

MONTGOMERY PLANNING AND ZONING COMMISSION AGENDA
REGULAR MEETING OF
MONDAY, APRIL 22, 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 regular meeting minute of March 25, 2019
2. Consideration and possible action regarding approval of a sign at 202 McCown Street
– Rachel Anderson
3. Consideration and possible action regarding scheduling a public hearing regarding a Special Use Permit to Candace Welsh for a microblading business at 14375 Liberty Street
4. Consideration and possible action regarding calling Public Hearings for May 16th and May 21st, 2019 at 6:00 PM at Montgomery City Hall to hear public comment regarding 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.
5. Consideration and possible action regarding calling Public Hearings for May 16th and May 21st, 2019 at 6:00 PM at Montgomery City Hall to hear public comment regarding 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.

6. Consideration and possible action regarding calling Public Hearings for May 16th and May 21st, 2019 at 6:00 PM at Montgomery City Hall to hear public comment regarding 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.
- b. 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.

7. Consideration and possible action regarding calling Public Hearings for May 16th and May 21st, 2019 at 6:00 PM at Montgomery City Hall to hear public comment regarding 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.

8. Consideration and possible action regarding calling Public Hearings for May 16th and May 21st, 2019 at 6:00 PM at Montgomery City Hall to hear public comment regarding **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 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.

9. Consideration and possible action regarding calling Public Hearings for May 16th and May 21st, 2019 at 6:00 PM at Montgomery City Hall to hear public comment regarding 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

10. Consideration and possible action regarding Tree Ordinance

11. Consideration and possible action regard Table of Uses

12. Consideration and possible action regarding rescheduling the May, 2019 Planning and Zoning Commission meeting

13. Adjournment.



Jack Yates, City Administrator

Posted April 18 2019 at 4:00 p.m. This facility is wheelchair accessible parking spaces are available. Please contact the City Secretary's office at 936-597-6434 for further information or for special accommodations.



MINUTES OF REGULAR MEETING

March 25, 2019

MONTGOMERY PLANNING AND ZONING COMMISSION

CALL TO ORDER

Chairman Nelson Cox declared a quorum was present, and called the meeting to order at 6:00 p.m.

Present: Nelson Cox, Jeffrey Waddell, William Simpson

Absent: Carol Langley, Arnette Easley

Also Present: Jack Yates, City Administrator
Susan Hensley, City Secretary
Dave McCorquodale, Assistant to City Administrator
Chris Roznovsky, City Engineer

VISITOR/CITIZENS FORUM

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Arnette Easley arrived at 6:02 p.m.

1. Consideration and possible action regarding regular meeting minutes of February 25, 2019.

Jeffrey Waddell moved to approve the minutes as presented for the February 25, 2019 meeting. William Simpson seconded the motion, the motion carried unanimously. (4-0)

2. Consideration and possible action regarding request for tree variance – The Shoppes at Montgomery development.

Mr. McCorquodale advised that Jonathan White from L Squared was present as the Engineer for the development. Mr. McCorquodale said what is being requested specifically is the driveway tree removal. Mr. White stated they put in a request for a tree preservation ordinance variance, because they are trying to install two driveways on SH 105. Mr. White stated the driveways are in alignment with the ones that are installed in front of Kroger and that facility. Mr. White said TxDOT does not have any leniency with shifting a driveway off one side or the other, they like them aligned and across the street from one another. Mr. White said to be able to install the driveways, they will have to take out approximately ten trees. Mr. White said the trees are sitting directly on the property line, so they are not doing any paving on the property, only up to the property line. Mr. White said under the current ordinance, they would have to replace around 40 trees if they were to remove these 10-11 trees, to adhere to the existing ordinance. Mr. White said there is another new ordinance that is being proposed that was discussed at the developer's round table meeting, which will be more consistent as a whole throughout the City.

Mr. White said they do not propose to take any trees out for any other portion of the property. Mr. White said each pad site, as it develops out will be responsible for doing their own mitigation plan, whether it falls under the current existing ordinance or the new proposed ordinance. Mr. White said they are requesting a variance so they can install the two driveways.

Mr. Yates asked Mr. White if he was sure that he was required to have a variance, since this is a driveway. Mr. White said they have been trying to get this permit for months, probably since November, and they were told that because they are removing trees, they do have to adhere to the ordinance. Mr. White said there is actually an exception to the ordinance when it is within existing right-of-way or existing easements, and the trees do fall within an existing 26 foot utility easement, but since the water and sewer that were installed within that easement was able to be installed without removal of those tree, they could not remove the trees. Mr. Yates said he did not want to get in the way of getting an answer from the Commission, but he knows there is a section in the ordinance that addresses when a tree would prevent a building from being built, and he thought it included driveways. Mr. White said it did include driveways,

and the fact it is sitting in an existing utility easement, he thought with one of their recent submittals to the City they wrote a letter pointing out that exception to the rule and they were denied. Mr. Yates asked if it was by the City Engineer, Mr. Roznovsky. Mr. Yates said he did not want to get in the way of an action by the Commission, but he thought that he needed to research that matter. Mr. White said there are no sites going in today, but they are under the gun because the TxDOT permit has an expiration date, and it took them over a year to get the permits, which they were able to renew one time, and the new one is up in May 2019. Mr. White said for them to renew the permits again will be difficult to do, so they are trying to get the driveways in with the existing permit.

Chairman Cox asked if this would go before City Council. Mr. Yates said he would need to verify the information as to whether it will be required to go before City Council, but he asked that the Commission take action appropriately and then he will review the ordinance and make a determination on behalf of the City. Mr. Yates said he would talk to Mr. Roznovsky regarding the matter. Mr. Yates said even if the Commission would say they did not recommend the action, he will verify the information with the City Attorney, and would send Mr. White and The Shoppes a letter of the findings, and if the trees can be removed, it will be stated in the letter. Mr. Waddell said they have always taken a common sense approach to not slow things down for anyone, and in his mind, if the trees are in the way of the driveway, then the trees have to go. Mr. Yates said no other trees, except for the ones needed to put in the driveway, would be cut down. Mr. Yates said, in his mind, that is an agreeable variance. Mr. Yates said he apologized to everyone included for not verifying the information and not realizing this was the issue prior to the meeting.

William Simpson said they were saying that to install the driveways, they have to take out ten trees, but because they are large trees, they would have to replace them with 40 trees. Mr. White said that is why the tree ordinance makes it very hard. Mr. White said there are currently two other developments being proposed on the property, so those will be coming to the City in the next few weeks. William Simpson asked how close they are to adopting the new ordinance. Mr. Yates said he thought they would have it ready next month. William Simpson said since this is basically what the new ordinance is going to read, he did not see a problem with it, and it is being dictated by TxDOT.

Jeffrey Waddell moved to approve the requested variance due to the location of the two driveways as dictated by TxDOT. William Simpson seconded the motion, the motion carried unanimously. (4-0)

3. Consideration and possible action regarding approval of an exterior freestanding ATM and canopy at the Cozy Grape Restaurant.

Mr. McCorquodale presented the information to the Commission, and said Spirit Texas Bank has expressed interest in locating an ATM site somewhere in downtown Montgomery, and they have reached an agreement with the Cozy Grape Restaurant to locate it there. Mr. McCorquodale said the Historic District requires any exterior modifications be approved by the Commission. Mr. McCorquodale said they will still have to go through the building permit process with the City for the canopy and the ATM.

Mr. McCorquodale said he spoke to the contractor this morning and the information that he had given to the Commission regarding their site plan states the ATM will be grey, and they called this morning and amended the color to white, and said the canopy would still be bronze.

Jeffrey Waddell confirmed that the LED lights would be shining down. Mr. McCorquodale said the lighting ordinance does require full cut off for exterior lighting, so it would not shine to the side and would be located inside the canopy. Jeffrey Waddell asked about the clearance for someone using the ATM, and said they currently have two way traffic there and the way they have it facing, the person using the ATM will have their back to the street, so it is close. Mr. Yates said where the ATM is located there is no parking allowed next to it. Mr. McCorquodale said the ATM would be wholly on private property, so any other improvements in the area would not be in conflict. Jeffrey Waddell said the clearance from where the cars will be driving by is about four to five feet, and asked if they considered turning it 90 degrees so the person's back is not to the street. Mr. McCorquodale said that was a good point and he would raise that point with the contractor. Mr. McCorquodale said one of the considerations for the ATM is the visibility from FM 149 for police patrol, so he will bring up Jeffrey Waddell's suggestion. Jeffrey Waddell said if they are going to incorporate the ATM into the downtown walking area, it does make sense as long as it is located correctly. Arnette Easley said he would suggest putting the view mirrors on each side of the ATM so the person using

the machine can see on either side of them. Jeffrey Waddell said his concern was the vehicles driving along the street because it is pretty close to the machine. Jeffrey Waddell asked if they could place posts around the machine to keep people from hooking a chain to it and dragging it away. Mr. McCorquodale said he did not know the answer to that question. Mr. Yates said the City was thinking about putting three bollards around the ATM for security. Arnette Easley said the other bank by Phil's Roadhouse has a freestanding ATM with barriers around the outside.

Arnette Easley moved to approve an exterior freestanding ATM machine and canopy at the Cozy Grape Restaurant. William Simpson seconded the motion, the motion carried unanimously. (4-0)

4. Consideration and possible action regarding painting of building, replacing existing windows, rebuilding the ADA ramp and handrail at 21012 Eva Street. (Northeast corner of McCown and SH 105)

Mr. McCorquodale said this is the old schoolhouse building and the new owner, Ms. Michelle Cannon, is present. Ms. Cannon advised she was the broker/owner of RE/MAX office, and she is moving from The Woodlands to Montgomery. Ms. Cannon said she just purchased the old schoolhouse building and she would like to turn it into their RE/MAX office. Ms. Cannon said she was planning on painting the outside of the building white. Ms. Cannon said the windows are the original windows and she wants to replace those with windows that are more efficient windows, which will still look the same as the current windows. Ms. Cannon said the ADA ramp is falling apart and does not have a railing in the front, which they will be redoing and adding a rail as well. Ms. Cannon said the pedestal lamp post with the four globes is going away.

William Simpson said he thought that everything that Ms. Cannon has in her presentation will bring the old building back to life. Ms. Cannon said she is very excited about the project. William Simpson said it looks like everything that Ms. Cannon is doing will meet or exceed what they will require.

William Simpson moved to approve the painting of the building, replacing the existing windows, rebuilding the ADA ramp and handrail at 21012 Eva Street. Arnette Easley seconded the motion, the motion carried unanimously. (4-0)

5. Consideration and possible action regarding approval of a sign at 21012 Eva Street.

Arnette Easley moved to approve the sign at 21012 Eva Street as presented. William Simpson seconded the motion.

Discussion: Mr. Yates asked if the sign was going to be at the same location. Ms. Cannon said it could be at the same location if where they want to move it is not okay. Mr. Yates said it does not have to be. Ms. Cannon said they wanted to provide more parking area, so they wanted to move it closer to their property line. Mr. Yates said that is fine. Jeffrey Waddell asked if the sign had lighting that would not be too bright. Ms. Cannon said that was correct and it will only be the box that will be lighted and she is aware of the times when the sign is allowed to be lit.

