

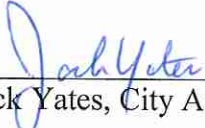
MONTGOMERY PLANNING AND ZONING COMMISSION AGENDA  
REGULAR MEETING OF  
MONDAY, FEBRUARY 25, 2019 AT 6:00 P.M.  
CITY HALL COUNCIL CHAMBERS, 101 OLD PLANTERSVILLE ROAD, MONTGOMERY,  
TEXAS.

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 public hearing and special meeting minutes of January 14, 2019
2. Presentation regarding the State of the Community Report and Comprehensive Plan Community Meeting scheduled to be held on Thursday February 28<sup>th</sup> at 6:00 p.m. at City Hall.—Walter Peacock
3. Report regarding scheduling public hearings for city-initiated rezoning of properties.
4. Report regarding tree ordinance.
5. Consideration and possible action regarding a Variance request of six feet of canopy overhang into the building line setback and utility easement in The Shoppes of Montgomery subdivision-- Stantec Consulting/Chick-Fil-A.
6. Adjournment.

  
\_\_\_\_\_  
Jack Yates, City Administrator



Posted February 22, 2019 at 3:15 p.m. This facility is wheelchair accessible and accessible parking spaces are available. Please contact the City Secretary's office at 936-597-6434 for further information or for special accommodations.

# **MINUTES OF PUBLIC HEARING and SPECIAL MEETING**

**January 14, 2019**

## **MONTGOMERY PLANNING AND ZONING COMMISSION**

### **CALL TO ORDER**

Chairman Nelson Cox declared a quorum was present, and called the meeting to order at 6:03 p.m.

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

Absent: 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**

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. 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.

No comments were made.

### **PUBLIC HEARING(S):**

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

- 1) **Public Hearing** - regarding rezoning of a 7.710-acre tract of land located at tracts 23-A and 24-A located at the southwest corner of Old Plantersville Road and Womack Cemetery Road.

Montgomery from ID-Industrial to R-1-Single-Family as requested by Michael and Judith Kammerer. (Second of two public hearings)

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

There were no comments made during the Public Hearing.

**Adjourn Public Hearing.**

Chairman Cox adjourned the Public Hearing at 6:06 p.m.

- 2) **Convene into Public Hearing - regarding rezoning of a 2.187-acre tract and a 0.475-acre tract located at 1062 Clepper Street, Montgomery from R-1 Single-family to B- Commercial to be held as requested by James Ward. (Second of two public hearings)**

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

Mrs. Natalie Champagne, City resident, stated that she never received the letter of notice regarding this Public Hearing and said that she was advised about the meeting by her next door neighbor who provided her a copy of the notice. Mrs. Champagne said she had some concerns being that their whole side of their home backs up to the area and when they purchased their home the area was supposed to be residential. Mrs. Champagne said they are concerned about what is going to be put on that property and what effect it is going to have on their property value. Mrs. Champagne advised that they have drainage problems coming off of that property that they have had to dig ditches for, so her husband was concerned and may be opposed to the rezoning of the property.

Chairman Cox said it was his understanding that letters were supposed to have been sent out to the adjoining properties. Ms. Hensley, City Secretary advised that certified letters were sent out to the properties that were located within 200 feet of the property being considered for rezoning. Mrs. Champagne said they back up to the property being considered, and they never received a notice. Mrs. Champagne said her next door neighbor who lives within 200 feet, but does not touch the property, received a certified letter. Mrs. Hensley advised that she would check into the location of the notice.

**Adjourn Public Hearing.**

Chairman Cox adjourned the Public Hearing at 6:10 p.m.

**Convene into Regular Meeting**

Chairman Cox reconvened into the Regular Meeting at 6:10 p.m.

- 3) Consideration and possible action regarding Minutes of Regular Meeting of November 26, 2018, Special Meeting of December 13, 2019 and Special Meeting and Public Hearing of January 7, 2019.

