

City Council



Agenda Pack

for

*January 12, 2016
Public Hearing and Regular
Meeting*

NOTICE OF PUBLIC HEARING and REGULAR MEETING

January 12, 2016

MONTGOMERY CITY COUNCIL

STATE OF TEXAS

AGENDA

COUNTY OF MONTGOMERY

CITY OF MONTGOMERY

NOTICE IS HEREBY GIVEN that a Public Hearing and Regular Meeting of the Montgomery City Council will be held on Tuesday, January 12, 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

PRESENTATION OF COLORS BY SCOUT TROUP 491

PLEDGE OF ALLEGIANCE TO FLAGS

PUBLIC HEARING:

Convene into Public Hearing:

1. Public Hearing regarding Initial Zoning Classification for newly annexed property located in the John H. Corner Survey, Abstract 8, Montgomery County, Texas. This property includes three (3) contiguous tracts of land of approximately 9.450 acres on the north side of State Highway 105 to Stewart Creek Road.

Adjourn Public Hearing

Reconvene into regular session:

VISITOR/CITIZENS FORUM:

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

CONSENT AGENDA:

2. Matters related to the approval of minutes for the regular meeting held on December 8, 2015.

CONSIDERATION AND POSSIBLE ACTION:

3. Consideration and possible action regarding adoption of a Proclamation recognizing Boy Scout Troop 491, particularly the recent Eagle Scout projects.
4. Consideration and possible action regarding adoption of the following ordinance:
AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF MONTGOMERY, TEXAS, PROVIDING FOR THE INITIAL ZONING OF NEWLY ANNEXED PROPERTY AS PROVIDED IN CHAPTER 98 OF THE CODE OF ORDINANCES OF THE CITY OF MONTGOMERY, TEXAS; PROVIDING FOR THE CLASSIFICATION AND INCLUSION OF A CERTAIN TRACT OF LAND OF APPROXIMATELY 9.40 ACRES WITHIN A ZONING DISTRICT AS DESCRIBED AND DEPICTED ON THE MAP OR PLAT OF SAME ATTACHED TO THIS ORDINANCE AS EXHIBIT "A"; PROVIDING FOR THE AMENDMENT OF THE OFFICIAL ZONING DISTRICT MAP OF THE CITY TO REFLECT THE ZONING CLASSIFICATION OF THE TRACT AS HEREIN PROVIDED; MAKING CERTAIN FINDINGS; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES INCONSISTENT OR IN CONFLICT HERewith; PROVIDING FOR SEVERABILITY; PROVIDING A TEXAS OPEN MEETINGS ACT CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE AFTER PUBLICATION.
5. Consideration and possible action regarding adoption of the following ordinance:
AN ORDINANCE CORRECTING CITY OF MONTGOMERY ZONING ORDINANCE NO. 2014-10, DATED JULY 15, 2014, WHICH AMENDS THE CODE OF ORDINANCES OF THE CITY OF MONTGOMERY, TEXAS, PROVIDING FOR THE INITIAL ZONING OF NEWLY ANNEXED PROPERTY OF 46.078 ACRES AS PROVIDED IN CHAPTER 98 OF THE CODE OF ORDINANCES OF THE CITY OF MONTGOMERY, TEXAS
6. Consideration and possible action regarding appointment of two (2) positions on the Montgomery Economic Development Corporation Board of Directors currently held by William G. Hanover and Cheryl Fox.
7. Consideration and possible action regarding Utility and Economic Feasibility Analysis of a 68-acre Subdivision, located north of the intersection of SH105 and Westway Drive.
8. Discussion regarding sketch plat for possible 68-acre Subdivision, located north of the intersection of SH105 and Westway Drive.
9. Consideration and possible action regarding adoption of the following Ordinance:
AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MONTGOMERY, TEXAS, AMENDING DIVISION 3, "WATER AND SEWER MAIN EXTENTIONS," OF CHAPTER 90, "UTILITIES," OF THE CITY OF MONTGOMERY CODE OF ORDINANCES, CONCERNING THE EXTENSION OF WATER OR SEWER UTILITY LINES AND PROVIDING FOR THE FOLLOWING: FINDINGS OF FACT; JURISDICTION; PURPOSE AND SCOPE; DEFINITIONS; EXTENSION OF RETAIL WATER OR SEWER SERVICES BY DEVELOPERS AND NON-DEVELOPERS; PRO RATA CHARGES TO INTERVENING CUSTOMERS DESIRING TO CONNECT TO WATER OR SEWER UTILITY EXTENSIONS; ENFORCEMENT AND PENALTIES FOR NONCOMPLIANCE; SEVERABILITY; REPEALING PORTIONS OF ORDINANCE NO. 1996-6 AND OTHER ORDINANCES IN

CONFLICT; TEXAS OPEN MEETINGS ACT CLAUSE; AND PROVIDING EFFECTIVE DATE AFTER PUBLICATION.

10. Consideration and possible action regarding City Community Center Improvements.
11. Consideration and possible action regarding approval of construction drawings for the Hills of Town Creek, Section Two.
12. Discussion regarding an Open Carry Notice Policy.

EXECUTIVE SESSION:

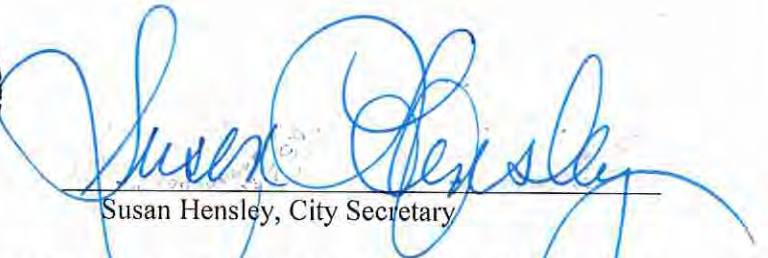
The City Council reserves the right to discuss any of the items listed specifically under this heading or for any items listed above in executive closed session as permitted by law including if they meet the qualifications in Sections 551.071(consultation with attorney), 551.072 (deliberation regarding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

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 January 2016 at 4:55 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.

To: Mayor and City Council
From: Jack Yates, City Administrator
Subject: January 12th, City Council Meeting
Date: January 8, 2016

Presentation of Colors – Boy Scout Troop 491 – The Troop offered since they will be at the meeting for their Proclamation.

Item#1 Public Hearing regarding Initial Zoning Classification of newly annexed property -This is to a public hearing in advance of adopting an ordinance latter in the meeting to designate a zoning district for the eastern annexation area involving Pizza Shack and Rampy property. Proposed is an ordinance designating the “B – Commercial/Professional” zone for the area.

The Planning Commission has discussed this and has recommended placing a “B-- Commercial” zone for the area

Item#3 Proclamation --- Mayor Jones asked for this item on the agenda. The Proclamation is in your binder.

Item#4 Initial Zoning of 9.40 acres – This is an Ordinance to allow the zoning of the recently annexed property known as the Pizza Shack annexation. The Ordinance is in your binder. The proposal is to zone the property “B-- Commercial”.

Item#6 Correction of an Administrative Error -- As Susan and I were looking back at other Initial Zoning ordinances, Susan noticed that the HEB property at the southeast corner of FM 2854 and SH 105 had an incorrect ordinance number referenced in its body referring to another annexation. Susan then let the City Attorney know of the mistake, and he said that the mistake can be corrected by passage of a correction ordinance. The ordinance is in your binder.

Item#6 Appointment to MEDC Board of Directors – There are two appointments needed. The seats are currently held by William Hanover and Cheryl Fox. The opening was publicized by: a notice on the city’s website, an article in the Courier, and was posted in the gazebo at city hall.

There are two applications received. The applications are from: Mr. Hanover and Mrs. Fox. The applications are in your binder.

Item#7 Utility Analysis of 68- acre potential development located north of intersection SH105 and Westway Drive— This is the analysis of providing water and sewer utilities to this proposed development. The Developer, Marjorie Cox, submitted a \$5,000 payment toward the study. The study will be presented at the meeting.

Item#8 Sketch Plat review of 68-acre proposed development located north of intersection SH105 and Westway Drive – Marjorie Cox is the developer of this parcel. Her information about the parcel is in your binder. This is for information only, nothing in the discussion is formal or binding on Ms. Cox or the Council's part.

In your binder are the very detailed minutes of the Planning Commission's discussion with Ms. Cox regarding the development.

Probably the two biggest issues with the development are: 1) access onto SH 195 since the property connection to SH 105 is right between the public street of Westway Drive and the private road leading back to the gas company and 2) the proposed smaller lots at the entrance to the subdivision where she is planning on putting townhouses.

Item#9 Pro-Rata Payback of Water and Sewer Utilities – This is the result of several months of consideration and drafts. The ordinance is in your binder. The crux of the ordinance is in Section 90-104 (7) which gives the description of how the payback is calculated.

Item# 10 Community Center Improvements – There is \$2,000 budgeted for improvements at the Center. Several months ago I had two staff people go to the Community Center to make a list of needed improvements. Their list of improvements totaled \$4,800, which I was thinking that from other parts of the budget designated for the Center that I could come up with – then Mike Muckleroy told me about the electric system in the building and the quotes that he had from Solomon Electric in the range of \$11,000 and that the electric wiring system is bad enough to, at any time, cause a devastating fire.

Both the staff list of cosmetic improvements and the electrical system quotes are in your binder.

I need some direction.

So, the total cost of upgrades is \$16,000 to get the building in a better condition to safely and comfortably rent the building that is barely making enough revenue to meet expenses now. The \$11,000 could come from the "Streets- Contract Labor" budget category where you placed the budget surplus during budget preparation. The \$4,800 can come from within the established budget.

Item#11 Hills of Town Creek --Acceptance of Construction Drawings– A memo from the City Engineer is in your binder.

Item #12 Open Carry Policy - I think that you discussed the possibility of a workshop to discuss this subject. I took a poll of the city staff and they unanimously did not want the open carry allowed at city hall. Perhaps that poll removes the reason for the work session?
City Attorney Larry Foerster can draft a policy, depending on the law and your direction.

GENERAL REPORTS

Naming of street that accesses Football Stadium/Natatorium –This is a public street from SH105 into the property to just west of the lift station, approximately 1,200 feet. It does not have a name now and it needs one for 9-1-1 purposes and for general purposes of giving directions. Possible names I have heard are: Bear Street, Bear Tracks Street, Stadium Street, Athlete Street and School Street.

I have contacted MISD for their suggestion. This item will probably be on the next agenda.

2008 Development Agreement with Waterstone – Since the last Council meeting, there was a meeting with Mr. Bowen and his attorney. The result of that meeting was Mr. Bowen said that he would place the line in the next 90 days. We then discussed the city's intention to place the line after advertising the project in the second week of January. Mr. Bowen said, in response, that he could perhaps place the line less expensively than the city. So, it was discussed that Mr. Bowen would be sent the plans and have until January 6th at noon to say if he wanted to place the line or allow the city to complete the line that he would pay for. I have not heard back from Mr. Bowen.

So, the intent is to advertise for the placement of the line by the city. There is approximately \$30,000 in one escrow account and \$12,000 in the city held escrow account as partial payback for line placement costs that we will be attempting to access over the next several weeks.

Possible sale of city property at northwest corner of Anna Springs Street and Berkley Street – From the last Council meeting- Executive Session. I had been told that the city owned this property but, after the last Council meeting, but before speaking to the potential buyer I had someone check at the Appraisal District, and found out that the city did not own this property. I reported this information to the potential buyer who said that they will contact the actual owner. Sorry about not confirming the ownership before taking your time.

Sewer System Analysis and Sewer Master Plan – An Executive Summary of the Plan is in your binder.

NOTICE OF PUBLIC HEARING

A Public Hearing will be conducted by the governing body of the City of Montgomery at the City Hall, located at 101 Old Plantersville Rd., Montgomery, Texas at 6:00 p.m. on January 12, 2016 for the purpose of hearing comments regarding Initial Zoning Classification for newly annexed property located in the John H. Corner Survey, Abstract 8, Montgomery County, Texas. This property includes three (3) contiguous tracts of land of approximately 9.450 acres on the north side of State Highway 105 to Stewart Creek Road. The public is invited to attend. Please direct any questions to the City Secretary at (936) 597-6434, or at City Hall.

Posted this 10th day of December, 2015

Susan Hensley, City Secretary
City of Montgomery, Texas.

Conroe Courier Publication Dates: Friday, December 11th and Friday, December 18th

MINUTES OF REGULAR MEETING

December 8, 2015

MONTGOMERY CITY COUNCIL

CALL TO ORDER

Mayor Kirk Jones declared a quorum was present, and called the meeting to order at 6:01 p.m.

Present: Kirk Jones Mayor
 John Champagne City Council Position # 2
 T.J. Wilkerson City Council Position # 3
 Rebecca Huss City Council Position # 4
 Dave McCorquodale City Council Position # 5

Absent: Jon Bickford City Council Position # 1

Also Present: Jack Yates City Administrator
 Larry Foerster City Attorney

INVOCATION

John Champagne gave the invocation.

PLEDGE OF ALLEGIANCE TO FLAGS

VISITOR/CITIZENS FORUM:

Ike Fluellen, candidate for Constable in Precinct, introduced himself and announced that he was running for office.

Judge Mike Seiler, 435th District Court Judge for Montgomery County, introduced himself and announced that he was running for reelection.

CONSENT AGENDA:

1. Matters related to the approval of minutes for the Regular Meeting held on November 10, 2015.

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

CONSIDERATION AND POSSIBLE ACTION:

2. Recognition of Appreciation for service on the Planning and Zoning Commission to be presented to Sonya Clover and Harriette Cummings.

Mayor Jones presented a plaque of appreciation to Mrs. Sonya Clover in recognition of her years of dedicated service on the Planning and Zoning Commission. Mrs. Clover thanked the City and said that this was an enjoyable Committee to be on and they did some serious things. Mrs. Clover said that they feel like they did their best for the City and everybody involved. Mrs. Harriette Cummings was not present to receive her plaque.

3. Consideration and possible action on department reports.

A. Administrator's Report – Mr. Yates presented his report to City Council. Mr. Yates advised that Ms. Marjorie Cox, developer in town, brought in a service request and application along with the \$5,000 fee. Mr. Yates advised that Ms. Cox request came in after the agenda had been posted, so he advised City Council he would go ahead and deposit the check and instruct the engineer to perform the feasibility analysis.

B. Public Works Report – Mr. Yates advised that he would present this report because Mr. Mike Muckleroy, Public Works Foreman, was in the hospital. Mr. Yates advised that Mr. Muckleroy has been in the hospital since last week, but said that he was feeling better. Mr. Yates reviewed the activities that occurred during the month. Mr. Yates noted that the pump had been replaced at Lift Station No. 8 at Buffalo Springs. Mr. Yates also advised that Mr. Muckleroy had built a street sign and pole rack at the Public Works Shop.

John Champagne asked how things were going at Memory Park and Fernland Park. Mr. Yates advised that the lighting project at Fernland is expected to be finished this

Thursday. Mr. Yates said that Mr. Mike Newman has been inspecting the work on that project. Mr. Yates stated that all three Boy Scout projects have been completed and they all were very nice. Mr. Newman has recommended that at the next Council Meeting they introduce pictures of each of the projects and have City Council publicly thank the Boy Scouts for their work. Mayor Jones said that there was a lot of Boy Scouts that they need to thank so they will get them on the Agenda soon.

- C. Police Department Report – Lt. Belmares presented the report to City Council. Rebecca Huss stated that on Saturday night she had called dispatch and reported that the gates to the construction site, behind Brookshire Bros., was wide open and the lights were flashing. Rebecca Huss said that some convoluted message got passed through patrol that she had a dispute over property, like someone had stolen something from her, and she was wondering if she just happened to get the bad call or was there a problem. Lt. Belmares said that he thought it was probably a bad call because normally everything comes from the caller to the dispatcher to the officer. Lt. Belmares said that Saturday they will have a parade and so there will be multiple units on duty, along with reserve officers. Lt. Belmares reported that both he and Sergeant Lehn attended officer training for Officer Involved Shooting Course Investigations. Mayor Jones asked if the Police Department was fully staffed. Lt. Belmares advised they were fully staffed.

- D. Court Department Report – Rebecca Lehn, Court Administrator, presented her report to City Council. Ms. Lehn advised that they are \$200,000 higher than they have ever been in collections. Ms. Lehn stated that the January Report would show a full year calendar review of the past year. Ms. Lehn said that warrants were also up this month, which is unusual during the holidays. Ms. Lehn advised that the Court will have one clerk out on maternity leave beginning in January.

- E. Utility/Development Report – Due to the absence of Ashley Slaughter, Utility Billing Clerk Mr. Yates presented the report to City Council. Mr. Yates said that the billing was right on track for this month. Mr. Yates stated that the Community Building had only \$130 in rentals for the month. Mr. Yates advised that Mrs. Slaughter does an excellent job of keeping track of the utilities and inspections during the month.

Rebecca Huss asked about page 3, Buffalo Springs Sewer Plant that shows zero water consumption for November, and asked if that was because that figure had not come through yet. Mr. Yates said that he would check on that information. Mayor Jones asked if the numbers in the report were for thousands of gallons. Mr. Yates advised that was correct. Mayor Jones said that the information was requested by City Council at the last meeting so Mrs. Slaughter is on top of things. Rebecca Huss noted that the water usage at Fernland doubled from October to November. Mayor Jones said that might be due to the Texian Heritage Festival.

- F. Water Report – Mr. Mike Williams presented his report to City Council. Mr. Williams advised that they responded to 14 district alerts and Lift Station 8 was pulled and cleared six times. Mr. Williams noted that they have not had any calls at the plants in two weeks. The Buffalo Springs flow meter was calibrated and found to be inaccurate on the low end. The flow meter at Lift Station No. 2 was also calibrated to get a second account of flow in the system.

Mr. Williams advised that they had gone out for chemical bids and they went with AOS Treatment Solutions for a savings of \$2,154.71.

Mr. Williams advised that a contractor boring a cable line down SH105 hit the force main leaving Lift Station No. 5. Repairs were made the same day, the area was cleaned, disinfected and reported to TCEQ for an unauthorized discharge. Rebecca Huss asked if the contractor was paying for the repairs. Mr. Williams said that he was not sure. Rebecca Huss asked whether it was an expensive cost. Mr. Williams advised that he would check on the cost. Mayor Jones said that they need to make sure that the right party pays for the costs. Mr. Williams reported that 88% percent of the water pumped had come out of the Catahoula Well.

Rebecca Huss asked about the accountability, stating that in the last few months the accountability has fallen and asked if that was because they are doing a better job of measuring. Mr. Williams advised that was correct, because now they are comparing apples to apples, which is allowing for a more accurate count of water. Mr. Williams

said that when they get the new meters and they can be read all in one day that will give a better account of the water. Mr. Williams stated that 95% percent is the best range for accountability. Mr. Williams stated that his company also offers online payments.

Mayor Jones asked what the schedule was for installation of the new meters. Mr. Yates advised that it looked like they will be in mid-January 2016. Rebecca Huss asked if they were going to be pro-active about people that want to get landscape meters or is there really no difference in price to have that done later. Mr. Yates said that there would be no difference in the cost. Mr. Yates said that if someone wants to get a landscape meter they should not be passed up.

John Champagne asked how many data points they have for the year on the return rate. Mr. Williams advised that data was on page 14 of the report.

- G. Engineer's Report – Mr. Glynn Fleming, Associate Engineer, presented the report to City Council and detailed some of their ongoing projects. John Champagne asked about the total expenditure for both Capital Projects 1 and 2 being recommended. Mr. Fleming advised that it was \$200,000 - \$235,000.

Mr. Fleming advised that the Sanitary Sewer System Analysis and Master Plan was expected to be delivered to City Council in January. The Texas Capital Fund Grant (Kroger) kickoff meeting was held this afternoon and they expect to comment with the site survey work within the next week.

The Pizza Shack kickoff meeting was held and they have wrapped up their initial site survey, and they are underway with the preliminary drafting. Mr. Fleming advised that he had included an extensive time line for Council to review. Mr. Fleming said that they anticipate construction sometime in the spring.

Rebecca Huss asked if the Kroger project was making any effort to save the old trees. Mr. Fleming advised that with the magnitude of dirt work that would be done at that site, most of the trees would be removed.

Mayor Jones asked whether Pizza Shack would start any sooner than spring on their dirt moving. Mr. Fleming said that he would assume that they would, but he has not heard what their final timeline is. Mr. Fleming said that he has reviewed their final plat and plan submission, but did not know when their construction would begin.

Mr. Fleming stated that the Hills of Town Creek is moving forward and the final review of the construction drawings has been completed for submission to Planning and Zoning Commission. Mr. Fleming also advised that Kroger's rough grading was completed, the civil site drawings are being reviewed and will be returned within the next month and Pizza Shack has submitted their revised drawings.

