

NOTICE OF PUBLIC HEARINGS and REGULAR MEETING

June 14, 2016

MONTGOMERY CITY COUNCIL

STATE OF TEXAS

AGENDA

COUNTY OF MONTGOMERY

CITY OF MONTGOMERY

NOTICE IS HEREBY GIVEN that a Public Hearings and Regular Meeting of the Montgomery City Council will be held on Tuesday, June 14, 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 HEARINGS:

PUBLIC HEARING:

1. Receive Final Report by the Planning and Zoning Commission prior to Public Hearing.

Convene into Public Hearing.

Public Hearing regarding a request for a Special Use Permit to allow a radio station and tower to be located on a 0.0574 acre tract of land situated in the John Corner Survey, Abstract Number 8, Montgomery County, Texas, and being out of a called 108.89 acre tract (Tract One) conveyed to LeFevre Development Inc. (*Property is immediately east of Rampy Lake and west of Lone Star Parkway.*)

Adjourn Public Hearing.

PUBLIC HEARING:

Convene into Public Hearing.

2. Public Hearing regarding an application for Beer, Wine and Mixed Beverage - Alcohol Beverage Permit for 20821 Eva Street, Montgomery, Texas for El Bosque Mexican Grill #4, by Owners Juan and Jaime Rodriguez.

Adjourn Public Hearing.

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. Consideration and if determined appropriate, take action regarding approval of Minutes for the Public Hearings and Regular Meeting held on May 10, 2016.
4. Consideration and if determined appropriate, ratify the reappointment of the Municipal Judge, Robert Rosenquist, Municipal Court Administrator, Rebecca Lehn, and Deputy Court Clerks, Kimberly Duckett and Krystal Gonzalez, whose terms run concurrent with the Mayor's term of office.
5. Consideration and if determined appropriate, ratify adoption of a Proclamation declaring May 2016 as Motorcycle Awareness Month.
6. Consideration and if determined appropriate, ratify acceptance of the Departmental Reports for April 2016 as follows:
 - A. Administrator's Report
 - B. Public Works Report
 - C. Police Department Report
 - D. Court Department Report
 - E. Utility/Development Report
 - F. Water Report
 - G. Engineer's Report
 - H. Financial Report
7. Consideration and if determined appropriate, take action regarding approval of street closures for the Third Annual Freedom Festival to include the following streets: College, McCown, and one lane of SH 105, during the parade.

CONSIDERATION AND POSSIBLE ACTION:

8. Consideration and possible action regarding election of the Mayor Pro Tem for the term of one (1) year as provided by Texas Local Government Code §22.037(b).
9. Consideration and possible action regarding approval of an Application for Alcohol Beverage Permit for 304 Caroline Street, Montgomery, Texas for a Fine Whiskey and Cigar Bar adjoining the Cozy Supper Club, by Owner Thomas Cronin dba Cronin Group LLC. (*Public Hearing held on May 31, 2016*)
10. Consideration and possible action regarding adoption of the following Ordinance:
AN ORDINANCE OF THE CITY OF MONTGOMERY, TEXAS, GRANTING A SPECIAL USE PERMIT FOR PLACEMENT OF A MONOPOLE CELL TOWER BY VERIZON WIRELESS ON A 0.5474 ACRE TRACT OF PROPERTY LOCATED ON LAND SITUATED IN THE JOHN CORNER SURVEY, ABSTRACT NUMBER EIGHT, MONTGOMERY COUNTY, TEXAS; ESTABLISHING CERTAIN TERMS, CONDITIONS AND LIMITATIONS; PROVIDING FOR PENALTY AND RIGHT TO SEEK INJUNCTIVE RELIEF BY THE CITY; AND PROVIDING SEVERABILITY AND AN IMMEDIATE EFFECTIVE DATE.

11. Consideration and possible action regarding approval of an Application for Beer, Wine and Mixed Beverage - Alcohol Beverage Permit for 20821 Eva Street, Montgomery, Texas for El Bosque Mexican Grill #4, by Owners Juan and Jaime Rodriquez.
12. Consideration and possible action regarding adoption of the following Ordinance:
AN ORDINANCE BY THE CITY COUNCIL OF THE CITY OF MONTGOMERY, TEXAS AMENDING THE CITY CODE OF ORDINANCES AMENDING CHAPTER 98, "ZONING," BY RECLASSIFYING THE MCCOY BUILDING SUPPLY PROPERTY ON STATE HIGHWAY 105 FROM "COMMERCIAL, MULTI-FAMILY AND RESIDENTIAL" ZONING CLASSIFICATION AS FOUND ON THE CITY'S OFFICIAL ZONING MAP TO STRICTLY "COMMERCIAL;" PROVIDING A SAVINGS CLAUSE; PROVIDING A REPEALING CLAUSE; AND PROVIDING AN EFFECTIVE DATE UPON PUBLICATION.
13. Consideration and possible action regarding adoption of an Agreement by and between the City of Montgomery and Kroger regarding public improvements to their business location.
14. Consideration and possible action regarding adoption of an Interlocal Agreement between the City of Montgomery, Texas and Montgomery County, Texas for preparation of Mobility Plan.
15. Consideration and possible action to authorize Jones & Carter to prepare Mobility Plan.
16. Consideration and possible action to adopt the following Resolution:
A RESOLUTION OF THE CITY OF MONTGOMERY, TEXAS, CREATING THE CAPITAL IMPROVEMENT ADVISORY COMMITTEE AND APPOINTING ITS MEMBERS, ESTABLISHING AND ADOPTING THE PROCEDURAL RULES FOR AND DUTIES ASSOCIATED THEREWITH IN ACCORDANCE WITH CHAPTER 395 OF THE TEXAS LOCAL GOVERNMENT CODE REGARDING IMPACT FEES; MAKING VARIOUS FINDINGS AND PROVISIONS RELATED TO THE SUBJECT OF IMPACT FEES; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.
17. Consideration and possible action regarding a Final Plat and construction drawings for Heritage Place Medical Center.
18. Consideration and possible action regarding review and approval of City Certificate of Acceptance and release of retainage to Lake Creek Village off-site sanitary sewer extension.
19. Consideration and possible action regarding required residential garbage collection and billing.

20. Consideration and possible action regarding damage repair/assessment from May 26, 2016 flooding period.
21. Consideration and possible action regarding Interlocal Agreement with Montgomery County Hospital District for provision of AED defibrillators for public health.
22. Consideration and possible action regarding naming the City Administrator as the Deputy City Secretary.

EXECUTIVE SESSION:

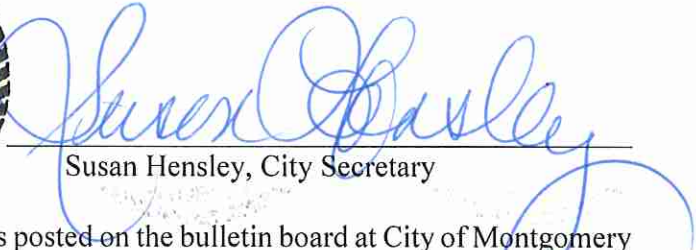
The City Council reserves the right to discuss any of the items listed specifically under this heading or f or any items listed above in executive closed session as permitted by law including if they meet the qualifications in Sections 551.071(consultation with attorney), 551.072 (deliberation regarding 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.

ADJOURNMENT




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 8th day of June, 2016 at 3:15 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(a)

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|--------------------------|---------------|-------------------------|---|
| Meeting Date: | June 14, 2016 | Budgeted Amount: | N/A |
| Department: | | | |
| | | Exhibits: | Minutes of May 23rd Planning Commission meeting having to do with the Cell tower. |
| Date in Prepared: | June 8 , 2016 | | |

Subject

Report of Planning Commission regarding cell tower

Discussion

Recommendation

No action required.

Approved By

| | | |
|---------------------------|------------|--------------------|
| Department Manager | | Date: |
| City Administrator | Jack Yates | Date: June 8, 2016 |

To: Mayor and City Council
From: Jack Yates
Subject: Report of Planning Commission regarding cell tower
Date: June7, 2016

The Planning Commission met first on May 23 to hold their public hearing, and had a discussion following the public hearing. The Commission then set a special meeting for June 6 for further consideration. At the June 6 meeting, following brief discussion, the Commission voted 3-0 against recommending the placement of the tower.

The minutes of the May 23rd meeting are attached. The June 6 meeting minutes are not completed. At the June 6 meeting, Phil LaFevre was present and said that he would be all right with whatever the planning commission decided and he also recommended that the city adopt a Cell Tower ordinance giving details about the process and possible locations. Also at the June 6 meeting, Cody Cogdill, the Verizon representative, said that a proposed location that had arisen located in the western part of the city was not acceptable as an alternative.

These are draft minutes from the May 23, 2016 Planning and Zoning Meeting, not the final version.

1. Public Hearing for a request for a special use permit to allow a radio station and tower to be located on a 0.05474 acre tract of land situated in the John Corner survey, abstract number eight, Montgomery County, Texas, and being out of a called 108.89 acre tract (tract one) conveyed to LaFevre Development Inc., (property is immediately east of Rampy Lake and west of Lone Star Pkwy.)

Chairman Cox convened the Public Hearing at 6:03 p.m.

Mr. David Strauss stated that he did not object to the tower, but he wondered how the ordinance that they had set up to cover property along Lone Star Parkway regarding height restrictions and all the other restrictions effects this tower. Mr. Strauss said that he would like to see if when they put the fence up that it could be a cedar wood fence so that you would not see all the equipment that will be located there.

Mr. Nick Liberatore, representing the owners in partnership with the Estates of Mia Lago, which is directly across from where the tower project is supposed to be located, said that as property owners they have been very selective over the years on use of their land and people purchasing their land commercial and residential. They have several million dollar homes that they have built and pay hundreds of thousands of dollars in property tax and they are very concerned about the project. Mr. Liberatore said that he has studies that have been done near and around these cell towers where the property values have actually decreased from 10-50 percent, and in some cases making them impossible to sell. Mr. Liberatore said that with their investment in the City and being right at the entrance of the City of Montgomery they are very concerned about the tower and they are opposing the project. Mr. Liberatore shared a letter with the Commission from their group. Chairman Cox advised that they had already received the letter. Mr. Liberatore said that property around and near cell towers is very hard to sell and decreases the value of the properties. Mr. Liberatore said that they have been very selective in what they allow to be built on their property and he was hoping that the Commission could help them out.

Arnette Easley asked if the report showed that the tower could affect the specific area or the overall market around the tower. Mr. Liberatore said that there are so many different studies done and it could be anything within a couple hundred feet to a mile parameter of the tower. Mr. Liberatore said that every report on towers that he has read was negative, with no positive comments at all, with serious declines in property values. Mr. Liberatore

said that he knows that they need the towers, but right at the entrance to the City of Montgomery corridor, where the new Kroger is being built would be pretty detrimental to the area.

Mr. Cody Cogdill, representative for the tower project, asked if the Commission had any questions. Arnette Easley asked if there were any hazards caused by the tower or was it just an eyesore. Mr. Cogdill said that the only thing that they come up with is an eyesore. Arnette Easley asked whether there were any gamma or microwave rays from the tower. Mr. Cogdill said that they would have more of an issue holding your cell phone up to your head than you would from a radio tower. Mr. Liberatore said that the reports talked about the health issues with towers.

William Simpson asked Mr. Fleming about the report that says 0.0574 acres of what they are going to build on, and on the drawing there is an additional acreage. Mr. Fleming said that he was sure that there was an access easement along the property. William Simpson asked about another square that was shown on the drawing. Mr. Fleming said that he could not speak about that piece of property. Mr. Yates said that the access easement was right off of Lone Star Parkway.

William Simpson asked about the size of the base of the tower. Mr. Cogdill advised that the base can be 5-6 foot and the concrete base diameter will depend upon the design. He did not know the dimensions of the tower itself. William Simpson asked if the tower would have lights. Mr. Cogdill said that the tower does reach the height required for lighting by the FAA or nearby airports, so it will not be a nuisance to the local residents or businesses. Mr. Cogdill said that regarding safety from radiation, he has been around them for 20 years, and there are no safety issues, and if there was, there would be a lot larger outcry. Mr. Cogdill said that there are hundreds of thousands of them across the country with tens of thousands of them in Texas. Mr. Cogdill said that everyone wants their cell phones to work, but nobody wants to look at the towers.

Mr. Cogdill said that unfortunately it was not only a need, but a safety requirement by communities as they grow. Mr. Cogdill said that it was his understanding that at that intersection it was also planned to be a commercial development area, and as that develops the requirements for communication and safety increase. Mr. Cogdill said that people are moving away from landlines and using their cell phones.

Jeffrey Waddell asked what the distance was from Lone Star Parkway to the tower. Mr. Cogdill said that he did not have that information, but he was guessing it would be 150 feet. Jeffrey Waddell said that there was a lot of engineering information from Jones & Carter, but he did not see anything about the distance from the road. Jeffrey Waddell said

that he did not know why the distance information would not be available. Mr. Cogdill said that was not something that was called out. Jeffrey Waddell said that the feeling that he is getting from people is that the real issue is the appearance of the tower as you are approaching from any angle, and being the site of the Memorial and the flag. Jeffrey Waddell said the tower is 172 feet tall and it seems awfully close to a main street.

Jeffrey Waddell said that the other question is why the tower has to be located there. Mr. Cogdill said that you have to have a property owner that will work with you, and Mr. LeFevre has agreed to move forward with a deal on this property. Mr. Cogdill said that the problem is finding property owners willing to work with him, because they do not want to give up their land until they see how the property is going to develop first and then see if they have a place for the tower.

Mr. Cogdill said that Verizon and other carriers would rather get in ahead of the game so they can be there for the development. Mr. Cogdill said that the spot that they are on is a piece of property that can't be developed and is located on the back of the pond area, and can't be used unless the pond has been removed. Mr. Cogdill said that it was his understanding that Mr. LeFevre plans to make the pond a little smaller, but not to take it away. Mr. Cogdill said that the spot that they are at can't be used for anything, so they are not taking up prime commercial land. Jeffrey Waddell said he was not quite sure whose opinion that would be because this could be very valuable property because it is on water. Mr. Cogdill said that is true, but they would have to get rid of that pond to make that work because that pond is used as an overflow. They are having to build up their site to make sure that there is water overflow into the backside of the pond.

Jeffrey Waddell asked for an estimate on how many feet the tower would be from Lone Star Parkway. Mr. Fleming said that he thought the answer would be approximately 150 feet from the edge of the pavement to the front gate. Mr. Fleming said that the tower would be set back 52 feet from the right of way, with about another 80-100 feet between the right of way line and the edge of the pavement. Mr. Cogdill said that L3 on the survey shows 46 feet from the edge of the fence just to the right of way. Jeffrey Waddell asked about the right of way. Mr. Fleming said that the actual right of way allotted to Lone Star Parkway is wider than the pavement itself, which he believed was a 120 foot right of way. Mr. Fleming said that right now the road is only a two travel way and there is a potential for future expansion and there is land allotted there for nothing but Lone Star Parkway. Jeffrey Waddell said that it seems that the tower is right there on top of the main commercial retail area and he asked why it needs to be there. Mr. Cogdill said that it needed to be there for coverage. Jeffrey Waddell asked how much leeway they had when trying to determine where the tower has to be. Mr. Cogdill said that he was not an engineer and he could not

speak to that, the company advises him of the location, but ultimately it comes down to having a favorable property owner to work with.

William Simpson asked how many other towers were in the City of Montgomery. Mr. Yates said that he did not know. William Simpson said if they let Verizon in, how many more will be allowed to follow, because according to some of the documents that he has read you can't pick or choose, so if you let one in, will it just multiply. Mr. Foerster said that is a possibility and certainly an argument that could be made. Mr. Foerster said that they are doing this on a case-by-case basis and every application is treated on the value of that item. Mr. Foerster asked Mr. Cogdill whether Verizon would be the only one using that tower. Mr. Cogdill said that at this particular time it would only be Verizon, but anybody is able to co-locate on the tower, such as AT&T, T-Mobile, etc. and share that facility, which is usually encouraged by municipalities to help reduce the number of cell towers. Mr. Cogdill said that some municipalities require a certain distance from existing cell towers to help reduce the number of towers, and they make sure that there is appropriate distance between residential structures and cell towers. Mr. Cogdill said that there are ways that the City can protect the community and still make sure that people are covered.

Mr. Foerster asked to clarify that this would be a monopole tower. Mr. Cogdill said this would be a monopole tower with no wires coming off of the tower to go out and would not be a big ugly tower. Mr. Cogdill said that the only reason the tower is the height that it is was to optimize coverage. If you don't have appropriate height for the signal then there will be a need for additional towers. Jeffrey Waddell said that there was always going to be a need for towers and asked if things could be added to the tower later. Mr. Cogdill said that was correct. Mr. Cogdill said that for the community and for the City the only thing that he recommend in the future to help protect themselves and the community would be to put in an ordinance where there are certain places where towers are allowed and limitations regarding residential structures. Mr. Cogdill said that the towers do not just fall and there is not a safety concern to people, the only thing that comes up is an aesthetic eyesore. Mr. Yates said that they could pass an ordinance before this is approved, which he was not recommending, but it could be done. Mr. Cogdill said that it would have to be a very strict ordinance, because he is not close to any residential structures. William Simpson said that they are going to be looking at another residential item that is going to be very close to that location. Mr. Liberatore said that there would be million dollar homes within 400 feet of the tower.

William Simpson said that what concerns him is that they have been approached to discuss getting a Comprehensive Land Use Plan Ordinance together. Mr. Yates has worked hard on the tree, light and sign ordinances and he does not know how this is going to affect this,

but driving down the road today, in his opinion, he knows the people that are going to be building in that area will not want to see that tower.

William Simpson said that he was at an MEDC meeting and Mr. LeFevre brought his poster of his proposed futuristic development of Buffalo Springs, and right around that pond he wants to make a Market Street. William Simpson said that he did not know how the tower would affect his plans with the visibility of the tower right next to that pond and the restaurant. Mr. Cogdill said that you can't go to any major city or community and not have cell towers. William Simpson said that Montgomery is not a major City, and they are trying to keep this City as quaint as possible. William Simpson said that this location being requested is going to be a focal point coming into the City of Montgomery and when you come down the hill the tower is going to be the first thing that you see. You won't see the monument from Kroger you will see the tower.

Jeffrey Waddell said he knows that the towers are very well built, but he asked Mr. Cogdill if he got involved with fall zones and whether the tower is away from major roads. Mr. Cogdill said that roads are not a problem, it is hard to restrict anyone from roads because if they have to go too far from the road it would not be cost effective, because you have to build access, utilities and fiber optics. Mr. Cogdill said that the biggest concern was residential structures, and the standard distance from residential structures is one and a half times the tower height for the distance, and in commercial and industrial area almost all communities allow towers.

Chairman Cox said that they had time constraints for comments, and asked if they had anything else to comment. Mr. Cogdill said that he did not have any other comments. Mr. Foerster said that he had a couple questions. Chairman Cox asked Mr. Foerster to continue. Mr. Foerster asked where the next closest tower that serves the City was located. Mr. Cogdill said that for Verizon it looked like you would have to go southwest 1.5 miles. Mr. Foerster asked, ideally to have the adequate coverage, how far away does his cell phone have to be to get good coverage. Mr. Cogdill said that it was hard to say because it would depend upon terrain, and on flat land the transmission goes further and better. Mr. Cogdill said that optimally you want to be about a mile to a mile and a half for good service. Mr. Foerster said that what Mr. Cogdill is suggesting is that as the City grows there is going to be towers that have to be there in order to serve the community. Mr. Cogdill said that it really has to be, but the bottom line is aesthetics is the problem with the tower not safety. Mr. Cogdill asked what was more important the aesthetics of the tower or the safety of the people. Mr. Cogdill said that when the intersection gets developed, with Kroger and a strip mall, the exterior cell towers will be jammed with just the regular day to day calls and won't be able to keep up.

Arnette Easley asked if locating the tower in the City limits was the only viable location, or could it be located just outside the City limits where it was more rural. Mr. Cogdill said that you would not be optimizing your coverage and covering your residents. Mr. Cogdill said that you could surround the outside of the City limits with cell towers, but then you won't have the coverage inside the City where you have more of a population and safety concerns. Arnette Easley asked what the closest tower to the City limits was now. Mr. Cogdill said that he did not know because he did not have the City limits marked out showing the towers outside the City.

Mr. Fleming said that there was a large transmission tower on the west side of the City by MidSouth Electric, on the north side of SH 105 by Nappa Auto. Mr. Fleming did not know if that was a cell tower. Mr. Yates asked if Mr. Cogdill could co-locate on an existing tower. Mr. Cogdill said that there was nothing in that area because he had already looked. Mr. Cogdill said if there was one available they would not have to go through all this process, they would just file an application with the owner of the tower, which they prefer to do, but there is nothing in this area.

Mr. Foerster stated that Mr. Strauss asked a question about the kinds of structure that would be hiding the equipment on the ground. Mr. Cogdill said that they would build whatever they would like, he had no problem. Mr. Cogdill said they could put up a nice 8 foot cedar fence, he had no problem with that at all, they would do whatever they like.

Chairman Cox adjourned the Public Hearing at 6:34 p.m.

2. Discuss/take action regarding special use permit to Verizon Tower for a special use permit to allow a radio station and tower to be located on a 0.05474 acre tract of land situated in the John Corner survey, abstract number eight, Montgomery County, Texas, and being out of a called 108.89 acre tract (tract one) conveyed to LaFevre Development Inc. (property is immediately east of Rampy Lake and west of Lone Star Pkwy.)

Mr. Yates advised that the Commission had been provided with a copy of the Special Use Permit Ordinance.

Mr. Foerster stated that it had been mentioned about Mr. LeFevre and his property development, and said that it was his understanding that Mr. LeFevre has posed no objection to the tower. Mr. Yates said that Mr. LeFevre has stated that he has no comment about the tower. Mr. Fleming stated that the Development Agreement, for this area in question, does

include a specific prohibition of structures of this nature and height. Mr. Fleming said that the sole arbiter is the Architectural Control Committee, which the members of that Committee have offered no objection. William Simpson said that Mr. LeFevre also owns the land.

Mr. Yates noted that the height of the tower would be 181 feet, including the lighting rod.

Mr. Foerster asked for the diameter of the monopole. Mr. Cogdill said that the tower would have a larger base that can range 4-6 feet, and then tapers off at the top.

Jeffrey Waddell asked about Note 10 on the survey abstract that shows Lone Star Parkway, and has an arrow pointing to the box, and he did not see Note 10. Mr. Cogdill said that Note was on the back page of the document. Jeffrey Waddell said that he was trying to visualize the distance from the edge of the pavement to the structure. Mr. Fleming said that from the edge of the pavement to the fenced structure is going to be roughly 60-80 feet, maybe slightly more. Jeffrey Waddell said that somewhere it stated that typically you take the height of the antenna times 75% percent and that should be the minimum setback, 172 time 75% percent would be 129 feet and this is a lot closer than that to the edge of the pavement. Jeffrey Waddell said that some people could perceive that as a safety issue because anything can fall down, and what happens if it does fall, does it come apart or stay solid. Mr. Cogdill said that he has never seen one fall. Jeffrey Waddell said that in the business it must happen. Mr. Cogdill said that it does not happen. Mr. Yates asked whether the tower was a breakaway type construction. Mr. Cogdill said that it was not because it would compromise the actual structure. Mr. Cogdill said there was more of a chance of a tower burning to the ground versus falling down. Mr. Cogdill said the only way that a tower would come down, would be if you were cutting a porthole and catch the interior cables on fire. Jeffrey Waddell said that they could have hurricanes, so his question is why they have to be so close to a major street and to an entry way to the new shopping center. Mr. Cogdill said that Mr. LeFevre is not willing to give any other area, this area is an overflow area and not a development area. William Simpson said that the problem is the property across the street is a development area that Mr. LeFevre does not own.

Mr. Fleming said that regarding Note 10, which might be immaterial, but reads “this survey has been prepared for the sole purpose of the transaction described in the above referenced abstractors certificate and parties listed thereon. The survey is not to be used for any subsequent transactions. Jeffrey Waddell thanked Mr. Fleming. Jeffrey Waddell said that he thought that history has shown that a lot of other cities had a problem because they were highly visible on the skyline, which is what they are talking and asked if the tower can be put near trees or more forested area. Mr. Cogdill said that it could be if there was land in that area, but the only ones available are next to that creek, and they can’t build in a creek. Jeffrey Waddell said that they are getting ready to rezone some areas that are pretty close to that area that he would think would have available land. William Simpson said that they would have to have a landowner willing to give up the land and if it is valuable land they are not going to give it up a piece of land to break up their property.

Arnette Easley said that Mr. Cogdill made a few interesting points and he felt that they need to look at moving forward and from a futuristic standpoint with the growth in Montgomery and when you think about 9-1-1 and businesses moving in, all those things have to be considered and we just need to figure out how we are going to address them. Arnette Easley said that maybe they have a shorter tower on the backside of the pond. William Simpson said that there is give and take on both sides. William Simpson said that the City is trying to come up with a Comprehensive Plan and he wants to make what is left here attractive to good developers. In his opinion, he does not want to have to take a lesser development in the City because something was put in that brought the property values down. Arnette Easley said that at the end of the day William Simpson was exactly right, because when you talk about opinions there is a whole calamity of just opinions, some people don’t like fences and brick facades.

Mr. Liberatore said that he understands Mr. Cogdill’s concern and the need for the towers, but not at the entrance to the City of Montgomery. He and his partners have spent tens of millions of dollars of his money for development in the City of Montgomery, and he feels the tower is detrimental to our future with them even moving forward. Mr. Liberatore said

that if the tower were to go in, they would probably figure out something else to do with their development. Mr. Liberatore said that they can't build million dollar homes 400 feet from a 200 foot tower, it just won't work. Mr. Liberatore said that he understood they have to go in and he was trying to think of some more land that they own, even on the backside of his development or the backside of The Villas, which is still near their property, but not at the entrance to his property, the new Kroger and to the City of Montgomery. Mr. Liberatore said that he was not objecting to the tower it is just the vicinity of where it is going. Mr. Liberatore said that they have spent in excess of 15 million dollars as of today developing and building homes in the City of Montgomery.

Chairman Cox asked if there was any consideration given to using the stadium. Mr. Cogdill said that it was too far away and if they get too close to existing cell towers they have overlapping coverage and it would not work, which is why they are spaced apart. Glynn Fleming asked if the tower could be constructed in the flood plain. Mr. Cogdill said that they could, it would just be expensive because they would have to do elevated platforms and upfront construction costs. Several different locations were suggested and discussed, but Mr. Cogdill advised that they were too far away and would not provide the service needed.

After discussion, William Simpson asked what would be the procedure to table the decision to gather more information. Mr. Yates advised that they could have a Special Meeting. Mr. Yates also advised that the City Council would hold a Public Hearing on the same matter on June 14, 2016. Chairman Cox said that City Council would like to have a recommendation from the Commission by their Public Hearing.

Mr. Cogdill asked the Commission what additional information they would like to make their decision. William Simpson said that he would like to know how it is going to affect the undeveloped residential properties all around the tower location. William Simpson said that he would like to know how it is going to affect those people that come in with the price target homes that they like in this area. William Simpson said that they are going through a lot of trouble working with the developers and the home builders to keep everything a

tight knit deal with price points, and if they start knocking the price value down for the property, then they will come in with their price points down on their homes. Mr. Cogdill said that he personally did not see how one cell tower would drop the value down on homes. Mr. Liberatore said that if Mr. Cogdill read the reports he would understand. Mr. Cogdill said that the people in those homes will still want cell coverage. William Simpson said that he understood that they needed cell coverage and it needs to be updated for safety purposes. After discussion, William Simpson moved to table the decision regarding the Verizon radio tower until the Special Meeting to be held on June 6, 2016 at 6:00 p.m. Jeffrey Waddell stated that as long as they have a quorum, because he was going to be out of town. Arnette Easley seconded the motion.

Discussion: Carol Langley asked what type of information they are trying to get for this next meeting. Carol Langley asked if she needed to work on something and/or is someone going to get the information. Chairman Cox said that he felt that it was just time to think about the matter because they have been accosted with a lot of opinions pro and con, and he felt that it was difficult for them to make a decision right this second. Jeffrey Waddell said that they are not experts and it seems like there should be other options. William Simpson said that he would like to see if Mr. Cogdill had any other options. Mr. Cogdill said that he would love to have other options other than the pond area, because he has checked with other owners and realtors.

The motion carried unanimously. (5-0)

Mr. Cogdill thanked the Commission for their time and consideration.

Montgomery City Council
AGENDA REPORT

Item 1(b)

| | | | |
|-----------------------|----------------|-------------------------|---|
| Meeting Date: | June 14, 2016 | Budgeted Amount: | N/A |
| Department: | City Secretary | | |
| | | Exhibits: | Memo from City Administrator, building permit application with drawings information from other cities,, coverage plot Lake Conroe side, coverage plot for existing science and Lake Conroe special use permit ordinance |
| Date Prepared: | June 7, 2016 | | |

Subject

This is the public hearing regarding the placement of a cell tower just off Lone Star Pkwy. this is the public hearing not a discussion subject for the Council.

Discussion

Hold the public hearing.

Recommendation

Listen to the public comment, again this is for the public discussion not Council's discussion.

Approved By

| | | |
|---------------------------|------------|--------------------|
| Department Manager | | Date: |
| City Administrator | Jack Yates | Date: June 7, 2016 |

To: Chairman and Planning Commission Members
Mayor and City Council

From: Jack Yates

Subject: Cell Tower Placement Request

Date: May 17, 2016

As you know, May 23rd is the date of Planning Commission Public Hearing regarding the radio tower installation, followed by the June 14th City Council Public Hearing.

I wanted to provide you with some information in advance of the meeting to give you time for consideration, knowledge and questions. Attached, please find the building permit application, a large-scale map showing the area where the tower would be placed, a survey showing their .0574 acre site, details of the construction itself that was attached to the building permit application, an email from Phil LaFevre, a two page primer regarding wireless infrastructure that I pulled from a city planning site on the Internet. There is also an email from the City Attorney regarding City review options regarding consideration of the approval of the permit. Attached is an antenna support structure check project list that I picked up from the City of Plano, Texas showing how that City treats such an issue. Also, attached is information from the City of Eagle Pass on what they specifically look for and consider for a tower Special Use Permit.

What I found from my research is that you can get very technical about the type of construction of the tower itself (break-a-part towers, so that if it falls it reduces the damage area). There probably should be a fall zone around the tower (with the area involved depending on the type of construction). Some cities prohibit "skyline placement" on a high or very visible point in their city. Screening (such as trees, hedges) is common in an approval letter, the question of availability of suitable existing towers to serve the needs of Verizon gets to the issue of whether or not the tower is actually needed for the public good of telephone signal. Restrictions as to who can attach on to the new Verizon tower is often specified in a permit, and security fencing should be provided at least 6 feet in height, and be equipped with anti-climbing devices.

I say all of the above in the interest of detailed planning, if you're of the mind to approve the permit. I've also drafted a Specific Use Permit Ordinance that the City Attorney has reviewed. This is simply my theory of how such an ordinance would be considered and is attached for reference. Note: in the Ordinance on page 3 of 3, item (k) says that additional regulations and parameters for the site are attached as Exhibit "D." At this time the details in paragraph two above could be the basis for "D" that would be worked out between us and Verizon. In the City Attorney's email, his response in the third paragraph reads "I suggest that the City Planning Commission simply evaluate the application for the new cell tower on its own merits. If the

tower is not approved, then I'm sure we'll hear from the cell towers company's lawyers and we can revisit the issue at that time".

In speaking with the City Attorney, after both of our researches into the matter, it appears as though there are two ways of reviewing this permit.

