

NOTICE OF PUBLIC HEARINGS and REGULAR MEETING

October 11, 2016

MONTGOMERY CITY COUNCIL

STATE OF TEXAS

AGENDA

COUNTY OF MONTGOMERY

CITY OF MONTGOMERY

NOTICE IS HEREBY GIVEN that Public Hearings and Regular Meeting of the Montgomery City Council will be held on Tuesday, October 11, 2016 at 6:00 p.m. at the City of Montgomery City Hall, 101 Old Plantersville Road, Montgomery, Texas for the purpose of considering the following:

CALL TO ORDER

INVOCATION

PLEDGE OF ALLEGIANCE TO FLAGS

PUBLIC HEARING:

Convene into Public Hearing:

1. Application for Alcohol Beverage Permit for Hodge Podge Lodge located at 300 Prairie Street, Montgomery, as submitted by Jeffrey S. Angelo, President, ZNZ Creative Services LLC d/b/a Hodge Podge Lodge and d/b/a HPL Hospitality; and
2. Application for Alcohol Beverage Permit for Whitley Vineyards, LLC located at 401 College Street, Suite 150, Montgomery, as submitted by Philip and Gina R. Whitley, Managing Members.

Reconvene into Regular Session:

VISITOR/CITIZENS FORUM:

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

CONSENT AGENDA:

3. Matters related to the approval of minutes for the Regular Meeting held on September 27, 2016.

CONSIDERATION AND POSSIBLE ACTION:

4. Consideration and possible action regarding adoption of the following Resolution:
IN RECOGNITION OF MUNICIPAL COURT WEEK, NOVEMBER 7-11, 2016. A RESOLUTION RECOGNIZING THE IMPORTANCE OF MUNICIPAL COURTS, THE RULE OF LAW, AND THE FAIR AND IMPARTIAL ADMINISTRATION OF JUSTICE.

5. Consideration and possible action regarding approval of an Application for Alcohol Beverage Permit for Whitley Vineyards, LLC located at 401 College Street, Suite 150, Montgomery, as submitted by Phillip and Gina R. Whitley, Managing Members.
6. Consideration and possible action regarding approval of the following Resolution:
A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF MONTGOMERY APPROVING A VARIANCE TO THE 300-FOOT DISTANCE REQUIREMENT FOR AN ALCHOL BEVERAGE PERMIT FOR THE HODGE PODGE LODGE LOCATED AT 300 PRAIRIE STREET AND APPROVING THE PERMIT.
7. Consideration and possible action regarding renewal of a Special Use Permit to sell firewood to Ms. Margaret Tate and Mr. Lewis Johnson at 14586 Liberty Street, Montgomery, Texas.
8. Consideration and possible action regarding proposed revisions to previously City approved construction drawings for West Side at the Park development.
9. Consideration and possible action regarding City Council Meeting schedule for November and December, 2016.

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. *(No items at this time.)*

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 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

(SEAL)



Susan Hensley, City Secretary

I certify that the attached notice of meeting was posted on the bulletin board at City of Montgomery City Hall, 101 Old Plantersville Road, Montgomery, Texas, on the 7th day of October 2016 at 4:20 o'clock p.m. I further certify that the following news media was notified of this meeting as stated above: The Courier

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.

Montgomery City Council
AGENDA REPORT

ITEM #1

Meeting Date: October 11, 2016	Budgeted Amount: N/A
Department:	
Prepared By: Jack Yates	Exhibits: Application, variance request for 300-foot distance requirement, letter from MISD,
Date Prepared: October 6, 2016	<i>variance language from state law</i>

Subject

Public hearing regarding alcoholic beverage permit for Hodge Podge Lodge at 300 Prairie St.

Discussion

This is for public comment, Council comments should be few, if any.

Recommendation

Listen and consider the public comment.

Approved By

Department Manager		Date:
City Administrator	Jack Yates	Date: October 6, 2016

RESOLUTION NO. _____

A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF MONTGOMERY APPROVING A VARIANCE TO THE 300-FOOT DISTANCE REQUIREMENT FOR AN ALCHOL BEVERAGE PERMIT FOR THE HODGE PODGE LODGE LOCATED AT 300 PRAIRIE STREET AND APPROVING THE PERMIT.

WHEREAS, the City Council for the City of Montgomery has received an Application for an Alcohol Beverage Permit from Jeffry S. Angelo, ZNZ Creative Services LLC, dba Hodge Podge Lodge and dba HPL Hospitality; and

WHEREAS, the City Council finds that the Hodge Podge Lodge, which was originally known as “Melrose,” is a historic pre-Civil War property that has been serving the City of Montgomery as a venue for community social events for over 100 years; and

WHEREAS, it appears that the property line of the Hodge Podge Lodge is located within 300 feet of the property line of the public Montgomery Elementary School; and

WHEREAS, there are plans by the Montgomery Independent School District to close the elementary school in the next year; and

WHEREAS, the principal of the elementary school has submitted a letter offering no objection to the issuance of an alcohol beverage permit for the Hodge Podge Lodge; and

WHEREAS, a public hearing was held on October 11, 2016, to hear public comment concerning the Application by the Hodge Podge Lodge; and

WHEREAS, the City Council finds that the distance between the Hodge Podge Lodge and the public school building is over 300 feet; and

WHEREAS, Section 109.33(e) of the Texas Alcoholic Beverage Code (“Code”) permits a city council to grant a variance to the 300-foot distance requirements found in Section 109.33(b) of the Code if the city council determines that the strict enforcement of the distance requirements does not serve the public interest and is not effective or necessary after considering the health, safety and welfare of the public and the equities of the situation; and

WHEREAS, the City Council finds that the enforcement of the 300-foot distance between the property lines of the Hodge Podge Lodge and the elementary school is not in the best interest of the public; creates an undue hardship on the Hodge Podge Lodge permit applicant; and does not serve its intended purpose of protecting the health, safety and welfare of the children in the public school given the facts and equities of the situation;

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

SECTION 1. The City of Montgomery hereby adopts and incorporates the above findings as true and correct.

SECTION 2. The City Council hereby grants a variance to the 300-foot distance requirement set out in Section 109.33(b) of the Texas Alcoholic Beverage Code and approves the Application for an Alcohol Beverage Permit for the Hodge Podge Lodge located at 300 Prairie Street, Montgomery, Texas.

SECTION 3. It is hereby officially found and determined that the meeting at which this Resolution was considered was open to the public as required and that the public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code.

PASSED AND APPROVED this _____ day of October 2016.

CITY OF MONTGOMERY, TEXAS

Kirk Jones, Mayor

ATTEST:

Susan Hensley, City Secretary

APPROVED AS TO FORM:

Larry L. Foerster, City Attorney

Montgomery Independent School District

13159 Walden Road
P.O. Box 1475 Montgomery, TX 77356
Telephone: (936) 276-2000

Beau Rees, Ed.D.
Superintendent

Bobby Morris
Chief Operating Officer

Sharon Fields
Chief Financial Officer

September 28, 2016

Hodge Podge Lodge
c/o Jeff S. Angelo
300 Prairie St
Montgomery, TX 77356

Mr. Angelo,

Montgomery ISD is aware that Hodge Podge Lodge has applied for a license to sell beer and wine. While this location is currently adjacent to Montgomery Elementary School, the school district has no intent to protest the application. This is the last year Montgomery Elementary School will be located at this site. It will be relocating to the Middle School Campus next year. The Montgomery Elementary School Building will become the school district's Central Administrative Offices. Since Montgomery Elementary will be repurposed into District Offices and no children will attend the school regularly, MISD has no issue with Hodge Podge Lodge selling beer and wine at its location, which is adjacent to school property.

Thank you for your time and consideration. The School District wishes you the best of luck in your business endeavor.

Sincerely,



Beau Rees
Montgomery ISD Superintendent

Sec. 6-37. - Application.

- (a) Written application for the sale of alcoholic beverages shall be made on forms provided by the city and filed with the city secretary. Such application shall be signed by the actual lessee or intended operator of the business for which the license is sought. The owner of the property must file a written consent to the application, unless the owner is making the application. Every such application shall contain the following:
- (1) An adequate legal description of the property for which license is sought, either by lot and block number or by a metes and bound description.
 - (2) The exact nature of the business to be operated must be fully described.
 - (3) A plat of the property must be attached to the application showing the improvements, parking areas, and location of signs and other structures on the property and within 300 feet to scale.
 - (4) A description of signs and the hours they will be operated.
 - (5) A floor plan of the building in which the business is to be conducted must be attached to the application, showing fixtures, furniture, restrooms, kitchen and other equipment.
 - (6) A statement giving the names, addresses and interests of all persons having a direct or indirect financial interest in the property and the business to be conducted.
 - (7) A verified statement must be attached to the application stating that the building is not within 300 feet of a church, school or hospital and that the building is in compliance with the requirements of this chapter for separate and adequate toilet facilities for men and women, if used for on-premises consumption of beer, liquor or wine.
- (b) A filing fee as fixed by TABC to defray the expenses of processing an application filed under this article must be paid when the application is filed.

(Ord. No. 1989-2, § 3(d), (f), 2-14-1989)

State law reference— Local fee authorized, V.T.C.A., Alcoholic Beverage Code § 61.36.

Sec. 6-39. - Public hearing; reapplication.

After all the requirements for license application under the provisions of this article have been met, a public hearing shall be scheduled by the city clerk at a regular meeting of the city council, with at least ten days' advance written notice to be mailed to all owners of property within 200 feet of the property in question, informing them of the time and place of holding the public hearing. Such notice shall be mailed to owners as shown on the last approved tax roll of the city. If the application is not approved by the city council, no new application may be filed for a period of one year from the date of the public hearing on the original application, unless the city council shall determine that conditions have so changed that an earlier hearing would be justified.

(Ord. No. 1989-2, § 3(h), 2-14-1989)

Sec. 6-38. - Grounds for denial.

- (a) No application under this article shall be approved:
- (1) If the applicant or application does not meet all requirements of the ordinances of the city.
 - (2) If the granting of such application shall increase the number of alcoholic beverage establishments to more than five in any one block, a block to be defined as being from intersection to intersection on both sides of the street.
 - (3) If the applicant shall owe any delinquent taxes to the city.
 - (4) If applicant has not already fulfilled all county and state requirements.
- (b) As used in this section, the term "applicant" shall mean and include each member of a partnership or association and all officers and the owner or owners of the majority of the corporate stock of a corporation and the manager of such business for a corporation.

(Ord. No. 1989-2, § 3(g), 2-14-1989)

Sec. 6-2. - Applicability of Texas Alcoholic Beverage Code and state and county regulations.

The provisions of this chapter shall be considered concurrent with or in addition to the Texas Alcoholic Beverage Code, and, where a conflict may be found to exist, the provisions of the Texas Alcoholic Beverage Code shall apply. Applicants for a city alcoholic beverage license must comply with all applicable state and county codes and regulations as well as the requirements of this chapter.

(Ord. No. 1989-2, § 22, 2-14-1989)



City of Montgomery
Alcohol Beverage
License Application

City of Montgomery, Texas
P.O. Box 708
Montgomery, Texas 77358
936-597-3288
www.montgomerytexas.gov

APPLICATION FOR THE SALE OF ALCOHOLIC BEVERAGE LICENSE

Date Received by the City: 08/30/16

1. Type of Alcoholic Beverage License:

- (1) Category A - Off Premises Consumption Sale of All Alcoholic Beverages - Package Store
(2) Category B - Off Premises Consumption Sale of Wine, Beer or Ale.
(3) Category C - Off Premises Consumption Sale of Beer.
X (4) Category D - On Premises Consumption Sale of Beer, Wine and Mixed beverages - Restaurant or Cafe, where the sale of beer, wine and mixed beverage on the premises would be incidental to the restaurant or cafe.
(5) Category E - On Premises Consumption Sale of Beer, Wine and Mixed beverages - Tavern, Lounge, or Bar. The sale of Beer, Wine and Mixed beverages for On-Premises Consumption being the principal business line.
(6) Category F - Warehouse storage of Beer, Wine or Liquor for Distributors - No sale of Beer for on or Off-Premises Consumption permitted on the Premises.

- 2. Legal Description of the property for which License is sought. (Either by Lot and Block number or by a Metes and Bounds Description: Lot One (1), in Block One (1), of MELROSE PLACE, a Subdivision in Montgomery County, Texas, according to the Map or Plat thereof recorded in Cabinet "K", Sheet 88 of the Map Records of Montgomery County, Texas.
3. Exact Nature of the Business to be operated. (Must be fully described). HPL Hospitality will compliment Hodge Podge Lodge with a small restaurant and catering services on-site for weddings and corporate events.
4. Attach a Plat of the property to the Application showing the improvements, parking areas, location of signage and other structures on the property and within three hundred (300) feet to scale. (SEE ATTACHED)
5. Description of signs and the hours they will be operated to be attached as a separate document. Sign is already present at 300 Prairie and Caroline. It will have The Eatery @ HPL hours added to it.
6. Attach floor plan of the building in which the business is to be conducted (showing fixtures, furniture, restrooms, kitchen and other equipment). (SEE ATTACHED)
7. Attach a verified statement stating that the building is not within three hundred (300) feet of a church, school or hospital and that the building is in compliance with the requirements of this chapter for separate and adequate toilet facilities for men and women if used for on-premises consumption of beer, liquor or wine. This can be included in cover letter.
8. Business Owner: ZNZ Creative Services LLC | Jeffrey S Angelo, President Phone: 832-256-5555
Address: 19996 Crescent Ct. Montgomery TX 77356
Home Address: SAME Phone: SAME
Check if you are leasing property: []
9. Land Owner: Jeffrey S Angelo & Mistie A Angelo Irrevocable Trust Phone: 832-256-5555
Address: 19996 Crescent Ct. Montgomery TX 77356
10. Business Partners: Phone:
Address:
Home Address: Phone:

This is to certify that I, Jeffrey S Angelo have complied with all State, County, Codes and Regulations of the City of Montgomery, Texas.

Business Owner and/or Lessee or Partner if Applicable

August 30, 2016



City of Montgomery

To Whom It May concern:

Hodge Podge Lodge (HPL) both the property, bed and breakfast, and the wedding/events business has been sold to Jeffrey and Mistle Angelo. The closing on all property is to take place September 6, 2016. The goal for HPL is to add HPL Hospitality as a service to clients booking wedding and events. This service will provide a boutique type breakfast and lunch restaurant (The Eatery @ HPL) along with catering services to all events. Beer and wine are scheduled to be including as a part of these offerings.

HPL Hospitality (The Eatery@ HPL) will be open Tuesday – Friday 8 AM – 3 PM – Closed on Monday's

HPL Catering will be open all hours in compliance with local and state liquor laws.

The Building located at 300 Prairie Rd (Lot One (1), in Block One (1), of MELROSE PLACE, a Subdivision in Montgomery County, Texas) is not located within 300 feet of a church, school or hospital and the building is in compliance with the requirements of the chapter for separate and adequate toilet facilities for men and women when conducting on-premise consumption of beer, liquor or wine.

Thank you for your consideration in approving this permit application.

Sincerely,



Jeffrey S. Angelo, President

ZNZ Creative Services d/b/a Hodge Podge Lodge | d/b/a HPL Hospitality

Hodge Podge Lodge and HPL Hospitality are located 1391 feet from the entrance of the nearest school.

Google Maps interface showing a street view of a school entrance. The map includes a search bar at the top with the text "Hodge Podge Lodge and HPL Hospitality are located 1391 feet from the entrance of the nearest school." Below the search bar, there are navigation controls and a "START DOWNLOAD" button. A distance indicator shows "1391.904 Feet". The map itself shows a street with a school building on the left and a parking lot with several cars on the right. The school building has a sign that reads "Hodge Podge Lodge and HPL Hospitality".

Google Maps interface showing a street view of a school entrance. The map includes a search bar at the top with the text "Hodge Podge Lodge and HPL Hospitality are located 1391 feet from the entrance of the nearest school." Below the search bar, there are navigation controls and a "START DOWNLOAD" button. A distance indicator shows "1391.904 Feet". The map itself shows a street with a school building on the left and a parking lot with several cars on the right. The school building has a sign that reads "Hodge Podge Lodge and HPL Hospitality".

Property owners within 200 feet of property line.

HAIK, MAC TRUSTEE
11757 KATY FWY #STE 1500 HOUSTON, TX 77079-1727
Parcel Number: R264054

GRAVESMITH GROUP LLC
1700 NORMAL PARK DR HUNTSVILLE, TX 77340-4233
Parcel Number: R317454

KRG KINGWOOD LLC
% KITE REALTY GROUP 30 S MERIDIAN STE 1100 INDIANAPOLIS, IN 46204-3565
Parcel Number: R313669

HOCKLEY, JOE C
PO BOX 393 MONTGOMERY, TX 77356-0393
Parcel Number: R123985

CRONIN, THOMAS F
14340 LIBERTY ST MONTGOMERY, TX 77356-4624
Parcel Number: R123945

KNIGHTS INSPECTION SERVICES LLC
213 PRAIRIE ST MONTGOMERY, TX 77356
Parcel Number: R123944

MONTGOMERY COUNTY ESD#2
1400 S LOOP 336 W CONROE, TX 77304-3317
Parcel Number: R123943

BROSCH, DEBORAH PEEL
303 MASON ST MONTGOMERY, TX 77356-4440
Parcel Number: R123942

BROSCH, DEBORAH PEEL
303 MASON ST MONTGOMERY, TX 77356-4440
Parcel Number: R123941

MARKS, MILES E
PO BOX 79642 HOUSTON, TX 77279-9642
Parcel Number: R31365

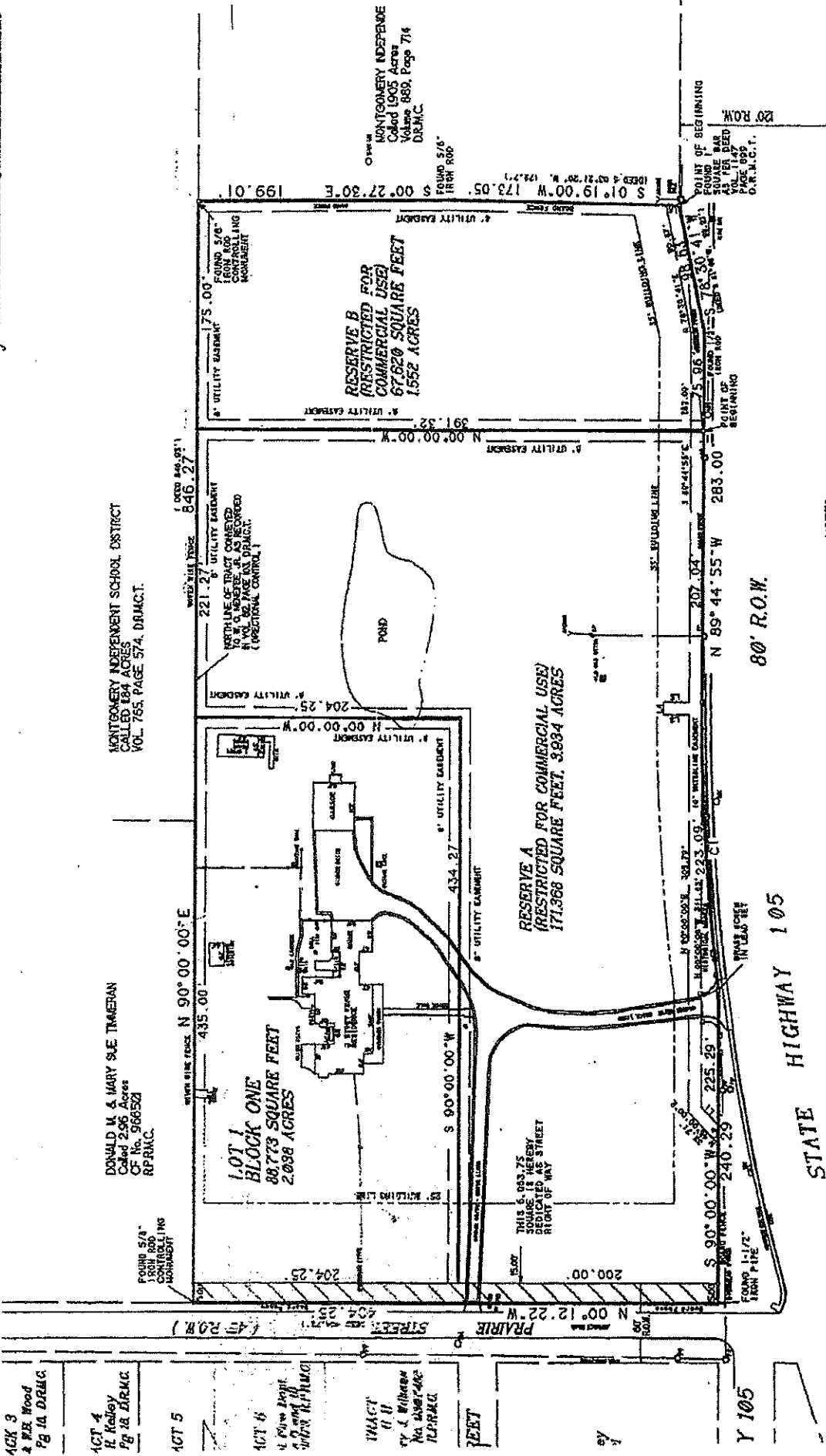
Sheet 88 of record of Maps for said County.

WITNESS MY HAND AND SEAL OF OFFICE at Conroe, Montgomery County, Texas, the day and date last above written.

Mark Turnbull, Clerk County Court
Montgomery County, Texas

By Mal F. Hall

KITTY A. CELENZA
NOTARY PUBLIC, STATE OF TEXAS
MY COMMISSION EXPIRES
SEPT. 9, 2001



NOTES:
 1) BEARS OF BEARING IS THE NORTH LINE
 OF DEED RECORDED IN VOL. 882 PG. 103, D.R.M.C.
 2) NO EASEMENT OF RECORD FOUND
 FOR POWER LINE ALONG TRACT 2

ACT 3
A. W. Wood
Pg. 14, D.R.M.C.

ACT 4
R. Kelley
Pg. 18, D.R.M.C.

ACT 5

ACT 6
J. W. Wood
Pg. 20, D.R.M.C.

WITNESS
M. F. Hall
Notary Public
D.R.M.C.

FEET

Y 105

Approved
10-8-10
[Signature]

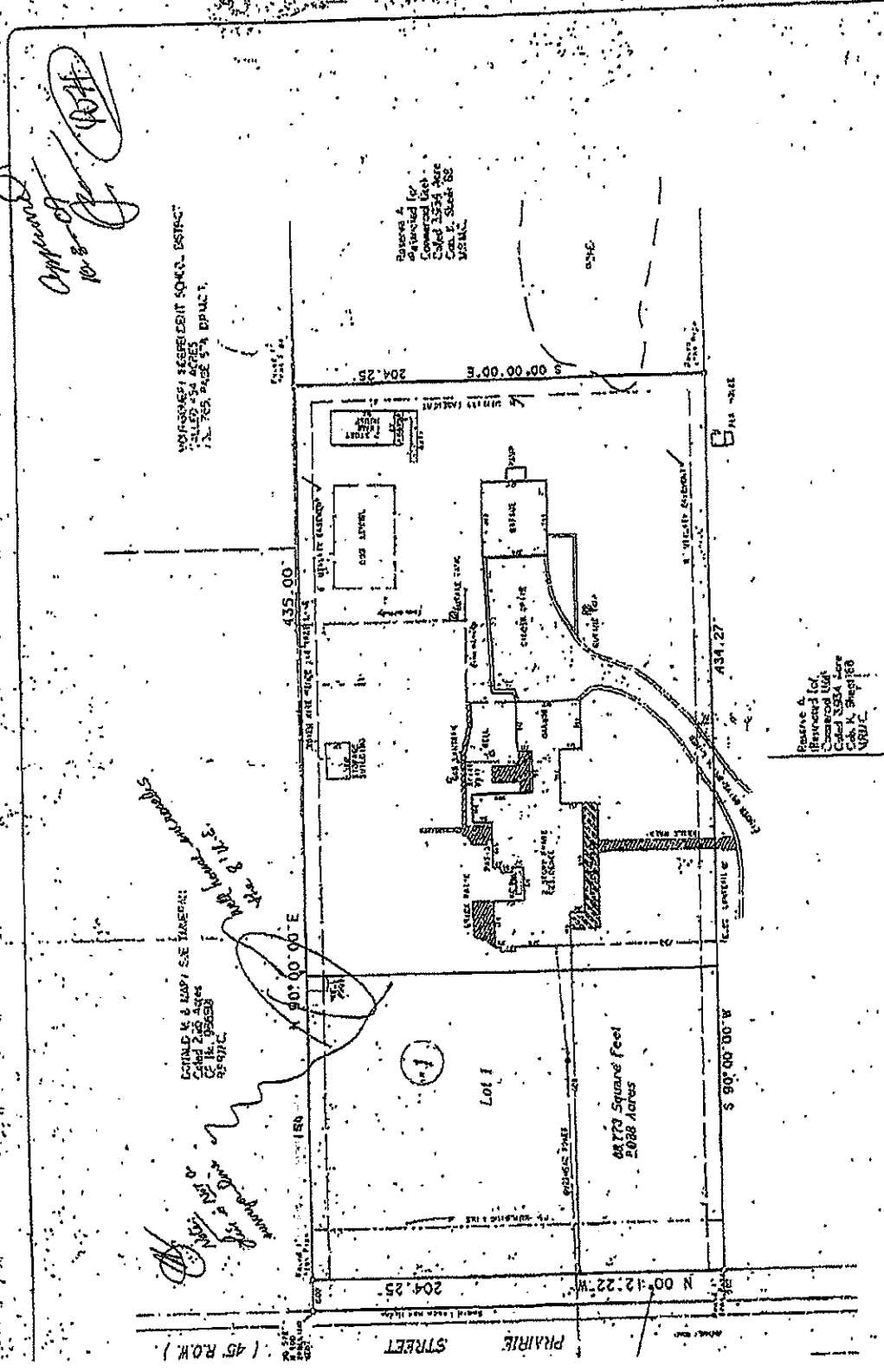
WOLFMEYER RESIDENT SCHOOL DISTRICT
 CALLED 5.34 ACRES
 T.S. 765 PAGE 54, EXHIBIT.