Mayor Jones asked if there were any plans within the 67-acre development to connect SH105 to Lone Star Parkway through that development. Mr. Fleming said that there were no plans to do that at this time. Mr. Fleming said that he would take that information under advisement to consider as they move forward. Mr. Fleming said that the developer has indicated that they will probably come before the Planning and Zoning Commission at the end of the month to make an introduction and review preliminary land plans for comment.

John Champagne said that he remembered discussion in the past regarding variances and possibly changing the ordinance, and asked if the ordinance had been changed regarding lot sizes. Mr. Fleming advised that it had not changed. Dave McCorquodale commented that in the past City Council had discussed changing the way they classify zones where they would not allow multi-family in the R-1 Single Family zone. Dave McCorquodale asked if they would have to come before Council for a zoning classification change for multi-family use. Mr. Fleming advised that they had discussed that information during their meeting and they were advised that they would have to request a zoning classification change from City Council for multifamily use.

Rebecca Huss asked if they would be like the townhomes by the library, where there are two land pieces that were given a variance and they are smashed together with a common wall. Mr. Fleming said that their initial thinking is a free standing structure with a single unit townhome, but those are some of the things that they will discuss when they present their land plan to the Planning and Zoning Commission prior to coming to City Council.

Mr. Fleming stated that as directed by City Council last month, they had retained the services of a structural engineer and a general contractor to address the Town Creek bridge emergency repairs. The repairs have been completed and the bridge is stable and structurally sound.

Mayor Jones asked Mr. Fleming to speak to City Council regarding the fact that they had found that the paving of the bridge had not been done according to the engineered drawings. Mr. Fleming advised that when they first noticed the problem with the bridge, they went back to the existing City archives that he has been compiling over the last year, where he was able to find some engineered drawings for the sloping that had washed out. They did not have drawings for the bridge, but they have since been able to come by with those. Mr. Fleming said that the engineered drawings for the slope paving on the surface looks just fine, however after having been on site, as they were taking out the slope for repairs, and it was nowhere close to what was in the engineered drawings, and probably went a long way in precipitating that failure.

Rebecca Huss said that Mr. Muekleroy had advised her about the missing part of the toe wall, which would not be something that they would have been able to see when the City accepted the bridge, so she does not accept the fact that it is too late to do something about the bridge failure. Rebecca Huss said that the bridge was supposed to have been built as per the engineered drawings, she felt that the responsibility for that should be whoever was supervising and representing that the bridge was built as drawn. Rebecca Huss said that it should not be the City's responsibility just because the City owns the bridge. Rebecca Huss stated that they presented the drawings saying that was how the bridge was built and the City accepted the bridge because it looked

good on the top and the drawings were correct. Mr. Fleming stated that was a valid point, but he could not speak regarding the level of City oversight or the amount of inspections that occurred at that time. Mayor Jones asked Mr. Fleming how they would inspect a bridge or buried sewer line. Mr. Fleming said that they would conduct inspections as construction is underway, including excavation, form work and steel placement. Mr. Fleming said that there was a minimal amount of reinforcement steel on the bridge, not what was specified in the drawings. John Champagne asked who the engineering firm of record for the bridge was. Mr. Fleming advised that it was DPK Engineering, Inc. Mr. Fleming stated that the inspections would have been done by City staff or the former City Engineer. Mr. Shackelford said that currently the City requires that the City Engineer is out there during the installation of water and sewer lines and paving at the developer's expense. Mr. Fleming noted that this is required by the City's Code of Ordinances, and with the current projects that are ongoing they have a field inspector that makes daily site visits.

John Champagne asked who the developer for Town Creek Bridge was. Mr. Fleming advised that it was also Waterstone.

Rebecca Huss said that she felt they could make a legitimate case for the bridge, because the bridge was not as they had represented it would be in the technical drawings. Rebecca Huss said if they are presenting the technical drawings as facts, and it turns out that those are not the facts, then she feels that the liability lies somewhere in the drawings.

Mayor Jones asked the City Attorney for his opinion regarding the bridge. Mr. Foerster stated that he was inclined to agree with Rebecca Huss. Mr. Foerster said that they just need more information to find out exactly who did the inspections, if there was an inspection done. Mr. Foerster stated that he felt that whoever did the inspection would be responsible to the City for representations that the inspector, or the company the inspector works for, that the bridge was satisfactory and built in accordance with the engineering design.

John Champagne asked if the bridge information was available. Mr. Fleming stated that he has signed and sealed engineering drawings, no record of field inspections, and no record so far of the City's acceptance of the bridge. Mr. Shackelford said that they are also missing the letter of representation from the developer that states everything was built according to plans, but they are continuing to look for that information. Mayor Jones said that the City might have accepted the bridge when they accepted the road.

Mr. Fleming said that the Annual Water Well Performance Reports were received and are enclosed for City Council's review. Mr. Fleming advised that there were no real items to note or any recommended actions that need to be taken at this time.

Mr. Fleming advised that West Side at the Park, located by Cedar Brake Park, has indicated that they are ready for their final walk through, which he will do tomorrow afternoon.

Financial Report – In the absence of Mrs. Cathy Branco, Mr. Yates presented the report to Council, advising that the report covered the previous month. The Utility Fund is at \$19,000. Mr. Yates stated that the City has \$2,048,017 in various funds in the bank. Mayor Jones said that the department heads that had projects in mind for the new fiscal year, have already begun their projects. Mayor Jones also noted that the sales tax for that month might be alarmingly high, because sometimes the City gets taxes that do not belong to the City and it has to be returned.

John Champagne asked about the cost for providing water to the parks within the City, and whether any advancement has been made. Mr. Yates advised that he has advised Memory Park not to use metered water to fill the pond, instead they are to use drainage water or get permission from the City to fill the pond. John Champagne said that he was talking about all their water for the park, including irrigation. Rebecca Huss said that in Mrs. Slaughter's report on page 3, it shows the gallons used for the Parks. John Champagne said that he wanted the cost for the water to show up on the profit and loss statement, because it is not being reflected in the maintenance cost for the Parks. John

Champagne said that the water is a cost to the City that needs to be accounted for. John Champagne said that it is very misleading to show that Memory Park has an annual budget of \$2,000 and not show the cost of the water being provided. John Champagne said that there needs to be more clarity in the costs for the Parks. Mayor Jones said that in order for it to show up on the financials, there would have to be a check written to pay for the cost. John Champagne said that would be fine with him. John Champagne said that the Parks are a department maintained and funded by the City, and for anyone to look at the costs, it is a misleading representation of the cost to maintain the Parks. John Champagne said that he would ask that they attempt to put something in place that would be more indicative of the water costs for the Parks.

Rebecca Huss moved to approve the Department Reports as presented. T.J. Wilkerson seconded the motion, the motion carried unanimously. (4-0)

4. Consideration and possible action regarding Cedar Crest Manufactured Home Park License Renewal – Marcy Bennett/Pat McCarty.

Mr. Yates advised that he had conducted an inspection today of the property. Mr. Yates said that there is one speed bump on the north side, and they had done substantial repairs made in September and October, which helped several of the potholes. Mr. Yates said that if it was considered, it would be one of the worst streets in town. Mr. Yates advised that the following items were also noted on his inspection:

- Lots 18 and 28 had loose skirting panels for a combined length of two feet;
- Lots 29 and 11 could stand to be power washed, otherwise the other homes were in fairly good condition;
- Lots 29 and 7 have trash in the front yard;
- Lot 14 has clutter on the front porch; and
- Lot 10 has building materials in the front.

Mr. Yates advised that none of these items would be a litter nuisance if they were at a single-family home in the City. Mr. Yates said that his overall opinion was that it is a clean mobile home park with few police or welfare incidents, but that the roads do need to be repaired. Mayor Jones asked Mr. Yates if he was recommending approval of the

permit. Mr. Yates said that he was recommending approval of the permit, and said that he had communicated the items that needed attention to Ms. Bennett.

Ms. Bennett said that she went through the Park and made notes of just about everything that Mr. Yates commented on. Ms. Bennett said that she has started eviction proceedings on Lot 29. Ms. Bennett said that the road was in such bad condition because the man in Lot 25 was driving his tractor trailer rig and parking it to eat lunch, which destroyed the road. Ms. Bennett said that she has spent \$10,000 on the road, and still has a little more to complete. Ms. Bennett advised this that man in Lot 25 has been sent a letter to cease and desist. Ms. Bennett said that she will continue to get everything completed.

John Champagne asked if they had an HOA or a restriction document. Ms. Bennett said that she has a lease with the requirements that each tenant is required to sign. John Champagne asked what Mr. Yates's inspection was based on. Dave McCorquodale said he would imagine that it would deal with health, safety and welfare. Ms. Bennett said that her intention is to keep the road drivable.

Mr. Yates said that his recommendation would to not make the approval conditional on getting the items listed corrected because they are very minor.

John Champagne moved to approve the renewal of the annual license renewal regarding Cedar Crest Manufactured Home Park as recommended by the City Administrator. Dave McCorquodale seconded the motion, the motion carried unanimously. (4-0)

5. Report regarding new Firearms Rules by the City Attorney, Larry Foerster.

Mr. Foerster briefed City Council on the new open carry policy that will go into effect January 1, 2016, which allows someone with a concealed handgun license ("CHL") to display their weapon in a hip or shoulder holster. Mr. Foerster said that there has been a lot of concern and confusion on this law and the purpose of his report and outline addresses some of those issue.

Mr. Foerster said that the two new laws of note are the Open Carry Law – House Bill 910, which allows a licensed holder to have on his hip or shoulder holster a weapon that is openly displayed. They cannot have the weapon in their hand or display the weapon in such a way that it could be considered threatening. Mr. Foerster said that City employees or other persons, such as employees in stores are not allowed to ask that person if they have a CHL, but a police officer could ask.

Mr. Foerster said that there were also provisions in Senate Bill 713 that prohibits posting a Penal Code 30.06 notice sign in the wrong place. Mr. Foerster stated that it is not illegal for a CHL holder to have a firearm at a public park, which was effective September 1, 2015, so posting a notice not allowing the firearm in the park is illegal.

Mr. Foerster said that CHL are valid except for certain exceptions, such as, polling places on Election Day, court rooms and court offices, even after hours, such as when public meetings are held, including City Hall if that is where you hold court.

Mr. Foerster advised that they are waiting for a ruling from the Texas Attorney General regarding clarification regarding municipal offices under the same roof as a municipal court, and whether the policy of excluding firearms in the municipal court apply to the entire building or only to the portion that is used for municipal court. Mayor Jones said that if someone came in to pay their water bill and they are carrying they could be breaking the law. Mr. Foerster said that could be challenged, because some of his cities have a totally separate office for their court, so they could have a properly posted sign there at that location. Mr. Foerster stated that Montgomery City Hall has City offices to the right and Municipal Court offices to the left. Mr. Foerster said that was a close call, but he was inclined to think that a sign at the front door of the building would be okay. CHL holders are not prohibited from carrying in any City building.

Mr. Foerster said that the law allows City Council, by ordinance, to prohibit firearms during City Council Meetings. Mr. Foerster said that he has also prepared ordinances for two of his cities, with the finding that the City Hall and court officers are all under one roof. A non-firearm policy is still valid for someone without a CHL.

Mr. Foerster said that one thing that comes up is that a City can forbid employees from carrying a firearm open or closed in a City building, if it passes a City ordinance to do

so. Mr. Foerster said that he has drafted an ordinance for one city that chooses to prohibit their employees from carrying firearms, and then he has another city that is debating whether or not they should do that.

Mr. Foerster said that many City Secretary's carry their own weapons along with City Clerks. They have a CHL and prefer to have their weapons with them at City Hall. Mr. Foerster said that there are other City Secretary's that are uncomfortable carrying a weapon. Mr. Foerster said that nobody receives a CHL unless they are fully qualified.

Mr. Foerster said that would be a determination that this City Council would have to make as to whether or not they will allow City employees to have firearms on their person, either in the City Hall building or a City vehicle or not at all. Rebecca Huss asked to clarify that whatever they have to do, they have to do the same for both open carry and concealed weapons. Mr. Foerster said that he believed that they could make the distinction and prohibit a firearm either open or concealed or you could allow one or the other. Mr. Foerster said that the problem that some cities are concerned with is if the City Hall does not have municipal court proceedings or a court office in it, then anybody can walk in with a shotgun or rifle, or if they are a CHL holder a firearm open carry or otherwise, and come in and conduct business.

Mr. Foerster advised that is a no immunity waiver for an intentional tort of a City employee if a City employee has a gun and shoots somebody there is no immunity from that employee doing something on City time and shooting somebody. For instance, they get into a squabble and lose control and shoot someone, and the City has no policy prohibiting the employee from having a weapon, then arguably the City would have some immunity. Mayor Jones asked if that same immunity would follow suit if they used a baseball bat. Mr. Foerster said that it would depend on the circumstances. Mr. Foerster said that if the City had a policy that allowed someone to have a weapon and that person uses it irresponsibly, including driving a vehicle, and intentionally hurts someone, there could be some liability on the part of the City.

Mr. Foerster said that typically a CHL holder can carry a weapon in an ambulance and police stations, except in secured areas where the public is not allowed without permission. Mr. Foerster said that it was his opinion that if the City had a sign on a

door that said “public not permitted beyond this point”, they might have a CHL and be able to walk up to the door, but they are not permitted past that point, without an employee letting them in.

Mr. Foerster advised that he had presented the information so that City Council could discuss and ponder the details, and if they would like, at the January City Council Meeting they can present an ordinance for them predicated by whatever their feelings were regarding City employees having weapons. Rebecca Huss said that she felt this information needed to go through a Workshop Meeting.

Mayor Jones said that as of January 1, 2016, you can conceal or open carry in this building at any place and any time except during Court or where Court is being held. Mr. Foerster said that they did not need to post notice for the Court room because it was a matter of law, but he felt that the notice should be posted anyway. Mayor Jones said that without a policy, anyone with a CHL can go anywhere in this building. Mr. Foerster said that has been the law since 2003, but the open carry goes into effect on January 1, 2016. Rebecca Huss said that she would like to have a separate discussion of this matter.

Mr. Foerster advised that one of his cities is going to their staff and discussing it with them to find out how they feel about the matter and get some feedback from them. Mayor Jones said that it affects them more than anybody. John Champagne said that the community in his mind was more prevalent in terms of consideration than City employees, and to him they are part of the community. John Champagne said that he thought what was being said was during the regular work day, they might want to consider talking to the employees as to whether they would be more comfortable with or without a weapon, and would that not apply to the community as well. Mr. Foerster said that if the community wants to walk into the building with a concealed weapon, they have the right to do that. John Champagne asked what the difference was between a City employee and a person that works in the City that is not a City employee, because the only difference is one works for a municipality. Mr. Foerster said that the employer is allowed to direct their employees not to carry weapons at work. John Champagne said that the CHL holder can make the decision to stay or go. Mr. Foerster said that if he wanted to walk down the street with a long gun he has the right as a citizen to do

that even without a CHL. Mr. Foerster said that a Workshop Meeting would be a good idea.

Rebecca Huss said that there are four or five different issues that could be discussed during a Workshop and it needs to be done as a group. Rebecca Huss said that she thought that input should be obtained from staff.

John Champagne said that he could remember a time 40-50 years ago what is common place now in terms of cosmetic tattoos and piercings on people's bodies would have been startling, but it is not anymore. John Champagne said that he contends when responsible people that are licensed to carry guns exposed it will become more routine. John Champagne said yes it will make some people uncomfortable, but if something happened you would pray that somebody with an exposed gun was somewhere around to protect you. Rebecca Huss asked if it would be like the people chasing after a shoplifter and some lady unloaded on the shoplifter and had bullets ricocheting all over the parking lot. John Champagne said sure, and it is called liberty in the Second Amendment. Mr. Foerster said that he asked the City of Conroe what their policy is with respect to City employees, and they do not allow their employees to have weapons on their person while they are working. Mr. Foerster said that other cities don't seem to have a problem with it, so he felt that is just depended on the employees, City Council and the community.

Mayor Jones announced that no action would be taken at this time and maybe after the holidays they could rethink the matter to see if there is anything that they need to do.

6. Consideration and possible action regarding the 2008 Development Agreement with Waterstone Development.

Mr. Foerster advised that he had received a call from Mr. Steve Weisinger, Attorney for Steve Bowen, and they have agreed to request that City Council table this action so that they have a chance to review the Agreement. Mr. Foerster said that in the meantime Mr. Weisinger had assured him that Mr. Bowen wants to move forward with the line extension, which is another item on the agenda tonight that Mr. Bowen has committed to finance. Mr. Foerster said that there are other details that neither he nor Mr. Yates or maybe the engineers are privy to concerning the long term of this

Agreement that goes back to 2008. Mr. Foerster said that he had conferred with Mr. Yates and he agreed that they could table any action on this item, which they might bring back at the January Meeting. Mayor Jones asked Mr. Foerster to tell Mr. Weisinger to advise Mr. Bowen, which he thought somebody already has, that they need to get on with this action that has been dragging out way too long. Mr. Foerster said that he understands that. Mr. Foerster said that his suggestion is to table the action.

Dave McCorquodale moved to table the item. John Champagne seconded the motion, the motion carried unanimously. (4-0)

Rebecca Huss said to advise Mr. Bowen that this has dragged on way too long, and the longer it takes the less likely she will be inclined to entertain his other ideas. Rebecca Huss said that she would never entertain the idea of a MUD either. John Champagne said that he would agree with that. Mayor Jones said that was well said by Rebecca Huss.

7. Consideration and possible action regarding authorization for construction of Capital Projects 1 and 2 of the Water System Analysis.

Mr. Fleming made the presentation to City Council. Capital Project 1 involves work at Water Plant No. 2 and Capital Project 2 is completion of the waterline that they were just discussing in the previous item. Mr. Fleming said that they would be coming back before City Council in the coming months for authorization to approve contracts. Mayor Jones stated that this item was what they had thought was kind of an emergency item. Mr. Fleming advised that the timing being what it is regarding Capital Project 1, it is a very necessary high priority item. Mr. Fleming advised that there was a minimum of 60-90 days of engineering design work before they are ready to move forward with bidding and construction.

John Champagne moved to proceed with approving the funds for construction of Capital Project No. 1 - Water Plant No. 2 backfill connection, and construction of Capital Project No. 2 - Buffalo Springs waterline bridge crossing. Dave McCorquodale seconded the motion.

Discussion: Mr. Williams stated that he would like to go into further detail with the City Engineer over some operational issues regarding the GST backfill line, if City Council will allow it. Mr. Shackelford stated that could be accomplished within the design time frame. Rebecca Huss stated that would make sense to do that.

Rebecca Huss stated when they ordered the pump for Lift Station 8 it had a six week plus lead time. Rebecca Huss asked whether some of the controls and equipment that they know specifically will have a long lead time and they know they will have to order, should they be moving some of those items ahead and ordering them ourselves instead of having it be part of the RFQ and having to wait for delivery. Mr. Fleming stated that they are prepared to do that regarding Water Plant No. 2, which is 40-50% percent modifications of electrical controls and additional controls. Mr. Fleming said that as soon as those items become available during the engineering design process they will do so.

Rebecca Huss stated that she did not see any building included in the pricing and asked whether that would be happening. Mr. Fleming said that it could certainly happen, but was not included in the scope of the project or the budget allotted to this project. Mr. Fleming advised that they had a member of their electrical team come up and look at the existing structure there, and that was one of the questions that he posed to him. Rebecca Huss asked whether it was worth doing repairs to the structure, because it was her understanding that the structure was not compliant as far as hurricane preparedness. Mr. Fleming stated that the building itself is not in the greatest of shape and is certainly something that they could look at including in this project. Rebecca Huss said that she was wondering if they were wasting money having an electrician come in and install everything, then in two years they need to have a new building. Then they would have to pay someone else to come and move everything that they just had installed. Mr. Fleming said that as he had already stated, he had that conversation with his design team and if she would like him to do so, he would be glad to go back and relay that concern to his design team. Rebecca Huss said that she did not know how much a cinder block building costs, but she could imagine that the cost of the building now, versus in two or five years plus moving all the controls would cost more. Mr. Fleming said that structure was not an insignificant expenditure by any means. Mr. Fleming

said that he would be happy to put together some numbers on what it would take to do so and they could discuss the information. Mayor Jones asked Mr. Fleming to prepare that information, and then they could always add that on to the information if they needed to.

Mr. Shackelford said that if City Council would allow them to, he would suggest having an alternate bid to add the building. Mr. Shackelford advised that then they could get the prices in and City Council could decide if they were ready to move forward with that expenditure. Rebecca Huss said that they could also prepare what the wide range cost would be to move the equipment from one building to another so that they can access the cost of the building versus the cost of moving it later. Mr. Shackelford said that could get pretty pricy, because essentially you are rewiring. Rebecca Huss said that it was not wrong to be concerned about the building. Mr. Fleming agreed. Mayor Jones asked if they could reinforce the existing building to make Council feel more comfortable. Mr. Fleming stated that they could make some improvements to the existing building. Rebecca Huss said that Mr. Muckleroy stated that there is not enough room in the building to hang a calendar.

