

**Notice of Planning and Zoning Commission Meeting  
AGENDA**

**October 5, 2021 at 6:00 PM**

**NOTICE TO THE PUBLIC IS HEREBY GIVEN** the Montgomery Planning and Zoning Commission will conduct its Planning and Zoning Commission Meeting scheduled for **6:00 PM on Tuesday, October 5, 2021**, at the City of Montgomery City Hall, 101 Old Plantersville Road, Montgomery, Texas via Zoom Teleconferencing.

Members of the public may view the meeting live on the City's website [www.montgomerytexas.gov](http://www.montgomerytexas.gov) 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 [www.montgomerytexas.gov](http://www.montgomerytexas.gov). The meeting will be recorded and uploaded to the City's website.

**CALL TO ORDER**

**VISITOR/CITIZENS FORUM:**

Any citizen with business not scheduled on the agenda may speak to the Commission. Prior to speaking, each speaker must be recognized by the Chairman. The Commission may not discuss or take any action on an item but may place the issue on a future agenda. The number of speakers along with the time allowed per speaker may be limited.

**CONSIDERATION AND POSSIBLE ACTION:**

- 1.** Discussion regarding Historic Preservation District Ordinance and Design Guidelines.
- 2.** Staff presentation regarding Municipal Utility Districts.
- 3.** Update on the proposed 389-ac Redbird Meadow Development (previously referred to as the "Kammerer Tract").

**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.

**EXECUTIVE SESSION:**

The Planning and Zoning Commission reserves the right to discuss any of the items listed specifically under this heading or for any items listed above in executive closed session as permitted by law including if they meet the qualifications in Sections 551.071(consultation with attorney), 551.072 (deliberation regarding real property), 551.073 (deliberation regarding gifts), 551.074 (personnel matters), 551.076 (deliberation regarding security devices), and 551.087 (deliberation regarding economic development negotiations) of Chapter 551 of the Government Code of the State of Texas.

**ADJOURNMENT**

/s/Susan Hensley

Susan Hensley, City Secretary

I certify that the attached notice of meeting was posted on the bulletin board at City of Montgomery City Hall, 101 Old Plantersville Road, Montgomery, Texas, on October 1, 2021 at 3:45 p.m. I further certify that the following news media was notified of this meeting as stated above: The Courier

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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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Montgomery Planning and Zoning Commission  
**AGENDA REPORT**

<b>Meeting Date:</b> October 5, 2021	<b>Budgeted Amount:</b>
<b>Department:</b> Administration	<b>Prepared By:</b> Dave McCorquodale

**Subject**

Discussion regarding Historic Preservation District Ordinance and Design Guidelines.

**Recommendation**

No formal action needed, provide direction to staff as you see fit.

**Discussion**

Staff plans to review key points of the Historic Preservation Ordinance and the Historic District Design guidelines. The goal of the discussion is to increase understanding of the ordinance, identify things that work well in the ordinance and identify possible areas to improve. Attached are the Historic District Ordinance and Design Guidelines as background information.

**Approved By**

Asst. City Administrator	Dave McCorquodale	Date: 10/01/2021
City Administrator	Richard Tramm	Date: 10/01/2021

# DESIGN GUIDELINES FOR THE CITY OF MONTGOMERY,

## For Residential and Commercial Structures Within the Historic Preservation District and Structures Designated as Historic Landmarks

**GENERAL.** The City of Montgomery wishes to preserve the architectural style, form, scale, materials, colors, details and treatments of buildings constructed in the period between 1830 and 1941. Consistent with the zoning ordinance and other codes and ordinances, the interior of period buildings may be altered at the discretion of the owner but any repair, alteration, addition, replacement, removal or reconstruction of all or a part of the exterior must be done in accordance with the requirements contained herein and upon receipt of approval from the Planning and Zoning (P & Z) Commission. Any building to be moved into the district, or onto a property designated as a historic landmark, must have been constructed during the period 1830 to 1941 and/or substantially reflect a style of architecture of that period and be consistent with the Design Guidelines for the City of Montgomery, which are contained herein. New buildings that are to be constructed in the historic district, or on a property designated as a historic landmark, must also reflect a style of architecture from that period and must be constructed in accordance with the guidelines. Buildings moved into the district or newly constructed in the district, or on a property designated as a historic landmark, must submit plans and receive approval from the P & Z Commission prior to the commencement of movement or construction.

1. *Building placement form and treatment.*
  - a. *Accessory buildings.* Accessory buildings are only permitted in the rear yard and the interior side yard and must be compatible with the scale, shape, roof form, materials, detailing, and color of the main building. Accessory buildings must have pitched roofs. Pre-fabricated metal accessory buildings are permitted if they are completely screened from view from any abutting street or private property.
  - b. *Additions.* Additions to a main building are only permitted on the side and rear facades, except that a porch may be added to the front facade if such addition is consistent with the architecture of the period for the building. Other exceptions may be reviewed by the P & Z Commission. All additions to a building must be compatible with the dominant horizontal or vertical characteristics, scale, shape, roof form, materials, detailing, and color of the building. Additions must be consistent with the style of the house as originally constructed.
  - c. *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.

- d. *Awnings.* Awnings on the front and corner side facade must be made to complement the main building in style and color. Awnings must be typical of the style and period of the main building, and compatible with other conforming structures of a similar style in the historic district.
- e. *Building placement.* All structures within a historic district or on a property designated as a historic landmark must comply with the standards contained in the City of Montgomery Code of Ordinances.
- f. *Building widths.* All structures within a historic district must comply with the property setback standards established in the Zoning Ordinance of the City of Montgomery.
- g. *Chimneys.* All chimneys must be compatible with the style and period of the main building and the conforming structures of a similar style in a historic district. Chimneys on the front fifty (50) per cent of a main building or on a corner side facade must be:
  - (i) Constructed of brick or other materials that look typical of the style and period of the main building; and of a style and proportion typical of the style and period of the main building.
- h. *Color.*
  - (i) *Brick surfaces.* Brick surfaces not previously painted may not be painted unless the applicant establishes that the color and texture of replacement brick cannot be matched with that of the existing brick surface or that the painting is necessary to restore or preserve the brick itself.
  - (ii) *Certain colors prohibited.* Fluorescent and metallic colors are not permitted on the exterior of any structure in a historic district.
  - (iii) *Dominant and trim colors.* All structures must have a dominant color and no more than five (5) trim colors. Trim colors must complement the dominant color of a structure and be appropriate to and compatible with the structure, and the overall character of the historic district. The colors of a structure must be complementary to each other and the overall character of the historic district.
  - (v) *Gutters and downspouts.* Where appropriate, gutters and

downspouts must be painted or colored to match the trim color or the roof color of the structure.

