

**MONTGOMERY PLANNING AND ZONING COMMISSION AGENDA
REGULAR MEETING OF
MONDAY, JUNE 24, 2019 AT 6:00 P.M.
CITY HALL COUNCIL CHAMBERS, 101 OLD PLANTERSVILLE ROAD,
MONTGOMERY, TEXAS.**

CALL TO ORDER

VISITOR/CITIZENS FORUM

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

1. Consideration and possible action regarding approval of minutes of Special Meeting and Public Hearing held on May 16, 2019, and Special Meeting and Public Hearing held on May 21, 2019.
2. Consideration and possible action regarding a sign for ONE Property Group to be located at 302 John A Butler Street in the Historic Preservation District.
3. Consideration and possible action on a proposed new building for Best Donuts to be located at 20998 Eva Street in the Historic Preservation District as submitted by Samdana Investments.
4. Consideration and possible action regarding the proposed Tree Ordinance.
5. Discussion regarding a general project grouping to be coordinated by the Planning and Zoning Commission.
6. Adjournment


Richard Tramm, City Administrator

Posted June 21, 2019 at 4:30 p.m. This facility is wheelchair accessible and accessible parking spaces are available. Please contact the City Secretary's office at 936-597-6434 for further information or for special accommodation



MINUTES OF PUBLIC HEARING and SPECIAL MEETING

May 16, 2019

MONTGOMERY PLANNING AND ZONING COMMISSION

CALL TO ORDER

Chairman Cox declared a quorum was present, and called the meeting to order at 6:06 p.m.

Present: Arnette Easley, William Simpson, Nelson Cox, and Jeffrey Waddell

Absent: Carol Langley

Also Present: Jack Yates, City Administrator

Dave McCorquodale, Assistant to City Administrator

PUBLIC HEARING(S):

Convene into Public Hearings for the purpose of giving all interested persons the right to appear and be heard regarding the following:

Chairman Cox convened the Public Hearings at 6:07 p.m.

1. PUBLIC HEARING(S): Rezoning the following properties from ID-Industrial to B-Commercial:

- a. 1.24 acres in Tract 42 of the Zachariah Landrum survey A-22, also described as part of 21627 Eva St. SH 105 frontage, Montgomery, owned by the Lone Star Cowboy Church.
- b. 1.08 acres in Tract 42 of the Zachariah Landrum survey A-22, also described as part of 21627 Eva St., Montgomery, owned by the Lone Star Cowboy Church.
- c. 8.35 acres in Tracts 3 & 4 of the Zachariah Landrum survey A-22, also described as along SH 105 West/Eva St. in Montgomery, owned by Alan Wayne Mann.

2. PUBLIC HEARING(S): Rezoning the following properties from ID-Industrial to R1 Single Family Residential:

- a. 1.41 acres in Tract 46T-1 of the Zachariah Landrum survey A-22, also described as part of 11181 Womack Cemetery Rd, Montgomery, owned by William and Julie Todd.

Mr. William Todd, the owner of the property described in Agenda Item 2a, asked if the taxable value of his property would change as a result of the rezoning. Dave McCorquodale stated it would not. Mr. Todd stated his address is different from what was listed on the agenda because they recently got a new street name and that somehow during the process, he got two addresses from MCAD. Mr. Todd said his new mailing address is 22000 Twin Creeks Road.

- b. 1.88 acres in Tract 46T-1 of the Zachariah Landrum survey A-22, also described as part of 21930 Twin Creeks Rd, Montgomery, owned by David and Carrie Solomon.
- c. 3.04 acres in Tract 46K of the Zachariah Landrum survey A-22, also described as part of 21910 Twin Creeks Rd, Montgomery, owned by Harvey and Juanita Simmons.

No comments were made for Items 2b and 2c.

3. PUBLIC HEARING(S): Rezoning the following properties from I-Institutional to R1-Single Family Residential:

- a. 2.25 acres in Tracts 45-D & 45-D-1 of the Zachariah Landrum survey A-22, also described as part of 623 Old Plantersville Rd, Montgomery, owned by the Joseph Shockley Revocable Living Trust.

No comments were made.

4. PUBLIC HEARING(S): Rezoning the following properties from R1-Single Family Residential to B-Commercial:

- a. 0.46 acres in Tract 82 of the Owen Shannon survey A-36, also described as 15309 FM 149 Rd, Montgomery, owned by the Estate of Cherry D. Easley.

- b. 0.374 acres in Tract 84 of the Owen Shannon survey A-36, also described as approximately 15307 FM 149 Rd, Montgomery, owned by Arnette Easley.
- c. 0.41 acres in Tracts 1 & 70 of the Owen Shannon survey A-36, also described as 712 N Liberty St, Montgomery, owned by Paul D and Doris J Allen.
- d. 0.5 acres in Tract 8 of the Owen Shannon survey A-36, also described as approximately 15328 N Liberty St, Montgomery, owned by Paul D and Doris J Allen.
- e. 0.25 acres in Tract 9 of the Owen Shannon survey A-36, also described as 15330 N Liberty St, Montgomery, owned by Willie & Evelyn Wright.
- f. 0.32 acres in Tract 2 of the Owen Shannon survey A-36, also described as 22950 W FM 1097 Rd, Montgomery, owned by the Estate of Audrey B. Allen.

No comments were made.

5. PUBLIC HEARING(S): Realigning the Zoning Boundaries for the following property:

- a. 30.84 acres in Tract 14 of the John Corner survey A-8, also described as FM 149 South frontage on the east side of the road from the city limits to the MISD bus barn, owned by Risher Randall, et al. in Montgomery. The property is currently zoned B-Commercial and R2-Multi Family Residential. The proposed rezoning will realign zoning district boundaries, consolidating like districts and resulting in no appreciable change in size of either district.

No comments were made.

6. PUBLIC HEARING(S): Rezoning the following properties from B-Commercial to R1-Single Family Residential:

- a. Lots 1 – 51, Blocks 1 & 2, The Hills of Town Creek, Section 2 Subdivision, also described as 103 – 234 Brock’s Lane, and 308 – 317 Brock’s Court, Montgomery.
- b. Open Space Reserves A, B, C, & D in The Hills of Town Creek Section 2.
- c. Lots 1 – 49, Block 3, The Hills of Town Creek, Section 3 Subdivision, also described as 242 – 265 Brock’s Lane, and 110 – 155 Scenic Hills Court, Montgomery.

- d. Open Space Reserve A in The Hills of Town Creek, Section 3.

No comments were made.

7. PUBLIC HEARING(S): Rezoning the following properties from I-Institutional to B-Commercial:

- a. 0.5 acres in Tracts 15-A & 83-A of the Owen Shannon survey A-36, also described as 712 Community Center Dr., Montgomery, owned by Patricia Easley.

No comments were made.

Adjourn Public Hearings

Chairman Nelson Cox adjourned the Public Hearings at 6:21 p.m.

Reconvene Special Meeting

Chairman Nelson Cox reconvened the Special Meeting at 6:21 p.m.

8. Adjournment

Jeffrey Waddell moved to adjourn the meeting at 6:22 p.m. Arnette Easley seconded the motion, the motion carried unanimously. (4-0)

Prepared by:  _____ Date approved: _____

Chairman Nelson Cox

Attest: _____
Susan Hensley, City Secretary

MINUTES OF PUBLIC HEARING and SPECIAL MEETING

May 21, 2019

MONTGOMERY PLANNING AND ZONING COMMISSION

CALL TO ORDER

Chairman Cox declared a quorum was present and called the meeting to order at 6:01 p.m.

Present: William Simpson, Nelson Cox, Jeffrey Waddell, and Carol Langley

Absent: Arnette Easley

Also Present: Jack Yates, City Administrator

Dave McCorquodale, Assistant to City Administrator

1. Consideration and possible action regarding approval of minutes for Regular Meeting held on April 22, 2019 and Special Meeting and Public Hearing held on May 13, 2019.

William Simpson moved to approved the minutes as presented. Jeffrey Waddell seconded the motion, the motion carried unanimously. (4-0)

PUBLIC HEARING(S):

Convene into Public Hearings for the purpose of giving all interested persons the right to appear and be heard regarding the following:

2. PUBLIC HEARING(S): Rezoning the following properties from ID-Industrial to B-Commercial:

- a. 1.24 acres in Tract 42 of the Zachariah Landrum survey A-22, also described as part of 21627 Eva St. SH 105 frontage, Montgomery, owned by the Lone Star Cowboy Church.

- b. 1.08 acres in Tract 42 of the Zachariah Landrum survey A-22, also described as part of 21627 Eva St., Montgomery, owned by the Lone Star Cowboy Church.
- c. 8.35 acres in Tracts 3 & 4 of the Zachariah Landrum survey A-22, also described as along SH 105 West/Eva St. in Montgomery, owned by Alan Wayne Mann.

Chairman Cox convened the Public Hearing at 6:04 p.m.

No comments were received.

Chairman Cox closed the Public Hearing and reconvened the Special Meeting at 6:05 p.m.

3. Consideration and possible action regarding approval of a Final Report on Agenda Item 2:

Carol Langley moved to recommend rezoning of the properties listed in Agenda Item 2. Jeffrey Waddell seconded the motion, the motion carried unanimously. (4-0)

4. PUBLIC HEARING(S): Rezoning the following properties from ID-Industrial to R1 Single Family Residential:

- a. 1.41 acres in Tract 46T-1 of the Zachariah Landrum survey A-22, also described as part of 11181 Womack Cemetery Rd, Montgomery, owned by William and Julie Todd.
- b. 1.88 acres in Tract 46T-1 of the Zachariah Landrum survey A-22, also described as part of 21930 Twin Creeks Rd, Montgomery, owned by David and Carrie Solomon.
- c. 3.04 acres in Tract 46K of the Zachariah Landrum survey A-22, also described as part of 21910 Twin Creeks Rd, Montgomery, owned by Harvey and Juanita Simmons.

Chairman Cox convened the Public Hearing at 6:07 p.m.

No comments were received.

Chairman Cox closed the Public Hearing and reconvened the Special Meeting at 6:09 p.m.

5. Consideration and possible action regarding approval of a Final Report on Agenda Item 4.

Jeffrey Waddell moved to recommend rezoning of the properties listed in Agenda Item 4. Carol Langley seconded the motion, the motion carried unanimously. (4-0)

6. PUBLIC HEARING(S): Rezoning the following properties from I-Institutional to R1-Single Family Residential:

- a. 2.25 acres in Tracts 45-D & 45-D-1 of the Zachariah Landrum survey A-22, also described as part of 623 Old Plantersville Rd, Montgomery, owned by the Joseph Shockley Revocable Living Trust.

Chairman Cox convened the Public Hearing at 6:14 p.m.

No comments were received.

Chairman Cox closed the Public Hearing and reconvened the Special Meeting at 6:15 p.m.

7. Consideration and possible action regarding approval of a Final Report on Agenda Item 6.

Carol Langley moved to recommend rezoning of the property listed in Agenda Item 6. Jeffrey Waddell seconded the motion, the motion carried unanimously. (4-0)

8. PUBLIC HEARING(S): Rezoning the following properties from R1-Single Family Residential to B-Commercial:

- a. 0.46 acres in Tract 82 of the Owen Shannon survey A-36, also described as 15309 FM 149 Rd, Montgomery, owned by the Estate of Cherry D. Easley.
- b. 0.374 acres in Tract 84 of the Owen Shannon survey A-36, also described as approximately 15307 FM 149 Rd, Montgomery, owned by Arnette Easley.

- c. 0.41 acres in Tracts 1 & 70 of the Owen Shannon survey A-36, also described as 712 N Liberty St, Montgomery, owned by Paul D and Doris J Allen.
- d. 0.5 acres in Tract 8 of the Owen Shannon survey A-36, also described as approximately 15328 N Liberty St, Montgomery, owned by Paul D and Doris J Allen.
- e. 0.25 acres in Tract 9 of the Owen Shannon survey A-36, also described as 15330 N Liberty St, Montgomery, owned by Willie & Evelyn Wright.
- f. 0.32 acres in Tract 2 of the Owen Shannon survey A-36, also described as 22950 W FM 1097 Rd, Montgomery, owned by the Estate of Audrey B. Allen.

Chairman Cox convened the Public Hearing at 6:17 p.m.

Shirley Nicholas, who lives at 724 Community Center Drive, spoke in opposition to the rezoning of 712 Community Center Drive to B-Commercial. Ms. Nicholas stated concerns regarding additional traffic on the street, which already experiences traffic congestion from the school. Additionally, Ms. Nicholas inquired what types of uses are allowed in a commercial district. Staff explained the general types of uses allowed in a commercial district and clarified the rezoning of the property at 712 Community Center Drive would be considered during Item 14.

Chairman Cox closed the Public Hearing and reconvened the Special Meeting at 6:26 p.m.

9. Consideration and possible action regarding approval of a Final Report on Agenda Item 8.

Carol Langley moved to recommend rezoning of the properties listed in Agenda Item 8. William Simpson seconded the motion, the motion carried unanimously. (4-0)

10. PUBLIC HEARING(S): Realigning the Zoning Boundaries for the following property:

- a. 30.84 acres in Tract 14 of the John Corner survey A-8, also described as FM 149 South frontage on the east side of the road from the city limits to the MISD bus barn, owned by Risher Randall, et al. in Montgomery. The property is currently zoned B-

Commercial and R2-Multi Family Residential. The proposed rezoning will realign zoning district boundaries, consolidating like districts and resulting in no appreciable change in size of either district.

Chairman Cox convened the Public Hearing at 6:29 p.m.

No comments were received.

Chairman Cox closed the Public Hearing and reconvened the Special Meeting at 6:31 p.m.

11. Consideration and possible action regarding approval of a Final Report on Agenda Item 10.

Carol Langley asked staff for clarification of the details of what realigning of the zoning districts are and the effects on the property. Staff explained the purpose was to consolidate the districts into usable-sized areas.

Jeffrey Waddell moved to recommend realigning of the zoning boundaries of the property listed in Agenda Item 10. William Simpson seconded the motion, the motion carried unanimously. (4-0)

12. PUBLIC HEARING(S): Rezoning the following properties from B-Commercial to R1-Single Family Residential:

- a. Lots 1 – 51, Blocks 1 & 2, The Hills of Town Creek, Section 2 Subdivision, also described as 103 – 234 Brock’s Lane, and 308 – 317 Brock’s Court, Montgomery.
- b. Open Space Reserves A, B, C, & D in The Hills of Town Creek Section 2.
- c. Lots 1 – 49, Block 3, The Hills of Town Creek, Section 3 Subdivision, also described as 242 – 265 Brock’s Lane, and 110 – 155 Scenic Hills Court, Montgomery.
- d. Open Space Reserve A in The Hills of Town Creek, Section 3.

Chairman Cox convened the Public Hearing at 6:35 p.m.

No comments were received.

Chairman Cox closed the Public Hearing and reconvened the Special Meeting at 6:37 p.m.

13. Consideration and possible action regarding approval of a Final Report on Agenda Item 12.

William Simpson moved to recommend rezoning of the properties listed in Agenda Item 12. Jeffrey Waddell seconded the motion, the motion carried unanimously. (4-0)

14. PUBLIC HEARING(S): Rezoning the following properties from I-Institutional to B-Commercial:

- a. 0.5 acres in Tracts 15-A & 83-A of the Owen Shannon survey A-36, also described as 712 Community Center Dr., Montgomery, owned by Patricia Easley.

Chairman Cox convened the Public Hearing at 6:38 p.m.

Shirley Nicholas, who lives at 724 Community Center Drive, restated her opposition to the rezoning of 712 Community Center Drive to B-Commercial for reasons previously mentioned under Agenda Item 8. Ms. Nicholas asked for an explanation between the differences in allowed uses for Institutional and Commercial districts.

Chairman Cox closed the Public Hearing and reconvened the Special Meeting at 6:44 p.m.

15. Consideration and possible action regarding approval of a Final Report on Agenda Item 14.

Carol Langley expressed concerns about the potential traffic if the property was rezoned to Commercial. William Simpson shared the same concern and expressed appreciation for a member of the community expressing their concern to the commission. Discussion was held regarding the property owner's special use permit.

Carol Langley moved to recommend *not* rezoning the property listed in Agenda Item 14. Jeffrey Waddell seconded the motion, the motion carried unanimously. (4-0)

16. VISITOR/CITIZEN FORUM

No comments were received.

17. Consideration and possible action regarding approval of a temporary sign at 305 Prairie Street, Montgomery for Revive Facial as submitted by Hollie Adams.

William Simpson commented that the application requested a 90-day period for the temporary sign, though the Sign Ordinance states temporary signs are given a 60-day period. Mr. Simpson stated he had conversations with residents concerned with the city not following guidelines in ordinances and his preference was to follow the Sign Ordinance guidelines. Mr. Waddell questioned the purpose for the temporary sign versus a permanent sign in this instance. Discussion was had regarding the location of the permanent sign.

William Simpson moved to approve the temporary signs at 305 Prairie Street for the period of 60 days. Jeffrey Waddell seconded the motion, the motion carried unanimously. (4-0)

18. Report regarding Tree Ordinance.

Dave McCorquodale delivered an update regarding the proposed Tree Ordinance revisions and reviewed the ordinance summary included in the agenda packet.

19. Discussion regarding Zoning Ordinance and Table of Uses.

Dave McCorquodale reviewed proposed amendments to the Table of Uses and how they might fit into a broader review of the City's Zoning Ordinance. Staff is working on the timing of proposed changes and presented the idea of undertaking all changes to the Zoning Ordinance at one time to simplify the required notification and Public Hearing process.

20. Adjournment

Carol Langley moved to adjourn the meeting at 7:30 p.m. William Simpson seconded the motion, the motion carried unanimously. (4-0)

Prepared by: _____ Date approved: _____

Chairman Nelson Cox

Attest: _____
Susan Hensley, City Secretary

Montgomery Planning and Zoning Commission
AGENDA REPORT

Meeting Date: June 24, 2019	Budgeted Amount: N/A
Department: Administrative	
Prepared By: Dave McCorquodale	Exhibits: Sign Application & composite image showing proposed sign on building
Date Prepared: June 19, 2019	

Subject

Consideration and possible action on proposed new business sign located at 302 John A Butler Street in the Historic Preservation District.

Description


Monica Bresofski, the business owner, is relocating her realty office to 302 John A Butler, which is a freestanding building. Ms. Bresofski is proposing a 40 square foot sign to be mounted on the façade parapet above the front porch roof. The sign does not permanently alter the building and is attached with screw fasteners. A composite image showing the proposed sign on the building is attached.

Opinion (RT) – The sign pictured does not appear to present a historic appearance.

Recommendation

Consider the sign to be located at 302 John A Butler as presented.

Approved By

Asst. to City Admin.	Dave McCorquodale	Date: 6/19/19
City Administrator	Richard Tramm 	Date: 6/19/19



Sign Permit Application

Public Works and
Community Development
Department

City of Montgomery, Texas
101 Old Plantersville Road
Montgomery, Texas 77356
www.montgomerytexas.gov

* SIGN PERMIT APPLICATION EXPIRES IN 6 MONTHS (180 DAYS) NON-TRANSFERABLE*

TEMPORARY SIGN?	YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>
PERMANENT SIGN?	YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>
Pre-Existing OR New Sign?	Pre-Existing <input type="checkbox"/>	New <input checked="" type="checkbox"/>

Permit #:

Date:

JOB ADDRESS: 302 John Butler	BUSINESS NAME: ONE Property Grp.
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BUSINESS OWNER: Monica Bresofski	MAILING ADDRESS: 20 Calmeten Hills dr.	TELEPHONE: 936-777-8663
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APPLICANT: Monica Bresofski	MAILING ADDRESS: SAME	TELEPHONE: SAME
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CONTRACTOR LICENSE # (if electrical):

IS THE SIGN IN THE HISTORIC PRESERVATION DISTRICT?	YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>	IS THE SIGN ILLUMINATED?	YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>
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SIGN PLACEMENT: on front of building	VALUATION:
SIGN DESIGN & COLOR SCHEME:	

SIGN TYPE	SIGN DIMENSIONS	
FREESTANDING MONUMENT SIGN	SIGN HEIGHT	4'
BUILDING WALL SIGN <input checked="" type="checkbox"/>	SIGN WIDTH	10'
BANNER	TOTAL SQ FT	40.5
OTHER	SET BACK	
	BUILDING/LOT LINEAR FOOTAGE	

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

NAME of Property Owner or Agent: Monica Bresofski	SIGNATURE of Property Owner or Agent:
------------------------------------------------------	---------------------------------------

OFFICE USE ONLY

APPROVED BY:	TOTAL FEE:	\$
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COMMENTS:

REAL ESTATE

Monica Bresofski (936) 777 8663

www.ONEPROPERTYGRP.com

COMMERCIAL - RESIDENTIAL
FARM & RANCH - WATERFRONT

ONE
Property GRP
REAL ESTATE



Montgomery Planning and Zoning Commission
AGENDA REPORT

Meeting Date: June 24, 2019	Budgeted Amount: N/A
Department: Administrative	
Prepared By: Dave McCorquodale	Exhibits: Letter from architect, elevation drawings, site plan, photos of surrounding properties
Date Prepared: June 19, 2019	

Subject

Consideration and possible action on proposed new building located at 20998 Eva Street in the Historic Preservation District.

Description

The site of the proposed building is the currently-vacant triangular lot between John A Butler Street and SH 105 / Eva Street across from Brookshire Bros. and east of the Old Schoolhouse building. The owner of the property/business plans to operate a “Best Donuts” donut shop.

The owner’s architect has submitted a written description that includes color and material samples, along with the proposed site plan. The Zoning Board of Adjustments approved a parking variance to allow 7 spaces instead of 9 spaces at their June 12th meeting. City Council approved an encroachment agreement for the dumpster and enclosure at their February 26th meeting.

The owner’s engineer is finalizing revisions to their drawings to resubmit to our engineer now that the parking variance has been approved. The architectural drawings are submitted to the city and pending review based on the P&Z decision on the Historic District review.

Recommendation

Consider the appropriateness of the architectural design of the proposed building and act as appropriate.

Approved By

Asst. to City Admin.	Dave McCorquodale <i>d</i>	Date: 6/19/19
City Administrator	Richard Tramm <i>RT</i>	Date: 6/19/19


FREEMAN ASSOCIATES INC
Architects • Planning Consultants

March 8, 2019

Best Donuts,
Montgomery, Texas

Historic Preservation District Permit Application

APPLICANT: Duayne Freeman
1712 N. Frazier, Ste.206
Conroe, Texas 77301
dfreeman@consolidated.net
936/537-0081

PROPERTY OWNER: Samdana Investments
Sopheap Chem
9326 Brentwood Lakes Circle
Spring, Texas 77379
832/538-3316

PROPOSED WORK DESCRIPTION: Proposed building to be a wood framed, slab on grade 2,163 square foot donut shop. Concrete parking, drives and side walks are proposed, a drive thru will access the West side of the building. Landscaping will be installed on all green areas of lot. Exterior will be glass and stucco with a stone accent.

DESIGN INTENT: The intent of the design is to fit in favorably with the neighborhood in the district by use of style and materials.

DESCRIPTION OF MATERIALS & COLORS:

1. Materials on exterior to be glass, stucco, accent stone. Interior floors to be tile with walls of painted sheet rock.
2. Colors to be based on earth tones. See Attached.

SIGNS: A sign package will include wall mounted signs on building. A decision to illuminate the signs has not been made. A design or location for the property sign has not been made, but will be submitted for review and approval at that time.

LOCATION AND ADJACENT PROPERTIES: See Attached.

ELEVATIONS: See Attached.

Materials and Colors



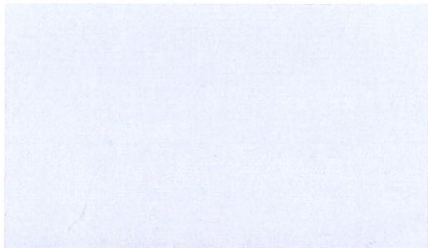
Alamo Stone; Sierra Ridge Ledge, Stacked Stone



Stucco Wall
Sherwin Williams; Network Gray, SW 7073



EIFS Cornice
Sherwin Williams; Software, SW 7074



Awning, Gutter and Downspouts
Berridge, Shasta White

Exterior Elevations

LEFT ELEVATION

- 1 FINISHING & INSTALL TO FINISH
- 2 2" x 4" BRICK
- 3 2" x 4" BRICK
- 4 2" x 4" BRICK
- 5 2" x 4" BRICK
- 6 2" x 4" BRICK
- 7 2" x 4" BRICK
- 8 2" x 4" BRICK
- 9 2" x 4" BRICK
- 10 2" x 4" BRICK

REAR ELEVATION

- 1 FINISHING & INSTALL TO FINISH
- 2 2" x 4" BRICK
- 3 2" x 4" BRICK
- 4 2" x 4" BRICK
- 5 2" x 4" BRICK
- 6 2" x 4" BRICK
- 7 2" x 4" BRICK
- 8 2" x 4" BRICK
- 9 2" x 4" BRICK
- 10 2" x 4" BRICK

RIGHT ELEVATION

- 1 FINISHING & INSTALL TO FINISH
- 2 2" x 4" BRICK
- 3 2" x 4" BRICK
- 4 2" x 4" BRICK
- 5 2" x 4" BRICK
- 6 2" x 4" BRICK
- 7 2" x 4" BRICK
- 8 2" x 4" BRICK
- 9 2" x 4" BRICK
- 10 2" x 4" BRICK

FRONT ELEVATION

- 1 FINISHING & INSTALL TO FINISH
- 2 2" x 4" BRICK
- 3 2" x 4" BRICK
- 4 2" x 4" BRICK
- 5 2" x 4" BRICK
- 6 2" x 4" BRICK
- 7 2" x 4" BRICK
- 8 2" x 4" BRICK
- 9 2" x 4" BRICK
- 10 2" x 4" BRICK

PROJECT NAME

BEST DONUTS
3000 S. 10th St., Topeka, KS

DATE

11/04/18

REVISIONS

No.	Description

PROJECT NO. 2018-28

ISSUED FOR PERMIT

ISSUE DATE: 12/05/18

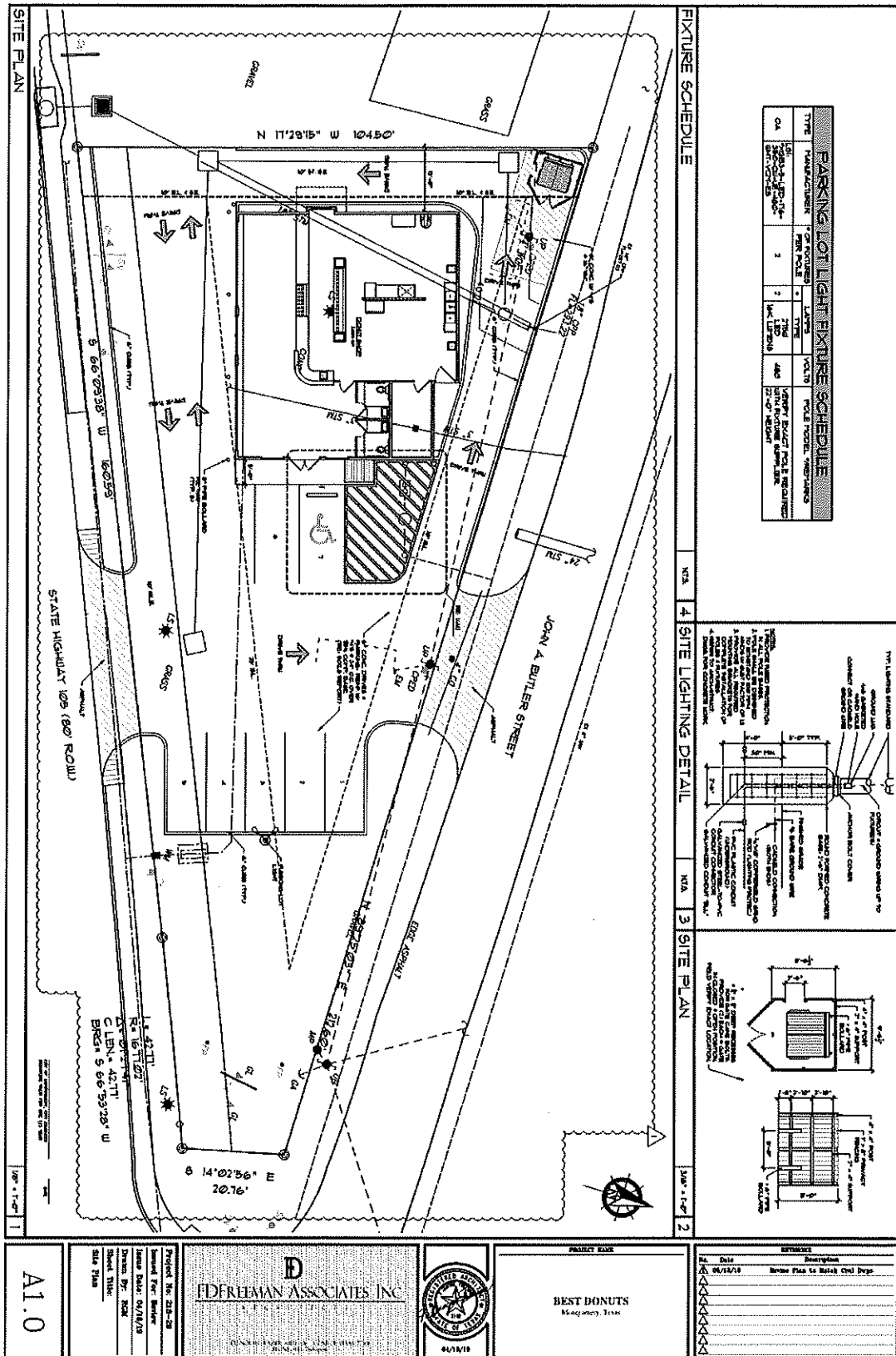
DESIGNED BY: KIM

SHEET TITLE:

EXTERIOR ELEVATIONS

A4.0

Location



A1.0	PROJECT NO. 238-20 ISSUED FOR PERMIT ISSUED DATE 04/18/19 DRAWN BY: ROK DATE 04/18/19	 D FDFREEMAN ASSOCIATES INC. 1000 W. WILSON AVENUE SUITE 100 DALLAS, TEXAS 75203	 04/18/19	PROJECT NAME BEST DONUTS McKinney, Texas	Date: 04/18/19 Drawn By: ROK Checked By: ROK Date: 04/18/19
					Date: 04/18/19 Drawn By: ROK Checked By: ROK Date: 04/18/19

Adjacent Properties



View looking North



View looking South



View looking West



View looking East

Montgomery Planning and Zoning Commission
AGENDA REPORT

Meeting Date: June 24, 2019	Budgeted Amount: N/A
Department: Administrative	
Prepared By: Dave McCorquodale	Exhibits: Summary of tree ordinance revisions, proposed ordinance draft, site plan examples
Date Prepared: June 19 2019	

Subject

Consideration and possible action on proposed tree ordinance.



Description

The attached draft of the proposed tree ordinance and summary is the same as what was reviewed at the May 21st meeting. New attachments include several conceptual site examples showing how the proposed tree ordinance affects site development.

Recommendation

Recommend to City Council to adopt the ordinance as presented.

Approved By

Asst. to City Admin.	Dave McCorquodale 	Date: 6/19/19
City Administrator	Richard Tramm 	Date: 6/19/19

Montgomery Tree Ordinance Revisions Summary

- **Individual property owners in R1 are exempt from requirements**
- **Requirements are based on amount of canopy coverage** of the property post-development (instead of caliper inches currently existing on the site)
- Protected trees are **select species >18" DBH** in residential buffer zones and between the building setback line and property line on non- single-family residential property
- Tree canopy coverage requirements are based on land use district:
 - **20%** of property in District B-Commercial (excluding ROW & easements)
 - **10%** of property in District ID-Industrial (excluding ROW & easements)
 - **20%** of property in District I-Institutional (excluding sports fields)
 - **20%** of area in open space & reserves in R1-Single Family Residential
 - **20%** of property in R2-Multi Family Residential (excluding ROW & easements)
- Each **one or two family dwelling requires 2 trees** w/ at least one in front yard
 - (1) 2" tree in front yard from "large tree" list
 - (1) 30-gallon minimum size of any classification elsewhere on lot
- Preservation of protected trees in required 25-foot side & rear yard setbacks where non-residential districts abut residential districts
- **Requires parking lot trees**—60 sqft of canopy for each parking space (which are 162 sqft); no parking space further than 125' from a tree; these trees do count toward overall site canopy coverage, however, this requirement must be met irrespective of total site canopy coverage amount
- Allows for pre-development & partial clearing within the building envelope
- Provides incentive for preserving trees adjacent to streets
- Requires tree preservation plan with development
- Requires trees to be spread out over property

Commercial Site Example of Tree Ordinance Compliance

Total Site: 45,000 sqft

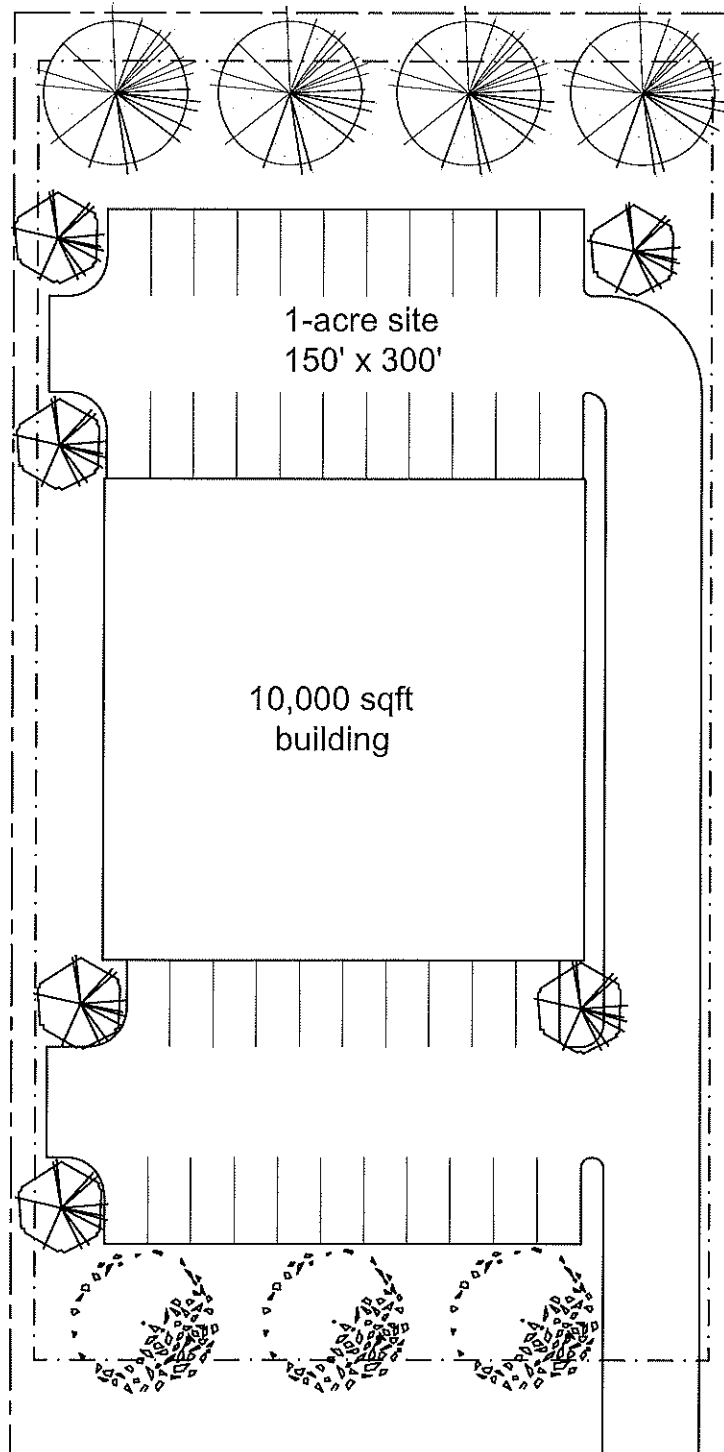
Easements area: 7,200 sqft

Net Site Area: 37,800 sqft

20% of Net Site Area = 7,560 sqft

of "large" replacement trees = 7

of "small" replacement trees = 6



Commercial Site Example of Tree Ordinance Compliance

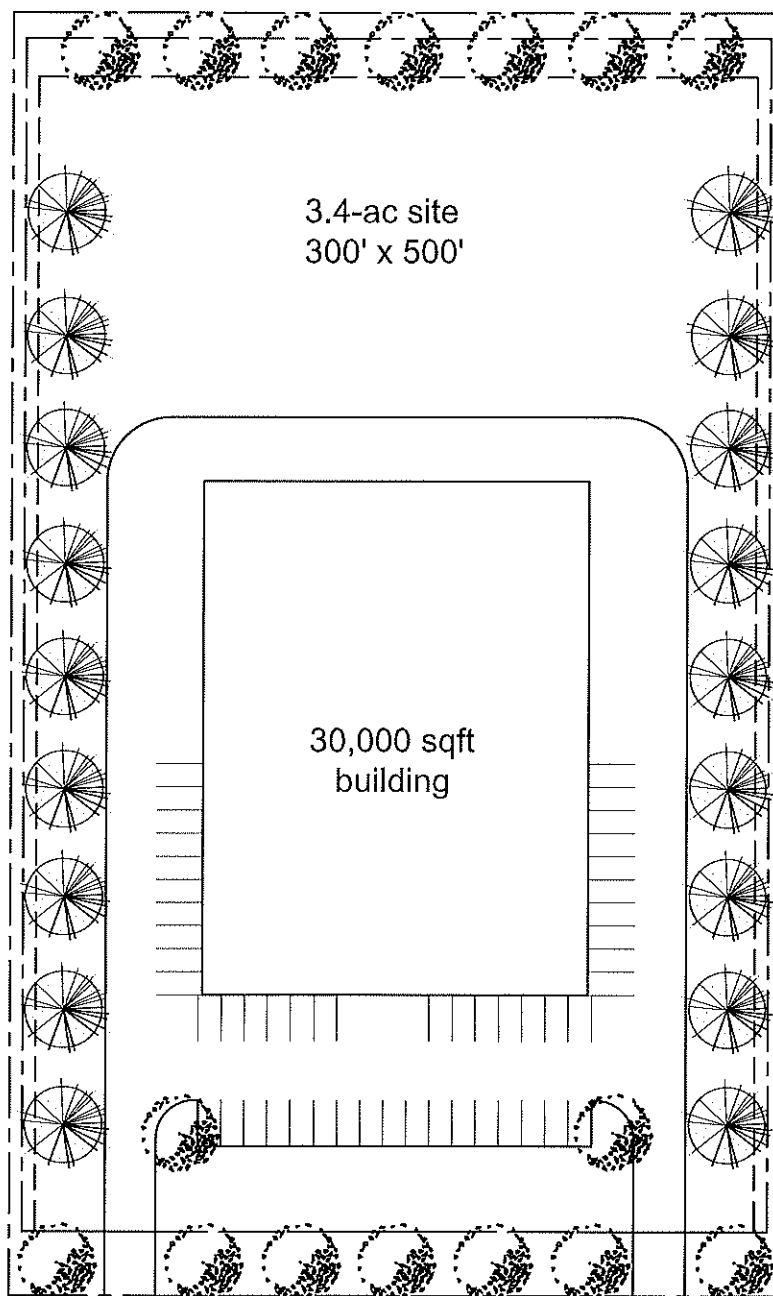
Total Site: 150,000 sqft

Easements area: 15,150 sqft

Net Site Area: 134,850 sqft

20% of Net Site Area = 26,970 sqft

of "large" replacement trees = 34



Industrial Site Example of Tree Ordinance Compliance

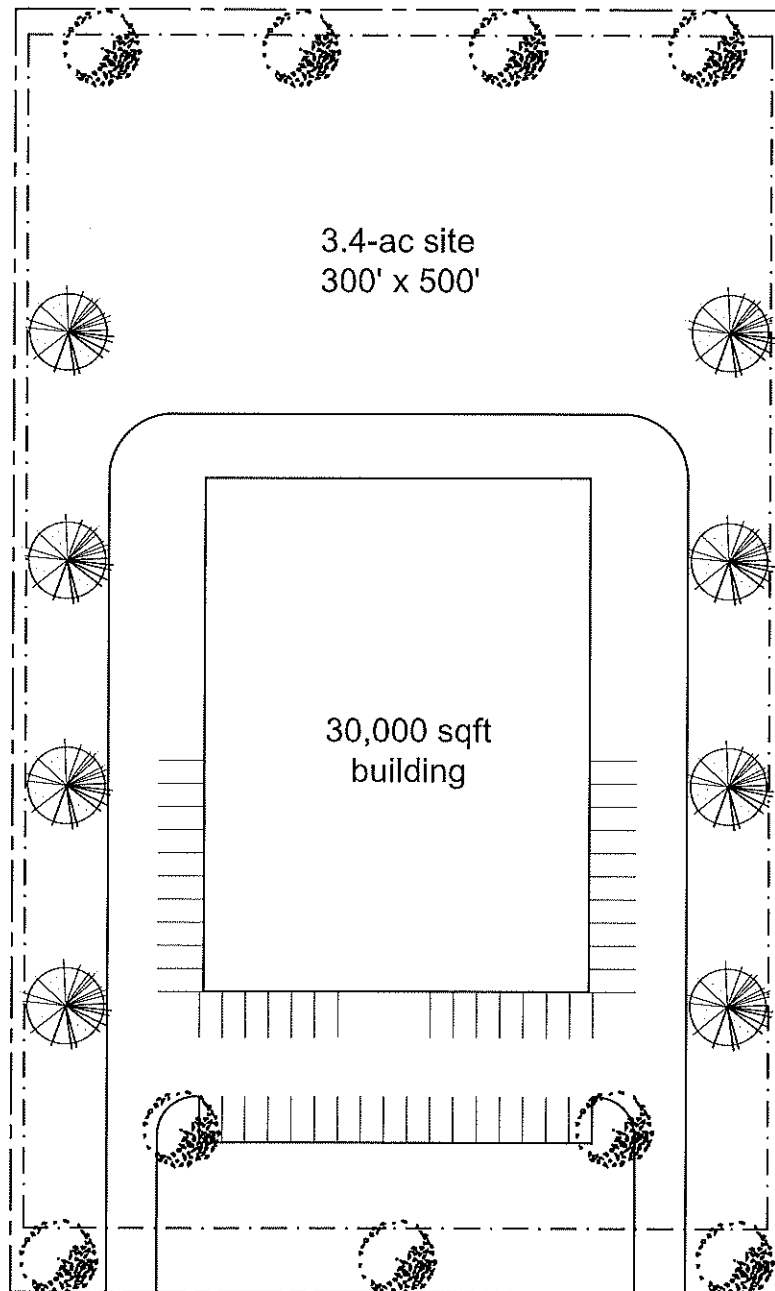
Total Site: 150,000 sqft

Easements area: 15,150 sqft

Net Site Area: 134,850 sqft

10% of Net Site Area = 13,485 sqft

of "large" replacement trees = 17



ORDINANCE NO. _____

AN ORDINANCE BY THE CITY COUNCIL OF THE CITY OF MONTGOMERY, TEXAS, AMENDING CHAPTER 78 "SUBDIVISIONS" OF THE CITY OF MONTGOMERY CODE OF ORDINANCES BY AMENDING ARTICLE VII, ENTITLED "TREE PRESERVATION AND REPLACEMENT;" PROVIDING CERTAIN DEFINITIONS; PROVIDING REGULATIONS FOR TREE PRESERVATION AND PROTECTION; CREATION OF A CITY TREE FUND; CREATING AN ACCEPTABLE NEW AND REPLACEMENT TREE LIST; PROVIDING A FEE SCHEDULE FOR IMPLEMENTATION; PROVIDING FOR CRIMINAL PENALTIES AND CIVIL ENFORCEMENT; REPEALING CITY TREE ORDINANCE NO. 2016-20 AND ALL OTHER CONFLICTING ORDINANCE PROVISIONS; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE AFTER PUBLICATION

WHEREAS, the City Council of the City of Montgomery has determined that it is necessary to adopt new regulations for tree protection and preservation in order to better protect property values and the interests of the City and its citizens; and

WHEREAS, the City Council thereby finds that it is appropriate to repeal City Ordinance No. 2016-20, dated September 27, 2016, and adopts this new Ordinance to regulate tree preservation and replacement in the City of Montgomery;

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

SECTION ONE: AMENDMENT TO CODE OF ORDINANCES

The City Code of Ordinances at Chapter 78 "SUBDIVISIONS," Article VII, "TREE PRESERVATION AND REPLACEMENT," is hereby amended to read as follows:

Sec. 78-171. FINDINGS AND INTENT.

- (a) The city council finds that trees are an important public resource that contributes to the unique character of the city and its physical, historical, cultural, aesthetic, ecological and economic environment. Trees reduce the effects of pollutants, provide wildlife habitat,

shade and cooling, and add value to real property. It is the goal of the city council to secure these benefits by maintaining the tree canopy over a significant area of the city.

- (b) This article is intended to prevent the indiscriminate cutting of trees in advance of development; to preserve existing trees of certain species; to provide for the replacement of trees that are necessarily removed during construction or development; to require the consideration of trees as a component of site design; and to allow for the commercial development of private property subject to minimum standards for the preservation and planting of trees. The provisions of this article shall not be construed or applied to preclude development or prohibit ingress or egress.
- (c) The City recognizes and appreciates the value of private property within its city limits and Extraterritorial Jurisdiction (ETJ) that is devoted principally to agricultural use for the production and support of timber, forest products and livestock. These lands devoted to the production of plant and animal products and agricultural timber farms shall not be subject to this Ordinance while being actively managed for such purposes and recognized by the Montgomery County Appraisal District as having agricultural or timber exemptions.

Sec. 78-172. DEFINITIONS

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

Caliper means the trunk diameter of nursery stock trees planted to satisfy a requirement of this article. Caliper is measured 6 inches above the root ball for trees that are four inches in diameter or smaller, and twelve inches above the root ball for larger nursery stock.

Canopy area means the extent of the uppermost crown of a tree or trees formed by the outer layer of leaves of an individual tree or group of trees.

City administrator means the person holding the office of city administrator or his designee acting in behalf of the city, with authority over the tree protection and preservation ordinance.

City engineer means the person or firm designated by the city council or the city administrator as the city engineer.

Critical root zone means the area within a radius extending out from the trunk of the tree one foot per each diameter inch of the trunk measured at breast height.

Diameter at breast height (DBH) means the diameter of trunk measured at 42 inches above natural grade.

Protected tree means any tree between the property line and existing or anticipated building setback lines on non-single family residential property with a **caliper of eighteen (18) inches or greater** that is not one of the following species: bois d'arc, thorny honey locust, hackberry, cottonwood, chinaberry, native black willow, native red or white mulberry, or Chinese tallow.

Tree preservation plan means a plan submitted by the owner in a form or manner specified by the city administrator or designee providing the method of protecting trees during construction

that shall include protection details, standards, notes, and construction plans in accordance with generally accepted practices such as those provided in the Urban Forest Technical Manual, on file in the office of the city secretary. Total site area canopy area calculation shall also be included on the plan.

Urban Forest Technical Manual means the standards and specifications based on generally accepted practices developed by the city administrator or designee for sound arboricultural practices, techniques and procedures which shall serve as guidelines for trees regulated by this article, including, but not limited to, tree selection, planting, alteration, treatment, protection, and removal as approved by the city council, maintained by the city secretary and available through the city administrator.

Woodland Tree Stand means an area of contiguous wooded vegetation covering at least two thousand five hundred (2,500) square feet where the branches and leaves of the trees form a canopy over substantially all the area.

Sec. 78-173. TECHNICAL STANDARDS AND SPECIFICATIONS.

The city administrator is authorized to prepare technical standards and specifications to ensure the proper implementation of the provisions of this article. These can be found in the Urban Forest Technical Manual. In the event of any conflict between the provisions of this article and the provisions of the Urban Forest Technical Manual, the provisions of this article shall control.

Sec. 78-174. APPLICABILITY AND EXCEPTIONS.

- (a) Except as otherwise provided by this section, the requirements of this article are applicable throughout the corporate limits of the city and apply to all types of development or development activity by both public and private entities, including but not limited to:
 - (1) The removal of any protected tree;
 - (2) Clearing of all or a portion of property as a part of the development process;
 - (3) Subdivisions of land for any purpose;
 - (4) Additions to non-residential buildings or parking lots that expand the footprint of the structure by thirty percent (30%) or more, or that add at least three thousand (3,000) square feet of area to the existing structure;
 - (5) Construction of new multi-family or non-residential structures for which a building permit is required; and
 - (6) Construction of new one- or two-family residential structures.
- (b) This article does not apply to:

- (1) A tree removed from a residential lot by or at the direction of the homeowner residing on the property
- (2) Harvesting of timber or forest products for commercial or personal purposes on private property.
- (3) Changes in the use or configuration of existing non-residential buildings or parking lots that does not expand the structure beyond the limits provided in (a)(4) of this section;
- (4) Clearing, maintenance or tree trimming within an easement or right-of-way by a railroad or utility company;
- (5) The construction of streets or highways by or on behalf of a state or local government entity; and
- (6) The removal or trimming of trees or other vegetation within or adjacent to street rights-of-way to conform to traffic safety rules requiring unobstructed views.
- (7) Infill construction of single-family residences on lots in residential subdivisions vested in regulations in effect prior to September 27, 2016 are subject to the requirements of Section 78-177 but are otherwise exempt from the requirements of this article.

Sec. 78-175. MINIMUM TREE CANOPY REQUIRED FOR DEVELOPMENT.

- (a) Property developed for any purpose must meet the minimum tree canopy requirements of this section. Where the canopy of preserved trees is insufficient to meet the required minimum, additional canopy shall be provided by new planting.
- (b) Tree canopy coverage requirements are based on zoning classification. The minimum required tree canopy for development is:
 - (1) 20% of the gross property area in a District B-Commercial zoning district, excluding rights-of-way and easements;
 - (2) 10% of the gross property area in a District ID-Industrial zoning district, excluding rights-of-way and easements;
 - (3) 20% of the gross property area excluding sports fields in a District I-Institutional zoning district;
 - (4) 20% of the gross property area for reserves and designated open space in District R1-Single Family Residential zoning district;
 - (5) 20% of the gross property area excluding rights-of-way and easements in a District R2-Multi Family Residential zoning district.

Sec. 78-176. CANOPY MEASUREMENT.

- (a) The canopy area of a woodland tree stand is the ground area within the smallest perimeter that contains all trees in the tree stand. The tree stand area may be surveyed on the ground or estimated from an aerial photograph depicting existing conditions.
- (b) Individual trees not located within a woodland tree stand are classified by diameter at breast height (DBH) and receive the canopy area credit applicable to their trunk size classification as provided in Table 1. Only healthy trees of a species on the Texas Forest Service list of native and naturalized trees of Texas, excluding those classified as shrubs, shall receive preservation credits.
- (c) The preservation of trees that are visible from the adjoining street is preferred. As a bonus to encourage preservation, any preserved tree or woodland tree stand that is visible from the public street and located within 150 feet of the right of way shall receive a credit equal to 150% of the value in Table 1.

TABLE 1. CANOPY AREA CREDITS FOR INDIVIDUAL TREES

DIAMETER AT BREAST HEIGHT (DBH)	CANOPY CREDIT
At least 3", but less than 8" DBH	1200 square feet
At least 8", but less than 18" DBH	1400 square feet
At least 18", but less than 24" DBH	1700 square feet
Greater than 24" DBH	2000 square feet

Sec. 78-177. ADDITIONAL REQUIREMENTS FOR RESIDENTIAL DEVELOPMENT.

Each building permit for a new one- or two-family dwelling shall require the preservation or planting of at least two trees. At least one tree shall be located in the front yard of the dwelling; have a minimum caliper of two inches; and be classified as a large tree per Table 2 in Section 78-184. The remaining tree on the dwelling property may be placed in the front, rear or side yards of the dwelling; be at least a 30-gallon container size tree; and may be any size classification. No certificate of occupancy shall be issued for any new one- or two-family dwelling until this requirement has been satisfied.

Sec. 78-178. TREE PRESERVATION ADJOINING RESIDENTIAL PROPERTY.

Where non-residential property is developed adjacent to residential zoning districts, trees located within required side and rear yard setbacks classified as protected trees are subject to

mandatory preservation. No permit shall be issued to authorize the removal of any healthy protected tree except where removal is necessary for the construction of infrastructure, driveways, or on-premise advertising signs.

Sec. 78-179. PARKING LOT TREES.

In the case of new parking lots, or additions to existing parking that expand the footprint of the parking lot by more than 30%, sixty (60) square feet of tree canopy must be preserved or planted for each additional parking space. Parking lot trees must be located in the interior of the parking lot or in an area immediately adjacent to the parking lot. For parking lots of 250 spaces or more, at least fifty percent (50%) of the tree canopy must be located within the interior of the parking lot. Only trees of the preferred species listed in Table 2 of Section 78-184 may be used to satisfy the planting requirements of this section; and all such trees must be at least two and a half-inch (2.5") caliper and a minimum of ten (10) feet in height. Additionally, no parking space shall be further than 125 feet away from the trunk of a tree.

Sec. 78-180. PERMIT REQUIRED FOR REMOVAL OF PROTECTED TREE.

A protected tree is any tree between the property line and existing or anticipated building setback lines on non-single family residential property with a **caliper of eighteen (18) inches or greater** that is not one of the following species: bois d'arc, thorny honey locust, hackberry, cottonwood, chinaberry, native black willow, native red or white mulberry, or Chinese tallow. A person shall not cut down or remove any protected tree unless authorized to do so under a permit issued as provided by this article. Only the following permits may be issued to authorize removal of a protected tree:

- (1) A protected tree removal permit;
- (2) A clearing or partial clearing permit issued in conjunction with a subdivision plat, building permit, or other form of development permit that incorporates a tree preservation plan approved under this article.

Sec. 78-181. PROTECTED TREE REMOVAL PERMIT.

- (a) A protected tree removal permit shall be issued to authorize the removal of:
 - (1) Any protected tree that is dying or has become a hazard tree;
 - (2) Any protected tree that obstructs the only practicable means of ingress or egress to or from property; or
 - (3) Any other protected tree on previously developed property provided that removal of the protected tree does not reduce the tree canopy below the required minimum tree canopy applicable to the property under Section 78-175.

- (b) A protected tree removed from previously developed property under a permit issued in accordance with this section must be replaced elsewhere upon the property unless the minimum canopy requirements of this article are satisfied without the necessity of replacement.
- (c) A protected tree removal permit may authorize the removal of up to ten (10) specific trees identified in the application and the permit expires thirty (30) days following the date of issuance. The city administrator shall prescribe the form of application for a tree removal permit. An application fee set forth in Appendix B must accompany each application.

Sec. 78-182. PRE-DEVELOPMENT PLANNING AND CLEARING PERMITS.

- (a) Except as expressly provided by this chapter, no development shall occur unless the site of the proposed work is covered by an approved tree preservation plan. The location of all proposed buildings and improvements shall be oriented by the applicant, at the applicant's sole discretion, taking into consideration the existing tree stock and other relevant site characteristics.
- (b) The applicant shall propose the location of woodland tree stands or individual trees for which preservation credits are requested. A tree located outside a woodland tree stand shall not receive credit unless the tree has a diameter at breast height (DBH) of at least six (6) inches. The applicant shall consider the preservation of trees in areas visible from abutting streets and public spaces. Preservation credits may be denied for trees located in existing or proposed easements or rights-of-way where there is a reasonable possibility that removal of the tree will be required for utility operations. New tree stock shall be planted where the minimum canopy is not met through preservation alone.
- (c) A clearing permit may be issued to authorize the removal of protected trees in conformity with a tree preservation plan that has been approved in conjunction with the approval or issuance of a subdivision plat, building permit or other form of development permit. Compliance with the tree preservation plan is a condition of the clearing permit. No related building permit and no certificate of occupancy may be issued until the city administrator confirms that the development has been completed in conformity with the tree preservation plan.
- (d) A partial clearing permit may be issued prior to the approval of a tree preservation plan submitted in conjunction with a final plat or development permit application in order to allow pre-development clearing of a portion of the land. An application to obtain a partial clearing permit must include a site plan of the of the property on which the applicant delineates proposed building setback lines that are applicable to the site. The partial clearing permit does not permit clearing activities in areas that are located within these setback lines. Building setback lines on single-family residential lots are not

required to be shown on the site plan and are not subject to protected tree preservation requirements.

Sec. 78-183. - TREE PRESERVATION AND PROTECTION.

- (a) A tree preservation plan must be included with all final plat submittals to plat new subdivisions or developments, and again with all requests for permits for non-single-family residential construction. If the site of development or construction does not contain any protected trees, a verification letter of no protected trees shall be submitted to the city that attests that protected trees are not on the property and that the person making this determination is qualified to do so. Persons who may prepare the tree preservation plan or verification letter include registered surveyors, professional engineers, architects, landscape architects, arborists, or other qualified licensed professional. The letter must contain a statement affirming the author is qualified to prepare such document and listing his state license number or other certificates of documentation.
- (b) The tree preservation plan shall be a scaled diagram overlaying the site plan and drawn to the same scale. Two copies of the plan shall be provided. The plan must include all details required for the preservation of existing trees during construction and for the installation of any new trees necessary to meet canopy area coverage required by this article. The tree preservation plan must include:
 - (1) the proposed location of all easements and setback lines; building setback lines on single-family residential lots are not required to be shown on the tree preservation plan and are not subject to protected tree preservation requirements.
 - (2) the footprint of all proposed buildings, parking lots, and detention ponds;
 - (3) the location, size, and variety of protected trees;
 - (4) the location, size, and variety of each additional tree that will be preserved for credits and the outline of each woodland tree stand to be preserved;
 - (5) the location and variety of each tree to be planted to achieve the required minimum canopy; and
 - (6) any other information required by the city administrator to calculate the required canopy or amount of earned credits.
- (c) Trees may be planted or preserved within storm water detention areas provided that the trees do not interfere with the drainage or substantially impair the storm water detention function.

Sec. 78-184. NEW AND REPLACEMENT TREES.

- (a) Only trees of the preferred species listed in Table 2 of this section are considered acceptable for new and replacement tree planting. Additional tree species may be considered and approved on a case by case basis by the city administrator and such trees will receive a canopy credit applicable to the species class height. At least 20% of new trees must be a minimum of three inches in caliper at planting. The remaining 80% of

required new trees must be a minimum of 2” caliper. Replacement trees on residential lots are exempt from size and species requirements in this section and shall follow sizing requirements in accordance with Section 78-177.

- (b) Not less than twenty-five percent (25%) of new trees planted shall be evergreen.
- (c) Trees planted under or near overhead power lines must be chosen from the Small Tree category of Table 2. Large tree species shall not be planted within thirty (30) feet of overhead power lines. Medium tree species shall not be planted within twenty (20) feet of overhead power lines.

TABLE 2. PREFERRED SPECIES LIST

Tree Species & Height at Maturity		Leaf Type	Canopy Credit
Large Over 40' tall	Loblolly Pine	evergreen	800 square feet
	Slash Pine	evergreen	
	Water Oak	deciduous	
	Live Oak	evergreen	
	Shumard Red Oak	deciduous	
	Southern Red Oak	deciduous	
	Chinquapin Oak	deciduous	
	Cedar Elm	deciduous	
	Green Ash	deciduous	
	Sweetgum	deciduous	
	American Elm	deciduous	
	Montezuma Cypress	deciduous	
	Bald Cypress	deciduous	
Sycamore	deciduous		
Medium 25' to 40' tall	Winged Elm	deciduous	600 square feet
	Chinese Pistache	deciduous	

	Lacebark Elm	deciduous	
	River Birch	deciduous	
	Eastern Red Cedar	evergreen	
Small Less than 25'	Little Gem Magnolia*	evergreen	300 square feet
	Rusty Blackhaw*	deciduous	
	Fringetree*	deciduous	
	Redbud*	deciduous	
	Hophornbeam*	deciduous	
	Japanese Blueberry	evergreen	
	Cherry Laurel	evergreen	

*Denotes only trees suitable for planting under or adjacent to power lines

Sec. 78-185. ACCOMMODATIONS OF DEVELOPMENT STANDARDS.

- (a) The City Council recognizes that in certain instances the goal of this article must be balanced against potentially conflicting objectives arising from other development regulations. The city administrator may modify or waive the application of development standards as provided in this section when the city administrator determines that modification will facilitate the tree preservation requirements of this article and will not substantially increase the risk of unsafe traffic conditions or congestion, inconvenience to pedestrians, or flooding.
- (b) Up to fifteen percent (15%) of required parking spaces may be waived if compliance with the canopy requirements cannot otherwise be achieved and if the reduction in parking area results in an equivalent increase in the area of preserved canopy.
- (c) Sidewalks may be relocated, reduced in width or otherwise modified, where the application of sidewalk standards would otherwise conflict with tree preservation and canopy objections.
- (d) The city administrator shall consider the effect on site drainage of low impact development strategies incorporating tree preservation and tree planting and, guided by

generally accepted engineering standards and practices, may approve offsetting reductions to the size of onsite stormwater detention facilities.

Sec. 78-186. PROTECTION OF CRITICAL ROOT ZONE DURING CONSTRUCTION.

- (a) A maximum of 30% of the area within the critical root zone of a protected tree shall be encroached with temporary or permanent improvements and the remaining area shall be kept free of improvements and be protected during construction.
- (b) For individual trees or woodland tree stands within 50 feet of a construction area, the contractor shall construct a protective fence with a minimum height of four (4) feet that encircles the critical root zone area prior to development activities. Protective fencing must be made of orange plastic mesh net with t-posts, including a top rail or other type of support. Protective fencing shall remain in place through the completion of development activities.
- (c) The following activities within the critical root zone are prohibited:
 - (1) No cutting, filling, trenching, or other disturbance of the soil is permitted unless otherwise authorized by this article and the zone shall be maintained at natural grade;
 - (2) No construction or waste materials shall be placed or stored within the zone;
 - (3) No harmful liquids shall be allowed to flow into the zone, including without limitation, vehicle or equipment wash water, paint, oil, solvents, asphalt, concrete, mortar or other materials;
 - (4) No vehicle or equipment traffic parking shall be allowed within the zone; and
 - (5) No signs, wires or other attachments, other than those of a protective nature, shall be attached to any protected tree.
 - (6) Irrigation trenching within the critical root zone shall be minimized and place radially to the tree trunk in a manner that minimizes damage to the roots. All irrigation trenching within the critical root zone shall be hand work with no roots over one-inch diameter being cut.

Sec. 78-187. POST-DEVELOPMENT MAINTENANCE AND REPLACEMENT.

- (a) Protected trees, parking lot trees, and replacement or mitigation trees must be maintained in a healthy condition for at least one year following the issue of a certificate of occupancy. The property owner is responsible for irrigating, fertilizing, pruning, and other maintenance of such trees as needed. Preserved or planted trees that die within the maintenance period must be replaced within 90 days with new trees meeting the requirements of Section 78-184. Planted trees that die during the maintenance period must be replaced with new trees having the total canopy value that is not less than the canopy of the tree to be replaced. Replacement trees planted to satisfy the requirements

of this section are subject to a one-year maintenance period and must be replaced if they fail to survive the extended maintenance period.

- (b) Trees on residential lots are not subject to the one-year maintenance period established by this section. A homeowner is not required to replace a lot tree that dies or at the direction of the homeowner.
- (c) No person, or company directly or indirectly, shall cut down, destroy, remove or move, or effectively destroy through damaging, any protected tree regardless of whether the protected tree is on private property or the abutting public right-of-way with the following exceptions:
 - (1) During a period of emergency, such as a tornado, storm, flood or other act of God, the requirements of this article may be waived as may be deemed necessary by the city's designated emergency management coordinator (EMC) or, if unavailable, by the EMC equivalent from the federal, state or county emergency management agencies.
 - (2) If any protected tree is determined to be in a hazardous or dangerous condition so as to endanger the public health, welfare or safety, and requires immediate remove without delay, authorization for removal may be given by the city emergency management coordinator or other designee of the city, and such a protected tree may then be removed without obtaining a written permit as required in this chapter and the fees, restitution, and penalties will not apply. Canopy coverage requirements will not be waived or altered as a result of this provision, and tree replacement shall be required if applicable.
- (d) Dead trees may be removed at any time and shall be considered in the tree preservation plan. This shall not require city approval under this article.
- (e) Any tree may be reasonably pruned for aesthetic, maintenance, disease control, or safety reasons. This shall not require city approval.
- (f) No protected tree shall be pruned in a manner that significantly disfigures the tree or in a manner that would reasonably lead to the death of the tree.
- (g) Trees which are to be removed for disease or safety reasons shall be approved by the city prior to cutting. Factors to be considered include, but are not limited to, the overall health of the tree, the potential for adverse impacts of both leaving and removing the tree, and aesthetic value.

Sec. 78-188. VARIANCE PROCEDURE.

- (a) The city administrator may grant a variance to the requirements of this article where literal enforcement will result in unnecessary hardship. A variance shall not be granted unless:

- (1) The variance is not contrary to public interest;
 - (2) The variance will be in harmony with the spirit and purpose of this article;
 - (3) The variance will not substantially weaken the general purposes of the regulations herein established for the protection of trees and the promotion of tree canopy; and
 - (4) The variance granted is limited in scope to that relief which is necessary to relieve the hardship condition.
- (b) All variance requests must be made in writing to the city administrator and must include the subject of the requested variance and the justification for granting the variance, including a description of the hardship condition that will result if the requested relief is not granted. The applicant has the burden of demonstrating that sufficient evidence exists for granting the variance. The city administrator may deny or grant the variance as requested or may allow an alternate form of relief. The city administrator shall issue a decision in writing not later than ten (10) business days following the date the variance request is received.
- (c) An applicant who disputes the decision of the city administrator may appeal the variance decision to the municipal planning and zoning commission. Any appeal must be made in writing and must be filed with the city administrator within ten (10) days following the date of the initial written decision. The city administrator shall refer the appeal to the planning commission and the decision of the planning commission shall be final.

Sec. 78-189. MITIGATION PAYMENTS IN LIEU OF PRESERVATION OR PLANTING.

- (a) An applicant may seek a variance as to all or a portion of the tree preservation or planting requirements upon the condition that the applicant pay mitigation fees in lieu of preservation or planting. An applicant for a variance bears the burden of demonstrating that application of the preservation or planting requirement will result in unnecessary hardship.
- (b) Mitigation fees authorized by this section shall be payable at the rate of \$1.50 per square foot of additional canopy necessary to achieve the coverage applicable to the property after allowance for all other credits.

Sec. 78-190. TREE MITIGATION FUND.

- (a) The city administrator shall establish a dedicated account to be known as the Tree Mitigation Fund. Mitigation fees paid as provided by section 78-189 of this article shall be recorded for the benefit of the fund and accounted for in a manner that distinguishes

such funds from other general funds of the city. The balance of such fund remaining at the each of each fiscal year shall be appropriated as the beginning balance of the fund for the following fiscal year. The assets of the fund may be used as provided by this section and for no other purpose.

- (b) The assets of the fund shall be expended under the direction of the city administrator and may be used to purchase and plant new trees in public parks, parkways, medians and rights-of-way of public streets and upon the grounds of other public property of the city. Planting costs payable from the fund include the installation of related irrigation equipment and other measures necessary to the protection and subsequent maintenance of new trees for a period of up to three years following planting. An amount not to exceed 20% of the fund balance at the beginning of each fiscal year may be expended to promote public awareness of the objectives of this article, including Earth Day or Arbor Day programs for the distribution of sapling trees to the general public.

Sec. 78-191. PENALTIES FOR VIOLATION.

- (a) Any person, firm or corporation that violates a provision of this article shall be guilty of a misdemeanor and upon conviction thereof may be fined in any amount not exceeding five hundred dollars (\$500). In cases of offenses involving the illegal removal of trees, the removal of each tree constitutes a separate offense. In cases of continuing violation, each separate day that a violation continues constitutes a separate offense.
- (b) In addition to any criminal penalties imposed in paragraph (a) above, the city may seek civil injunctive relief or other appropriate relief in district court as authorized by law.

Sec. 78-192. FEES.

Appendix A contains a list of fees relating to tree preservation plans as currently established or as hereafter adopted by resolution of the city council from time to time and is available for review in the office of the city secretary.

Sec. 78-193 — 78-195. RESERVED.

SECTION TWO: SAVING/ REPEALING CLAUSE

City Ordinance No. 2016-20, dated September 27, 2016 is hereby repealed. All other ordinances shall remain in full force and effect, save and except as amended by this or any other Ordinance. All provisions of any ordinance in conflict with this Ordinance are hereby repealed; but such repeal shall not abate any pending prosecution for violation of the repealed Ordinance, nor shall the repeal prevent a prosecution from being commenced for any violation if occurring prior to the repeal of the Ordinance.

SECTION THREE: SEVERABILITY

Should any section, subsection, sentence, clause, or phrase of this Ordinance be declared unconstitutional or invalid by a court or competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance shall remain in full force and effect. The City Council hereby declares that it would have passed this Ordinance, and each section, subsection, sentence, clause, or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, and phrases be declared unconstitutional or invalid.

SECTION FOUR: TEXAS OPEN MEETINGS ACT

The City Council hereby officially finds and determines that the meeting at which this Ordinance was passed 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. Notice was also provided as required by Chapter 52 of the Texas Local Government Code.

SECTION FIVE: EFFECTIVE DATE UPON PUBLICATION

The provisions of this Ordinance will become effective immediately upon adoption by the City Council and publication as provided by law. It is the intent of the Council that the Ordinance apply to every property within the City on which it may apply without violating and state or federal law.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MONTGOMERY, TEXAS ON THIS THE _____ DAY OF _____, 2019.

THE CITY OF MONTGOMERY, TEXAS

Sara Countryman, Mayor

ATTEST:

Susan Hensley, City Secretary

APPROVED AS TO FORM:

Larry L. Foerster, City Attorney

AGENDA REPORT

Meeting Date: June 24, 2019	Budgeted Amount:
Department: Administration	
Prepared By: Jack Yates	Exhibits: Memo from Jack Yates
Date Prepared: June 17, 2019	

Subject

This is meant as a first general discussion regarding how to fund several upcoming large projects needed for the general purposes of the city--- not water or sewer.

Discussion

There are several pending projects that have been pending for the last two or three years that need funding over the next year. These are general purposes needs of the city to be paid for by revenues of the General Fund. The projects listed in the memo from Jack Yates are probably not what will ultimately be the projects but are listed as an example and starting point for discussions.

The borrowing is necessary because the General Fund balance has stayed steady through the last several growth years. So, while services growth in the city has been able to be funded by sales tax and property tax growth-- there has not been additional annual income in the budget for making major improvements for general purpose improvements.

The borrowing does not have to be a General Obligation Bond (that requires voter approval in an election) they can be a Certificate of Obligation-- but the recommendation would be to have several public hearings and if Certificates of Obligation is the planned method of borrowing then several public hearing should be held to ensure the public support of the project funding. Not having the voter approval through an election would save approximately \$10,000 election expense.

To get to a listing of the projects for funding the recommendation is that the Planning Commission coordinate the effort-- meaning get input from the department heads, hold that at least two public hearings on proposed projects, work with the finance people to determine an amount that can be borrowed safely and recommend a project package and financing information to the City Council.

Montgomery City Council
AGENDA REPORT

Recommendation

Assign to the Planning Commission the question of if a General Project funding is needed for the City, and if they think so to report back to the City Council with a proposed plan of action or if they think such funding is not necessary to so report back.

Approved By

Jack Yates		Date: June 17, 2019
City Administrator		Date:

To: Mayor and City Council, Planning and Zoning Commission, MEDC Board of Directors
From: Jack Yates
Subject: Thoughts on funding of Downtown Streetscape Project
General Obligation Bond process
Date: June 11, 2019

During the May 20th MEDC meeting the subject of how to finance the Downtown Streetscape Project was requested of me. Because of one item being financed raised the question of how other much needed improvements can be financed, comes this report.

Considering what I understand to be the planned improvements including a downtown Plaza area, street improvements on McCown Street, sidewalks, drainage work and sitting areas (not including a splashpad – that has its own funding possibility) an estimate of the total cost could be \$300,000. The \$300,000 would probably be needed over a nine-month period if built as a non-phased project.

Phased Project – 3 years - MEDC could easily allocate \$75,000 per year within existing budget
City could easily allocate \$25,000 per year within existing budget

The problem with the 3-year phased project is the extended disruption of the downtown, which would hurt existing businesses, delays the improvements in the eye of the public, inflation increases cost, and is not the most efficient method of placement of the improvements.

Non-Phased Project – 9 months – Paid through budget -- MEDC could easily allocate \$250,00 within 2019-2020 budget or use part of the fund balance.

The City could easily allocate \$50,000 within the 2019-2020 budget or use part of the fund balance

The problem with funding all the improvements with this amount of funding is that there are other needs competing for the relatively small amount of funds available in each year's budget. Growth in income has provided the growth in City services demanded by the growth. For instance, the General Fund has, over the past several years had approximately equal revenues versus expenses – with little for General Purpose Capital Improvements. For instance, over the past several years the General Fund Cash Reserves are:

\$ 972,620 in 2013

\$1,202,861 in 2014

\$1,170,839 in 2015

\$1,182,911 in 2016

\$1,236,011 in 2017

\$1,265,976 in 2018

Non-Phased Project - 9 months--General Obligation Bond -- The Downtown Streetscape project could be combined with a group of general Improvements needed that can be combined based on the City Comprehensive Plan now being undertaken and other public input. Part of the result of the Plan will be a list of desired public improvements. The list could result in a General Obligation (GO) Bond, approved by the voters (either this November or May 2020). Perhaps, the list could include:

- \$150,000 for Downtown Streetscape costs w/a \$150,000 contribution from MEDC and \$50,000 from downtown property owners to create a \$350,000 total project,
- \$200,000 for street and drainage improvements (using \$200,000 City funds and \$200,000 of County participation with their placement of the streets) (Should satisfy 10 years of street needs for existing streets)
- \$500,000 for a new Police Station built next to the present City Hall, (built in such a manner as to allow for future possible sale as an office complex should growth/another opportunity present itself)
- \$200,000 to create a \$430,000 valued outdoor entertainment park (Using \$100,000 of MEDC funds, \$130,000 of contributed private funds and \$200,000 of G.O. Bond monies (especially if part of the arrangement is an assurance of a hotel locating in the City, which can create \$60-80,000 of Hotel Occupancy Taxes each year and increased sales tax collections),
- \$300,000 for specific traffic improvements, such as improvements to SH 105 and FM 149 intersection, Lone Star Parkway (to get TxDOT to speed up their \$15 million-dollar improvements to make Lone Star Parkway a State Highway By-Pass), and SH 105 and FM 2854 turn lanes.

So, for \$1,350,000 of debt that can be paid for with no increase of taxes and still leave enough capacity for needed water/sewer possible future debt with no increase in tax rate--- the resulting matching money would be:

Project	GO Funds	Match Amount
Downtown Streetscape	\$ 150,000	\$ 200,000
Street Improvements	200,000	200,000
New Police Station	500,000	
Outdoor Entertainment Park	200,000	230,000
Traffic Improvements	300,000	_____?
TOTAL	\$ 1,350,000	\$ 630,000

The City Council could designate the Planning Commission as the coordinating group to formulate a specific listing of projects and funding needs to be presented to MEDC and the City Council and then to the voters.