T.J. Wilkerson asked if they could build around the existing building. Mr. Shackelford said that they could probably build around it and dismantle from the inside, but the tricky part would be how attach onto the existing slab so that if something were to shift later on, such as foundation problems. Mr. Shackelford said that in some cases they have used pre-fab buildings that are delivered to the site and set in place.

Rebecca Huss said that she would be comfortable at least having an idea of what the extra cost would be even if it is not necessary now. Rebecca Huss stated that it is one of those maintenance issues, which if they know is coming, you would be throwing good money away knowing that you will have to spend more to move everything three or four years from now. Mayor Jones asked to confirm that these two projects are about to deplete whatever is left in the Capital Water Projects Fund and there won't be much left. Mr. Yates stated that this project is actually \$16,000 more than what is left in the bond fund.

John Champagne apologized for being absent and asked how the building relates to these two proposals. Mr. Fleming advised that the majority of the work at Water Plant No. 2 is electrical modifications, modifications of existing controls and additional controls, which are housed in that building. John Champagne said that obviously Mr. Fleming did not think it was a priority to include the building in the proposal. Mr. Fleming said that he just did not ask them to include it in that number. Mr. Fleming said that the original inspection that they completed a year ago, rehabilitation or possible replacement of that building was included in that inspection assessment. Rebecca Huss said that it might warrant a field trip to see what the building looks like in person. Mr. Fleming said that it was not in the best shape. Mr. Fleming said that as they begin the design phase within the next month, before the next Council Meeting, he will look into some numbers about what they can do out there as far as modification or replacement of the building. Mr. Fleming said that if City Council so desires, they could prepare an alternate bid item. John Champagne asked if that would supersede these two items. Mr. Fleming advised it would not. Mr. Shackelford stated that it would be included in Capital Project No. 1 as an addition. John Champagne said he understood, but asked whether it was included now. Mr. Fleming advised it was not.

Mayor Jones stated to clarify, the first project, Capital Project No. 1 will somewhat remedy the lack of volume and pressure from the west side of town. Mr. Fleming said that it will somewhat remedy the pressure. Mayor Jones said that they still have a project that will replace an 8 inch bottleneck with a 12 inch waterline. Mr. Fleming said that the waterlines in the downtown area serve as limiting factor to service on the west side of town. Mayor Jones said whether that might be tied into the TxDOT project. Mr. Fleming said that it would not necessarily be tied into the TxDOT project from a fund standpoint, but it is affected by the timing of that waterline construction or utility relocation will coincide with the TxDOT project.

Mr. Fleming stated that Capital Project No. 1 does a couple of things for the City, it will allow them to alleviate some of the concerns on the west side and provide better service from a pressure standpoint on the west side. Mr. Fleming said that it will also allow them to use Well No. 4, the Catahoula Aquifer, to supply water to Water Plant No. 2. Well No. 2, which is the existing well there, will remain on line and while still

in service, will have a significantly reduced capacity. John Champagne said that they had actually thought through this project, which is why they pay them. Mr. Fleming advised that they had modeled the project extensively. John Champagne asked if Mr. Fleming had spoken to Mr. Yates about the project. Mr. Fleming advised that he had, and in fact had a lengthy conversation this afternoon, along with the Utility Foreman and Operator. John Champagne said that he had no doubt.

Mayor Jones said that he was under the impression that the remedy for this building could be done for \$15,000 and asked whether something had changed. Mr. Fleming said that there was some minor piping modifications to be made. Mr. Fleming said that the electrical controls to be put in place are more involved. Mr. Shackleford said the reason for the electrical controls is so the backfilling could occur automatically. Mr. Shackleford said that if they do not use the electrical controls that will mean that Gulf Utilities or staff will have to go out there every night to turn a valve to allow the backfill and then in the morning they will have to go back and close that valve to keep it from backfilling and reducing pressure in the system during the day. Mayor Jones said that sounds cheaper. Mr. Shackleford said it would not be cheaper regarding manpower. Mr. Shackleford said that by doing the process manually, you could end up overfilling the tank and wasting water during the evening, which is the advantage of the electrical controls. Mr. Fleming said that it also alleviates some of the topographically induced pressure issues between the two facilities, because one is significantly a higher elevation than the other and prevents the water from sort of endlessly cycling through the system. Mr. Fleming said that it actually presses it out from the Water Plant to the west side of town.

John Champagne asked Mayor Jones to take a vote on the motion that he had made.

Rebecca Huss asked whether they needed to add additional work to get the bulkhead and all of that fixed at the same time, or would those be separate projects. Mr. Fleming stated that would be separate.

The motion carried unanimously. (4-0)

8. Consideration and possible action regarding exemption from bidding of Capital Projects 1 and 2 of the Water System Analysis Report.

Mr. Yates advised that both he and the City Engineer are recommending that they do not waive the bidding process for both of these projects because there is enough time and interest in both projects for the process. John Champagne asked if Mr. Yates felt that the City Engineering firm had enough experience to know whether or not this would be a competitive bid. Mr. Yates said that he did. Mr. Champagne said he did too.

After discussion, no action taken on this item.

9. Consideration and possible action regarding calling a public hearing regarding establishing a zoning district to newly annexed area between Lone Star Parkway and Stewart Creek Road along State Highway 105.

Mr. Yates advised that our Code does not provide zoning for newly annexed property, that action has to be performed separately. Mr. Yates said that they have gone back to previous annexations and it is called an Initial Zoning Ordinance. Mr. Yates stated that the Planning and Zoning Commission has reviewed the information and is recommending a B-Commercial zone for the property. Mr. Yates said that tonight City Council is scheduling the public hearing for the initial zoning.

Dave McCorquodale moved to schedule the public hearing for the initial zoning classification for the newly annexed property on the east side town to be held on first meeting in January, which would be on January 12, 2016 at 6 p.m. Rebecca Huss seconded the motion, the motion carried unanimously. (4-0)

10. Report regarding pro-rata payment for City utility line extensions.

Mr. Ed Shackleford advised that during a recent Workshop Meeting City Council had discussed pro-rata reimbursement or payment to the City for people to buy into utilities that have been extended. Mr. Shackleford said that City Council had asked Mr. Foerster to make some adjustments, which he has done along with some recommendations. Mr. Shackleford said that there was also some conversation about how this could be structured.

Mr. Shackleford presented three different Exhibits to City Council. The first Exhibit was a hypothetical concept map showing hypothetical development along Lone Star

Parkway, where a developer has put in utilities along Lone Star Parkway, and spent \$1million dollars on waterlines and \$1.5 million dollars on a gravity sanitary sewer line. Mr. Shackleford discussed different reimbursement schedules as new people bought into the project to tie into the utilities that have been installed by the developer.

Mr. Shackleford said the draft ordinance puts a ten year limit on the reimbursement schedule. Mr. Shackleford said that at no time would the developer make more money than he paid. Mr. Shackleford said that City Council could set up the pro-rata reimbursement schedule however they wanted to, for example, if within the first three years five more people tied into the utilities, they could run an analysis and pay the first installment for reimbursement. Mr. Shackleford said that they could also get down to ten years, with no additional people tying into the system, which would just be the risk that the developer would have taken. Mr. Shackleford said that he did not see the City being the developer or paying to install utilities to this order of magnitude.

Dave McCorquodale said that they were talking about developments like Kroger, where they would pay the pro-rata cost to the developer. Mr. Shackleford said that the City could be the intermediary to insure that the funds are being moved in a timely manner. Mayor Jones asked where the funds would come from. Mr. Shackleford advised that the funds would come from the developer, who goes out and borrows the money and takes the risk. Mayor Jones stated that he was talking about the people paying it back. Mr. Shackleford said that the people buying to tie into the system know their costs up front. Mayor Jones said that as a developer he could come here with a pro-rata share or go down the road and have no pro-rata share. Mr. Shackleford said that no matter where the developer would go he would have to pay something no matter where they go to tie into the utilities going out to an undeveloped territory.

Rebecca Huss said that what had predicated this was the idea that the City should not be using governmental funds to enrich private property owners, i.e. Pizza Shack extension that goes by land that is not currently developed. So if the developer to that undeveloped land ties into the system with just a tap fee, they have essentially made hundreds of thousands of dollars from their property just being located where it is. Rebecca Huss said that public funds are essentially adding that value to that undeveloped property. Mr. Shackleford said that what they have not figured out,

because similar questions have been asked, and in the case of Pizza Shack or Kroger/Milestone utility extensions, where both are being done with Texas Capital Grant Funds. Mr. Shackleford said that in the case of Pizza Shack they have not quite figured out how to charge a pro-rata share and where would that money go back to. Mr. Shackleford said that as long as the Pizza Shack project meets the qualifiers of the grant application there is nothing to pay back. Mayor Jones said that there will be because the Montgomery EDC will be paying toward the project. Rebecca Huss said they could end up paying the entire amount back to the State, because they refused to indemnify so the City is on the hook if they do not have the job creation that they promised and all the risk is the City's. Mayor Jones said that the City accepted the risk for the Pizza Shack project. Mr. Foerster said that he could not speak to the Pizza Shack project, but the Milestone Agreement they have an obligation to provide certain employment and certain goals have to be reached, but they are the obligation of Milestone not Kroger. Rebecca Huss said that Pizza Shack was not going to sign the agreement, so the City agreed to take the risk.

Mr. Foerster commented on the section of the Code of Ordinances, that he worked on revising that deals with the calculation of the pro-rata costs per connection, and he found the existing language very cumbersome and convoluted. Mr. Foerster said that they would have to check with Public Management to see what the rules were regarding the grant funds. Rebecca Huss said that she viewed Milestone to be different than the Pizza Shack project, because the City did not take the burden of the \$750,000.

After discussion, Mr. Foerster said that there should be an easier way of deciding the pro-rata funds versus what is in the Code, and people want to be able to understand what they are reading. Mr. Shackleford said that the calculations are based on equivalent to single-family connections, and there is an easy way to calculate it based on the type of use. Mayor Jones said if they are just trying to get reimbursed for a certain amount of linear feet for water and sewer line it would not matter what is attached to the lines, so the formula should be associated with linear feet. Mr. Shackleford said that he would respectfully request differently and the reason is a 4 acre tract could have a hundred hotel rooms, a McDonald's restaurant or office space, and those properties would all use different volumes and it is not a volume per linear

feet. Mayor Jones said that would be a usage of the product and not linear feet. Mr. Shackleford said that was correct because the usage is going to dictate the size.

Rebecca Huss asked if she lived on 20 acres and she got 1/3 of the frontage and she had her house, if there is City water would she have to pay a third of the cost of that extension. Mr. Shackleford stated that it would be more based on usage. Mayor Jones said that they have the Apache project that dead ended, so whoever ties onto that line could reimburse the City for the line upsizing charges that were paid, plus the extension.

Mr. Shackleford said that if City Council is comfortable with the concept, basing the pro-rata cost on usage they can work toward modifying the ordinance and bring it back to City Council. Mayor Jones asked if this would simplify what is there today. Mr. Shackleford said that it would.

Mr. Foerster said that they just wanted to get a sense of what City Council wanted, and if they liked what was presented they would prepare the ordinance. City Council concurred that they liked the concept and to move forward.

11. Consideration and possible action regarding increasing the number of members on Planning Commission.

Mayor Jones said that he had requested that this item be placed on the agenda for discussion, because they had started with seven members and then switched to five members.

John Champagne asked what the motive for considering this action was. Mayor Jones said that he was in favor of seven members on the Planning and Zoning Commission because he felt it would be easier to get a quorum for the meetings.

John Champagne said that he felt it would be counter intuitive and harder to get a consensus of the Commission with seven members versus five members. Dave McCorquodale said that he had served on the Commission when it had seven member and also with five members, and it seemed to be more difficult getting points across with seven members. Dave McCorquodale said that it seemed to go very well when they went to five members. John Champagne asked to imagine how it would be with

seven members on City Council. Rebecca Huss asked if there was any specific problem with five members at this time.

Nelson Cox, Chairman of the Planning and Zoning Commission, said that there had been no problem with the five members serving on the Commission. Rebecca Huss said that she felt that they should leave the Commission as it is, unless there is a specific problem. John Champagne said that he understood the motivation, and he hoped that they get more committed servant minded people to serve. John Champagne said that it was more the commitment than the number of people.

After discussion, there was no action taken on this item.

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.

12. Convene into Closed Executive Session pursuant to the Texas Open Meetings Act at Section 551.071 of the Texas Government Code to meet with the City Attorney to receive legal advice about pending or contemplated litigation.
13. Convene into Closed Executive Session pursuant to the Texas Open Meetings Act at Section 551.072 of the Texas Government Code to meet with the City Attorney to receive legal advice about real property.
14. Convene into Closed Executive Session pursuant to the Texas Open Meetings Act at Section 551.087 to meet with the City Attorney regarding Economic Development Negotiations.

Mayor Jones moved to convene into Closed Executive Session at 8:07 p.m.

15. Reconvene into Open Session and take possible action resulting from deliberations made during Closed Executive Session.

Mayor Jones reconvened into Open Session at 9:23 p.m.

No action was taken resulting from deliberations made during Closed Executive Session.

COUNCIL INQUIRY:

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

No comments were made.

ADJOURNMENT

Rebecca Huss moved to adjourn the meeting at 9:25 p.m. Dave McCorquodale seconded the motion, the motion carried unanimously. (3-0)

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

Mayor Kirk Jones

PROCLAMATION

To recognize the Boy Scouts of America and Montgomery Troop 491 for the public service the organization performs for communities across the United States and the City of Montgomery.:

WHEREAS, the Boy Scouts of America is one of the leading volunteer youth movements in the United States, serving more than 4,700,000 young people with the support of 1,200,000 volunteer adult leaders;

WHEREAS, the Boy Scouts of America was incorporated on February 8, 1910, and recognized by Federal charter on June 15, 1916, to provide an educational program for youth to build character, train in the responsibilities of participatory citizenship, and develop personal fitness;

WHEREAS, the Boy Scouts of America teaches the core values of duty to God and country, personal honor, respect for the beliefs of others, volunteerism, and the value of service and doing a "good turn" daily, principles which are conducive to good character, citizenship, and health; and

WHEREAS, the values of the Boy Scouts of America are reflected in the Scout Oath and Scout Law; the Scout Oath summarizes Boy Scout values as follows:

On my honor I will do my best

To do my duty to God and my country and to obey the Scout Law;

To help other people at all times;

To keep myself physically strong; mentally awake, and morally straight; and

WHEREAS, The Scout Law requires that a scout be trustworthy, loyal, helpful, friendly, courteous, kind, obedient, cheerful, thrifty, brave, clean, and reverent; and

WHEREAS, Troop 491, here in Montgomery has upheld the Scout ideal and oath through its actions, particularly through its recent Eagle Scout achievements including restoration of the C.B. Stewart gravesite with the installation of a flagpole, construction of stairs at Memory Park, construction of a walking path and fencing at Memory Park with handrails and the building of a new walking path at Fernland Park.

Now, therefore, the City Council of the City of Montgomery, Texas hereby Proclaims:

Section 1. Troop 491 is recognized for the public service projects the Troop has performed for the citizens of Montgomery, especially in the form of Eagle Scout projects, and,

Section 2. The City recognizes all the efforts and hours of hard work by Troop members as well as volunteer adult leaders

Section 3. Commends the Boy Scouts of America for their thousands of other activities that address critical issues facing communities across the United States.

Approved this 12th day of January, 2016.

Mayor, Kirk Jones

ATTEST:

Susan Hensley, City Secretary

Motion was made by _____, seconded by _____,

and passed by a _____ to _____ vote that the following Ordinance by passed:

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF MONTGOMERY, TEXAS, PROVIDING FOR THE INITIAL ZONING OF NEWLY ANNEXED PROPERTY AS PROVIDED IN CHAPTER 98 OF THE CODE OF ORDINANCES OF THE CITY OF MONTGOMERY, TEXAS; PROVIDING FOR THE CLASSIFICATION AND INCLUSION OF A CERTAIN TRACT OF LAND OF APPROXIMATELY 9.40 ACRES WITHIN A ZONING DISTRICT AS DESCRIBED AND DEPICTED ON THE MAP OR PLAT OF SAME ATTACHED TO THIS ORDINANCE AS EXHIBIT "A"; PROVIDING FOR THE AMENDMENT OF THE OFFICIAL ZONING DISTRICT MAP OF THE CITY TO REFLECT THE ZONING CLASSIFICATION OF THE TRACT AS HEREIN PROVIDED; MAKING CERTAIN FINDINGS; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES INCONSISTENT OR IN CONFLICT HERewith; PROVIDING FOR SEVERABILITY; PROVIDING A TEXAS OPEN MEETINGS ACT CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE AFTER PUBLICATION.

WHEREAS, pursuant to Ordinance No. 2015-06, passed on June 23, 2015, the City annexed into its corporate limits three parcels of land of approximately 9.450 acres, which land is described by and bounds in Exhibits "A," "B," and "C" attached hereto ("Annexed Area").

WHEREAS, the City of Montgomery is located in rapidly growing Montgomery County, Texas, an area with increasing economic diversity, burgeoning population growth, and significant residential and commercial development, and the City is proactively addressing the challenge of maintaining a proper balance and integration of residential and commercial uses, and their concomitant needs for public services; and

WHEREAS, the Planning and Zoning Commission and City Council of the City (the "City") have reviewed that portion of the newly Annexed Area and the needs of the community, the character of each zoning district and its particular suitability for particular uses, with a view of conserving the value of building and encouraging the most appropriate use of land in the City, and has given reasonable consideration to permanently zoning the newly Annexed Area in order to protect and enhance the value of property, lessen congestion in the streets, secure safety from fire, panic, and other dangers, promote health and the general welfare, provide adequate light and air, prevent overcrowding of land, avoid undue concentration of population, and facilitate the adequate provision of transportation, water, sewer, parks, and other public requirements; 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 and public hearing, did consider and make a recommendation on the initial zoning classification of the newly Annexed Area; and

WHEREAS, the City Secretary caused to be issued and published the notices of public hearing required by the City of Montgomery Zoning Ordinance (the "Zoning Ordinance") found in Chapter 98 of the City Code of Ordinances and of the laws of the State of Texas applicable thereto; and

WHEREAS, the City has conducted public hearings in the time and manner and after the notice required by law and the Zoning Ordinance of the City on such classification; and

WHEREAS, the City Council, now deems it appropriate to establish a permanent zoning classification for that referenced tract in the Annexed Area.

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

SECTION 1. Recitations. The facts and matters set forth in the preamble of this Ordinance are hereby found to be true and correct.

SECTION 2. Zoning Classification. The zoning classification of those certain tracts of land, described below, situated within the corporate limits of the City of Montgomery, Montgomery County, Texas, are hereby classified, as stated below and as shown upon the map attached hereto:

- (1) All three tract or parcels of land described in Exhibits "A," "B" and "C" attached hereto and incorporated herein by reference for all purposes, are hereby designated the zoning classification of "B Commercial."

SECTION 3. The official zoning district map of the City of Montgomery shall be revised and amended as set forth above to show the zoning district designation for the tracts described in Exhibits "A," "B" and "C" hereto.

SECTION 4. Repeal of Conflicting Ordinances. All provisions of the ordinances of the City of Montgomery in conflict with the provisions of this Ordinance are hereby repealed, and all other provisions of the Ordinances of the City of Montgomery not in conflict with the provisions of this Ordinance shall remain in full force and effect.

SECTION 5. Severability Clause. If any provision, section, subsection, sentence, paragraph, sentence, clause or phrase of this Ordinance or the application of same to any person or set of circumstances, shall for any reason be held to be unconstitutional, void, or invalid or otherwise unenforceable, the invalidity or unenforceability shall not affect other provisions of this Ordinance or their application to other sets of circumstances and to this end all provisions of this Ordinance are declared to be severable.

SECTION 6. Texas Open Meetings Clause. It is hereby officially found and determined that

the meeting at which this Ordinance was considered was open to the public as required and that the public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code.

SECTION 7. Effective Date. This Ordinance shall become effective and be in full force from _____ 2016 after publication as required 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

METES AND BOUNDS DESCRIPTION
TRACT 1

Of 6.202 Acres or 270,165 Square Feet of land being the remainder of that certain 259.956 Acre Tract of land conveyed to James C. Rampy, etal by a deed dated January 23, 1989 and recorded under Clerk's File No. 8902455, of the Real Property Records of Montgomery County, Texas (R.P.R.M.C.), lying in the JOHN H. CORNER Survey, Abstract No. 8, near Montgomery, Montgomery County Texas, said 6.202 Acre tract is more particularly described by metes and bounds as follows:

COMMENCING at a 5/8 inch iron rod with a cap found at the Southwest cutback corner of the North Right-of-Way of STATE HIGHWAY 105 (a Variable Width Right-of-Way) and the West Right-of-Way of STEWART CREEK ROAD (a Variable Width R.O.W. at this point, Cabinet V, Sheet 190-192, Montgomery County Map Records);

THENCE North 80 deg. 18 min. 31 sec. West, along the South line of said 259.956 Acre Tract of land, same being the North Right-of-Way of said F.M. 105, a distance of 282.42 feet to a 5/8 inch iron rod with a cap iron rod with a cap set at THE POINT FOR BEGINNING;

THENCE continuing North 80 deg. 18 min. 31 sec. West, along the South line of said 259.956 Acre Tract of land, same being the North Right-of-Way of said F.M. 105, a distance of 18.29 feet to a 5/8 inch iron rod with a cap set at a point for corner;

THENCE North 80 deg. 44 min. 24 sec. West, along the South line of said 259.956 Acre Tract of land, same being the North Right-of-Way of said F.M. 105, a distance of 800.05 feet to a point for corner, from which a TXDOT Cap was found North, 0.12 feet and West, 0.15 feet;

THENCE North 80 deg. 55 min. 57 sec. West, along the South line of said 259.956 Acre Tract of land, same being the North Right-of-Way of said F.M. 105, a distance of 205.43 feet to a point for corner, from which a TXDOT Cap was found North, 0.28 feet;

THENCE North 12 deg. 22 min. 35 sec. East, along the East line of that certain 2.03 Acre Tract of land conveyed from VIRGIN DEVELOPMENT III to FIRST VICTORIA NATIONAL BANK by a deed dated September 6, 2007 and recorded under Clerk's File No. 2007-106697, R.P.R.M.C., a distance of 254.92 feet to a point for corner, from which a 5/8 inch iron rod was found North, 0.16 feet;

THENCE North 80 deg. 01 min. 35 sec. West, at a distance of 34.94 feet pass a point along the North line of said 2.03 Acre Tract of land, from which a 5/8 inch iron rod with cap was found South, 3.18 feet and West, 0.81 feet, continuing in all a distance of 337.05 feet to a 5/8 inch iron rod with cap found at a point for corner;

THENCE North 22 deg. 11 min. 26 sec. East, along the East Right-of-Way of LONE STAR PARKWAY (a Variable Width R.O.W, M.C.C.F. 2004-134117, R.P.R.M.C.), a distance of 25.06 feet to a 5/8 inch iron rod with a cap set at a point for corner;

THENCE South 79 deg. 38 min. 53 sec. East, along the South line of the remainder of that certain 152 Acre tract conveyed to Bay Evans Rampy Komar by a deed dated January 20, 1983 and recorded under Clerk's File No. 8310568, R.P.R.M.C, same being the North line of said 259.956 Acre Tract of land, a distance of 1084.82 feet to a point for corner;

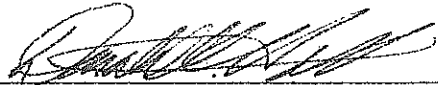
THENCE in a Southeasterly direction along the meanders of the centerline of a gully the following courses and distances:

South 11 deg. 33 min. 42 sec. East, a distance of 17.52 feet to a point for corner;

South 56 deg. 30 min. 59 sec. East, a distance of 39.49 feet to a point for corner;
North 64 deg. 15 min. 44 sec. East, a distance of 35.48 feet to a point for corner;
South 89 deg. 40 min. 24 sec. East, a distance of 25.56 feet to a point for corner;
South 83 deg. 49 min. 29 sec. East, a distance of 25.51 feet to a point for corner;
South 60 deg. 35 min. 44 sec. East, a distance of 28.96 feet to a point for corner;
South 52 deg. 33 min. 59 sec. East, a distance of 50.13 feet to a point for corner;
South 34 deg. 05 min. 07 sec. East, a distance of 46.09 feet to a point for corner;
South 17 deg. 41 min. 00 sec. East, a distance of 35.95 feet to a point for corner;
South 03 deg. 27 min. 41 sec. East, a distance of 67.42 feet to a point for corner;
South 09 deg. 38 min. 01 sec. West, a distance of 31.49 feet to a point for corner;
South 26 deg. 27 min. 30 sec. West, a distance of 24.85 feet to a point for corner;
South 34 deg. 28 min. 06 sec. West, a distance of 3.72 feet to a point for corner;
South 30 deg. 12 min. 27 sec. East, a distance of 12.94 feet to a point for corner;

THENCE South 05 deg. 28 min. 21 sec. West, along the centerline of a gully, a distance of 21.54 feet to the POINT OF BEGINNING, containing within these calls 6.202 Acres or 270,165 Square Feet of land as depicted by a plat prepared by Donald K. Hall, R.P.L.S. No. 4070 dated October 7, 2013 and revised October 31, 2013.

WITNESS MY HAND AND SEAL THIS THE 31st DAY OF October, 2013.



Donald K. Hall Registered Professional Land Surveyor No. 4070



14306 Summerwood Lakes Drive
Houston, Texas 77044-5078



Phone: (281) 225:8876
Fax : (281) 225:8877
JOB No.: 1013#966

METES AND BOUNDS DESCRIPTION
TRACT 1

Of 2.039 Acres or 88,815 Square Feet of land being part of that certain 259.956 Acre Tract of land conveyed to James C. Rampy, etal by a deed dated January 23, 1989 and recorded under Clerk's File No. 8902455, of the Real Property Records of Montgomery County, Texas (R.P.R.M.C.) lying in the JOHN H. CORNER Survey, Abstract No. 8, near Montgomery, Montgomery County Texas, said 2.039 Acre tract is more particularly described by metes and bounds as follows:

BEGINNING at a 5/8 inch iron rod with a cap found at the Southwest cutback corner of the North Right-of-Way of STATE HIGHWAY 105 (a Variable Width Right-of-Way) and the West Right-of-Way of STEWART CREEK ROAD (a Variable Width R.O.W. at this point, Cabinet V, Sheet 190-192, Montgomery County Map Records);

THENCE North 76 deg. 58 min. 36 sec. West, along the South line of said 259.956 Acre Tract of land, same being the North Right-of-Way of said F.M. 105, a distance of 282.42 feet to a 5/8 inch iron rod with a cap set at a point for corner;

THENCE in a Northwesterly direction along the meanders of the centerline of a gully the following courses and distances:

North 08 deg. 48 min. 16 sec. East, a distance of 21.54 feet to a point for corner;
North 26 deg. 52 min. 33 sec. West, a distance of 12.94 feet to a point for corner;
North 37 deg. 48 min. 01 sec. East, a distance of 3.72 feet to a point for corner;
North 29 deg. 47 min. 24 sec. East, a distance of 24.85 feet to a point for corner;
North 12 deg. 57 min. 55 sec. East, a distance of 31.49 feet to a point for corner;
North 00 deg. 07 min. 46 sec. West, a distance of 67.42 feet to a point for corner;
North 14 deg. 21 min. 06 sec. West, a distance of 35.95 feet to a point for corner;
North 30 deg. 45 min. 13 sec. West, a distance of 46.09 feet to a point for corner;
North 49 deg. 14 min. 04 sec. West, a distance of 50.13 feet to a point for corner;
North 57 deg. 15 min. 49 sec. West, a distance of 28.96 feet to a point for corner;
North 80 deg. 29 min. 35 sec. West, a distance of 25.51 feet to a point for corner;
North 86 deg. 20 min. 30 sec. West, a distance of 25.56 feet to a point for corner;
South 67 deg. 35 min. 39 sec. West, a distance of 35.48 feet to a point for corner;
North 53 deg. 11 min. 04 sec. West, a distance of 39.49 feet to a point for corner;
North 08 deg. 13 min. 48 sec. West, a distance of 17.52 feet to a point for corner;

THENCE South 76 deg. 18 min. 58 sec. East, along the North line of said 259.956 Acre Tract of land, same being the South line of that certain 152 Acre tract conveyed to Bay Evans Rampy Komar by a deed dated January 20, 1983 and recorded under Clerk's File No. 8310568, R.P.R.M.C, a distance of 574.55 feet to a point for corner, from which a 5/8 inch iron rod with a cap was found South, 0.08 feet;

THENCE South 12 deg. 40 min. 05 sec. West, along the West Right-of-Way of said STEWART CREEK ROAD (an 80 foot Right-of-Way at this point), a distance of 128.16 feet to a point for corner, from which a 5/8 inch iron rod with a cap was found South, 0.13 feet;

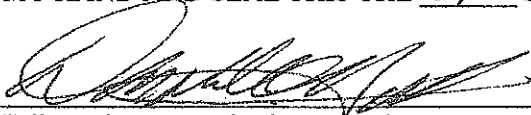
THENCE, Southerly, along the West Right-of-Way of said STEWART CREEK ROAD (a Variable Width Right-of-Way at this point), a distance of 50.33 feet along the arc of a curve to the right, said curve having a central angle of 11 deg. 25 min. 16 sec., radius of 252.50 feet, a chord which bears South 18 deg. 22 min. 43 sec. West, and a chord distance 50.25 feet to a 5/8 inch iron rod with a cap found at a point for corner;

THENCE, Southerly, along the West Right-of-Way of said STEWART CREEK ROAD, a distance of 50.33 feet along the arc of a curve to the left, said curve having a central angle of 11 deg. 25 min. 16 sec., radius of 252.50 feet, a chord which bears South 18 deg. 22 min. 43 sec. West, and a chord distance 50.25 feet to a point for corner, from which a 5/8 inch iron rod with a cap was found North, 0.08 feet and West 0.08 feet;

THENCE, Southwesterly, along the West Right-of-Way of said STEWART CREEK ROAD, a distance of 39.27

feet along the arc of a curve to the right, said curve having a central angle of 90 deg. 00 min. 00 sec., radius of 25.00 feet, a chord which bears South 57 deg. 40 min. 05 sec. West, and a chord distance 35.36 feet to the POINT OF BEGINNING, containing within these calls 2.039 Acres or 88,815 Square Feet of land as depicted by a plat prepared by Donald K. Hall, R.P.L.S. No. 4070 dated October 29, 2007.

WITNESS MY HAND AND SEAL THIS THE 29th DAY OF OCTOBER, 2007.



Donald K. Hall, Registered Professional Land Surveyor No. 4070



14306 Summerwood Lakes Drive
Houston, Texas 77044-5078



Phone: (281) 225:8876
Fax : (281) 225:8877
JOB No.: 1007#966

METES AND BOUNDS DESCRIPTION
TRACT 3

Of 1.209 Acres or 52,680 Square Feet of land being part of the remainder of that certain 152 Acre tract conveyed to Bay Evans Rampy Komar by a deed dated January 20, 1983 and recorded under Clerk's File No. 8310568, of the Real Property Records of Montgomery County, Texas (R.P.R.M.C.), lying in the JOHN H. CORNER Survey, Abstract No. 8, near Montgomery, Montgomery County Texas, said 1.209 Acre tract is more particularly described by metes and bounds as follows:

COMMENCING at a 5/8 inch iron rod with a cap found at the Southwest outback corner of the North Right-of-Way of STATE HIGHWAY 105 (a Variable Width Right-of-Way) and the West Right-of-Way of STEWART CREEK ROAD (a Variable Width R.O.W. at this point, Cabinet V, Sheet 190-192, Montgomery County Map Records);

THENCE, Northeasterly, along the West Right-of-Way of STEWART CREEK ROAD, a distance of 39.27 feet along the arc of a curve to the left, said curve having a central angle of 90 deg. 00 min. 00 sec, radius of 25.00 feet, a chord which bears North 57 deg. 40 min. 05 sec. East, and a chord distance 35.36 feet to a point for corner, from which a 5/8 inch iron rod with a cap was found North, 0.08 feet and West 0.08 feet;

THENCE, Northerly, along the West Right-of-Way of said STEWART CREEK ROAD, a distance of 50.33 feet along the arc of a curve to the right, said curve having a central angle of 11 deg. 25 min. 16 sec, radius of 252.50 feet, a chord which bears North 18 deg. 22 min. 43 sec. East, and a chord distance 50.25 feet to a 5/8 inch iron rod with a cap found at a point for corner;

THENCE, Northerly, along the West Right-of-Way of said STEWART CREEK ROAD, a distance of 50.33 feet along the arc of a curve to the left, said curve having a central angle of 11 deg. 25 min. 16 sec, radius of 252.50 feet, a chord which bears North 18 deg. 22 min. 43 sec. East, and a chord distance 50.25 feet to a point for corner, from which a 5/8 inch iron rod with a cap was found South, 0.13 feet;

THENCE North 12 deg. 40 min. 05 sec. East, along the West Right-of-Way of said STEWART CREEK ROAD (an 80 foot Right-of-Way at this point), a distance of 128.16 feet to THE POINT OF BEGINNING, from which a 5/8 inch iron rod with a cap was found South, 0.08 feet;

THENCE North 76 deg. 18 min. 58 sec. West, along the South line of said 152 Acre Tract of land, same being the North line of that certain 259.956 Acre Tract of land conveyed to James C. Rampy, etal by a deed dated January 23, 1989 and recorded under Clerk's File No. 8902455, R.P.R.M.C, a distance of 574.55 feet to a point for corner;

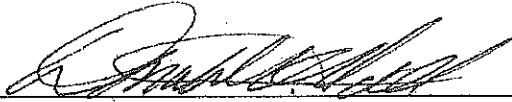
THENCE North 08 deg. 13 min. 48 sec. West, along the centerline of a gully, a distance of 54.75 feet to a point for corner;

THENCE North 24 deg. 17 min. 17 sec. West, along the centerline of a gully, a distance of 47.94 feet to a point for corner;

THENCE South 76 deg. 18 min. 58 sec. East, along the South line of that certain 33.0134 Acre Tract of land conveyed to Ronald P. Briggs by a deed dated July 05, 2006, under Clerk's File number 2006-075397, R.P.R.M.C, a distance of 622.91 feet to a point for corner, from which a 5/8 inch iron rod with a cap was found South, 0.08 feet;

THENCE South 12 deg. 40 min. 05 sec. West, along the West Right-of-Way of said STEWART CREEK ROAD, a distance of 88.60 feet to the POINT OF BEGINNING, containing within these calls 1.209 Acres or 52,680 Square Feet of land as depicted by a plat prepared by Donald K. Hall, R.P.L.S. No. 4070 dated October 29, 2007.

WITNESS MY HAND AND SEAL THIS THE 29TH DAY OF OCTOBER, 2007.



Donald K. Hall, Registered Professional Land Surveyor No. 4070



14306 Summerwood Lakes Drive
Houston, Texas 77044-5078



Phone: (281) 225:8876
Fax : (281) 225:8877
JOB No.: 1007#966

Motion was made by _____, seconded by _____,
and passed by a _____ to _____ vote that the following Ordinance be passed:

ORDINANCE NO. _____

AN ORDINANCE CORRECTING CITY OF MONTGOMERY ZONING ORDINANCE NO. 2014-10, DATED JULY 15, 2014, WHICH AMENDS THE CODE OF ORDINANCES OF THE CITY OF MONTGOMERY, TEXAS, PROVIDING FOR THE INITIAL ZONING OF NEWLY ANNEXED PROPERTY OF 46.078 ACRES AS PROVIDED IN CHAPTER 98 OF THE CODE OF ORDINANCES OF THE CITY OF MONTGOMERY, TEXAS

WHEREAS, on July 15, 2014, the City Council for the City of Montgomery, Texas passed a Zoning Ordinance No. 2014-10, which related to the zoning that date of a newly annexed tract of property constituting 46.08 acres in the J. Corner Survey, Abstract 8, of Montgomery County, Texas; and

WHEREAS, said Ordinance No. 2014-10 incorrectly identified in the first paragraph of its Recitals the applicable city annexation ordinance of said tract as Ordinance No. 2014-07, rather than the correct Ordinance No. 2014-06, dated July 15, 2014; and

WHEREAS, the City Council of the City of Montgomery hereby desires to amend said zoning ordinance to properly correct the clerical error in Ordinance No. 2014-10;

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

SECTION 1. Recitations. The facts and matters set forth in the preamble of this Ordinance are hereby found to be true and correct.

SECTION 2. Correction of City Ordinance No. 2014-10. The first recital to City Zoning Ordinance No. 2014-10 is hereby corrected to read as follows:

WHEREAS, pursuant to Ordinance No. 2014-06, passed on July 15, 2014, the City annexed into its corporate limits a parcel of land owned by the Texas Land Fund No. 6, L.P., a Delaware limited partnership;

SECTION 3. Repeal of Conflicting Ordinances. All provisions of the Ordinance No. 2014-10 of the City of Montgomery in conflict with the provisions of this Ordinance are hereby repealed, and all other provisions of Ordinance No. 2014-10 of the City of Montgomery not in conflict with the provisions of this Ordinance shall remain in full force and effect.

SECTION 4. Severability Clause. If any provision, section, subsection, sentence, paragraph,

sentence, clause or phrase of this Ordinance or the application of same to any person or set of circumstances, shall for any reason be held to be unconstitutional, void, or invalid or otherwise unenforceable, the invalidity or unenforceability shall not affect other provisions of this Ordinance or their application to other sets of circumstances and to this end all provisions of this Ordinance are declared to be severable.

SECTION 5. Texas Open Meetings Clause. It is hereby officially found and determined that the meeting at which this Ordinance was considered was open to the public as required and that the public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code.

SECTION 6. Effective Date. This Ordinance shall become effective and be in full force upon its passage.

PASSED AND APPROVED this _____ day of _____ 2016.

Kirk Jones, Mayor

ATTEST:

Susan Hensley, City Secretary

APPROVED AS TO FORM:

Lary L. Foerster, City Attorney

City of Montgomery
Application for Consideration of Appointment

Name of Board/Commission/Committee: MEDC
Name: Hanover William G.
(Last) (First) (Middle)
Home Address: 24775 Bentah Lane 936-597-7209
(Street) (Home Phone No.)
Email Address: whanover@consolidated.net
Mailing Address: 24775 Bentah Lane, Montgomery, TX 77316
(Business Phone /Fax)
Employer: Retired
(Name/Address)

Occupation: _____

Do you live inside the city limits of Montgomery?* Yes ___ No If So, How Long? _____

Are you a business owner/operator/employee in the City of Montgomery?* Yes ___ No

If So, How Long? _____ Name of Business _____

So the council may know more about you, please complete the following:

Education: BBA - U. T. Austin '63

Related Experience/Community Service: MEDC MACC

Areas of Interests Related to this Committee: Economic development of City of Montgomery

Please specify membership on any other governmental board/commission/committee:

N/A

Please provide a brief narrative outlining your reasons for seeking appointment to this board/commission.

To work for the betterment of the city and surrounding area

W Hanover 12-11-15
Signature Date

*Some (not all) boards/commissions/committees require members to reside within the city limits. Please return completed form to the City Secretary's office for processing, P.O. Box 708 (mailing); 101 Old Plantersville Rd. (physical), Montgomery, TX 77356. Your application will be kept on file for 12 months. NOTE: When filed at city hall, this will become a public document that may be disclosed per the Texas Public Information Act. NOTE: The city council will receive only this page of information; no attachments will be retained or forwarded.

City of Montgomery
Application for Consideration of Appointment

Name of Board/Commission/Committee: MEDC

Name: FOX Cheryl BAUDAT
(Last) (First) (Middle)

Home Address: 821 STEWART ST 936525-8856
(Street) (Home Phone No.)

Email Address: FOXINSURANCE@CONSULTORC.COM

Mailing Address: PO Box 689 Montgomery 77356
(Business Phone /Fax)

Employer: Retired Insurance Agent / owner 26 yrs
(Name/Address)

Occupation: Retired

Do you live inside the city limits of Montgomery?* Yes No If So, How Long? 40 yrs

Are you a business owner/operator/employee in the City of Montgomery?* Yes No

If So, How Long? — Name of Business —

So the council may know more about you, please complete the following:

Education: Attended SAM HOUSTON UNIV. - LUTCF (INSURANCE)

Related Experience/Community Service: TREASURE - Montgomery
Circle Club - TREASURE - GARDEN CLUB

Areas of Interests Related to this Committee: Betterment for the
City of Montgomery

Please specify membership on any other governmental board/commission/committee:
None at this time

Please provide a brief narrative outlining your reasons for seeking appointment to this board/commission.