- (vi) *Roof colors.* Roof colors must complement the style and overall color scheme of the structure.
- (vii) *Stain.* The use and color of stain must be typical of the style and period of the building.

*i. Columns.*

- (i) *Function.* Columns are only permitted as vertical supports near the front entrance of the main building or as vertical supports for porches.
- (ii) *Materials.* Columns must be constructed of masonry or wood or other materials that match the style of the main building.

*j. Facade materials.*

- (i) *In general.* The only permitted facade materials are stone, brick and lap siding composed of wood or fiber cement that looks like wood. All facade treatments must be done in a manner so as not to change the character of the building or obscure the architectural features and trim of the building.
- (ii) *Facades.* Existing facades must be preserved to appear in a manner for which they were originally intended.

*k. Front entrances and porches.*

- (i) *Detailing.* Railings, moldings, tile work, carvings, and other detailing and architectural decorations on front entrances and front porches must be typical of the style and period of the main building and the conforming structures of a similar style in the historic district.
- (ii) *Enclosures.* A front entrance or front porch may not be enclosed with any material, including iron bars, glass, or mesh screening without approval by the P & Z Commission.
- (iii) *Floor coverings.* Carpeting is not permitted as a front porch floor or step covering. Non-slip nosing and tread surfacing are allowed.
- (iv) *Style.* Each front porch and entry treatment must have a shape, roof

form, materials, and colors that are typical of the style and period of the building, and must reflect the dominant horizontal or vertical characteristics of the main building and the conforming structures of a similar style in the historic district.

- l. *Porte cocheres.* Porte cocheres must be preserved as architectural features and not be enclosed by fences, gates, or any other materials without approval by the P& Z Commission.
  
- m. *Roof forms.*
  - (i) *Materials and colors.* Roof materials and colors must complement the style and overall color scheme of the building or structure. On residential structures, tar and gravel (built-up) and other low slope membrane systems are permitted only as a roof material on covered porches and porte cocheres with low slope roofs. Carpet is not permitted as a roof material. Composition shingle, cedar or metal shingle, and non-corrugated, standing seam metal roofing materials are permitted.
  
  - (ii) *Overhang.* The minimum permitted roof overhang for a new or move-in main building is twelve (12) inches. A replacement roof on an existing building must have an overhang equal to or greater than the overhang of the roof it replaces.
  
  - (iii) *Patterns.* Roof patterns of a main building must be typical of the style and period of the architecture of the building and the conforming structures of a similar style in the historic district.
  
  - (iv) *Slope and pitch--residential.* The degree and direction of roof slope and pitch must be typical of the style and period of the main building and compatible with existing building forms in the historic district. In no case is a roof permitted with a pitch less than a four and one-half (4 ½) inch rise in any twelve (12) inch horizontal distance. Flat roof designs are not permitted on main or accessory buildings or structures, except that a covered porch or porte cocheres may have a flat roof that is typical of the style and period of the main building.
  
  - (v) *Slope and pitch--commercial.* Low slope roofs with parapets are allowed as a primary roof for commercial structures.
  
- n. *Windows and doors.*

(i) *Front facade openings.*

- 1) *Glass.* Clear, decorative stained, beveled, etched, and clear leaded glass may be permitted in any window opening. Reflective, tinted, opaque, and mirrored glass and plastic are not permitted in any opening. Translucent glass is not permitted, except in bathrooms, front doors, sidelites, specialty windows and commercial storefronts. No glass pane may exceed sixteen (16) square feet in area unless part of the original design or in commercial storefronts in which case a pane may not exceed fifty (50) square feet.
  - 2) *Screens, storm doors, and storm windows.* A screen, storm door, or storm window on a front or side facade of a main building may be permitted only if:
    - a) Its frame matches or complements the color scheme of the main building; and
    - b) It does not obscure significant features of the window or door it covers.
  - 3) *Security and ornamental bars.* Security and ornamental bars are permitted pending review by the P & Z Commission on any side of a main or accessory building abutting a street.
  - 4) *Style.*
    - a) All windows, doors, sidelites, and shutters in the front or side facade of a main building must be proportionally balanced in a manner typical of the style and period of the building.
    - b) The size and proportion of window and door openings located on the front and side facades of a main building must be typical of the style and period of the building.
    - c) The frames of windows should be trimmed in a manner typical of the style of the building.
2. *Fences.* Fences must be consistent with the same period of the main building.



- a. *Form.* Fences must be constructed and maintained in a vertical position.
- b. *Height.* Within a front yard, no fence or wall shall be erected to exceed a height of four (4) feet.
- c. *Location.*
- (i) A fence in an interior side yard must be located no further forward on the lot than the front of the main building.
  - (ii) A fence in a corner side yard must not be directly in front of the corner side facade, except that the building official may allow a fence that is directly in front of the corner side facade if:
    - 1) More screening is necessary to insure privacy due to unusually high pedestrian or vehicular traffic; and
    - 2) The fence does not screen all or any portion of a significant architectural feature of the main building.
  - (iii) A fence must run either parallel or perpendicular to a building wall or lot line.
- d. *Materials.* A fence in a front or corner side yard must be constructed of wrought iron, wood or brick. Concrete block fences are not permitted.
- e. *Masonry columns and bases.* The color, texture, pattern and dimensions of masonry and the color, width, type and elevation of mortar joints in a fence column or base must match the masonry and mortar joints of the main building as nearly as practicable.
- f. *Metal fences.* Wrought iron and metal fences must be compatible with the style and period of the main building. Non-decorative chain link, barbed and razor wire fences are permitted only in back yards and must not be visible from adjacent properties or abutting streets.
- g. *Wooden fences.*
- (i) All wooden structural posts must be at least four (4) inches by four (4) inches in diameter (nominal size).
  - (ii) Wooden fences facing a public street must present the finished side to the street.