Option 1) Strictly from a community standpoint of do you want the tower, given the public opinion and appearance of the tower in the community. This is legally the safest route to take since you would not be turning them down for a technical reason that can be debated – – meaning you as the “infinite wisdom” elected voice of the community is rarely court reviewed.

Option 2) Review the permit application from a technical standpoint where you get into the details of paragraph two above and decide to approve or deny based on the physical attributes of the tower. You can see why this would be the more challenging for the city attorney to defend a technical related turndown of the permit in court because the technical aspects are so complex and opinion driven.

My suggestion, based on conversations with the City Attorney, is that if you are drawn to Option 1 rather than Option 2, to keep your line of questions and comments on the community aspect vein and not get into the details of the technical issues other than simply asking general questions about the technical issues such as fall zone and how they are constructed – just to name a couple of issues—but you can certainly ask whatever you want to ask. Also, I would suggest getting the City Attorney's suggestion about how to word your action motion.

CITY OF MONTGOMERY

P.O. BOX 708
 MONTGOMERY, TX 77356
 PHONE: 936-597-6434 FAX: 936-597-6437
 www.historicmontgomerytexas.com



BUILDING PERMIT APPLICATION

For the erection of buildings, accessories, repairs, demolition, moving, etc.

Expires in 6 months (180 days)
 Non-Transferable

DATE OF APPLICATION: 3/14/2016

PERMIT NUMBER: 16-00074-01

| | | | | |
|---|--|--------|-----------|-----------------------|
| OWNER: Verizon Wireless | JOB SITE ADDRESS: TBD Lone Star Pkwy, Montgomery, Tx | | | |
| CONTRACTOR: | ADDRESS: | | | |
| LICENSE NUMBER (IF APPLICABLE): | TELEPHONE: 469-222-3103 | | | |
| ZONING DISTRICT: Commercial | LOT: 2-R 2T | BLOCK: | LOT SIZE: | BLDG. SIZE (SQ. FT.): |
| WORK DESCRIPTION: Construct a 171' Monopole Cell Tower with Access Drive. | | | | |

| CLASS OF WORK (CHECK ALL THAT APPLY) | CONSTRUCTION TYPE(S) | VALUATION OF WORK: |
|---|--|---|
| NEW <input checked="" type="checkbox"/> | EXTERIOR <input checked="" type="checkbox"/> | 150,000.00 |
| ADDITION | INTERIOR | |
| ALTERATION | FLOOR | |
| REMOVE/DEMOLISH | ROOF | SPECIAL USE PERMIT REQ'D |
| MOVE | FENCE | <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO |

DEVELOPMENT PERMIT FEE SCHEDULE BASED ON PROJECT VALUATION

| | |
|-----------------------|--|
| \$0 - \$1000 | \$50 FLAT FEE |
| \$1,001 - \$50,000 | \$15.00 FOR FIRST \$1,000 + \$5.00 FOR EACH ADDTL \$1,000 OR FRACTION THEREOF |
| \$50,001 - \$100,000 | \$260.00 FOR FIRST \$50,000 + \$4.00 FOR EACH ADDTL \$1,000 OR FRACTION THEREOF |
| \$100,001 - \$500,000 | \$460.00 FOR FIRST \$100,000 + \$3.00 FOR EACH ADDTL \$1,000 OR FRACTION THEREOF |
| OVER \$500,001 | \$1,660.00 FOR FIRST \$500,000 + \$2.00 FOR EACH ADDTL \$1,000 OR FRACTION THEREOF |
| PLAN REVIEW FEE | EQUAL TO ONE-HALF OF THE PERMIT FEE WHEN VALUATION EXCEEDS \$70,000.00 |

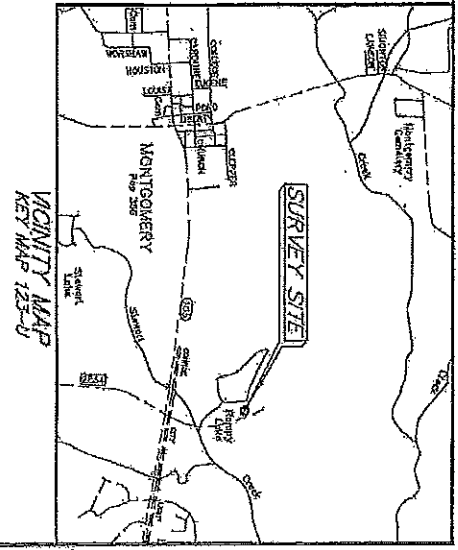
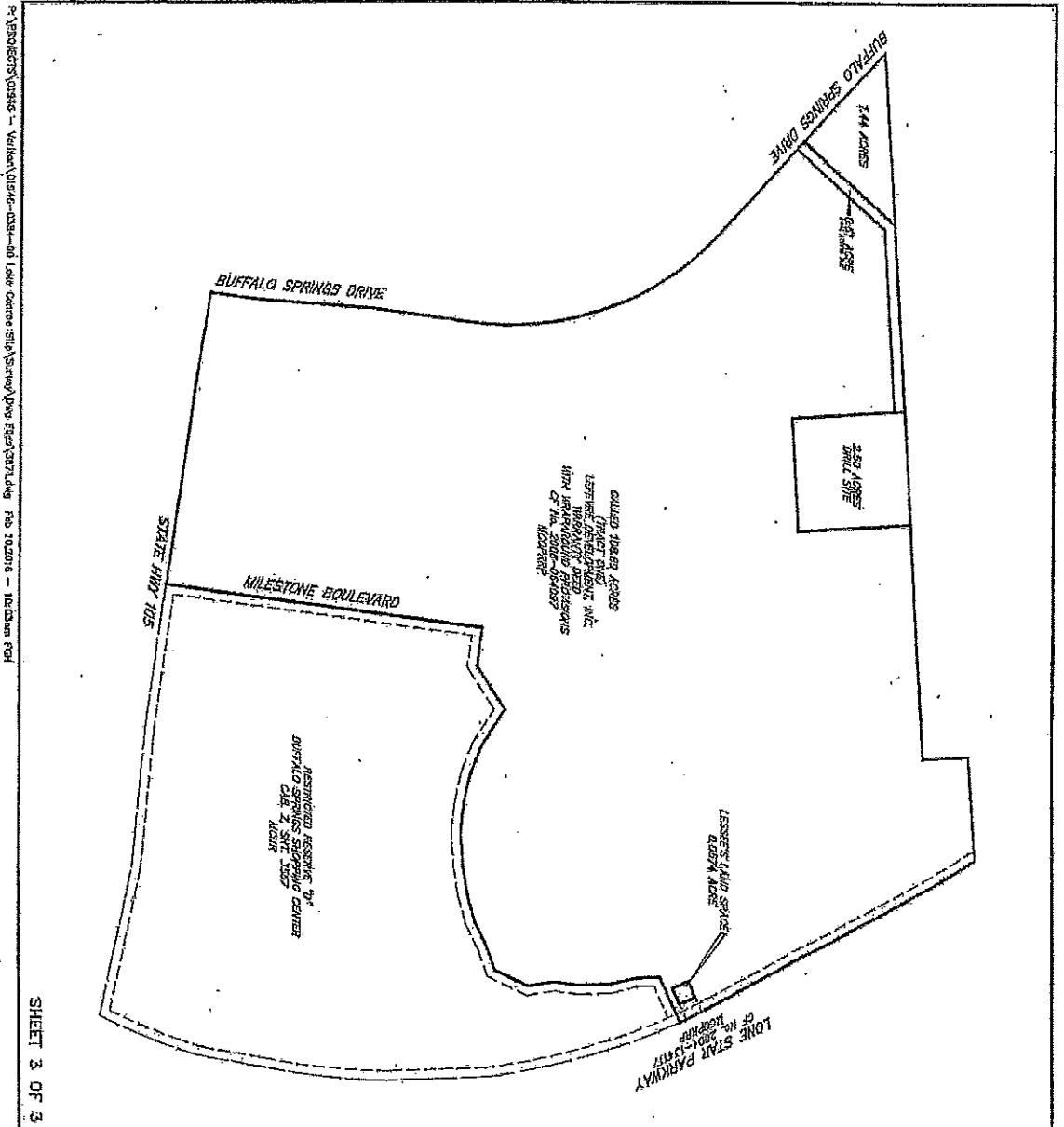
| OFFICE USE ONLY | PLAN REVIEW FEE: | \$305.00 |
|--------------------------------------|--------------------------|----------|
| PLAN REVIEW IS DUE WITH APPLICATION. | PERMIT FEE: | \$610.00 |
| ACCEPTED BY: <i>AS</i> | INSPECTION FEE(S): | |
| ISSUED BY: | APPLICATION FEE: | |
| | TOTAL FEE (\$60 MINIMUM) | \$915.00 |

NOTICE: SEPARATE PERMITS ARE REQUIRED FOR PUBLIC UTILITIES, ELECTRICAL, PLUMBING, HEATING, VENTILATION, AIR CONDITIONING, GRADING, ALARMS, ROOFING, LANDSCAPING, FIRE SPRINKLERS AND LAWN SPRINKLERS.

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

Name of Applicant: *Cody Cozdill*

Applicant Signature:

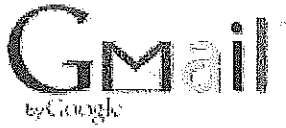


LAND TITLE SURVEY
 OF
LAKE CONROE SITE
 PROJECT No. 20151238528
 LOCATION SITE 357401
 BEING
0.0574 ACRE
 OUT OF THE
JOHN CORNER SURVEY A-8
 MONTGOMERY COUNTY, TEXAS
 JANUARY 2016

JONES CARTER
 SURVEYING DIVISION
 Texas Board of Professional Land Surveying Registration No. 20045308
 8701 New Trails Drive, Suite 200 • The Woodlands, Texas 77381
 281.288.0839

SHEET 3 OF 3
 KEY MAP 123-U
 JOB No. 03546-0385
 DATE No. 3077

P:\PROJETS\10356 - Village\10356-0381-00 Lake Conroe Site\Survey Data Files\2017.dwg File 10/20/16 - 1/2/2016 File



Yates, Jack <jyates@ci.montgomery.tx.us>

Fwd: Verizon Wireless Cell Tower Building Permit (Lone Star Parkway in Montgomery Texas)

1 message

Yates, Jack <jyates@ci.montgomery.tx.us>
To: Larry Foerster <foerster@dfcllp.com>

Tue, Mar 22, 2016 at 10:33 AM

Larry, this email from Phil appears to be his acquiescence to the city making the decision regarding the tower.

You earlier, in an email, said that it would require the Board of Adjustment action, please let me remind you that the zoning ordinance has a listing under "permitted uses" chart which shows "radio station with transmitter tower" as a specific use permit to be approved by the City Council. Does that affect your decision regarding the Board of Adjustment?

Jack

----- Forwarded message -----

From: <plefevre@lefc0-inc.com>

Date: Tue, Mar 22, 2016 at 10:26 AM

Subject: RE: Verizon Wireless Cell Tower Building Permit (Lone Star Parkway in Montgomery Texas)

To: Cody Cogdill <ccogdill@cmiacquisitions.com>

Cc: Jack Yates <jyates@ci.montgomery.tx.us>

You are welcome to talk to the City on the understanding that as of the moment no agreement between us and Verizon is in place. As we have discussed before, I know you feel that a tower will help the City but it is up to you to show them that it is in the interest of the City to approve it.

----- Original Message -----

Subject: Verizon Wireless Cell Tower Building Permit (Lone Star Parkway in Montgomery Texas)

From: Cody Cogdill <ccogdill@cmiacquisitions.com>

Date: Tue, March 22, 2016 8:01 am

To: "plefevre@lefc0-inc.com" <plefevre@lefc0-inc.com>

Mr. Lefevre,

Will you allow myself to act on your behalf in regards to the permitting and zoning needs for the Verizon Wireless cell tower being proposed on your property off of Lone Star Parkway in Montgomery Texas? The city has asked that I must get your approval before they will move forward.

Cody Cogdill

CMI Acquisitions

Office: 469-222-3103

Fax: 972-752-4767

ccogdill@cmiacquisitions.com

WIRELESS INFRASTRUCTURE

Wireless infrastructure includes the towers, antennas, radio equipment, and associated structures that establish a wireless communications network. Currently, more than 50 percent of U.S. households use mobile phones, and, by 2007, that number will have increased to 80 percent.

Wireless carriers establish and expand their service by constructing base stations or by contracting with an infrastructure company to construct base stations or install their antennas on an existing structure.

DEMAND FOR WIRELESS SERVICE

The demand for more and better wireless service is on the rise. To meet this demand, wireless carriers must try to achieve coverage throughout the community, including residential areas. The challenge facing municipalities throughout the country is twofold: to enable wireless deployment in a responsible way, and to develop zoning regulations and comprehensive plans to accommodate this rapidly changing environment. Because of the continual changes to this technology, municipalities should periodically review their telecommunications regulations to ensure that they meet current and future community demand for wireless services.

COMPONENTS OF WIRELESS INFRASTRUCTURE

The components of wireless infrastructure are essentially the wireless handset, a specialized radio set commonly referred to as a mobile, or "cell," phone, and a base station, a transmission facility in a fixed location designed to communicate with the wired telephone network or with mobile or portable communications devices. Although appearance varies widely, generally, base stations contain the following components:

An **antenna** may be directional, such as a panel or dish antenna, or omnidirectional, such as a whip antenna.

An **antenna support structure** is either a vertical structure built for the express purpose of supporting wireless telecommunications equipment, such as a tower, monopole, or monopine, or a vertical structure normally intended for another purpose but which can also support wireless telecommunications equipment, such as transmission towers, building rooftops, and water towers.

Obstruction lighting comprises either steady or strobe lights mounted on those antenna support structures located in navigable airspace for air traffic safety.

Computerized radio equipment includes the radio receivers, transmitters, and telephone switching gear at the core of the base station operation.

An **equipment shed or cabinet** is a structure used to house the computerized radio equipment.

Cabling is the means by which the antennas connect to the radio equipment.

A **T1 land line and utility connection** are conduits to the telephone network or other portable communications devices and to the power grid.

Emergency generators or an array of batteries serve as backups to enable uninterrupted service during a power outage.

In addition, where appropriate or applicable, base stations may have access roads or driveways; fencing around the compound, to deter public access; landscape planting or screening to mitigate visual impacts; and signage containing contact information, as well as the antenna structure registration (ASR) number if the structure is registered with the Federal Communications Commission (FCC).

REGULATIONS

The construction, siting, and design of wireless infrastructure are regulated on the federal, state, and local levels. Typically the regulated elements include the following:

- Tower height
- Lighting and marking
- Placement
- Frequencies and power levels
- Type and size of associated equipment structures
- Fencing
- Signage
- Landscape planting

Federal Regulations

Several federal laws and agencies have jurisdiction over issues related to telecommunications.

The Telecommunications Act of 1996. The main purposes of this act are to clarify the level of regulation that local governments can apply to service providers and to provide for industry-wide competition.

The Federal Communications Commission (FCC). The FCC regulates operational aspects of wireless services, including antenna frequencies, operating powers, and radio frequency emissions. The FCC also regulates towers with antennas through the antenna structure registration (ASR) program.

The National Environmental Policy Act of 1969 (NEPA). All antenna structures must comply with NEPA. In many instances, applicants must conduct an environmental assessment (EA) to investigate all potential environmental impacts and disclose any significant effects that would result. If the EA determines that significant adverse impacts would result, the FCC places all such proposals on public notice for a 30-day public comment period.

The National Historic Preservation Act of 1966 (NHPA). Infrastructure providers must ensure that structures do not have an adverse effect on historic properties, including buildings, districts, structures, objects, or Native American burial grounds. If there is a potential for impacts

on such a resource, the tower applicant must work with the State Historic Preservation Officer (SHPO) to identify actions to mitigate impacts.

The Federal Aviation Administration (FAA). The FAA regulates structures within navigable airspace. Towers above a certain height or within a certain distance of an airport must be registered with the FAA and possibly be marked with lighting or painting. Tower companies submit project proposals to the FAA for evaluation for a determination of "no hazard to air navigation."

The Occupational Safety and Health Administration (OSHA). OSHA provides regulations to protect the workers who construct, service, or work on or around towers.

State Regulations

On the state level, wireless facility regulations vary, with most states deferring wireless infrastructure siting controls to local governments. However, a few states have enacted legislation that supersedes local regulatory authority to ensure that certain state public policy objectives are met. For example, Washington requires its communities to allow wireless service providers to place antenna sites in public rights-of-way, and Connecticut has a state-level siting council that reviews applications for antenna sites throughout the state. In addition, some state occupational safety agencies have safety standards that supplement the federal requirements, and many state departments of environmental protection provide regulations that protect wetlands and habitat areas from tower construction impacts.

Local Regulations

Zoning

Nearly all local governments have zoning authority over antenna and associated infrastructure siting. Zoning regulations typically identify which zoning districts allow for these facilities and establish standards for the size, height, and type of facility, its placement on the property, and any buffering and screening required to mitigate visual intrusion.

Permitting

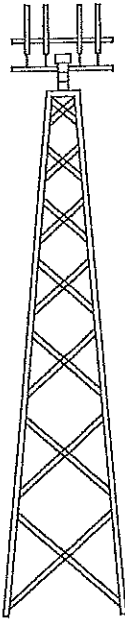
Wireless facilities siting typically follows a local government's permit review process, including any requirements for site plan submission and approval. The review process, which is usually a prerequisite for building permit issuance, evaluates the plans to ensure the facility meets all prescribed safety and structural/building code standards.

WIRELESS FACILITIES SITING

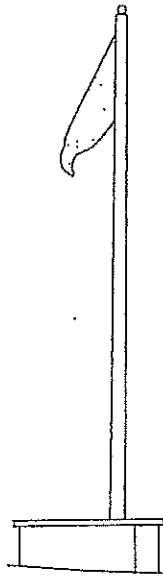
In addition to following local zoning regulations, applicants should select sites that are safe, effective, and as visually unobtrusive as possible. Site selection typically involves the applicant identifying the geographic area, or search ring, that will enable the carrier to meet the desired coverage objective while integrating with any existing or planned neighboring sites. The coverage objective is generally based on market demand for new services, enhanced quality, or increased system capacity.

**MONOPOLE**

Source: American Planning Association.

**LATTICE TOWER**

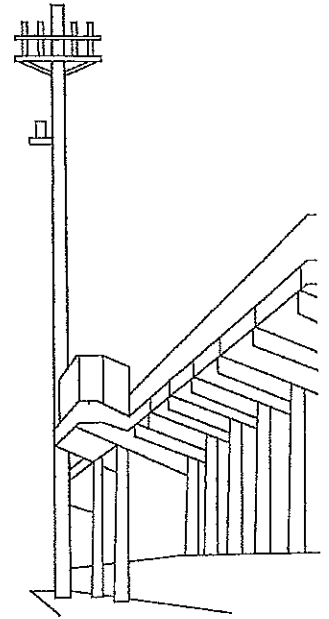
Source: American Planning Association.

**STEALTH FLAGPOLE**

Source: PCIA.

**TREE POLE**

Source: PCIA.

**MONOPOLE/LIGHT STANDARD AT ATHLETIC STADIUM**

Source: PCIA.

Site selection is often a process of elimination. When looking for coverage, there is usually more than one site that is suitable. However, as the demand for more and better wireless services continues to escalate, particularly in residential areas, the number of sites narrows considerably. This is called capacity. Accordingly, companies select those sites that are most likely to:

- meet federal regulations;
- comply with local siting requirements;
- be acceptable to the community;
- provide the highest-quality wireless service; and
- result in the minimum number of sites required overall to meet the service needs of the market.

Zoning Review and Approval

In most communities, local governments have jurisdiction over wireless telecommunications siting decisions. The Telecommunications Act of 1996 pre-

serves this authority. However, local government zoning decisions about wireless telecommunications facilities must satisfy certain conditions:

- No discriminating among providers
- No passing of laws or taking actions that prohibit or have the effect of prohibiting wireless service
- No regulating of wireless based on environmental concerns about radio frequency emissions if the facility will operate within FCC standards
- Acting on siting requests in a reasonable period of time
- Issuing zoning denials in writing, supported by substantial evidence and findings contained in a written record

The act also allows applicants to request expedited appeals of zoning denials to both state and federal courts.

MITIGATING IMPACTS OF WIRELESS TELECOMMUNICATIONS FACILITIES

Several steps can be taken to reduce the impact that towers have on a community:

- Locate facilities in or around areas of mature vegetation that screen all or part of the facility, thereby reducing its visual impact.
- To the extent permitting by federal regulations that govern marking schemes, color the structure to blend in with the surrounding vegetation or skyline.
- Plant vegetative cover or constructing fencing at the base of the facility to screen the ground equipment.
- Pursue "stealth" options, such as designing the tower or monopole to look like a tree, silo, or a flagpole.
- Require low-profile or slim-lined structures where the antennas are installed more closely to the tower, thereby reducing the physical profile of the facility.

See also:

Federal Legislation



Yates, Jack <jyates@ci.montgomery.tx.us>

RE: Monopole radio towers

1 message

Larry Foerster <foerster@dfcllp.com>
To: "Yates, Jack" <jyates@ci.montgomery.tx.us>

Tue, Apr 19, 2016 at 8:54 AM

Jack, I have read both articles on wireless towers. Any FCC federal regulation would probably override state statutes.

It appears to me that cities still have some discretion as to whether to approve the site and height for a new cell tower, but once the tower is in place, it may be difficult to disapprove modifications to the tower unless there are "substantial changes."

I suggest that the city planning commission simply evaluate the application for the new cell tower on its own merits. If the tower is disapproved, then I am sure we will hear from the cell tower company's lawyers and we can revisit the issue at that time.

Larry L. Foerster

Darden, Fowler and Creighton, LLP

414 West Phillips, Suite 100

Conroe, Texas 77301

936-756-3337 (Office)

936-441-1963 (Houston Metro)

936-756-2606 (Fax)

For more information about our law firm, please see www.dfcllp.com

*****ATTENTION PUBLIC OFFICIALS*****

PLEASE "REPLY" ONLY TO SENDER TO AVOID VIOLATIONS OF THE TEXAS OPEN MEETINGS ACT.

p 2 of 2

*****CONFIDENTIALITY NOTICE*****

This message may contain confidential or privileged information under an attorney-client relationship. Its is intended only for the use of the individual or entity to whom it is addressed. Any other dissemination, distribution, or copying of this communication is strictly prohibited. If you have received this communication in error, please notify Larry L. Foerster at the law firm of Darden, Fowler and Creighton, LLP immediately by replying to this email and deleting the original message and any printed copies you may have made of this email. Thank you.

From: Yates, Jack [mailto:jyates@ci.montgomery.tx.us]
Sent: Friday, April 15, 2016 2:47 PM
To: Larry Foerster
Subject: Fwd: Monopole radio towers

Larry, please see my email to the municipal league and their response. I'm concerned about the legal aspects of the approval/denial of the radio tower issue--and how to advise the Planning Commission and City Council what issues to consider.

The international Municipal Attorneys Association article seems to be a better guide for us while the Texas Municipal Attorney article seems to be more for revisions to existing towers.

Anyway please review and let me know what you think.

Plus maybe you know somewhere else to get an-article-- I have tried the American planning Association in Texas City planning Association and got nowhere.

Comments questions?

Jack

----- Forwarded message -----

From: Heather Lockhart <heather@tml.org>
Date: Fri, Apr 15, 2016 at 10:45 AM
Subject: RE: Monopole radio towers
To: "jyates@ci.montgomery.tx.us" <jyates@ci.montgomery.tx.us>

Jack,

Thanks for your email. I have attached some resources. I hope this information is helpful. Please let me know if you have any additional questions.

Sincerely,

Heather Mahurin Lockhart

Assistant General Counsel

Texas Municipal League

1821 Rutherford Lane, Suite 400

Austin, Texas 78754

ANTENNA & ANTENNA SUPPORT STRUCTURE (TOWER) CHECKLIST

p. 182

Applicants for commercial communication antennas and support structures (towers) shall provide the below information as part of the application for a specific use permit, site plan or building permit in accordance with Section 3-107 of the Zoning Ordinance. Please contact the Planning Department at (972) 941-7151 if you have any questions.

Information Specific to this Particular Installation:

Identify the radio, pager, mobile phone, Internet or other wireless communications company who will be utilizing the proposed antennas and/or antenna support structure:

Company: _____
Address: _____
Contact person: _____
Telephone #: _____
Fax # or email address: _____

Specify the location of the installation:

Physical address: _____
Platted subdivision name, lot & block #: _____

Specify the type of installation: (check one box)

- Antenna attachment to new support structure (tower) or building
- Antenna attachment to existing support structure or building

Tower:

If erecting a new antenna support structure (tower), indicate the type/class of tower and state height: (check one box)

- Monopole tower _____ (height)
- Lattice tower (self-supporting) _____ (height)
- Lattice tower (guyed) _____ (height)
- Light standard replacement
Height of existing light standard _____
Height of proposed replacement standard _____
- Flagpole or other stealth tower (specify) _____ (height)

If erecting a new antenna support structure other than light standard replacement or stealth tower, state distance to and location of nearest existing support structure: _____

Attachment:

If attaching antennas to an existing structure, indicate the type of attachment: (check one box)

- Collocate on existing monopole, lattice or guyed-lattice tower
- Building attachment (flush to building façade or integrated within building)
- Building attachment (roof placement - state height above roof) _____
- Utility structure attachment (specify water tower, transmission tower or other utility structure) _____

This handout is for informational purposes only and should not be relied on in place of official regulations and/or policies. The CITY OF PLANO makes no representations, guarantees, or warranties as to the accuracy, completeness, currency, or suitability of the information provided via the handout. Customers and citizens are personally responsible for complying with all local, state and federal laws pertaining to projects within the city. Copies of the CITY OF PLANO adopted codes and Zoning Ordinances can be found on the city website at www.plano.gov or at the CITY OF PLANO Municipal Center at 1520 Avenue K, Plano, Texas.



Building Inspections Department ~ 1520 Ave K, Suite 140 Plano, TX 75074 ~ 972-941-7140 fax 972-941-7187
www.buildinginspections.org
FM624CG005 REV. 01/14/10

Antenna Type:

Specify the type of antenna: (check one box)

P 282

- Omni
- Yagi
- Flat Panel (maximum 1' x 8' - state size) _____
- Dish (state size) _____
- Other (state type and size) _____

Screening:

Specify the type of screening* of associated equipment/equipment building: (check one box)

- Masonry screen matching existing building (6-foot minimum)
- Landscaped, irrigated screen (may include chain link fence)
- Self-contained equipment building
- Integrated/shielded by existing building and/or architecture
- No screening proposed (only allowed for attachment installation on transmission towers or water towers)

*Screening requires separate fence permit.

Attach the following information under separate cover or include on construction plans:

1. Site plan of proposed installation that encompasses the entire lot or parcel and not just ground lease area for support structure and equipment. Contact the Planning Department for specific requirements.
2. Specific use permit # if applicable. Contact the Planning Department to determine if specific use permit approval is required for the particular installation.
3. Certification that this installation complies with all franchise requirements of the City of Plano, or note as not applicable for this particular technology.
4. Identification of the backhaul provider and connectivity locations for this installation, or note that note as note applicable for this particular technology.
5. If a new monopole, lattice or guyed-lattice support structure (tower), certification that the support structure can accommodate the collocation of additional antennas.

General Information:

Attach an inventory and map of all of the company's existing wireless installations within the City of Plano and within one mile of Plano city limits containing the following information:

1. Location (either physical address and longitude and latitude or NAD 1983 State Plane Coordinates)
2. Type of support structure (monopole, lattice or guyed-lattice) or structure attachment (building, utility structure, etc.)
3. Height of antennas

Office Use Only:

Permit Type:

- Antenna Only Permit
- Electric Permit
- Commercial Building Permit
Equipment/Battery Cabinet
Equipment/Other Building

This handout is for informational purposes only and should not be relied on in place of official regulations and/or policies. The CITY OF PLANO makes no representations, guarantees, or warranties as to the accuracy, completeness, currency, or suitability of the information provided via the handout. Customers and citizens are personally responsible for complying with all local, state and federal laws pertaining to projects within the city. Copies of the CITY OF PLANO adopted codes and Zoning Ordinances can be found on the city website at www.plano.gov or at the CITY OF PLANO Municipal Center at 1520 Avenue K, Plano, Texas.



Identify the location(s) of any other cellular tower sites inside the City that you own or operate.

Demonstrate that no existing tower, structure or alternate technology can accommodate your project requirements. This may include documentation indicating that (a) no existing towers or structures are located within the geographic areas that meet your engineering requirements, (b) existing towers or structures are not of sufficient height to meet your engineering requirements, (c) existing towers or structures do not have sufficient structural strength to support your proposed antenna and related equipment, (d) your proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, (e) the antenna on the existing towers or structures would cause interference with your proposed antenna, (f) the fees, costs, or contractual provisions required by the owner of an existing tower to share an existing tower or structure, or to adapt an existing tower or structure for sharing, are unreasonable, or (g) alternative technology that does not require the use of towers or structures, such as a cable microcell network using multiple low-powered transmitters/receivers attached to a wireline system, is unsuitable.

Describe whether the design of the tower of the tower will accommodate collocation of additional antennas for future users.

Factors considered by the Eagle Pass City Council in their deliberation of the application

In granting a *Special Use Permit*, the City Council may impose conditions to the extent the Planning Department concludes such conditions are necessary to minimize any adverse effect of the proposed tower on adjoining properties.

In addition to any standards for consideration of a *Special Use Permit* application pursuant to *Section 12.2*, the City Council shall consider the following factors in determining whether to issue a *Special Use Permit*, although the City Council may waive or reduce the burden on the applicant of one (1) or more of these criteria if the Planning Department or the City Council concludes that the goals of *Section 12.2* are better served thereby:

- Height of the proposed tower
- Proximity of the tower to residential structures and residential district boundaries
- Nature of uses on adjacent and nearby properties
- Surrounding topography
- Surrounding tree coverage and foliage
- Design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness
- Proposed ingress and egress
- Availability of suitable existing towers, other structures, or alternative technologies not requiring the use of towers or structures

Setback, separation, security fencing, and landscaping requirements

Setbacks. The following setback requirements shall apply to all towers for which a *Special Use Permit* is required; provided, however, that the City Council, after considering the recommendation of the Planning Department, may reduce the standard setback requirements if the goals of Section 12.2 would be better served thereby:

- Towers must be set back a distance equal to at least 75-percent of the height of the tower from any adjoining lot line.
- Guys and accessory buildings must satisfy the minimum zoning district setback requirements.

Separation. The following separation requirements shall apply to all towers and antennas for which a *Special Use Permit* is required; PROVIDED, however, that the City Council, after considering the recommendations of the Planning Department, may reduce the standard separation requirements if the goals of Section 12.2 would be better served thereby.

