

**Notice of City Council Regular Meeting
AGENDA**

October 11, 2022 at 6:00 PM

NOTICE IS HEREBY GIVEN that a Meeting of the Montgomery City Council will be held on **Tuesday, October 11, 2022**, at **6:00 PM** at the City of Montgomery City Hall, 101 Old Plantersville Road, Montgomery, Texas.

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

CALL TO ORDER

INVOCATION

PLEDGE OF ALLEGIANCE TO FLAGS

VISITOR/CITIZENS FORUM:

Citizens are invited to speak for three (3) minutes on matters relating to City Government that relate to agenda or non-agenda items. Prior to speaking, each speaker must be recognized by the Presiding Officer. All speakers should approach the podium to address Council and give their name and address before sharing their comments. City Council may not discuss or take any action on an item, but may place the issue on a future agenda.

CONSENT AGENDA:

- 1.** Consideration and approval of the minutes of the following:
 - a) Regular Council and Public Hearing - September 13, 2022
 - b) Regular Council meeting - September 27, 2022
 - c) Special Council meeting - October 3, 2022.
- 2.** Consideration and Acceptance of a 0.1195-acre Public Sanitary Sewer Easement Agreement.

CONSIDERATION AND POSSIBLE ACTION:

- 3.** Calling a Public Hearing on the voluntary annexation of 79.910 acres of land located in the Owen Shannon Survey, A-36, in Montgomery County, Texas also known as the Pulte 80-acre tract.
- 4.** Calling a Public Hearing on the voluntary annexation of 33.012 acres of land located in the John Corner Survey, A-8, in Montgomery County, Texas also known as the HCR Ventures Ltd. 33-acre tract.
- 5.** Consideration and possible action on appointment of Planning & Zoning Commission Places 2 and 4.
- 6.** Consideration and possible action on a variance request for gravel in lieu of asphalt or concrete for the parking lot of the Montgomery Grove located at 22016 Eva Street.
- 7.** Presentation and Acceptance of a Feasibility Study for the proposed Food Gardens of Olde Montgomery development.

8. Presentation and Acceptance of a Feasibility Study for the proposed Summer Wind development.
9. Consideration and possible action on approval of Change Order No. 1 to the Water Plant No. 3 Generator Addition contract.
10. Consideration and possible action on approval of a Service Agreement for Building Plan Review and Inspection Services between the City of Montgomery and Rick Hanna, CBO.
11. Consideration and possible action on: AN ORDINANCE BY THE CITY OF MONTGOMERY TEXAS, DENYING ENTERGY TEXAS INC, STATEMENT OF INTENT AND APPLICATION FOR AUTHORITY TO CHANGE RATES FILED ON JULY 1, 2022; FINDING THAT THE MEETING COMPLIES WITH THE OPEN MEETINGS ACT; MAKING OTHER FINDINGS AND PROVISIONS RELATED TO THE SUBJECT; AND DECLARING AN EFFECTIVE DATE.

EXECUTIVE SESSION:

Adjourn into Closed Executive Session as authorized by the Texas Open Meetings Act, Chapter 551 of the Government Code of the State of Texas.

The City Council 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.

POSSIBLE ACTION FROM EXECUTIVE SESSION:

COUNCIL INQUIRY:

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

ADJOURNMENT

/s/ Nici Browe

Nici Browe, City Secretary, TRMC

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 7, 2022 at 4:30 p.m.

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.

City Council Public Hearing and Regular Council meeting
MINUTES

September 13, 2022, at 6:00 PM

CALL TO ORDER

Mayor Byron Sanford called the meeting to order at 6:00 p.m.

- Present: Byron Sanford Mayor
- Carol Langley City Council Place #1
- Casey Olson City Council Place #2
- T.J. Wilkerson City Council Place #3
- Cheryl Fox City Council Place #4
- Patricia Easley City Council Place #5

Also Present: Dave McCorquodale Assistant City Administrator& Planning Development

INVOCATION

Mayor, Byron Sanford provided the Invocation.

PLEDGE OF ALLEGIANCE TO FLAGS

VISITOR/CITIZENS FORUM:

Mayor Byron Sanford read a statement from former Mayor Sara Countryman.

Convened into Public Hearing at 6:06 P.M.

- 1. Convene into a Public Hearing to receive public comments regarding the proposed 2022-2023 City of Montgomery Budget.

No members of the public addressed City Council.

Adjourn Public Hearing at 6:08 P.M.

CONSENT AGENDA:

- 2. Approval of the Minutes of:
 - (a) City Council Budget Workshop meeting 08-22-2022; and
 - (b) City Council Meeting 08-23-2022.
 - (c) City Council Public Hearing 09-06-2022
- 3. Consideration and possible action regarding an Escrow Agreement by and between the City of Montgomery, Texas and Food Gardens of Olde Montgomery for a proposed food truck park (Dev. No. 2210) and authorizing the city engineer to prepare a Feasibility Study.

4. Consideration and possible action regarding an Escrow Agreement by and between the City of Montgomery, Texas and Dutch Bros., LLC dba Dutch Bros. Coffee for a proposed drive through coffee shop (Dev. No. 2106).

Council Member Patricia Easley moved to approve the consent agenda as presented. Councilmember Cheryl Fox seconded the motion. Motion passed (5-0).

CONSIDERATION AND POSSIBLE ACTION:

5. Consideration and possible action regarding adoption, by record of vote of the following Ordinance: AN ORDINANCE OF THE CITY OF MONTGOMERY, TEXAS ADOPTING AN OPERATING BUDGET FOR THE FISCAL YEAR 2022-2023.

THIS BUDGET WILL RAISE MORE TOTAL PROPERTY TAXES THAN LAST YEAR'S BUDGET BY \$418,191 OR 30.07%, AND OF THAT AMOUNT, \$53,570 IS TAX REVENUE TO BE RAISED FROM NEW PROPERTY ADDED TO THE TAX ROLL THIS YEAR.

Councilmember Carol Langley moved to adopt the ordinance for the Operating Budget for the fiscal year 2022-2023. Mayor Pro Tem TJ Wilkerson seconded the motion. Motion passed (5-0).

6. Consider, Adopt and Set by Ordinance the 2022 Ad Valorem Tax Rate for Maintenance and Operations, **\$0.2950/\$100.**

Councilmember Carol Langley moved to adopt the ordinance for Ad Valorem Tax Rate for Maintenance and Operations for the fiscal year 2022-2023. Councilmember Cheryl Fox seconded the motion. Motion passed (5-0).

7. Consider, Adopt and Set by Ordinance the 2022 Ad Valorem Tax Rate for Debt Service, **\$0.1050/\$100.**

Councilmember Carol Langley moved to adopt the ordinance for Ad Valorem Tax Rate for Debt Service for the fiscal year 2022-2023. Councilmember Cheryl Fox seconded the motion. Motion passed (5-0).

8. Consideration and possible action on: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MONTGOMERY, TEXAS, SETTING THE AD VALOREM TAX RATE OF THE CITY OF MONTGOMERY, FOR THE YEAR 2022 AT A RATE OF \$0.4000 PER ONE HUNDRED DOLLARS (\$100) VALUATION ON ALL TAXABLE PROPERTY WITHIN THE CORPORATE LIMITS OF THE CITY OF MONTGOMERY AS OF JANUARY 1, 2022 SPECIFYING SEPARATE COMPONENTS OF SUCH RATE FOR OPERATIONS AND MAINTENANCE AND FOR DEBT SERVICE; LEVYING AN AD VALOREM TAX FOR THE YEAR 2022 PROVIDING FOR DUE AND DELINQUENT DATES TOGETHER WITH PENALTIES AND INTEREST; PROVIDING FOR COLLECTION AND ORDAINING OTHER RELATED MATTERS.

Councilmember Casey Olson moved to adopt the ordinance setting the Ad Valorem Tax Rate of the City of Montgomery, for year 2022 at a rate of \$0.400 / 100. Councilmember Patricia Easley seconded the motion. Motion passed (5-0).

9. A RESOLUTION OF THE CITY OF MONTGOMERY, TEXAS AMENDING ITS POLICY FOR INVESTMENT OF MUNICIPAL FUNDS AND THE INVESTMENT STRATEGIES CONTAINED THEREIN.

Mayor Pro Tem TJ Wilkerson moved to approve the resolution amending the investment policy. Councilmember Cheryl Fox seconded the motion. Motion passed (5-0).

10. Consideration and possible action regarding the City entering into a Development Agreement with Pulte Homes of Texas, LP.

Staff reviewed item and covered the main points of the Development Agreement – contingent on annexation into the City after the developer closed on the property; the MUD Consent was contingent on annexation. Richard Marek of Pulte Homes was in attendance to answer questions and discuss the project with City Council. The proposed project would have 45-foot-wide lots, and though the City had approved 50-foot lots in recent years, this was a smaller lot width than the City has seen before. Councilmember Casey Olson Motion stated he was not in favor of the 45-foot lot width when the Feasibility Study for the project was presented to City Council in May, and he still opposed the narrow lot width. Discussion by Council on the single-entry point onto FM1097 for the development. Mr. Marek said with the limited frontage on FM 1097 their options were limited. They have provided for an additional emergency-only access point on FM1097 and are in discussion with the property owner to the south about a connection point between their neighborhood streets. Councilmember Patricia Easley stated she was concerned with the potentially negative traffic impact to FM1097 the proposed project might have and asked if a traffic study had been done yet. Chris Roznovsky, WGA Engineering said the traffic study would be a part of the requirements the developer would work with TxDOT on and that TxDOT could require the developer to install turn lanes or similar measures to ensure traffic safety. City Council asked when the developer planned to start construction of the homes and Mr. Marek stated they expected to start in late 2024.

Mayor Pro Tem moved to approve the city entering into a Development Agreement with Pulte Homes. Councilmember Carol Langley seconded the motion. Motion passed (5-0).

11. Consideration and possible action on a variance request for minimum driveway spacing for Montgomery Summit Business Park Reserve “A.”

Katherine Vu, WGA – City Engineers discussed the details of the request and said the property did not have enough street frontage to meet the minimum driveway spacing required by City Code. She also mentioned the developer was working with an adjacent property for shared access, though they would like to request the variance in case shared access point is not feasible. Additionally, Ms. Vu noted that the proposed site plan located the driveway as far away from an adjacent intersection as possible and there was still room for 6-8 cars to be at the intersection without blocking the driveway. Councilmember Carol Langley asked if the engineers were in favor of granting the request and Ms. Vu said the P&Z and engineers both had no objections and recommended approval.

Councilmember Carol Langley moved to approve the variance request. Mayor Pro Tem TJ Wilkerson seconded the motion. Motion Passed (5-0).

12. Consideration and possible action on variance requests for minimum lot width, minimum lot area, and street right-of-way width for Summer Wind, a 56-acre proposed single-family residential development.

Staff introduced the item and noted that while P&Z recommends approval of the variance requests, they did have concern on the proposed 45-foot lot width. Jonathan White of L2 Engineering and Tim Connally of Montage Partners were in attendance to answer questions on

the requests and provide an overview of the proposed development. Mr. White said this property was part of the Buffalo Springs Planned Development District and one of the conditions of the Planned Development was that developments in the District followed the 2004 development regulations of the City. Mr. White noted the variance request for the street right-of-way width would comply with the current City requirement of 50-feet, though the 2004 regulation was 60-feet. He added that the street width would still be 28-feet from back of curb to back of curb and that only the right-of-way width was requested to be reduced. Councilmember Carol Langley asked how many of the proposed lots were above the City's 9,000 square foot minimum. Mr. White said the majority were proposed to be 5,400 square feet and that the cul-de-sac lots were in the 10,000 square foot range. Mr. Tim Connally introduced his company and said he and his business partner had been developing properties for a number of years and were committed to delivering exceptional projects that lived up to their expectations and reflected well on their reputations as quality developers. The request for 45-foot lots came down to the economics of residential construction market forces and that homebuilders are asking for 45-foot lots to balance land and construction costs. Mr. Connally said the anticipated selling price of the homes would be in the low \$300,000 range and believed home construction would start in early 2024. Councilmember Casey Olson questioned whether the 45-foot lots were necessary for the economics to work for the developer and home builders and that as a former home builder he believes builders will always find a way to adapt to higher overhead costs to keep home prices in the desirable range. Mr. White agreed and added the things that would likely be cut were the higher end materials like granite countertops, and stone exterior materials and that those were things that buyers expect and particularly the exterior materials added to the overall quality of the neighborhood.

Councilmember Carol Langley moved to approve the variance request as presented. Councilmember Patricia Easley seconded the motion. Motion passed (4-1). Councilmember Olson voted against the motion.

13. Consideration and possible action regarding an Escrow Agreement by and between the City of Montgomery, Texas and Montage Partners, LLC for a 56-acre single-family residential development (Dev. No. 2211) and authorizing the city engineer to prepare a Feasibility Study.

Staff explained this was a typical Escrow Agreement and Feasibility Study authorization. It was placed on the agenda after the previous item to allow Council to take action on the variance requests first before approving the Agreement and study. If the variances were denied, the developers might not have wished to proceed with the process.

Councilmember Carol Langley moved to approve the escrow agreement as presented. Councilmember Patricia Easley seconded the motion. Motion passed (4-0). Councilmember Casey Olson abstained from voting.

14. Consideration and possible action on: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MONTGOMERY, TEXAS ("CITY COUNCIL"), AMENDING THE CODE OF ORDINANCES OF THE CITY OF MONTGOMERY, TEXAS ("CODE"), CHAPTER 90, UTILITIES, ARTICLE II, WATER AND SEWER SERVICE, DIVISION 2, SERVICE RATES AND CHARGES, SECTION 90-63, PENALTY FOR FAILURE TO PAY BILL BEFORE BECOMING DELINQUENT, BY AMENDING THE PENALTY AMOUNT FOR A CUSTOMER'S FAILURE TO PAY THEIR BILL BEFORE BECOMING DELINQUENT.

Staff stated that Councilmember Cheryl Fox asked for the item to be placed on the agenda but wanted to defer discussion and action on the item until a later date. Councilmember Carol

Langley asked Councilmember Cheryl Fox why she asked to defer action. Councilmember Fox stated that she wanted more time to review the matter. Councilmember Langley asked staff to confirm the current late charge and staff said it was 20% of the bill amount and had been in place since at least 1996. Councilmember Easley noted that state code did not allow more than a 10% late charge for delinquent utility bills and asked how the City could charge 20%. The City attorney explained that the state code regulated private water suppliers and that cities could set their own rate. Councilmember Carol Langley stated that she called three other cities, and no one has 20%.

Councilmember Patricia Easley read from State Code as to the recommendation on fees, and stated she felt 20% to be exorbitant.

[audio resumes at this mark in meeting video to continue minutes].

Councilmember Carol Langley moved to change the ordinance on utility delinquent fees to 10%. Councilmember Cheryl Fox seconded the motion. Motion passed (5-0).

15. Consideration and possible action on developing a program to create banners honoring local veterans.

Councilmember Casey Olson requested to table the item as he is getting more information as to how this program is to be presented. It is not a cost to the city, but to the family.

Councilmember Casey Olson table until October 11, 2022, regular council meeting. Councilmember Carol Langley. Motion passed (5-0).

16. Consideration and possible action on authorizing an expenditure up to \$40,000 by Public Works to repair the Lift Station No. 8 Sanitary Sewer Force Main.

Ms. Katherine Vu, WGA engineering presented this item and stated she was here to provide an update and request authorization to begin the repair. She went on to provide council with their findings and options considered.

1 option was to hang the pipe off of Lone Star parkway bridge, however the construction costs were exorbitant and not cost effective, also the timeline is too far out, when you consider the fact, the city is paying excessive cost to rental pipe at this time.

The second option and one they are recommending is to go back to the original direction of the pipe and bore underneath the creek. The plan would be to bore 10 feet under to provide enough buffer to stop this from happening again.

City's policy on bidding is being adhered to and the recommendation tonight is to go with Online Directional for a construction cost of \$29,395 but the request is to allow the expenditure of up to \$40,000 to allow the cost involved for Public Works to continue and create the tie in.

Chris Roznovsky added that the County is going to be doing some erosion prevention to the creek bed.

Councilmember Carol Langley moved to approve the expenditure of up to \$40,000 for the repair of the Lift Station No.8 Sanitary Sewer Force Main. Councilmember Casey Olson seconded the motion. Motion passed (5-0).

17. Consideration and possible action on approval of the Certificate of Substantial Completion and beginning the one-year warranty period for Water Plant No. 3.

Katherine Vu, WGA Engineering presented this item and informed Council that August 3, 2022, their company attended, and inspection and a small punch list of items was created. The facility was placed into service and at that point the project was considered to be substantially complete, and the Water Plant is fully operational as intended. The contractor is working through the minor punch list items. It is being recommended that Council accept the project as Substantially complete as this will initiate the one-year warranty.

Councilmember Casey Olson moved to accept the Water Plant No. 3 Project as Substantially Complete. Mayor Pro Tem TJ Wilkerson seconded the motion. Motion passed (5-0).

- 18. Consideration and possible action regarding adoption of the following ordinance: AN ORDINANCE BY THE CITY OF MONTGOMERY, TEXAS ("CITY") DENYING THE DISTRIBUTION COST RECOVERY FACTOR RATE INCREASE REQUEST OF ENTERGY TEXAS, INC, FILE ON OR ABOUT JULY 20,2022; SETTING JUST AN REASONABLE RATES FOR ENTERGY TEXAS, INC FOR SERVICE WITHIN THE MUNICIPAL LIMITS; FINDING THAT THE MEETING COMPLIES WITH THE OPEN MEETING ACT; MAKING OTHER FINDINGS.

Mr. Dave McCorquodale provided the recommendation by the Lawton Law Firm on this denial ordinance and the purpose of it.

Councilmember Olson requested to understand how this denial request process works. Alan Petrov, city attorney provided historical background to the purpose of utility rate increases, requests to suspend and ultimately deny.

Councilmember Casey Olson moved to adopt the denial ordinance as presented. Mayor Pro Tem TJ Wilkerson seconded the motion. Motion passed (5-0).

EXECUTIVE SESSION:

The City Council 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.

Council did not convene into executive Session.

POSSIBLE ACTION FROM EXECUTIVE SESSION:

COUNCIL INQUIRY:

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

Mayor Byron Sanford stated that he received a very lengthy inquiry about Cedar Brake Park, handicap accessibility, going back for many councils over the years. He went on to add he would like Administration to come back to the next or following meeting with recommendations on accessibility for the park.

ADJOURNMENT

Councilmember Casey Olson moved to adjourn the meeting. Mayor Pro Tem TJ Wilkerson seconded the motion. Motion passed (5-0).

ADJOURNMENT 7:38 PM

Submitted by: _____

Date Approved: _____

Nici Browe, City Secretary

Byron Sanford, Mayor

DRAFT

Notice of City Council Regular Meeting
MINUTES

September 27, 2022, at 6:00 PM

CALL TO ORDER

Mayor Byron Sanford called the meeting to order at 6:00 p.m.

- Present: Byron Sanford Mayor
- Carol Langley City Council Place #1
- Casey Olson City Council Place #2
- Cheryl Fox City Council Place #4
- Patricia Easley City Council Place #5
- Absent: T.J. Wilkerson City Council Place #3/Mayor Pro Tem
- Also Present: Dave McCorquodale Assistant City Administrator& Planning Development
- Nici Browe City Secretary & Director of Administrative Services

INVOCATION

Mayor, Byron Sanford provided the Invocation.

PLEDGE OF ALLEGIANCE TO FLAGS

VISITOR/CITIZENS FORUM:

Mr. Montgomery, long time resident spoke to Council about renaming Liberty Street to Martin Luther King, as he believed that a man like Dr. Martin Luther King should be honored. He provided information on his family history and how the diversity within his family was outstanding but the biggest thing in all of this is may be diverse but all 100% American!