- (iii) Wooden fences may be painted or stained a color that is complementary to the main building.
3. *Nonconforming uses and structures.* Except as otherwise provided in this document, the Zoning Ordinance of the City of Montgomery relating to nonconforming uses and structures applies to all historic districts and all properties designated as a historic landmark.
4. *Rebuilding damaged or destroyed buildings or structures.* If a lawful nonconforming building or structure in a historic district is damaged by fire, explosion, act of God or other calamity, the building or structure may be rebuilt or repaired at the same location with the approval of the P & Z Commission as long as the building is consistent with the original structure. New construction that is not consistent with the original structure must comply with the design guidelines provided in this section.
5. Excellent photographic examples of buildings and structures to be constructed in the historic district, or on a property designated as a historic landmark, are attached to these guidelines as Appendix "A", and are incorporated herein by reference. These photographs include appropriate guidelines and standards for roofs and porches, front facade openings, home details, chimneys, dormers, fences, accessory buildings, garages, and other features, as well as commercial structures. The examples reflect the architectural style, form, scale, materials, colors, details and treatments of buildings and other structures constructed in the period between 1830 and 1941, and in which the City is seeking to preserve and maintain, in its effort to maintain economic viability, protect property values, and to preserve the integrity and character of the historic district, and properties designated as historic landmarks, in a manner of quality indicative of the City of Montgomery.

## ARTICLE V. NONCONFORMING USES

### Sec. 98-301. Continuation of nonconforming use; change of use.

Except as otherwise provided in this article, the nonconforming use of a building existing at the time this chapter becomes effective (December 6, 1994) may be continued and the use of a nonconforming building may be changed to another use of the same or a more restricted classification, but where such use is changed to a more restricted classification it shall not thereafter be changed back to a use of a less restricted classification. A nonconforming building which is or may hereafter become vacant and which shall remain unoccupied or its nonconforming use discarded for a continuous period of one year, shall not thereafter be occupied except by a use which conforms to regulations of the district in which it is located. A nonconforming building may be maintained or kept in good repair except as otherwise provided in this section. No existing building may be enlarged, extended, reconstructed or altered unless its use is changed to a use permitted in the district in which such building is located, except in the event such enlargement, extension, reconstruction or alteration is required by court decision, law, or ordinance. No nonconforming building shall be moved in whole or in part to any other location on the lot unless every portion of such building is made to conform to all the regulations of the district in which it is located. A nonconforming building which is damaged by fire, explosion, flood, wind, earthquake or other calamity or act of God or the public enemy to the extent of 50 percent or more of its reasonable value may not be restored except in conformity with the regulations of the district in which it is located.

**Secs. 98-302—98-330. Reserved**

## ARTICLE VI. HISTORIC PRESERVATION

### Sec. 98-331. Purpose.

The city council hereby declares that as a matter of public policy the protection, enhancement, and perpetuation of landmarks or districts of historical and cultural importance and significance is necessary to promote the economic, cultural, educational, and general welfare of the public. It is recognized that the city represents the unique confluence of time and place that shaped the identity of generations of citizens, collectively and individually, and produced significant historic, architectural, and cultural resources that constitute their heritage. This article is intended to:

- (1) protect and enhance the landmarks and districts which represent distinctive elements of the city's historic, architectural, and cultural heritage;
- (2) foster civic pride in the accomplishments of the past;
- (3) protect and enhance the city's attractiveness to visitors and the support and stimulus to the economy thereby provided;
- (4) insure the harmonious, orderly, and efficient growth and development of the city;
- (5) promote economic prosperity and welfare of the community by encouraging the most appropriate use of such property within the city;

- (6) encourage stabilization, preservation, restoration, and improvements of such properties and their values.

**Sec. 98-332. Designation of Historic Landmarks.**

(a) These provisions pertaining to the designation of historic landmarks both inside and outside of the historic preservation district constitutes a part of the comprehensive zoning plan of the city.

(b) The city council may, from time to time, following recommendation either for or against such designation by the Planning and Zoning Commission, designate certain sites and/or structures in the city as Historic Landmarks, and define, amend, or eliminate the boundaries of designation. Such sites shall bear the words "Historic Landmark" in their zoning designation. Such designation and the requirement thereof shall be in addition to any other zoning district designation or requirement established in the city's zoning ordinance and in this chapter. All zoning maps shall reflect the Historic Landmark by the letters "HL" as a suffix to the use designated.

(c) Property owners of proposed historic landmarks shall be notified by certified mail no less than fifteen (15) calendar days prior to the Planning and Zoning Commission hearing on the recommended designation. At the Commission's public hearing, owners, interested parties, and technical experts may present testimony or documentary evidence which will become part of a record regarding the historic, architectural, or cultural importance of the proposed Historic Landmark.

(d) The proposed Historic Landmark shall be submitted to the Planning and Zoning Commission at the earliest available meeting and no later than thirty (30) days from the date of the designation request. The Commission shall give notice and conduct its hearing on the proposed designation at the earliest possible meeting and within forty-five (45) days of receipt of a proposed landmark designation. Such hearing shall be in the same manner and according to the same procedures as specifically provided in this chapter. The Commission shall make its recommendation to the city council within forty-five (45) days subsequent to the hearing on the proposed designation.

(e) The city council shall schedule a hearing of the Planning and Zoning Commission's recommendation to be held within forty-five (45) days of receipt of the recommendation of the Commission. The city council shall give notice, follow the publication procedure, hold required hearings, and make its determination in the same manner as provided in this chapter.

(f) Upon designation of a historic landmark, the city council shall cause the designated site(s)/structure(s) to be recorded on the official zoning map.

**Sec. 98-333. Designation of Historic Preservation District(s).**

(a) These provisions pertaining to the designation of historic preservation districts constitute a part of the comprehensive zoning plan of the city.

(b) The city council may, from time to time, following recommendation either for or against such designation by the Planning and Zoning Commission, designate certain areas in the city as Historic Preservation Districts, and define, amend, or eliminate the

boundaries of designation. Such districts shall bear the words “Historic Overlay” in their zoning designation. Such designation and the requirements thereof shall be in addition to any other zoning district designation or requirement established in the city’s zoning ordinance and in this chapter. All zoning maps shall reflect the Historic Preservation District by the letters “HO” as a suffix to the use designated. Changes to the same may be initiated by any person by request submitted to the Planning and Zoning Commission.

(c) Property owners within a proposed historic preservation district shall be notified by certified mail no less than fifteen (15) days prior to the Planning and Zoning Commission hearing on the recommended designation. At the Commission’s public hearing, owners, interested parties, and technical experts may present testimony or documentary evidence which will become part of a record regarding the historic, architectural, or cultural importance of the proposed historic preservation district.

(d) The proposed addition of or modification to a historic preservation district shall be submitted to the Planning and Zoning Commission at the earliest available meeting and no later than thirty (30) days from the date of the designation request. The Commission shall give notice and conduct its hearing on the proposed designation at the earliest possible meeting and within forty-five (45) days of receipt of a proposed landmark designation. Such hearing shall be in the same manner and according to the same procedures as specifically provided in this chapter. The Commission shall make its recommendation to the city council within forty-five (45) days subsequent to the hearing on the proposed designation.

(e) The city council shall schedule a hearing of the Planning and Zoning Commission’s recommendation to be held within forty-five (45) days of receipt of the recommendation of the Commission. The city council shall give notice, follow the publication procedure, hold required hearings, and make its determination in the same manner as provided in this chapter.

(f) Upon designation of a historic preservation district, the city council shall cause the designated district to be recorded on the official zoning map.

#### **Sec. 98-334. Criteria for Designation of Historic Landmarks and Districts.**

(a) Historic Landmarks are sites, structures, or features that possess significance in history, architecture, military, political, economic, scientific, archeology, culture or other value. A Historic Landmark may be designated if it exhibits two or more of the following characteristics:

- (1) Represents an established and familiar visual feature of the city;
- (2) Is believed to be of basic and vital importance for preservation of culture, neighborhoods and/or economic development;
- (3) Is associated with events that have made a contribution to the patterns of local, regional, state and/or national history;
- (4) Is associated with events that are significant to our past;
- (5) Is associated with an individual or group having a profound influence on the history of the city; or

- (6) Is a prototype of, or an outstanding example of a period, style, architectural movement or construction.

(b) Historic Preservation Districts may be designated if the properties within the proposed district contain a density of established sites, structures, or features that possess significance in history, architecture, military, political, economic, scientific, archeology, culture or other value. A Historic Preservation District may be designated if the proposed district exhibits a density of properties with the following characteristics:

- (1) Represents an established and familiar visual feature of the city;
- (2) Is believed to be of basic and vital importance for preservation of culture, neighborhoods and/or economic development;
- (3) Is associated with events that have made a contribution to the patterns of local, regional, state and/or national history;
- (4) Is associated with events that are significant to our past;
- (5) Is associated with an individual or group having a profound influence on the history of the city; or
- (6) Is a prototype of, or an outstanding example of a period, style, architectural movement or construction.

**Sec. 98-335. Approval for Alteration or New Construction Within Historic Preservation Districts or Affecting Historic Landmarks.**

No person shall carry out any exterior construction, reconstruction, alteration, restoration, rehabilitation, demolition, or relocation of any historic landmark or any property within a historic preservation district, nor shall any person make any material change to other exterior elements visible from a public right-of-way which will affect the appearance and cohesiveness of any historic landmark or any property within a historic preservation district without receiving approval from the Planning and Zoning Commission. New construction within a historic preservation district or on property designated as a historic landmark, or buildings or structures moved onto a property within a historic preservation district or onto property designated as a historic landmark will be subject to and in accordance with the Design Guidelines for the City of Montgomery.

**Sec. 98-336. Nonconforming Structures.**

Commercial, institutional, and residential structures existing within the Historic Preservation District, or on property designated as a Historic Landmark, prior to the effective date of this article shall not be required to be altered, repaired or modified to meet existing design criteria unless major facade or structural renovations are planned by the property owner. Major facade or structural renovations are defined as changes or renovations to 25% or more of any facade of the structure or improvements facing a street.

**Sec. 98-337. Historic Preservation District/Landmark Building Permit Application Procedures.**

(a) Prior to the commencement of any work requiring Planning and Zoning Commission approval in accordance with this article, the owner shall follow standard

procedures for a building permit application and provide the following information for review:

- (1) Name, address, telephone number of applicant and property owner, detailed description of proposed work;
- (2) Location and photograph of the property and adjacent properties;
- (3) A written narrative describing the design intent and historical precedence is required. Historical photographs may be submitted if available;
- (4) Elevation drawings of the proposed changes;
- (5) Description of materials and colors to be used; and
- (6) If the proposal includes signs or lettering, in addition to meeting all sign ordinances of the City, a scale drawing showing the type of lettering to be used, all dimensions and colors, a description of materials to be used, method of illumination (if any), and a plan showing the sign's location on the property;

(b) Planning and Zoning Commission approval required by this article shall be in addition to and not in lieu of any other building permit requirements for the city.

(c) The Planning and Zoning Commission shall review the application at the first regularly scheduled meeting after the application is received, at which time an opportunity will be provided for the applicant to be heard. The Planning and Zoning Commission shall approve, approve with modifications, or deny the request. A denied application may be resubmitted to the Planning and Zoning Commission after required adjustments are made.

(d) All decisions of the Planning and Zoning Commission shall be in writing. The Commission's decision shall state its findings pertaining to the approval, denial, or modification of the application. A copy shall be sent to the applicant and a copy shall be filed with the City Secretary as part of the public record.

(e) An applicant dissatisfied with the action of the Planning and Zoning Commission relating to the issuance or denial of building permit approval, as a result of this article, shall have the right to appeal to the city council by submitting a request in writing to the City within (30) days after receipt of notification of such action.

**Sec. 98-338. Criteria for Approval by the Planning and Zoning Commission.**

Approval by the Planning and Zoning Commission shall be guided by the adopted Design Guidelines for the City of Montgomery. The Design Guidelines for the City of Montgomery shall be made available at the office of the City Secretary.