The motion carried unanimously. (4-0)

6. Consideration and possible action regarding approval of a sign at 14740 N. Liberty Street – China Chapel Church.

Mr. McCorquodale said it was his understanding from Arnette Easley this sign will go over the existing sign and will be the same dimensions as the existing sign. Arnette Easley said it won't be the same location, they will put it on the corner of the building. Mr. Yates said that was fine. Mr. Yates asked if they would be removing the existing posts that are holding up the current sign. Arnette Easley said that is correct. Mr. Yates asked if the new sign would be the same size as the old sign. Arnette Easley said that was correct. Arnette Easley said they were landscaping the area at that location.

William Simpson moved to approve the sign at 14740 N. Liberty Street – China Chapel Church as presented. Jeffrey Waddell seconded the motion.

Discussion: Chairman Cox asked if the name is being changed to Life Giving Life. Arnette Easley said yes. Chairman Cox asked if they need to reflect the fact that the name is changing. Mr. Yates said no, they were just approving the sign. Jeffrey Waddell asked if the shadow on the drawing was included in the sign. Arnette Easley said no, that was how they took the photo.

The motion carried unanimously. (4-0)

7. Consideration and possible action regarding approval of a sign at 305 Caroline Street –Heritage Insurance Services.

Mr. McCorquodale said this sign is also in the Historic District and requires approval from the Commission.

William Simpson said he understood where the hanging sign is going to go, but asked where the future parking lot where the 4 x 4 sign will be located. Mr. McCorquodale said it was to the right of the rectangle that says “future parking area.” William Simpson said he understood that, but asked where the future parking is located because that is a street. Mr. Daniel Skelton, owner of Heritage Insurance Services, stated they are having to cut into the parking lot and then they will have the boundaries where they can actually put in the sign. William Simpson asked if there is actually going to be a parking lot cut into the curb. Mr. Skelton said yes, according to what Mr. Shockley has told them. Mr. Clover advised that it would probably be similar to the parking lot they have at the Garret House, which is all Mr. Shockley’s property. Mr. Clover advised there is a big space in the middle for parking, but he did not know how he was going to do it.

William Simpson asked when Mr. Skelton was planning on opening. Mr. Skelton said they originally wanted to open April 1, 2019, but it looks like that will be pushed back because they do not have occupancy, which they can’t obtain until they finish the parking lot. Mr. Skelton said they wanted to get pre-approval for the sign before they started having it made. William Simpson said all the colors are in line with the Historic District, but the only problem is he does not know where the large sign is exactly going to be located. Mr. Yates said the future parking area would have to be approved separately and would require a curb cut approval,

which has not been discussed. William Simpson asked to confirm that they could approve the signs tonight and then the rest is out of their hands after tonight. Mr. Yates said that is correct.

William Simpson moved to approve the signage for 305 Caroline Street - Heritage Insurance Service. Arnette Easley seconded the motion, the motion carried unanimously. (4-0)

8. Discussion regarding proposed schedule for City-initiated rezoning.

Mr. McCorquodale discussed the proposed schedule for the City- initiated rezoning process, and the idea of trying to consolidate the legal notice for the Public Hearing requirements. Mr. McCorquodale said there are two reasons why they brought this to the Commission; one is to show where they are in the process and what the future dates are, with the most important of these dates being May 21, 2019. Ms. Hensley advised that because this is a Special Meeting, a super majority of four members would be required to be present at the meeting. Mr. Yates said they will easily be spending \$2,500 in notices, preparation and publication for the meetings, which is the reason this is before you to make sure that everyone will be able to meet on May 16th and May 21st. Mr. Yates said that Mr. McCorquodale has spoken with all the property owners, and they are not expecting to have a large crowd or opposition. Ms. Hensley advised that both May 16 and May 21 will require a super majority to be present since they are both special meeting dates and will not be held on the regular meeting date. Mr. Yates said they could use one of those dates to conduct the Commission business as if it was their regular meeting, so they would not have to have three meetings that month.

William Simpson said he can't foresee the future, but he plans on being here. The Commission concurred that they would be present for the meetings. Mr. Yates said the public hearings will be called at the April meeting. Mr. Yates said they need to get a head start on preparing the legal notices and letters, so hearing at the April meeting that members will not be able to make the meeting would not be alright because they would have already invested in getting everything ready. Mr. Yates said they are going to have the letters prepared and ready to mail out because of the time involved to prepare for the public hearings. Chairman Cox asked if the time for both hearings would be 6:00 p.m. at City Hall. Mr. Yates said that is correct.

Arnette Easley asked if Mr. McCorquodale had gotten with Ms. Hensley to review his information. Mr. McCorquodale said yes he had, but he still needed to meet with him to go over the information on both of the pieces of property. Arnette Easley said he would come by this week.

Jeffrey Waddell asked if May 16, 2019 was the regular Planning and Zoning Commission Meeting day. Mr. McCorquodale said it is not, it is earlier and would require a super majority to be in attendance. Mr. Yates said he will email the Commission about their schedule and confirm they will be able to attend the meetings. Mr. Yates said City Council will hear the same speech tomorrow night.

9. Report regarding the Tree Ordinance.

Mr. McCorquodale said this is nearing the homestretch for revisions and will bring the updated version or the proposed draft at the April meeting. Mr. McCorquodale advised they had a very productive developers' meeting last week and they are looking at a couple meetings planned with developers to follow up on the information, to see the type of work they do and how the updated ordinance will affect them and perhaps make some more modifications, if necessary. Mr. McCorquodale said he wanted to make sure that he understood the type of facilities they are building to understand their land use in relation to the proposed ordinance.

Mr. McCorquodale said the rationale behind the canopy coverage requirement by land use type, is to be able to adjust it based on the type of site layouts they have. Mr. McCorquodale said he was also talking with some of the developers that work on the residential side to look at the number of trees required for a residential lot. Mr. McCorquodale said right now there are three trees in the draft, and he has spoken to some about going down to two trees instead of three on each residential lot, which still puts them way over the 20 percent canopy coverage required for residential areas. Mr. McCorquodale said he would have that all finalized in the next week or two, and then in the following week, send out the updated draft so he can answer any questions that they might have.

Chairman Cox said it sounded good to him and wished they would have had the ordinance a while back because there would be more trees in town.

William Simpson said he was asked about Jim's Hardware property, and what would be the process of extending the Historic District. Mr. McCorquodale said it would be a land use change. Mr. Yates said they have to petition the City with a written request or the City can initiate the change, but it would have to have an explanation and then would go to the Planning and Zoning Commission. William Simpson asked if that direction would be a good way to go instead of a Special Use Permit and put more restrictions on what would go in there. William Simpson said the problem is there have been some other places where it is the owner selling the property, with the intent of keeping it the way that they would see it, but as soon as they sell the property that goes out the window. William Simpson said if they had more control of it or the seller puts more control over it, then it will stay what the owner deems it to be. Mr. McCorquodale said the Historic District essentially functions as a form of "form based zoning" which is looking more at the form of the building and less on the use of a building, obviously in our case, the underlying land use is still there, whether it is residential or commercial, etc. Mr. McCorquodale said what the Historic District overlay does is start to look at the form of the building that can be either landowner driven or City initiated. Mr. McCorquodale said when he was on the Planning and Zoning Commission, it was all they could do to get what they had in the Historic District. William Simpson said it could be an option for Mr. Ward for his property. Mr. Yates said he spoke to Mr. Ward at the meeting, but he has not spoken to him privately about this matter, and said he thought it would be good to talk to him about including that property into the Historic District.

William Simpson asked Mr. Clover if he thought that would be a good idea to bring in more of the Historic District area. Mr. Clover said he felt that it would be a good idea. Mr. Yates said as long as you have approval of the applicant. William Simpson said that question had been brought up to him. Mr. Clover said the main problem with the Ward property, just for discussion purposes, all along that area to where the Cluxton's house is, there is an additional ten acres that slopes down to Buffalo Springs. Mr. Clover said the runoff from that sloped land is already causing some problems in Buffalo Springs, and legally you are not supposed to dump water onto someone else's property. If it is natural, that is okay, but if you start developing it, somebody is going to have a problem with it and they will end up in court somewhere. William Simpson said the property is going to be developed so if they can get a foot in the door, it might help. Mr. Clover said they just have to figure out what they will do with the runoff. Jeffrey

Waddell said the City Engineer had mentioned that information. Mr. Yates commented the drainage would be checked and then it would be determined what could be done.

Ms. Hensley advised that Carol Langley was doing very well after her surgery and is at home recuperating, and will be back next month.

10. Adjournment

William Simpson moved to adjourn the March 25, 2019 meeting at 6:38 p.m. Arnette Easley seconded the motion, the motion carried unanimously. (5-0)

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

Chairman Nelson Cox

Montgomery City Council
AGENDA REPORT

Meeting Date: April 22, 2019	Budgeted Amount:
Prepared By: Jack Yates City Administrator	Exhibits: sign application, Drawing the sign as proposed
Date Prepared: April 17, 2019	

Subject

Consideration and possible action on sign approval for 202 N. McCown Street Suite A. (The southernmost Suite at the northeast corner of McCown and Caroline Streets)

Description

This is a new business that is going in at 202 N. McCown Suite A. The business is an art/craft practice type of business where alcohol is served to the patrons as they produce the art in classes.

The sign is to go on the front of the building and does not seem overly large for the space involved. While not quaint, nor particularly historic it is a nice enough looking sign and appears to compatible with the neighborhood—to my mind.

Recommendation

Motion to approve the sign is presented.

Approved By

City Administrator	Jack Yates	Date: April 17, 2019
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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: 3/7/2019

JOB ADDRESS: 202 McCown St. Suite A		BUSINESS NAME: Wine & Design Montgomery	
BUSINESS OWNER: Rachel Anderson	MAILING ADDRESS: 194 Jaxxon Pointe Montgomery	77316	TELEPHONE: 281-723-3357
APPLICANT: Rachel Anderson	MAILING ADDRESS: 194 Jaxxon Pointe Montgomery	77316	TELEPHONE: 281-723-3357
CONTRACTOR LICENSE # (if electrical):			

IS THE SIGN IN THE HISTORIC PRESERVATION DISTRICT?	YES <input 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: Front of building	VALUATION: \$300
SIGN DESIGN & COLOR SCHEME: black & white, one spot of pink	
SIGN TYPE Aluminum	SIGN DIMENSIONS
FREESTANDING MONUMENT SIGN	SIGN HEIGHT: 4 ft
BUILDING WALL SIGN	SIGN WIDTH: 8 ft
BANNER	TOTAL SQ FT: 32
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: Rachel Anderson	SIGNATURE of Property Owner or Agent: Rachel Anderson
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OFFICE USE ONLY

APPROVED BY:	TOTAL FEE:	\$60.00
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COMMENTS:	
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PROOF

READ PROOF CAREFULLY

Please review the layout(s) below and advise whether approved or changes for production.
Please reply via this email noting order is approved or noting any changes.