Reserve 4
 Reserved for
 Community Use
 Called 13.54 Acres
 C.R. 1, Sheet 82
 M.S.M.C.

Supplemental plat
See 8, 11, 2
 CONRAD N. & MARY E. MAERZ
 CALLED 2.25 ACRES
 C.R. 11, 1955B
 55-071C

[Signature]
Surveyor

Reserve 4
 Reserved for
 Community Use
 Called 13.54 Acres
 C.R. 1, Sheet 82
 M.S.M.C.



PRAIRIE STREET (45' R.O.W.)

N 00° 12' 22\"/>

A 90° 00' 00\"/>

4873 Square Feet
 2.088 Acres

Lot 1

A 90° 00' 00\"/>

A 135° 00' 00\"/>

A 204° 25' 00\"/>

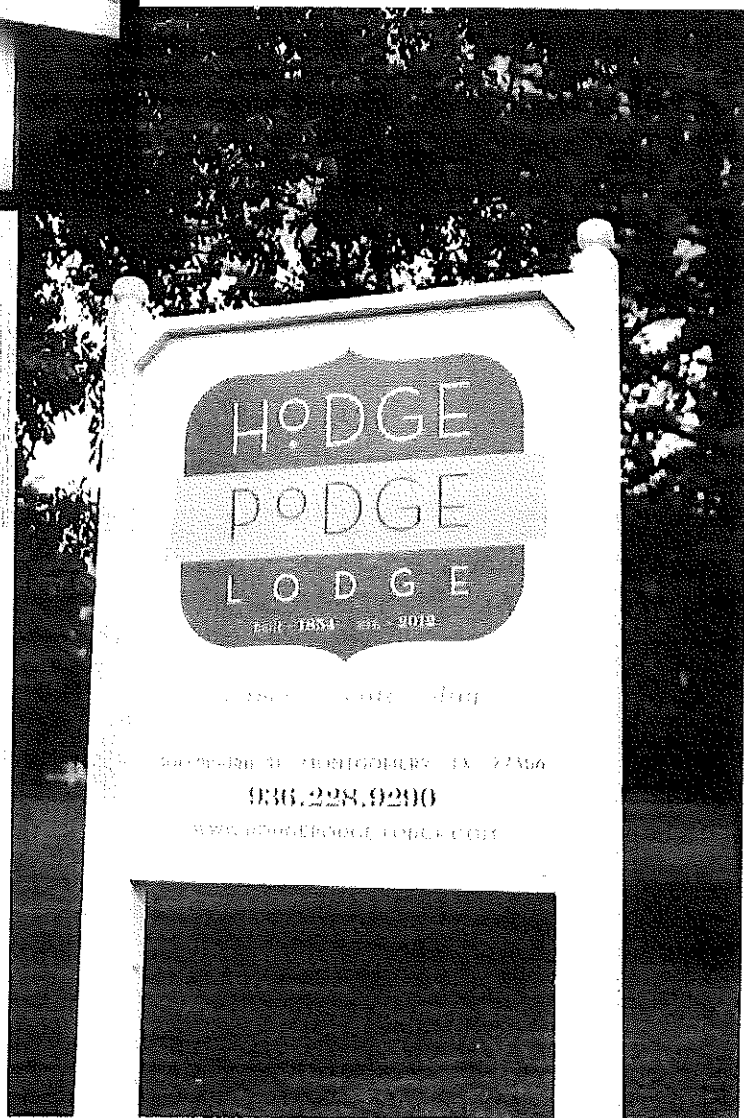
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A 434° 27' 00\"/>

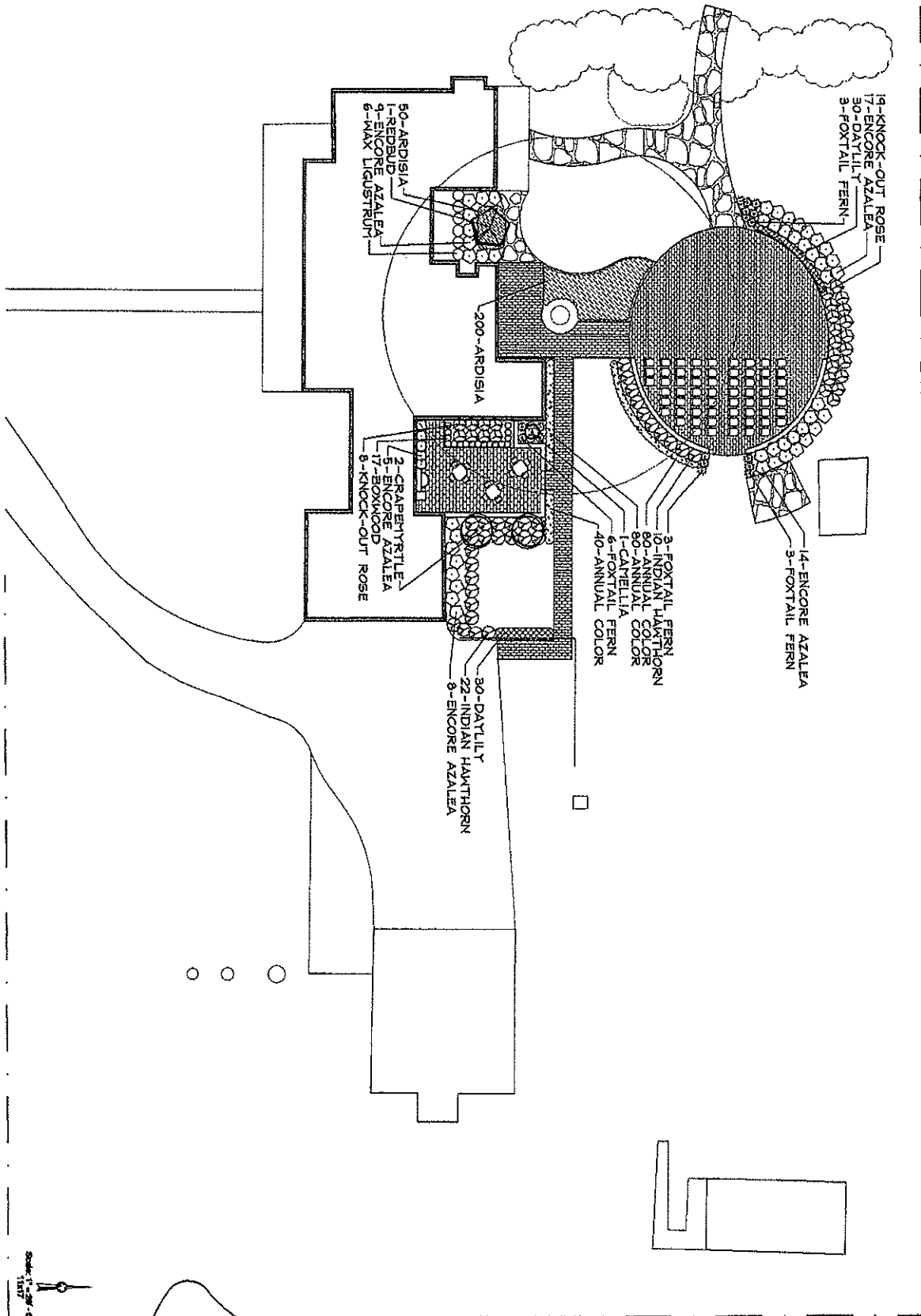
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A 204° 25' 00\"/>

Signs



Anna H. Hodge

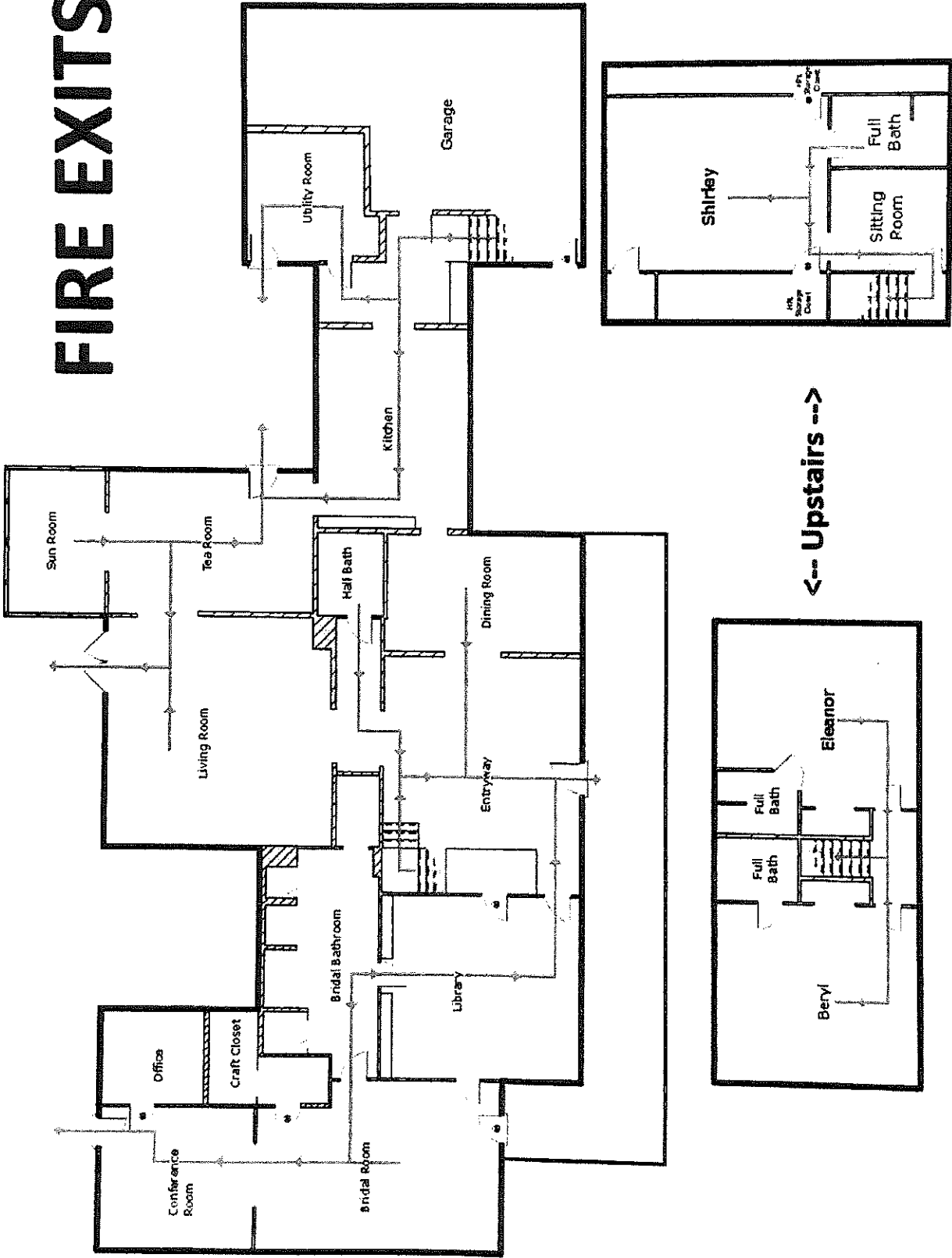


DATE	12/11/17
PROJECT	300 PRAIRIE
CLIENT	OUTDOOR DEVELOPMENT
DESIGNER	DAVID W. BROWN
REVISIONS	
Landscape Plan	
L-2	

300 PRAIRIE
 Landscape Improvements
 Montgomery, TX

OUTDOOR DEVELOPMENT
 Creating Landscape Experiences
 The Entrance Stage
 2610 Jordan Road
 Houston, TX 77058
 Call 646-6868
 www.outdoordevelopment.com

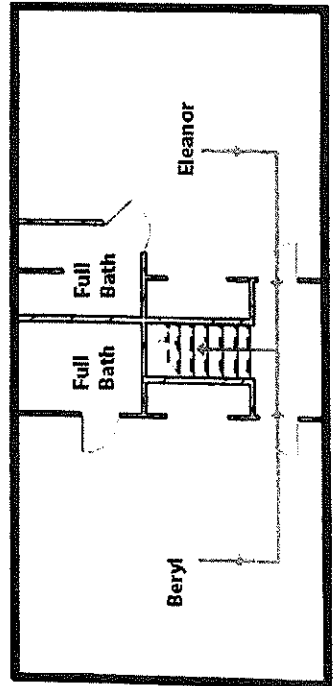
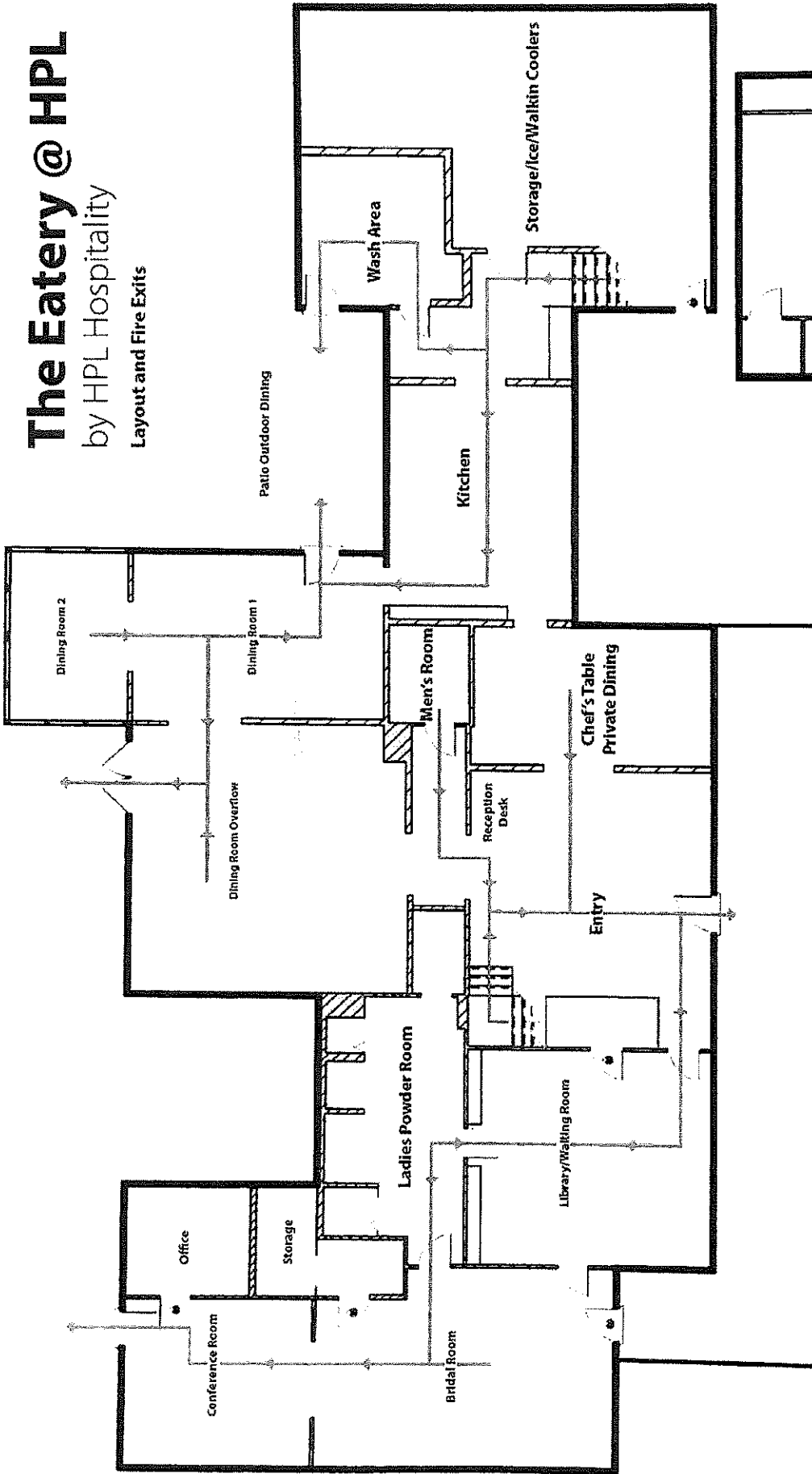
FIRE EXITS



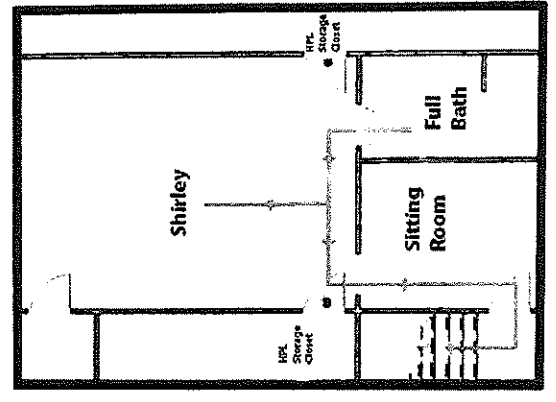
The Eatery @ HPL

by HPL Hospitality

Layout and Fire Exits



← Upstairs →





ON-PREMISE PREQUALIFICATION PACKET

L-ON
(01/2016)

Submit this packet to the proper governmental entities to obtain certification for the type of license/permit for which you are applying as required by Sections 11.37, 11.39, 11.46(b), 61.37, 61.38, 61.42 and Rule §33.13

Contact your local TABC office to verify requirements of Sections 11.391 and 61.381 as you may be required to post a sign at your proposed location 60-days prior to the issuance of your license/permit.

All statutory and rule references mentioned in this application refer to and can be found in the Texas Alcoholic Beverage Code or Rules located on our website. www.tabc.texas.gov/laws/code_and_rules.asp

LOCATION INFORMATION

1. Application for: Original Add Late Hours Only License/Permit Number _____

Reinstatement License/Permit Number _____

Change of Licensed Location License/Permit Number _____

2. Type of On-Premise License/Permit

BG Wine and Beer Retailer's Permit **LB** Mixed Beverage Late Hours Permit

BE Beer Retail Dealer's On-Premise License **MI** Minibar Permit

BL Retail Dealer's On-Premise Late Hours License **CB** Caterer's Permit

BP Brewpub License **FB** Food and Beverage Certificate

V Wine & Beer Retailer's Permit for Excursion Boats **PE** Beverage Cartage Permit

Y Wine & Beer Retailer's Permit for Railway Dining Car **RM** Mixed Beverage Restaurant Permit with FB

MB Mixed Beverage Permit

O Private Carrier's Permit - For Brewpubs (BP) with a BG only

3. Indicate Primary Business at this Location

Restaurant Sporting Arena, Civic Center, Hotel

Bar Grocery/Market

Sexually Oriented Miscellaneous VENUE

4. Trade Name of Location
HPL HOSPITALITY

5. Location Address
300 PRAIRIE ST

City MONTGOMERY	County Montgomery	State TX	Zip Code 77356
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6. Mailing Address 300 PRAIRIE ST	City Montgomery	State TX	Zip Code 77356
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7. Business Phone No. (832) 256 - 5555	Alternate Phone No. (832) 256 - 5555	E-mail Address JEFFRYANGELO@OUTLOOK.COM
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OWNER INFORMATION

8. Type of Owner

Individual Corporation City/County/University

Partnership Limited Liability Company Other _____

Limited Partnership Joint Venture

Limited Liability Partnership Trust

9. Business Owner/Applicant
ZNS Creative Services LLC

10. As indicated on the chart, enter the individuals that pertain to your business type:
(For additional space, use Form L-OIC)

Individual/Individual Owner	Limited Liability Company/All Officers or Managers		
Partnership/All Partners	Joint Venture/Venturers		
Limited Partnership/All General Partners	Trust/Trustee(s)		
Corporation/All Officers	City, County, University/Official		
Last Name Angelo	First Name Jeffry	MI S	Title President
Last Name	First Name	MI	Title
Last Name	First Name	MI	Title

MEASUREMENT INFORMATION
 Section 109.31 et seq

11. Will your business be located within 300 feet of a church or public hospital? Yes No

NOTE: For churches or public hospitals measure from front door to front door, along the property lines of the street fronts and in a direct line across intersections.

12. Will your business be located within 300 feet of any private/public school, day care center or child care facility? Yes No
 If "YES," are the facilities located on different floors or stories of the building? Yes No

NOTE: For private/public schools, day care centers and child care facilities measure in a direct line from the nearest property line of the school, day care center or child care facility to the nearest property line of the place of business, and in a direct line across intersections.

NOTE: For multistory building: businesses may be within 300 feet of a day care center or child care facility as long as the facilities are located on different floors of the building.

NOTE: If located on or above the fifth story of a multistory building: measure in a direct line from the property line of the private/public school to property line of your place of business in a direct line across intersections vertically up the building at the property line to the base of the floor on which your business is located.

13. Will your business be located within 1,000 feet of a private school? Yes No

14. Will your business be located within 1,000 feet of a public school? Yes No

60-DAY SIGN

15. As required under Section 11.391 and 61.381, enter the exact date the 60-Day sign was posted at your location. Exact Date (mm/dd/yyyy)
 8- /-2016 /


ALL APPLICANTS

16. IF YOUR LOCATION IS NOT WITHIN THE CITY LIMITS, CHECK HERE
 I, the applicant, have confirmed I am not located in the city limits of any city and therefore all city certificates are not required.

WARNING AND SIGNATURE	IF APPLICANT IS SHOWN AS:	WHO MUST SIGN:
	Proprietorship	Individual Owner
	Partnership	Partner
	Corporation	Officer
	Limited Partnership	General Partner
	Limited Liability Partnership	General Partner
Limited Liability Company	Officer/Manager	


WARNING: Section 101.69 of the Texas Alcoholic Beverage Code states: "...a person who makes a false statement or false representation in an application for a permit or license or in a statement, report, or other instrument to be filed with the Commission and required to be sworn commits an offense punishable by imprisonment in the Texas Department of Criminal Justice for not less than 2 nor more than 10 years."

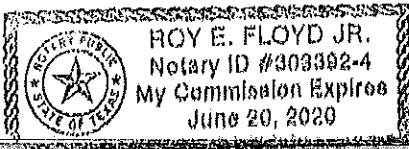
I, UNDER PENALTY OF LAW, HEREBY SWEAR THAT I HAVE READ ALL THE INFORMATION PROVIDED IN THE APPLICATION AND ANY ATTACHMENTS AND THE INFORMATION IS TRUE AND CORRECT. I ALSO UNDERSTAND ANY FALSE STATEMENT OR REPRESENTATION IN THIS APPLICATION CAN RESULT IN MY APPLICATION BEING DENIED AND/OR CRIMINAL CHARGES FILED AGAINST ME. I ALSO AUTHORIZE THE TEXAS ALCOHOLIC BEVERAGE COMMISSION TO USE ALL LEGAL MEANS TO VERIFY THE INFORMATION PROVIDED.

PRINT NAME Jeffry S Angelo SIGN HERE 

TITLE President

Before me, the undersigned authority, on this 19th day of AUGUST, 2016, the person whose name is signed to the foregoing application personally appeared and duly sworn by me, states under oath that he or she has read the said application and that all the facts therein set forth are true and correct.

SIGN HERE 
NOTARY PUBLIC



SEAL

CERTIFICATE OF CITY SECRETARY (FOR MB, RM, V & Y)

Section 11.37

I hereby certify on this _____ day of _____, 20____, that the location for which the license/permit is sought is inside the boundaries of this city or town, in a "wet" area for such license/permit, and not prohibited by charter or ordinance in reference to the sale of such alcoholic beverages.

SIGN HERE _____, TEXAS
City Secretary/Clerk City

SEAL

CERTIFICATE OF CITY SECRETARY (FOR BG & BE)

Section 11.37 & 61.37

I hereby certify on this _____ day of _____, 20____, that the location for which the license/permit is sought is inside the boundaries of this city or town, in a "wet" area for such license/permit, and not prohibited by charter or ordinance in reference to the sale of such alcoholic beverages.

