easements and setback lines; building setback lines on single-family residential lots are not required to be shown on the tree preservation plan and are not subject to protected tree preservation requirements.~~
 - (2) ~~The footprint of all proposed buildings, parking lots, and detention ponds;~~
 - (3) ~~The location, size, and variety of protected trees;~~
 - (4) ~~The location, size, and variety of each additional tree that will be preserved for credits and the outline of each woodland tree stand to be preserved;~~
 - (5) ~~The location and variety of each tree to be planted to achieve the required minimum canopy; and~~
 - (6) ~~Any other information required by the city administrator to calculate the required canopy or amount of earned credits.~~
- (i) ~~Trees may be planted or preserved within storm water detention areas provided that the trees do not interfere with the drainage or substantially impair the storm water detention function.~~
- ~~(Ord. No. 2019-13, § 1, 6-25-2019)~~
- (i) ~~Sec. 78-184. Fees. Appendix A contains a list of fees relating to tree preservation plans as currently established or as hereafter adopted by resolution of the city council from time to time and is available for review in the office of the city secretary. (Ord. No. 2019-13, § 1, 6-25-2019)~~

Sec. 78-168. Tree removal and replacement.

- (a) ~~Sec. 78-168~~ *Pre-development planning and clearing permits.*
- (1) Except as expressly provided by this chapter, no development, ~~clearing or removal of trees~~ shall occur unless the site of the proposed work is covered by an approved tree preservation plan. ~~The location of all proposed buildings and improvements shall be oriented by the applicant, at the applicant's sole discretion, taking into consideration the existing tree stock and other relevant site characteristics.~~
 - (2) The applicant shall propose the location of woodland tree stands or individual trees for which preservation credits are requested. A tree located outside a woodland tree stand shall not receive credit

unless the tree has a diameter at breast height (DBH) of at least six inches. The applicant shall consider the preservation of trees in areas visible from abutting streets and public spaces. Preservation credits may be denied for trees located in existing or proposed easements or rights-of-way where there is a reasonable possibility that removal of the tree will be required for utility operations. New tree stock shall be planted where the minimum canopy is not met through preservation alone.

- (3) A clearing permit may be issued to authorize the removal of protected trees in conformity with a tree preservation plan that has been approved in conjunction with the approval or issuance of a subdivision plat, building permit or other form of development permit. Compliance with the tree preservation plan is a condition of the clearing permit. No related building permit and no certificate of occupancy may be issued until the city administrator or designee confirms that the development has been completed in conformity with the tree preservation plan.
- (4) A partial clearing permit may be issued prior to the approval of a tree preservation plan submitted in conjunction with a final plat or development permit application in order to allow pre-development clearing of a portion of the land. An application to obtain a partial clearing permit must include a site plan of the of the property on which the applicant delineates proposed building setback lines that are applicable to the site. The partial clearing permit does not permit clearing activities in areas that are located within these setback lines. Building setback lines on single-family residential lots are not required to be shown on the site plan and are not subject to protected tree preservation requirements.

(Ord. No. 2019-13 , § 1, 6-25-2019)

(b) ~~Sec. 78-168 Permit required for r~~Removal of protected tree.

- (1) ~~A person shall not cut down or remove any protected tree unless authorized to do so under a permit issued as provided by this article. A protected tree is any tree: between the property line and existing or anticipated building setback lines on non-single family residential property~~
 - (a) ~~With a caliper of 1048 inches or greater that is not one of the following species: bois d'arc, thorny honey locust, hackberry, cottonwood, chinaberry, native black willow, native red or white mulberry, or Chinese tallow;~~
 - (b) ~~Possess a distinctive form, size, age, location or have historical significance; or~~
 - (c) ~~With a minimum caliper of five inches and are planted in the public right-of-way;~~
- (2) ~~A person shall not cut down or remove any protected tree unless authorized to do so under a permit issued as provided by this article.~~ Only the following permits may be issued to authorize removal of a protected tree:
 - (a) A protected tree removal permit; ~~and~~
 - (b) A clearing or partial clearing permit issued in conjunction with a subdivision plat, building permit, or other form of development permit that incorporates a tree preservation plan approved under this article.

(Ord. No. 2019-13 , § 1, 6-25-2019)

(c) ~~Sec. ~~~Protected tree removal permit.

- (1) ~~A protected tree removal permit is required when an applicant is requesting to remove a protected tree(s). Applications for protected tree removal permits are reviewed by the city administrator, or designee.~~
- (2) ~~The application for a protected tree removal permit shall be made by the owner of the property on which the protected tree is located, and shall be accompanied by documentation showing:~~

- (a) The approximate location of all protected trees on site;
 - (b) The DBH of all protected trees on site;
 - (c) The canopy area of all protected trees on site;
 - (d) The species and/or common name of each tree;
 - (e) The approximate size of the lot, tract or parcel on which the tree is located;
 - (f) Reason for the proposed removal;
 - (g) A tree replacement plan, after evaluation of the tree removal permit by city administrator or designee, and only if total canopy area coverage for the site falls below 50 percent; and
 - (h) Other information required to make determination in the opinion of the city administrator or designee;
- (3) A protected tree removal permit shall be issued to authorize the removal of:
- (a) Any protected tree that is dying or has become a hazard tree;
 - (b) Any protected tree that obstructs the only practicable means of ingress or egress to or from property; or
 - (c) Any other protected tree on previously developed property provided that removal of the protected tree does not reduce the tree canopy below the required minimum tree canopy applicable to the property under Section 78-166175.
- (4) A protected tree removed from previously developed property under a permit issued in accordance with this section must be replaced elsewhere upon the property unless the minimum canopy requirements of this article are satisfied without the necessity of replacement.
- (5) A protected tree removal permit authorizes the removal of the protected tree identified in the application and shall require replacement of the removed trees as described in Sec. 78-169, except in the following situations if corrective pruning if not sufficient to resolve the problem:
- (a) *Obstruction.* The protected tree obstructs the free passage of pedestrian or vehicular traffic or obstructs a traffic light or sign. A tree, shrub, or other plant or portion thereof shall be deemed to be an obstruction to pedestrian traffic if it is lower than eight feet above a sidewalk and an obstruction to vehicular traffic if it is lower than 13 feet above streets;
 - (b) *Dead or Diseased.* The protect tree is dead or infected with a highly infectious disease or insect that threatens to become epidemic unless otherwise controlled under emergency situations;
 - (c) *Danger to Public.* The protected tree by reason of location or condition constitutes an imminent danger to the health safety, or welfare of the general public; or
 - (d) *Transplantation.* The protected tree is transplanted to a suitable location on the same property or off-site provided that the owner complies with the generally accepted transplanting methods described in the urban forest technical manual and the protected tree survives for a period of at least two years.

~~A protected tree removal permit may authorize the removal of up to ten specific trees identified in the application and~~ The protected tree removal permit expires 30 days following the date of issuance. The city administrator or designee shall prescribe the form of application for a tree removal permit. An application fee set forth in appendix B must accompany each application.(Ord. No. 2019-13 , § 1, 6-25-2019)

Editor's note—The "appendix B" referenced herein is not included in this article and is available for review in the office of the city secretary.

Sec. 78-169. Tree installation and maintenance.

(a) ~~Sec. 78-169~~ *New and replacement trees.*

- (1) Only trees of the preferred species listed in Table 2 of this section are considered acceptable for new and replacement tree planting. Additional tree species may be considered and approved on a case by case basis by the city administrator or designee and such trees will receive a canopy credit applicable to the species class height. At least 20 percent of new trees must be a minimum of three inches in caliper at planting. The remaining 80 percent of required new trees must be a minimum of two-inch caliper. Replacement trees on residential lots are exempt from size and species requirements in this section. ~~and shall follow sizing requirements in accordance with section 78-177.~~
- (2) Not less than 25 percent of new trees planted shall be evergreen.
- (3) Trees planted under or near overhead power lines must be chosen from the small tree category of Table 2. Large tree species shall not be planted within 30 feet of overhead power lines. Medium tree species shall not be planted within 20 feet of overhead power lines.

TABLE 2 PREFERRED SPECIES LIST		
Tree species and height at maturity	Leaf type	Canopy credit
Large Over 40 feet tall	Loblolly Pine	evergreen
	Slash Pine	evergreen
	Water Oak	deciduous
	Live Oak	evergreen
	Shumard Red Oak	deciduous
	Southern Red Oak	deciduous
	Chinquapin Oak	deciduous
	Cedar Elm	deciduous
	Green Ash	deciduous
	Sweetgum	deciduous
	American Elm	deciduous
	Montezuma Cypress	deciduous
	Bald Cypress	deciduous
Sycamore	deciduous	
Medium 25 to 40 feet tall	Winged Elm	deciduous
	Chinese Pistache	deciduous
	Lacebark Elm	deciduous
	River Birch	deciduous
	Eastern Red Cedar	evergreen
Small Less than 25 feet tall	Little Gem Magnolia*	evergreen
	Rusty Blackhaw*	deciduous
	Fringetree*	deciduous
	Redbud*	deciduous
	Hophornbeam*	deciduous

TABLE 2 PREFERRED SPECIES LIST		
Tree species and height at maturity	Leaf type	Canopy credit
	Japanese Blueberry	evergreen
	Cherry Laurel	evergreen

*Denotes only trees suitable for planting under or adjacent to power lines.

(Ord. No. 2019-13 , § 1, 6-25-2019)

(b) ~~Sec. 78-169~~ *Post-development maintenance and replacement.*

- (1) Protected trees, parking lot trees, and replacement or mitigation trees must be maintained in a healthy condition for at least one year following the issue of a certificate of occupancy. The property owner is responsible for irrigating, fertilizing, pruning, and other maintenance of such trees as needed. Preserved or planted trees that die within the maintenance period must be replaced within 90 days with new trees meeting the requirements of ~~this sSection 78-176~~. Planted trees that die during the maintenance period must be replaced with new trees having the total canopy value that is not less than the canopy of the tree to be replaced. Replacement trees planted to satisfy the requirements of this section are subject to a one-year maintenance period and must be replaced if they fail to survive the extended maintenance period.
- (2) Trees on residential lots are not subject to the one-year maintenance period established by this section. A homeowner is not required to replace a lot tree that dies or at the direction of the homeowner.
- (3) No person, or company directly or indirectly, shall cut down, destroy, remove or move, or effectively destroy through damaging, any protected tree regardless of whether the protected tree is on private property or the abutting public right-of-way with the following exceptions:
 - b.
 - (a) Dead trees may be removed at any time and shall be considered in the tree preservation plan. This shall not require city approval under this article.
 - (b) If any protected tree is determined to be in a hazardous or dangerous condition so as to endanger the public health, welfare or safety, and requires immediate remove without delay, authorization for removal may be given by the city emergency management coordinator or other designee of the city, and such a protected tree may then be removed without obtaining a written permit as required in this chapter and the fees, restitution, and penalties will not apply. Canopy coverage requirements will not be waived or altered as a result of this provision, and tree replacement shall be required if applicable.
 - (c) During a period of emergency, such as a tornado, storm, flood or other act of God, the requirements of this article may be waived as may be deemed necessary by the city's designated emergency management coordinator (EMC) or, if unavailable, by the EMC equivalent from the federal, state or county emergency management agencies.
 - (d) Any tree may be reasonably pruned for aesthetic, maintenance, disease control, or safety reasons. This shall not require city approval.
 - (e) No protected tree shall be pruned in a manner that significantly disfigures the tree or in a manner that would reasonably lead to the death of the tree.

- (f) Trees which are to be removed for disease or safety reasons shall be approved by the city prior to cutting. Factors to be considered include, but are not limited to, the overall health of the tree, the potential for adverse impacts of both leaving and removing the tree, and aesthetic value.

(Ord. No. 2019-13 , § 1, 6-25-2019)

(Ord. No. 2019-13 , § 1, 6-25-2019)

(c) ~~Sec. 78-169~~ *Technical standards and specifications.*

- (1) The city administrator or designee is authorized to prepare technical standards and specifications to ensure the proper implementation of the provisions of this article. These can be found in the Urban Forest Technical Manual. In the event of any conflict between the provisions of this article and the provisions of the Urban Forest Technical Manual, the provisions of this article shall control.

Sec. 78-170 Penalties for violation.

- (a) Any person, firm or corporation that violates a provision of this article shall be guilty of a misdemeanor and upon conviction thereof may be fined in any amount not exceeding ~~\$1000~~500.00. In cases of offenses involving the illegal removal of trees, the removal of each tree constitutes a separate offense. In cases of continuing violation, each separate day that a violation continues constitutes a separate offense.
- (b) In addition to any criminal penalties imposed in subsection (a) above, the city may seek civil injunctive relief or other appropriate relief in district court as authorized by law.

(Ord. No. 2019-13 , § 1, 6-25-2019)

Sec. 78-171. Mitigation and relief from from standards.

(a) ~~Sec.~~ *Variance procedure.*

- (1) The ~~City Council~~ ~~city administrator~~ may grant a variance to the requirements of this article where literal enforcement will result in unnecessary hardship. A variance shall not be granted unless:
 - (a) The variance is not contrary to public interest;
 - (b) The variance will be in harmony with the spirit and purpose of this article;
 - (c) The variance will not substantially weaken the general purposes of the regulations herein established for the protection of trees and the promotion of tree canopy; ~~and~~
 - (d) The variance granted is limited in scope to that relief which is necessary to relieve the hardship condition ~~and does not exceed 50% of what this article requires to be preserved or planted;~~—~~and~~
 - (e) ~~A hardship and/or special circumstances or conditions exist on the property and were not created by the applicant and are not merely financial.~~
- (2) All variance requests must be made in writing to the city administrator or designee and must include the subject of the requested variance and the justification for granting the variance, including a description of the hardship condition that will result if the requested relief is not granted. The applicant has the burden of demonstrating that sufficient evidence exists for granting the variance. ~~The city administrator may deny or grant the variance as requested or may allow an alternate form of relief. The city administrator shall issue a decision in writing not later than ten business days following the date the variance request is received.~~
- (3) An applicant for a variance bears the burden of demonstrating that application of the preservation or planting requirement will result in unnecessary hardship.

- (4) An applicant who disputes the decision of the ~~City Council~~ ~~city administrator~~ may appeal the variance decision to a court of competent jurisdiction within a timeframe established by the court. ~~the municipal planning and zoning commission. Any appeal must be made in writing and must be filed with the city administrator within ten days following the date of the initial written decision. The city administrator shall refer the appeal to the planning commission and the decision of the planning commission shall be final.~~

(Ord. No. 2019-13 , § 1, 6-25-2019)

(b) ~~Sec. Mitigation payments~~ *Fee in lieu of preservation or planting.*

- (1) An applicant may seek a variance ~~foras to all or~~ a portion of the tree preservation or planting requirements upon the condition that the applicant pay mitigation fees in lieu of preservation or planting. ~~An applicant for a variance bears the burden of demonstrating that application of the preservation or planting requirement will result in unnecessary hardship.~~
- (2) Mitigation fees authorized by this section shall be payable at the rate of \$1.50 per square foot of additional canopy necessary to achieve the coverage applicable to the property after allowance for all other credits.

(Ord. No. 2019-13 , § 1, 6-25-2019)

(c) *Tree mitigation fund.*

- (1) The city administrator or designee shall establish a dedicated account to be known as the tree mitigation fund. Mitigation fees paid as provided by this section ~~78-181 of this article~~ shall be recorded for the benefit of the fund and accounted for in a manner that distinguishes such funds from other general funds of the city. The balance of such fund remaining at the each of each fiscal year shall be appropriated as the beginning balance of the fund for the following fiscal year. The assets of the fund may be used as provided by this section and for no other purpose.
- (2) The assets of the fund shall be expended under the direction of the city administrator or designee and may be used to purchase and plant new trees in public parks, parkways, medians and rights-of-way of public streets and upon the grounds of other public property of the city. Planting costs payable from the fund include the installation of related irrigation equipment and other measures necessary to the protection and subsequent maintenance of new trees for a period of up to three years following planting. An amount not to exceed 20 percent of the fund balance at the beginning of each fiscal year may be expended to promote public awareness of the objectives of this article, including Earth Day or Arbor Day programs for the distribution of sapling trees to the general public.

~~Sec. Accommodations of development standards.~~

- (a) ~~The city council recognizes that in certain instances the goal of this article must be balanced against potentially conflicting objectives arising from other development regulations. The city administrator may modify or waive the application of development standards as provided in this section when the city administrator determines that modification will facilitate the tree preservation requirements of this article and will not substantially increase the risk of unsafe traffic conditions or congestion, inconvenience to pedestrians, or flooding.~~
- (b) ~~Up to 15 percent of required parking spaces may be waived if compliance with the canopy requirements cannot otherwise be achieved and if the reduction in parking area results in an equivalent increase in the area of preserved canopy.~~
- (c) ~~Sidewalks may be relocated, reduced in width or otherwise modified, where the application of sidewalk standards would otherwise conflict with tree preservation and canopy objections.~~

- (d) ~~The city administrator shall consider the effect on site drainage of low impact development strategies incorporating tree preservation and tree planting and, guided by generally accepted engineering standards and practices, may approve offsetting reductions to the size of onsite stormwater detention facilities.~~

~~(Ord. No. 2019-13, § 1, 6-25-2019)~~

ARTICLE VIII. LANDSCAPING REQUIREMENTS FOR ALL ZONING DISTRICTS

Sec. 78-185 Definitions.

The following words, terms and phrases, when used in this article, shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning:

Berm means an earthen mound designed to provide visual interest, screen undesirable views and/or decrease noise.

Landscape buffer means a combination of physical space and vertical elements, such as plants, berms, two-sided fences or walls with at least five feet of plantings on the side of the development and adjacent to the fence or wall, the purpose of which is to separate and screen incompatible land uses from each other.

Landscaped open area and landscaped area mean any combination of living plants, such as grass, ground cover, shrubs, vines hedges or trees, and nonliving landscape material, such as rocks, pebbles, sand, mulch, walls, fences or decorative paving materials.

Non-permeable means any surface lacking the ability for air and water to pass through to the root zone of plants.

Ornamental tree means a deciduous or evergreen tree planted primarily for its ornamental value or screening purposes. Such tree tends to be smaller at maturity than a shade tree.

Screen means a method of reducing the impact of noise and unsightly visual intrusions with less offense or more harmonious elements, such as plants, berms, two-sided fences or walls with at least five feet of plantings on the side of the development and adjacent to the fence or wall, any appropriate combination thereof.

Shade tree means a sometimes evergreen, usually deciduous tree, planted for its high crown of foliage or overhead canopy; a large woody perennial having one or more self-supporting stems and numerous branches reaching a mature height of at least 25 feet and a mature spread of at least 20 feet.

Shrub means a self-supporting wood perennial plant of low to medium height which is characterized by multiple stems and branches continuous from the base, usually not more than ten feet in height at maturity.

Visibility triangle means an imaginary triangle located within the curblines of two intersecting such curblines at points 35 feet back from their intersection and the hypotenuse (or third side of the triangle).

(Ord. No. 2017-08, § 1, 3-14-2017)

Sec. 78-186 Purpose.

The purpose of this article is to:

- (1) Aid in stabilizing the environment's ecological balance by contributing to the processes of air purification, oxygen regeneration, groundwater recharge and storm water runoff retardation, while at the same time aiding in noise, glare and heat abatement.
- (2) Assist in providing adequate light and air and preventing overcrowding of land.
- (3) Ensure that landscaping is an integral part of development, not an afterthought.
- (4) Provide visual buffering and enhance the beautification of the City.
- (5) Safeguard and enhance property values and protect public and private investments.
- (6) Preserve and protect the unique identity and environment of the City and preserve the economic base attracted to the City by such factors.
- (7) Conserve energy.
- (8) Protect the public health, safety and general welfare.

(Ord. No. 2017-08, § I, 3-14-2017)

Sec. 78-187 Applicability; variances.

- (a) This article applies to all lots, parcels, or tracts of land within the city as well as any areas subsequently annexed by the city with the following exceptions:
 - (1) Previously platted residential lots.
 - (2) Any platted parcel, less than five acres, that contains an occupied building which has a valid certificate of occupancy.
- (b) When this article becomes applicable to a lot, the requirements set forth in this article shall be binding on all current and subsequent owners of the lot.
- (c) The planning and zoning commission shall, as a minimum, impose landscaping requirements that are reasonably consistent with the standards and purposes of this article as a part of any ordinance establishing or amending a planned development district, amending a special use permit. All landscaping requirements imposed by the planning and zoning commission and shall be reflected in landscape and irrigation plans that comply in form and content with the requirements of section 78-188.
- (d) The board of adjustment may grant a special exception to the landscaping requirements set forth in this article upon making a special finding from the evidence presented that strict compliance with the requirement of this article will result in inequity to the applicant without sufficient corresponding benefit to the city and its citizens in accomplishing the objectives and purposes of this article. The applicant to be considered for special exception must submit a justification statement that describes which of the requirements set forth in this article will be met with modifications; which project conditions justify using alternative; and how the proposed measures equal or exceed normal compliance.

(Ord. No. 2017-08, § I, 3-14-2017)

Sec. 78-188 Landscape plan approval.

- (a) At the time of site plan review, there shall be submitted to the city administrator or designee, a landscape plan drawn to the same scale as the approved site plan and submitted with the same number of copies as the site plan. The planning commission may adopt a thematic landscape plan for certain areas of the city that dictate private plans.