****Production will not begin until approval is emailed or fax back stating APPROVED.****



DATE 03-11-19
ORDER NUMBER 19-3 0908
SIZE 8ft W x 4ft H
COLOR Black & Pink 041 Vinyl
QUANTITY 1 Alumapanel Sign
OTHER \$270.00+tax

YOU MUST CHECK THE FOLLOWING:

WORDING - SPELLING: Is everything spelled correctly? Check all names and words.

LAYOUT: Do all components correlate to each other?

SIZE: Check the size noted on the drawing.

Changes may have been necessary to meet the size requirements.

***ONCE APPROVED, YOU ARE RESPONSIBLE FOR 1/2 OF THE REMAKE COST SHOULD ANY ERRORS BE FOUND AFTER PRODUCTION BEGINS.**

- Proof APPROVED as is
- OK with changes
- NEW Proof needed



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Montgomery City Council
AGENDA REPORT

Meeting Date: April 22, 2019	Budgeted Amount:
Prepared By: Jack Yates City Administrator	Exhibits: E-mail of request, Special use application , Previous action on similar request, Procedure for special use permit applications
Date Prepared: April 17, 2019	

Subject

This is to call public hearing for a Special Use Permit for Candace Welsh for a microblading (placing a tattoo on the eyebrows of or on the eyelid) at 14375 Liberty St. (the Westmont building).

Description

This is to call a public hearing for either May 14 or May 28th. depending on when the Planning Commission calls their public hearing. The 13th would be a special meeting just for this item, but if you do that then that means that Ms. Welsh could go before the City Council on May 14, thus saving yourself two weeks to be able to open the business two weeks sooner.

However, May 16 will also be a special meeting (for the city-initiated zonings).

Remember – we need four Commissioners here for the Special Meetings- and the city has several thousand dollars in expense depending upon your presence at the May 16 meeting – so if you make only one meeting, the 16th has many more people counting on the holding of that meeting.

However, if you could make a May 13 meeting for the 10 or 15 minutes long brief meeting for the public hearing and a vote on the Special Use Permit, I am sure Ms. Welsh would appreciate the effort.

Montgomery City Council
AGENDA REPORT

Recommendation

Motion to set a public hearing for May 13 o or May 27th.

Approved By

City Administrator

Jack Yates

Date: April 17, 2019



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

Special use permit

1 message

Cory Welsh <cory.welsh27@yahoo.com>
To: jyates@ci.montgomery.tx.us

Fri, Mar 29, 2019 at 1:03 PM

Hello my name is Candace Welsh. I am starting up a new business called Studio C Brows. I would like to apply for a special use permit so that I may do Microblading in Montgomery. Microblading is a semi permanent technique used to enhance the eyebrows.

The location I would like to have my business is in the Westmont Building

Address

14375 Liberty St.

I plan to open my business May 1st. I would like to request to be put on the agenda. Please let me know if you have any questions.

Thank you,
Candace Welsh

Sent from my iPhone

3

CITY OF MONTGOMERY
P.O. BOX 708
MONTGOMERY, TX 77356
PHONE: 936-597-6434 FAX: 936-597-6437

SPECIAL PERMIT APPLICATION

Name: Candace Welsh
Address: 20060 Big Oak
Montgomery TX 77356
Phone #: 713 817. 8037

Class of permit: (check one)

Temporary Structure _____
Width _____ height _____

Special Use _____

Misc. _____

Burn _____

Length of time requested? 1 YR.

Full description of merchandise to be sold:

Semi-permanent cosmetic makeup
microblading / shading

Signature of Applicant Candace Welsh

Date of Application 4/3/2019

Approved/City Employee _____

Special Use Permit for microblading , 2016 for Michelle Martin

March 28 Agenda Item listing:

Discuss/take action regarding setting a Public Hearing for 14375 Liberty Street regarding a Special Use Permit as a tattoo parlor

Notes from March 28, 2016 meeting

Setting a public hearing for 14375 Liberty St. Special Use Permit as a tattoo parlor -- I have been requested by Michelle Martin to ask you to set a public hearing date for her requested zoning use that requires City Council approval. Her requested use is a beauty salon that will also include permanent eyebrow tattoos (a tattoo state license is required)-- according to the zoning ordinance the City Council must give permission for the use, with a report from the Planning Commission.

Note: a Special Use Permit will be written that can provide that the only tattooing on the site can be for eyebrows

MONDAY, APRIL 25, 2016, 6:00 P.M.

Setting a public hearing for 14375 Liberty St. Special Use Permit as a tattoo parlor -- I have been requested by Michelle Martin to ask you to set a public hearing date for her requested zoning use that requires City Council approval. Her requested use is a beauty salon that will also include permanent eyebrow tattoos (a tattoo state license is required)-- according to the zoning ordinance the City Council must give permission for the use, with a report from the Planning Commission.

Note: a Special Use Permit will be written that can provide that the only tattooing on the site can be for eyebrows.

April 25, 2016PI. Comm. meeting notes

Item #5 Discuss/take action regarding special use permit to Michele Martin for a special use permit at 14 375 Liberty Streetas a tattoo parlor--- in your packet is a proposed special use permit ordinance. In the ordinance it states the street address, the person specifically getting the permit, requirements of safety standards, and has a five-year term to the Special Use Permit.

The staff recommends a favorable recommendation to the City Council. Planning Commission recommends Special Use Permit.

City Council held public hearing on May 10, 2016 and approved the Special Use Permit to Michele Martin on page 14 of May 10, minutes.

See May 10, 2016 agenda packet for p. 8 Final Report of Pl. Comm. to Council on subject, p. 42 is Special Use Permit Ordinance.

Recollection is that Ms. Martin never came to pick up the SUP Ordinance and that we simply did not hear back from her.

Procedure for Special Use Permit Application:

1. **Application** – Written application is submitted by the property owner stating the description of the property use along with the request for a Special Use Permit. The applicant will pay \$500 permit fee to determine property ownership for notice and legal cost for preparation of associated documents.

2. **Procedure for Special Use Permit:**

- Request from property owner is submitted to City Council for review, and if determined appropriate, forwarded to the Planning and Zoning Commission.

- Planning and Zoning Commission schedules a Public Hearing to be held after legal notice and notice by mail:

- § Legal Notice in the City's official newspaper (Conroe Courier), published one time at least 15 days prior to the public hearing; and

- § Legal Notice by mail to all property owners within 200 feet of the property, as indicated by the most recently approved municipal tax roll, requesting the Special Use Permit at least 10 days prior to the public hearing. The property owner will provide information detailing the property owners within the 200 feet.

This information regarding the surrounding property owners will be obtained and provided by the applicant. To obtain this information, please contact the Montgomery County Tax Office at 400 N. San Jacinto Street, Conroe, TX 77301 and (936) 539-7897. <http://www.mctx.org>.

- The Planning and Zoning Commission will conduct the Public Hearing and prepare the Final Report for submittal to City Council.

- The City Council will conduct a Public Hearing after receiving the required Final Report from the Planning and Zoning Commission, and legal notice and notice by mail as follows:

- § Legal Notice in the City's official newspaper (Conroe Courier), published one time at least 15 days prior to the public hearing; and

- § Legal Notice by mail to all property owners within 200 feet of the property, as indicated by the most recently approved municipal tax roll, requesting the Special Use Permit at least 10 days prior to the .

- City Council will then take official action on the Special Use Permit. The amendment, supplement or change shall not become effective except by a three-fourths vote by City Council. The City Attorney will prepare the ordinance for consideration and adoption by City Council.

- If approved, City Council will adopt an Ordinance stating the specific information regarding the Special Use Permit.

- The Special Use Permit can be revoked by the City for noncompliance with the specific requirements of the permit.

- The Special Use Permit can also have an expiration and/or renewal as provided by City Council.

Montgomery Planning and Zoning Commission
AGENDA REPORT

Meeting Date: April 22, 2019	Budgeted Amount: N/A
Department: Administrative	
Prepared By: Dave McCorquodale	Exhibits: Map of Properties
Date Prepared: April 17, 2019	

Subject

Consideration and possible action regarding calling Public Hearings for May 16th and May 21st at 6:00 PM at Montgomery City Hall to hear public comment regarding 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.

Description

The following is the meeting schedule for the city-initiated rezoning process:

April 22 P&Z calls public hearings for May 16th & May 21st

April 23 City Council calls public hearing for May 28th

May 16 1st P&Z Commission public hearing

*****May 16st is a Thursday—this requires a special meeting requiring at least 4 Members to be in attendance**

May 21 2nd P&Z Commission public hearing and action on final recommendation to Council



*****May 21st is a Tuesday—this requires a special meeting requiring at least 4 Members to be in attendance**

May 28 City Council receives P&Z Final Report, holds Public Hearing, and acts on rezoning

Recommendation

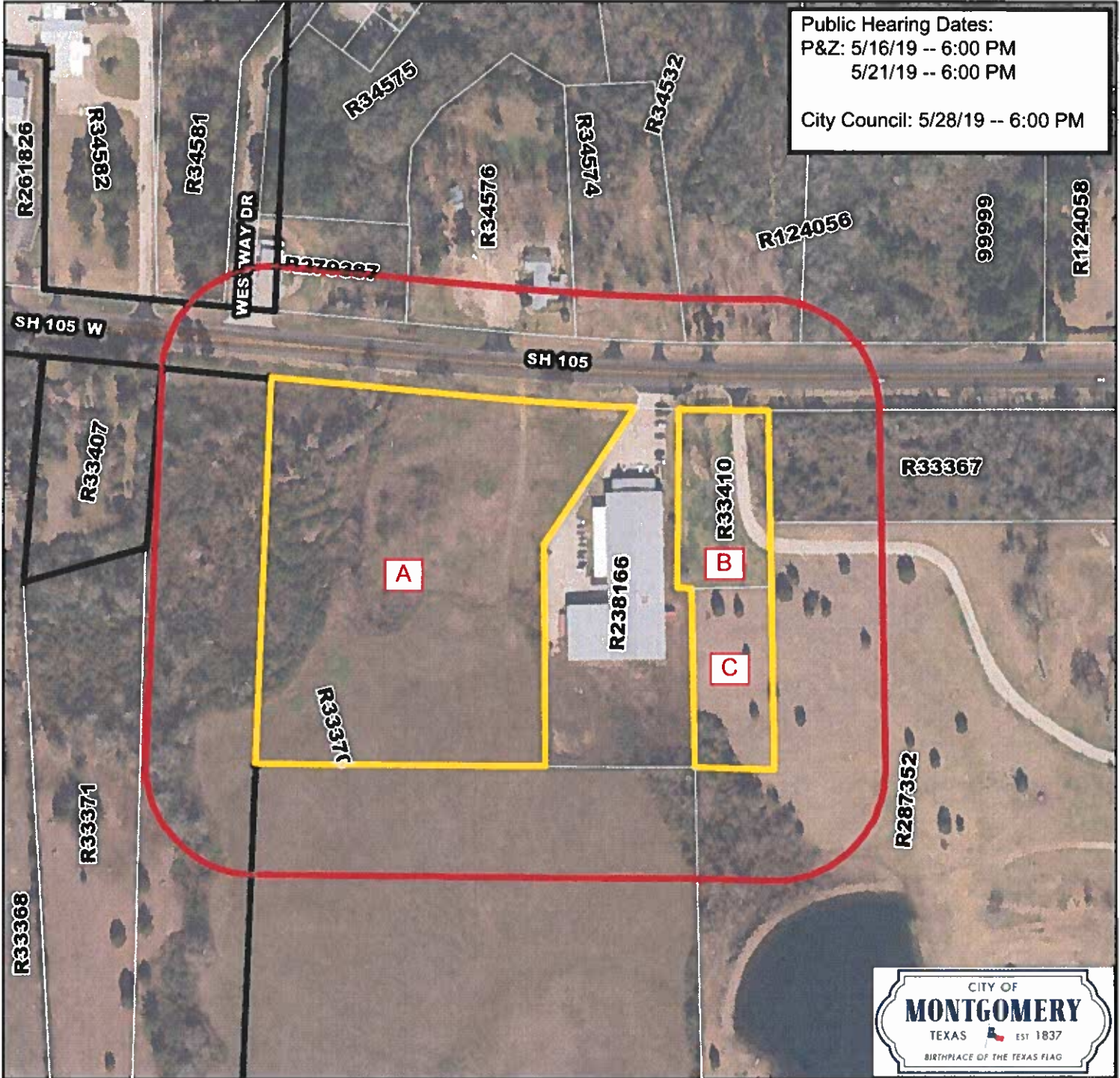
Call public hearings to hear public comment on the rezoning of said properties for May 16th and May 21st at City Hall at 6:00 PM