**Sec. 98-339. Special Setback Provisions.**

New commercial structures or improvements being built in the historic downtown commercial area (i.e. any building with front and/or rear facades facing Liberty, Caroline, Prairie, Maiden, McCown, John Butler, or College Streets, and which are located between State Highway 105 on the south and Clepper Street on the north) will be required to adhere to front (main entrance) setbacks that match immediately adjacent buildings or structures facing the same street. If new commercial structures or improvements are being constructed between existing buildings or structures whose setback lines do not match, the

new building or structure's front (main entrance) setback line must match the adjacent building or structure whose front (main entrance) setback line is closest to the street in which the adjacent structure or building faces.

**Sec. 98-340. Approval Required for Demolition.**

(a) A permit for the demolition of a Historic Landmark or property within a Historic Preservation District, including secondary buildings, must be reviewed and approved by the Planning and Zoning Commission and forwarded to city council for final approval. The Commission shall consult with the City on any application submitted, and shall consider and review any findings and recommendations of the City.

(b) A structure deemed as an unsafe building under the City's ordinances regarding same.

**Sec. 98-341. Economic Hardship Application Procedure.**

(a) After receiving written notification from the Planning and Zoning Commission of the denial a of a permit request, an applicant may commence the hardship process. No building permit or demolition permit may be issued unless the Commission makes a finding that an economic hardship exists.

(b) When a claim of economic hardship is made due to the effect of this ordinance, the owner must prove that:

- (1) the property is incapable of earning a reasonable return, regardless of whether that return represents the most profitable return possible;
- (2) the property cannot be adapted for any other use, whether by the current owner or by a purchaser, which would result in a reasonable return; and
- (3) efforts to find a purchaser interested in acquiring the property and preserving it have failed.

(c) The applicant shall consult in good faith with the Planning and Zoning Commission, local preservation groups and interested parties in a diligent effort to seek an alternative that will result in preservation of the property. Such efforts must be shown to the Commission.

(d) The Planning and Zoning Commission shall hold a public hearing on the application within sixty (60) days from the date the application is received by the City Secretary. Following the hearing, the Commission has thirty (30) days in which to prepare a written response to the applicant. In the event that the Commission does not act within ninety (90) days of the receipt of the application, a permit may be granted.

(e) All decisions of the Planning and Zoning Commission shall be in writing. A copy shall be sent to the applicant by registered mail and a copy filed with the City Secretary's office for public inspection. The Commission's decision shall state the reasons for granting or denying the hardship application.

(f) If an applicant is dissatisfied with the action of the Planning and Zoning Commission, he/she shall have the right to appeal to the city council within thirty (30) days after receipt of notification of such action. The city council shall give notice, follow



publication procedure, hold hearings, and make its decision in the same manner as provided in the general zoning ordinance of the city.

**Sec. 98-342. Enforcement.**

All work performed pursuant to a building permit issued under this ordinance shall conform to any requirements included therein. It shall be the duty of the city building official (or other designated official) to inspect periodically any such work to assure compliance. In the event work is not being performed in accordance with the approved scope of work, or upon notification of such fact by the Planning and Zoning Commission and verification by the designated official, the official shall issue a stop work order and all work shall immediately cease. No further work shall be undertaken on the project as long as a stop work is in effect.

**Sec. 98-343. Ordinary Maintenance.**

Nothing in this ordinance shall be construed to prevent the ordinary maintenance and repair of any exterior architectural feature of a landmark or property within a Historic Preservation District which does not involve a change in design or outward appearance.

**Sec. 98-344. Demolition by Neglect.**

No owner or person with an interest in real property designated as a landmark or included within a Historic Preservation District shall permit the property to fall into a serious state of disrepair so as to result in the deterioration of any exterior architectural feature which would, in the judgment of the Planning and Zoning Commission, produce a detrimental effect upon the character of the Historic Preservation District as a whole or the life and character of the property itself. Examples of such deterioration include:

- (1) Deterioration of exterior walls or other vertical supports;
- (2) Deterioration of roof or other horizontal members;
- (3) Deterioration of exterior chimneys;
- (4) Deterioration or crumbling of exterior stucco or mortar;
- (5) Ineffective waterproofing of exterior walls, roof, or foundations, including broken windows or doors;
- (6) Deterioration of any feature so as to create a hazardous condition which could lead to the claim that demolition is necessary for the public safety.

**Sec. 98-345. Penalties.**

In addition to the penalties set out under this chapter, the following penalties, which are nonexclusive, and the exercise of one or more of which shall not preclude exercise of the others, shall be imposed on those persons or entities found to have violated this article:

- (1) *Restrictions on future development.* If a historic resource, either a landmark or one located within the boundaries of the Historic Preservation District, is demolished or relocated without proper approval, or in the event the plans are changed for the property from which the resource was removed without approval

of the changed plans by the Planning and Zoning Commission, then the following restrictions, in addition to any other penalties or remedies set forth in this article, shall be applicable to the site where the structure or property was formerly located:

- a. No building or other permits will be issued for construction on the site, with the exception of a permit to restore such structure or property after obtaining a permit, for a period of two (2) years after the date of such demolition or removal. The City may file a certificate evidencing a violation of this section in the Official Public Records of Real Property of Montgomery County, Texas.
- b. No permits shall be issued by the city for any curb cuts on the site for a period of two (2) years from and after the date of such demolition or removal.
- c. No parking lot for vehicles shall be operated whether for remuneration or not on the site for a period of two (2) years from and after the date of such demolition and removal.
- d. The owner of the site shall maintain the site in a clean and orderly state and shall properly maintain all existing trees and landscaping on the site. When these restrictions become applicable to a particular site, the city building official shall cause to be filed a verified notice thereof in the real property records of Montgomery County and such restrictions shall then be binding on future owners of the property.

(2) *Cumulative remedies.* The provisions of this section shall apply in addition to other enforcement procedures or penalties which are available at law or in equity, including, but not limited to, those available for adversely affecting historic structures or property under V.T.C.A., Local Government Code § 315.006 and V.T.C.A., Government Code § 442.016 as the same may be amended from time to time, injunctive remedies and the like.