- (b) Except where otherwise provided, the person responsible for the property, whether owner or tenant, shall landscape all yard, setback, parking, service and recreational areas with lawns, trees, shrubs, flowers, vines, ground covers or other live plant materials, which shall be permanently maintained by the owner or tenant in a neat and orderly manner as a condition of certificate of occupancy. Once installed, all landscape materials shall be irrigated by a mechanical underground irrigation system and maintained in a living state. Dead or dying plant materials shall be removed and replaced in accordance with the approved landscape plan.
- (c) Where the use of a living screen is proposed, such screen must be included as an element of the site plan and landscape plan.
- (d) Fountains, ponds, sculptures, planters, walkways, flagpoles, light standards and decorative screen-type walls shall be permitted as elements of landscaping in areas designated for landscaping. Decorative-type walls, planters and sculptures shall be 30 inches or less in height. The city administrator or designee shall be authorized to permit heights more than 30 inches where it would be in the best interest of the landscaping and will not, in the opinion of the city administrator or designee, create a problem relative to public health, safety, convenience, prosperity and general welfare.
- (e) Areas of landscaped open space shall be provided on the same lot, parcel or tract as the building that is being served and shall be provided in the following ratios:
 - (1) *Nonresidential.* New nonresidential development in all districts shall be subject to all provisions of this article, provided that a one-time expansion of the floor area of buildings on a lot or building tract not exceeding 15 percent of the existing floor area shall not be subject to the requirements of this article. For lots, parcels or tracts of land applicable of this section landscaping shall be provided at a minimum ratio of ten percent of the gross land area, excluding development on lots of record.
 - (2) *Residential subdivisions and multifamily.* Excluding single-family detached, single-family attached, duplex dwellings or multi-family dwellings on lots of record, new residential, duplex and multi-family development, including new residential subdivisions, shall be subject to the provisions of this subsection; landscaping shall be provided at a minimum of 12 percent of the gross land area.
 - (f) For parking areas, a minimum of 20 percent of the required landscaping shall be provided in areas that are internal to the parking areas. In parking lots having only one row of parking, such requirement may be met with perimeter landscaping.
- (g) Proposed utilities shall be located, when possible, so that their installation will not adversely affect vegetation to be retained on site.
- (h) For purposes of establishing compliance with the minimum area requirements for landscaping, no land within the 100-year floodway, as determined by the most recent Federal Emergency Management Agency (FEMA) study, shall be counted as fulfilling the minimum landscape area requirements.
- (i) The landscape plan shall show in detail, but shall not be limited to, the location of each element of landscaping; a description by botanical and common name of each landscape element or group of element; the number and size of each tree or planting container; and the height of any proposed planter, sculpture or decorative screen.
- (j) The city administrator or designee, with the aid of appropriate city staff, shall consider the adequacy of the proposed landscaping and any other aspect deemed necessary to promote the public health, safety, order, convenience, prosperity and general welfare.
- (k) In the approval or disapproval of the landscape plan, the city administrator or designee shall not be authorized to waive or vary conditions and requirement contained in the comprehensive zoning ordinance, chapter 98 of this Code, or other valid city ordinances.

- (l) It shall be unlawful to issue a certificate of occupancy prior to the approval of the landscape plan by the city administrator or designee. Prior to the issuance of a certificate of occupancy but after the screening and landscaping has been approved, a temporary certificate of occupancy may be issued for such limited time as is reasonable to complete the landscaping.
- (m) When changes to a previously approved landscape plan are requested, and such changes will result in amendment or abandonment of an easement or right-of-way, or when the gross square footage of a lot, parcel or tract of land will be increased by more than ten percent or 1,000 square feet, whichever is less, or if the approval of a revised site plan is required, the planning and zoning commission's designee shall consider the same elements in the approval or disapproval of a revised landscape plan as for an original landscape plan. In considering a revised landscape plan the planning and zoning commission shall not be authorized to waive or vary conditions and requirements contained in the comprehensive zoning ordinance, chapter 98 of this Code, or amendments thereto, or other valid city ordinances. If the changes being proposed are of a minor nature, as determined by the city administrator or designee, administrative approval of the minor revisions shall be permitted under the conditions set forth in the following subsection.
- (n) The city administrator or designee shall be authorized to approve minor amendments to previously approved landscape plans. Minor amendments are those amendments which provide for rearrangement or reconfiguration of landscape areas or materials which are in conformance with an approved site plan and do not decrease the amount or quality of landscaping below that required by the comprehensive zoning ordinance, chapter 98 of this Code. In the approval or disapproval of a minor revision to an approved landscape plan or revised landscape plan, the city administrator or designee shall not be authorized to waive or vary conditions and requirements contained in the comprehensive zoning ordinance, or amendments thereto, or other valid city ordinances. All minor revisions that are approved administratively shall appear as an item on the next planning and zoning commissions agenda following approval for acknowledgment of staff action.

(Ord. No. 2017-08, § I, 3-14-2017)

Sec. 78-189. Residential subdivision perimeter fences and walls.

- (a) No plats or subdivision containing six or more lots shall be approved when the side or rear property line of any of lots adjoin a collector or minor or major arterial street unless a masonry (excluding stucco or cinder block), wood, iron picket or a fence with a combination of materials is constructed along the side or rear property line of all lots adjoining the street. Such fence shall be of consistent material and color, at least six feet in height and not exceed eight feet in height above the average surrounding grade or ground level, and shall not be placed or constructed closer than 10 feet from any entry street right-of-way line.
- (b) No plat or subdivision of land on which a subdivision perimeter fence is to be constructed shall be approved unless the plat clearly provides that the subdivision perimeter fence shall be owned by the developer and his or her successors, including but not limited to, any homeowners or civic association, or in common by the homeowners of the subdivision. Additionally, the following statement must appear on the face of the plat: "The City of Montgomery, Texas, does not maintain subdivision fences."
- (c) The applicant may construct a subdivision monument sign and wall or fence in conjunction with the development of a subdivision provided such construction is in accordance with this Section.
 - (1) The plans for such signs, walls and fences shall be submitted at the time the plans for other subdivision improvements are submitted. If a wall and/or fence is not detailed with final engineering plans, a site plan will be required with applicable fees.

- (2) No sign, wall or fence shall be constructed which interferes with the line of sight of motorists approaching or exiting a subdivision.
 - (3) A wall or fence, if constructed, shall be built on private property along the frontage of the subdivision adjacent to the roadway. The wall or fence shall not exceed eight feet in height and shall be of one uniform architectural design. Walls shall not to be constructed within public utility easements unless an easement agreement is executed and filed with the city.
- (d) Fences within a common subdivision placed along arterial or collector streets shall be coordinated by the developer so that they will be constructed with the same height, spacing, pattern, colors and materials.
- (1) Where perimeter fencing or walls are installed around a subdivision or development, they shall comply with the following standards when located adjacent to collector or arterial street rights-of-way:
 - a. A minimum eight-foot buffer shall be provided between the back of a sidewalk and a fence or wall. Landscaping, including shade and ornamental trees and shrubs, shall be incorporated within the buffer to soften the appearance of the wall or fence. Per each 100 linear feet or portion thereof, plantings shall be as follows:
 - i. Three shade trees;
 - ii. Three ornamental trees; and
 - iii. 15 shrubs.
 - (2) No more than 75 percent of any street frontage shall be occupied by the fence or wall.
 - (3) The required 25 percent openings in the fence or wall frontage shall serve to visually link intersecting streets, view corridors into and out of the development, pedestrian entryways, and parks or open space. Fences or walls that have a surface area that is not more than 50 percent opaque, hedges and screens composed of living plant material, or any land use with a wall or fence lower than 42 inches, may count toward the 25 percent requirement.
- (e) Fence and wall maintenance.
- (1) Owners shall maintain all fences and walls, including those existing prior to the adoption of this chapter, in sound structural condition. Any broken, bent, loose, missing, or removed fence parts shall be repaired or replaced including but not limited to pickets, panels, posts, hinges, handles, locks and latches, braces, bolts, nails, and fastenings.
 - (2) Owners shall maintain all fences and walls free of all forms of deterioration including, but not limited to, rot, rust, termite infestation, missing, chipping, cracking, or peeling paint or stain, and/or cracked, broken, or otherwise deteriorated masonry.
 - (3) Fence and wall repairs and replacement parts must be of the same material, size, shape, color and design as the existing fence or wall. Permits, when required, must be issued and posted in a conspicuous location near the work being performed.
 - (4) It shall be unlawful for any person to install or repair a fence or wall, or any portion of a fence or wall, located on a residential lot, with used or secondhand materials.
 - (5) Fences and walls shall maintain an adequate level of weather proofing by means of applying paint or stain. Areas of chipping, peeling, cracking, missing, flaking, and/or fading paint or stain shall be repainted or re-stained so as to conform to the rest of the fence or wall.
 - (6) It shall be unlawful for any owner(s) to allow a fence or wall on his property to lean in any direction. Leaning fences or fence portions must be straightened and secured. Bracing the exterior of a fence or wall with a post, pole, or any other object is prohibited.

- (7) Any person violating the terms of this Section shall be guilty of a misdemeanor and upon conviction shall be punished by a fine not exceeding _____ dollars, or by imprisonment in the county jail not exceeding _____ days, or by both such fine and imprisonment.

Montgomery City Council
AGENDA REPORT

Meeting Date: February 25, 2025	Budgeted Amount: N/A
Department: Administration	Prepared By: Ruby Beaven

Subject

Consideration and possible action on a Resolution setting a date, time, and place for a public hearing on the proposed annexation of certain property by the City of Montgomery, Texas, and authorizing and directing the Mayor to publish notice of such public hearing.

Recommendation

For the Council to approve or deny a Resolution calling a public hearing on proposed annexation to set the Public Hearing for the 11th day of March 2025, at 6 o'clock p.m. in the City Council Chamber of the City Hall of the City of Montgomery, Texas.

Discussion

The recommendation is to set the Public Hearing for the 11th day of March 2025, at 6 o'clock p.m. in the City Council Chamber of the City Hall of the City of Montgomery, Texas.

The City Council will hold a public hearing giving all interested persons the right to appear and be heard on the proposed annexation by the City of Montgomery, Texas of the property described in the Resolution.

Approved By

City Secretary & Director of Administrative Services	Ruby Beaven	Date: 02/06/2025
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RESOLUTION NO. 2025-XX

A RESOLUTION SETTING A DATE, TIME, AND PLACE FOR A PUBLIC HEARING ON THE PROPOSED ANNEXATION OF CERTAIN PROPERTY BY THE CITY OF MONTGOMERY, TEXAS, AND AUTHORIZING AND DIRECTING THE MAYOR TO PUBLISH NOTICE OF SUCH PUBLIC HEARING.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MONTGOMERY, TEXAS:

SECTION 1. On the 11th day of March 2025, at 6 o'clock p.m. in the City Council Chamber of the City Hall of the City of Montgomery, Texas, the City Council will hold a public hearing giving all interested persons the right to appear and be heard on the proposed annexation by the City of Montgomery, Texas of the following described property, to-wit:

BEING A DESCRIPTION OF A 45.744 ACRE (1,992,589 SQ. FT.) TRACT OF LAND SITUATED IN THE ZACHARIAS LANDRUM SURVEY, A-22, MONTGOMERY COUNTY, TEXAS. SAID 45.744-ACRE TRACT BEING OUT OF A CALLED 55.389 ACRE TRACT OF LAND CONVEYED TO AGNES R. STANLEY, TRUSTEE, UNDER THE STANLEY FAMILY LIVING TRUST DATED FEBRUARY 10, 1997, AS AMENDED MONTGOMERY COUNTY CLERK'S FILE (M.C.C.F.) NO. 2011092960 OFFICIAL PUBLIC RECORDS OF MONTGOMERY COUNTY (O.P.R.M.C.), TEXAS BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS (WITH BEARING BASIS BEING THE STATE PLANE COORDINATE SYSTEM, CENTRAL ZONE NO. 4203, NAD 83. THE COORDINATES SHOWN HEREON ARE GRID COORDINATES AND MAY BE BROUGHT TO THE SURFACE BY MULTIPLYING THE COMBINED SCALE FACTOR OF 1.000069595. ALL DISTANCES ARE SURFACE DISTANCES):

BEGINNING N= 10,133,702.65, E= 3,750,438.47 AT A 5/8-INCH IRON ROD WITH CAP STAMPED "WEISSER ENG HOUSTON, TX" SET AT THE INTERSECTION OF THE NORTHEAST LINE OF A TRACT OF LAND CONVEYED TO G.C. & S.F. RAILROAD COMPANY, BY DEED RECORDED IN VOLUME 6, PAGE 530 OF THE MONTGOMERY COUNTY DEED RECORDS (M.C.D.R.) AND THE SOUTH RIGHT-OF-WAY LINE OF OLD DOBBIN PLANTERSVILLE ROAD (60' WIDE) AS RECORDED UNDER M.C.C.F. NO. 9401426 OF THE O.P.R.M.C., TEXAS, FROM WHICH A FOUND FENCE CORNER POST BEARS NORTH 83 DEG. 45 MIN. 25 SEC. WEST, A DISTANCE OF 2.38 FEET;

THENCE NORTH 51 DEG. 03 MIN. 16 SEC. EAST, WITH THE SOUTHEAST RIGHT-OF-WAY LINE OF SAID OLD DOBBIN PLANTERSVILLE ROAD, WITH A NORTHWEST LINE OF SAID 55.389- ACRE TRACT AND WITH A NORTHWEST LINE OF SAID TRACT HEREIN DESCRIBED, A DISTANCE OF 609.10 FEET TO A 5/8-INCH IRON ROD WITH CAP STAMPED "WEISSER ENG HOUSTON, TX" SET FOR AN ANGLE POINT;

THENCE NORTH 65 DEG. 32 MIN. 16 SEC. EAST, WITH THE SOUTHEAST RIGHT-OF-WAY LINE OF OLD DOBBIN PLANTERSVILLE ROAD, WITH THE NORTHWEST LINE OF SAID 55.389- ACRE TRACT AND WITH A NORTHWEST LINE OF SAID TRACT HEREIN DESCRIBED, A DISTANCE OF 153.21 FEET TO A 5/8-INCH IRON ROD WITH CAP STAMPED "WEISSER ENG HOUSTON, TX" SET FOR THE MOST WESTERLY NORTHWEST CORNER OF SAID TRACT HEREIN DESCRIBED;

THENCE SOUTH 43 DEG. 36 MIN. 11 SEC. EAST, OVER AND ACROSS SAID 55.389-ACRE TRACT AND WITH THE NORTHEAST LINE OF SAID TRACT HEREIN DESCRIBED; A DISTANCE OF 1,125.26 FEET TO A 5/8-INCH IRON ROD WITH CAP STAMPED "WEISSER ENG HOUSTON, TX" SET IN THE WEST LINE OF A CALLED 8.81 ACRE TRACT OF LAND CONVEYED TO BILLY G. GILES BY DEED RECORDED IN VOLUME 896, PAGE 821, OF THE MONTGOMERY COUNTY DEED RECORDS AND FOR AN ANGLE POINT IN AN EASTERLY LINE OF SAID TRACT HEREIN DESCRIBED;

THENCE SOUTH 02 DEG. 35 MIN. 44 SEC. EAST, WITH THE WEST LINE OF SAID 8.81-ACRE TRACT WITH AN EAST LINE OF SAID 55.389 ACRE TRACT AND WITH AN EAST LINE OF SAID TRACT HEREIN DESCRIBED, A DISTANCE OF 75.04 FEET TO A 5/8 INCH IRON ROD WITH CAP STAMPED "WEISSER ENG HOUSTON, TX" SET FOR AN INTERIOR ANGLE POINT SAID TRACT HEREIN DESCRIBED;

THENCE NORTH 70 DEG. 34 MIN. 16 SEC. EAST, WITH THE SOUTHEAST LINE OF SAID 8.81- ACRE TRACT, WITH THE SOUTHEAST LINE OF A CALLED 13.05-ACRE TRACT CONVEYED TO BILLY G. GILES, BY DEED RECORDED IN VOLUME 896, PAGE 825, OF THE MONTGOMERY COUNTY DEED RECORDS, WITH THE SOUTH LINE OF A CALLED 34.831-ACRE TRACT OF LAND CONVEYED TO ALAN MANN, BY DEED RECORDED IN MONTGOMERY COUNTY CLERK'S FILE NO, 2006-118991, FILM CODE NO. 194-11-2542, WITH A NORTHWEST LINE OF SAID 55.389-ACRE. TRACT AND WITH A NORTHWEST LINE OF SAID TRACT HEREIN DESCRIBED, A DISTANCE OF 860.50 FEET TO A 5/8-INCH IRON ROD WITH CAP STAMPED "WEISSER ENG. HOUSTON, TX" SET FOR THE NORTH CORNER OF HEREIN DESCRIBED TRACT, SAID POINT BEING THE WEST CORNER OF A CALLED 9.992 -ACRE TRACT OF LAND CONVEYED TO EDWARD LOPEZ AND WIFE, SONJA LOPEZ BY DEED RECORDED IN MONTGOMERY COUNTY CLERK'S FILE NO. 2012107577 OF THE OFFICIAL PUBLIC RECORDS OF MONTGOMERY COUNTY, TEXAS, BEING THE NORTH CORNER OF SAID 55.389-ACRE TRACT, FROM WHICH A FOUND 2-INCH IRON PIPE BEARS SOUTH 43 DEG. 04 MIN. 42 SEC. EAST, A DISTANCE OF 0.85 FEET;

THENCE SOUTH 02 DEG. 45 MIN.17 SEC. EAST, WITH THE WEST LINE OF SAID 9.992-ACRE TRACT, WITH THE WEST LINE OF A CALLED 20.019-ACRE TRACT CONVEYED TO C.A. STOWE, BY DEED RECORDED IN MONTGOMERY COUNTY CLERK'S FILE NO. 9612142, FILM CODE NO. 136-00-0930 OF THE OFFICIAL PUBLIC RECORDS OF MONTGOMERY COUNTY, TEXAS, WITH THE EAST LINE OF SAID 55.389-ACRE TRACT AND WITH THE EAST LINE OF SAID TRACT HEREIN DESCRIBED, A DISTANCE OF 1,497.73 FEET TO A 5/8-INCH IRON ROD WITH CAP STAMPED "WEISSER ENG. HOUSTON, TX" SET IN THE NORTHERLY LINE OF SAID G.C. &S.F.

RAILROAD COMPANY TRACT, FOR THE SOUTH CORNER OF SAID 20.019 ACRE AND THE SOUTH CORNER OF SAID TRACT HEREIN DESCRIBED;

THENCE NORTH 75 DEG. 51 MIN. 44 SEC. WEST, WITH A NORTHEAST LINE OF SAID G.C. & S.F. RAILROAD TRACT, WITH A SOUTHWEST LINE OF SAID 55.389- ACRE TRACT AND WITH A SOUTHWEST LINE OF SAID TRACT HEREIN DESCRIBED, A DISTANCE OF 304.50 FEET TO A SET 5/8-INCH IRON ROD WITH CAP STAMPED ("WEISSER ENG., HOUSTON, TX") FOR AN ANGLE POINT IN SAID TRACT THE HEREIN DESCRIBED;

THENCE NORTH 63 DEG. 06 MM. 44 SEC. WEST, WITH A NORTHEAST LINE OF SAID G.C. & S.F. RAILROAD TRACT, WITH A SOUTHWEST LINE OF SAID 55.389 ACRE TRACT AND WITH A SOUTHWEST LINE OF SAID TRACT HEREIN DESCRIBED, A DISTANCE OF 271.40 FEET TO A 5/8-INCH IRON ROD WITH CAP STAMPED "WEISSER ENG. HOUSTON, TX" SET FOR AN ANGLE POINT;

THENCE NORTH 52 DEG. 53 MM. 44 SEC. WEST, WITH A NORTHEAST LINE OF SAID G.C. & S.F. RAILROAD TRACT, WITH A SOUTHWEST LINE OF SAID 55.389- ACRE TRACT AND WITH A SOUTHWEST LINE OF SAID TRACT HEREIN DESCRIBED, A DISTANCE OF 244.60 FEET TO A 5/8-INCH IRON ROD WITH CAP STAMPED "WEISSER ENG. HOUSTON, TX" SET FOR AN ANGLE POINT;

THENCE NORTH 49 DEG. 42 MIN. 44 SEC. WEST, WITH A NORTHEAST LINE OF SAID G.C. & S.F. RAILROAD TRACT, WITH A SOUTHWEST LINE OF SAID 55.389- ACRE TRACT AND WITH A SOUTHWEST LINE OF SAID TRACT HEREIN DESCRIBED, A DISTANCE OF 2,023.70 FEET TO THE POINT OF BEGINNING AND CONTAINING 45.744 ACRES (1,992,589 SQUARE FEET) OF LAND.

SECTION 2. The Mayor of the City of Montgomery, Texas, is hereby authorized and directed to cause notice of such public hearing to be published once in a newspaper having general circulation in the city and in the above described territory not more than twenty days nor less than ten days prior to the date of such public hearing, in accordance with the Municipal Annexation Act.

PASSED AND APPROVED this the 25th day of February, 2025.

Mayor

ATTEST:

City Secretary

Montgomery City Council
AGENDA REPORT

Meeting Date: 02/25/2025	Budgeted Amount: NONE
Department: Administration	Prepared By: WGA

Subject

Consideration and possible action on the possible award of a contract for Request for Qualifications (RFQ) for Professional Engineering Services for Water Plant No. 4 project and authorizing the WGA to negotiate professional services for the same.

Recommendation

WGA recommends that the City select Baxter and Woodman as the most qualified submittal and authorize WGA to negotiate a professional services contract for the project.

Discussion

Issue:

The city issued a Request for Qualifications in June 2024 related to the engineering design for the Water Plant No. 4 project. The city received three submittals which were reviewed by the city engineer. After review, the engineers recommend selecting Baxter & Woodman as the most highly qualified provider.

Regulations:

The Texas Commission on Environmental Quality regulates the design and permitting of wastewater facilities in the state. A qualified engineering firm is required. TLGC Chapters 2269 & 2254 regulate the RFQ process itself and contains several key provisions:

- Notice of publication requirements to ensure all firms have opportunity to submit
- When procuring architectural, engineering, or surveying services a city shall first select the most highly qualified provider based on demonstrated competence and qualifications.