Election for given location was held for:

- legal sale of all alcoholic beverages
- legal sale of all alcoholic beverages except mixed beverages
- legal sale of all alcoholic beverages including mixed beverages
- legal sale of beer/wine (17%) on-premise **AFTER** Sept. 1, 1999
- legal sale of beer/wine (14%) on-premise **BEFORE** Sept. 1, 1999

OR IF ABOVE DOES NOT APPLY:

Be advised the location must have had two election passages per Section 25.14 or Section 69.17 of the TABC Code. One for beer and wine off-premise and one for mixed beverage.

- legal sale of beer and wine for off-premise consumption only

AND EITHER:

- legal sale of mixed beverages

OR

- legal sale of mixed beverages in restaurants by food and beverage certificate holders (applicant must apply for FB with BG and BE)

SIGN HERE _____, TEXAS
City Secretary/Clerk City

SEAL

**CERTIFICATE OF CITY SECRETARY FOR LATE HOURS LICENSE/PERMIT
(LB & BL)**

Chapters 29 & 70 et seq.

I hereby certify on this _____ day of _____, 20____, that one of the below is correct:

- The governing body of this city has by ordinance authorized the sale of *mixed beverages* between midnight and 2:00 A.M.; or
- The governing body of this city has by ordinance authorized the sale of *beer* between midnight and _____ A.M.; or
- The population of the city or county where premises are located was 500,000 or more according to the 22nd Decennial Census of the United States as released by the Bureau of the Census on March 12, 2001; or
- The population of the city or county where premises are located was 800,000 or more according to the last Federal Census (2010).

SIGN

HERE _____, TEXAS

City Secretary/Clerk

City

SEAL

CERTIFICATE OF COUNTY CLERK (FOR MB, RM, V & Y)

Section 11.37

I hereby certify on this _____ day of _____, 20____, that the location for which the license/permit is sought is in a "wet" area for such license/permit, and is not prohibited by any valid order of the Commissioner's Court.

SIGN

HERE _____ COUNTY

County Clerk

SEAL

CERTIFICATE OF COUNTY CLERK (FOR BG & BE)

Section 11.37 & 61.37

I hereby certify on this 22 day of August, 2016, that the location for which the license/permit is sought is in a "wet" area and is not prohibited by any valid order of the Commissioner's Court for a Wine & Beer Retailer's Permit.

Election for given location was held for:

- legal sale of all alcoholic beverages
- legal sale of all alcoholic beverages except mixed beverages
- legal sale of all alcoholic beverages including mixed beverages
- legal sale of beer/wine (17%) on-premise **AFTER** Sept. 1, 1999
- legal sale of beer/wine (14%) on-premise **BEFORE** Sept. 1, 1999

OR IF ABOVE DOES NOT APPLY:

Be advised the location must have had two election passages per 25.14 or 69.17 of the TAB Code. One for beer and wine off-premise and one for mixed beverage.

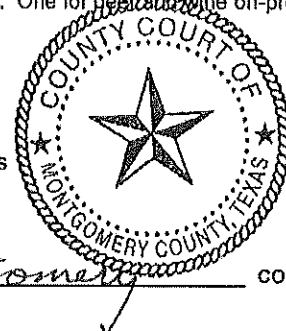
- legal sale of beer and wine for off-premise consumption only

AND EITHER:

- legal sale of mixed beverages

OR

- legal sale of mixed beverages in restaurants by food and beverage certificate holders (applicant must apply for FB with BG and BE)



SIGN

HERE _____ COUNTY

Mark Turnbull
County Clerk

Montgomery

SEAL

By J. C. Dearous, Deputy

CERTIFICATE OF COUNTY CLERK FOR LATE HOURS LICENSE/PERMIT (LB & BL)

Chapters 29 & 70 of seq.

- I hereby certify on this _____ day of _____, 20____, that one of the below are correct:
- The Commissioner's Court of the county has by order authorized the sale of *mixed beverages* between midnight and 2:00 A.M.; or
 - The Commissioner's Court of the county has by order authorized the sale of *beer* between midnight and _____ A.M.; or
 - The population of the city or county where premises are located was 500,000 or more according to the 22nd Decennial Census of the United States as released by the Bureau of the Census on March 12, 2001; or
 - The population of the city or county where premises are located was 800,000 or more according to the last Federal Census (2010).

SIGN

HERE _____

County Clerk

_____ COUNTY

SEAL

COMPTROLLER OF PUBLIC ACCOUNTS CERTIFICATE

Section 11-46(b) & 61-42(b)

This is to certify on this 24th day of August, 2016, the applicant holds or has applied for and satisfies all legal requirements for the issuance of a Sales Tax Permit under the Limited Sales, Excise and Use Tax Act or the applicant as of this date is not required to hold a Sales Tax Permit.

Sales Tax Permit Number 32-050572885 Outlet Number 00002

Print Name of Comptroller Employee Emma Walker

Print Title of Comptroller Employee E.O

SIGN

HERE Emma Walker

FIELD OFFICE 2431

SEAL

PUBLISHER'S AFFIDAVIT (FOR MB, LB, RM, BP, BG, BE, BL, V & Y)

Section 11-39 and 61-38

Name of newspaper		ATTACH PRINTED COPY OF THE NOTICE HERE
City, County		
Dates notice published in daily/weekly newspaper (mm/dd/yyyy)	/ /	
<i>Publisher or designee certifies attached notice was published in newspaper stated on dates shown.</i>		
Signature of publisher or designee Sworn to and subscribed before me on this date	/ /	
Signature of Notary Public		
SEAL		

(b) The board of trustees of a school district shall attempt to provide a safe alcohol-free environment to students coming to or going from school. The board of trustees may cooperate with local law enforcement officials and the Texas Alcoholic Beverage Commission in attempting to provide this environment and in enforcing Sections 101.75, 109.33, and 109.59, Alcoholic Beverage Code. Additionally, the board, if a majority of the area of a district is located in a municipality of a population of 900,000 or more, may petition the commissioners court of the county in which the district is located or the governing board of an incorporated city or town in which the district is located to adopt a 1,000-foot zone under Section 109.33, Alcoholic Beverage Code.

(3) 1,000 feet of a private school if the commissioners court or the governing body receives a request from the governing body of the private school.

(b) The measurement of the distance between the place of business where alcoholic beverages are sold and the church or public hospital shall be along the property lines of the street fronts and from front door to front door, and in direct line across intersections. The measurement of the distance between the place of business where alcoholic beverages are sold and the public or private school shall be:

(1) in a direct line from the property line of the public or private school to the property line of the place of business, and in a direct line across intersections; or

(2) if the permit or license holder is located on or above the fifth story of a multistory building, in a direct line from the property line of the public or private school to the property line of the place of business, in a direct line across intersections, and vertically up the building at the property line to the base of the floor on which the permit or license holder is located.

(c) Every applicant for an original alcoholic beverage license or permit for a location with a door by which the public may enter the place of business of the applicant that is within 1,000 feet of the nearest property line of a public or private school, measured along street lines and directly across intersections, must give written notice of the application to officials of the public or private school before filing the application with the commission. A copy of the notice must be submitted to the commission with the application. This subsection does not apply to a permit or license covering a premise where minors are prohibited from entering the premises under Section 109.53.

(d) As to any dealer who held a license or permit on September 1, 1983, in a location where a regulation under this section was in effect on that date, for purposes of Subsection (a), but not Subsection (c), of this section, the measurement of the distance between the place of business of the dealer and a public or private school shall be along the property lines of the street fronts and from front door to front door, and in direct line across intersections.

(e) The commissioners court of a county or the governing board of a city or town that has enacted a regulation under Subsection (a) of this section may also allow variances to the regulation if the commissioners court or governing body determines that enforcement of the regulation in a particular instance is not in the best interest of the public, constitutes waste or inefficient use of land or other resources, creates an undue hardship on an applicant for a license or permit, does not serve its intended purpose, is not effective or necessary, or for any other reason the court or governing board, after consideration of the health, safety, and welfare of the public and the equities of the situation, determines is in the best interest of the community.

(f) Subsections (a)(2) and (3) do not apply to the holder of:

(1) a retail on-premises consumption permit or license if less than 50 percent of the gross receipts for the premises is from the sale or service of alcoholic beverages;

(2) a retail off-premises consumption permit or license if less than 50 percent of the gross receipts for the premises, excluding the sale of items subject to the motor fuels tax, is from the sale or service of alcoholic beverages; or

(3) a wholesaler's, distributor's, brewer's, distiller's and rectifier's, winery, wine bottler's or manufacturer's permit or license, or any other license or permit held by a wholesaler or manufacturer as those words are ordinarily used and understood in Chapter 102.

Montgomery City Council
AGENDA REPORT

ITEM #2

Meeting Date: October 11, 2016	Budgeted Amount: N/A
Department:	
Prepared By: Jack Yates	Exhibits: Application
Date Prepared: October 6, 2016	

Subject

Public hearing regarding alcoholic beverage permit for Whitley Vineyards, LLC at 401 College St., Suite 150

Discussion

This is for public comment, Council comments should be few, if any.

Recommendation

Listen and consider the public comment.

Approved By

Department Manager		Date:
City Administrator	Jack Yates	Date: October 6, 2016

Gerald Franklin Agency, Inc.
Alcoholic Beverage License Service
146 Westcott
Houston, Tx 77007-8008
713-868-0068 x224
Fax 713-868-2211
Email: ehernandez@geraldfranklinagency.com
9/7/2016 11:44 AM

Via Overnite

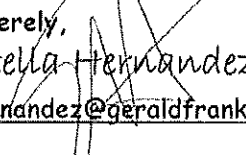
City of Montgomery
Susan Hensley, City Secretary
101 Old Plantersville Rd.
Montgomery, Tx 77316
936-597-3288

Re: Winery Permit for
Whitley Vineyards - Wine Bar
401 College Street, Suite 150
Montgomery, Tx 77356

Susan, per our telephone conversation, enclosed please find the city application with the required documents along with the TABC PreQua.

Please return the application to me in the enclosed overnight envelope.

Please do not hesitate to call or email with any questions.

Sincerely,

Estella Hernandez
ehernandez@geraldfranklinagency.com
Encl



City of Montgomery
Alcohol Beverage
License Application

City of Montgomery, Texas
P.O. Box 708
Montgomery, Texas 77356
936-597-3288
www.montgomerytexas.gov

APPLICATION FOR THE SALE OF ALCOHOLIC BEVERAGE LICENSE

Date Received by the City: 09/08/10

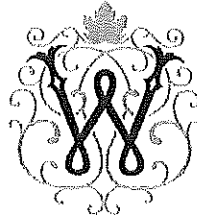
1. Type of Alcoholic Beverage License:

- (1) Category A – Off Premises Consumption Sale of All Alcoholic Beverages – Package Store
- (2) Category B – Off Premises Consumption Sale of Wine, Beer or Ale.
- (3) Category C – Off Premises Consumption Sale of Beer.
- (4) Category D – On Premises Consumption Sale of Beer, Wine and Mixed beverages – Restaurant or Café, where the sale of beer, wine and mixed beverage on the premises would be incidental to the restaurant or café.
- (5) Category E – On Premises Consumption Sale of Beer, Wine and Mixed beverages – Tavern, Lounge, or Bar. The sale of Beer, Wine and Mixed beverages for On-Premises Consumption being the principal business line.
- (6) Category F – Warehouse storage of Beer, Wine or Liquor for Distributors – No sale of Beer for on or Off-Premises Consumption permitted on the Premises.

2. Legal Description of the property for which License is sought. (Either by Lot and Block number or by a Metes and Bounds Description: "Being 10,450 sq. ft. of land in the John Corner Survey A-8, City of Montgomery (old Noble Lot), Montgomery Co, TX, and being the same Lot as described in Vol. 571 Pg. 441 of the County Clerk's Deed Records.")
3. Exact Nature of the Business to be operated. (Must be fully described). (Attached)
4. Attach a Plat of the property to the Application showing the improvements, parking areas, location of signage and other structures on the property and within three hundred (300) feet to scale.
5. Description of signs and the hours they will be operated to be attached as a separate document. (Attached)
6. Attach floor plan of the building in which the business is to be conducted (showing fixtures, furniture, restrooms, kitchen and other equipment).
7. Attach a verified statement stating that the building is not within three hundred (300) feet of a church, school or hospital and that the building is in compliance with the requirements of this chapter for separate and adequate toilet facilities for men and women if used for on-premises consumption of beer, liquor or wine. This can be included in cover letter.
8. Business Owner: Whitley Vineyards, LLC (Philip Whitley - Managing Member and Gina Whitley - Managing Member)
 Address: P.O. Box 713, Montgomery, TX 77356 Phone: 936-672-6736
 Home Address: 26998 W. FM 1097, Montgomery, TX 77356 Phone: 936-672-6736
 Check if you are leasing property:
9. Land Owner: Kemifer Corporation Phone: _____
 Address: _____
10. Business Partners: _____ Phone: _____
 Address: _____
 Home Address: _____ Phone: _____

This is to certify that I, Philip Whitley have complied with all State, County, Codes and Regulations of the City of Montgomery, Texas.

Philip Whitley or Gina R. Whitley
Business Owner and/or Lessee Partner if Applicable Gina R Whitley, Managing Member of Whitley Vineyards, LLC



WHITLEY

— VINEYARDS —

7. Verified Statement

Philip and Gina Whitley, owners of Whitley Vineyards, LLC have mapped out the distance surrounding the location of Whitley Vineyards Wine Bar at 401 College Street, Suite 150, Montgomery, TX 77356 and state that it is not within three hundred (300) feet of a church, school or hospital.

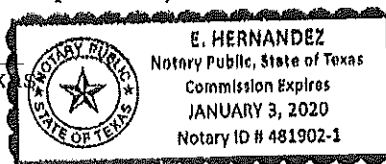
Businesses surrounding 401 College Street, Montgomery TX 77356:

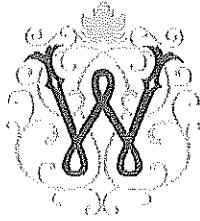
- Kemifer Atrium (business products supplier and professional services companies)
- Community Building
- Burger Fresh restaurant
- The Westmont Building (retail shops, insurance, photography, barbershop)
- Liberty Bell Antiques
- Montgomery Emporium Antiques
- First State Bank building (Pet Store)
- Fleet Realty Group
- Jacob's Property
- Modern Farmhouse Antiques
- Small Town Sugar (retail shop)
- Cozy Grape Wine Bar and Bistro
- American Chic Boutique
- Fair Thee Well Boutique
- Old Montgomery Steakhouse
- Cozy Supper Club (fine spirits & cigar lounge)
- Knights Inspection

x Gina R. Whitley
Gina R Whitley
Managing Member of Whitley Vineyards, LLC

Sworn to before me this 7th day of September, 2016

E. Hernandez
Notary Public for the State of Texas





WHITLEY
-- VINEYARDS --

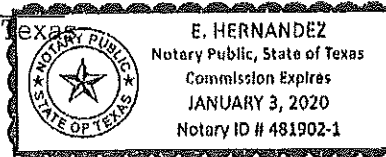
3. Exact Nature of Business

To sell and serve wine by the glass and wine tastings, wine bottle sales, and merchandise sales. Hosting events (wine and food pairings e.g. "wine & chocolates", "wine & cheese", private events and meetings for both leisure and corporate consumers. To create a place of community, to gather, relax and embrace in conversation while enjoying a glass of wine.

X *Gina R. Whitley*
Gina R Whitley
Managing Member of
Whitley Vineyards, LLC

Sworn to before me this 7th day of September, 2016

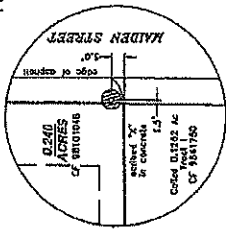
E. Hernandez
Notary Public for the State of Texas



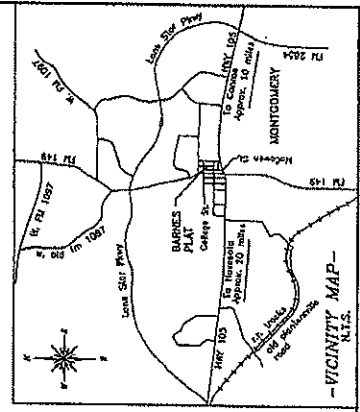
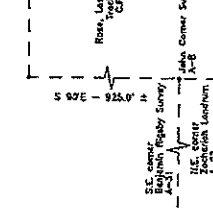
BARNES PLAT MINOR PLAT

BEING A 0.240 ACRE TRACT OF LAND SITUATED IN THE JOHN CORNER SURVEY ABSTRACT NO. 8, MONTGOMERY COUNTY, TEXAS, BEING THAT SAME CALLED 10,450 SQUARE FEET OF LAND AS DESCRIBED IN DEED RECORDED UNDER COUNTY CLERK'S FILE NO. 2010119439 OF THE REAL PROPERTY RECORDS OF MONTGOMERY COUNTY, TEXAS.

1 COMMERCIAL RESERVE, 1 BLOCK



3. BENCH MARK
A BENCH MARK SET IN CONCRETE COLUMLAR IN THE CENTER OF THE INTERSECTION OF MAIDEN STREET AND COLLEGE STREET. THE BENCH MARK IS 1.5' ABOVE THE GRADE OF MAIDEN STREET AND 1.5' ABOVE THE GRADE OF COLLEGE STREET. THE BENCH MARK IS 1.5' ABOVE THE GRADE OF THE INTERSECTION OF MAIDEN STREET AND COLLEGE STREET.



THE STATE OF TEXAS
COUNTY OF MONTGOMERY

I, the undersigned, Clerk of the County of Montgomery, Texas, do hereby certify that the within plat conforms to all requirements of the subdivision regulations of the City of [City Name], Texas, and that the same have been approved by the City Council of said City.

WITNESSETH MY HAND AND SEAL OF OFFICE, this [Day] of [Month], 2012.

[Signature]
Clerk of Montgomery County, Texas

THE STATE OF TEXAS
COUNTY OF MONTGOMERY

I, the undersigned, Clerk of the County of Montgomery, Texas, do hereby certify that the within plat conforms to all requirements of the subdivision regulations of the City of [City Name], Texas, and that the same have been approved by the City Council of said City.

WITNESSETH MY HAND AND SEAL OF OFFICE, this [Day] of [Month], 2012.

[Signature]
Clerk of Montgomery County, Texas

THE STATE OF TEXAS
COUNTY OF MONTGOMERY

I, the undersigned, Clerk of the County of Montgomery, Texas, do hereby certify that the within plat conforms to all requirements of the subdivision regulations of the City of [City Name], Texas, and that the same have been approved by the City Council of said City.

WITNESSETH MY HAND AND SEAL OF OFFICE, this [Day] of [Month], 2012.

[Signature]
Clerk of Montgomery County, Texas

THE STATE OF TEXAS
COUNTY OF MONTGOMERY

I, the undersigned, Clerk of the County of Montgomery, Texas, do hereby certify that the within plat conforms to all requirements of the subdivision regulations of the City of [City Name], Texas, and that the same have been approved by the City Council of said City.

WITNESSETH MY HAND AND SEAL OF OFFICE, this [Day] of [Month], 2012.

[Signature]
Clerk of Montgomery County, Texas

THE STATE OF TEXAS
COUNTY OF MONTGOMERY

I, the undersigned, Clerk of the County of Montgomery, Texas, do hereby certify that the within plat conforms to all requirements of the subdivision regulations of the City of [City Name], Texas, and that the same have been approved by the City Council of said City.

WITNESSETH MY HAND AND SEAL OF OFFICE, this [Day] of [Month], 2012.

[Signature]
Clerk of Montgomery County, Texas



KNOW ALL MEN BY THESE PRESENTS:
That I, Kenneth E. Kennedy, do hereby certify that the within plat conforms to all requirements of the subdivision regulations of the City of Montgomery, Texas, and that the same have been approved by the City Council of said City.

WITNESSETH MY HAND AND SEAL OF OFFICE, this [Day] of [Month], 2012.

[Signature]
Professional Land Surveyor

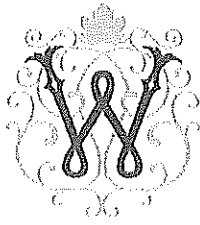


KNOW ALL MEN BY THESE PRESENTS:
That I, Kenneth E. Kennedy, do hereby certify that the within plat conforms to all requirements of the subdivision regulations of the City of Montgomery, Texas, and that the same have been approved by the City Council of said City.

WITNESSETH MY HAND AND SEAL OF OFFICE, this [Day] of [Month], 2012.

[Signature]
Professional Land Surveyor

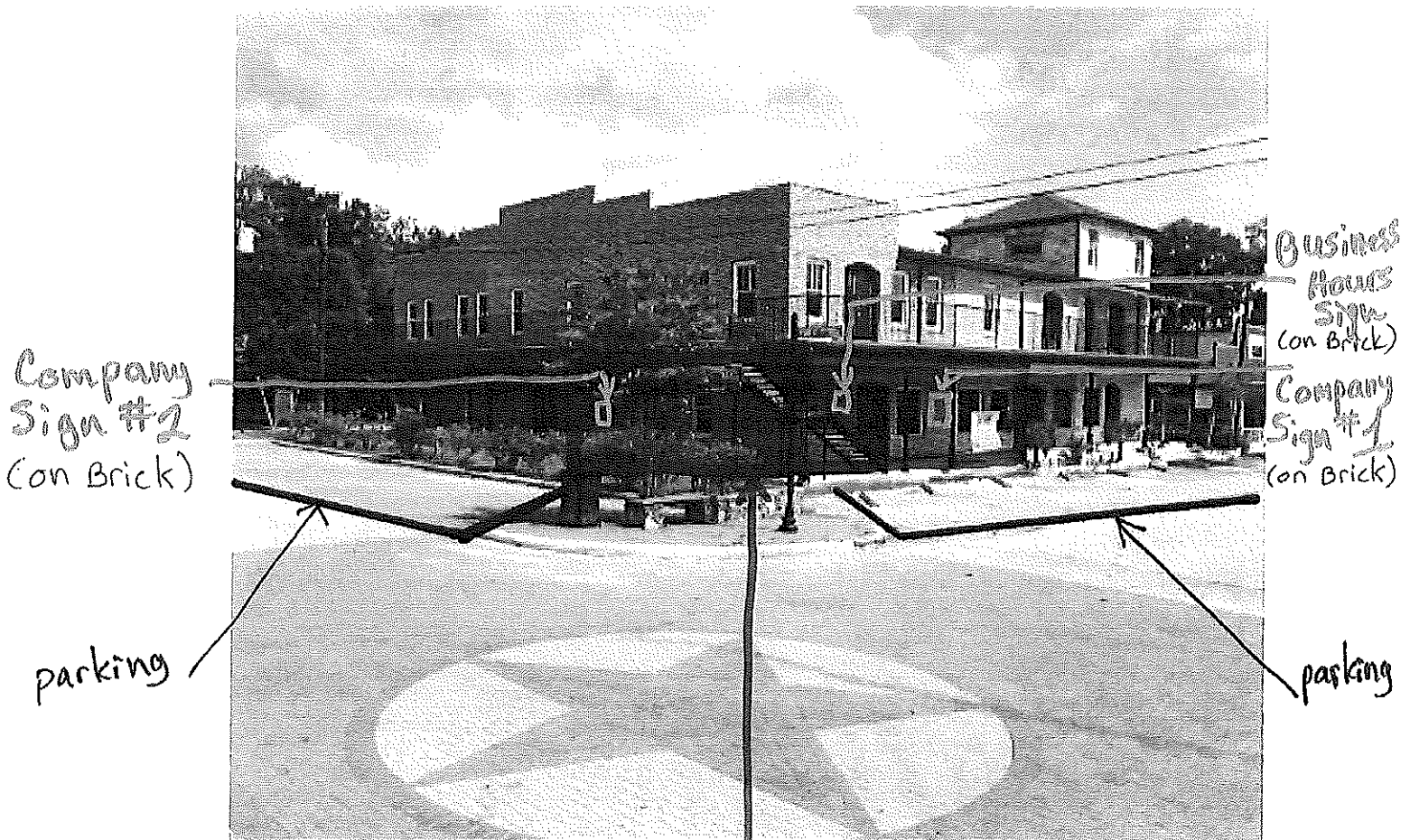
File # 2012-01123 Sub. 2 Sheet # 2129



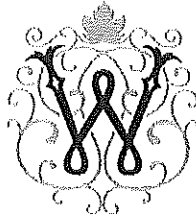
WHITLEY

— VINEYARDS —

4. Location of Parking and Signage.



Wine Bar
lease space #150
NW corner of building



WHITLEY

— VINEYARDS —

5. Description of signs

Company Sign #1

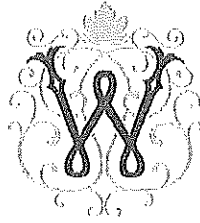
- Logo (as show on letterhead)
- Name: Whitley Vineyards ~Wine Bar
- Material: Metal art design, wood
- Size: 3ft. x 4ft. approx.

Company Sign #2

- Logo (as show on letterhead)
- Name: Whitley Vineyards ~Wine Bar
- Material: Metal art design, wood
- Size: 3ft. x 4ft. approx.