- Separation from off-site uses/designated areas. Tower separation shall be measured from the base of the tower to the lot line of the off-site uses and/or designated areas as follows:
 - (a) Single-family or duplex residential units, including modular homes and mobile homes used for living purposes: Separation distance of 200-feet or 300-percent of tower height, whichever is greater.
 - (b) Vacant single-family or duplex residentially-zoned land that is either platted or has preliminary subdivision plat approval that has not expired: Separation distance of 200-feet or 300-percent of tower, as measured from the base of the tower to the closest building setback line, whichever is greater.
 - (c) Vacant un-platted residentially-zoned lands, including any un-platted residential use properties without a valid preliminary subdivision plan or valid development plan approval and any multi-family residentially zoned land greater than duplex: Separation distance of 100-feet or 100-percent of tower height, whichever is greater.
 - (d) Existing multi-family residential units greater than duplex units: Separation distance of 100-feet or 100-percent of tower height, whichever is greater.
 - (e) Non-residentially-zoned lands or non-residential uses: No separation distance required; only required setbacks apply.
- Separation requirements for towers shall comply with the following minimum standards:
 - (a) Single-family or duplex residential units, including modular homes and mobile homes used for living purposes: Separation distance of 200-feet or 300-percent of tower height, whichever is greater.
 - (b) Vacant single-family or duplex residentially-zoned land that is either platted or has preliminary subdivision plat approval that has not expired: Separation distance of 200-feet or 300-percent of tower, as measured from the base of the tower to the closest building setback line, whichever is greater.
 - (c) Vacant un-platted residentially-zoned lands, including any un-platted residential use properties without a valid preliminary subdivision plan or valid development plan approval and any multi-family residentially zoned land greater than duplex: Separation distance of 100-feet or 100-percent of tower height, whichever is greater.
 - (d) Existing multi-family residential units greater than duplex units: Separation distance of 100-feet or 100-percent of tower height, whichever is greater.
 - (e) Non-residentially-zoned lands or non-residential uses: No separation distance required; only required setbacks apply.
- Separation distances between towers. Separation distances between towers shall be applicable for and measured between the proposed tower and pre-existing towers. The separation distances shall be measured by drawing or following a straight line between the base of the existing tower and the proposed base, pursuant to a site plan, of the proposed tower. The separation distances, listed in linear feet, shall be as follows:
 - (a) New lattice tower: 5,000-linear-foot separation distance from existing lattice tower, 5,000-linear-foot separation distance from existing guyed wire tower, 1,500-linear-foot separation distance from existing

monopole 75-feet or greater in height, and 750-linear-foot separation from existing monopole less than 75-feet in height

- (b) New guyed-wire tower: 5,000-linear-foot separation distance from existing lattice tower, 5,000-linear-foot separation distance from existing guyed wire tower, 1,500-linear-foot separation distance from existing monopole 75-feet or greater in height, and 750-linear-foot separation from existing monopole less than 75-feet in height
- (c) New monopole tower 75-feet or greater in height: 1,500-linear-foot separation distance from existing lattice tower, 1,500-linear-foot separation distance from existing guyed wire tower, 1,500-linear-foot separation distance from existing monopole 75-feet or greater in height, and 750-linear-foot from a monopole less than 75-feet in height.
- (d) New monopole tower less than 75-feet in height: 750-linear-foot from an existing lattice tower, 750-linear-foot from an existing guyed-wire tower, 750-linear-foot from an existing monopole 75-feet or greater in height, and 750-linear-foot from an existing monopole less than 75-feet in height.

Security fencing. Towers shall be enclosed by security fencing not less than 6-feet in height, and shall also be equipped with an appropriate anti-climbing device; PROVIDED, however, that the City Council, after considering the recommendations of the Planning Department, may waive such requirements as they deem appropriate.

Landscaping. The following requirements shall govern the landscaping surrounding towers for which a Special Use Permit is required; PROVIDED, however, that the City Council, after considering the recommendation of the Planning Department, may waive such requirements if the goals of *Section 12.2* would be better served by such waiver:

- Tower facilities shall be landscaped with a buffer of plant materials that effectively screens the view of the tower compound from property used for residences. The standard buffer shall consist of a landscaped strip at least 4-feet wide outside the perimeter of the compound.
- In locations where the visual impact of the tower would be minimal, the landscaping requirement may be reduced or waived.
- Existing mature tree growth and natural land forms on the site shall be preserved to the maximum extent possible. In some cases, natural growth around the property perimeter, if adequately preserved, may be sufficient buffer.

PRINCIPAL CONTACT: _____ Owner _____ Applicant _____ Engineer _____

City communication regarding this application will be directed only to the designated principal contact.

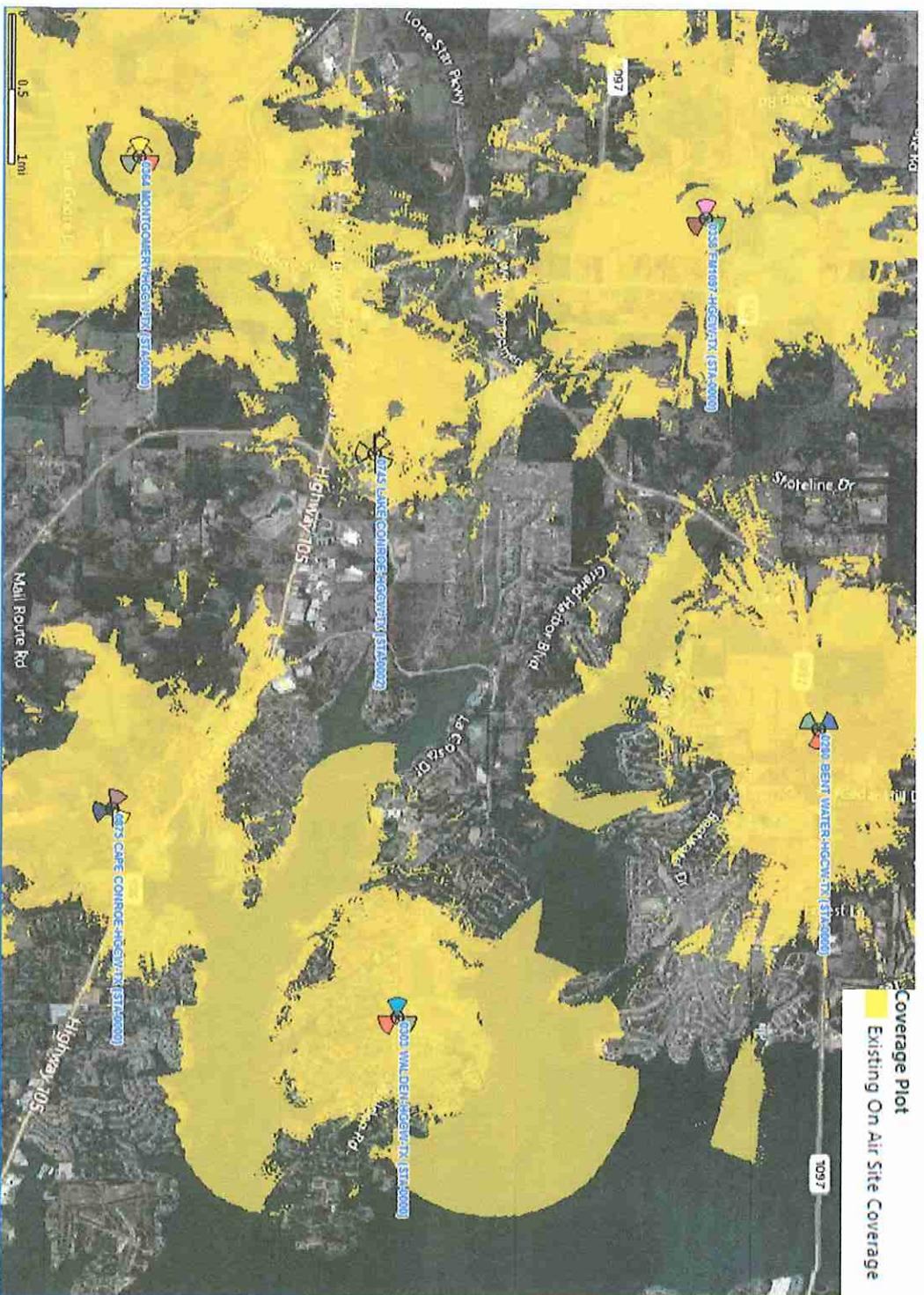
STATEMENT OF APPLICANT

The information contained in this Special Use Permit application contains true and accurate information provided to the best of my ability. I acknowledge that the City of Eagle Pass will use the information contained herein as the basis for the review of the application's conformance with the provisions of *Section 12.2* of *City of Eagle Pass Code of Ordinances Appendix A*.

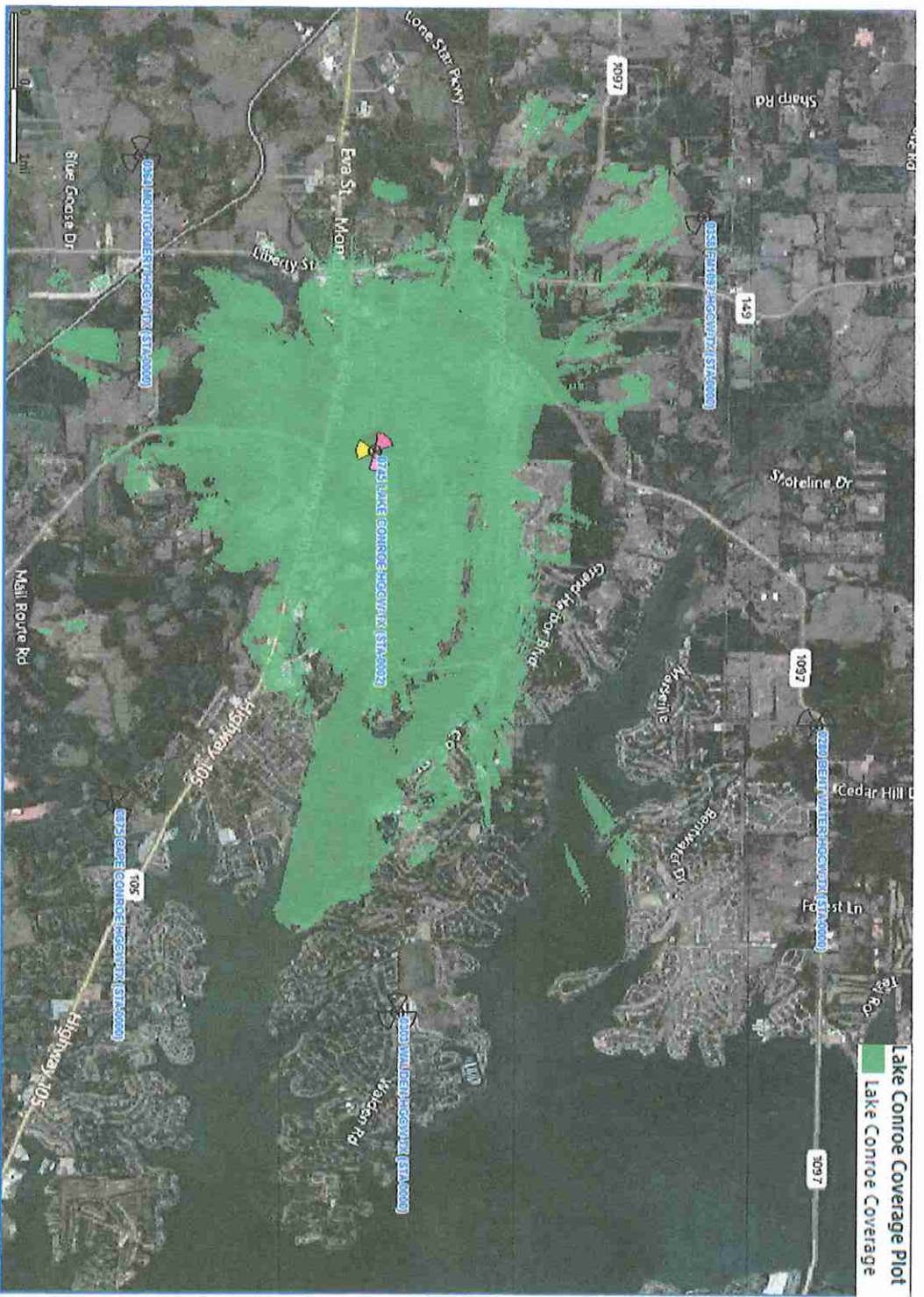
Applicant Signature

Date

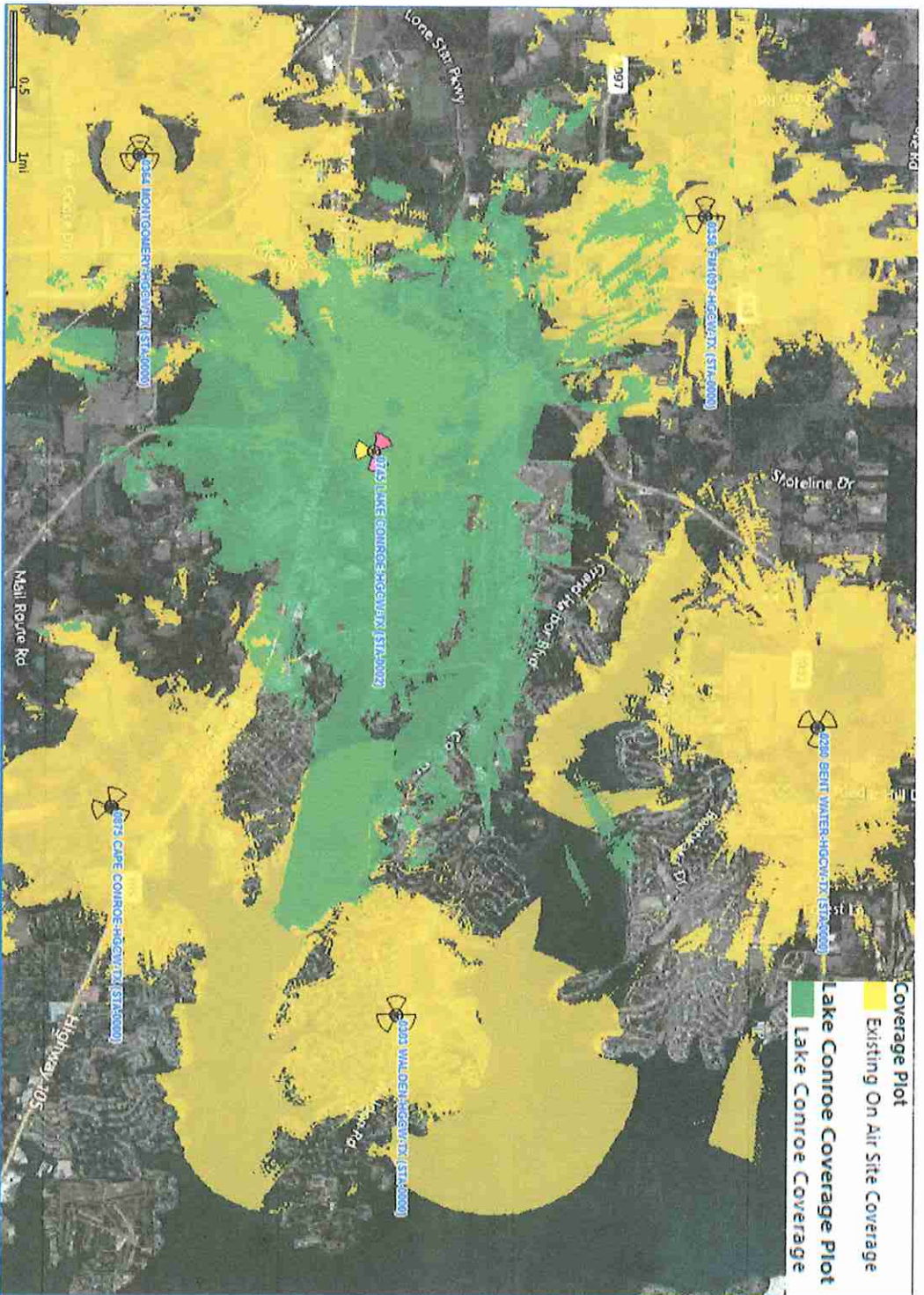
Coverage Plot For Existing On Air Sites [Lake Conroe Neighbor Sites]

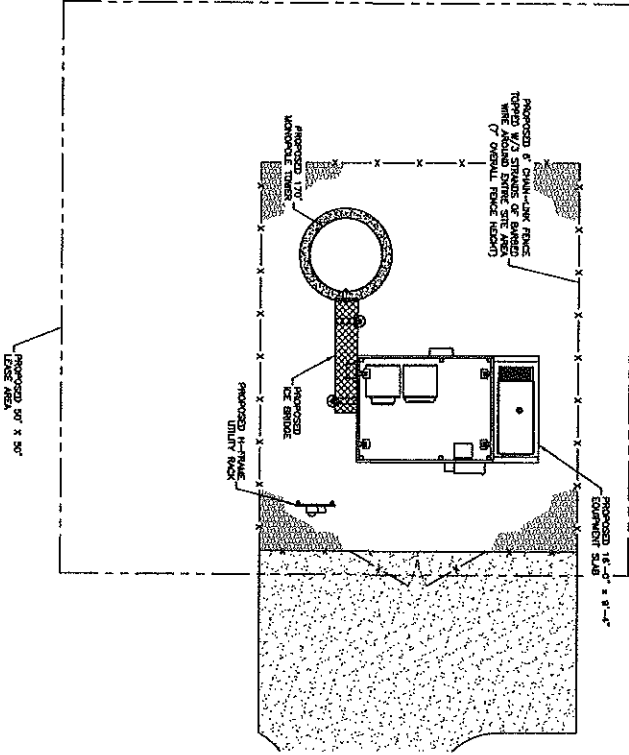


Coverage Plot for Lake Conroe Site

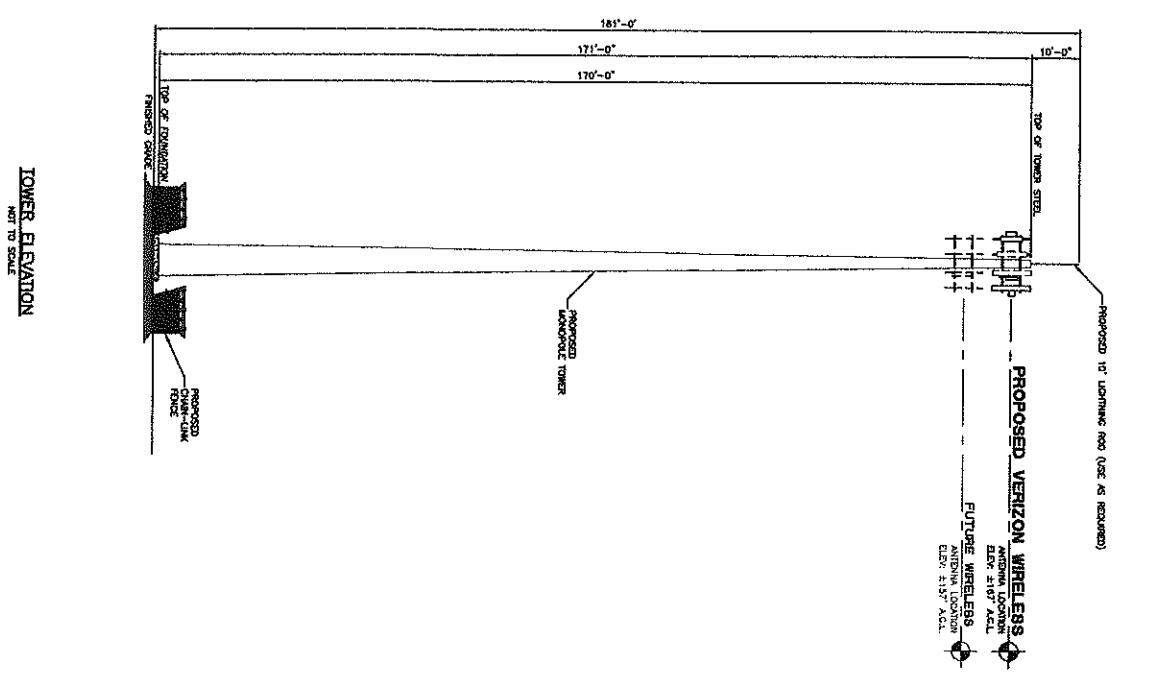
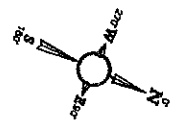


Coverage Plot For Existing On Air Sites & Lake Conroe





ENLARGED SITE PLAN
SCALE: 3/32"=1'-0"



TOWER ELEVATION
NOT TO SCALE



TOWER ENGINEERING, INC.
119 Westwood Road
Chattanooga, TN 37424
(423) 886-7176 Tel.
(423) 886-6663 Fax
2100 Pelham Dr.
Chattanooga, TN 37404
(604) 375-5516 Tel.
(604) 377-6392 Fax

PROPOSED VERIZON WIRELESS
FUTURE WIRELESS
ANTENNA LOCATION
ANTENNA LOCATION
ANTENNA LOCATION
ANTENNA LOCATION

| NO. | DATE | REVISION | BY | CHKD. |
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LAKE CONROE
SITE ADDRESS:
LONESTAR Pkwy
MONTGOMERY, TX 77356
LC. 397401
SITE# 1058E

| | |
|-----------------------------|---------------|
| DESIGN: GTC | DR |
| CHECKED: BR | DM |
| DATE DRAWN: 01/21/2016 | |
| TD JOB NO: 2115-120-1001004 | |
| SHEET TITLE: | |
| SITE DESIGN EXHIBIT | |
| SHEET NUMBER: EX-1 | REV: 1 |

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF MONTGOMERY, TEXAS, GRANTING A SPECIAL USE PERMIT FOR PLACEMENT OF A MONOPOLE CELL TOWER BY VERIZON WIRELESS ON A 0.5474 ACRE TRACT OF PROPERTY LOCATED ON LAND SITUATED IN THE JOHN CORNER SURVEY, ABSTRACT NUMBER EIGHT, MONTGOMERY COUNTY, TEXAS; ESTABLISHING CERTAIN TERMS, CONDITIONS AND LIMITATIONS; PROVIDING FOR PENALTY AND RIGHT TO SEEK INJUNCTIVE RELIEF BY THE CITY; AND PROVIDING SEVERABILITY AND AN IMMEDIATE EFFECTIVE DATE.

WHEREAS, the City of Montgomery has received a request from Verizon Wireless 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 below referenced real property for the placement of a monopole cellular tower; 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 Planning and Zoning Commission pursuant to such notice, held its public hearing and heard all persons wishing to be heard both for or against the proposed special use permit on the 23rd day of May, 2016, and the City Council on the 14th day of June, 2016, pursuant to such notice, held its public hearing and heard from all persons wishing to be heard both for and against the proposed special use permit; 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 Verizon Wireless 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 Verizon Wireless to use that portion of the property located on the tract described in Exhibit "A" which is attached, and which is located immediately adjacent to Lone Star Parkway (the "Premises") for placement of a monopole cell tower as described in the plans attached as Exhibit "B". The special use permit is granted upon and subject to the terms, provisions and limitations specified in Section 2 below.

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 the services shall be conducted on the Premises.
- (b) Operation of the monopole cell tower on the Premises shall only be conducted during the five (5) year term of the permit. Provided however, that City may extend the term of the permit after a request in writing to extend such permit is received from Verizon Wireless.
- (c) The Premises shall be kept clean and attractive, and shall not create a safety hazard or other nuisance in any regard.
- (d) Verizon Wireless has previously submitted, and shall continuously maintain a letter at the City detailing the operation and safety standards that will be followed regarding the use and operation of the monopole cell tower on the Premises. A copy of the safety standards letter is attached hereto and incorporated herein by reference as Exhibit "C." Verizon Wireless shall adhere to and comply with all the standards set forth in this letter.

- (e) There shall be no alteration or change to the outside appearance, character or use of the Premises, following the initial installation of the monopole cell tower.
- (f) No equipment or process shall be used in connection with the monopole cell tower operation which creates noise, vibrations, glare, fumes, odors or electrical interference detectable to the normal senses off the Premises. No equipment or process shall be used which creates visible or audible interference in any radio or television receivers off the Premises.
- (g) No articles or materials used in connection with the cell tower operation shall be stored outside of the Premises.
- (h) Verizon Wireless shall be bonded and insured, and shall maintain general liability insurance in an amount of \$3,000,000 as required by the City during the entire term of the permit.
- (i) The City shall have the authority to inspect the Property from time to time to confirm Verizon Wireless's compliance with the terms and conditions of this special use permit.
- (j) This special use permit does not waive, amend, abrogate or affect any law, rule or regulation, including any ordinance of the City of Montgomery. Verizon Wireless shall comply with all ordinances of the City of Montgomery. Additional regulations and parameters for the site are attached in Exhibit "D".
- (k) This permit shall expire five (5) years from the date of its issuance, subject to City's right to renew the permit upon request by Verizon Wireless. In the event of a violation by Verizon Wireless 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 Verizon Wireless, 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 and final, immediately upon action by City Council.
- (l) The cell tower facility and appurtenances shall be removed by Verizon Wireless within six (6) months of the date that the special use permit expires, it ceases to be operational, or if the facility falls into disrepair.

(m) This special use permit shall not be assignable without the written permission of the City of Montgomery, which permission shall not be unreasonably withheld.

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. The City further reserves the right to seek injunctive relief in a Montgomery County district court of law in the event of any violation of safety standards or other violations to the operation of the cell tower that may pose a nuisance to the public.

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 ____ day of _____, 2016.

**CITY OF MONTGOMERY,
TEXAS**

By: _____
Kirk Jones, Mayor

ATTEST:

By: _____
Susan Hensley, City Secretary

APPROVED AS TO FORM:

By: _____
Larry L. Foerster, City Attorney

Montgomery City Council
AGENDA REPORT

Item 2

| | | | |
|-----------------------|----------------|-------------------------|-------------|
| Meeting Date: | June 14, 2016 | Budgeted Amount: | N/A |
| Department: | City Secretary | | |
| | | Exhibits: | Application |
| Date Prepared: | June 7, 2016 | | |

Subject

Public hearing for Beer, Wine and Mixed Beverage - Alcohol Beverage Permit for 20821 Eva Street, Montgomery, Texas for El Bosque Mexican Grill #4, by Owners Juan and Jaime Rodriquez.

Discussion

This is the public's opportunity to speak, not for substantial Council discussion.

Recommendation

Listen to the comments

Approved By

| | | |
|---------------------------|------------|--------------------|
| Department Manager | | Date: |
| City Administrator | Jack Yates | Date: June 7, 2016 |

May 25, 2016

Property Owner Address

Property ID# R_____

Dear Property Owner:

You are receiving this notice because you are a property owner within the 200 feet of a location where the property owner is requesting an Application for an Alcohol Beverage Permit. The following is the official Notice of Public Hearing by Montgomery City Council that was published in the Conroe Courier and on the City's web site:

NOTICE OF PUBLIC HEARING

Notice is hereby given that the governing body of the City of Montgomery will hold a Public Hearing on **Tuesday, June 14, 2016 at 6:00 p.m.** at the Montgomery City Hall located at 101 Old Plantersville Road for the purpose of:

1. Application for Beer, Wine and Mixed Beverage - Alcohol Beverage Permit for 20821 Eva Street, Montgomery, Texas for El Bosque Mexican Grill #4, by Owners Juan and Jaime Rodriquez.

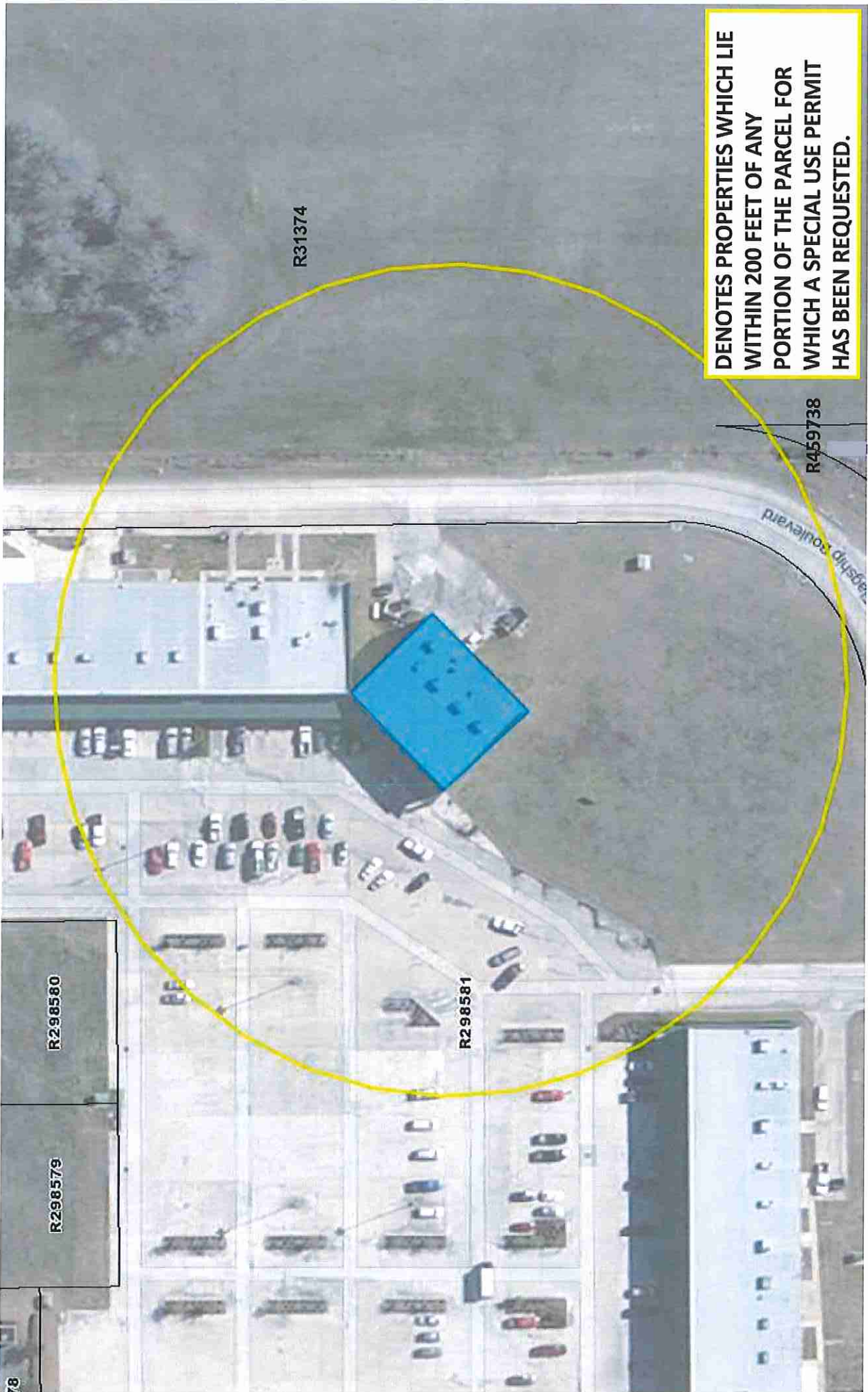
You can also find a copy of this notice posted on the city's website www.MontgomeryTexas.gov on the home page under Legal Notices.

Enclosed, please find a map showing the 200 foot boundary around the property being considered for the Alcohol Beverage Permit. If you have any questions please feel free to contact the City Secretary's office at 936-597-6434.

Sincerely,

Susan Hensley
City Secretary

Certified Mail No. _____
RETURN RECEIPT REQUESTED



DENOTES PROPERTIES WHICH LIE WITHIN 200 FEET OF ANY PORTION OF THE PARCEL FOR WHICH A SPECIAL USE PERMIT HAS BEEN REQUESTED.

El Bosque Mexican Grill No. 4

20821 Eva St
Montgomery, TX 77316

May 18, 2016

This letter is to provide information regarding the nature of business of El Bosque Mexican Restaurant No. 4.

The above named, will be a full service restaurant. It will provide Mexican cuisine for families and children. Some of the features of the restaurant include, takeout, seating, wait staff and will also be serving a variety of alcoholic beverages. Meals to be served are lunch and dinner.

The signs are located as follows:

- Sign # 1 is located in the front of the building above entrance.
- Sign # 2 is located on the left side of the building in the upper corner.

El Bosque Mexican Grill No. 4 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.

Juan Rodriguez, with address *18818 Forest Elm St, Spring, TX 77388*, is the president and Jaime Rodriguez, with address *9568 Thousand Oaks Loops, Montgomery, TX 77316* will be the secretary.

Both parties will have a direct financial interest in the property.



May. 19. 2016 4:29PM



City of Montgomery Alcohol Beverage License Application

No. 0828 P. 1 No. 0825 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: 05/20/16

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 Meter and Bounds Description: ATTACHED.