Analysis:

City staff defers to the City Engineer for technical analysis of the submissions that were reviewed in accordance with the scoring criteria in the published RFQ.

Recommendation:

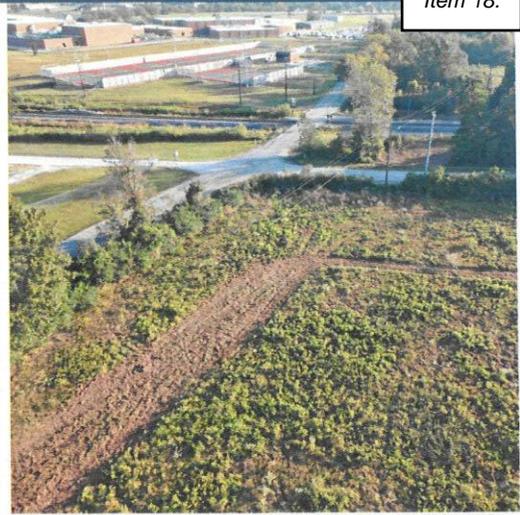
WGA recommends that the City select Baxter and Woodman as the most qualified submittal and authorize WGA to negotiate a professional services contract for the project.

Approved By

City Secretary Director of Administrative Services	Ruby Beaven	Date: 02/19/2025
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Summary of Qualifications Scoring
For
Professional Engineering Services for the
Water Plant No. 4
City of Montgomery, Texas

	Qualifications and Availability (10%)	Proposed Staff (30%)	Project Experience (40%)	Project Approach (20%)	Weighted Score (Max = 10)
Baxter & Woodman Consulting Engineers	8	8.5	8.5	9	8.6
Lightpoint Engineering	8	7	9	7	7.9
Half Associates, Inc.	9	8	8.5	8.5	8.4



City Of
★ Montgomery ★
TEXAS

**Professional Engineering Services for
Water Plant No. 4**

City of Montgomery, Texas

Submitted by:

October 10, 2024



Baxter & Woodman, Inc. seeks an exception to the disclosure requirements of Texas Government Code Chapter 552 for the information in this proposal. Please contact Baxter & Woodman, Inc. at marketing@baxterwoodman.com before disclosing any part of this information, as it is considered proprietary under Sec. 552.1101(a) of the Texas Government Code.



City of Montgomery, Texas
Professional Engineering Services for Water Plant No. 4

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The nationally recognized Engineering News Record (ENR) publishes annually the ENR Top 500 largest U.S.-based design firms, both publicly and privately held, based on design-specific revenue. In 2024, Baxter & Woodman climbed to #282 with revenues over \$77 million.



11450 Compaq Center W. Dr., Suite 660, Houston, Texas 77070 | 281.350.7033 | baxterwoodman.com

Diana Titus
Deputy City Secretary
City of Montgomery City Hall
101 Old Plantersville Rd.
Montgomery, TX 77316

October 10, 2024

Subject: City of Montgomery RFQ Professional Engineering and Design Services for Water Plant No. 4

Dear Ms. Titus:

For 78 years, Baxter & Woodman has been dedicated to aiding communities, particularly in the areas of water and wastewater treatment and utilities, catering to small and expanding municipalities throughout the Greater Houston area. Our team of experienced project managers work on water and wastewater projects on a daily basis, delivering unmatched project solutions that benefit our communities. Our approach offers an economical and operator-friendly plant design that demonstrates our team's:

Relevant Experience: Over the past five years, our Houston offices have successfully finished several water plant projects, which include eight new water well projects, two elevated storage tank (EST) projects, and 10 emergency generator installations. During this period, Project Manager Janice Noeldner, PE successfully managed the design of five water plant expansion projects and rehabilitated seven water plants. She is supported by a "deep bench" of nearly 400 in-house technical experts of various disciplines and two national expert firms in Geotechnical Engineering and Land Surveying.

Local Knowledge: Our team includes experts in a wide range of services, including infrastructure design, treatment facility design, and construction management and inspection services. We will assign a tailored team based on the City's project scope and schedule. For over 30 years, Baxter & Woodman has designed various water projects throughout Montgomery County, giving us an understanding of requirements and anticipated challenges. Current clients with active projects nearby include the City of Magnolia, San Jacinto River Authority, Aqua Texas, Inc., Conroe-ISD, and Montgomery County WC&ID No. 1.

Proven Track Record: Over 50 communities and public agencies have relied on Baxter & Woodman as their municipal engineer for capital improvement planning, budgeting, and funding to help manage and sustain municipal infrastructure. More than 90% of our projects are from repeat clients, showcasing our successful track record and client satisfaction upon project completion.

Choosing Baxter & Woodman for Water Plant No. 4 confirms that the City will benefit from a cost-effective solution designed to last, brought to you by skilled engineers. If you have questions or need additional information after your review of our qualifications, please contact Project Manager Janice Noeldner, PE at 281-350-7036 or jnoeldner@baxterwoodman.com.

Sincerely,

BAXTER & WOODMAN, INC.
CONSULTING ENGINEERS

A handwritten signature in blue ink, appearing to read "Michael A. Kurzy".

Michael A. Kurzy, PE
Principal-In-Charge/Executive Vice President

Qualifications and Availability

Legal Name

Baxter & Woodman, Inc.

Federal Employer ID

36-2845242

Point of Contact



Janice Noeldner, PE

Project Manager

281-350-7036

jnoeldner@baxterwoodman.com

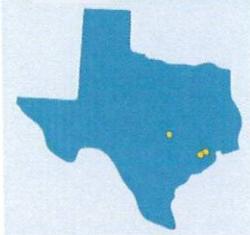
Legal Entity; License

Corporation (Incorporated in Illinois) F-21783

Date of Firm Formation

January 19, 1946

Location of Office(s)



Houston/Spring

11450 Compaq Center Drive West, Suite 660
Houston, TX 77070

Katy

24285 Katy Freeway, Suite 550
Katy, TX 77494

Statement on the Availability and Commitment of the Firm

At Baxter & Woodman, we prioritize responsiveness to our clients' needs and adherence to promised timelines. We conduct bi-weekly meetings to review schedules and ensure our projects stay on track.

Our staff is available to begin design on this project. Reporting responsibilities are handled through Principal-In-Charge/Executive Vice President, Mike Kurzy, PE and Project Manager, Janice Noeldner, PE will serve as the City's Point of Contact and primary liaison for communications and correspondence with the City.

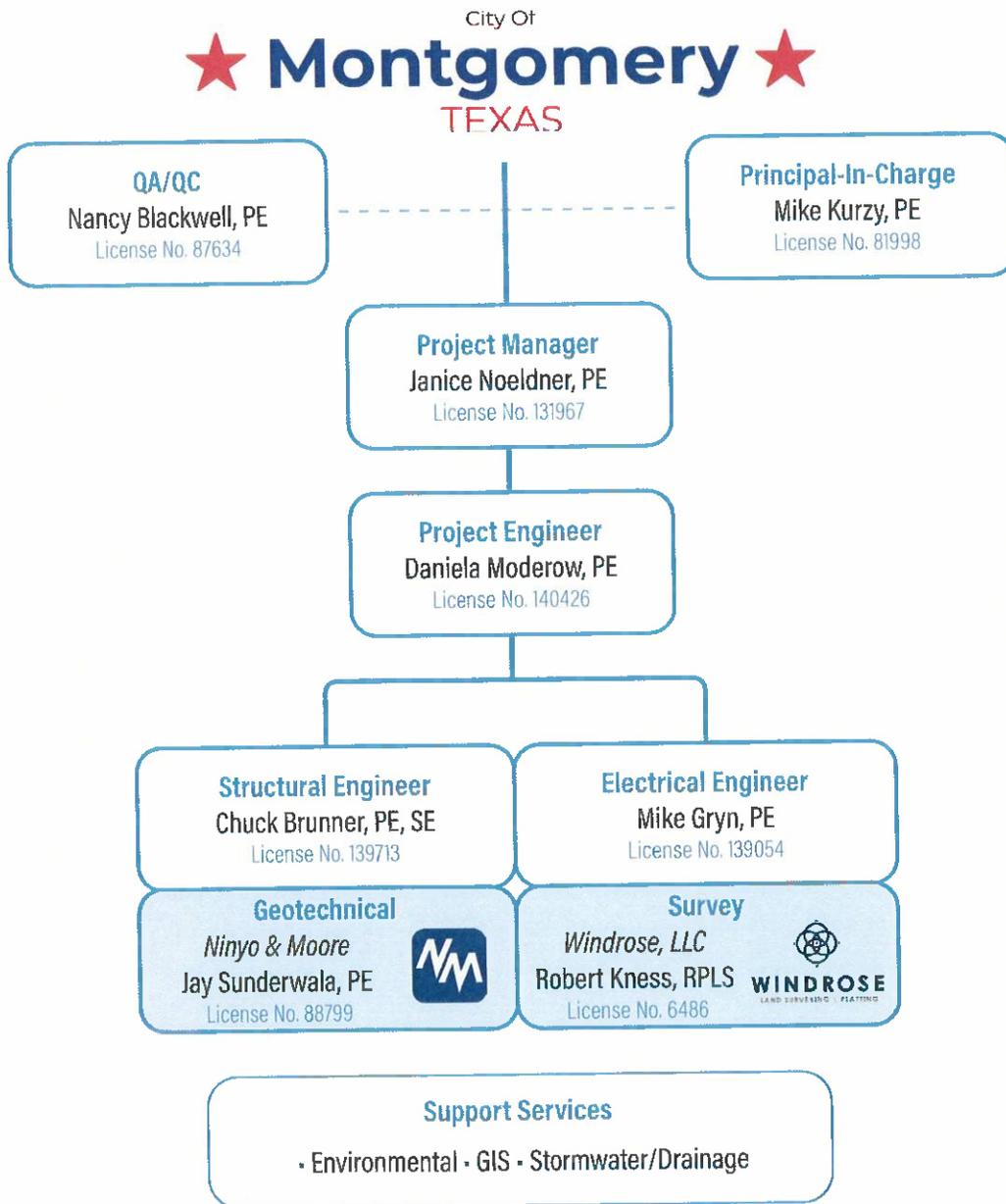
Statement of Interest

Our extensive experience designing new water plants, water wells, and water towers provide us the insight to anticipate construction and maintenance problems. We are confident we can provide workable solutions for the City of Montgomery's Water Plant No. 4.

Proposed Staff

Baxter & Woodman has a local workforce ready to serve the City of Montgomery in the planning and design of a new water plant. Our team is structured to include you in each project phase promoting open and continual communication through a single point contact with the authority to resolve issues promptly.

Resumes for key personnel are included in the following pages.



The City of Montgomery will receive the benefits of a comprehensive, well-coordinated project team with expertise in the effective and timely delivery of infrastructure projects. We will dedicate the necessary resources so our project team will meet defined schedules and project budgets for the City's projects.

The table to the right provides **staffing size by area of expertise (D)**.

CURRENT WORKLOAD (E)

Baxter & Woodman is committed to serving our clients, and we carefully monitor the current and projected workload for each of our employees. We understand the importance of being responsive to our clients' needs, and we always consider the impact an awarded project will have on the workload of our staff.

BAXTER & WOODMAN STAFF		
Total Staff Members: 403		
TRANSPORTATION 48	PLANNING 5	CADD 15
INFRASTRUCTURE 20	ELECTRICAL 12	SURVEY 9
STORMWATER 29	GEOLOGIST 2	CONSTRUCTION 61
WATER/ WASTEWATER 52	SPATIAL TECHNOLOGY 9	SCADA/CONTROLS 37

As of 07/2024

Staffing size by area of expertise (D)

To best serve our clients, we actively manage employee workloads and rely on a deep bench of experienced staff members to assist with the City's projects. We are confident that – with our resources, experience, and manpower – we will provide you with successful, efficient, and cost-effective engineering services.

STAFF AVAILABILITY (F)

Key staff members for the City of Montgomery's project are currently concluding activities on major projects. Based on current and projected project workloads, our key and support staff will have adequate time and the necessary resources available to serve the City.

WORKLOAD CAPACITY

Key Personnel	Role	Availability
Michael A. Kurzy, PE	Principal-in-Charge	20%*
Nancy Blackwell, PE	Quality Assurance/Quality Control	15%*
Janice Noeldner, PE	Project Manager	50%*
Daniela Moderow, PE	Project Engineer	50%*
Chuck Brunner, PE, SE	Structural Engineer	10%*
Mike Gryn, PE	Electrical Engineer	10%*

*We have the ability to increase our availability as the project requires.

Janice Noeldner, PE

Project Manager



Joined Firm in 2015
Years of Experience: 10

EDUCATION

B.S., Civil Engineering,
Missouri University of
Science and Technology,
2014

B.S., Architectural
Engineering, Missouri
University of Science and
Technology, 2014

REGISTRATIONS

Licensed Professional
Engineer: Texas No. 131967

LOCATION

Houston, TX

AWARDS



2023 Texas Society of
Professional Engineers
(TSPE) Greater Houston
Chapter **Young Engineer of
the Year Award**

BAXTER & WOODMAN
Consulting Engineers

Janice has over 10 years of experience in civil engineering planning and design, primarily in the areas of water distribution, water supply and treatment, wastewater collection and treatment, and stormwater quality. She has experience in aspects of municipal utility districts, including preparation of capital improvement plans, bond application reports, feasibility studies, and TPDES permit renewals. Her experience with cities includes impact fee analyses, rate analyses, capital improvement plans, and water and sewer demand projections.

REPRESENTATIVE PROJECTS

City of Magnolia, TX

Water Plant No. 3 Phase I

Project Manager for the design of a new 1,000 gpm water well, 10,000 gallon hydropneumatics tank, chemical disinfection system and fiberglass buildings, associated piping, electrical work, fencing, crushed stone driveway, and site restoration.

City of Magnolia, TX

Water Plant No. 3 Site Study

Project Manager for the evaluation and determination of the best location for a water plant within the 44-acre site. The site was evaluated for existing contaminants, adjacent site use, potential wetlands and jurisdictional waters, and location to existing public and private utilities. Two potential water plant sites were selected which provided a safe and convenient location for a water plant, while using a less desirable site location to keep the best location available for economic development.

Lake Forest Utility District, TX

Water Well No. 3 Emergency Rehabilitation

Project Manager responsible for coordinating with the operator and a water well contractor to determine the feasibility of the existing equipment. Because the District's other water source was only one other water well, a request was sent to the TCEQ to forgo bids and negotiate a contract to reduce the amount of time the well would be out of service. Janice worked closely with the water well contractor to determine the repair of installing new screens and blank liner, as well as installing a new pump.

Montgomery County MUD No. 15, TX

Water Plant No. 1 15,000-Gallon and 20,000-Gallon HPT Rehabilitation

Lead Design Engineer for the evaluation of a recent inspection report of the two HPTs; designed a comprehensive interior and exterior blast and recoating system to extend the HPTs' useful service life.

Mike Kurzy, PE

Principal-In-Charge



Joined Firm in 1997
Years of Experience: 34

EDUCATION

B.S., Civil Engineering, Texas
A&M University, 1990

REGISTRATIONS

Licensed Professional
Engineer: Texas No. 81998

LOCATION

Houston, TX

ASSOCIATIONS

American Society of Civil
Engineers (ASCE)
Texas American Water Works
Association
North Houston Association
Major - USAR Retired (MOS
Combat Engineer and
Facilities Engineer)

BAXTER & WOODMAN
Consulting Engineers

Mike Kurzy has over 34 years of experience in civil engineering planning and design, primarily in the areas of commercial and residential land development, drainage, water and wastewater, and construction project management. Mike has significant experience in providing water, sanitary sewer, drainage, detention, and paving facilities to serve land development projects. Mike's expertise includes design of groundwater wells, resolving problematic drainage issues for various entities, and construction management.

REPRESENTATIVE PROJECTS

Montgomery County MUD No. 15, TX

Water Plant No. 2

Evaluation of the District growth indicated the need for additional water well, water storage and booster pump capacity. As Project Manager, Mike prepared a chart of growth that indicated growth by connections with capacity of the existing plant, when design and construction of the future plant was anticipated so as to not have any issues serving the growing population.

Harris County MUD No. 102, TX

Water Well No. 6 Rehabilitation

Project Manager for the design and managed construction of well rehabilitation improvements, including complete replacement of the motor, pump, and column assembly. During construction, bacterial growth discovered down hole required wire brushing and chemical treatment.

Northwest Harris County MUD No. 36, TX

Water Plant No. 1

Project Manager for the design of a complete water plant to serve Northwest Harris County MUD No. 36 and Northwest Harris County MUD No. 28. Design included a 1,000 gpm well, 225,000-gallon ground storage tank, three 500 gpm booster pumps, and a 20,000-gallon hydropneumatic tank.

Northwest Harris County MUD No. 36, TX

Water Plant No. 2 and Remote Well Line

Project Manager for the design of a remote water well and approximately 3,500 linear feet of 12-inch water line to bring the water to Water Plant No. 1 and allow water to feed directly into the District system. The Plant consisted of a 1,000 gpm well and a control building. The site plan also included provisions for future facilities to include ground storage capacity, booster pump capacity, and hydro-pneumatic tank capacity.

Nancy Blackwell, PE QA/QC



Joined Firm in 1996
28 Years of Experience

REGISTRATIONS

Licensed Professional
Engineer: Texas No. 87634

LOCATION

Houston, TX

ASSOCIATIONS

- Texas Society of Professional Engineers
- National Society of Professional Engineers
- American Water Works Association
- American Society of Civil Engineers
- Texas Water Conservation Association
- Chi Epsilon, Civil Engineering Honor Society



Nancy has more than 28 years of experience in civil engineering planning and design, primarily in the areas of municipal water supply and distribution, and municipal wastewater collection and treatment. Nancy has served as district engineer for more than 15 different utility districts in Montgomery and Harris counties over the last 25 years, providing capital improvement planning services, rate analyses, feasibility studies, plan reviews, water and wastewater capacity studies, and management and oversight of a wide range of general consultation services as well as water and wastewater infrastructure improvement projects. Nancy has developed significant experience in all aspects of municipal facilities, including water systems, drainage systems and land development projects, by serving as a client representative for several municipal utility districts and other government clients.

REPRESENTATIVE PROJECTS

Multiple Clients, TX

Lead & Copper Service Line Compliance

Currently managing preparation of Lead & Copper Service Line inventories for eight different water utilities across Texas in compliance with the EPA Lead & Copper Rule and TCEQ Guidance. The projects include records research, coordination with operations personnel and field investigations to prepare detailed inventories of all services lines within the utility boundaries and submittal of required documentation to the regulatory agencies.

Various Municipalities, TX

Drinking Water System Risk & Resiliency Plans

Managed preparation of Risk & Resiliency Plans for 22 different water utilities across Texas in compliance with America's Water Infrastructure Act and EPA Guidance. The projects included site visits and facility assessments, preparation of detailed and confidential Risk & Resiliency documentation and assisting municipalities with hardening their systems to improve susceptibility to various risk categories.

Multiple Clients, TX

Utility District Engineer

Nancy has served as district engineer for more than 15 different utility districts in Harris and Montgomery counties over the last 25 years. She has provided capital improvement planning services, rate analyses, feasibility studies, plan reviews, water and wastewater capacity studies, and management and oversight of a wide range of general consultation services as well as water infrastructure improvement projects.

Daniela Moderow, PE

Project Engineer



Joined Firm in 2016
Years of Experience: 8

EDUCATION

B.S., Petroleum Engineering
University of Houston, 2015

REGISTRATIONS

Licensed Professional
Engineer: Texas No. 140426

LOCATION

Katy, TX

ASSOCIATIONS

American Water Works
Association
Texas Society of Professional
Engineers

BAXTER & WOODMAN
Consulting Engineers

Daniela has eight years of engineering experience in the civil disciplines of planning and design, primarily in water and wastewater treatment facilities and distribution. Additionally, she has experience with municipal utility districts, including preparation of bond application reports, feasibility studies, and TPDES permit renewals.

REPRESENTATIVE PROJECTS

City of Magnolia, TX

Water Plant No. 3 Phase I

Project Engineer responsible for the design and construction of the first phase to construct Water Plant No. 3 to meet future demand. The project was divided into multiple phases to allow for the water plant to be put into service while additional components are added to the plant. The scope for Phase I included a new 1,000 GPM water well in the Jasper Aquifer, 10,000-gallon HPT, chemical disinfection system and fiberglass buildings, associated piping, associated electrical work, temporary all-weather access road, chain link fence and gate.

City of Magnolia, TX

Water Well No. 8

Project Manager for design and construction of Water Well No. 8. The design phase of this project included a new 500 gallon per minute (GPM) water well in the Jasper Aquifer, yard piping, chemical disinfection system, fiberglass buildings, associated electrical work, permeable paver driveway, chain link fence extension and site restoration.

Conroe ISD, TX

Water Well Replacement

Project Engineer for assisting the school district in obtaining emergency replacement approval and permitting of the new well from TCEQ and Lone Star Groundwater Conservation District after the failure of an existing well. This included coordination of a Phase 1 Environmental Site Assessment and review of the proposed well design. This emergency project was completed quickly to return to operational capacity.

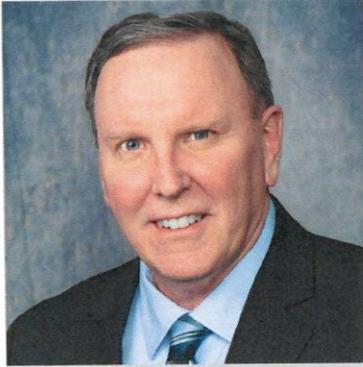
Harris County WC&ID No. 116, TX

Water Plant No. 1 Improvements

Project Engineer for providing design and construction phase services for improvements to Water Plant No. 1, replacing obsolete equipment to ensure continued efficiency. The proposed improvements included the replacement of two existing booster pumps and motors, one booster pump motor, recoating of piping, valves and fittings, removal of existing booster pump metal building, replacement of concrete driveway, installation of new 10,000-gallon hydropneumatic tank, and discharge header piping modifications.