Business Hours Sign

- Business Hours
- Material: Metal, plastic or wood
- Size: 14in. x 18in. approx.

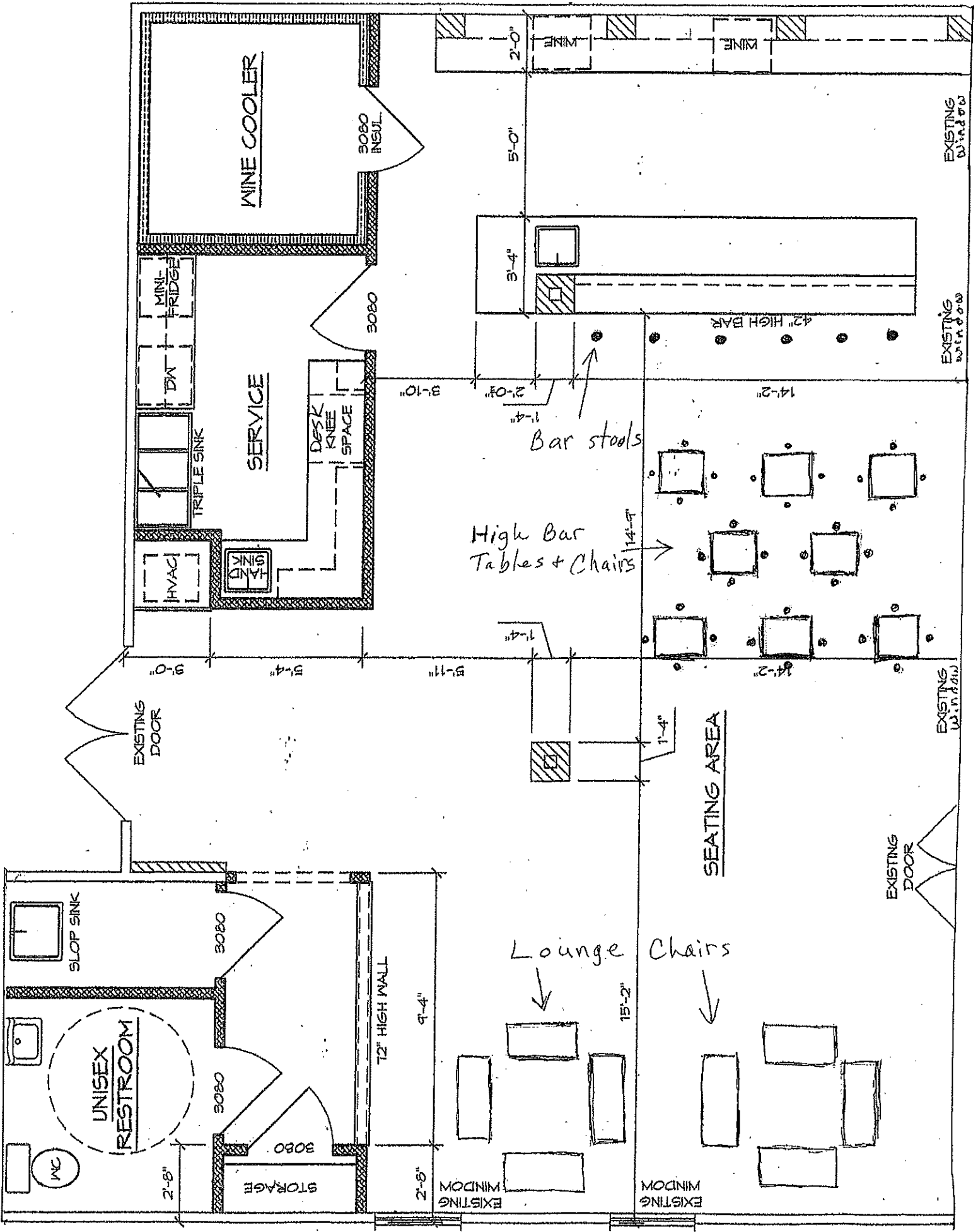


WHITLEY

-- VINEYARDS --

5. Hours operated

Sunday	12:00 pm – 5:00 pm
Monday	11:00 am – 8:00 pm
Tuesday	11:00 am – 8:00 pm
Wednesday	11:00 am – 8:00 pm
Thursday	11:00 am – 8:00 pm
Friday	11:00 am – 5:00 pm
Saturday	6:00 pm – 9:00 pm



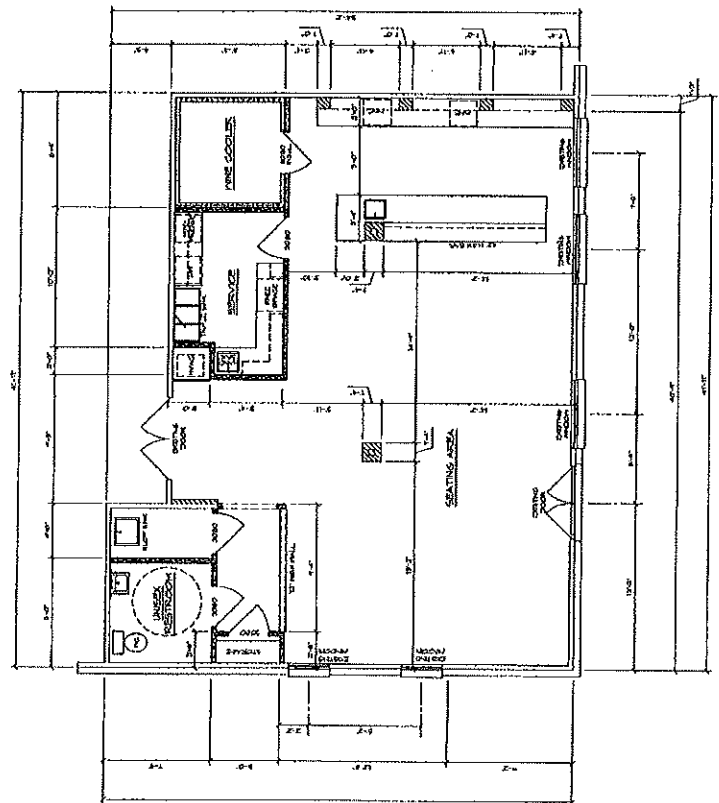


PROJECT DESCRIPTION: BUILD-OUT LEASE SPACE FOR WINE BAR
USE GROUP CLASSIFICATION: A-2 - ASSEMBLY
OCCUPANCY: WINE BAR (116 S.F. NET) X 1 PERSON PER 15 S.F. = 7.73 PERSONS
CONSTRUCTION TYPE: DISTRICT STRUCTURE - TYPE V-B
CODE COMPLIANCE
ALL CONSTRUCTION SHALL BE IN COMPLIANCE WITH THE FOLLOWING CODES:
INTERNATIONAL BUILDING CODE 2015
NATIONAL ELECTRICAL CODE 2014
INTERNATIONAL PLUMBING CODE 2015
INTERNATIONAL MECHANICAL CODE 2015
INTERNATIONAL FIRE CODE 2015
CITY OF MONTGOMERY BUILDING CODES
LEASING ACCESSIBILITY STANDARDS 2015

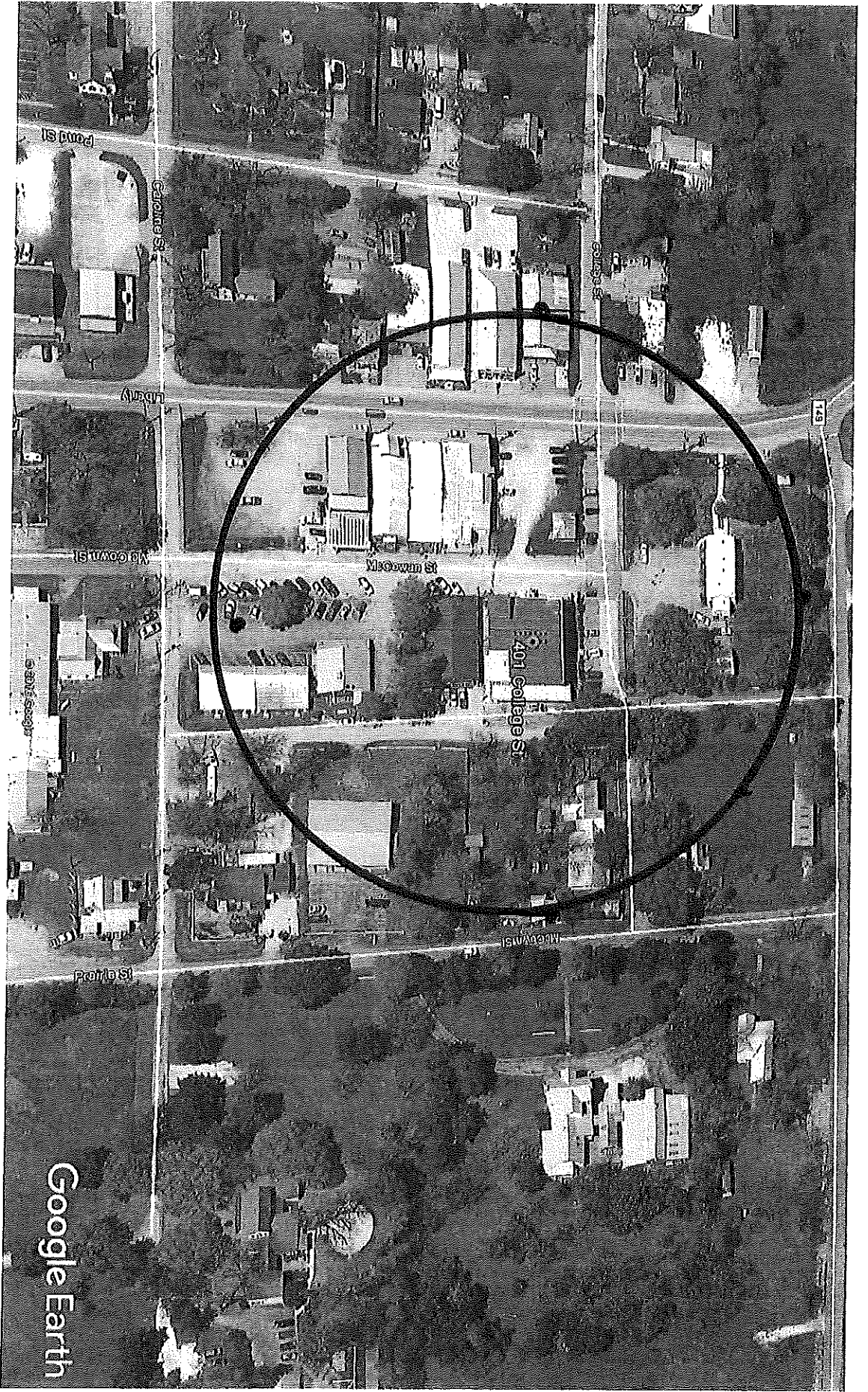
R O O M F I N I S H S C H E D U L E

ROOM	FINISH	WALL FINISH	FLOOR FINISH	CEILING FINISH	DOOR	HANDLE	REMARKS
GENERAL SEATING	STAINED CONCRETE	STAINED CONCRETE	8" X 8" SPLIT ROCK	CONCRETE	GLASS	LEVER	GLASS FINISH
BAR	STAINED CONCRETE	STAINED CONCRETE	8" X 8" SPLIT ROCK	CONCRETE	GLASS	LEVER	GLASS FINISH
BATHROOM	STAINED CONCRETE	STAINED CONCRETE	8" X 8" SPLIT ROCK	CONCRETE	GLASS	LEVER	GLASS FINISH
TOILET	STAINED CONCRETE	STAINED CONCRETE	8" X 8" SPLIT ROCK	CONCRETE	GLASS	LEVER	GLASS FINISH
STORAGE	STAINED CONCRETE	STAINED CONCRETE	8" X 8" SPLIT ROCK	CONCRETE	GLASS	LEVER	GLASS FINISH
REAR OFFICE	STAINED CONCRETE	STAINED CONCRETE	8" X 8" SPLIT ROCK	CONCRETE	GLASS	LEVER	GLASS FINISH
FRONT OFFICE	STAINED CONCRETE	STAINED CONCRETE	8" X 8" SPLIT ROCK	CONCRETE	GLASS	LEVER	GLASS FINISH
REAR OFFICE	STAINED CONCRETE	STAINED CONCRETE	8" X 8" SPLIT ROCK	CONCRETE	GLASS	LEVER	GLASS FINISH
FRONT OFFICE	STAINED CONCRETE	STAINED CONCRETE	8" X 8" SPLIT ROCK	CONCRETE	GLASS	LEVER	GLASS FINISH

- NOTES:**
1. ALL INTERIOR DOORS SHALL BE SOLID CORE.
 2. ALL INTERIOR DOOR HANDLES SHALL BE LEVER TYPE.
 3. CEILING SHALL BE UNPRESSED (I.E. EXPOSED) IN SEATING AREA.



FLOOR PLAN
SCALE 1/4" = 1'-0"

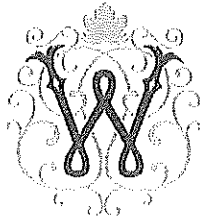


Google Earth

feet
meters



Google Earth



WHITLEY
— VINEYARDS —

7. Toilet Facilities

Whitley Vineyards Wine Bar located at 401 College Street, Suite 150 is designed for a unisex bathroom, however the atrium building in which its lease space occupies has both men and women bathrooms accessible from the interior wine bar door, and available to guests during operating hours.

GROUND FLOOR: RETAIL SPACE

AVAILABLE | 1ST LEVEL | 2ND LEVEL



PREVIOUS

NEXT

936-827-1485

SOCIAL MEDIA

info@kemifer.com



WHOLESALE'S, DISTRIBUTOR'S and MANUFACTURER'S PREQUALIFICATION PACKET

L-W
(01/2016)

Submit this packet to the proper governmental entities to obtain certification for the type of license/permit for which you are applying as required by Sections 11.37, 11.39, 11.46(b), 61.37, 61.38, 61.42 and Rule §33.13

Contact your local TABC office to verify requirements of Sections 11.391 and 61.381 as you may be required to post a sign at your proposed location 60-days prior to the issuance of your license/permit.

All statutory and rule references mentioned in this application refer to and can be found in the Texas Alcoholic Beverage Code or Rules located on our website, www.tabc.texas.gov/laws/code_and_rules.asp

LOCATION INFORMATION

1. Application for: Original License/Permit Number _____
 Reinstatement License/Permit Number _____
 Change of Licensed Location License/Permit Number _____

2. Type of Wholesaler's, Distributor's, and Manufacturer's License/Permit

- | | |
|--|---|
| <input type="checkbox"/> W Wholesaler's Permit | <input type="checkbox"/> J Bonded Warehouse Permit |
| <input type="checkbox"/> X General Class B Wholesaler's Permit | <input type="checkbox"/> JD Bonded Warehouse Permit (Dry Area) |
| <input type="checkbox"/> LX Local Class B Wholesaler's Permit | <input type="checkbox"/> BB General Distributor's License |
| <input type="checkbox"/> Z Wine Bottler's Permit | <input type="checkbox"/> BD Local Distributor's License |
| <input checked="" type="checkbox"/> O Private Carrier's Permit | <input type="checkbox"/> BC Branch Distributor's License |
| <input type="checkbox"/> L Private Storage Permit | <input type="checkbox"/> BI Importer's License |
| <input type="checkbox"/> K Public Storage Permit | <input type="checkbox"/> BJ Importer's Carrier's License |
| <input type="checkbox"/> GS Winery Storage Permit | <input type="checkbox"/> MW Manufacturer's Warehouse License |
| <input type="checkbox"/> GF Winery Festival Permit | <input type="checkbox"/> BA Manufacturer's License – allows on-premise consumption |
| <input type="checkbox"/> SL Storage License | <input type="checkbox"/> B Brewer's Permit – allows on-premise consumption |
| <input type="checkbox"/> DA Brewer's Self Distribution Permit | <input type="checkbox"/> D Distiller's and Rectifier's Permit – allows on-premise consumption |
| <input type="checkbox"/> DB Manufacturer's Self Distribution License | <input checked="" type="checkbox"/> G Winery Permit – allows on-premise consumption |

3. Trade Name of Location
Whitley Vineyards -Wine Bar

4. Location Address (of Primary Permit)
401 College Street, Suite 150

City Montgomery	County Montgomery	State Tx	Zip Code 77356
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5. If you are applying for a Storage License (SL) list your Primary Permit Number

6. Mailing Address P.O. Box 713	City Montgomery	State Tx	Zip Code 77356
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7. Business Phone No. 936-672-6736	Alternate Phone No. 926-672-6736	E-mail Address gwhitley@consolidated.net
---------------------------------------	-------------------------------------	---

OWNER INFORMATION

8. Type of Owner
- | | | |
|--|---|--|
| <input type="checkbox"/> Individual | <input type="checkbox"/> Limited Liability Partnership | <input type="checkbox"/> Joint Venture |
| <input type="checkbox"/> Partnership | <input type="checkbox"/> Corporation | <input type="checkbox"/> Trust |
| <input type="checkbox"/> Limited Partnership | <input checked="" type="checkbox"/> Limited Liability Company | <input type="checkbox"/> Other _____ |

9. Owner of Business/Applicant
Whitley Vineyards, LLC

10. If Applicant is:		Who Must be Listed Below: <i>(attach L-O/C if additional space is needed).</i>	
Individual	Individual Owner		
Partnership	All Partners		
Limited Partnership	All General Partners		
Corporation	All Officers		
Limited Liability Company	All Officers or Managers		
Joint Venture	Venturers		
Trust	Trustee(s)		
Last Name Whitley	First Name Gina	MI R	Title Managing Member
Last Name Whitley	First Name Phillip	MI D	Title Managing Member
Last Name	First Name	MI	Title
MEASUREMENT INFORMATION Section 109.31 et. seq			
11. Will your business be located within 300 feet of a church or public hospital? <input type="radio"/> Yes <input checked="" type="radio"/> No			
NOTE: For churches or public hospitals measure from front door to front door, along the property lines of the street fronts and in a direct line across intersections.			
12. Will your business be located within 300 feet of any private/public school? <input type="radio"/> Yes <input checked="" type="radio"/> No			
NOTE: For private/public schools measure in a direct line from the nearest property line of the school to the nearest property line of the place of business, and in a direct line across intersections.			
NOTE: If located on or above the fifth story of a multistory building: measure in a direct line from the property line of the private/public school to property line of your place of business in a direct line across intersections vertically up the building at the property line to the base of the floor on which your business is located.			
PUBLIC STORAGE PERMIT (K) OR WINERY STORAGE PERMIT (GS)			
If applying for a Public Storage Permit (K) or Winery Storage Permit (GS) include the Bonded Warehouse Permit (J) or Bonded Warehouse Permit (Dry Area) (JD) number. A Public Storage permit (K) may only be issued in the same county as your primary permit as per Section 45.03.			
13. Name of Public or Winery Storage Facility			
14. For Public Storage: Bonded Warehouse Permit J -		14. For Winery Storage: Bonded Warehouse Permit (Dry Area) JD -	
15. Location Address			
City	County	State	Zip Code

PRIVATE STORAGE PERMIT (L) OR MANUFACTURER'S WAREHOUSE LICENSE (MW)

If applying for a Private Storage Permit (L) or a Manufacturer's Warehouse License (MW) complete question 16. A Private Storage Permit (L) may only be issued in the same county as your primary permit as per Section 45.03.

For the location address of the Private Storage Permit (L) or Manufacturer's Warehouse License (MW), indicate owner of the property on Owner of Property (L-OP).

If applying for a Manufacturer's Warehouse License (MW) complete questions 17 and 18.

16. Location Address of: Private Storage Permit Manufacturer's Warehouse License

City	County	State	Zip Code
17. Manufacturer's License No. BA -		18. Original Issue Date (mm/dd/yyyy)	

DISTILLER'S AND RECTIFIER'S PERMIT (D), BREWER'S PERMIT (B) or MANUFACTURER'S LICENSE (BA)

60-DAY SIGN INFORMATION

19. As required under Section 11.391 and 61.381, enter the exact date this sign was posted at your location. Exact Date (mm/dd/yyyy)
/ /

20. Do you, the applicant, intend to sell for on-premise consumption during the life of this license/permit? 20. YES NO

If "YES," have you confirmed with your city and county that it is an allowable privilege? YES NO

ALL APPLICANTS

21. CHECK HERE IF NOT IN CITY LIMITS
I, the applicant, have confirmed I am not located in the city limits of any city and therefore all city certificates are not required.

WARNING AND SIGNATURE

If Applicant Is/Must Sign

Individual	Individual Owner
Partnership	Partner
Limited Partnership	General Partner
Corporation	Officer
Limited Liability Company	Officer or Manager

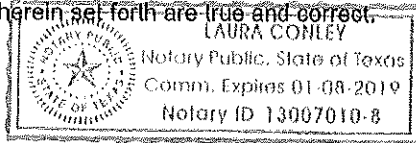
WARNING: Section 101.69 of the Texas Alcoholic Beverage Code states: "...a person who makes a false statement or false representation in an application for a permit or license or in a statement, report, or other instrument to be filed with the Commission and required to be sworn commits an offense punishable by imprisonment in the Texas Department of Criminal Justice for not less than 2 nor more than 10 years."

BY SIGNING YOU ARE SWEARING TO ALL INFORMATION AND ATTACHMENTS TO THIS PACKET.

PRINT NAME Gina Whitley SIGN HERE Gina Whitley
TITLE Managing Member

Before me, the undersigned authority, on this 6th day of September, 2016, the person whose name is signed to the foregoing application personally appeared and, duly sworn by me, states under oath that he or she has read the said application and that all the facts therein set forth are true and correct.

SIGN HERE Laura Conley
NOTARY PUBLIC



SEAL

CERTIFICATE OF CITY SECRETARY (FOR W, X, LX, Z, G, J, BB, BD, BC & BI)

I hereby certify on this _____ day of _____, 20____, that the location for which the license/permit is sought is inside the boundaries of this city or town, in a "wet" area for such license/permit excluding wineries, and not prohibited by charter or ordinance in reference to the sale of such alcoholic beverages.

SIGN
HERE _____, TEXAS
City Secretary/Clerk City

S E A L

CERTIFICATE OF CITY SECRETARY (FOR B, D & BA)

I hereby certify on this _____ day of _____, 20____, that the location for which the license/permit is sought is inside the boundaries of this city or town, in a "wet" area for such license/permit excluding wineries, and not prohibited by charter or ordinance in reference to the sale of such alcoholic beverages, and

does does not

allow for on-premise consumption in accordance with 501.035(g) of the Election Code.

SIGN
HERE _____, TEXAS
City Secretary/Clerk City

S E A L

**CERTIFICATE OF CITY SECRETARY (FOR L, K, MW & SL)
ADDRESS FOR STORAGE PERMITS AND MANUFACTURER'S WAREHOUSE LICENSE**

CHECK HERE IF NOT IN CITY LIMITS

I hereby certify on this _____ day of _____, 20____, that the location for which the license/permit is sought is inside the boundaries of this city or town, in a "wet" area for such license/permit, and not prohibited by charter or ordinance in reference to the sale of such alcoholic beverages.

SIGN
HERE _____, TEXAS
City Secretary/Clerk City

S E A L

CERTIFICATE OF COUNTY CLERK (FOR W, X, LX, Z, G, J, BB, BD, BC & BI)

I hereby certify on this _____ day of _____, 20____, that the location for which the license/permit is sought is in a "wet" area for such license/permit excluding wineries, and is not prohibited by any valid order of the Commissioner's Court.

SIGN
HERE _____ COUNTY
County Clerk

S E A L

CERTIFICATE OF COUNTY CLERK (FOR B, D & BA)

I hereby certify on this _____ day of _____, 20____, that the location for which the license/permit is sought is in a "wet" area for such license/permit excluding wineries, and is not prohibited by any valid order of the Commissioner's Court, and

does does not

allow for on-premise consumption in accordance with 501.035(g) of the Election Code.

SIGN
HERE _____ COUNTY
County Clerk

S E A L

**CERTIFICATE OF COUNTY CLERK (FOR L, K, MW & SL)
ADDRESS FOR STORAGE PERMITS AND MANUFACTURER'S WAREHOUSE LICENSE**

I hereby certify on this _____ day of _____, 20____, that the location for which the license/permit is sought is in a "wet" area for such license/permit, and is not prohibited by any valid order of the Commissioner's Court.

SIGN
HERE _____ COUNTY
County Clerk

S E A L

COMPTROLLER OF PUBLIC ACCOUNTS CERTIFICATE FOR ALL APPLICANTS

This is to certify on this 7th day of September, 2016, the applicant holds or has applied for and satisfies all legal requirements for the issuance of a Sales Tax Permit under the Limited Sales, Excise and Use Tax Act or the applicant as of this date is not required to hold a Sales Tax Permit.

