



# City of Montgomery Planning and Zoning Commission Regular Meeting Agenda

April 01, 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 Planning and Zoning Commission will be held on **Tuesday, April 01, 2025 at 6:00 PM** at the City of Montgomery City Hall, 101 Old Plantersville Road, Montgomery, Texas.

[www.montgomerytexas.gov](http://www.montgomerytexas.gov) 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 Agenda Pack will be posted online at . The meeting will be recorded and uploaded to the City's website.

## **OPENING AGENDA**

1. Call meeting to order.
2. Pledges of Allegiance.

## **PUBLIC FORUM:**

The Planning and Zoning Commission will receive comments from the public on any matters within the jurisdiction of the Commission. 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 discussion, if any, on subjects for which public notice has not been given, are limited to statements of specific factual responses and recitation of existing policy.

## **REGULAR AGENDA**

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

- 3.** Consideration and possible action on the Regular Meeting Minutes of March 04, 2025.
- 4.** Consideration and possible action regarding the relocation of an existing sign in the Historic Preservation District from 305 Prairie Street to an existing sign post at 301 Prairie Street.
- 5.** Consideration and possible action regarding the installation of a new wall sign at 308 Caroline Street.
- 6.** Consideration and possible action regarding the installation of two new shingle type signs at 401 College Street on the second floor for Suite 260.
- 7.** Consideration and possible action regarding a proposed new single-family dwelling located at 990 Caroline Street in the Historic Preservation District.
- 8.** Consideration and possible action regarding a request for a special use permit for a fast-food restaurant with drive-through service at 21049 Eva Street.

## **COMMISSION INQUIRY**

Pursuant to Texas Government Code Sect. 551.042 the Planning & Zoning Commission may inquire about a subject not specifically listed on this Agenda. Responses are limited to 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.

**CLOSING AGENDA**

9. Items to consider for placement on future agendas.

10. Adjourn.

The Planning & Zoning Commission 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, City Secretary, the Undersigned Authority, do hereby 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: **March 28, 2025 by 1:30 PM** and remained so posted continuously for at least 72 hours preceding the scheduled time of said meeting. I further certify that the following news media was notified of this meeting as stated above: The Courier

/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

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*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 accommodations.*

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**PLANNING & ZONING COMMISSION  
AGENDA  
Regular Meeting: April 01, 2025**

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**AGENDA ITEM:**

Consideration and possible action on the Regular Meeting Minutes of March 04, 2025.

**SUBMITTED BY:** Ruby Beaven, City Secretary/Director of Administrative Services

**APPROVED FOR AGENDA:** Anthony Solomon, Interim City Administrator/Police Chief

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**BACKGROUND:**

Please see the accompanying minutes:

Regular Meeting Minutes of March 04, 2025

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**FISCAL ANALYSIS:**

N/A

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**RECOMMENDATION:**

Recommendation to approve the meeting minutes, as presented.

**CITY OF MONTGOMERY  
PLANNING AND ZONING COMMISSION  
REGULAR MEETING MINUTES  
MARCH 04, 2025**

**OPENING AGENDA**

**1. Call meeting to order.**

Chairman Simpson called the meeting to order at 6:00 p.m.

Present: Commission Member Daniel Gazda, Chairman Bill Simpson, Commission Member Merriam Walker, Vice Chairman Tom Czulewicz

Absent: Commission Member John Fox

**2. Pledges of Allegiance.**

Chairman Simpson led the Pledge of Allegiance and Pledge of Allegiance to the Texas State Flag.

**PUBLIC FORUM:**

No citizen comments presented for this meeting.

**REGULAR AGENDA**

**3. Presentation by BCS Capital Group on a proposed new multi-family and mixed-use commercial development on 32 acres, southeast of the intersection at CB Stewart Drive and Buffalo Springs Drive and north of Eva Street.**

Mr. Jack Burgher, with BCS Capital Group stated the goal tonight is just to give you an update on the high level plan. As you know, we have a 32 acre reserve at the northwest corner of SH-105 and Buffalo Springs. What they have in vision is a mixed-use project that basically brings in Class A multi-family development that will help us afford what we know the City really wants which is retail, which is their firm’s focus. We are retail developers developing all over suburban Houston with a heavy focus on Montgomery County. We love Montgomery County. We love the growth, the incomes, the policy. We have a lot of pro-business policy here.

We have a really fun project in Magnolia on FM 1488, we bought 51 acres next to that HEB across from Magnolia High School, and we have a 24 acre retail development at Arden Woods and SH 99. This would be our third in Montgomery County of size. Very similar to Magnolia with it being a larger tract that has a lot of depth, we have to figure out what to do with the back.

We have two class A multi-family groups that build really high quality products. The reality is we are going to be spending north of \$50 million on the adjacent retail. The last



thing we can do is jeopardize ourselves by putting in some multi-family development that is not conducive and brings in low incomes and things the City does not want.

We have a site plan to do, plus or minus 14 acres on the northern portion for multi-family. We will not market three to four acres next to that for three years and we will only focus on the hotel. We know how much the City wants a hotel. We want a hotel. It helps them and helps their retailers. We will carve this piece out and make it a hotel. We do not have hotel use interest yet, but our hope is that we will be able to get one and are willing to restrict that property for three years to do that.

What we do have that we think is very exciting not only for the project, but for the community and the City, is Academy. We have active paper trading with them. They have approved this market and we are as close to getting the deal done as quickly as we can get a deal with the City. It is plus or minus \$22 million of sales tax coming. What it will really do is kickoff a retail development next to it. We do not know what we are going to do next to it yet. The easy fun would be to do like a TJ Maxx, HomeGoods, Ross, that kind of a soft goods line up next to it. The reality is that is probably the least desirable for us as a developer because the return metrics are not as good as say a restaurant village next to it.

He brought a little inspiration from what they are doing in Magnolia just to give you an idea. A few of these pieces are more set in stone than others. What we do have set in stone is multi-family and the Academy. We have three users we are talking to also. One is a full service restaurant, one is a national automotive use, and one is a bank. The front will be similar to where you are seeing the Chick-Fil-A, Chipotle, Sherwin Williams, Lupe Tortilla, those kind of uses on the front. The front is conducive for banks, credit unions, automotive users, restaurants, QSR restaurants and full service sit down restaurants. What we would like to do is get this Academy done. We will potentially put this retail building over here and get some small shop retail right in Buffalo Springs. Then we will have left over 4.9 acres. What we would like to do is do a restaurant village similar to what they are doing in Magnolia and Arden Woods. It would be programmed with the green space that centers it. Ideally, you have an oak tree or two you can bring in to bring shade and put retailers around it with restaurants, patios, etc. It would really be a destination. We have HEB here, it is kind of a driver, we are doing a restaurant village here, and then they approved a rezoning for multi-family next to it to make it all work. Commission Member Walker said it is kind of like Wood Forest. They have a little green area with concerts and stuff. Mr. Burgher said it is like a town center basically for people to bring their family. We are really excited about this project. We are going to need the City's help to pull it off. The uses we are going to bring in are going to be an amenity for the community. It is a partnership and we want to light interest with you and make this happen.

Commission Member Walker asked what would be on the corner at Buffalo Springs in front of the Academy? Mr. Burgher said we do not know. Mr. Burgher said that piece of property is a valuable piece just because it is on a hard corner. In the past if you look at corners you will see a lot of banks. We have two banks right now that have already reached out to us for this site. We probably will hold that and not do anything on the corner right away. Commission Member Walkers said yes, because that is three more lanes coming out and at Buffalo Springs how many lanes are coming out of that? Is there three there as well? We will have six lanes of traffic trying to get out onto SH-105. Mr. Burgher said we have two more curb cuts with cross access that runs throughout it. We are basically an extension of the Kroger and Home Depot development If you look at this cross access drive, this

shared driveway, it runs directly into the shared drive of the Home Depot all the way back to Kroger. Vice Chairman Czulewicz asked if that is the retention part in the upper right hand corner? Mr. Burgher said that is a big piece of what we are discussing with right now, the drainage.

Mr. Jonathan White, L Squared Engineering said it is part of the access. If you take that east, it is directly across from the cross access to where Kroger and Home Depot are. He thinks the goal also to move it west is to be able to have another connector to Plez Morgan. We should have a ton of access in and out of that. In terms of the drainage, we did submit a drainage study to the City yesterday. This is part of the overall drainage study that was conducted by Carter & Burgess back in 2008. The Kroger development and the Home Depot development was part of that drainage study. It has been amended a couple times, but we have taken that and amended it for this to get it to Stewart Creek which is where the Kroger is on Lone Star Parkway. The strategy that we have is subject to city engineer review and approval. We will take all the drainage to TxDOT, TxDOT will approve. We will redirect it up north of Home Depot and north of Kroger. To get it to Stewart Creek, we have to go through land owners easement and make some improvements. It is a little bit of an untraditional drainage concept. Vice Chairman Czulewicz asked is this different than what we saw before where you did have a retention pond? Mr. White said yes, they have done a couple different thoughts on this. This strategy has to come into play with the property owner. A lot of coordination has to happen there and a lot of improvements to get that to work. Original concepts showed a couple different iterations, potentially losing three to seven acres, most likely seven acres of commercial property on these 32 acres to accommodate a detention that would service it. We did onsite detention as opposed to the strategy that we pitched. Vice Chairman Czulewicz said he would be really concerned about that. If you look at Town Creek for instance, every time we have storms that thing is washing out. What will you do to prevent Stewart Creek from doing the same thing when you have all that runoff water in a down pour? Mr. White said that is what we are doing is proving that we are not having those adverse effects. We actually get the water out before the storm and so we are not showing any increases on our beat flow. We are not increasing the deep flow based on our drainage study. That is a drainage study that was approved back in 2008 as well. We are just mimicking updating it to current conditions to prove that the drainage study still works today based on new criteria. Mr. Burgher said it has to work so that would be a piece that we want to prioritize. Mr. White said he does not recall hearing any recent concerns about Stewart Creek with the shops development, the Chick-Fil-A, Home Depot and Kroger. He does not think you are experiencing the same issues with Town Creek than you are with Stewart Creek and he has not seen or heard any issues with that. The Kroger development, Home Depot, the shops, the CVS, all of that have been working on the chain drainage study since the developers have been in the City. This tract was a part of the original drainage from the beginning. We are not adding something to try to make it work. It is just reprovig it with current criteria. Vice Chairman Czulewicz asked why the change from the original presentation that we had last month where you had a retention pond to not having a retention pond? Mr. White said we were able to develop a better strategies to be able to accommodate drainage. Vice Chairman Czulewicz said 32 acres is a whole lot of permeable surface. That is an awful lot of water in a down pour where you may have two inches of rain in 24 hours. Mr. White said there are different ways other than just traditional to be able to do this.

Commission Member Walker asked are you going to put a light at that next street? Mr. White said he is not familiar with what TxDOT has or has not studied. City Engineer

Roznovsky said any access onto C.B. Stewart, most of the access is going to be on Buffalo Springs because it already has a light on the roadway improvements. Mr. White said there is a lot of developments coming through these intersections over the years, a lot of drainage. It is not like we are doing something that has not been developed so far. Mr. Burgher said all he asks is that we work together to try to come up with whether we can or not with solutions and get everyone comfortable because he does not have a lot of time with the seller. You all probably all know the seller. It either works or it does not work. Vice Chairman Czulewicz asked what is the cost differential between a retention pond and rerouting it to Stewart Creek? How does that hurt your pocket book? Mr. Burgher said we lose seven acres, we lose this entire area, we lose the Academy. We lose all of that. It is like a \$5 million loss. Vice Chairman Czulewicz said the drawing shows it being off to the right hand side. Mr. Burgher said we had three acres which would be a lot more doable, but he is telling me if we have to detain onsite it would be seven acres. Mr. White said with three acres it was assuming we could do some offsite drainage and require some offsite, and some onsite. When we did the study we actually were able to reveal we can do the entire thing with offsite. Again, it is just mitigation. Mr. Burgher said they have it estimated at \$1.7 million because we are drawing these massive storm pipes that are going to run from our property all the way through to Rampy Lake and out. This is not like we are not doing anything. It is a big infrastructure project. We are increasing the size of the box culverts. Mr. White said speaking of value, seven acres of lost commercial land on SH-105 is not his forte about knowing the value. One, the City is losing property value, ad valorem value, sales tax, but also the value that is lost on the sale and purchase of property. That is why we try to have a strategic area to try to make it work with something more offsite. Mr. Burgher said engineers are very good at proving this up. Right now this has to be proven which he thinks they have done. Mr. White said we should be able to. Taking what was done before and also bringing you up to current standards.

Vice Chairman Czulewicz asked at what point does the water enter Stewart Creek? Mr. White said along Lone Star Parkway and Stewart Creek at that intersection. Basically where all the development Kroger goes. The drainage study of the Kroger development was actually supposed to develop flow from this tract so their onsite storm sewer should have been sized to take on this flow and it was not. So now we have to be able to try to get it which is also in the agreement. He has got to get with another landowner which is going to cost. There is \$1.7 million of infrastructure they have go to put in just to be able to get it from their tract to Stewart Creek. If all that was done in the beginning, it would already be allocated to go through the Kroger development through their storm sewer and into Stewart Creek.

Commission Member Walker said she has seen these groupings and when you come up to Buffalo Springs everyone has been building and it is kind of a hodge podge. Are you going to build in accordance to what our town is going to look like? Have we set out anything that says how you need to have brick, you need to have rock, you need to have cedar, posts, and an angle? Chairman Simpson said the design specifications are in the ordinance. Commission Member Walker said right, but what are your plans? Are the buildings going to look like the hodge podge that is across the street up the way from you? Chairman Simpson said we cannot dictate the brand. Commission Member Walker said no you cannot. Chairman Simpson said the only thing we can dictate in the ordinances is the materials they use. Commission Member Walker said yes. What materials will be used? Mr. Burgher said we create a declaration that governs the entire property. On a large development you create design guidelines that creates flow, and it creates quality. The

reality is we only have five pads. We are going to get high quality users. Commission Member Walker said she does not want them to be hodge podge. She would like to see more green. She wants to make sure it is going to flow. Mr. Burgher said there will be architectural guide lines within a declaration. What Kroger did we did not like either. Mr. Burgher said he could have done a lot better job because what they did they did not have any design guidelines. Mr. Burgher said we are in the business of creating relationships with communities, doing what we say we are going to do, and looking back, it is a win-win. He knows saying that now does not carry a lot of weight, but he is saying it now and is going to back it up. The reality is we have the most to lose if it is not a quality project then you are devaluing your asset.

Commission Member Gazda asked who is your potential multi-family developer? Mr. Burgher said the Morgan Group.

Commission Member Walker asked what price range are you trying to target in multi-family? Mr. Burgher said the highest in the market.

City Engineer Roznovsky said the next step is for Council next week to review a draft of a memorandum of understanding regarding terms of the development agreement with the developer, regarding infrastructure improvements, roadway improvements, and other items in there as well as the drainage study.

Chairman Simpson asked what did you say the first two on the ticket would be? The Academy and the hotel? Mr. Burgher said multi-family and that is the piece that actually needs to be rezoned. Commission Member Gazda asked if the hotel would be in three years? Mr. Burgher said yes, but they do not have one right now. Commission Member Walker asked if he was talking about a three-story hotel? Mr. Burgher said yes. Commission Member Walker asked for multi-family will it be homes or apartments? Mr. Burgher said apartments. Commission Member Walker asked how many apartments and how high are they? Mr. Burgher said they are looking at 25 units an acre with a three-story garden style. Mr. White said he knows you may have some concern with the traffic. A traffic study will be required.

Mr. Burgher said we will do Academy immediately and may do a multi right away trailed by six months We will probably not do anything next to the Academy other than multi-tenant building, similar to what you see where Chipotle is. Those buildings can bring in a lot of sales tax. We will put in a couple restaurants on the end caps and some users in the middle and leave the 4.9 acre reserve and see what we can do there. They have a restaurant they are talking to, Texas Roadhouse. Commission Member Walker asked if you are moving the Academy over? Mr. Burgher said just slightly about 30 feet. Small users have to have direct access and visibility to the main roads so we would shift this Academy over and put a retail building on the side of the front of Buffalo Springs. Academy likes that because their customers can be parking in front of their store. By putting it on the side, their front door faces the side so their parking is collaborative. Vice Chairman Czulewicz said so there is going to be a cut from Buffalo Springs to that? Mr. Burgher said they have three cuts planned. One for service behind, one for the main entrance to Academy, and the cross access drive that lines up with Kroger. Vice Chairman Czulewicz asked where that other retail is going to be facing Buffalo Springs, there is not going to be a cut in the middle? Mr. Burgher said no.

Commission Member Walker asked if the back side of Academy is going to be on the back side of the hotel? Mr. Burgher said that is right. The way the topography works is this portion north of the line is elevated so it will sit above it.

Commission Member Gazda said they said the same thing to Home Depot and they did not listen, but we would love some wider parking spots.

Commission Member Walker asked how much illumination are you bringing because now when you pull on that hill coming down there by Wendy's it is just lit up like the fourth of July. Is it the same as Home Depot? Mr. Burgher said it would be similar to that. This little pocket is like the most inducive for these big users just where it sits.

Commission Member Gazda said next time we will see you back is when plats come or rezoning requests.

**4. Consideration and possible action on the proposed installation of a privacy fence along the west property line at 606 College Street.**

Code Enforcement Officer and Planning/Zoning Administrator Tilley said she will be speaking on behalf of the property owner. The owner apologizes that she was unable to attend tonight. 606 College Street is located in the residential zoning district and the historic reservation district. This property owner proposes to install a six-foot high privacy fence along 87 feet of the rear and side west property line and a four-foot high privacy fence along 63 feet of the west property line towards the front of the property. It would just be on one side of the property. Code Enforcement Officer and Planning/Zoning Administrator Tilley said she went through a list of the findings in reference to fences and found that all of them were met and some of them did not apply. It is a wooden fence, it is not metal, it meets the height guidelines, and also the location of the fence. She did include a few pictures on neighboring properties that show wooden fences. She thinks most of them are along the rear yard. She thinks there is one property letter, letter C where the six-foot high wood privacy fence is behind the Caroline two-story white house. They have a six-foot high privacy fence that is in the rear yard, but it happens to be along the front yard of the pet business on Pond Street. There is one more right across the street that is a six-foot high privacy fence. It is along the rear yard. Also, another historic Caroline house along Pond Street and it is on the front side yard of the residential house also on Pond Street.

Code Enforcement Officer and Planning/Zoning Administrator Tilley said it is her recommendation to approve the privacy fence as long as it is completely installed within its own property. Even the posts will have to be within her property. The owner thought she would be able to put it on the property line, but Code Enforcement Officer and Planning/Zoning Administrator Tilley advised it has to be completely within her property. It does meet the design guidelines. According to her findings and if there are any modifications to the plans that you approved tonight, that she would resubmit and come back to the Planning and Zoning Commission. Chairman Simpson asked is it going to be standard cedar wood? Code Enforcement Office and Planning/Zoning Administrator Tilley said yes. Commission Member Walker asked why is she picking that one side because once we say yes then that means she can go along the back side and at the other side which is very open? That would mean her and her next door neighbor would have to come to some

type of agreement I would assume. Do you know why she is just doing one side? Code Enforcement Officer and Planning/Zoning Tilley said she would like to reduce the amount of trees, shrubs, and brush that is coming through the existing chain link fence. Commission Member Walker said her only suggestion is what we did in our neighborhood is they had the six foot fence up, but from that one point coming forward where she is talking about the four foot, I would like for it to be white as the one that is next door to her even though it has been there for years. I would suggest painting it white and more picket, but I understand if it is solid and that is what she is trying to go for. There is that picture right there of the picket that is beside her and then where her cyclone fence is going to come down, she is going to put her four foot fence in there. I would suggest that. Code Enforcement Officer and Planning/Zoning Administrator Tilley asked are you thinking the exact same type of picket or are you okay with the four foot high wood privacy just painted white? Commission Member Walker said she would like it to be picket because she is directly across from historical homes that have the historical plaques on them and they do have the white picket. Even though that land is undeveloped, it is in that area and they even tried to keep white picket on it as well. Code Enforcement Officer and Planning/Zoning Administrator Tilley asked if she can have it so that they are right next to it so there is not a space in between each picket? Chairman Simpson said he does not see a problem with the solid privacy four foot wall in that area. Commission Member Gazda agreed and said yes, a solid four foot white picket fence. Code Enforcement Officer and Planning/Zoning Administrator Tilley asked if you would like for her to come back to show you? Chairman Simpson said he does not believe they need to do that. You all can use your judgement on what we discuss. Code Enforcement Officer and Planning/Zoning Administrator Tilley asked where would she start that picket fence? Would it be equal to the front side of her house? Commission Member Walker said yes.