Mr. Andrew XXXX stated he had two areas of concern. He took issue with the County receiving new voting machines and other equipment prior to the election in November. He urges Council to not accept the use of the new equipment.

Secondly, he had concerns over a strip center being developed on 1486, the top of the hill is 60 mph speed limit, and that his additional concern is the type of shops that are likely to go in, he urges council not to put businesses in there that will encourage crime, such as a liquor store etc.

CONSENT AGENDA:

1. Consideration and possible action regarding an Escrow Agreement by and between the City of Montgomery, Texas and Waterstone on Lake Conroe, Inc. for a proposed 23-lot single-family residential addition to the Waterstone on Lake Conroe subdivision (Dev. No. 2212).
2. Consideration and possible action regarding an Escrow Agreement by and between the City of Montgomery, Texas and Morning Cloud Investments, LLC for a proposed 28-acre single-family residential development and authorizing the City Engineer to prepare a Utility and Economic Feasibility Study (Dev. No. 2213).

Councilmember Carol Langley tagged item # 2 and asked staff to identify the exact location, is it going to be annexed? And that this item is to authorize the utility and feasibility study.

Mr. Dave McCorquodale responded to her questions.

Councilmember Casey Olson moved to accept the consent agenda as presented. Councilmember Cheryl Fox seconded the motion. Motion passed (4-0).

CONSIDERATION AND POSSIBLE ACTION:

3. Recognition of Montgomery resident Logan Benét in honor of his achievement in obtaining the rank of Eagle Scout and for choosing Memory Park for the location of his Eagle Scout project.

Mr. Mike Muckleroy introduced Logan Benet and the project he conducted within Memory Park, and stated he felt the work was outstanding, the quality is excellent and just like TXDoT grade. He then asked Logan to attend the middle of the room to meet with Mayor Bryon Sanford who presented him with a flag and proclamation.

4. Consideration and possible action on authorizing the Interim City Administrator to approve expenses for replacing lift pumps at Lift Station 3 in the amount of \$41,350.00

Mr. Muckleroy presented this item, stating that this was previously approved back in May, however there was some communication error between the provider and service agent and the cost of the pumps have since increased. He presented the new quote for Council's consideration.

Councilmember Cheryl Fox moved to approve the expenses to replace the lift pumps in the amount of \$41,350.00. Councilmember Casey Olson seconded the motion. Motion passed (4-0).

5. Consideration and possible action regarding the City entering into a Development Agreement with HCR Ventures, LTD. for a proposed 33-acre multi-family residential project along Stewart Creek Road.

Mr. McCorquodale introduced this item and informed council that this is just outside of the City limits.

Mr. Chris Roznovsky of WGA Engineering provided Council with a complete overview of this project and included the project will be done in phases for a total of 385 units.

Councilmember Casey Olson stated he was nervous about the project as there is only one entrance onto an already busy road.

Mr. Roznovsky corrected the Councilmember and pointed out the location of the two entrances and informed him that the County is responsible for the road and their requirements will most likely include a turn lane etc., but that is something between the contractor and the county.

Councilmember Carol Langley asked question regarding the two phases.

Mr. Roznovsky responded that the development at the front will be multifamily, and the second phase would include an independent senior living community.

Councilmember Casey Olson moved to approve the city entering into a Development Agreement with HCR Ventures as presented. Councilmember Carol Langley seconded the motion. Motion passed (4-0).

DEPARTMENTAL REPORTS:

6. City Administrator's Report.
7. Utility Report.
8. Sales Tax Report.
9. Finance Report.
10. Police and Code Enforcement Report.
11. Municipal Court Report.
12. Public Works Report.
13. Utility Operations Report.
14. City Engineer's Report.

Each department head, Engineer and Utility provider provided Council with their reports and significant items coming up in the near future, such as the special council meeting to meet with the City's recruitment consultant SGR to go over the applications received thus far, on October 3, 2022.

Councilmember Casey Olson inquired with staff as to how locating grants for projects within the City is going.

Mr. McCorquodale stated that he has been attending various sessions with HGAC, in person and virtually and in contact with grant works, seeking out avenues for grants.

Councilmember Casey Olson also asked if it was possible or a mailer to go out with utility bills informing residents of Solar Panels and their requirements as far as permitting goes.

Mr. McCorquodale informed Council that the Sales Tax consultant will be in attendance at the next council meeting.

Council discussed with staff the potential for moving excess to reserves into a Texpool account and to insure it is readily accessible should it be needed.

Councilmember Carol Langley took time to discuss with Mr. Muckleroy the current water meters, what notifications does Public Works receive if the meter is not functioning properly. The beacon meters are that going to be for all residents and businesses.

Mr. Muckleroy informed Council that every single business and residence has the beacon meters. He is wanting at some point in the future move to an ultrasonic type of meter. He provided council with details on how each meter works.

Councilmember Carol Langley continued with her questions on meters, leaks, detection of leaks, broken meters, alerts and replacement of bad meters.

Discussions took place with Engineer on broken pipes that are going to be discussed at future meetings for replacement.

Councilmember Carol Langley moved to accept the Departmental Reports as presented. Councilmember Cheryl Fox seconded the motion. Motion passed (4-0).

EXECUTIVE SESSION:

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- 15. Adjourn into Closed Executive Session as authorized by the Texas Open Meetings Act, Chapter 551 of the Government Code, in accordance with the authority contained in the following:
 - a) Section 551.071 (consultation with attorney); and
 - b) Section 551.072 (deliberation regarding real property).

Council adjourned into Executive Session at 7:17 P.M.

Council reconvened into Regular Session at 8:30 P.M.

POSSIBLE ACTION FROM EXECUTIVE SESSION:

- 16. Councilmember Casey Olson moved to approve the relocation of the Easement as discussed in Executive Session. Councilmember Carol Langley seconded the motion. Motion passed (4-0).

COUNCIL INQUIRY:

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

No council inquiry.

ADJOURNMENT

Councilmember Carol Langley moved to adjourn the meeting. Councilmember Casey Olson seconded the motion. Motion passed (4-0).

ADJOURNMENT 8:31 PM

Submitted by: _____

Date Approved: _____

Nici Browe, City Secretary

Byron Sanford, Mayor

**Special City Council Meeting
MINUTES**

October 03, 2022 at 6:00 PM

CALL TO ORDER

Mayor Byron Sanford called the meeting to order at 6:00 p.m.

- Present: Byron Sanford Mayor
- Carol Langley City Council Place #1
- Casey Olson City Council Place #2
- Cheryl Fox City Council Place #4
- Patricia Easley City Council Place #5
- Absent: T.J. Wilkerson City Council Place #3
- Also Present: Dave McCorquodale Assistant City Administrator& Planning Development

INVOCATION

Mayor, Byron Sanford provided the Invocation.

PLEDGE OF ALLEGIANCE TO FLAGS

EXECUTIVE SESSION:

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- 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.

Council convened into Executive Session at 6:02 P.M.

POSSIBLE ACTION FROM EXECUTIVE SESSION:

Reconvene into regular session at 7:41 P.M.

Consideration and possible action on matters deliberated in Closed Executive Session.

No action was made.

ADJOURNMENT

Councilmember Cheryl Fox moved to adjourn the meeting. Councilmember Casey Olson seconded the motion. Motion Passed (4-0).

ADJOURNED: 7:38 PM

Submitted by: _____

Date Approved: _____

Nici Browe, City Secretary

Byron Sanford, Mayor

DRAFT

**Montgomery City Council
AGENDA REPORT**

Meeting Date: October 11, 2022	Budgeted Amount: N/A
Department: Admin	Prepared By: Dave McCorquodale

Subject

Consideration and Acceptance of a 0.1195-acre Public Sanitary Sewer Easement Agreement.

Recommendation

Accept the Easement Agreement as presented.

Discussion

As shown in the attached location map, the City currently has a sanitary sewer line running along the south edge of the MHS football stadium. This new easement will be for a City-owned sewer line that serves the properties along Eva Street / SH105. The line will be installed by the developer to initially serve a second phase of Town Creek Storage adjacent to this property.

MISD approved granting the easement at a meeting on October 4th.

Approved By

		Date:
Interim City Administrator	Dave McCorquodale	Date: 10/05/2022

**PUBLIC SANITARY SEWER EASEMENT
(0.1195 acres - MISD)**

THE STATE OF TEXAS §
 § KNOW EVERYONE BY THESE PRESENTS:
COUNTY OF MONTGOMERY §

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OF THE FOLLOWING INFORMATION FROM THIS INSTRUMENT BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.

That **MONTGOMERY INDEPENDENT SCHOOL DISTRICT ("Grantor")** a Texas public school district, whose address is 20774 Eva Street, Montgomery, Texas 77356, for and in consideration of Ten and No/100 Dollars (\$10.00) and other good and valuable consideration, has GRANTED AND CONVEYED, and by these presents does hereby GRANT AND CONVEY unto **THE PUBLIC**, an unobstructed, permanent and perpetual easement and right-of-way (the "**Easement**") for access to and the construction, installation, maintenance, repair, replacement, enlargement, removal, and operation of underground sanitary sewer line or lines and all related appurtenances (the "**Facilities**"), across, along, under, over, and upon that certain tract of land consisting of 0.1195 of an acre (5,207 square feet), more or less, being more particularly described and depicted on Exhibit "A" attached hereto and made a part hereof for all purposes (the "**Property**").

The Easement has been granted for the express purpose of giving the **CITY OF MONTGOMERY, TEXAS**, (the "**City**"), the right to construct, install, maintain, repair, replace, enlarge, remove, and operate the Facilities across, along, under, over and upon the Property.

Grantor expressly reserves the right to the use and enjoyment of the surface of the Property for any and all purposes, except construction of houses, buildings and structures (other than sidewalks, driveways, and parking lots); provided that such use will not prevent the City or other governmental entity from constructing, installing, maintaining, repairing, replacing, enlarging, removing or operating the Facilities thereon.

This conveyance is further made subject to any and all restrictions, covenants, easements, rights-of-way, encumbrances and mineral or royalty reservations or interests affecting the Property and appearing of record in the Real Property Records of Montgomery County, Texas and in the Official Public Records of Montgomery County, Texas, to the extent that said items and matters are in effect and validly enforceable against the Easement granted herein.

TO HAVE AND TO HOLD, subject to the matters set forth herein, the above-described Easement, together with all and singular the rights and appurtenances thereto in anywise belonging, including all necessary rights to ingress, egress, and regress, unto **THE PUBLIC**, forever. Grantor does hereby bind itself, its successors and assigns to **WARRANT AND FOREVER DEFEND**, all and singular the said Easement and right-of-way and other rights

described herein unto THE PUBLIC, against every person whomsoever lawfully claiming or to claim the same or any part thereof.

(EXECUTION PAGES FOLLOW)

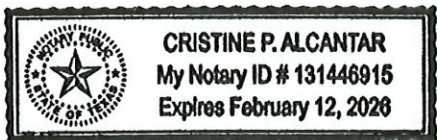
IN WITNESS WHEREOF this instrument is executed the 4th day of October, 2022.

MONTGOMERY INDEPENDENT SCHOOL DISTRICT, a Texas public school district

By: [Signature]
Name: Dr. Heath Morrison
Title: Superintendent

THE STATE OF TEXAS §
 §
COUNTY OF MONTGOMERY §

This instrument was acknowledged before me on the 4th day of October, 2022, by Dr. Heath Morrison, Superintendent, of Montgomery Independent School District, a Texas public school district.



Cristine P. Alcantar
Notary Public, State of Texas

AGREED TO AND ACCEPTED as of the ____ day of _____, 2022.

CITY OF MONTGOMERY, TEXAS, a political subdivision of the State of Texas

By: _____
Byron Sanford, Mayor

THE STATE OF TEXAS §
 §
COUNTY OF MONTGOMERY §

This instrument was acknowledged before me on the ____ day of _____, 2022, by Byron Sanford, Mayor of the City of Montgomery, Texas, a political subdivision of the State of Texas.

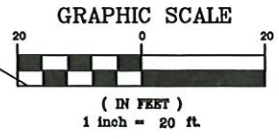
Notary Public, State of Texas

After recording return to:
Johnson Petrov LLP
2929 Allen Parkway, Suite 3150
Houston, Texas 77019
Attention: Mirna Croon
713-489-8977

EXHIBIT "A"

LEGEND / ABBREVIATIONS

A	ABSTRACT
C.F.N.	CLERK'S FILE NUMBER
FND.	FOUND
I.R.	IRON ROD
O.P.R.	OFFICIAL PUBLIC RECORDS
M.C.T.	MONTGOMERY COUNTY, TEXAS
STORM MANHOLE	⊙
SANITARY MANHOLE	○
PROPERTY MARKER	○



SS MH
RIM=282.10'
8" PVC= 273.30' (SW)
8" PVC= 276.60' (SE)
8" PVC= 273.20' (NE)

ASPALT
PARKING LOT

SSTM MH
RIM=283.82'
18" RCP= 279.04' (SE)

25' SANITARY SEWER
EASEMENT
0.1195 ACRES
(5,207 SQ. FT.)

CALLED 61.8107 ACRES
MONTGOMERY INDEPENDENT
SCHOOL DISTRICT
C.F.N. 2001065612
O.P.R. M.C.T.

FND. 5/8" I.R.
W/CAP

CALLED 2.8922 ACRES TRACT 1
CHRISTIAN C. CHEATHAM
C.F.N. 2011058808 O.P.R. M.C.T.

P.O.B.
(SANITARY SEWER
EASEMENT)

N41°44'15"E 5.89'
FND. 5/8" I.R.
P.O.C.

RESIDUE
CALLED 1.1972 ACRES
TRACT 2 CHRISTIAN C.
CHEATHAM
C.F.N. 2011058808
O.P.R. M.C.T.

EASEMENT EXHIBIT
25' SANITARY SEWER
EASEMENT
0.1195 ACRES (5,207 SQ. FT.)
OUT OF 61.8107 ACRES
C.F.N. 2001065612 O.P.R. M.C.T.
IN THE
BENJAMIN RIGSBY SURVEY, A-31
MONTGOMERY COUNTY, TEXAS

CORE
LAND SURVEYING TBPLS REG NO. 10194560
10210 GROGAN'S MILL ROAD, SUITE 120
THE WOODLANDS, TX 77330
T: 224.828.1208
corelandsurveying.com

GENERAL NOTES

1. Bearing based on Texas State Plane Coordinates, Central Zone, NAD83.

X:\2021\U21-00328\PHASE IV EASEMENTS\DWG\U21-00328 TOWN CREEK STORAGE II-PH IV-EASEMENTS.dwg



**SANITARY SEWER EASEMENT
SITUATED IN THE
BENJAMIN RIGSBY, A-31
MONTGOMERY COUNTY, TEXAS**

Being 0.1195 acres (5,207 square feet) of land out of the called 61.8107 acre tract conveyed to Montgomery Independent School District by Warranty deed recorded under Clerk's File No. (C.F.N.) 2001065612 of the Official Public Records of Montgomery County, Texas (O.P.R. M.C.T.), said 0.1195 acre tract being a 25 foot wide Sanitary Sewer Easement lying within the Benjamin Rigsby Survey, A-31, and is more particularly described as follows:

COMMENCING at a 5/8 inch iron rod found in the southeast line of said 61.8107 acres for the northwest corner of the called 2.8922-acres, Tract 1, conveyed to Christian C. Cheatham by Warranty Deed recorded under Clerk's File No. 2011058808 O.P.R. M.C.T., the northeast corner of the Residue of a called 1.1972 acres, conveyed to Christian C. Cheatham, by deed recorded under C.F.N. 2011058808 O.P.R. M.C.T. and an angle point in the south line of said 61.8107 acre tract;

THENCE North 41°44'15" East, with the common lines between said 2.8922 acre tract and said 61.8107 acre tract, a distance of 5.89 feet to a point for the southwest corner and **POINT OF BEGINNING** of the herein described tract;

THENCE North 05°42'11" East, over and across said 61.8107 acres, a distance of 213.53 feet to a point for the northwest corner of the herein described tract;

THENCE North 52°01'07" East, a distance of 34.57 feet to a point for the northeast corner of the herein described tract;

THENCE South 05°42'11" West, over and across said 61.8107 acres, a distance of 203.04 feet to a point in said common line of said 2.8922 acres and said 61.8107 acres for the southeast corner of the herein described tract;

THENCE South 41°44'15" West, with said common line a distance of 42.50 feet to the **POINT OF BEGINNING**, containing 0.1195 acres (5,207 square feet) of land.

Clemente Turrubiarres Jr.
RPLS No. 6657
Job No. U21-00328
Issue Date: July 6, 2022



10210 Grogans Mill Road, Ste. 120
The Woodlands, TX 77380
(224) 828-1208

Sanitary Sewer Easement Location Map



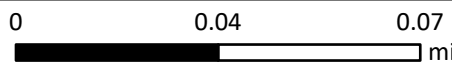
Approximate location of proposed sewer easement

Existing public sewer line

Project site

4" PVC

PS



VICINITY MAP

Montgomery City Council
AGENDA REPORT

Meeting Date: October 11, 2022	Budgeted Amount: N/A
Department: Admin	Prepared By: Dave McCorquodale

Subject

Calling a Public Hearing on the voluntary annexation of 79.910 acres of land located in the Owen Shannon Survey, A-36, in Montgomery County, Texas also known as the Pulte 80-acre tract.

Recommendation

Call a Public Hearing for OCTOBER 25, 2022 at 6:00 pm on the voluntary annexation of the Pulte 80-acre tract.

Discussion

City Council approved a Development Agreement for this proposed development along FM 1097 east of the Terra Vista neighborhood on September 13th. One of the provisions of the Agreement is that the 80-acre tract will be voluntarily annexed into the City no sooner than 10 days after the developer closes on the property (scheduled for October 12th).

Part of the required process is to hold a Public Hearing prior to acting on the annexation ordinance. Staff recommends the date of October 25th for the Public Hearing and subsequent action on the annexation ordinance.

Approved By		
		Date:
Interim City Administrator	Dave McCorquodale	Date: 10/05/2022

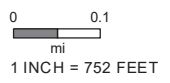
Pulte Homes of Texas, LP Project Location Map



LEGEND

- City Limit
- City ETJ
- MCAD Property Boundaries
- Road Label

Date: 4/8/2022



Disclaimer: This product is offered for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property, governmental and/or political boundaries or related facilities to said boundary. No express warranties are made by Jones & Carter, Inc. concerning the accuracy, completeness, reliability, or usability of the information included within this exhibit.

Montgomery City Council
AGENDA REPORT

Meeting Date: October 11, 2022	Budgeted Amount: N/A
Department: Admin	Prepared By: Dave McCorquodale

Subject

Calling a Public Hearing on the voluntary annexation of 33.012 acres of land located in the John Corner Survey, A-8, in Montgomery County, Texas also known as the HCR Ventures Ltd. 33-acre tract.

Recommendation

Call a Public Hearing for OCTOBER 25, 2022 at 6:00 pm on the voluntary annexation of the HCR Ventures, LTD. tract.