Jeffrey Waddell moved to approve the minutes as read for the Regular Meeting of November 26, 2018, Special Meeting of December 13, 2019 and Special Meeting and Public Hearing of January 7, 2019. Carol Langley seconded the motion, the motion carried unanimously. (4-0)

- 4) Consideration and possible action on Final Report regarding rezoning a 7.710-acre tract of land located at tracts 23-A and 24-A located at the southwest corner of Old Plantersville Road and Womack Cemetery Road, Montgomery from ID-Industrial to R-1-Single-Family as requested by Michael and Judith Kammerer.

Mr. Yates said this is one of the properties that has been on the Planning and Zoning Commission list for a while as an industrial property all by itself. Mr. Yates said no one was ever sure why it was zoned industrial to begin with, but in the City's long range plan that the City approved, the property is shown as single family residential, which is what they are requesting.

Carol Langley asked if the owners actually live on the property at this time. Mr. Web Melder, who was representing the Kammerers advised they are living on the property and they have 400 acres, and this is only cutting out seven acres. Mr. Yates said the seven acres is the part that is inside the City limits and the remainder of the property is located outside the City. Mr. Melder said he thought Mr. Yates or the City Secretary have a letter, when the fee was paid to the City, informing the City that he would be representing the Kammerers. Mr. Yates said that was correct.

Mr. Yates said the property abuts itself on the south and west sides of the property, and on the east and north side is Old Plantersville Road.

Jeffrey Waddell commented that the property would probably have a buffer of some kind, or setback, which would be decided at a later date because of the distance from the railroad tracks. Mr. Melder said that was a different piece of property. Chairman Cox and William Simpson both stated that property was across the road. Jeffery Waddell said he understood, and said he brought this issue up last time as a footnote; if they are going to residential use he thought the builder should keep in mind the distance to the railroad tracks. Jeffrey Waddell said it is not a problem, but felt that in general terms there should be a setback of some distance from the residential area, because it is only about 50 feet from the railroad tracks. William Simpson said that was up to the developer; if he wants to sell the property along the railroad tracks he can. Jeffrey Waddell said he has been down to the location to look at the distance from the railroad tracks, and it is only 30 or 40 feet from the edge of the road, so whenever they are changing to residential you have to consider things like that and the noise. Jeffrey Waddell said he was not saying it is a problem, but his feeling is when they go to get approval for the plat he would assume that there will be a setback of some distance of 30 to 40 feet, and they would not build right on the railroad tracks.

Mr. Melder stated that he wanted to clarify that this tract of land, 7.7 acres is part of a 400+ acre piece of property and it is planned for residential development. Mr. Melder said in talking with Mr. Yates, he gave instructions on how to go about getting it rezoned, which is the only reason that they are here to change it from industrial to residential. Chairman Cox said they understood. Chairman Cox asked Mr. Yates if he had any other information. Mr. Yates stated he did not.

William Simpson moved to approve sending the Final Report to City Council for recommending rezoning the property from Industrial to Residential. Jeffrey Waddell seconded the motion, the motion carried unanimously. (4-0)

- 5) Consideration and possible action on Final Report regarding rezoning a 2.187-acre tract and a 0.475-acre tract located at 1062 Clepper Street, Montgomery from R-1 Single-family to B-Commercial to be held as requested by James Ward.

Chairman Cox asked, in light of Mrs. Champagne not receiving a letter, if they need to take action or what do they need to do. Ms. Hensley, City Secretary advised that she had a copy of the letter that was sent out to Mrs. Champagne's residence and advised that she would check with the Post Office since she has the tracking number for the certified letter, so she can find out where the letter went. William Simpson asked Ms. Hensley if she received letters back from everyone else, or did some other people not receive their letter. Ms. Hensley stated that she could not confirm that information and stated that she had to check with the Post Office.