**Motion:** Commission Member Gazda made a motion to approve a privacy fence along the west property line at 606 College Street with the exception that the front portion starting at the front porch on the west side down toward College Street be a white solid picket fence and to align with the existing picket fence. Commission Member Walker seconded the motion. Motion carries with all present voting in favor.

**5. Consideration and possible action on the Planning & Zoning Commission to make a recommendation to City Council for a variance request related to lot minimum frontage and side yard setbacks of lots 27 & 28 for the Hills of Town Creek Section 5 development.**

City Engineer Roznovsky said on page 19 of your packets you see a copy of a memo from us, followed by an application by the developer's engineer, and finally on page 24 you will see an exhibit which is where I will pull your attention to.

At Hills of Town Creek section five in the back corner closest to the Montgomery ISD driveway to the stadium, they have a reserve that is in that back corner. The development was put together and the reserve was off by itself. The two lots closed it off so you could not access that reserve from the neighborhood. The developer has come back and decided

that he wants to make that an amenity space to add a reserve between the two lots in order to access that green space behind the lots. This is for modifying these two lots. What this does is it pushes their minimum widths at the 30 foot set back line, the 45 feet versus the 50 foot that was previously approved back in December of 2021. Both lots will still exceed the minimum lot period that was approved at that time being roughly 10,000 square feet and 8,000 square feet on those two lots, 85, 25, 10, and 774 respectively. Previously it had been approved. It was down to 5,500 square feet within this development back in December.

We do not have any objection to what they are proposing. The reason makes sense to access green space which is what the City wants. If you all recommend approval, Council will then make the decision and then after that they will have to go through the replat process. They first need to get the change approved and then go through and do the partial replat of this section. Chairman Simpson asked if the reserve back there is usable? City Engineer Roznovsky said correct. There is a waterline easement that runs through it. A representative for L Squared Engineering, Mr. Nick Hemann said they are proposing a playground area with green space around it and fenced in to keep that safe. As City Engineer Roznovsky mentioned the waterline easement. It is a win-win for the City as well. There is currently a waterline easement that goes through that reserve strip. That way it will be an unencumbered access point for the City's water. Vice Chairman Czulewicz said this will basically be over the easement itself. Mr. Hemann said correct. Commission Member Walker asked if the lot owners are aware of this as well? Mr. Hemann said they will be. City Engineer Roznovsky said the builder currently owns the lot. Mr. White said they are reserving these two lots until this is done. Vice Chairman Czulewicz asked if the building setbacks will still apply? Mr. White said yes.

**Motion:** Commission Member Gazda made a motion to approve a recommendation to City Council Commission for a variance request related to lot minimum frontage and side yard setbacks of lots 27 & 28 for the Hills of Town Creek Section 5 development. Vice Chairman Czulewicz seconded the motion. Motion carries with all present voting in favor.

#### **6. Discussion of Utility and Economic Feasibility Study for the KHR Properties Commercial Tract (Dev. No. 2415).**

City Engineer Roznovsky said this is the Jack in the Box development and has been discussed for months with the City. At the last City Council meeting, this feasibility study was presented to them. There are two items on your agenda tonight related to the same development.

This property is located on the hard corner of the southeast corner of SH-105 and FM 149. This is what used to be the auction house. You will see in your packets copies of proposed site plans for the development which is a Jack in the Box with two drive-thru lanes going into it with an access point on to SH-105 and FM 149, as well as cross access into the Brookshire Brothers parking lot.

On page 28 of the executive summary there is an estimated development cost regarding their escrow account which are plan reviews, city attorney time, etc. The water and wastewater impact fees based on the estimated size of the meter totals to approximately \$52,000. This is only the ad valorem portion so nothing in this report talks about sales tax. A Jack in the Box based on their proposed values is \$750,000 which is about \$33,000 a year in ad valorem tax. That does not include sales tax which we would assume to be a much larger number.

The property is currently zoned B and will remain B. Code Enforcement Officer and Planning/Zoning Administrator Tilley will talk about the special use on the property and then we will get into the water capacity.

One thing we did differently on this exhibit of the feasibility study that we will do going forward, is we consolidated the massive table of different development into an exhibit and showed as it is going through the different stages of the development. Right now, you have about a 2,500 connection limit and 560,000 gallon a day capacity in your water system. Today you are running about 475,000 gallons a day. You are currently in design of the water plant number three improvements which is expected to bid in March or April of this year. That will raise the capacity up to 730,000 gallons a day with the same connection count by that project.

What has also occurred, at the last Council meeting, Council approved the engineer for the water plant number four project, which is the future water plant that is connected to the Briarley development over on Old Plantersville Road and Old Dobbin-Plantersville Road. That project includes a new water well and has already been permitted with the Groundwater Conservation District, as well as the elevated storage tank. Once that project is complete, the City will have a capacity of roughly 5,000 connections or 1.2 million gallons a day. That is all based on average daily flow. The way TCEQ requires facilities for an average daily flow, you have to factor in a 2.4 time peak. This is for a 10 hour period. Essentially, take your facility you run for 10 hours a day. That is what you have to design toward is your average daily flow to be able to count for 2.4 times that you ran in 24 hours a day. These numbers are all based on that average daily flow capacity, but your actual flow is much higher. This development itself does not provide a lot of additional flow. Based on their estimates and other development like them, they are about 1,500 gallons a day in water and sewer in the grand scheme of things, a relatively small user. There are a lot of additional developments that obviously the City has that are either ready to connect as they have approved agreements, the plats have been approved, and they have been accepted by the City and ones that are in design, and feasibility, etc. There is a lot of potential. As the City continues to expand and as developments continue to go, capacity starts getting very tight in future years as these projects are completed. A couple things to note. We build our projections conservatively, so what we show in our projections versus the average daily flow, we build a buffer to that as well as the projected demands from these developments. We use industry standards that will say this type of development is estimated to use this amount. Typically, those are very conservative industry standards. Most of them were made when the average single family home used around 360 gallons of water a day. Today with low fluid fixtures and everything else, we are seeing single family home use close to 200 to 220 gallons a day. Nonetheless, there is a lot of development coming into the City. There is a lot of need in continuing to push, which the City is on all these improvements, to stay in pace with these developments which is key. The City has done a lot of things, some long weed items and getting permits in place will help with that.



As far as the linear utilities, in order to actually get water to this property, there is already existing water there. It was already served so there are no public extensions required. The sewer side is essentially the same. The City has contracted with Halff Associates to begin the design of the wastewater treatment plant expansion. That has been going on for about a month or so. The estimated time lines that you see for the increases in capacity are based on the time lines that we have for the design and construction of those projects. This development itself will not use a ton. Today, you are only running about 58 percent of the capacity of that plant, however, when you look at all the projected developments and their projected growth, that adds to it. One big caveat to note is we have roughly a 70,000 gallon a day buffer in our projections which accounts for a lot of flow, but there are some that we are seeing lag behind on developments connecting, but not fully using. With others, that is based on the estimated usages that are coming in lower, but we are still basing it on these estimates to make sure. We would rather be a little oversized than undersized as development continues in the City.

There are a lot of concerns about drainage and traffic with this property being on a hard corner. What they are currently proposing for drainage is underground detention and they have already submitted that to TxDOT for approval. As of about a month ago, they have not heard back or received any plans, but they are working through the process. TxDOT is the governing entity on those. Chairman Simpson asked how does TxDOT look at a piece of property like that and consider if they can get cut approvals? City Engineer Roznovsky said they are going to look at spacing and they are going to look at their traffic counts. They will be required to prepare a traffic impact analysis to show what their impact will be on those surrounding roads. TxDOT is going to have concerns with the proximity to the intersection. There is not a lot of space from their driveway on FM 149 to the intersection of SH-105 and it is going to be going into that turn lane. Our concern is based on their land plan. Their queue for the drive-thru heads out toward that entrance so there is a backup that that is queuing on to FM 149. We told them they have to include that in their study and bring that to TxDOT's attention. If we do not see that, we will discuss with TxDOT as well. Vice Chairman Czulewicz asked where does the water from the underground retention go? City Engineer Roznovsky said it will go in to the TxDOT right-of-way. There is some existing storm sewer in the TxDOT's right-of-way that is TxDOT's south of FM 149. They will have to detain it underground and then slow release it into the TxDOT storm sewer with the amount of the capacity they allow.

Chairman Simpson said in regards to parking, it looks like a smaller Jack in the Box then usual and it looks like there are only 14 or 15 parking spots on site. Even though it is a smaller building, it does not mean there are going to be less customers. City Engineer Roznovsky said they are going to have to follow the City ordinance on parking spaces. We have not reviewed that yet. As of right now, they have not identified any variances that they would be requesting from the City. We have not checked the calculations at this point at this stage of the process to determine. Commission Member Gazda said they have 24 for 2,4000 square feet so it is pretty close. Chairman Simpson said he hopes TxDOT comes at 5:00 p.m. or 5:30 p.m. to do their traffic study. He said he was coming from Conroe today to come here and it was right around 5:30 p.m. and the traffic heading north on FM 149 to SH-105 was already backed up to First Financial. If someone is coming south from FM 149 wanting to turn into that cut on FM 149, they are going to block traffic all the way up on SH-105 and FM 149. That property was purchased to decrease traffic, but now we are going to increase traffic. There is nowhere else to put cuts at that intersection. Commission

Member Walker asked how is it in going in and out of Brookshire Brothers? Is that the entrance off of SH-105 into Brookshire Brothers and then feed into that lot, or are they going to have a space directly from them? City Engineer Roznovsky said there are two drives into Brookshire Brothers. One at the very south of the property and one on the northern end of the property into the Brookshire Brothers parking lot. Their driveway onto FM 149 does not directly line up per this land plan with that access. In order to go all the way through and make it over to Brookshire Brothers, they would come in, have to jog, and then make their way over to Brookshire Brothers. They have talked to Brookshire Brothers and have agreements on shared use. Commission Member Walker asked is that going to be submitted to us in writing? City Engineer Roznovsky said yes. If they are connecting they have to show the paper just like we would for any type of utility easement, etc. should prove they have that access easement across the property. Commission Member Walker said they are just here to hear the feasibility and to hear our concerns, but City Council is the one that says yes or no. City Engineer Roznovsky said there are a handful of steps that are remaining. One, is what Code Enforcement Officer and Planning/Zoning Administrator Tilley will talk about on special use permit. Two, is once they obtain that, they need a development agreement with the City. There are no utility extensions, but we are just papering up all the developments and if there are any type of variances. This property will have to plat. It will be a minor plat because they are not subdividing so it will go through on the staff level. Any other changes, if there are variances, will come back to this Commission and City Council. The next major step of City approval that would come to a Board, either you or Council, will be the permit that Code Enforcement Officer and Planning/Zoning Administrator Tilley is going to talk about and/or any variances, and the development agreement. Vice Chairman Czulewicz said that they said they are going to have dual drive-thru lanes. City Engineer Roznovsky said correct.

**7. Presentation of the zoning determination by the Planning/Zoning Administrator for the restaurant with drive-through service (KHR, Properties – Jack in the Box 4947).**

Code Enforcement Officer and Planning/Zoning Administrator Tilley said this zoning determination was made based on the use of the property. They are going to use it as a restaurant which it is a permitted use in the B zoning district that it is located in. However, with a restaurant, not all restaurants have it, but this time there is a drive-thru service component added to it. Typically, the drive-thru service is like an accessory to a traditional restaurant. If you look in our zoning ordinance, we have no definitions for any of these types of uses. I looked online. The first dictionary that popped up was the Oxford dictionary and it lists on there exactly what I found in the dictionary. A restaurant is a place where people pay to sit, eat meals that are cooked and served on the premises. Now you add fast food to it. It is something that is kept hot, it is partially prepared by a snack bar restaurant so that it can be served as a quick meal or taken away. Then you add the drive-thru component. That is where customers would stay in their vehicles and not actually go into the restaurant and get their food that way. I consider that to be as an accessory use. According to the zoning regulations, any time that you have an accessory use it would require a special use permit. Also, if the specific use as in restaurant with drive-thru service is not actually listed in the table of uses, it would also require a special use permit. That is the determination that she made in order for this specific use, the restaurant with drive-thru service requires a special use permit. They do have the ability to appeal that decision and possibly point out where an error has been made in that decision. She has heard they want to appeal, but has not seen an appeal. This letter went out on February 21<sup>st</sup> so they still have time.

Vice Chairman Czulewicz asked if City Engineer Roznovsky and Code Enforcement Officer and Planning/Zoning Administrator Tilley are going to take action to get the definition of restaurant and drive-thru into our regulations? Code Enforcement Officer and Planning/Zoning Administrator Tilley said she is hoping to get a lot of definitions into the regulations because if you look at our table of uses, there are some really old uses that are in there that she does not know that they would ever be using. She almost added food to go as one of the listed uses in the table of uses because it sounds like a quick, fast food type restaurant, but it was food to go with no curbside service that would be allowed in a B district. This is kind of curbside service because a person does not leave their vehicle. Again, there is no definition, but there is a lot of definitions that are missing from there. Our definition list is definitely going to be longer, but it would help to go through all of the list of uses, see what can cover certain things, and see what definitions are missing. Chairman Simpson said that would eliminate the special use permit they would need. Vice Chairman Czulewicz said also he understands they are lacking in the table of uses, but it is also lacking in definitions. The beginning of chapter 78 we have a whole definition section and neither restaurant nor drive-thru or special use are there. We are in the process of fixing that so are you and City Engineer Roznovsky going to take action to get with our contractor and put it in there? Code Enforcement Officer and Planning/Zoning Administrator Tilley said she is working through and writing her notes in on chapter 78, and knows they took care of the engineering and the development in subdivisions. City Engineer Roznovsky said between the lack of definitions, both of us were working closely with KKC. We have a call with them tomorrow in continuing the process on interims being done, including the full table of uses being updated that define all these gray areas between fast food and drive-thru, and many other things that are not defined to make sure it is all clear. Commission Member Walker asked if this one thing can be all clear so that if a decision is made, it will not come back and say you do not have a definition? Can we expedite this for this definition? City Engineer Roznovsky said as far as this property goes, this determination is the rule. They have their 30-day period to appeal it and then it goes to the Zoning Board of Adjustments which is Council to appeal the decision. Or, they can apply for a special use permit and order to put in the drive-thru. Anything that is done now will not apply to this property, but as soon as it is done, it will be published. If Council approves it, it will get published, and then there is a two week period from the new ordinance being published. Vice Chairman Czulewicz said there is wording in chapter 78 that says anything not listed in the table requires special use permit. City Engineer Roznovsky said exactly and that is what Code Enforcement Officer and Planning/Zoning Administrator Tilley is referencing is that since it is not defined in the table, it is not that you cannot do it, it is just you have to get a special use permit because the table does not automatically define it. Part of the larger ordinance amendment is updating the table and getting more uses that fit today versus what it was when that table was put together and providing the definitions because it says restaurant, but it does not define it. Code Enforcement Officer and Planning/Zoning Administrator Tilley said just as a clarification, it is chapter 98 where the zoning code is located. That is what will have to be removed and notification has to go out, so you will see the revisions. She thought they were going with UDO and is trying to see how a unified development ordinance will change how our zoning ordinance looks and how it will read, but you will see all that before it actually goes into place. Also clarification with the appeal, it is actually 20 days when it comes to an administration decision, so they actually have 20 days from the 21<sup>st</sup> to be able to file that appeal. Again, this zoning determination was not to indicate that they are denied, it is just saying there is an extra step like the special use permit that we are asking for them to apply for in order to do this.

## 8. Consideration and possible action on the Regular Meeting Minutes of February 04, 2025.

**Motion:** Vice Chairman Czulewicz made a motion to approve the regular meeting minutes of February 04, 2025. Commission Member Gazda seconded the motion. Motion carries with all present voting in favor.

### COMMISSION INQUIRY

Chairman Simpson said regarding the email they received from the gentleman on FM 149 south, he saw where their ETJ was and then saw Conroe's. Is that piece of property in our ETJ or Conroe's ETJ? Code Enforcement Officer and Planning/Zoning Administrator Tilley said that is a clarification that she needs to make and hopefully with the help of the engineers. The ETJ that goes south of SH-105 on FM 149 that makes that J hook, that ETJ was created a long time ago where we had an easement along the west side of FM 149. That was the reason why we have that ETJ just because of that easement that goes down there and comes across in onto Spring Branch. She does not know how it was decided that because of that easement that the ETJ all of a sudden also goes way out on the other side of FM 149 also, but she thinks that easement is actually gone now.

City Engineer Roznovsky said a couple years ago they researched this because it was confusing. There is a development off the Spring Branch Road. There is a neighborhood off to the side on the west side of Spring Branch Road. It was originally annexed by the City and it was going to receive service. At that time, the state law allowed strip annexation. There was a strip that went down FM 149 and Spring Branch over to get to this property. That is how that property was able to be annexed. They then subsequently requested and were approved to de-annex that property so that when you look at the ETJ map, that property is not in the City. Based on the research at the time, and again we will clarify with Code Enforcement Officer and Planning/Zoning Administrator Tilley and the city attorney, when the de-annexation was done, it was only of that subdivision, not that strip. That is why the map shows it that way. There is a one foot strip that exists. An annexation of the neighborhood, a de-annexation of the neighborhood, but the ETJ remained. The ETJ is automatically pushed to one half mile of the city limit line after every annexation. Essentially, east of FM 149 the City of Conroe today is bounding the City so all the way down and then it wraps around the north. As a larger city and the type of city they are, they have a larger than half mile extension of their ETJ. When you go to the west side of the City as we are annexing Red Bird, that is pushing up the ETJ because there is not an ETJ on that side. City Engineer Roznovsky said the chapter 78 ordinance still applies. Chairman Simpson asked if they have to come for plan review? City Engineer Roznovsky said no, but when it comes to plat, yes. The City reviews and the County will still sign off on the plats within the ETJ. The City reviews in chapter 78 the plats. Chairman Simpson asked if they need to go by our lot? He believes the lot width is in chapter 78 and setbacks, etc. are in chapter 98 so those would apply, but again, they have not had a chance to deep dive into this and loop in the attorney to make sure that is okay. Vice Chairman Czulewicz asked are you going to answer the letter? Code Enforcement Officer and Planning/Zoning Administrator Tilley said yes. She will put together some notes in reference to what is in chapter 78 and what we can review and what we cannot. We will make sure we push it through the city attorneys first and make sure we are correct on that. She said she agrees with City Engineer Roznovsky. Chapter 78 will cover that development, but chapter 98

does not. Vice Chairman Czulewicz said this is from a third party. Are you obligated to contact the developer about the questions or is that like you said, they go through the County for the permitting? Code Enforcement Officer and Planning/Zoning Administrator Tilley said her email came from a council member so she will be responding to the council member. City Engineer Roznovsky said they will look into the requirements and make sure they take it to the attorney and if that means the City does have jurisdiction, contact will be made through the appropriate channels to make sure developers are notified and Council is responded to.

Vice Chairman Czulewicz said in regards to definitions, he really thinks they need to include municipal utility district (MUD) and public improvement district (PID) in the definitions in both chapter 98 and chapter 78. They are not in there. It came up at the City Council meeting and people do not know what they are. They know what MUD is, but they did not know what PID was. He thinks it is important if they are going to have a system where a developer or someone goes in and they can search for something which is a part of the plan that we should have as many of these typical definitions as we can. City Engineer Roznovsky said we will talk with Kendig Keast Collaborative (KKC), the attorneys, and staff and see if there is a way to put in some of the City's requirements for the creation of a special purpose district within the ordinances that lay some of that out.

Vice Chairman Czulewicz said he has a technical question regarding plan development. In discussions for this one that we had today, in the original discussions and everything beforehand, there was some discussion about covenants and restrictions. Do all approved plan developments come with covenants and restrictions? City Engineer Roznovsky said this one is different. He is not going to say all, but will say how this one works. When this one was created, it covered a large area of the City. It covered Buffalo Springs, Lake Creek Village, Town Creek Crossing, and all those properties along there, including the northern portion of this. When that was created, the Architectural Control Committee of Buffalo Springs was designated to have architectural control over that entire area. As developments come through, the Architectural Control Committee should be reviewing them. The Architectural Control Committee has not been and so we are working through that process to make sure that they are reviewing these documents. It does not change plan use, city code, or building setbacks, but just architect control elements and a little bit on the use of the property as it aligns with the overall plan development district. Vice Chairman Czulewicz said but they have to comply with the City's requirements, right? City Engineer Roznovsky said correct. Those kind of suggestions were adopted around 2004. Vice Chairman Czulewicz said he was under the impression from Mr. Phillip Lefevre that the planned development (PD) expired. City Engineer Roznovsky said his agreement expired. The 2004 development agreement between the City and Mr. Lefevre was a 20-year agreement that expired in January 2004. The PD zone still remains. That is a zone district by the City. It is not tied to the development agreement. These architectural controls were over the land area. It was not tied to the agreement, it was tied to what was zoned PD. Everything in this PD zone falls under the same architectural control unless the bylaws would have to be changed to remove that. On this property as you point out, the very low portion of the property is PD. Then you have the commercial and the rest of it is commercial zone, so they would have to rezone the commercial zone portion with the multi-family zoning multi-family and the rest of it can stay commercial with likely restaurants and things like that.