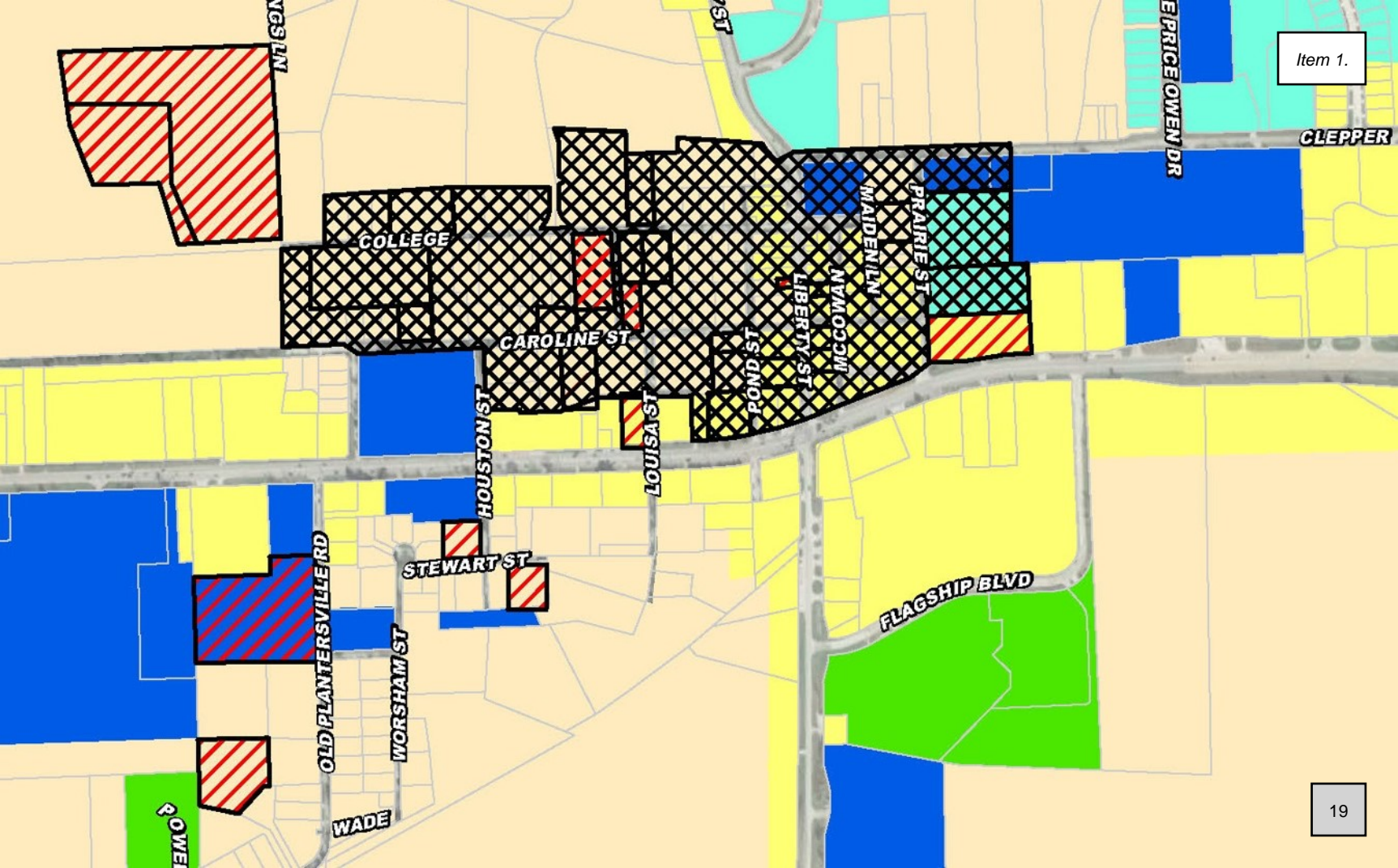
(3) *Civil action.* As an additional remedy in addition to the penalties stated above, the city attorney for the City of Montgomery or his or her designee shall have the power to take all necessary civil action to enforce the provisions hereof and to request appropriate legal or equitable remedies or relief.

**Secs. 98-346—98-360. Reserved.**

## **ARTICLE VII. CORRIDOR ENHANCEMENT**

### **Sec. 98-361. Purpose.**

The city council hereby declares that as a matter of public policy that it is desirable and in the best interest of the public health, safety, morals and general welfare of the citizens of the city to provide for the enhancement of the overall visual image and perception of the city along its main entryways and corridors by requiring construction standards for exterior walls and facades on buildings along these corridors.



Item 1.

Montgomery Planning and Zoning Commission  
**AGENDA REPORT**

<b>Meeting Date:</b> October 5, 2021	<b>Budgeted Amount:</b>
<b>Department:</b> Administration	<b>Prepared By:</b> Dave McCorquodale

**Subject**

Staff presentation regarding Municipal Utility Districts.

**Recommendation**

No formal action is needed. Ask questions and discuss as you see fit.

**Discussion**

Montgomery has two in-City Municipal Utility Districts (MUD's) which have been approved by City Council in recent years. This presentation was given to City Council at their September 28<sup>th</sup> meeting by the developer team for the Redbird Meadow project on the southwest side of the City (previously referred to as the Kammerer tract). While the Planning & Zoning Commission is not directly involved in the approval or creation of MUD's, it is beneficial for the Commission to understand how they work and how they are used in the development process. Attached is the presentation from the developer to review.

**Approved By**

Asst. City Administrator	Dave McCorquodale	Date: 10/01/2021
City Administrator	Richard Tramm	Date: 10/01/2021

# MUNICIPAL UTILITY DISTRICTS IN TEXAS

Presented to:  
City of Montgomery, TX



Allen Boone Humphries Robinson  
September 28, 2021

# What is a Municipal Utility District (MUD)?

- A political subdivision of the State of Texas, like a County or School District.
- Created over a limited area to provide water, sewer, drainage, parks & recreational facilities, and roads.
- MUDs are a way to provide these municipal services in areas not in a city or where a city cannot afford to extend these services itself or where the City wants the new development to bear the costs of the new infrastructure.