Chairman Cox asked if the Commission should take action on this matter and send it to City Council with that understanding. Mr. Yates said he would think the Commission would go ahead and the City Secretary will find out what happen on this, stating that the Post Office may have messed up and sometimes people just don't pick up their mail. Mr. Yates said unless they see a pattern here there could be a fluke with the mailing. Chairman Cox asked what they need to do in the meantime and what do they need to advise Mrs. Champagne. Mr. Yates said he would state that Mrs. Champagne somehow got the notice and she was able to attend the meeting and state her thoughts about the hearing. Mr. Yates said regarding the response to Mrs. Champagne's questions, there were two questions, one was about the commercial backing up to their residence, which in the Zoning Ordinance whenever a commercial piece of property is developed adjacent to a residential property there has to be a screen. Mr. Yates said the screen could be fence or it could be a planting similar to what the dentist did off Lone Star Parkway, with trees and plants to form a barrier between the residents and his office that seems to have worked out alright. Mr. Yates said that is a requirement that the developer, prior to getting their building permit, they would have to provide the City with proof of the type of screening. Mr. Yates said unless the screen is a fence, what he normally does is contact the adjacent residential property owner with the plans to see if it is alright with them. Mr. Yates said the ordinance provides that there is a requirement for the screen, but does not say what the screen has to be, only that it has to be some sort of buffer between the two properties. Mr. Yates said regarding the drainage issue, he asked Mr. Roznovsky if that matter would be handled during the building permit. Mr. Roznovsky said that was correct, they will be required to submit a drainage plan that will show the impact on the neighboring properties. Mr. Yates asked how much drainage they get from that piece of property. Mrs. Champagne said they had to dig a five foot wide skid, because it was flooding their garage every time it rained. Mr. Yates said the developer will not be allowed to increase the speed or the quantity of water on

any property, so he has a choice of either detaining the water and slowing it down before it gets to their residence so it is not increasing the flow on Mrs. Champagne's property. Mr. Yates said the developer also can't increase the speed of the flow of the water, because both the speed and increasing the flow could do damage to the neighboring property, but said that was what the City Engineer looks at and the resident will also get a chance to look at it before the building permit is approved.

Jeffrey Waddell said they might even have an opportunity to improve on the existing drainage. Mr. Yates said that is correct, depending on what the developer does, because they could put in a pond area or underground drain where it would the water would go into a detention mogul or berm. Mr. Yates said all of those plans would be part of the development plan.

William Simpson stated that his concern was since Mrs. Champagne did not receive a letter of notice, how do they know that somebody else did not receive a letter and they did not get information from their neighbor like Mrs. Champagne's neighbor passed on. Ms. Hensley advised that she would check on the status of the letters tomorrow. Mr. Yates said unless they have something out of the ordinary, this is the way they have mailed the notices out for a long time and we rarely have anyone that does not get a letter. Mr. Yates advised they use the MCAD information for the maps. William Simpson asked what the legality is for the City if somebody was 200 feet within that area and should have received a letter but did not receive the letter. Mr. Yates said at this point the City can say they have done everything that they could do to get the letter of notice to the property owner.

William Simpson said his other question was about the piece of property; he knew that Mrs. Champagne had to put in a French drain, which did not stop the flow of water, then they put the ditch and a hill so all that water runs down into Buffalo Springs in front of the Mayor's home, and their ditch gets full every time they have a hard rain, and asked where all that water is going to go now. Mr. Yates said that is where the drainage plan would come in, and they will not be able to increase the speed or the flow of the water. Mr. Yates said this might be an opportunity to improve the drainage. Chairman Cox said this will be addressed by City Council. Mr. Yates said these two items will be mentioned in the Final Report. Chairman Cox said that would be great. Ms. Hensley said they are not required to send the notice letters out by Certified Mail; staff does that so they have proof that the letters were or were not delivered.

William Simpson said this might be a situation where signs might come into play. Chairman Cox said they could discuss the signs at length later on. Mr. Yates said that is correct.

Carol Langley stated she would like it to be on the record that she is recusing herself from the vote of Agenda Item 5. Chairman Cox asked the City Secretary to log that information. Ms. Hensley stated she would do so.

Jeffrey Waddell moved to approve sending the Final Report to City Council, which include the Commission's recommendations for this rezone.

William Simpson asked if there was room for recommendations regarding drainage and proper reports. Mr. Yates said not really because those reports are already required by ordinances, and their only issue is regarding the zoning.

William Simpson seconded the motion, the motion carried with 3-Aye Votes and 1-Recusal by Carol Langley. (3-0-1)

6) Report regarding Zoning Table of Uses.