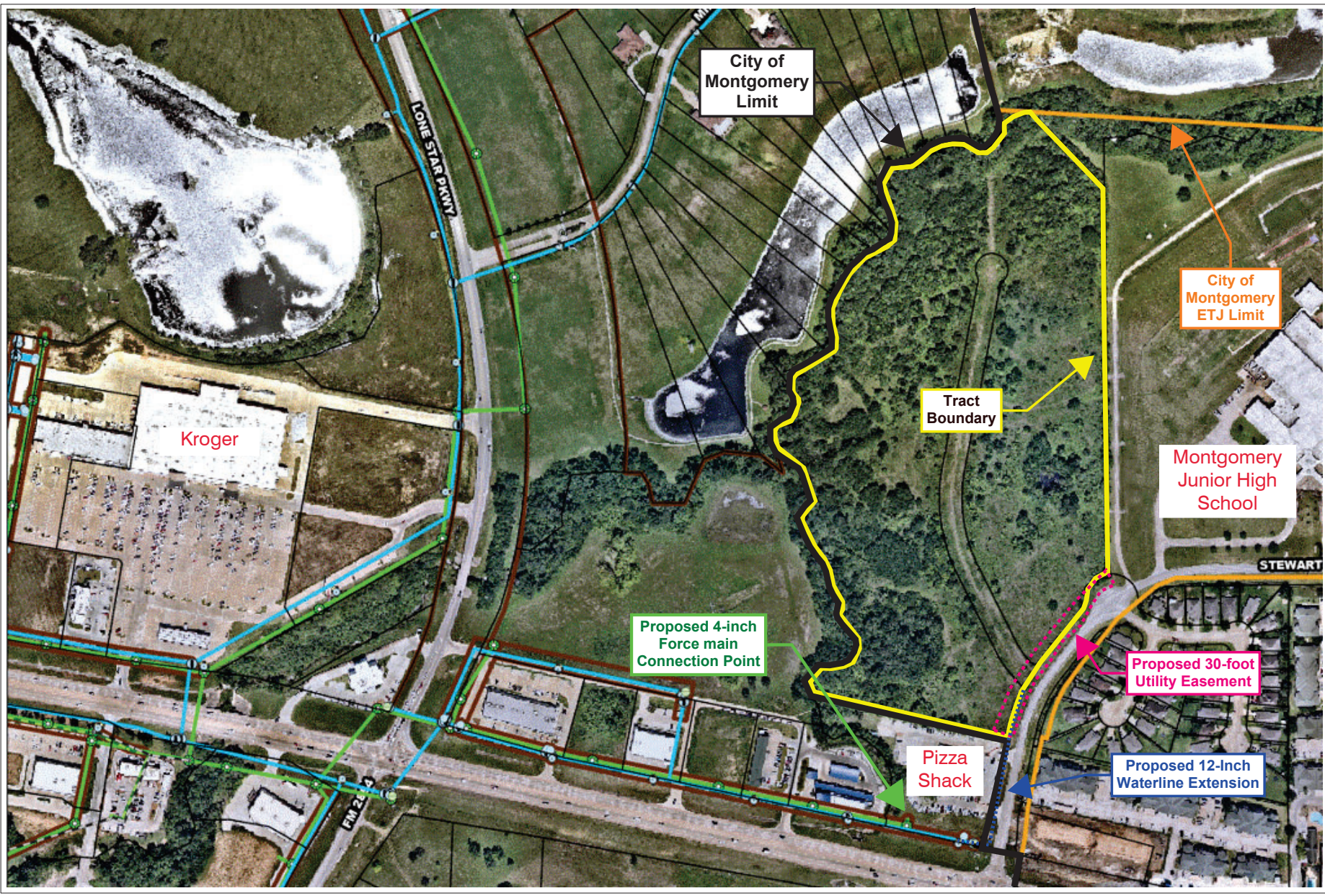
Discussion

City Council approved a Development Agreement for this proposed development along Stewart Creek Road north of the Pizza Shack restaurant on September 27th. One of the provisions of the Agreement is that the 33-acre tract will be voluntarily annexed into the City no sooner than 10 days after the developer closes on the property (scheduled for October 12th).

Part of the required process is to hold a Public Hearing prior to acting on the annexation ordinance. Staff recommends the date of October 25th for the Public Hearing and subsequent action on the annexation ordinance.

Approved By

		Date:
Interim City Administrator	Dave McCorquodale	Date: 10/05/2022



Nantucket Housing Tract Boundary

City of Montgomery



0 0.5 1
 SCALE: 1" = 285'

Montgomery City Council
AGENDA REPORT

Meeting Date: October 11, 2022	Budgeted Amount: N/A
Department: Admin	Prepared By: Dave McCorquodale

Subject
 Consideration and possible action on appointment of Planning & Zoning Commission Places 2 and 4.

Recommendation
 Motion to reappoint Bill Simpson to Place 2 and Merriam Walker to Place 4 on the Planning & Zoning Commission for a two-year term.

Discussion

As I have shared in previous communication with City Council, October is the end of Planning & Zoning Commissioner terms. Similar to City Council terms, they are staggered into even and odd years for two-year terms. Places 2 and 4 are up for reappointment this year. Bill Simpson and Merriam Walker are currently serving in these positions. Bill was appointed mid-term when a previous Commissioner moved out of the City, though he served for several consecutive terms in recent years. Merriam is completing her first term and has gained a wealth of knowledge over the past two years. Both Bill and Merriam are assets to the Commission.

My recommendation is that the City Council reappoint both Bill and Merriam, who have both stated their willingness to continue to serve. In recent years, we've opened up applications for appointment regardless of whether the sitting member of P&Z or MEDC wanted to continue to serve or not. Going back several years more, the City Council would reappoint someone who demonstrated a willingness to serve and was a valuable member. I acknowledge there are pros and cons to both schools of thought. In the current moment we are in, I believe that the reappointment of Bill and Merriam is the best thing for the City--the Planning & Zoning Commission has a lot of important work to do over the next year and that is going to be immeasurably easier with Commissioners who have the experience to forge ahead efficiently.

Approved By		
		Date:
Interim City Administrator	Dave McCorquodale	Date: 10/07/2022

Montgomery City Council
AGENDA REPORT

Meeting Date: October 11, 2022	Budgeted Amount: N/A
Department: Admin	Prepared By: Dave McCorquodale

Subject

Consideration and possible action on a variance request for gravel in lieu of asphalt or concrete for the parking lot of the Montgomery Grove located at 22016 Eva Street.

Recommendation

Consider the information and approve contingent on the owner submitting engineering drawings and them being approved by the city engineer or deny the variance request.

Discussion

The site is the former location of the Heritage House restaurant which closed around 15 years ago. An ice cream shop operated on the property for a short time around 2017. The Heritage House was in operation (perhaps early 1980’s) before the City had many of the current development regulations in place, including parking surfaces. The proprietor is currently operating in a mobile food trailer while the restaurant is being renovated. The existing asphalt millings in the parking lot were added without City approval in March.

The Planning & Zoning Commission considered this request at their October 4th meeting and recommended approval of the variance request contingent on the applicant submitting the necessary engineering plans to the City and the city engineer approving those plans. Staff and the city engineer recommended tabling the request until the applicant submitted the engineering plans because after months of communication with the applicant no engineering plans had been received for review. However, during the P&Z meeting the owner committed to submitting the required engineering plans.

The question of whether to allow a restaurant to utilize a gravel parking lot is not a straightforward one. While the idea of Panda Express or Chick Fil A having a gravel parking lot seems unrealistic, the setting of the Montgomery Grove makes the idea at least plausible.

Approved By

		Date:
Interim City Administrator	Dave McCorquodale	Date: 10/07/2022



October 7, 2022

The Honorable Mayor and City Council
City of Montgomery
101 Old Plantersville Road
Montgomery, Texas 77316

Re: Variance Request
The Montgomery Grove
City of Montgomery

Dear Mayor and Council:

The City received a variance request from the owners of the Montgomery Grove Food Truck Park, located at 22016 Eva Street. The Developer is requesting the following variance from the City's Code of Ordinances:

- Section 78-96(b): Any parking lots or drives, excluding single-family residential driveways, shall be paved with asphalt or concrete.

Enclosed you will find the request for variance as submitted by the owners of the property along with the additional parking lot plan provided.

The City has previously reviewed and acted on variances for the same ordinance:

- July 2021 – Cornerstone Community Church – Request to utilize existing gravel parking area after they performed regrading and dressing. We recommended disapproval of the variance as it did not place an undue hardship upon the development of the property. The City ultimately approved the request partly due to the low traffic volume on the site.
- October 2020 – Montgomery Food Truck Park - The same Developer submitted a similar Variance Request to the Commission and we offered no objection to the request to use a permeable pavement system, similar to a TrueGrid system on areas outside of the access driveway in lieu of asphalt or concrete pavement. The City approved the variance. This development was ultimately not constructed.
- February 2017 - Longview Greens Mini Golf – Request to utilize gravel on new parking area for financial reasons for a temporary period of time. Detention for the site was provided in a jointly used pond. The City approved the variance.

We offer no objection to the request however note that we must receive engineered site plans showing the proposed improvements, verifying no adverse impacts from the proposed improvements, and compliance with all applicable City Codes. We recommend withholding the issuance of a Certificate of Occupancy for the building until the plans are approved and construction per the approved plans is completed.

Variance Request – The Montgomery Grove
Honorable Mayor and City Council
City of Montgomery
Page 2 of 2
October 7, 2022

If approved, approval of the requested variance does not constitute plan approval and only allows the Developer to further refine the proposed civil site plans, which will require the full review and approval of the City.

If you have any questions or comments, please do not hesitate to contact me.

Sincerely,



Chris Roznovsky, PE
Engineer for the City

CVR/zlgt

Z:\00574 (City of Montgomery)_900 General Consultation\Correspondence\Letters\2022.10.05 MEMO to Council RE Montgomery Grove Food Truck Park Variance Request.docx

Enclosures: Variance Request – September 9, 2022

Site Survey – November 9, 2021

Parking Plan – September 22, 2022

Redevelopment Flow Chart from City Development Handbook

Cc (via email): Mr. Dave McCorquodale – City of Montgomery, Director of Planning & Development, and Interim City Administrator

Ms. Nici Browe – City of Montgomery, City Secretary

Mr. Alan Petrov – Johnson Petrov, LLP, City Attorney



September 9, 2022

Dave McCorquodale
City of Montgomery
101 Old Plantersville Rd
Montgomery, TX 77316

Re: Parking Lot Variance 22016 Eva St. Montgomery, TX 77356

Dear Mr. McCorquodale:

This letter is a formal request for a variance to allow for an existing asphalt milling parking lot at the above referenced property. The asphalt milling parking lot has been utilized at this commercial property going back several decades. The porous material also mitigates the potential negative impact on drainage and/or flood plain that a concrete or asphalt parking lot would. The parking lot has been discussed with the former mayor, city officials and city engineer with no issues being raised. Multiple other parking lots within the City of Montgomery contain asphalt millings so no new precedent is being requested.

Regards,

Joshua Cheatham
Owner
(281) 770-2748

Cc: Mike Anderson



Variance Request Application

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

Item 6.

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

Contact Information

Property Owner(s): Josh Cheatham

Address: 85 Lake Forest Cir Couroe, TX Zip Code: 77384

Email Address: josh@newcorcre.com Phone: _____

Applicants: Josh Cheatham & Mike Anderson

Address: 85 Lake Forest Cir Couroe, TX 77384

Email Address: josh@newcorcre.com Phone: (281) 770-2748 / (832) 418-1088
andersonm3477@gmail.com

Parcel Information

Property Identification Number (MCAD R#): 34576

Legal Description: A0031 RIGSBY BEN J, Tract 81A-1, Acres, 2.660

Street Address or Location: 22016 Eva St, Montgomery, TX 77356

Acreage: 2.66 Present Zoning: Commercial Present Land Use: Commercial

Variance Request

Applicant is requesting a variance from the following:

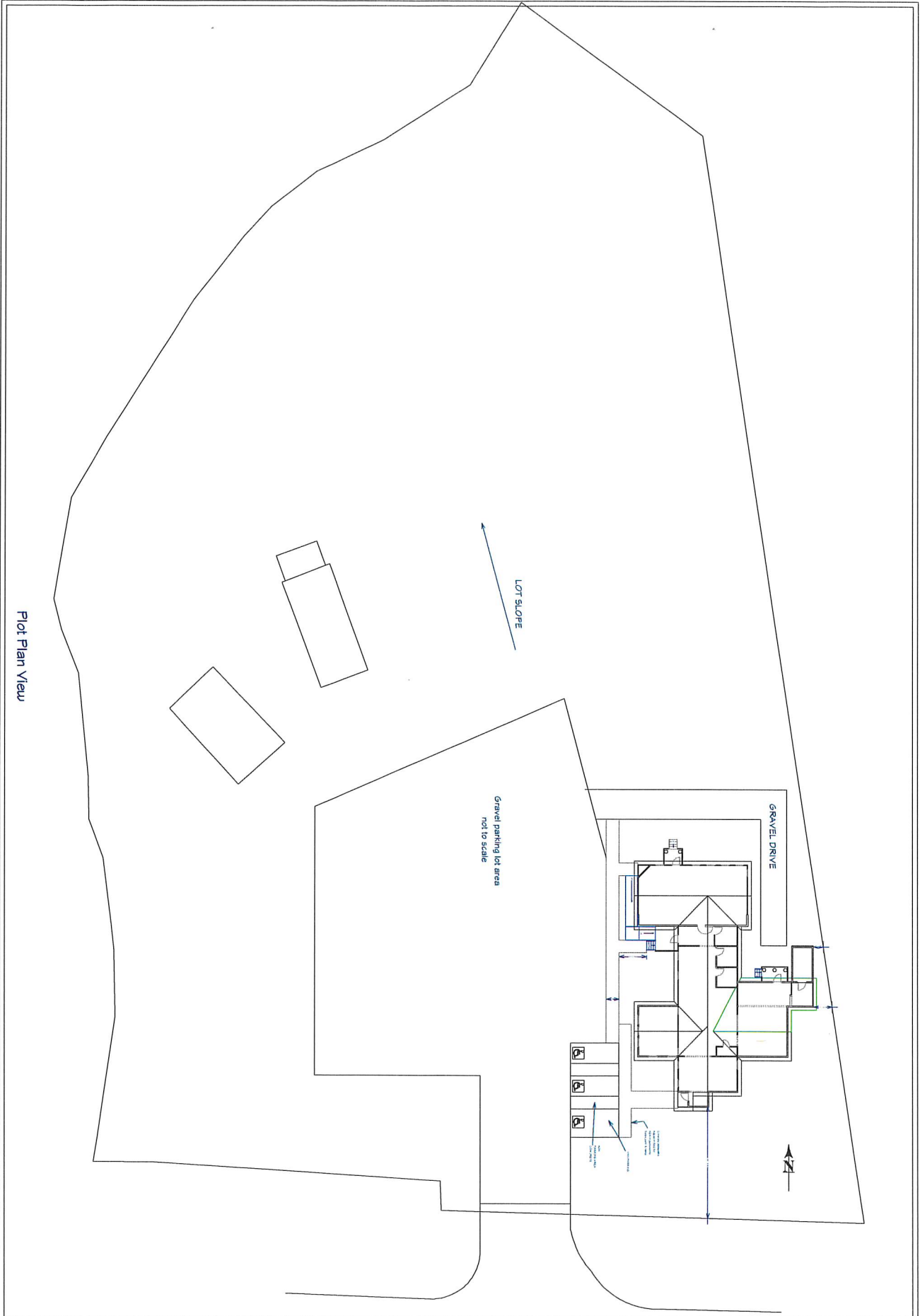
City of Montgomery Ordinance No.: 2011-09 Section(s): 7B-96

Ordinance wording as stated in Section (7B-96):

(b) Any parking lots or drives, excluding single-family residential driveways, shall be paved with asphalt or concrete.

Detail the variance request by comparing what the ordinance states to what the applicant is requesting:

Requesting to use asphalt millings for the parking lot



Plot Plan View

A-2

SHEET:

SCALE: NTS

DATE: 7-12-2022

24x36

SIZE: 1/8"=1'

The Montgomery Grove
 22016 Eva St.
 Montgomery, TX 75356

Plot Plan

Owner Build
 Josh Cheatham
 281-710-2148

REVISION TABLE			
NUMBER	DATE	REVISED BY	DESCRIPTION
1	7/28/2022		

T&G



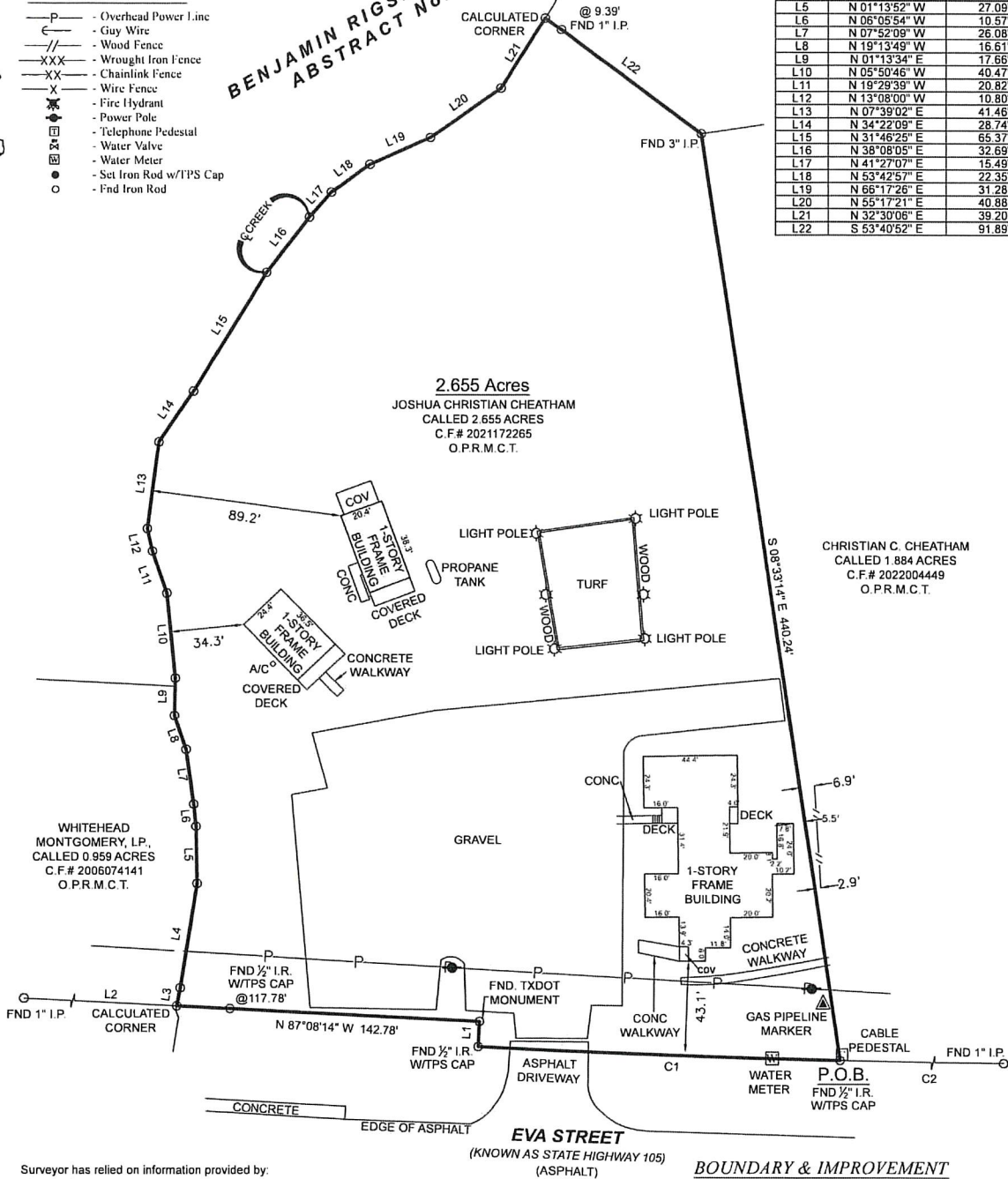
SYMBOL LEGEND

- P - Overhead Power Line
- G - Guy Wire
- /// - Wood Fence
- XXX - Wrought Iron Fence
- XX - Chainlink Fence
- X - Wire Fence
- ⊕ - Fire Hydrant
- ⊙ - Power Pole
- ⊠ - Telephone Pedestal
- ⊡ - Water Valve
- ⊣ - Water Meter
- ⊙ - Set Iron Rod w/TPS Cap
- - Fnd Iron Rod

**BENJAMIN RIGSBY SURVEY
ABSTRACT No. 31**

CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING	DELTA ANGLE
C1	5667.38'	171.08'	171.07'	N 87°51'26" W	1°43'47"
C2	5667.38'	1200.43'	1200.42'	S 89°44'07" E	2°01'35"

LINE	BEARING	DISTANCE
L1	N 02°56'07" E	11.85'
L2	N 87°08'14" W	329.59'
L3	S 11°04'24" W	8.62'
L4	N 08°59'06" E	49.52'
L5	N 01°13'52" W	27.09'
L6	N 06°05'54" W	10.57'
L7	N 07°52'09" W	26.08'
L8	N 19°13'49" W	16.61'
L9	N 01°13'34" E	17.66'
L10	N 05°50'46" W	40.47'
L11	N 19°29'39" W	20.82'
L12	N 13°08'00" W	10.80'
L13	N 07°39'02" E	41.46'
L14	N 34°22'09" E	28.74'
L15	N 31°46'25" E	65.37'
L16	N 38°08'05" E	32.69'
L17	N 41°27'07" E	15.49'
L18	N 53°42'57" E	22.35'
L19	N 66°17'26" E	31.28'
L20	N 55°17'21" E	40.88'
L21	N 32°30'06" E	39.20'
L22	S 53°40'52" E	91.89'



Surveyor has relied on information provided by:
Old Republic National Title Insurance Company
G.F. No. 2103081
Effective date: October 5, 2021

The Subject Tract(s) as shown hereon may be subject to the following item(s) listed in Schedule B, of said Title Commitment:

- Channel Easement to State of Texas per Vol. 997, Pg. 529, D.R.M.C.T. (Unable To Plot)

Purchaser Josh Cheatham
Address 22016 Eva Street, Montgomery, Tx, 77356
Lot Block Section
Survey Benjamin Rigby A 31
Area 2.655 Acres
Subdivision
Cabinet Sheet Records
Montgomery County, Texas

This Property Lies in Zone AE(floodway), AE, X(shaded), and X, and a portion does seem to lie within the 100 Year Flood Plain
Per Graphic Scaling according to Community Panel No. 48339C0200G having an effective date of 8-18-2014.
Job No.: G411-01
Scale: 1"=20'
Date: 7-16-2019
Drawn By: CPPI/AF
Field Crew: KH
Revised: 06-08-22 Update

3032 N. FRAZIER STREET - CONROE, TX 77303
PH (936)756-7447 - FAX (936)756-7448
www.surveyingtexas.com
FIRM REGISTRATION No 100834-00

Basis of Bearings
Bearings shown hereon are based on GPS observations and are referenced to the NAD83, Texas State Plane Coordinate System, South Central Zone (4204).