# Benefits of a MUD

- New Growth Pays For Itself
- High Quality Infrastructure
- Local Control
- Tax-Exempt Financing (low interest rates)
- Affordable Housing

# Prevalence of MUDs in Texas

- Texas has over 1200 special districts
- Over 124 active special districts in Montgomery County
- Over 2 million Texans live in special districts like MUDs
- Majority of MUDs over land outside City limits, but many cities have in-city MUDs or special districts (Conroe, Houston, Pearland, Sugar Land, Missouri City, College Station, Georgetown)
- MUDs have been used to develop most master-planned communities in greater Houston area, including: The Woodlands (27,000 acres), Clear Lake City/NASA (15,000 acres), South Shore Harbour (2,500 acres), Bay Colony (800 acres), First Colony (10,000 acres), Sienna Plantation (10,000 acres), Cinco Ranch (5,400 acres) and Shadow Creek Ranch (3,500 acres)



# What do MUDs do?

- Construct/operate water, sewer, drainage
- Construct public roads
- Construct/operate parks and recreational facilities
- Finance public infrastructure through bonds to **reimburse** the developer for costs of facilities

# Regulations Applicable to MUDs

- MUDs in Texas are one of the most heavily regulated types of political subdivisions.
- MUDs can **only** exercise those powers expressly granted in the Texas Water Code (water, sewer, drainage, roads, parks)
- Plans for public infrastructure are subject to all City codes and ordinances; plans must be approved by the City; facilities inspected by the City upon construction
- Infrastructure regulated by the TCEQ; subject to EPA requirements
- MUDs are subject to TCEQ feasibility rules (developer only reimbursed after certain TCEQ rules are met)
- MUD Bonds must be approved by TCEQ and the Texas Attorney General
- MUDs must comply with the Open Meetings Act and Public Information Act.
- Board members are subject to all Texas ethics laws applicable to public officials and public entities.

# Creation / Activation

- Method of creation may vary based on the development needs to fit the property:
  - Texas Commission on Environmental Quality (TCEQ); or
  - The Texas Legislature.
- If the MUD is in a City or its ETJ, the City must give its consent prior to the creation and/or annexation of land into the MUD.
- In connection with consent, the landowner and the City negotiate other terms for providing services to the MUD, including a development agreement and utility agreement.

# MUD Governance / Operation

- The MUD is governed by a 5 member board that is initially appointed by the TCEQ and later elected by residents in the MUD. Elections are conducted in accordance with the requirements of the Texas Election Code.
- The Board is charged with developing the facilities in the manner that is in the best interest of residents and the landowner.
- The MUD employs a number of professional consultants to advise the board and make recommendations on action items, much like City staff.

# Role of the Board of Directors

- Like City Council, the Board of Directors is the “policy-making” and decision making body of the MUD.
- The Board is charged with developing the water, sewer, drainage, park, road, and other MUD facilities in the manner that is in the best interests of both the landowners and residents and consistent with TCEQ rules.
- The MUD’s consultants implement those policy decisions.

# What is the role of the Developer in the MUD?

- Requests the creation of the MUD.
- Drives the need for water, sewer and drainage, park, and road facilities based on its land plan and development schedule.
- “Partners” with the Board to facilitate development of the property in the MUD.
- “Loans” the MUD all the funds it needs to operate and to construct the public facilities and infrastructure.
- Developer may only be reimbursed once sufficient value constructed in the District.

# Roles of the Consultants

- **Attorney**
  - Acts as general counsel to the Board on public law, contract, and limited real estate matters and as bond counsel to the MUD on the issuance of debt.
- **Auditor**
  - Audits the funds of the MUD pursuant to governmental accounting standards and TCEQ rules. Also audits the reimbursement made to the developer following each bond issue. The Auditor follows the same auditing standards as a City and other governmental entities.
- **Bookkeeper**
  - Keeps the books and financial records of the MUD, pays invoices, advises the board on investment of public funds.
- **Engineer**
  - Designs and oversees construction of the MUD's facilities.
- **Financial Advisor**
  - Advises the Board on issuing debt and setting the tax rate.
- **Tax Assessor/ Collector**
  - Sends tax bills and is responsible for collection of tax payments; assists in setting tax rate.
- **Operator (if needed)**
  - Operates and maintains water, sewer, and drainage system; sends and collects monthly water bills. If a MUD is located within the City, the MUD typically conveys completed water and sewer facilities to the City. Following acceptance, the City operates and maintains the system, as well as sends and collects monthly water bills.

# Taxation of the MUD

- A MUD generally levies an Operation and Maintenance Tax against all of the property in the boundaries of the MUD.
- After a MUD has issued bonds, it has the authority to levy an ad valorem tax for each year that any of the bonds are outstanding in an amount sufficient to pay the interest and principal of the bonds.
- No constitutional or statutory limitation on the rate or the amount for taxes.
- However, the Texas Commission on Environmental Quality will not approve a MUD to sell bonds if the total water, sewer and drainage tax by all overlapping entities (including the City) exceeds \$1.50.



# Reimbursement to Developer

## MUD and Developer enter into a reimbursement agreement

- Slow process
- Mud agrees to reimburse developer from bond proceeds once developer has funded and constructed public infrastructure
- Only public infrastructure and related costs
- Must have value (homes on the ground) to begin reimbursement process
- Usually 10 times of value to \$1 of reimbursement

# Issuing Bonds

- At decision of the board, Engineer, Attorney and Financial Advisor, the MUD submits a bond application to the TCEQ
- This is a highly regulated process by the TCEQ and the Texas Attorney General's office
- TCEQ feasibility rules must be met (streets must be completed, sufficient water, sewer and drainage capacity for all the growth projected, enough value on the ground to support the bonds).
- The TCEQ approves the projects for reimbursement to the developer and the amount that the MUD can reimburse the developer for those projects.

# Issuing Bonds Continued

- After the TCEQ approves the bond application, the MUD sells the Bonds in an open meeting based on sealed competitive bids for the Bonds.
- The Texas Attorney General then reviews the bond issue to ensure compliance with relevant Texas laws.
- MUDs then use the bond proceeds to reimburse the developer for the cost of constructing the District facilities based on a reimbursement audit prepared by an independent CPA.

Montgomery Planning and Zoning Commission  
**AGENDA REPORT**

<b>Meeting Date:</b> October 5, 2021	<b>Budgeted Amount:</b>
<b>Department:</b> Administration	<b>Prepared By:</b> Dave McCorquodale

**Subject**

Update on the proposed 389-ac Redbird Meadow Development (previously referred to as the "Kammerer Tract").