Mr. McCorquodale advised he has had some discussions with Mr. Yates regarding the Zoning Table of Uses about how best to implement the changes regarding the idea of a Special Use Permit being required for any industrial use land. Mr. McCorquodale said the other changes are just waiting for the special use permit form being finalized and then they can bring it back to the Commission in the form of an ordinance. Mr. Yates said the other issues are not time related issues, so there is no urgency about them.

William Simpson asked whether the special use permit would do. Mr. McCorquodale said the Special Use Permit would be in addition to the land use designation. William Simpson asked if the special use permit would be pertaining to the industrial zone. Mr. McCorquodale said that is correct, so in the Table of Uses where each business type that is allowed in the industrial areas the special use permit would also require City Council approval. William Simpson asked what would occur if something was in the industrial zone that was not on the list. Mr. McCorquodale said right now any business that the use is not listed requires a special use



permit, and this change would state that any business listed or not in the industrial zone would require a special use permit that would be approved by City Council. Mr. Yates said he thought they need to do a couple of samples as to what would be in the special use permit and how could someone that owns industrial property sell or how could someone purchase the property if they do not know what their special use permit is going to say until they negotiate it with the City. Mr. Yates said part of the purpose for zoning is so that the world, the buyer and the seller have an idea of how they can use that property. Mr. Yates said he is thinking that the special use permit will have some general requirements and there might be some specific things that would need to be negotiated such as traffic, lighting, etc. William Simpson said that would take place with the developer and the buyer approaching the City before the property is sold. Mr. Yates said he is trying to come up with examples of a special use permit so that they have a basic document that they will use.

Chairman Cox said the Table of Uses, as it stands, is rather lengthy. Mr. McCorquodale said they are removing some of the undesirable uses from the Table of Uses that are allowed in the industrial zones, which is seen as an additional safeguard. Chairman Cox said his point in asking is whether they anticipated the uses list becoming longer or whether they are going to condense the list. Mr. McCorquodale said it was his understanding that they are okay with the number and types of uses that are currently listed, and after the last round of revisions, it is just a matter of getting the special use permit completed.

7) Report regarding the Tree Ordinance.

Mr. McCorquodale advised they have provided a summary of what the changes to the proposed tree ordinance were versus the current tree ordinance, with the biggest change being revising the way they calculate the number of trees, or coverage of trees, and going to a canopy coverage instead of caliper inch on the site. Mr. McCorquodale said this looks at the canopy and the biggest advantage to doing it this way, is it allows the work to be done primarily from aerial imagery, which would eliminate the requirement for a tree survey. Mr. McCorquodale said he hoped to incentivize voluntary surveying of as much as they can possibly save on the site by enhancing the incentives for preserving trees. Mr. McCorquodale said a native tree to the site has a better chance of survival than a tree that is brought in and planted. Mr. McCorquodale

said by preserving those trees they hope to allow a discretionary survey by the developer and not one that is required by the City.

Mr. McCorquodale said some of the other changes are parking lot trees and requiring the trees to be spread out throughout the site as opposed to one mass grouping of trees. Mr. McCorquodale said their next step is to meet with the developers that they met with in the past to get their input and feedback on the ordinance.

Mr. Yates said the big complaint that they heard at the first meeting they held with the developers was regarding the tree survey. Mr. Yates said he did not realize the cost of such a survey, which can run \$20,000 to \$40,000 depending on the number of trees. Jeffrey Waddell said they sometimes get involved with tagging the trees and the trees have to be categorized. Mr. Yates said he did not think the developers had much of a problem with saving legacy or very large trees. Mr. McCorquodale said one of the things they are doing is requiring a residential buffer zone for parcels that abut residential use.

Jeffrey Waddell said it sounds like the main concern was to make this workable with the developer so they would work with the City in a positive way and get away from the cost of counting trees. Mr. McCorquodale said they were looking at a 20 percent canopy coverage for all land use districts, with the thinking that if they need to modify a land use district they can without having to go back and address every land use district.