**BOUNDARY & IMPROVEMENT
SURVEY**

BEING a 2.655 acre tract of land situated in the Benjamin Rigby Survey, Abstract Number 31, Montgomery County, Texas, being all of that same called 2.66 acre tract described in instrument to David P. Gerrard and Cheryl A. Gerrard, recorded under Clerk's File Number 2016085269 of the Official Public Records of Montgomery County, Texas (O.P.R.M.C.T.), said 2.655 acre tract being more particularly described by attached metes and bounds description.

I hereby certify that this survey was this day made under my supervision on the ground of the above described property, and that the above plat or drawing reflects the findings on the ground of the property at this time and that this survey meets the minimum standards of practice as approved by the Texas Board of Professional Land Surveying.

Carey A. Johnson
Registered Professional Land Surveyor No. 6524



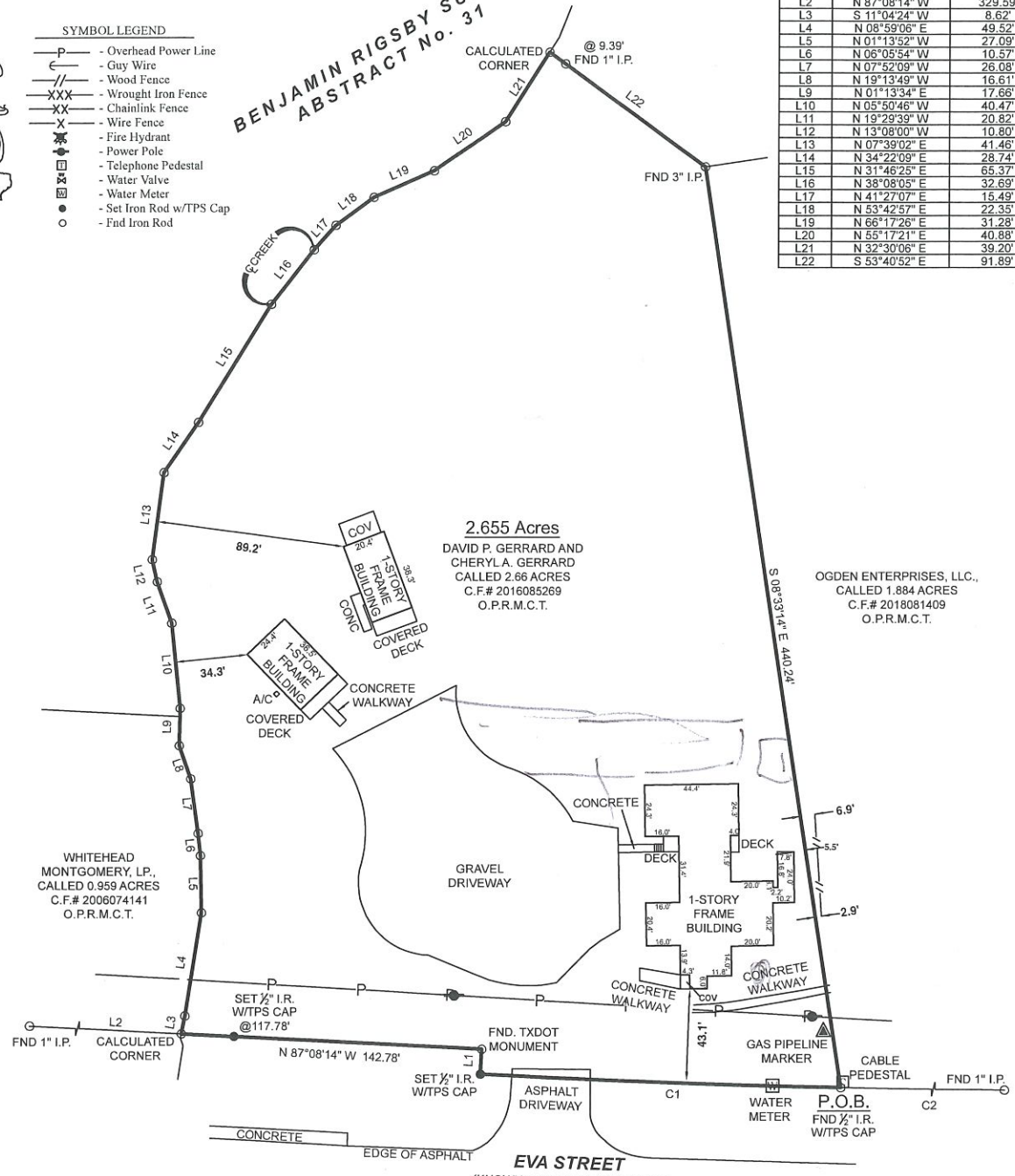


- SYMBOL LEGEND**
- Overhead Power Line
 - Guy Wire
 - Wood Fence
 - XXX - Wrought Iron Fence
 - XX - Chainlink Fence
 - X - Wire Fence
 - Fire Hydrant
 - Power Pole
 - Telephone Pedestal
 - Water Valve
 - Water Meter
 - Set Iron Rod w/TPS Cap
 - End Iron Rod

**BENJAMIN RIGSBY SURVEY
ABSTRACT No. 31**

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L13	N 07°39'02" E	41.46'
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L20	N 55°17'21" E	40.88'
L21	N 32°30'06" E	39.20'
L22	S 53°40'52" E	91.89'



Surveyor has relied on information provided by:
Old Republic National Title Insurance Company
G.F. No. 2103081
Effective date: October 5, 2011

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- Channel Easement to State of Texas per Vol. 997, Pg. 529, D.R.M.C.T. (Unable to plot)

Purchaser Josh Cheatham
 Address 22016 Eva Street, Montgomery, Tx. 77356
 Lot _____ Block _____ Section _____
 Survey Benjamin Rigbsby, A 31
 Area 2.655 Acres
 Subdivision _____
 Cabinet _____ Sheet _____ Records _____
Montgomery County, Texas

This Property Lies in Zone AE(floodway), AE, X(shaded), and X, and a portion does seem to lie within the 100 Year Flood Plain
 Per Graphic Scaling according to Community Panel No. 48339C0200G having an effective date of 8-18-2014.
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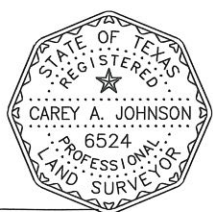
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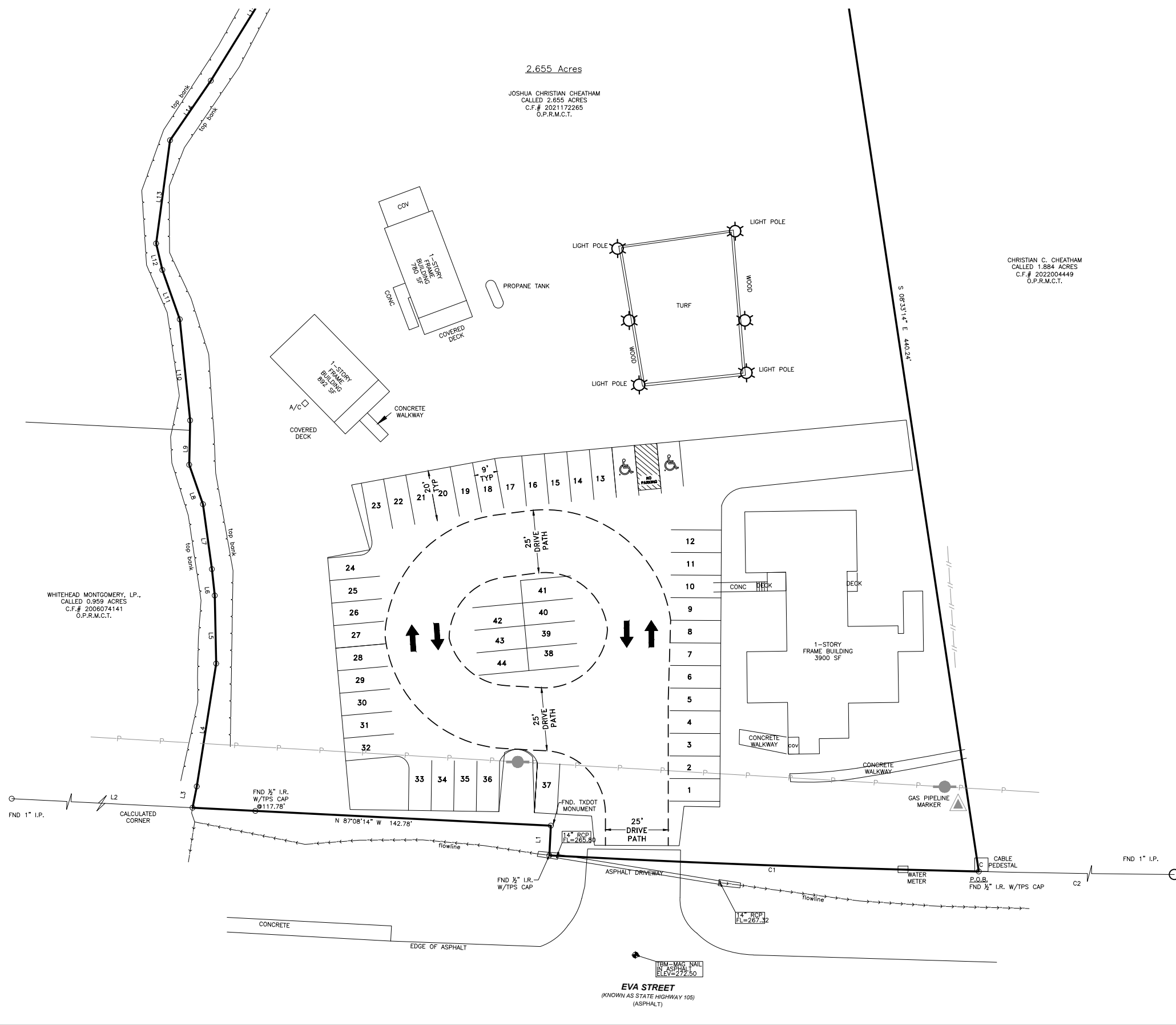
3032 N. FRAZIER STREET - CONROE, TX 77303
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 www.surveyingtexas.com
 FIRM REGISTRATION No. 100834-00

Bearings shown hereon are based on GPS observations and are referenced to the NAD83, Texas State Plane Coordinate System, South Central Zone (4204).
 Basis of Bearings _____

Carey A. Johnson
Carey A. Johnson
 Registered Professional Land Surveyor No. 6524



S:\ENGINEERING PROJECTS\10856 - MONTGOMERY GROVE SITE PLAN\03 CAD\DESIGN SET\BASE-SITE PLAN-10856.DWG Sep. 23, 2022-9:59 AM GARI LYNN

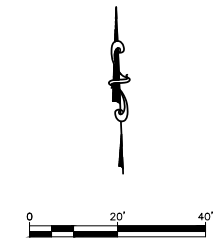


2.655 Acres

JOSHUA CHRISTIAN CHEATHAM
CALLED 2.655 ACRES
C.F.# 2021172265
O.P.R.M.C.T.

CHRISTIAN C. CHEATHAM
CALLED 1.884 ACRES
C.F.# 2022004449
O.P.R.M.C.T.

WHITEHEAD MONTGOMERY, LP.,
CALLED 0.959 ACRES
C.F.# 2008074141
O.P.R.M.C.T.



L SQUARED ENGINEERING
MUNICIPAL COMMERCIAL RESIDENTIAL
WWW.LSENGINEERING.COM
PHD REGISTRATION NUMBER 11712
3307 W. DAVIS STREET #100
CONROE, TEXAS 77384
OFFICE 936-667-0420

MONTGOMERY GROVE PARKING LAYOUT

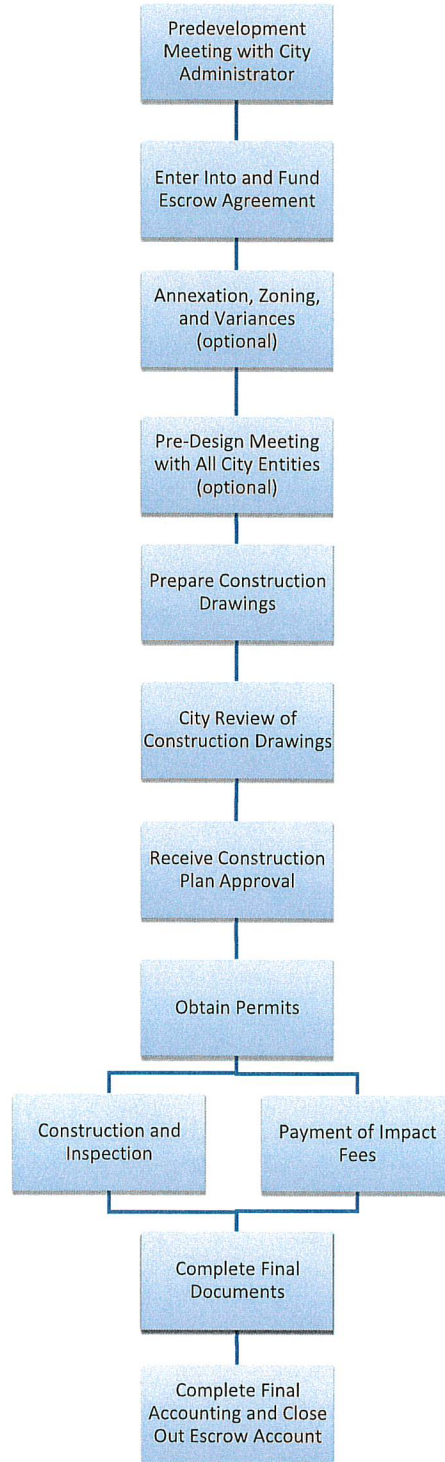
PROP PARKING SPACES= 44
PROP ADA SPACE=2
TOTAL BUILDING SF= 5,572 SF

9/22/2022

DRAWING INFORMATION			
PROJECT	10856	TDLR	**
DRAWN	GLH	EIT	JTW
SCALE	1" = 20' (24x36)	SHEET	01
	1" = 40' (11x17)		

THIS DOCUMENT IS RELEASED FOR THE PURPOSE OF INTERIM REVIEW UNDER THE AUTHORITY OF:
E. LEVI LOVE, PE #99340
OR
JONATHAN WHITE, PE #127058
FOR REVIEW PURPOSES ONLY
NOT FOR CONSTRUCTION

City of Montgomery, Texas Commercial Redevelopment/Previously Platted Development Process Flow Chart



Montgomery Grove Parking Lot Photos



Scraping the old material from the site.



New asphalt millings brought in.

If estimated at 2 inches thick, this equals 144 cubic yards, or 12-14 dump trucks worth of material brought onto the site.

Roughly half of this material was placed in the 100-year floodplain.



**Montgomery City Council
AGENDA REPORT**

Meeting Date: October 11, 2022	Budgeted Amount: N/A
Department: Admin	Prepared By: Dave McCorquodale

Subject

Presentation and Acceptance of a Feasibility Study for the proposed Food Gardens of Olde Montgomery development.

Recommendation

Accept the Feasibility Study as presented.

Discussion

City Council authorized the city engineer to prepare a Feasibility Study for this proposed food truck park on the north end of the historic downtown on September 13th. The Study is attached for review and the engineer will be in attendance to present the results to City Council.

As a reminder, acceptance of the Feasibility Study does not constitute acceptance or approval of the project. Acceptance of the Study means the City Council believes the Study was prepared in accordance with good engineering practices and based on accurate data.

Approved By

		Date:
Interim City Administrator	Dave McCorquodale	Date: 10/05/2022



October 7, 2022

The Honorable Mayor and City Council
 City of Montgomery
 101 Old Plantersville Road
 Montgomery, Texas 77316

Re: Variance Request
 The Montgomery Grove
 City of Montgomery

Dear Mayor and Council:

The City received a variance request from the owners of the Montgomery Grove Food Truck Park, located at 22016 Eva Street. The Developer is requesting the following variance from the City's Code of Ordinances:

- Section 78-96(b): Any parking lots or drives, excluding single-family residential driveways, shall be paved with asphalt or concrete.

Enclosed you will find the request for variance as submitted by the owners of the property along with the additional parking lot plan provided.

The City has previously reviewed and acted on variances for the same ordinance:

- July 2021 – Cornerstone Community Church – Request to utilize existing gravel parking area after they performed regrading and dressing. We recommended disapproval of the variance as it did not place an undue hardship upon the development of the property. The City ultimately approved the request partly due to the low traffic volume on the site.
- October 2020 – Montgomery Food Truck Park - The same Developer submitted a similar Variance Request to the Commission and we offered no objection to the request to use a permeable pavement system, similar to a TrueGrid system on areas outside of the access driveway in lieu of asphalt or concrete pavement. The City approved the variance. This development was ultimately not constructed.
- February 2017 - Longview Greens Mini Golf – Request to utilize gravel on new parking area for financial reasons for a temporary period of time. Detention for the site was provided in a jointly used pond. The City approved the variance.

We offer no objection to the request however note that we must receive engineered site plans showing the proposed improvements, verifying no adverse impacts from the proposed improvements, and compliance with all applicable City Codes. We recommend withholding the issuance of a Certificate of Occupancy for the building until the plans are approved and construction per the approved plans is completed.

Variance Request – The Montgomery Grove
Honorable Mayor and City Council
City of Montgomery
Page 2 of 2
October 7, 2022

If approved, approval of the requested variance does not constitute plan approval and only allows the Developer to further refine the proposed civil site plans, which will require the full review and approval of the City.