Vice Chairman Czulewicz asked what do we need to do to get more teeth in compliance with the violations like the plastic up there? They did that last year. They just blew us off and said I do not care and then took it down when the weather got warm. Nobody said anything. Code Enforcement Officer and Planning/Zoning Administrator Tilley said in this case, specifically for that one there, they do have the right to appeal the decision and they do have the time frame to appeal the decision. Vice Chairman Czulewicz said that was a month ago. They had 30 days. Code Enforcement Officer and Planning/Zoning Administrator Tilley said she will get on that tomorrow and remind him. She was out there last week reminding him when it needs to come down. She has not seen an appeal.

Vice Chairman Czulewicz asked if they have any parking enforcement codes? Code Enforcement Officer and Planning/Zoning Administrator Tilley asked in what sense? Vice Chairman Czulewicz said if the City has a no parking at any time sign, who enforces that? Code Enforcement Officer and Planning/Zoning Administrator Tilley said that would be the police department (PD) because that is in the right-of-way, unless it is private parking. Vice Chairman Czulewicz said no. He is talking about over in the historic district across from Maiden. The one whole side has no parking, but people park there all the time. Code Enforcement Officer and Planning/Zoning Administrator Tilley said she will definitely look at that and see. Vice Chairman Czulewicz said there are signs for no parking any time all the way down that side. The problem with it is that the other side of the street has angle parking. When people park illegally on the other side, people cannot back out very easily. City Engineer Roznovsky asked if he was talking about behind Cozy Grape? Vice Chairman Czulewicz said yes. The whole street there has no parking any time signs there. It does create a real problem.

**CLOSING AGENDA**

**9. Items to consider for placement on future agendas.**

No items were brought forth to consider.

**10. Adjourn.**

**Motion:** Vice Chairman Czulewicz made a motion to adjourned the regular meeting of the Planning and Zoning Commission at 7:25 p.m. Commission Member Gazda seconded the motion. Motion carries with all present voting in favor.

APPROVED:

\_\_\_\_\_  
Bill Simpson, Commission Chairman

ATTEST:

\_\_\_\_\_  
Ruby Beaven, City Secretary

**PLANNING & ZONING COMMISSION  
AGENDA  
Regular Meeting: April 1, 2025**

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**AGENDA ITEM:**

Consideration and possible action regarding the relocation of an existing sign in the Historic Preservation District from 305 Prairie Street to an existing sign post at 301 Prairie Street.

**SUBMITTED BY:** Corinne Tilley, Code Enforcement Officer, Planning/Zoning Administrator

**APPROVED FOR AGENDA:** Ruby Beaven, City Secretary and Director of Administrative Services

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**BACKGROUND:**

301 Prairie Street and 305 Prairie Street are located in the Commercial zoning district and Historic Preservation District.

Lola and Viv Designs is proposing to move their business from 305 Prairie Street to 301 Prairie Street. The existing signs (a wall sign and a freestanding sign) at 305 Prairie Street will be removed. The one freestanding sign will be installed onto the existing freestanding sign at 301 Prairie Street. Photos are attached for your reference.

Although signage is not addressed in the design guidelines of the historic district, the historic preservation ordinance states that any material change to the exterior elements visible from a public right-of-way requires approval from the Planning and Zoning Commission. This particular sign/face change does not require a sign permit because the existing sign from 305 Prairie is being reinstalled onto an existing nonconforming freestanding sign.

The freestanding sign posts at 305 Prairie Street and 301 Prairie Street are nonconforming. Per Sign Ordinance Section 66-53(n)(2)e. freestanding signs must be designed and constructed to substantially appear as a solid mass, such as a cylinder, block, rectangle, or square, from ground level to the highest portion of the sign (commonly known or referred to as a monument type sign).

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**FISCAL ANALYSIS:**

N/A

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**RECOMMENDATION:**

Based on the findings, staff recommends approval of the removal of the existing sign face from the existing nonconforming freestanding sign located at 305 Prairie Street to be reinstalled on the existing nonconforming freestanding sign located 301 Prairie Street .

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# Sign Permit Application

**CITY OF MONTGOMERY**

101 Old Plantersville Road  
Montgomery, Texas 77356  
936-597-6434

permits@ci.montgomery.tx.us

SIGN PERMIT APPLICATION EXPIRES IN  
180 DAYS (NON-TRANSFERABLE)

<b>TEMPORARY SIGN?</b>	YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>
<b>PERMANENT SIGN?</b>	YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>
<b>Pre-Existing OR New</b>	Pre-Existing <input checked="" type="checkbox"/>	NEW <input type="checkbox"/>

**Permit:**

**Date:**

<b>JOB ADDRESS:</b> 301 Prairie Street	<b>BUSINESS NAME:</b> Lda + Viv Designs
<b>BUSINESS OWNER:</b> Patricia Roebuck	<b>MAILING ADDRESS:</b> 301 Prairie St, Montgomery TX 77356
<b>APPLICANT:</b> JK Graphics	<b>MAILING ADDRESS:</b> 118 Cape Convale Dr. Montgomery, TX 77356
<b>CONTRACTOR LICENSE (if electrical):</b> NA	<b>TELEPHONE:</b> 936-727-9106 936-447-1869

IS THE SIGN IN THE HISTORIC PRESERVATION DISTRICT?	YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>	IS THE SIGN ILLUMINATED?	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>
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<b>SIGN PLACEMENT:</b> at street	<b>VALUATION:</b>
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<b>SIGN DESIGN &amp; COLOR SCHEME:</b> white - Black - Pastels
---

SIGN TYPE		SIGN DIMENSIONS	
FREESTANDING MONUMENT SIGN <input checked="" type="checkbox"/>	Existing Sign overlay	SIGN HEIGHT	
BUILDING WALL SIGN <input type="checkbox"/>		SIGN WIDTH	
BANNER <input type="checkbox"/>		TOTAL SQ FT	
OTHER <input type="checkbox"/>		SET BACK	
		LOT LINEAR FOOTAGE	

I hereby certify that I have read and examined this application and know the same to be true and correct. All provisions of law and ordinances governing this type of work will be complied with whether or not specified herein. The granting of a permit does not presume to give authority to violate or cancel the provisions of any state or local law regulating construction or the performance of construction.

<b>NAME:</b> Deanna Vitte	<b>SIGNATURE:</b> Deanna Vitte
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**OFFICE USE ONLY**

<b>APPROVED</b>		<b>TOTAL FEE:</b> * all fees paid by credit card are subject to a 5% merchant fee.	\$
<b>DATE</b>			
<b>COMMENTS:</b>			



# PROOF

- Proof APPROVED as is
- OK with changes
- NEW Proof needed

# READ PROOF CAREFULLY

Please review the layout(s) below and advise whether approved or changes for production. Please reply via this email noting order is approved or noting any changes.

\*\*Production will not begin until approval is emailed or fax back stating APPROVED.\*\*



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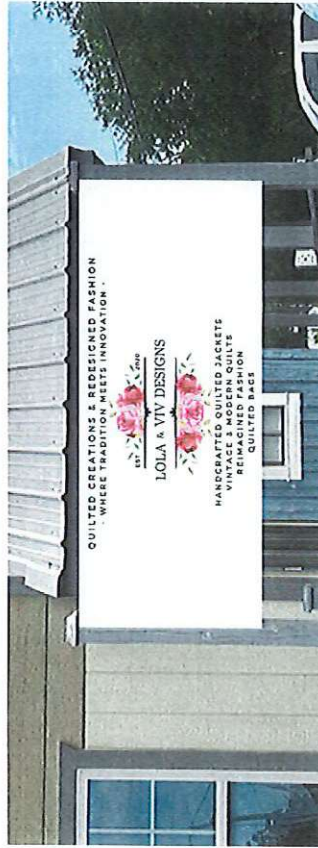
## Sign 1

Removing This Sign  
305 Prairie St



## Sign 2 & 3

Removing This Sign  
will be reinstalling  
301 Prairie St  
Next door to existing  
location



Moving existing signs  
67"x27" Alumapanel  
Attached to existing Sign Post  
Bolts 1/4" x 3"

## YOU MUST CHECK THE FOLLOWING:

**WORDING - SPELLING:**  
Is everything spelled correctly?  
Check all names and words.

**LAYOUT:**

Do all components correlate to each other?  
**SIZE:**

Check the size noted on the drawing.  
Changes may have been necessary  
to meet the size requirements.

**\*ONCE APPROVED YOU ARE RESPONSIBLE FOR 1/2 OF THE REMAKE COST SHOULD ANY ERRORS BE FOUND AFTER PRODUCTION BEGINS. NO EXCEPTIONS.**

DATE 9/11/24  
ORDER NUMBER 24-3 5551 / 5724  
QUANTITY 3  
STOCK Alumapanel  
INK Digital  
SIZE 67" X 27"  
SIDES 1  
OTHER \_\_\_\_\_  
PRICE existing signs  
GRAPHIC FEES \_\_\_\_\_  
INSTALLATION \_\_\_\_\_  
COMPLETED DATE \_\_\_\_\_

**PLANNING & ZONING COMMISSION  
AGENDA  
Regular Meeting: April 1, 2025**

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**AGENDA ITEM:**

Consideration and possible action regarding the installation of a new wall sign at 308 Caroline Street.

**SUBMITTED BY:** Corinne Tilley, Code Enforcement Officer, Planning/Zoning Administrator

**APPROVED FOR AGENDA:** Ruby Beaven, City Secretary and Director of Administrative Services

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**BACKGROUND:**

308 Caroline Street is located in the Commercial zoning district and Historic Preservation District.

The business owner is proposing to install a new wall sign at 308 Caroline Street.

Although signage is not addressed in the design guidelines of the historic district, the historic preservation ordinance states that any material change to the exterior elements visible from a public right-of-way requires approval from the Planning and Zoning Commission. This particular sign will be attached with wood screws to the parapet wall. It will be over the same area that the previous business sign was located. Photo attached for your reference.

This wall sign is nonconforming. According to Sign Ordinance Section 66-53(n)(1)b. a wall sign shall not project above the roofline.

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**FISCAL ANALYSIS:**

N/A

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**RECOMMENDATION:**

Based on the findings, staff recommends approval of the installation of the new wall sign at 308 Caroline Street.





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# Sign Permit Application

## CITY OF MONTGOMERY

101 Old Plantersville Road  
Montgomery, Texas 77356  
936-597-6434

permits@ci.montgomery.tx.us

RECEIVED BY:

MAR 12 2025

City of Montgomery

SIGN PERMIT APPLICATION EXPIRES IN  
180 DAYS (NON-TRANSFERABLE)

TEMPORARY SIGN?	YES <input type="checkbox"/>	NO <input type="checkbox"/>
PERMANENT SIGN?	YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>
Pre-Existing OR New	Pre-Existing <input type="checkbox"/>	NEW <input type="checkbox"/>

Permit: \_\_\_\_\_

Date: \_\_\_\_\_

JOB ADDRESS: <i>308 Caroline St.</i>	BUSINESS NAME: <i>Montgomery Roots</i>
BUSINESS OWNER: <i>Amy Kienholz</i>	MAILING ADDRESS: <i>275 Pine Terrace Dr. Apt. 7102 Mont. TX, 77316</i>
APPLICANT: <i>Amy Kienholz</i>	MAILING ADDRESS: <i>275 Pine Terrace Dr. Apt. 7102 Montgomery, TX 77316</i>
CONTRACTOR LICENSE (if electrical): <input checked="" type="checkbox"/>	TELEPHONE: <i>936-766-2834</i>

IS THE SIGN IN THE HISTORIC PRESERVATION DISTRICT?	YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>	IS THE SIGN ILLUMINATED?	YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>
--	---	-----------------------------	--------------------------	------------------------------	--

SIGN PLACEMENT: <i>Front, middle Building</i>	VALUATION: <i>\$325.00</i>
SIGN DESIGN & COLOR SCHEME: <i>Alumapanel - Digital Wood look, Cream lettering, Boho look</i>	

SIGN TYPE	SIGN DIMENSIONS
FREESTANDING MONUMENT SIGN <input type="checkbox"/>	SIGN HEIGHT <i>4'</i>
BUILDING WALL SIGN <input checked="" type="checkbox"/>	SIGN WIDTH <i>8'</i>
BANNER <input checked="" type="checkbox"/>	TOTAL SQ FT <i>32sqft</i>
OTHER <input type="checkbox"/>	SET BACK
	LOT LINEAR FOOTAGE

I hereby certify that I have read and examined this application and know the same to be true and correct. All provisions of law and ordinances governing this type of work will be complied with whether or not specified herein. The granting of a permit does not presume to give authority to violate or cancel the provisions of any state or local law regulating construction or the performance of construction.

NAME: <i>Amy Kienholz</i>	SIGNATURE: <i>Amy Kienholz</i>
------------------------------	-----------------------------------

OFFICE USE ONLY			
APPROVED		TOTAL FEE: * all	\$
DATE		fees paid by credit card are subject to a 5% merchant fee.	
COMMENTS:			



# PROOF

## READ PROOF CAREFULLY

Please review the layout(s) below and advise whether approved or changes for production. Please reply via this email noting order is approved or noting any changes.

- Proof APPROVED as is
- OK with changes
- NEW Proof needed

\*\*Production will not begin until approval is emailed or fax back stating APPROVED.\*\*



PRINTING | SIGNS | APPAREL

www.jkgraphicsinc.com

### YOU MUST CHECK THE FOLLOWING:

**WORDING - SPELLING:**  
Is everything spelled correctly?  
Check all names and words.

**LAYOUT:**

Do all components correlate to each other?  
**SIZE:**

Check the size noted on the drawing.  
Changes may have been necessary to meet the size requirements.

**\*ONCE APPROVED**

**YOU ARE RESPONSIBLE FOR THE REPRINT AT A DISCOUNTED COST SHOULD ANY ERRORS BE FOUND AFTER PRODUCTION BEGINS. NO EXCEPTIONS.**

DATE	3/11/25
ORDER NUMBER	25-3 5402
QUANTITY	1
STOCK	ALUMAPANEL
INK	DIGITAL
SIZE	4'H X 8'W
SIDES	1
OTHER	
PRICE	\$325.00
GRAPHIC FEES	\$75.00
INSTALLATION	na
COMPLETED DATE	









**PLANNING & ZONING COMMISSION  
AGENDA**

**Regular Meeting: April 1, 2025**

---

**AGENDA ITEM:**

Consideration and possible action regarding the installation of two new shingle type signs at 401 College Street on the second floor for Suite 260.

**SUBMITTED BY:** Corinne Tilley, Code Enforcement Officer, Planning/Zoning Administrator

**APPROVED FOR AGENDA:** Ruby Beaven, City Secretary and Director of Administrative Services

---

**BACKGROUND:**

401 College Street is located in the Commercial zoning district and Historic Preservation District.

The business owner is proposing to install two shingle type signs on the second floor, west and north corners of the building located at 401 College Street.

The two signs at each side of the building will not exceed 60 percent of the total feet of wall area, respectively.

---

**FISCAL ANALYSIS:**

N/A

---

**RECOMMENDATION:**

Based on the findings, staff recommends approval of the two shingle type signs at 401 College Street.



WWW.MONTGOMERYTEXAS.GOV

# Sign Permit Application

**CITY OF MONTGOMERY**

Item 6.

101 Old Plantersville Road  
Montgomery, Texas 77356  
936-597-6434

permits@ci.montgomery.tx.us

SIGN PERMIT APPLICATION EXPIRES IN  
180 DAYS (NON-TRANSFERABLE)

TEMPORARY SIGN?	YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>
PERMANENT SIGN?	YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>
Pre-Existing OR New	Pre-Existing <input type="checkbox"/>	NEW <input checked="" type="checkbox"/>

Permit: \_\_\_\_\_

Date: \_\_\_\_\_

JOB ADDRESS: <i>401 College Street # 260</i>	BUSINESS NAME: <i>Southern Heritage Realty</i>	
BUSINESS OWNER: <i>Lisa Gregory</i>	MAILING ADDRESS: <i>15637 Marina Drive #5 Montgomery 77356</i>	TELEPHONE: <i>713.252.3188</i>
APPLICANT: <i>Lisa Gregory</i>	MAILING ADDRESS: <i>15637 Marina Drive #5 Montgomery 77356</i>	TELEPHONE: <i>713.252.3188</i>
CONTRACTOR LICENSE (if electrical): <i>NA</i>		

IS THE SIGN IN THE HISTORIC PRESERVATION DISTRICT?	YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>	IS THE SIGN ILLUMINATED?	YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>
--	---	-----------------------------	--------------------------	------------------------------	--

SIGN PLACEMENT: <i>* See Attached *</i> <i>2 Signs at Corners centered w/ Railing Posts</i>	VALUATION:
SIGN DESIGN & COLOR SCHEME: <i>* See Attached *</i> <i>Rectangle w/ White Background / Aqua Text</i>	

SIGN TYPE		SIGN DIMENSIONS	
FREESTANDING MONUMENT SIGN	<input type="checkbox"/>	SIGN HEIGHT	<i>26"</i>
BUILDING WALL SIGN	<input type="checkbox"/>	SIGN WIDTH	<i>36"</i>
BANNER	<input type="checkbox"/>	TOTAL SQ FT	<i>6</i>
OTHER	<input checked="" type="checkbox"/> <i>Hanging Shingle Sign - Upstairs</i>	SET BACK	<i>Upstairs</i>
		LOT LINEAR FOOTAGE	<i>NA</i>

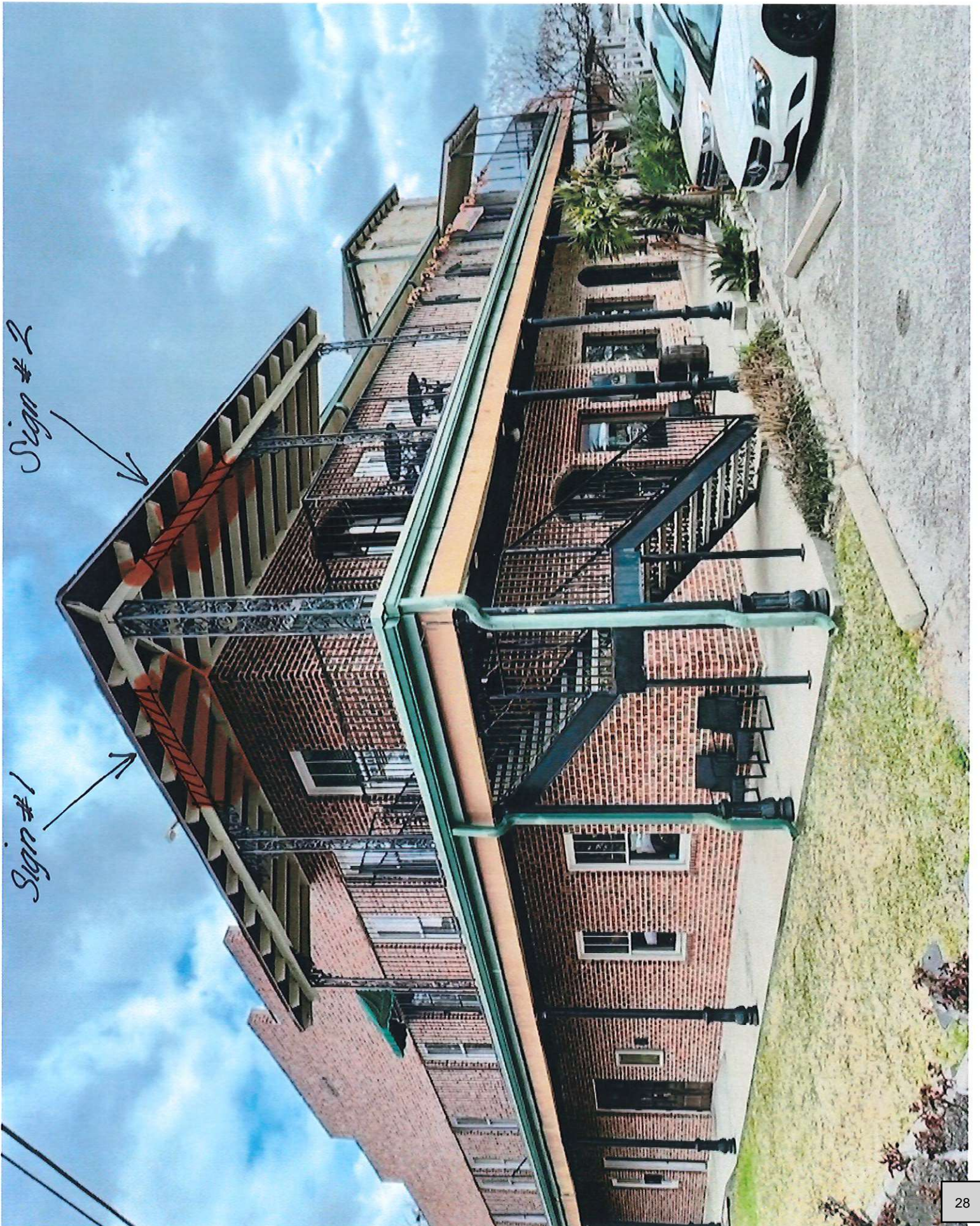
I hereby certify that I have read and examined this application and know the same to be true and correct. All provisions of law and ordinances governing this type of work will be complied with whether or not specified herein. The granting of a permit does not presume to give authority to violate or cancel the provisions of any state or local law regulating construction or the performance of construction.