Montgomery Planning and Zoning Commission
AGENDA REPORT

Approved By		
Asst. to City Admin.	Dave McCorquodale 	Date: 4/17/19
City Administrator	Jack Yates 	Date: 4/17/19

Mann & Lone Star Cowboy Church Tracts

Public Hearing Dates:
 P&Z: 5/16/19 -- 6:00 PM
 5/21/19 -- 6:00 PM
 City Council: 5/28/19 -- 6:00 PM



LEGEND: City Limit Tract Boundary 200-ft Notification Boundary

A. Mann Tract: 8.35 acres along SH 105 W in Montgomery, west of Lone Star Cowboy Church

B. Lone Star Cowboy Church Tract: 1.24-ac portion of 21267 Eva St, Montgomery

C. Lone Star Cowboy Church Tract: 1.08-ac portion of 21267 Eva St, Montgomery



Montgomery Planning and Zoning Commission
AGENDA REPORT

Meeting Date: April 22, 2019	Budgeted Amount: N/A
Department: Administrative	
Prepared By: Dave McCorquodale	Exhibits: Map of Properties
Date Prepared: April 17, 2019	

Subject

Consideration and possible action regarding calling Public Hearings for May 16th and May 21st at 6:00 PM at Montgomery City Hall to hear public comment regarding rezoning the following properties from ~~P~~^I**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.

Description

The following is the meeting schedule for the city-initiated rezoning process:

April 22 P&Z calls public hearings for May 16th & May 21st

April 23 City Council calls public hearing for May 28th

May 16 1st P&Z Commission public hearing

*****May 16st is a Thursday—this requires a special meeting requiring at least 4 Members to be in attendance**

May 21 2nd P&Z Commission public hearing and action on final recommendation to Council



*****May 21st is a Tuesday—this requires a special meeting requiring at least 4 Members to be in attendance**

May 28 City Council receives P&Z Final Report, holds Public Hearing, and acts on rezoning

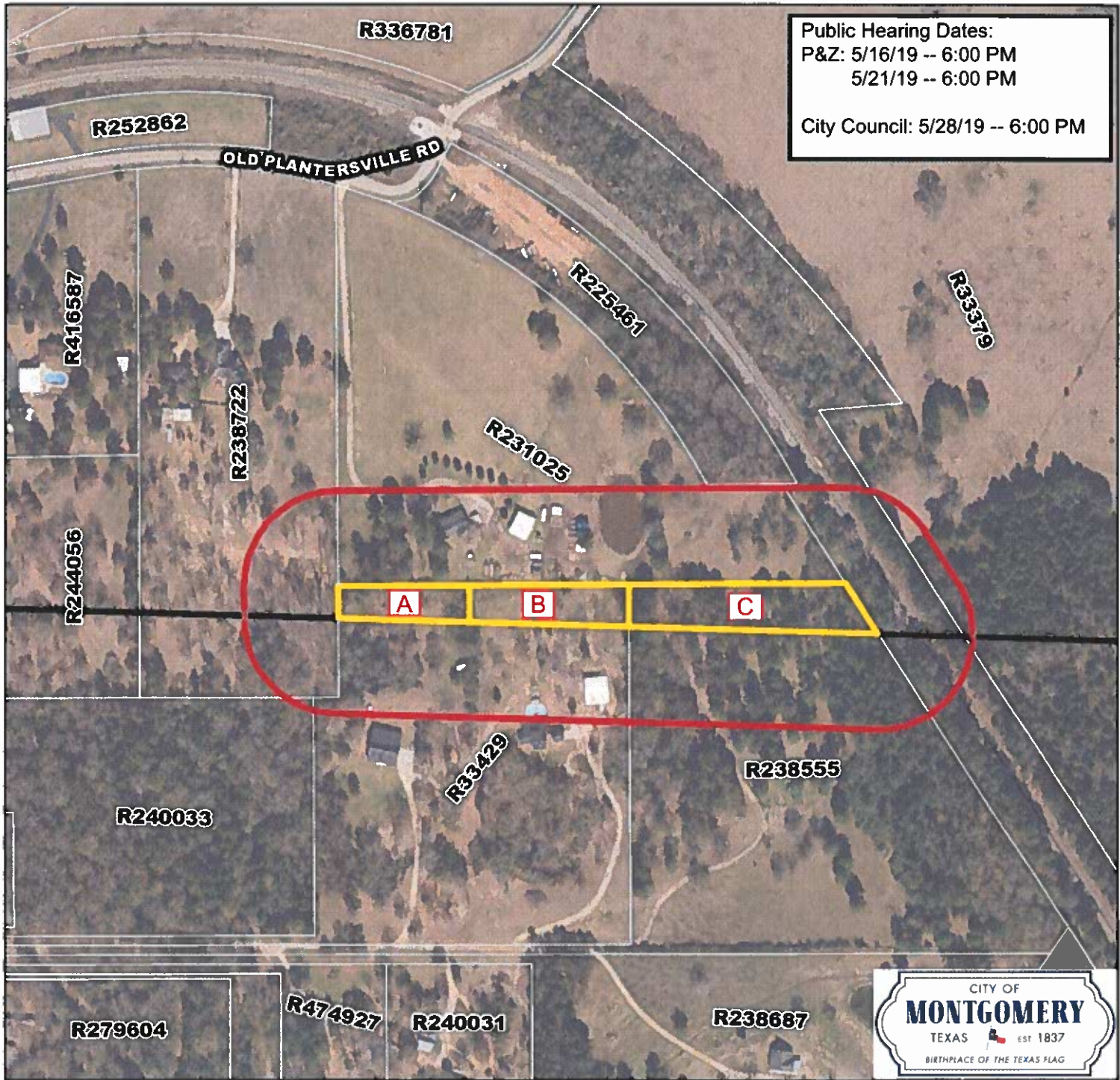
Recommendation

Call public hearings to hear public comment on the rezoning of said properties for May 16th and May 21st at City Hall at 6:00 PM

Montgomery Planning and Zoning Commission
AGENDA REPORT

Approved By		
Asst. to City Admin.	Dave McCorquodale 	Date: 4/17/19
City Administrator	Jack Yates 	Date: 4/17/19

Todd, Solomon, and Simmons Tracts

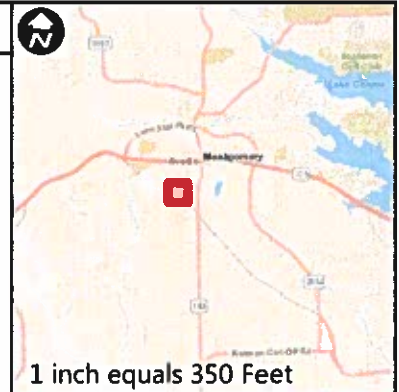


Public Hearing Dates:
 P&Z: 5/16/19 -- 6:00 PM
 5/21/19 -- 6:00 PM
 City Council: 5/28/19 -- 6:00 PM



LEGEND: City Limit Tract Boundary 200-ft Notification Boundary

- A. Todd Tract: 11181 Womack Cemetery Rd, Montgomery
- B. Solomon Tract: 21930 Twin Creeks Rd, Montgomery
- C. Simmons Tract: 21910 Twin Creeks Rd, Montgomery



Montgomery Planning and Zoning Commission
AGENDA REPORT

Meeting Date: April 22, 2019	Budgeted Amount: N/A
Department: Administrative	
Prepared By: Dave McCorquodale	Exhibits: Map of Properties
Date Prepared: April 17, 2019	

Subject

Consideration and possible action regarding calling Public Hearings for May 16th and May 21st at 6:00 PM at Montgomery City Hall to hear public comment regarding 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.
- b. 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.

Description

The following is the meeting schedule for the city-initiated rezoning process:

April 22 P&Z calls public hearings for May 16th & May 21st

April 23 City Council calls public hearing for May 28th

May 16 1st P&Z Commission public hearing

*****May 16st is a Thursday—this requires a special meeting requiring at least 4 Members to be in attendance**

May 21 2nd P&Z Commission public hearing and action on final recommendation to Council



*****May 21st is a Tuesday—this requires a special meeting requiring at least 4 Members to be in attendance**

May 28 City Council receives P&Z Final Report, holds Public Hearing, and acts on rezoning