Mr. Yates said the two primary differences between the proposed and current ordinances is the tree canopy, which gets away from having to do the tree survey, and in the original ordinance if you did not have trees on your property, you would not have to plant any trees, but if you had a multitude of trees on your property you had to keep a specific percentage of those trees. Mr. Yates said in the proposed ordinance the 20 percent coverage is even if the property has no trees on the property, they would be required to plant trees. Mr. Yates said the Commission has at least until the next meeting to review the information, and they will meet with the developers so they can get their input. Chairman Cox asked whether the proposed ordinance would come before the Commission before it goes to City Council. Mr. Yates said that is correct. Chairman Cox said they wanted to show that the Commission has done their due diligence and they are doing what they are supposed to do, to ask questions and know what

they are talking about because City Council is going to review the information and he would like to make sure they don't have to ask questions that the Commission should have asked, so he felt that it was good that they review the information.

Jeffrey Waddell said when this information is put together and given out as a packet to a builder, they should have a way to make the information less overwhelming and state the summary of the changes in the front.

Chairman Cox said Mr. Yates and Mr. McCorquodale put in a lot of work into this information. Mr. McCorquodale said he thought about the information a lot and what was to stay and be removed, and he wanted to convey what the changes were relative to the old ordinance and to streamline the information. Mr. Yates discussed the bond for projects, stating the bond was to assure the completion of a project, whether it was trees or water/sewer lines.

William Simpson asked, once this is all done and finalized, who the final tree counter is when a property is developed. Mr. McCorquodale said that would be the City Administrator through his or her designee, and right now it is the City Engineers that assures that information. Mr. Yates said recently The Shoppes of Montgomery where CVS is going in, there has been a contention about that, and Mr. Roznovsky, the developers and he have been working on that. Mr. Yates said if they remember, they talked about the electric line because the easement is on Mr. Randal's property to the south, but there is about a 20 foot strip between that easement and the south end of The Shoppes property. Mr. Yates said what they are working out with Mr. Randal is he has agreed to give two or three easements along there so the subdividers can use the line that is on the south side. Mr. Yates said the alternative was to go down SH 105 with overhead lines and the tree ordinance states that if you are cutting down trees for utilities that is okay, so what was at stake was all the growth along the front of the property. Mr. Yates said due to Mr. Randal's concern about protecting the trees, he agreed to about two or three corridors that go across his 20 foot stretch of property, which means all the lines going to The Shoppes will be underground as opposed to above ground in front of SH 105. Mr. Yates said if they had not done that it would have meant that all the trees in the first 20-30 feet would have been cut down.

Mr. McCorquodale said that if anyone needed to reach out to them between now and the next meeting with any questions, please feel free to contact them.

Chairman Cox said he would definitely read the information at least twice, and he wanted to see the revisions shown.

8) Announcement of the Comprehensive Plan Community Meeting scheduled to be held on February 28, 2019.

Chairman Cox stated this is something that since he has been part of this Commission, has been mentioned quite a number of times to have a Comprehensive Plan, and from what he can see from the information there is quite a bit of work done. Mr. Yates said there has been work done, and Mr. McCorquodale has been working with Walter Peacock. Mr. McCorquodale said the next step in the process is for Mr. Peacock to present what he calls the State of the Community Report, which is an overview of his understanding of the City. Mr. McCorquodale said Mr. Peacock would like to hold, what is the first in a series of community meetings and in advance of that he would like about 15 minutes of both the Planning and Zoning Commission's and City Council's time to give a snapshot and layout the roadmap of those meetings. Mr. McCorquodale said the Community Meeting would be held on February 28, 2019 at City Hall, which they will advertise in the water bill and possibly social media to generate as much interest in the meeting as they can. Mr. McCorquodale said as he understands it, half of the meeting is Mr. Peacock giving his presentation and the other half is interaction and feedback with the community. Mr. McCorquodale said this is the first of a series of meetings and his first actions in the City.

Jeffrey Waddell asked how the business owners will be notified. Mr. Yates said they will also have a press release in the media. Mr. McCorquodale said the idea is to layer the communication and get as many people notified, including the electronic sign. Mr. McCorquodale said the engagement of the community is the most important part of preparing the Comprehensive Plan.