3. Exact Nature of the Business to be operated. (Must be fully described).

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.

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: Juan Rodriguez Phone: 713-447-5003
Address: 20821 Eva St Montgomery, TX 77116
Home Address: 18818 Forest Elm St, Spring, TX 77388 Phone:

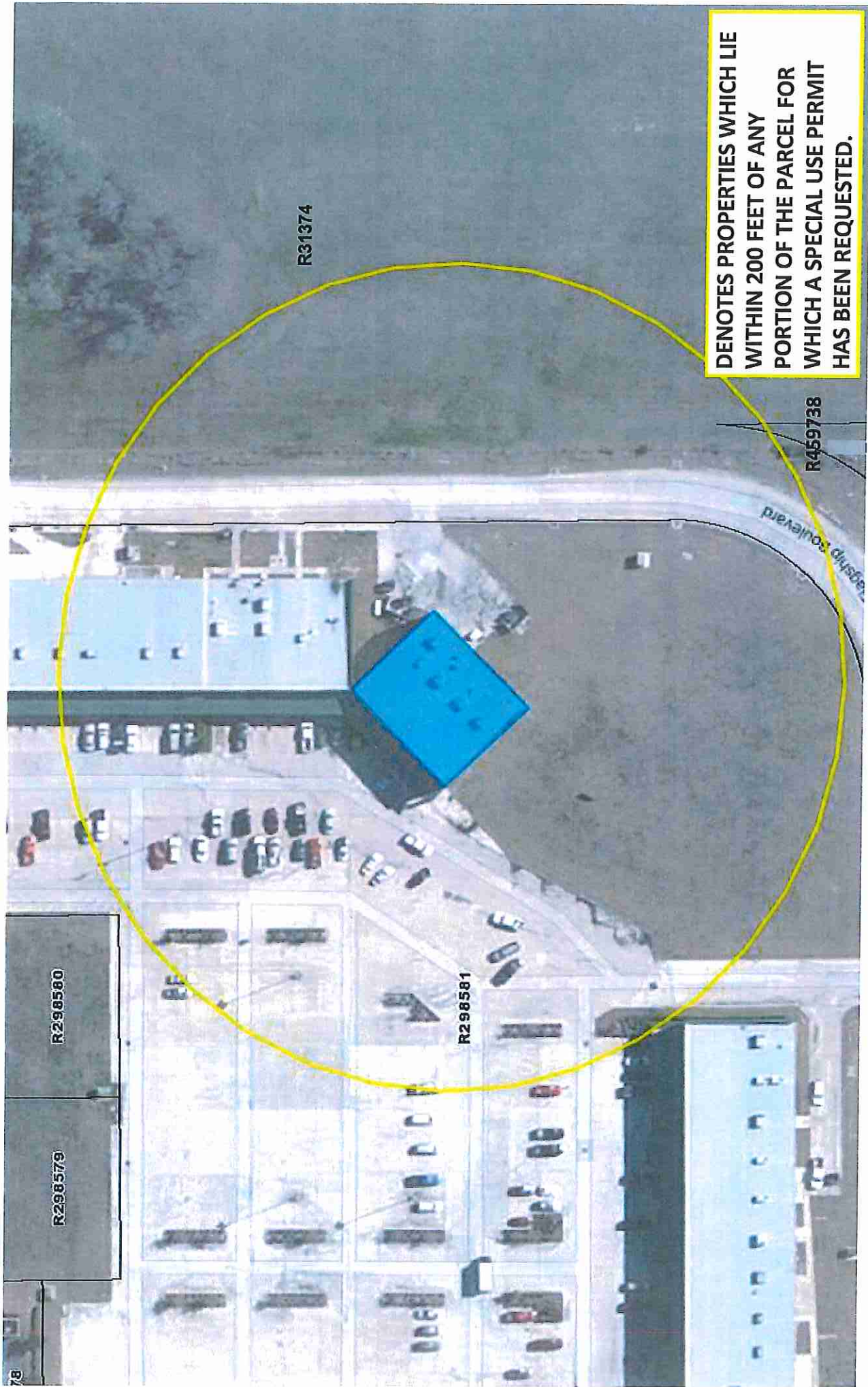
9. Tax and Finance: MONTGOMERY TRACE & TRADING CENTER, DIST Phone:
Address: RTN: Tax Department 10851 Mustang Blvd, Ste 100, Oakland Park, FL 33066

10. Business Partner: Jaime Rodriguez Phone: 832-444-9372
Address: 20821 Eva St Montgomery, TX 77116
Home Address: 9508 Thousand Oaks Loop, Montgomery, TX Phone: 77116

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

Business Owner and/or Lessee or Partner if Applicable

5/14/16 Public Hearing



DENOTES PROPERTIES WHICH LIE WITHIN 200 FEET OF ANY PORTION OF THE PARCEL FOR WHICH A SPECIAL USE PERMIT HAS BEEN REQUESTED.

MONTGOMERY TRACE CENTER

Site Plan

| Unit | Tenant | SF |
|------|-------------------------------|-----------|
| 1 | Woodforest National Bank | 3,710 sf |
| 2 | State Farm | 417 sf |
| 3 | State Farm Insurance | 2,083 sf |
| 4 | The Mail Stop | 2,000 sf |
| 5 | Sunkissed Tanning | 2,730 sf |
| 6 | Available | 1,310 sf |
| 7 | Impression Nails | 1,500 sf |
| 8 | United States Postal Service | 6,008 sf |
| 9 | Available | 3,037 sf |
| 10 | Available | 3,522 sf |
| 11 | Montgomery Coffee | 1,541 sf |
| 12 | Subway | 1,600 sf |
| 13 | Available | 5,950 sf |
| 14 | Available | 5,000 sf |
| 15 | Montgomery Medical Center | 3,220 sf |
| 16 | Montgomery Physical Therapy | 6,825 sf |
| 17 | Pizza Shack | 6,000 sf |
| 18 | Brookshire Brothers | 31,760 sf |
| 19 | Southern Pines Wine & Spirits | 6,680 sf |

Red Boxes - PE Client Cans
 Yellow Boxes - Proposed Client Cans
 Grey Boxes - Tenant Cans

INTERNAL SITE MAP



AVAILABILITY INFORMATION

- 1,310–5,950 sf of small tenant retail space
- Excellent opportunity for medical, home improvement, soft goods and service tenants



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

| | |
|--|--|
| <input type="checkbox"/> BG Wine and Beer Retailer's Permit | <input type="checkbox"/> LB Mixed Beverage Late Hours Permit |
| <input type="checkbox"/> BE Beer Retail Dealer's On-Premise License | <input type="checkbox"/> MI Minibar Permit |
| <input type="checkbox"/> BL Retail Dealer's On-Premise Late Hours License | <input type="checkbox"/> CB Caterer's Permit |
| <input type="checkbox"/> BP Brewpub License | <input type="checkbox"/> FB Food and Beverage Certificate |
| <input type="checkbox"/> V Wine & Beer Retailer's Permit for Excursion Boats | <input type="checkbox"/> PE Beverage Cartage Permit |
| <input type="checkbox"/> Y Wine & Beer Retailer's Permit for Railway Dining Car | <input type="checkbox"/> RM Mixed Beverage Restaurant Permit with FB |
| <input checked="" type="checkbox"/> MB Mixed Beverage Permit | |
| <input type="checkbox"/> O Private Carrier's Permit - For Brewpubs (BP) with a BG only | |

3. Indicate Primary Business at this Location

| | |
|--|--|
| <input checked="" type="checkbox"/> Restaurant | <input type="checkbox"/> Sporting Arena, Civic Center, Hotel |
| <input type="checkbox"/> Bar | <input type="checkbox"/> Grocery/Market |
| <input type="checkbox"/> Sexually Oriented | <input type="checkbox"/> Miscellaneous _____ |

4. Trade Name of Location
EI Bosque Mexican Grill

5. Location Address
20821 Eva St

| | | | |
|--------------------|----------------------|----------------|---------------------|
| City Montgomery | County Montgomery | State Texas | Zip Code 77356 - |
|--------------------|----------------------|----------------|---------------------|

| | | | |
|---|--------------------|----------------|--------------------|
| 6. Mailing Address 9568 Thousand Oaks Loop | City Montgomery | State Texas | Zip Code 77316. |
|---|--------------------|----------------|--------------------|

| | | |
|--------------------------------|--|----------------|
| 7. Business Phone No. () - | Alternate Phone No. (713)447 - 5003 <input checked="" type="checkbox"/> | E-mail Address |
|--------------------------------|--|----------------|

OWNER INFORMATION

8. Type of Owner

| | | |
|--|--|---|
| <input type="checkbox"/> Individual | <input checked="" type="checkbox"/> Corporation | <input type="checkbox"/> City/County/University |
| <input type="checkbox"/> Partnership | <input type="checkbox"/> Limited Liability Company | <input type="checkbox"/> Other _____ |
| <input type="checkbox"/> Limited Partnership | <input type="checkbox"/> Joint Venture | |
| <input type="checkbox"/> Limited Liability Partnership | <input type="checkbox"/> Trust | |

9. Business Owner/Applicant
J Rodriguez Inc

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 Rodriguez | First Name Jaime | MI A | Title President |
| Last Name Rodriguez | First Name Juan | MI J | Title Secretary |
| 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)

/ /

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 | |

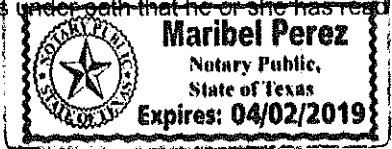
WARNING: Section 101.69 of the Texas Alcoholic Beverage Code states: "...a person who makes a false statement or false representation in an application for a permit or license or in a statement, report, or other instrument to be filed with the Commission and required to be sworn commits an offense punishable 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 Juan Jose Rodriguez SIGN HERE 
TITLE Secretary

Before me, the undersigned authority, on this 4th day of May, 202016, 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 _____, 2016, 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 _____, Montgomery, 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

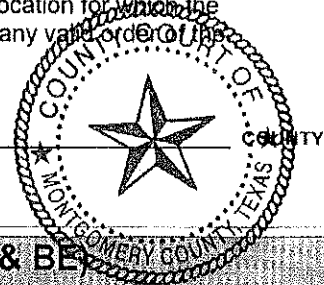
CERTIFICATE OF COUNTY CLERK (FOR MB, RM, V & Y)

Section 11.37

I hereby certify on this 13 day of May, 2016, 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

Mark Turnbull _____
County Clerk Montgomery



SEAL

By J.C. Deavours, Deputy

CERTIFICATE OF COUNTY CLERK (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 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 Clerk COUNTY

SEAL

CERTIFICATE OF COUNTY CLERK 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 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
County Clerk

SEAL

COMPTROLLER OF PUBLIC ACCOUNTS CERTIFICATE

Section 11.46 (b) & 61.42 (b)

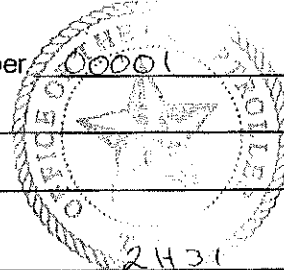
This is to certify on this 4 day of May, 2016, the applicant holds or has applied for and satisfies all legal requirements for the issuance of a Sales Tax Permit under the Limited Sales, Excise and Use Tax Act or the applicant as of this date is not required to hold a Sales Tax Permit.

Sales Tax Permit Number 32-059745334 Outlet Number 00001

Print Name of Comptroller Employee Rahsaan Wyatt

Print Title of Comptroller Employee Tax Compliance II

SIGN HERE _____ 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 | | |
| 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 | | |

ATTACH PRINTED
COPY OF THE
NOTICE HERE

**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

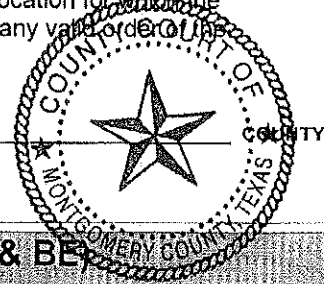
CERTIFICATE OF COUNTY CLERK (FOR MB, RM, V & Y)

Section 11.37

I hereby certify on this 13 day of May, 20¹⁶, 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

Mark Turnbull Montgomery
County Clerk



SEAL

By J.C. Deavours, Deputy

CERTIFICATE OF COUNTY CLERK (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 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
County Clerk

SEAL

- 1 - Freezer
- 2 - Cooler
- 3 - Margarita Machine
- 4 - 3 compartment Sink
- 5 - Ice Bin
- 6 - Hand Sink
- 7 - Fryer
- 8 - Griddle
- 9 - Charbroiler
- 10 - Range 6 Burners
- 11 - Oven
- 12 - Team table
- 13 - 3 - Compartment Sink
- 14 - Restroom
- 15 - Stock Pot Range
- 16 - Ice Machine
- 17 - Warmer Heater
- 18 - Tortilla Machine
- 19 - Chips warmers
- 20 - Soda Fountain
- 21 - Two Compartment Sink
- 22 - Dish Washing Machine
- 23 - Sandwich Unit

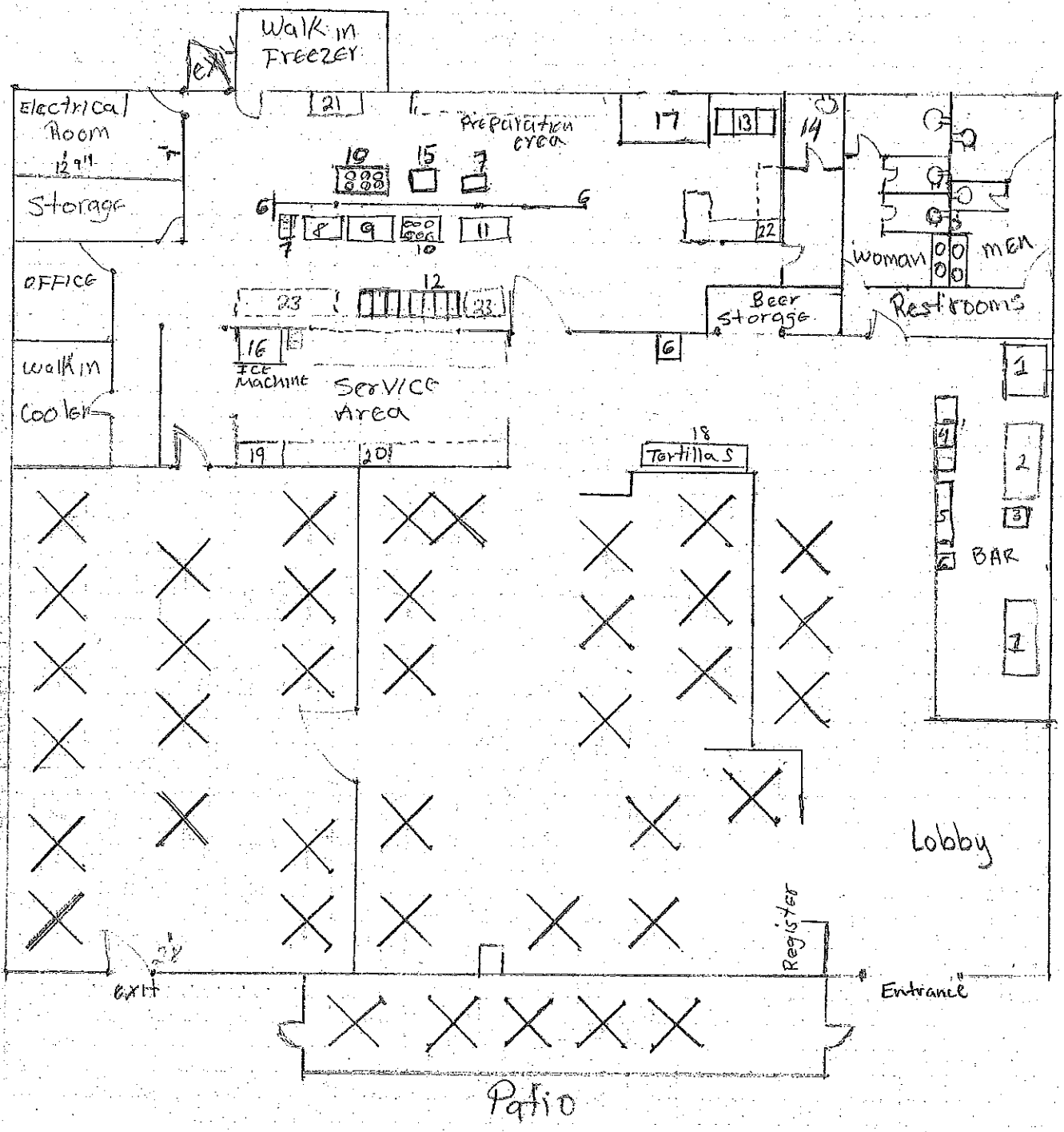
El Bosque

Mexican Grill

#4

20821 Eva St

Montgomery TX 77316



BUSINESS HOURS

MON

11:00

to

9:30

TUES

11:00

to

9:30

WED

11:00

to

9:30

THUR

11:00

to

9:30

FRI

11:00

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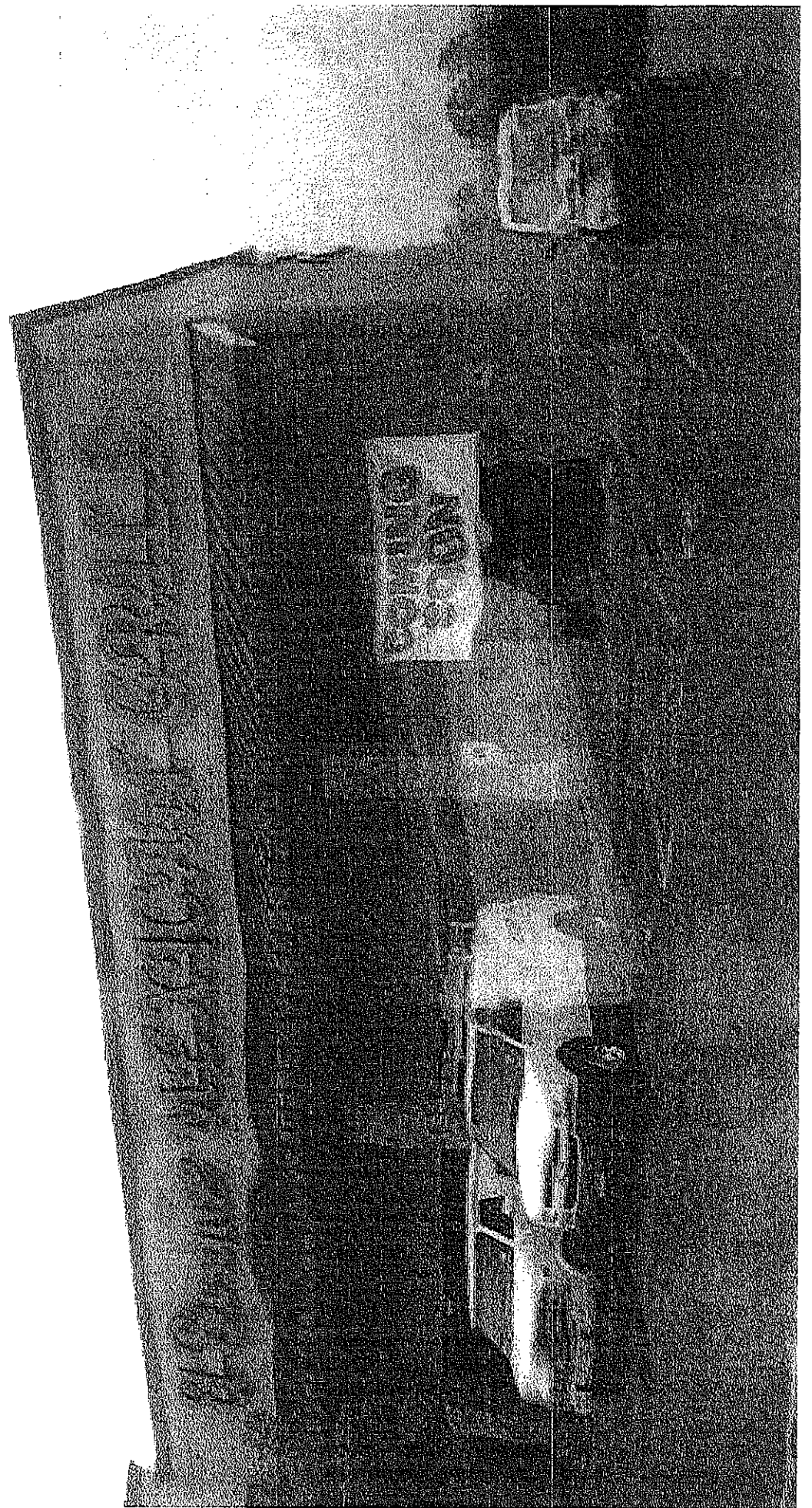
10:00

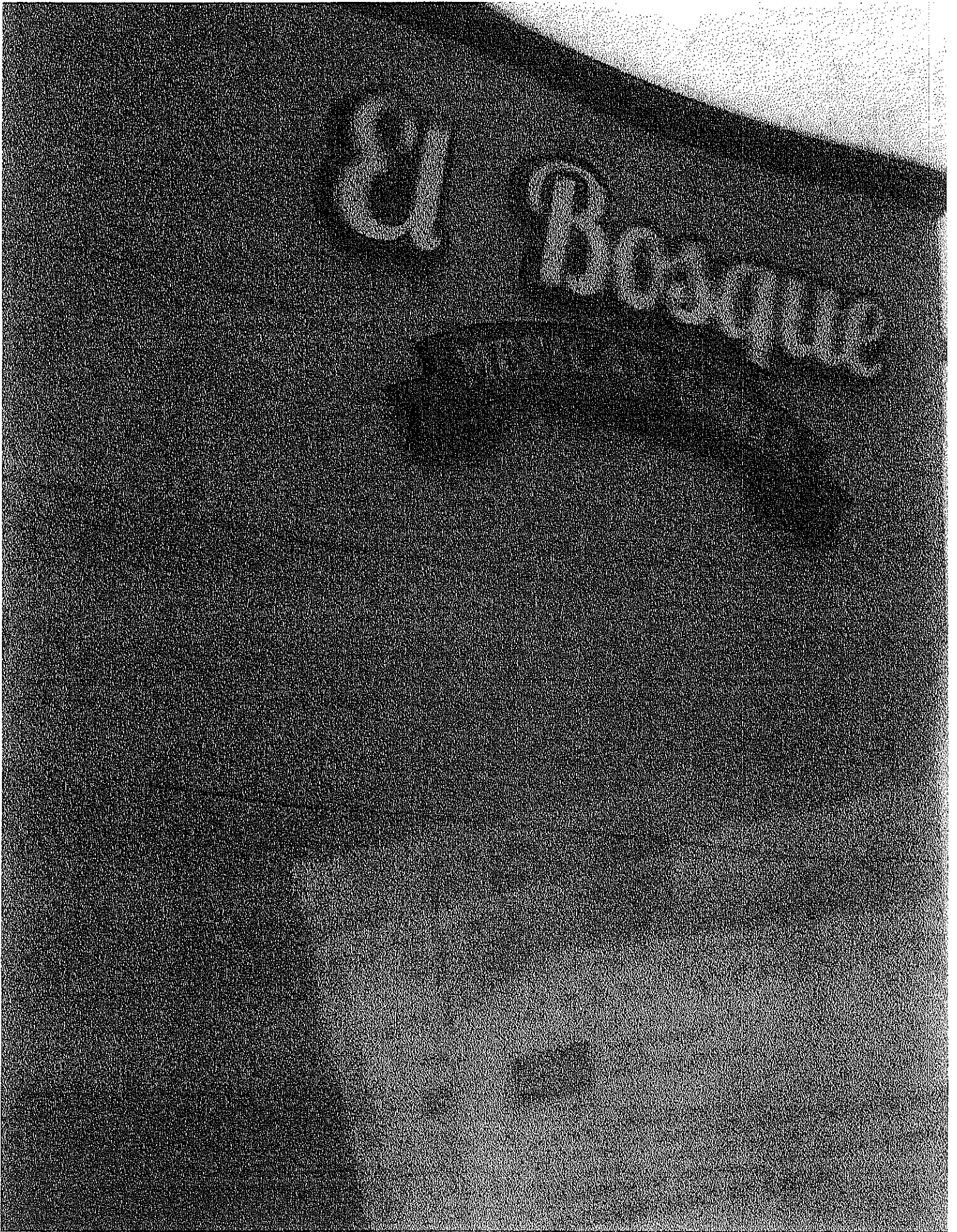
SUN

11:00

to

9:00





MINUTES OF REGULAR MEETING

May 10, 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 Position # 1
 T.J. Wilkerson City Council Position # 3
 Rebecca Huss City Council Position # 4
 Dave McCorquodale City Council Position # 5

Absent: John Champagne, Jr. City Council Position # 2

Also Present: Jack Yates City Administrator
 Larry Foerster City Attorney

INVOCATION

T.J. Wilkerson gave the invocation.

PLEDGE OF ALLEGIANCE TO FLAGS

PUBLIC HEARINGS:

1. Receive Final Report from the Planning and Zoning Commission regarding a request from Michele Martin for a Special Use Permit for the property located at 14375 Liberty Street, Montgomery, Texas 77356, located immediately adjacent to Liberty Street, for a micropigmentation tattoo business, exclusively for eyebrows and eye shade, as an accessory use of an otherwise approved and permitted use.

Mr. Yates explained that the Planning and Zoning Commission had held a public hearing at their last meeting and there were no public comments made. Mr. Yates said that at the meeting he had explained that the tattoo shop required a Special Use Permit and that he had given a copy of the Proposed Special Use Permit Ordinance to the Commission. Mr. Yates said that Ms. Martin had said that she did not plan on doing eye shading now, but thought she would leave it in the permit because she might want to do that type of work in the future. Mr. Yates said that Carol Langley had asked Ms. Martin during the public hearing whether she had read the Special Use Permit and Ms. Martin said that she understood and agreed with the permit, as presented.

Mr. Yates advised that the City Secretary, Susan Hensley had stated that she had received one phone call in response to the notice letters that were mailed, and that person had no problem with the intended use. Mr. Yates said that the motion was made to recommend approval by Jeffrey Waddell and seconded by Arnette Easley, which was approved unanimously by the Commission.

Dave McCorquodale moved to accept the Final Report as submitted by the Planning and Zoning Commission. Rebecca Huss seconded the motion, the motion carried unanimously. (4-0)

PUBLIC HEARING:

Convene into Public Hearing:

Mayor Jones convened the Public Hearing at 6:05 p.m.

Public Hearing regarding a request from Michele Martin for a Special Use Permit for the property located at 14375 Liberty Street, Montgomery, Texas 77356, located immediately adjacent to Liberty Street, for a micropigmentation tattoo business, exclusively for eyebrows and eye shade, as an accessory use of an otherwise approved and permitted use.

There were no comments made during the public hearing.

Adjourn Public Hearing

Mayor Jones adjourned the Public Hearing at 6:06 p.m.

2. Receive Final Report from the Planning and Zoning Commission regarding on a request to rezone a 10.36 acre tract of land of McCoy's Center, located at the southwest corner of SH 105 and Buffalo Springs Drive, Montgomery, Texas, that is currently zoned Commercial, Single-Family Residential and Multi-family Residential to be zoned as Commercial.

Mr. Yates advised that no citizens had been present at the Planning and Zoning Commission public hearing. Mr. Yates said that the Commission briefly discussed how many letters had been mailed out to the surrounding property owners. Mr. Yates said that the Commission discussed the four reserves and where McCoy's building would be placed on Reserve "A." Mr. Yates said that a motion was made by William Simpson and seconded by Jeffrey Waddell to recommend the rezoning as requested from multi-family and single family to be all zoned commercial. The Commission's motion carried unanimously.

Mr. Yates advised that the McCoy's action item is not on the agenda following the public hearing because the law requires that thirty (30) days have to pass from the date of the first legal notice of publication for the public hearing before the ordinance can be adopted.

Rebecca Huss asked about the land use map, when the property for McCoy's is rezoned, and said it will leave a tiny triangle of land that is not the same use as the adjacent property. Rebecca Huss asked whether that would reduce their property value or somehow impair plans if the City makes a change that might not be consistent throughout. Mr. Yates said that he felt Rebecca Huss was right, but said that it could also be said that they are zoning toward the highest and best use of the property.

Mr. Yates said that in the future there will be items brought to City Council by the Planning and Zoning Commission to make recommendations for zoning changes. Mayor Jones said that the adjacent property owner has the opportunity to speak to the City Council if they have concerns, and they have been notified of the proposed changes. Mayor Jones said that Rebecca Huss did have a point, and that might be one of the cleaning up tasks that the Commission might want to do.

Jon Bickford said if he understood the map correctly it leaves a space between the property and SH 105. Mr. Yates said that there was no gap between the property and SH 105. Mr. Yates said that City Council would be approving the 10.36 acres shown on the plat. Mr. Fleming said that the property being rezoned is in its entirety on the plat. Mr. Fleming said that are a couple of different parallelogram shapes where the sketch may leave open for interpretation that there is some space in between the platted area and SH 105, which is not the case.

Mr. Sam Walker, Engineer for McCoy's, advised that the areas Council is discussing was already zoned commercial. Mr. Walker said that there was a small triangle of multi-family that does come across Buffalo Springs and hits their tract.

Rebecca Huss moved to receive and accept the Final Report as presented by the Planning and Zoning Commission. Dave McCorquodale seconded the motion, the motion carried unanimously. (4-0)

PUBLIC HEARING:

Convene into Public Hearing:

Mayor Jones convened into the Public Hearing at 6:14 p.m.

Public Hearing regarding on a request to rezone a 10.36 acre tract of land of McCoy's Center, located at the southwest corner of SH 105 and Buffalo Springs Drive, Montgomery, Texas, that is currently zoned Commercial, Single-Family Residential and Multi-family Residential to be zoned as Commercial.

There were no comments made during the public hearing.

Adjourn Public Hearing

Mayor Jones adjourned the Public Hearing at 6:15 p.m.

3. **PUBLIC HEARING:**

Convene into Public Hearing:

Mayor Jones convened the Public Hearing at 6:16 p.m.

Public Hearing regarding a proposed increase of City water and sewer tap fees.

Mr. Yates advised that City Council had been provided with a copy of the proposed ordinance. Mr. Yates stated that for residential water and sewer taps Gulf Utility, City contractor, rate is, \$1,300 for sewer taps times 200% percent and the water tap is \$550 times two. For the irrigation tap, it is \$450 to encourage people to get irrigation taps and to prevent as much water as possible from getting into the sewer system so they can possibly delay expansion of the sewer system. Rebecca Huss said that if the resident is a high user, then they could save money by installing an irrigation meter. Mr. Yates said that was correct. Rebecca Huss said that the City would break even on the irrigation tap.

T.J. Wilkerson asked how much the irrigation meter was. Mr. Muckleroy advised that Gulf Utility charges the City \$450 for the irrigation tap and \$185 for the meter. Jon Bickford said that the ordinance is showing \$450. Rebecca Huss said that is plus the cost of the meter. Dave McCorquodale said that going forward anyone that wanted a meter installed would know the cost, which is not a money making venture for the City, it is just to recoup the cost.

Randy Burleigh stated that in the past a new meter from the City cost \$550 and asked if the new meters would still be \$550. Mr. Yates advised that for water it would be \$900 plus the cost of the meter. Mr. Burleigh asked how much a customer would have to pay the City for an irrigation meter. Mr. Yates said that it would be \$450 plus the cost of the meter. Mr. Burleigh asked why with a brand new meter they would be charging the customer less. Rebecca Huss said that the cost would be net higher, with \$450, which is what Gulf Utility charges to install the meter, plus the cost of the meter so it will be \$635. Dave McCorquodale said that was an approximate increase of \$85 that reflects just the cost to the City.

Adjourn Public Hearing

Mayor Jones adjourned the Public Hearing at 6:20 p.m.

Reconvene into Regular Session:

Mayor Jones reconvened the Regular Meeting at 6:20 p.m.

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.

- Mr. Burleigh stated that he wanted to straighten out City Council on some misinformation. Mr. Burleigh briefed Council on some history of Memory Park irrigation system. Mr. Burleigh advised that the County used to pay all the water bills for Memory Park, and when they got tired of the high water bills, they told the City to remove the water meter. Mr. Burleigh advised that the City removed the meter and then sometime in 2010-2011, the City put the meter back as a no charge account. Mr. Burleigh said that the City plan was to get the irrigation system fixed and under control, so he volunteered to try and help with the system. Mr. Burleigh said that the system has an advanced professional controller that was not being used to its full potential. Mr. Burleigh said that he upgraded the system with a solar sync system and flow meter. Mr. Burleigh said that in the beginning of 2011 they only had data for about a month, but in five months they used almost 2.5 million gallons, which is over 5 million gallons per year. Mr. Burleigh said that Memory Park was one of the highest users of water in the City besides the high school. Mr. Burleigh said that after the first year of maintaining the system they reduced the water usage to 1.8 million gallons, which was pretty good.

Mr. Burleigh said that the City continues to approve projects and add zones. Mr. Burleigh said that he keeps hearing complaints from the City Council members that they are wasting water at Memory Park. Mr. Burleigh said that City Council has control of the Park, and they need to make a decision about the Park and not okay new projects or maybe put in a well. Mr. Burleigh said that he thought a new well would cost \$60,000. Mr. Burleigh said that he got word today from Weisinger that it might be \$14,000, which they are still pursuing and will bring before City Council. Mr. Burleigh said that they are looking at a small irrigation system for the pond that would pull water from the pond for the irrigation system. Mr. Burleigh said that normal usage was 150,000-160,000 gallons per month, or \$9,100 per year if they used the City's current irrigation and GRP rates.

Mr. Burleigh said that he wanted to train City employees on how to run the system, because one day he will go away and the City will have to take it over. Mr. Burleigh said that last year they added two zones, and this year-to-date they have added four more zones. Mr. Burleigh said that when City Council looks at their data and complains about Memory Park they need to remember that when they are approving projects. Mr. Burleigh said the City has locked up the meter going into the pond, but there will be times when they will need to add water, so they will need to make a decision on what to do and have proper protocol. Mr. Burleigh said that he would be getting back with City Council on some other options.

Rebecca Huss commented on the cost of the well and advised that the cheapest cost is the drilling of the well. The expensive part is the permitting of the well. Rebecca Huss said it was a much more complicated issue versus just drilling and has a lot of other related costs. Mayor Jones said that this discussion needed to be saved for an agenda item.

Jon Bickford said that he was all for having this item on the Agenda, but his question was who is authorizing the additional zones for the Park. Rebecca Huss said that City Council did, they had talked about the bridge to the island. Mayor Jones again stated that this would need to be an Agenda item. Jon Bickford stated that he would like to have an Agenda item regarding this matter. Mayor Jones advised that they would do that.

Mayor Jones thanked Mr. Burleigh for his comments. Rebecca Huss said that she really appreciated the amount of time that Mr. Burleigh had put into making Memory Park as efficient as possible with water usage. Rebecca Huss said that Memory Park is a very beautiful location that does the City credit, and thanked Mr. Burleigh for everything that he does for the park. Mayor Jones also thanked Mr. Burleigh for all his efforts.

CONSENT AGENDA:

4. Matters related to the approval of minutes for the Regular Meeting held on April 26, 2016.

Rebecca Huss moved to approve the minutes as presented. Dave McCorquodale seconded the motion, the motion carried unanimously. (4-0)

CONSIDERATION AND POSSIBLE ACTION:

5. Consideration and possible action regarding adoption of the following Ordinance:
AN ORDINANCE OF THE CITY OF MONTGOMERY, TEXAS, GRANTING A SPECIAL USE PERMIT TO MICHELE MARTIN FOR USE OF A PORTION OF PROPERTY LOCATED AT 14375 LIBERTY STREET, MONTGOMERY, TEXAS 77356, FOR A MICROPIGMENTATION TATTOO BUSINESS; ESTABLISHING CERTAIN TERMS, CONDITIONS AND LIMITATIONS; PROVIDING FOR PENALTY, SEVERABILITY, AND EFFECTIVE DATE.

Rebecca Huss said that she had a couple of comments on the ordinance, as follows:

- Section 1. Grant of Permit – where it lists the address and states that it is located immediately adjacent to Liberty Street. She was not sure why the address was listed in addition to the location because it makes it sound like it is located outdoors. Rebecca Huss said that it should state that the business is located within the premises entirely. Mr. Foerster stated that it could be deleted from the ordinance and it could state that the business was strictly at that address. Rebecca Huss asked if there was any way that they could state that this is an indoor activity only, with no sidewalk sales, demonstrations, etc. Mr. Foerster said that it could read “that portion of the property located inside the premises of 14375 Liberty Street.”
- Page 2, Section 2(b) - it talks about the extension of the permit in five (5) years, with City staff having the authority to approve that permit. Rebecca Huss said that she would like to see the permit come before City Council for renewal. Mr. Yates stated that Subsection (l) states that the renewal is submitted to City Council. Jon Bickford said that section says it is subject to the “City” not “City Council.” Mr. Foerster said that they could delete the second sentence of Section 2(b) referencing City staff, because it is addressed in Section 2(l). Rebecca Huss said that Section 2(l) could be expanded to specify “City Council.” Jon Bickford said that they could do what Mr. Foerster recommended, deleting the second sentence of Section 2(b) and use Section 2(l) instead, adding “subject to City Council’s right to renew the permit upon request.
- Rebecca Huss said that it does not address anywhere in the ordinance about the micropigmentation is located that this is only to occur on specifically the eyebrows

and eye shades. Rebecca Huss said that it could be under Section 2(e) or somewhere else, but that was one of the things that made most of them comfortable about the idea of the tattoos. Mr. Yates stated that in Section 1. Grant of Permit, fourth line, it states “for micropigmentation tattoo business for eyebrows and eye shade.” Jon Bickford said that he thought it was odd that it was not listed under the Section 2. Terms, Provisions and Limitations, which seems where it would be listed because of all the things that are specified in this section and the most important item of stating eyebrows and eye shades are left out. Mr. Foerster said that what they are proposing is Section 2(e) could add the words to the end of the sentence to include “of eyebrows and eye shades only.” Jon Bickford said that it could be its own letter.

- Jon Bickford asked about Section 2(f) because he did not know if it was the City’s right to state that someone can’t make changes to their property. Mr. Foerster said that they can delete that item. Jon Bickford said that he was trying to understand why that provision was in the ordinance. Jon Bickford said that it would be good if there would be no advertising at all on the outside. Rebecca Huss said that she would not want a bright neon sign that says “tattoos.” Mr. Yates advised that there would also be the Historic District sign review that they would be required to obtain. Jon Bickford asked whether that covered neon signs in windows and signs like that. Mr. Yates advised that it covered those signs. Rebecca Huss said not exactly, because that was something that came up when a merchant wanted space to display some of the brands that the owner had inside, so they have used stickers and paint inside, which is not governed by the Sign Ordinance. Mayor Jones asked what they want the ordinance to say regarding the signage. Jon Bickford said that it might be covered, but if the sign is behind the glass. Rebecca Huss asked how Ms. Martin was going to market her business. Ms. Martin advised that she would be marketing out of her suite. Ms. Martin advised that she also does massage therapy, so her business was more of a professional subdued business. Ms. Martin said she would not be having lights flashing will skull and crossbones or things associated with a tattoo parlor. Jon Bickford said that he understood where Ms. Martin was coming from, but tomorrow she could sell her business and get a new

owner in that location. Mayor Jones said that the ordinance states the permit is between the City and Ms. Martin and nobody else. Ms. Martin said that from what she had been told by the Westmont Building management as of now she is not allowed to do signs facing the one road, and facing Liberty Street the owner has a sign outside with a small area for each individual suite that will include the business logo. Mayor Jones said that everything in the ordinance states Ms. Martin, the owner of the business, so if she leaves, the new business would have to get a permit from the City. Jon Bickford asked the City Attorney if that would be the case. Mr. Foerster said that he had not thought of that, but Section 1 says that the permit is granted to Ms. Martin, so it is pretty clear that it is to her specifically and there is no right of assignment in the ordinance without coming back to City Council. Jon Bickford asked if they should state that in the ordinance. Mr. Foerster said if that would make Council feel better he could add that wording into the ordinance. Ms. Martin said if the permit goes through and she is allowed to have the business, she had a two year lease that she has to sign and if in two years she wanted to move to a different building, she would have to reapply with the State because their permits are site specific and she would have to get a letter from the City and asked if she would also have to go through this process again. Mr. Yates said that this permit is specific to the address stated in the ordinance. Jon Bickford said that if you were to move and she had been a good business, there could be less discussion.

Rebecca Huss moved to adopt the Ordinance granting a Special Use Permit to Michele Martin subject to the location, City Council being involved with the renewal of the permit in five years, issue with Section 2(e) adding “of eyebrows and eye shades” at the end of the sentence to name the placement of the micropigmentation placement, and the assignability clause as discussed.

Mr. Foerster asked if Council wanted a separate subparagraph under Section 2 that speaks that this permit is only good for eyebrows and eye shades. Rebecca Huss said that she felt that would be the clearest way to handle it. Mr. Foerster stated that they would leave Section 2(f) that is currently there. Jon Bickford said that he felt it was not their place to state that item since it was not the City’s building. Dave McCorquodale stated that the building would also be under the Historic District regulations. Mr. Foerster said that he

would strike that wording regarding the alteration or change to the outside appearance, character of the premises. Mr. Foerster said that he would agree with them on this matter.

Jon Bickford seconded the motion.

Discussion: Rebecca Huss asked Ms. Martin if she was okay with the changes that had been made to the document. Ms. Martin said that she was okay with the changes.

The motion carried unanimously. (4-0)

6. Consideration and possible action regarding adoption of the following Ordinance:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MONTGOMERY, TEXAS, REPEALING ORDINANCE NO. 2011-22 AND ORDINANCES AMENDING SAME, ESTABLISHING AND ADOPTING CHARGES FOR RESIDENTIAL WATER AND SEWER SERVICE TAP FEES FOR CONSUMERS INSIDE AND OUTSIDE THE CITY PURSUANT TO CHAPTER 90 OF THE CODE OF ORDINANCES OF THE CITY OF MONTGOMERY, TEXAS; ESTABLISHING AN AMENDED SCHEDULE OF TAP FEES AS REQUIRED BY CHAPTER 90 OF THE CODE OF ORDINANCES OF THE CITY; REPEALING ALL ORDINANCES IN CONFLICT; PROVIDING A TEXAS OPEN MEETINGS ACT CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE AFTER PUBLICATION.

Jon Bickford asked whether the \$550 fee being charged today includes a meter. Mr. Yates said that fee does not include that cost. Jon Bickford said that they were actually lowering the cost for irrigation meters. Rebecca Huss said that the cost today for the irrigation meter is \$550. Mr. Muckleroy said that the current \$550 charge includes the cost of the meter. Rebecca Huss said that the City was actually losing cash. Jon Bickford asked if it was a similar situation with the residential taps. Jon Bickford confirmed that the City was only obliged to provide water outside the City limits where they choose to have pipe in the ground. The Mayor said that was correct.

Mayor Jones asked whether previous ordinances addressed water taps outside the City limits, and are there any meters that are going to be outside the City limits, and should they be charged the same fee. Mr. Muckleroy said the tap fees are the same, but the water rates were higher.

T.J. Wilkerson asked what the sewer tap rate would be. Mr. Yates advised that the residential sewer tap fee would be \$2,600. Jon Bickford said that it would cost \$3,500 plus the cost of the meter to connect a home up to the system for water and sewer. Mr. Yates said that the meters were \$185. Mayor Jones said that would be \$3,700 for a new home to hook up the City. Rebecca Huss said that the \$2,600 reflects the average between the costs. Mr. Muckleroy said that right now the City is charging the customer \$550 when Gulf Utility does a sewer tap it is in the \$1,000 - \$1,400 range. Mr. Muckleroy said that Gulf Utility is giving the City a flat rate for the tap up to 8 feet deep and 40 feet in length, and anything that falls in that perimeter will be the \$1,300.

Jon Bickford moved to accept the ordinance as proposed. Dave McCorquodale seconded the motion.

The motion carried with 3-Ayes and 1-Nay vote by T.J. Wilkerson. (3-1)

Mayor Jones asked T.J. Wilkerson if he wanted to comment why he was opposed to the ordinance. T.J. Wilkerson said that he would rather not discuss the matter right now, but said that he had been talking to some people and the rate was a little too steep for them. T.J. Wilkerson said he told them that he would come back with a better understanding and have a comparison of certain areas and other cities. T.J. Wilkerson said that he felt that the rate was steep, but he was only one vote.

7. Discussion regarding 2015-2016 City Budget.

Mr. Yates stated that \$17,000 remains to be collected in ad valorem taxes, but since the tax will be coming in right at \$1,340,000 budgeted amount, even though we are over for the first six months, the \$321,944 under fines is actually a net of \$195,000 after the

payment to the state. The \$902,550 budgeted for wages will be increased by \$20,000 from the capital outlay for the additional officer that was hired in March. Mr. Yates advised that he had made a mistake during the preparation of the budget, leaving off Officer Flores from the personnel worksheet for the Police Department, which including benefits is a \$60,000 error that can be corrected through a budget amendment or just watch it for the remainder of the year. Mr. Yates stated that the general fund is approximately \$72,000 revenue over expenditure for this year and is doing quite well. Mayor Jones asked whether the \$20,000 from the capital fund was intended for the Police Department. Mr. Yates said that was for the part time person in the Police Department. Mayor Jones asked why it was put in capital if it was personnel. Mr. Yates said that he had been advised by the City Council to put it there to track the funds.

Mr. Yates said that the Capital Projects Fund shows a balance of \$20,000 but Mrs. Branco forgot to put in the \$50,000 TexPool Investment funds so that fund balance is actually \$70,000. Mr. Yates said that those funds are expected to go toward the waterline project going across Buffalo Springs Bridge.

Mr. Yates stated that for the Water and Sewer Fund, water revenues are expected to rise for the last six months so we can meet expectation of the budget. Mr. Yates said that right now they have \$46,000 deficit, but he felt that they would be able to make that up before the end of the fiscal year.

Mayor Jones asked if the budget needed to be amended. Mr. Yates said that he did not think that they would have any problems with the rest of the year. Mayor Jones advised that it would be approximately two months before they began Budget Workshops.

8. Consideration and possible action regarding borrowing funds for capital outlay projects.

Mr. Yates advised that they had a conference call with the Texas Water Development Board on April 25, 2016. Mr. Yates said that they wanted to compare their options as far as whether they would go out on the open market versus going to the Texas Water Development Board for funds.

Mr. Yates discussed the three different types of borrowing sources available through the state, which are the Texas Water Development Fund, which is state funds and includes fewer hoops during the process and has an interest rate of approximately 3.48% for a 30 year loan. The other two are the Safe Drinking Revolving Fund and the Drinking Water Revolving Fund. Mr. Yates advised that with the Safe Water and Drinking Water Revolving Funds the City can get multiple years of projects approved at once.

Mr. Yates advised the Financial Advisor and the City Engineer would prepare the application to the Texas Water Development Board. Mr. Yates said that there were funds available and they could have the application go before the Texas Water Development Board in November 2016, so they could receive funds in January 2017. Mr. Yates said that he was proposing to borrow over multiple years, with \$2.6 million this year, \$2.8 million the next year and the following year \$2.6 or \$2.7 million. Mr. Yates said that they can apply for the funds all at once and only pay interest after they close on the funds. Jon Bickford said that they would basically be applying and getting approval for \$7.5 million dollars up front, but will not pay interest until we receive the funds each year. Mayor Jones asked if the interest rate was going to be locked. Mr. Yates said that it would be whatever it was at the time of closing. Jon Bickford said that they are never going to get a better rate than they are right now.

Mr. Yates said that a reasonable expectation of what government contract projects would increase 4% percent per year. Mr. Yates introduced Mr. Gilley as the Financial Advisor. Mr. Yates said that he was asking City Council for some direction as to whether or not to proceed with the Texas Water Development Board or to go out to the open market.

Rebecca Huss asked how specific the grant was so that if they wanted to do something such as the water and sewer rerouting along SH 149 in advance of the widening of the road, and something happened would they be able to be flexible and use those funds for another water project or would they have to stick to the projects in the application. Mr. Yates said that he thought if it was an eligible project they could interchange the projects. Mr. Gilley stated that the City might have to ask permission to interchange the projects. Rebecca Huss said that they could have a list of planned projects.

Mayor Jones said that all the items were dealing with water and sewer, but if they had a need with roads would that be different. Mr. Yates said that they would have to do Certificates of Obligation for roads.

Jon Bickford moved to have Mr. Yates move forward and coordinate with the Financial Advisor and City Engineer to apply for Water Development Funding. Rebecca Huss seconded the motion. Mr. Yates said that during budget preparation he will be discussing a depreciation fund where they could use the capital projects fund that they currently have and set aside any surplus for future year's maintenance. Rebecca Huss said that the City has been dinged in the past by the Auditor for not providing for depreciation funds. Jon Bickford said that as their income increases they should be putting more funds aside versus spending more.

Rebecca Huss asked whether there was a prepayment penalty with the state. Mr. Gilley advised that the Texas Water Development Board rules prohibit prepayment until after ten (10) years. Mayor Jones asked whether it was better to amortize for more or less time for municipalities. Mr. Gilley said that it was always better if you can pay your debt off faster. Mr. Gilley said that if you are a growing city and you have a lot of future infrastructure needs you should look into the future to see how much you need to borrow. Mr. Gilley said that you never want to borrow longer than the useful life of the asset. Mayor Jones said that the City's growth rate in the next ten years is going to be astounding. Jon Bickford said that as a business he would want to borrow for the shortest term possible if they have high interest rates, and longer term with low interest rates. Jon Bickford said that the City has a lot of capital work that has to get done every year, and the contractors that come in make more money every year so for the big projects they need to borrow what we need to get the projects done sooner rather than later. Jon Bickford said that it was worth it to pay a little more interest to get all the capital projects done, but they need to be mindful that they don't finance projects that are worn out. Mayor Jones said that they also have to work within their revenue, because they don't want to have to raise taxes to borrow a lot of money. Jon Bickford agreed with the Mayor. Jon Bickford said that if they can get zero percent money today they need to take all that they can get within reason.

Mr. Gilley advised that the way the rates are determined, for clarification, the state will assess the City's ranking, which is AA-. Mr. Gilley said that they might have to buy a rating on the bonds to satisfy that requirement and hopefully the City will continue to maintain the AA- rating. Mr. Gilley said that the yield curve is typically ascending. Mr. Gilley said that borrowing from the state will require the City to go through more hoops, but the rates are very good. Mr. Gilley said that the numbers show the next several years, based on the assumptions, they should not have to raise water and sewer rates or raise taxes until 2019, depending on the City's property assessment revenue. Mr. Gilley also advised that it was not a step rate but each amortization schedule is like a separate loan.

Jon Bickford asked what Mr. Yates needed from City Council. Mr. Yates advised that according to the loan they are required to hire and use a Financial Analyst and bond counsel. Mr. Yates said that he needed direction regarding whether City Council wanted to pursue the Texas Water Development Board or go on the open market. Mr. Yates said that Mr. Gilley will provide the program information, application and do all the non-engineering paperwork with the Texas Water Development Board. Mr. Yates said that if City Council wants to go with the state then he will get Mr. Gilley to prepare the application and will get back with City Council with some type of contract. Jon Bickford asked if there was any reason why they should not go for the loan. Mr. Yates said there was not any reason.

Jon Bickford asked whether they should pursue the Texas Water Development Board versus the open market. Mr. Shackelford said that the Texas Water Development Board is going to require the City to have a Water Conservation Plan and Drought Contingency Plan, if you do not already have one. Jon Bickford stated that the City might have those. Mr. Shackelford said that they might need to be updated, so there will be a little bit of an expense related to those. Mr. Yates advised that the City had both of those plans. Jon Bickford said that he would ask that as they look at the capital projects, and they put them in groups, it would be helpful and useful to state the useful life of the new asset, so that they align the loans so that they are not amortized beyond their useful life. Mr. Gilley said that the state has advised that they have funds available in their 2016 annual cycle for drinking water and sewer water because they have not spent all the funds yet. Mr. Gilley said if they move quickly they might possibly be able to get some funds this year, but if

not they would have to wait until the next cycle. Mr. Fleming said that there is no guarantee when they go to the Texas Water Development Board, they will be awarded. Mr. Fleming said that the Board starts out with around \$80 - 100 million dollar range that is allocated first on an as need basis for water systems that are able to score high in terms of having health and compliance issues. Mr. Fleming said that he did not know after looking at the application that the City would be able to score high enough to rank up at the top and gain funding. Mayor Jones said that the City was mostly in a growth and safety mode. Jon Bickford said that if they had lead in our water, the City would get water a lot of money. Rebecca Huss said that the incentive with the funds available would be to front load the request, and asked if they were to get approved for \$3 million dollars for 2016, could they take some of the funds in 2016 and some in 2017 or would they have to start paying interest on all the funds immediately. Mr. Gilley said that sometimes the Board will ask the borrower to take money on a planning and design (PAD) basis, so you might not be able to take the construction money at that time, so he was not sure that he knew the answer to the question. Mr. Shackelford said that depending on the project, there is typically a six month design and approval process, and the sewer part might take a little bit longer. Mr. Shackelford said that the construction funds would not be needed until 2017. Mr. Gilley said that the state does not consider projects supporting developers, but that the City probably won't have that issue. Mr. Gilley said that there could be one or two projects that might not quite fit the state's profile that could require private financing or some depreciation sourced funding.

Mr. Gilley said that the purpose of the conference call with the state was to conduct a pre-application meeting for information for both the City and the state to ascertain needs and what the City would be eligible to receive and discuss the application process. Jon Bickford thanked Mr. Gilley for his information.

Jon Bickford moved to ask the City Administrator to move forward with the coordination with the Financial Advisor and City Engineer to apply for funding with the Texas Water Development Board. Rebecca Huss seconded the motion.

Discussion: Rebecca Huss said that they need to have a workshop or agenda item to prioritize which projects they need to work on first. Rebecca Huss said that they have the

SH 149 expansion and rerouting of the pipes, and there are a couple of other things that might not be urgent as when they first got the water and sewer infrastructure reports. If they have to do the projects in three years they will need to prioritize the projects. Mayor Jones said that the \$7.6 million listing with the three year breakdown was probably based on something with some type of prioritization amount the group. Mr. Yates said that was correct.

The motion carried unanimously. (4-0)

9. Discussion regarding the Capital Improvements Plan Advisory Committee.

Mr. Shackleford presented the information regarding impact fees and the steps necessary to establish an impact fee. Mr. Shackleford said that first the City Council would need to establish a Capital Improvements Advisory Committee. The purpose of the Committee would be to review the land use assumptions that they have identified for the City, and capital projects and associated costs. Mr. Shackleford said that from there they would have a public hearing that is called 30-days prior, where they would present at the hearing information about the land use assumptions and capital projects. The purpose of the public hearing would be to receive public input, and if there is input, they would go back and look at the land use assumptions and capital projects to make sure they did not miss anything or if they need to tweak them. Once that has been done, they will call a second public hearing to consider the impact fees associated with implementing the program. Following the second hearing the Committee would come back with recommendations to City Council.

Mr. Shackleford said that those that are involved in the Committee in the recommended seven (7) member board, and if City Council decides to impose impact fees in the extra-territorial jurisdiction (ETJ) because of utilities that would serve that area, one of those seven members needs to be a representative for the ETJ. Rebecca Huss asked if the seven members was an absolute limit. Mr. Shackleford said that it was his understanding that it was an absolute limit. Mr. Foerster said that it had to be seven members because the statute says seven members. Mr. Shackleford said that one stipulation states that one of the seven members needs to be a member or a representative from the development, real estate or construction industry so they have institutional knowledge of what is being accomplished.

Mr. Shackelford said that part of the purpose of the agenda item tonight was to have City Council to start thinking about appointees to the Committee. Mr. Shackelford said that some other cities have chosen to use the Planning and Zoning Commission and then added an ETJ representative that was from the construction industry.

Jon Bickford said that he wanted to make sure that he understood the information correctly, it looks like if they use our existing Planning and Zoning Commission they can get away with one representative for the ETJ. If they don't use the Planning and Zoning Commission and they put together an Advisory Committee, the rules are different and not less than 40% percent of the membership must be representatives of the real estate, development or construction industry. Jon Bickford said they can't have just one representative if they create a whole new Advisory Committee. Jon Bickford said that they need to find out if the Planning and Zoning Commission will accept the challenge, and then they will need to find a representative or would they create a whole new organization. Mayor Jones said that when he and Dave McCorquodale served on the Planning and Zoning Commission they served on this exact Committee that existed with people that were not Planning and Zoning Commission members. Dave McCorquodale said that there were four members that were on Planning and Zoning with two developers. Mayor Jones said that there were a couple of developers and a real estate agent. Jon Bickford said that they would not need that many if they chose to use the Planning and Zoning Commission. Mayor Jones said that they could get a couple of the Planning and Zoning Commission members and then go out and look for other interested parties. Mayor Jones said that he had given the City Administrator some recommendations for the group. Jon Bickford said that he thought that was a great idea. Rebecca Huss said that she felt it would be good to use the Planning and Zoning Commission structure because then they would not be forced to find enough developers to participate. Rebecca Huss asked if it would be possible to have more advisors that were non-voting members. Rebecca Huss said that it could be one or two people from City Council and Randy Burleigh. Mr. Shackelford said that the statute was specific about not allowing elected officials or City staff on the Committee. Mr. Shackelford said that the Committee had to have seven (7) members, so if they had the Planning and Zoning Commission with five (5) members they would have to add to people. Rebecca Huss said that they could find someone that represented the ETJ and was a developer, which could be covered by one person. Mayor Jones asked whether the Planning and Zoning

Commission was being worked pretty hard. Mr. Yates said that the Commission will have a radio tower, zoning change, along with the tree and light ordinances over the next couple months. Dave McCorquodale said that he felt the zoning classification and cleaning up the zoning map is a high priority issue to him, as is this issue, and he felt that the zoning map was a job in and of itself. Dave McCorquodale said that he tended to agree with the Mayor that the Committee in the interest of making as much progress as quickly as possible. Jon Bickford said that it sounded like City Council was all in agreement that they wanted to set the group up. Mr. Yates said that there is something to be said about a group that is used to working together. Rebecca Huss said that they also know the quality of work that the Commission provides.

Mr. Shackelford said that there might be some additional meetings that might not coincide with the Commission's schedule. Mr. Yates said that as a staff person, he was about tapped out as far as time, but he felt that most of the staff work would be done by the City Engineers. Mr. Shackelford said that the Advisory Committee would have to follow the same rules of posting their meetings as the City Council and Commission.

Jon Bickford said that the City should set up an Advisory Committee, which is a separate group that would be perfectly okay if someone from the Planning and Zoning Commission wants to serve on that Committee. Mr. Shackelford said that City Council would need to think about their recommendations to serve on the Committee and give them to the City Administrator. Then at the next City Council Meeting they will have an action item on the agenda to create the Advisory Committee, appoint the individuals that will serve on the Committee and set the public hearing date. Mayor Jones said that they can get a good list of people and make recommendations at the next meeting. Mr. Yates said that he would get with the Planning and Zoning Commission regarding the Committee.

Rebecca Huss asked if she were to talk to the Planning and Zoning Commission members would that be a walking quorum to discuss this matter. Mr. Foerster recommended that the City Administrator handle that matter with the Commission. Rebecca Huss agreed to let the City Administrator handle that matter. Mayor Jones said that if Rebecca Huss had someone in mind to serve on the Committee let the City Administrator know the name. Mr. Yates will talk to the people being recommended to make sure that they are interested. Mr. Foerster asked if this Committee would take about approximately 90 days to make this

happen. Mr. Shackelford said that was correct, and then they will need to meet every six months to review information, but most of the work will occur in that first 60-75 days.

Mayor Jones said the City currently has an impact fee zone that has not been looked at in a long time. Mr. Shackelford said that they can incorporate that review into this process. Mr. Foerster asked if there were Advisory Committee members that were appointed for that project. Mayor Jones said that they are all still around but it has been a long time. Mr. Foerster said that they might want to review that information and incorporate or get these new members to serve in that capacity. Mayor Jones said that it was probably a matter of just reviewing the numbers. Mr. Fleming said that there is a statute on the calculations, which he is assuming has already run out. Mr. Shackelford said that there was a five year period that is followed by a review. Mr. Shackelford said that if City Council decides to impose an impact fee, it is twelve (12) months before that goes into effect. Mr. Shackelford said that it would be a 15 month process before the City could impose the fee on new development.

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 current items at this time.)

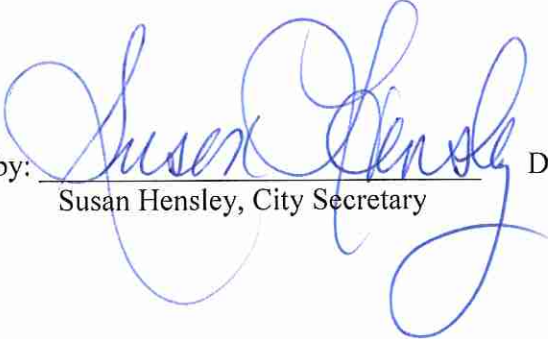
COUNCIL INQUIRY:

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.

Mayor Jones asked if the voting on the ESD#2 passed. Mr. Foerster said that was correct. Mayor Jones said if someone develops outside our City limits, they City does not have a right to sales tax. Mayor Jones asked if City Council would want to revisit the agreement.

ADJOURNMENT

Jon Bickford moved to adjourn the meeting at 7:48 p.m. Rebecca Huss 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: May 31, 2016 | Budgeted Amount: N/A |
| Department: | |
| Prepared By: Jack Yates | Exhibits: |
| Date Prepared: May 27, 20 16 | |

Subject

Administering the oath of office to this Municipal Court Judge and Municipal Court Administrator.

Recommendation

The Municipal Court Judge and Municipal Court Clerks terms follow that of the Mayor.

Discussion

Justice of the Peace Wayne Mack will be present to administer the oath of office

Approved By

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|--------------------|------------|--------------------|
| Department Manager | | Date: |
| City Administrator | Jack Yates | Date: May 27, 2016 |

Montgomery City Council
AGENDA REPORT

| | |
|------------------------------------|-------------------------------|
| Meeting Date: May 31, 2016 | Budgeted Amount: |
| Department: | |
| Prepared By: Jack Yates | Exhibits: Proclamation |
| Date Prepared: May 27, 2016 | |

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|---|
| Subject |
| Proclamation declaring May 2016 is motorcycle awareness month |

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|-----------------------|
| Recommendation |
| Approval |

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| Discussion |
| Mayor Jones asked for this item to be on the agenda. I think no one wants anyone to be injured on the roads, and this proclamation, and its publication alerts people to watch for motorcycles. Thus reducing the likelihood of needless injury. |

| | | |
|--------------------|------------|--------------------|
| Approved By | | |
| Department Manager | | Date: |
| City Administrator | Jack Yates | Date: May 27, 2016 |

Proclamation

WHEREAS, the month of May marks the traditional start of riding season; motorcycles become more prevalent on our streets; the need to be aware of their presence is of the utmost urgency; and

WHEREAS, Motorcycle Awareness Month is designed to increase public awareness about motorcycles; encourage their safe and proper use among motorcycle riders; is worth special recognition; and

WHEREAS, motorcycles occupy a very important position in the history of our State and Nation; and

WHEREAS, the motorcycle is an efficient vehicle which reduces fuel consumption, has little impact on our overworked roads and highway system, is an important mode of transportation for commuting, touring and recreation; and

WHEREAS, over two-thirds of car-motorcycle crashes and nearly one-half of all motorcycle crashes are caused by car drivers, not by motorcyclists; and

WHEREAS, several organizations are committed to increasing the safe operation of motorcycles by promoting rider safety education programs and by providing safety instruction at local chapter meetings; and

WHEREAS, citizens should recognize the fact that motorcycle operators have the same rights and privileges as operators of other vehicles on all roads and highways; and

THEREFORE, it is in the best interest of our community and citizens to note the increase in the amount of motorcycle traffic, as we enter the warm weather months, to enable the reduction of accidents and injuries involving motorcyclists.

NOW, THEREFOR, BE IT PROCLAIMED that the City of Montgomery, Texas does hereby recognize May 2016 as

MOTORCYCLE AWARENESS MONTH

Kirk Jones

Mayor Kirk Jones

ATTEST:

Susan Hensley
Susan Hensley, City Secretary



Montgomery City Council
AGENDA REPORT

Item 7

| | | | |
|-----------------------|---------------|-------------------------|--|
| Meeting Date: | June 14, 2016 | Budgeted Amount: | N/A |
| Department: | | | |
| | | Exhibits: | Freedom Fest. Parade route map/request letter |
| Date Prepared: | June 7, 2016 | | |

Subject

Consent Item Agenda

Discussion

There are several items this month on the consent agenda in addition to the normal minutes. This is due to the lack of a quorum at the May 31st meeting. The Council present that night heard the department reports, the Mayor, John Champagne and Rebecca Huss were sworn in for their places, as was Rebecca Lehn and Kimberly Duckett as court clerk's, those present also proclaimed May 2016 as Motorcycle Awareness Month and the group conducted the public hearing regarding the Tom Cronin liquor license. The Council did not discuss the Freedom Fest street closures but it is on the consent agenda because of not expecting any dispute about this matter.

Recommendation

One motion to approve the Consent Item Agenda as presented will suffice.

Approved By

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|---------------------------|------------|---------------------------|
| Department Manager | | Date: |
| City Administrator | Jack Yates | Date: June 7, 2016 |

Freedom Fest



July 2, 2016

Dear City Council,

July 2, 2016 marks our third annual Freedom Fest including parade, children's area, BBQ cook-off, baking contest, and crafter's market vendors. We are requesting permission to close the streets for the parade route at the times listed below.

Following the parade, we would like to enclose the "T" of College and McCown for the remainder of the day for the safety of festival goers. The "T" is marked in green on the attached map and will allow for ease of traffic flow along McCown to circle in and out of the parking lot in front of the Steak House.

The entire event will be closed by 4pm this year.

FREEDOM PARADE

Theme: Stars and Stripes Over Texas

ABT Parade = "Anything but a Trailer" IE golf carts, walking, bikes, cars, tractor,

10am Line Up and judging – MES, Bessie Price Owen Dr., Library

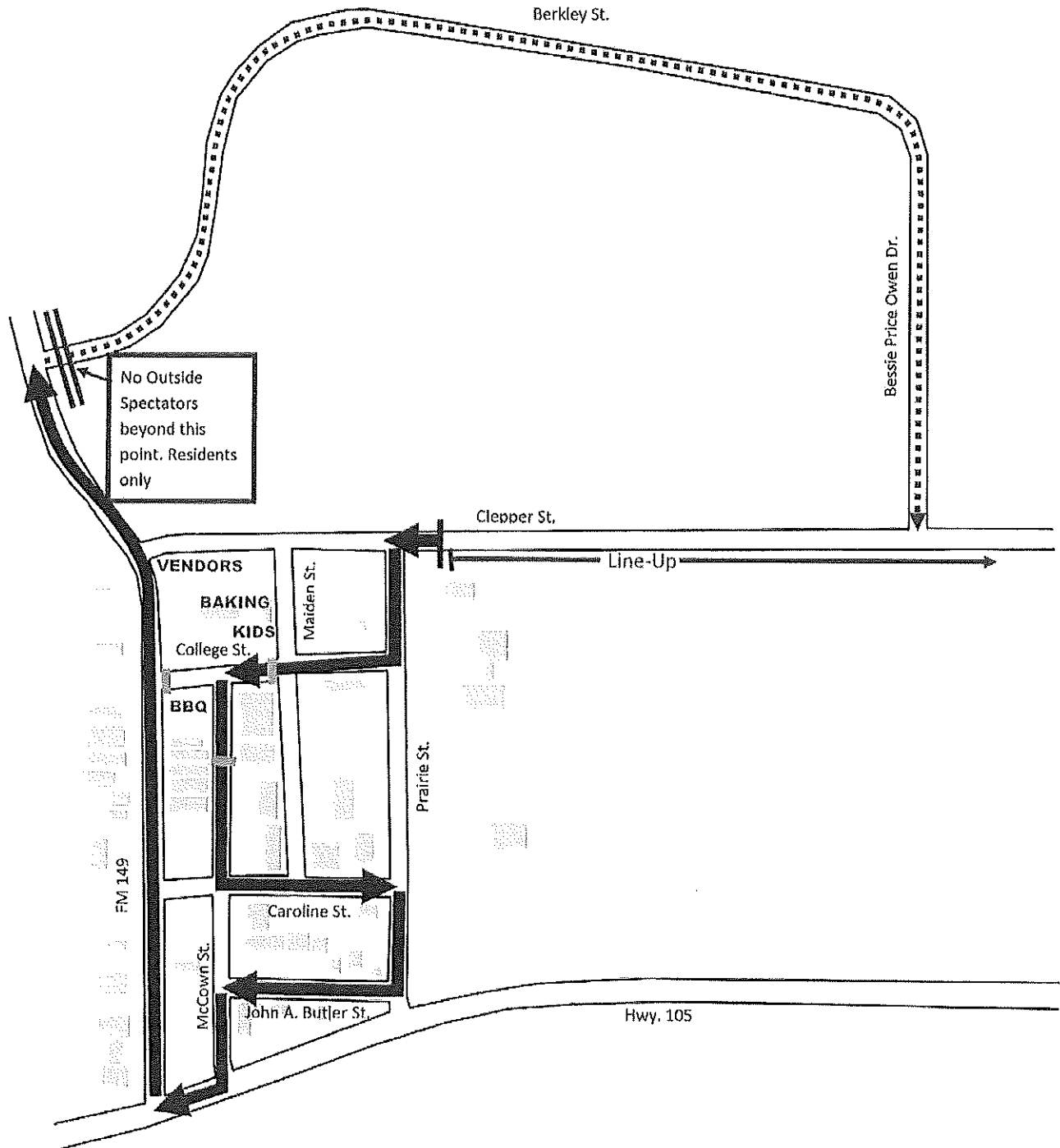
11am Start Time – block streets

12:30pm Complete Parade – Set up "T" Road blocks only for the remainder of the day

See attached map of parade route.
Requesting 1 lane of Hwy 105 during parade time.

Freedom Fest

July 2, 2016 Parade Route



Montgomery City Council
AGENDA REPORT

Item 8

| | |
|------------------------------------|-------------------------|
| Meeting Date: May 31, 2016 | Budgeted Amount: |
| Department: | |
| Prepared By: Jack Yates | Exhibits: |
| Date Prepared: May 27, 2016 | |

| |
|------------------------|
| Subject |
| Election Mayor pro tem |

| |
|--|
| Recommendation |
| Appointment of Mayor Pro-Tem for one year term |

| |
|--|
| Discussion |
| Rebecca Huss is the current Mayor Pro-Tem. You can appoint whomever you would like, the appointee does not have to be present. |

| | | |
|--------------------|------------|--------------------|
| Approved By | | |
| Department Manager | | Date: |
| City Administrator | Jack Yates | Date: May 27, 2016 |

Montgomery City Council

AGENDA REPORT

Item 9

| | | | |
|-----------------------|----------------|-------------------------|-------------|
| Meeting Date: | June 14, 2016 | Budgeted Amount: | N/A |
| Department: | City Secretary | | |
| | | Exhibits: | Application |
| Date Prepared: | June 7, 2016 | | |

Subject

Regards an application for alcoholic beverage permit for 304 Caroline St. for a fine whiskey and cigar bar adjoining the Cozy Supper Club by owner Thomas Cronin dba Cronin group LLC

Discussion

There are no police concerns regarding the issuance of this license for Chief Napolitano. The application itself is in good order. There are existing similar liquor license issued in the downtown area. No communication of opposition given to City Hall in response to about 14 letters mailed to property owners within 200 feet.

Recommendation

Appears to be no detrimental concerns.

Approved By

| | | |
|---------------------------|------------|--------------------|
| Department Manager | | Date: |
| City Administrator | Jack Yates | Date: June 7, 2016 |



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: 05/12/16

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: Montgomery Townsite 02 TR 6A, 6B

3. Exact Nature of the Business to be operated. (Must be fully described).

Fine Whiskey and Cigar Bar attached to Full Service Restaurant

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.

Previously Submitted 5.11.16

5. Description of signs and the hours they will be operated to be attached as a separate document.

Previously submitted 5.12.16

6. Attach floor plan of the building in which the business is to be conducted (showing fixtures, furniture, restrooms, kitchen and other equipment).

Previously submitted May 11, 2016

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.

Previously submitted 5.11.16

8. Business Owner: Cronin Group LLC, DBA Cozy Supper Club Phone: 936-524-2206

Address: 14340 Liberty Street, Montgomery, TX 77356

Home Address: Same Phone: 281-948-9205

Check if you are leasing property: []

9. Land Owner: Thomas F Cronin Phone: Same

Address: 14340 Liberty Street Montgomery, TX 77356

10. Business Partners: None Phone:

Address:

Home Address: Phone:

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

Thomas F. Cronin

Business Owner and/or Lessee

or

Partner if Applicable

11. A cover letter on your company's letterhead shall include a description of the nature of the business to be conducted, the names and address and interests of all persons having a direct or indirect financial interest in the property. The cover letter can include any other requested information that needs further description.

Upon receipt of this application form and confirmation that all items have been received, you will be notified of the date and time of the City Council Public Hearing by the City Secretary.

The public hearing will require legal notice to be published in the City's official newspaper, the Conroe Courier 15-days prior to the meeting. There is also a required notice to be sent by mail ten (10) days in advance of the Public Hearing to all property owners within 200 feet of the property in question.

If the application is not approved by City Council, no new application may be filed for a period of one year from the date of the public hearing and original application, unless City Council shall determine that conditions have so changed that an earlier hearing would be justified.

The provisions of City Code 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 the City Code.

It shall be unlawful for any person to manufacture, brew, distill, sell or distribute any wine, beer, liquor or other alcoholic beverage within the City, or engage in any other activity for which a license or permit is required by the Texas Alcoholic Beverage Code, without first obtaining a license so to do from the City. The annual fee for each such license shall be an amount equal to one-half the fee charged by the state for a license or permit to engage in a similar activity.

Note: The Alcoholic Beverage Code, provides that a mixed beverage permit is exempt from City permit fees during the three year period following the issuance of the permit.

If you require any additional information, please contact the City Secretary, Susan Hensley at (936) 597-3288.



May 10, 2016

Susan Hensley, City Secretary
City of Montgomery
PO Box 708
Montgomery, TX 77356

Re: S728002 Montgomery Township 02, TR 6-A, 6-B Acres 0.4139

Dear Susan:

Thank you for your time, as well as your nice comments regarding Cozy Grape. Based on the information that you provided, following, I will attempt to detail what I propose in order to meet the City of Montgomery's requirements.

Currently, I hold Texas Alcoholic Beverage Commission license BG891349, beer and wine-food and beverage license issued to Cronin Group LLC on behalf of Cozy Supper Club, 304 Caroline St. In December, 2015 the lease for the ladies boutique at the property adjoining Cozy Supper Club ran to term. The owners of the boutique decided not to renew.

In order to complement Cozy Supper Club, I conferred with Amanda Canady, Property Transactions at Montgomery Central Appraisal District and inquired how I could combine 308 Caroline into 304 Caroline. She provided me assistance and officially 308 Caroline no longer exists.

Going further my intent is to obtain an RM license and open a Fine Whiskey and Cigar Bar in the building adjoining Cozy Supper Club. RM is restaurant and mixed drinks. Both buildings are to be joined by a wood pergola/covered walkway.

Signage will be in line with the City of Montgomery Historic District requirements and although I have not proposed anything to P and Z, my intent is to keep it very similar to the old 308 Caroline sign centered on the façade at the roof of the building. The sign (picture attached) is rectangular painted white and will have black lettering saying The Annex at Cozy Supper Club. It will be lighted with a clear floodlight.

Please see floor plans and building dimensions on docs provided by the MCAD. I also had a friend that is a design engineer in oil and gas refineries to provide a floor plan with dimensioning. Per the floor plan, the bar area will have eight bar stools and 5 high top pub tables seating 4 at each pub table. Across from the bar is a free standing humidifier, inserted into the closet space that was part of the ladies boutique. The cigar smoking room will have 4 leather club chairs with tables with small round tables between each, a pair of wood club chairs with a table between and multiple leather couches facing each other with coffee tables separating the couches.

There will be no kitchen or food preparation area. Cozy Supper Club will provide appetizers only, if desired, brought by a food runner, but there is no need to install another inspected kitchen since there already is one. Per Montgomery County Environmental Services, I already installed a hand wash sink in the same location as a former kitchen sink and a four bay bar sink in the same location as a utility area. No new plumbing has been installed. I utilized current facilities.

The two bathrooms as required by TABC are as shown, one being an ADA compliant bathroom (women) and the other smaller bathroom being the men's. On the east side of the building, I have two rooms, one approximately 169 sq 'and another approximately 120 sq '. I am hoping to lease those two spaces for a men's barber shop. I do not want to operate the barber shop. It will be demised with separate walls and locked doors in the hallway. I anticipate the Barber Shop hours will be different than Cozy Supper.

The only person with a financial interest in the current and new operation will be Thomas F. Cronin, Managing Member of Cronin Group, LLC a Texas Limited Liability Company. Since I currently hold a BG License the pre-qualifications required by TABC regarding schools and churches has already been met.

I have been fortunate to own Cozy Grape Wine Bar and Bistro for the past four years. I feel and have been told by many clients that it has really enhanced the image of the downtown historic district. As such, I have owned Cozy Supper Club for almost two years and have received similar comments. The Annex @ Cozy Supper Club, Whiskey and Cigar Bar will enhance the reputation of Cozy Supper Club. I have not done an intense geographic study but I doubt if there is anything similar to what I propose outside of Houston.

With it's opening, I hope to bring more awareness to that part of historic downtown Montgomery and maybe make it a little more of a dining and entertainment destination. The closing hours will remain the same as Cozy Supper Club: 10 PM or until the last group leaves, (not past 11PM). I have no desire to stay open later as that is not the type of clientele the Supper Club enjoys nor is it the type we want to entertain. There are other watering holes, so to speak, close by for that demographic.

Having provided an explanation on my intent, I am requesting that the City of Montgomery approve their portion of the RM license so that I can convert from beer and wine to mixed drinks, beer and wine.

Respectfully,

Thomas F. Cronin

tfc/attachments

| | | | | | | | |
|---|--|--|-----------------------------|--|--|-----------------------------|----------|
| Property ID and Legal Description R123945 7280-02-00600 | Tax Year: 2016 | Owner Information MCKININ, THOMAS F (00435657) 14340 LIBERTY ST MONTGOMERY, TX 77356-4624 | Market Value \$299,490 | Card Printed 02/02/2016 | Card # 1 | Market Value \$299,490 | Comments |
| Property Site Address HOTISE TOTISIE BOUTIQUE 308 CAROLINE ST. MONTGOMERY, TX 77356 | Linked Property R123946 - 7280-02-00620 | Property Site Address HOTISE TOTISIE BOUTIQUE 308 CAROLINE ST. MONTGOMERY, TX 77356 | Assessed Value \$299,490 | Next Inspection Reason Next Inspection Reason | Next Inspection Reason Next Inspection Reason | Assessed Value \$299,490 | Comments |



| | | | |
|---|-----------------------|--------------------|-----------------|
| Neighborhood 1100.C | Exemptions/Spec. Vals | Access | Other |
| Texting Unit Information GMO/SMO:CMO:F02:HM1 | Utilities | Access | Other |
| Construction | Foundation | Ext. Finish | Int. Finish |
| 1 | Foundation | C1 | 100-P2 |
| Floor/AC | Plumbing | Fireplace | Roors |
| CH4,CC1 | 2 | | Bedrooms |
| Date | Price | Seller | Book/Instrument |
| 06/29/2014 | | PERRONI, MICHAEL & | 2014085641 |
| 01/23/2007 | | ADAMS, NANCY R | 268.11 |
| 06/03/2005 | | MARA MOJA HOLDINGS | 842.10 |
| | | | 2653 |

| | | | |
|------|------|----|----|
| 026 | 24 | 21 | 49 |
| 31 | 026 | 30 | 26 |
| 19.5 | CRP1 | 30 | 5 |
| CRP1 | 30 | | 6 |
| | 49 | | |

| Type | Description | St Cd, HS, Type | Class | Area | Area Factor | Adjusted Area | Perimeter | Unit Price | Yr. Bld Act-EF | Cond | % Cd | Ph % | Eco % | Fac % | % Comp | Value |
|-------|----------------------------|-----------------|-------|-------|-------------|---------------|-----------|------------|----------------|-------|------|------|-------|-------|--------|--------|
| 026 | Dwelling Conversion- Sales | F1 N C | C | 1,369 | | 1,369 | 160 | 50.10 | 1970-1990 | PN/FN | 98 | 100 | 100 | 100 | | 67,220 |
| 028 | Dwelling Conversion- Sales | F1 N C | C | 504 | | 504 | 90 | 50.10 | 1990-1970 | PN/FN | 56 | 100 | 100 | 100 | | 16,670 |
| CRP1 | Commercial Porch Open | F1 N C | C | 150 | | 150 | 70 | 8.80 | 1980-1970 | PN/FN | 98 | 100 | 100 | 100 | | 1,280 |
| CRP1 | Commercial Porch Open | F1 N C | C | 294 | | 294 | 110 | 8.80 | 1990-2007 | PN/FN | 98 | 100 | 100 | 100 | | 2,540 |
| TOTAL | | | | | | | | | | | | | | | | 87,720 |

| Type | Description | Table | ST Cd | HS | Meth | Area | Unit Price | Func % | Econ % | Adj % | Market Value | Ag Tot | Meth | Ag Unit Pr | Ag Value |
|-------|--------------|-------|-------|----|------|------------|------------|--------|--------|-------|--------------|--------|-------|------------|----------|
| S1 | Primary Site | F1 | N | N | SFT | 9,583.0000 | 1.00 | 100 | 100 | | 9,580 | | | 0.00 | 0 |
| S1 | Primary Site | F1 | N | N | SFT | 8,446.0000 | 1.00 | 100 | 100 | | 8,450 | | | 0.00 | 0 |
| TOTAL | | | | | | | | | | | | 18,030 | TOTAL | 0 | |

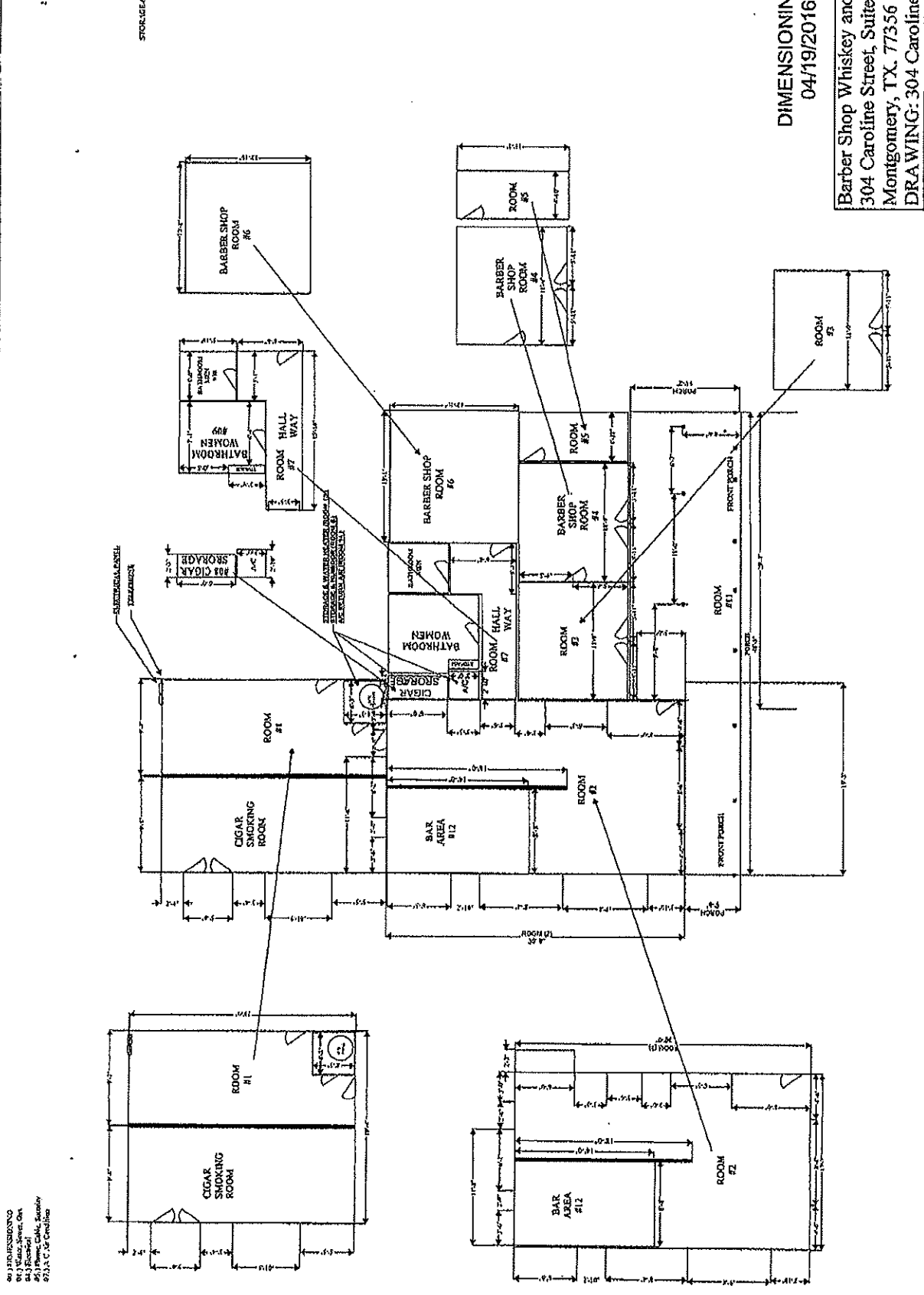
EFF. ACRES 0.2200

ROOM
 CIGAR SMOKING ROOM (01)
 TABLE TOP BAR (02)
 BAR AREA (03)
 BARBER SHOP ROOM (04)
 OFFICE ROOM (05)
 BATHROOM (06)
 CIGAR ROOM (07)
 CIGAR SMOKING ROOM (08)
 CIGAR SMOKING ROOM (09)
 CIGAR SMOKING ROOM (10)
 CIGAR SMOKING ROOM (11)
 CIGAR SMOKING ROOM (12)
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 CIGAR SMOKING ROOM (27)
 CIGAR SMOKING ROOM (28)
 CIGAR SMOKING ROOM (29)
 CIGAR SMOKING ROOM (30)

STORAGE WATER HEATER ROOM (01)
 BAK AREA ROOM (02)
 A/C MECH. ROOM (03)
 STORAGE WATER HEATER ROOM (04)
 BAK AREA ROOM (05)
 A/C MECH. ROOM (06)
 STORAGE WATER HEATER ROOM (07)
 BAK AREA ROOM (08)
 A/C MECH. ROOM (09)
 STORAGE WATER HEATER ROOM (10)
 BAK AREA ROOM (11)
 A/C MECH. ROOM (12)

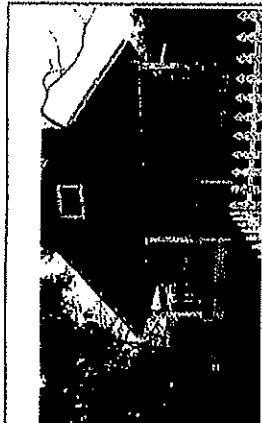
DIMENSIONING
 04/19/2016

Barber Shop Whiskey and Cigar bar
 304 Caroline Street, Suite B
 Montgomery, TX, 77356
 DRAWING: 304 Caroline Street, B-00

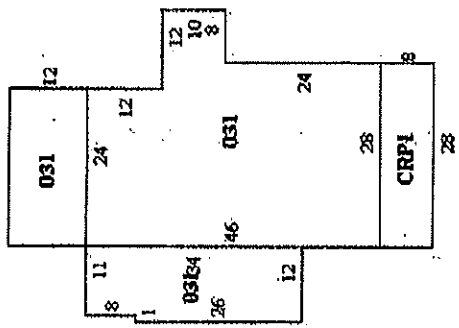


NO. 157
 304 Caroline Street, Montgomery, TX 77356
 Barber Shop Whiskey and Cigar bar

| | | | | | | | | |
|--|----------------|--|--|------------------------------------|-----------------------------|--|-------------|--------|
| Property ID and Legal Description R123945 7280-02-00600 | Tax Year: 2016 | Owner Information CRONIN, THOMAS F (00493857) | | Last Inspected 02/09/2016 (WMS) | Market Value \$401,320 | Card Printed 04/25/2016 | Card # 2 | Map ID |
| S728002 - Montgomery Townsite 02, TR 6-A, 6-B, ACRES 0.4139 | | 14340 LIBERTY ST MONTGOMERY, TX 77366-4824 | | Next Inspection/Reason | Assessed Value \$401,320 | Comments COMBINED R123945 & R123946 FOR 2016 PER OWNER. | | |



| | | |
|--|--|---------------------------------|
| Property Situs Address COZY SUPPER CLUB, 304 CAROLINE ST, MONTGOMERY, TX 77356 | Linked Property R123946 - 7280-02-00620 | Exemptions/Spec. Vals 1100.C |
| Taxing Unit Information GMO;SMO;CMO;F02;HIM1 | | |
| Topography | UR18ba | Access |
| Const Style 1 | Foundation C2 | Int. Finish 100-P2 |
| Heat/AC CH4,CC1 | Plumbing 2 | Rooms Bedrooms |
| Date 08/29/2014 | Price | Other |
| 01/23/2007 | | |
| 08/03/2005 | | |
| Seller PERRON, MICHAEL & ADAMS, NANCY R | | Book / Instrument 2014085641 |
| 288.11 | | 2889 |
| 842.10 | | 2553 |



| Type | Description | St Cd, HS, Type | Class | Area | Area Factor | Adjusted Area | Perimeter | Unit Price | Yr. Bkt / Act Eff | Cond | % Gd | Ph % | Eco % | Fac % | % Comp | Value |
|-------|-----------------------|-----------------|-------|-------|-------------|---------------|-----------|------------|-------------------|-------|------|------|-------|-------|---------|--------|
| 031 | Restaurant | F1 N C | D+ | 1,320 | | 1,320 | 164 | 86.36 | 1950-2000 | PN/FN | 78 | 100 | 100 | 100 | | 88,920 |
| 031 | Restaurant | F1 N C | D+ | 400 | | 400 | 92 | 91.50 | 1950-2000 | PN/FN | 78 | 100 | 100 | 100 | | 28,560 |
| 031 | Restaurant | F1 N C | D+ | 288 | | 288 | 72 | 92.48 | 1950-2000 | PN/FN | 78 | 100 | 100 | 100 | | 20,770 |
| CRP1 | Commercial Porch Open | F1 N C | D+ | 224 | | 224 | 72 | 13.05 | 1950-2000 | PN/FN | 78 | 100 | 100 | 100 | | 2,280 |
| TOTAL | | | | | | | | | | | | | | | 140,520 | |

NBH% 100



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

| | |
|--|---|
| <input type="checkbox"/> BG Wine and Beer Retailer's Permit | <input type="checkbox"/> LB Mixed Beverage Late Hours Permit |
| <input type="checkbox"/> BE Beer Retail Dealer's On-Premise License | <input type="checkbox"/> MI Minibar Permit |
| <input type="checkbox"/> BL Retail Dealer's On-Premise Late Hours License | <input type="checkbox"/> CB Caterer's Permit |
| <input type="checkbox"/> BP Brewpub License | <input checked="" type="checkbox"/> FB Food and Beverage Certificate |
| <input type="checkbox"/> V Wine & Beer Retailer's Permit for Excursion Boats | <input type="checkbox"/> PE Beverage Cartage Permit |
| <input type="checkbox"/> Y Wine & Beer Retailer's Permit for Railway Dining Car | <input checked="" type="checkbox"/> RM Mixed Beverage Restaurant Permit with FB |
| <input checked="" type="checkbox"/> MB Mixed Beverage Permit | |
| <input type="checkbox"/> O Private Carrier's Permit - For Brewpubs (BP) with a BG only | |

3. Indicate Primary Business at this Location

| | |
|--|--|
| <input checked="" type="checkbox"/> Restaurant | <input type="checkbox"/> Sporting Arena, Civic Center, Hotel |
| <input type="checkbox"/> Bar | <input type="checkbox"/> Grocery/Market |
| <input type="checkbox"/> Sexually Oriented | <input type="checkbox"/> Miscellaneous |

4. Trade Name of Location
Cozy Supper Club

5. Location Address
304 Caroline Street

| | | | |
|---|------------------------------|-------------------------------------|-------------------|
| City Montgomery | County Montgomery | State TX | Zip Code 77356 |
| 6. Mailing Address 14340 Liberty St | City Montgomery | State TX | Zip Code 77356 |
| 7. Business Phone No. (936) 524-2206 | Alternate Phone No. () - | E-mail Address tom@cozygrape.com | |

OWNER INFORMATION

8. Type of Owner

| | | |
|--|---|---|
| <input type="checkbox"/> Individual | <input type="checkbox"/> Corporation | <input type="checkbox"/> City/County/University |
| <input type="checkbox"/> Partnership | <input checked="" type="checkbox"/> Limited Liability Company | <input type="checkbox"/> Other _____ |
| <input type="checkbox"/> Limited Partnership | <input type="checkbox"/> Joint Venture | |
| <input type="checkbox"/> Limited Liability Partnership | <input type="checkbox"/> Trust | |

9. Business Owner/Applicant
Thomas Cronin dba Cronin Group LLC

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

| | |
|--|--|
| 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 Cronin | First Name Thomas | MI F | Title Managing Member |
| 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)
 Currently hold BG license

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

Thomas F. Cronin

SIGN HERE

Thomas Cronin

TITLE

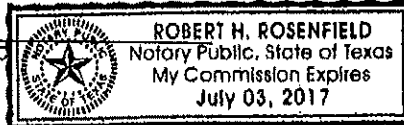
Managing member

Before me, the undersigned authority, on this 10 day of MAY, 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

R. H. D.

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

_____, City Secretary/Clerk, _____, City, _____, TEXAS

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

_____, City Secretary/Clerk, _____, City, _____, TEXAS

SEAL

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

Chapters 29.8 & 10 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 _____

City Secretary/Clerk

City

TEXAS

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 Clerk

COUNTY

SEAL

CERTIFICATE OF COUNTY CLERK (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 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 Clerk

COUNTY

SEAL

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

Chapters 29 & 701et 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 _____ day of _____, 20____, 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 _____ Outlet Number _____

Print Name of Comptroller Employee _____

Print Title of Comptroller Employee _____

SIGN

HERE _____

FIELD OFFICE _____

SEAL

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

Section 11-39 and 61-38

| | |
|--|-----|
| Name of newspaper | |
| 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 | |

ATTACH PRINTED
COPY OF THE
NOTICE HERE

Montgomery City Council
AGENDA REPORT

Item 10

| | | | |
|-----------------------|---------------|-------------------------|--|
| Meeting Date: | June 14, 2016 | Budgeted Amount: | N/A |
| Department: | | | |
| | | Exhibits: | Memo from City Administrator, building permit application with drawings information from other cities,, coverage plot Lake Conroe side, coverage plot for existing science and Lake Conroe special use permit ordinance |
| Date Prepared: | June 7, 2016 | | |

Subject

Consideration of Special Use Permit ordinance to allow a 172 foot tall cell tower to be placed next to Lone Star Pkwy. immediately north and slightly east of the Kroger store being built. The Planning Commission voted 3-0 two recommend denial of the permit. Therefore, it will take a 4/5 vote of the City Council to override that denial.

Discussion

As said in my memo, if you are of a mind to approve the tower, there, in my opinion, there needs to be technical information provided in the permit ordinance. So, while you may have a vote to approve the tower, I would recommend not approving the ordinance until Exhibit "D" is prepared.

If you are of a mind not to approve the tower, the city attorney recommends a simple motion to not approve the ordinance, with little or no other comment.

Recommendation

My only recommendation is that you consider the effect of the tower on surrounding property owners aesthetic and value of property issues as opposed to the right of the underline property owner right to develop this property as he sees fit.

Approved By

| | | |
|---------------------------|------------|--------------------|
| Department Manager | | Date: |
| City Administrator | Jack Yates | Date: June 7, 2016 |

| | | | |
|-----------------------|----------------|-------------------------|-------------|
| Meeting Date: | June 14, 2016 | Budgeted Amount: | N/A |
| Department: | City Secretary | | |
| | | Exhibits: | Application |
| Date Prepared: | June 7, 2016 | | |

Subject

Beer, Wine and Mixed Beverage - Alcohol Beverage Permit for 20821 Eva Street, Montgomery, Texas for El Bosque Mexican Grill #4, by Owners Juan and Jaime Rodriguez.

Discussion

Application has no comment from the Police Department. The liquor license is important to the economic viability of the restaurant.

Recommendation

Recommendation is approval

Approved By

| | | |
|---------------------------|------------|--------------------|
| Department Manager | | Date: |
| City Administrator | Jack Yates | Date: June 7, 2016 |

Montgomery City Council
AGENDA REPORT

Item 12

| | | | |
|-----------------------|---------------|-------------------------|-----------------|
| Meeting Date: | June 14, 2016 | Budgeted Amount: | N/A |
| Department: | | | |
| | | Exhibits: | Zoning area map |
| Date Prepared: | June 7, 2016 | | |

Subject

Ordinance amending the zoning ordinance for McCoy's Lumber changing the zoning from R-2 residential and R-4 multifamily to "B" commercial

Discussion

The Council held the public hearing on this item on May 10th. There is no public comment, nor has there been any response to letters sent to the surrounding property owners. There is commercial zoning on both sides of the McCoy's property that is located on the southwest corner of State Highway 105 and Buffalo Crossing. The planning commission unanimously recommended the rezoning.

Recommendation

Approval of the ordinance is presented.

Approved By

| | | |
|---------------------------|------------|--------------------|
| Department Manager | | Date: |
| City Administrator | Jack Yates | Date: June 7, 2016 |

Motion was made by _____, seconded by _____

_____, that the following Ordinance be passed:

ORDINANCE NO. _____

AN ORDINANCE BY THE CITY COUNCIL OF THE CITY OF MONTGOMERY, TEXAS AMENDING THE CITY CODE OF ORDINANCES AMENDING CHAPTER 98, "ZONING," BY RECLASSIFYING THE MCCOY BUILDING SUPPLY PROPERTY ON STATE HIGHWAY 105 FROM "COMMERCIAL, MULTI-FAMILY AND RESIDENTIAL" ZONING CLASSIFICATION AS FOUND ON THE CITY'S OFFICIAL ZONING MAP TO STRICTLY "COMMERCIAL;" PROVIDING A SAVINGS CLAUSE; PROVIDING A REPEALING CLAUSE; AND PROVIDING AN EFFECTIVE DATE UPON PUBLICATION.

WHEREAS, the City Council has passed the City of Montgomery Zoning Ordinance providing certain rules and regulations concerning zoning within the City of Montgomery, as found in the Code of Ordinances ("CODE") at Chapter 98; and

WHEREAS, the City Council has been informed that the proposed new McCoy Building Supply property located at the corner of State Highway 105 and Buffalo Springs Drive, and further described in the attached plat incorporated into this Ordinance as Exhibit "A," (herein "the Property"), is currently zoned "Commercial, Multi-Family, and Residential" on the City's Official Zoning Map; and

WHEREAS, McCoy Building Supply has requested that the City Council rezone the entire 10.36-acre tract as "Commercial" as authorized by Section 98-36 of the CODE; and

WHEREAS, pursuant to Section 98-36 (c) of the CODE, the City Planning and Zoning Commission has submitted a final report to the City Council in which it has voted to approve and recommend that the Property be reclassified as "Commercial" consistent with its proposed use; and

WHEREAS, a public hearing was also conducted on May 10, 2016 before the City Council, as authorized by Section 98-36 (d) of the CODE, in order to consider the amendment of the zoning classification of the Property to "Commercial;" and

WHEREAS, the City Council finds that all notifications and other procedures required by Section 98-36 of the CODE have been followed; and

WHEREAS, the City Council has determined that it in the best interest of the citizens of the City that the Property should be reclassified as "Commercial;"

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

Section 1. Adoption of Recitals. The recitals in the preamble to this Ordinance are hereby adopted as the findings and conclusions of the City Council.

Section 2. Amendment to the City Zoning Map. Pursuant to Section 98-36 of the Code of Ordinances, City of Montgomery, Texas, the Official Zoning Map of the City of Montgomery is hereby amended so that the zoning classification of the McCoy Building Supply property, as herein described in the attached plat (Exhibit "A"), is reclassified from "Commercial, Multi-Family and Residential" to "Commercial."

Section 3. Codification of this Ordinance. Wherever any provision of this Ordinance provides for the amendment of the Code of Ordinances, City of Montgomery, Texas, such provision shall be liberally construed to provide for the codification of the specified provision and for such other provisions of the Ordinance that the codifier in its discretion deems appropriate to codify. The codifier may change the designation or numbering of chapters, articles, divisions or sections as herein specified in order to provide for logical ordering of similar or related topics and to avoid the duplicative use of chapter, article or section numbers. Neither the codification nor any application of the codified Ordinance shall be deemed invalid on the basis of a variance in the number or section of this Ordinance and its codified provisions. The failure to codify the specified provisions of this Ordinance shall not affect their validity or enforcement.

Section 4. Repeals all Ordinance in Conflict with this Ordinance.

Any and all provisions of ordinances in conflict with this Ordinance are hereby expressly repealed.

Section 5. Savings Clause.

If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional, void, or invalid, the validity of the remaining portion of this Ordinance shall not be affected hereby, it being the intention of the City Council of the City of Montgomery in adopting and of the Mayor in approving this Ordinance, that no portion hereof or provisions or regulation contained herein shall become inoperative or fail by reason of any unconstitutionality or invalidity of any other portion, provision or regulation.

Section 6. Effective Date.

The effective date of this Ordinance shall be upon its passage and publication as provided by law.

PASSED AND APPROVED this _____ day of _____, 2016

Kirk Jones, Mayor

ATTEST:

Susan Hensley, City Secretary

APPROVED AS TO FORM:

Larry L. Foerster, City Attorney



VICINITY MAP
Scale: 1 inch equals 2 miles

- LEGEND**
- Commercial
 - Floodplain
 - Industrial
 - Institutional
 - Multi-Family Res
 - Multi-Use
 - Single-Family Res
 - Unknown
 - Tract Boundary
 - City Limits
 - MCAD Parcels

Aerial Imagery from January 2024

**10.36-ACRE
MCCOY'S BUILDING
SUPPLY DEVELOPMENT**

**CITY OF MONTGOMERY
MONTGOMERY COUNTY, TEXAS**



1 inch equals 200 feet

This project is subject to the following: This report is based on information provided by the client and is not a guarantee of accuracy. It does not represent an independent engineering or surveying process. It does not represent an independent engineering or surveying process. It is not intended to be used for any purpose other than the specific project described herein. No liability shall be assumed by the engineer or surveyor for any consequences arising from the use of this information. The engineer or surveyor is not responsible for the accuracy or reliability of the information included within this website.



JONES CARTER
Texas Board of Professional Engineers Registration No. 4-239

Montgomery City Council
AGENDA REPORT
 Item 13

| | | | |
|-----------------------|---------------|-------------------------|------------------------------|
| Meeting Date: | June 14, 2016 | Budgeted Amount: | N/A |
| Department: | | | |
| | | Exhibits: | None provided, not available |
| Date Prepared: | June 8 , 2016 | | |

Subject

Consideration of agreement with Kroger regarding overage of public improvement costs project versus the grant. Agreement wording not reached yet, so this may be an item of discussion only.

Discussion

There is approximately \$650,000 available for the public portion of this project (water, sewer and street improvements) in the Texas Capital Grant. Kroger has agreed that they will pay all the overage beyond the \$650,000. The public portion of this project is estimated at approximately \$950,000. This agreement is for the purpose of confirming their payment of the amount over the grant portion, before the city can award the contract for the public improvement portion.

The agreement is not in your packet because Kroger was to draft an agreement and send it to the city attorney in advance of this meeting, but had not done so. Probably nothing wrong, just a case of short time/going through the Kroger bureaucracy.

Recommendation

The agreement wording should not be that involved, it simply should say that Kroger pays for all the expenses of the public portion of this project, regardless of the amount of overage. If the agreement is provided at the meeting, I would think you could probably approve the agreement so long as the city attorney confirms that the city is not liable for any of the public improvement project overage cost.

Approved By

| | | |
|---------------------------|------------|--------------------|
| Department Manager | | Date: |
| City Administrator | Jack Yates | Date: June 7, 2016 |

Montgomery City Council
AGENDA REPORT

Item 14

| | | | |
|-----------------------|---------------|-------------------------|-------------------------------|
| Meeting Date: | June 14, 2016 | Budgeted Amount: | \$15,000 next fiscal year |
| Department: | Public Works | | |
| | | Exhibits: | The County approved agreement |
| Date Prepared: | June 7, 2016 | | |

Subject

Approval of Interlocal Agreement between the city of Montgomery and Montgomery County for preparation of Mobility Study

Discussion

As previously discussed by the Council this is a joint project between Montgomery County and the city, wherein the city receives what amounts to a Street plan and the County gets a coordinated thoroughfare plan for the area around the city. The total cost of the project is \$45,000 with \$30,000 paid by the county and \$15,000 paid by the city. The city's share will not be paid until next fiscal year. Expected time of completion is uncertain, that could be asked at the meeting of the city engineer. Larry Foerster, Ed Shackelford I have reviewed the agreement

Recommendation

Approval of the Interlocal agreement as presented.

Approved By

| | | |
|---------------------------|------------|--------------------|
| Department Manager | | Date: |
| City Administrator | Jack Yates | Date: June 7, 2016 |

#20 1732

MAY 24 2016

RESOLUTION AND ORDER

On this the 24th day of May, 2016, at a Regular Session Meeting of the Commissioners Court of Montgomery County, Texas, there came on for consideration and approval a motion to approve the Interlocal Agreement between City of Montgomery, Texas and Montgomery County, Texas for preparation of a mobility plan (hereinafter "Agreement") and to authorize County Judge Craig Doyal to execute the Agreement on behalf of Montgomery County, Texas.

Motion was made by Commissioner Meador and seconded by Commissioner Riley to hereby approve the Agreement and to authorize County Judge Craig Doyal to execute the Agreement on behalf of Montgomery County, Texas.

Said Motion being put to a vote, it carried by a vote of 4 aye votes to 0 nay votes.

THEREFORE, IT IS HEREBY APPROVED AND ORDERED that this Commissioners Court approves the Interlocal Agreement between City of Montgomery, Texas and Montgomery County, Texas for preparation of a mobility plan in the form attached to this Resolution and Order and presented to Commissioners Court, and hereby authorizes County Judge Craig Doyal to execute the Agreement on behalf of Montgomery County, Texas.

PASSED AND APPROVED this 24th day of May, 2016.

MONTGOMERY COUNTY, TEXAS

Craig Doyal
Craig Doyal, County Judge

Mike Meador
Mike Meador, Commissioner Pct. 1

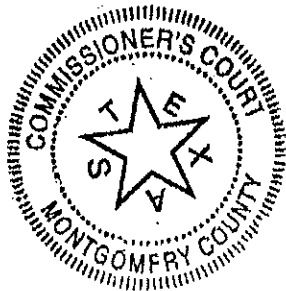
Charlie Riley
Charlie Riley, Commissioner Pct. 2

James Noack
James Noack, Commissioner Pct. 3

Jim Clark
Jim Clark, Commissioner Pct. 4

Attest:

Mark Turnbull
Mark Turnbull, County Clerk



**INTERLOCAL AGREEMENT BETWEEN CITY OF MONTGOMERY, TEXAS AND
MONTGOMERY COUNTY, TEXAS FOR PREPARATION OF MOBILITY PLAN**


**THE STATE OF TEXAS §
COUNTY OF MONTGOMERY §**

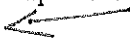
THIS AGREEMENT is made and entered into by and between MONTGOMERY COUNTY, TEXAS, hereinafter referred to as "County," a political subdivision of the State of Texas acting herein by and through its County Judge and County Commissioners pursuant to Orders duly passed by the Commissioners Court, and the City of Montgomery, Texas, hereinafter referred to as "City," a general law municipality, organized and existing under the laws of the State of Texas, acting by and through its City Council hereafter called collectively ("Parties"):

RECITALS

WHEREAS, Texas Government Code section 791.011 provides a county and a municipality may enter into agreements for the purposes of planning and the providing of governmental services, including the construction and maintenance of streets, roads and drainage; and

WHEREAS, the City and County are experiencing rapid growth and expect to continue to experience significant growth for the foreseeable future; and

WHEREAS, growth in the City and City's extra-territorial jurisdiction ("ETJ") imposes demands upon the existing transportation system in the ETJ and in Montgomery County within a  miles of the city limits, which demands will be increasing as the growth in the ETJ continues; and

WHEREAS, coordinated and planned improvements to the transportation infrastructure is necessary to efficiently and effectively meet the mobility demands upon the transportation system in the City and its ETJ and the county in and around the city; and 

WHEREAS, City and County desire to jointly prepare a mobility plan to improve mobility within the City and the extra-territorial jurisdiction of the City ("ETJ") situated in the County which plan will include (a) an evaluation of existing conditions and planned improvements, (b) recommended transportation improvements for the areas of the ETJ to improve mobility within the ETJ for the benefit of the citizens of City and County and the general public and (c) incorporates the proposed mobility improvements into the Montgomery County Major Thoroughfare Plan; and

WHEREAS, City has authorized the firm of Jones | Carter, Inc. ("Jones | Carter") to prepare a mobility plan for the City and its ETJ (hereinafter the "Mobility Plan") and City has requested County to contribute funds toward preparation of the Mobility Plan, and County desires to contribute funds for the Mobility Plan in the amount of Thirty Thousand and no/100 (\$30,000.00) dollars; and

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants and considerations and undertakings herein set forth, it is agreed as follows:

Section 1. Scope of Project. The project includes the preparation of a mobility plan and report which will include, at a minimum, the scope of services as described in Exhibit "A" attached hereto and made a part hereof for all purposes ("Project" or "Mobility Plan"). Jones|Carter will coordinate the Project with County, City, Montgomery County Engineer's Office.

Deliverables will include five (5) bound copies of the results to County and five (5) bound copies to City.

Section 2. Project Contracts. The Parties agree that City will contract for the preparation of the Mobility Plan (as described above) with Jones | Carter.

Section 3. Allocation of Project Costs. The total cost of the Mobility Plan is expected to be Forty-five Thousand and no/100 (\$45,000.00) dollars ("Total Estimated Cost"). The Parties hereby agree to participate in the cost of the Project, including but not limited to the scope of services described on Exhibit "A", and all related costs ("Project Costs") as follows:

| | |
|--------|---|
| County | Thirty Thousand and no/100 (\$30,000.00) dollars |
| City | All Project Costs in excess of Thirty Thousand and no/100 (\$30,000.00) dollars |

The County's portion of the Project Cost shall not exceed Thirty Thousand and no/100 (\$30,000.00) dollars (hereinafter "County's Participation").

Section 4. Termination before Completion. In the event that the Project is not constructed or completed, City shall refund to County the County's Participation in proportion to the County's Participation to the Total Estimated Cost.

Section 5. Administration of County Funds for the Project. The County's sole financial obligation under this Agreement is to provide the County Participation funding specified in Section 3. The County is not obligated to expend any further funds on the Project. If City has begun the Project prior to the execution of this Agreement by County, City represents, covenants and agrees that the County Participation shall be used solely and exclusively on the portion of the Project which has not been initiated prior to County's execution of this Agreement.

Section 6. Notices. All notices, requests, demands and other communications under this Agreement shall be given by electronic mail and either (i) overnight courier or (ii) hand delivery addressed as follows:

If to City: City of Montgomery
 Attn: Jack Yates, City Manager
 P.O. Box 708 101 Old Plantersville Rd
 Montgomery, Texas 77356 Montgomery, TX 77316
 Tel: (936) 597-6434
 Fax: (936) 597-6437

If to the County: Montgomery County, Precinct 2
Attn: The Honorable Charlie Riley
38927 FM 1774, Magnolia, Texas 77355,
Tel: (936) 539-7816
Fax: (936) 760-6954

with copy to: Montgomery County, Precinct 1
Attn: The Honorable Mike Meador
510 Highway 75 North
Montgomery, TX 77378
Tel: (936) 539-7815
Fax: (936) 539-7874

Section 7. Termination of Agreement. This Agreement is subject to termination by any Party if the Project does not begin within twelve (12) months from the effective date hereof. In the event this Agreement is terminated prior to completion of the Project any financial contribution County has provided to City may be subject to recoupment if Project is not completed. Otherwise, this Agreement is to remain in full force until completion of Project.

Section 8. Entire Agreement; Modification. This Agreement constitutes the entire agreement between the Parties concerning the Project. There have been and are no agreements, covenants, representations, or warranties between the parties other than those expressly stated or provided for herein. No modification hereof or subsequent agreement relative to the subject matter hereof shall be binding on any party unless reduced to writing and signed by the parties.

Section 9. Parties in Interest. This Agreement shall be for the sole and exclusive benefit of City and the County and shall not be construed to confer any benefit or right upon any other party, including particularly any landowner or resident of City or the County.

Section 10. Severability. The provisions of this Agreement are severable, and if any word, phrase, clause, sentence, paragraph, section, or other part of this Agreement or the application thereof to any other person or circumstance shall ever be held by any court of competent jurisdiction to contravene or be invalid under the constitution or laws of the State of Texas for any reason, that contravention or invalidity shall not invalidate the entire Agreement. Instead, this Agreement shall be construed as if it did not contain the particular provision or provisions held to be invalid, the rights and obligations of the parties shall be enforced accordingly, and this Agreement shall remain in full force and effect, as construed. The remainder of this Agreement and the application of such word, phrase, clause, sentence, paragraph, section, or other part of this Agreement to the other parties or circumstances shall not be affected thereby.

Section 11. Successors and Assigns. This Agreement shall apply to and be binding upon the parties hereto and their respective officers, directors, successors, and assigns. This Agreement and any of the rights obtained hereunder are not assignable by any party hereto without the express written consent of the other parties, which consent shall not be unreasonably withheld.

Section 12. Authorization. Each party represents that (i) execution and delivery of this Agreement by it has been duly authorized by its governing body or other persons from whom such party is legally bound to obtain authorization; (ii) that the consummation of the contemplated transactions will not result in a breach or violation of, or a default under, any agreement by which it or any of its properties is bound, or by any statute, rule, regulation, order, or other law to which it is subject; and (iii) this Agreement is a binding and enforceable agreement on its part.

Section 13. Applicable Law. This Agreement is entered into pursuant to the Interlocal Cooperation Act, Chapter 791 of the Texas Government Code. This Agreement shall be governed and construed in accordance with the laws of the State of Texas. Venue shall be in Montgomery County.

Section 14. Counterparts. This Agreement may be executed in multiple counterparts (each of which is to be deemed an original for all purposes) by the parties hereto on the respective dates appearing opposite each party's signature.

Section 15. Effective Date. This Agreement will be effective as of the date of the execution by the last party to execute this Agreement (the "Effective Date").

EXECUTED this 24 day of May, 2016.

CITY OF MONTGOMERY, TEXAS

MONTGOMERY COUNTY, TEXAS

By: _____
Kirk Jones, Mayor

By: Craig Doyal
Craig Doyal, County Judge

ATTEST:

ATTEST:

Susan Hensley, City Secretary

Mark Turnbull
Mark Turnbull, County Clerk

APPROVED AS TO FORM:

APPROVED AS TO FORM:

JD LAMBRIGHT, COUNTY ATTORNEY

Larry Foerster, City Attorney

By: _____

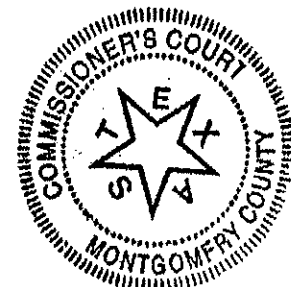


EXHIBIT "A"

Scope of Services

Jones | Carter will prepare a mobility plan for the City of Montgomery, Texas. The mobility plan will include an evaluation of existing conditions and planned improvements and recommend transportation improvements to improve mobility within the City and its ETJ within __ miles of the city limit line (**Plan Limits**). The report will include the following tasks.

Task 1 – Existing Conditions

Jones | Carter will evaluate the existing transportation system within the Plan Limits including the following:

- A. Inventory of existing major roadways including pavement condition, classification, length, geometrics, right-of-way width, number of lanes, school zone locations and other characteristics.
- B. Inventory of existing major intersections including all traffic signal and multi-way stop intersections.
- C. Inventory of existing transit, pedestrian and bicycle facilities.
- D. Review of available existing traffic count data and perform new 24-hour volume counts and peak hour turning movement counts on major roadways and major intersections.
- E. Determination of existing major traffic generators, key city facilities, County facilities, school district facilities and businesses.
- F. Calculation of capacity of existing major roadways and major intersections.
- G. Determine any planned developments that will impact the transportation system.
- H. Determine any planned improvements to the transportation system by governing agencies including the City of Montgomery, Montgomery ISD, Montgomery County, Texas Department of Transportation (TxDOT) and Houston Galveston Area Council (HGAC).

Task 2 – Transportation Plan

Jones | Carter will evaluate future traffic patterns and recommend transportation improvements to the City and its ETJ transportation system including the following:

- A. Estimate future traffic patterns and major roadway volumes based on data provided by governing agencies including the City of Montgomery, Montgomery County, Montgomery ISD, TxDOT and HGAC.
- B. Develop Thoroughfare typical sections (arterial, collector and local) and classify existing and planned roadways.
- C. Develop recommended transportation improvements including short term improvements and long term improvements. Recommended improvements will include added capacity projects, maintenance projects and congestion mitigation projects.
- D. Develop schematic designs, cost estimates and identify potential sources of funding for recommended improvements.

Task 3 – Meetings

Jones | Carter will prepare for and attend five (5) meetings with city staff and two (2) city council meetings to discuss the results and progress of the Mobility Plan. Jones | Carter will prepare for and attend two (2) meetings with county staff and two (2) county Commissioners Court sessions to discuss the results and progress of the Mobility Plan.

Deliverables

Task 1 – Existing Conditions

- Existing Condition Inventory
- Traffic Data
- Planned Land Use Map

Task 2 – Transportation Plan

- Future Traffic Patterns
- Thoroughfare Typical Sections
Short Term Improvements Exhibit
- Long Term Improvements Exhibit
- Diagrammatic designs and cost estimates
- Mobility Plan Report

Task 3 – Meetings

- Meeting notes

Montgomery City Council
AGENDA REPORT

Item 15

| | | | |
|-----------------------|---------------|-------------------------|---------------------------|
| Meeting Date: | June 14, 2016 | Budgeted Amount: | \$15,000 next fiscal year |
| Department: | Public Works | Exhibits: | |
| Date Prepared: | June 7, 2016 | | |

Subject

Approval of Jones and Carter to perform the Mobility Study

Discussion

As previously discussed by the Council, this is a joint project between Montgomery County and the city, wherein the city receives what amounts to a Street plan in the County gets a coordinated thoroughfare plan for the area around the city. The total cost of the project is \$45,000 with \$30,000 paid by the county and \$15,000 paid by the city. The city's share will not be paid until next fiscal year. Expected time of completion is uncertain, could be asked at the meeting of the city engineer. At the initiation of the thought of this agreement for the mobility plan one of the city's requirements was that Jones and Carter perform the study.

Recommendation

Approval of the agreement with Jones and Carter engineering to perform the mobility plan as provided in the Interlocal Agreement. Based on Council's previous statements, the Council insisted upon the County that Jones and Carter perform the study.

Approved By

| | | |
|---------------------------|------------|--------------------|
| Department Manager | | Date: |
| City Administrator | Jack Yates | Date: June 7, 2016 |

Montgomery City Council
AGENDA REPORT

Item 16

| | | | |
|-----------------------|---------------|-------------------------|--|
| Meeting Date: | June 14, 2016 | Budgeted Amount: | Unknown, very slight except for paying the engineer for the support work |
| Department: | Utility | | |
| | | Exhibits: | Resolution regarding establishing impact fee committee |
| Date Prepared: | June 6, 2016 | | |

Subject

As has been discussed previously, it is required that the Council appoint a committee to consider the establishment of an impact fee on future utility connections. The Resolution establishes the rules and regulations and guidance to the committee. The Resolution also holds the names of the committee members.

Discussion

As has been discussed previously, the planning commission in its entirety, could be appointed the committee plus someone from the real estate or development industry plus someone connected somehow to the ETJ of the city. The planning commission as an entire body does not prefer to be appointed the committee. Names suggested for the committee include Michael Ogorchock Sr. (ETJ and Developer), Chris Cheatham (ETJ and Developer), Larry Jacobs (realtor), Wade Nelson (realtor), Steve Hailey (realtor), Jenny Brown (resident and realtor), Randy Burleigh (resident, past member of city water committee, now involved in assisting me with rate review/billing in general), Nelson Cox (Planning Commission chairman), Jeff Waddell (Planning Commission member) – all of these persons are willing to serve.

The resolution reads in Section 2 b. that the planning commission is appointed-- you do not have to do that- the names of your actual appointees can be added to the Resolution.

You need to appoint at least five members, including one real estate/development/building industry related person, and one ETJ related person to the Committee.

Recommendation

Appoint the committee and pass the Resolution.

Approved By

| | | |
|---------------------------|----------------|--------------------|
| Department Manager | Larry Forester | Date: June 7 |
| City Administrator | Jack Yates | Date: June 7, 2016 |

RESOLUTION 2016- _____

A RESOLUTION OF THE CITY OF MONTGOMERY, TEXAS, CREATING THE CAPITAL IMPROVEMENT ADVISORY COMMITTEE AND APPOINTING ITS MEMBERS, ESTABLISHING AND ADOPTING THE PROCEDURAL RULES FOR AND DUTIES ASSOCIATED THEREWITH IN ACCORDANCE WITH CHAPTER 395 OF THE TEXAS LOCAL GOVERNMENT CODE REGARDING IMPACT FEES; MAKING VARIOUS FINDINGS AND PROVISIONS RELATED TO THE SUBJECT OF IMPACT FEES; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Texas Local Government Code Chapter 395 (“Impact Fee Statute”) authorizes political subdivisions, including the City of Montgomery, Texas (“City”), to enact and impose impact fees on land within their corporate boundaries or extraterritorial jurisdictions to finance capital improvements associated with new development; and

WHEREAS, the Impact Fee Statute prescribes a process and methodology by which the City must conduct public hearings concerning the consideration and approval of the Land Use Assumptions (“LUAs”) and Capital Improvement Plan (“CIP”), the adoption of the impact fees, and the ongoing periodic review and reporting requirements associated with the impact fees once adopted; and

WHEREAS, the Impact Fee Statute requires the City’s governing body (“City Council”) to appoint a Capital Improvement Advisory Committee (“Committee”) to advise the City Council on certain matters related to the impact fee consideration and adoption procedures required by the Impact Fee Statute; and

WHEREAS, the Impact Fee Statute also requires the City Council to adopt procedural rules for the Committee to follow in the execution of its duties; and

WHEREAS, the City Council deems it to be in the public’s best interest to create the Capital Improvement Advisory Committee in conjunction with the City’s consideration of impact fees to finance capital improvements association with new development in the City and in the City’s extraterritorial jurisdiction.

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

Section 1. Findings.

The findings and recitations set out in the preamble to this Resolution are found to be true and correct and are hereby adopted by the City Council and made a part hereof for all purposes.

Section 2. Capital Improvement Advisory Committee

The City Council hereby establishes the Capital Improvement Advisory Committee as follows:

- a. *Establishment.* The City of Montgomery Capital Improvement Advisory Committee (“Committee”) is an advisory board whose purpose shall be to advise and make recommendations to the City Council regarding the study, consideration, development and adoption of impact fees pursuant to the Impact Fee Statute.
- b. *Membership, Compliance & Appointment.*
 - i. The City Council hereby appoints as the Committee the Planning and Zoning Commission which consists of five (5) members.
 - ii. The City Council finds that no member of the Planning and Zoning Commission is from the real estate, development or building industry and is not an employee or official who serves a political subdivision or governmental entity. The City Council appoints _____, to serve on the Committee who qualifies as a representative from the real estate, development, and building industry.
 - iii. The City Council anticipates imposing impact fees in the City’s extraterritorial jurisdiction and pursuant to the Impact Fee Statute therefore appoints _____ to the Committee who qualifies as a representative of the City’s extraterritorial jurisdiction.
 - iv. The City Council reserves the right to appoint additional members of the Committee if required to replace a member due to a resignation or for any other purpose as may be required to comply with the Impact Fee Statute.
- c. *Committee Functions and Duties.*
 - i. The Committee shall serve in an advisory capacity;

- ii. The Committee shall advise and assist the City in adopting land use assumptions;
- iii. The Committee shall advise and assist the City in adopting land use assumptions;
- iv. The Committee shall review the capital improvement plan and file written comments;
- v. The Committee shall monitor and evaluate the implementation of the capital improvement plan;
- vi. The Committee shall file semi-annual reports with respect to the progress of the capital improvement plan and report to the City Council any inequities, actual or perceived, in implementing the capital improvement plan or imposing the impact fees;
- vii. The Committee shall advise the City Council of the need to update or revise the land use assumptions, capital improvement plan, or impact fees; and
- viii. The Committee shall fulfill any other duties or obligations that may be required of it in accordance with the Impact Fee Statute.

d. *Committee Conduct.*

- i. The Committee shall appoint one member as its Chairperson and one member as its Vice-Chairperson at its first meeting following the approval this Resolution.
- ii. The Chairperson shall preside over all meetings of the Committee and in the absence of the Chairperson, the Vice-Chairperson shall preside.
- iii. The Committee shall appoint a Secretary who shall be responsible for recording the minutes of the Committee's meetings and posting notice of meetings in accordance with City ordinances and state law.
- iv. The Committee shall conduct Committee business only when a quorum of members is present. A quorum is defined as a majority of the voting membership of the Committee.
- v. The Committee shall meet at sufficient intervals so as to fulfill its functions and duties in a reasonably timely manner.