If you have any questions or comments, please do not hesitate to contact me.

Sincerely,



Chris Roznovsky, PE
Engineer for the City

CVR/zlgt

Z:\00574 (City of Montgomery)_900 General Consultation\Correspondence\Letters\2022.10.05 MEMO to Council RE Montgomery Grove Food Truck Park Variance Request.docx

Enclosures: Variance Request – September 9, 2022

Site Survey – November 9, 2021

Parking Plan – September 22, 2022

Redevelopment Flow Chart from City Development Handbook

Cc (via email): Mr. Dave McCorquodale – City of Montgomery, Director of Planning & Development, and Interim City Administrator

Ms. Nici Browe – City of Montgomery, City Secretary

Mr. Alan Petrov – Johnson Petrov, LLP, City Attorney



September 9, 2022

Dave McCorquodale
City of Montgomery
101 Old Plantersville Rd
Montgomery, TX 77316

Re: Parking Lot Variance 22016 Eva St. Montgomery, TX 77356

Dear Mr. McCorquodale:

This letter is a formal request for a variance to allow for an existing asphalt milling parking lot at the above referenced property. The asphalt milling parking lot has been utilized at this commercial property going back several decades. The porous material also mitigates the potential negative impact on drainage and/or flood plain that a concrete or asphalt parking lot would. The parking lot has been discussed with the former mayor, city officials and city engineer with no issues being raised. Multiple other parking lots within the City of Montgomery contain asphalt millings so no new precedent is being requested.

Regards,

Joshua Cheatham
Owner
(281) 770-2748

Cc: Mike Anderson



Variance Request Application

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

Item 7.

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

Contact Information

Property Owner(s): Josh Cheatham

Address: 85 Lake Forest Cir Couroe, TX Zip Code: 77384

Email Address: josh@newcorcre.com Phone: _____

Applicants: Josh Cheatham & Mike Anderson

Address: 85 Lake Forest Cir Couroe, TX 77384

Email Address: josh@newcorcre.com Phone: (281) 770-2748 / (832) 418-1088
andersonm3477@gmail.com

Parcel Information

Property Identification Number (MCAD R#): 34576

Legal Description: A0031 RIGSBY BEN J, Tract 81A-1, Acres, 2.660

Street Address or Location: 22016 Eva St. Montgomery, TX 77356

Acreage: 2.66 Present Zoning: Commercial Present Land Use: Commercial

Variance Request

Applicant is requesting a variance from the following:

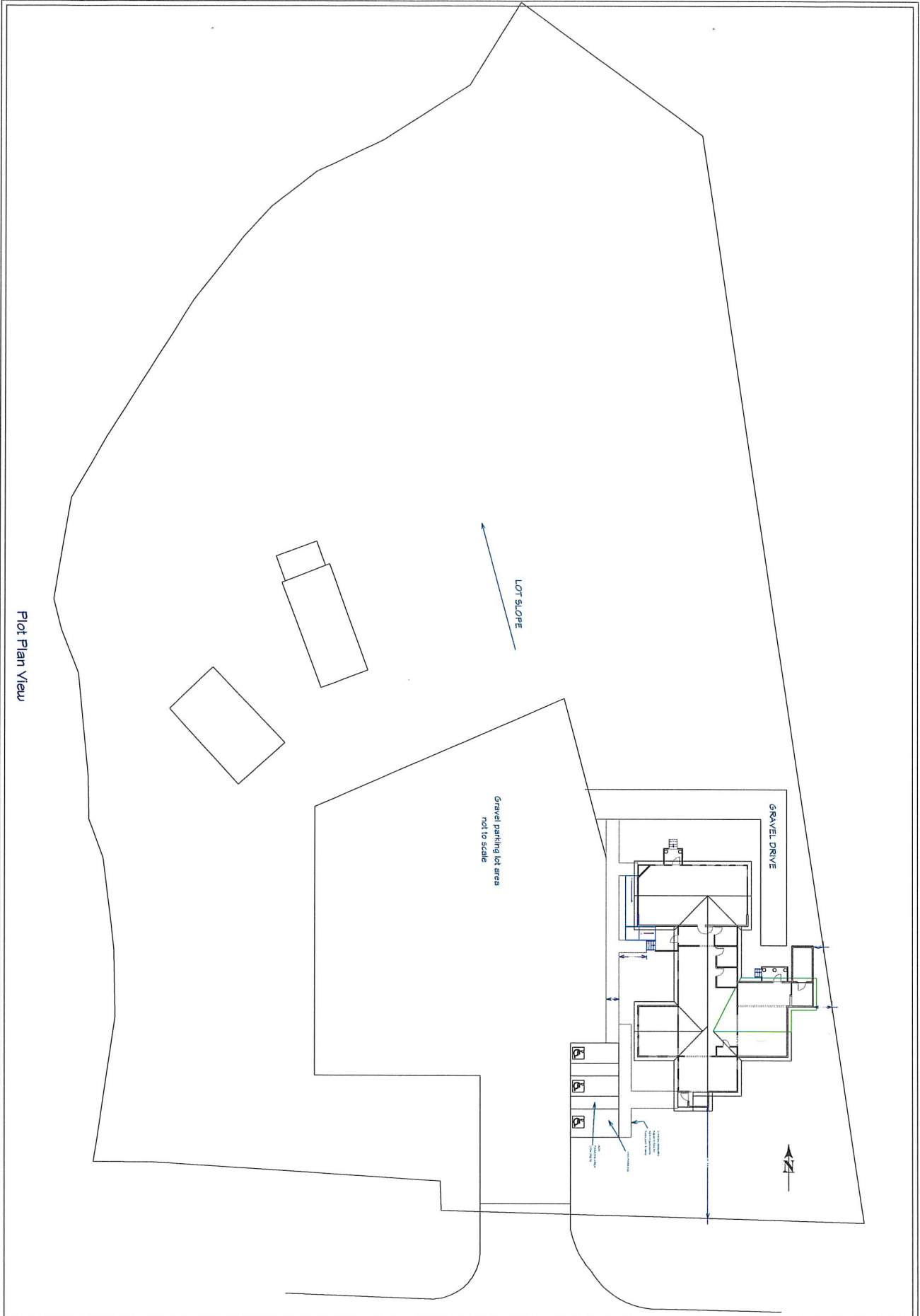
City of Montgomery Ordinance No.: 2011-09 Section(s): 7B-96

Ordinance wording as stated in Section (7B-96):

(b) Any parking lots or drives, excluding single-family residential driveways, shall be paved with asphalt or concrete.

Detail the variance request by comparing what the ordinance states to what the applicant is requesting:

Requesting to use asphalt millings for the parking lot



Plot Plan View

Gravel parking lot area
not to scale

GRAVEL DRIVE

LOT SLOPE



A-2	SHEET:	SCALE: NTS 2x8.6 SCALE 1/16"=1'	DATE: 7-12-2022	The Montgomery Grove 22016 Eva St. Montgomery, TX 75356	Plot Plan	Owner Build Josh Cheatham 281-710-2148	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th colspan="4">REVISION TABLE</th> </tr> <tr> <th>NUMBER</th> <th>DATE</th> <th>REVISOR</th> <th>DESCRIPTION</th> </tr> </thead> <tbody> <tr> <td style="text-align: center;">1</td> <td style="text-align: center;">7/28/2022</td> <td></td> <td></td> </tr> <tr> <td> </td> <td> </td> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> <td> </td> <td> </td> </tr> </tbody> </table>	REVISION TABLE				NUMBER	DATE	REVISOR	DESCRIPTION	1	7/28/2022											TNS
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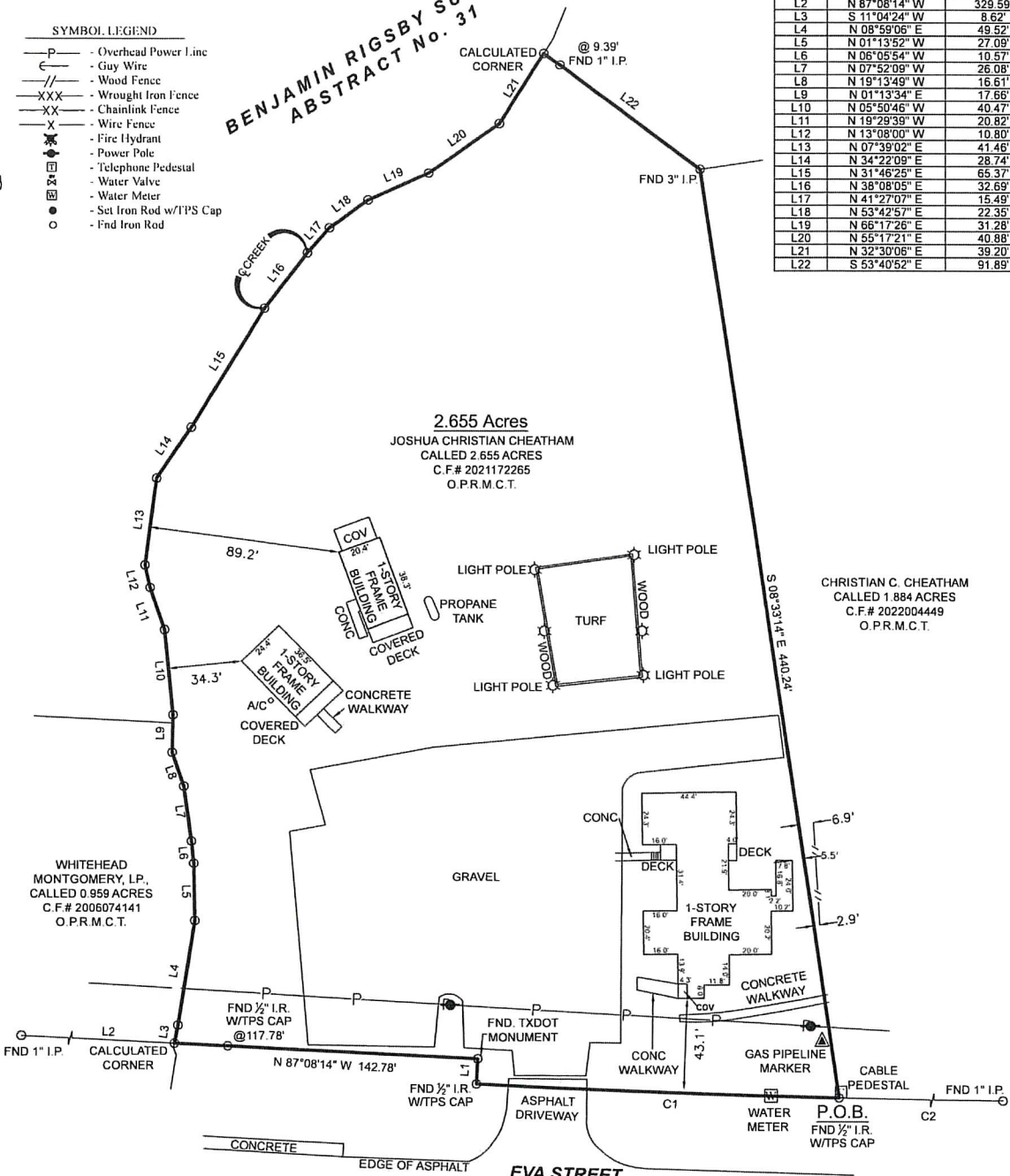


- SYMBOL LEGEND**
- P - Overhead Power Line
 - G - Guy Wire
 - /// - Wood Fence
 - XXX - Wrought Iron Fence
 - XX - Chainlink Fence
 - X - Wire Fence
 - ⊕ - Fire Hydrant
 - ⊙ - Power Pole
 - ⊠ - Telephone Pedestal
 - ⊡ - Water Valve
 - ⊣ - Water Meter
 - ⊙ - Set Iron Rod w/TPS Cap
 - - Fnd Iron Rod

**BENJAMIN RIGSBY SURVEY
ABSTRACT No. 31**

CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING	DELTA ANGLE
C1	5667.38'	171.08'	171.07'	N 87°51'26" W	1°43'47"
C2	5667.38'	1200.43'	1200.42'	S 89°44'07" E	2°01'35"

LINE	BEARING	DISTANCE
L1	N 02°56'07" E	11.85'
L2	N 87°08'14" W	329.59'
L3	S 11°04'24" W	8.62'
L4	N 08°59'06" E	49.52'
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L8	N 19°13'49" W	16.61'
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L22	S 53°40'52" E	91.89'



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G.F. No. 2103081
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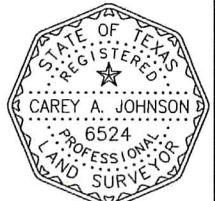
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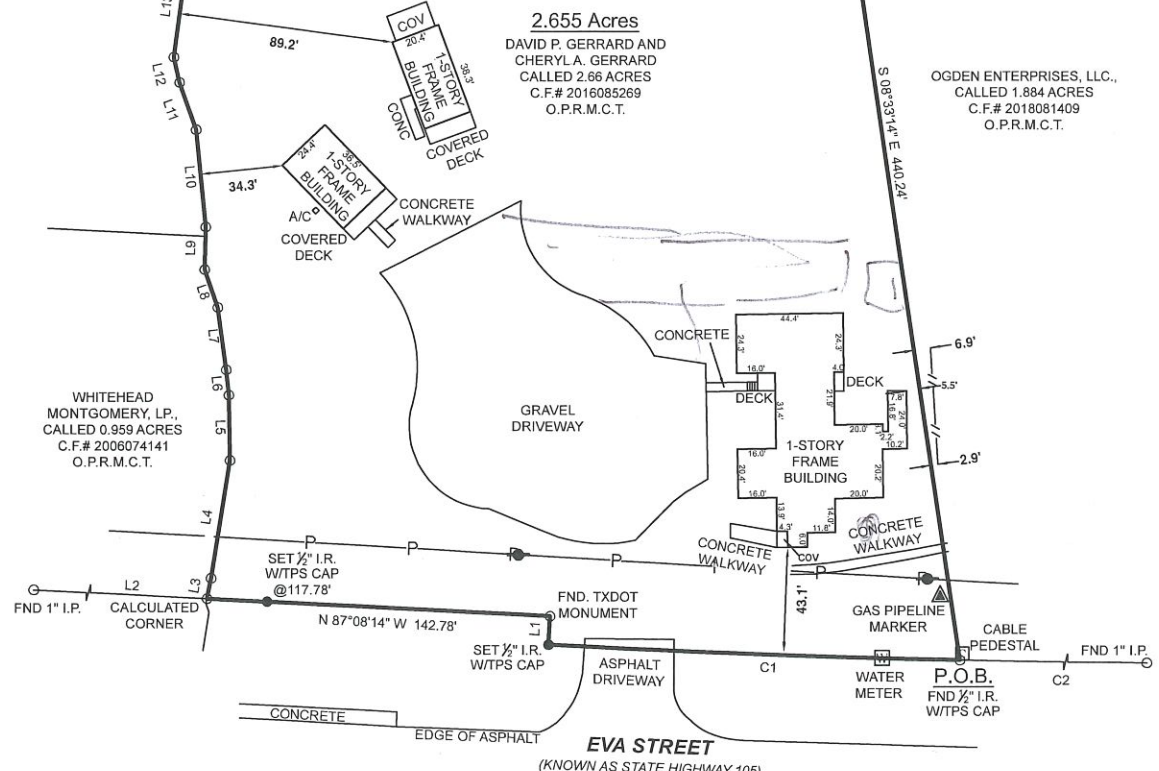


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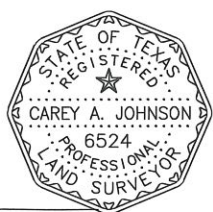
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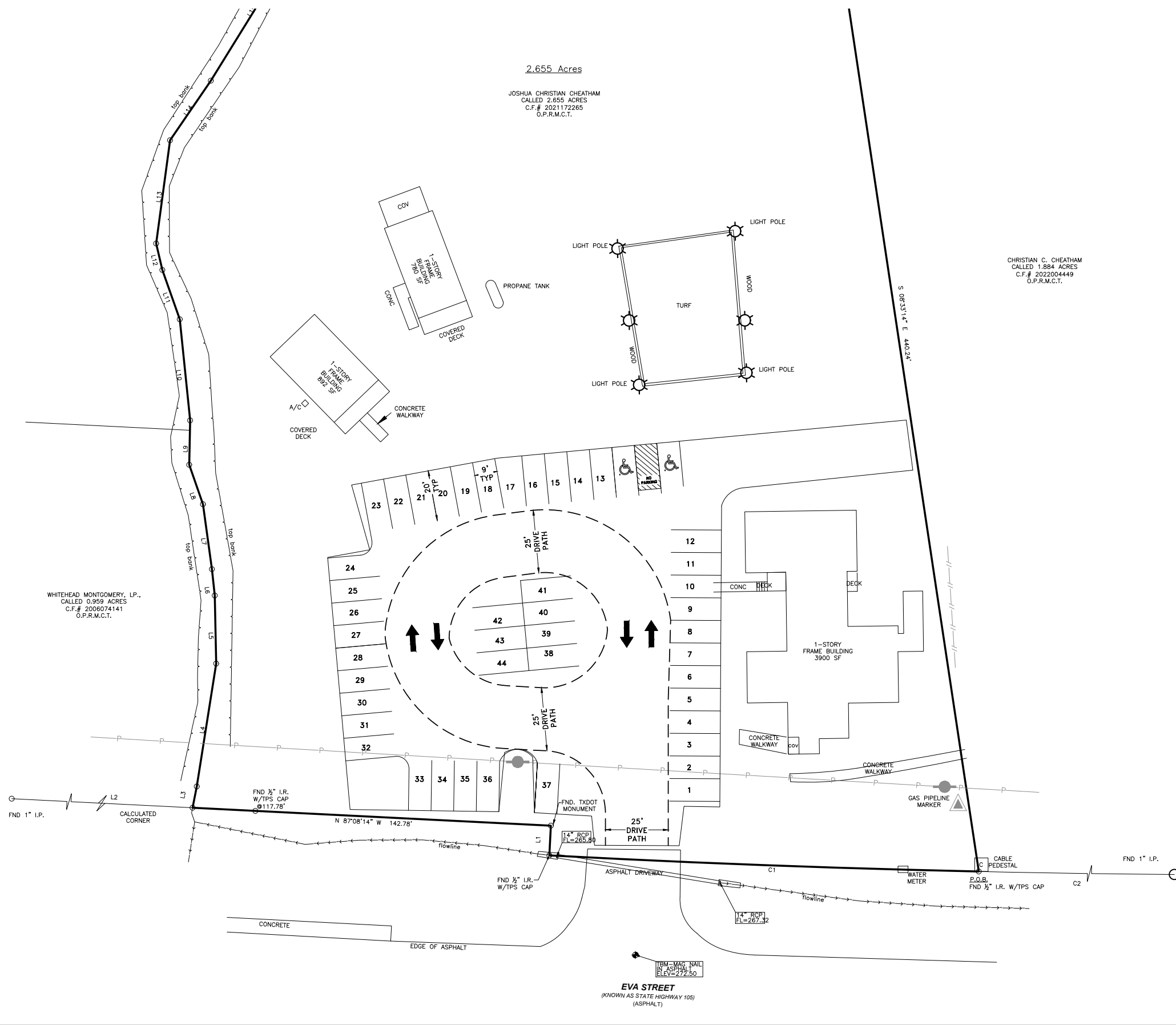
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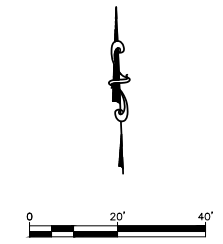


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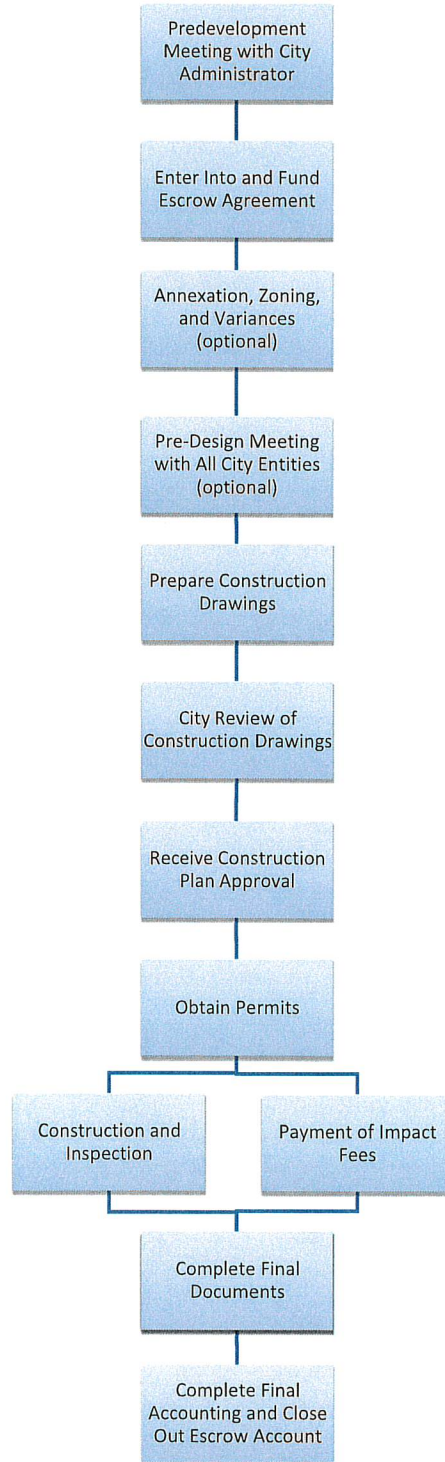
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FOR REVIEW PURPOSES ONLY
NOT FOR CONSTRUCTION

EVA STREET
(KNOWN AS STATE HIGHWAY 105)
(ASPHALT)

City of Montgomery, Texas Commercial Redevelopment/Previously Platted Development Process Flow Chart



Montgomery City Council
AGENDA REPORT

Meeting Date: October 11, 2022	Budgeted Amount: N/A
Department: Admin	Prepared By: Dave McCorquodale

Subject

Presentation and Acceptance of a Feasibility Study for the proposed Summer Wind development.