Sales Tax Permit Number 32058121255 Outlet Number 1

Print Name of Comptroller Employee Debra Richardson

Print Title of Comptroller Employee Enforcement Officer

SIGN
HERE _____ FIELD OFFICE 2431/Houston

S E A L

PUBLISHER'S AFFIDAVIT (FOR W, X, LX, B, D, Z, G, BB, BD, BC, BI & BA)

Name of newspaper		ATTACH PRINTED COPY OF THE NOTICE HERE
City, County		
Dates notice published in daily/weekly newspaper (mm/dd/yyyy)		
<i>Publisher or designee certifies attached notice was published in newspaper stated on dates shown</i>		
Signature of publisher or designee		
Sworn to and subscribed before me on this date		
Signature of Notary Public		
S E A L		

MINUTES OF REGULAR MEETING**September 27, 2016****MONTGOMERY CITY COUNCIL****CALL TO ORDER**

Mayor Kirk Jones declared a quorum was present, and called the meeting to order at 6:00 p.m.

Present:	Kirk Jones	Mayor
	Jon Bickford	City Council Place # 1
	T.J. Wilkerson	City Council Place # 3
	Rebecca Huss	City Council Place # 4
	Dave McCorquodale	City Council Place # 5

Absent:	John Champagne, Jr.	City Council Place # 2
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Also Present:	Jack Yates	City Administrator
	Larry Foerster	City Attorney

INVOCATION

T.J. Wilkerson gave the invocation.

PLEDGE OF ALLEGIANCE TO FLAGS**VISITOR/CITIZENS FORUM:**

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

There were no comments.

CONSENT AGENDA:

1. Matters related to the approval of minutes for the Budget Workshop Meeting held on August 4, 2016, Budget Workshop Meeting held on August 13, 2016, Special Meeting held on September 6, 2016, and Public Hearing and Regular Meeting held on September 13, 2016.
2. Consideration and possible action regarding adoption of a Proclamation proclaiming Tuesday, October 4, 2016 as “National Night Out” in the City of Montgomery.

Dave McCorquodale moved to approve the Consent Agenda items as presented. Jon Bickford seconded the motion, the motion carried unanimously. (4-0)

Mayor Jones advised that National Night would will be held on October 4, 2016 at 6 p.m. at Cedar Brake Park and invited the citizens to attend. Lt. Belmares advised that the event is scheduled from 6:00p.m. to 8:00 p.m. and they would be serving refreshments. Lt. Belmares said that they will also have the Montgomery Fire Department, Montgomery County Sheriff’s Department, McGruff the dog, Montgomery ISD Police Department, members from the Armed Forces and some of their equipment. Lt. Belmares said that they would be serving hamburgers and hot dogs.

CONSIDERATION AND POSSIBLE ACTION:

3. Consideration and possible action on Department Reports.
 - A. Administrator’s Report – Mr. Yates presented his report to City Council. Mr. Yates said that he, Councilmember Wilkerson, the City Engineer and City Secretary had interviewed grant writer candidates. Mr. Yates said that he had also worked on implementing the oversized load ordinance.

Jon Bickford asked for an update on Kroger and when they are going to start selling groceries. Mr. Yates said that he is expecting them to open in March 2017. Mr. Yates said that he and Mr. Fleming had met with the contractor at the job site, who advised that the building would be finished by mid-December. Once that is completed, they will need to bring in the coolers, and they also have a store initiation staff that will take a month or two for start-up staff.

A. Public Works Report – Mr. Mike Muckleroy, Public Works Manager, presented his report to City Council. Mr. Muckleroy reviewed the different jobs that he had completed during the month, including cutting the ditches to grade on Harley Street. Mr. Muckleroy advised that his crew completed four water taps, one sewer tap and six water leaks, four of which were in Memory Park, during the month. Mr. Muckleroy stated that there were zero sewer stop ups and two sewer inspections.

Mayor Jones asked if they knew what was causing the leaks at Memory Park. Mr. Muckleroy said that it was caused by cracks in the line and bad fittings. Mr. Muckleroy said that they replaced three fittings last month that had pin holes in them. Mr. Muckleroy said that sometimes you get a bad batch of fittings. Jon Bickford asked if they were sprinkler fittings. Mr. Muckleroy said that was correct, with three of them on the two inch main line, so when they break it is a lot of water a one time. Mr. Muckleroy reported on the work that they had done at the parks. Mr. Muckleroy said that the docents at Memory Park reported 258 visitors and they provided 21 tours for the month.

Rebecca Huss asked if there was some sort of plumbing product, where if you have flow over a certain amount it would turn the water off. Rebecca Huss said if they have all these leaks that cost the City money, it would be nice to control that problem without waiting until someone notices the leak. Mr. Muckleroy said that at Memory Park, Mr. Burleigh notices it every morning, because he checks his flow meter every morning. Mr. Muckleroy said that the Eye on Water program is helping him, because he has it set up on his homepage so that when he opens the internet, the first thing that he looks at is the Beacon website.

Jon Bickford said that the City could get a radio transmitting flow meter placed on those two inch lines, so you would know when the sprinklers are going off, because if they are not going off there should not be water in those lines. Jon Bickford said that they could check the lines every four hours. Rebecca Huss asked if the Beacon website was up to the minute, because she knew with the consumer line, they have to wait until the next day. Mr. Muckleroy said that every in-point in the City reads at a different minute of the day. Mr. Muckleroy stated that Mr. Burleigh checks the flowmeter every

time that he goes down to the park. Jon Bickford asked how long the two lines ran during the break. Mr. Muckleroy said that the large one was fixed quickly, but two of them that were fairly small, were fixed the next day. Mr. Muckleroy said that when Mr. Burleigh notices any type of leak, he immediately shuts everything down and advises him.

- B. Police Department Report – Chief James Napolitano presented his report to City Council. Chief Napolitano advised that school was now back in session on August 20, and they were able to move most of the traffic through pretty well. However, they did get bottled up because they were not able to get the students into the school quick enough.

Chief Napolitano said that this was the first time since he has been at the City, that they did not have a major event that occurred on the first day of school.

Mayor Jones said that it looked like the number of citations has increased a little bit. Chief Napolitano said that the amount of cars coming through the City has increased. Chief Napolitano said at 2:15 p.m. they try and put everyone on duty out at a particular location for the school children, because they seem to be driving fast again.

Jon Bickford thanked the department for their service and asked that they take care of themselves.

- C. Court Department Report – Ms. Rebecca Lehn, Court Administrator, presented her report to City Council. Ms. Lehn advised that they had disposed of 96 warrants last month, which averages about three per day. There were 64 that paid their warrant fees and 16 were arrested.

Ms. Lehn said that she has put together a report for next month that will provide a comparison over the last five years. Ms. Lehn said that she was not at one of the Budget Workshops where Council discussed Court costs, State fines, how they budget expenses, etc. Ms. Lehn advised that she has put together a five-year look at what the Court has done on everything. The report will show total revenue, City revenue versus

State revenue, citations, warrants, it will show everything and the amount that the Court has grown.

- D. Utility/Development Report – Mrs. Ashley Slaughter, Utility Billing Clerk, presented her report to City Council. Mrs. Slaughter advised that there were 12 new water accounts and 16 disconnects, making the current number of water accounts at 556.

Mrs. Slaughter advise that she had met with Caleb to go over the issues that they were having with Incode, because the problem had been with incorrect coding by Incode. Mrs. Slaughter advised that the system was now working.

Rebecca Huss asked if the system was working correctly, and when they pressed the button to do the reads the numbers all come back correctly. Mrs. Slaughter advised yes and no, because there were a couple of accounts that were coming back with too many numbers, so instead of reading 40 it is reading 400, so they are still working on those accounts. Mrs. Slaughter said that she can work on that issue internally to get it resolved. Mrs. Slaughter said that she felt that next month they should be good.

Jon Bickford asked how the accounts with the errors are being fixed. Mrs. Slaughter said that it was a matter of each meter having what is called a “resolution” and the “resolution” transmits back to Incode showing the amount of digits they pull over for the meter read. Mrs. Slaughter advised that the compound meters were their biggest issues last month, because they were not splitting the meter readings as they should be done. Jon Bickford asked if when they fix the problem, it resolves the problem. Mrs. Slaughter said that once they correct the problem it is fixed. Mrs. Slaughter said that Accurate was not able to tell them the correct number for the “resolution” so that they got the correct reading. Mr. Muckleroy stated that every meter size had a different resolution. Mr. Muckleroy advised that the “resolution” means decimal points. Mrs. Slaughter said that the meter reading that was done today had only two errors, which was with Neptune meters. Mrs. Slaughter stated that the meter is reading correctly, it is just not sending it correctly. Mrs. Slaughter advised that Caleb is going to come out next week to replace one of the Neptune registers to see if that corrects the problem for the next meter reading. Mr. Muckleroy stated that somewhere the Neptune meter is

not talking correctly with the Badger in point. Jon Bickford asked if the City was still withholding payment from the contractor until the matter is resolved. Mr. Yates confirmed that they were withholding payment to the contractor. Rebecca Huss asked if the adjustments were permanent fixes or will they have to do this every month. Mrs. Slaughter said that she had no reason to believe that they were not permanent, but they would be checking them tomorrow. Rebecca Huss said that it would be nice if the system was automatic. Mr. Muckleroy said that they were almost there.

- E. Water Report – Mr. Mike Williams, Gulf Utility, presented his report to City Council. Mr. Williams reported that they had four district alerts, with the first alert was when Well No. 4 failed to prime Water Plant 3, which typically is caused by electrical surges.

There was also a blower amp surge at the Stewart Creek Waste Water Treatment Plant where the controller needed to be repaired. Mr. Williams advised that they have the bid approved and they are waiting for the contractor to make the repair to the controller.

Mr. Williams stated that at Water Plant 3 they had a leak on the sensor line and all the air leaked out, causing the booster pump to short cycle. Mr. Williams advised that they made immediate repairs. Mr. Williams said that they also had a high wet well alarm at Lift Station 2 that was most likely due to rain in the area.

Mr. Williams said that they had a TCEQ inspection at the Stewart Creek Waste Water Treatment Plant. There were two items noted, on being a recalibration of the totalizer and sludge DMR corrected. Mr. Williams said that today they had received a letter from TCEQ rescinding the alleged violations. Mr. Williams said that they had the totalizer recalibrated. Mr. Williams advised that the sludge DMR was correct and was a TCEQ oversight. Mayor Jones asked why they were alleged violations. Mr. Williams said that TCEQ calls them alleged violations if they see any issues during the inspection, and if the alleged violations are fixed they do not turn into violations. Mayor Jones asked if the alleged violations were ignored, would the City be fined. Mr. Williams said that was correct, they would become violations and could be a monetary fine and/or they could put the City into a different class with more frequent inspections and stipulations.

Mr. Williams reported that the average daily flow for the month was at 96,000 gallons. Mr. Williams stated the testing of the sewer plant showed the average count for the NH₃ (ammonia) came out to 1.92 and the maximum level is 2.0, so they are remaining on the cusp. Mr. Williams said that they had great test results all month long, and then on the last day of the month when they pulled a sample their return had clogged up, so the lack of circulation at the plant caused the ammonia level to raise. Mr. Williams also advised that they are looking into getting laboratory services. Mr. Williams stated that the rainfall for this month was 5.16 inches. Mr. Williams advised that they pumped 28% out of Well 3, which was due to water quality, because they started seeing higher temperatures due to the higher run time and the fan being out in the cooling tower. Jon Bickford asked if the cooling tower fan was repaired. Mr. Williams said that the fan was pulled yesterday and they are doing the warranty repair. Mr. Williams said for the time being, they still have one fan that is operational. Mayor Jones asked if they were still mixing the pumping out of Well No. 3, more than usual. Mr. Williams said that was correct. Mr. Williams said that the permit for Well No. 4, they are running on short supply on the permit and they have used Well No. 4 to its maximum. Mr. Williams said that they are only allocated 10 million gallons from Well No. 4 for the rest of the calendar year. Mayor Jones said that they are over utilizing Well No. 4. Mr. Williams said that was correct. Mr. Williams said that they should not have any issues with going over the permitted amount because they have already adjusted the alternator at the Water Plant to run Well No. 3 more for the next two months, and see where they are at in December. Mr. Williams said that they will use the maximum from Well No. 4 without getting too close to the maximum. Mayor Jones asked what the magic combined number was out of Well No. 2 and 3 that they need to stay under. Mr. Williams said that with Well No. 2 they are allowed to pump 41,930,000 gallons per year, and Well No. 3 they are allowed 51,000,000 gallons per year, so they are nowhere near the maximum number. Mayor Jones asked if there was a special balance that they want to achieve after the first of the year. Mr. Williams said that after the first of the year, they are going to try to use the wells to get esthetically pleasing water without going over their permits. Mr. Williams said that he would plan on using Well No. 3 more in the summer, and then Well No. 4 in the winter to balance the temperature of

the water, which will provide a lot longer retention time in the groundwater storage tanks by letting the water cool off.

Rebecca Huss said that since Well No. 4 is so deep and has a larger motor that uses more electricity. Mr. Williams said that he has not seen the electric bills from the motors, but Wells 2 and 3 draw less electricity, but they also do not produce as much water. Mr. Williams said that Well No. 4, while he was there, kicked on and filled the GST in about an hour and a half, and Well No. 3 would probably take about five hours to fill the GST.

Mr. Yates said that he thought that they should have the City Engineer review the electric bills, because there probably is a management way of providing the best water quality for the City, by checking the pump loads and the size of the pumps against the electric bills. Mr. Yates said that an analysis on that could probably save the City quite a bit of money.

- F. Engineer's Report – Mr. Glynn Fleming, P.E., City Engineer, presented his report to City Council. Mr. Fleming said that they continue to move forward with the Impact Fee Advisory Committee. Mr. Fleming said that the Committee had held one meeting and the next meeting was scheduled to be held on October 7, 2016 to get ready for the Public Hearing City Council scheduled to be held on October 25, 2016.

Mr. Fleming advised that the Joint Mobility Study is underway and most of the preliminary work has been done. In the next couple of weeks, crews will be installing apparatus around town at some of the major intersections and busy thoroughfares.

Mr. Fleming said that the Texas Capital Fund Grant – Kroger Project has been moved back to the original opening date of the first quarter of 2017, on March 1.

Mr. Fleming advised that the public utility construction project is moving forward. The contracts with Key Construction were recently received and they are being prepared for circulation and execution by the City. The preconstruction meeting has been scheduled for Wednesday, October 5, 2016. Mr. Fleming said that there will be

noticeable progress at that location in the near future. Mayor Jones asked about the scope of the project. Mr. Fleming said that they would be tying into the existing water and sanitary sewer on the corner of SH 105 and Lone Star Parkway, then running both of those lines west along SH 105 to the future roadway, Garner Drive, where both lines will turn north onto Garner Drive and run about 1,000 feet. Mr. Fleming said that Garner Drive is approximately 1,000 feet of 40 foot paving that will run through the center of that development. Mr. Fleming said that Phase I is what you see on the ground at this time, Phase II will be located on the west side.

Mr. Fleming advised that they continue to make progress on the Bridge at Town Creek, and they are slowly moving forward under the FEMA guidelines. Mr. Fleming said that the gabion and sheet piling contractors are both working on cost estimates on their portion of the work. In the next couple of weeks, there will be some geotechnical investigations, where they will do some borings to get the existing soil conditions, along with some survey crews on the ground. Mr. Fleming said that through the City Attorney, they have reached out to neighboring land owners both upstream and downstream requesting a joint progress meeting to take place in 45-60 days. To make sure that all parties are moving forward on roughly the same timeline.

Rebecca Huss asked Mr. Yates if there was any insurance that might cover these damages. Mr. Yates advised that was not the case.

Mr. Fleming advised that the Hills of Town Creek has mobilized and underway. Lake Creek Village, Section Two, the utility and paving are complete and they had the initial inspection last week, so the contractor is addressing some minor punch list items.

Mr. Fleming said that Lone Star Parkway (East) improvements should have survey crews in the area in the next couple of weeks.

Mr. Fleming advised on September 16, the City received two Funding Determination Letters from the Texas Water Development Board, indicating that both of the proposed Drinking Water project applications were deemed eligible to receive loan funding and

are proceeding with the technical review phase of the application process. Mr. Fleming said that he felt the wastewater projects would receive the same results.

Mr. Fleming restated the information about the cooling tower fan that Mr. Williams had reported on. Rebecca Huss asked about the value of the fan for the cooling tower. Mr. Fleming advised that it was probably between \$20,000- \$25,000. Rebecca Huss said that it was nice that it was under warranty and that it was found in the nick of time. Mr. Fleming said that the unit has probably been in service 2½ - 3 years and it carries a five year warranty.

Dave McCorquodale asked about the paving out at Waterstone. Mr. Fleming said that back in April and May, when the big rain events occurred, they lost a significant portion of their new paving. They had to remove the damaged paving and replace a lot of the base material. Dave McCorquodale asked about the workmanship and progress of the project. Mr. Fleming said that they found it to be in keeping with the City guidelines.

Mr. Fleming advised that the last item on his list, West Side at the Park, was pulled after he submitted his report. Mr. Fleming said he had been contacted by the developer's engineer and he will be meeting with them tomorrow morning to discuss their issues, so the item was removed from this agenda. Mr. Fleming said that it will probably be back on the next agenda.

Mayor Jones asked about the status of the water reuse project at the sewer plant. Mr. Fleming said that Gulf was authorized to move forward with the project this morning and they had placed their orders with NTS. Mr. Fleming said that the order had about a six to eight week lead time.

Mayor Jones asked Mr. Yates and Mr. Foerster about the Letters of Termination that we sent to MUD's 3 and 4, and asked if they had received an acknowledgement. Mr. Yates said that they had received the acknowledgement that they had received the letter. Mr. Fleming said that with each of the MUD's the letters will go before their Boards at their next regularly scheduled meeting to receive action and acceptance of

the letter. Rebecca Huss stated that they can't refuse to accept the letter, which is the City's contractual right. Mr. Fleming said that was his understanding.

G. Financial Report – Mrs. Cathy Branco, Financial Consultant, presented her report to City Council. Mrs. Branco advised that there were funds available in the amount of \$1,841,396, and of those funds approximately \$800,000 is unavailable because it is prescriptive or belongs to the Montgomery EDC. Mrs. Branco stated that the September 1 Debt service payment had been paid, and the next Debt Service payment will be on March 1, 2017 for \$411,358. Mrs. Branco advised that the tax revenue would start coming in during September and October. Mrs. Branco said that she is getting all the reports processed and will be preparing for closing out the year and starting the Annual Audit.

Jon Bickford moved to accept the departmental reports as presented. Rebecca Huss seconded the motion, the motion carried unanimously. (4-0)

4. Consideration and possible action regarding scheduling a Public Hearing for an Alcohol Beverage License Application for Cowpokes located at 22016 Eva Street "A", Montgomery, Texas (previously the Heritage House) as submitted by Brave Spear LLC owner David Gerrard.

Mr. David Gerrard was present and gave an overview of what he had planned for his property. Mr. Gerrard said that he wanted to bring back good fine country cooking back to the west side of town. Mr. Gerrard said that he and his wife came from Magnolia about four years ago, looking to start a family business. Mr. Gerrard said that he found the Heritage House and said that it was a beautiful site for them to start their business.

Mr. Gerrard said that part of their plan was to bring the restaurant Cowpokes in the old Heritage House building. Mr. Gerrard said that he agreed with the previous owner not to use the name Heritage House when they purchased the property. Mr. Gerrard advised that they also have plans for a frozen custard stand on the property, which they are hoping that the community will enjoy. Mr. Gerrard said that phase one of the project is the frozen custard stand. Phase two, open the Cowpokes restaurant, with a full sit down dining, before the holidays. Phase three, will be the clearing in the back of the lot, where they would like to

have a small live music venue for bluegrass and country music. Mr. Gerrard said that they have big plans and hope to have the support of the City.

Jon Bickford asked if Mr. Gerrard had purchase the entire property. Mr. Gerrard said that they had purchased the whole property. Mr. Gerrard said that there was also another location on the site where they were going to put another building, which they are going to use as an office space and possibly a knick-knack Texas furnishings store in the building. Mr. Gerrard said that might even sell Christmas trees during the holidays.

Rebecca Huss said that she is happy to see people putting money into the property and leveling the building. Mr. Gerrard said that he thought that the previous owner was so busy making good food and pleasing the customers that they did not keep up some of the things. Mayor Jones said that they wished them luck. Jon Bickford asked if the distance from the schools was okay. Mayor Jones said that the Heritage House had a beverage permit. Rebecca Huss said that apparently if you have a food and beverage permit, the 300-foot measurement is not an issue. Rebecca Huss said that the City Secretary has given her the Top Ten Questions about the TABC licensing. Mayor Jones said that as long as they are over 50% food it is a different set of rules.

Rebecca Huss moved to schedule a public hearing for an Alcohol Beverage License Application for Cowpokes located at 22016 Eva Street "A", Montgomery, Texas (previously the Heritage House) as submitted by Brave Spear LLC owner David Gerrard to be held on October 25, 2016 at 6:00 p.m. at City Hall. Dave McCorquodale seconded the motion, the motion carried unanimously. (4-0)

5. Consideration and possible action regarding approval of the Montgomery Economic Development District 2016-2017 FY Operating Budget.

Mr. Yates advised that the agenda should state the Montgomery EDC. Mr. Yates said that the MEDC Board has approved the Budget, which is now being presented to City Council for their approval. Mr. Yates reviewed the budget with City Council.

Mr. Yates said that the staffing line item is meant to be \$35,000, but it will be determined by a separate committee, formed by the MEDC, over the next two months and then they will bring their findings back to City Council for approval.

Mr. Yates said that \$10,000 has been set aside for an internship program with either high school or early college students, to be hired by local businesses. Mr. Yates said that the details for this program will be worked out later.

Mayor Jones said that that big line item in the budget is for infrastructure improvements. Mayor Jones said that they have a lot of plans for MEDC to participate, such as, the grant project for Pizza Shack and McCoy's line upsizing project. Rebecca Huss said that she thought it was good that MEDC is spending their money on those projects, because it really will bring in jobs and revenue to the City.

Mayor Jones said that this budget is not much different than City Council has seen in the past. The MEDC is still participating in the festivals and blight removal, which they have accomplished a lot over the last year, removing dilapidated houses and cleaning property.

Jon Bickford asked when they set the City budget, when did they assume the tax revenue from Kroger would start. Mr. Yates said that they set it for March. Jon Bickford said that he wanted to be mindful of the date and when the taxes would be collected. Jon Bickford said that he did not want to overcommit and under deliver. Mayor Jones said that the plan, per the budget, is to spend down the balance, but historically they do not end up spending all of the projects that they plan, and they end up carrying over funds. Mayor Jones said that if everything happens, they will draw down some funds.

Jon Bickford confirmed that they are going to maintain their position held by Shannan Reid. Mr. Yates said that was correct, and it was listed under the Montgomery Area Chamber of Commerce office at \$37,000. Mayor Jones said that as Mr. Yates had mentioned, that is being discussed as to whether that relationship will or can continue, so those funds are in there as a place holder for now.

Mr. Yates said that he will check on his notes regarding the timing of the tax revenue for Kroger, because it will matter for the City's General Fund, and he will advise City Council. Mr. Yates said that he had \$20,000 per month net for General Fund, so three months would equal \$60,000. Jon Bickford said that he thought that they started in November, but he might be wrong. Mr. Yates said that he thought that he had set it at either February or March, but he would check. Rebecca Huss said that either way they had been very conservative on the figure, and they had not included McCoy's in the figure, so she did not feel that it would impact on where the City is on their projected revenue.

Jon Bickford said that the City and MEDC really needed to take a look at getting the buildings, at least the Simonton House, painted this year. Jon Bickford said that they might get them done by using volunteers or paid help, but the building has been sitting there primed and not painted for four years. Mr. Yates said that he has \$5,000 in the MEDC Budget for Fernland. Jon Bickford said that \$5,000 would cover the paint, but if they have to pay someone it will not cover the labor, unless you get volunteers. Jon Bickford said that they need action to get that done. Mayor Jones said if someone would come to MEDC with a project, he was sure that they would approve it. Rebecca Huss said that she thought the log homes were still waiting for the resin testing on the interior. Mr. Yates said that they are working with the Fellowship Church that is going to put a preservative on the log cabins. Jon Bickford asked Mr. Yates how they get the Simonton House painted, because he does not want to bring it up again in six months. Mr. Yates said that he would work on it. Mayor Jones said that the City could pay for that project. Jon Bickford said that was a City building.

Jon Bickford moved to approve the Montgomery Economic Development Corporation 2016-2017 FY Operating Budget as presented. Dave McCorquodale seconded the motion, the motion carried unanimously. (4-0)

6. Consideration and possible action to adopt the following Ordinance:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MONTGOMERY, TEXAS AMENDING THE RATES TO BE CHARGED FOR GARBAGE AND TRASH PICKUP SERVICE INSIDE THE CITY OF MONTGOMERY, TEXAS; PROVIDING FOR A PENALTY FOR FAILURE TO PAY ACCOUNTS; PROVIDING CONDITIONS UPON WHICH SERVICE WILL BE RESUMED; REPEALING ALL CONFLICTING

ORDINANCES; PROVIDING A SAVINGS CLAUSE; PROVIDING A TEXAS OPEN MEETINGS ACT CLAUSE; AND PROVIDING AN EFFECTIVE DATE OF OCTOBER 20, 2016.

Mayor Jones advised that City Council has already approve the increase, this is just the ordinance adopting the increase.

Dave McCorquodale moved to adopt the ordinance as presented. Jon Bickford seconded the motion, the motion carried unanimously. (4-0)

7. Consideration and possible action to adopt the following Ordinance:

AN ORDINANCE BY THE CITY COUNCIL OF MONTGOMERY, TEXAS, REGARDING AMENDING CHAPTER 78, "SUBDIVISIONS," OF THE CITY CODE OF ORDINANCES BY ADDING ARTICLE VII, ENTITLED "VEGETATION," CHAPTER 170, "TREE PRESERVATION AND REPLACEMENT," REGARDING THE REGULATION OF TREE REPLACEMENT AND REMOVING; PROVIDING DEFINITIONS; PROVIDING REGULATIONS FOR TREE PRESERVATION AND PROTECTION; CREATION OF A CITY TREE FUND; CREATING AN ACCEPTABLE CITY TREE LIST; PROVIDING FEE SCHEDULE FOR TREES AND IMPLEMENTATION; PROVIDING FOR CRIMINAL PENALTIES AND CIVIL ENFORCEMENT; PROVIDING REPEALING AND SEVERABILITY CLAUSES; AND PROVIDING AN EFFECTIVE DATE AFTER PUBLICATION.

Mr. Yates advised that this is the tree preservation ordinance that was discussed 2-3 months ago. Mr. Yates said that there were slight changes to the ordinance based on review with the City Attorney. Mr. Yates presented an overview of the tree ordinance and general description.

Dave McCorquodale stated that in order to remove a tree larger than 10 inches, a permit would be required, but asked to confirm that a tree smaller than 10 inches would not require a permit. Mr. Yates said that was correct. Dave McCorquodale said that as that relates to canopy, does the developer have to save 20 percent of the canopy, as it relates to trees larger than 10 inches or is there a cumulative over the site, which could have a bunch of six inch trees that make up the canopy. Mr. Yates said that the canopy is the cumulative total. Dave

McCorquodale confirmed that the protective trees, and the ones that are smaller, the smaller ones would still count toward the 20 percent of the canopy area that they would be able to remove without having to replace them. Mr. Yates said that was correct. Mayor Jones said if a resident wants to cut a tree in their back yard, it would not affect them. Mr. Yates said that it does not affect an existing subdivided lot.

Dave McCorquodale asked since the list is pretty short regarding unincorporated undeveloped land owners, and asked if it would be prudent for the City to notify them about this ordinance. Mr. Yates said that he sent Chris Cheatham, Phillip LeFevre and Steve Bowen a copy of the draft ordinance. Mr. Yates said that he had included that email in the last agenda pack. Mr. Yates said that Phillip LeFevre was okay with the ordinance, there was no comment from Steve Bowen, but Chris Cheatham was concerned with the ordinance but did not offer comments.

Rebecca Huss said that Phillip LeFevre will not really be affected by the ordinance because of his development, but what is important is to remember what happened when they negotiated with Milestone and then all the trees got cut down. Rebecca Huss said that during the negotiation process, while the City has something that they want, that is the time for the City to have the ability to impact land that is not protected by this particular ordinance and use our leverage early on. Rebecca Huss said that there is a vast amount of property that is not impacted through development agreements, such as on the south side of the City, where there is all that pasture land with a few trees around the edges. Mr. Yates said that what he needs to work on is a landscaping ordinance, where there is not a coverage issue but you still want some trees on the property. Rebecca Huss said that it might be a checklist where the developer sees what the City's priorities are and they can make suggestions.

Mayor Jones said that the City has been talking about a tree ordinance for about 12 years, so if this one is satisfactory, and also noted that ordinances are made to be amended if they have a need to do so.

Jon Bickford noted that Section 78-175, #9, "this man not think so" needs to have the wording corrected. Mr. Yates advised that he would make that correction.

Dave McCorquodale moved to approve the ordinance, with the correction. Rebecca Huss seconded the motion, the motion carried unanimously. (4-0)

8. Consideration and possible action regarding a Drainage Encroachment Agreement by and between Bentley Builder, LLC and the City of Montgomery regarding Lot 1 Block 2 of Waterstone on Lake Conroe, Section 2, Montgomery, Montgomery County, Texas.

Mr. Yates presented the information, advising that the request is from the builder who is in the process of selling the home. Mr. Yates advised that the home was built approximately six feet inside the drainage easement that lies on the lot. Mr. Yates said that the drainage easement is not in use now, due to the after-design changes in the drainage of the area where drainage now flows into an underground storm sewer. Mr. Yates said that Mr. Fleming has reviewed the issue and agrees that the area is no longer designed or designated to accept any drainage runoff. Rebecca Huss confirmed that they were not giving up the easement, they were just allowing them to encroach on the easement. Mr. Yates said that was correct.

Rebecca Huss asked if the question was answered as to how this occurred in the first place. Mr. Yates said that he believed that it happened because he and the Building Inspector did not check the plot plan well enough. Mr. Yates said that every building permit has a site plan on it, and he overlooked the encroachment. Dave McCorquodale said that if he had to guess, the easement probably was not shown on the plot plan, which is not to say that it was overlooked by the three checks, in the system, by the City Administrator, City Engineer or Building Inspector.

Dave McCorquodale asked Mr. Fleming if he looked at the site plan. Mr. Fleming said that he did, and said that it is clearly not functioning as a drainage easement as this time. Mr. Fleming said that in his opinion the easement was probably carried over on the Section Two plat because it was already there when they designed Section One. Dave McCorquodale asked Mr. Fleming if he was confident that the water that would have gone over the easement is now satisfactorily going somewhere else. Mr. Fleming said that it is going in the newly paved road and into some inlets. Jon Bickford asked if there were any underground utilities in this easement, which by the City allowing them to encroach would prevent the City from being able to get to them. Mr. Fleming said that by plat, this was dedicated solely as a

drainage easement. Mr. Yates said that there were no water or sewer or other utilities under that property.

Rebecca Huss asked what would happen if someone were to build a house on a drainage easement, and would that be the responsibility of the builder. Mr. Yates said that legally the ultimate responsibility is the builder.

Mr. Yates advised that the legal and engineering fees related to this agreement total approximately \$250, which if Council chooses to, he would like to have that included in the motion.

Dave McCorquodale moved to grant the encroachment agreement, with the administrative fees of approximately \$250 being paid by the home builder requesting the encroachment agreement. Jon Bickford seconded the motion, the motion carried unanimously. (4-0)

9. Consideration and possible action regarding Request for Proposals (RFP) for Grant Writer and Request for Qualifications (RFQ) for Engineer for Community Development Block Grant Program application.

Mr. Yates said that there is a specific process that CDBG requires to hire a grant writer and/or administrator and engineer. Mr. Yates said that City Council already advised that they wanted to apply for the CDBG several months ago.

Mr. Yates said that they also need to appoint a Review Committee, which he is recommending be T.J. Wilkerson, either the Mayor or Mayor Pro-tem, City Secretary and himself. Mr. Yates advised that there is a specific scoring procedure that must be followed. Once that is complete then City Council will make the final decision.

Jon Bickford moved to proceed with the Request for Proposals (RFP) for Grant Writer and Request for Qualifications (RFQ) for Engineer for Community Development Block Grant Program application, and that they ask that the selectees for the Interview Committee if they will accept those positions. T.J. Wilkerson seconded the motion.

Discussion: Rebecca Huss asked if the motion needed to specifically state all four names of the Interview Committee. Mr. Yates said that it probably should, and said that it probably should not be three members of City Council, because that would be a quorum.

Jon Bickford amended his motion to include naming the following people as the Interview Committee: T.J. Wilkerson, Susan Hensley, Jack Yates and Rebecca Huss. T. J. Wilkerson seconded the amended motion, the motion carried unanimously. (4-0)

10. Consideration and possible action regarding approval of Montgomery EDC funding of a paving project north of the Montgomery Community Center along Clepper Street.

Mr. Fleming presented the information to City Council, stating that the area that they are looking at for parking was along the stone wall along Clepper Street. Mr. Fleming said that he was recommending a crushed limestone in that area because of an aging waterline that is located there and at some point they might need to perform maintenance on, and there is also several nice trees just inside that stone wall. Mr. Fleming said he would hate to jeopardize the trees by paving to far under their dripline with asphalt. Mr. Fleming said that the quote for the limestone, graded out so that the transition from the paving to the grass was easier to maintain, along with placement of some wheel stops to prevent vehicles from bumping into the stone wall was estimated at \$24,632.

Jon Bickford asked if they have checked on parking a 4-door extended cab pickup, and how far it would stick out into the street. Mr. Fleming said that he was surprised at who was able to park in that area. Mr. Fleming said that they tend to park head into the parking spot, which he would like to discourage, and have them park more at an angle. Jon Bickford agreed and asked if they could do that. Mr. Fleming said that he would recommend having the contractor align the wheel stops to encourage angled parking.

Dave McCorquodale asked Mr. Fleming if he felt that using any type of crushed aggregate, at least in the near term, and whether he worried about the sediments and silts in terms of the flow of the ditch, and whether there should be temporary bamboo matting while the materials compact, so the materials do not end up in the ditch. Mr. Fleming said that the flow actually runs the other way back toward FM 149. Mr. Fleming said that during construction there

will probably be a straw bale or two there to make sure that does not happen. Once the material settles, Mr. Fleming said he did not think there would be an issue. However, they did feel that they would need some maintenance, so the contractor has included one year of maintenance and upkeep on the area, and to rake it occasionally.

Mr. Fleming said that the MEDC voted unanimously in favor of this and to authorize the City to work with this contractor or another for an amount not to exceed \$25,000.

Jon Bickford said that once they establish this area for parking, people are going to park there, so does the City run any risk of that pipe getting crushed because we are parking regularly. Mr. Fleming said that he did not think so, because they are not encouraging large trucks. He was concerned with the large dumpster that they had for the Wine Festival. Mayor Jones said that they have been doing that for years.

Mayor Jones said that the parking has been in the MEDC budget for years. Mayor Jones said that there is also another source of funding that is available for this, which is the agreement that Mr. Barnes agreed to provide parking on the north side of the Community Center in lieu of parking places at the amount of \$10,000. Mr. Yates said that Mr. Barnes has until December 31 to pay the balance. Mayor Jones said that it won't cost MEDC as much with those funds.

Rebecca Huss asked about Clepper Street because there is obviously some need for adjustments in the area, and asked if future adjustments would require this material to be ripped up or encroached upon. Mr. Fleming said that also played into his recommendation to steer away from asphalt or concrete paving. Mr. Fleming said that the current elevation of the paving on Clepper is a good deal higher than the base of the stone wall, so any future improvements to Clepper directly impacts the area. Jon Bickford said if they have to dig up the pipe, they will have to take up all the materials too.

Rebecca Huss advised that the owner of Jim's Hardware bought the small residential property next to the store, and to her, what would make the most sense would be for him to replat that as one property so he would not have to do the offset for a piece of the property. Rebecca Huss said that she thought they were thinking of having a different route for their trucks, so

the owner might need to be encouraged to do something to Clepper if he will have a lot of heavy truck traffic. Rebecca Huss said it would be nice to do the projects together. Mr. Fleming said that he would be happy to look into that, along with Mr. Yates. Mr. Fleming said that they can certainly find out what the timeline is for doing something in that area. Mr. Fleming said that they also needed to keep in mind that Clepper is a City road, and while the owner might be inclined to participate with further improvements, ultimately, it is still a City road. Rebecca Huss said that there is a lot of potential value that the City can add in exchange for doing this as a big combo project. Mayor Jones said it was something worth looking into, plus the property would have to be rezoned. Mr. Fleming said that he was not aware that the owner had acquired that piece of property. Mr. Fleming said that they would certainly look into the matter.

Mayor Jones said that they could still move forward with this project, and have conversations with owner. Rebecca Huss said that she would be comfortable if they knew what the changes were going to be to that property, and that the current plan would accommodate those plans. Mayor Jones said that was a good point to make.

Rebecca Huss moved to approve the project funding, as planned by the MEDC and the City Engineer, for parking on the north side of the Community Center along Clepper Street. Dave McCorquodale seconded the motion.

Jon Bickford stepped out of the meeting at 7:41 p.m. prior to the vote.
The motion carried unanimously. (3-0)

11. Consideration and possible action regarding requested variances for the proposed Villas of Mia Lago, Section Two development as follows:
 - a) Variance from required minimum lot width of 75 feet; and
 - b) Variance from required minimum lot area of 9,000 square feet; and
 - c) Variance from required minimum side yard setback of 10 feet to 5 feet.

Jon Bickford came back to the meeting at 7:44 p.m.

Mr. Fleming advised that he offered no objections to the requested variances, as they are a continuation of those previously approved for the adjoining Villas of Mia Lago, Section One development. Mr. Fleming advised that this development is planned to have 42-lots, single family residential.

Mr. Fleming advised that last night the Planning and Zoning Commission approved all three of the variance requests unanimously, and passed them on to City Council.

Mayor Jones asked what Section One of the development looked like in comparison to these plans. Mr. Fleming said that each of these variances is in keeping with what was previously approved by the City for Section One, which would allow the developer to maintain the same look and aesthetics. Mr. Fleming said that from an engineering stand point, he offers no objections to the requests. Mr. Fleming said that regarding the lot area request, it is worth noting that they do have adequate compensating green space allotted within the development and is intended to be part of Restricted Reserve A. Mr. Fleming said that it is also worth noting that they had discussed the future extension of Lone Star Bend, which both the City and the County have plans to extend that road through to Bois d' Arc. Mr. Fleming said that as part of this plat, the developer plans to dedicate that necessary right-of-way to facilitate that extension of the road.

Dave McCorquodale asked about the turnaround that is shown on the plat that encroaches into the lots located by it, and asked how that worked as they are building out that road. Mr. Fleming advised is you drive through the area, that asphalt turnaround is there right now as per the Code, because it is required for a dead end road. Mr. Fleming said that as Section Two is built out the turnaround will be removed, the asphalt taken away, and the road extended.

Mayor Jones asked if the Planning and Zoning Commission was unanimous in their decision to approve the variances. Mr. Fleming said that the decision was unanimous.

Rebecca Huss said that in her thinking, Reserve A, is not a lot to provide compensating greenspace, basically it is across a large roadway that is projected to have a fair amount of traffic. Rebecca Huss said that the whole point of Lone Star Bend is to get traffic from

Walden Road to this location. Rebecca Huss said if she is going to send her children to go and play in Reserve A, they are going to get squashed. Rebecca Huss said that she did not think that it did much aesthetically or functionally to provide compensating green space. Rebecca Huss asked how many more sections will be in the development. Mr. Fleming said that to his knowledge this would be the extent of the Villas of Mia Lago. Mr. Fleming advised that Mr. Liberatore, the developer, was present. Mr. Liberatore advised that Section Two would be the final section of the Villas of Mia Lago, because they are currently out of land. Jon Bickford asked if they got more land would they continue the development. Mr. Liberatore stated that they have 80-acres that they are trying to get the City of Conroe to release out of their ETJ, in the back of the Estates of Mia Lago. Jon Bickford asked if the idea was to have more villages. Mr. Liberatore said no this would be the end of the villages.

Mr. Liberatore said that aesthetically, in Section Two versus Section One, they increased their lot size. They originally had 45 lots platted and they reduced that amount to 42 lots, increasing the lot size, which would allow 3-car garages. Jon Bickford asked if the garages would be facing the street. Mr. Liberatore said that unfortunately they would face the street.

Dave McCorquodale asked if Mr. Liberatore knew if the price points for the homes in Section Two were comparable to the homes in Section One. Mr. Liberatore said that they were hoping that Section Two homes would be a little bit higher in price. Mr. Liberatore said that he has all the lots in Section Two sold to a builder group, who is talking about an upgraded style of home. Jon Bickford asked if it made any sense of seeing examples of the homes before they approve them. Mr. Liberatore advised that their homes are all masonry, no siding allowed with architectural shingles. Mr. Fleming said that everything on the plat is Code compliant.

Mr. Liberatore advised that his attorney, Steve Weisinger, will be asking the City of Conroe to release the property in the ETJ. Rebecca Huss said that she is more comfortable with the plan because it is the same as Section One. Jon Bickford asked about the size of the homes. Mr. Liberatore advised that the single and two story homes would range from 1,600 – 2,400 square feet. Jon Bickford said that his concern was cramming this many homes in a small area.

Dave McCorquodale asked if they needed to address each variance with a separate motion. Mayor Jones also asked if they needed to set a minimum lot width. Dave McCorquodale asked if they just approved the plat, would that be set in stone. Mr. Yates said that you are instructing the City Engineer to review the final plat based on these variances, and the variances will be on the final plat. Mr. Yates said that the final plat is approved and amended by City Council.

Jon Bickford stated that lots 4 and 5 on Minera Lane are only 42 feet wide. Mr. Fleming said that those lots are existing lots located in Section One.

Dave McCorquodale moved to approve to approve the Preliminary Plat as recommended by the Planning and Zoning Commission to include the following variances: a) the variance from required minimum lot width of 75 feet; and b) the variance from required minimum lot area of 9,000 square feet; and c) the variance from required minimum side yard setback of 10 feet to 5 feet, because he trusts that he will see the final plat that will look like this, with the variances. Dave McCorquodale said that if they came back with 30 more lots on the plat, he would probably raise some questions. Rebecca Huss seconded the motion.

Discussion: Mr. Yates advised that the Planning and Zoning Commission only approved the variances, because they had already approved the Preliminary Plat. Dave McCorquodale said to strike "Preliminary Plat" from his motion and replace with "variances." The City Secretary asked to confirm that they are approving the variances as they are listed on the agenda. Dave McCorquodale said that was correct.

Mr. Yates said that the variances are shown on the draft of the Final Plat. Jon Bickford asked if they could state that they are approving the variances as shown on the draft of the Final Plat, because he did not want the lots to get smaller. Mr. Yates said that would not happen, because Council's instructions are on how to prepare the Final Plat, which City Council will review. Mayor Jones said that they do not have to approve the Final Plat if they do not like what they see.

The City Secretary confirmed that the motion was to approve the variances as stated on the Agenda. City Council concurred that was correct.

The motion carried unanimously. (4-0)

12. Consideration and possible action regarding approval of the Final Plat submission and accompanying construction plans for SH-105 Retail Center.

Mr. Fleming advised that this was a small, 2-acre commercial development on the northeast corner of SH 105 and Lone Star Parkway. Mr. Fleming said that the building will face SH 105, and it is a single commercial pad 18,000 square feet, with multiple tenants. Mr. Fleming advised that the construction plans are on file in the City Secretary's office for review.

Mr. Fleming said that he offered no objections to the plat submission, although prior to sending them to mylars, there are a few minor typos that need to be corrected.

Jon Bickford asked if Mr. Fleming had any idea what the plan was for the property. Mr. Fleming said that the anchor tenant is intended to be an emergency clinic.

Dave McCorquodale asked if Mr. Fleming was comfortable with the ingress and egress. Mr. Fleming said that have their permit from TxDOT and they are compliant with the City's Code. Mayor Jones asked how far back their driveway was from SH 105. Mr. Fleming said that it was far enough back that TxDOT has approved it, right at their property line.

Mayor Jones asked about their water and sewer connections. Mr. Fleming said that both water and sewer were located on the corner of Lone Star Parkway and SH 105, and they are planning to tie into the City's extension along SH 105. Mr. Fleming said that they will mobilize quickly and have a contractor on site mid-November.

Rebecca Huss asked whether this was also subject to Corridor-Enhancement. Mayor Jones said that they were subject to Corridor-Enhancement regulations.

Jon Bickford asked if they had in place, what they need for Impact Fees. Mr. Fleming said that they did not have that yet. Rebecca Huss said that they did have the Pro-Rata Share Ordinance in place. Mr. Fleming said that was a grant funded extension along there, and to

this point there has been no discussion regarding the developer paying a Pro-Rata Share. Rebecca Huss said that they had discussed this matter, because the City is bearing the burden of the risk because Pizza Shack refused to indemnify the City on job creation. Mr. Fleming said, with all due respect, he believed that was incorrect. Mr. Fleming said that Pizza Shack is obligated to meet their job criteria. Rebecca Huss said that she thought Mr. Fleming was wrong because Pizza Shack refused to indemnify and the City had to accept that. Mayor Jones said that it was not a refusal to indemnify, they plan on meeting the criteria. Rebecca Huss said that she understood what they were saying, but the City was taking the risk. Mr. Yates said that the MEDC is providing the difference between the grant and the total cost, because Pizza Shack was not able to qualify. Rebecca Huss said that was because they were not creating enough of the right kind of jobs.

Mr. Fleming said that there has not been any discussion regarding Pro-Rata buy-in, but there have been extensive discussions with the developer about the proposed timing of the extension. Mr. Fleming said that they are very cognizant of the fact that the City's work is directly tied to Pizza Shack showing measurable progress, and we feel that they are about there. Mr. Fleming said that they are prepared to advertise for bids on that project mid-October. If for any reason they are not comfortable doing so, they will have to have a discussion with the developer, which they have been apprised of the possible need for them to go ahead and extend the utilities across their tract for the following reasons: 1) so they can receive utility services, and 2) because they have to pave over the City's utilities once they are in the ground.

Mayor Jones said if Pizza Shack had to get water and sewer on their own, they would just have to bore in two different directions. Mr. Fleming said that per the City's Code they would have to extend the full length of their property if they did it on their own. Mr. Fleming said that then the City would need to upsize both water and sewer lines at that location. Mayor Jones said that he liked that deal better. Jon Bickford said that he felt they needed to alert the developer now and would they change their plan. Mr. Fleming said that they have had the discussion with Pizza Shack about the timing of the grant funded extension, and if they have to go back to them and state that they are going to have to extend the utilities across their property, they are prepared to have that discussion. Rebecca Huss said financially the City would be better off delaying Pizza Shack, extending their own utilities and paying for it

themselves. Mr. Fleming said that regardless of when the grant funding moves forward, MEDC has to make their contribution in advance, per the terms of the Department of Agriculture. Mr. Fleming said if they significantly alter the scope of work, such as taking off 400 feet, the City will have to go back to the Department of Agriculture to advise them that they have changes to the plans.

After discussion, Jon Bickford moved to accept the Final Plat and construction plans for the SH 105 Retail Center, as presented. Dave McCorquodale seconded the motion, the motion carried unanimously. (4-0)

EXECUTIVE SESSION:

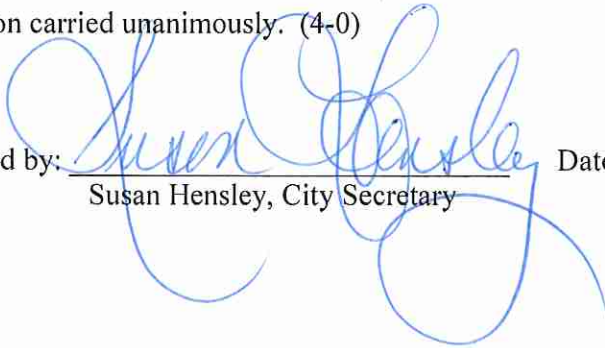
The City Council reserves the right to discuss any of the items listed specifically under this heading or f or any items listed above in executive closed session as permitted by law including if they meet the qualifications in Sections 551.071(consultation with attorney), 551.072 (deliberation regarding 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. (No current items at this time.)

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 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.

ADJOURN

Jon Bickford moved to adjourn the meeting at 8:12 p.m. Dave McCorquodale seconded the motion, the motion carried unanimously. (4-0)

Submitted by:  Date Approved: _____
Susan Hensley, City Secretary

Mayor Kirk Jones

Montgomery City Council
AGENDA REPORT

ITEM #4

Meeting Date: October 11, 2016	Budgeted Amount: N/A
Department:	
Prepared By: Jack Yates	Exhibits: Resolution
Date Prepared: October 6, 2016	

Subject

Recognition of Municipal Court week, November 7-11

Discussion

This resolution recognizes the importance of Municipal Court's, the rule of law, and the fair and impartial administration of justice -- all of which I feel like is accomplished in the Montgomery Municipal Court.

The Administrator of the city's Municipal Court is Rebecca Lehn. Ms. Lehn, Krystal Gonzalez, Kimberly Duckett and Municipal Court Judge Robert Rosenquist's commitment to prompt, fair and impartial adjudication of approximately 4,000 cases per year is a tribute to their dedication.

A vast majority of American's dealings with the judicial system is with the Municipal Courts in the country, so recognizing them for their faithful diligence seems worthwhile.

Recommendation

Pass the Resolution.

Approved By

Department Manager		Date:
City Administrator	Jack Yates	Date: October 6, 2016

RESOLUTION NO. _____

IN RECOGNITION OF MUNICIPAL COURT WEEK

November 7-11, 2016

A RESOLUTION RECOGNIZING THE IMPORTANCE OF MUNICIPAL COURTS, THE RULE OF LAW, AND THE FAIR AND IMPARTIAL ADMINISTRATION OF JUSTICE

WHEREAS, municipal courts play a significant role in preserving public safety and promoting quality of life in Texas;

WHEREAS, more people come in contact with municipal courts than all other Texas courts combined and public impression of the Texas judicial system is largely dependent upon the public's experience in municipal court;

WHEREAS, the City of _____ hosts the _____ Municipal Court since _____;

WHEREAS, state law authorizes a municipality to either appoint or elect a municipal judge for a term of office, the _____ Municipal Court is a state court and its judges are members of the state judiciary;

WHEREAS, the procedures for the _____ Municipal Court operations are set forth in the Texas Code of Criminal Procedure and other laws of the State of Texas;

WHEREAS, the City of _____ is committed to the notion that our legal system is based on the principle that an independent, fair, and competent judiciary will interpret and apply the laws that govern us and that judges and court personnel should comply with the law and act in a manner that promotes public confidence in the integrity and impartiality of the judiciary;

WHEREAS, _____ Municipal Judges are not policy makers for the City of _____ but are bound by the law and the Canons of Judicial Conduct and are required to make decisions independent of the governing body of the City Council, city officials, and employees;

WHEREAS, the City Council recognizes that the Constitution and laws of the State of Texas contain procedural safeguards in criminal cases for all defendants, including indigent defendants, and supports the _____ Municipal Court in complying with such legal requirements.

NOW, THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF _____, TEXAS THAT THE WEEK OF NOVEMBER 7 – 11, 2016 IS HEREBY RECOGNIZED AS MUNICIPAL COURT WEEK IN RECOGNITION OF THE FAIR AND IMPARTIAL JUSTICE OFFERED TO OUR CITIZENS BY THE MUNICIPAL COURT OF _____.

PASSED AND APPROVED ON THIS THE ____ DAY OF _____, 201_.

MAYOR

ATTEST:

CITY SECRETARY

Montgomery City Council
AGENDA REPORT

ITEM #5

Meeting Date: October 11, 2016	Budgeted Amount: N/A
Department:	
Prepared By: Jack Yates	Exhibits:
Date Prepared: October 6, 2016	

Subject

Alcoholic Beverage Permit for Whitley Vineyards, LLC at 401 College St. Suite 150

Discussion

The application is in good order, no public comment has been received in response to letters being mailed to property owners within 200 feet. The granting of this permit will not supersede the need for a Certificate of Occupancy for their plan location in Suite 150 at 401 College St. Mr. Barnes, the owner of the building, owes the city \$5000 for parking lease -- that is due before December 31, 2016. Until he makes that payment a certificate of occupancy will not be approved for the first floor of his building at 401 College St.

However, you may certainly approve the permit without a contingency.

Recommendation

Approve the permit.

Approved By

Department Manager		Date:
City Administrator	Jack Yates	Date: October 6, 2016

Montgomery City Council
AGENDA REPORT

ITEM #6

Meeting Date: October 11, 2016	Budgeted Amount: N/A
Department:	
Prepared By: Jack Yates	Exhibits: Resolution
Date Prepared: October 6, 2016	

Subject

Alcoholic Beverage License for Hodge Podge Lodge at 309 Prairie St.

Discussion

The application is in your packet.

The question arose during the application review regarding the 300 foot distance from the school requirement. Since the school owns a substantial tract of property, much larger than the actual school building site it meant that the Hodge Podge Lodge and the school properties met. In your packet, under the public hearing on him, is a letter from the school saying they do not have a problem with the location, and a copy of the state law that requires a variance to the 300 foot distance rule.

To approve a variance requires a resolution, as prepared by Larry Forster.

Recommendation

--

Approved By

Department Manager		Date:
City Administrator	Jack Yates	Date: October 6, 2016

RESOLUTION NO. _____

A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF MONTGOMERY APPROVING A VARIANCE TO THE 300-FOOT DISTANCE REQUIREMENT FOR AN ALCHOL BEVERAGE PERMIT FOR THE HODGE PODGE LODGE LOCATED AT 300 PRAIRIE STREET AND APPROVING THE PERMIT.

WHEREAS, the City Council for the City of Montgomery has received an Application for an Alcohol Beverage Permit from Jeffrey S. Angelo, ZNZ Creative Services LLC, dba Hodge Podge Lodge and dba HPL Hospitality; and

WHEREAS, the City Council finds that the Hodge Podge Lodge, which was originally known as “Melrose,” is a historic pre-Civil War property that has been serving the City of Montgomery as a venue for community social events for over 100 years; and

WHEREAS, it appears that the property line of the Hodge Podge Lodge is located within 300 feet of the property line of the public Montgomery Elementary School; and

WHEREAS, there are plans by the Montgomery Independent School District to close the elementary school in the next year; and

WHEREAS, the principal of the elementary school has submitted a letter offering no objection to the issuance of an alcohol beverage permit for the Hodge Podge Lodge; and

WHEREAS, a public hearing was held on October 11, 2016, to hear public comment concerning the Application by the Hodge Podge Lodge; and

WHEREAS, the City Council finds that the distance between the Hodge Podge Lodge and the public school building is over 300 feet; and

WHEREAS, Section 109.33(e) of the Texas Alcoholic Beverage Code (“Code”) permits a city council to grant a variance to the 300-foot distance requirements found in Section 109.33(b) of the Code if the city council determines that the strict enforcement of the distance requirements does not serve the public interest and is not effective or necessary after considering the health, safety and welfare of the public and the equities of the situation; and

WHEREAS, the City Council finds that the enforcement of the 300-foot distance between the property lines of the Hodge Podge Lodge and the elementary school is not in the best interest of the public; creates an undue hardship on the Hodge Podge Lodge permit applicant; and does not serve its intended purpose of protecting the health, safety and welfare of the children in the public school given the facts and equities of the situation;

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

SECTION 1. The City of Montgomery hereby adopts and incorporates the above findings as true and correct.

SECTION 2. The City Council hereby grants a variance to the 300-foot distance requirement set out in Section 109.33(b) of the Texas Alcoholic Beverage Code and approves the Application for an Alcohol Beverage Permit for the Hodge Podge Lodge located at 300 Prairie Street, Montgomery, Texas.

SECTION 3. It is hereby officially found and determined that the meeting at which this Resolution was considered was open to the public as required and that the public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code.

PASSED AND APPROVED this _____ day of October 2016.

CITY OF MONTGOMERY, TEXAS

Kirk Jones, Mayor

ATTEST:

Susan Hensley, City Secretary

APPROVED AS TO FORM:

Larry L. Foerster, City Attorney

Montgomery City Council
AGENDA REPORT

ITEM #7

Meeting Date: October 11, 2016	Budgeted Amount: N/A
Department:	
Prepared By: Jack Yates	Exhibits: letter of request , Certificate of Liability Insurance, copy of his existing Special Use Permit
Date Prepared: October 6, 2016	

Subject

Renewal of Johnson Special Use Permit to sell fire wood at 14586 Liberty St.

Discussion

Mr. Johnson has a letter of request, paid a \$100 renewal fee, provided a proof of liability insurance and vendor bond. That is all that is required for the renewal.

Mr. Johnson has always kept up a very clean operation at his location on Liberty Street, and was very cooperative last spring when all the Special Use Permits for firewood were being reviewed.

The only complaint I have heard about his operation is that sometimes there are several people gathered around an old barrel where he will have a fire during the winter months. The permit says he can have only one employee, however, I did not feel like this was enough of an intrusion to the terms of the permit -- so nothing was ever said to Mr. Johnson-- and does not at this time either to my mind.

Officer Tim Bauer has been assisting me in working with the special use permits and he believes Mr. Johnson also has a clean operation and should be renewed.

Recommendation

Renew the annual permit.

Approved By

Department Manager		Date:
City Administrator	Jack Yates	Date: October 6, 2016

August 31,
2016

Jack Yates and the
City of Montgomery Texas,
I Lewis Johnson Request
a renewal to sell firewood
at 14586 Liberty Street
Montgomery, TX. 77356
for the year September 1, 2016
Through April 30, 2017.

Sincerely

CITY OF MONTGOMERY
936-597-6434

REC#: 00015674 9/27/2016 3:13 PM
OPER: AS TERM: 001
REF#:

CITY OF MONTGOMERY
936-597-6434

TRAN: 16.0000 MISC INCOME
SPECIAL USE PERMIT FEE
SPECIAL USE PERMIT FEE
UNANTICIPATED INCO 100.00CR

TENDERED: 100.00 CASH
APPLIED: 100.00-

CHANGE: 0.00



CITY OF MONTGOMERY

P. O. BOX 708 MONTGOMERY, TEXAS 77356

Telephone: (936) 597-6434 / 597-6866

Home Address

*Lewis Johnson
12833 Northmont Dr
Montgomery, TX 77356
936-264-7146 cell*

August 23, 2016

Ms. Margaret Tate and Mr. Lewis Johnson
14586 Liberty Street
Montgomery, Tx. 77356

It is currently time to renew your Special Use Permit to sell firewood. Enclosed is a copy of your Ordinance for your information. To renew, send me a letter requesting the renewal and you must receive approval before beginning to sell firewood. In your renewal letter, you need to provide the address of the location of sales, a copy of your Liability Insurance and bond. The renewal period to request is September 1, 2016 through April 30, 2016. The charge for the renewal fee is \$100.00.

Sincerely,

A handwritten signature in cursive script that reads "Jack Yates".

Jack Yates
City Administrator
P.O. Box 708
Montgomery, Tx. 77356

(Motion was made by JOE SHOCKLEY, seconded by JOHN FOX, and passed by a vote of 5 to 0, that the following ordinance be passed.)

ORDINANCE NO. 2011-08

AN ORDINANCE OF THE CITY OF MONTGOMERY, TEXAS, GRANTING A SPECIAL USE PERMIT TO MARGARET TATE AND LEWIS JOHNSON FOR USE OF A PORTION OF PROPERTY LOCATED AT 14586 LIBERTY STREET, MONTGOMERY, TEXAS 77356, AND LEGALLY DESCRIBED ON THE ATTACHED EXHIBIT "A," FOR SEASONAL FIREWOOD SALES; ESTABLISHING CERTAIN TERMS, CONDITIONS AND LIMITATIONS; PROVIDING FOR PENALTY, SEVERABILITY, AND EFFECTIVE DATE.

WHEREAS, the City of Montgomery has received a request from Margaret Tate and Lewis Johnson for a special use permit pursuant to Section 98-33 of the Code of Ordinances of the City of Montgomery, Texas, authorizing the use of a portion of the hereinbelow referenced real property as a seasonal firewood sales business; and

WHEREAS, the matter was referred to the City of Montgomery Planning and Zoning Commission for consideration and recommendation, and the Planning and Zoning Commission, after due notice, did consider and make a report on the request for the special use permit, as provided by Section 98-33 (a) of the Code of Ordinances; and

WHEREAS, the City Secretary caused to be issued and published the notice of public hearing required by the City of Montgomery Zoning Ordinance and laws of the State of Texas applicable thereto; and

WHEREAS, the City Council, pursuant to such notice, held its public hearing and heard all persons wishing to be heard both for and against the proposed special use permit, on the 12th day of April, 2011; and

WHEREAS, the City Council, after determining that all legal requirements of notice and hearing have been met, is of the opinion and finds that the requested special use of the property described herein is authorized by Section 98-33 of the Code of Ordinances; and

WHEREAS, the City Council further finds that the granting of a special use permit to Lewis Johnson will not have an adverse effect on the City's comprehensive zoning plan or on the character and development of the neighborhood in which the property is situated, so long as the City imposes appropriate conditions and safeguards;

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

SECTION 1. Grant of Permit. A special use permit is hereby granted to Margaret Tate and Lewis Johnson to use that portion of the property located at 14586 Liberty Street, Montgomery, Texas 77356, and legally described on the attached Exhibit "A," which is 189' by 50' in area, and located immediately adjacent to Liberty Street (the "Premises") for seasonal firewood sales, as an accessory use of an otherwise approved and permitted use. The special use permit is granted upon and subject to the terms, provisions and limitations specified in Section 2.

SECTION 2. Terms, Provisions and Limitations. The special use permit herein granted is expressly subject to the following terms, provisions and limitations, each of which is hereby deemed to be a condition precedent to the grant and continued effectiveness of the permit:

- (a) All firewood sales shall be conducted on the Premises.
- (b) Firewood sales on the Premises shall only be conducted from September 1st through April 30th, and during the term of the permit. Firewood sales shall not take place on any other dates other than as set forth herein; provided however, that City staff, taking into consideration weather conditions, may extend the term of the permit, after a request in writing to extend such permit is received from Margaret Tate and Lewis Johnson.
- (c) The firewood being sold shall be located completely off the right-of-way for Liberty Street, and shall be stored and sold at a safe distance from the Liberty Street pavement.
- (d) The entryway to the Premises and the firewood sales area should be sufficient to allow for vehicles to remain completely clear of the right-of-way and all parking relative to the firewood sales should occur on the Premises, and completely removed from the Liberty Street right-of-way.
- (e) The Premises shall be kept clean and attractive, and shall not create a nuisance in any regard.
- (f) Lewis Johnson has previously submitted, and shall continuously maintain a detailed letter at the City detailing the safety standards that will be adhered to regarding the sale of firewood on the Premises. A copy of the safety standards letter is attached hereto and incorporated herein by reference as Exhibit "B." Margaret Tate and Lewis Johnson shall adhere to and comply with all the standards set forth in this letter.

- (g) The Premises should have adequate lighting during nightly business hours to clearly illuminate the sales area, but said lighting shall not be intrusive, offensive or annoying to neighboring property owners.
- (h) No more than one additional person, other than residents residing on the Premises, shall be employed or engaged in the sale of firewood on the Premises.
- (i) There shall be no alteration or change to the outside appearance, character or use of the Premises.
- (j) No equipment or process shall be used in connection with the firewood sales which creates noise, vibrations, glare, fumes, odors, or electrical interference detectable to the normal senses outside on the Premises. No equipment or process shall be used which creates visible or audible interference in any radio or television receivers off the Premises.
- (k) No articles or materials used in connection with the firewood sales, other than the stacked firewood, shall be stored outside on the Premises.
- (l) Lewis Johnson shall be bonded and insured, and shall maintain general liability insurance in an amount required by City during the entire term of the permit.
- (m) The City shall have the authority to inspect the Property from time to time to confirm Margaret Tate and Lewis Johnson's compliance with the terms and conditions of this special use permit.
- (n) This special use permit does not waive, amend, abrogate or affect any law, rule or regulation, including any ordinance of the City of Montgomery. Margaret Tate and Lewis Johnson shall comply with all ordinances of the City of Montgomery.
- (o) This permit shall expire one year from the date of its issuance, subject to City's right to renew the permit upon request by Margaret Tate and Lewis Johnson. In the event of a violation by Margaret Tate and Lewis Johnson of the terms and provisions of this special use permit, and the continuation of such violation after ten (10) days written notice from the City to Margaret Tate and Lewis Johnson, at the option of City Council, this permit shall be revoked and shall be of no

further force or effect. Such revocation will be effective immediately upon action by City Council.

SECTION 3. Any person, firm, or corporation violating a provision of this ordinance, upon conviction, is guilty of an offense punishable as provided in the Montgomery Code of Ordinances, as amended, by a fine not to exceed two thousand dollars (\$2,000.00); and each day or portion thereof during which the violation is committed, continued or permitted shall be a separate offense.

SECTION 4. It is the intention of the City Council that this Ordinance, and every provision thereof, shall be considered severable and the invalidity of any section, clause or provision or part or portion of any section, clause, or provision of this Ordinance shall not affect the validity of any other portion of this Ordinance.

SECTION 5. This Ordinance shall become effective immediately upon its passage.

PASSED AND APPROVED this 12th day of April, 2011.

CITY OF MONTGOMERY, TEXAS

By: _____

Travis Mabry, Mayor

ATTEST:

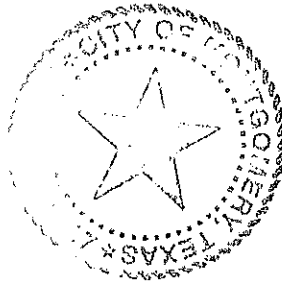
By: _____

Carol Langley, City Secretary

APPROVED AS TO FORM:

By: _____

Bryan P. Fowler, City Attorney





Lewis Johnson
Special Use Permit Safety Standards
14586 Liberty Street
Montgomery, Texas 77356

Topic: Safety Standards for the Sale of Firewood

Location: 14586 Liberty Street

The business of preventing accidents and injuries is a never-ending job, and I (**Lewis Johnson**) do not want anyone that works with me or around me to ever forget about accident prevention. All of my working experience has taught me that Safety means freedom from harm, danger, injury, or damage. So, to prevent accidents, I demand and require all of the people that I employ to follow approved Safety Rules and Safe Work Practices that will keep each of us from doing things that may cause injury or danger.

Each and everyday, I plan my schedule in order to meet with the men and the young workers that I employ to discuss, review, and to remind them that I am always of the opinion that we must follow good Safety Procedures and Practices. These practices include Hand Safety, Eye Safety, and Traffic Safety. Often time, Fire Safety is discussed during housekeeping and inclement weather conditions.

I require and expect everyone to be aware of hand injuries while handling the firewood. One method of hand protection is to wear approved Leather Gloves when handling firewood or using certain tools. Another Safety measure is to stack the wood in sections so that it doesn't collapse or fall on anyone. In addition, I remind the workers to be constantly aware of the placement of hands while handling the wood. I demonstrate through my actions and also tell the workers that there are pinch points that could have a nasty habit of catching them off guard. I am always looking for any hidden hazard while I am handling the wood. I make it a point to survey, examine, and handle each piece of wood carefully, and I expect that of the workers.

Other Safety Standards that I adhere to are the wearing of Safety Glasses or Safety Goggles when cutting wood. Appropriate Footwear is worn when using tools and machinery. And whenever necessary, Earplugs or Earmuffs are worn. During my years of selling firewood, I have determined that good housekeeping will create a safe environment. Not only do I keep the

Lewis Johnson
Special Use Permit Safety Standards
14586 Liberty Street
Montgomery, Texas 77356

location neat and orderly, I have found that customers are attracted with much more regularity. Therefore, the area is clean, approachable, and accessible. Nothing is out of position that will cause slips, trips, or falls.

As I monitor and observe traffic, I realize that traffic flow always presents hazards regardless of the weather. Therefore, ample parking is more than enough at this location. The North and South entrances are identified with Orange Cones, Reflectors are placed at both driveways, and the area is clear of any obstacles that could hinder or block drivers view when entering or exiting the firewood location. I advise everyone on this location to be attentive of the vehicles that enter and depart, and to especially pay close attention to the traffic that travels Highway 149.

To help illuminate the area, I use independent Lighting powered by a generator when my service of selling firewood extends into the darkness. Also, there are "overhead" Street Lights that give additional lighting to the Woodpile area that are positioned both north and south of the driveways.

When burning is deemed necessary, it is done in a controlled vessel. I use a barrel to burn and I have a Fire Extinguisher on location or on my vehicle that is ready for use. Always, the proper use of a Fire Extinguisher is discussed and demonstrated to those who are not familiar with one.

My Safety Standards at this location are not independent to how I operate on other jobs or job sites. I am committed to motivate and inspire the men and youth; to teach them life skills that I have acquired over the years, and to let them know that doing something positive will add value to their lives.

Developing Safe Work Practices will inspire each of us to maintain a Safe Work Attitude and to apply it to other daily routines and activities. I have found that implanting Positive Safety Standards in the hearts and minds of those who visit or work at the Woodpile will reduce the number of accidents that may occur so that we all will go home safe. Our saying is "Safety is No Accident."

Lewis Johnson

Current Owner		Legal Description		Exemptions		Appraised	
TATE, MARGARET E (00038835) PO BOX 648 MONTGOMERY, TX 77356-0648		A0008 - Corner John, TRACT 17, 18 IMP ONLY, SERIAL # TXFLP12A70048FD, TITLE # 679159, LABEL # TEX0470539		OA, HS		14,460	
Situs Address				Entities		Homestead Cap	
14586 LIBERTY ST MONTGOMERY, TX 77356				CMO, F02, GMO, HM1, SMO			
History Information							
		2010	2009	2008	2007		
Imp HS		\$14,460	\$14,460	\$14,460	\$14,460		\$14,460
Imp NHS		\$0	\$0	\$0	\$0		\$0
Land HS		\$0	\$0	\$0	\$0		\$0
Land NHS		\$0	\$0	\$0	\$0		\$0
Ag Mkt		\$0	\$0	\$0	\$0		\$0
Ag Use		\$0	\$0	\$0	\$0		\$0
Tim Mkt		\$0	\$0	\$0	\$0		\$0
Tim Use		\$0	\$0	\$0	\$0		\$0
HS Cap		-	-	-	-		-
Assessed		\$14,460	\$14,460	\$14,460	\$14,460		\$14,460
Improvements							
Type	Description	Area	Year Built	Eff Year	Value		
M	Mobile Home				\$14,460		
MAMH	Mobile Home Single	0	1993	1993	\$15,550		
Building Attributes							
Construction	Foundation	Exterior	Interior	Roof	Flooring		
Heat/AC	Baths	Fireplace	Year Built	Rooms	Bedrooms		
Land Segments							
SPTB Description	Area	Market	Ag Value				

Montgomery City Council
AGENDA REPORT

ITEM #8

Meeting Date: October 11, 2016	Budgeted Amount: N/A
Department:	
Prepared By: Jack Yates	Exhibits: Engineer's Memo and information
Date Prepared: October 6, 2016	

Subject

Developer Request for Revision to City Approved Construction Drawings West Side at the Park

Discussion

The Developer, Mr. Chris Cheatham, is requesting your approval to revise the approved construction plans in order to eschew the proposed bulkheaded channel in favor of a grass lined channel. Copies of both the previously approved drawings and the proposed revisions are enclosed for your review with the area in question clouded in red. We have reviewed the proposed revisions for compliance with the City's Code of Ordinances and with Montgomery County Drainage Criteria, and offer no objections to the drawings as presented to us. Following your action on this item we will oversee construction of the channel improvements and conduct a final inspection of the development prior to issuing a letter of city acceptance.

Recommendation

Approve the Revision to City Approved Construction Drawings West Side at the Park

Approved By

Department Manager		Date:
City Administrator	Jack Yates	Date: October 6, 2016



8701 New Trails Drive, Suite 200
 The Woodlands, Texas 77381-4241
 Tel: 281.363.4039
 Fax: 281.363.3459
www.jonescarter.com

October 4, 2016

The Honorable Mayor and City Council
 City of Montgomery
 101 Old Plantersville Rd.
 Montgomery, Texas 77356

Re: Developer Request for Revision to City Approved Construction Drawings
 West Side at the Park
 City of Montgomery

Mayor and Council:

Recall previous City Staff approved utility, drainage, and paving construction plans for this 11 lot development in July 2014. In December 2015 the Developer reported substantial completion of utility, drainage, and paving construction; and requested City inspection. The resulting punch list noted lack of completion of the proposed drainage channel improvements between Lot Nos. 5 and 6. A copy of the referenced punch list is enclosed for your review. The Developer currently indicates all punch list items have been addressed save for the channel improvements. The Developer is requesting your approval to revise the approved construction plans in order to eschew the proposed bulkheaded channel in favor of a grass lined channel. Copies of both the previously approved drawings and the proposed revisions are enclosed for your review with the area in question clouded in red. We have reviewed the proposed revisions for compliance with the City's Code of Ordinances and with Montgomery County Drainage Criteria, and offer no objections to the drawings as presented to us. Following your action on this item we will oversee construction of the channel improvements and conduct a final inspection of the development prior to issuing a letter of city acceptance.

As you review the enclosed drawings please do not hesitate to contact Glynn Fleming and or myself should any questions arise.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Ed Shackelford'.