- vi. The Committee shall meet as directed by the City Council to conduct business.
 - vii. The Chairperson or any three (3) Committee members may call a special meeting as necessary to conduct business. Meetings shall be held at City Hall, located at 101 Old Plantersville Road, Montgomery, Texas 77356.
 - viii. The Committee may adopt its own rules of procedure for conducting business. In the event the Committee fails to adopt its own rules of procedure for conducting business, the Committee's meetings shall conform to the rules for conducting business of the City Council and Robert's Rules of Order, as may be amended.
 - ix. The Committee shall provide Committee Reports to the City Council that include comments and recommendations regarding the land use assumptions, capital improvement plan and impact fees.
- e. *Committee Reports.* The Committee shall provide Committee Reports to the City Council that include comments and recommendations regarding the land use assumptions, capital improvement plan and impact fees, which shall be submitted as follows:
- i. Before the fifth (5th) business day before the date of the public hearing on the proposed land use assumptions and capital improvements plan;
 - ii. Before the fifth (5th) business day before the date of the public hearing on the proposed impact fees;
 - iii. Before the fifth (5th) business day before the date of the public hearing on any proposed amendments to the land use assumptions, capital improvements plan and impact fees; and
 - iv. At any other such time as the Committee or City Council shall deem appropriate or necessary.

Section 3. Supporting Reports and Studies

The City Council and City Staff shall make available to the Committee any professional reports regarding the development or implementation of land use assumptions, capital improvement plans, utility financial analyses, or any other information that may be available and relevant to the study, consideration, development and adoption of impact fees pursuant to the Impact Fee Statute.

Section 4. Severability Clause

In the event any clause, phrase, provision, sentence or part of this Resolution or the application of the same to any person or circumstances shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Resolution as a whole or any part or provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of the City of Montgomery, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any part thus declared to be invalid or unconstitutional, or whether there be one or more parts.

Section 5. Effective Date.

This Resolution shall be effective upon its passage and approval by City Council.

PASSED, APPROVED, and ADOPTED this ____ day of May, 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 17

| | | | |
|-----------------------|-----------------------|-------------------------|---|
| Meeting Date: | June 14, 2016 | Budgeted Amount: | N/A |
| Department: | Community Development | | |
| | | Exhibits: | Memo from the city engineer, the final plat |
| Date Prepared: | June 7, 2016 | | |

Subject

Approval of the final plat and construction drawings for Heritage Place Medical Center

Discussion

My concern is the street placement, driveway placement Houston S. Hwy. 105 and the extent of the city engineers items that remain to be completed on the final plat -- my concern there is the Council's approval "based upon completion of the minor arms to be read by the city engineer before the final plat is signed" in the Council not seeing, and not knowing, that the final plat is exactly the way the Council wants it to be.

Recommendation

Attached is a memo from the city engineer regarding this plat. Note the number of exceptions that remain to be completed.

Approved By

| | | |
|---------------------------|------------|--------------------|
| Department Manager | | Date: |
| City Administrator | Jack Yates | Date: June 7, 2016 |



May 20, 2016

The Planning and Zoning Commission
City of Montgomery
101 Old Plantersville Road
Montgomery, Texas 77316

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

Re: Submission of Final Plat and accompanying Construction Plans
Heritage Place II/Heritage Place Medical Center
City of Montgomery

Commission Members:

We have reviewed the referenced final plat as prepared by Mr. Donald K. Hall, R.P.L.S. All previous review comments have been addressed and we find it to be in keeping with the submission criteria set forth in the City of Montgomery's Code of Ordinances. We have reviewed the accompanying construction plans as prepared by Mr. E. Levi Love, P.E. and while most review comments have been addressed, there are still outstanding items including pending City Council approval of a driveway spacing variance request and the proposed improvements to Houston Street. We offer the recommendation that should the Commission grant provisional approval of the referenced documents we will continue to coordinate with Messrs. Hall and Love to ensure that all review comments are addressed prior to formal approval of the final plat and accompanying construction drawings.

If you have any questions or comments, please contact, Glynn Fleming and or myself.

Sincerely,

A handwritten signature in black ink, appearing to read 'Ed Shackelford', written over a large, stylized circular flourish.

Ed Shackelford, P.E.
Engineer for the City

EHS/gef: lr2

P:\PROJECTS\W5841 - City of Montgomery\W5841-0900-00 General Consultation\2016\P&Z Reports\5-24-2016\HeritagePlace Medical, Final Plat-P&Z Opinion.doc

Enclosures:

cc/enc:

Heritage Place II, Section I-Final Plat Submission
The Honorable Mayor and City Council, City of Montgomery
Mr. Jack Yates – City of Montgomery, City Administrator
Ms. Susan Hensley – City of Montgomery, City Secretary
Mr. Larry Foerster – Darden, Fowler & Creighton, City Attorney
Mr. E. Levi Love, P.E. – L Squared Engineering

Montgomery City Council
AGENDA REPORT

Item 18

| | | | |
|-----------------------|-----------------------|-------------------------|-----------------------------|
| Meeting Date: | June 14, 2016 | Budgeted Amount: | N/A |
| Department: | Community Development | | |
| | | Exhibits: | Memo from the city engineer |
| Date Prepared: | June 7, 2016 | | |

Subject

Approval of city certificate of acceptance and release of retainage to Lake Creek Village for off-site sanitary sewer extension

Discussion

Attached is a memo from the city engineer. Recommends acceptance of the work accomplished at Lake Creek Village regarding off-site sanitary sewer extension and returning the retainage of the escrow funds to Lake Creek Village developer.

Recommendation

Approval of the city certificate of acceptance and allowance of the release of retainage of amount in the escrow fund.

Approved By

| | | |
|---------------------------|------------|--------------------|
| Department Manager | | Date: |
| City Administrator | Jack Yates | Date: June 7, 2016 |



June 8, 2016

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

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

Re: Certificate of Acceptance
Lake Creek Village-Off-site Sanitary Sewer Extension
City of Montgomery

Mayor and Council:

David P. Kelly, P.E., the Engineer of Record, deemed construction of the referenced utility to be substantially complete in March 2015 and we recently completed the one-year warranty inspection. All punch list items identified in said inspection have been addressed by Gulf Utility Service on behalf of the Contractor and we recommend issuance of the enclosed Certificate of Acceptance and release of retainage totaling \$5,577.00.

If you have any questions or comments, please contact, Glynn Fleming and or myself.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Ed Shackelford', with a long horizontal flourish extending to the right.

Ed Shackelford, P.E.
Engineer for the City

EHS/gef: lr2

P:\PROJECTS\W5841 - City of Montgomery\W5841-0008-00 Lake Creek Village Sewer Extens\Letters\Memo to Council RE Certificate of Acceptance.doc

Enclosures:

Certificate of Acceptance

cc/enc:

Mr. Jack Yates – City of Montgomery, City Administrator

Ms. Susan Hensley – City of Montgomery, City Secretary

Mr. Larry Foerster – Darden, Fowler & Creighton, City Attorney

CERTIFICATE OF ACCEPTANCE

Mr. Philip LeFevre
780 Clepper Street, Suite 100
Montgomery, TX 77356

Re: Construction of Off-site Sanitary Sewer Extension
Lake Creek Village
City of Montgomery, Texas

Mr. LeFevre,

This is to certify that the **CITY OF MONTGOMERY** accepts the referenced improvements on the basis of the Certificate of Substantial Completion issued by DPK Engineering, LLC., and understands that a guarantee shall cover a period of one (1) year beginning March 1, 2015.

By: _____
Mr. Jack Yates
City Administrator, City of Montgomery

Approved by City Council on _____ 20____

EHS/gef:lr2

P:\PROJECTS\W5841 - City of Montgomery\W5841-0008-00 Lake Creek Village Sewer Extens\Letters\Certificate of Acceptance Lake Creek Village Off-site Sanitary Sewer Extension.docx

Enclosures: N/A
cc: The Honorable Mayor and City Council – City of Montgomery
Ms. Susan Hensley – City of Montgomery, City Secretary
Mr. Larry Foerster – Darden, Fowler & Creighton, LLP, City Attorney
Mr. Ed Shackelford, P.E. – Jones & Carter, Inc., City Engineer

CERTIFICATE OF ACCEPTANCE

Mr. Philip LeFevre
780 Clepper Street, Suite 100
Montgomery, TX 77356

Re: Construction of Off-site Sanitary Sewer Extension
Lake Creek Village
City of Montgomery, Texas

Mr. LeFevre,

This is to certify that the **CITY OF MONTGOMERY** accepts the referenced improvements on the basis of the Certificate of Substantial Completion issued by DPK Engineering, LLC., and understands that a guarantee shall cover a period of one (1) year beginning March 1, 2015.

By: _____
Mr. Jack Yates
City Administrator, City of Montgomery

Approved by City Council on _____ 20_____

EHS/gef:lr2

P:\PROJECTS\W5841 - City of Montgomery\W5841-0008-00 Lake Creek Village Sewer Extens\Letters\Certificate of Acceptance Lake Creek Village Off-site Sanitary Sewer Extension.docx

Enclosures: N/A

cc: The Honorable Mayor and City Council – City of Montgomery
Ms. Susan Hensley – City of Montgomery, City Secretary
Mr. Larry Foerster – Darden, Fowler & Creighton, LLP, City Attorney
Mr. Ed Shackelford, P.E. – Jones & Carter, Inc., City Engineer

Montgomery City Council
AGENDA REPORT

Item 19

| | |
|------------------------------------|--|
| Meeting Date: June 14, 2016 | Budgeted Amount: |
| Department: | |
| Prepared By: Jack Yates | Exhibits: ordinances regarding residential/commercial garbage collection – chart showing residents not being billed for garbage now |
| Date Prepared: May 27, 2016 | |

Subject

Residential garbage collection

Recommendation

What remains for city action now is what to do about the 29 residents not using the municipal garbage collection system. One alternative is to do nothing, and not require their collection of garbage. To take this option would severely negate the ordinance purpose which is protection of health and sanitation. We would however start telling new residents that they would have to get on to the garbage collection system.

In the alternative, we could contact the 26 residents by sending them a letter referring them to the ordinance, giving the reasons for the requirement, and that they are about to have a container delivered to their place of residence that they can begin using immediately and that a charge on their water bill of \$17.60 will be added to their water billing for that collection. A draft of the letter is attached.

As for the 11 residents who are now using the containers and getting the trash picked up without a bill my suggestion is to send them the same letter as the other 15 and not get into back billing, because we do not know how long they have been using the service and because of the uncertainty of our method of determining that there using the service now-- which is simply Mike Muckleroy driving around town with the attached list to see who had containers next to their curb for the trash man to pick up-- but certainly not anything that we would want to get some type of argument about.

The economics of this is that we are not being charged by Waste Management for these 26 customers. They charge based on the count provided to them from

Montgomery City Council
AGENDA REPORT

the city for the number of garbage customers, based on the count provided on the billing register. Therefore, not being on the billing register as being a garbage customer means no charge for the city. Waste Management does not do an independent house by house count/verification.

Discussion

In the course of reviewing the water billing due to the new meters it became apparent 26 residents are not being billed for garbage collection. 11 of those 26 customers do have the containers and are putting out the containers but not getting charged. A listing is attached.

When I asked why they were not being charged I was told by Ashley that she thought it was an option of the residents and not a requirement. I went to the city ordinances and found section 70 – 34 (a) which states;

“It shall be the duty of any person in charge of any premises to prepare the garbage and trash from such premises and have the garbage and trash picked up by the city or its designated agent in accordance with the terms of this article.”

Virtually every city requires residential garbage pickup because of the health and sanitation issues involved in urban/developed areas.

Commercial garbage in the ordinances as provided for in section 70 – 36 (b) which states;

“All commercial, business,... And all other persons other than a residents occupied by one family or group of persons living in one family dwelling and/or apartment house ... shall make independent and separate arrangements for their garbage pickup....”

So, commercial customers are not required to use the city’s contractor, but are required to have their garbage collected in some manner-- not to be billed nor decided or acted upon by the city in anyway.

Montgomery City Council
AGENDA REPORT

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| Approved By | | |
|-----------------------|------------|--------------------|
| Department Manager | | Date: |
| City Administrator | Jack Yates | Date: May 27, 2016 |

DRAFT

Dear _____;

Just as virtually every city does, Montgomery has an ordinance requiring residents to have their garbage picked up by the city or its contracted service. When you received your water or sewer service we realize that you may have been given the option of whether or not to get your garbage picked up by the city. That option being given to you was a mistake.

The reason Montgomery, and other cities, is so that you, nor your neighbor, allow garbage to accumulate on property resulting in health and sanitation issues. Presently, while you're not on the garbage collection route, it is uncertain how you are disposing of your garbage. The city, through its residents, is given the responsibility to enforce health and sanitation rules throughout the city.

You will, within the next two weeks, have a garbage container delivered to your residence which you may begin to use. Trash collection day in Montgomery is Wednesday. To receive collection simply place the cart out by the street. You will also begin to be billed, as part of your water bill, the amount of \$17.60 per month for garbage collection. The garbage amount, as part of the overall bill, is considered part of the total bill – meaning that if you do not pay the garbage amount of your bill your water can be turned off for nonpayment of the total bill.

If you have any questions feel free to contact me.

Sincerely,

Jack Yates
City Administrator

ACCOUNTS WITH NO TRASH,

| ACCOUNT # | CUSTOMER NAME | CLASS | Service Code | Comments |
|------------|-----------------------|-------|--------------|---|
| 01-0300-00 | COOK, CLAUDINA | CI | 120 | No trash code |
| 01-0410-00 | WAGNER, MARY | RI | 100 | No trash code |
| 01-0810-02 | CHEATHAM, CHRIS | RI | 100 | No trash code |
| 01-1200-00 | DRUMMOND, ELLA | RI | 100 | No trash code |
| 01-1210-00 | HATCHETT, PEARLIE | RI | 100 | No trash code |
| 01-1220-00 | LAWSON, RODERICK LEON | RI | 100 | No trash code |
| 01-1460-00 | WASHINGTON, HORACE | RI | 100 | No trash code |
| 01-1620-01 | HATCHETT, CRAIG | RI | 100 | No trash code |
| 01-1770-00 | EASLEY, CHERRIE D. | RI | 100 | No trash code |
| 01-1890-00 | JACKSON, JOE | RI | 100 | No trash code |
| 01-2020-00 | HARRIS, JOE | RI | 100 | No trash code |
| 01-2030-00 | HOLTS, DOROTHY | RI | 100 | No trash code |
| 01-3300-00 | WILLIAMS, LILLIE | RI | 100 | No trash code |
| 01-4650-00 | MCWASHINGTON, BARBARA | RI | 100 | No trash code |
| 01-4940-01 | YOUNG, ROBERT LEE | RI | 100 | No trash code |
| 01-5070-00 | CHEATHAM, M.A. | RI | 100 | No trash code |
| 01-5221-00 | ANTHONY, DANIEL | RI | 100 | No trash code |
| 01-5551-02 | COOK, CARLA & JON P | RI | 100 | No trash code |
| 01-5670-00 | MCGINNIS, STELLA | RI | 100 | No trash code |
| 01-5820-00 | LONGINO, KENNETH EARL | RI | 100 | No trash code |
| 01-7503-01 | DENISON, DONALD | RI | 100 | No trash code |
| 01-7754-01 | MILLER, CLAY | RI | 100 | No trash code |
| 01-8810-00 | LOUKANIS, JESSE | RI | 100 | No trash code |
| 01-8714-00 | JOHNSON, SANDY | RO | 110 | No trash code |
| 01-7780-00 | JOHNSON, LEWIS | RO | 110 | No trash code |
| 01-8713-00 | KISSANE, DIANA E | RO | 110 | No trash code |
| | | Note: | | equals getting picked up without charge |

(2) The throwing, placing, dumping or depositing of any lawn trimmings, hedge trimmings or other cuttings or trimmings of weeds, flowers or other vegetation on or in any gutter, street, sidewalk, parkway, curb, alley or other public property of the city.

(3) The throwing, placing, dumping or depositing of any garbage, refuse, or animal or vegetable waste matter of any kind on or in any gutter, street, sidewalk, parkway, driveway, curb, alley or other public property of the city or in or on any lot, vacant or occupied, driveway or other private property in the city.

(c) It shall be unlawful for any person to cause or permit to be or remain in or upon any premises, private or public, any animal, vegetable or mineral matter of any composition or residue thereof, which is in an unsanitary condition or injurious to public health.

(d) It shall be unlawful for any owner, tenant, occupant or agent of any owner to permit and allow the accumulation of garbage, trash, junk, secondhand lumber, bottles, wastepaper cups, cans, secondhand furniture, materials that may be used in building, waste materials or other refuse upon any property within the corporate limits of the city.

(e) It shall be unlawful for any owner, tenant, occupant, contractor, builder, or agent of any such persons, to fail to maintain trash, rubbish, and/or other construction debris on the property in which construction, whether residential or commercial, is being performed. Trash, rubbish and other construction debris that may be wind blown must be confined in a garbage container as set out in this chapter. The construction site must be free from accumulations of trash, rubbish or other construction debris which may act as a harborage for vermin and vectors.

(f) A violation of this section shall be subject to the penalties provided in this article. (Code 2002, § 70-33; Ord. No. 1984-2, § VI, 3-12-1984; Ord. No. 2005-01, §§ 1, 2, 1-25-2005)

Sec. 70-34. Collection required; types of waste not collected.

⁴(a) It shall be the duty of any person in charge of any premises to prepare the garbage and trash from such premises and have the garbage and trash picked up by the city or its designated agent in accordance with the terms of this article.

Residential

(b) The city garbage department or its designated agent will not make collection of kitchen garbage, trash, rubbish, or tree limbs where the material is not prepared for collection and placed as designated by the terms of this article.

(c) Collections determined by the city garbage department or its designated agent to be deemed unsuitable for pickup such as waste oils from garages or filling stations, and

commercial or wholesale garbage, trash, and rubbish which is more than the ordinary quantity as determined by the city garbage department or its designated agent, are not to be included in the services furnished by the city or its designated agent and such places are required to remove such garbage, trash and rubbish to the dumping grounds at their own expense in the manner and method directed by the city garbage department or its designated agent.

(Code 2002, § 70-34; Ord. No. 1984-2, § II, 3-12-1984)

Sec. 70-35. Preparation and placement of waste for collection.

(a) All residential garbage containers and other containers otherwise authorized for use by the city or its designated agent shall be set at a convenient location for collection and placed so as to protect the containers from being turned over by dogs or other animals. Such placement shall be made so as not to interfere with the necessary movement of utility vehicles or other easements utilized by vehicles traversing the public way.

(b) All garbage that is subject to decomposition shall be well wrapped in paper, plastic bags, or other biodegradable material before being deposited in the garbage container.

(c) The city, or its designated agent, will not make collection of kitchen garbage, trash, rubbish, or tree limbs where the material is not properly prepared for collection as designated in this article. The failure of the city or its agent to refuse such collection shall not excuse the violation of any other provision of this article.

(Code 2002, § 70-35; Ord. No. 1984-2, § V, 3-12-1984)

Sec. 70-36. Service charges established.

(a) There shall be charged, assessed, and collected monthly service charges, as established by the city council and on file in the city secretary's office, for garbage, refuse, trash, and rubbish collection and disposal by the city.

(b) All commercial, business, or mercantile establishments, hotels, hospitals, clinics, schools, tourist courts, department stores, garages, service stations, manufacturing plants and all other persons other than a residence occupied by one family or a group of persons living as one family, or a dwelling and/or apartment house, mobile home units, and trailer homes in trailer parks that may be used by two or more families or groups living as family units, shall make independent and separate arrangements for their garbage pickup. Excess charges, depending on the quantity of refuse or garbage collected from the premises, may be increased accordingly as determined by the city garbage department or its designated agent and included in the monthly billings.

(Code 2002, § 70-36; Ord. No. 1984-2, § III, 3-12-1984)

Commercial

Sec. 70-37. Assessment and collection of service charges.

(a) The charges prescribed by section 70-36 shall be paid each month with the water and sewer charges collected by the city and shall be payable at the city hall. If such charges are not paid by the tenth day of the month following that in which the services are rendered, the water service will be discontinued. Such charges shall be assessed against the person to whom the city is furnishing water and who has a registered water meter, and the amounts of the monthly charge shall be sent out by the city water department or its designated agent on the same card with the statement of charges for the water and sewer services for the month.

(b) If any person accepts the garbage and trash collection service of the city or its designated agent and is not being served by either the water or sewer system of the city, the charges for such service shall be assessed in the name of the person who requests or who accepts such service from the city. In the case of families this provision refers to the head of the family, and in case of business establishments it refers to the owner, manager, or other person in charge thereof.

(c) Any person receiving water service inside the city limits shall be deemed to have applied for garbage service and shall be a customer of the refuse division of the city or its designated agent until such time as water service to such person has been discontinued. (Code 2002, § 70-37; Ord. No. 1984-2, § IV, 3-12-1984)

Secs. 70-38--70-60. Reserved.

ARTICLE III. NONRESIDENTIAL SOLID WASTE RECEPTACLES

Sec. 70-61. Short title.

This article shall be known and may be cited as "The City of Montgomery Nonresidential Solid Waste Receptacle Ordinance."

(Code 2002, § 70-61; Ord. No. 2001-1, § 1, 2-20-2001)

Sec. 70-62. Definitions.

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

Location means any area that creates solid waste due to business, commercial or industrial operations and contracts or should contract with a private commercial solid waste collection company for the removal of solid waste.

Nonresidential solid waste receptacle means any receptacle of solid waste material constructed of metal or heavy duty plastic which shall be capable of being completely enclosed, commonly referred to as a dumpster.

Montgomery City Council
AGENDA REPORT

Item 20

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|-----------------------|---------------|-------------------------|------------------|
| Meeting Date: | June 14, 2016 | Budgeted Amount: | To be determined |
| Department: | Public Works | | |
| | | Exhibits: | |
| Date Prepared: | June 7, 2016 | | |

Subject

Flood damage to the Buffalo Springs bridge and somewhat over the entire city. This is probably just a report no action on a specific item.

Discussion

No recommendation right now

Recommendation

No action contemplated, just a report

Approved By

| | | |
|---------------------------|------------|--------------------|
| Department Manager | | Date: |
| City Administrator | Jack Yates | Date: June 7, 2016 |

Montgomery City Council
AGENDA REPORT

Item 21

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|-----------------------|--------------------|-------------------------|--|
| Meeting Date: | June 14, 2016 | Budgeted Amount: | \$1200 for pediatric application, and holder boxes |
| Department: | General government | | |
| | | Exhibits: | The MCHD Interlocal Agreement |
| Date Prepared: | June 8, 2016 | | |

Subject

Interlocal agreement with Montgomery County Hospital District (MCHD) regarding AED defibrillators being given/transferred to be used by the city through its Police Department – – at no cost to the city.

An automated external defibrillator (AED) is a portable electronic device that automatically diagnoses the life-threatening cardiac arrhythmias of ventricular fibrillation and ventricular tachycardia in a patient, and is able to treat them through defibrillation, the application of electrical therapy which stops the arrhythmia, allowing the heart to reestablish an effective rhythm.

With simple audio and visual commands, AEDs are designed to be simple to use for the layperson

Discussion

The Interlocal agreement is attached. The city, for at least a year, has been attempting to place, at low or no cost, AEDs in police cars and City Hall. Approximately 3 weeks ago 5 AEDs were given to the city from the Webb family who saw the saving of Bill Webb, a bicyclist who collapsed on Hwy 105 and was revived by city police officers, and felt the need to support the department by raising funds and ultimately giving the AEDs to the city. The city was contacted in the last week of May by the MCHD, who offered the city five AEDs at no cost.

The MCHD AEDs come with essentially a two-year life useful period due to battery life of the AED. The AEDs provided by the Webb family have a similar, though unknown, useful period, also due to battery life.

There is no assurance by either the Webb family, or the MCHD that the AEDs will be replaced after their useful period expires. I would however recommend that the city continue to have at least one AED at City Hall and in the police department at all times in the future.

The AEDs will not be placed anywhere until the police department and all City staff have been trained/certified on the device.

Following the training, the AEDs will be placed as follows: six of the police cars will have one, City Hall will have two, and public works vehicles will have one in each of the two vehicles. The community center was excluded, because of concerns of theft of the AED.

Recommendation

The city attorney is reviewing the agreement and should have an opinion by the time of the meeting. Recommendation is to approve the Interlocal Agreement.

STATE OF TEXAS §
 §
COUNTY OF MONTGOMERY §

**INTERLOCAL AGREEMENT FOR PROVISION OF AED DEFIBRILLATORS FOR
PUBLIC HEALTH**

SECTION 1. PARTIES TO AGREEMENT

- 1.1. This agreement (“Agreement”) is made and entered into by and between the Montgomery County Hospital District (hereinafter "MCHD" and/or DISTRICT) and the City of Montgomery, Texas (hereinafter “CITY”) on this the third day of June, 2016 (“Effective Date”). MCHD and CITY are each units of local government within the meaning of the Interlocal Cooperation Act of Chapter 791 of the Texas Government Code, and are authorized pursuant to such Act to enter into an interlocal agreement for the services contemplated herein.
- 1.2. The parties hereto have severally and collectively agreed and by execution hereof are bound to the mutual obligations and to the performance and accomplishment of the tasks and/or services hereinafter described.
- 1.3. The governing bodies of MCHD and CITY find that the subject of this Agreement is necessary for the benefit of the public, and that each party has the legal authority to perform and to provide the governmental function or service which is the subject matter of this Agreement, and that each party will pay for the performance of governmental functions or services from current revenues available to the paying party; furthermore, the governing bodies find that the performance of this Agreement is in the common and best interest of both parties, and that the consideration of this Agreement is fair, adequate, and reflective of the fair market values of the equipment, property, services, and other consideration given under this Agreement.

**SECTION II. MCHD PROVISION OF AED DEFIBRILLATORS TO THE CITY AND
CITY’S DUTIES AND RESPONSIBILITIES IN CONNECTION
THEREWITH**

- 2.1. Upon approval of this Agreement by the parties’ respective governing boards, MCHD agrees to transfer to the CITY five (5) AED defibrillators to be used by the CITY, by and through its police department exclusively for use in matters related to public health, namely in emergency situations where it is determined that a person is exhibiting symptoms of life-threatening cardiac arrhythmias of ventricular fibrillation and ventricular tachycardia. The AED defibrillators to be transferred to CITY are more fully described in **Exhibit A** appended hereto and made a part of this Agreement.
- 2.2. It is contemplated by the parties that the CITY will provide for the maintenance and upkeep of the defibrillators identified in Exhibit A so that they remain operable at all

times. It is further contemplated by the parties that CITY, acting by and through its police department will provide adequate training to police officers and others utilizing the AED defibrillators so as to ensure their proper use.

- 2.3. MCHD expressly waives any rentals for the AED defibrillators transferred to the CITY pursuant to this Agreement, it being understood that such equipment will be used in connection with the provision of public health services.
- 2.4. The AED defibrillators provided by MCHD per this Agreement shall be exclusively used to pay public health purposes shall not be used for any other purpose. The AED defibrillators will remain the property of MCHD, but possession of such AED defibrillators will remain in the CITY for the term of this Agreement. CITY agrees to repair the AED defibrillators at CITY's sole expense during the term of this Agreement for any damages caused thereto by actions of the CITY's employees. CITY shall not assign rights to the AED defibrillators to any third party, nor shall CITY encumber or pledge said equipment for any indebtedness incurred by CITY.

SECTION III. TERM AND TERMINATION

- 3.1 This Agreement shall commence on the date that it is last executed by the parties, and shall continue in force and effect for three (3) years. This Agreement may be renewed for additional terms by a written amendment executed by the parties.
- 3.2 At the termination of this Agreement, CITY shall return the AED defibrillators listed in **Exhibit A** to MCHD without the necessity of notice or demand therefor.

SECTION IV. PROGRESS MEETINGS

- 4.1. MCHD and CITY, by and through their designated representatives shall meet and confer as often as mutually necessary to ensure the AED defibrillators and their use are beneficial to the residents. CITY agrees to share statistical reports and other reports (excluding any information made confidential by law) on matters pertaining to CITY'S use of the AED defibrillators and resulting outcomes to MCHD upon request.

SECTION V. CONFLICT OF INTEREST

- 5.1. No official or employee of the MCHD and no employee of CITY, nor any officer or member of CITY'S governing board or body, and/or person who exercises any functions or responsibilities in the review or approval of the undertaking or carrying out of this Agreement shall participate in any decision relating to this Agreement which affects his or her personal pecuniary interest.

SECTION VI. COMPLIANCE WITH LAWS

- 6.1. The parties shall each comply with all applicable laws, ordinances, codes and

regulations of the state, local and federal governments in carrying out their respective obligations hereunder.

SECTION VII. INDEPENDENT CONTRACTOR

- 7.1. It is expressly understood and agreed by both parties hereto that the MCHD is contracting with the CITY and vice-versa as an Independent Contractor and each party agrees to be independently and fully responsible for all claims, demands and causes of action of every kind and character which may be asserted by any third party as a result of a party's actions arising under this Agreement.

SECTION VIII. ORAL AND WRITTEN AGREEMENTS

- 8.1. All oral or written agreements, relating to the subject matter of this Agreement and which were made prior to the date of commencement specified in Section III, between CITY and MCHD are expressly superseded by this Agreement.

SECTION IX. AMENDMENTS

- 9.1. Any alterations, additions, or deletions to the terms of this Agreement shall be by amendment hereto in writing and executed by both parties hereto except as may be expressly provided for in some other manner by the terms of this Agreement.

SECTION X. MISCELLANEOUS

- 10.1. The Parties represent and warrant that they are fully authorized by law, and by their respective governing boards to carry out their respective obligations under this Agreement.
- 10.2. The persons signing this Agreement on behalf of the governmental entity so bound warrant and guarantee to having been duly authorized to execute this Agreement on behalf of the party so bound, and to validly and legally bind such party to all terms, performances and provisions herein set forth.
- 10.3. Either party shall have the right, at its option, to either temporarily suspend or permanently terminate performance under this Agreement, and/or terminate this Agreement if there is any dispute as to the legal authority of either party to enter into this Agreement and provide the services or funding contemplated herein.

EXECUTED in multiple counterparts, each of which shall have the force and dignity as an original on the Effective Date:

CITY OF MONTGOMERY, TEXAS

By: Honorable Kirk Jones
Title: Mayor

Date: _____

Attest: _____
City Secretary

MONTGOMERY COUNTY HOSPITAL DISTRICT

By: Randy Johnson
Title: Chief Executive Officer

Date: _____

EXHIBIT A

AED DEFIBRILLATORS TO BE TRANSFERRED FROM MCHD TO CITY

1. Serial number 0403091157 Model# M3861A MCHD ID number NCA20189
2. Serial number 0901043014 Model# M3860 MCHD ID number 9866
3. Serial number 0103080341 Model# M3861A MCHD ID number NCA20190
4. Serial number 0103082390 Model# M3861A MCHD ID number NCA20187
5. Serial number 0402731840 Model# M3860A MCHD ID number 7486

Montgomery City Council
AGENDA REPORT

Item 22

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|-----------------------|----------------|-------------------------|-----|
| Meeting Date: | June 14, 2016 | Budgeted Amount: | N/A |
| Department: | City Secretary | | |
| | | Exhibits: | |
| Date Prepared: | June 7, 2016 | | |

Subject

City Administrator being appointed as the Deputy City Secretary

Discussion

Susan Hensley is taking a two-week vacation in mid-June and this appointment will allow for any official duties/signatures that are necessary during her absence. Approved by City Attorney.

Recommendation

Approval

Approved By

| | | |
|---------------------------|------------|--------------------|
| Department Manager | | Date: |
| City Administrator | Jack Yates | Date: June 7, 2016 |