NAME: <i>Lisa Gregory</i>	SIGNATURE:
---------------------------	------------

**OFFICE USE ONLY**

APPROVED		TOTAL FEE: * all fees paid by credit card are subject to a 5% merchant fee.	\$
DATE			
COMMENTS:			

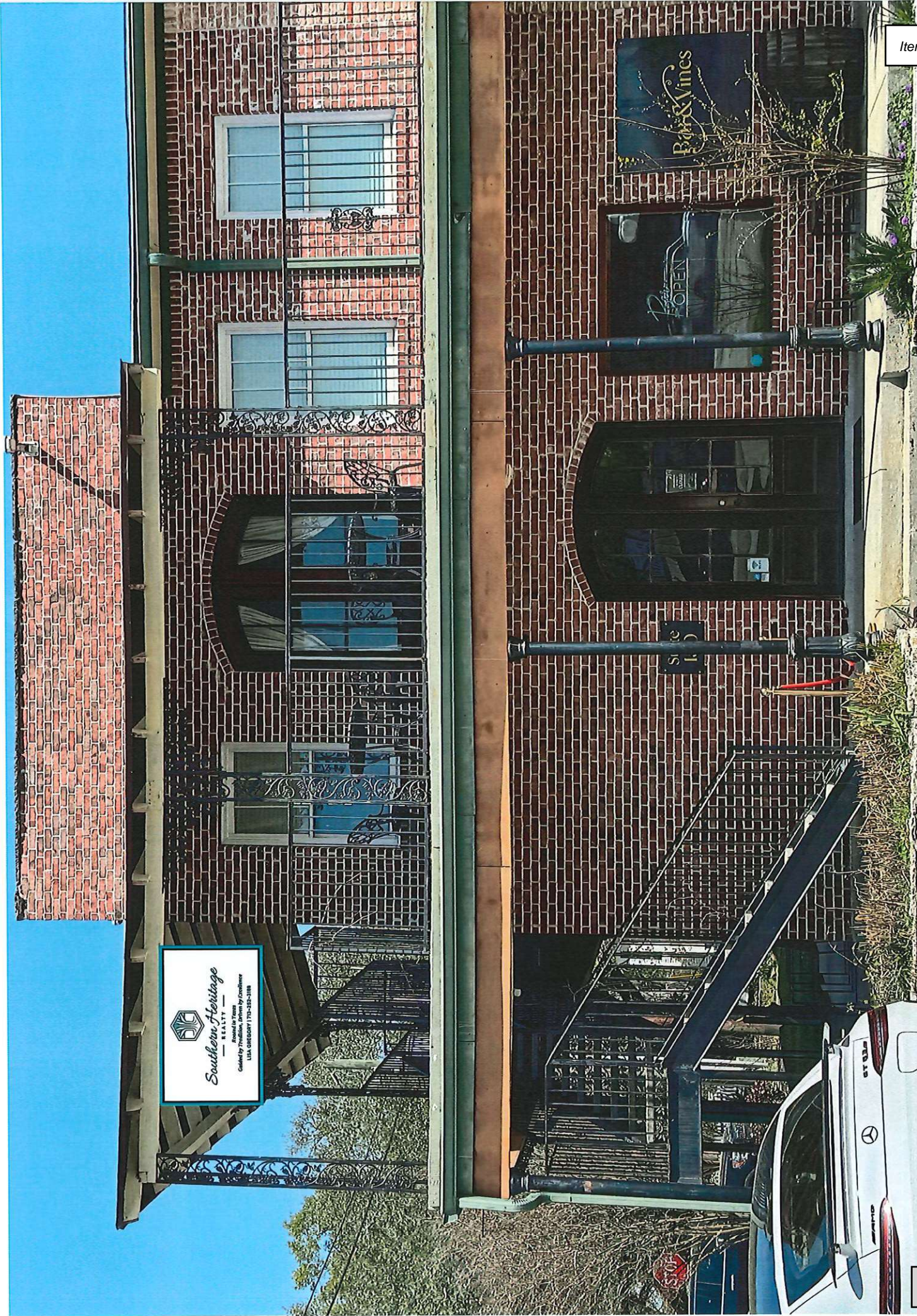






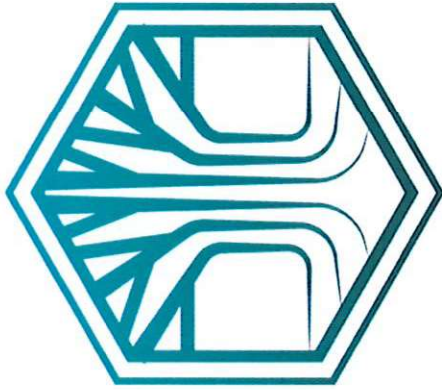






Item 6.





# *Southern Heritage*

— REALTY —

*Rooted in Texas  
Guided by Tradition, Driven by Excellence*

**LISA GREGORY | 713-252-3188**

**PLANNING & ZONING COMMISSION  
AGENDA  
Regular Meeting: April 1, 2025**

---

**AGENDA ITEM:**

Consideration and possible action regarding a proposed new single-family dwelling located at 990 Caroline Street in the Historic Preservation District.

**SUBMITTED BY:** Corinne Tilley, Code Enforcement Officer, Planning/Zoning Administrator

**APPROVED FOR AGENDA:** Ruby Beaven, City Secretary and Director of Administrative Services

---

**BACKGROUND:**

990 Caroline Street is located at the west end of Caroline Street in the Residential zoning district and Historic Preservation District.

This proposed new single-family dwelling was initially introduced to the Planning and Zoning Commission (P&Z) on November 5, 2024. At that time, an overview of the concept was provided and P&Z gave feedback. A copy of the November 5 meeting minutes is provided for your reference.

References:

- Sec. 98-347. Approval for new construction within the historic preservation district.
- Sec. 98-349. Historic preservation district/landmark building permit application procedures.
- Sec. 98-350. Criteria for approval by the planning and zoning commission. Design Guidelines For The City of Montgomery – for residential structures within the Historic Preservation District

Findings:

1. Prior to the commencement of any work requiring planning and zoning commission approval, the owner shall follow standard procedures for a building permit application and provide information for review.  
This finding is met. The applicant has submitted a building permit application, included a detailed description of the work, provided location and property photographs, elevation drawings, description of materials and colors.
2. Architectural detail. Materials, colors, structural and decorative elements, and the manner in which they are used, applied, or joined together must be typical of the style and period of the other buildings and compatible with similar, conforming structures in the historic district.  
This finding is met. The applicant proposes the use of charcoal shingles and black metal roofing materials with a natural sealant on cherry siding and black garage and front door. Photographs of other single-family dwellings along Caroline Street are provided for your reference.
3. Building placement form and treatment. All structures within a historic district must comply with the standards contained in the City of Montgomery Code of Ordinances.

- This finding is met. The proposed structure meets setback requirements.
4. Color.  
This finding is met. There are no fluorescent or metallic colors proposed. The applicant proposes one dominant color of black to be used on trim, roof shingles, and metal awnings.
  5. Gutters and downspouts.  
This finding may be met. A plan for gutters and downspouts was not submitted; however, we may require that, when applied, they match or coincide with the proposed dominant color of black, as indicated for the trim, roof, garage door, and front door.
  6. Roof color.  
This finding is met. The roof color of black appears to complement the style and overall scheme of the structure.
  7. Stain.  
This finding is met. The stain proposed is a natural sealant.
  8. Columns.  
This finding is met. The columns are vertical supports for the carport area, constructed of wood, matching the style of the structure.
  9. Façade materials.  
This finding may be met. The siding proposed in the exterior selection images indicates James Hardie Rustic Series, Old Cherry (appears like wood) lap siding; however, the plans indicate “TBD, wood look hardie siding or wood look metal”. The design guidelines specifically states, “The only permitted façade materials are stone, brick and lap siding composed of wood or fiber cement that looks like wood.”
  10. Front entrances and porches.  
This finding is met. The proposed front entrance/porch does not appear to be enclosed. The floor covering proposed is brushed concrete.
  11. Roof forms.  
This finding is met. The proposed roofing elements of shingles and standing seam metal roof over the awnings appear to meet the design guidelines.
  12. Front façade openings.  
This finding may be met. A detailed sheet indicating glass on windows and doors along the front façade was not submitted. Submit a detailed sheet that includes the proposed glass in any window opening along the front façade, and dimensions of proposed glass pane not exceeding 16 square feet.
  13. Screens, storm doors, and storm windows.  
This finding may be met. A detailed sheet indicating screens, storm doors, and storm windows was not submitted. Indicate if this detail will be included in the design of the front or side facade. If so, submit a detailed sheet showing how the frame will match or complement the building color scheme and that it will not obscure features of the window or door it would cover.
  14. Style.  
This finding is met. The elevations appear to show windows, doors, sidelites in the front or side of the structure are proportionally balanced.

**FISCAL ANALYSIS:**

N/A

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**RECOMMENDATION:**

Based on the findings, staff recommends approval of the proposed design with the following modifications:

Include detailed specification sheets that clearly address the following elements:

**Gutters and Downspouts:** Ensure they match or coincide with the proposed dominant color of black, as seen on the trim, garage door, and front door.

**Facade Materials:** Ensure the facade materials meet the design guidelines.

**Front and Side Facade Openings:** Include detailed plans for front and side facade openings that conform to the design guidelines.

**Screens/Storm Doors/Storm Windows:** Ensure these elements are in strict adherence to the design guidelines in the Historic District.



www.montgomerytexas.gov  
 101 Old Plantersville Road  
 Montgomery, TX 77316  
 Phone: 936-597-6434  
 Fax: 936-597-6437  
 permits@ci.montgomery.tx.us

### RESIDENTIAL BUILDING PERMIT APPLICATION

For the erection of buildings, accessories, repairs, demolition, moving, etc. Expires in 6 months. (180 days); Non-Transferable.

Building Permit # \_\_\_\_\_

Application Date: \_\_\_\_\_

911 Designated Jobsite Address: 990 Caroline Street

Legal Property Description: S617500 - Jadak Manor 01 Lot: 2 Block: 1 Section: \_\_\_\_\_

Property Owner: Charles & Toni Cates Phone: 713-204-4781 Email: toniforhim@gmail.com

Property Owner Mailing Address: 199 Waterpoint Court, Unit 105, Montgomery, TX 77356

Contractor: Hycraft Homes Company Email: build@hycrafthomes.com

Company Address: 20350 FM 2854 Rd., Montgomery, TX 77316

Field Supervisor Name: Justin King Email: justin@hycrafthomes.com

Call Phone: 702-460-0048

Construction Type(s):  New  Addition  Exterior  Interior

Gross Square Foot (sf) of Structure: 2477  Proof of Ownership / Deed Attached

Gross Min sf	Gross Max sf	Permit Fee
<	1,000	\$770.00
1,000	1,499	\$1,084.00
1,500	1,999	\$1,369.00
2,000	2,499	\$1,624.00
2,500	2,999	\$1,849.00
3,000	3,499	\$2,044.00
3,500	3,999	\$2,209.00
4,000	4,499	\$2,344.00
4,500	4,999	\$2,450.00

5,000	5,499	\$2,607.00
5,500	5,999	\$2,750.00
6,000	6,499	\$2,877.00
6,500	6,999	\$2,990.00
7,000	7,499	\$3,087.00
7,500	7,999	\$3,170.00
8,000	8,499	\$3,237.00
8,500	8,999	\$3,290.00
9,000	9,999	\$3,500.00
>	10,000	\$3,800.00+

Separate Permits are required for Public Utilities; Electrical; Plumbing; Mechanical; Heating, Ventilation & Air Conditioning; Grading; Alarms; Roofing; Landscaping; Fire Sprinklers and Lawn Sprinklers. I hereby attest that I am the legal owner or authorized agent of the property described on this document. I certify that I am an authorized signer with the authority to submit this application. I certify that I have read and examined this application and attest that the information I am providing is correct. I understand that it is against the law to make a false statement on a government document and that incomplete applications will be denied. I agree to comply with all provisions of laws and ordinances governing this type of work, whether specified herein or not. The approval of this application does not presume to give authority to violate or cancel the provisions of any state or local law regulating construction or the performance of construction.

Applicant Signature: [Signature] Printed Name: Jordan McDonald Date: 3/21/2025

**OFFICE USE ONLY**

Received for Review by: \_\_\_\_\_ Date: \_\_\_\_\_

Approved by: \_\_\_\_\_ Date: \_\_\_\_\_

Re-inspections=\$75 each. Additional inspections required during project=\$100 each.

Total Fees Due:	\$
Receipt #:	