Ed Shackelford, P.E.
 Engineer for the City

EHS/gef:lr2

P:\PROJECTS\W5841 - City of Montgomery\W5841-0900-00 General Consultation\2016\Letters\West Side at the Park Drainage Improvements Revision Request.doc

Enclosure: West Side at the Park-Final Inspection Punch List dated December 2015
 Sheet No. 6 of 16 from City approved construction drawings
 Sheet No. 6 of 16 from revised construction drawings

cc/enc: The Planning and Zoning Commission – The City of Montgomery
 Mr. Jack Yates – City of Montgomery, City Administrator
 Ms. Susan Hensley – City of Montgomery, City Secretary
 Mr. Larry Foerster– Darden, Fowler and Creighton, LLP, City Attorney
 Mr. E. Levi Love, P.E. – L Squared Engineering

FINAL INSPECTION - PUNCH LIST

Project: West Side at the Park, City of Montgomery

JC Job No.: W5841-0900-15

Inspection Date: 12/9/2015

Contractor: <u>Boyd Services</u>	Construction Engineer: <u>N/A</u>
Sub Contractor: <u>N/A</u>	Field Project Representative: <u>N/A</u>
Owner: <u>Chris Cheatham</u>	Design Engineer: <u>L Squared Engineering</u>

An Inspection was conducted on the referenced project by Jones & Carter, Inc. on behalf of the City of Montgomery at 3:00 pm on the above date. The following items are to be corrected or completed to comply with the approved construction drawings:

Item No.	Description	Date Comp.	City Eng Sign Off
1	No sanitary sewer leads are present to serve Lot Nos. 1 and 2		
2	Sanitary sewer MH No. 2 Reset rim, re-wipe interior, remove construction debris		
3	Sanitary sewer MH No. 3 Re-wipe interior		
4	Water service to Lot No. 2 appears to extend well beyond property line.		
5	Water service to Lot No. 5 is oriented incorrectly.		
6	Water service to Lot No. 7 is oriented incorrectly.		
7	Water service to Lot No. 9 is oriented incorrectly.		
8	Drawings show drainage swale west of Lot No. 1.		
9	Drawings specify fence/bulkhead around swale located west of Lot No. 5		
10	Stop signs at the intersection of Caroline and Shepperd not installed.		
11	Alley paving between to Lot Nos. 10 and 11 not installed.		
12	Per J. White access easement has been relocated west of Lot No. 7		
13	Alley paving ends behind Lot No. 10 and must be extended to serve Lot No. 11		
14	Proposed sidewalks, handicap ramps, etc. are not installed.		
15	All fire hydrants shall be coated to match City design criteria.		
16	As-builts shall show that B/O was not installed on Caroline.		
17	Ditch fronting Lot No. 9 is completely blocked. Regrade and reshape.		
18	Turf must be established in all roadside ditches.		
19	Drawings specify stamped/patterned concrete at bridge crossing on Caroline.		
20	Drawings specify stone veneer at bridge crossing.		
21	All culverts are heavily silted. Clean all culverts and reestablish SWPP until turf is established.		
22	Expanded concrete paving north of SH 105 is not installed.		
23	New stop sign and stop bar at Shepperd and SH 105 not installed.		
24	Fill over excavation on SH105 has settled. Raise and match to existing grade.		
25	Raise valve on SH 105 to match existing grade.		
26	Alley paving west of Lot No. 3 shows minor spalling		
27	Redwood spacer west of Lot No. 3 is warped and broken.		
28	Rip-rap northwest of Lot No. 7 shall be raised and enhanced.		

Attendees:

Name

Company

Jonathan White-Design Engineer

L Squared Engineering

Danny Boyd-Contractor

Boyd Services

Mike Muckleroy-Public Works Foreman

City of Montgomery

Glynn Fleming, PE-City Engineer

Jones | Carter

WEST SIDE AT THE PARK DRAINAGE PLAN

PROJECT TITLE

ENGINEER CONTACT INFO:
21123 EVA ST. SUITE 200
MONTGOMERY, TX 77356
936-847-0420

PROJECT LOCATION:
900 BLOCK OF CAROLINE STREET
MONTGOMERY, TX 77356

PROJECT LEGAL DESCRIPTION:
WEST SIDE AT THE PARK SECTION 1A
SUBDIVISION OF 9.914 ACRES

SEAL
PROFESSIONAL ENGINEER
E. LEVI LOVE, JR.
93340
1/16/2014
6/24/2014
DATE: 6/24/2014
PROJECT NO: 10053
DRAWING NO: UCP
SCALE: 1"=40'
DRAWING NO: 6

DRAWING ISSUE/REVISIONS

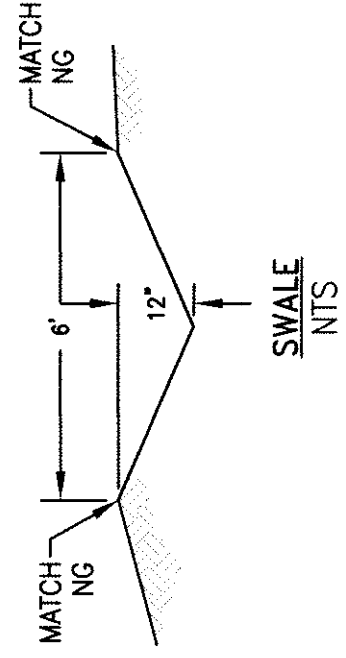
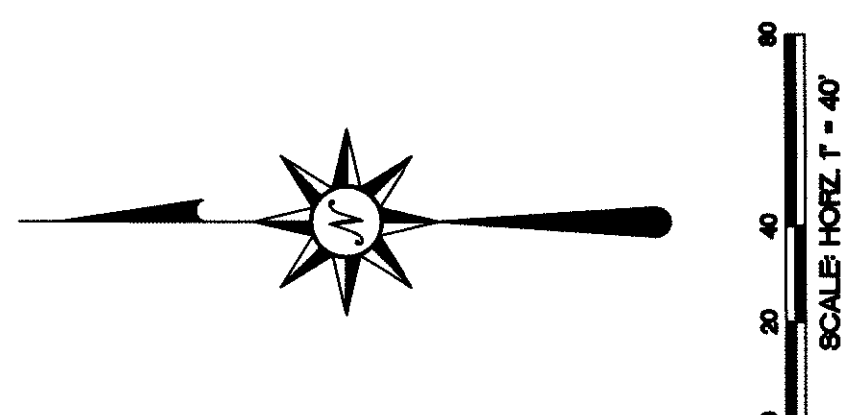
No.	DATE	BY	COMMENT

L SQUARED ENGINEERING
Civil Consulting Management
Registered Professional Engineer
12225
CHRIS CHEATHAM
P.O. BOX 234
MONTGOMERY, TX 77356

FLOODPLAIN
THIS PROPERTY IS LOCATED IN SHADDED ZONE "X" DETERMINED TO BE OUTSIDE 100-YEAR FLOOD PLAN, AS SHOWN ON FIRM COMMUNITY PANEL NUMBER 481483D189 F. EFFECTIVE DATE DECEMBER 15, 1996.
BENCHMARK
THE ELEVATIONS SHOWN HEREON ARE BASED ON CITY OF MONTGOMERY BENCHMARK MONT 3. ELEVATION = 288.73', 1988 N.A.V.D., GEOID '09

LINE TABLE

Line	Beginning	Length
L1	N04°24'47" W	30.44'
L2	S86°07'37" W	20.04'
L3	N03°52'23" W	15.01'
L4	N42°36'31" W	22.13'



- LEGEND**
- PROPERTY LINE
 - EXISTING SANITARY SEWER
 - EXISTING WATERLINE
 - EXISTING STORM SEWER
 - EXISTING EASEMENT
 - EXISTING BUILDING LINE
 - EXISTING POWERLINE
 - EXISTING DITCH
 - EXISTING HIGH BANK
 - EXISTING TOE OF BANK
 - EXISTING FENCE
 - PROPOSED STORM SEWER
 - PROPOSED STORM SWALE
 - PROPOSED SANITARY SEWER
 - PROPOSED WATERLINE
 - PROPOSED PAVEMENT
 - PROPOSED HIGH BANK
 - PROPOSED EASEMENT
 - PROPOSED ASPHALT
 - PROPOSED CONCRETE

PROPOSED DRAINAGE AREAS

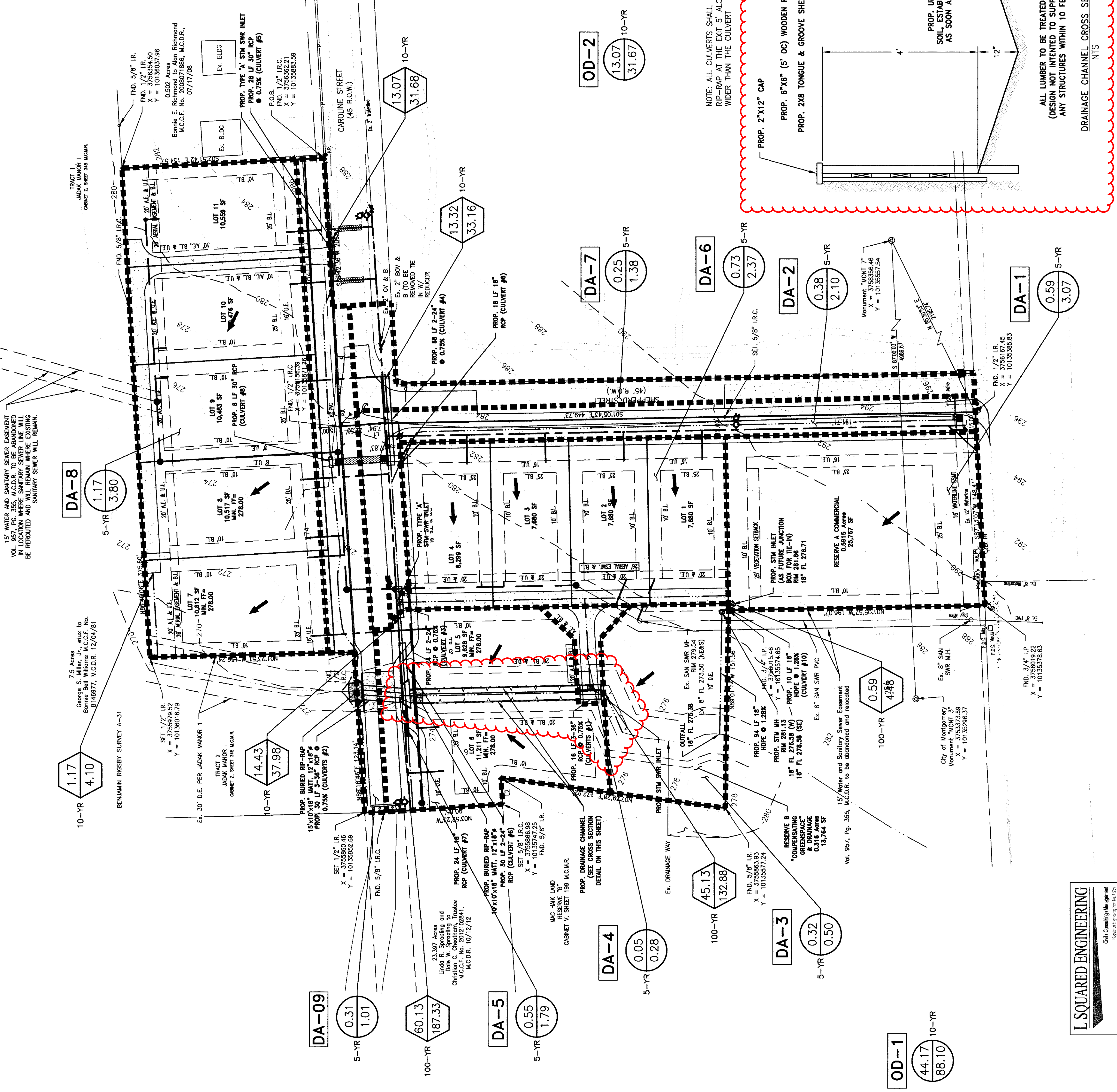
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(NOT INCLUDED IN CALCULATIONS)

DA-C

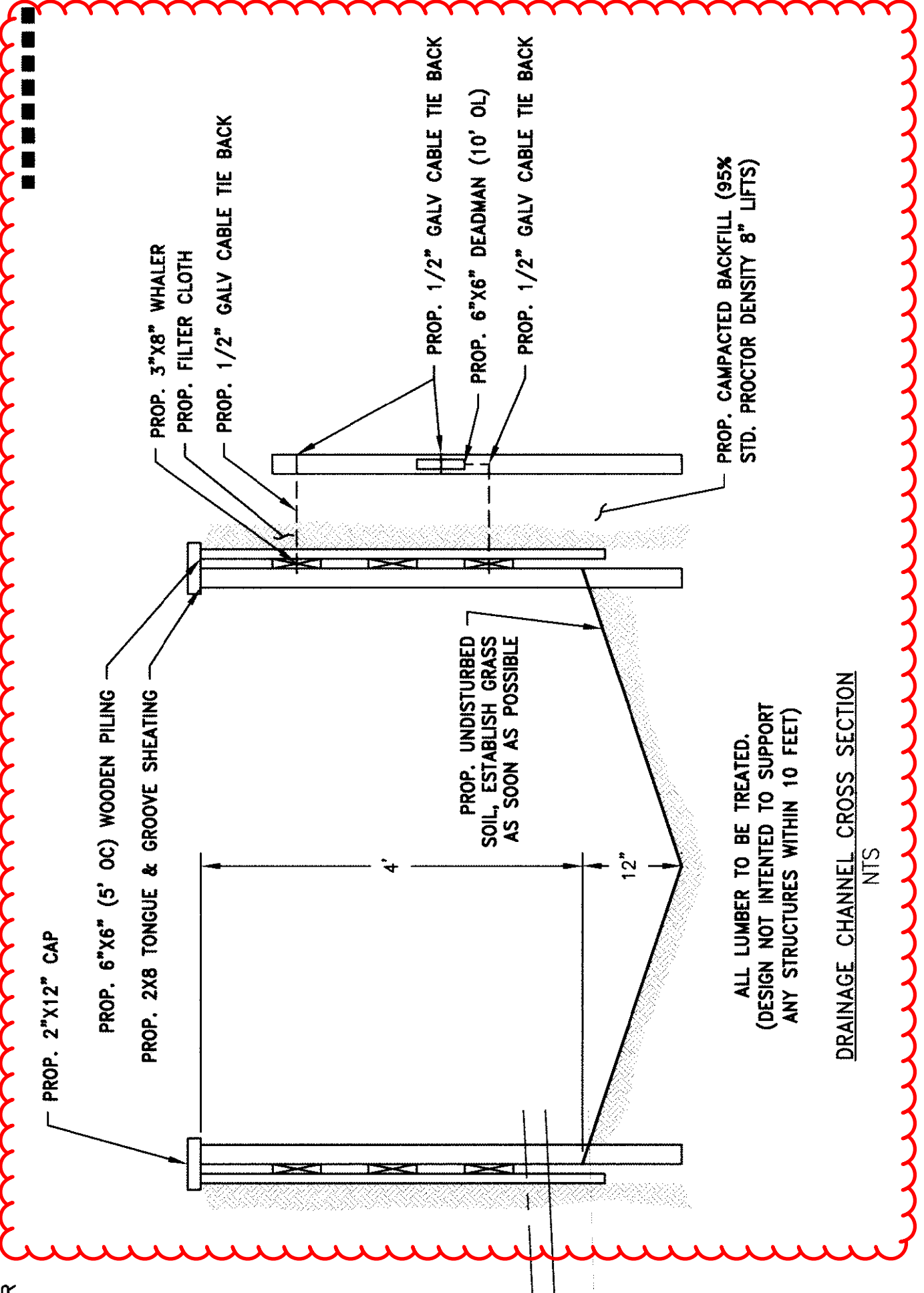
GRADE TO DRAIN



TC = TIME OF CONCENTRATION



NOTE: ALL CULVERTS SHALL HAVE BURIED RIP-RAP AT THE EXIT 5' ALONG AND 1' WIDER THAN THE CULVERT



EX. 6 SAN SWR PVC VOL. 957, PG. 355, M.C.D.R. TO BE ABANDONED IN FUTURE WITH THE SANITARY SEWER EXISTING BE REROUTED AND SANITARY SEWER WILL REMAIN.

7.5 Acres George S. Williams M.C.C.F. No. 8146977, M.C.D.R. 12/04/81

EX. 30' D.E. PER JUNK MANOR 1

EX. 15'x10'x18" MAT. 12"x18" RCP

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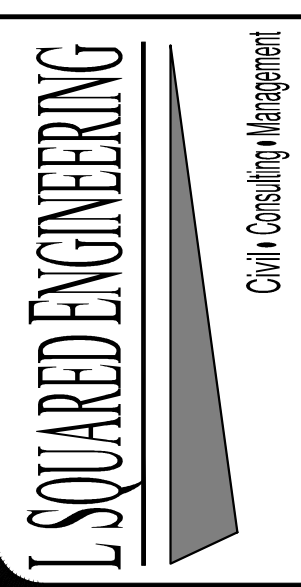
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L SQUARED ENGINEERING
Civil Consulting Management
Registered Professional Engineer
12225

No.	DATE	BY	COMMENT



CLIENT
CHRIS CHEATHAM
1001 PARKWAY
MONTGOMERY, TX 77356

WEST SIDE AT THE PARK DRAINAGE PLAN

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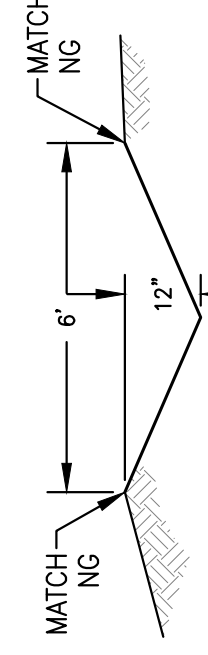
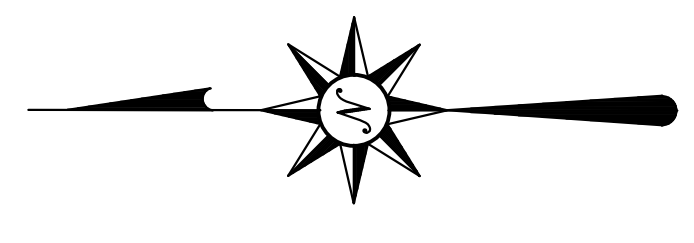
SEAL

DATE: 7/10/2014
PROJECT NO: 10053
DRAWN BY: JCP
SCALE: 1"=40'
DRAWING NO: 6

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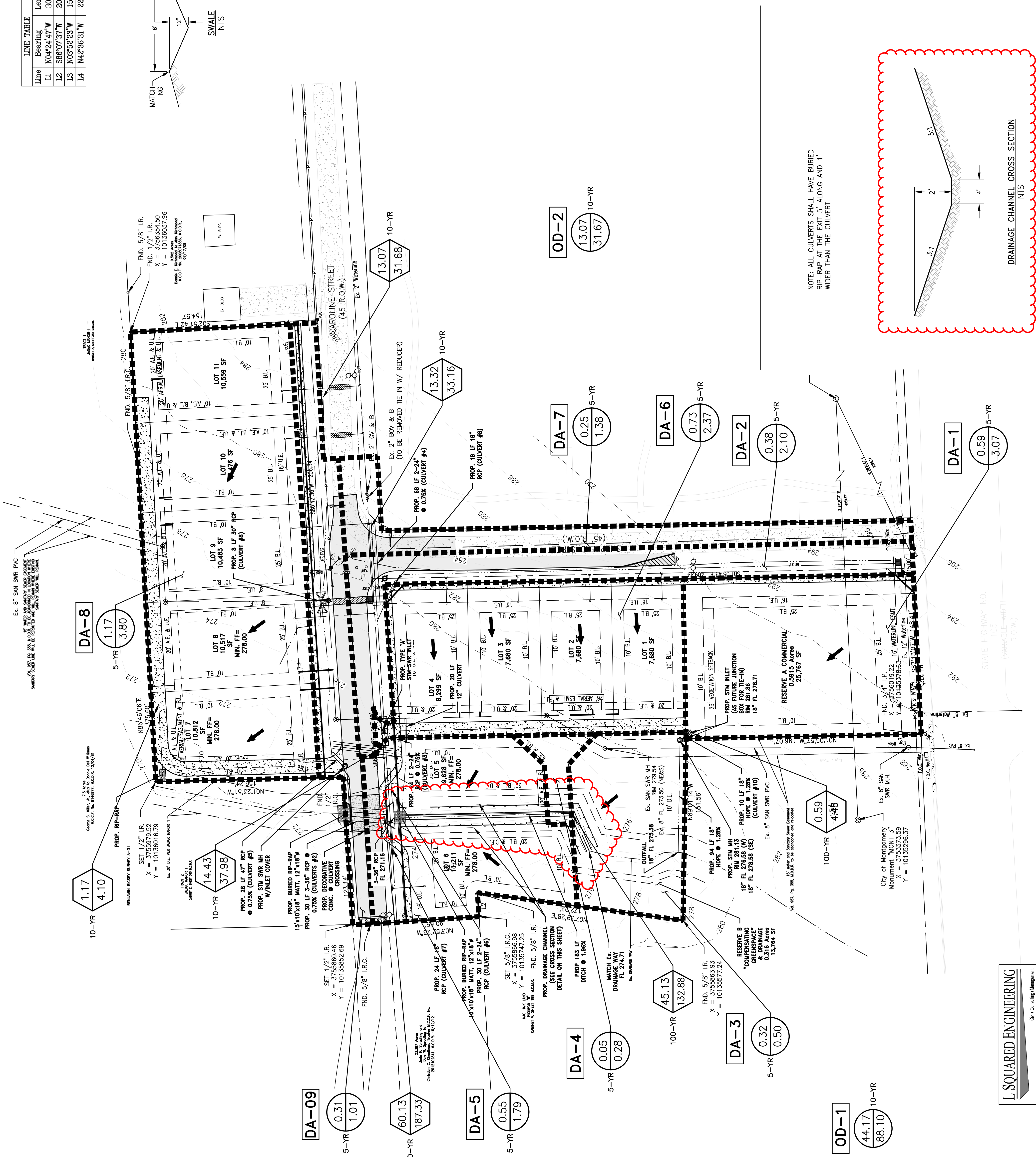
DA-C

GRADE TO DRAIN

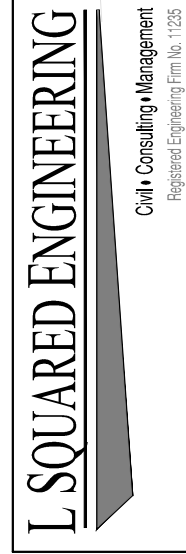
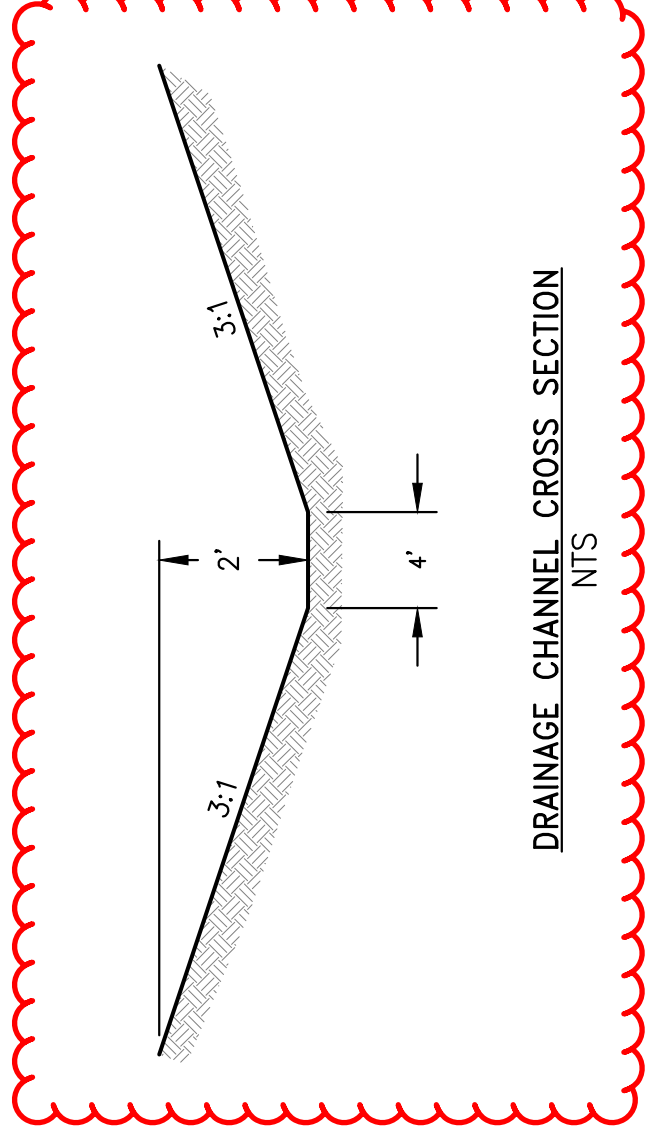
AREA FLOW

CUMULATIVE AREA FLOW

TC = TIME OF CONCENTRATION



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Montgomery City Council
AGENDA REPORT

ITEM #9

Meeting Date: October 11, 2016	Budgeted Amount: N/A
Department:	
Prepared By: Jack Yates	Exhibits:
Date Prepared: October 6, 2016	

Subject

Changing November and December meeting dates

Discussion

The Council, in the past, has, due to the busyness of the seasons, had only one meeting in November and one meeting in December.

That is the proposal for this year also.

My suggestion for November is November 15th because November 8 is the election day and we cannot have the meeting that day anyway because the polling place is the City Hall. The 15th is the middle of the month and allows time for Departmental Reports to be prepared and allows the most opportune days for other business of the city to occur, being in the middle of the month.

My suggestion for December is to hold the meeting at the regular first Tuesday of the month which is December 13th. Again, this is roughly the month allowing the Departmental Reports to be presented and allows the most opportune days for other business of the city to occur, being the middle of the month.

If some sort of emergency were to arise a short meeting could be held at a time during the month.

Recommendation

Approve the posting of the November to one meeting on November 15 and for December one meeting on December 13.

Approved By

Department Manager		Date:
City Administrator	Jack Yates	Date: October 6, 2016