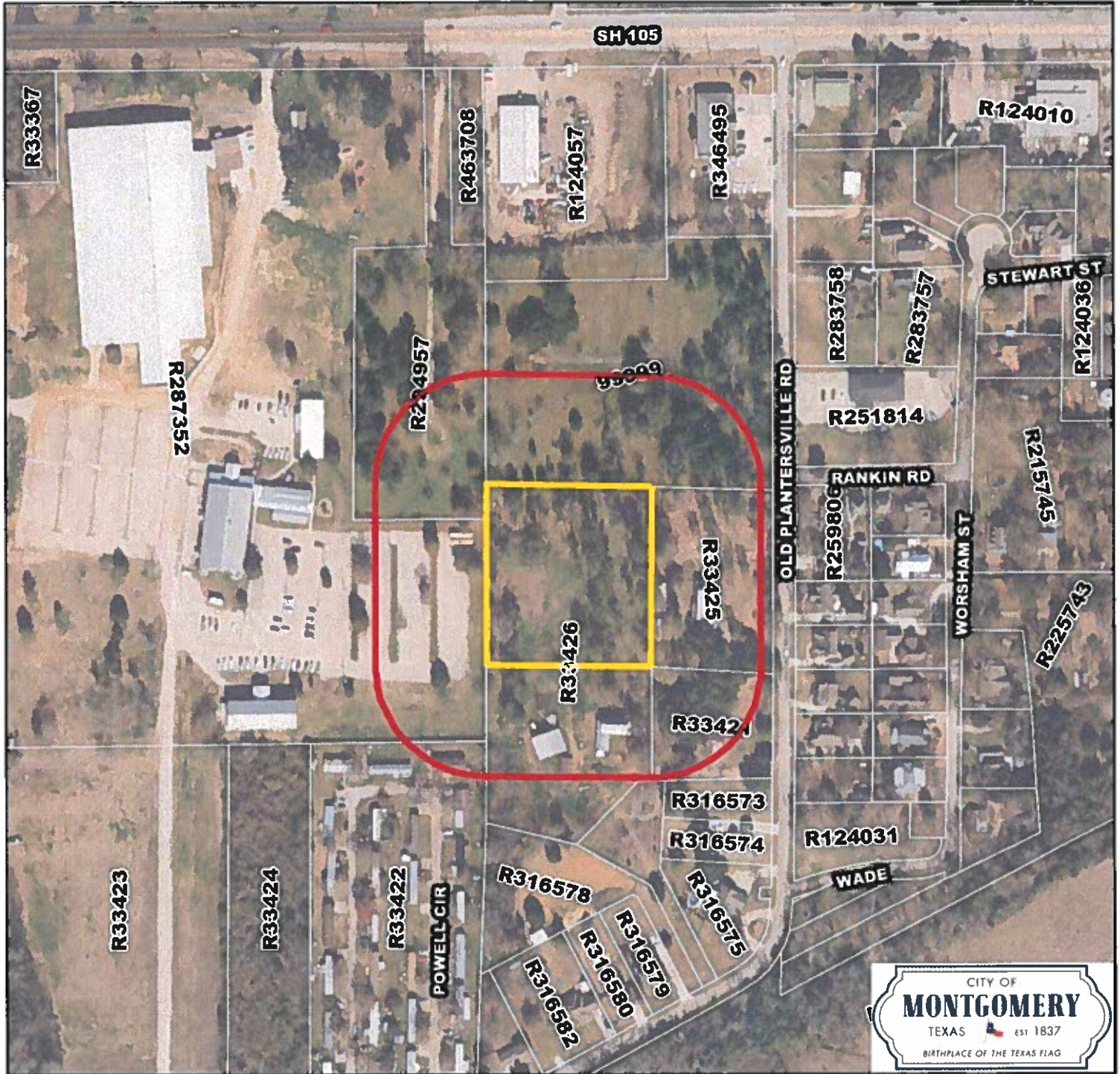
Recommendation

Call public hearings to hear public comment on the rezoning of said properties for May 16th and May 21st at City Hall at 6:00 PM

Montgomery Planning and Zoning Commission
AGENDA REPORT

Approved By		
Asst. to City Admin.	Dave McCorquodale 	Date: 4/17/19
City Administrator	Jack Yates 	Date: 4/17/19

Shockley Tract



LEGEND: City Limit Tract Boundary 200-ft Notification Boundary

A 2.25-acre portion of 623 Old Plantersville Road, Montgomery

Public Hearing Dates:
 P&Z: 5/16/19 -- 6:00 PM
 5/21/19 -- 6:00 PM

City Council: 5/28/19 -- 6:00 PM



Montgomery Planning and Zoning Commission
AGENDA REPORT

Meeting Date: April 22, 2019	Budgeted Amount: N/A
Department: Administrative	
Prepared By: Dave McCorquodale	Exhibits: Map of Properties
Date Prepared: April 17, 2019	

Subject

Consideration and possible action regarding calling Public Hearings for May 16th and May 21st at 6:00 PM at Montgomery City Hall to hear public comment regarding 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.

Description

The following is the meeting schedule for the city-initiated rezoning process:

April 22 P&Z calls public hearings for May 16th & May 21st

April 23 City Council calls public hearing for May 28th

May 16 1st P&Z Commission public hearing

*****May 16st is a Thursday—this requires a special meeting requiring at least 4 Members to be in attendance**

May 21 2nd P&Z Commission public hearing and action on final recommendation to Council

*****May 21st is a Tuesday—this requires a special meeting requiring at least 4 Members to be in attendance**

May 28 City Council receives P&Z Final Report, holds Public Hearing, and acts on rezoning

Montgomery Planning and Zoning Commission
AGENDA REPORT

Recommendation		
Call public hearings to hear public comment on the rezoning of said properties for May 16 th and May 21 st at City Hall at 6:00 PM		
Approved By		
Asst. to City Admin.	Dave McCorquodale <i>DM</i>	Date: 4/17/19
City Administrator	Jack Yates <i>JY</i>	Date: 4/17/19

Montgomery Planning and Zoning Commission
AGENDA REPORT

Meeting Date: April 22, 2019	Budgeted Amount: N/A
Department: Administrative	
Prepared By: Dave McCorquodale	Exhibits: Map of Property
Date Prepared: April 17, 2019	

Subject

Consideration and possible action regarding calling Public Hearings for May 16th and May 21st at 6:00 PM at Montgomery City Hall to hear public comment regarding 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 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.

Description

The following is the meeting schedule for the city-initiated rezoning process:

April 22 P&Z calls public hearings for May 16th & May 21st

April 23 City Council calls public hearing for May 28th

May 16 1st P&Z Commission public hearing

*****May 16st is a Thursday—this requires a special meeting requiring at least 4 Members to be in attendance**

May 21 2nd P&Z Commission public hearing and action on final recommendation to Council

*****May 21st is a Tuesday—this requires a special meeting requiring at least 4 Members to be in attendance**

May 28 City Council receives P&Z Final Report, holds Public Hearing, and acts on rezoning

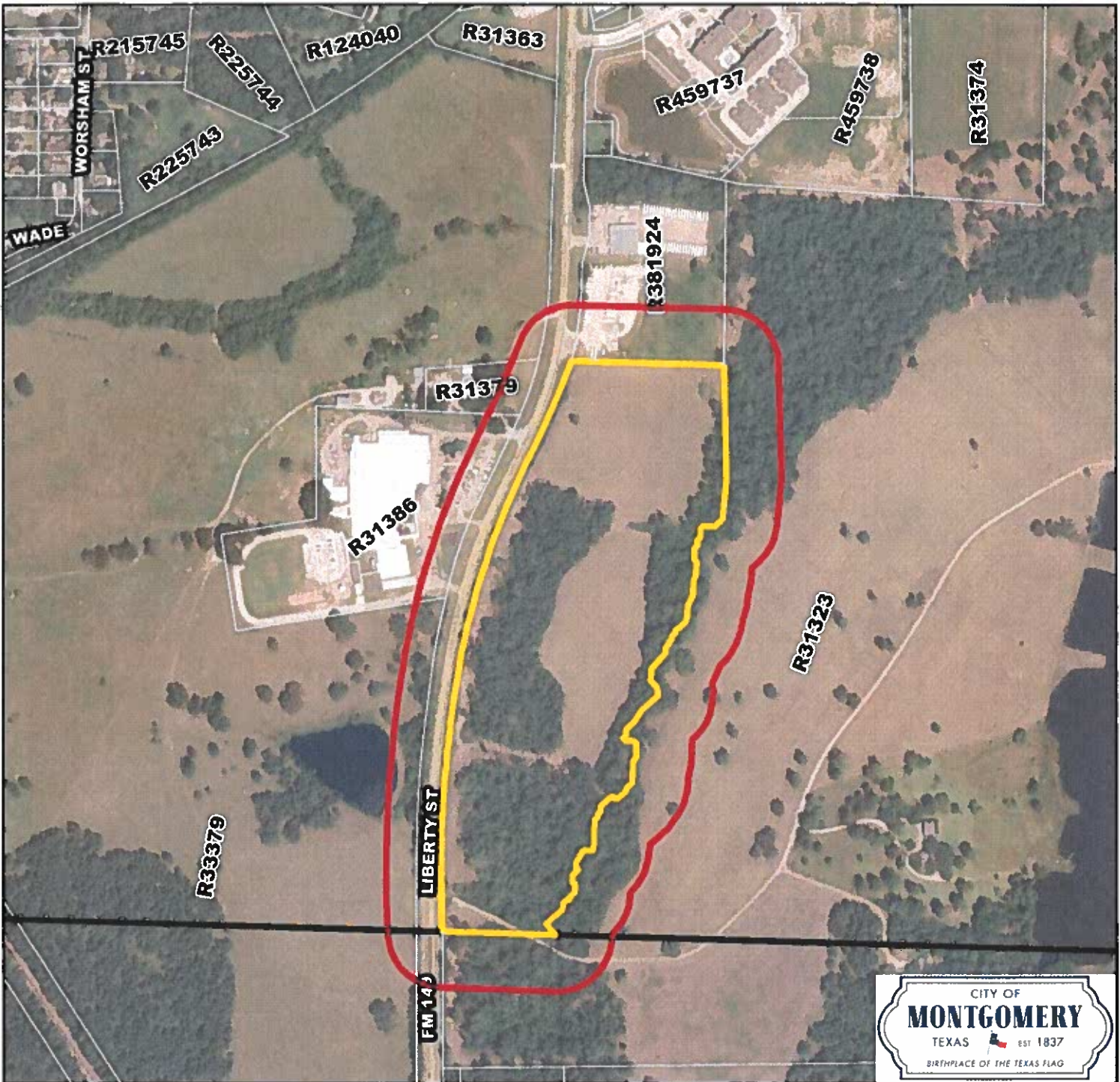
Recommendation

Call public hearings to hear public comment on the realigning of zoning boundaries of said property for May 16th and May 21st at City Hall at 6:00 PM

Montgomery Planning and Zoning Commission
AGENDA REPORT

Approved By		
Asst. to City Admin.	Dave McCorquodale <i>DM</i>	Date: 4/17/19
City Administrator	Jack Yates <i>JY</i>	Date: 4/17/19

Randall Tract



LEGEND: City Limit Tract Boundary 200-ft Notification Boundary

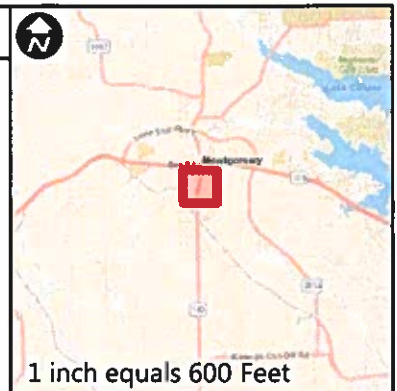
The area in consideration is approximately 31 acres of undeveloped land along FM 149 S.

Public Hearing Dates:

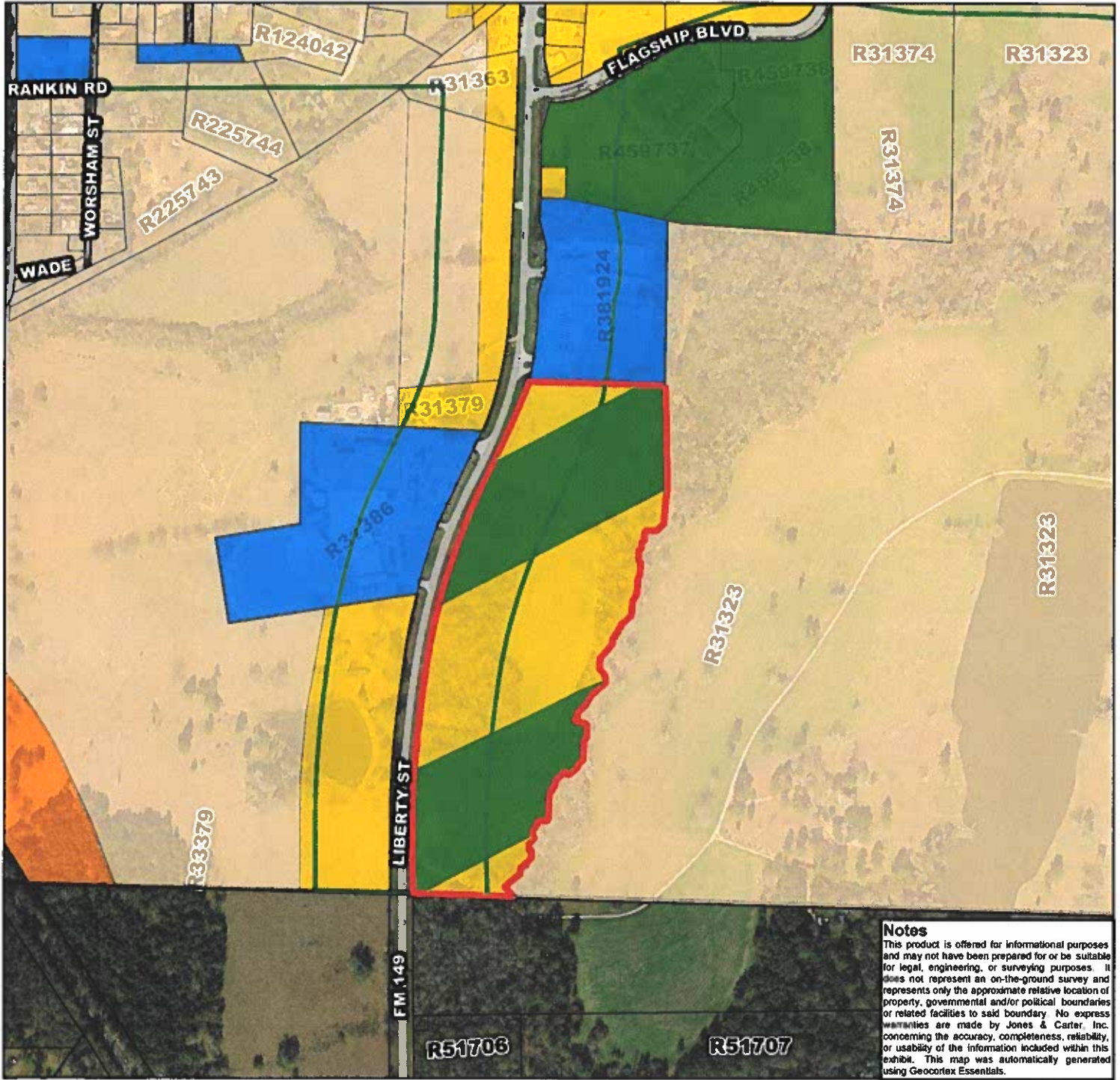
P&Z: 5/16/19 -- 6:00 PM

5/21/19 -- 6:00 PM

City Council: 5/28/19 -- 6:00 PM



Randall Tract--Existing Zoning



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

LEGEND

<p>Zoning</p> <p>Corridor Enhancement</p> <p>Commercial (B)</p> <p>Commercial (B)</p> <p>Industrial (I)</p> <p>Industrial (I)</p> <p>Institutional (I)</p>	<p>Multi-Family (R-2)</p> <p>Multi-Family (R-2)</p> <p>Planned Development (PD)</p> <p>Planned Development (PD)</p> <p>Residential (R-1)</p> <p>Residential (R-1)</p> <p>City Limit</p> <p>MCAD Property info</p>
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1 inch equals 666.7 Feet

Montgomery Planning and Zoning Commission
AGENDA REPORT

Meeting Date: April 22, 2019	Budgeted Amount: N/A
Department: Administrative	
Prepared By: Dave McCorquodale	Exhibits: Map of Properties
Date Prepared: April 17, 2019	

Subject

Consideration and possible action regarding calling Public Hearings for May 16th and May 21st at 6:00 PM at Montgomery City Hall to hear public comment regarding 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

Description

The following is the meeting schedule for the city-initiated rezoning process:

April 22 P&Z calls public hearings for May 16th & May 21st

April 23 City Council calls public hearing for May 28th

May 16 1st P&Z Commission public hearing

*****May 16st is a Thursday—this requires a special meeting requiring at least 4 Members to be in attendance**

May 21 2nd P&Z Commission public hearing and action on final recommendation to Council


*****May 21st is a Tuesday—this requires a special meeting requiring at least 4 Members to be in attendance**

May 28 City Council receives P&Z Final Report, holds Public Hearing, and acts on rezoning

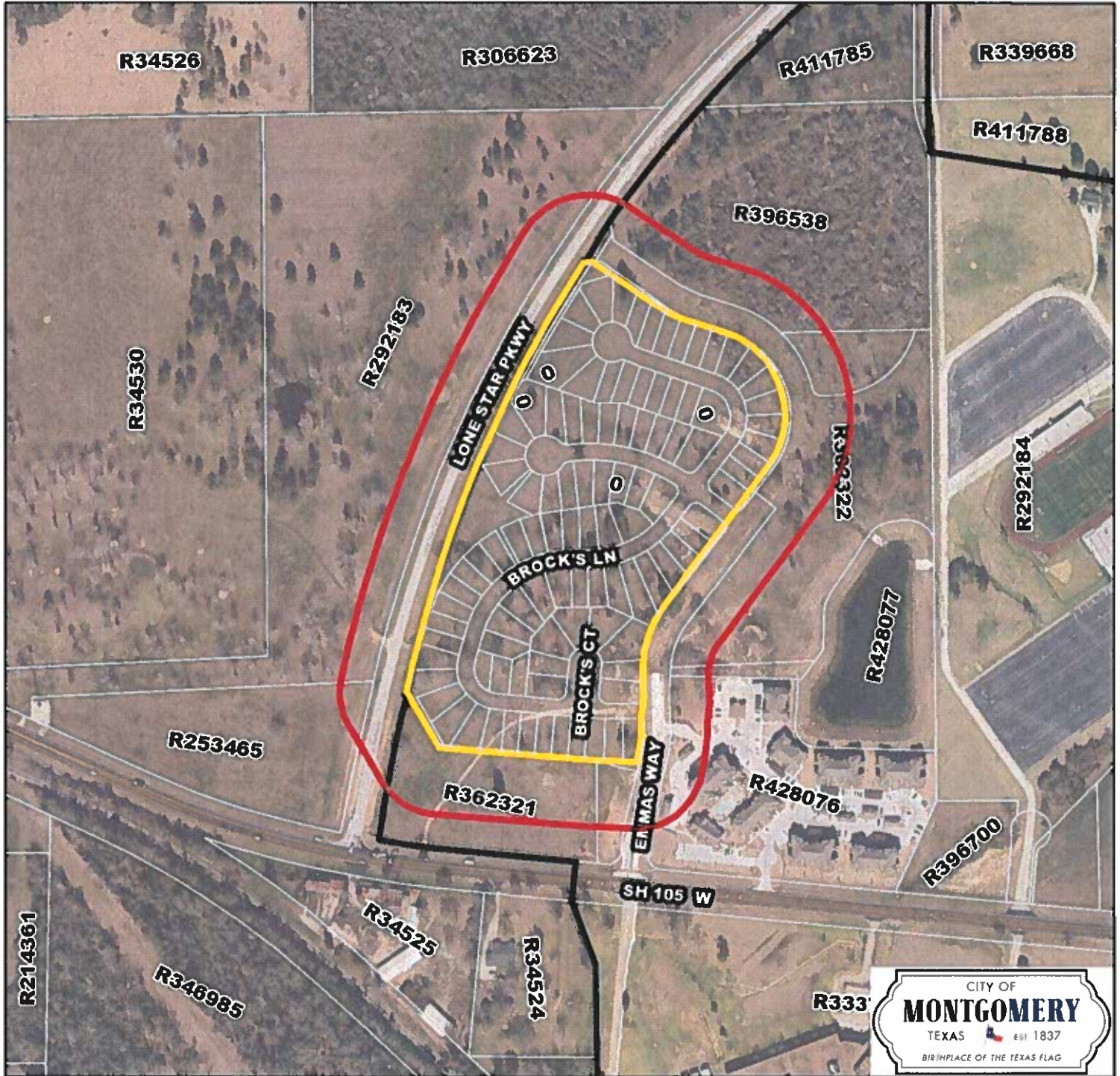
Recommendation

Call public hearings to hear public comment on the rezoning of said properties for May 16th and May 21st at City Hall at 6:00 PM

Montgomery Planning and Zoning Commission
AGENDA REPORT

Approved By		
Asst. to City Admin.	Dave McCorquodale 	Date: 4/17/19
City Administrator	Jack Yates	Date: 4/17/19

Hills of Town Creek Sections 2 & 3 Rezoning



LEGEND: City Limit Tract Boundary 200-ft Notification Boundary

The Hills of Town Creek Sections 2 & 3, located at SH 105 and Lone Star Parkway on the west side of Montgomery. The subdivision consists of 100 residential lots, 5 open space reserves, and is approximately 50% built out.

Public Hearing Dates:
 P&Z: 5/16/19 -- 6:00 PM
 5/21/19 -- 6:00 PM

 City Council: 5/28/19 -- 6:00 PM





Montgomery Planning and Zoning Commission
AGENDA REPORT

Meeting Date: April 22, 2019	Budgeted Amount: N/A
Department: Administrative	
Prepared By: Dave McCorquodale	Exhibits: Summary of tree ordinance revisions, proposed ordinance with markups post-developer's meeting
Date Prepared: April 16, 2019	

Subject
Consideration and possible action regarding proposed tree ordinance revisions.

Description
Staff has worked through revisions for the tree ordinance and provided a summary of the updated ordinance. Staff met with local developers to discuss the changes, and held a series of follow conversations with local developers and engineers to refine the proposed ordinance.

Recommendation
Consider the proposed ordinance, provide changes as you see fit, and recommend approval of the ordinance to City Council.

Approved By		
Asst. to City Admin.	Dave McCorquodale 	Date: 4/16/19
City Administrator	Jack Yates 	Date: 4/17/19

Montgomery Tree Ordinance Revisions Summary

- **Individual property owners in R1 are exempt from requirements**
- **Calculations are based on canopy coverage of the property (instead of caliper inches)**
- **Protected trees are select species >18" DBH in residential buffer zones**
- **Tree canopy coverage requirements are based on land use district:**
 - **20%** in District B-Commercial
 - **10%** in District ID-Industrial
 - **20%** in District I-Institutional (excluding sports fields)
 - **20%** of open space & reserves in R1 & R2-Residential
- **Each one or two family dwelling requires 2 trees w/ at least one in front yard**
- **Requires a residential buffer zone on non-residential that abuts residential**
- **Requires parking lot trees**
- **Allows for pre-development & partial clearing**
- **Provides incentive for preserving trees adjacent to streets**
- **Requires tree preservation plan with development**
- **Requires trees to be spread out over property**

ARTICLE VII. - TREE PRESERVATION AND REPLACEMENT

Sec. 78-171. Findings and intent.

- (a) The city council finds that trees are important public resources that contribute 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 commercially reasonable 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. No clear cutting of land is allowed in the city or on land under the city's jurisdiction.~~
- (c) The City recognizes and appreciates the value of private property within its city limits and within 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 ~~the canopy coverage requirements found in Section 78-178~~ of 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. 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 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 78-179 but are otherwise exempt from the requirements of this article.

Sec. 78-173. 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:

~~*Site Building Envelope* means the portion of a lot where building construction is permitted. This area is located within in the building setback lines applicable to the zoning district classification for the property.~~

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.

~~*Clear-cutting* means the indiscriminate removal of protected trees from a parcel or tract of land.~~

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

~~*Principal building* means, for the purposes of this article, any building which is the first building permitted for construction on a lot or tract of land, or any subsequent building which shall serve as the primary residence or occupied building on the lot or tract of land.~~

Protected tree means Any tree between the property line and existing or anticipated building setback lines at the periphery of the site or residential buffer zone 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. 78-174. 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. 78-175. Permit required for removal of protected tree.

- (a) A person shall not cut down, ~~harvest~~, 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 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. 78-176. 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 located 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 78-177.
- (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. 78-177. Forest management permits.~~

- ~~(a) A forest management permit may be issued to authorize the removal of protected trees from property appraised as timber land under subchapter E, Chapter 23, of the Texas Tax Code. Forest management activities must be conducted in accordance with a written forest management plan based on generally accepted forest management practices. A copy of the written forest management plan must accompany the permit application. The applicant must show verification that the land is currently appraised as timber land or that application has been made to the Montgomery County Appraisal District to have the land appraised as timber land.~~
- ~~(b) A forest management permit remains in effect for a period of five (5) years and may be renewed multiple times so long as the property continues to be appraised as timber land. A copy of the current forest management plan must accompany each application for renewal of the permit. The City Administrator shall prescribe the form of application for a forest management permit. An application set forth in Appendix A must accompany each application.~~

Sec. 78-177. Minimum tree canopy required for development.

- ~~(e)(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.
- ~~(e)(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 District B-Commercial excluding rights-of-way and easements;

- (2) ~~20%~~10% of the gross property area in District ID-Industrial excluding rights-of-way and easements;
- (3) 20% of the gross property area excluding sports fields in District I-Institutional;
- (4) 20% of the gross property area for reserves and designated open space excluding rights-of-way and utility easements in District R1-Single Family Residential; ~~and District "R2" multi-family residential;~~
- ~~(4)~~(5) 20% of the gross property area excluding building footprint areas and utility easements in District R2-Multi Family Residential

Sec. 78-178. 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 ~~three~~two trees. At least one tree must be located in the front yard of the dwelling, shall have a minimum caliper of two inches, and be classified as a large tree per Table 2 in Section 78-184. The remaining tree may be placed in the front, rear, or side yards, be at least a 30-gallon container size and may be any size classification. ~~and must have a minimum caliper of four inches. The remaining required trees must have a minimum caliper of three inches and shall be placed in either the front or rear of the lot.~~ No certificate of occupancy shall be issued for any new one- or two-family dwelling until this requirement has been satisfied.

Sec. 78-179. Tree preservation adjoining residential property.

- (a) Where non-residential property is developed adjacent to residential land use districts, a residential buffer zone is required on the non-residential property along the common boundary. The buffer zone shall be a strip not less than twenty (20) feet deep running parallel and adjacent to the common boundary ~~and not less than fifteen (15) feet deep behind the back line of any easement or series of abutting parallel easements along the common boundary.~~
- (b) Protected trees located within a residential buffer zone are subject to mandatory preservation and 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. 78-180. Parking lot trees.

In the case of new parking lots or additions to existing parking lots 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 parking lot 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 ~~six (6)~~ten (10) feet in height. Additionally, no parking space shall be further than 125 feet away from the trunk of a tree.

Sec. 78-181. 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 ~~three (3)~~six (6) inches. The applicant shall consider the preservation of trees in areas visible from abutting streets and public spaces. Preservation credits ~~shall~~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.

Sec. 78-182 Clearing permits.

- (a) 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 and 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.
- (b) 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 at the periphery of the development boundaries and residential buffer zones that may be applicable to the site. The partial clearing permit does not permit clearing activities in areas that are located within these setback lines or residential buffer zones.

Sec. 78-183. 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 ~~125%~~ 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 16 <u>18</u> " DBH	1400 square feet
At least 16 <u>18</u> ", but less than 24" DBH	1700 square feet
Greater than 24" DBH	2000 square feet

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 and receive the canopy credit listed in Table 2. The remaining 80% of required new trees must be a minimum of 2" caliper. Tree planting and preservation requirements for residential lots are exempt from size requirements in this section and shall follow sizing requirements in accordance with Section 78-179.

- (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. - Tree preservation and protection.

- (a) A tree preservation plan must be included with all ~~preliminary~~-final plat submittals to plat new subdivisions or developments, and again with all requests for permits for any type of 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. The tree preservation plan or verification letter of no protected trees must be submitted to and approved by the city prior to the removal of any trees on the site. If there are no trees present of any type in the area of construction on previously platted residential lots, making no expertise necessary for determining the type and size of trees, landowners may submit a verification letter of no protected trees on their own behalf.
- (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 utility easements necessary to serve the property;
 - (2) the footprint of all proposed buildings, parking lots, and detention ponds;
 - (3) the outline of each woodland tree stand to be preserved;
 - (4) the location, size, and variety of each additional tree that will be preserved for credits;
 - (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. 78-186. 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. 78-187. 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. 78-188. 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 78-183. 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 is removed by or with the consent 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, as described in section 78-172, 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. This requirement shall not apply to any trees included in the percentage of trees allowed to be removed in accordance with subsections (e) and (f) of this section.

Sec. 78-189. 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. 78-190. 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. 78-191. 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. 78-192. 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) Any person, firm or corporation that removes a protected tree without having secured a permit to authorize such removal shall be subject to a civil penalty in the amount of two hundred dollars (\$200) times the total diameter inches of all unlawfully removed protected trees. The civil penalty authorized by this paragraph may be imposed by the city administrator in addition to the misdemeanor penalty in paragraph (a) of this section. The imposition of a civil penalty may be appealed to the municipal planning 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.
- (c) Where illegal tree removal has occurred and the physical evidence has been removed from the site the civil penalty may be assessed based on the estimated diameter of removed trees. For

purposes of such estimation the aggregate diameter of trees per acre is assumed to be 200 diameter inches per acre.

- (d) The imposition of a civil penalty under this section suspends all permits or permit applications issued to or for the benefit of the party responsible for payment of the civil penalty and all work under any such permits shall cease until the civil penalty is fully paid.

Sec. 78-193. Bond Fees.

~~Prior to issuance of any permit requiring approval of a tree preservation plan under section 78-171 of this article the permit applicant shall submit a surety bond or other form of financial guarantee payable to the City to secure the applicant's compliance with this article. The bond shall be in a form acceptable to the City and in an amount equal to \$1.50 times the total canopy area applicable to the project, but in no event shall exceed \$50,000. The bond or other financial security shall be maintained in effect until the expiration of the one year maintenance period required by Section 78-187.~~

~~(a)~~ 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. 78-194. - Reserved.

Montgomery Planning and Zoning Commission
AGENDA REPORT

Meeting Date: April 22, 2019	Budgeted Amount: N/A
Department: Administrative	
Prepared By: Dave McCorquodale	Exhibits: Summary of changes to the table of uses, proposed table of uses with markups
Date Prepared: April 17, 2019	

Subject

Consideration and possible action regarding proposed Table of Permitted Uses changes.

Description

Staff has worked through revisions for the Table of Permitted Uses. This process involved adding, removing, and amending various uses allowed in certain land use districts. The most significant change is to allow B-Commercial uses inside the ID-Industrial district (with the exception of residential-like uses: assisted living and nursing home). Additionally, automobile sales will require City Council approval of a special use permit.

Recommendation

Consider the proposed changes, provide changes as you see fit, and recommend approval of the ordinance to City Council.

Approved By



Asst. to City Admin.	Dave McCorquodale 	Date: 4/17/19
City Administrator	Jack Yates 	Date: 4/17/19

Table of Permitted Uses Update

April 8, 2019

Table of Permitted Uses Amendments:

Allow Commercial district uses in Industrial district

Combine automobile/motorized repair & service into one item

Require automobile or other motorized vehicle sales and service to have CC approval

Combine Barber/Beauty Shop

Combine hotel/motel

Move Grocery (wholesale) from Commercial to Industrial

Move Fruit and Produce (wholesale) from Commercial to Industrial

Change "Laboratory (research)" and "Laboratory (testing)" to:

 Research and Development Laboratory (Life Sciences)—Industrial

 Research and Development Laboratory (Technology)—Commercial & Industrial

Stone quarry or gravel pit already in Industrial—add CC approval

Truck repair & maintenance—add "heavy"—move to Industrial only

Other minor typographical corrections that do not affect permitted uses

Remove from Table of Permitted Uses:

Felt Manufacture (already have Textile mfg.)

Food Store

Tobacco processing (not relevant with agricultural uses in region)

Ice Cream & Ice Milk (redundant with other Ice Cream uses in list)

News Stand (no longer in existence)

Ice house (combined bar/tavern uses)

Watch repair

Add to the Table of Permitted Uses:

Retail shop, store (Commercial & Industrial) this replaces several miscellaneous uses: antique store, apparel & accessory store, retail dairy products, garden specialty store, hobby supply store, leather goods store, jewelry store, music store, office supply store, optical goods retail store, paint & wallpaper store, plumbing fixture retail store, shoe store, sporting goods store, stamp/coin store, stationary store, tobacco store, toy store, variety store

Banquet/reception hall, wedding chapel or other special event center (Commercial & Industrial) w/City Council approval

Storage Units—self/mini (Commercial & Industrial)

Sec. 98-88. - Table of permitted uses and special uses.

(a) Permitted uses and special uses in the various zoning districts are as specified in the following table:

Table 1. Table of Permitted Uses

Permitted Uses	R-1	R-2	B	ID	I	CC
Accessory uses						X
Aerial or ground survey			X	X		
Air conditioning sales, retail, complete enclosed (services incidental)			X	X		
Air conditioning-refrigeration services repair (completely enclosed) with no installation of central units — heating or cooling						X
Airport / <u>Heliport</u> (nongovernmental)						X
Air product manufacturing				X		
Alcoholic beverage sales off premises			X	X		
Alcoholic beverage sales on premises						X
Alcoholic beverage storage			X	X		
Altering and repairing of wearing apparel			X	X		
Ambulance service			X	X		
Amusement arcade						X
Amusement park (commercial)						X
Animal shelter or dog pound (nongovernmental)						X
Antique store (completely enclosed)			X			
Apartment hotel						X
Apothecary, limited to the sale of pharmaceutical and medical supplies			X	X		
Apparel and accessory store			X			
Appliance repair (completely enclosed)			X	X		
Armory						X
Art gallery and/or museum (commercial retail sale of objects d'art only)			X			
Asphalt or creosote manufacturing or treatment						X
Assisted living		X	X			
Automobile and truck sales and service (new and used) (service completely enclosed)			X	X		X
Automobile car wash			X	X		
Automobile filling station and/or service (all repair in district to be completely enclosed)			X	X		
Automobile glass sales and installation			X			
Automobile muffler sales and installation (completely enclosed)			X			
Automobile parking lots or parking garages (commercial)						X
Automobile rental			X	X		
Automobile or other motorized vehicle service, renovation, and/or repair (completely enclosed)			X	X		
Automobile upholstery sales and installation (completely enclosed)			X			
Automobile wrecking, dismantling or salvage (enclosed by fence)						X
Aviary						X
Bait store			X	X		

Bakery (retail)			X	X		
Bakery (wholesale)			X	X		
Banquet/reception hall, wedding chapel, or other special event center			X	X		X
Barber / Beauty shop			X	X		
Beauty salon			X			
Bed and breakfast	X		X	X		
Churches						X
Community home as required by V.T.C.A., Human Resources Code § 123.003	X	X				
Compressed gas manufacturing, repacking and/or storage						X
Dairy equipment (wholesale) (completely enclosed)			X	X		
Dairy products sales (retail)			X			
Dairy products sales (wholesale)			X	X		
Delicatessen			X	X		
Department store			X	X		
Dog pound or animal shelter (nongovernmental)						X
Drug manufacture						X
Drug sales (wholesale)			X	X		
Drugstore			X	X		
Dry cleaning pickup and pressing shops			X	X		
Dry cleaning plant						X
Dry goods store			X			
Dry goods (wholesale) (completely enclosed)			X	X		
Electric power generator station (primary station)						X
Electric repair (appliances) (completely enclosed)			X	X		
Electric repair shop (heavy equipment)				X		
Electrical substation, to be enclosed by a fence or wall of minimum six feet in height, with physical installation being enclosed by a barrier which constitutes a visual screen. Visual screening would not be required in ID district				X		
Electrician			X	X		
Electroplating			X	X		
Elevator maintenance and service				X		
Exterminator (completely enclosed)			X	X		
Farm equipment sales and service (completely enclosed in B-2-district)			X	X		
Farm supplies			X	X		
Farming and truck gardening, but not for retail sales (permitted in any district)				X		
Feed store or seed and fertilizer			X	X		
Felt manufacture (cloth)				X		
Fish market (fenced outside storage)				X		
Fish market (retail)			X	X		
Fish market (wholesale)			X	X		
Fix-it shop (completely enclosed)			X	X		

Floor covering sales (retail completely enclosed)			X	X		
Floral shop (completely enclosed)			X	X		
Florist (wholesale) (completely enclosed)			X	X		
Food locker plant (retail)			X	X		
Food products (wholesale storage and sales)			X	X		
Food products manufacture and processing (not rendering)				X		
Food store			X			
Food to go (retail, no curbside service)			X	X		
Foundry						X
Freight depot (railroad and/or truck)				X		
Fruit and produce (wholesale)			X	X		
Fruit and vegetable stand or store			X	X		
Funeral home, mortuary or undertaking establishment			X	X		
Fur dyeing, finishing and storing (no tanning, no hide storage)				X		
Furniture (wholesale sales)			X	X		
Furniture repair and upholstery (completely enclosed)			X	X		
Furniture repair and upholstery (fenced outside storage)			X	X		
Furniture store, retail (completely enclosed) (no repair)			X	X		
Furniture store, retail (fenced outside storage)			X	X		
Garage, public or storage				X		
Garden specialty store			X			
Gas filling station and/or service (all repairs to be completely enclosed)			X	X		
Gas regulation station (screening <u>required</u>)				X		
Gift shop (completely enclosed)			X	X		
Glass (retail sales) (service incidental to sales) (completely enclosed)			X	X		
Glass (wholesale sales)			X	X		
Glass manufacturing and glass products manufacturing				X		
Golf course and country club, but no driving range, pitch and putt or miniature golf course						X
Golf driving range, pitch-and-putt or miniature golf course						X
Greenhouse or nursery, retail			X	X		
Greenhouse or nursery, wholesale				X		
Grocery (wholesale)			X	X		
Grocery store			X	X		
Gymnasium (commercial)			X	X		
Hair products manufacturing and processing				X		
Hardware manufacture				X		
Hardware sales (wholesale)			X	X		
Hardware store			X	X		
Heliport			X			
Hobby supply store			X			

Hosiery manufacture			X	X		
Hospital or sanitarium			X			
Hotel / Motel			X	X		
Ice cream and ice milk (retail)				X		
Ice cream manufacturer (wholesale)				X		
Ice cream store			X	X		
Ice house (no on-premises consumption of alcoholic beverages in B-1 district)			X			
Ice manufacture / storage				X		
Insulation manufacture and fabrication				X		
Interior decorating studio			X	X		
Jewelry store			X			
Junkyard, salvage yard, including storage, baling or selling of rags, papers, iron or junk, need not be enclosed within a structure, but must be enclosed within a fence at least six feet high and adequate to obstruct view, noise and passage of persons; chain-link or similar fencing may be permitted if screen planting is provided						X
Laboratory (dental or medical)			X			
Laboratory (research)			X			
Laboratory (testing)			X			
Landfill						X
Laundry and dry cleaning (self service)			X	X		
Laundry or dry cleaning (pickup station)			X	X		
Laundry plant				X		
Leather goods or luggage store			X			
Library (nongovernmental)						X
Linen supply, diaper service or uniform supply			X	X		
Loan office			X	X		
Locksmith			X	X		
Lumber yard and building materials (wholesale)			X	X		
Machine shop				X		
Machine, tools and construction equipment sales and service			X	X		
Marine and boat manufacturing				X		
Marine and boat storage						X
Mattress manufacturing and rebuilding				X		
Massage parlor			X	X		
Metal products fabrication				X		
Milliner (custom)			X	X		
Millinery manufacture				X		
Millwork and similar wood products manufacture				X		
Motel			X			
Motorcycle sales and service			X			
Moving and transfer company				X		

Music store			X			
Nail salon			X			
News stand			X			
Night club/dance hall/bar/tavern						X
Novelty and souvenir manufacture				X		
Nursery, daycare, or kindergarten (care of up to six children)	X	X				
Nursery, daycare, or kindergarten (care of up to 20 children)			X	X		
Nursery, daycare, or kindergarten (care of over 20 children)			X	X		
Nursing home		X	X			
Office equipment and furniture manufacture				X		
Office equipment and supplies (retail)			X			
Office equipment and supplies (wholesale)			X	X		
Offices (professional)			X	X		
Oil and well supplies and machinery sales				X		
Optical goods (retail)			X			
Optical goods (wholesale)			X	X		
Optician			X	X		
Packing and gasket manufacture				X		
Packing plant (no rendering)						X
Paint and wallpaper store			X			
Paper produce manufacture				X		
Paper supplies (wholesale)				X		
Parks, playgrounds, community buildings and other public recreational facilities owned and/or operated by the city or other public agency					X	
Passenger depot/transit terminal (railroad or bus)						X
Pawnshop (completely enclosed)			X	X		
Pecan shelling				X		
Pet shop (completely enclosed)			X	X		
Petroleum storage (wholesale)				X		
Photographic equipment and supplies sales			X	X		
Photographic studio			X	X		
Picture framing			X	X		
Pipe storage				X		X
Pipeline and electrical transmission lines						X
Playground equipment manufacture				X		
Plumber			X	X		
Plumbing fixture sales (completely enclosed) (retail)			X			
Plumbing fixture sales (wholesale)			X	X		
Printer			X	X		
Public buildings, including libraries, museums, police stations and fire stations					X	
Radio station or studio, without transmitter tower						X

Radio station with transmitter tower					X
Reading room			X	X	
Recycling plant					X
Reducing salon			X	X	
Refrigerator equipment manufacture				X	
<u>Research & Development Laboratory (Life Sciences)</u>				X	
<u>Research & Development Laboratory (Technology)</u>			X	X	
Restaurant			X	X	
<u>Retail shop, store</u>			X	X	
Riding stable or academy					X
Roominghouse or boardinghouse					X
Rug and/or carpet sales			X	X	
Rug cleaning				X	
Sand or gravel storage yard				X	
Schools					X
Shoe manufacture				X	
Shoe repair shop			X	X	
Shoe sales (retail)			X		
Shoe sales (wholesale) (completely enclosed)			X	X	
Sign, advertising (excluding business signs)			X	X	
Sign shop			X	X	
Sign shop (completely enclosed)			X	X	
Skating facility (outdoor)					X
Skating rink (enclosed)			X	X	
Small animal clinic or kennel			X	X	
Small animal clinic or kennel (completely enclosed)			X	X	
Sporting goods store			X		
Sporting goods (wholesale) (completely enclosed)			X	X	
Stamp, coin sales (retail)			X		
Stationery sales			X		
Stone cutting or monument manufacturing				X	
Stone monument sales			X		
Stone quarry or gravel pit				X	X
<u>Storage Units, self- / mini-</u>			X	X	
Studio for professional work or teaching of any form of fine arts, photography, music, drama, dance, painting, etc.			X	X	
Surgical or dental supplies store			X	X	
Tanning salon			X	X	
Tattoo parlor					X
Tavern					X
Taxidermist					X

Television station or studio without transmitter tower			X	X		
Television station with transmitter tower						X
Textile manufacture				X		
Theater (indoor)			X	X		
Theater (outdoor, including drive-in theaters)						X
Tile manufacturer (ceramic)				X		
Tobacco processing				X		
Tobacco store			X			
Tool manufacture				X		
Tool rental (completely enclosed)			X	X		
Tool rental (fence outside storage)			X	X		
Toy manufacture			X	X		
Toy store			X			
Trailer manufacture				X		
Trailer sales			X	X		
Transit vehicle storage and service				X		
Truck repair and maintenance (heavy)			X	X		
Truck stop						X
Variety store			X			
Venetian blinds and metal awning fabrication, repair and cleaning				X		
Veterinarian (animal on premises)			X	X		
Warehousing				X		
Watch repair			X			
Water or sewage pumping (nongovernmental)						X
Water storage (overhead)						X
Welding shop				X		
Well drilling contractors			X	X		

(b) Any use not specifically permitted in this table or in the use regulations of each district set out below, shall require a special use permit, after approval by city council.

(Ord. No. 2014-03, § 1, 5-20-2014)

Montgomery City Council
AGENDA REPORT

Meeting Date: April 22, 2019	Budgeted Amount:
Prepared By: Jack Yates City Administrator	Exhibits:
Date Prepared: April 18, 2019	

Subject

This is to cancel the regular meeting of May 27th , with the idea that your Special Meeting of May 21st should be able to handle the business of the Commission for the month – and since you’re already meeting twice in May, that should be sufficient.

Description

The business of the Commission should be able to be conducted at the May 21 Special Meeting - thus not requiring the regular meeting of May 27th

Recommendation

Motion to cancel the May 27th regular meeting date of the Planning and Zoning Commission.

Approved By

City Administrator	Jack Yates	Date: April 18, 2019
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