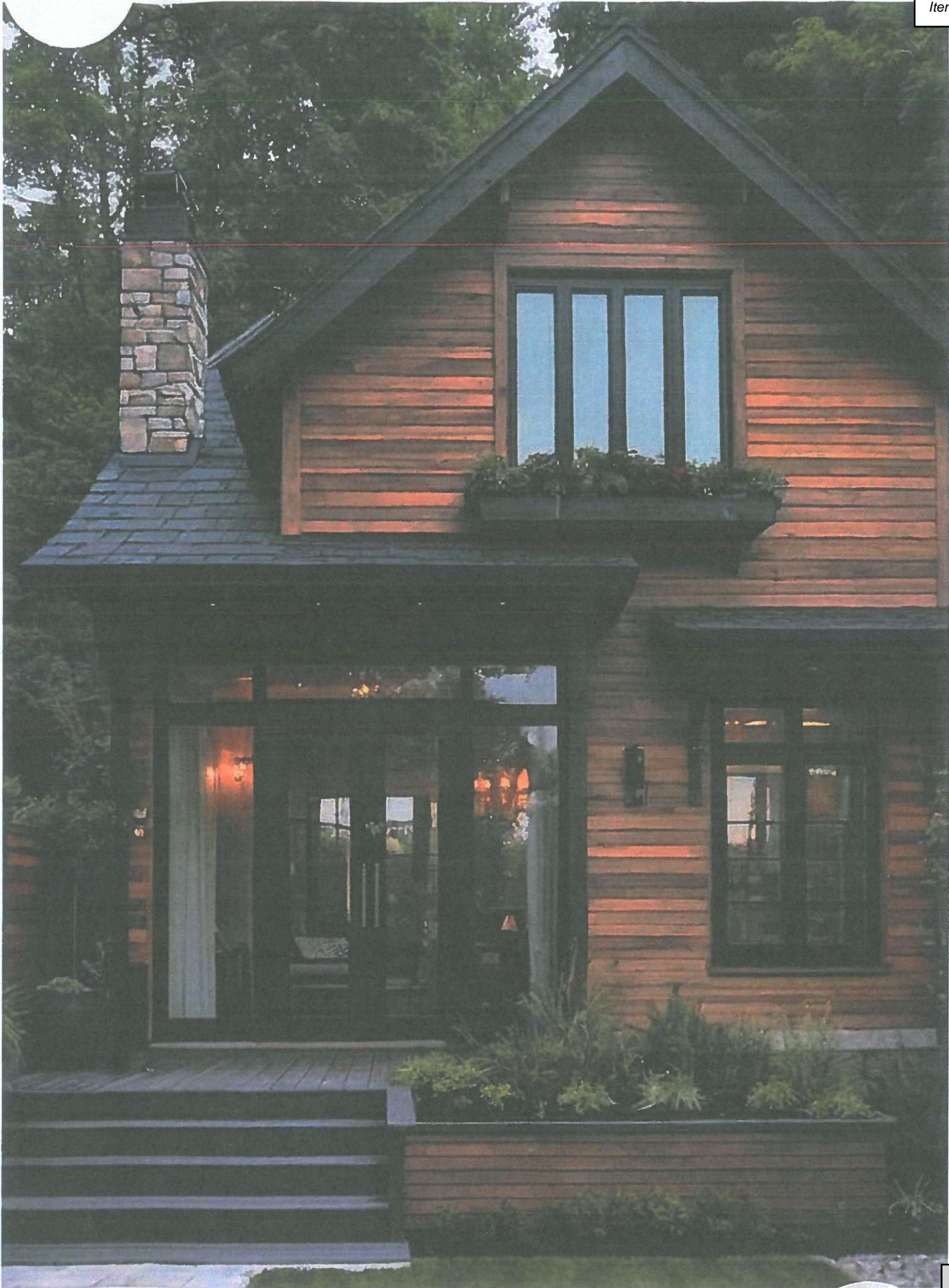




CAROLINE ST









# HYCRAFT HOMES

**Exterior Selection Images** *(image coloring may vary depending on computer screen and printing quality)*

**Date** 03.21.2025

**Homeowner** CATES RESIDENCE

**Address** TBD CAROLINE STREET

**Community** MONTGOMERY CITY HISTORIC DISTRICT

**Roofing**

**Gaf High Definition Architectural Shingles - Charcoal**

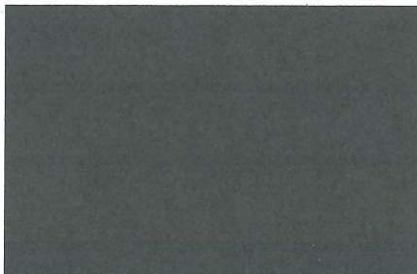


**McElroy Standing Seam Metal Roof - Matte Black**



**Paint Colors: Sherwin Williams**

**SW 6258 Tricorn Black**



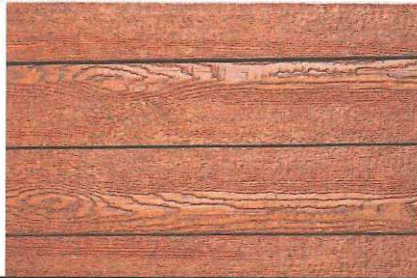
**Stain Color: Minwax or Super Deck**

**Natural Sealant**



Lap Siding

**James Hardie Rustic Series - Old Cherry**



Column Material/Finish

**Cedar Wrapped - Natural Sealant**



Porch Ceiling Material/Color

**Tongue and Groove Pine - stain to coordinate w/ cedar wrapped column finish**



Front Porch, Carport and Rear Patio Material

**Brushed Concrete**



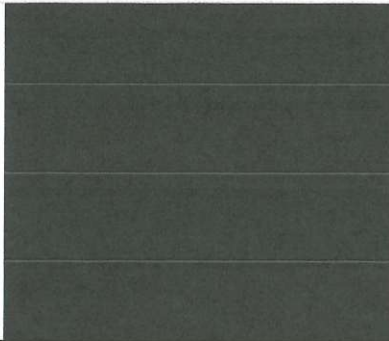
Window Frames

**Black**



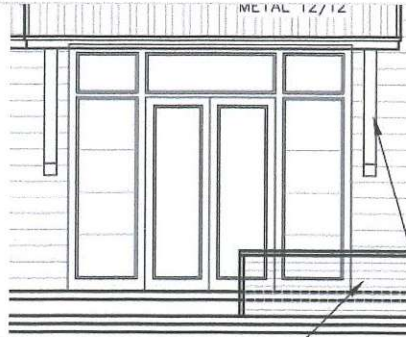
Garage Door Selection

**Clopay Modern Steel Flush Panel - Black**



Front Door Selection

**Tri Supply - Metal Full Light Glass - Bronze/Black finish**



**\* PLEASE REFERENCE THE HOMEOWNERS EXTERIOR SELECTION SHEET FOR ADDITIONAL EXTERIOR DESCRIPTIONS \***



# HYCRAFT

HOMES

## Exterior Selection Sheet

Date 03.21.2025

Homeowner CATES RESIDENCE

Address TBD CAROLINE STREET

Community MONTGOMERY CIST HISTORIC DISTRICT

## EXTERIOR

Shingle Manufacturer: GAF HIGH DEFINITION ARCHITECTURAL SHINGLES

Shingle Color: CHARCOAL

Metal Roof Manufacturer: McELROY

Metal Roof Locations: FRONT PORCH AWNINGS

Metal Roof Color: MATTE BLACK

Column Material: CEDAR WRAPPED

Qty: 5

Column Color: NATURAL SEALANT

Awning Bracket/ Corbel Material: CEDAR WRAPPED

Awning Bracket/ Corbel Color: NATURAL SEALANT

Lap Siding: JAMES HARDIE WOODSCAPES

Lap Siding Color: OLD CHERRY

Soffit Paint Color: SW 6258 TRICORN BLACK

Fascia Paint Color: SW 6258 TRICORN BLACK

Porch Ceiling Type: TONGUE AND GROOVE PINE

Porch Ceiling Stain Color: STAINED TO MATCH NATURAL SEALANT CEDAR COLUMNS

Porch Drop Beam Material: JAMES HARDIE WRAPPED

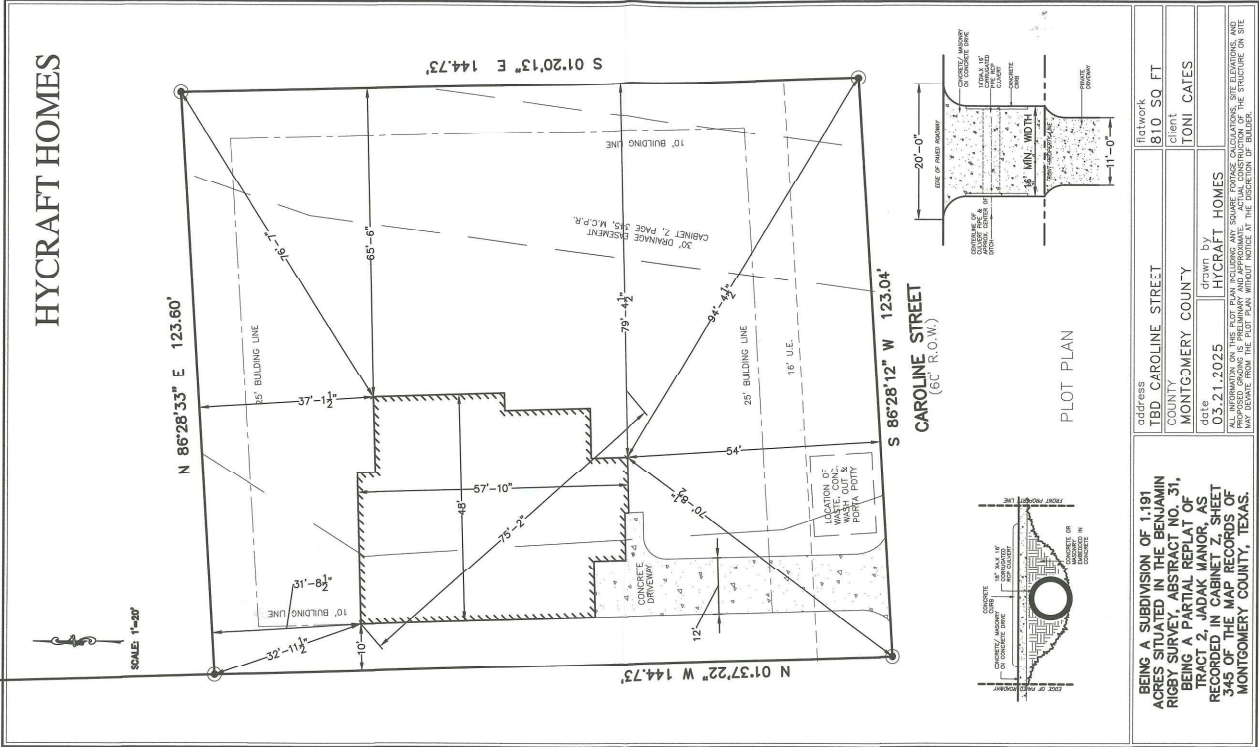
Porch Drop Beam Color: SW 6258 TRICORN BLACK

Porch Material: Front BRUSHED CONCRETE

Porch Material: Rear BRUSHED CONCRETE

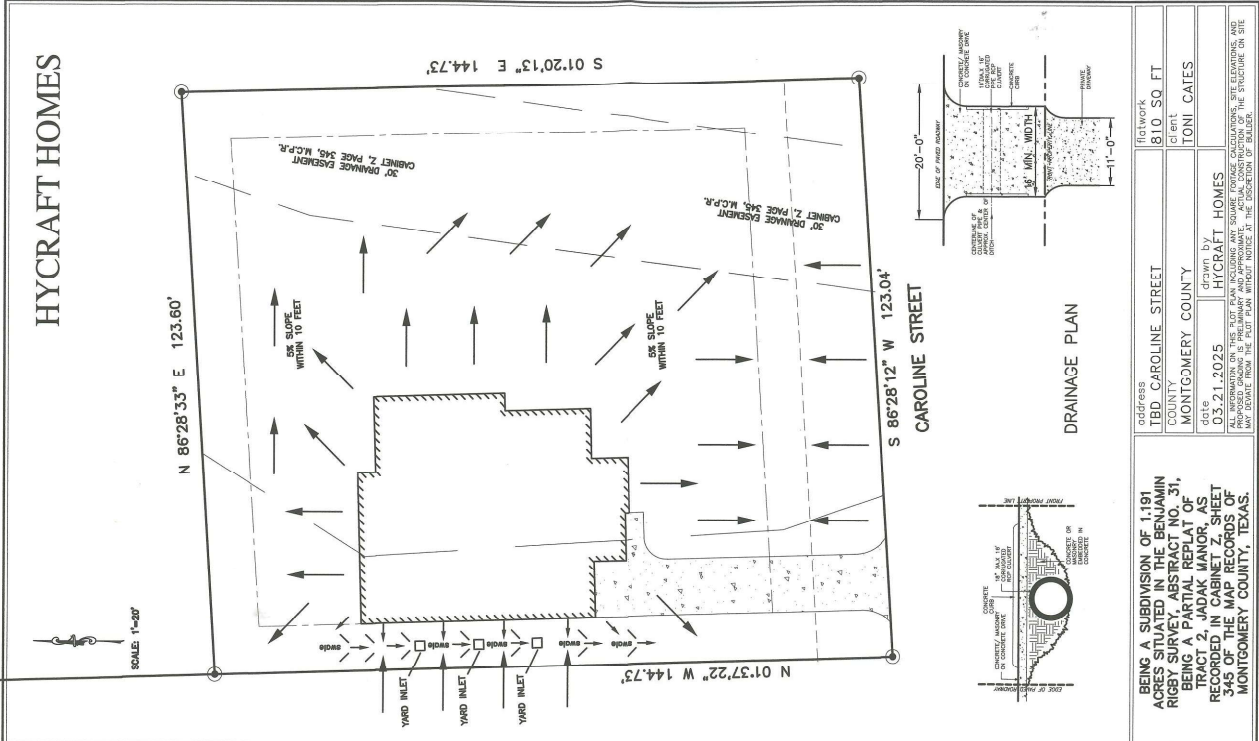
Secondary Door Trim Color: SW 6258 TRICORN BLACK

Window Grid Pattern:	DIVIDED LIGHT AT FRONT DOOR AND FIRST FLOOR BEDROOM WINDOW / CLEAR WINDOWS ELSEWHERE
Window Frame Color:	BLACK EXTERIOR/BLACK INTERIOR MAIN LIVING AND LOFT - BLACK EXTERIOR/WHITE INTERIOR BEDROOMS
Window Trim Color:	BLACK
Garage Door Manufacturer:	CLOPAY
Garage Door Style:	MODERN STEEL FLUSH GROOVED PANEL
Garage Door Size:	6080
Garage Door Windows:	NA
Garage Door Window Interior Trim:	NA
Garage Door Glass:	NA
Garage Door Color:	BLACK
Exterior Lighting Finish:	BLACK
<b>FRONT DOOR</b>	
Door Manufacturer:	TRI SUPPLY - METAL DOOR
Door Style:	FULL GLASS PANEL
Door Size:	2 - 2880
Door Caming:	NA
Glass Option:	CLEAR
Paint/ Stain Color:	BRONZE/BLACK BY MANUFACTURER
<b>SECONDARY EXTERIOR DOORS</b>	
Living Room:	3 PANEL SQUARE SOLID EXTERIOR DOOR
Living Room Color:	SW 6258 TRICORN BLACK
Kitchen/ Dining:	9080 SLIDER W/ BLACK EXTERIOR TRIM



<p>BEING A SUBDIVISION OF 1,191 ACRES SURVEYED BY BENJAMIN RIGGS SURVEYOR IN TRACT NO. 31, BEING A PARTIAL REPLAT OF TRACT 2, JADAK MANOR, AS RECORDED IN CABINET 2, SHEET 345 OF THE MAP RECORDS OF MONTGOMERY COUNTY, TEXAS.</p>		<p>110 WORKS 810 SQ. FT. CLIENT TONI CAIES</p>	
<p>address 110 CAROLINE STREET</p>		<p>address 810 SQ. FT.</p>	
<p>COUNTY MONTGOMERY COUNTY</p>		<p>COUNTY MONTGOMERY COUNTY</p>	
<p>DATE 03.21.2025</p>		<p>DESIGNED BY HYCRAFT HOMES</p>	
<p><small>ALL INFORMATION ON THIS PLOT PLAN, INCLUDING ANY SQUARE FOOTAGE CALCULATIONS, SITE ELEVATIONS, AND DIMENSIONS, IS BASED ON THE DATA PROVIDED TO THE ARCHITECT BY THE CLIENT. THE ARCHITECT ASSUMES NO LIABILITY FOR ANY ERRORS OR OMISSIONS IN THE INFORMATION PROVIDED BY THE CLIENT. THE ARCHITECT'S RESPONSIBILITY IS LIMITED TO THE DESIGN OF THE BUILDING AS SHOWN ON THIS PLOT PLAN. THE ARCHITECT DOES NOT WARRANT THE ACCURACY OF ANY INFORMATION PROVIDED BY THE CLIENT.</small></p>			

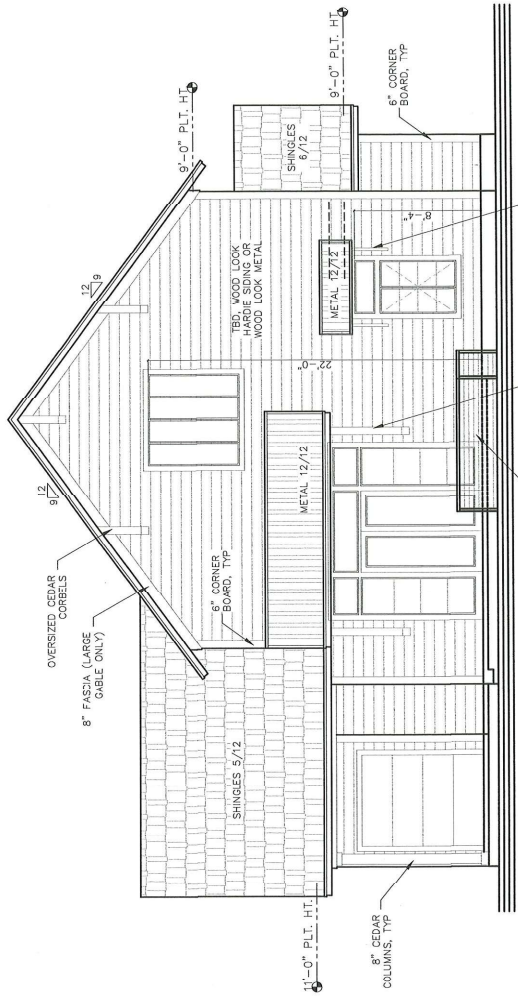




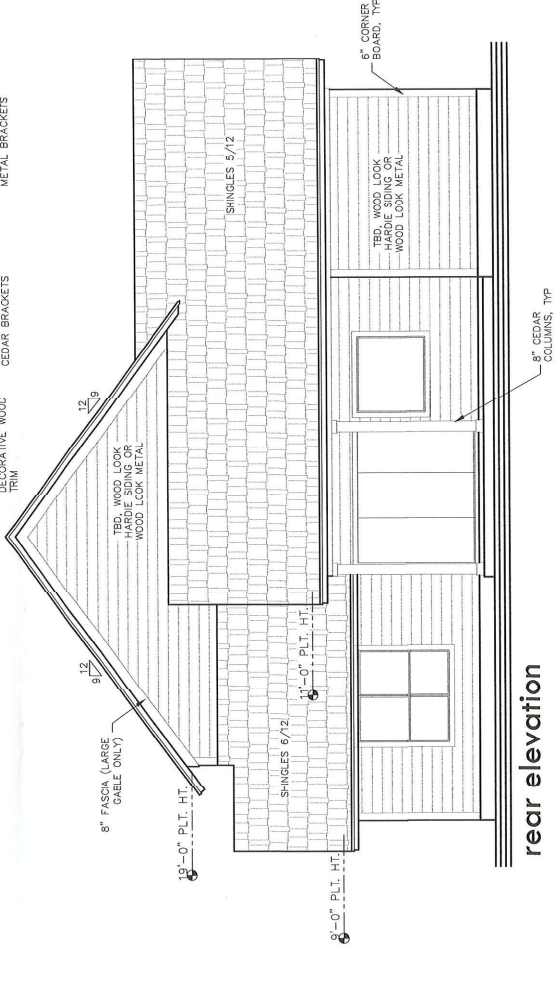
DRAINAGE PLAN

BEING A SUBDIVISION OF 1.191 ACRES SURVEYED AND PLATTED IN RIGGS SURVEY AND BEING IN TRACT 2, JADAK MANOR, AS RECORDED IN CABINET 2, SHEET 345 OF THE MAP RECORDS OF MONTGOMERY COUNTY, TEXAS.		(City/County) 810 SQ. FT. (Lot Area) TONI CAIES	
address 1800 CAROLINE STREET COUNTY MONTGOMERY COUNTY		(City/County) TONI CAIES	
date 03.21.2025		drawn by HYCRAFT HOMES	
ALL INFORMATION ON THIS PLAN, INCLUDING ANY SQUARE FOOTAGE CALCULATIONS, SITE ELEVATIONS, AND ANY DIMENSIONS, SHALL BE BASED ON THE DATA PROVIDED TO THE ENGINEER. THE ENGINEER HAS NOT CONDUCTED A FIELD SURVEY OF THE PROPERTY. THE ENGINEER'S RESPONSIBILITY IS LIMITED TO THE DESIGN OF THE DRAINAGE SYSTEM.			

# HYCRAFT HOMES



front elevation



rear elevation

## Cates Residence

Plans, specifications, community amenities, standard features, availability and prices are subject to change without notice. Calculations for square footage are approximate.

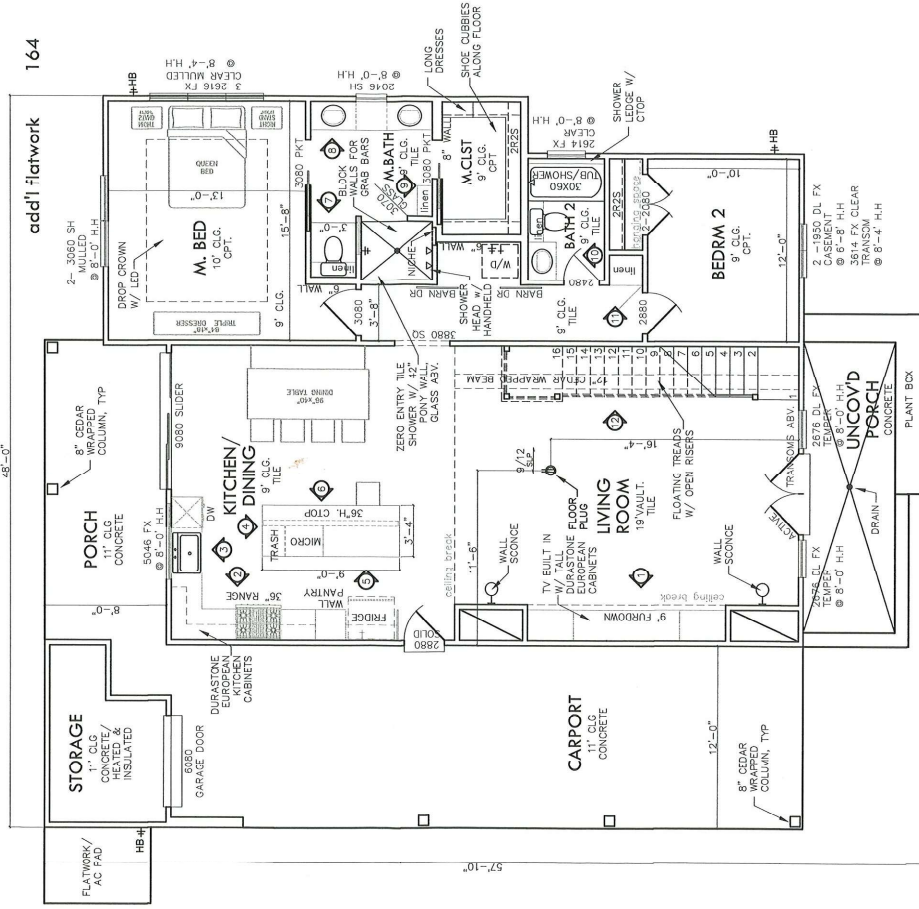
20 MAR 2025

# HYCRAFT HOMES

square footage	1459
first floor	272
second floor	1187
total	1459

storage	75
cov'd porch	671
total cov'd	2477
add'l' h/wrk	164

- NOTES**
- WATER SOFTENER
  - BLOCK MASTER SHOWER FOR GRAB BARS
  - DOUBLE STACK ALL CABINETS TO CEILING



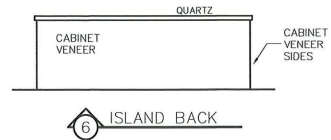
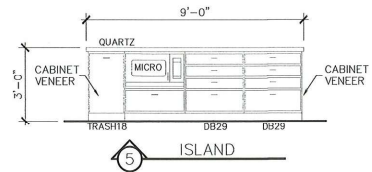
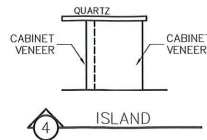
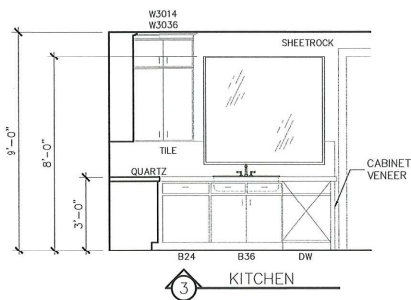
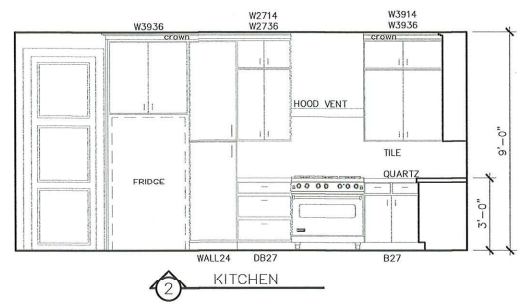
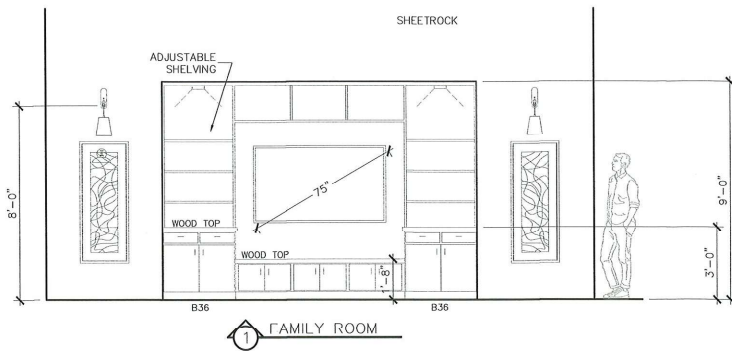
## Cates Residence

Plans, specifications, community amenities, standard features, availability and prices are subject to change without notice. Calculations for square footage are approximate.