To help make the City of Montgomery
a better place to live and visit

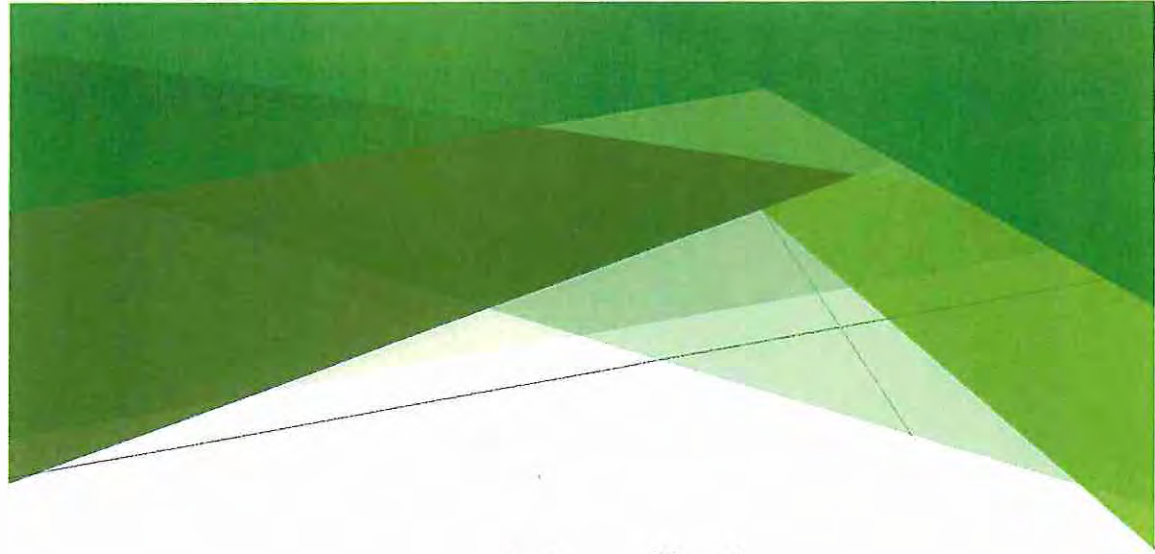
Cheryl Fox 12/9/2015
Signature Date

*Some (not all) boards/commissions/committees require members to reside within the city limits.
Please return completed form to the City Secretary's office for processing, P.O. Box 708 (mailing); 101 Old Plantersville Rd. (physical), Montgomery, TX 77356. Your application will be kept on file for 12 months.
NOTE: When filed at city hall, this will become a public document that may be disclosed per the Texas Public Information Act.
NOTE: The city council will receive only this page of information; no attachments will be retained or forwarded.

***Agenda Item 7 – Utility and
Economic Feasibility Analysis
to be presented at the meeting.***

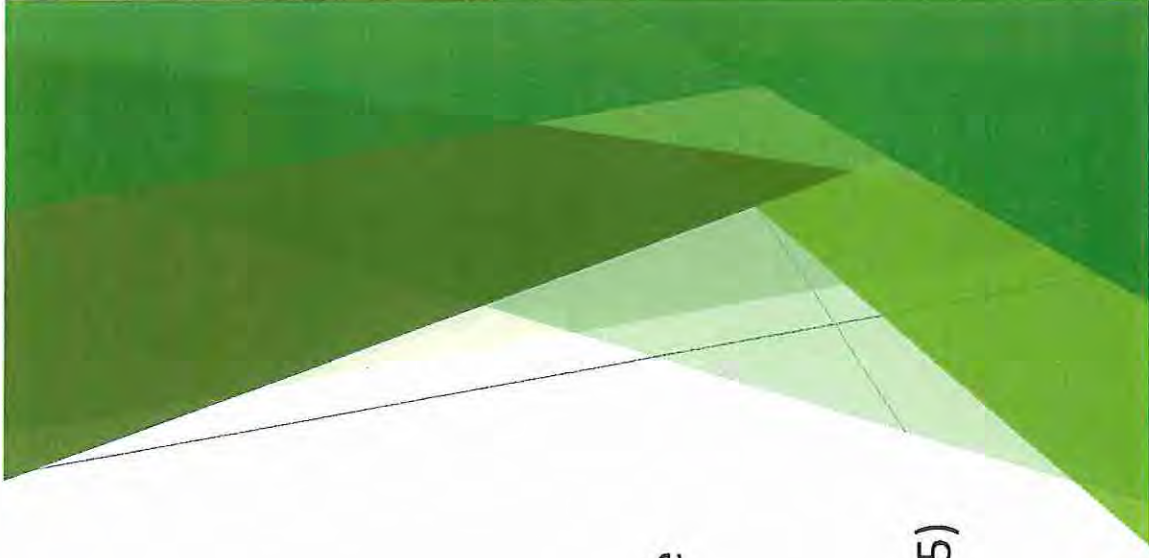
Montgomery Forest

Concept for Proposed Development
Highway 105 & Westway Drive



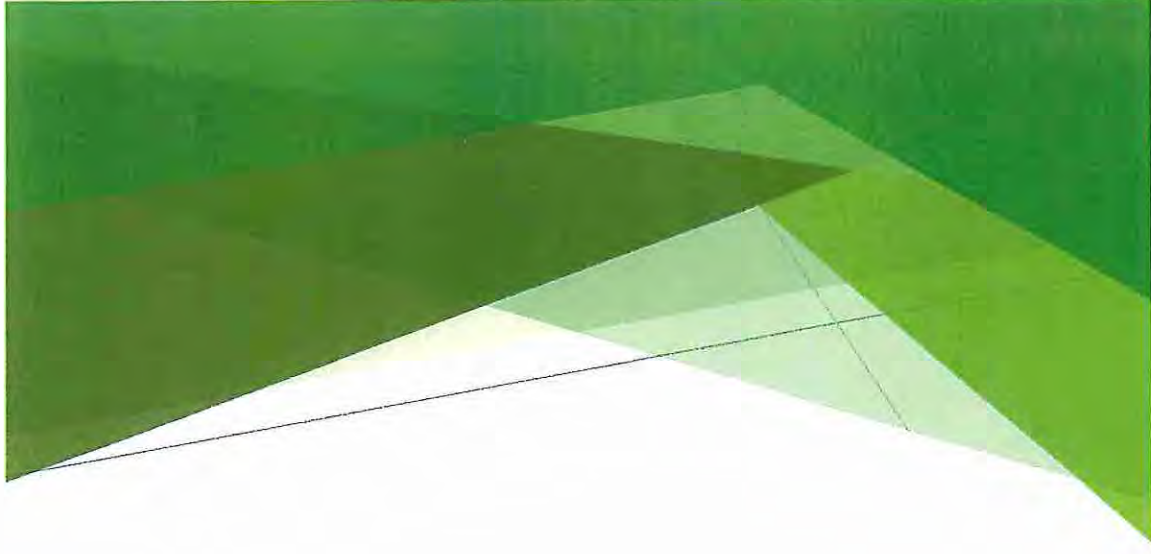
“Montgomery Forest”

- ▶ Developer – John W. Cox Partners, LTD
 - ▶ Montgomery County Projects
 - ▶ Stewart Hill in 2005 and Canyon Creek in 2013 & 2015
 - ▶ Galveston County; 12 Projects between 1980 - 2005
 - ▶ Vacant Tract of 67 Acres on Highway 105 & Westway Drive
 - ▶ 40 - 45 Acres within City of Montgomery
 - ▶ 20 – 27 Acres within Montgomery County
 - ▶ Developer submitted Application for Services (Dec. 3, 2015)



Proposed Development

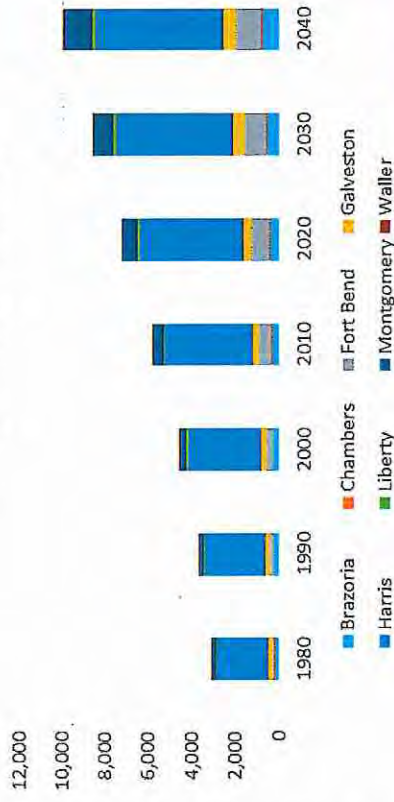
- ▶ 67 Acres
- ▶ 44 Acres Net Development Acreage
- ▶ 16 Acres for Recreation
- ▶ 8 Acres for Detention
- ▶ Residential Development
 - ▶ 100 – 120 Single Family Lots (60's & 75's)
 - ▶ 70 – 90 Townhome Lots (30' X 120')



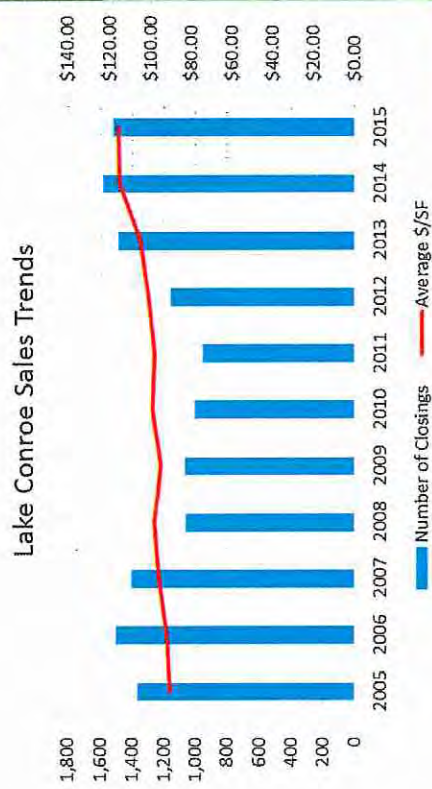
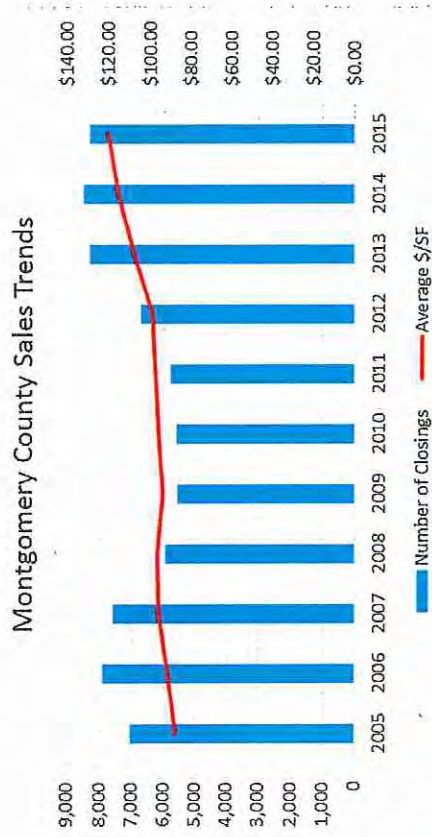
Regional Expansion

County	Household Population (Thousands)						
	1980	1990	2000	2010	2020	2030	2040
Brazoria	162	183	231	303	388	555	759
Chambers	18	20	26	35	42	51	59
Fort Bend	127	221	348	578	825	1,020	1,171
Galveston	193	215	246	287	376	498	599
Harris	2,389	2,789	3,358	4,045	4,810	5,390	5,866
Liberty	47	52	65	70	77	109	180
Montgomery	128	181	292	453	662	944	1,281
Waller	17	20	29	39	43	65	103
Region	3,082	3,681	4,596	5,810	7,222	8,633	10,019

Household Population (Thousands)



Sales Trends

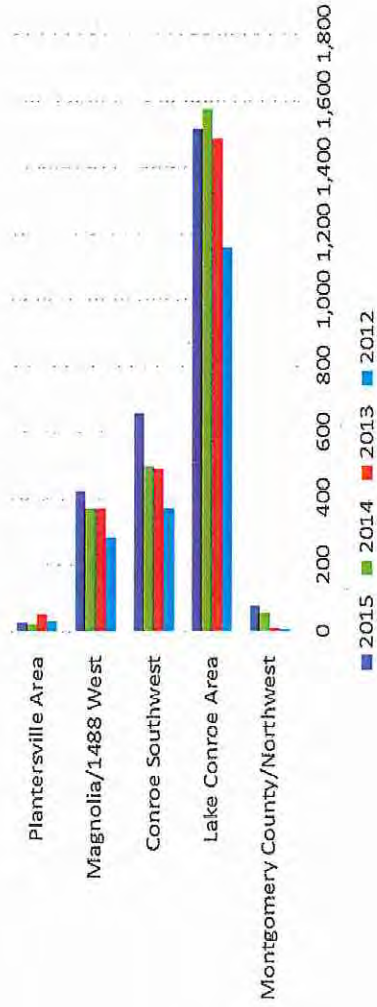


Ten-year Home Sales Trends for Lake Conroe market area correlate to sales in Montgomery County. In years 2005-2012, the sales price per square foot was higher in the Lake Conroe market area than the County.

Market Demand

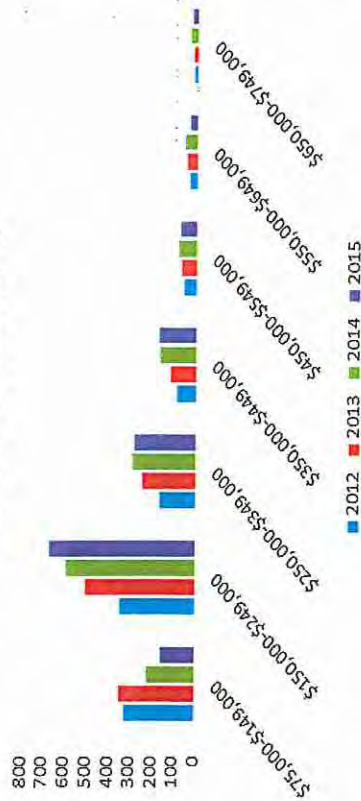
Single Family MLS Location	2012				2013				2014				2015			
	No. Closed	AVG SF	DOM		No. Closed	AVG SF	DOM		No. Closed	AVG SF	DOM		No. Closed	AVG SF	DOM	
Montgomery County/Northwest	6	2,033	84		9	3,805	89		55	2,435	85		77	2,417	79	
Lake Conroe Area	1,160	2,500	97		1,486	2,510	77		1,577	2,577	68		1,518	2,433	63	
Conroe Southwest	373	2,853	88		491	2,863	61		496	2,934	59		657	2,970	61	
Magnolia/1488 West	282	2,465	91		372	2,549	73		370	2,546	66		423	2,508	49	
Plantersville Area	31	1,771	107		53	2,028	100		24	2,039	122		25	2,000	90	

Sales within Market Area



Pricing Breakdown

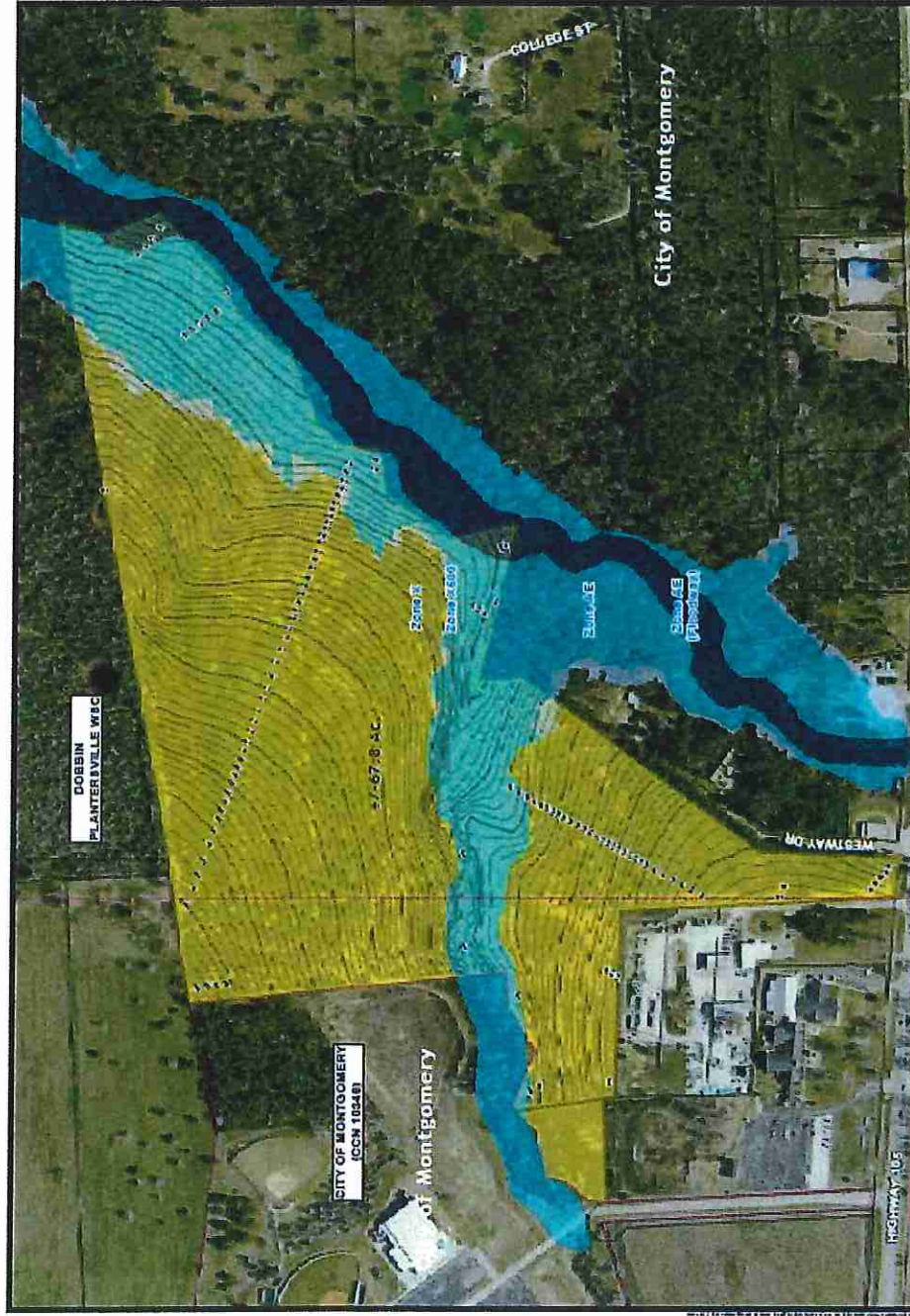
Lake Conroe Area Pricing



Lake Conroe Area	2012	2013	2014	2015
\$75,000-\$149,000	327	354	221	162
\$150,000-\$249,000	346	504	594	668
\$250,000-\$349,000	170	249	293	284
\$350,000-\$449,000	87	119	169	173
\$450,000-\$549,000	57	71	84	75
\$550,000-\$649,000	33	47	59	35
\$650,000-\$749,000	18	22	35	25
Total/Average	1,038	1,366	1,455	1,422

Lake Conroe Area	2012				2013				2014				2015			
	No. Closed	AVG SF	DOM	No. Closed	AVG SF	DOM	No. Closed	AVG SF	DOM	No. Closed	AVG SF	DOM	No. Closed	AVG SF	DOM	
\$75,000-\$149,000	327	1,777	80	354	1,699	59	221	1,627	39	162	1,499	34	162	1,499	34	
\$150,000-\$249,000	346	2,282	103	504	2,240	75	594	2,100	54	668	2,003	48	668	2,003	48	
\$250,000-\$349,000	170	2,996	107	249	2,939	80	293	2,764	71	284	2,719	80	284	2,719	80	
\$350,000-\$449,000	87	3,265	84	119	3,267	92	169	3,142	83	173	3,181	131	173	3,181	131	
\$450,000-\$549,000	57	3,740	126	71	3,501	99	84	3,471	77	75	3,462	93	75	3,462	93	
\$550,000-\$649,000	33	4,036	118	47	3,995	99	59	4,006	118	35	3,844	103	35	3,844	103	
\$650,000-\$749,000	18	3,920	117	22	4,443	104	35	4,339	130	25	4,339	137	25	4,339	137	
Total/Average	1,038	3,145	105	1,366	3,155	87	1,455	3,064	82	1,422	3,007	88	1,422	3,007	88	

Subject Tract



John W. Cox Partners, Ltd.
MONTGOMERY FOREST
 MONTGOMERY, MONTGOMERY COUNTY

LEGEND

- Tract
- Flood Zones
- X
- X1000
- A
- AE
- AE (FLOODWAY)
- Contour
- Index
- Contour

Detailed Property Summary:
 Acreage - Approx. 67.3 Acres
 Owner - Trinchese National Bank,
 Montgomery, MD, & W.S. Parlow
 Surface Well - None on Premises
 Flood Zone(s) - Zones A, AE,
 AE (Floodway), X1000, & X