**Recommendation**

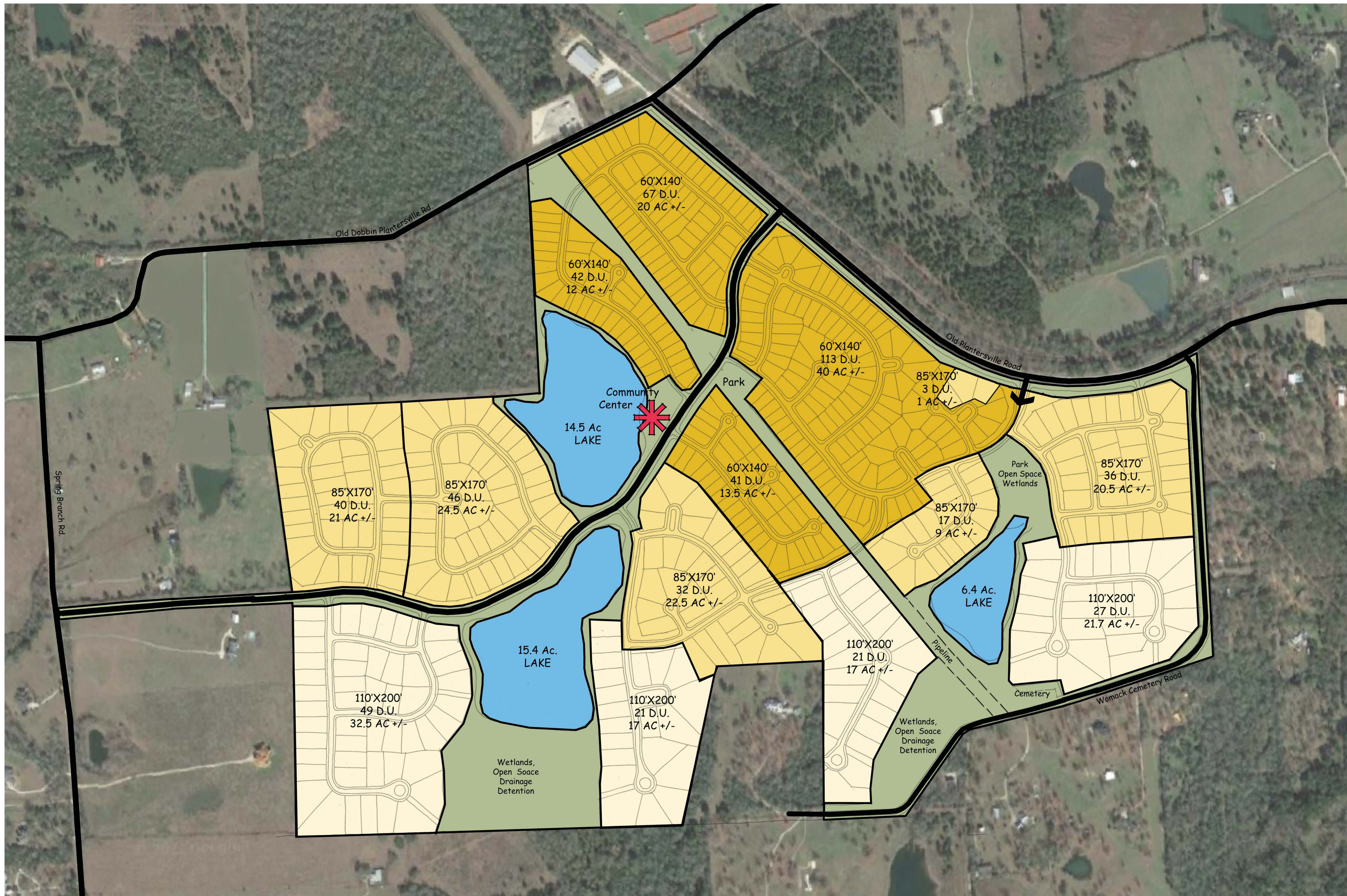
No formal action needed, provide direction to staff as you see fit.

**Discussion**

This is a brief update on the development progress. The most recent land plan is attached. The final plan may be revised as needed based on continued discussions with the City.

**Approved By**

Asst. City Administrator	Dave McCorquodale	Date: 10/01/2021
City Administrator	Richard Tramm	Date: 10/01/2021



Conceptual Development Plan  
**REDBIRD MEADOW**  
 Montgomery County, Texas  
 REDBIRD DEVELOPMENT, LLC

<table border="0"> <tr> <td style="background-color: #FFD700; width: 20px; height: 15px; display: inline-block;"></td> <td>60'X140' - 263 DU 85.5 Ac.</td> </tr> <tr> <td style="background-color: #FFD966; width: 20px; height: 15px; display: inline-block;"></td> <td>85'X170' - 174 DU 98.5 Ac.</td> </tr> <tr> <td style="background-color: #FFF9C4; width: 20px; height: 15px; display: inline-block;"></td> <td>110'X200' - 118 DU 88.2 Ac.</td> </tr> </table> <p>RESIDENTIAL TOTAL 271.7 Ac. - 555 DU</p>		60'X140' - 263 DU 85.5 Ac.		85'X170' - 174 DU 98.5 Ac.		110'X200' - 118 DU 88.2 Ac.	<table border="0"> <tr> <td style="background-color: #4682B4; width: 20px; height: 15px; display: inline-block;"></td> <td>LAKES \ DETENTION 36.3 Ac.</td> </tr> <tr> <td style="background-color: #8FBC8F; width: 20px; height: 15px; display: inline-block;"></td> <td>PIPE LINES, MAJOR ROAD ROW, DETENTION, WETLANDS, PARKS, OPEN SPACE, DRAINAGE 80 Ac.</td> </tr> </table> <p>GRAND TOTAL 388.5</p>		LAKES \ DETENTION 36.3 Ac.		PIPE LINES, MAJOR ROAD ROW, DETENTION, WETLANDS, PARKS, OPEN SPACE, DRAINAGE 80 Ac.
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Disclaimer - Data & other information provided is estimated unless specified. Information provided is a graphic representation to aid in determining relationships and is subject to change without notice. All services and amenities on this document are proposed and are purely conceptual in nature, and the depicting of such services or amenities herein should not be construed as a promise or representation that the developer will commence building or complete such services or amenities. Commencement of building is subject to a variety of business, financial and economic circumstances which are outside the developer's control.

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 MAY, 2021  
  
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