20 MAR 2025



## HYCRAFT HOMES



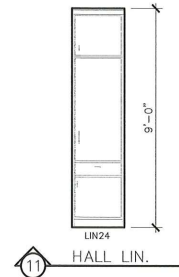
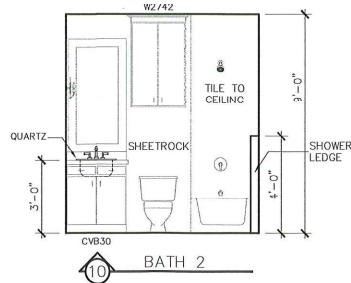
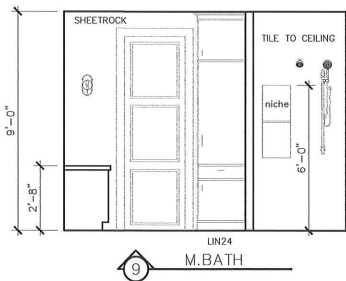
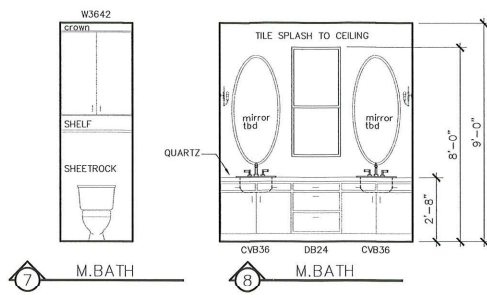
## Cates Residence

Plans, specifications, community amenities, standard features, availability and prices are subject to change without notice. Calculations for square footage are approximate.

20 MAR 2025

interior elevations

# HYCRAFT HOMES



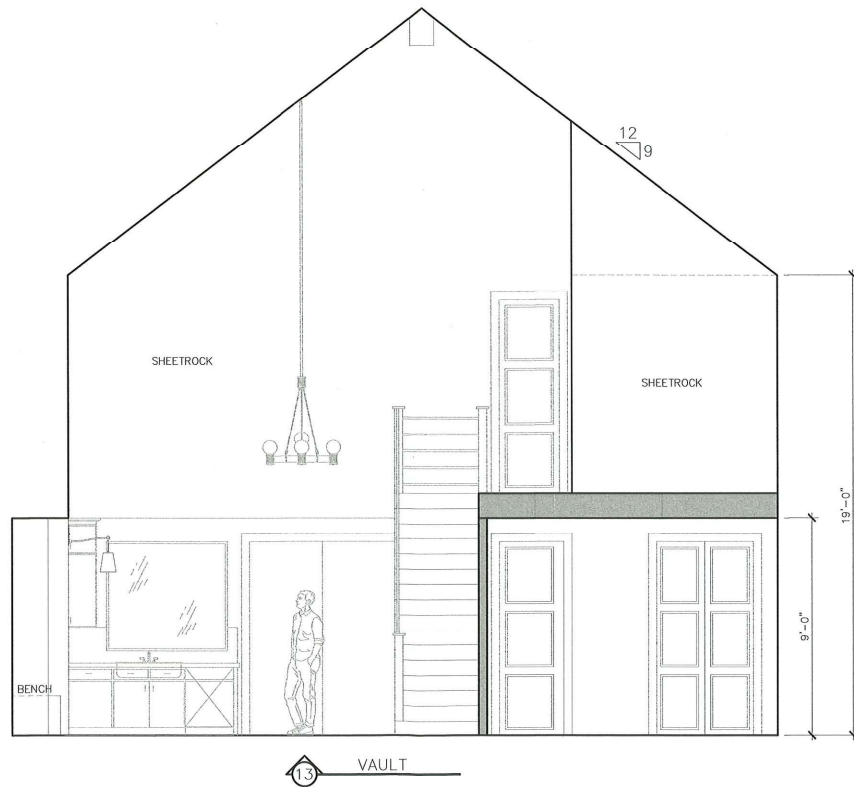
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### interior elevations

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interior elevations

20 MAR 2025

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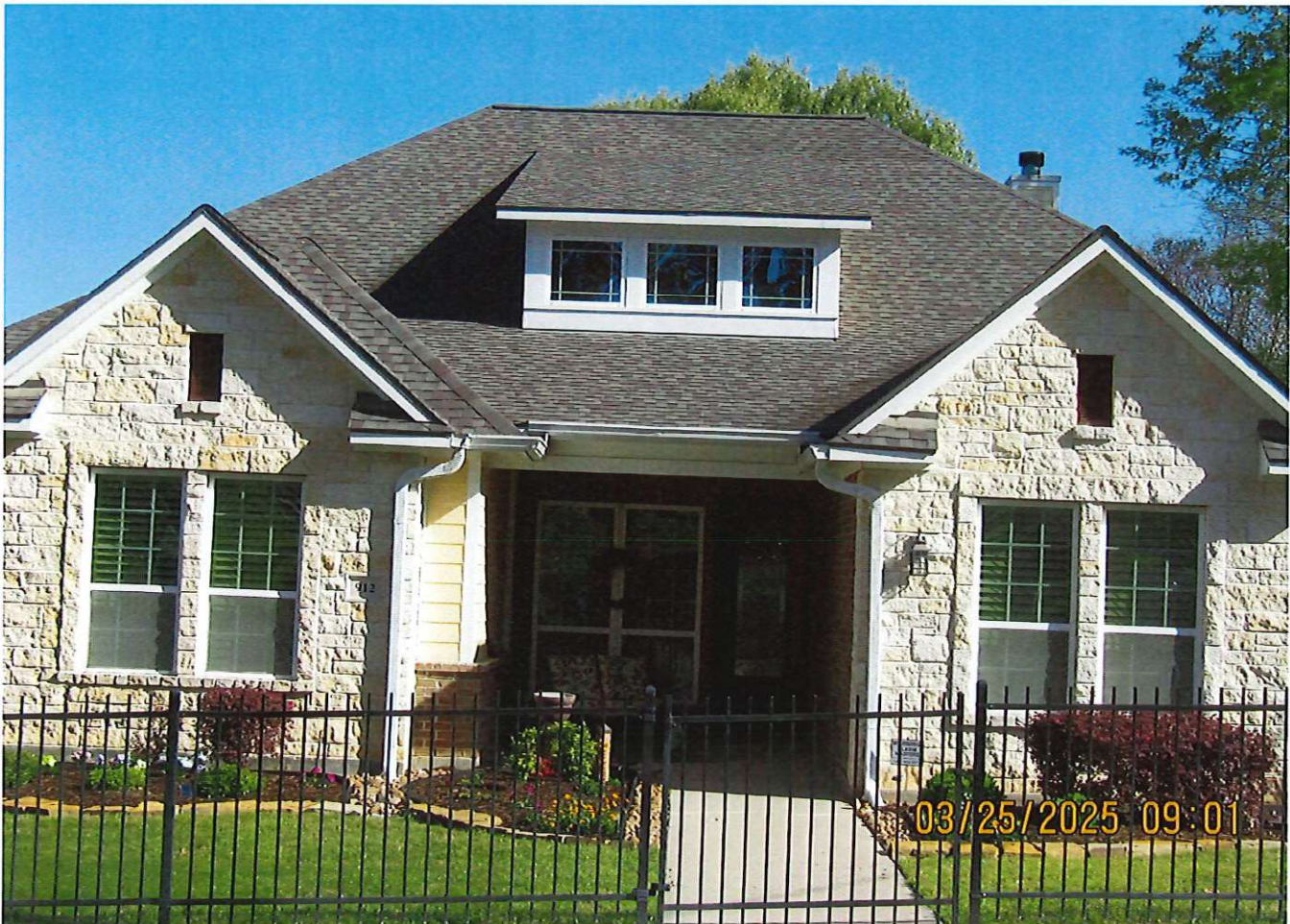
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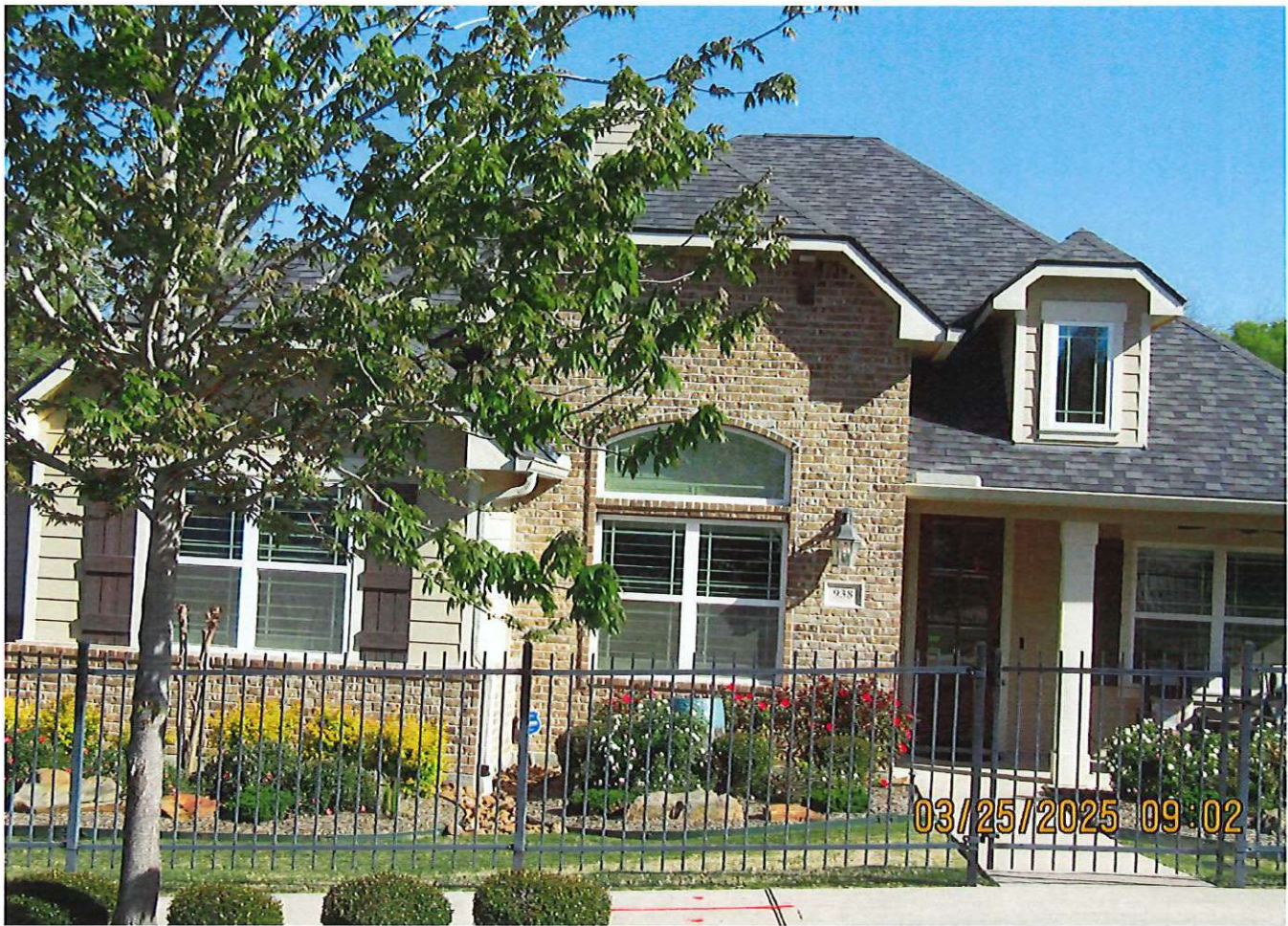
## interior elevations

20 MAR 2025























CITY OF MONTGOMERY  
 PLANNING AND ZONING COMMISSION  
 REGULAR MEETING MINUTES  
 NOVEMBER 5, 2024

CALL TO ORDER

Chairman Simpson called the meeting to order at 6:00 p.m.

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

Absent: None

Also Present: Dave McCorquodale, Director of Planning & Development

PUBLIC FORUM:

None at this time.

REGULAR AGENDA

1. Approval of the October 1, 2024 Regular Meeting Minutes.

Motion to approve the October 1, 2024 Regular Meeting Minutes as submitted was made by Tom Czulewicz and seconded by Merriam Walker. **All in favor. (5-0)**

2. Consideration and possible action on a proposed sign for H-Wines located at 14351 Liberty Street in the Historic Preservation District.

Mr. Steve Hari, owner of H-Wines, said he just opened a new restaurant and needed to have a new sign added stating it is a restaurant so there is no confusion.

Motion to accept the sign as presented for H-Wines located at 14351 Liberty Street in the Historic Preservation District was made by John Fox and seconded by Daniel Gazda. **All in favor. (5-0)**

3. Consideration and possible action on proposed exterior building renovations at 905 College Street located in the Historic Preservation District.

Mr. McCorquodale said the information given looked complete enough that the Commission has the ability to make an approval now but you do not have to. If you would just like to provide enough direction that it gives the owners the certainty to engage an architect to come up with final drawings that is certainly appropriate as well. He said the information is fairly thorough and he believes there is enough to make a decision but that is completely up to the Commission.

Mrs. Brooke Tobaben said her and her husband recently purchased 905 College Street. She said they have wanted to purchase a historic home for a long time and want to add a bit more character to the home. There are some minor changes they want to do for square footage. Upstairs the rooms are a little small and in two of the rooms you can only fit a twin size bed. They would like to get some construction done before they move in. She said they will finish



out the school year in Houston for their oldest son and are not planning on moving here until the summer which gives them some time as they are engaging with an architect to get things done. They do not want to have to do a lot of change plans so they would like to get some feedback from the Commission before they actually have any official drawings done.

Mrs. Tobaben said they want to add some space but do not want to change the look of the house. They have played with multiple ideas of what to do with the dormers. It seems like the best way to keep that look is to keep the two gables. Anything that was solid and straight across made it look like the modern farmhouse look, but that is not the look they are going for. They want to try and keep with that style as much as possible. She said they are open to suggestions too. It is not a historical home to Montgomery but it is in the Historical District. They do want to try to add a little bit more character into it. If you saw the inside they did a really great job of adding tons of shiplap and using old antique doors. They just want to add a bit more to the exterior.

John Fox asked, in the character of the dormer, if they were extending the second floor forward. Mrs. Tobaben said there are already dormers there. There are two dormers that are existing so between the dormers and between the second far left there is about a five-foot space. One is four foot nine inches and the other one is five and a half feet and they are wanting to encompass that space. They are not going to come any further than the current dormers. The way the look is it is almost like a bit staggered so in the room you are going to see it staggered but exterior wise it is going to look cohesive. When it was made straight across, something about having just that slight staggered look with having the shared rooms in between just gives it more character and dimension. John Fox asked if they plan on using the split shingles for the Nantucket appearance. Mrs. Tobaben said they have looked at that and actually have a plan where they have done different types such as cedar shingles and having the wood look and have done the same exact siding that is there currently. She would like to play with a different shingle so they do not have to worry about matching it up perfectly.

Tom Czulewicz said he likes everything. He likes the color concept, the doors, and really likes the rails for the porch up front. Mrs. Tobaben said they already have all those and have had them for a couple of years. She said they were going to build new and make it look old. They have been trying to buy in Montgomery for about five years. She said they have family out here and each time they looked at a home they called them and asked what can they do and what can't they do because whatever they bought they wanted to keep that history and make it work for their family. John Fox said he agrees and Mrs. Tobaben has made a real good presentation and does not see anything wrong with it at all.

Daniel Gazda said he loves the doors and likes changing the stairwell over. Mrs. Tobaben said that was the first thing when they saw the house. She said something kept bugging her and she thought they just needed a different set of doors because it does not match with the history of the home and to also move the stairs over to be able to see the doors. Daniel Gazda asked if the barn would be the same color. Mrs. Tobaben said yes they played with different colors and at one point they were looking at the traditional color red for the barn, but it was her mom that said when going with one color it gives it a more stately look than breaking that up because it is going to look like two separate dwellings on the property. Daniel Gazda said he agrees.

Merriam Walker commented on the vinyl fencing that Mrs. Tobaben had said she had wanted to do and asked what other fencing is in that area that she got her idea to want to do white vinyl. Mrs. Tobaben said there is no vinyl. On that street when you go down there is the wood fencing at Lone Star Estates which they like but they also liked what they saw on the Magnolia home



which was the picket fence. She said as you go down the street, fencing stops for a while and then at the end of the street it is back to the ranch with the horizontal rack fencing. Merriam Walker said the thing they talk about the most in Planning and Zoning is setting the precedence, asking permission before asking for forgiveness, and what goes along with what the historical community already looks like. She said there has to be a happy medium to keep it in the aesthetics of what the Historic District looks like because the things that are coming, people are going to drive up and down that street and there is going to be a bit more traffic so when they make this decision they want to make sure it sets a tone. Mrs. Tobaben said it will not hurt her feelings if you say it has to be picket or the other as they like both. She said she is a big fan of all fences should match. Merriam Walker said they just asked recently another person in the Historic District to take their fence down. There was a question about vinyl. She said cost effectiveness, hardiness, and weatherwise, it is simplest to get up. Mrs. Tobaben said she would be fine if they said the Historic District has this type of fence and this is what it is going forward as that does not bother her. She said they are more concerned with the back section and if they could do something that is semi-solid because of their child's situation. Merriam Walker asked if she wanted a privacy fence. Mrs. Tobaben said partially. She said they are wanting solid four-foot up that you can see. There are the houses that face Cedar Brake Park behind them and they can look in. It would help everyone to have some privacy but they do not want to obstruct any view and want to keep it white.

Merriam Walker asked Mr. McCorquodale what are the restrictions on the fence. Mr. McCorquodale said it needs to go with the house but there is not a specific like it needs to be done to that time period. He said the picket fences in the Historic District were the anomalies back then because they were a rural community. He thinks they have a little more latitude there in terms of the history and what you feel like is an acceptable norm. Mrs. Tobaben said they are fine with the picket fence. Bill Simpson said he thinks with the size of the lot the three rail fence would look a lot more open. Mrs. Tobaben said they are asking to go five-foot in the back with the fence so it will be solid four and then there is this top open that is like an open panel. There is a version that has lattice and they also have one that is a picket that can match the picket in the front. She said her son has never tried to climb out of the fence but they do not want to find out. They were looking at the four-rail as it gives them more height and in the event they find in the front they need to attach a wire mesh the four-rail helps that so you do not have to open at the bottom. Merriam Walker asked if she wants it four-foot solid and then have something decorative at the top. Mrs. Tobaben said it actually comes that way and comes in four different versions. Merriam Walker asked if it was four-foot in the Historical District. Mr. McCorquodale said for back fences there is no requirement. Mrs. Tobaben said she did not see a lot of construction on the back fence but because they have neighbors that can see in, even though he said it is a private drive, it is an alley way, they do not want to make anyone upset and want to get along with their neighbors. They are just wanting it to look good and pass, but it is mostly about their son.

Motion to approve the proposed exterior building renovations by repainting the house and barn, new second story dormer windows to enlarge the interior rooms, new front porch railing and new steps, and a new entry door and exterior fence was made by Daniel Gazda and seconded by Tom Czulewicz. All in favor. (5-0)

4. Presentation and discussion on a proposed new home at the west end of Caroline Street in the Historic Preservation District.



Mr. McCorquodale said this one is different in scope of what they are looking at. What they are looking at now the owners have found an elevation but before engaging an architect they are looking for feedback, not approval from the Commission but feedback on the general style.