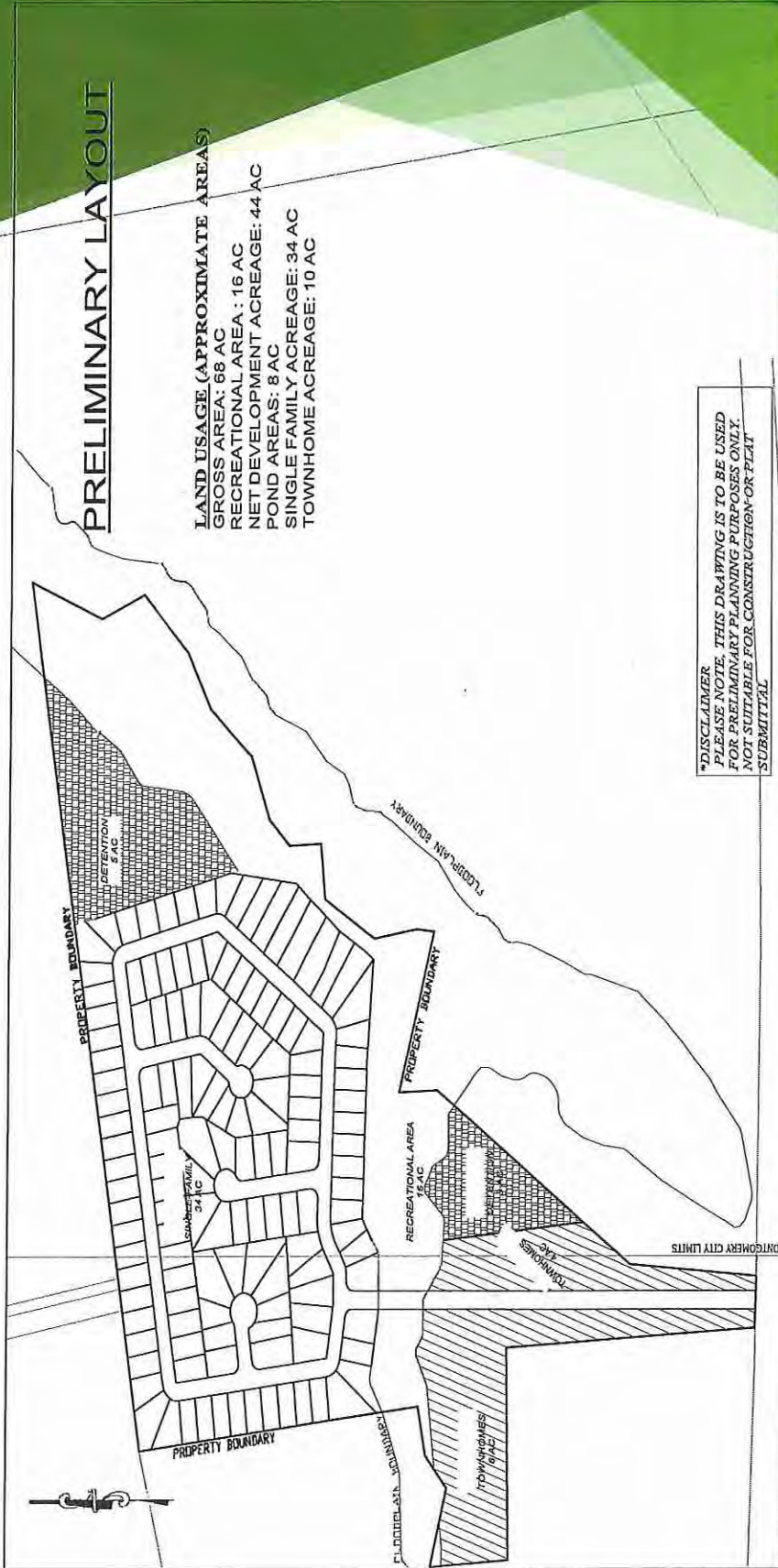


1 inch = 150 feet



NOTE: ALL CALCULATED AREAS ARE APPROXIMATE

Preliminary Layout



PRELIMINARY LAYOUT

LAND USAGE (APPROXIMATE AREAS)
 GROSS AREA: 68 AC
 RECREATIONAL AREA: 16 AC
 NET DEVELOPMENT ACREAGE: 44 AC
 POND AREAS: 8 AC
 SINGLE FAMILY ACREAGE: 34 AC
 TOWNHOME ACREAGE: 10 AC

***DISCLAIMER**
 PLEASE NOTE, THIS DRAWING IS TO BE USED
 FOR PRELIMINARY PLANNING PURPOSES ONLY.
 NOT SUITABLE FOR CONSTRUCTION OR FINAL
 SUBMITTAL

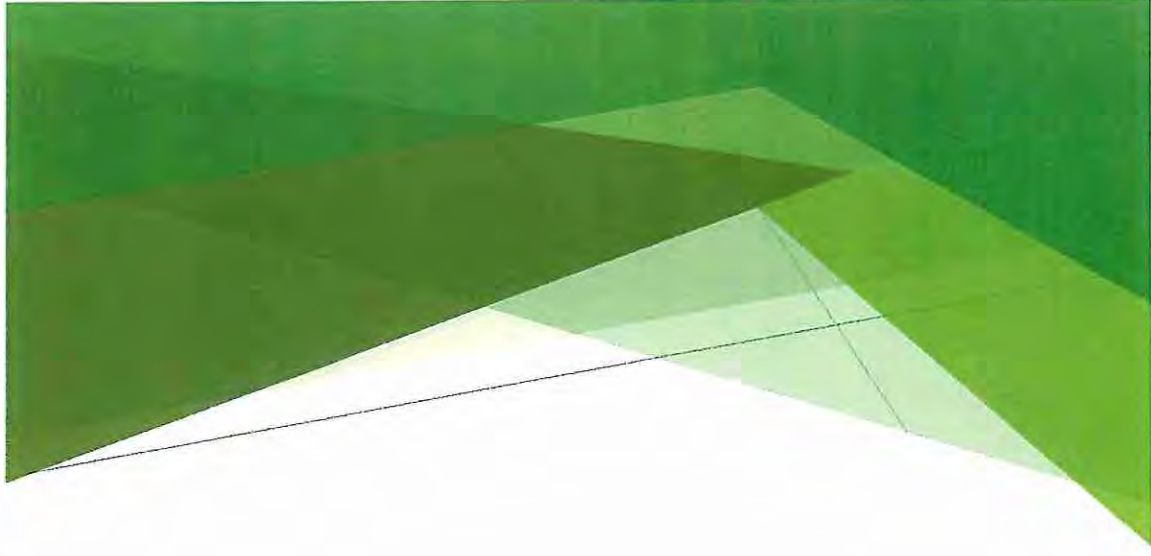


Texas Registration No. 276
 13430 Southwest Freeway, Suite 3100
 Houston, Texas 77030
 713.462.3242 | Fax: 713.462.3262

TEXAS STATE HIGHWAY 105 (120-FT R.O.W.)

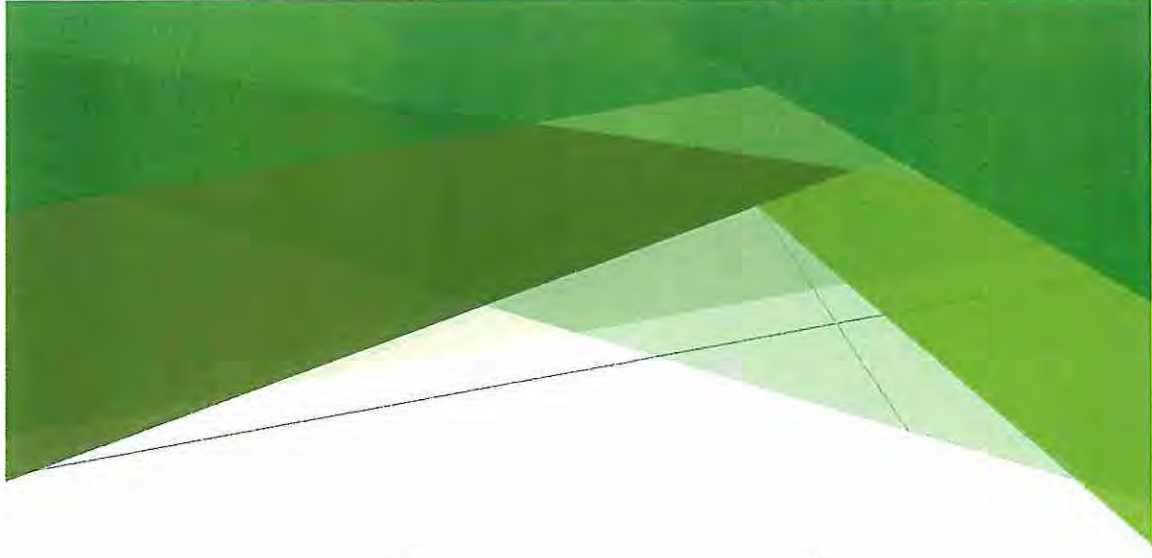
Proposed Townhome Lots

- ▶ Dependent upon Site Characteristics
 - ▶ Configuration
 - ▶ Access
 - ▶ Topography
 - ▶ Drainage
- ▶ Proposed Number of Units
 - ▶ 64 – 72 Units
 - ▶ 1,400 – 2,000 Square Feet (SF)
 - ▶ Values from \$160's - \$210's



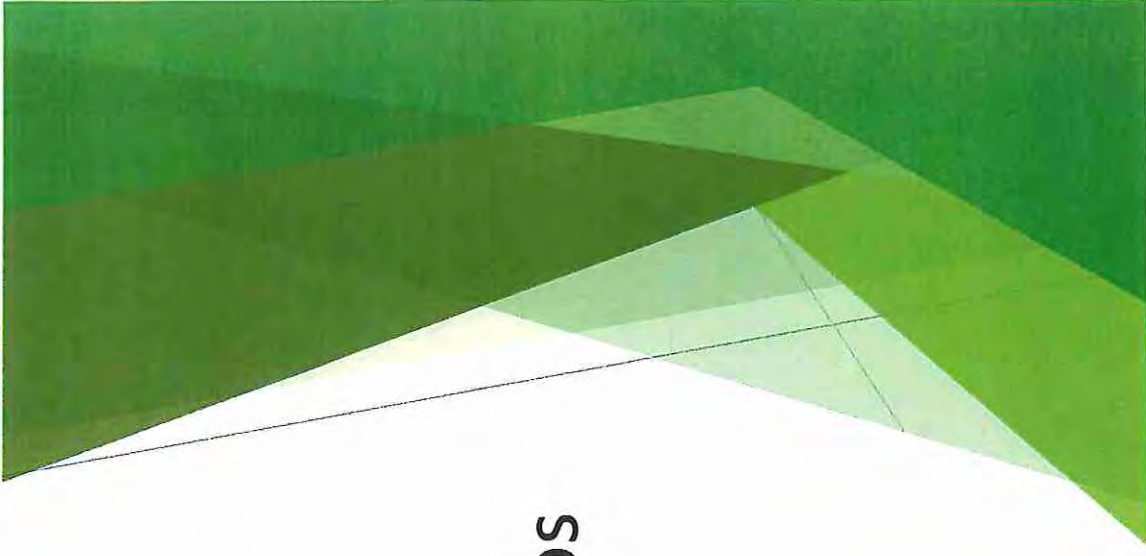
Townhome Details (Proposed)

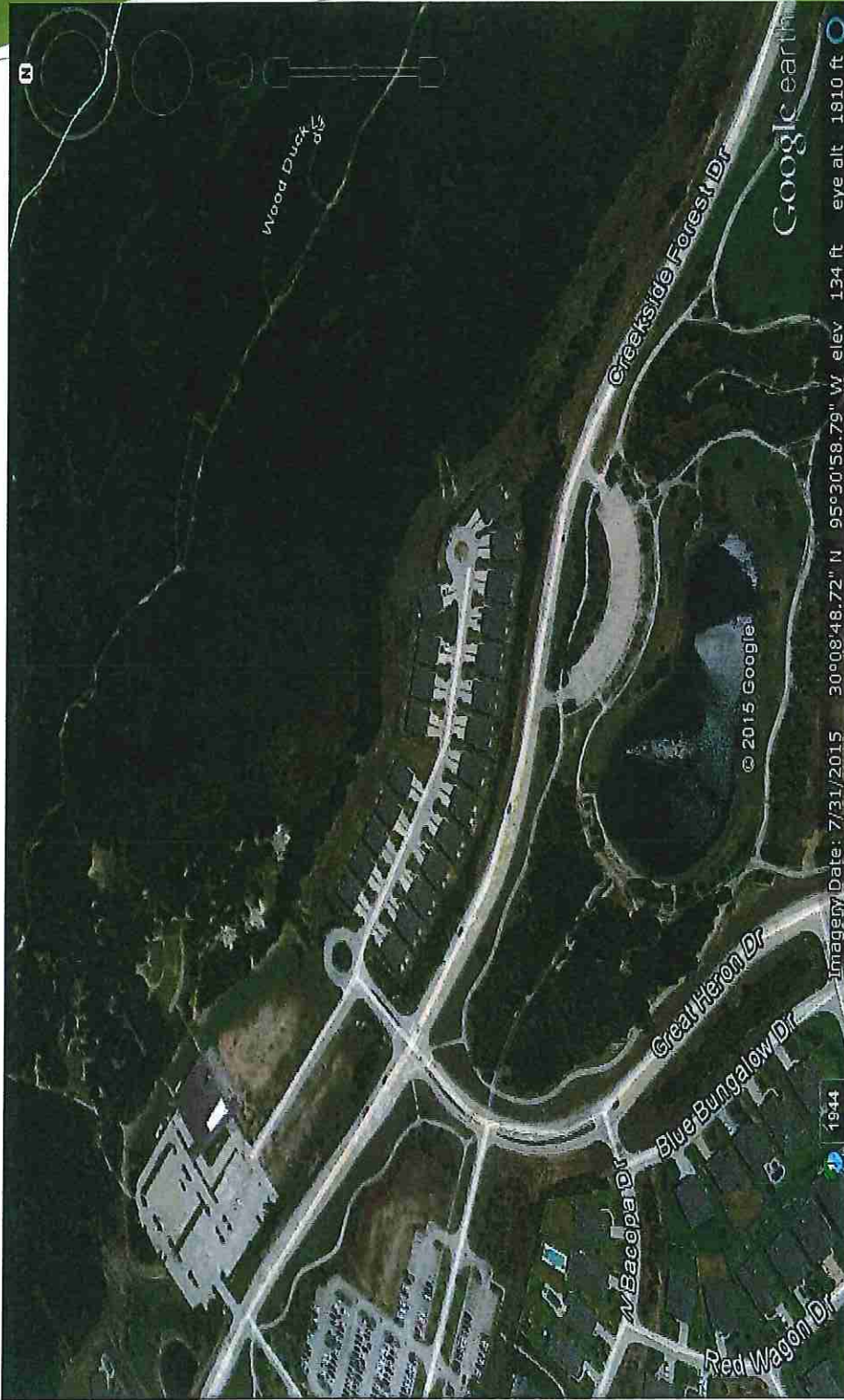
- ▶ Townhomes priced at \$160's - \$210's allow for home ownership in a market niche not addressed by current housing options in Montgomery
- ▶ Street design and landscaping buffers allow for privacy
- ▶ Exterior and rear views of structures appear to be single family residences
- ▶ HOA to maintain front landscaping and restrict excess street parking

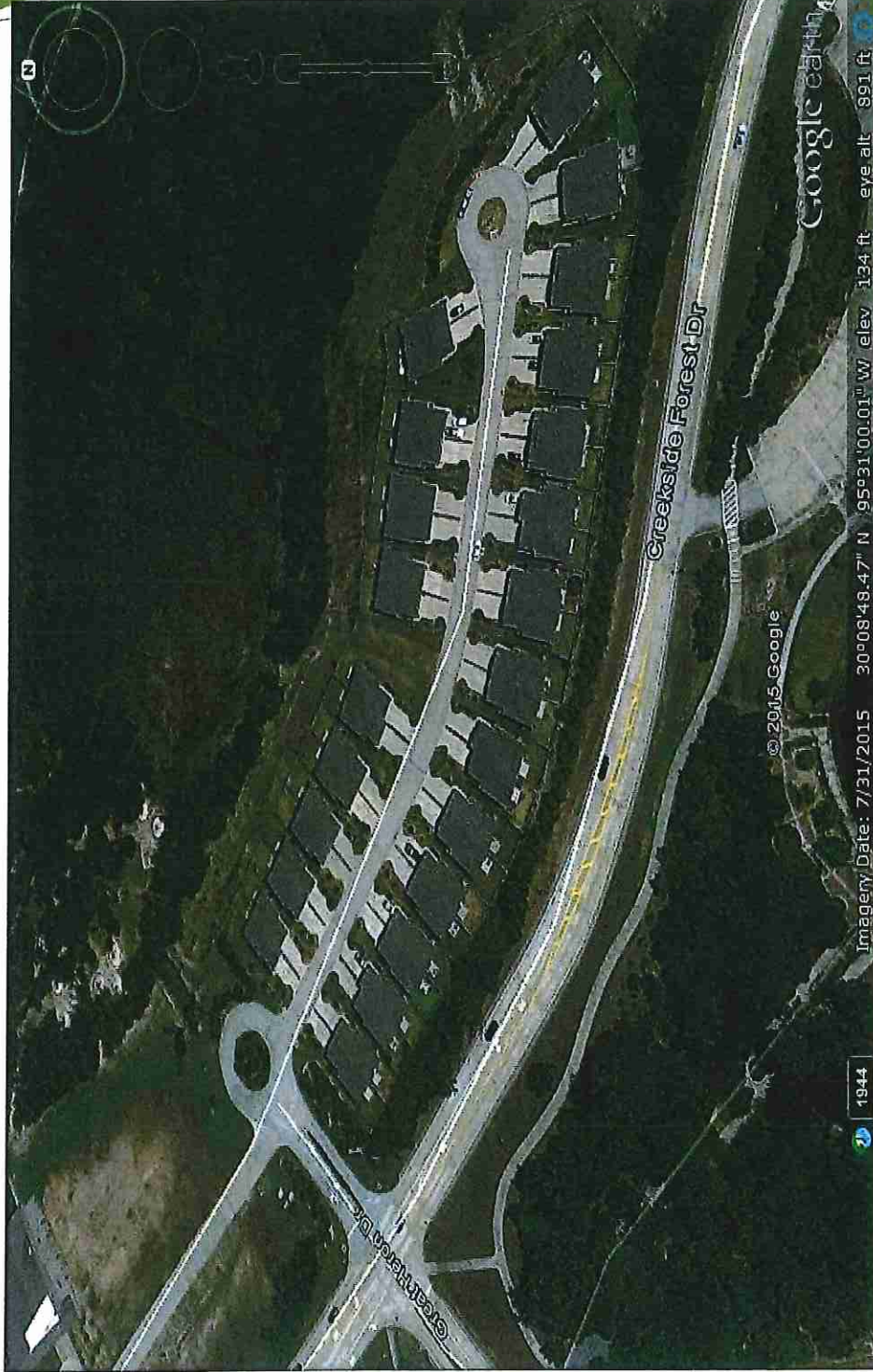


Comparable Townhome Aerial & Photos

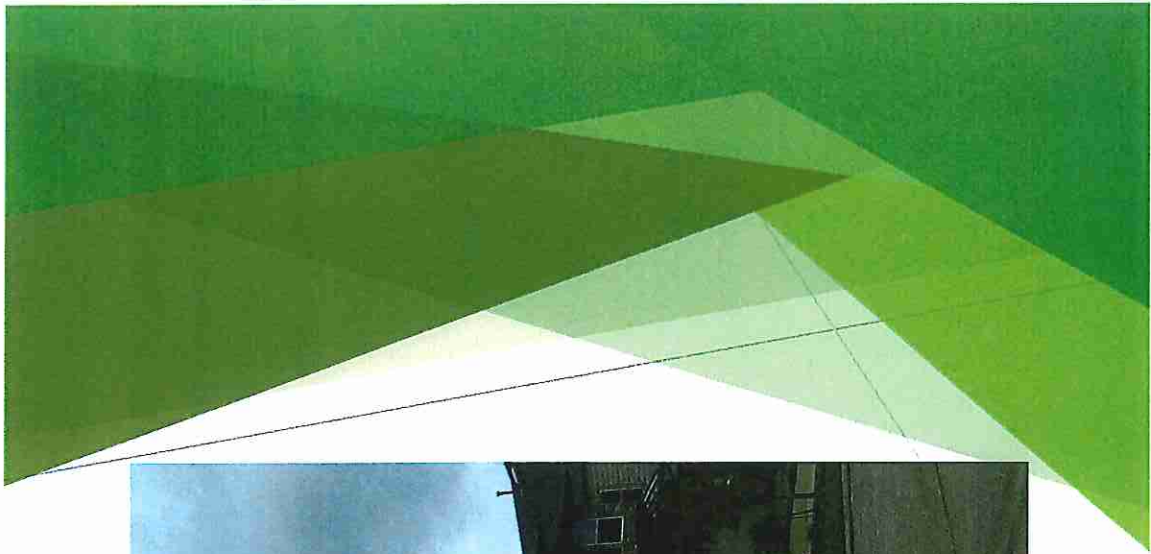
Located in Creekside, The Woodlands











Planning and Zoning
Unapproved Minutes from
December 28, 2015
Meeting Regarding Discussion
of 67-Acre Tract

PLANNING AND ZONING COMMISSION MEETING – DRAFT- UNAPPROVED
MINUTES REGARDING DISCUSSION OF 67 ACRE TRACT AT DECEMBER 28,
2015 MEETING:

2. Presentation regarding proposed 67-acre development located north of the intersection of SH105 and Westway Drive.

Mr. Glynn Fleming, Associate Engineer, advised that this is a 67-acre development located on the west side of town, north of SH 105 and Napa Auto Parts. Mr. Fleming advised that a couple of weeks ago he had attended a pre-development meeting with Mrs. Cox, developer, as well as her engineering team, and at his suggestion Mrs. Cox has opted to come to the Commission Meeting this evening to review their rough land plans and development.