Chuck Brunner, PE, SE

Structural Project Engineer



Joined Firm in 1987
Years of Experience: 41

EDUCATION

B.S., Civil Engineering,
Purdue University, 1983

REGISTRATIONS

Licensed Professional
Engineer: Texas No. 139713
Licensed Structural
Engineer: Illinois

CERTIFICATIONS

NBIS Certified Program
Manager, Illinois Department
of Transportation

LOCATION

Crystal Lake, IL

ASSOCIATIONS

International Code of Council
American Society of Civil
Engineers
Structural Engineers Institute
American Concrete Institute
American Institute of Steel
Construction

BAXTER & WOODMAN
Consulting Engineers

Chuck is called upon to review the structural design of all projects, including well houses, pumping stations, water storage facilities, water and wastewater treatment facilities, bridges, retaining walls, and drainage structures.

REPRESENTATIVE PROJECTS

City of Magnolia, Texas

Water Plant No. 3 Phase II

Structural Engineer of Record for CMU control building and ground storage tank foundation.

City of Magnolia, Texas

Water Plant No. 3 Phase I

Structural Engineer of Record for water well foundation, HPT foundations, and temporary storage building foundations.

Northwest Harris County MUD No. 30

Water Well No. 2

Structural Engineer of Record for water well foundation.

Cary, IL

Well 13 Water Treatment Plant and Reservoir

Structural Engineer of Record for water treatment plant building and 2,500,000-gallon prestressed concrete water storage reservoir.

Crystal Lake, IL

Water Treatment Plant No. 2

Structural Engineer of Record for design of water treatment plant building.

Gilberts, IL

Water Treatment Facility

Structural Engineer of Record for design of water treatment plant building.

Huntley, IL

Well 7 and Well 11 Water Treatment Plant

Structural Engineer of Record for design of water treatment plant buildings.

DeKalb, IL

Lincoln Highway and County Farm Road Water Treatment Plants

Structural Engineer of Record for design of well house buildings and water treatment plant buildings.

Michael Gryn, PE

Electrical Engineer



Joined Firm in 2017
Years of Experience: 24

EDUCATION

M.B.A Strategy, Execution and Valuation; DePaul University - Charles H. Kellstadt Graduate School of Business - Chicago, IL, 2008
B.S. Electrical Engineering; Purdue University, West Lafayette, IN, 2002

REGISTRATIONS

Licensed Professional Engineer: Texas No. 139054
LEED Associated Professional

LOCATION

Chicago, IL

ASSOCIATIONS

Consulting Electrical Engineers - President 2014-2016, Board Member since 2007
Chicago Safety & Sustainability Conference Planning Committee - Member since 2008

BAXTER & WOODMAN
Consulting Engineers

Mike has been responsible for electrical and instrumentation designs for many project types including designs for both small and very large plant expansions as well as new plant and pumping station facilities. He also has experience in power/generator load studies and electrical distributions designs along with PLC upgrades, connection to master control stations, and instrumentation design. Over the last seven years, Mike has been overseeing all project aspects from proposal through construction for electrical and controls designs. Mike's passion is making sure owners and contractors achieve success together while completing their project.

REPRESENTATIVE PROJECTS

City of Magnolia, TX

Water Plant No.3 Improvements

Electrical and Automation Engineer responsible for the installation of a new water treatment plant across three phases. Phase 1 involved installing a new well pump and implementing chemical disinfection to supply water to an existing elevated storage tank. Phase 2 included setting up a new booster station, relocating the electrical power for the existing well pump, and installing new power distribution equipment, a generator, and an automatic transfer switch. Automation enhancements were made to monitor and operate a new ground storage tank, a hydro-pneumatic tank, booster pumping, and chemical addition systems.

Terranova West, TX

Water Plant Electrical Improvements

Electrical and Automation Engineer responsible for the rehabilitation of an existing water plant. The work involved installing a new motor control center to power the booster pumps, well pumps, and other ancillary loads. Additionally, automation improvements were implemented to monitor and operate the ground storage tank, hydro-pneumatic tank, and booster pumping.

Kleinwood Joint Powers Board, TX

WWTP Phase 3 Electrical Improvements

Electrical Engineer responsible for installing three new motor control centers to replace aging infrastructure. The project provided new power to existing blowers for aeration, clarifiers, and various pumping systems throughout the plant. The design required the new equipment to fit within an existing electrical building with spacing constraints. The project included the addition of safety disconnect switches and other electrical safety features to enhance plant operations. The new power distribution system was also designed to utilize the existing on-site backup generators.



WINDROSE
LAND SURVEYING | PLATTING

Robert Kness RPLS 6486
Principal / Chief Operating Officer



BIOGRAPHY

Robert is the principal owner and the Chief Operating Officer of Windrose Surveying & Services, LLC. Robert is head of operations for all 3 Texas market offices including Austin, Dallas, & Houston. Robert began his career at Windrose in 1999 and was a founding member of the Commercial Surveying Division. With 25 years of field and office experience, Robert has managed a wide variety of projects from major multi-million-dollar roadway and municipal surveying projects to concurrent management of multiple small site development and platting projects. His expertise and complete understanding of the processes involved in land development allows for our final survey product to work seamlessly with the civil design function. Since Robert joined Windrose he has spearheaded the firm's vigorous commitment to stellar service balanced with a quality product. His final review of each project that is delivered to our clients ensures a very thorough level of quality control is maintained. He leads the firm with that commitment and provides support and leadership to all levels of the company. Mr. Kness leads Windrose employees by example of his own strong ethics and character as well as his ability to apply technical processes and experiences to all projects in which the company participates.

EDUCATION & LICENSURE

University of Houston, B.A., Major in History, Minor in Advanced Surveying State of Texas; RPLS #6486, Expiration 12/31/2024

EXPERIENCE & LOCATION

25 Years, State of Texas

PROFESSIONAL ORGANIZATIONS

Texas Society of Professional Surveyors

RELEVANT PROJECT EXPERIENCE

CITY OF CONROE, SH 242 WATER & SANITARY, CONROE, TX – QA/QC Manager

Project Scope: Approx. 1800 feet between Conroe ISD Access and Edith Lane. Surveying Services: Established Vertical and Horizontal Control Monuments, provided Boundary Orientation & Abstract/Strip Map to identify Right-of-way lines and parcel boundary to facilitate easement creation, performed Topographic and Utility Survey of within proposed subject area including an additional 20 feet on both sides of Access Drive.

CITY OF THE WOODLANDS, SJRA LIFT STATIONS 3&4, THE WOODLANDS, TX - QA/QC Manager

Project Scope: 1-acre lift station site rehabilitation on Crystal Lake Lane, Village of the Woodlands, to facilitate rehabilitation design for the district, cross-section information of existing detention channel, structures, and ponds.

Surveying Services: Provided project control, recovered property boundaries, and provided a detailed topographic site survey of the site and profile drawings of existing wet well.

CITY OF PATTON VILLAGE WATER SYSTEM, Patton Village, TX- QA/QC Manager

Project Scope: Approx. 3,321-acres to facilitate rehabilitation of the City's added sanitary sewer system and to delineate the boundary of the City of Patton Village for regional planning and federal/state aid purposes.

Surveying Services: Provided boundary in addition to a topographic & utility survey for future design and construction of a proposed wastewater treatment plant. Specific services provided include Boundary survey of the entire municipal limits of the City of Patton Village consisting of 3,321 acres and Topographic & utility survey and boundary verification to create a 9-acre tract from a 21-acre tract for a proposed wastewater treatment plant location.

ADDITIONAL PROJECTS

1. Montgomery County WCID No.1
2. Montgomery County Water Plant No. 2
3. Montgomery County Water Plant No. 4
4. City of Magnolia Water Plant Site
5. Aqua Texas Brittmore Water System Improvements

Jay Sunderwala, PE

Principal Engineer



EDUCATION

M.S., Civil Engineering, 1998,
San Jose State University

B.S., Civil Engineering, 1993,
San Jose State University

REGISTRATIONS/CERTIFICATIONS

PE 88799 (Texas)

PE 16758 (Nevada)

PE 58666 (California)

PROFESSIONAL AFFILIATIONS

American Council of Engineering
Companies of Texas

American Public Works Association

American Society of Civil Engineers

Texas Public Works Association

Texas Society of Professional Engineers

Mr. Sunderwala's professional experience spans over 30 years and includes coordinating and supervising all technical and administrative functions for the Houston office. Mr. Sunderwala has performed and managed numerous geotechnical evaluations for commercial, industrial, federal, transportation (road and railway), utility pipeline, public works, educational, and retail projects. He has significant experience in foundation design, earthwork operations, soil treatment, and construction phase geotechnical services. He provides supervision and technical support for both geotechnical and construction services.

REPRESENTATIVE EXPERIENCE

Chambers Creek Water Plant, Willis, Texas: Technical Advisor during geotechnical observation and materials testing services for the project which consisted of the construction of a water storage tank and pump building.

The Highlands Water Plant, Porter, Texas: Technical Advisor during geotechnical observation and materials testing services for the project which consisted of the construction of the water well, water storage tank and paving for the facility.

Huntsville Bond No. 3 Water Systems Improvement, Huntsville, Texas: Principal Engineer during the geotechnical evaluation for the City of Huntsville Bond No. 3 Water System Improvements project. The program included the design and construction of two new pump stations, one ground storage tank, one elevated storage tank and a water transmission line. The elevated storage tank has a 2 million gallon capacity with approximately 25,700 linear feet of water transmission lines.

Water Plant no. Expansion for Montgomery County Municipal District (MCMUD) No. 105 - Woodson's Reserve Development, Spring, Texas: Technical Advisor during geotechnical observation and materials testing services for the project which consisted of the construction of the water well, water storage tank and paving for the facility.

Harris County Municipal Utility District, No. 71 Water Plant No. 3, Houston, Texas: Principal Engineer during geotechnical engineering services for the construction of a new water plant. The improvements included two new 50-foot diameter, 24-foot high ground-supported water tanks, two hydropneumatic tanks, booster pump, control building, and associated pavements.

Harris County Municipal Utility District, No. 120 Water Treatment Plant No. 2, Houston, Texas: Principal Engineer during geotechnical evaluation services for the planned expansion of the Water Treatment Plant No. 2. The expansion consisted of the design and construction of approximately 158-square foot generator pad and a new Motor Control Center (MCC) building.

Harris County Municipal Utility District, 559 Water Plant, Houston, Texas: Principal Engineer during geotechnical evaluation services for the design and construction 55-foot diameter, 32-foot high 540,000-gallon ground storage tank, 15,000 high-pressure technologies (HPT) booster pump, an approximate 800-square foot generator pad, and an approximate 2,800-square foot MCC/Disinfection building.

Project Experience

Firm Overview

Founded in 1946, Baxter & Woodman, Inc. provides consulting engineering and technology services to municipalities, state agencies, county governments, and sanitary districts throughout Texas, Illinois, Wisconsin, and Florida. Dedicated to promoting a sustainable future, our staff of more than 400 talented engineers, surveyors, technicians, and support personnel incorporates innovative techniques along with tried and true processes.

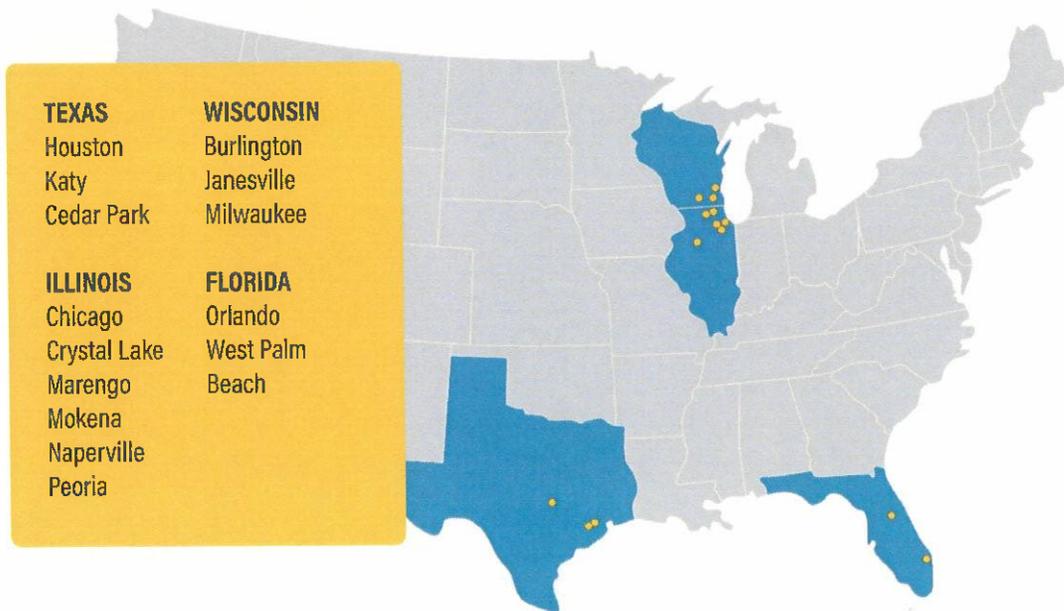
Baxter & Woodman provides planning, design, construction and technology services for water, wastewater, stormwater and transportation facilities for municipalities, counties and state agencies and more. Environmental, geographic information systems (GIS), water and wastewater operations, and advanced technology needs complement the firm's civil engineering expertise. The company has several subsidiaries including ones focused on Natural Resources, Municipal Technology, and Design-Build project delivery.

Baxter & Woodman has achieved the ranking of **#282** on the Engineering News Record list of Top Design Firms in the Country!



Regional Offices

Baxter & Woodman's 14 regional offices provides our clients with local presence and responsive service. Our team offers services that stretch well beyond typical engineering consulting. We are committed to building community value with each and every project we complete.



Water Plant No. 4 500,000-Gallon Elevated Storage Tank

1

City of Magnolia, TX

SERVICES

- Design Engineering
- Construction Management
- Piping and Electrical Work
- Agency Approvals

DATES
2024 – Present

BID COST
\$3,768,000

PROJECT MANAGER
Janice Noeldner, PE

REFERENCE
Tim Robertson
City Engineer
979-551-6868
trobertson@cityofmagnolia.com



Baxter & Woodman was selected by the City to design Water Plant No. 4 500,000-Gallon Elevated Storage Tank. The scope of work for Water Plant No. 4 includes the construction of a composite elevated storage tank, associated piping, associated electrical work, crushed stone driveway, and site restoration.

During preliminary engineering, multiple EST types and life-cycle costs were presented to the Council, including single pedestal, multi-pedestal, fluted, and composite. Due to its low life-cycle cost, the City authorized design of a composite-style EST.

The EST is designed to provide pressure to the entire current water distribution system. Its overflow weir elevation is set at the same elevation as the EST at Water Plant No. 2 (Kelly Road Water Plant) overflow weir. The EST can provide acceptable water pressures to the highest point in the water distribution system, which is currently near Dogwood Trail at Rolling Hills Drive.

Also included was the development of the preliminary opinion of probable construction cost and included a 20% contingency, based on escalating construction costs and historical bid prices for other projects of similar work and input from EST manufacturers.



Drone imagery of the construction site of Water Plant No. 4 500,000-gallon Elevated Storage Tank (EST).

2

Water Plant No. 3 Phase II

City of Magnolia, TX

SERVICES

- Phased Design and Construction Engineering
- Electrical Design
- Structural Design
- Bid Services
- Agency Coordination

DATES

2022 – Present

BID COST

\$4,326,395

PROJECT MANAGER

Janice Noeldner, PE

REFERENCE

Tim Robertson
 City Engineer
 979-551-6868



troberson@cityofmagnolia.com

The construction of Water Plant No. 3 was divided into multiple phases to allow the water plant to be in service while additional components are added to the plant. The scope of work for Water Plant No. 3 – Phase II includes the construction of a 410,000-gallon glass-lined GST, CMU control building, three 1,000-gpm vertical turbine booster pumps, motor control center, chemical disinfection system, diesel emergency power generator, detention pond and drainage system, chain link fencing, 10,000-gallon HPT, chemical disinfection system and fiberglass buildings, associated piping, associated electrical work, and site restoration.

Design was provided on an accelerated schedule in order to meet the City's need for the water plant. A glass-lined GST was chosen for its lower up-front cost. The control building is designed for ease of maintenance and includes an office for operators. The generator is sized to run the ultimate build-out of the plant, including running both water wells at once.



Drone imagery of the construction site of Water Plant No. 3 Phase II.

Baxter & Woodman, Inc.

Project Experience • 14

3

Water Plant No. 3 Phase I

City of Magnolia, TX

SERVICES

- Design Services
- New Water Well Construction
- Chemical Disinfection System and Fiberglass Buildings

DATES

2021 - 2023

CONSTRUCTION COST

\$3,600,219

PROJECT MANAGER

Janice Noeldner, PE

REFERENCE

Tim Robertson
 City Engineer
 979-551-6868

trobertson@cityofmagnolia.com



The scope of work for Water Plant No. 3 – Phase I included the construction of a new 1,000 gpm water well in the Jasper Aquifer, 10,000-gallon HPT, chemical disinfection system and fiberglass buildings, associated piping, associated electrical work, temporary permeable pavers access road, chain link fence, and gate.

In order to put the water well online without waiting for the long-delivery lead time items, the well was designed with a VFD and a water well discharge bypass line that allows the well to pump directly into the City's water distribution system. The bypass line will be used to supply the City with water until construction is completed on Phase II.

Baxter & Woodman submitted and coordinated the water well permit with Lone Star Groundwater Conservation District (LSGCD) and obtained Texas Commission on Environmental Quality (TCEQ) project approval. The firm provided bid phase services for the project including the advertisement, the pre-bid conference, and the bid opening. The team reviewed bids and made recommendations for award of the contract



Drone imagery of the construction site of Water Well No. 7 in the City of Magnolia.

4

Water Well No. 2

Northwest Harris County MUD 30, TX

SERVICES

- Design Engineering
- Construction Management
- Site Restoration, Clearing and Grubbing
- Chemical Disinfection System

DATES

2024 - Ongoing

CONSTRUCTION COST

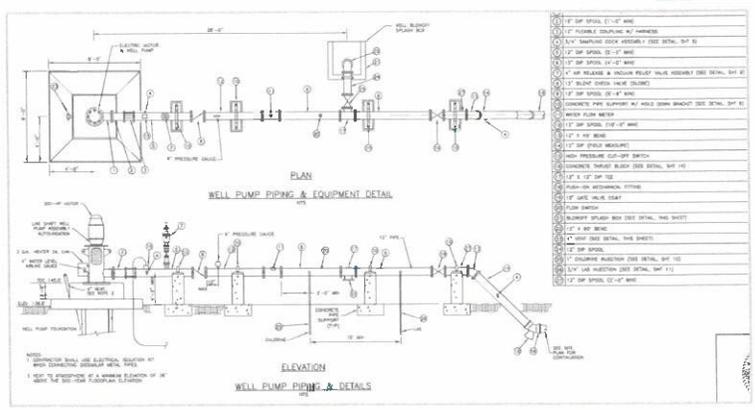
\$3,659,470

PROJECT MANAGER

Daniela Moderow, PE

REFERENCE

Jim Attaway
Board President
281-536-3719
jdattaway@sbcglobal.net

Water Well No. 2 Pump Piping Elevation Exhibit

The District's water system currently relies on a single active water well located at the water plant, known as Water Well No. 1, which was constructed in the Evangeline Aquifer in 1987. In August 2022, Water Well No. 1 underwent significant rehabilitation due to structural issues. This rehabilitation involved the installation of an interior liner and the replacement of the existing pump with a submersible pump. As a result of these modifications, the design capacity of Water Well No. 1 decreased from 1,200 gallons per minute (gpm) to 950 gpm.

In addition to Water Well No. 1, the District also receives water from the North Harris County Regional Water Authority (NHCRWA).

Water Well No. 1 serves as a backup to ensure the District can continuously meet its water demand. However, without the availability of surface water, the existing well would struggle to provide sufficient water during periods of high demand. To address this issue and ensure an adequate water supply for its residents, the District has authorized the design and construction of a new water well within Water Plant No. 1.

The new water well, designated as Water Well No. 2, will be constructed in the Jasper Aquifer. The scope of work for Water Well No. 2 includes the construction of a new 1,500 gpm water well, along with associated tasks such as clearing and grubbing, installation of a chemical disinfection system, associated piping and electrical work, fencing, permeable pavers, and site restoration.

This project aims to enhance the District's water supply infrastructure, ensuring a reliable and sufficient water source for its residents, even during periods of high demand.



Pre-construction project team site visit photos

Project Approach



Aerial view of proposed project site

Project Understanding

As the City undergoes expansion, there is a pressing need for engineering solutions that allocate funds prudently to incorporate significant water plant components into the water system. This project aims to achieve two primary objectives:

- Confirm sufficient water capacity and pressure on the City's west side.
- Design a water plant system that accounts for future growth and the corresponding demands on water pressure and volume.

Baxter & Woodman has assembled a comprehensive approach that includes a highly experienced team that will deliver efficient, reliable, and cost-effective design engineering services for the City's Water Plant No. 4 project. Together, we have the personnel, support, and expertise to effectively complete the City's projects. Our team will work on behalf of the City to deliver this project to your residents and business owners.

Project Approach

PROJECT INITIATION

1. Condition Assessment and Preliminary Engineering

Water plants are designed to provide the necessary volume at a constant distribution system pressure minimizing system surges. This is typically achieved by either providing an elevated storage tank (EST) which the well pumps into or by providing the well with a ground level storage tank (GST), system pressure booster pumps, and a hydro-pneumatic tank (HPT) that maintains a constant system pressure. During project initiation, Baxter & Woodman will evaluate with the City the most appropriate design that reliably and economically serves the City.



Baxter & Woodman starts each project with an initiation meeting to lay out the project plan and coordination. We discuss points of contact, team communication, agency regulations, client needs, anticipated project pitfalls, and the project’s scope, budget, and schedule. We review previous design reports, studies, plans, and project manuals for the water system.

Baxter & Woodman has designed **eight new water wells** and **two new ESTs** in the last five years alone!



Our approach focuses on proactive communication. We discuss project issues to minimize impact and quickly alert the City of any concerns. Listening, consulting, and designing with the operator’s needs in mind are essential for achieving a successful project. We conduct monthly status meetings to review work and discuss progress, documenting notes to share with project stakeholders.

Site conditions are measured through both topographical survey and geotechnical investigations. While our team of engineers is reviewing existing data and performing preliminary engineering, our surveyor, **Windrose Surveying**, and geotechnical experts, **Ninyo & Moore** will be gathering topographic and subsoil information necessary for a reliable and sound design.

Baxter & Woodman will start with a pollution hazards report to identify nearby pollutants before drilling the water well. This step confirms safe water and the report will be sent to the Texas Commission on Environmental Quality (TCEQ) for well construction approval. We will also review the City’s water model to find the best water system pressures for the area.

We will provide a life-cycle cost analysis for different EST types to present to the City Council for final determination. We will evaluate the upfront costs, along with major maintenance costs, to determine the EST’s total cost over its 50+-year lifetime.

2. FINAL ENGINEERING DESIGN

Constructing a water well and constructing an EST each require a large construction footprint. The 1.1-acre site creates a very tight, workable space for the two projects to be constructed at the same time. We will leverage our relationships with local water well drillers and with EST manufacturers to determine if the 1.1-acre site will allow for both projects to be constructed simultaneously. We will work with both entities to determine layouts that allow them enough room for their work.

Anywhere the water well is able to be located on the water plant site will put its 150-foot sanitary control radius in Montgomery County right-of-way. A sanitary control easement cannot be obtained in a right-of-way outside of a city’s boundary. This will require filing a sanitary control easement exception with the TCEQ, which involves sending additional well construction data to the TCEQ’s technical review team. Baxter & Woodman will do this as part of the project design.

Potential Issue	Approach
Small site for simultaneous construction of water well and EST	Coordinate with water well drillers and EST manufacturers at the beginning of design to determine layout that works for both
Cannot obtain sanitary control easement in Montgomery County right-of-way	Obtain TCEQ sanitary control easement exception

Once we receive their input on facility location, we will review a proposed site plan with the City. The site plan will be designed to provide possible future expansion, a well location that meets Lone Star Groundwater Conservation District (LSGCD) requirements, and an EST at the northernmost corner, all while optimizing layout to confirm the water plant operates efficiently.

Upfront costs are a part of the water plant's life cycle cost, but maintenance can cause significant recurring expenses. The project will be designed to reduce future maintenance costs. For example, traditional tank coating systems will last for about 12 years, but newer coating systems have proven to protect the tank and retain shine for 20 years, reducing EST rehabilitation costs.

After design completion, the project will undergo a QA/QC review by a minimum of two senior Baxter & Woodman engineers. The plans and project manual will be provided to the City for review and approval.

3. AGENCY REVIEW AND BID

Baxter & Woodman will submit the project to agencies and obtain approval for construction from Montgomery County, TCEQ, and LSGCD. It is understood the water well capacity has been approved by the LSGCD, and only the permit for the well itself will need to be obtained.

During design, we seek opinions from reputable contractors on bidding time, duration, and construction scheduling. Our goal is to obtain competitive bids from efficient contractors. We assist in contractor procurement, hold pre-bid conferences and bid openings, review bids and bidder qualifications, and issue recommendation letters for project awards.



Baxter & Woodman will secure permits, assist with contractor procurement, and confirm competitive bids to drive an efficient construction process.

4. CONSTRUCTION MANAGEMENT

Construction administration and inspection services will be performed by the City Engineer. Baxter & Woodman will assist with submittal review, respond to questions and change requests, and attend progress meetings and walkthroughs.

During water well drilling, Baxter & Woodman will review logs to determine the optimal locations and lengths of screened areas, collaborate with the water well driller to determine the best pump selection, and submit final data to the TCEQ for well use approval. Additionally, in-house **NACE-certified** construction staff can perform coating inspections to confirm proper surface preparation and coating application are performed, leading to a long service life.

CONSTRUCTION FUNDING ASSISTANCE

Baxter & Woodman offers 50 years of experience with federally funded grant program projects. We assist our clients with identifying and securing funding for their capital improvements, including obtaining Texas Water Development Board (TWDB) grants and loans as well as Community Development Block Grants (CDBG) from the Texas Department of Agriculture (TDA). You can rely on our local expertise and proven funding reporting and project delivery experience.

A small sample of similar projects that required complying with the funding agency requirements include:

City/Municipality	Funding Source	Project	Services Provided	Project Objective(s)
City of Patton Village, TX	CDBG	Water Well Rehabilitation	Rehabilitation of existing water well	Improve water quality/reliability
City of Patton Village, TX	USDA	Tram Road Water Plant	Design - New water plant	Improve water quality/reliability
City of Patton Village, TX	USDA	City Wide Replacement of Water System	Design - Complete water distribution system	Improve water quality/reliability
City of Houston, TX	FEMA	Hurricane Harvey Disaster Cost Recovery for Wastewater Lift Stations	Facility Assessment & Evaluation - 38 lift stations	Storm recovery and mitigation

PROJECT LEADERSHIP AND COMMUNICATION

Regular communication between Baxter & Woodman and the City is crucial to avoid delays and incorporate the City's input into the water plant design. We will start with a kick-off meeting and hold regular status meetings throughout the project. These meetings will allow us to discuss any items that may require a City decision. These meetings will address any issues needing City decisions and will use the City's preferred method, although Microsoft Teams meetings with agendas have proven effective.



Janice Noeldner, PE will serve as Project Manager and the main point of contact with the City. She will be responsible for confirming the project meets the scope, schedule, and budget. **Daniela Moderow, PE** will serve as Design Engineer and will be responsible for the technical aspects of the project. **Mike Gryn, PE** will lead the electrical design team and **Chuck Brunner, PE, SE** will lead the structural design team. **Nancy Blackwell, PE** will provide QA/QC support and review services at major project milestones. We have partnered with **Windrose Surveying** to provide expert survey engineering services to the City, and **Ninyo & Moore** to provide geotechnical engineering services.

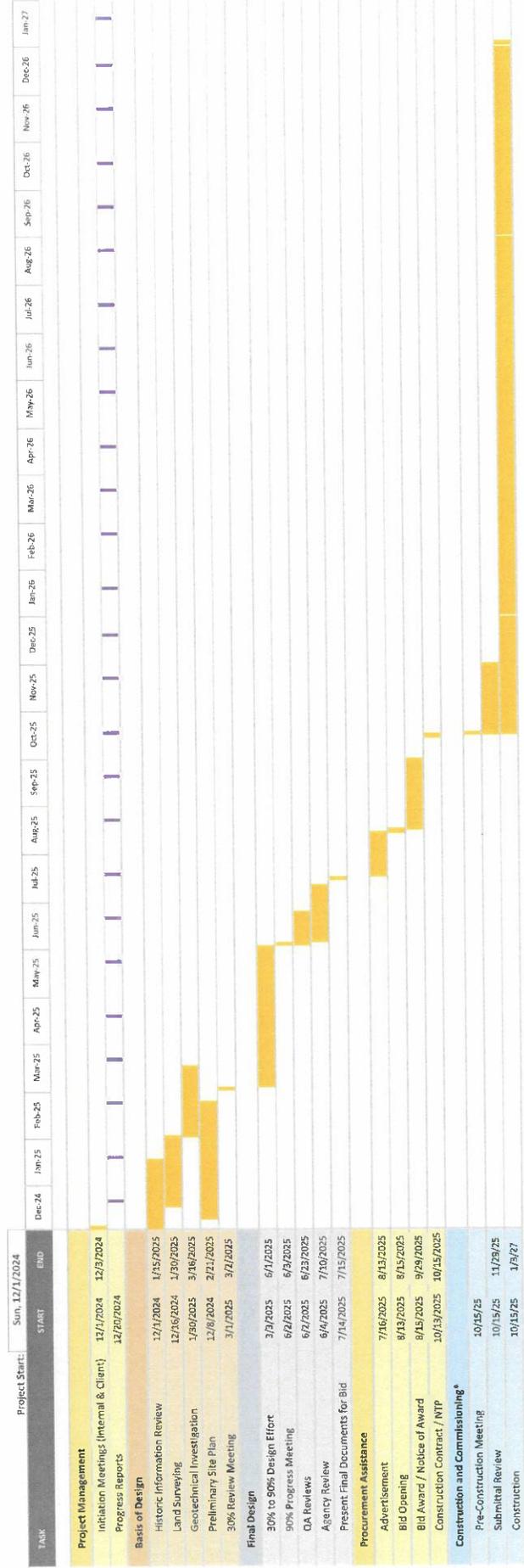


Preliminary Project Schedule

Baxter & Woodman will monitor the progress of your project on a biweekly basis to verify that our timing projections are accurate and that we are performing per your required schedule. Below, we have outlined the proposed schedule of the services including significant milestones.

WATER PLANT NO. 4

Baxter & Woodman, Inc.



* Construction duration will vary with contractor performance.



Montgomery City Council
AGENDA REPORT

Meeting Date: 02/25/2025	Budgeted Amount: NONE
Department: Administration	Prepared By: WGA

Subject

Consideration and possible action to authorize WGA, City Attorney, and City Staff to prepare and negotiate an interconnect with Stanley Lake MUD and a cost sharing agreement with the Developer.

Recommendation

City Council authorization to begin discussions with the Developer for the Stanley Lake MUD Interconnect.

Discussion

The Engineer’s Memo is attached.

The scope of design work consists of 12” waterline extension across Stewart Creek Road to create interconnect with Stanley Lake MUD, and 12” waterline extension north along Stewart Creek Road to Stewart Creek Farms Road to serve the Nantucket Development.

The authorization to begin discussions with the Developer will outline the cost of design to complete this utility improvement project and prepare an agreement for the emergency interconnect with Stanley Lake MUD.

Approved By

City Secretary Director of Administrative Services	Ruby Beaven	Date: 02/19/2025
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February 14, 2025

City Council
 City of Montgomery
 101 Old Plantersville Rd.
 Montgomery, Texas 77316

Re: Stanley Lake MUD Emergency Interconnect
 City of Montgomery

Dear Mayor and Council:

We have been in preliminary discussions with Stanley Lake Municipal Utility District (“Stanley Lake”) the options for an emergency interconnect. Stanley Lake has stated they were open to allowing the emergency interconnect but are not interested in sharing the cost. The scope of the project would include the extension of an existing 12” waterline along SH-105 across Stewart Creek Road to Stanley Lake’s waterline. Additionally, the developer to the north needs to extend a waterline to serve their tract and has expressed interest in including this work in this project as well as sharing in the design and construction costs. The full scope of this project was discussed at Capital Improvement Plan Workshop January 13th and a preliminary cost estimate and exhibit showing the proposed work are included for reference.

In order to get this project started, at this time we recommend City Council authorize WGA, the City Attorney and City Staff to prepare and negotiate an interconnect with Stanley Lake MUD and a cost sharing agreement with the Developer. After an agreement is reached, we will request authorization to begin the design of the waterline extension and prepare the required interconnect report.

If you have any questions or comments, please contact me.

Sincerely,

Chris Roznovsky, PE,
 City Engineer

Z:\00574 (City of Montgomery)_900 General Consultation\Correspondence\Letters\2025\2025.02.13 MEMO To Stanley Lake Interconnect.docx

Enclosures: Preliminary Cost Estimate
 Exhibit

Cc (via email): Mr. Anthony Solomon – City of Montgomery, Interim City Administrator, and Police Chief
 Ms. Ruby Beaven – City of Montgomery, City Secretary
 Ms. Corinne Tilley – City of Montgomery, Planning & Development Administrator & Code Enforcement Officer
 Mr. Mike Muckleroy – City of Montgomery, Director of Public Works



Preliminary Cost Estimate
Stanley Lake MUD Interconnect
City of Montgomery
 January 16, 2025

<u>ITEM</u>	<u>DESCRIPTION</u>	<u>QUANTITY</u>	<u>UNIT</u>	<u>UNIT COST</u>	<u>TOTAL COST</u>
General ⁽⁴⁾					
1	Move-in and Set-up, including Bonds and Insurance	1	LS	\$ 20,000	\$ 20,000
2	Site Restoration	1	LS	15,000	15,000
3	Traffic Control	1	LS	5,000	5,000
4	Storm Water Pollution Prevention Plan	1	LS	15,000	15,000
Total General Costs					\$ 55,000
Waterline - Developer					
5	12-inch PVC Waterline	510	LF	100	51,000
6	Additional Costs for Trenchless Construction	225	LF	120	27,000
7	Fire Hydrant Assembly	1	EA	8,500	10,800
8	12-inch Gate Valve	2	EA	4,000	8,000
9	2" Blowoff Valve	1	EA	2,500	2,500
Total Developer Costs					\$ 99,300
Waterline - City					
10	12-inch PVC Waterline	106	LF	100	10,600
11	Additional Costs for Trenchless Construction	65	LF	120	7,800
12	16-inch Steel Casing	65	LF	300	19,500
13	Interconnect Assembly (Valves, Meters, and Vault)	1	EA	20,000	20,000
Total City Costs					\$ 57,900
Waterline - Shared					
14	12-inch PVC Waterline	20	LF	100	2,000
15	Remove Ex. 12" Plug	1	EA	4,000	4,000
16	12-inch Wet Connect	1	EA	6,000	6,000
Total Shared Costs					\$ 12,000
Subtotal					\$ 225,000
Contingencies (15%) ⁽⁴⁾					\$ 34,000
Engineering (Design and Construction Admin)(20%) ⁽⁴⁾					\$ 45,000
Field Project Representation ⁽⁴⁾					\$ 15,000
Additional Services & Reimbursable Expenses ⁽³⁾⁽⁴⁾					\$ 20,000
Total Construction Cost					\$ 339,000

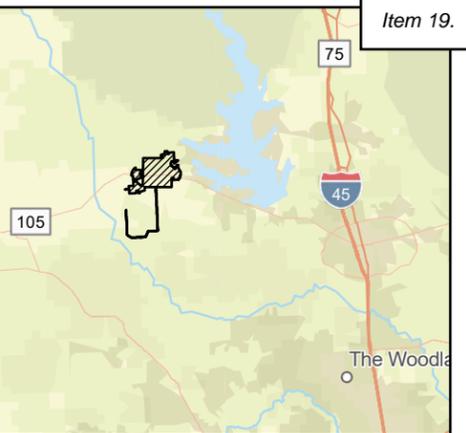
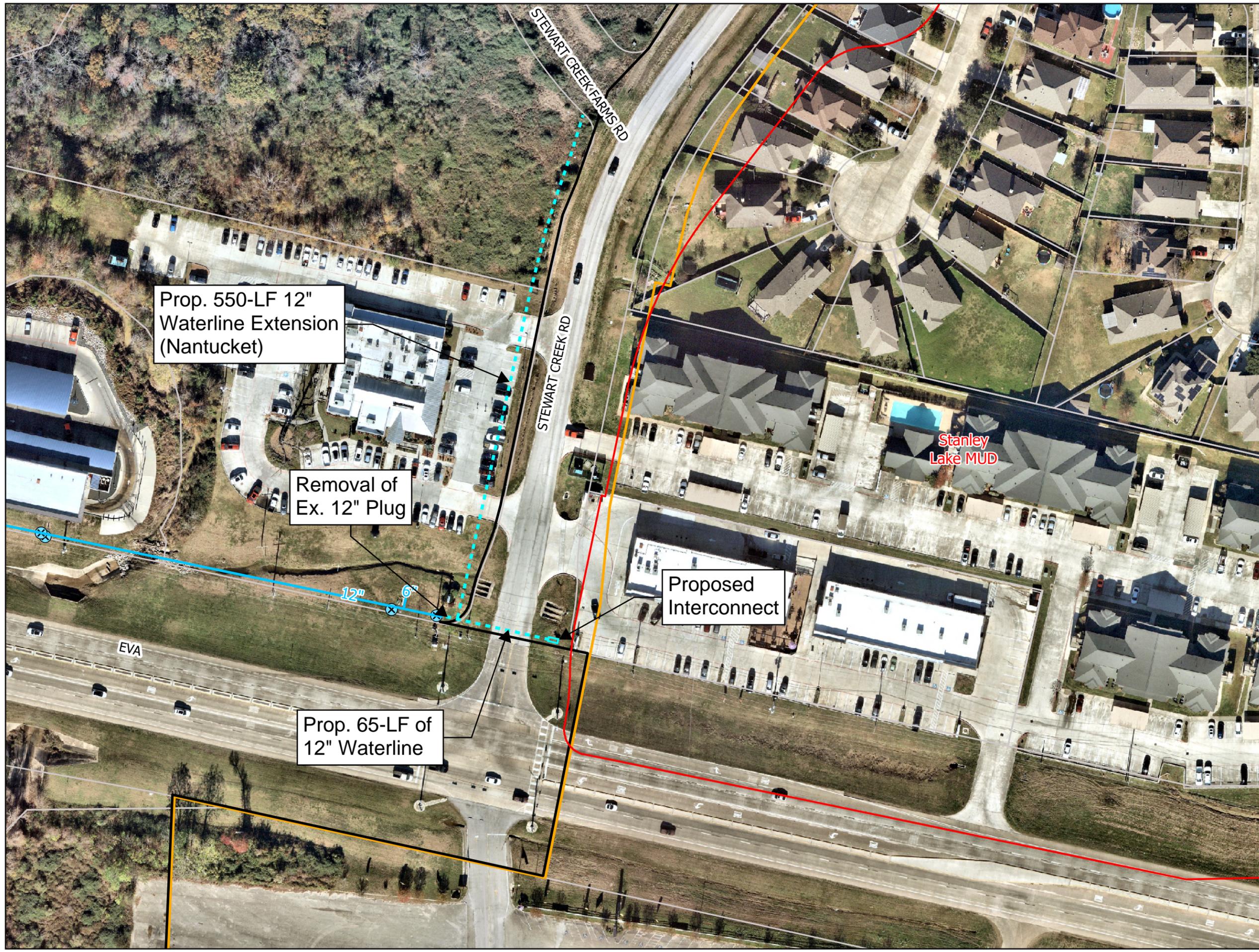
Notes:

(1) All values rounded up to the nearest hundred.

(2) This estimate is based on my best judgement as a design professional familiar with the construction industry. We

(3) This includes topographic survey, construction staking, construction materials testing, reproduction, advertising

(4) Value owed by each party will be based on pro-rata share of the total linear footage of the proposed waterline extension.



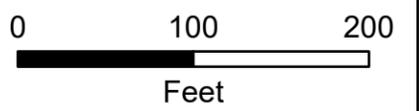
Legend

Jurisdictions

- City Limits
- Extraterritorial Jurisdictions
- Tax Parcels
- Stanley Lake MUD

Utilities

- ⊗ Water Main Valve
- Water Main



Stanley Lake MUD Interconnect



Disclaimer: This product is offered for graphical purposes only and may not be suitable for legal, engineering, or surveying purposes. The information shown on this exhibit represents the approximate location of property, municipal boundaries or facilities.



Montgomery City Council
AGENDA REPORT

Meeting Date: 02.25.2025	Budgeted Amount: NONE
Department: Administration	Prepared By: WGA

Subject

Consideration and possible action on acceptance of a Utility and Economic Feasibility Study for the KHR Properties Commercial Tract (Dev. No. 2415).

Recommendation

WGA recommends that the City accept the findings in the Feasibility Study as presented.

Discussion

The Engineer’s Memo is attached.

The proposed development falls on a 0.76-acre tract, on the southeast corner of SH-105 and FM 149. The subject tract is currently zoned B – Commercial, and would not require rezoning prior to receiving service. The proposed development would also be subject to impact fees since it is not currently platted. No public utility extensions would be required to serve this Development

The acceptance of the Feasibility Study does not bind the City to any agreement or obligations to development. The study only outlines the infrastructure improvements, estimated costs, and other general requirements the Developer would be subject to in order to move forward. All terms of the Development would be outlined in a separate Development Agreement, should both parties want to move forward.

Approved By

City Secretary Director of Administrative Services	Ruby Beaven	Date: 02/19/2025
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**0.76-Ac Jack in the Box Development
KHR Properties LLC
FEASIBILITY STUDY
(Dev. No. 2414)**

FOR

THE CITY OF MONTGOMERY



WGA PROJECT NO. 00574-148-00

February 2025

PREPARED BY



OVERVIEW

- 1 Executive Summary
- 2 Introduction
- 3 Analysis

Exhibits:

- A: Tract Location
- B: Zoning Map
- C: Utility Layout
- D: Preliminary Site Plan
- E.1: Water Demand Projection
- E.2: Wastewater Demand Projection
- F: City of Montgomery Impact Fee Table
- G: Escrow Calculation

1 EXECUTIVE SUMMARY

KHR Properties, LLC (the “Developer”) has requested the City of Montgomery (the “City”) to perform a feasibility study for the City to serve a commercial development on a 0.76-acre tract located on the southwest corner of SH-105 (Eva Street) and FM 149 (Liberty Street), also referred to as the Jack in the Box tract. The tract is located within City limits and would not need to be annexed prior to receiving utility service.

Based on the preliminary land plan provided by the Developer, this development would consist of a Commercial Development. The final land plan may affect the estimated costs of, and revenues associated with, the development.

The analysis shows that after the completion of the City’s Water Plant No. 2 Improvements project currently in construction and Water Plant No. 3 Booster Pump addition project, currently in design, the City will have the water capacity to serve the development and existing developments for the next few years but will need additional water plant capacity to serve all existing and proposed developments at full build out.

The analysis also shows that the City will have the sanitary sewer capacity to serve the proposed development, existing developments, and committed developments at full build out when the Town Creek WWTP plant project is completed. However, to serve all committed developed as well as those in feasibility, the City will need to begin planning for additional wastewater treatment plant upsizing in the next few years.

The estimated total costs that will be associated with the development are:

Escrow Account	\$7,500
Water Impact Fee	\$23,039
Wastewater Impact Fee	\$22,104
<hr/>	
Total Estimated Costs	\$52,643

Based on information provided by the Developer the estimated total assessed valuation for the development would be approximately \$ 750,000 at full build out. Based on the City’s current tax rate (\$0.0970 debt service and \$0.3030 for operations and maintenance) and an assumed 100% collection rate, the development will bring in approximate tax revenues as shown below:

Debt Service	\$ 727
Operations and Maintenance	\$ 2,273
<hr/>	
Total Estimated Annual Tax Revenue	\$ 3,000

2 INTRODUCTION

This undeveloped tract is located on the southwest corner of SH-105 (Eva Street) and FM 149 (Liberty Street) and falls entirely within the City limits.

The Tract's boundary in relation to the City's surrounding facilities is enclosed as **Exhibit A**. A preliminary site plan is enclosed as **Exhibit D** and indicates the Developer's intentions to develop this 0.76-acre tract.

The property is not platted and will be required to plat prior to development of the tract.

As shown in **Exhibit B**, the tract is currently zoned B – Commercial and would not require rezoning approvals prior to service. Based on the preliminary land plan, the proposed development consists of commercial development. All the referenced approvals would be required prior to receiving service from the City. The City's Director of Planning and Development will provide additional information on the use of the property within the existing zone.

3 ANALYSIS

Water Production and Distribution

System Capacity

The City has begun the construction of a water plant improvements project at the existing Water Plant No. 2 to restore the capacity of the City's water system. Upon completion, the City will have three (3) active water wells and two existing water plants with a capacity of 2,500 connections or 568,000 gallons per day average daily flow per Texas Commission on Environmental Quality ("TCEQ") requirements.

The City is also currently in design of the Water Plant No. 3 Booster Pump addition project which once complete will increase the water system capacity to 2,500 connections or 730,000 gallons per day average daily flow. This project is expected to complete construction in late 2025.

Finally, the City is currently soliciting for engineer firms to complete the design of their Water Plant No. 4 project. The scope of the project includes the construction of a 500,000-gallon elevated storage tank and 1,000gpm water well in the Jasper aquifer. The completion of this project will increase the City's water system capacity to approximately 5,000 connections or 1,216,000 gallons per day average daily flow. As a reminder the City has already obtained the permit for this well from the Lone Star Groundwater Conservation District. The project is expected to be constructed in 2026.

Water Demand

The current average daily flow ("ADF") in the City is approximately 474,876 gpd. At full build out of all existing developments and those in construction or design (with a development agreement) the City has committed approximately 950,000 gpd and 2,895 connections. A graph of the updated water usage projections is included as **Exhibit E1**. Once the Water Plant No. 2 Improvements Project and Water Plant No. 3 Booster Pump Addition project is complete, the City will have committed approximately 130% of the total ADF capacity and 116% of the connection capacity. After the completion of Water Plant No. 4, the City will have sufficient capacity to service all developments that are existing or in construction/design (with development agreements) at full build out.

Based on the preliminary site layout, and information provided from the Developer, the Tract's estimated water capacity requirement is approximately 1,285 gpd. This usage assumes the full build out of the proposed commercial tract. This development alone does not significantly impact the water system. However, inclusive of existing connections, platted developments, developments currently underway, other developments in feasibility, and this development, the City will have committed approximately 1,090,310 gpd and 3,308 connections. In order to serve all of these developments at full build out Water Plant No. 4 must be completed.

Exhibit E1 shows a graphical representation of historical water usage, projected water demand, and water plant capacity. As you will see there is a substantial increase in projected water demand in the scenarios shown. Those scenarios are as follows:

1. **A – Ready to Connect:** These are developments that are platted, infrastructure accepted, etc. that are ready to connect to the system at any time.

2. **B – A Plus in Design/Construction with Agreement:** This shows all of the developments in A plus those that the City has development agreements that are actively in the design or construction process.
3. **C – B Plus in Feasibility without Agreement:** This shows all of the developments in B plus the developments that are actively going through the due diligence process but have not yet entered into a development agreement with the City. This includes developments such as this development, BCS Capital, HEB, and Superior Properties.
4. **D – C Plus Anticipated Additional Development within the City Limits:** This includes everything in C plus tracts that are in the City limits but not actively working through the development process.

As you will see, there is a significant difference in the scenarios, also it is important to note:

1. The timing of developments is a huge factor and this graph is only based on end of year demands and then spread out linearly. Therefore, projects expected to come online late in the year will artificially inflate the projected demand earlier in the year.
2. It is also important to note that there is built in contingency to the projected numbers as our projected flows today show approximately 525,000 gpd but actual flows are 474,000 gpd.
3. Water demand is projected based on information provided by the developer and typically based on industry standards which are intended to be conservative. It is typical to see actual demand come in under this amount, however we plan for the higher.
4. Finally, it is important to note that the water plant capacity is based on Average Daily Flow capacity not peak capacity. For example, the capacity of the water system after the booster pump addition at Water Plant No. 3 is 730,000 gpd average daily flow but can produce in a max day scenario approximately 3,150,000 gpd. That number shown for capacity is limited by a 2.4 peaking factor and we have to assume that the largest booster pump is out of service in the calculation.

In summary, the City is getting tight on water system capacity and must continue to aggressively push to proceed with the required expansion projects to meet all of the expected demand.

Linear Utilities

There is an existing waterline located on the southeastern side of the property, that can serve the development. No public utility extensions are required.

The Developer is responsible for providing engineered plans and specifications for the on-site improvements to serve the proposed development to the City Engineer for review and approval prior to commencing construction, and to obtain all required City Council and development approvals and permits.

Sanitary Sewer Collection and Treatment

Sewer System Capacity

The City's existing wastewater facilities include 19 public lift stations and two (2) wastewater treatment plants (one of which is currently decommissioned). The Stewart Creek Wastewater Treatment Plant (TPDES Permit No. WQ0011521001) has a permitted capacity of 400,000 gpd.

The TCEQ requires the City to initiate design of a wastewater treatment capacity expansion when the ADF exceeds 75% of the City's 400,000 gpd permitted capacity (300,000) for 3 consecutive months. Based on our conservative estimates this is expected to occur in Q3 of 2025. Anticipating this requirement to be triggered, the City has selected Halff Associates to complete the design of a 0.3 MGD WWTP to replace the existing Town Creek WWTP that is currently decommissioned. Additionally, the TCEQ requires the commencement of the construction phase of the expansion after 3 consecutive months of ADF exceeding 90% of the permitted capacity (360,000 gpd). This is expected to occur in Q4 of 2026. Halff Associates plans to be complete with design of the 0.3 MGD Town Creek WWTP in late 2025 with construction being completed in late 2026.

The City will need to continue to proceed with design of additional plant expansions in order to keep up with demand. After completion of the Town Creek Wastewater Treatment Plant, the City will be treating sanitary sewer at 2 different locations and each location has a permit in place to expand. The location of the next expansion will depend on the location of development in order to make sure each plant is being optimally used. The City can either complete a 0.3 MGD expansion to the Town Creek Wastewater Treatment Plant or a 0.4 MGD expansion to the Stewart Creek Wastewater Treatment Plant.

Sanitary Sewer Demand

The current ADF at the Stewart Creek Wastewater Treatment Plant is 230,167 gpd or 58%. At full build out of all existing developments and those in construction or design (with a development agreement), the City has committed approximately 568,000 gpd or 142% of existing permitted capacity. Upon completion of the Town Creek Wastewater Treatment Plant the City will have committed approximately 81% of permitted capacity at full build out.

Based on the City's historical usage for similar types of development and information from the Developer, the Tract's estimated sanitary sewer capacity requirement is 1,285 gpd (38,550 gallons per month) at full build out. Inclusive of existing connections, platted developments, developments currently underway, other developments in feasibility, and this development, the City will have committed 684,000 gpd or 171% of existing permitted capacity and 98% of the expanded capacity at full build out.

Exhibit E2 shows a graphical representation of historical sanitary sewer flow, projected demand, and wastewater treatment plant capacity. As you will see there is a substantial increase in projected sanitary sewer demand in the scenarios shown. Those scenarios are as follows:

1. **A – Ready to Connect:** These are developments that are platted, infrastructure accepted, etc. that are ready to connect to the system at any time.
2. **B – A Plus in Design/Construction with Agreement:** This shows all of the developments in A plus those that the City has development agreements that are actively in the design or construction process.

3. **C – B Plus in Feasibility without Agreement:** This shows all of the developments in B plus the developments that are actively going through the due diligence process but have not yet entered into a development agreement with the City. This includes developments such as this development, BCS Capital, HEB, and Superior Properties.
4. **D – C Plus Anticipated Additional Development within the City Limits:** This includes everything in C plus tracts that are in the City limits but not actively working through the development process.

As you will see, there is a significant difference in the scenarios, also it is important to note:

1. The timing of developments is a huge factor, and this graph is only based on end of year demands and then spread out linearly. Therefore, projects expected to come online late in the year will artificially inflate the projected demand earlier in the year.
2. It is also important to note that there is built in contingency to the projected numbers as our projected flows today show approximately 297,000 gpd but actual flows are 230,000 gpd.
3. Sewer demand is projected based on information provided by the developer and typically based on industry standards which are intended to be conservative. It is typical to see actual demand come in under this amount, however we plan for the higher.

In summary, the City is getting tight on sanitary sewer system capacity and must continue to aggressively push to proceed with the required expansion projects to meet all of the expected demand.

Linear Utilities

The Developer will be responsible for the connection of proposed private gravity sanitary sewer line to existing sanitary line located on the eastern boundary of the tract. The Developer is responsible for providing engineered plans and specifications for the on-site improvements to serve the proposed development to the City Engineer for review and approval prior to commencing construction, and to obtain all required City Council and development approvals and permits.

The Developer will also need to coordinate the installation of sanitary sewer tap(s) into the public system with the City's Department of Public Works and will be responsible for all costs associated with said work.

Drainage

The onsite storm sewer system and detention system will be designated private and remain the responsibility of the Developer to maintain. All drainage and detention improvements must be designed per the City's current Code of Ordinances, requiring compliance with the City's floodplain regulations and all applicable TxDOT and Montgomery County Drainage Criteria Manual Standards. The Developer will also be required to perform and submit a drainage study showing the development's impact on the drainage downstream of the Tract and on adjacent properties. The drainage study must be submitted to TxDOT for review and approval prior to submitting plans to the City for review.

The Developer is responsible for providing engineering plans and specifications for the drainage and detention system interior to the development to the City Engineer for review and approval prior to commencing construction, and to obtain all required Planning and Zoning Commission, City Council, and development approvals and permits.

Paving and Traffic Planning

Per the current preliminary land plan, the Developer is proposing one (1) connection to State Highway 105 (Eva Street) and one (1) connection to FM 149 (Liberty Street). The Developer will be required to submit a Traffic Impact Analysis to TxDOT to show how the proposed connections will impact traffic on these streets to ensure there will be no backup of traffic in the drive through that would impact the adjacent roads.

Per the current preliminary land plan, the Developer is also proposing one cross access between the proposed development and the adjacent development. The Developer will be responsible for obtaining all the necessary easements or agreements with the neighboring property owner for the proposed driveway.

The Developer will also be responsible for obtaining all required TxDOT permits for the driveway connections.

Development Costs

The Developer will need to engineer and construct the onsite water, sanitary sewer, paving, and drainage facilities to serve the proposed Tract.

The Developer will also need to pay water and wastewater impact fees to the City. The impact fees will be assessed at the time of recordation of the final plat and collected prior to receiving water and sanitary sewer taps. Enclosed as **Exhibit F** are the 2023 Revisions to the Montgomery Impact Fee Analysis Report. The estimated ADF provided by the developer requires the equivalent use of (1) 2- inch water tap for the commercial reserve, per **Exhibit F**. These sizes are based on our best judgment and are subject to change based on the Developer’s final land plan.

An escrow agreement has been Executed by the Developer and the City, and funds have been deposited to cover the cost of this feasibility study. An estimated additional \$7,500 will be required to cover the City’s remaining expenses for the development, which includes administrative costs, legal fees, plan reviews, developer and construction coordination, and construction inspection. This is with the assumption that the development will require 3 plan reviews. The fees calculation can be seen in **Exhibit G**. These additional funds must be deposited into the escrow prior to any work being completed by the City, and do not include the engineering costs associated with the design of the offsite improvements.

Below is a summary of the estimated costs associated with the development:

Escrow Account	\$7,500
Water Impact Fee	\$23,039
Wastewater Impact Fee	\$22,104
Total Estimated Costs	\$52,643

These estimates are based on the projected water and wastewater usage provided by the developer. The actual costs will depend on the final land plan, final design, and actual construction costs.

Financial Feasibility

The Developer estimates the total assessed value (A.V.) at full development to be approximately \$750,000. Based on the estimated total A.V. and assuming 100% collection, the in-city development would generate approximately \$727 per year in debt service revenue, and approximately \$2,273 per year in operations and maintenance revenue. These estimates are based on the City's \$0.0970/\$100 valuation debt service tax rate and the \$0.3030/\$100 valuation Operations & Maintenance (O&M) tax rate.

Next Steps

If the Developer decides to move forward with the proposed development, the Developer will need to first provide the additional escrow deposit. Next the developer will need to obtain any necessary special use permits or variances. The Developer will then be required to enter into a Development Agreement that outlines the development including impact fees and any other specific terms that need to be defined. Once completed, the Developer would be responsible for submitting and getting approval for their plat and private site civil drawings.

This report is our engineering evaluation of the funds required to complete the anticipated future capital improvement for this Tract and of the potential increase in tax revenue to the City. This report is not intended to be used for the issuance of municipal financial products or the issuance of municipal securities. The City's Financial Advisor(s) can address potential recommendations related to the issuance of municipal financial products and securities.

Thank you for the opportunity to complete this feasibility study and offer our recommendations. Please contact me or Katherine Vu, P.E., should you have any questions.

Sincerely,



Chris Roznovsky, PE
City Engineer



- Legend**
- City Limits
 - City ETJ
 - Tax Parcel
 - Tract Boundary
- Ongoing Developments**
- In Design/Construction
 - Planning/Feasibility
- Flood Hazard Zones**
- Regulatory Floodway
 - 1% Annual Chance Flood Hazard
 - 0.2% Annual Chance Flood Hazard

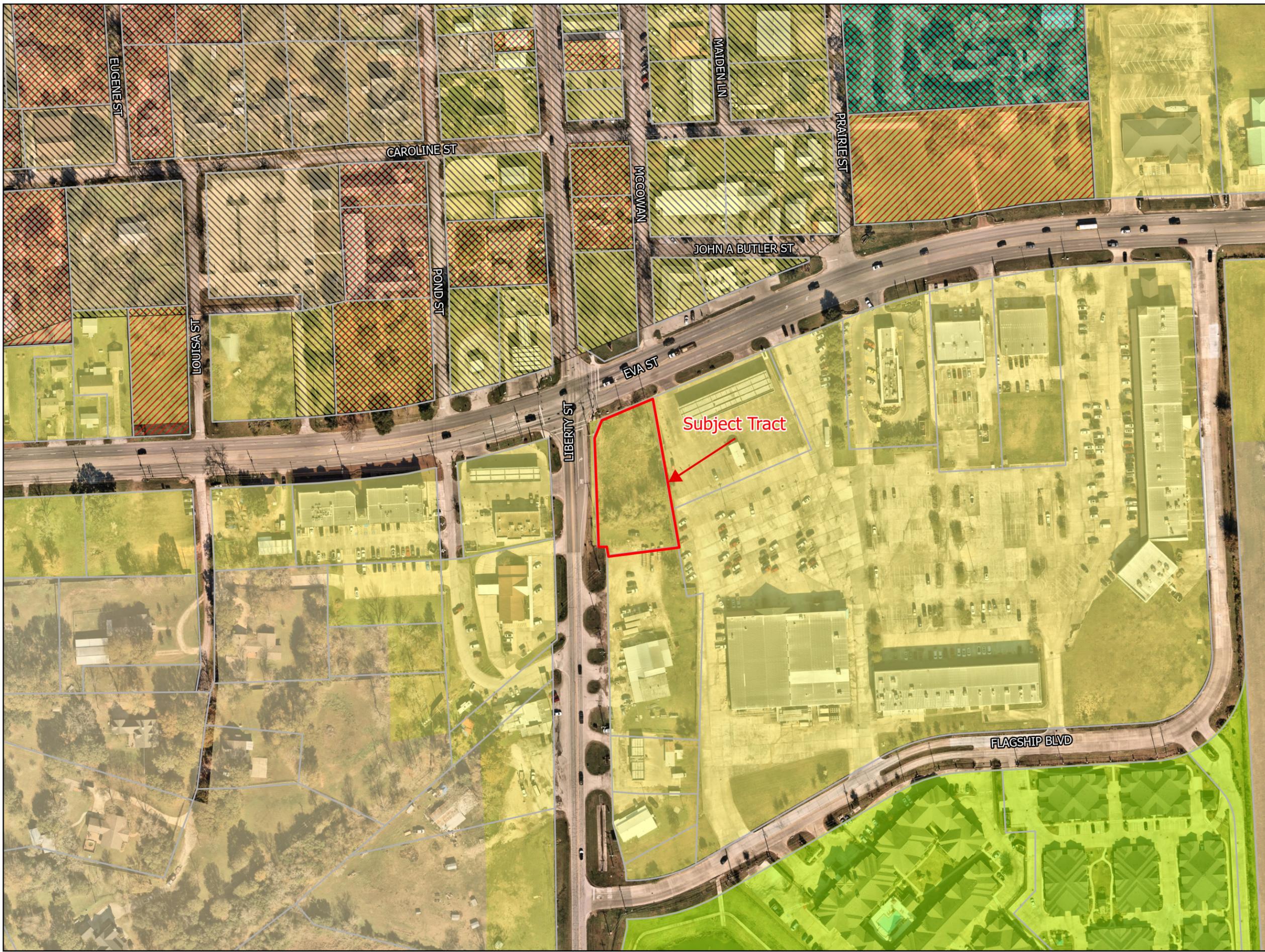
Exhibit A Tract Location

Jack In The Box Feasibility Study



Disclaimer: This product is offered for graphical purposes only and may not be suitable for legal, engineering, or surveying purposes. The information shown on this exhibit represents the approximate location of property, municipal boundaries or facilities.





Legend

- City Limits
- Tax Parcel
- Tract Boundary

Zoning

- B - Commercial
- ID - Industrial
- I - Institutional
- R2 - Multi-Family
- PD - Planned Development
- R1 - Residential
- Historical Preservation
- Historical Landmark

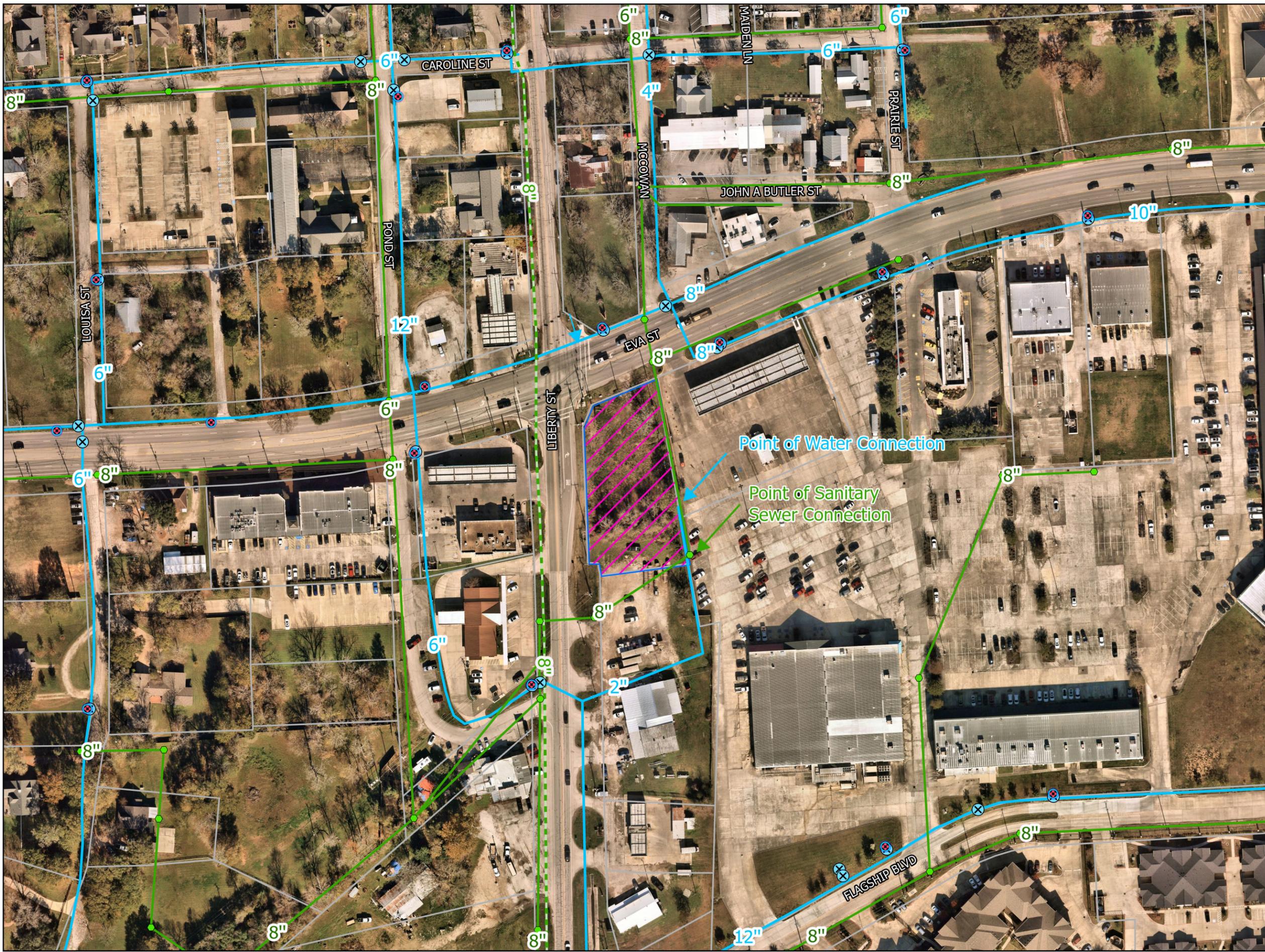
Exhibit B Zoning Map

Jack In The Box Feasibility Study



Disclaimer: This product is offered for graphical purposes only and may not be suitable for legal, engineering, or surveying purposes. The information shown on this exhibit represents the approximate location of property, municipal boundaries or facilities.





Legend

- Tax Parcel
- City ETJ
- City Limits
- Tract Boundary

Water

- ⊗ Hydrant
- ⊗ Water Main Valve
- Water Main

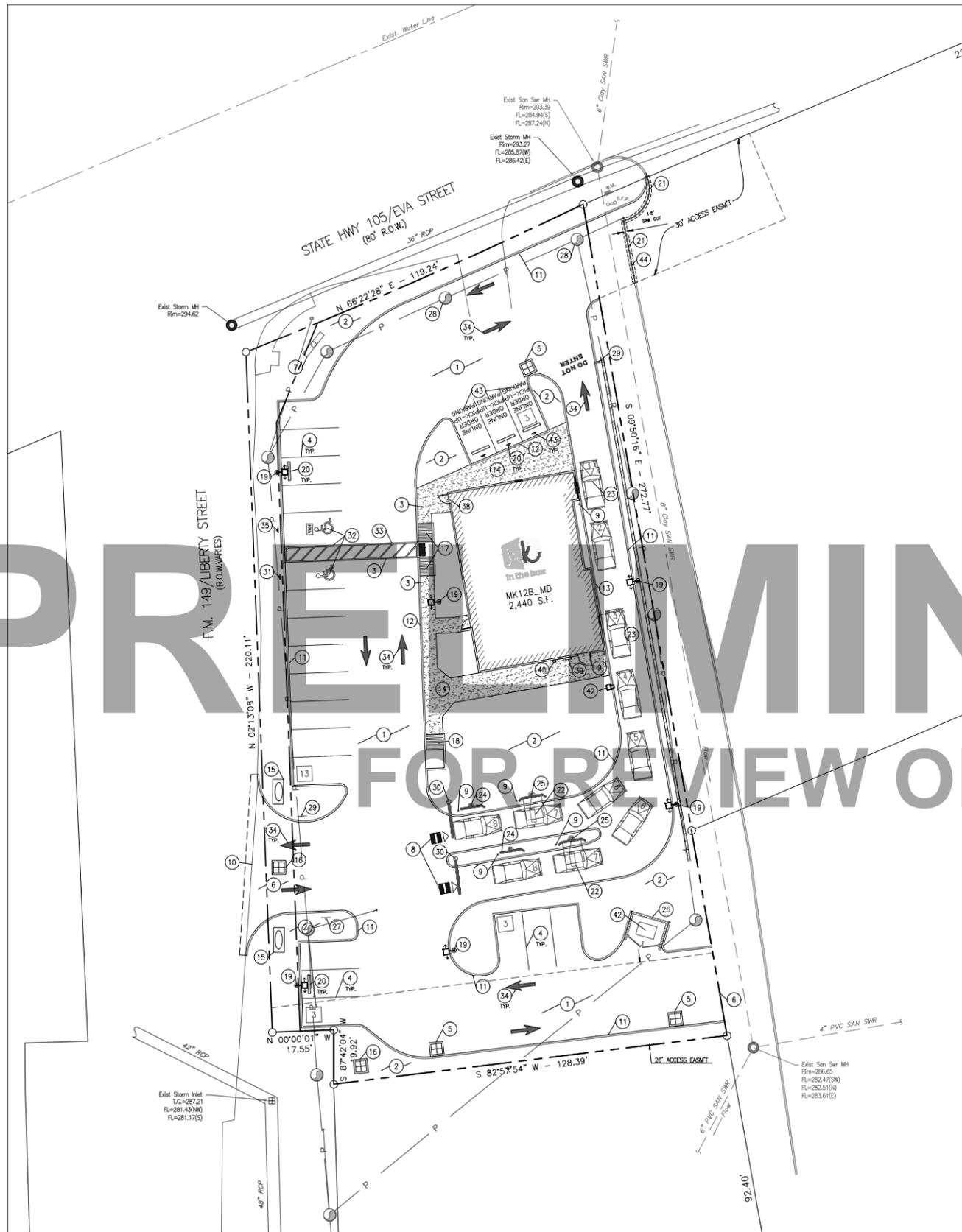
Sanitary Sewer

- Sanitary Sewer Manhole
- Sanitary Sewer Gravity Main

Exhibit C Utilities Layout

Jack In The Box
Feasibility Study





SITE PLAN KEY NOTES

1. PROPOSED REINFORCED CONCRETE PAVEMENT. SEE GENERAL NOTE 10.1 SHEET SD1.1.
2. PROPOSED LANDSCAPE AREA. SEE LANDSCAPE PLANS.
3. PROPOSED ADA TRAVEL WAY. MAX CROSS SLOPE 2%; SLOPE ALONG THE TRAVEL WAY 5%.
4. PROPOSED 4" WIDE PARKING STRIPING. STRIPING SHALL BE WHITE.
5. PROPOSED INLET, SEE DETAIL SHEET SD2.3.
6. PROPOSED CONCRETE DRIVEWAY WITH CULVERT PER TxDOT STANDARDS AND DETAILS. SEE DETAIL SHEET XX.
7. PROPOSED PYLON SIGN; GENERAL CONTRACTOR TO PROVIDE CONDUIT AND WIRING PER SHEET ES1.0. INSTALLATION BY SIGN CONTRACTOR.
8. DRIVE-THRU ARROW, PAINTED IMPULSIVE PURPLE, SEE DETAIL 20/SD2.2.
9. STALL BARRIER POSTS AT PREVIEW BOARD, MENU BOARD, AND PERIPHERAL TO BUILDING CORNERS; SEE DETAIL 4/SD2.1. CONTRACTOR TO PROVIDE SLEEVES THROUGH CURB AND GUTTER WHERE APPROPRIATE. SEE A1.0 FOR DIMENSIONING CONTROL & BARRIERS ADJACENT TO BUILDING.
10. PROPOSED THICKENED CONCRETE EDGE SEE DETAIL 8/SD2.0.
11. CONSTRUCT CONCRETE CURB AND GUTTER; SEE DETAIL 1/SD2.0.
12. CONSTRUCT CONCRETE CURB AND SIDEWALK; SEE DETAIL 4/SD2.0.
13. CONSTRUCT CONCRETE CURB AT BUILDING SIDE OF DRIVE-THRU LANE; SEE DETAIL 6/SD2.0.
14. INSTALL 4" THICK CONCRETE SIDEWALK WITH LIGHT BROOM FINISH; SEE DETAIL 13/SD2.0.
15. PROPOSED STANDARD END TREATMENT; SEE DETAIL SHEET XX.
16. PROPOSED JUNCTION BOX INLET. SEE DETAIL SHEET SD2.3
17. PROVIDE RAMP AND LANDINGS AT HANDICAP ACCESSIBLE PARKING SPACES; SEE DETAIL 15/SD2.0.
18. CONSTRUCT DELIVERY RAMP; SEE DETAILS 17/SD2.0.
19. INSTALL LIGHT POLE BASE' SEE DETAIL 16/SD2.1. REFER TO SHEET ES1.1 FOR POLE AND FIXTURE REQUIREMENTS.
20. INSTALL CONCRETE WHEEL STOP TYPICAL AT HANDICAP SPACES AND STANDARD SPACES FRONTING 6' OR LESSER WIDTH SIDEWALKS; SEE DETAIL 9/SD2.0.
21. DEMOLISH EXISTING CONCRETE CURB.
22. INSTALL DETECTOR LOOP FOR ORDER BOARD; SEE DETAIL 18/SD2.1.
23. INSTALL DETECTOR LOOP AT PICK UP WINDOW; SEE DETAIL 10/SD2.1.
24. INSTALL PREVIEW BOARD; SEE DETAIL 20/SD2.0.
25. INSTALL ORDER BOARD AND WEATHER PROTECTION CANOPY; SEE DETAIL 18/SD2.1.
26. CONSTRUCT MASONRY BLOCK TRASH ENCLOSURE; SEE DETAIL 6/SD2.2.
27. SITE 'ENTRY' SIGN UNDER SEPARATE COVER. GENERAL CONTRACTOR REFER TO SHEET ES1.0 FOR CONDUIT AND WIRING REQUIREMENTS.
28. RELOCATE POWER POLE; CONTRACTOR SHALL COORDINATE WITH CENTERPOINT.
29. SITE 'THANK/DO NOT ENTER' SIGN UNDER SEPARATE COVER. GENERAL CONTRACTOR REFER TO SHEET ES1.0 FOR CONDUIT AND WIRING REQUIREMENTS.
30. INSTALL SINGLE BAR HEIGHT CLEARANCE (9'-0") AND WARNING POLE SIGN; SEE DETAIL 20/SD2.1. INCLUDE SITE 'DRIVE-THRU' SIGN; SEE NOTE 28.
31. INSTALL ACCESSIBLE PARKING SIGN; SEE DETAIL 8/SD2.1.
32. PAINT ACCESSIBLE PARKING SYMBOLS, TEXT, AND DIAGONALS; SEE DETAIL 13/SD2.2.
33. PROPOSED 4" WHITE STRIPES AT 36" O.C. AND 45 DEGREES TO TRAFFIC DIRECTION. BORDER WITH 4" SOLID WHITE STRIPE.
34. PAINT TRAFFIC DIRECTIONAL ARROWS; SOLID WHITE, TYPICAL AS SHOWN.
35. INSTALL ACCESSIBLE PARKING SIGN WITH 'VAN' PLACARD. SEE DETAIL 8/SD2.1.
36. PROPOSED TRANSFORMER LOCATION CONTRACTOR TO COORDINATE WITH THE APPROPRIATE UTILITY PROVIDER. BOLLARDS INSTALLED PER PROVIDER STANDARDS. REFER TO SHEETS PS1.0 AND ES1.0.
37. PROPOSED GREASE TRAP; SEE PLUMBING PLAN DETAIL SHEET P5.1.
38. PROVIDE INTERNATIONAL SYMBOL OF ACCESSIBILITY DECAL ON DOOR.
39. PROPOSED ELECTRIC METER AND C/T CABINET MOUNTING, CONTRACTOR TO COORDINATE WITH THE APPROPRIATE UTILITY PROVIDER. REFER TO SHEET PS1.0.
40. PROPOSED GAS METER LOCATION CONTRACTOR TO COORDINATE WITH THE APPROPRIATE UTILITY PROVIDER. BOLLARDS INSTALLED PER PROVIDER STANDARDS. REFER TO SHEETS PS1.0 AND P3.0.
41. PROPOSED SANITARY SEWER MANHOLE, SEE DETAIL SHEET SD2.3 & SHEET SD1.2 FOR BACKFILL REQUIREMENTS.
42. PROVIDE TRASH RECEPTACLE. LOCATE AS REQUIRED FOR SITE CONDITIONS.
43. DEDICATED WAITING STALL PARKING SIGN, SEE DETAIL 8/SD2.1. PAINT PARKING STALL STRIPING IMPULSIVE PURPLE FOR ONLINE ORDERING/DELIVERY PARKING SPOTS. PAINT WHEEL STOPS AT THE DEDICATED WAITING SPACES IMPULSIVE PURPLE.
44. PROPOSED EXPANSION CONSTRUCTION JOINT. SEE DETAIL 6/SD2.1.

NOTE
OVERHEAD AND UNDERGROUND UTILITIES MAY EXIST IN THE VICINITY OF THIS PROJECT. LOCATIONS SHOWN FOR EXISTING UTILITIES ARE APPROXIMATE AND OTHER UTILITIES MAY EXIST IN THE VICINITY OF THE PROJECT WHICH ARE NOT SHOWN ON THE PLANS. IT IS THE RESPONSIBILITY OF THE CONTRACTOR TO LOCATE EXACT ALL EXISTING UTILITIES IN THE VICINITY OF THE PROJECT, PRIOR TO BEGINNING CONSTRUCTION. IF ANY DISCREPANCY EXISTS, NOTIFY ENGINEER.

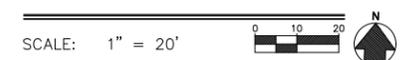
LEGEND

- PARKING COUNT
- CAR STACKING

PARKING REQUIREMENTS

1 SPACE PER 6 CUSTOMER SEATS
1 SPACE PER 2 EMPLOYEES
50 SEATS + 7 EMPLOYEES = 13 MIN.

PARKING PROVIDED	20 SPACES
ADA PARKING PROVIDED	2 SPACES
TOTAL PARKING PROVIDED	22 SPACES



DATES

RELEASE: JANUARY 2024
P.M. UPDATES: _____
SUBMITTAL DATE:
1: _____
2: _____
3: _____
BID: _____
CONSTRUCTION: _____

REVISIONS

△	
△	
△	
△	
△	
△	



NOVEMBER 4, 2024

SITE INFORMATION

MK TYPE: MK12B_MD
JOB #: 4947
ADDRESS:
21049 EVA STREET
MONTGOMERY, TX 77356
DRAWN BY: AK
PROJECT #: 1181.39
SCALE: 1=20'

SITE PLAN
SD1.0

Exhibit E.1:
Water Demand Projections
February 17, 2025

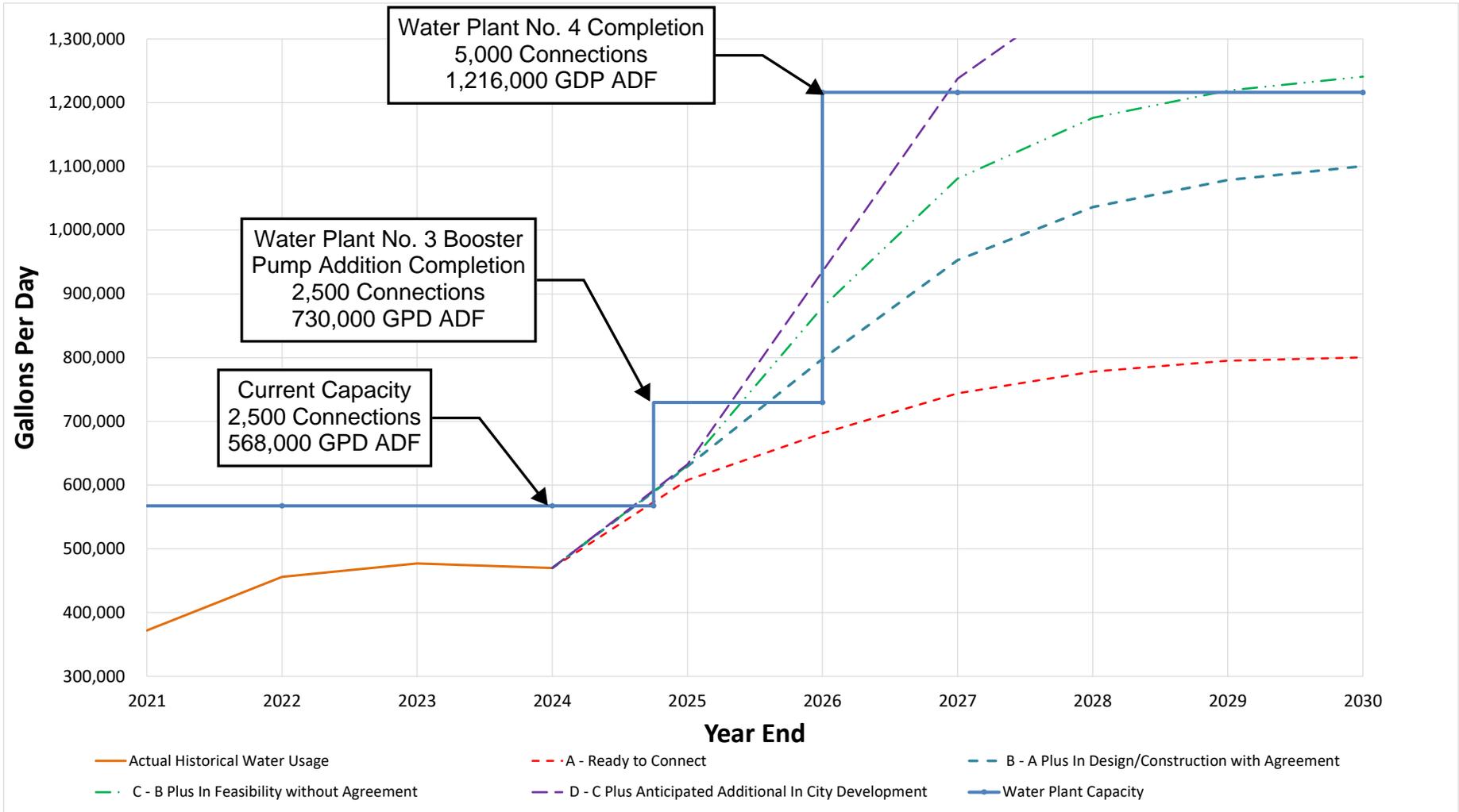
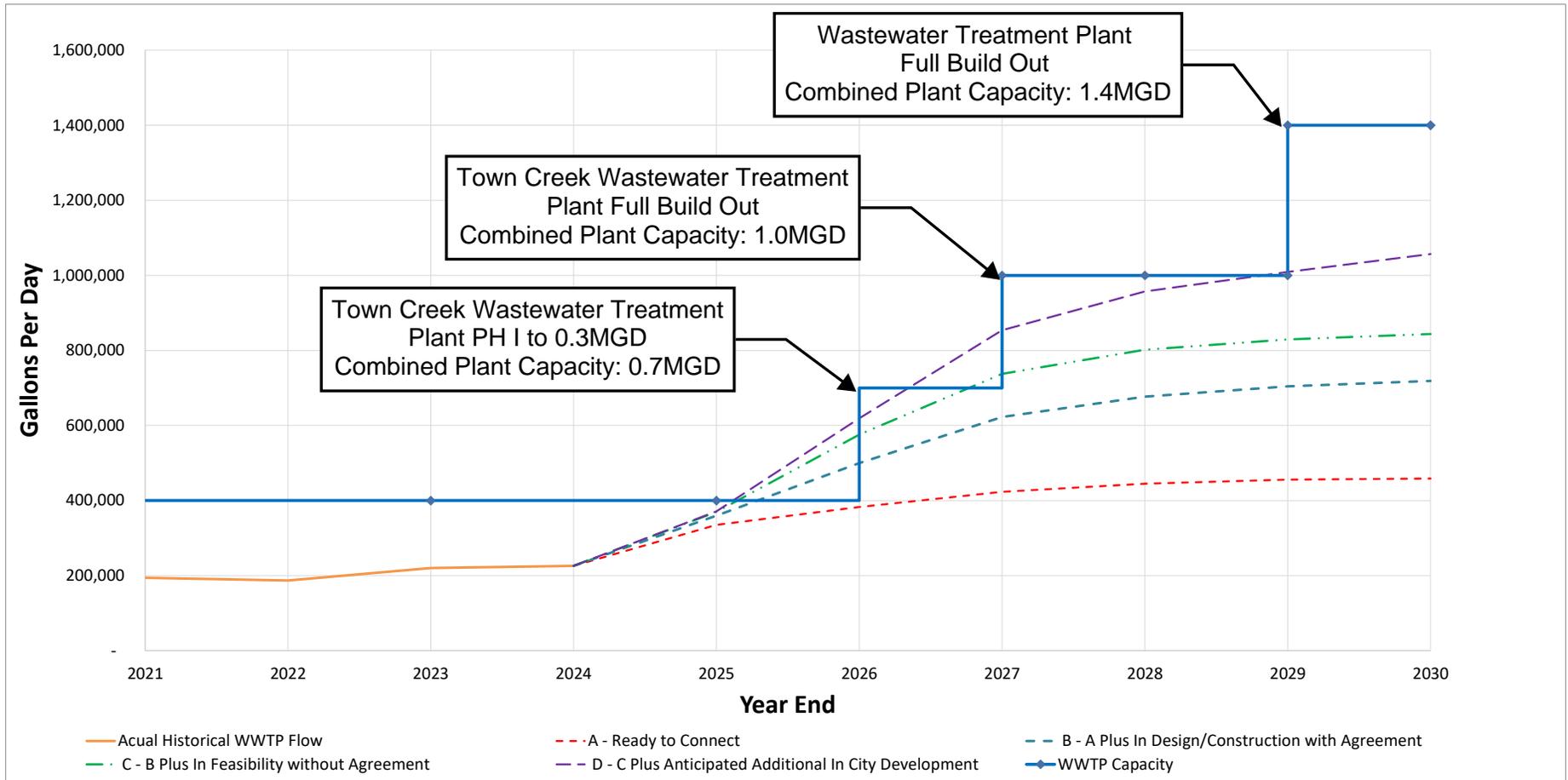


Exhibit E.2:
Wastewater Demand Projections
February 17, 2025



EXIHIBIT F: IMPACT FEE SUMMARY
September 2024

Meter Size ⁽¹⁾	Maximum Capacity (GPM)	Maximum Assessable Water Fee (\$/ESFC)	Maximum Assessable Wastewater Fee (\$/ESFC)	Maximum Assessable Fee (\$/ESFC)
5/8"	15	2,033	1,951	3,984
3/4"	25	3,396	3,258	6,654
1"	40	5,429	5,209	10,638
1 1/2"	120	16,268	15,607	31,875
2"	170	23,039	22,104	45,143
3"	350	47,441	45,515	92,956
4"	600	81,339	78,037	159,376
6"	1,200	162,679	156,074	318,753
8"	1,800	244,018	234,111	478,129

1. 5/8" Meter size is used for all connections equal to 1 ESFC (Equivalent Single Family Connection), and reflects the installation of a 5/8" x 3/4" meter.

ESCROW AGREEMENT, SECTION 2.03 ATTACHMENT

BY AND BETWEEN

THE CITY OF MONTGOMERY, TEXAS,

AND

Jack in the Box

Dev. No. 2414

THE STATE OF TEXAS ⊃

COUNTY OF MONTGOMERY ⊃

As per section 2.03, the Feasibility Study completed an estimate of the additional escrow amount, which was determined for administration costs, legal fees, plan reviews, developer coordination, construction coordination, construction inspection, and warranty of services. The required additional amount is below:

Administration	\$ 1,500
City Attorney	\$ 1,500
City Engineer	\$ 4,500
<hr/>	
TOTAL	\$ 7,500

Note: Any changes to the site plan or phasing of the project may result in changes to the cost to the City. In that event, additional deposits would be required by the Developer.

Montgomery City Council
AGENDA REPORT

Meeting Date: 2/25/2025	Budgeted Amount: NA
Department: Administration	Prepared By: Maryann Carl

Subject

Discussion and possible action to waive Hotel Occupancy Tax penalty for Quarter 4 – 2024 for The Caroline House.

Discussion

Per Ordinance 2019-20, a late fee is assessed for Hotel Occupancy Tax reports and/or payments that are not timely filed.

Attached is a request from Mary Eckhart-Sims, Owner/Operator of The Caroline House, to waive the penalty for late report and payment of Hotel Occupancy Tax for Quarter 4 of 2024. In review of report filings and payments made, we note The Caroline House has not previously had any late filings or payments of HOT taxes.

Recommendation

Approve waiving the penalty as requested.

Approved By

City Secretary Director of Administrative Services	Ruby Beaven	Date: 02/19/2025
---	-------------	------------------

3/12/2025

Hi, Maryann -

Attached is the filing report for the 4th qtr of 2024. It was late due to stress/work involving the sell of my home and finding a new place to live. The penalty was \$2.61 (which I did include in my payment)

I am asking a waiver to forgive this penalty. I attached my request for a waiver from the state for the same reason and my accounting records.

Thank you very much for working with me on this matter.

Sincerely,

Mary C Sims
Treasurer / Owner
The Caroline House

(/)

Submit a Filing



CITY OF MONTGOMERY

Hotel Occupancy Tax Form -Quarterly

Businesses are required to file a 7% local occupancy tax for any sleeping room furnished by any hotel, motel, or other overnight lodgings within the city or its extraterritorial jurisdiction.

For customer support, please call Localgov Customer Service at (877) 842-3037 or email at service@localgov.org

Due Date

Filing Period	Due Date
10/1/2024	1/31/2025

Other Fields

Doing Business As

The Caroline House - A Bed and Breakfast

State Tax ID

TX

Business Address 1

811 CAROLINE ST

Business Address 2

Business City

Montgomery

Business State

TX

Business Zip Code

77356

Gross Room Rental Receipts

Not including taxes or other non-room rental charges added to the hotel or motel bill

Gross Tax

7% of Gross Receipts

Penalty

\$42.61

5% if paid after the due date

Interest

\$0.00

7% if paid 30 days after the due date

Total Amount Due

Item 21.

I declare that, to the best of my knowledge, the information contained in this report is true and accurate.

Name

MARY ECKHART-SIMS

Title

Owner/Innkeeper

Date

2/12/2025

* Required Fi

< Back (/General/V2Filings/SubmitOrEdit?sessionKey=5a156321-cca9-4d1b-bce3-2bee188be472&taypayerBusinessId=)

Cancel

File & Pay

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Terms (<https://portal.localgov.org/Home/Terms>)

Privacy Policy (<https://portal.localgov.org/Home/PrivacyPolicy>)

☎ 877-842-3037 (tel:877-842-3037)

✉ service@localgov.org (mailto:service@localgov.org)

Request to Comptroller



Request for Waiver of Penalty for Late Report and/or Payment

You have certain rights under Chapters 552 and 559, Government Code, to review, request and correct information we have on file about you. Contact us at the address or phone number listed on this form.

Taxpayer Information

a. Taxpayer name MARY C ECKHART SIMS	b. Texas 11-digit taxpayer number
--	-----------------------------------

Penalty Waiver Request Maximum Waiver Request not to exceed 6 monthly, 2 quarterly or 1 annual tax period(s) per taxpayer. (If you are requesting a waiver for more than one tax type or for more than one period, be sure to list each request separately.)

c. Enter tax type for which the waiver is requested as shown on tax notice or report. (For example, if sales tax enter sales tax, if franchise tax, enter franchise tax, etc.)	d. Enter filing type as either Yearly, Quarterly, or Monthly.	e. Enter the last month for the tax report period.	f. Enter the year the report was due.	g. Enter amount of penalty requesting to be waived.
Texas Hotel Occupancy Tax Report	Quarterly	12/31/2024	2025	86.53
Total amount				\$ 86.53

Penalty Waiver Reason

Briefly explain why the report and/or payment was late, and any steps taken to correct the problem that caused the late filing or payment.

I am retiring, selling my property, and moving. I always try to pay my bills in a timely manner. In the midst of negotiations, finding a new home, and running the business, I forgot to send in my quarterly tax report. I am so sorry. I am filing the form today (2/7/2025) including the penalty, but would be very appreciative if the penalty could be waived. Thank you so much for your consideration.

Contact Information

Preferred contact method (Check one.) <input checked="" type="checkbox"/> Email <input type="checkbox"/> Mail	Company/requestor's name (if different from the taxpayer)	Date 02/07/2025
First and last name Mary Sims	Job title Innkeeper	
Email	Phone (Area code and number)	
Address 811 Caroline St	City Montgomery	State Texas
		ZIP code 77356

Send your completed request by mail, email or FAX.

Comptroller of Public Accounts
Attn: Advanced Processes Section
111 E. 17th St.
Austin, TX 78774-0100

waivers@cpa.texas.gov

FAX: 512-936-6225 or 1-888-908-9995

If you need additional information about requesting a waiver, call us at 1-800-531-5441, ext. 34560, or 512-463-4560. All waivers are worked in the order they are received. Allow 28 days for us to contact you.

Montgomery City Council
AGENDA REPORT

Meeting Date: 02/25/2025	Budgeted Amount: NONE
Department: Administration	Prepared By: WGA

Subject
 Departmental Updates: Engineering

Recommendation
 Discussion only

Discussion
 The Engineer’s meeting report is attached.
 Discussion of Engineering updates from the past month.

Approved By		
City Staff	Ruby Beaven	Date: 2/21/2025



February 17, 2025

The Honorable Mayor and City Council
City of Montgomery
101 Old Plantersville Road
Montgomery, Texas 77316

Re: Monthly Engineering Report
City Council Meeting February 25, 2025

Dear Mayor and Council:

The following is a brief summary that describes our activities since the January 28, 2024 Council Meeting:

Capital Projects:

- 1. Water Plant No. 2 Improvements** – We received Pay Estimate No. 4 and 5 in the amounts of \$136,350.00 and \$9,000.00. The contractor is 47% completed by time and 14% completed by value as of January 27th. The contractor completed the demolition of the existing ground storage tank (“GST”) and is finalizing the design of the GST foundation. The cost for the design and foundation was included in the contract as a supplemental item. The contractor’s current schedule has the plant being substantially completed in July 2025.



*January 24, 2025
New Well Site*

- 2. FM 1097 Sanitary Sewer Rehabilitation** – We received Change Order No. 1 in the amount of \$9,460.00 and 0 calendar days. The change order included work to reroute the proposed sanitary line to a previously unidentified manhole. The alignment shift ultimately moves the City sanitary sewer line closer to the Right-of-Way and further from the private property and creek. The Contractor is substantially complete with the project, and we plan to hold the final walkthrough the week of February 17th.



*February 5, 2025
New Manhole Installation*

- 3. 2023 Sanitary Sewer Rehabilitation Phase I** – We did not receive a pay estimate or change order this month. We met with the Contractor on February 13th to discuss the project and were given the outstanding post rehabilitation videos at that time. We are in the process of reviewing those videos.
- 4. Old Plantersville Force Main Extension** – We did not receive a pay estimate or change order this month. We performed a final inspection on September 12th and issued the punchlist at that time. The contractor is continuing to address the site restoration concerns and has planted the required winter mix. The contractor will establish permanent vegetation during the Spring of this year. As a reminder, this project is being funded by Redbird Meadows.

Honorable Mayor and City Council
 City of Montgomery
 Page 3 of 7
 February 17, 2025

5. **Old Plantersville Waterline Extension** – We did not receive a pay estimate or change order this month. The Contractor has completed installation of the majority of the waterline with the exception of the railroad crossing that is scheduled to be completed by the end of February. As a reminder, the project was awarded to Bull-G Construction LLC., in the amount of \$1,023,795.00 and 120 calendar days. This project is being funded by Redbird Meadows.



*February 7, 2025
 TS&V Installation at SH-105*

6. **TPDES Permit Amendment (Town Creek Wastewater Treatment Plant)** –The completed application for the permit amendment was submitted to the TCEQ in September 2023. It is our understanding that TCEQ is experiencing significant delays in processing permits, and we are following up regularly to determine the status of the City’s permit. We received a notice from the TCEQ stating that the draft permit will be posted on February 17, 2025 to allow for public comment. Based on this timing, it is our understanding that the City should expect to receive the final permit by May 2025.
7. **Downtown Streetscape Improvements** – We are continuing to coordinate the design of the downtown streetscape improvements with Montgomery Economic Development Committee and Ardurra.
8. **McCown St. and Caroline St. Waterline Replacement** – The scope of the project is being revised based on ongoing conversations with the MEDC, Ardurra, and downtown property owners.
9. **Town Creek Wastewater Plant Expansion to 0.3 MGD** – As a reminder, City Council authorized Halff Associates to complete the design of the Town Creek Wastewater Treatment Plant expansion to 0.3 MGD at the April 23rd Council meeting. We are planning to hold a kickoff meeting with Halff and staff on February 19th.

Honorable Mayor and City Council
 City of Montgomery
 Page 4 of 7
 February 17, 2025

-
- 10. Water Plant No. 4 Request for Qualifications** – We received 3 statements of qualifications on October 10th and are continuing our review. We plan to discuss this as a separate agenda item at this meeting.
- 11. Buffalo Springs Dr. & SH-105 Traffic Signal** – We did not receive a pay estimate or change order this month. The contractor is substantially complete with the construction of the signal. It is our understanding that TxDOT has fully accepted the infrastructure as of February 17, 2025. As a reminder, the project is being funded by The Home Depot.
- 12. College Street Drainage:** As authorized at the January 14th Council Meeting, we are continuing with the design of the proposed drainage improvements. Additionally, we met with GrantWorks on February 6th to discuss all required documentation and bidding requirements. We expect to be complete with design in April 2025.
- 13. Water Plant No. 3 Booster Pump Addition:** As authorized at the January 14th Council Meeting, we are continuing with the design of the booster pump addition at Water Plant No. 3. Additionally, we met with GrantWorks on February 6th to discuss all required documentation and bidding requirements. We are finalizing design and plan to submit to the TCEQ in March 2025.

Developments:

1. Feasibility Studies –

- a. **Jack in the Box:** As authorized at the January 14th Council meeting, we are continuing with our feasibility study. We have prepared our analysis and plan to discuss this as a separate agenda item during this meeting.

2. Plan Reviews

- a. **Lone Star Ridge Section 1 WSD&P** – We have not received plans December 4th and provided comments January 31st. We have not received revised plans.
- b. **Lone Star Ridge Section 2 WSD&P** – We received revised plans December 10th and provided comments on January 14th. We have not received revised plans.
- c. **Heritage Grove Drainage Impact Study** – We received further revised plans on December 6th and provided comments on January 21st. We have not received a revised study this month.
- d. **Heritage Grove Mass Grading and Detention** – We received plans for review on December 12th and provided comments on January 21st. We have not received revised plans
- e. **Briarely (Formerly known as Redbird Meadows) PH 1B WSD&P** – We received revised plans on February 11th and are proceeding with our review.
- f. **Lone Star Cowboy Church** – We received revised plans December 3rd and provided comments on December 27th.

3. Plat Reviews

- a. **Superior Properties Preliminary Plat** – We received a revised plat January 23rd and provided comments February 2nd.
- b. **MISD Athletic Complex Development Plat** – We received a revised plat on January 23rd and plan on providing plat approval the week of February 17th.
- c. **Montgomery Bend Section 4 Final Plat** – We received the final plat for review on October 7th and provided comments on October 30th. We received a revised plat on November 25th and found no issues with the plat. As a part of Pulte’s Traffic Impact Analysis, they are required to construct a traffic signal at the subdivision entrance prior to this plat being recorded. We plan to withhold approval of this final plat until the signal has been constructed.
- d. **Heritage Grove (Formerly known as Legacy Grove) Preliminary Plat** – We received a preliminary plat for review on October 24th and provided comments on November 14th. We received a preliminary plat for review on February 6th and are proceeding with our review.
- e. **1005 College St. Partial Re-Plat**– We received a preliminary plat for review on January 7th and provided comments February 4th.
- f. **Briarely (Formally known as Redbird Meadows) Phase 1B (Sections 4-6)** – We received preliminary plats for review on January 9th and provided comments February 17th.
- g. **612 Worsham Development Plat** – We received a Development plat for review on January 31st and are proceeding with our review.
- h. **Buffalo Springs Section 2 Partial Re-Plat No. 1** – We received a partial re-plat for review on January 31st and are proceeding with our review.

4. Ongoing Construction

- a. **MUD No. 215 (Redbird Meadows) Lift Station (City of Montgomery Lift Station No. 16)** – It is our understanding that the contractor is continuing construction of the lift station and is expected to be substantially complete around the end of March 2025.

Honorable Mayor and City Council
 City of Montgomery
 Page 6 of 7
 February 17, 2025

- b. Redbird Meadows Phase 1A Water, Sanitary, Drainage, and Paving** – The contractor is nearing completion of water, sanitary sewer, storm sewer and paving for the site. We plan to hold a final walkthrough on Sections 1, 2, and 3 in the next few weeks.



February 7, 2025
Constructed Detention Pond Outfall

5. One-Year Warranty Inspections

- a. Town Creek Crossing Section 1** – We held a warranty re-inspection on October 10, 2023. The developer and contractor have been non-responsive to addressing the punchlist items. We are pursuing the maintenance bond and plan to coordinate with the City Attorney to have the work completed.
- b. Flagship Blvd. Storm Sewer and Paving** – We held the one-year warranty inspection with the City on December 5th and issued the punchlist to the contractor the same day. The contractor is actively addressing all outstanding items, and we are working with the contractor on identifying a schedule of when the work will be complete for re-inspection.

General Ongoing Activities:

1. TxDOT:

- a. FM 1097 & Atkins Creek Drainage Improvements** – We are continuing to coordinate with TxDOT on their timeline of a fully designed improvements project. It is our understanding that TxDOT has acquired all of the necessary right-of-way to complete the improvements.
- b. FM 1097 and Buffalo Springs Drive Traffic Signal** – It is our understanding the signal is in design. TxDOT does not currently have a construction schedule, but they do not expect construction to begin for a few years. There were no further updates on the project from TxDOT at the June 18th bi-annual coordination meeting.

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- c. **Access Management along SH-105 from Grimes County Line to Shepperd Street** – We met with TxDOT on December 17th to discuss the timing of this project. It is our understanding that TxDOT is experiencing delays finalizing their design and has pushed back the project to 2028, with a tentative let date of September 2027. We are continuing coordination with TxDOT and their engineer on the required utility relocations for the proposed roadway expansion.
2. **Biweekly Operations Call** – We are continuing the biweekly operations calls with City Staff and City's operator, Hays Utility North Corporation.
3. **Fiscal Year 2025 CIP Snapshot & Rate Order Analysis**- We presented our rate study analysis to Council at their January 13th CIP Workshop. We are working on updating our analysis based on comments received and plan to coordinate with the City's Financial Advisor to discuss additional funding mechanisms.
4. **Kendig Keast Unified Development Ordinance**- Kendig Keast presented their draft ordinance at the December 9th Workshop. We have reviewed the draft ordinances and plan to discuss this as a separate agenda item.

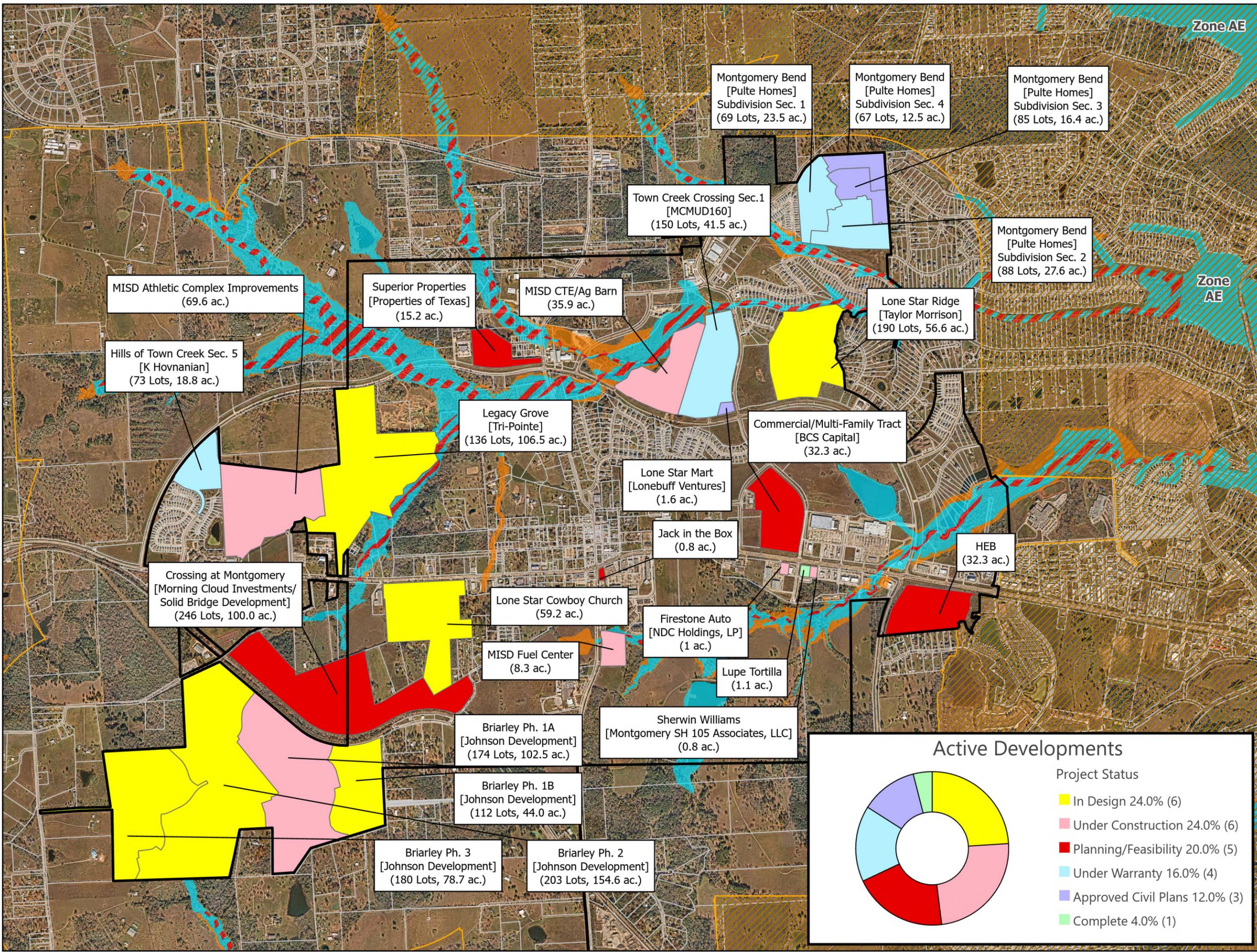
Please let me know if you have any questions.

Sincerely,



Chris Roznovsky, PE
City Engineer

Attachments – Active Developments Map and Capital Projects Tracker
Cc (via email): The Planning and Zoning Commission – City of Montgomery
Mr. Anthony Solomon – City of Montgomery, Interim City Administrator
Mr. Alan Petrov – Johnson Petrov, LLP, City Attorney



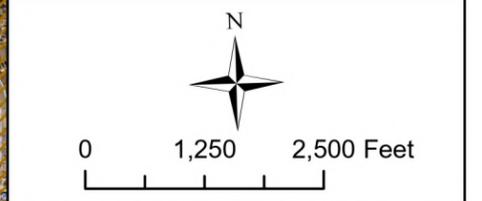
Legend

- Montgomery City Limits
- Montgomery ETJ

Development Status

- Complete/Under Warranty
- In Design
- In Design/Construction
- Planning/Feasibility
- Under Construction
- Approved Civil Plans
- Complete
- Under Warranty
- Conroe ETJ
- Floodway
- 100-year
- 500-year

This exhibit only includes Developments that have either executed Development Agreements, or Escrow accounts with the City of Montgomery



Active Developments Map
February 2025



Disclaimer: This product is offered for graphical purposes only and may not be suitable for legal, engineering, or surveying purposes. The information shown on this exhibit represents the approximate location of property, municipal boundaries or facilities.