The owner, Mrs. Cates said she found this elevation and has searched high and low but cannot find a plan or anything. She said she just loves the look of it. They have a friend that use to be an architect who looked at it and is even working on rendering to get an architect. He told them their layout that she drew is wider than the front of the house and told them they either have to modify this a little bit or change the inside. She said they are working on that but mostly need to know if this look is acceptable. Mrs. Cates said it is small, 1,400 square feet down and open and then a loft with 200 square feet. They will not have the fireplace as they are looking for ways to save money wherever they can because they want to retire here. She said she went through the guidelines and gave as much information as she could as far as composition roof which is most likely hardie plank siding but that could possibly change and is not sure yet without investigating what the cost of cedar versus hardie plank is but it would be that look. Mrs. Cates said they will be adding a carport that will be attached. She provided two options for the carport and likes the one with the gable on the front but their friend who use to be an architect said that really is not drainage wise smart and said they need to go with the other one. Merriam Walker asked if they plan on fencing. Mrs. Cates said not at this time. Merriam Walker asked if they looked at the homes that are going to be beside them. Mrs. Cates said yes. Bill Simpson said the style fits in with the area and the homes in that area. Mrs. Cates said they are a little more separated from the others because there is a bit of a gully there and then there are the rails across. She said she was actually there all day when they cleared that lot. It belongs to her son and they are subdividing it as he is going to sell them a portion. She left a buffer on that corner where that rail is and where the trash can goes so you will not really be able to see their house but not to say that trees do not die or fall but they wanted the intimacy of that lot that it has. Merriam Walker said some of those trees out there are old and asked if they would remove those. Ms. Cates said they might lose some of those sage trees because of where the house is going to be. She said the one in the front is the biggest and looks the healthiest but she is hoping they can keep as many trees as they can. Bill Simpson said that home is not that big of square footage that you want to take up that whole lot either. Mrs. Cates said that is why they shifted it over to the left. She said they had a builder go out there and do a soil test. The builder said it needs to be pushed back because of drainage reasons and not to have to do retainer walls. They also shifted it to the left because of the gully. It does not appear there is any problem with water or ever has been but you never know in Montgomery County.

John Fox asked Mr. McCorquodale if the town creek originates at the cemetery and crosses over. Mr. McCorquodale said there are a couple. He said this piece is a tributary that leads into town creek but the primary origin of town creek is west of here going toward Napa. There is another tributary that crosses by Napa south of the road but town creek ultimately starts around by the stadium. John Fox asked if this is across the street from the Langley's. Mr. McCorquodale said the property is but we are talking about the south end of the property so the north end is not where they are building their house. It is basically on the Cedar Brake Park side.

Merriam Walker said she thinks this is a cool house and knows it is going to be in the woods, but she does not think it goes in line with the houses that are coming up to it. The one street is going to be extended and a subdivision is coming. Mrs. Cates asked if they are in the Historic District. Mr. McCorquodale said they are not.



Bill Simpson said he feels there is enough information here that the owners can go ahead and get the architect and renderings.

John Fox said he thinks the elevation according to the picture that the glass looks more modern than it does country. There is also glass in and around the front doors and there is really a lot of glass for a country house. He said they might duplicate the cedar in some way and will have to look for something different because the cedar is out of place. Mrs. Cates said the hardie plank does come stained and she likes the warmth of it. She also said she does not know if they can afford cedar and want to maintain cedar. Merriam Walker said she thinks it is the glass. She said to her it is more like a glass house and it is beautiful but in her mind all she sees is downtown Montgomery and the difference of the housing and what they are doing there. Bill Simpson said this will give her something to start with. Tom Czulewicz asked what they thought about multi-pane windows downstairs. Mrs. Cates said this one to the right she liked and it would work. It would give it a little more country look. John Fox said it is a great house but you have to think about how it would look like in 1860. He said if your architect can get that in line and make a few changes it would be good. Mrs. Cates said they will probably not get cedar because they are beyond maintaining these places. They will have a small yard but the rest will be more natural. Merriam Walker said she read until you finish it out that you are going to have a different type of road. Mrs. Cates said their other place she knew exactly where she wanted the driveway and curved it on purpose because the stream went over it and it was a ribbon driveway. It was gravel. She said they loved it for 20 some years but until they can afford to maybe do something else they like that look. Merriam Walker asked if that is okay because there was a thing with the church. Mr. McCorquodale said commercial cannot be gravel but for residential it is appropriate. Mrs. Cates said they may blacktop it later or even use concrete but for now they are good with gravel because they loved what they had before.

Mr. McCorquodale said they will bring all this back once they get the drawings. Mrs. Cates said when the builder looked at her layout he said she made the house too wide with the elevation and he started working with different widths to match her layout but she did not like it. She said they have to figure out a way to keep this look. They might have to modify and stretch it out but it will be the same look. Bill Simpson said they have the go ahead to start.

**COMMISSION INQUIRY:**

None at this time.

**ADJOURNMENT**

Tom Czulewicz moved to adjourn the meeting at 6:40 p.m. Merriam Walker seconded the motion. All in favor. (5-0)

Prepared by: Diana Titus Date approved: 12-3-2024  
Diana Titus, Deputy City Secretary

Bill Simpson  
Bill Simpson, Chairman

Attest: Ruby Beaven  
Ruby Beaven, City Secretary  
Director of Administrative Services

**PLANNING & ZONING COMMISSION  
AGENDA  
Regular Meeting: April 1, 2025**

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**AGENDA ITEM:**

Consideration and possible action regarding a request for a special use permit for a fast-food restaurant with drive-through service at 21049 Eva Street.

**SUBMITTED BY:** Corinne Tilley, Code Enforcement Officer, Planning/Zoning Administrator

**APPROVED FOR AGENDA:** Ruby Beaven, City Secretary and Director of Administrative Services

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**BACKGROUND:**

21049 Eva Street is located in the B-Commercial zoning district.

The B-Commercial zoning district is designated for a wide range of business uses within enclosed areas as well as the other uses provided for in the zoning code (Sec. 98-178).

The proposed use in the development of the property is a fast-food restaurant with drive-through service.

- References:  
Zoning Code Sections 98-1, 98-27, 98-88, 98-179, 98-286  
2020 Comprehensive Plan  
Copy of zoning determination letter

According to the ordinance, a restaurant is permitted in the commercial zoning district. However, the ordinance doesn't define a restaurant or distinguish between different types of restaurants, such as fast food, sit-down, fine dining, to-go, or those with drive-through service. This lack of specific definitions creates ambiguity in the application of the ordinance. Therefore, without specific definitions, a determination has been made that if any use is not specifically permitted according to the use table or in the district use regulations, a special use permit is required.

**Findings for the Planning and Zoning Commission:**

**Effect of the proposed use on the comprehensive plan and on the character and development of the neighborhood:**

According to the 2020 Comprehensive Plan, Chapter 3 Land Use Planning, Development Recommendations indicates promoting infill. Infill development encourages a more efficient investment in infrastructure because it encourages growth where there is existing infrastructure. This finding is met.

According to the 2020 Comprehensive Plan, Chapter 3 Land Use Planning, the Downtown Site Plan design based on community input to promote connectivity, safety, and increasing available parking in the historic downtown. The site plan was to stimulate commercial and residential growth by creating an inviting, walkable experience that allows residents and visitors to shop, relax, work, and play in a central area. Focusing on pedestrian accessibility, mixed land use, and enhancing physical appearance are crucial elements that will support this goal. With proper site design layout, this finding can be met.

According to the 2020 Comprehensive Plan, Chapter 5 Transportation, the Future Thoroughfare Plan mentioned creating standards for sidewalk and bulb-outs. This specifically mentioned Liberty Street (FM 149) and Eva Street (SH105) as the ideal spot to introduce bulb-outs that would produce benefits for pedestrian safety, reducing turn speeds, additional space for landscaping, etc. This finding is subject to a partnership with TXDOT.

In summary, the proposed fast-food restaurant with drive-through service aligns with several key elements of the 2020 Comprehensive Plan; Infill Development, Downtown Site Plan, and the Future Thoroughfare Plan. The proposed use is consistent with the comprehensive plan's goals and can positively contribute to the character and development of the neighborhood, provided that the necessary design and partnership considerations are addressed.

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**FISCAL ANALYSIS:**

N/A

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**RECOMMENDATION:**

Based on the findings, staff recommends that the Planning and Zoning Commission approve the special use permit for a fast-food restaurant with drive-through service subject to the following conditions:

1. All development requirements of the City Ordinance must be strictly adhered to.
2. The development must comply with the recommendations and requirements outlined in the feasibility study.
3. The approval is contingent upon the results of the traffic impact analysis, ensuring that any necessary modifications or improvements are implemented to address pedestrian and traffic safety and circulation concerns.

By meeting these conditions, the proposed development will align with the comprehensive plan and contribute positively to the character and development of the neighborhood.





# Special Use Permit

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

**Applicant Information**

Owner/leaseholder Name: SJBC COMMERCIAL XX, LLC

Address: 9320 LAKESIDE BOULEVARD, SPRING, TX 77381

Email: jeff.beard@sbn.com Phone: 281-814-9928

Name of owner (if different): \_\_\_\_\_

Contact person (if different): \_\_\_\_\_

Address: \_\_\_\_\_

Email: \_\_\_\_\_ Phone: \_\_\_\_\_

**Parcel Information**

Type of Business: Fast Food Restaurant

Legal Description: 0.7059 Acres of land situated in the John Corner Survey, Abstract No. 8

Street Address or Location: 21049 Eva Street, Montgomery, TX 77356

**Special Use Permit Request**

Description of request:

Proposed fast food restaurant with common drive through lane.

Applicant's Signature

Date 3/4/2025









# City of Montgomery



February 21, 2025

KHR, Properties  
 Jack in the Box 4947  
 20008 Champions Forest Dr Suite 501  
 Spring TX 77379

RE: Zoning determination for a proposed fast-food restaurant with drive-through service at 21049 Eva Street (Legal description: 124078 - S728008 - Montgomery Townsite 08, Lot 1, 2, 3, 4, BROGDON SUB; lot size: .7064 acres / 30.769 sf)

Based on the review of the current zoning ordinance and the City zoning map, the property located at 21049 Eva Street (PIN/legal description: 124078 - S728008 - Montgomery Townsite 08, Lot 1, 2, 3, 4, BROGDON SUB; lot size: .7064 acres / 30.769 sf) in Montgomery, Texas is located in the District B Commercial zoning. This district is designated for a wide range of business uses within enclosed areas as well as the other uses provided for in the zoning code (Sec. 98-178).

It has been determined that the proposed use of a fast-food restaurant with accessory drive-through window at 21049 Eva Street is permitted with a special use permit. Therefore, there are two options to proceed: 1) complete an application for a special use permit or 2) file an appeal with the board of adjustment to challenge the zoning determination made by the planning/zoning administrator.

To support this determination, the following are provided:

1. Definitions - The code of ordinances does not provide definitions for "restaurant", "fast-food", or "restaurant with drive-through".

According to the Oxford dictionary:

- a restaurant as a place where people pay to sit and eat meals that are cooked and served on the premises.
- fast-food is food kept hot or partially prepared by a snack bar or restaurant, so that it can be served as a quick meal or taken away.
- a restaurant with a drive-through serves customers without them leaving their cars.

2. Zoning Regulations

Sec. 98-88 (a): A restaurant is a permitted use in the B Commercial Zoning District. Accessory uses (ie the drive-through) is permitted with a special use permit (listed under "CC").

Sec. 98-88 (b): Any use not specifically permitted in the table (Sec. 98-88 (a)) or district use regulations (Sec. 98-179) requires a special use permit.

Sec. 98-1: Defines *Accessory use or building* as a subordinate use or building customarily incident to and located on the same lot occupied by the main use or building.

### 3. Special Use Permit

Sec. 98-27: The city council, by an affirmative four-fifths vote, may by ordinance grant a special permit for those uses listed under "CC" in the table of permitted uses in section 98-88, and may impose appropriate conditions and safeguards, including a specified period of time for the permit, to protect property and property values in the neighborhood. A special use permit may be revoked or canceled by the city council upon violation of any permit granted. Before authorization of any of such special uses, the request therefor shall be referred to the planning and zoning commission for study and report concerning the effect of the proposed use on the comprehensive plan and on the character and development of the neighborhood. A public hearing shall be held in relation thereto before the city council, and notice and publication of the time and place for which shall conform to the procedure prescribed:

A public hearing shall be held by the city council before adopting any proposed special use permit. Notice of such hearing shall be given by publication one time in a newspaper of general circulation in the city stating the time and place of hearing, which time shall not be earlier than 15 days from the date of publication.

### 4. Appeal

This zoning determination may be appealed. I have attached a copy of the section of the Texas Local Government Code Section 211.008 for your reference.

Please contact me if you have any questions or require further information.

Respectfully,



Corinne Tilley # 1635  
Code Enforcement Officer  
Planning/Zoning Administrator

Attachments: Sec. 98-1 Definitions  
Sec. 98-27 Special use permits  
Special use permit application  
Sec. 98-88 Table of permitted uses and special uses  
Texas Local Government Code Section 211.008



## Sec. 98-1. 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:

**Accessory use or building** means a subordinate use or building customarily incident to and located on the same lot occupied by the main use or building.

**Adjoining or abutting** means touching, in contact with, bounding on, or bordering on. Where all or any part of a lot touches or borders on another lot, it adjoins and abuts such other lot which touches or borders on such street and is situated across the street from the lot or portion thereof. The width of the street shall not be included in calculating the minimum yard requirements required by this section.

**Alley** means a public way which affords only a secondary means of access to property abutting thereon.

**Apartment hotel** means an apartment house which furnishes, for the use of its tenants, services ordinarily furnished by hotels, but the privileges of which are not primarily available to the public.

**Bed and breakfast** means a house used for the temporary residence of motorists or travelers.

**Boardinghouse and lodginghouse** mean a building other than a hotel occupied as a single housekeeping unit where lodging or meals are provided for five or more persons for compensation, pursuant to previous arrangements for definite periods, but not to the public or transients.

**Building** means any structure designed or built for the support, enclosure, shelter, or protection of persons, animals, chattels or property of any kind. The term "building" shall include the term "structure."

**Building, height of**, means the vertical distance from the grade to the highest point of the coping of a flat roof or to the deck line of a mansard roof, or to the mean height level between eaves and ridge for gable, hip and gambrel roofs.

**Building line** means a line parallel or approximately parallel to the street line, and beyond which, buildings may not be erected.

**Building official** means any person or officer of the city duly designated by official resolution of the city council having the duty to enforce the regulations contained in this chapter.

**Clinic** means an establishment where patients, who are not lodged overnight, are admitted for examination and treatment by physicians providing medicine, or other health care professionals.

**Club** means a building or portion thereof or premises owned or operated by a corporation, association, or person for a social, educational or recreational purpose, but not primarily for profit or to render a service which is customarily carried on as a business.

**Demolition** means an act or process which destroys a site or structure in its entirety, or which destroys a part of a site or structure and permanently impairs its structural, historic or architectural integrity.

**Design guidelines for the City of Montgomery** means written guidelines adopted by the city, as a reference and guide to provide information on appropriate methods for new construction of buildings within the historic preservation district and rehabilitation or restoration of historic properties. The design guidelines shall remain on file with the city secretary.

**District** means a section of the city for which regulations governing the use of buildings and premises, the size of yards, and the intensity of use are uniform under this chapter.

**Dwelling** means any building or portion thereof which is designed for or used for residential purposes.

**Dwelling, multifamily**, means a building designed for or occupied exclusively by more than one family.



*Dwelling, single-family*, means a building designed for or occupied exclusively by one family.

*Exterior architectural feature* means the architectural style, design, general arrangement and components of all of the outer surfaces of a building or structure, as distinguished from the interior surfaces enclosed by such outer surfaces. Exterior architectural features shall include, by way of example but not by limitation, the kind, color, surface texture of the building material and the type and style of all windows, doors, lights, signs and other fixtures appurtenant to such building or structure.

*Exterior walls and façades* means the outermost covering of a building that is visible from any public right-of-way, street or roadway.

*Family* means one or more individuals living together as a single housekeeping unit, as distinguished from a group occupying a boardinghouse, lodginghouse, or hotel.

*Frontage, block*, means all the property on one side of a street between two intersecting streets (crossing or terminating), measured along the line of the street, or, if the street is dead-ended, then all of the property abutting on one side between an intersecting street and the dead-end of the street.

*Historic landmark* means an individual property designated by the city council under this chapter, as having outstanding historical and cultural significance in the nation, region, or community. The designation "historic landmark" recognizes that the historic place, or the building, structure, accessory buildings, fences, or other appurtenances at the place are of basic and vital importance for the preservation of culture and neighborhoods and economic development and promotion of tourism. The initial historic landmarks shall consist of the tracts or parcels of land and existing buildings or structures located at the physical addresses shown on the list and map kept on file in the office of the city secretary. For historical landmark buildings or structures located on a tract or parcel of land exceeding 9,000 square feet in area, only the buildings or structures and a 25-foot buffer around said buildings or structures shall be subject to the provisions of this chapter. Said list and map shall remain on file with the city secretary and the county clerk's office.

*Historic preservation district* means an area of the city designated by the city council under this chapter, as having definable geographic boundaries, and a significant concentration, linkage or continuity of sites, buildings, or structures united historically or aesthetically by plan, appearance, or physical development. The designation "historic preservation district" recognizes that the component historic buildings, structures, accessory buildings, fences, or other appurtenances of the district are of basic and vital importance for the preservation of culture and neighborhoods, and economic development and promotion of tourism. The initial historic preservation district shall consist of the area shown on the map, and the map shall remain on file with the city secretary.

*Hotel* means a building in which lodging, or boarding and lodging, are provided and offered to the public for compensation and in which ingress and egress to and from all rooms is made through an inside lobby or office supervised by a person in charge at all hours. As such, it is open to the public, in contradistinction to a boardinghouse, a lodginghouse, or an apartment.

*Lot* means a parcel of land occupied or intended for occupancy by a use permitted in this chapter, including one main building together with its accessory buildings, and the open spaces and parking spaces required by this chapter, and having its principal frontage upon a street or upon an officially approved place. The term "lot" includes the term "plot."

*Lot, depth of*, means the mean horizontal distance between the front and rear lot lines.

*Main entryways and corridors* means the two primary, intersecting thoroughfares in the city, namely State Highway 105 and State Farm Road 149, along with the Lone Star Parkway.

*Metal panels* means profiled metal panels, deep-ribbed panels and concealed fastener systems.

*Motor court* and *motel* mean a building or group of buildings used for the temporary residence of motorists or travelers.



*Nonconforming structures* means commercial, residential, and/or institutional buildings or other structures existing within an historic preservation district but not possessing the character nor the designation of an official historic landmark.

*Nonconforming use, building or yard* means a use, building, or yard, existing legally at the time of passage of the ordinance from which this chapter is derived, which does not, by reason of design or use, conform with the regulations of the district in which it is situated.

*Ordinary maintenance* means repairs and other work necessary for the upkeep of buildings and other structures that may include, but is not limited to, minor building material replacement, cleaning, caulking, painting, etc. Ordinary maintenance does not require a building permit.

*Parking space, off-street*, means an area of not less than 162 square feet (measuring approximately nine feet by 18 feet) not on a public street or alley, surfaced with an all-weather surface, enclosed or not enclosed. The parking space shall be durably surfaced and so arranged to permit satisfactory ingress and egress of an automobile. A public street shall not be classified as off-street parking in computing the parking requirements for any use.

*Place* means an open, unoccupied space, other than a street or alley, permanently reserved as the principal means of access to abutting property.

*Planning and zoning approval* means an indication on the building permit evidencing the approval of the planning and zoning commission, signed and dated by the chairperson of the commission, for the installation, construction, alteration, change, restoration, removal, or demolition of an exterior architectural feature, resource or other significant appurtenance of any historic landmark or of any building or structure located within the historic preservation district to be issued in cases further defined in this chapter, where approval for the same is required.

*Story* means that portion of a building, other than a cellar, included between the surface of any floor and the surface of the floor next above it, or, if there is no floor above it, then the space between the floor and the ceiling next above it.

*Street* means a public or private thoroughfare which affords the principal means of access to the abutting property.

*Street line* means a dividing line between a lot, tract or parcel of land and a contiguous street.

*Structural alterations* means any changes in the supporting members of a structure, such as bearing walls, columns, beams or girders.

*Structure* means anything constructed or erected which requires location on the ground, or attached to something having a location on the ground, including, but not limited to, buildings of all types, advertising signs, billboards, and poster panels, but exclusive of customary fences, or boundary or retaining walls.

*Temporary building* means any structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities.

*Used for* includes the meaning "designed for" or "intended for."

*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

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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.

*Wetland* means any swamps, marshes or bogs or other areas classified as jurisdictional wetland which would require appropriate permits from the Corps of Engineers for any construction.

*Yard* means an open space at grade between a building and the adjoining lot lines, unoccupied and unobstructed by any portion of a structure from the ground upward except as otherwise provided in this chapter. In measuring a yard for the purpose of determining the width of a side yard, the depth of a front yard or the depth of the rear yard, the minimum horizontal distance between the lot line and the main building shall be used.

*Yard, front,* means a yard extending across the front of a lot between the side lot lines, and being the minimum horizontal distance between the street or place line and the main building or any projections thereof other than the projections of the usual uncovered steps, uncovered balconies, or uncovered porch. On corner lots, the front yard shall be considered as parallel to the street upon which the lot has its least dimensions.

*Yard, rear,* means a yard extending across the rear of a lot and being the required minimum horizontal distance between the rear lot line and the rear of the main building or any projections thereof other than the projections of uncovered steps, enclosed balconies or unenclosed porches. On all lots, the rear yard shall be in the rear of the front yard.

*Yard, side,* means a yard between the main building and the side line of the lot, extending from the required front yard to the required rear yard and being the minimum horizontal distance between a side lot line and the side of the main building or any projections thereto.

(Ord. No. 2014-03, § 1, 5-20-2014)



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**Sec. 98-27. Special use permits.**

- (a) The city council, by an affirmative four-fifths vote, may by ordinance grant a special permit for special uses in any district, for those uses listed under "CC" in the table of permitted uses in section 98-88, or which are otherwise not expressly permitted by this chapter, and may impose appropriate conditions and safeguards, including a specified period of time for the permit, to protect property and property values in the neighborhood. A special use permit may be revoked or canceled by the city council upon violation of any permit granted. Before authorization of any of such special uses, the request therefor shall be referred to the planning and zoning commission for study and report concerning the effect of the proposed use on the comprehensive plan and on the character and development of the neighborhood. A public hearing shall be held in relation thereto before the city council, and notice and publication of the time and place for which shall conform to the procedure prescribed in subsection (b) of this section.
- (b) A public hearing shall be held by the city council before adopting any proposed special use permit. Notice of such hearing shall be given by publication one time in a newspaper of general circulation in the city stating the time and place of hearing, which time shall not be earlier than 15 days from the date of publication.

(Ord. No. 2014-03, § 1, 5-20-2014)



# Special Use Permit

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

## Applicant Information

Owner/leaseholder Name: \_\_\_\_\_

Address: \_\_\_\_\_

Email: \_\_\_\_\_ Phone: \_\_\_\_\_

Name of owner (if different): \_\_\_\_\_

Contact person (if different): \_\_\_\_\_

Address: \_\_\_\_\_

Email: \_\_\_\_\_ Phone: \_\_\_\_\_

## Parcel Information

Type of Business: \_\_\_\_\_

Legal Description: \_\_\_\_\_

Street Address or Location: \_\_\_\_\_

## Special Use Permit Request

Description of request:

Applicant's Signature \_\_\_\_\_ Date \_\_\_\_\_



**Submission Information**

Submit the completed application with supporting documentation to:

**City of Montgomery  
Planning/Zoning Administrator  
101 Old Plantersville Road  
Montgomery, Texas 77316**

**Or via email: [ctilley@ci.montgomery.tx.us](mailto:ctilley@ci.montgomery.tx.us)**

**Additional Information**

Date Application received by the City of Montgomery: \_\_\_\_\_

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

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

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

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

**Date Received**

*Office Use*

## **\*Public Hearings\***

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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 amendment 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: **1<sup>st</sup> Tuesday of every month at 6:00 p.m.**

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

## **\*Protests\***

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If a protest against a proposed zoning change including PDD and SUP requests has been filed with the City Secretary, duly signed and acknowledged by the owners of twenty percent (20%) or more, either of the area of the land included in such a proposed change or those owners of property immediately adjacent to the subject property and extending two hundred feet (200) there from, such zoning change shall not become effective except by a three-fourths (3/4) vote of governing body in accordance with the provisions of Section 211.006 of the Texas Local Government Code.

## **\*Resubmission\***

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Rezoning requests which have been heard and decided by the Council of the City of Montgomery may not be re-filed with the city for six (6) months after the date of such decision by the Council, absent a change in circumstances.

Rezoning requests for the same property to a different classification than the denied request may be re-filed prior to the expiration of six (6) months.



**Sec. 98-88. Table of permitted uses and special uses.**

(a) Permitted uses and special uses in the various zoning districts are as specified in the following table:

Permitted Uses	R-1	R-2	B	ID	I	CC
Accessory uses						X
Aerial or ground survey			X			
Air conditioning sales, retail, complete enclosed (services incidental)			X			
Air conditioning—Refrigeration services repair (completely enclosed) with no installation of central units—Heating or cooling						X
Airport (nongovernmental)						X
Air product manufacturing				X		
Alcoholic beverage sales off premises			X			
Alcoholic beverage sales on premises						X
Alcoholic beverage storage			X			
Altering and repairing of wearing apparel			X			
Ambulance service			X			
Amusement arcade						X
Amusement park (commercial)						X
Animal shelter or dog pound (nongovernmental)						X
Antique store (completely enclosed)			X			
Apartment hotel						X
Apothecary, limited to the sale of pharmaceutical and medical supplies			X			
Apparel and accessory store			X			
Appliance repair (completely enclosed)			X			
Armory						X
Art gallery and/or museum (commercial retail sale of objects d'art only)			X			
Asphalt or creosote manufacturing or treatment						X
Assisted living		X	X			

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(Supp. No. 9)

Automobile and truck sales and service (new and used) (service completely enclosed)			X			
Automobile car wash			X			
Automobile filling station and/or service (all repair in district to be completely enclosed)			X			
Automobile glass sales and installation			X			
Automobile muffler sales and installation (completely enclosed)			X			
Automobile parking lots or parking garages (commercial)						X
Automobile rental			X			
Automobile repair			X			
Automobile upholstery sales and installation (completely enclosed)			X			
Automobile wrecking, dismantling or salvage (enclosed by fence)						X
Aviary						X
Bait store			X			
Bakery (retail)			X			
Bakery (wholesale)			X			
Barber shop			X			
Beauty salon			X			
Bed and breakfast	X		X			
Churches					X	
Community home as required by V.T.C.A., Human Resources Code § 123.003	X	X				
Compressed gas manufacturing, repacking and/or storage						X
Dairy equipment (wholesale) (completely enclosed)			X			
Dairy products sales (retail)			X			
Dairy products sales (wholesale)			X			
Delicatessen			X			
Department store			X			



Dog pound or animal shelter (nongovernmental)						X
Drug manufacture						X
Drug sales (wholesale)			X			
Drugstore			X			
Dry cleaning pickup and pressing shops			X			
Dry cleaning plant						X
Dry goods store			X			
Dry goods (wholesale) (completely enclosed)			X			
Electric power generator station (primary station)						X
Electric repair (appliances) (completely enclosed)			X			
Electric repair shop (heavy equipment)				X		
Electrical substation, to be enclosed by a fence or wall of minimum six feet in height, with physical installation being enclosed by a barrier which constitutes a visual screen. Visual screening would not be required in ID district				X		
Electrician			X			
Electroplating			X			
Elevator maintenance and service				X		
Exterminator (completely enclosed)			X			
Farm equipment sales and service (completely enclosed in B-2 district)			X			
Farm supplies			X			
Farming and truck gardening, but not for retail sales (permitted in any district)				X		
Feed store or seed and fertilizer			X			
Felt manufacture (cloth)				X		
Fish market (fenced outside storage)				X		
Fish market (retail)			X			
Fish market (wholesale)			X			
Fix-it shop (completely enclosed)			X			
Floor covering sales (retail completely enclosed)			X			

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Floral shop (completely enclosed)			X			
Florist (wholesale) (completely enclosed)			X			
Food locker plant (retail)			X			
Food products (wholesale storage and sales)			X			
Food products manufacture and processing (not rendering)				X		
Food store			X			
Food to go (retail, no curbside service)			X			
Foundry						X
Freight depot (railroad and/or truck)				X		
Fruit and produce (wholesale)			X			
Fruit and vegetable stand or store			X			
Funeral home, mortuary or undertaking establishment			X			
Fur dyeing, finishing and storing (no tanning, no hide storage)				X		
Furniture (wholesale sales)			X			
Furniture repair and upholstery (completely enclosed)			X			
Furniture repair and upholstery (fenced outside storage)			X			
Furniture store, retail (completely enclosed) (no repair)			X			
Furniture store, retail (fenced outside storage)			X			
Garage, public or storage				X		
Garden specialty store			X			
Gas filling station and/or service (all repairs to be completely enclosed)			X			
Gas regulation station (screening)				X		
Gift shop (completely enclosed)			X			
Glass (retail sales) (service incidental to sales) (completely enclosed)			X			
Glass (wholesale sales)			X			
Glass manufacturing and glass products manufacturing				X		



Golf course and country club, but no driving range, pitch and putt or miniature golf course						X
Golf driving range, pitch-and-putt or miniature golf course						X
Greenhouse or nursery, retail			X			
Greenhouse or nursery, wholesale				X		
Grocery (wholesale)			X			
Grocery store			X			
Gymnasium (commercial)			X			
Hair products manufacturing and processing				X		
Hardware manufacture				X		
Hardware sales (wholesale)			X			
Hardware store			X			
Heliport			X			
Hobby supply store			X			
Hosiery manufacture			X			
Hospital or sanitarium			X			
Hotel			X			
Ice cream and ice milk (retail)				X		
Ice cream manufacturer (wholesale)				X		
Ice cream store			X			
Ice house (no on-premises consumption of alcoholic beverages in B-1 district)			X			
Ice manufacture				X		
Insulation manufacture and fabrication				X		
Interior decorating studio			X			
Jewelry store			X			
Junkyard, salvage yard, including storage, baling or selling of rags, papers, iron or junk, need not be enclosed within a structure, but must be enclosed within a fence at least six feet high and adequate to obstruct view, noise and passage of persons; chain-link or similar fencing may be permitted if screen planting is provided						X
Laboratory (dental or medical)			X			

Laboratory (research)			X			
Laboratory (testing)			X			
Landfill						X
Laundry and dry cleaning (self service)			X			
Laundry or dry cleaning (pickup station)			X			
Laundry plant				X		
Leather goods or luggage store			X			
Library (nongovernmental)						X
Linen supply, diaper service or uniform supply			X			
Loan office			X			
Locksmith			X			
Lumber yard and building materials (wholesale)			X			
Machine shop				X		
Machine, tools and construction equipment sales and service			X	X		
Marine and boat manufacturing				X		
Marine and boat storage						X
Mattress manufacturing and rebuilding				X		
Massage parlor			X			
Metal products fabrication				X		
Milliner (custom)			X			
Millinery manufacture				X		
Millwork and similar wood products manufacture				X		
Mobile food unit			X*	X	X	
Mobile food court						X**
Motel			X			
Motorcycle sales and service			X			
Moving and transfer company				X		
Music store			X			
Nail salon			X			
News stand			X			
Night club/dance hall						X
Novelty and souvenir manufacture				X		

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Nursery, daycare, or kindergarten (care of up to six children)	X	X				
Nursery, daycare, or kindergarten (care of up to 20 children)			X			
Nursery, daycare, or kindergarten (care of over 20 children)			X			
Nursing home		X	X			
Office equipment and furniture manufacture				X		
Office equipment and supplies (retail)			X			
Office equipment and supplies (wholesale)			X	X		
Offices (professional)			X			
Oil and well supplies and machinery sales				X		
Optical goods (retail)			X			
Optical goods (wholesale)			X			
Optician			X			
Packing and gasket manufacture				X		
Packing plant (no rendering)						X
Paint and wallpaper store			X			
Paper produce manufacture				X		
Paper supplies (wholesale)				X		
Parks, playgrounds, community buildings and other public recreational facilities owned and/or operated by the city or other public agency					X	
Passenger depot (railroad or bus)						X
Pawnshop (completely enclosed)			X			
Pecan shelling				X		
Pet shop (completely enclosed)			X			
Petroleum storage (wholesale)				X		
Photographic equipment and supplies sales			X	X		
Photographic studio			X			
Picture framing			X			
Pipe storage				X		X
Pipeline and electrical transmission lines						X
Playground equipment manufacture				X		
Plumber			X			

Plumbing fixture sales (completely enclosed) (retail)			X			
Plumbing fixture sales (wholesale)			X	X		
Printer			X	X		
Public buildings, including libraries, museums, police stations and fire stations					X	
Radio station or studio, without transmitter tower						X
Radio station with transmitter tower						X
Reading room			X			
Recycling plant						X
Reducing salon			X			
Refrigerator equipment manufacture				X		
Restaurant			X			
Riding stable or academy						X
Roominghouse or boardinghouse						X
Rug and/or carpet sales			X			
Rug cleaning				X		
Sand or gravel storage yard				X		
Schools					X	
Shoe manufacture				X		
Shoe repair shop			X			
Shoe sales (retail)			X			
Shoe sales (wholesale) (completely enclosed)			X			
Sign, advertising (excluding business signs)			X			
Sign shop			X	X		
Sign shop (completely enclosed)			X			
Skating facility (outdoor)						X
Skating rink (enclosed)			X			
Small animal clinic or kennel			X			
Small animal clinic or kennel (completely enclosed)			X			
Sporting goods store			X			
Sporting goods (wholesale) (completely enclosed)			X	X		
Stamp, coin sales (retail)			X			
Stationery sales			X			

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Stone cutting or monument manufacturing				X		
Stone monument sales			X			
Stone quarry or gravel pit				X		
Studio for professional work or teaching of any form of fine arts, photography, music, drama, dance, painting, etc.			X			
Surgical or dental supplies store			X			
Tanning salon			X			
Tattoo parlor						X
Tavern						X
Taxidermist						X
Television station or studio without transmitter tower			X			
Television station with transmitter tower						X
Textile manufacture				X		
Theater (indoor)			X			
Theater (outdoor, including drive-in theaters)						X
Tile manufacturer (ceramic)				X		
Tobacco processing				X		
Tobacco store			X			
Tool manufacture				X		
Tool rental (completely enclosed)			X			
Tool rental (fence outside storage)			X	X		
Toy manufacture			X	X		
Toy store			X			
Trailer manufacture				X		
Trailer sales			X			
Transit vehicle storage and service				X		
Truck repair and maintenance			X	X		
Truck stop						X
Variety store			X			
Venetian blinds and metal awning fabrication, repair and cleaning				X		
Veterinarian (animal on premises)			X			
Warehousing				X		
Watch repair			X			

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Water or sewage pumping (nongovernmental)						X
Water storage (overhead)						X
Welding shop				X		
Well drilling contractors			X	X		

\* Mobile food units in the historic overlay zone requires special use permit.

\*\* Mobile food courts require a special use permit.

(b) Any use not specifically permitted in this table or in the use regulations of each district set out below, shall require a special use permit (see section 98-27, special use permits).

(Ord. No. 2014-03, § 1, 5-20-2014; Ord. No. 2023-14, § 2, 6-13-2023)



LOCAL GOVERNMENT CODE

TITLE 7. REGULATION OF LAND USE, STRUCTURES, BUSINESSES, AND RELATED ACTIVITIES

SUBTITLE A. MUNICIPAL REGULATORY AUTHORITY

CHAPTER 211. MUNICIPAL ZONING AUTHORITY

SUBCHAPTER A. GENERAL ZONING REGULATIONS

Sec. 211.008. BOARD OF ADJUSTMENT.

(a) The governing body of a municipality may provide for the appointment of a board of adjustment. In the regulations adopted under this subchapter, the governing body may authorize the board of adjustment, in appropriate cases and subject to appropriate conditions and safeguards, to make special exceptions to the terms of the zoning ordinance that are consistent with the general purpose and intent of the ordinance and in accordance with any applicable rules contained in the ordinance.

(b) A board of adjustment must consist of at least five members to be appointed for terms of two years. The governing body must provide the procedure for appointment. The governing body may authorize each member of the governing body, including the mayor, to appoint one member to the board. The appointing authority may remove a board member for cause, as found by the appointing authority, on a written charge after a public hearing. A vacancy on the board shall be filled for the unexpired term.

(c) The governing body, by charter or ordinance, may provide for the appointment of alternate board members to serve in the absence of one or more regular members when requested to do so by the mayor or city manager. An alternate member serves for the same period as a regular member and is subject to removal in the same manner as a regular member. A vacancy among the alternate members is filled in the same manner as a vacancy among the regular members.

(d) Each case before the board of adjustment must be heard by at least 75 percent of the members.

(e) The board by majority vote shall adopt rules in accordance with any ordinance adopted under this subchapter and with the approval of the governing body. Meetings of the board are held at the call of the presiding officer and at other times as determined by the board. The presiding officer or acting presiding officer may administer oaths and compel the attendance of witnesses. All meetings of the board shall be open to the public.

(f) The board shall keep minutes of its proceedings that indicate the vote of each member on each question or the fact that a member is absent or fails to vote. The board shall keep records of its examinations and other official actions. The minutes and records shall be filed immediately in the board's office and are public records.

(g) The governing body of a Type A general-law municipality by ordinance may grant the members of the governing body the authority to act as a board of adjustment under this chapter.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 126, Sec. 1, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 724, Sec. 1, eff. Aug. 28, 1995; Acts 1997, 75th Leg., ch. 363, Sec. 1, eff. Sept. 1, 1997.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 820 (H.B. [2497](#)), Sec. 1, eff. September 1, 2019.

Sec. 211.009. AUTHORITY OF BOARD.

(a) The board of adjustment may:

(1) hear and decide an appeal that alleges error in an order, requirement, decision, or determination made by an administrative official in the enforcement of this subchapter or an ordinance adopted under this subchapter;

(2) hear and decide special exceptions to the terms of a zoning ordinance when the ordinance requires the board to do so;

(3) authorize in specific cases a variance from the terms of a zoning ordinance if the variance is not contrary to the public interest and, due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship, and so that the spirit of the ordinance is observed and substantial justice is done; and

(4) hear and decide other matters authorized by an ordinance adopted under this subchapter.

(b) In exercising its authority under Subsection (a)(1), the board may reverse or affirm, in whole or in part, or modify the administrative official's order, requirement, decision, or determination from which an appeal is taken and make the correct order, requirement, decision, or determination, and for that purpose the board has the same authority as the administrative official.

(b-1) In exercising its authority under Subsection (a)(3), the board may consider the following as grounds to determine whether compliance with the ordinance as applied to a structure that is the subject of the appeal would result in unnecessary hardship:

(1) the financial cost of compliance is greater than 50 percent of the appraised value of the structure as shown on the most recent appraisal roll certified to the assessor for the municipality under Section 26.01, Tax Code;

(2) compliance would result in a loss to the lot on which the structure is located of at least 25 percent of the area on which development may physically occur;

(3) compliance would result in the structure not being in compliance with a requirement of a municipal ordinance, building code, or other requirement;

(4) compliance would result in the unreasonable encroachment on an adjacent property or easement;  
or

(5) the municipality considers the structure to be a nonconforming structure.

(c) The concurring vote of 75 percent of the members of the board is necessary to:

(1) reverse an order, requirement, decision, or determination of an administrative official;



(2) decide in favor of an applicant on a matter on which the board is required to pass under a zoning ordinance; or

(3) authorize a variation from the terms of a zoning ordinance.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 126, Sec. 2, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 724, Sec. 2, eff. Aug. 28, 1995.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 318 (H.B. [1475](#)), Sec. 1, eff. September 1, 2021.

#### Sec. 211.010. APPEAL TO BOARD.

(a) Except as provided by Subsection (e), any of the following persons may appeal to the board of adjustment a decision made by an administrative official that is not related to a specific application, address, or project:

(1) a person aggrieved by the decision; or

(2) any officer, department, board, or bureau of the municipality affected by the decision.

(a-1) Except as provided by Subsection (e), any of the following persons may appeal to the board of adjustment a decision made by an administrative official that is related to a specific application, address, or project:

(1) a person who:

(A) filed the application that is the subject of the decision;

(B) is the owner or representative of the owner of the property that is the subject of the decision; or

(C) is aggrieved by the decision and is the owner of real property within 200 feet of the property that is the subject of the decision; or

(2) any officer, department, board, or bureau of the municipality affected by the decision.

(b) The appellant must file with the board and the official from whom the appeal is taken a notice of appeal specifying the grounds for the appeal. The appeal must be filed not later than the 20th day after the date the decision is made. On receiving the notice, the official from whom the appeal is taken shall immediately transmit to the board all the papers constituting the record of the action that is appealed.

(c) An appeal stays all proceedings in furtherance of the action that is appealed unless the official from whom the appeal is taken certifies in writing to the board facts supporting the official's opinion that a stay would cause imminent peril to life or property. In that case, the proceedings may be stayed only by a restraining order granted by the board or a court of record on application, after notice to the official, if due cause is shown.

(d) The board shall set a reasonable time for the appeal hearing and shall give public notice of the hearing and due notice to the parties in interest. A party may appear at the appeal hearing in person or

by agent or attorney. The board shall decide the appeal at the next meeting for which notice can be provided following the hearing and not later than the 60th day after the date the appeal is filed.

(e) A member of the governing body of the municipality who serves on the board of adjustment under Section 211.008(g) may not bring an appeal under this section.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1997, 75th Leg., ch. 363, Sec. 2, eff. Sept. 1, 1997.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 820 (H.B. [2497](#)), Sec. 2, eff. September 1, 2019.