Mrs. Cox introduced herself, and said that she and her father, Mr. John Cox are part of John W. Cox Partners, LTD, and they have developed properties in the Montgomery County and Galveston County area over the years. Mrs. Cox said that they had pinpointed Montgomery as a great place to live and develop. They came across this tract of land several months ago so they had several meetings with Mr. Yates and Mr. Fleming to present some different ideas and to see what City services might be available regarding water and sewer connections. Mrs. Cox said that she also wanted to discuss what Mr. Yates and Mr. Fleming perceived were the market needs within Montgomery. Mrs. Cox stated that they were not at the platting phase, but at the discussion phase and she was wanting to get some input from the Commission on the development.

Mrs. Cox advised that both she and her father were long-time residents of Montgomery County. Some of their projects included the 38-home development of Stewart Hill, which has a taxable value of \$5.7 million, and a 150-home development of Canyon Creek in Conroe that has an approximate taxable value of about 28 million. Mrs. Cox said that they are looking for other projects, so they came across a 67-acre tract in Montgomery that was

for sale, with 40-45 acres inside the City of Montgomery and 27 acres in the City's extra-territorial jurisdiction ("ETJ").

Mrs. Cox advised that they had submitted an Application for Services to City Council on December 3, 2015, so they will be looking at the availability to add on the development to water and sewer services, and whether there was adequate services or whether they would need to add additional infrastructure to make that happen. Mrs. Cox said that she has had several meetings with other EDC's within Montgomery County and they selected the City of Montgomery because it is such a nice community with a good school district they feel like there would be a high demand within the area.

Mrs. Cox advised that out of the tract of 67 acres there are low lying areas in the middle of the development as detailed in the handouts, which leaves about 44 acres of developable acreage. Mrs. Cox said that they needed feedback from the City before they spent more time and money on surveys and land plans.

Mrs. Cox said that at first look, it seems that it would make sense to leave the development as is and develop the acreage that is higher ground and work around it. Mrs. Cox said that they have another development in Conroe where they had to move about 7,000 loads of dirt. Mrs. Cox said in this case if they do not have existing streets to tie into, then they could potentially leave those low lying areas alone and make them into amenities, such as, walking trails, parks or other features. Mrs. Cox advised that they would have to look at putting in a bridge or large culvert to get to the back of the development, but they will have to see after further review what can be done there.

Mrs. Cox said that out of the 67 acres, they have about 44 acres of net development acreage, with 16 acres for recreation and 8 acres for detention ponds, one in the front and one in the rear of the property. Mrs. Cox said that initially they had looked at apartments and townhomes because they feel that there is a demand for that price range in Montgomery. Mrs. Cox said that there was a slight slowdown in the economy at this time, based on the price of oil, so they could push forward and try to bring it to apartment developers, but they

have some interest from developers to build townhomes. They would like to get feedback from the City.

Mrs. Cox said that there was not a lot to offer people in the \$160,000 - \$200,000 price range. Mrs. Cox advised that instead of apartments they could put in 70-90 townhome lots, and then on the back acreage they could put in 100-120 single family homes. Mrs. Cox said that they could have 75-100 foot lots that it is currently zoned for or 60 foot lots that might meet the demand that is more prevalent in the market right now.

Mrs. Cox advised that through their market research they feel that there is a demand for housing in the \$160,000 to \$350,000 range. They feel that the \$350,000 and above market is potentially saturated throughout the County. Mrs. Cox said that all the information that she has researched shows that Montgomery County will continue to grow through 2040, with 1 to 1.2 million residents in the County overall. Mrs. Cox said that she would like to provide housing that would fit into the City of Montgomery. Mrs. Cox does not want to over build, but would like to have something that fits into the community esthetically and bring good value to the community.

Mrs. Cox advised that if they looked at developing a townhome project, they would look at developing in 2016 through 2017, and then 2017-2018 would be construction of the single family phase one. Mrs. Cox said that the property layout from SH105 would have 10 acres of townhomes or apartments, with the single family homes in the back of the property.

Mrs. Cox said that they were also looking at potentially putting in a new street, and if the City of the property owners adjacent to the tract would be interested in closing their existing streets. Currently they don't have three entries within 100 feet from SH 105, for safety reasons and engineering benefits. They have a preliminary layout that shows the development of townhomes and single family residences.

Mrs. Cox said that depending on the configuration of the tracts, the access from SH 105 or other streets, the topography and drainage, they feel that they could get in 64 to 72 townhome units that would be 1,400 to 2,000 square feet each, priced at \$160,000 to

\$210,000. Mrs. Cox said that the townhomes would allow for home ownership in a price range that is not currently available. Mrs. Cox said that the exterior and rear views of the structure appear to be a 2,000- 3,000 square foot single family residence, which would fit in with the 75 foot lot size for the single family zone. Mrs. Cox advised that the HOA would maintain the front landscaping and restrict street parking. The monthly payments for the townhomes would be \$900 to \$1,100 and with taxes and insurance a resident could move in for \$1,400 to \$1,800. Mrs. Cox said with between 70 townhomes and 105 potential single family residences, the approved taxable value would be in the range of \$32 million for the City of Montgomery, Montgomery School District and the Hospital District. Mrs. Cox provided some videos of a comparable project, Creekside in The Woodlands. Mrs. Cox advised that the Creekside sales of the 24 units went faster than they expected and were sold within 12-18 months.

Jeffrey Waddell asked if typically the landscaping for the front and sides of the property was done by the developer. Mrs. Cox said that the suggestion is that the developer would do the initial landscaping, and then there would be an HOA that would maintain the property.

Mrs. Cox said that she has seen a lot of townhome communities that have a lot of cars in the street that detracts from the view, plus causes a safety issue as well, so they will have restrictions. Jeffrey Waddell clarified that there would be a 2-car garage per townhome unit. Mrs. Cox said that was correct. Mrs. Cox clarified that the HOA could have a restriction limiting the amount of days that visitors could park on the street, such as 48-hours. Mrs. Cox advised that this was all a concept for the purpose of receiving input from the City.

Mr. Ed Shackelford, City Engineer, asked whether there would be a firewall between the two townhome units. Mrs. Cox advised that there would be a firewall between the units, because they would be two separate units.

Arnette Easley asked about the recreational areas and whether they would only be parks. Mrs. Cox said that they would look to input from the builders, residents and City Council. Mrs. Cox stated that at their development in Conroe they have a walking trail with a fire pit so they could do different things there. Mrs. Cox said that they could also do picnic areas and park areas. Mrs. Cox said that they have not envisioned a swimming pool or community center, but certainly it is very early to make any of those decisions. Arnette Easley said that he has seen communities that have a small catch and release lake area.

William Simpson asked about the one access to the property coming from SH105. Mrs. Cox said that they had a discussion earlier and the Montgomery ISD owns a 1.2 acre tract between the tract itself and the street by the Methodist Church. Mrs. Cox said that they would be meeting with Montgomery ISD next week to see if they have an interest in selling the property. William Simpson said that could become a busy street at that location. Mr. Yates asked how far Lone Star Parkway was from the north boundary of the property. Mrs. Cox advised that it was approximately 400 to 600 feet away. Mr. Yates asked if they would be interested in platting where the street would run from SH 105 to Lone Star Parkway. Mrs. Cox said that they had talked about that and they could approach the adjacent landowner to see if they would have an interest in selling or conveying an easement. Mrs. Cox said that she had sent a letter to the property owner, but has not heard anything.

Mr. Yates asked if Mrs. Cox was aware of another developer in town that has a similar development with a common wall with a three car garage that is in the \$240 to \$270 range who has had problems selling his units. Mrs. Cox advised that she was aware of that project, and said that she felt they would be able to appeal to a different market with the pricing from \$160,000 to \$210,000.

Mr. Yates asked if Mrs. Cox was concerned with the access to SH105 and being so close to Old Plantersville and the school. Mrs. Cox said that they would do their due diligence to work through that issue. Mrs. Cox said at this point there is Westway Drive that they could access, or they could propose a third street and close down the other two streets. Mrs. Cox said that they would have to work with the City and property owners.

Arnette Easley asked whether the townhome pricing would be a standard across the board pricing, or would it vary with upgrades. Mrs. Cox said that it would be up to the builder when they come in, but typically it would be a base price and then there would have prices for upgrades. Arnette Easley asked about the materials and whether they would be durable. Mrs. Cox advised that the materials were very important, in Caney Creek they used Hardy Plank and World Brick. They use good quality materials and it is up to the residents and HOA to maintain them.

Jeffrey Waddell asked if the combination would be the siding and stone or brick as an accent. Mrs. Cox said that was how they usually designed them.

Chairman Cox said the only thing that stood out to him was emergency services access to the property, with one way in and one way out. Chairman Cox said that he would like them to explore that issue. Mrs. Cox advised that they would explore that with the Montgomery ISD and the property going to Lone Star Parkway.

William Simpson asked the City Engineer and the City Administrator how this development would affect the plan for future water and sewer services, and whether this development was included in that plan. Mr. Fleming advised that Mrs. Cox had already submitted her application for service about two weeks ago, which initiated the Utility and Economic Feasibility process. Mr. Fleming advised that he was underway with that information at this time which he will wrap up and present at the first City Council Meeting in January. William Simpson said he knew they had Kroger and several other developments, which are on the agenda today, and asked how far that would press services. Mr. Fleming advised that was a very important piece of the puzzle and they are working on that information so that they can give them and the City some definitive answers before they get too far down the road.

Jeffrey Waddell asked about the greenbelt and said that could be a very nice amenity, and he sees it as positive with drainage in the area a key element. Mrs. Cox advised that they

were still in the early due diligence phase, so before they progressed with any design they needed to get input and feedback from the City as to whether they were open to these type of improvements before they dedicated anymore time and resources to the project. Mrs. Cox thanked the Commission for their time and consideration.

Mr. Fleming advised that he was working on the Utility and Economic Feasibility process, which will be presented at the first City Council Meeting in January. Mr. Fleming advised that he would send a copy of the findings to the Commission as well. Mr. Fleming stated that will largely determine from Mrs. Cox's standpoint what is or not feasible for them. Mr. Fleming said that one of the biggest questions that came up during their pre-development meeting and led him to suggest the presentation to the Commission was the concept of the townhomes. Mr. Fleming said that it should be a good product, and something that the City might be lacking in the area, but given some of the conversations that have been held during the last year regarding lot sizes, it would clearly require a variance. Mr. Fleming said that he told Mrs. Cox to be very up front about the need for the variance and to do a good job of explaining the job she had in mind, because the 35-40 foot lot is something that the City has not seen before this proposal. Mr. Fleming said that he wanted the Commission to be very well aware of that matter and if they wanted to do so, offer some type of input.

Mrs. Cox asked the Commission if they felt she should continue to conduct research for the project, subject to some of the concerns that have been raised.

The Chairman said that he did not see anyone throwing up any red flags. There were no objections stated by the Commission regarding the concept.

Mr. Shackelford asked the Commission if this was a concept that the Commission would want City Council to comment on before Mrs. Cox moves forward with the project. Mr. Yates advised that he had planned on bringing that matter up and inviting Mrs. Cox to the next City Council Meeting. Mr. Shackelford said he would hate for them to prepare construction drawings and then have City Council not be in favor of the project.

Chairman Cox stated that he felt that Mrs. Cox needed to get the final word from City Council regarding the concept for the development. William Simpson said his main issue was the access road, because if you get a lot of cars out there then you have a problem with fire and emergency vehicles. William Simpson said that he felt that access was going to be the main issue.

Jeffrey Waddell asked if the lot that they saw in the example video were 30 foot lots. Mrs. Cox stated yes, she believed that they were 30 foot lots, which is what the builder had suggested that they look at. Jeffrey Waddell said that lot sizes are always an issue depending on the area and City Council will want to put that into perspective. Chairman Cox advised that City Council was the decision makers. Mr. Yates added that City Council does receive advice from the Commission. William Simpson said that he believed it was a good concept, but a lot of questions needed to be taken care of. Mrs. Cox said that as suggested, getting input from the City was a good suggestion. Mr. Fleming said that the Economic and Feasibility Study should answer some of the outstanding questions, and then in all likelihood they can revisit the matter in February or March.

Arnette Easley said that he knew that the townhomes were in the first phase, but asked what the long term goal to complete the project was. Mrs. Cox said that if the move forward there will be at least another 2-3 months of due diligence, which will put them through the first of the year. Mrs. Cox stated that the platting and engineering process would take about six months, and then they would begin construction of the streets and utilities. Mrs. Cox said that it would be a year from now before they would have any lots to release for townhomes. Mrs. Cox said that she thought that 2016-2017 would be the townhomes in phase one, with 35-40 townhome lots, and then would roll into phase two a year later. Mrs. Cox advised that the single family residences would be a year behind that time, because there seems to be a pull back by builders to buy lots 65-70 foot in width because there is an oversupply of homes in that higher price range. Mrs. Cox said that they would be looking at two to three years before they built the houses.

Motion was made by _____, seconded by _____,
and passed by a _____ to _____ vote that the following Ordinance be passed:

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MONTGOMERY, TEXAS, AMENDING DIVISION 3, "WATER AND SEWER MAIN EXTENTIONS," OF CHAPTER 90, "UTILITIES," OF THE CITY OF MONTGOMERY CODE OF ORDINANCES, CONCERNING THE EXTENSION OF WATER OR SEWER UTILITY LINES AND PROVIDING FOR THE FOLLOWING: FINDINGS OF FACT; JURISDICTION; PURPOSE AND SCOPE; DEFINITIONS; EXTENSION OF RETAIL WATER OR SEWER SERVICES BY DEVELOPERS AND NON-DEVELOPERS; PRO RATA CHARGES TO INTERVENING CUSTOMERS DESIRING TO CONNECT TO WATER OR SEWER UTILITY EXTENSIONS; ENFORCEMENT AND PENALTIES FOR NONCOMPLIANCE; SEVERABILITY; REPEALING PORTIONS OF ORDINANCE NO. 1996-6 AND OTHER ORDINANCES IN CONFLICT; TEXAS OPEN MEETINGS ACT CLAUSE; AND PROVIDING EFFECTIVE DATE AFTER PUBLICATION.

WHEREAS, the city council of the City of Montgomery seeks to promote the health, safety and general welfare of the citizens of the City, and the best interest of the City; and

WHEREAS, the city council seeks to promote fair, just and reasonable water, and sewer utility fees; and

WHEREAS, retail water and sewer utilities provided by the City are not meant to enrich private property owners or developers;

WHEREAS, the city council seeks to ensure that water, and sewer utility service is adequate and efficient for the citizens of the City; and

WHEREAS, pursuant to Texas Local Government Code Section 51.001, the city council is authorized to adopt an ordinance that is for the good government, peace or order of the City and is necessary or proper for carrying out power granted by law to the City; and

WHEREAS, pursuant to Texas Local Government Code Section 51.011, the city council is authorized to adopt an ordinance, not inconsistent with state law, that the council considers proper for the government, interest, welfare or good order of the City; and

WHEREAS, pursuant to Chapter 552 of the Texas Local Government Code and other laws, the City is authorized to operate its water and sewer utility systems inside or outside its municipal boundaries, to regulate the system in a manner that protects the interest of the municipality, and to extend the lines of its utility systems inside and outside the municipal boundaries.

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

SECTION 1. Findings of Fact. All of the above premises are hereby found to be true and correct legislative and actual findings of the City Council, and are hereby approved and incorporated into the body of this Ordinance as if copied in their entirety.

SECTION 2. Jurisdiction. The provisions of this Ordinance shall apply to the City's retail water and sewer utility systems.

SECTION 3. Purpose and Scope.

(1) This Ordinance establishes certain general policies and specific requirements to be used in provision and extension of retail water and sewer utility service. Additional substantive or procedural policies and requirements may be developed or applied or both, on a case-by-case basis as the need arises.

(2) The City may make exceptions to this Ordinance for good cause. The following criteria shall be used in determining whether a good cause exception is to be granted:

- (a) whether the good cause exception would undermine the purpose of the Ordinance.
- (b) whether the good cause exception would further the purpose of the Ordinance;
- (c) whether the good cause exception is warranted due to difficult or impossible circumstances;
- (d) whether the need for a good cause exception could have been avoided with reasonable foresight;
- (e) whether the good cause exception, if not granted, would produce an illogical result;
- (f) whether the good cause exception would be a material variance from the Ordinance; and
- (g) whether the good cause exception would unduly prejudice or burden the City or affected persons.

(3) Adopting this Ordinance in no way precludes the City from altering or amending any portion of this Ordinance in whole or in part, or precludes the City from adopting additional rules pertaining to the provision of water and sewer retail utility service. This Ordinance is not an exhaustive list of policies, requirements or procedures implementing, interpreting or prescribing law of policy applicable to regulating retail water or sewer service. This Ordinance shall not be construed to enlarge, diminish, restrict or alter the City's jurisdiction, authority or powers or the rights of any person.

SECTION 4. Regulations. Division 3, “Water and Sewer Main Extensions,” in Chapter 90, entitled “Utilities,” of the City of Montgomery Code of Ordinances is hereby amended by adding additional definitions to Section 90-101; additions to Sections 90-103, 90-104, and 90-105; and the addition of new Sections 90-106 and 90-107 as found in Exhibit “A” to this Ordinance:

SECTION 5. Conflicts and Repealing Clause. All conflicting sections of City Ordinance No. 1996-6, dated December 3, 1996, are hereby repealed and replaced with this Ordinance. The provisions of this Ordinance shall be cumulative of all other ordinances or parts of ordinance governing or regulating the same subject matter that covered herein provided however, that all prior ordinances or parts of ordinances inconsistent or in conflict with any of the provisions of this Ordinance are hereby expressly repealed to the extent that such inconsistency is apparent. This Ordinance shall not be construed to require or allow any act which is prohibited by any other ordinance.

SECTION 6. Severability Clause. If any provision, section, subsection, sentence, paragraph, sentence, clause or phrase of this Ordinance or the application of same to any person or set of circumstances, shall for any reason be held to be unconstitutional, void, or invalid or otherwise unenforceable, the invalidity or unenforceability shall not affect other provisions of this Ordinance or their application to other sets of circumstances and to this end all provisions of this Ordinance are declared to be severable.

SECTION 7. No Vested Interest. No person shall acquire any vested interest in this Ordinance or any specific regulations contained herein. This Ordinance and any regulation enacted hereby maybe amended or repealed by the City Council in the manner provided by law.

SECTION 8. Texas Open Meetings Clause. It is hereby officially found and determined that the meeting at which this Ordinance was considered was open to the public as required and that the public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code.

SECTION 9. Effective Date. This Ordinance shall become effective immediately 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

EXHIBIT "A"

MONTGOMERY CITY CODE OF ORDINANCES

DIVISION 3. WATER AND SANITARY SEWER MAIN EXTENSIONS

Sec. 90-101. Definitions.

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

City means the City of Montgomery.

City Administrator means the Administrator of the City or his/her designee.

City Council means the city council of the City of Montgomery.

Cost of construction means the total project cost which includes the cost of engineering, surveying, right-of-way or easement, legal advertisement, construction, construction administration, inspection, construction materials testing.

City Engineer means the registered professional engineer employed or designated by the City to provide professional engineering services for and on behalf of the City.

City Secretary means the Secretary of the City or his/her designee.

Customer means any person provided water or sanitary sewer services by the City.

Developer means any individual, corporation, or other legal entity that owns property proposed for subdivision or development.

Person means individual, corporation, organization, government or political subdivision or agency, business trust, partnership, association, or any other legal entity.

Pro Rata Charge shall mean a fee charged to new water or sanitary sewer service customers who connect to a City retail water or sanitary sewer main or facility, for which the cost of construction was provided by the City, a developer, or an individual. Pro rata charges are used to reimburse the City, a developer, or an individual for a portion of such costs. The portion of the main or facility for which pro rata charges are collected shall be measured from the terminus of the then existing water or sanitary sewer line. The goal of such calculation shall be to reimburse the City, a developer, or an individual as subsequent service connections are established. In no event may the City, a developer, or an individual recover more than his/her/its original costs.

Retail Water or Sanitary Sewer Service means water or sanitary sewer service provided by the City directly to the ultimate retail consumer as that term is defined by Chapter 13, Texas Water Code, and other applicable law.

Service area means the corporate limits of the City or the area served by or certified to the City of Montgomery for provision of retail water or sewer service.

Subdivision includes residential and commercial subdivision and commercial and industrial development.

Utility line means the water or sanitary sewer utility facilities and mains used in the provision of retail water or sanitary sewer service by the City.

Utility and Economic Feasibility Study means a study performed by the City to investigate drainage needs, access to the public street system, existing utility locations, available capacity in the water and sanitary sewer system, identify potential cost to extend utility service to a proposed tract or development, calculate potential revenue from ad valorem taxes, determine whether the tract needs to be annexed and potential demands on city government.

Sec. 90-102. Scope of division.

The provisions of this division shall govern the extension of water and sanitary sewer lines and other appurtenances to areas proposed for subdivision or development, or to those property owners requesting such utility services. Within the city limits and within limits of the City's extraterritorial jurisdiction, all costs necessary to provide water and sanitary sewer facilities inside a subdivision or development, or upon residential or commercial property, shall be the responsibility of the developer. All facilities shall be constructed in accordance with City standards and specifications.

Sec. 90-103. Extension of utilities to a subdivision or development within city limits.

The following shall be applicable to extension of retail water or sanitary sewer service to a subdivision or development within the corporate limits of the City:

- (1) Developers desiring retail water or sanitary sewer service from the City shall comply with the City's Code of Ordinances and Resolutions to obtain said service from the City for the development and to extend the City's water and sewer system to the development and shall enter into a development agreement with the City that contains the details, including costs, of such provision of services. In no event shall developers be allowed to pay a lower cost for extending water or sewer facilities or mains than individuals and non-developers are required to pay.
- (2) It shall be the developer's responsibility to acquire and/or designate any utility easement(s) needed to extend the utility line from its present terminus or nearest location to the developer's property. The legal document used to acquire the right-of-way shall be reviewed and approved by the City Attorney and City Engineer prior to

the document being presented to the land owner for consideration. The cost of the required easement(s) shall be reimbursed as part of the total cost of the extension in the manner set forth in this section. The location, width, and cost of such easements(s) shall be subject to the approval of the City. Should the developer be unable to acquire the needed easement(s), the City, at its option, may assist in the acquisition negotiations.

- (3) The total cost of a utility line extension shall include all costs associated with the extension, including easement(s) acquisition(s), engineering costs, materials costs, construction costs, and any other costs for studies or surveys related to the extension less the City's share in cases of required excess improvements.
- (4) The extensions of retail water service and sanitary sewer service shall be figured separately and treated as separate and individual extensions for the purposes stated in this section.
- (5) Water and sanitary sewer line extensions may be installed by the City or by the Developer's contractor. This decision shall be made by the council prior to the project being advertised for bid.. In either case, the size, location, materials to be used, and installation practices shall be in accordance to the City's design standards and approved by the City Engineer along with being subject to inspection and approval by the City Engineer.
- (6) When the City installs the utility line extension, the Developer shall pay in cash or provide an unconditional guarantee from a financial institution, approved by the City, for the Developer's share of the utility expansion as determined by the City. The guarantee shall be for 125 percent of the project to cover construction administration, inspection, potential change orders. A final accounting will occur at the end of the project. The guarantee shall be filed with the City Secretary in letter form from the financial institution and be signed by its principal loan officer. The guarantee shall state the name of the project or identify the property and shall list the improvements the Developer is required to provide. This payment or guarantee must be filed with the City after bids have been received and Secretary prior to the project commencing.
- (7) A pro rata share of the total cost of an extension shall be assessed to each property that seeks service from the extension as provided in this section based on the projected equivalent single family connection (ESFC) usage.
- (8) If the Developer can obtain the pro rata shares from some or all of the assessed property owners prior to the installation of the lines, the Developer's costs will be reduced by that amount. The basis for the cost of construction will be reviewed and approved by the City prior to the communicating with the property owners along the utility extension route. The Developer shall provide to the City a list of all property owner(s) having paid their pro rata share(s) prior to beginning construction.

- (9) Any customer requesting service who has not paid his pro rata share prior to the installation of the utility extension(s) must pay the pro rata share in full plus an additional 15 percent, in addition to the connection charge(s) for water and sanitary sewer tap(s) as set forth in the City's Code of Ordinances, before service will be connected. The 15 percent surcharge will be retained by the City to defray the administrative cost incurred by the City for the utility extension.
- (10) A Developer who contributes in excess of his pro rata share for construction of a utility extension will be eligible for refunds. When assessed property owners do not pay their pro rata share at the time of installation, they will be charged as set forth in subsection (9) of this section. Their pro rata share shall be refunded to the Developer by the City. The Developer shall be eligible for reimbursements in this manner for a period of ten (10) years from the date installation of the extension is completed. The City shall continue to collect the pro rata shares from property owners who have not paid as they request service. The funds shall be retained by the City to offset bookkeeping costs and maintenance of the utilities.
- (11) If the City requires a line size larger than necessary to serve the developer's property the City will pay the difference between the cost of the line size, ways, fittings, etc., necessary to serve the developer's property and the line size, ways, fittings, etc., required by the City. This shall apply for all required excess improvements either within the property or relating to the extension of line to a property. Separate bids will be received for the utility line to serve the developer and the oversized line to establish the true cost for the oversizing.
- (12) The City may connect any future customer to the extended lines provided the customer pays a pro rata charge and the connection charge(s) for water and sanitary sewer tap(s) as set forth in the City's Code of Ordinances.
- (13) Criteria for calculating the pro rata charge to property owners are as follows:
- a. The pro rata charge for each property where utilities are to become available by installation of a utility extension will be based the ESFC usage projected for the tract/development as identified in the Utility and Economic Feasibility Study Report. .
 - b. In making the calculations, the City will determine in advance which properties in the vicinity of the extension are capable of being served. Each of these parcels of property will then be included in the calculations. If the City determines that a property is not likely to tie into the system, it will be omitted from the calculations. Any owner of property that has been excluded from calculation in this manner who, at a later time, desires to connect to the utility extension will have to pay a pro rata share.
 - c. The total Project Cost including engineering, surveying, geotechnical testing, construction materials testing, construction, construction administration and inspection will be divided by the ESFC volume from all the tracts

participating to determine the cost per 1,000 gallons or ESFC. This amount will be shared with all the participants.

- d. Properties that do not front on or abut the utility extension right-of-way but which can be served by the extension shall be subject to the pro rata assessment for original extension plus that particular extension necessary to serve the tract that does not front the utility.
- e. Any condition not covered in this section or of such a nature that strict application of the procedures established in this section would result in an inequitable pro rata change to a property owner may be negotiated by the city council at the time the original calculation is made for a proposed extension.

Sec. 90-104. Construction of utilities within subdivision or development.

The following shall be applicable to the construction of utilities within a subdivision or development or extensions of utilities to subdivision development:

- (1) The developer of an addition to the City, the final plat or plan of which has been approved by the city council, shall design and prepare construction plans and specifications for the water supply and sanitary sewer facilities to serve the subdivision, including any required excess improvements or off-site facilities. Each plan shall conform in all details to the City standards as to design, grade, location, size and quality of materials and construction, and shall be prepared by a registered professional engineer and shall bear his seal.
- (2) All specifications for construction contracts shall be based upon the City's standard specifications for materials and performance.
- (3) No installation of water and sewer lines will be made at any other location except in a dedicated street or alley or an easement dedicated to and accepted by the City prior to it being filed for record by the City of the addition to be subdivided.
- (4) Utility extensions to a subdivision or development shall extend across the entire length of the development from the closest point of connection to the furthest point of connection, unless it is determined by the City Engineer that the extension will not be continued beyond the developer's subdivision or development.
- (5) The construction and installation of the water and sanitary sewer system shall be supervised and approved by the City Engineer to ensure that the installation is in accordance with the approved plans, City specifications and the applicable regulatory agency approvals. The City specifications shall be a part of every contract that is let.

- (6) The director of public works for the City, the City Engineer, or their authorized representative shall have the authority to see that the work is performed in accordance with the approved plans and specifications. If the water and sanitary sewer work is not being performed in accordance with the approved plans and specifications, then the work shall be stopped until such time as proper corrections are made. Should work progress without correction, the City has the option to not accept the utility extension for ownership and maintenance and the utility remains a private line.
- (7) The sizes of the mains proposed to be extended shall be determined by the City Engineer and shall be in conformance with the water and sanitary sewer utility infrastructure master plans. The total costs of extending the mains to the Developer's property shall be borne solely by the developer, with the following exceptions:
 - a. Upon approval and acceptance of the system by the City, on any mains larger than eight-inches (8") the City may elect to participate in the cost by refunding the Developer the difference between the cost of the oversized mains and the eight-inch (8") main.
 - b. The City also will pay to the original developer pro rata charges as received from applicants who desire to connect to the mains, with the total payment not to exceed the amount of the original applicant's cost of off-site improvements.
 - c. The maximum period of time for the pro rata reimbursement to the original developer for the off-site mains shall not exceed ten (10) years following approval and acceptance of the utility line extension by the City. The developer shall have no claim against the City for any expenses not reimbursed and any pro rata charges not received within ten (10) years, nor any fees received after ten (10) years.
 - d. Pro rata charges, if any, shall be collected by the City from each intervening property owner, regardless of when the property owner expresses interest in connecting, along the extended water and sewer mains at the time of application for water or sewer services by said property owner.
- (8) Any installations, when completed and approved by the City Engineer and accepted by City Council, shall become the property of the City, free and clear of all encumbrances. The contractor shall indemnify the City against any repair which may become necessary to any part of the work performed arising from defective workmanship or materials for a period of one year from the date of final acceptance of the work.

Sec. 90-105. Extension of utilities to single-family residential lots/tracts.

The City will extend off-site water and sanitary sewer lines to single-family lots within the corporate limits of the city. The first 100 feet of the extensions will be provided by the City at no cost to the lot owner. All costs incurred in the extension of a utility beyond 100 feet will be paid by the lot owner. The lot owner is responsible for all costs of the service lines between the public line and the home.

Sec. 90-105. Extension of utilities to subdivision or development outside city limits.

(1) Developers desiring retail water or sewer service from the City and whose property is located outside the city limits of the City shall request annexation into the City in order to obtain water and sewer service. If, at the time the request is made the City is unable to annex the property, the Developer and the City may enter into a written development agreement that addresses whether and under what terms, if any, the City will provide service.

(2) Properties outside the city limits that will be served by a utility extension but not annexed by the City will pay 1 1/4 times their pro rata share to the City to offset the additional costs to the City. Policies regarding payment, reimbursement of the Developer and the calculation and payment of pro rata shares or participating property owners are the same as stated in this division.

Sec. 90-106. Extension of utilities to individual or non-developer

(1) This section applies to a request for retail water or sewer service in the City's water service area from individuals or non-developers.?

(2) Upon the approval of an application from an individual or non-developer, and upon payment of all applicable fees and charges due under this section and at the expense of the applicant, the City may extend all necessary water and sewer facilities and mains to the property plus the distance across the entire frontage necessary to provide the service upon the premises for which the applications has been made.

- a. The City will not pay the cost of extending water or sanitary sewer facilities and mains to the property. The applicant shall be responsible for paying all costs to extend the water and sanitary sewer facilities and mains. The applicant shall pay the estimate of such cost prior to construction. If the actual cost to extend the water or sanitary sewer mains and facilities is greater than the estimated costs, the applicant shall pay the City the difference between the actual and estimated costs upon completion of the extension project. If the estimated cost to extend the water or sanitary sewer mains or facilities is greater than the actual cost, the City shall reimburse the applicant the difference between the actual and estimated costs upon completion of the extension project.

- b. The owners of all intervening property served by such extension shall be required to pay the pro rata charges at such time as their property is connected to the City's water and sanitary sewer system.
- c. Upon approval of the City, the property owner or person requesting extension of water or sanitary sewer facilities or mains to his or her property may extend the mains or facilities by a competent and reputable contractor. All plans and constructions shall comply with City standards and specification. Detailed construction plans for the improvements complying with the City's construction standards and specification for public works construction shall be drawn by a registered professional engineer and approved by the City Engineer prior to any construction. The construction shall be inspected and approved by the City Engineer prior to final acceptance by the City and all expenses associated with such inspections and approvals shall be borne by the person requesting services.
- d. The size(s) of the main(s) proposed to be extended shall be determined by the City Engineer and shall be in conformance with the water and sanitary sewer utility infrastructure master plans. The total costs of extending the mains to and across the applicant's property shall be borne solely by the applicant, with the following exceptions:
 - 1. Upon approval and acceptance of the system by the City, on any mains larger than eight-inches (8") the City may elect to participate in the cost by refunding the applicant the difference between the cost of the oversized mains and the eight-inch (8") main.
 - 2. The City also will pay to the original applicant pro rata charges as received from customers who apply to the City to connect to the mains, with the total payment to the Developer to not exceed the amount of the original applicant's cost of off-site improvements. The City shall retain a pro-rata share amount for their portion of oversizing the line (s).
 - 3. The maximum period of time for the pro rata reimbursement to the original applicant for the off-site mains shall not exceed ten (10) years. The applicant shall have no claim against the City for any expenses not reimbursed and any pro rata charges not received within ten (10) years, nor any fees received after ten (10) years.
- (e) Pro rata charges, if any, shall be collected by the City from each intervening property owner along the extended water and sewer mains at the time of application for water or sanitary sewer services by said property owner.

(3) In no event will the City be required to make extensions or participate in the cost of improvements under the provisions of this section if there are not funds available, or if, at the discretion of the City, the extension or improvement may not be practical, or otherwise warranted, or is for any unreasonable consumer use.

(4) All water and sewer utilities are owned and operated by the City after acceptance by the city council. Any extensions of the City's water and sanitary sewer facilities made by a qualified service applicant or Developer, after inspection and acceptance by the City Engineer, shall be owned by the City after acceptance by the city Council.

(5) Where recorded public utility easements do not exist on the property of any individual, non-developer, or developer who is requesting water or sewer service from the City, the individual, non-developer, or developer shall grant a permanent recorded public utility easement for poles, wires, conduits, drainage channels, storm sewers, sanitary sewers, water lines, gas lines, or other utilities to the City. These easements shall be at least 20-foot wide. However, if the City Engineer determines a greater width is necessary, the City may require a minimum width of up to 30 feet. For Developers, the easements required by this section shall comply with the City's subdivision ordinance. For individuals and non-developers, the easements required by this section shall extend along all roadway frontages of the property and shall parallel as closely as possible the street line frontage. Failure to grant the required easements shall result in the denial of City services. The easements shall conform to the standard form approved by the City and shall be reviewed and approved by the City Engineer and the City Attorney prior to the easement being accepted by city council and filed for record at Montgomery County.

(6) All sanitary sewer and water lines on private property from the City's main lines to the premises, including all connections, shall be installed, maintained, and repaired at the expense of the property owners(s). All leaks and other defects in the main shall be promptly repaired by the property owner(s). If required repairs are not completed within ten (10) days after written notice is mailed or hand delivered to the premises, water service to the premises shall be terminated and shall not be restored until the repairs are made and all applicable fees and expenses paid. Any expenditures incurred by the City because of leaks or defects shall be charged against the property owner(s) and must be paid before water services is restored.

SECTION 90-107. Penalties and Enforcement

Any person violating this Ordinance, upon conviction, is punishable by a fine in accordance with the following:

(1) **Civil and Criminal Penalties.** The City shall have the power to administer and enforce the provisions of this Ordinance as may be required by governing law. Any person violating

any provision of this Ordinance is subject to suit for injunctive relief as well as prosecution for criminal violations.

(2) **Criminal Prosecution.** Any person violating any provision of this Ordinance shall, upon conviction, be fined a sum not exceeding Five Hundred Dollars (\$500.00). Each day that a provision of this Ordinance is violated shall constitute a separate offense. An offense under this Ordinance is a misdemeanor.

(3) **Civil Remedies.** Noting in this Ordinance shall be construed as a waiver of the City's right to bring civil action to enforce the provisions of this Ordinance, and to seek remedies as allowed by law, including but not limited to the following: (i) injunctive relief to prevent specific conduct that violates the ordinance or to require specific conduct that is necessary for compliance with the Ordinance; and (ii) other available relief.

	A	B
1	COMMUNITY CENTER PROJECT	
2	PROPOSED AMOUNT	ITEM OF CONCERN
3	KITCHEN	
4	\$ 400.00	Fuse Box
5		Exposed Pipes
6	\$ 1,000.00	Window AC Unit
7	\$ 1,000.00	Counter Tops ~ Need Replacing
8	Delete	Cabinets done away with or re-built
9	\$ 200.00	Stainless Steel sink redone with new faucets
10	\$ 150.00	10 Ceiling tiles completely replaced
11	\$ 300.00	Walls caulked and painted
12	\$ 100.00	Floors polished and waxed
13	\$ 300.00	Hot water heater encased
14	DO	Remove stove
15	\$ 125.00	Windows redone/coverd with blinds
16		Doors removed - they are not ADA approved
17		
18	PUBLIC RESTROOM	
19		Sinks replaced/mirrors
20	\$ 100.00	Walls resurfaced and painted
21	<i>done</i>	Stall wall built for ladies restroom
22	<i>done</i>	Windows covered
23		Ceiling tiles replaced
24	<i>done</i>	Floors waxed/polished
25		Light fixtures redone
26		
27	ENTRY WAY	
28	<i>N/A</i>	Repainted
29	\$ 75.00	Wooden molding on doors completed
30	<i>done</i>	Doors stained or repainted
31		
32	MAIN HALL	
33	<i>500</i>	322 Ceiling tiles replaced
34	<i>N/A</i>	Addition of 8-10 Ceiling fans
35	\$ 75.00	Bead Board Stripped and Stained
36	<i>N/A</i>	Walls painted
37	<i>N/A</i>	Back Cabinet - Replace glass and Cabinet filled w/Mem.
38	\$ 100.00	Tile floor repaired .. Loose tiles
39	\$ 250.00	Floors waxed and polished
40	<i>N/A</i>	Black glass mem. Removed
41	One for corner <i>150</i>	Exit signs repaired
42	<i>done</i>	Light fixtures cleaned - many need replacing

	A	B
43		
44	Suggestion:	Take back the closet from the Lion's Club to store tables, etc.
45		
46	OUTSIDE	
47	Do. no cost	Clean windows and powerwash building
48	Done	Trim bushes near windows
49	Done	Remove vines on building

Total \$4,825
Public Works
 16,233 Common Bldg. 2,000
 16,374 Bldg. Repair 1,000
 16,460.5 Comm. Bldg. 1,825

Bid

Solomon Electric, Inc.

TECL #22143
P.O. Box 830
Montgomery, TX 77356
Ph. 936-597-6425

Date: 9/3/2015
Invoice #: BID
Terms:

Bid to:

City of Montgomery
Attn: Mike Muckleroy

Date	Location	Description	Amount
9/3/15	Community Center	Remove existing lights. Rewire everything possible in building. Clean up existing pipes on outside of building-remove any pipes that can be removed and run electrical through drop ceiling. Replace (23) 3-bulb T8 fluorescent lay-in's. *Total *LED lay-in's would be an additional \$1,957.00	\$13,324.00
			Total
Regulated by the Texas Dept. of Licensing & Regulation P.O. Box 12157 Austin, TX 78711 PH 1-800-803-9202 or 512-463-6599 website: www.license.state.tx.us/complaints			Bid Total
			Amount paid
			Balance due

Bid

Solomon Electric, Inc.

TECL #22143
P.O. Box 830
Montgomery, TX 77356
Ph. 936-597-6425

Date: 9/3/2015
Invoice #: BID
Terms:

REVISED

Bid to:

City of Montgomery
Attn: Mike Muckleroy

Date	Location	Description	Amount
9/3/15	Community Center	Rewire everything possible in building. Clean up existing pipes on outside of building-remove any pipes that can be removed and run electrical through drop ceiling. Replace (23) 3-bulb T8 fluorescent lay-in's. Total	\$11,624.00
			Total
Regulated by the Texas Dept. of Licensing & Regulation			Bid Total
P.O. Box 12157 Austin, TX 78711 PH 1-800-803-9202			Amount paid
or 512-463-6599 website: www.license.state.tx.us/complaints			Balance due



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

December 21, 2015

The Planning & Zoning Commission
City of Montgomery
101 Old Plantersville Road
Montgomery, Texas 77356

Re: Approval of Construction Drawings
Hills of Town Creek, Section Two
City of Montgomery

Commission Members:

We have reviewed the referenced construction drawings as submitted by L Squared Engineering and offer no objections to the plans as submitted to us. The Developer is requesting permission to proceed under the proposed Alternate Ordinance Process which was discussed at the joint City Council/P&Z workshop held earlier this year. Attached for your reference is a flow chart which highlights the platting and planning processes. We will be prepared to discuss this request in its entirety at your upcoming meeting, however we offer no objection to the request.

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', written in a cursive style.

Ed Shackelford, P.E.
Engineer for the City

EHS/gef: lr2

P:\PROJECTS\W5841 - City of Montgomery\W5841-0900-00 General Consultation\2015\P&Z Reports\12-28-2015\Hills of Town Creek Plan Approval-P&Z Opinion.doc

Enclosures cc: 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 – City of Montgomery, City Attorney
Mr. E. Levi Love, P.E. – L Squared Engineering

City of Montgomery, Texas Plat Process Flow Chart