Recommendation

Accept the Feasibility Study as presented.

Discussion

City Council authorized the city engineer to prepare a Feasibility Study for this proposed 56-acre single family residential development on September 13th. The Study is attached for review and the engineer will be in attendance to present the results to City Council.

As a reminder, acceptance of the Feasibility Study does not constitute acceptance or approval of the project. Acceptance of the Study means the City Council believes the Study was prepared in accordance with good engineering practices and based on accurate data.

Approved By		
		Date:
Interim City Administrator	Dave McCorquodale	Date: 10/05/2022

**SUMMER WIND
FEASIBILITY STUDY
(Dev. No. 2211)**

FOR

THE CITY OF MONTGOMERY

WGA PROJECT NO. 00574-121

OCTOBER 2022

PREPARED BY

WGA

CONSULTING ENGINEERS

OVERVIEW

- 1 Executive Summary
- 2 Introduction
- 3 Analysis

Exhibits:

- A: Tract Boundary
- B: Preliminary Site Plan
- C: Water and Wastewater Usage Projection
- D: Escrow Calculation
- E: Preliminary Cost Estimate

Item 8.

Summer Wind Feasibility Study

Page 3

October 7, 2022

1 EXECUTIVE SUMMARY

Montage Partners, LLC (the “Developer”) has requested the City of Montgomery (the “City”) to perform a feasibility study for the City to serve a future single family development on a 56.7 acre tract along Lone Star Parkway, also referred to as the Summer Wind tract. The tract is located within City limits.

The development falls with Montgomery County Municipal Utility District No. 179. MUD No. 179 does not provide its own water or wastewater so the development would receive water and wastewater services from the City.

This development would consist of approximately 211 single family lots for in-city service at full build out. The final land plan may affect the estimated costs of and revenues associated with the development.

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

The analysis shows that based on sanitary sewer capacity of Lift Station No. 10, the lift station will need additional capacity to serve all existing and proposed developments at full build out. There is an opportunity of some cost sharing for Lift Station No. 10 improvements with the Developer of the Mabry Tract. All coordination on any potential cost sharing is the responsibility of the Developer. The analysis also shows that the City will have the wastewater treatment plant capacity to serve the development and existing developments for the next couple of years but will need additional sanitary sewer plant capacity to serve all existing and proposed developments at full build out.

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

Escrow Account	\$33,000
Lift Station No. 10 Improvements*	\$379,000
Total Estimated Costs	\$412,000

**total cost to of improvements to serve this development and the Pulte development*

Based on information provided by the Developer the estimated a total assessed valuation for the development would be approximately \$82,875,000 at full build out. Based on the City’s estimated current tax rate (\$0.1050 debt service and \$0.2950 for operations and maintenance) financially, the development will bring in approximate tax revenues as shown below:

Operations and Maintenance	\$244,481.25
Debt Service	\$ 87,018.75
Total Estimated Annual Tax Revenue	\$331,500.00

57

2 INTRODUCTION

This undeveloped tract is located along Lone Star Parkway just east of Buffalo Springs Drive, and falls completely within the City Limits. An exhibit showing the Tract's boundary in relation to the City's boundary is enclosed as **Exhibit A**. A preliminary site plan is enclosed as **Exhibit B** and indicates the Developer's intentions to subdivide the Tract into approximately 211 – 45' wide single family lots.

The Tract is currently zoned as Planned Development as part of the LeFevre Development Agreement. The Planned Development zoning allows for a mixed use of the development which includes single family as proposed in this development.

Based on information from the Developer, construction of the development is planned to be complete in 2026. The estimates included in this feasibility are based on the anticipated land use provided by the developer at the time of the study. The final land plan may affect the estimated costs and revenues associated with the development. The Tract is currently located within the boundary of Montgomery County MUD No. 179.

3 ANALYSIS

Water Production and Distribution

The Tract is located within the City and would not need to be annexed into the City before receiving service. The City has three (3) active water wells and two existing water plants with a capacity of 875 connections or 568,000 gallons per day per Texas Commission on Environmental Quality (“TCEQ”) requirements. The City is nearing completion of a water plant improvements project at the existing Water Plant No. 3 to increase the capacity of the City’s water system to 2,500 connections while holding the same average daily flow capacity.

The current average daily flow (“ADF”) in the City is approximately 434,400 gpd. Inclusive of existing connections, ultimate future projected connections within current platted developments, and developments that are currently in design, the City has committed approximately 583,365 gpd and 1,696 connections. A copy of the updated water usage projections is included as **Exhibit C**. Once the Water Plant No. 3 Improvements Project is complete, the City will have committed approximately 103% of the total ADF capacity and 68% of the connection capacity. The City is not expected to hit these numbers or exceed the current average daily flow capacity until 2024. The addition of a booster pump would increase the ADF capacity to approximately 730,000 gpd.

The proposed development falls within Montgomery County Municipal Utility District No. 179 (“MUD No. 179”). MUD No. 179 does not intend to provide separate water service so the Development will receive water from the City. Based on information provided by the Developer the Tract is estimated water usage is 79,560 gpd. However, based on historical data from similar developments in the City, the Tract’s estimated water capacity requirement is approximately 47,475 gpd. Inclusive of existing connections, platted developments, developments currently underway, other developments in feasibility, and this development, the City will have committed approximately 934,170 gpd or 164% of the total ADF capacity and 136% of the connection capacity at full build out. Based on the projections shown in **Exhibit C**, the City would need additional water plant capacity around 2024.

Upon completion of the proposed improvements and based on the projected ADF, including this Tract, the City is projected to have sufficient water production capacity to meet the demand of the development within the City for the next couple of years. As the existing and upcoming developments build out, the City should be prepared to expand their water production and distribution capacity.

City records indicate that there is an existing 8-inch waterline that stubs at the frontage of the Tract, which will be able to serve the development as shown in **Exhibit A**. This will need to be verified by the Developer. The Developer should also connect to the existing 8-inch waterline that stubs at the end of Peel Point Dr. to provide a looped waterline system throughout the development. The Developer will be responsible for all costs associated with the waterline extension and required easements.

The ultimate alignment of waterlines interior to the Tract will depend on the final land plan of the proposed development. These waterlines will need to be placed in public utility easements located along the public ROW or placed within public ROW interior to the development and constructed per all applicable City and

TCEQ design criteria. The developer is responsible for all costs associated with easement acquisitions and recordation.

The Developer is responsible for providing engineered plans and specifications for the water distribution system interior to the development to the City Engineer for review and approval prior to commencing construction, and to obtain all required Planning and Zoning Commission, City Council and development approvals and permits.

Sanitary Sewer Collection and Treatment

The City's existing wastewater facilities include 18 public lift stations and two (2) wastewater treatment plants (one of which is currently decommissioned). The Stewart Creek Wastewater Treatment Plant (TPDES Permit No. WQ0011521001) has a permitted capacity of 400,000 gpd. The current ADF at the Stewart Creek Wastewater Treatment Plant is 184,330 gpd or 46%.

Inclusive of existing connections, platted developments, and developments which are in design or under construction, the City has committed approximately 342,900 gpd or 86% of existing permitted capacity at full build out. A copy of the wastewater usage projections is included as **Exhibit C**.

The proposed development falls within Montgomery County Municipal Utility District No. 179 ("MUD No. 179"). MUD No. 179 does not intend to provide separate sanitary sewer service so the Development will receive sanitary sewer service from the City. Based on information from the Developer the Tract's estimated sanitary sewer usage is 55,250. However, based on the City's historical usage for similar types of development and information from the Developer, the Tract's estimated sanitary sewer capacity requirement is 27,430 gpd (822,900 gallons per month) at full build out. Inclusive of existing connections, platted developments, developments currently underway, other developments in feasibility, and this development, the City will have committed 564,467 gpd or 141% of existing permitted capacity.

The TCEQ requires the City to initiate design of a wastewater treatment capacity expansion when the ADF exceeds 75% of the City's 400,000 gpd permitted capacity for 3 consecutive months. The ADF for the City, including these Tracts and other tracts under design/feasibility, is not expected to exceed 75% of the permitted capacity (300,000 gpd) until around the first quarter of 2024. Additionally, the TCEQ requires the commencement of the construction phase of the expansion after 3 consecutive months of ADF exceeding 90% of the permitted capacity (360,000 gpd). This is expected to occur around third quarter of 2024. (Note: We are expecting the construction of Nantucket Apartments, consisting of 385 units. The development will account for 50,000 gpd at full build out. We are not anticipating all units to be filled within 2024 but are accounting for it in these calculations.)

There is an existing public sanitary sewer manhole at the end of Peel Point Dr. that can serve as the point of connection for the proposed development. This is based on as-built information for the existing sanitary sewer line and LIDAR elevations for the Tract, and should be verified by the Developer after a topographic survey is completed. The Developer will be responsible for constructing a gravity line to serve the development, as shown in **Exhibit A**. The Developer will be responsible for all costs associated with the sanitary sewer gravity line, and required easements. The final land plan, and grading plan may affect the estimated costs and design associated with the development.

The proposed sanitary sewer capacity of the Development will cause the City's Lift Station No. 10 to exceed capacity at full buildout and will need to be upsized from approximately 350 gpm to 550 gpm. There is an opportunity for cost sharing of these expenses with the Mabry Tract development. The estimated preliminary cost for the improvements is approximately \$379,000 as shown in **Exhibit E**. However, an additional inspection and analysis of Lift Station No. 10 will need to be performed to prepare a final estimated cost of improvements.

The ultimate alignment of sanitary sewer lines interior to the Tract will depend on the final land plan of the proposed development. These sanitary sewer lines will need to be placed within public utility easements located along the public ROW or placed within the public ROW interior to the development and constructed per all applicable City and TCEQ design criteria.

The Developer is responsible for providing engineering plans and specifications for the sanitary sewer conveyance system interior to the development, to the City Engineer for review and approval prior to commencing construction. The Developer is also responsible for obtaining all Planning and Zoning Commission, City Council, and development approvals and required permits.

The Developer will need to coordinate the installation of sanitary sewer tap(s) into the public system with the City's department of Public Works and will be responsible for all costs associated with said work.

Drainage

The onsite storm sewer system will be designated public and accepted by the City upon completion of the development. Any detention ponds will remain the responsibility of the Developer. All drainage and detention improvements must be designed per the city's Code of Ordinances requiring compliance with the City's floodplain regulations and all applicable Montgomery County Drainage Criteria Manual Standards. Failure to design and construct the drainage facilities per Montgomery County Criteria potentially jeopardizes eligibility for acceptance by the City. The Developer will also be required to perform and submit a drainage study showing the development ultimately has no impact on the drainage downstream of the Tract and on adjacent properties. The drainage study must be submitted to the City for review and approval prior to approval of the construction plans.

The Developer is responsible for providing engineering plans and specifications for the drainage and detention system interior to the development to the City Engineer for review and approval prior to commencing construction, and to obtain all required Planning and Zoning Commission, City Council, and development approvals and permits.

Paving and Traffic

Per the preliminary land plan submitted by the Developer, the streets are proposed to be public and accepted by the City. The Developer is responsible for providing engineered plans and specifications for the roads interior to the development to the City Engineer for review and approval prior to commencing construction, and to obtain all required Planning and Zoning Commission, City Council, and development approvals and permits.

Currently, the preliminary land plan, combined with existing infrastructure, provides for one (1) proposed access point along Lone Star Parkway to provide access to the entire 211-home subdivision. The Developer Per the City and Montgomery County’s most recently adopted thoroughfare plan, there are no conflicts with the current land plan. The Developer is responsible for Montgomery County approval for the proposed access point onto Lonestar Parkway. The Developer will need to add a stub-out street adjacent to the western boundary to allow for future access through the adjacent property.

Development Costs

The Developer will need to engineer and construct the on-site water, sanitary sewer, paving, and drainage facilities to serve the proposed Tract.

The Developer will not need to pay water and wastewater impact fees to the City. Tap fees will be based on cost of the tap plus 200%, and will be determined by Public Works at the time the tap is requested.

An escrow agreement has been entered into between the Developer and the City and funds have been deposited to cover the cost of this feasibility study. An estimated additional \$33,000 will be required to cover the City’s remaining expenses for the development, which includes administrative costs, legal fees, plan reviews, developer and construction coordination, construction inspection, and one year warranty expenses. The fees calculation can be seen in **Exhibit D**. These additional funds must be deposited into the escrow prior to any work being completed by the City.

Below is a summary of the estimated costs associated with the development:

Escrow Account	\$33,000
Lift Station No. 10 Improvements*	\$379,000
Total Estimated Costs	\$412,000

**total cost of improvements to serve this development and the Pulte development*

These estimates are based on the projected water and wastewater usage provided by the developer. The actual costs will depend on the final land plan, final design, and actual construction costs.

This report is our engineering evaluation of the funds required to complete the anticipated future capital improvement for this Tracts and of the potential increase in tax revenue to the City. This report is not intended to be used for the issuance of municipal financial products or the issuance of municipal securities. The City’s Financial Advisor(s) can address potential recommendations related to the issuance of municipal financial products and securities.

Financial Feasibility

The Developer estimates the total assessed value (A.V.) at full development to be approximately \$82,875,000.00. Based on the estimated total A.V., the in-city development would generate approximately \$87,018.75 per year in debt service revenue, and approximately \$244,481.25 per year in operations and

maintenance revenue. These estimates are based on the City's \$0.1050/\$100 valuation debt service tax rate and the \$0.2950/\$100 valuation Operations & Maintenance (O&M) tax rate.

This report is our engineering evaluation of the funds required to complete the anticipated future capital improvement for this Tract and of the potential increase in tax revenue to the City. This report is not intended to be used for the issuance of municipal financial products or the issuance of municipal securities. The City's Financial Advisor(s) can address potential recommendations related to the issuance of municipal financial products and securities.

Thank you for the opportunity to complete this feasibility study and offer our recommendations. Please contact me or Ms. Katherine Vu should you have any questions.

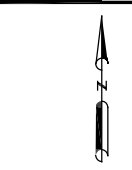


Sincerely,

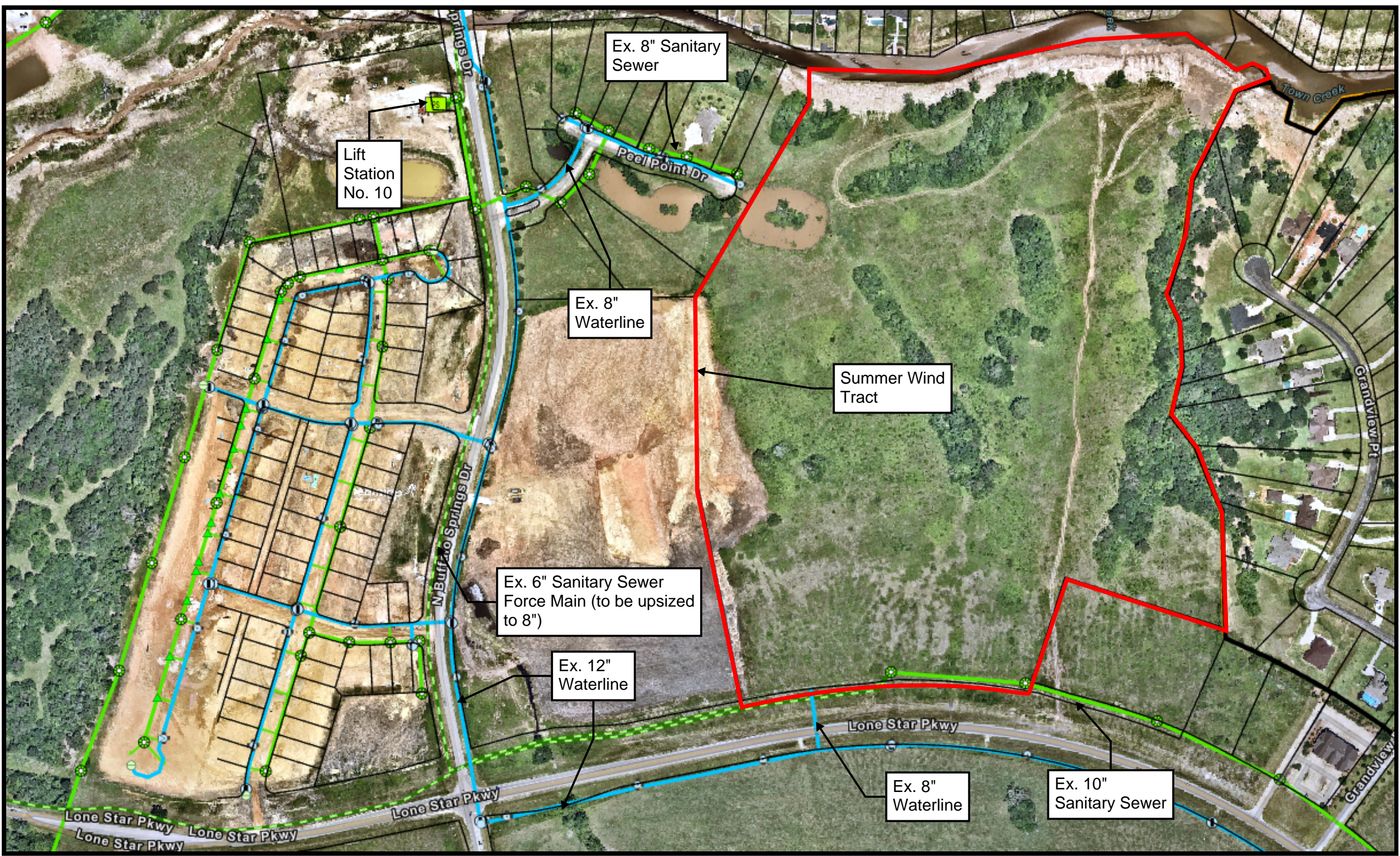
Chris Roznovsky, PE
Engineer for the City

CVR/kv:zlg

TRACT BOUNDARY
 SUMMER WIND FEASIBILITY STUDY



SHEET
 EXHIBIT
 A





a schematic development plan for
LONESTAR PKWY
 ±56.7 ACRES OF LAND
 prepared for
CORPORATE STRATEGIES LLC

LOT SUMMARY

	45'x120'	211 LOTS	100 %
TOTAL		211 LOTS	

META 24275 Katy Freeway, Ste. 200
 Katy, Texas 77494
 Tel: 281-810-1422

SCALE 0 100 200 400

MTA-1-763
 JULY 26, 2022

THIS DRAWING IS A GRAPHIC REPRESENTATION FOR PRESENTATION PURPOSES ONLY AND IS NOT FOR CONSTRUCTION OR CONSTRUCTION PURPOSES. SAID DRAWING IS A SCANNED IMAGE ONLY AND IS SUBJECT TO CHANGE WITHOUT NOTICE. META PLANNING + DESIGN MAY OR MAY NOT INTEGRATE ADDITIONAL INFORMATION PROVIDED BY OTHER CONSULTANTS, INCLUDING BUT NOT LIMITED TO THE TOPIC OF ENGINEERING AND DRAINAGE, FLOODPLAIN, AND/OR ENVIRONMENTAL ISSUES AS THEY RELATE TO THIS DRAWING. NO WARRANTIES, EXPRESSED OR IMPLIED, CONCERNING THE PHYSICAL DESIGN, LOCATION AND CHARACTER OF THE FACILITIES SHOWN ON THIS MAP ARE INTENDED. ADDITIONALLY, NO WARRANTY IS MADE TO THE ACCURACY OF THE INFORMATION CONTAINED HEREIN.