Carol Langley asked if Mr. Peacock will present something to the Commission at the Planning and Zoning Commission Meeting. Mr. McCorquodale said he did not know exactly what he

has in mind, he just said that he needed 15 minutes to do a presentation. William Simpson asked if the February 25, 2019 meeting would be at 6 p.m. Mr. McCorquodale said it would be the same time as the normal meeting time. Mr. Yates said the Commission will be invited to the February 28, 2019 meeting, and it will be posted as a Potential Quorum.

Carol Langley asked whether City Council has heard any presentation from Mr. Peacock. Mr. McCorquodale said no, this will be the first presentation. Mr. McCorquodale said the vast majority of the work Mr. Peacock has done is with the GIS information and data that is out in the public realm. Mr. Yates said this is the full Comprehensive Plan from the community, not the downtown. Mr. Yates said the downtown would be completely separate, with the same type of process.

Chairman Cox said, personally, he would like to see this put in place, and said there was a lot of work done on this and a lot of money spent on it and it went nowhere, so he would like to see this approved and put in place so they can move on to the next problem. Chairman Cox said this one seems to be apparently to some people a thorn under their saddle, and he does not blame them because if it is something they spent money on years ago; it should be acted on. Mr. McCorquodale said a Comprehensive Plan can be thought of more as a vision for the community more so than a physical plan and is more of a guide for the community. Mr. McCorquodale said it is something that will have to be revisited, and it won't do any good if it just sits on a shelf. Mr. Yates said he liked the goals and priorities for things that need to be done. Chairman Cox said this will be a big assistance to the City Council in planning. Mr. Yates said it will help with budgeting and focusing on what they need to accomplish.

- 9) Consideration and possible action regarding cancelling the Planning and Zoning Commission Regular Meeting scheduled to be held on January 28, 2019.

Mr. Yates said when the Commission planned for the special meetings in January for the public hearings, it was determined the January 14, 2019 Meeting could also serve as the Commission's regular monthly meeting, which it has.

After discussion, Carol Langley moved to cancel the Planning and Zoning Commission Regular Meeting scheduled to be held on January 28, 2019. Jeffrey Waddell seconded the motion, the motion carried unanimously. (4-0)

10) Adjournment

William Simpson moved to adjourn the meeting at 7:05 p.m. Carol Langley seconded the motion, the motion carried unanimously. (4-0)

Submitted by:  Date approved: \_\_\_\_\_  
Susan Hensley, City Secretary

\_\_\_\_\_  
Chairman Nelson Cox

Montgomery City Council  
**AGENDA REPORT**

<b>Meeting Date: February 25, 2019</b>	<b>Budgeted Amount:</b>
<b>Prepared By: Jack Yates</b> <b>City Administrator</b>	<b>Exhibits:</b>
<b>Date Prepared: February 21, 2019</b>	

**Subject**

This is a brief presentation from Walter Peacock regarding the community reporting comprehensive plan meeting schedule for Thursday, February 28<sup>th</sup>.

**Description**

Mr. Peacock will make his report which will be a summary of what he will say the on the 28<sup>th</sup>.

**Recommendation**

No action required, comment as you think appropriate.

**Approved By**

City Administrator	Jack Yates	Date: February 21, 2019
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Montgomery City Council  
**AGENDA REPORT**

<b>Meeting Date: February 25, 2019</b>	<b>Budgeted Amount:</b>
<b>Prepared By: Jack Yates City Administrator</b>	<b>Exhibits:</b>
<b>Date Prepared: February 21, 2019</b>	

**Subject**

This this to discuss setting of the public hearings for the city – initiated zonings.

**Description**

Dave has spoken to almost all of the rezoning property owners and has not met any opposition – however before setting specific dates we need to work out the preparation of the notices ( that involves who the owners of the property are and how many other owners are in the 200’ surrounding area, and the preparation of specific letters with the right legal descriptions for each of the properties), the timing of when those letters are sent out (because the intention is to do all of these re-zoning notices and public hearings at the same time to save publication expense and, to be able to keep track of the rezoning all in one bundle and for administrative ease).