Table 1.1 September 2017 ESFC Table for Commonly Used Meters

Meter Size	Maximum Continuous Operating Capacity (GPM)	Equivalent Single Family Home (ESFC)	Maximum Assessable Water Fee (\$)	Maximum Assessable Waste Water Fee (\$)	Maximum Assessable Fee (\$)
5/8"	15	1.00	1,126	\$2,513	\$3,639
3/4"	25	1.67	1,881	\$4,198	\$6,079
1"	40	2.67	3,001	\$6,711	\$9,712
1 1/2"	120	8.00	9,006	\$20,103	\$29,112
2"	170	11.33	12,755	\$28,471	\$41,226
3"	350	23.33	26,264	\$58,626	\$84,890
4"	600	40.00	44,942	\$100,517	\$145,429
6"	1,200	80.00	90,064	\$201,035	\$291,099
8"	1,800	120.00	135,096	\$301,552	\$436,648

ESCROW AGREEMENT, SECTION 2.03 ATTACHMENT

BY AND BETWEEN

THE CITY OF MONTGOMERY, TEXAS,

AND

Summer Wind

Dev. No. 2211

THE STATE OF TEXAS ⊃

COUNTY OF MONTGOMERY ⊃

As per section 2.03, the Feasibility Study completed an estimate of the additional escrow amount, which was determined for administration costs, legal fees, plan and drainage report reviews, developer coordination, construction coordination, construction inspection, and warranty of services. The required additional amount is below:

Administration	\$ 3,000
City Attorney	\$ 3,000
City Engineer	\$ 27,000
<hr/>	
TOTAL	\$ 33,000



Preliminary Cost Estimate
FOR
LIFT STATION NO. 10 IMPROVEMENTS
Summer Wind
9/28/2022

<u>Item No.</u>	<u>Description</u>	<u>Quantity</u>	<u>Unit</u>	<u>Unit Price</u>	<u>Cost</u>
1	Mobilization, Bonds & Insurance	1	LS	\$ 25,000	\$ 25,000
2	Submersible Pumps & Accessories	1	LS	89,700	90,000
3	Piping, Valves, Supports, etc.	1	LS	66,671	67,000
4	Lift Station Electrical & Controls	1	LS	71,563	72,000
5	Bypass Pumping	1	LS	25,000	25,000
6	Stormwater Pollution Protection Plan	1	LS	1,000	1,000
7	Misc. Metals	1	LS	8,000	8,000
				Construction Subtotal	\$ 288,000
				Contingencies (15%)	\$ 44,000
				Engineering	\$ 28,000
				Construction Phase Services	\$ 19,000
				Total	\$ 379,000

Notes:

- 1 All values rounded up to the nearest thousand.
- 2 This estimate is based on my best judgement as a design professional familiar with the construction industry. We cannot and do not guarantee that bids will not vary from this cost estimate.
- 3 This includes geotechnical investigation, construction materials testing, review fees, reproduction, advertising expenses, and other miscellaneous reimbursable costs.

Montgomery City Council
AGENDA REPORT

Meeting Date: October 11, 2022	Budgeted Amount: N/A
Department: Admin	Prepared By: Dave McCorquodale

Subject

Consideration and possible action on approval of Change Order No. 1 to the Water Plant No. 3 Generator Addition contract.

Recommendation

Motion to approve Change Order No. 1 as presented.

Discussion

The City Engineer’s memo is attached that explains the details. The cost of the Change Order is covered by the GLO grant funds.

Approved By

		Date:
Interim City Administrator	Dave McCorquodale	Date: 10/07/2022



October 6, 2022

The Honorable Mayor and City Council
City of Montgomery
101 Old Plantersville Road
Montgomery, Texas 77316

Re: GLO Water Plant No. 3 Generator Addition
Change Order No. 1
City of Montgomery

Dear Mayor and Council:

We received and concur with Quiddity's recommendation of approval of Change Order No. 1 to the Water Plant No. 3 Generator Addition contract. This change order includes the addition of 3 -4", 2 – 1.5", and 1-2" conduit from the generator to the automatic transfer switch not included in the original scope. There is no change to the contract period of performance with Change Order No. 1.

During construction the contractor found that conduits shown on the record drawings from the 2013 Water Plant No. 3 Improvements did not actually exist per the plans. The additional work is to install the required conduit to complete the project.

Approval of the change order will result in a \$19,309.10 increase to the contract amount, from \$368,469.00 to \$387,778.10. This is an increase of 5.24%. Approval will not change the contract period of performance from 180 calendar days.

If you have any questions or comments, please do not hesitate to contact me.

Sincerely,

A handwritten signature in blue ink that reads "Chris Roznovsky". The signature is fluid and cursive.

Chris Roznovsky, PE
Engineer for the City

CVR:

Z:\00574 (City of Montgomery)_900 General Consultation\Correspondence\Letters\2022.10.06 MEMO to Council RE GLO WP3 Generator Change Order No. 1.docx

Enclosures: Change Order No. 1 – GLO Water Plant No. 3 Generator Addition

Cc (via email): Mr. Dave McCorquodale – City of Montgomery, Interim City Administrator
Ms. Nicola Browe – City of Montgomery, City Secretary
Mr. Alan Petrov – Johnson Petrov, LLP, City Attorney



COMMUNITY DEVELOPMENT & REVITALIZATION
The Texas General Land Office
Construction Change Order Request

NOTE: Texas Local Government Code Sec. 262.031 "CHANGES IN PLANS AND SPECIFICATIONS" regulations apply. Generally, a cumulative increase in the contract price in excess of 25% or a cumulative decrease in excess of 18% are disallowed.

Subrecipient: GLO Contract Number: Date:

Engineer Name Address & Phone	Subrecipient Name, Address, & Phone Number:	Contractor Name, Address & Phone Number:
Quiddity Engineering 6330 West Loop South, Suite 150 Bellaire, TX 77401 Tel 713-777-5337	City of Montgomery 101 Old Plantersville Road Montgomery, TX 77316 Tel 936-597-6434	McDonald Municipal and Industrial - A Division of C.F. McDonald Electric, Inc. 5044 Timber Creek Houston, TX 77017 Tel 713-921-1368

Project #: Bid Package #: Change Order #:

Contract Origination Date: Project Description:

You are hereby requested to comply with the following changes from the contract plans and specifications.

Item No.	Description of Changes: Quantities, Units, Unit Prices, Change in Completion Schedule etc.	Decrease in Contract Price	Increase in Contract Price
1	Additional duct bank, conduits, and wire routed to the generator		\$19,309.10
2			
3			
4			
5			
6			
7			
8			
9			
10			
11			
12			

See sheet 2 to add additional entries

Change in Construction Contract Price

Change in Contract Time (Calendar Days)

Original Contract Price:	<input type="text" value="\$368,469.00"/>
Cumulative Previous Change Order(s) Total:	<input type="text" value="\$0"/>
Contract Price Prior to this Change Order:	<input type="text" value="\$368,469.00"/>
Net Increase/Decrease of this Change Order:	<input type="text" value="\$19,309.10"/>

Original Contract Time in Days:	<input type="text" value="180"/>
Net Change from Previous Change Order(s) in Days:	<input type="text" value="0"/>
Contract Time Prior to this Change Order in Days:	<input type="text" value="0"/>
Net Increase/Decrease of this Change Order in Days:	<input type="text" value="0"/>



COMMUNITY DEVELOPMENT & REVITALIZATION
The Texas General Land Office
Construction Change Order Request

Contract Price with All Approved Change Orders:	\$387,778.10	Contract Time with All Approved Change Orders in Days:	180
Cumulative Percent Change in Contract Price (+/-)	3.37%	Subrecipient Contract End Date:	3/31/2022
Construction Contract Start Date:	5/16/2022	Construction Contract End Date:	12-Nov-22

Reimbursements of costs included in this change order are subject to review by GLO-CDR.

*This document may be executed prior to submission for GLO-CDR review, but all parties involved will be held responsible if the change order or amendment warranted as a result of this change order is not in compliance with CDBG or HUD Requirements.

Subrecipient Signature	Engineer Signature	Contractor Signature
	Matt Breazeale	Wayne Berkenmeier
Subrecipient Name and Title (Printed)	Engineer Name and Title (Printed)	Contractor Name and Title (Printed)
Subrecipient Signature	Engineer Signature	Contractor Signature

Justification for Change Order

1. Will this change order increase or decrease the number of beneficiaries? Increase Decrease No Change

If there is a change, how many beneficiaries will be affected?

Total LMI

2. Effect of this change on the scope of work: Increase Decrease No Change

3. Effect on operation and maintenance costs: Increase Decrease No Change

4. Are all prices in the change order dependent upon unit prices found in the original bid? Yes No

If "no", explain:

This conduit run was not in the original unit price contract.

5. Has the change created new circumstances or environmental conditions which may affect the project's impact, such as concealed or unexpected conditions discovered during actual construction? Yes No

If "yes", is an environmental assessment required?



COMMUNITY DEVELOPMENT & REVITALIZATION
The Texas General Land Office
Construction Change Order Request

- 6. Is the Texas Council on Environmental Quality (TCEQ) clearance still valid (if applicable)? Yes No
- 7. Is the CCN permit still valid? (sewer projects only) Yes No
- 8. Are the disability access requirements/approval still valid (if applicable)? Yes No
- 9. Are other Disaster Recovery contractual special condition clearances still valid? Yes No

If "no", explain:

Disclaimer: The Texas General Land Office has made every effort to ensure the information contained on this form is accurate and in compliance with the most up-to-date CDBG-DR and/or CDBG-MIT federal rules and regulations, as applicable. It should be noted that the Texas General Land Office assumes no liability or responsibility for any error or omission on this form that may result from the interim period between the publication of amended and/or revised federal rules and regulations and the Texas General Land Office's standard review and update schedule.

Montgomery City Council
AGENDA REPORT

Meeting Date: October 11, 2022	Budgeted Amount: N/A
Department: Admin	Prepared By: Dave McCorquodale

Subject

Consideration and possible action on approval of a Service Agreement for Building Plan Review and Inspection Services between the City of Montgomery and Rick Hanna, CBO.

Recommendation

Approve the Service Agreement as presented.

Discussion

As you are aware, Rick Hanna provides building plan review and inspection services for the City. He has provided these services for the City since 2004, though the City has used another service provider for certain projects and/or during limited periods of time. There has never been a formal agreement in place between the City and Rick Hanna. When I joined staff in 2018, I reviewed services provided by Mr. Hanna and evaluated options that included other service providers and bringing these services in-house by adding a Building Official to city staff. My recommendation to the City Administrator at that time was to add a Building Official to staff. I believe this would both increase the level of service and reduce costs of performing these functions. That being said, Rick Hanna provides services with a high degree of professionalism and competency. If the City is going continue with a third-party contractor for building plan review and inspection services, Rick Hanna is the best option.

My recommendation is to approve the Service Agreement as presented. The quantity and importance of the services provided by Rick Hanna necessitates a formal agreement that provides certainty and stability to both parties.

Approved By

		Date:
Interim City Administrator	Dave McCorquodale	Date: 10/07/2022

RICK HANNA, CBO - SERVICE AGREEMENT

1. **PARTIES:** This Base Agreement (Agreement) is between Rick Hanna, CBO (Contractor) and the City of Montgomery, Texas (Client).
2. **WORK:** The visual building inspection and/or plan review services to be supplied by Contractor at the request of the Client from and after the date of this Agreement. This Agreement shall be effective from the date hereof and shall continue until terminated by either party upon **ninety (90) days** written notice to the other; provided, however, that Contractor's obligations shall survive termination with respect to all Work supplied by or through Contractor prior to termination. The agreement is effective for one calendar year and shall automatically renew with the fees listed unless renegotiated beginning **ninety (90) days prior to the end of the agreement**. **Contractor agrees to provide the City of Montgomery with specific scope services with related fees as outlined in the addendum(s) to this service agreement.**
3. **PAYMENTS:** Contractor will submit invoices bi-monthly to the City of Montgomery for work performed. Invoices will include the date of service, job address, description of service and contracted price for services rendered. The Contractor will not be required to submit separate invoices for each individual service and/or job address. Contractor agrees to honor all bid prices submitted to City of Montgomery from the date of each subject bid through completion of the work. It is agreed that City of Montgomery shall be responsible for payment of invoices from the Contractor. There shall be no exceptions to this requirement. **Provided all requirements in this agreement have been met, payment will be made by the City of Montgomery to the Contractor within fifteen (15) days of receipt of invoice.** The City of Montgomery assures full and prompt payment of all sums due to Contractor pursuant to this Agreement. Delinquent invoices after thirty (30) days will accrue interest at a rate of 15% or the maximum amount permitted by law without regard to any client payments received.
4. **INDEPENDENT CONTRACTOR:** Contractor certifies that Contractor is an "independent contractor" and not an employee of City of Montgomery and as such, certifies that Contractor is solely responsible for all applicable taxes and charges including, but not limited to, withholding taxes, social security taxes and unemployment taxes on Contractor and Contractor's staff. Contractor certifies that, as an independent contractor, Contractor is not under the direction and control of City of Montgomery and certifies that Contractor may be employed by or contract with other companies/municipalities. Contractor certifies that Contractor uses its own vehicles, tools, computers and devices, office supplies, forms, telephone, internet services, and offices at the business address shown below and there has never been, nor will there be, during the term of this Agreement, an employer/employee relationship with City of Montgomery. Contractor certifies that this Agreement went into effect from the date of first performance as a Contractor for City of Montgomery (September 2004). Contractor may engage and supervise additional inspectors (certified by the International Code Council and state licensed as required) and additional office staff as needed to accomplish his duties as his expense.
5. **CONTRACTOR LICENSED SOFTWARE:** Contractor is the licensed owner of the Meritage Systems CommunityCore Solutions and all related "web-based and mobile tools software" utilized by the City of Montgomery. Use of the software by the City of Montgomery is permissible while under the terms of this Agreement with the Contractor. The City of Montgomery may only use the software during the term of this Agreement. Upon termination the City of Montgomery should cease use of the software other than during the 90-day period where Rick Hanna, CBO will allow the City of Montgomery to download and/or print information from the system. No process will be allowed that alters the documentation.

6. CONTRACT DOCUMENTS:

A. **CONTRACT DOCUMENTS** - This Agreement, together with any and all relevant addendums shall constitute the entire Contract Documents (Contract Documents) and there are no other agreements, oral or written, by and between the parties hereto, except as to Contractor's warranties under any prior or contemporaneous agreement with City of Montgomery which warranties are incorporated by reference herein for all purposes.

7. LICENSES AND CERTIFICATIONS: Contractor shall secure and pay for all licenses and certifications necessary for proper completion of the Work. Additionally, Contractor is responsible for all education and reference materials as may be required for such licenses and certifications.

8. COMPLIANCE WITH LAWS, ORDINANCES AND BUILDING CODES: All parties shall comply with all current applicable laws, ordinances, building codes and all rules, regulations, or orders of all public or regulatory authorities.

9. WARRANTY DISCLAIMER: Nothing in this Agreement shall be construed as a warranty expressed or implied by either Party.

10. INSURANCE:

A. **INSURANCE REQUIREMENTS** - Before commencing the Work as contemplated herein, Contractor shall procure and maintain at his sole cost and expense minimum insurance coverages from insurance companies satisfactory to City of Montgomery. Contractor shall, prior to the commencement of the Work hereunder, furnish City of Montgomery with satisfactory Certificates of Insurance naming the City of Montgomery as an additional insured and providing that no cancellation or other material change in the terms of the policy may be made without thirty (30) days prior written notice to City of Montgomery. City of Montgomery's receipt of satisfactory insurance certificates complying with the above requirements shall be a prerequisite to payment under this Agreement or any invoice.

11. NOTICES: To the extent not otherwise required by law, notices must be in writing and must be delivered by personal delivery, by certified mail return receipt requested, or by facsimile to the location for each party designated below.

Contractor: Rick Hanna, CBO
231 Tall Timbers Ln.
Huntsville, TX 77340
Phone: 888-479-1112
Fax: 888-479-1112
Electronic Mail: rhanna@rickhanna.com

City of Montgomery
101 Old Plantersville Rd.
Montgomery, TX 77316
Phone: 936-597-6434
Fax:
Electronic Mail:

Either party may change the location for notice upon written notice, delivered as described above.

12. ALTERNATIVE DISPUTE RESOLUTION: The parties to this Agreement specifically agree that the transactions contemplated herein involve interstate commerce.

A. **MEDIATION OR ARBITRATION:** Contractor agrees to and shall participate in any mediation or arbitration between the Client and any customer of the City of Montgomery if requested by the Client. The contractor shall be paid \$350 per hour of participation. Directly related expenses will be billed at cost. Rick Hanna, CBO nor any agents of Rick Hanna, CBO can warrant or guarantee the outcome of any matter.

B. **MEDIATION OR ARBITRATION BETWEEN CITY OF MONTGOMERY AND CONTRACTOR** - Contractor agrees that any dispute between City of Montgomery and Contractor (whether contract, warranty, tort, statutory, or otherwise) shall first be submitted to mediation and, if not settled during mediation, shall be submitted to binding arbitration as provided by the Federal Arbitration Act (9 U.S.C. §§ 1 et. seq.) or, if applicable, by similar state statute, and not by or in a court of law. All decisions respecting the arbitrability of any dispute

shall be decided by the arbitrator. The arbitrator shall have the right to award reasonable attorneys' fees and expenses, including those incurred in mediation and arbitration. The parties agree to work together in good faith to select a mediator and, if all disputes are not resolved by mediation, an arbitrator in the county where the subject property is located. If the parties are unable to agree on the appointment of a mediator and/or arbitrator, then the mediation or arbitration, or both, shall be conducted by the American Arbitration Association ("AAA") in accordance with its applicable rules and procedures provided, however, if there is any conflict between this Agreement and such rules or procedures, the provisions of this Agreement shall control. If for any reason the AAA is unable or unwilling to conduct the mediation or the binding arbitration, or both, either party may petition a court of general jurisdiction in the subject county to appoint a mediator or arbitrator, or both.