So the planning needs to be carefully thought out – but when you call the public hearings you will need to set public hearings each property as separate items on the agenda so simply preparing the agenda will be rather involved --- definitely doable, but involved.

**Recommendation**

No action, comment as you think appropriate.

**Approved By**

City Administrator	Jack Yates	Date: February 21, 2019
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Montgomery City Council  
**AGENDA REPORT**

<b>Meeting Date: February 25, 2019</b>	<b>Budgeted Amount:</b>
<b>Prepared By: Jack Yates City Administrator</b>	<b>Exhibits:</b>
<b>Date Prepared: February 21, 2019</b>	

**Subject**

This is a brief presentation from Dave McCorquodale regarding proposed changes to the tree ordinance.

**Description**

Mr. McCorquodale will present proposed changes to the tree ordinance—he will have the printed changes with him at the meeting. The intent is to show you the changes and to meet with developers in early March for their opinion and then for the ordinance to come back to the Commission.

**Recommendation**

No action required, comment as you think appropriate.

**Approved By**

City Administrator	Jack Yates	Date: February 21, 2019
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Montgomery City Council  
**AGENDA REPORT**

<b>Meeting Date: February 25, 2019</b>	<b>Budgeted Amount:</b>
<b>Prepared By: Jack Yates</b> <b>City Administrator</b>	<b>Exhibits:</b> Letter of request, Variance Request Application, Section of Subdivision Ordinance that requires the variance, Site Plan showing canopy location
<b>Date Prepared: February 21, 2019</b>	

**Subject**

This is to take action regarding a building line Variance requested by the owner of the proposed Chick-Fil-A Restaurant to be located in The Shoppes of Montgomery

**Description**

The letter of request asks for two items, a variance to place the canopy of the drive-in window over the easement (that requires City Council action through a separate Encroachment Agreement) and a variance to build inside the 35' front building line. It is the variance for the canopy to extend not more than 6 feet into the front foot building line that is before the Commission.

**Recommendation**

Recommend approval of the canopy 6 foot variance to the City Council.

**Approved By**

City Administrator	Jack Yates	Date: February 21, 2019
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Stantec Consulting Services Inc.  
70 NE Loop 410 Suite 1100, San Antonio TX 78216-5893

February 12, 2019  
File: 222011518

Administrative Exception / Variance Request Review  
City of Montgomery  
101 Old Plantersville Road  
Montgomery, TX 77316

Dear Mr. Yates,

**Reference: Chick-fil-A #4051 Montgomery Ordinance #2011-09 Section 78-90 Administrative Exception – Bldg. encroachment into both easement and bldg. setback**

Dear Mr. Yates,

Chick-fil-A is proposing a ±5000sf quality service restaurant within Reserve C in The Shoppes of Montgomery Section Subdivision. We are requesting the City of Montgomery for consideration for an administrative exception to Montgomery Ordinance #2011-09, section 78-90, building setback/easement encroachment. Specifically, to allow for a canopy overhang within the 35' building setback and within utility easement along SH 105.

The existing condition of SH 105 is a four-(4) lane variable width asphalt road with a striped median. There are no sidewalks on either side of SH 105. The property line is ±80.5ft back from the existing TxDOT road. The property is currently being redeveloped with the removal and creation of new utilities, along with flood plain revisions which established a new drainage easement. The hardship within the site is the configuration for optimal traffic and drive thru circulation. The current site plan being proposed has the building outside of the building setback; however, the drive thru canopy is within the setback/utility easement. In addition, we are bound to the drainage easement. Stores vary, but 75% of sales are typically generated thru the drive thru. The current site plan allows for 25 cars stacked in the dedicated drive thru lane and an additional 9 cars stacked within onsite drive aisles. We've looked at other configuration and none reach the same drive thru lane capacity. Based on the current the site plan, the building would be 115.5ft away from existing TxDOT edge of pavement and the canopy would be 105.9ft from edge of pavement. Both are significant distances from the TxDOT frontage.

February 12, 2019

Page 2 of 2

Reference: Chick-fil-A #4051 Montgomery Ordinance #2011-09 Section 78-90 Administrative Exception – Bldg. encroachment into both easement and bldg. setback

In our professional opinion, the proposed administrative exception / variance remains in harmony with the spirit and intent of the City of Montgomery Ordinance as it will not adversely affect the health, safety, or welfare of the public.

Regards,

**Stantec Consulting Services Inc.**



**Mike Wolf**

Project Coordinator

Phone: 210 714 5014

Fax: 210 525 0529

Mike.Wolf@stantec.com

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# Variance Request Application

City of Montgomery  
101 Old Plantersville Road  
Montgomery, Texas 77316  
(936) 597-6434

**Upon completion return application to shensley@ci.montgomery.tx.us**

## Contact Information

Property Owner(s): Montgomery SH 105 Associates, LLC  
Address: 149 Colonial Road, Manchester, CN Zip Code: 06045  
Email Address: \_\_\_\_\_ Phone: \_\_\_\_\_  
Applicants: Chick-fil-A  
Address: 70 NE Loop 410; Suite 100  
Email Address: jason.link@stantec.com Phone: 210-525-9090

## Parcel Information

Property Identification Number (MCAD R#): R31299  
Legal Description: Reserve C out of The Shoppes at Montgomery Section Subdivision  
Street Address or Location: Intersection of Lonestar PKWY and 105  
Acreage: 2.1921 Present Zoning: \_\_\_\_\_ Present Land Use: Sanitary sewer station

## Variance Request

Applicant is requesting a variance from the following:

City of Montgomery Ordinance No.: 2011-09 Section(s): 78-90

Ordinance wording as stated in Section ( 78-90 ):

Front street line. The front building line shall not be less than 25 feet from the front property line, except, where the lots face on a major street, the front building line shall not be less than 35 feet from the front property line.

Detail the variance request by comparing what the ordinance states to what the applicant is requesting:

Variance request is to allow canopy overhang into the building setback and utility easement.

## Signatures

Owner(s) of record for the above described parcel:

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

1/25/2019

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

*Note: Signatures are required for all owners of record for the property proposed for variance. Attach additional signatures on a separate sheet of paper.*

## \*Additional Information\*

The following information must also be submitted:

☒ Cover letter on company letterhead stating what is being asked. [ ]

A site plan.

☒ All applicable fees and payments.

☒ The application from must be signed by the owner/applicant. If the applicant is not the owner, written authorization from the owner authorizing the applicant to submit the variance request shall be submitted.

Date Received

Office Use

Feb. 7, 2019 -gy

## **Sec. 78-90. - Building lines**

(a) *Front street line.* The front building line shall not be less than 25 feet from the front property line, except, where the lots face on a major street, the front building line shall not be less than 35 feet from the front property line. New commercial structures or improvements being built in the historic downtown commercial area shall refer to section 98-351.

(b) *Side street line.* The building line on the street side of corner lots shall not be less than 15 feet from the side street property line, except that, where the lots side on a major street, the building line shall not be less than 25 feet from the side street property line, and where the side of a corner lot is across the street from or adjacent to the front of other lots, the building line shall be at the same distance from the streets as the front building line of the opposite or adjacent lots.

(c) *Side and rear setbacks.* Side and rear setbacks vary depending on the zoning classification. These setbacks shall be in accordance with chapter 98. Vegetative setbacks may also apply and shall be in accordance with section 78-162.

(d) *Pipeline easements.* A 15-foot building setback line shall be provided on each side of any pipeline easement.

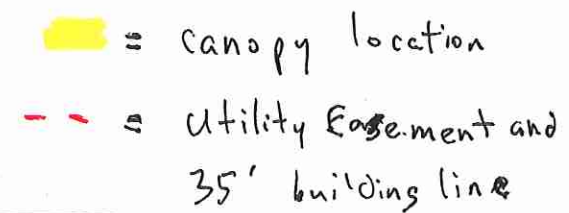
( Ord. No. 2011-09, § 1, 7-26-2011)

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## Notes



Date  
02.12.2019

Figure No.  
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