C. **ARBITRATION** - In any arbitration proceeding involving the parties:

- 1) All applicable Federal and State law shall apply;
- 2) All applicable claims, causes of action, remedies and defenses that would be available in court shall apply;
- 3) The proceeding shall be conducted by a single arbitrator selected by a process designed to ensure the neutrality of the arbitrator;
- 4) The parties shall be entitled to conduct reasonable and necessary discovery;
- 5) The arbitrator shall render a written award and, if requested by any party, a reasoned award;
- 6) Any award rendered in the proceeding shall be final and binding and judgment upon any such award may be entered in any court having jurisdiction.
- 7) The prevailing party shall be entitled to attorney's fees and costs as well as costs and expenses reasonably incurred.

D. **SURVIVAL** – Contractor and City of Montgomery agree – that notwithstanding anything to the contrary contained herein, the rights and obligations set forth in the mediation/arbitration provisions set forth above shall survive (1) the termination of this Agreement by either party; or (2) the breach of this Agreement by either party. The waiver or invalidity of any portion of the mediation/arbitration provisions set forth above shall not affect the validity or enforceability of the remaining portions of those provisions and/or this Agreement. City of Montgomery and Contractor further agree (1) that any dispute involving the directors, officers, employees and agents of either City of Montgomery or Contractor shall be resolved as set forth herein and not in a court of law; and (2) that City of Montgomery shall have the option to include Contractor as a party in any mediation and arbitration between City of Montgomery and any customer or client of City of Montgomery and, if City of Montgomery does opt to include Contractor in such mediation and arbitration, Contractor shall fully participate therein pursuant to the terms set forth above. If any party to this Agreement files a proceeding in any court to resolve any controversy, dispute or claim, such action shall not constitute a waiver of the right of such party or a bar to the right of any other party to seek arbitration of that or any other claim, dispute or controversy, and the court shall, upon motion of any party to the proceeding, direct that such controversy, dispute or claim be arbitrated in accordance with this Agreement.

13. FORCE MAJEURE: Any delay or nonperformance of any provision of this agreement by either party (other than payments) which is caused by events beyond the reasonable control of either party or by Acts of God, shall not constitute a breach and the time for performing shall be extended for a period equal to the duration of the event prevent performance.

14. INVALIDITY: It is understood and agreed by the parties hereto that if any of the clauses or provisions of this Agreement shall contravene or be invalid under the laws of the State of Texas, such contravention of invalidity shall not invalidate the entire Agreement, but it shall be construed as if not containing the particular clause or provision held to be invalid, and the rights and obligations of Contractor and City of Montgomery shall be construed and enforced accordingly.

- 15. **GENDER:** The "Contractor" and words "City of Montgomery," include singular or plural, individual, partnership or corporation, and the respective heirs, executors, administrators, successors, and assigns of City of Montgomery, Contractor and subcontractors, as the case may be. The use of any gender applies to all genders. If more than one party is named as Contractor, the obligation hereunder of each such party is joint and several.
- 16. **BINDING AGREEMENT:** The Contract Documents are complimentary, and what is called for by anyone shall be binding as if called for by all. This Agreement shall remain in full force and effect from the execution date and until terminated in writing. This Agreement and the terms and covenants herein contained shall apply to and be binding upon the parties hereto, their heirs, successors and assigns. None of the rights, interests or obligations created by this Agreement may be assigned, transferred, or delegated in whole or in part by the parties hereto, and any such purported assignment transfer or delegation shall be void.
- 17. **ASSIGNMENT:** Contractor shall not assign this Agreement or any payments due or to become due hereunder without the prior written consent of City of Montgomery.
- 18. **ENTIRE AGREEMENT:** This Agreement contains the entire agreement among the parties, and no oral statements or prior written matters not specifically incorporated herein shall be of any force and effect. No variation, modification or changes hereof shall be binding on either party hereto unless set forth in a document executed by all the parties hereto. If there is a conflict between this Agreement and any terms contained in any proposal, invoice or other agreement between City of Montgomery and Contractor, the terms of this Agreement shall control.
- 19. **TIME OF THE ESSENCE:** Time is of the essence in the performance of Contractor's obligations hereunder.
- 20. **GOVERNING LAWS:** The laws of the State of Texas shall govern the validity, enforcement and interpretation of this Agreement. The obligations of the parties are performable in **Montgomery** County, Texas and the parties hereto consent to such venue for purposes of any action arising out of this Agreement. The parties agree that the normal rule of construction that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement.

Effective as of September 1, 2022.

Contractor: Rick Hanna, CBO City of Montgomery

By: _____ By: _____

Printed name: Rickey E. Hanna Printed name: Byron Sanford

Title: Sole Proprietor Title: Mayor

231 Tall Timbers Ln.
Huntsville, TX 77340
Phone: 888-479-1112
Fax: 888-479-1112
Electronic Mail: rhanna@rickhanna.com

101 Old Plantersville Rd.
Montgomery, TX 77316
Phone: 936-597-6434
Fax:
Electronic Mail:

Addendum "A"
Specific Scope of Service and Fees
September 1, 2022

Contractor agrees to provide services to the City of Montgomery as follows:

- (a) Serve as Building Inspector and Plumbing Inspector for construction, remodeling, and renovation of certain structures submitted to the City in accordance with the City Ordinances and building codes
- (b) Serve as Plan Reviewer and perform commercial and residential plan reviews with reports as requested, submitted to the City in accordance with the City Ordinances and building codes.
- (c) Report to Building Official, Director of Planning & Development or other city staff as assigned.
- (d) Advise the City Council of new and/or relevant state and federal regulations concerning building codes.
- (e) Work with the City of Montgomery regarding notifications of Code violations and participate in required hearings as needed.
- (f) Prepare Reports to the City Council as requested.

City of Montgomery shall designate a staff member to serve as Permit Technician to receipt all permit fees and enter permits in the CommunityCore system. Rick Hanna, CBO shall not be responsible for negotiating nor collecting fees. The City will be provided with up to three (3) sign-in accounts for the CommunityCore system for an annual fee of \$No charge during current contract year.

Inspector shall be paid from inspection fees and other fees collected by the City of Montgomery in accordance with the fee schedule below:

Structural Inspections (Foundation Make-up; Framing Rough; Energy Code Rough; Final Building and similar inspections as covered by Building Permit) - \$100 each up to 5,000sf covered area and \$20 for each additional 1,000sf covered area.

Mechanical, Electric, Plumbing and Irrigation Inspections (Ground; Rough; Top-Out; Final and similar inspections as covered by Trade Permits) - \$50 each up to 5,000sf covered area and \$10 for each additional 1,000sf covered area

Inspection requests with less than 24-hour notice – The deadline for requests for the following business day shall be received by Contractor by Noon. Inspection fee is Doubled for short request (based on availability & scheduling).

Change of Occupancy Inspection - \$50 each trip.

Non-Permit Inspection / Stop Work Notice - \$150 each trip.

Evaluations, Meeting Attendance, Special Requests - \$200 first hour and \$50 for each additional quarter hour on site and \$100 per hour for report preparation unless otherwise agreed upon by all parties.

Plan Reviews – 75% of the Plan Review Fee (one-half of Building Permit Fee) collected by City or as may be individually negotiated.

Permit Entry in Community Core – one-half of Base Fee (standard is \$50) (based on availability & scheduling).

CommunityCore and/or Permit Technician Training - \$50 per hour (based on availability & scheduling).

Montgomery City Council
AGENDA REPORT

Meeting Date: October 11, 2022	Budgeted Amount: N/A
Department: Admin	Prepared By: Dave McCorquodale

Subject

Consideration and possible action on: AN ORDINANCE BY THE CITY OF MONTGOMERY TEXAS, DENYING ENTERGY TEXAS INC, STATEMENT OF INTENT AND APPLICATION FOR AUTHORITY TO CHANGE RATES FILED ON JULY 1, 2022; FINDING THAT THE MEETING COMPLIES WITH THE OPEN MEETINGS ACT; MAKING OTHER FINDINGS AND PROVISIONS RELATED TO THE SUBJECT; AND DECLARING AN EFFECTIVE DATE.

Recommendation

Motion to adopt the Ordinance as presented.

Discussion

You will recall previous discussion and actions on the rate increase proposed by Entergy and that the City is part of a coalition of cities represented by The Lawton Law Firm to contest the proposed rates at the Public Utility Commission. As a recap of previous actions:

- 7/12/22: Ordinance suspending the Rate increase effective date for an additional 90 days beyond August 5th proposed effective date
- 9/13/22: Ordinance denying increase in the Distribution Cost Recovery Factor

Tonight’s action is a denial of Entergy’s proposed rate.

Approved By

		Date:
Interim City Administrator	Dave McCorquodale	Date: 10/07/2022

THE LAWTON LAW FIRM, P.C.

12600 Hill Country Blvd., Suite R-275 • Austin, Texas 78738 • 512/322-0019 • 512/329-2604

September 27, 2022

Via E-Mail

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City of Cut and Shoot
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Cut and Shoot, Texas 77306

Amy L. Wade
City Secretary – City of Cut and Shoot
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Cut and Shoot, Texas 77306

Mr. Jeff Lambright
Mayor – City of Dayton
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Dayton, Texas 77535

Mr. Steve Floyd
City Manager – City of Dayton
117 Cook Street
Dayton, Texas 77535

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Liberty, Texas 77575

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Beaumont, Texas 77702

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City Manager – City of Sour Lake
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Sour Lake, Texas 77959

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City Attorney Leonard Schneider
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City Manager - City of Vidor
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Vidor, Texas 77662-3726

Mr. Chris Leavins
City Attorney – City of Vidor
City Attorney – City of West Orange
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Beaumont, Texas 77704-4915

Mayor Randy Branch
Mayor – City of West Orange
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West Orange, TX 77630

Mr. Michael S. Stelly
City of West Orange, Texas
2700 Austin Avenue
West Orange, TX 77630

Ms. Marissa Quintanilla
City Secretary – City of Willis
200 N. Bell
Willis, Texas 77378

Re: **Entergy Texas, Inc.’s 2022 Statement of Intent to Increase Base Rates: Cities Consultants’ Initial Report**

Dear Cities:

On or about July 1, 2022, Entergy Texas, Inc. (“ETI” or “Company”) filed a Statement of Intent and Application for Authority to Change Rates (Application”). ETI’s Application was filed with the municipal regulatory authorities that have original ratemaking jurisdiction over the Company’s electric rates. The Company also concurrently filed an Application with the Public Utility Commission of Texas (“PUCT” or “Commission”) for areas outside the Cities’ original jurisdiction.

ETI’s rate increase proposal included an effective date of August 5, 2022, for the proposed rate increase to customers. Each of the Cities of the Steering Committee took action to suspend the Company’s proposed effective date for an additional 90 days until November 3, 2022. Now, the Cities must take final rate action prior to November 3, 2022. Based on the findings of the expert rate consultants retained to review ETI’s rate request, we recommend that the Cities pass the attached rate ordinance to deny ETI’s Application.

SUMMARY OF ENTERGY TEXAS, INC.’S RATE INCREASE APPLICATION AND REGULATORY CONSULTING EXPERT FINDINGS:

During the suspension period, the Lawton Law Firm hired four regulatory consultant firms, each with a different area of expertise to review a specific part of ETI’s request and to provide recommendations regarding the reasonableness of ETI’s rate request. These rate consultants

provided a summary of their findings, resulting in an overall finding and conclusion that the Company’s Application is unreasonable and should be denied.

The starting point of the analysis is the Company’s rate request, which is summarized in the following Table 1:

TABLE 1
ENTERGY TEXAS INC. RATE REQUEST
TEST YEAR 12 MONTHS ENDING DECEMBER 31, 2021

DESCRIPTION	PRESENT RATES	PROPOSED RATES	CHANGE
BASE REVENUE¹	\$890,124,234	\$1,219,024,749	\$328,900,515
RIDER REVENUE²	\$283,259,890	\$85,756,987	-\$197,502,903
TOTAL NON-FUEL REV.	\$1,173,384,124	\$1,304,781,736	\$131,397,612

As discussed in footnote 2, fuel costs are not included in Table 1. This case does not impact fuel cost charges and collections – as such – fuel costs are not included in the analysis. To summarize the rate increase in Table 1:

1. The current annual base (non-fuel) costs for customers is \$890,124,234.
2. ETI proposes that the annual base (non-fuel) costs for customers be increased to \$1,219,024,749 – a \$328,900,515 increase.
3. Customers are currently paying \$197,502,903 of interim rate riders related to distribution (DCRF), transmission (TCRF), and generation (GCRR) riders that will be rolled into in the (\$1,219,024,749) of proposed rates.³ This will bring the Company’s annual rider revenue down to \$85,756,987.
4. The net rate change over and above what customers are currently paying is an annual rate increase of about \$131,397,612.
5. If approved, Entergy’s base rate increase request would result in an average monthly increase of approximately \$13.50 for a residential customer using 1000 kWh per month.

¹ Base Revenues includes the rates and charges for operating the system and generating electricity such charges include O&M, depreciation, interest, taxes (including federal income tax), and authorized profits. Base revenues does not include either fuel costs (such as natural gas, coal, or nuclear fuel) to generate electricity or fuel cost associated with power purchases.

² Rider Revenues include the rates and charges associated with EECRF (conservation), Storm cost surcharges, Interim rates charges for added distribution, transmission and generation plant, and other surcharge riders.

³ The \$197,502,903 of interim rate riders related to distribution (DCRF), transmission (TCRF), and generation (GCRR) riders are subject to review for reasonableness in the case review. To date, experts have not identified any evidence that these costs are unreasonable.

CONSULTANT GROUPS

The four expert regulatory consultant groups retained for the case review are the same experts used in the past – as these experts are familiar with ETI and the Entergy companies in general, as well as the Texas regulatory process in particular. These experts and their areas of expertise are:

1. NOVA Consulting – shareholder profit, return on investment, and financial issues.
2. Garrett Group – Accounting, tax, and cost of service issues.
3. ReSolved Energy Consulting – Cost of service modeling, allocation, rate design, rate base investment issues.
4. Resolve Utility Consulting – Depreciation and amortization costs.

CONSULTANTS’ PRELIMINARY FINDINGS

Entergy filed its statement of intent on July 1, 2022. The Company requested an increase of approximately \$131.4 million, which represents an average 11.2% increase across all customer classes. Key drivers of the requested increase include:

1. **Capital Investment:** Since January 1, 2018, Entergy has closed to plant ~\$2.3 billion in capital additions, including the rebuilding of aging infrastructure and construction and recent placement in service of the Montgomery County Power Station. About \$1.7 billion of this amount is currently being collected through incremental riders such as the Distribution Cost Recovery Factor, the Transmission Cost Recovery Factor, and the Generation Cost Recovery Rider. A major part of the proceedings will be to reconcile the revenue collected under these riders and to shift the remaining capital investment into rate base.

Analyses to date indicate the Company’s capital investments were prudently constructed and managed. There are several capital investment adjustments the consultants are reviewing, but they are awaiting data in the discovery process.

2. **Depreciation:** Entergy is seeking approval of new depreciation rates based on a depreciation study it conducted in 2022. Entergy asserts that its requested depreciation rates will ensure that its capital investment is recovered over the time period that each of the underlying assets will be used to serve customers.

The Resolve Utility Consulting firm has concluded that the proposed depreciation level should be reduced by \$43.5 million annually. The majority of this proposed adjustment addresses the Company’s proposal to change service lives of steam production plant.

3. **Financial Integrity:** Entergy requests a 10.8% return on equity, which includes a 30-basis point adder for three areas in which the Company considers its

performance to be exemplary. First, Entergy will argue that its rates are low compared to peer utilities. Second, Entergy seeks recognition for completing the Montgomery County Power Station ahead of schedule and below budget. Finally, the Company intends to show that its storm response and restoration efforts following Hurricanes Laura and Delta were outstanding enough to merit an increased return on equity for its shareholders.

Entergy’s current return on equity is 9.65%, substantially below the 10.8% requested profit level. The NOVA Consulting Group’s preliminary findings on current shareholder profits show a 9.50% return on equity is appropriate rather than ETI’s requested 10.8% return on equity. NOVA Consulting Group also recommends excluding ETI’s proposal for a 30-basis point bonus for shareholders.

This proposed adjustment to reduce shareholder profit from 10.8% to 9.50% reduces the Company’s rate increase request by about \$37.2 million per year.

- 4. **Other Issues:** The experts continue to review and analyze other cost, tax, and tariff issues. These analyses will be completed for final expert testimony due at the Public Utility Commission on October 26, 2022.
- 5. **Summary:** A review of ETI’s \$131.4 million annual increase indicates the request is substantially overstated, requiring significant reductions to requested profit levels (-\$37.2 million) and depreciation recoveries (-\$43.5 million). While the accounting and other experts have not yet finalized their analyses, estimates of additional adjustments ranging from self-insurance reserve, payroll, other insurance costs, and other cost-of-service items indicate an additional \$25 million to \$40.0 million in adjustments to ETI’s request.

In conclusion, the consultants’ collective recommendations indicate that the Company’s rate increase request is not supported and should be denied.

Attached is a proposed rate ordinance for Cities to deny ETI’s Application. **This proposed ordinance must be passed by November 3, 2022. Please forward completed ordinances to us by email at danlawtonlawfirm@gmail.com and molly@mayhallvandervoort.com.**

If there are any questions or concerns, please do not hesitate to call.

Sincerely,

/s/ Daniel J. Lawton

ORDINANCE NO. _____

**AN ORDINANCE BY THE CITY OF _____,
TEXAS, DENYING ENTERGY TEXAS, INC.’S
STATEMENT OF INTENT AND APPLICATION FOR
AUTHORITY TO CHANGE RATES FILED ON JULY 1,
2022; FINDING THAT THE MEETING COMPLIES WITH
THE OPEN MEETINGS ACT; MAKING OTHER FINDINGS
AND PROVISIONS RELATED TO THE SUBJECT; AND
DECLARING AN EFFECTIVE DATE**

WHEREAS, on or about July 1, 2022, Entergy Texas, Inc. (“Entergy”) filed its Statement of Intent and Application for Authority to Change Rates with the City of _____ (“City”) to increase electric rates in the Entergy Service Area by approximately \$131.4 million per year; and

WHEREAS, Cities have exclusive original jurisdiction over the rates, operations and services of an electric utility in areas in the municipality pursuant to the Public Utility Regulatory Act §33.001(a); and

WHEREAS, Public Utility Regulatory Act § 33.021 requires a local regulatory authority to make a reasonable determination of rate base, expenses, investment and rate of return and retain the necessary personnel to determine reasonable rates; and

WHEREAS, the City of _____ suspended the effective date of Entergy’s rates within its jurisdictional limits until at least November 3, 2022, and hired the Lawton Law Firm, P.C. to review the Entergy’s rate change request and proposed tariffs; and

WHEREAS, the expert utility rate consultants retained to review the Entergy’s rate increase on behalf of the City proposed adjustments to Entergy’s requested profit levels, depreciation recoveries, and other cost of service items, and concluded that Entergy has not justified the need for a rate increase; and

WHEREAS, Entergy has failed to justify increasing the rates previously determined to be reasonable and necessary by this City and other Texas regulatory authorities; and

WHEREAS, the statutory deadline to act on Entergy’s rate increase request is November 3, 2022.

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

Section 1. That the statement and findings set out in the preamble to this Ordinance are hereby in all things approved and adopted.

Section 2. The City of _____ hereby denies the rate increase and proposed tariff revisions requested in Entergy’s Statement of Intent.

Section 3. Entergy is hereby Ordered to continue operating under its existing approved rates.

Section 4. The meeting at which this Ordinance was approved was in all things conducted in strict compliance with the Texas Open Meetings Act, Texas Government Code, Chapter 551.

Section 5. This ordinance shall become effective from and after its passage.

PASSED AND APPROVED this _____ day of _____, 2022.

ATTEST:
