

**MONTGOMERY PLANNING AND ZONING COMMISSION AGENDA
SPECIAL MEETING OF
TUESDAY, MAY 29, 2018, 6:00 P.M.
CITY HALL COUNCIL CHAMBERS 101 OLD PLANTERSVILLE ROAD,
MONTGOMERY, TEXAS.**

CALL TO ORDER

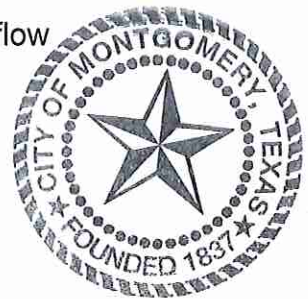
VISITOR/CITIZENS FORUM

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. 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/take action regarding April 23, 2018 minutes
2. Request for six-month extension of Preliminary Plat of Hills of Town Creek Section 3
3. Request for six-month extension of Preliminary Plat of Emma's Way Extension
4. Consideration and possible action regarding scheduling a public hearing for rezoning of the property located at 1005 Old Plantersville Rd., Montgomery, from R1 single-family to I – Industrial to be held on June 25, 2018 at 6:00 PM, as requested by Theresa Fisher
5. Consideration and possible action regarding scheduling a public hearing for rezoning at 2512 Lone Star Pkwy., Montgomery, from I- Industrial to R- 2 MultiFamily to be held on June 25, 2018 at 6:00 PM as requested by Emanuel Glockzin
6. Consideration and possible action regarding proposed Benchmark ordinance
7. Consideration and possible action regarding proposed Sidewalk ordinance
8. Consideration and possible action regarding proposed Backflow Prevention ordinance
9. Adjournment



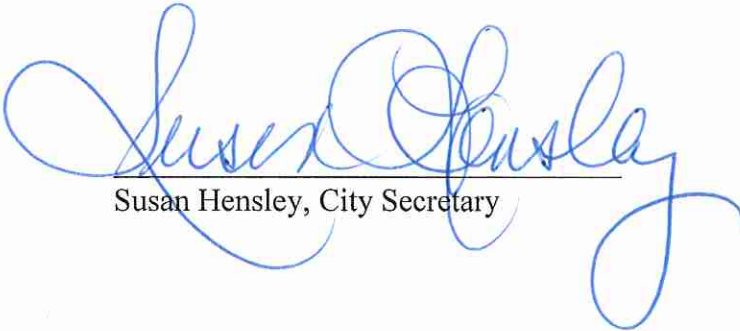
Jack Yates, City Administrator



Posted May 25, 2018 at 3:00 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.

**The Regular Meeting
of the
Montgomery Planning and Zoning
Commission scheduled
to be held on May 28, 2018
has been rescheduled and will be held on
Tuesday, May 29, 2018**

I certify that the attached notice of rescheduled meeting was posted on the bulletin board at City of Montgomery City Hall, 101 Old Plantersville Road, Montgomery, Texas, on the 25th day of May 2018 at 3:00 o'clock p.m. I further certify that the following news media was notified of this meeting as stated above: The Courier.


Susan Hensley, City Secretary



MINUTES OF PUBLIC HEARING and REGULAR MEETING

April 23, 2018

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, Arnette Easley, Jeffrey Waddell, William Simpson and Carol Langley

Absent:

Also Present: Jack Yates, City Administrator
Susan Hensley, City Secretary
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.

Mrs. Jenny Stewart expressed her concern regarding construction on a lot on College Street. Mrs. Stewart advised that 18 years ago, when she was on City Council, they voted with the City Attorney and City Engineer that the lot not be built upon because there was a main sewer trunk located there and the property floods. Mrs. Stewart said that she wanted to let the City know about the flooding because she did not want anyone to get hurt or the property damaged. Mrs. Stewart said that there has been a lot of flooding in the City in recent years.

1. Public Hearing to receive citizen input regarding a request to zone newly annexed 3.22 acre tract of land as District "B" commercial use, situated in the John Corner Survey,

Abstract No. 8, Montgomery County, Texas, being out of a 5.71 acre tract as recorded under Clerk's File No. 2016-086083, also being out of a called 111.857 acre tract of land as recorded under Clerk's File No. 9512940 Deed Records Montgomery County, Texas, (property located south of SH 105 across from Stewart Creek Road) known as the Peter Hill property

Chairman Cox convened the Public Hearing at 6:05.

Mr. Yates advised that there have been no comments regarding the zoning of the property at City Hall.

There were no comments made by the public.

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

2. Consideration/take action regarding March 26, 2018 minutes.

Jeffrey Waddell moved to approve the March 26, 2018 minutes as presented. Arnette Easley seconded the motion, the motion carried unanimously. (5-0)

3. Consideration/take action regarding recommendation to the City Council regarding a request to zone newly annexed 3.22 acre tract of land as District "B" commercial use, situated in the John Corner Survey, Abstract No. 8, Montgomery County, Texas, being out of a 5.71 acre tract as recorded under Clerk's File No. 2016-086083, also being out of a called 111.857 acre tract of land as recorded under Clerk's File No. 9512940 Deed Records Montgomery County, Texas, (property located south of SH 105 across from Stewart Creek Road) known as the Peter Hill property.

Mr. Roznovsky advised that there was a proposed tire shop, gym and fast food restaurant on the property, with the gym and tire shop on the City of Montgomery side of the development.

William Simpson moved to forward a recommendation on to City Council to approve a request to zone newly annexed 3.22 acre tract of land as District “B” commercial use, situated in the John Corner Survey, Abstract No. 8, Montgomery County, Texas, being out of a 5.71 acre tract as recorded under Clerk’s File No. 2016-086083, also being out of a called 111.857 acre tract of land as recorded under Clerk’s File No. 9512940 Deed Records Montgomery County, Texas, (property located south of SH 105 across from Stewart Creek Road) known as the Peter Hill property. Jeffrey Waddell seconded the motion, the motion carried unanimously. (5-0)

4. Consideration/take action regarding a sign permit for 301 Prairie St. – Amy Brown.

Mrs. Amy Brown was present for the discussion and advised that she is wanting to place a new sign over the existing sign. Mrs. Brown said that she is using JK Graphics and the sign will be a sturdy, thin metal sign.

Arnette Easley moved to approve the sign permit for 301 Prairie Street as submitted by Amy Brown. William Simpson seconded the motion, the motion carried unanimously. (5-0)

5. Consideration/take action regarding a sign permit for 401 College Street – Gina Whitley.

Ms. Gina Whitley was present and advised that she wanted to add an additional sign for more exposure and visibility by her customers. Ms. Whitley said that this will be in addition to the current sign that is on the brick outside her business. Ms. Whitley stated that her landlord, Mr. Barnes had signed the application form, showing that he was in approval of her signage. Ms. Whitley advised that the sign would be attached to the structure above the entry and the span was eight feet wide. Ms. Whitley stated that she did not want a hanging sign, for fear that it would be too low for the customers. Ms. Whitley stated that the colors of the sign would be the same as the first sign, burgundy red and gold, with the same format, just a different style of sign.

Jeffrey Waddell moved to approve the sign for 401 College Street as presented by Ms. Whitley. Arnette Easley seconded the motion, the motion carried unanimously. (5-0)

6. Consideration/take action regarding building to be moved from 20998 Eva Street – Sonja Spottswood.

Mr. Yates advised that Ms. Spottswood would be moving the house outside the City and said that the barber shop had no historic significance.

William Simpson asked if they would be disconnecting and capping off the utilities. Mr. Yates advised that they would have to get a permit and take care of that in a timely manner.

Jeffrey Waddell asked that the smoothing include all man made materials being removed from the area.

Jeffrey Waddell moved to approve the building at 20998 Eva Street being removed with the stipulation that the foundation be removed and the ground smoothed down completely and all manmade materials and debris shall be removed from the area. William Simpson seconded the motion, the motion carried unanimously. (5-0)

7. Consideration/take action regarding a building permit for 304 John A. Butler Street – Joe Shockley.

Mr. Shockley advised that the building inspector had advised that he would need to add exit signs, fire extinguishers, and the upstairs portion of the building could only be used for storage. Mr. Shockley advised that the Fire Marshal would be coming tomorrow to check his other buildings. Mr. Shockley said that in hindsight it would have been cheaper for him to tear down his old building and build a new one. Mr. Shockley stated that they did need to look at the drainage for the property because it has gotten worse.

Mr. Shockley stated that the building has already been rented to a business that sells bottled water.

After discussion, Arnette Easley moved to approve the building permit for 304 John A. Butler Street. William Simpson seconded the motion.

Discussion: Mr. Yates asked if they wanted to include the same condition that they had in the past, requiring the narrow lattice skirting and to be painted to match the building. Mr. Shockley said that he would meet the conditions.

Arnette Easley and William Simpson agreed to amend the motion to include the conditions discussed. The motion carried unanimously. (5-0)

8. Presentation of development plans of Anchored Properties, for McInnis Lane Tract – Blaine and Crystal Ward.

Mr. and Mrs. Ward presented their development information to the Commission advising that the property is currently zoned as residential and they are proposing that the property be developed into a RV Park, which would require a zoning change to commercial. Mr. Ward advised that they are considering a Texas shaped pond and other provisions because $\frac{3}{4}$ of the property is in the flood plain and some is located in the floodway. Mr. Ward advised that there is a drainage issue on the street that he would like to work with the City to get ditches along that street. Mr. Ward advised that they would clean up the property once they have purchased it.

William Simpson asked if each lot would be required to have a meter. Mr. Roznovsky stated that they could have a master meter in the front with separate connections for each lot. Mr. Roznovsky advised that they would need controls for the dump site; if not, it will require a separate meter.

Mr. Roznovsky advised that any fill that is brought onto the property will need to be select fill, with nothing being located in the flood plain. Mr. Roznovsky said that anything that is taken away from the floodway has to be replaced.

Mr. Ward said that they are looking at purchasing more property for another exit to the property. Mr. Ward advised that the property can be rented for short or long term stay.

Carol Langley asked if the property came around to the MLK property. Mr. Ward advised that part of the property would go straight across. Carol Langley advised that the property has always been known as swamp land, so she would recommend that the Wards give real consideration if they have not already purchased the property. Carol Langley asked if the property was between the Ward's property and McInnis. Mr. Ward said that the City owns the property and he would work with the City to extend the road. Arnette Easley said that there were five residents on that street.

Mr. Ward advised that there were a lot of trees that have fallen into the creek and they are causing the water to back up and not flow properly. Mr. Roznovsky said that south of MLK to FM 149 they are cleaning out Anders Branch and putting in more capacity culverts at MLK, where the current ones act as a restrictor. Mr. Roznovsky said that the General Land Office (GLO) funds were going to be used to upsize the MLK culvert. William Simpson said that any improvements will help the water problem in the City.

Mr. Roznovsky asked for the Commission's thoughts on the concept of having an RV Park in the area, and if they had any concerns. Mr. Roznovsky said that there would be a presentation to City Council in the future. Arnette Easley asked if they will have to upgrade the sewer with this development. Mr. Roznovsky said that the current facilities should be just fine. Mr. Ward advised that they would have a minimum of 40 spots in the RV Park. Mr. Ward advised that there is a 14-foot drop on the west side, and they would possibly ask the person next to them if they could purchase an easement at the south point. Mr. Roznovsky said that was an option.

Arnette Easley said that they need to consider another entrance if they plan on doing upgrades. Mrs. Ward said that they are considering an option of putting a bridge over the floodway. Mr. Roznovsky said they would have to show that the bridge did not cause any problem. Arnett Easley said that the churches with the fellowship were working on beautification of the area, and that would be a great project for the Wards to get acclimated with the area.

Jeffrey Waddell recommended taking a hard look at the property because there might be some unknowns. Arnette Easley said that he would be worried about the property flooding. Mr. Ward said that he has talked to the owners of the property about getting an easement.

Mr. Yates asked if the Wards had worked with a civil engineer, because the cost of the pond could run from tens of thousands of dollars to \$100,000, and would be a very expensive project. Mr. Ward stated that the impact fees were very expensive too.

Mr. Roznovsky asked whether the Commission was good with the concept of the RV Park. Arnette Easley said that he was good with any type of improvement. Jeffrey Waddell said that he did not know how full the KOA gets. Mr. Ward said that the people with RV's are trying to find places to live.

9. Adjournment

Jeffrey Waddell moved to adjourn the meeting at 7:03 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: May 29, 2018	Budgeted Amount:
Prepared By: Jack Yates City Administrator	Exhibits: Letter of request, Minutes of original approval, Copy of City Code regarding time extension, Engineer's memo
Date Prepared: April 27, 2018	

Subject

This is to extend the preliminary plat approval of Hills of Town Creek Section 3 from its original March 27, 2017 date to September 27, 2018.

Description

This is a request based upon section 78 – 60 (d) of the city code that allows a one time up to 12 months extension to a preliminary plat approval.

The request letter does not give a reason for the time extension, it is not a required item of information. The reason for the extension is that they are not ready for a final platting, due to the delay in the project construction.

The City Engineer recommends approval in his attached memo.

Recommendation

Motion to grant a six-month time extension as requested.

Approved By

City Administrator	Jack Yates	Date: April 27, 2018
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1575 Sawdust Road, Suite 400
The Woodlands, Texas 77380
Tel: 281.363.4039
Fax: 281.363.3459
www.jonescarter.com

May 9, 2018

The Planning and Zoning Commission
City of Montgomery
101 Old Plantersville Rd.
Montgomery, Texas 77356

Re: Extension of Preliminary Plat Approval
The Hills of Town Creek, Section 3
City of Montgomery

Dear Commission:

The Commission approved the preliminary plat for the referenced development at their meeting on March 27, 2017. The developer has requested a 6-month extension of the preliminary plat approval, as the project is in construction and is expected to be completed within 90 days. We recommend approval of the requested extension.

If you have any questions or comments, please contact me.

Sincerely,

A handwritten signature in blue ink that reads 'Chris Roznovsky'.

Chris Roznovsky, PE
Engineer for the City

CVR/ab

K:\W5841\W5841-1019-00 Hills of Town Creek Section 3\Project Management\Letters\PRELIMINARY PLAT EXTENSION Hills of Town Creek Sec. 3 05092018.doc

Enclosures: Preliminary Plat Extension Request
cc: The Honorable Mayor and City Council – City of Montgomery
Mr. Jack Yates – City of Montgomery, City Administrator
Ms. Susan Hensley – City of Montgomery, City Secretary
Mr. Larry Foerster – Darden, Fowler & Creighton, LLP, City Attorney

Section 78- d60 (d)

Approval. The planning and zoning commission shall approve, conditionally approve, defer or disapprove within 30 days any preliminary plat submitted to it. Approval of the preliminary plat shall not constitute final acceptance of the plat. Failure to act within 30 days of the regularly scheduled meeting at which the plat would have been submitted shall constitute approval by the planning and zoning commission unless additional time is requested from the developer. After preliminary approval and final approval by the planning and zoning commission, the final plat shall then be sent to the city council for final approval. Reasons for the disapproval or conditional approval or deferral shall be put in writing attached to one copy of the plat and returned to the person submitting the plat. Preliminary approval will expire 12 months after the approval of the planning and zoning commission of the preliminary plat or the final sections thereof except that, if the subdivider shall apply in writing prior to the end of such 12-month period stating reasons for needing the extension, this period may be extended for another 12 months, but not beyond the total of two years.

Arnette Easley asked Mrs. Thompson if she was concerned that this was going to make the flooding worse. Mrs. Thompson said that every time that they add new structures the drainage changes.

Mr. Cheatham said that many years ago they sold property to MISD for the Athletic Complex, and they had in their contractual agreement with MISD to design all of their detention for the complex to handle all of their water off of this tract and the other property that they have to the east. Mr. Cheatham said that MISD has substantial detention that this water from the storage site flows through before it ever gets any further toward Montgomery. Mr. Cheatham said that was designed by MISD. Mr. Cheatham said that at the Athletic Complex, drive in on the east driveway, there is a huge detention area that was built and designed for the Athletic Complex, plus his property that adjoins on the south side. Arnette Easley asked Mrs. Thompson if she was aware of the drainage provisions. Mrs. Thompson said that she was not aware of that information.

Arnette Easley moved to accept the Final Plans for Town Creek Storage pending the City Engineer's comments being addressed. Jeffrey Waddell seconded the motion, the motion carried unanimously. (5-0)

6. Consideration/take action regarding Hills of Town Creek Section 3 Preliminary Plat.

Mr. Roznovsky presented the information to the Commission, stating that he is recommending approval of the plat, but noted that in June of 2015 the Commission and City Council approved variances for the Hills of Town Creek, Sections Two, Three, Four and Five, which cover the entire subdivision, that was developed into different pieces, so that variance included a reduction in lot size and lot width, as well as street radii. Mr. Roznovsky said that this was the rest of the development of the Hills of Town Creek to get them to the total 100 lots that they had originally planned.

Jeffrey Waddell asked to clarify, on the lots that are shown that are less than 50 foot, he would assume it was due to a curve or angle. Mr. Roznovsky said that the lots on a curve or

angle are measured 30 feet back. Jeffrey Waddell asked if the building line was actually 50 foot. Mr. Roznovsky said that was correct, and they still note the lot size as a deficiency to make note that they received a variance.

Chairman Cox asked Mr. Yates where this property fell in the land use map. Mr. Yates advised that it was low density. Chairman Cox asked if that had been addressed. Mr. Roznovsky said that was what he was referring to regarding the variance, it is noted as a comment and stated that the variance was approved.

William Simpson moved to approve the Preliminary Plat for the Hills of Town Creek Section Three. Arnette Easley seconded the motion, the motion carried unanimously. (5-0)

7. Consideration/take action regarding Emma's Way Extension Preliminary Plat.

Mr. Roznovsky advised that was in relation to the Hills of Town Creek and was just a separate plat for the right of way dedication. Mr. Roznovsky said that there were comments to be addressed but he is recommending the approval of the Preliminary Plat.

Jeffrey Waddell said that this is helping the situation they have run into with other properties, with only one way in and one way out, they are not running into that problem with this property. William Simpson said that it looks like they are also going to have a Lone Star Parkway entrance at a future date.

Jeffrey Waddell moved to approve Emma's Way Extension Preliminary Plat as shown. Arnette Easley seconded the motion, the motion carried unanimously. (5-0)

8. Consideration/take action regarding Villas of Mia Lago Sec. 2 Final Plat.

Mr. Roznovsky said that there are a few outstanding items to be addressed on the final plat, and mainly it is adding the recording information from the land that Montgomery County bought for Lone Star Bend, which is out of the developers' control. Mr. Roznovsky said that



April 27, 2018

City of Montgomery
Jack Yates
101 Old Plantersville Road
Montgomery, TX 77316

RE: Preliminary Plat Extension for Hills of Town Creek Section 3

Mr. Yates,

The purpose of this letter is to formally request a 6-month extension to the approved preliminary plat for Hills of Town Creek Section 3. The project is currently in construction and is expected to be completed within 90 days. We would expect to submit for final plat when the project is near 75% complete, but we request the 6-month extension in case there are any unforeseen delays during construction.

Please feel free to contact me directly if you have any questions or concerns.

Thank you,

Jonathan White, PE
L Squared Engineering
936-647-0420
jwhite@L2engineering.com



Montgomery City Council
AGENDA REPORT

Meeting Date: May 28, 2018	Budgeted Amount:
Prepared By: Jack Yates City Administrator	Exhibits: Letter of request, Minutes of original approval, Copy of City Code regarding time extension, Engineer's memo
Date Prepared: April 27, 2018	

Subject

This is to extend the preliminary plat approval of Emma's Way from its original March 27, 2017 date to September 27, 2018.

Description

This is a request based upon section 78 – 60 (d) of the city code that allows a one time up to 12 months extension to a preliminary plat approval.

The request letter does not give a reason for the time extension, it is not a required item of information. The reason for the extension is that they are not ready for a final platting, due to the delay in the project construction.

The City Engineer recommends approval in his attached memo.

Recommendation

Motion to grant a six-month time extension as requested.

Approved By

City Administrator

Jack Yates

Date: April 27, 2018



1575 Sawdust Road, Suite 400
The Woodlands, Texas 77380
Tel: 281.363.4039
Fax: 281.363.3459
www.jonescarter.com

May 9, 2018

The Planning and Zoning Commission
City of Montgomery
101 Old Plantersville Rd.
Montgomery, Texas 77356

Re: Extension of Preliminary Plat Approval
Emma's Way 80' Right-of-Way Dedication
City of Montgomery

Dear Commission:

The Commission approved the preliminary plat for the referenced development at their meeting on March 27, 2017. The developer has requested a 6-month extension of the preliminary plat approval, as the project is in construction and is expected to be completed within 30 days. We recommend approval of the requested extension.

If you have any questions or comments, please contact me.

Sincerely,

A handwritten signature in blue ink that reads 'Chris Roznovsky'.

Chris Roznovsky, PE
Engineer for the City

CVR/ab

K:\W5841\W5841-1020-00 Emma's Way Extension\Project Management\Letters\PRELIMINARY PLAT EXTENSION Emma's Way ROW
05092018.doc

Enclosures: Preliminary Plat Extension Request
cc: The Honorable Mayor and City Council – City of Montgomery
Mr. Jack Yates – City of Montgomery, City Administrator
Ms. Susan Hensley – City of Montgomery, City Secretary
Mr. Larry Foerster – Darden, Fowler & Creighton, LLP, City Attorney

Section 78-060 (d)

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angle are measured 30 feet back. Jeffrey Waddell asked if the building line was actually 50 foot. Mr. Roznovsky said that was correct, and they still note the lot size as a deficiency to make note that they received a variance.

Chairman Cox asked Mr. Yates where this property fell in the land use map. Mr. Yates advised that it was low density. Chairman Cox asked if that had been addressed. Mr. Roznovsky said that was what he was referring to regarding the variance, it is noted as a comment and stated that the variance was approved.

William Simpson moved to approve the Preliminary Plat for the Hills of Town Creek Section Three. Arnette Easley seconded the motion, the motion carried unanimously. (5-0)

7. Consideration/take action regarding Emma's Way Extension Preliminary Plat.

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Jeffrey Waddell moved to approve Emma's Way Extension Preliminary Plat as shown. Arnette Easley seconded the motion, the motion carried unanimously. (5-0)

8. Consideration/take action regarding Villas of Mia Lago Sec. 2 Final Plat.

Mr. Roznovsky said that there are a few outstanding items to be addressed on the final plat, and mainly it is adding the recording information from the land that Montgomery County bought for Lone Star Bend, which is out of the developers' control. Mr. Roznovsky said that



April 27, 2018

City of Montgomery
Jack Yates
101 Old Plantersville Road
Montgomery, TX 77316

RE: Preliminary Plat Extension for Emma's Way Extension

Mr. Yates,

The purpose of this letter is to formally request a 6-month extension to the approved preliminary plat for Emma's Way. The project is currently in construction and is expected to be completed within 30 days. We would expect to submit for final plat when the project is near 90% complete, but we request the 6-month extension in case there are any unforeseen delays during construction.

Please feel free to contact me directly if you have any questions or concerns.

Thank you,

Jonathan White, PE
L Squared Engineering
936-647-0420
jwhite@L2engineering.com



Montgomery City Council
AGENDA REPORT

Meeting Date: May 29, 2018	Budgeted Amount:
Prepared By: Jack Yates City Administrator	Exhibits: Letter of request for zoning from R-1 to Industrial, information of past requests to City to confirm zoning, original zoning map date 3-3-03 showing the property split, aerial map showing the property,
Date Prepared: May 29, 2018	

Subject

This is to set a public hearing for a proposed zoning change at 1005 Old Plantersville Road.

Description

This is a situation where the original zoning of the city split this piece of property up into one half Industrial (where a large building now sits) and one half R-1 Single-family residential. Mrs. Fisher, whose husband passed away, is wanting to sell the property and the prospective buyer wants it all for Industrial use.

Mrs. Fisher has said to me that she believes that the letter from the city confirms that all the land was owned industrial at the time. However the letter speaks about "both uses" (meaning that it could have been entered in the response to the question about the residential use of the property in the industrial use the property) plus- as City Attorney Foerster said after reading the letter, that an incorrect answer to a question by city official does not bind the city to that incorrect answer.

The more recent, , 2017 zoning maps, I believe are in error in their representation of this area – by not following the 2003 map – thus it is what is called a "scriveners error" which in this case means that since there was no action since 2003 to change that zoning, just because it is not marked correctly on the 2017 maps that that changes the zoning – even though and zoning law the

Montgomery City Council
AGENDA REPORT

map is the ruling document, rather than a legal description or any supporting documentation.

All this is to say that the 2003 map is the ruling map and that it shows one half of Mrs. Fisher's property industrial and one half residential. The city attorney or agrees with me that the way to settle this completely is for a re-zoning to occur.

Recommendation

Motion to set a public hearing to consider the re-zoning of property at 1005 Old Plantersville Road for June ~~25~~, 2018 at City Hall at 6:00 PM.

Approved By

City Administrator

Jack Yates

Date: May ~~24~~, 2018

ROBERT L. FISHER

3123 Willowbend Rd.
Montgomery, TX 77356
936-582-4563

October 9, 2003

To whom it may concern,

My intent would be to use this property as a location to restore antique/classic automobiles for personal use and possible resale. I also plan to locate a small, residential construction and repair company on the premises.

Sincerely,

Robert L. Fisher





CITY OF MONTGOMERY

P. O. BOX 708 MONTGOMERY, TEXAS 77356

Telephone: (936) 597-6434 / 597-6866

FILE COPY

October 31, 2003

M.J. Kammerer
11820 Womack Cemetery Road
Montgomery, Texas 77316

Dear Mr. Kammerer,

I have reviewed the uses proposed as described in your October 22, 2003 correspondence, for the property located at 1005 Old Plantersville Road. I concur with your determination that both uses seem in compliance with the Permitted Uses as listed in Sec. 98-65 of the City of Montgomery Zoning Ordinances (Ord No 1994-4, table 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100).

Although neither use appears to present a problem, I invite your prospective buyer to be aware of Use Regulations discussed in Section 98-153 and Purpose described in Section 98-212 of the zoning ordinance. I bring these two sections to your attention only because it appears to be a B, or commercial use in an area zoned light industrial. Because of the level of scrutiny by neighbors, it is conceivable that they might expect compliance with both aspects of the zoning requirements. If you or your interested buyer have concerns with any aspect of interpretation or compliance with the zoning requirements, assistance by our City Attorney and/or City engineer is readily available.

Please do not hesitate to contact me if I can be of assistance.

Sincerely,

Mary Sue

Mary Sue Timmerman, Mayor

BUYER: _____

BUYER: _____

SELLER: _____

DIVISION 6. DISTRICT L LIGHT INDUSTRIAL*

Sec. 98-211. Description.

District L light industrial is the same area as district L heavy industrial.
(Ord. No. 1994-4, § 10, 12-6-1994)

Sec. 98-212. Purpose.

District L light industrial is established to provide for a range of nonrail industrial uses which are conducted within completely enclosed buildings and where such use will not be objectionable because of excessive light, smoke, dust, noise, vibration or odor.
(Ord. No. 1994-4, § 10, 12-6-1994)

Sec. 98-213. Use regulations.

A building or premises in district L light industrial shall be used only for the purposes specified in table 1 in section 98-65.
(Ord. No. 1994-4, § 10.1, 12-6-1994)

Sec. 98-214. Height regulations.

No building in district L light industrial shall exceed 45 feet in height.
(Ord. No. 1994-4, § 10.2, 12-6-1994)

Sec. 98-215. Area regulations.

(a) *Size of yards.* Size of yard in district L light industrial shall be as follows:

- (1) *Front yard.* All property abutting major and minor streets is to be considered a front yard. A front yard of ten feet from the building line to the property line is required.
- (2) *Side yard.* The side yard shall be ten feet where the lot line abuts lot lines of other business (B) or industrial uses.
- (3) *Rear yard.* The side yard shall be ten feet where the lot line abuts other business (B) or industrial lot lines.

(b) *Size of lots.*

- (1) *Lot area.* The minimum lot area shall be 10,000 square feet.
 - (2) *Lot width.* The minimum lot width shall be 100 feet.
- (Ord. No. 1994-4, § 10.3, 12-6-1994)

*Cross reference—Businesses, ch. 22.

BUYER: _____

CD98:29

BUYER: _____

SELLER:  _____

Sec. 98-152. Purpose.

District B commercial is established to provide for a wide range of retail and wholesale uses within enclosed areas.

(Ord. No. 1994-4, § 8, 12-6-1994)

Sec. 98-153. Use regulations.

A building or premises in district B commercial shall be used only for the following purposes (see table 1 in section 98-65):

Retail stores and other local business uses supplying everyday shopping for the immediate neighborhood, subject to the following:

- (1) The use shall be conducted wholly within the enclosed building.
 - (2) Required yards shall not be used for the storage of merchandise, vehicles or equipment.
 - (3) Such use shall not be objectionable because of excessive light, smoke, dust, noise, vibration, or odor.
 - (4) Storing of containers and waste material will not be permitted in front and side yards.
- (Ord. No. 1994-4, § 8-1, 12-6-1994)

Sec. 98-154. Height regulations.

No building in district B commercial shall exceed 45 feet in height.

(Ord. No. 1994-4, § 8-2, 12-6-1994)

Sec. 98-155. Area regulations.

(a) *Size of yards.* Size of yards in district B commercial shall be as follows:

- (1) *Front yard.* There shall be a front yard having a minimum depth of 25 feet from the front property line if located on a minor street and 35 feet if located on a major thoroughfare. No parking, storage or similar use shall be allowed in front yards, except that automobile parking will be permitted in such yards if separated by at least 100 feet from any R district.
- (2) *Side yard.* A side yard of not less than 15 feet in width shall be provided on the side of a lot adjoining a minor street (not including easements). A side yard of not less than 25 feet in width shall be provided on the side of a lot adjoining an R district. Otherwise, no side yard is required. No parking, storage or similar use shall be allowed in any required side yard or in any required side street adjoining an R district, without proper enclosure.
- (3) *Rear yard.* A rear yard of 25 feet is required on all lots abutting an R-1 district.

BUYER: _____

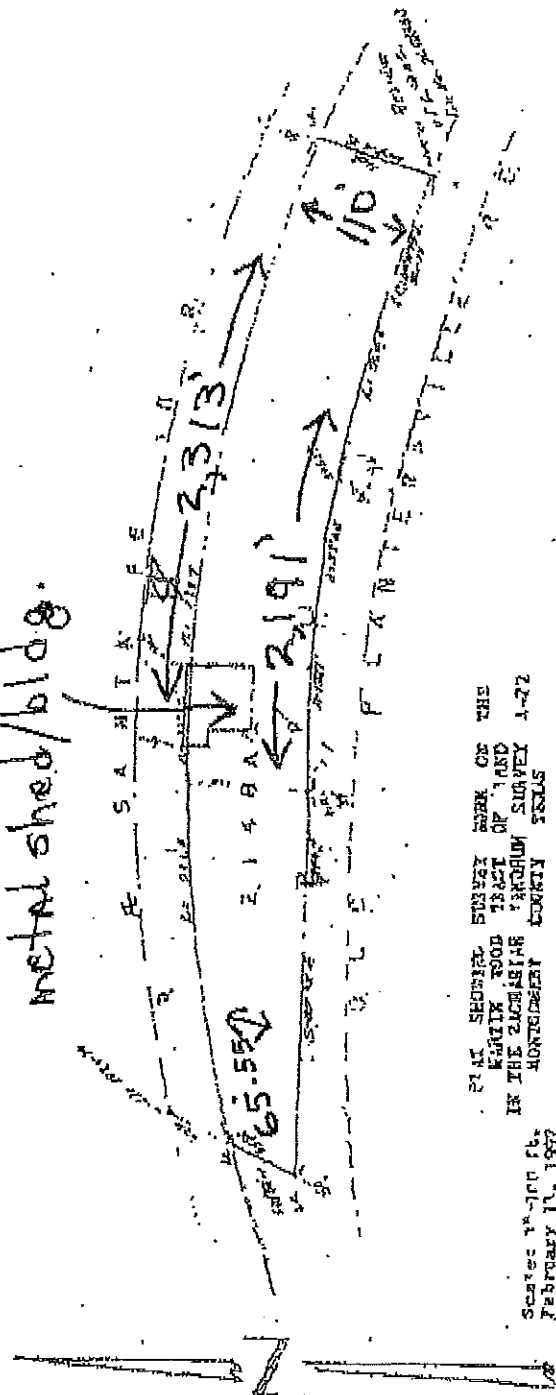
CD98:26

BUYER: _____

SELLER:  _____

PLAT EXHIBIT
2.148 ACS

metal shed/bldg.

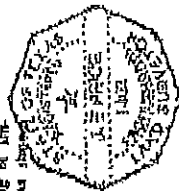


PLAT SHOWING SURVEY MARKS ON THE
 KAMIK TOOD TRACT OF LAND
 IN THE GAMBRIER TOWNSHIP SURVEY 1-22
 HONOLULU COUNTY TERRITORY

Surveyed by J. J. [Name]
 February 11, 1997

That it is hereby filed this survey with maps, as the ground,
 and also necessary hereby described herein and to correct and
 that there may be discrepancies, and that, starting in area,
 boundary line, and other appurtenances, notwithstanding of the
 previous surveys in any way except as shown on this
 return.

Registered Professional Surveyor



Handwritten signature or initials in a circle.

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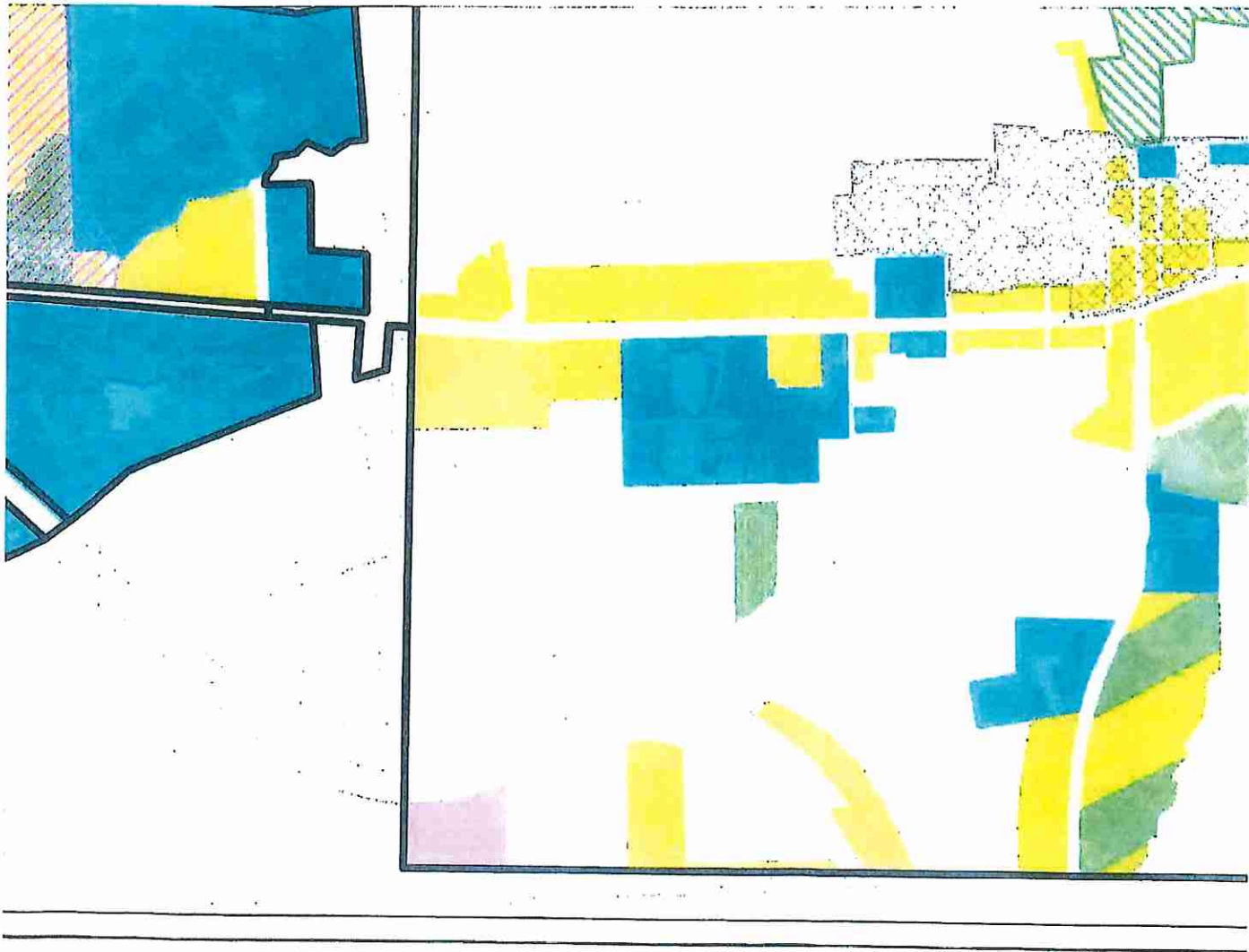
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- Layer Visibility
- Montgomery La
 - Parcels
 - Abstracts
 - Parcel ID
 - Lot Numbers
 - Lot Number





VICINITY MAP

Scale: 1 inch equals 10 miles








LEGEND

Base Layers

-  City Limits
-  P.D.D. No. 1 (LaFavre) - 2014
-  Bowen Development Agreement - 2006
-  Cheatham Development Agreement - 2011
-  P.I.D No. 1 (Ogorchock) - 2014
-  Historic District
-  City ETJ

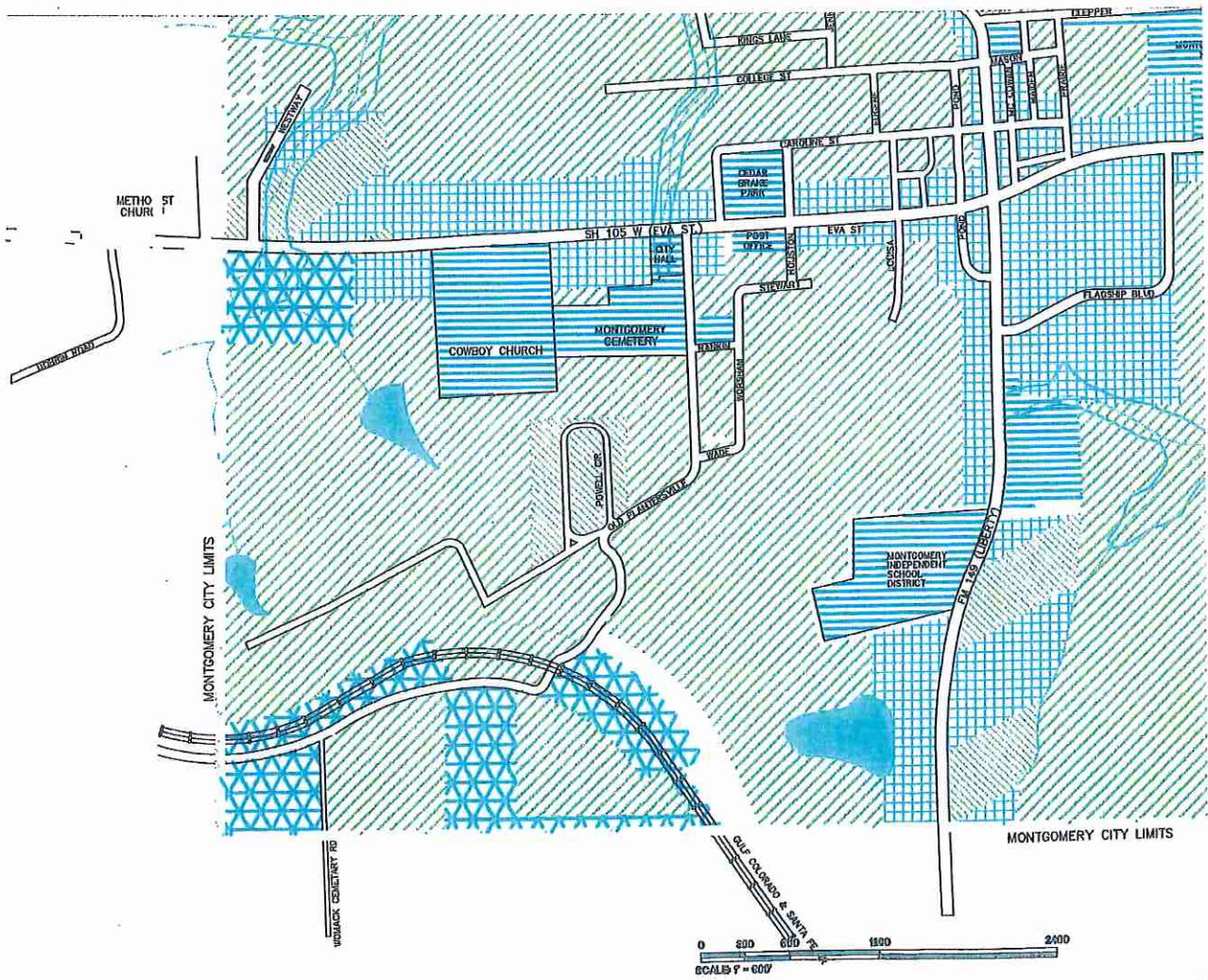
MCAD Parcels

Zone Classification

-  Unknown
-  Commercial
-  Industrial
-  Institutional
-  Multi-Family
-  Multi-Use
-  Residential

LAST AMENDED 11 APRIL 2017
VIA ORDINANCE NO. 2017-10

*Aerial Imagery From January 2016



▲					
▲	08/19/04	JN	WJK	UPDATE ROADS	
▲	03/03/03	TC	WJK	ISSUED FOR APPROVAL	
REV	DATE	BY	APP	COMMENT	
PREPARED FOR: CITY OF MONTGOMERY					
SCALE: 1"=600' DATE: UPDATED MARCH 2005 DRAWN BY: JIM NORRIS PROJECT MANAGER: WILLIAM J. KOTLAN, P.E.					



Zone Classification

- Unknown
- Commercial
- Industrial
- Institutional
- Multi-Family
- Multi-Use
- Residential

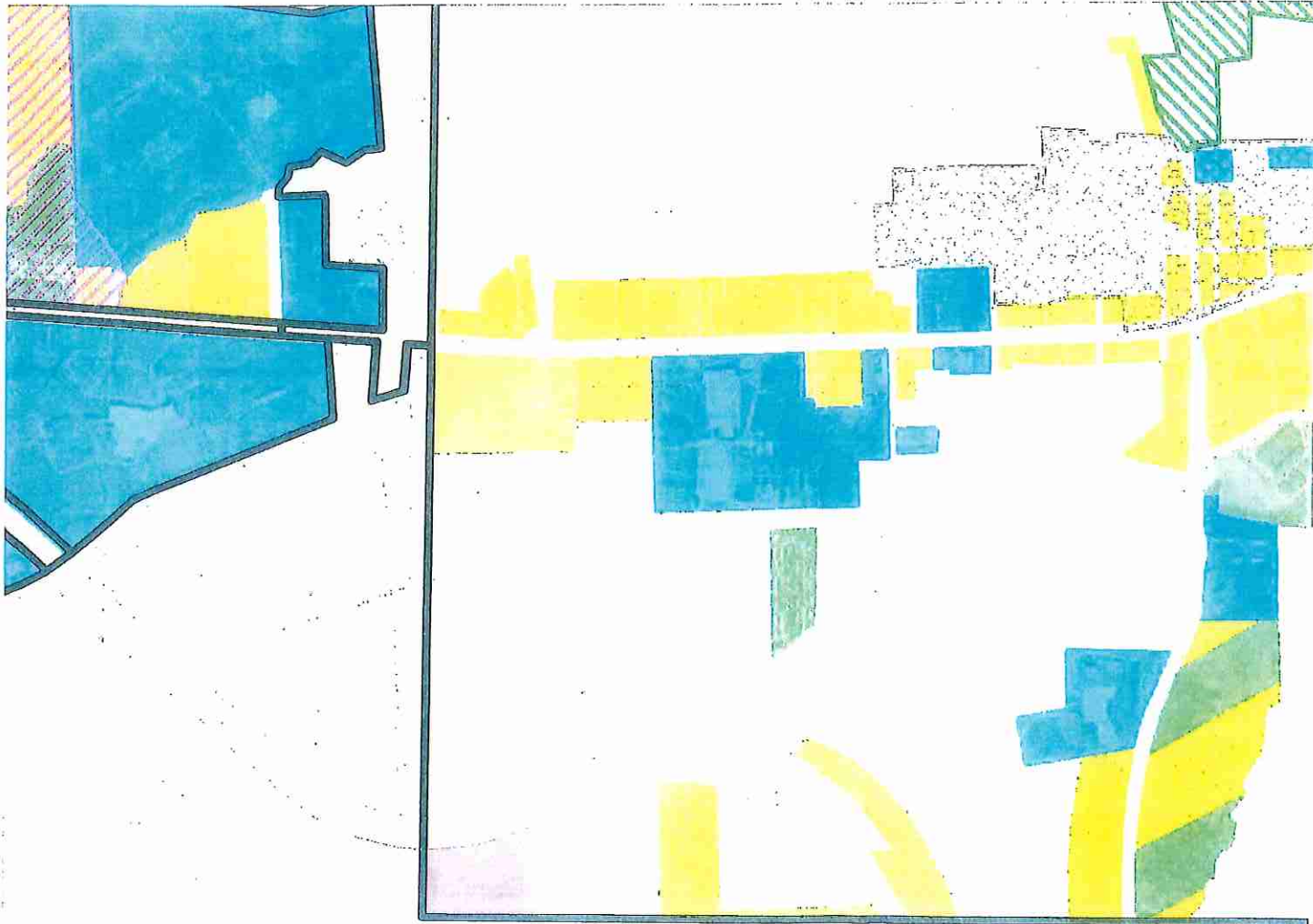
LAST AMENDED 10 OCTOBER 2017
VIA ORDINANCE NO. 2017-22

*Aerial Imagery flown January 2016



ZONING LAYOUT
(DECEMBER 2017)





VICINITY MAP
Scale: 1 inch equals 10 miles

LEGEND

- Base Layers**
- City Limits
 - P.D.D. No. 1 (LeFevre) - 2014
 - Bowen Development Agreement - 2006
 - Cheatham Development Agreement - 2011
 - P.I.D No. 1 (Ogorchack) - 2014
 - Historic District
 - City ETJ
 - MCAD Parcels
- Zone Classification**
- Unknown
 - Commercial
 - Industrial
 - Institutional
 - Multi-Family
 - Multi-Use
 - Residential

LAST AMENDED 11 APRIL 2017
VIA ORDINANCE NO. 2017-10

*Aerial Imagery from January 2014

Montgomery City Council
AGENDA REPORT

Meeting Date: May 29, 2018	Budgeted Amount:
Prepared By: Jack Yates City Administrator	Exhibits: letter of request, Map showing the property to be included in the rezoning area including a legal description, aerial map showing the property, Section of zoning ordinance Regarding R-2 MultiFamily zoning
Date Prepared: May 24, 2018	

Subject

This is to set a public hearing for proposed zoning change at 2500 Lone Star Parkway.

Description

This is a request from Larry Jacobs, owner of the property, to change from the current "T" - Industrial zone to "R - 2" MultiFamily zoning. This is for the Star of Texas Seniors development plan for this property.

Recommendation

Motion to set a public hearing to consider a R- 2 MultiFamily rezoning for property located near 2500 Lone Star Pkwy. as requested by Emanuel Glockzin, for June 25, 2018 at City Hall at 6:00 PM.

Approved By

City Administrator	Jack Yates	Date: May 24, 2018
--------------------	------------	--------------------

Star of Texas Seniors, LTD.

4500 Carter Creek Parkway, Suite 101, Bryan, TX 77805 • Phone (979) 846-8878 • Fax (979) 846-0783

May 4, 2018

City of Montgomery
Jack Yates, City Administrator
101 Old Plantersville Road
Montgomery, TX 77356

Dear Mr. Yates,

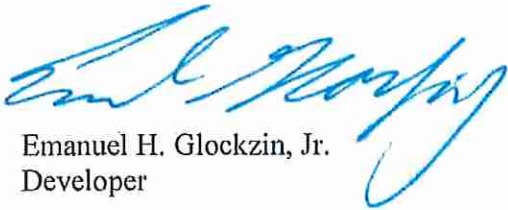
Star of Texas Seniors is a new construction development to have 32 units, to be located on 5 acres on Lone Star Parkway in Montgomery, Montgomery County, Texas. This development will serve the elderly population and all units are income restricted under the Housing Tax Credit program through the Texas Department of Housing and Community Affairs. -

The current zoning for the proposed location is "Industrial" and the city's zoning ordinance allows for less restrictive uses. Therefore, I am requesting a ~~special use permit~~ for this senior housing development. Enclosed are a survey, site location map and \$500.00 check for fee.

Multi
Family
zone for

Should you have any questions please feel free to contact me at 979-846-8878. Thank you in advance for your prompt attention to this request.

Sincerely,



Emanuel H. Glockzin, Jr.
Developer

Exhibit "A" Attachment

TRACT 1:

BEING a 5.00 acre tract in the B Riggsby Survey Abstract 31, Montgomery County, Texas and being out of a called 43.86 acre tract of land as recorded under Clerk's File No. 2007-116280 Real Property Records of Montgomery County, Texas, said 5.00 acre tract being more particularly described as follows:

COMMENCING at the southeast corner of restricted RESERVE "A", as shown on a plat called LONESTAR COMMUNITY CENTER, as recorded in Montgomery County Map Records in Cabinet Z, Sheet 1670 and the southerly line of the said 43.86 acre tract proceeding in a westerly direction along said road the following courses, (1) N 80°26'28"W, 46.20 feet, (2) N 02°59'27"W, 146.98 feet, (3) N 83°37'00"W, 104.73 feet, (4) N 89°09'02"W, 104.82 feet, (5) S 88°03'16"W, 3.96 feet to a 5/8" iron rod capped Surveyor as the southeast corner of a proposed 60 foot access easement, (6) leaving said road and on the east line of said easement N 01°34'48"W, 229.43 feet to a set 5/8" iron rod capped Surveyor as the POINT OF BEGINNING of the herein described 5.00 acres

THENCE N 01 deg. 31' 48" W across the said 43.86 acre tract, a distance of 188.11 feet to a 5/8" iron rod capped "Surveyor" being the northwesterly corner of the herein described tract;

THENCE N 86 deg. 22' 01" E across the said 43.86 acre tract, a distance of 82.02 feet to a 5/8" iron rod capped "Surveyor" being an interior corner of the herein described tract;

THENCE N 03 deg. 37' 59" W across the said 43.86 acre tract, a distance of 512.21 feet to a 5/8" iron rod capped "Surveyor" set in the southerly line of the Evans Hairs tracts of land as recorded in Volume 1058, Page 58 of the Deed Records of Montgomery County, Texas being the upper northwesterly corner of the herein described tract;

THENCE N 88 deg. 44' 24" E along the southerly line of the Evans Tracts, a distance of 304.79 feet to an iron bar for the northwesterly corner of a called 4.00 acre tract of land as recorded in Volume 1060 Page 136, of the Deed Records of Montgomery County Texas, being the northeasterly corner of the herein described tract;

THENCE S 03 deg. 29' 23" E along the westerly line of the said 4.00 acre tract, a distance of 345.76 feet to 5/8" iron rod found for the southwesterly corner of the said 4.00 acre tract also being the northwesterly corner of Restricted Reserve B of the said Lonestar Community Center, being an angle point of the herein described tract;

THENCE S 03 deg. 33' 50" E along the westerly line of said Reserve B, (passing at 224.24' a 5/8" iron rod for the southwesterly corner of said Reserve B) a distance of 318.83 feet to a 5/8" iron rod capped "Surveyor" set in the westerly line of the said 60' Access Easement out of Restricted Reserve A, and being the southeasterly corner of the herein described tract;

THENCE across the said 43.86 acre tract, S 86 deg 22' 01" W, a distance of 391.95 feet to the POINT OF BEGINNING, and containing 5.00 acres of land, more or less.

TRACT 2:

BEING a 0.54 acre tract in the B Rigby Survey Abstract 31, Montgomery County, Texas and being out of a called 43.86 acre tract of land as recorded under Clerk's File No. 2007-116280 Real Property Records of Montgomery County, Texas, said 0.54 acre tract being more particularly described as follows:

COMMENCING at the southeast corner of restricted RESERVE "A", as shown on a plat called LONESTAR COMMUNITY CENTER, as recorded in Montgomery County Map Records in Cabinet Z, Sheet 1570 and the southerly line of the said 43.86 acre tract proceeding in a westerly direction along said road the following courses, (1) N 80°28'28"W, 16.20 feet, (2) N 82°58'27"W, 145.98 feet, (3) N 83°37'00"W, 104.73 feet, (4) N 89°08'02"W, 104.62 feet, (5) S 88°03'16"W, 3.96 feet to a 5/8" iron rod capped Survtech as the POINT OF BEGINNING of the herein described 0.54 acres

THENCE S 88 deg. 03' 16" W along the northerly line of Lonestar Parkway, a distance of 60.00 feet to a 5/8" iron rod capped "Survtech" being the southwesterly corner of the herein described tract;

THENCE N 01 deg. 31' 48" W across the said 43.86 acre tract, a distance of 392.77 feet to a 5/8" iron rod capped "Survtech" being the northwesterly corner of the herein described tract;

THENCE N 86 deg. 22' 01" E across the said 43.86 acre tract, a distance of 60.04 feet to a 5/8" iron rod capped "Survtech" being the northeasterly corner of the herein described tract;

THENCE S 01 deg. 31' 48" E across the said 43.86 acre tract, a distance of 394.54 feet to the POINT OF BEGINNING, and containing 0.54 acres of land, more or less.

Note: The Company is prohibited from insuring the area or quantity of the land described herein. Any statement in the legal description contained in Schedule "A" as to area or quantity of land is not a representation that such area or quantity is correct, but is made only for informal identification purposes and does not override Item 2 of Schedule "B" hereof.

which this chapter is derived (December 6, 1994), the regulations in this section shall not prohibit the lot owner from erecting a one-family dwelling thereon or moving a one-family dwelling onto the property.

Sec. 98-94. Parking requirements.

Off-street parking spaces shall be provided in district R-1 in accordance with the requirements for specific uses set forth in article IV of this chapter.

Secs. 98-95—98-120. Reserved.

DIVISION 3. DISTRICT R-2 MULTIFAMILY RESIDENTIAL

Sec. 98-121. Use regulations.

A building or premises in district R-2 shall not be used except for the following purposes (see table 1 in section 98-65):

- (1) Any use permitted in the R-1 district.
- (2) Multifamily dwellings, including duplexes and town homes.
- (3) City homes and condominiums.

Sec. 98-122. Height regulations.

No building in district R-2 shall exceed 45 feet or three stories in height.

Sec. 98-123. Area regulations.

- (a) *Size of yards.* Size of yards in district R-2 shall be as follows:
 - (1) *Front yard.* Front yard requirements are the same as for district R-1.
 - (2) *Side yard.* There shall be a side yard on each side of the lot having a width of not less than ten feet; however, a side yard adjacent to a side street shall not be less than 25 feet on a major thoroughfare and 15 feet on a minor thoroughfare. No side yard for allowable nonresidential uses shall be less than 25 feet.
 - (3) *Rear yard.* There shall be a rear yard having a depth of not less than ten feet from the property line.
- (b) *Size of lots.*
 - (1) *Lot area.* No structure shall be constructed on any lot less than 9,000 square feet. Not building containing two or more dwelling units shall be constructed on any lot or tract of less than 9,000 square feet. No lot shall contain less than 900 square feet per ground level dwelling unit; provided, however, that this shall not be applicable to hotels, apartments, or motels where no cooking is done in any individual
 - (2) *Lot width.* The width of the lot shall not be less than 75 feet at the front street building line, nor shall its average width be less than 75 feet before it is

subdivided for construction of townhouses or condominiums.

- (3) *Lot depth.* The average depth of the lot shall not be less than 120 feet, except that nay corner lots with a width of not less than 90 feet adjacent to a major thoroughfare must be at least 15 feet wider than the average of interior lot in the block before construction of townhouses or condominiums.

Secs. 98-124—98-150. Reserved.

DIVISION 4. DISTRICT B COMMERCIAL

Sec. 98-151. Description.

A building or premises in district B shall not be used except for business purposes described in the Table of Permitted Uses in Section 98-65, as well as any use permitted in District R-1, Single Family Residential.

Sec. 98-152. Purpose.

District B is established to provide for a wide range of business uses within enclosed areas as well as the other uses provided for in this section.

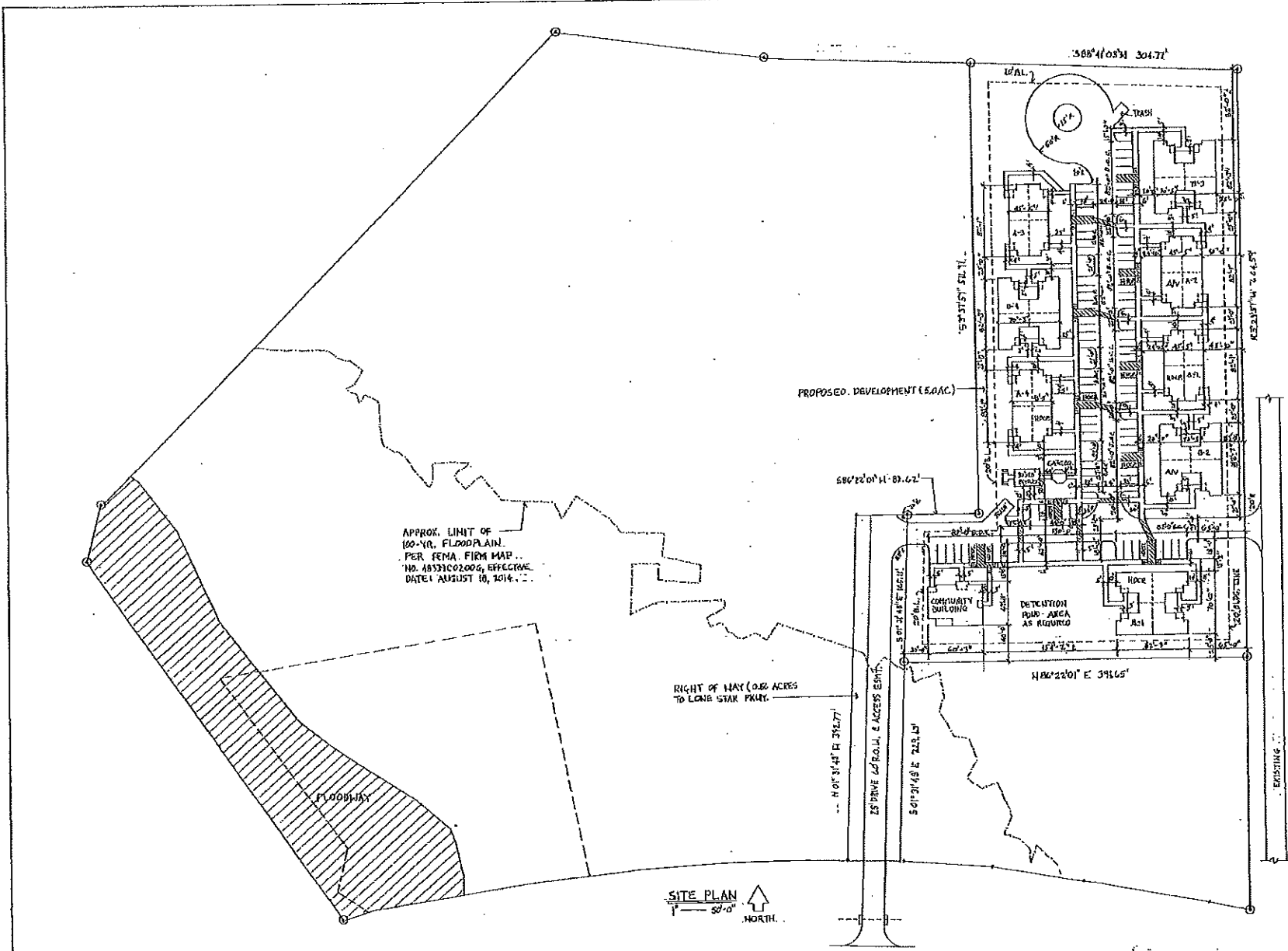
Sec. 98-153. Use regulations.

A building or premises in district B shall be used only for the following purposes (see table 1 in section 98-65):

- (a) Retail stores and other local business uses supplying everyday shopping and services, subject to the following restrictions and performance standards:
 - (1) The use shall be conducted wholly within the enclosed building.
 - (2) Required yards shall not be used for the storage of merchandise, vehicles or equipment.
 - (3) No use, activity or process shall produce excessive light, smoke, dust, noise, vibrations or noxious odors that are perceptible without instruments by the average person at the property lines of a site.
 - (4) Storing of containers and waste material will not be permitted in front and side yards
 - (5) All outdoor lighting shall be shielded or directed away so that direct light or glare does not impact adjacent residential land uses.
 - (6) All storage and mechanical equipment shall be enclosed in a structure and completely screened from view.
- (b) Any use permitted in District R-1, Single Family Residential.
- (c) The performance standards set out in Subsection (a) shall not apply to special events formally sanctioned by the City of Montgomery.



2016 Google Map



THE PLANS HAVE BEEN DESIGNED TO MEET THE REQUIREMENTS OF ADA, TEXAS ACCESSIBILITY STANDARDS (TAS) AND THE FAIR HOUSING ACT

BUILDING "A" = 1 BDRM. 4-PLEX
 BUILDING "B" = 2 BDRM. 4-PLEX

HOCR REQUIREMENTS
 57, X32 UNITS = 1.6 UNITS
 3 UNITS PROVIDED
 1-2 BDRM. & 2-1 BDRM. UNITS

AUDIVISUAL REQUIREMENTS
 27 OF 32 UNITS = .84 UNITS
 2 UNITS PROVIDED
 1-2 BDRM. & 1 BDRM. UNITS
 5 HOOR PARKING SPACES SHOWN (1 FOR EACH UNIT).
 PROVISIONS PROVIDED FOR FUTURE HOOR REQUIREMENTS.

PARKING REQUIREMENTS
 2 SPACES PER UNIT
 32 UNITS X 2 = 64 SPACES REQ'D.
 80 SPACES SHOWN

THE PROPOSED PLANS HAVE BEEN DESIGNED TO MEET THE ZONING, SITE DEVELOPMENT AND BUILDING CODE REQUIREMENTS FOR THE CITY OF MONTGOMERY.



2-17-14

SITE PLAN
 1" = 50'-0"
 NORTH

LONE STAR PARKWAY
 VARIABLE WIDTH R.O.W.

DATE:	A PROPOSED APARTMENT PROJECT FOR:	
SHEET:	STAR OF TEXAS SENIORS	
DATE:	LONE STAR PARKWAY	MONTGOMERY, TEXAS

Montgomery City Council
AGENDA REPORT

Meeting Date: May 29, 2018	Budgeted Amount:
Prepared By: Jack Yates City Administrator	Exhibits: Memo from City Engineer, Proposed ordinance
Date Prepared: May 24, 2018	

Subject

This is to require all plats to be tied to the city of Montgomery Control System, and to require all construction plans and surveys to be based on the benchmark in the city monument taste utilized in the final plat, and to be clearly indicated on the construction plans.

Description

This is a requested ordinance prepared by Chris Roznovsky of Jones and Carter Engineers. Having a benchmark based on a common methodology and noted on the plans and plat is an important element for the engineer—in is easy enough for the surveyor to accomplish as they do their survey and prepare their plats.

The City Engineer can explain more at the meeting.

Recommendation

Motion to recommend approval of the proposed Subdivision Plat Benchmark ordinance to the City Council.

Approved By

City Administrator	Jack Yates	Date: May 24, 2018
--------------------	------------	--------------------



1575 Sawdust Road, Suite 400
The Woodlands, Texas 77380-3795
Tel: 281.363.4039
Fax: 281.363.3459
www.jonescarter.com

May 23, 2018

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

Re: Proposed Subdivision Plat Benchmark Ordinance
The City of Montgomery

Dear Mayor and Council:

As you are aware, Section 78-61 of the Code of Ordinances currently requires that "All plats shall be tied to two city monumentation control points and state which monuments were used." However, the current ordinance does not require the City of Montgomery Control System monuments to be recovered and any differential elevations greater than 0.1 foot to be reported to the City Engineer.

As you are also aware, Section 78-124 of the Code of Ordinances does not currently require construction plans to be tied to a specific control system to be used in construction. It has come to our attention that the plats and construction plans for a development have the ability to be based on different control systems, which can cause significant misunderstandings and elevation errors during construction and during any adjacent future development.

The enclosed draft ordinance proposes to require all plats to be tied to the City of Montgomery Control System, and for any variance in elevation within the System greater than 0.1 feet to be communicated to the City of Montgomery City Engineer. The ordinance also proposes to require all construction plans and surveys to be based on the benchmark and City monumentation utilized in the final plat, and to be clearly indicated on the construction plans.

As always, should you have any questions or need additional information, please do not hesitate to contact us.

Sincerely,

A handwritten signature in blue ink that reads 'Chris Roznovsky'.

Chris Roznovsky, PE
Engineer for the City

CVR/kmv

K:\W5841\W5841-0900-00 General Consultation\Correspondence\Letters\2018\MEMO to Council RE Benchmark Ordinance.doc

Enc: DRAFT Subdivision Plat Benchmark Ordinance

Cc (via email): Mr. Jack Yates – City of Montgomery, City Administrator

Ms. Susan Hensley – City of Montgomery, City Secretary

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

ORDINANCE _____

AN ORDINANCE BY THE CITY COUNCIL OF MONTGOMERY, TEXAS, AMENDING CHAPTER 78, "SUBDIVISIONS," OF THE MONTGOMERY CITY CODE OF ORDINANCES, BY AMENDING SECTION 78-61 OF ARTICLE III, "PLATS" AND SECTION 78-124 OF ARTICLE V, "ENGINEERING AND CONSTRUCTION STANDARDS; BY PROVIDING BENCHMARKS FOR THE FINAL PLATS AND ENGINEERING CONSTRUCTION PLANS OF PUBLIC FACILITIES; PROVIDING REPEALING AND SEVERABILITY CLAUSES; AND PROVIDING AN EFFECTIVE DATE AFTER PUBLICATION

WHEREAS, the City Council of the City of Montgomery has determined that it is necessary to adopt rules and regulations for setting monument benchmarks for the development of subdivisions and standards for engineering construction plans of public facilities in the City in order to better protect property values and the interests of the City and its citizens; and

WHEREAS, City, Ordinance No. 2011-09, dated July 26, 2011, was passed to provide rules and regulations for subdivision plats and for engineering and construction standards in the City of Montgomery; and

WHEREAS, upon the advice of the City engineers, the City Council has determined that there needs to be specific benchmarks in subdivision plats as found in Section 78-61 of Article III, entitled "Final Plats," and for engineering construction plans of public facilities in Section 78-124 of Article V, entitled "Engineering and specifications for construction;"

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

SECTION 1: AMENDMENTS TO CODE OF ORDINANCES

A. The City Code of Ordinances at Chapter 78, "SUBDIVISIONS," is hereby amended by amending Section 78-61(c)(8), entitled "Monument and control points," in Article III, by adding subparagraphs (f) and (g), such that it reads as follows:

78-61 Final plat

(c) Contents

(8) *Monument and control points.*

- a. State on the plat what was found/set at all boundary corners of the tract being subdivided
- b. All plats shall be tied to two city monumentation control points and state which monuments were used. Reference bearings to a city monument.
- c. No final plat may be approved until actually surveyed upon the ground by, or under the supervision of, a registered professional land surveyor. The surveyor shall set, or leave as found, sufficient, stable and reasonably permanent markers to represent or reference the property or boundary corner, angle points, and points of curvature or tangency of a tract being subdivided. All survey marks shall be shown and described with sufficient evidence of the location of such markers on the plat.
- d. One permanent monument with x, y, and z shall be placed within the boundaries of each new subdivision. Elevation benchmarks should be placed within a dedicated street right-of-way, but outside of the paved portion of the roadway, with the location of such benchmark reflected upon the plat. The benchmark shall consist of a three-inch brass disk set in a concrete column six inches in diameter and three feet deep and buried with the top flush with the natural grade. The disc shall be stamped with the surface elevation as determined from a known benchmark based on city monumentation and shall also bear the subdivision name and section number, if any.
- e. Lot corners, street intersections, angle points, and street alignment monumentation must be installed prior to final acceptance of the subdivision.
- f. Benchmarks shall be based on the City of Montgomery Control System and related to at least two of those published monuments. The plat shall indicate which City of Montgomery Control monuments were recovered and which one was used to set the plat benchmark elevation. Measured elevation differentials between specific City of Montgomery Control monuments that are greater than 0.1 foot relative to the differential in the published elevations of those monuments shall be communicated to the City of Montgomery City Engineer
- g. The requirement to set a new subdivision elevation benchmark is waived if a Texas Department of Transportation elevation benchmark, a City of Montgomery elevation benchmark or a previously set elevation benchmark within an existing recorded subdivision is located within 500 feet of the proposed subdivision plat boundary and the stamped elevation of the existing benchmark is referenced to the City's published datum. The location and description, including the elevation and datum of the existing benchmark to be used shall be reflected upon the plat.

B. The City Code of Ordinances at Chapter 78, "SUBDIVISIONS," is further amended by amending Section 78-124, entitled "Engineering and specifications for construction," in Article V, such that it reads as follows:

78-124 Engineering and specifications for construction

- (a) The city will reserve the right to approve all professional engineers that provide services to developers on public drainage, roads, streets, sewer and water facilities within the plat for utilities that will be dedicated to the public and operated and maintained by the city. The developer may retain an engineer of his choice registered in the state whose seal shall be placed on the drawings for the design of all private facilities for the purpose of drainage, roads, streets, sanitary sewers and water facilities within his plat.
- (b) All engineering construction plans, surveys, and standard specifications for construction of streets, drainage, and storm sewers or sanitary sewer lines shall be approved prior to commencement of construction of such facilities. The professional engineering services required of the developer for public utility work shall be done by an engineer approved by the city and shall be as designated in the current issue of the manual entitled "Professional Practice General Engineering Service," published by the state society of professional engineers, and shall include both design and construction monitoring as defined therein. Platting shall be done by the developer's engineer or surveyor.
- (c) The city has adopted the city design criteria manual. The current version of the design criteria manual is incorporated herein by reference and shall remain on file at the office of the city secretary.
- (d) Elevations included in all engineering construction plans and surveys must be based upon the benchmark and known City monumentation utilized in the final plat and must be clearly displayed on the construction plans and survey.

SECTION 2: SAVING/REPEALING CLAUSE

All other ordinances shall remain in full force and effect, save and except as amended by this or any other Ordinance. All provisions of any ordinance in conflict with this Ordinance are hereby repealed; but such repeal shall not abate any pending prosecution for violation of the repealed Ordinance, nor shall the repeal prevent a prosecution from being commenced for any violation if occurring prior to the repeal of the Ordinance.

SECTION 3: SEVERABILITY

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

fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional or invalid.

SECTION 4: TEXAS OPEN MEETINGS ACT

The City Council hereby officially finds and determines that the meeting at which this Ordinance was passed was open to the public as required and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code. Notice was also provided as required by Chapter 52 of the Texas Local Government Code.

SECTION 5: EFFECTIVE DATE UPON PUBLICATION

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

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF
MONTGOMERY, TEXAS ON THIS THE _____ DAY OF JUNE 2018.

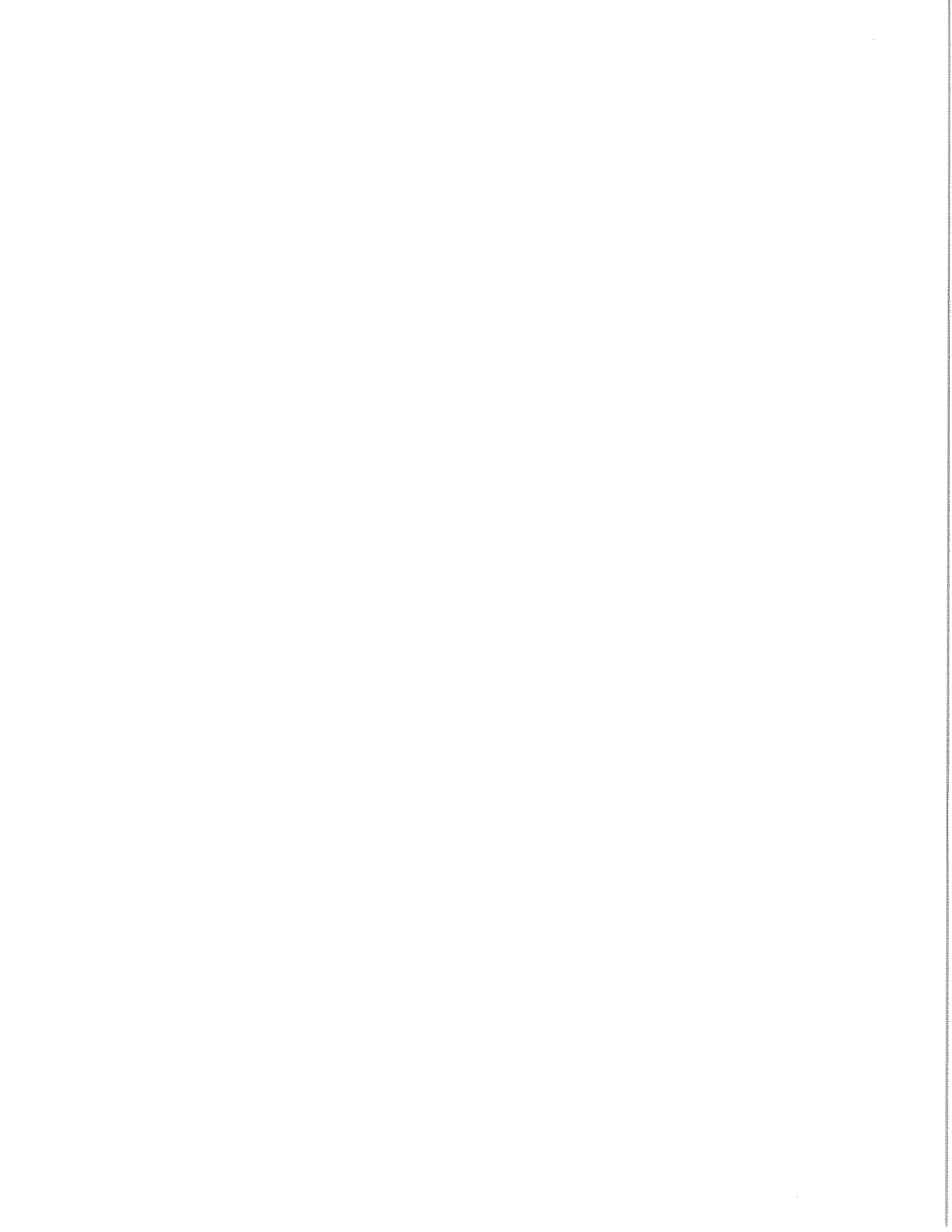
Sara Countryman, Mayor

ATTEST:

Susan Hensley, City Secretary

APPROVED AS TO FORM:

Larry L. Foerster, City Attorney



Montgomery City Council
AGENDA REPORT

Meeting Date: May 29, 2018	Budgeted Amount:
Prepared By: Jack Yates City Administrator	Exhibits: Memo from City Engineer, Proposed ordinance
Date Prepared: May 24, 2018	

Subject

This is to require sidewalks to be installed along with all new and existing streets as it pertains to a new development or redevelopment of property and also requires also about to be installed to standards listed in the Texas Architectural Barriers Removal Act, and states that the development of property that has industrial zoning or is located in the historic district will be evaluated on a case-by-case basis to determine the need for sidewalks.

Description

This is an ordinance that clears up the confusion regarding placement of sidewalks, where the city's current Design Criteria Manual includes specifications for how sidewalks are to be constructed but does not a reference when and where they are required to be installed.

The proposed ordinance would require placement on all city streets and not only the collector or major thoroughfares as is now the case in the ordinances.

Opinion: My suggestion is to circulate this proposed ordinance to present residential and commercial developers for their opinion about the ordinance.

The cost of sidewalks is substantial and affect home prices and developer costs - - and I would guess that they have an opinion about the matter.

Recommendation

Consider the item, consider my opinion, then act however appropriate you think.

Montgomery City Council
AGENDA REPORT

Approved By

City Administrator	Jack Yates	Date: May 24, 2018
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1575 Sawdust Road, Suite 400
The Woodlands, Texas 77380-3795
Tel: 281.363.4039
Fax: 281.363.3459
www.jonescarter.com

May 23, 2018

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

Re: Proposed Sidewalk Ordinance
The City of Montgomery

Dear Mayor and Council:

As you are aware, Section 78-129 of the Code of Ordinances currently states that "Sidewalks shall comply with applicable state and/or federal accessibility standards and have design approval from the state and city where applicable." However, the current ordinance does not require new developments to install sidewalks along streets adjacent to or within the property. The City's current Design Criteria Manual includes specifications for how sidewalks are to be constructed, but does not reference when they are required to be installed.

The enclosed draft ordinance proposes to require sidewalks to be installed along all new and existing streets as it pertains to a new development or redevelopment of property. The ordinance also requires all sidewalks to be installed to standards listed in the Texas Architectural Barriers Removal Act and the Federal Americans With Disabilities Act. The proposed ordinance states that development on property that has an Industrial zoning or is located within the Historic District will be evaluated on a case-by-case basis to determine the need for sidewalks.

As always, should you have any questions or need additional information, please do not hesitate to contact us.

Sincerely,

A handwritten signature in blue ink that reads 'Chris Roznovsky'.

Chris Roznovsky, PE
Engineer for the City

CVR/kmv

K:\W5841\W5841-0900-00 General Consultation\Correspondence\Letters\2018\MEMO to Council RE Sidewalk Ordinance.doc

Enc: DRAFT Sidewalk Ordinance

Cc (via email): Mr. Jack Yates – City of Montgomery, City Administrator
Ms. Susan Hensley – City of Montgomery, City Secretary
Mr. Larry Foerster – Darden, Fowler & Creighton, LLP, City Attorney

ORDINANCE NO. _____

AN ORDINANCE BY THE CITY OF MONTGOMERY, TEXAS, AMENDING SECTION 78-129, ENTITLED "SIDEWALKS," OF CHAPTER 78, "SUBDIVISIONS," OF THE CITY CODE OF ORDINANCES, REGARDING REGULATIONS OF DESIGN AND INSTALLATION OF SIDEWALKS IN THE CITY; PROVIDING SAVINGS AND REPEALING CLAUSES; PROVIDING A TEXAS OPEN MEETINGS ACT CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council in the interest of pedestrian safety and maintaining the appearance of the City finds that it is in the best interest of the citizens of Montgomery that there be regulations and restrictions on the design and installation of sidewalks within the City; and

WHEREAS, the City Council finds it is in the best interest of the citizens of the City that Chapter 78, "SUBDIVISIONS," Section 78-129, entitled "~~Signs,~~" of the Montgomery City Code of Ordinances ("Code") be amended as set out below; *Sidewalks*

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

SECTION ONE: FINDINGS OF FACT. The City Council adopts the recitals above as true and correct findings of fact.

SECTION TWO: AMENDING SIGN ORDINANCE. Section 78-129, entitled "Sidewalks," of the Code is hereby amended by adding additional design and installation requirements so that it reads as follow:

Section 78-129. Sidewalks

- a) Sidewalks shall comply with applicable state and/or federal accessibility standards and have design approval from the state and city where applicable.
- b) Sidewalks must be installed along all new and existing ~~collector streets or major thoroughfares~~. Sidewalks are to be provided by the developer of any development or redevelopment of a property within the City. Development on property with an Industrial zoning or on property located within the Historic District will be evaluated on a case-by-case basis, and a decision from the City regarding the need for sidewalks will be provided in writing.
- c) Sidewalks, including wheel chair ramps and curb cuts, must be designed and installed in accordance with the city's approved standards and specifications as

listed in the City of Montgomery Design Criteria Manual, as well as standards applicable under the Texas Architectural Barriers Removal Act and the Federal Americans With Disabilities Act. Sidewalks must be shown on construction plans and must be approved by the City Engineer.

- d) Sidewalks must be provided on both sides of the street; however, no developer shall be required to install sidewalks upon any side of the street which does not abut the subdivision.
- e) Sidewalks are not required within urban estate subdivisions.
- f) Sidewalks must be inspected and approved by the City of Montgomery building inspector at the time of construction completion.

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

SECTION FOUR: REPEALING CLAUSE. Any provisions in other City ordinances that are in conflict with this Ordinance are hereby repealed.

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

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

SECTION SEVEN: EFFECTIVE DATE. The effective date of this Ordinance shall be upon its passage and publication as provided by law.

PASSED AND APPROVE this _____ day of _____, 2018.

Sara Countryman, Mayor

ATTEST:

Susan Hensley, City Secretary

APPROVED AS TO FORM:

Larry L. Foerster, City Attorney

Montgomery City Council
AGENDA REPORT

Meeting Date: May 29, 2018	Budgeted Amount:
Prepared By: Jack Yates City Administrator	Exhibits: Memo and supporting information regarding backflow prevention, A backflow prevention proposed ordinance
Date Prepared: May 22, 2018	

Subject

Backflow prevention is the technology that prevents water to backflow from a private/contaminated use (such as after the water is past the meter into a house or into an irrigation system) to flow back into the public water system that can cause bacteria to contaminate the public water system- causing possible serious health issues or at least a bad water sample that could cause a boil order for a part of or the entire system.

This is the initial report of a fairly complex issue that is part following state law regarding steps the city can require to prevent backflow contamination of the water system.

Description

As shown in the information provided, backflow prevention is important to operating a safe system for the public. Some of the proposal is law to follow and some is good management of the system.

I need to review it more myself to recommend how to implement the program to the public.

Recommendation

This is an item that perhaps is not a Planning Commission appropriate item, but I wanted to let you know about it and comment if you think appropriate.

Montgomery City Council
AGENDA REPORT

Approved By		
City Administrator	Jack Yates	Date: May 22, 2018



1575 Sawdust Road, Suite 400
The Woodlands, Texas 77380-3795
Tel: 281.363.4039
Fax: 281.363.3459
www.jonescarter.com

May 17, 2018

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

Re: Proposed Backflow Prevention Ordinance
The City of Montgomery

Dear Mayor and Council:

Over the last several months we have worked with Public Works and Gulf Utilities to prepare an ordinance mandating the installation and annual testing of backflow prevention assemblies for certain customers. A backflow prevention assembly is commonly required by a municipality to be installed at each user that is determined to be a "high health hazard" per Texas Administrative Code 290.44(h) in the interest of protecting the public water supply from potential sources of contamination. Examples of a "high health hazard" user include restaurants, car washes, auto repair shops, swimming pools, and doctor's offices. An excerpt of the referenced code and a listing of "high health hazard" users is included in your meeting packets.

While the City has not experienced a contamination issue in the recent past, the proposed ordinance is commonly accepted by municipalities as a proactive method of protecting the public water supply from potential contamination. Contamination, in general, is not a common occurrence, but can easily happen in the event of a loss of pressure within the water distribution system or in the event of greater water pressure on private property than is distributed in the public water supply. We recommend mandating the installation and annual testing of a backflow prevention assembly by all "high health hazard" users, as defined in TAC 290.44(h).

Currently, the City's Code of Ordinances does not specifically require a backflow prevention assembly to be installed at the point of connection for commercial users; however, over the past few years, commercial users within the City have been required to install a backflow prevention assembly. The proposed ordinance will require certain existing customers and future customers to install and begin annual testing and certification of backflow prevention assemblies, and establishes appropriate fees for installation, testing, and certification services if provided by the City. The backflow prevention assembly is installed on the private service line just behind the meter, and is the property of the private property owner. As detailed in the proposed ordinance, all installation, testing, and maintenance fees are the responsibility of the property owner, and will not be borne by the City. If testing and installation services are provided by the City, the cost of such services will be included on the customer's next water bill to reimburse the City.



We have also worked with Public Works to determine which existing customers within the City would be required to have a backflow prevention assembly but do not currently have one. We identified 65 customers that do not currently have a backflow prevention assembly and will be required to install and begin annual testing and certification of an assembly. Based on estimates provided by Gulf Utilities, the average expense to install an appropriate backflow prevention assembly is approximately \$1,000 per connection, and the average expense for annual testing and certification is approximately \$80 per assembly. Enclosed in your meeting packets is a sample notice that will be sent to each applicable user, explaining the need for such an assembly to be installed.

Enclosed in your meeting packets you will find a draft copy of an ordinance prepared by the City Attorney to formally adopt the requirements. As always, should you have any questions or need additional information, please do not hesitate to contact us.

Sincerely,

Chris Roznovsky, PE
Engineer for the City

CVR/kmv

K:\W5841\W5841-0900-00 General Consultation\Correspondence\Letters\2018\MEMO to Council RE Backflow Prevention Ordinance.doc

Enc: Texas Administrative Code 290.44 (h)
SAMPLE Backflow Prevention Assembly Requirement Notice
DRAFT Backflow Prevention Ordinance

Cc (via email): The Planning and Zoning Commission – The City of Montgomery
Mr. Jack Yates – City of Montgomery, City Administrator
Ms. Susan Hensley – City of Montgomery, City Secretary
Mr. Larry Foerster – Darden, Fowler & Creighton, LLP, City Attorney

Appendix E: Rules Related to Cross-Connection Control and Backflow Prevention

The following rules have been extracted from the TAC and reformatted for ease of use. In the case of any discrepancy between this guide and the rules published at the Texas Secretary of State's website <www.sos.state.tx.us>, the SOS site shall apply.

§290.38. Definitions

The following words and terms, when used in this chapter shall have the following meanings, unless the context clearly indicates otherwise. If a word or term used in this chapter is not contained in the following list, its definition shall be as shown in Title 40 Code of Federal Regulations (CFR) §141.2. Other technical terms used shall have the meanings or definitions listed in the latest edition of *The Drinking Water Dictionary*, prepared by the American Water Works Association.

§290.38(2) Air gap—The unobstructed vertical distance through the free atmosphere between the lowest opening from any pipe or faucet conveying water to a tank, fixture, receptor, sink, or other assembly and the flood level rim of the receptacle. The vertical, physical separation must be at least twice the diameter of the water supply outlet, but never less than 1.0 inch.

...

§290.38(16) Contamination—The presence of any foreign substance (organic, inorganic, radiological or biological) in water which tends to degrade its quality so as to constitute a health hazard or impair the usefulness of the water.

§290.38(17) Cross-connection—A physical connection between a public water system and either another supply of unknown or questionable quality, any source which may contain contaminating or polluting substances, or any source of water treated to a lesser degree in the treatment process.

...

§290.38(20) Disinfection—A process which inactivates pathogenic organisms in the water by chemical oxidants or equivalent agents.

§290.38(21) Distribution system—A system of pipes that conveys potable water from a treatment plant to the consumers. The term includes pump stations, ground and elevated storage tanks, potable water mains, and potable water service lines and all associated valves, fittings, and meters, but excludes potable water customer service lines.

§290.38(22) Drinking water—All water distributed by any agency or individual, public or private, for the purpose of human consumption or which may be used in the preparation of foods or beverages or for the cleaning of any utensil or article used in the course of preparation or consumption of food or beverages for human beings. The term "Drinking Water" shall also include

all water supplied for human consumption or used by any institution catering to the public.

§290.38(23) Drinking water standards—The commission rules covering drinking water standards in Subchapter F of this chapter (relating to Drinking Water Standards Governing Drinking Water Quality and Reporting Requirements for Public Water Systems).

...

§290.38(31) Health hazard—A cross-connection, potential contamination hazard, or other situation involving any substance that can cause death, illness, spread of disease, or has a high probability of causing such effects if introduced into the potable drinking water supply.

§290.38(32) Human consumption—Uses by humans in which water can be ingested into or absorbed by the human body. Examples of these uses include, but are not limited to drinking, cooking, brushing teeth, bathing, washing hands, washing dishes, and preparing foods.

...

§290.38(53) Nonhealth hazard—A cross-connection, potential contamination hazard, or other situation involving any substance that generally will not be a health hazard, but will constitute a nuisance, or be aesthetically objectionable, if introduced into the public water supply.

...

§290.38(57) Plumbing inspector—Any person employed by a political subdivision for the purpose of inspecting plumbing work and installations in connection with health and safety laws and ordinances, who has no financial or advisory interest in any plumbing company, and who has successfully fulfilled the examinations and requirements of the Texas State Board of Plumbing Examiners.

§290.38(58) Plumbing ordinance—A set of rules governing plumbing practices which is at least as stringent and comprehensive as one of the following nationally recognized codes:

§290.38(58)(A) the International Plumbing Code; or

§290.38(58)(B) the Uniform Plumbing Code.

§290.38(59) Potable water customer service line—The sections of potable water pipe between the customer's meter and the customer's point of use.

§290.38(60) Potable water service line—The section of pipe between the potable water main to the customer's side of the water meter. In cases where no customer water meter exists, it is the section of pipe that is under the ownership and control of the public water system.

§290.38(61) Potable water main—A pipe or enclosed constructed conveyance operated by a public water system which is used for the transmission or distribution of drinking water to a potable water service line.

§290.38(62) Potential contamination hazard—A condition which, by its location, piping or configuration, has a reasonable probability of being used incorrectly, through carelessness, ignorance, or negligence, to create or cause to be created a backflow condition by which contamination can be introduced into the water supply. Examples of potential contamination hazards are:

§290.38(62)(A) bypass arrangements;

§290.38(62)(B) jumper connections;

§290.38(62)(C) removable sections or spools; and

§290.38(62)(D) swivel or changeover assemblies.

...

§290.38(73) Service line—A pipe connecting the utility service provider's main and the water meter, or for wastewater, connecting the main and the point at which the customer's service line is connected, generally at the customer's property line.

§290.42. Water Treatment

§290.42(d)(2) All plant piping shall be constructed so as to be thoroughly tight against leakage. No cross-connection or interconnection shall be permitted to exist in a filtration plant between a conduit carrying filtered or post-chlorinated water and another conduit carrying raw water or water in any prior stage of treatment.

§290.42(d)(2)(A) Vacuum breakers must be provided on each hose bibb within the plant facility.

§290.42(d)(2)(B) No conduit or basin containing raw water or any water in a prior stage of treatment shall be located directly above, or be permitted to have a single common partition wall with another conduit or basin containing finished water.

§290.42(d)(2)(C) Make-up water supply lines to chemical feeder solution mixing chambers shall be provided with an air gap or other acceptable backflow prevention device.

§290.42(d)(2)(D) Filters shall be located so that common walls will not exist between them and aerators, mixing and sedimentation basins or clearwells. This rule is not strictly applicable, however, to partitions open to view and readily accessible for inspection and repair.

§290.42(d)(2)(E) Filter-to-waste connections, if included, shall be provided with an air gap connection to waste.

§290.42(d)(2)(F) Air release devices on treated waterlines shall be installed in such a manner as to preclude the possibility of submergence or possible entrance of contaminants. In this respect, all openings to the atmosphere shall be covered with 16-mesh or finer corrosion-resistant screening material or an equivalent acceptable to the executive director.

§290.42(d)(11)(F)(vi) When used, surface filter wash systems shall be installed with an atmospheric vacuum breaker or a reduced pressure principle backflow assembly in the supply line. If an atmospheric vacuum breaker is used it shall be installed in a section of the supply line through which all the water passes and which is located above the overflow level of the filter.

§290.42(d)(13)(A) A plant that is built or repainted after October 1, 2000 must use the following color code. The color code to be used in labeling pipes is as follows:

Letters	Color of Pipe
Potable Water	Light Blue
Compressed Air	Light Green
Instrument Air	Light Green with Dark Green Bands
Chlorine (gas, liquid, or vent)	Yellow
Chlorine (solution)	Yellow with Red Bands
Liquid Alum	Yellow with Orange Bands
Alum (solution)	Yellow with Green Bands
Ammonia	Yellow with Brown Bands
Chlorine Dioxide (solution)	Yellow with Blue Bands
Ferric chloride	Brown with Red Bands
Ferric sulfate	Brown with Yellow Bands
Polymers	White with Green Bands
Liquid caustic	White with Red Bands
Caustic (solution)	White with Orange Bands
Fluoride	White with Yellow Bands
Ozone	Stainless Steel with White Bands
Settled Water	Green
Filter Effluent	Light Blue
Backwash Supply	Light Blue
Backwash Waste	Dark Gray
Drain	Dark Gray
Raw Water	Tan

§290.42(d)(13)(B) A plant that was repainted before October 1, 2000 may use an alternate color code. The alternate color code must provide clear visual distinction between process streams.

§290.42(d)(13)(C) The system must maintain clear, current documentation of its color code in a location easily accessed by all personnel.

§290.43. Water Storage.

§290.43(c)(7) Each clearwell or potable water storage tank shall be provided with a means of removing accumulated silt and deposits at all low points in the bottom of the tank. Drains shall not be connected to any waste or sewage disposal system and shall be constructed so that they are not a potential agent in the contamination of the stored water.

§290.43(c)(9) No tanks or containers shall be used to store potable water that have previously been used for any non-potable purpose. Where a used tank is proposed for use, a letter from the previous owner or owners must be submitted to the Commission which states the use of the tank.

§290.44. Water Distribution.

§290.44(b) Lead ban. The following provisions apply to the use of lead in plumbing.

§290.44(b)(1) The use of pipes and pipe fittings that contain more than 0.25% lead or solders and flux that contains more than 0.2% lead is prohibited in the following circumstances:

§290.44(b)(1)(A) for installation or repair of any public water supply; and

§290.44(b)(1)(B) for installation or repair of any plumbing in a residential or nonresidential facility providing water for human consumption and connected to a public drinking water supply system.

§290.44(b)(2) This requirement will be waived for lead joints that are necessary for repairs to cast iron pipe.

...

§290.44(h) Backflow, siphonage.

§290.44(h)(1) No water connection from any public drinking water supply system shall be allowed to any residence or establishment where an actual or potential contamination hazard exists unless the public water facilities are protected from contamination.

§290.44(h)(1)(A) At any residence or establishment where an actual or potential contamination hazard exists, additional protection shall be required at the meter in the form of an air gap or backflow prevention assembly. The type of backflow prevention assembly required shall be determined by the specific potential hazard identified in §290.47(i) of this title (relating to Appendices).

§290.44(h)(1)(B) At any residence or establishment where an actual or potential contamination hazard exists and an adequate internal cross-connection control program is in effect, backflow protection at the water service entrance or meter is not required.

§290.44(h)(1)(B)(i) An adequate internal cross-connection control program shall include an annual inspection and testing by a certified backflow prevention assembly tester on all backflow prevention assemblies used for health hazard protection.

§290.44(h)(1)(B)(ii) Copies of all such inspection and test reports must be obtained and kept on file by the water purveyor.

§290.44(h)(1)(B)(iii) It will be the responsibility of the water purveyor to ensure that these requirements are met.

§290.44(h)(2) No water connection from any public drinking water supply system shall be connected to any condensing, cooling, or industrial process or any other system of nonpotable usage over which the public water supply system officials do not have sanitary control, unless the said connection is made in accordance with the requirements of paragraph (1) of this subsection. Water from such systems cannot be returned to the potable water supply.

§290.44(h)(3) Overhead bulk water dispensing stations must be provided with an air gap between the filling outlet hose and the receiving tank to protect against back siphonage and cross-contamination.

§290.44(h)(4) All backflow prevention assemblies that are required according to this section and associated table located in §290.47(i) of this title shall be tested upon installation by a recognized backflow prevention assembly tester and certified to be operating within specifications. Backflow prevention assemblies which are installed to provide protection against health hazards must also be tested and certified to be operating within specifications at least annually by a recognized backflow prevention assembly tester.

§290.44(h)(4)(A) Recognized backflow prevention assembly testers shall have completed an executive director approved course on cross-connection control and backflow prevention assembly testing, pass an examination administered by the executive director, and hold a current license as a backflow prevention assembly tester.

§290.44(h)(4)(A)(i) Backflow prevention assembly testers are qualified to test and repair assemblies on any domestic, commercial, industrial, or irrigation service.

§290.44(h)(4)(A)(ii) Backflow prevention assembly testers may test and repair assemblies on firelines only if they are permanently employed by an Approved Fireline Contractor. The State Fire Marshal's office requires that any person performing maintenance on firelines must be employed by an Approved Fireline Contractor.

§290.44(h)(4)(B) Gauges used in the testing of backflow prevention assemblies shall be tested for accuracy annually in accordance with the University of Southern California's Manual of Cross-Connection Control or the American Water Works Association Recommended Practice for Backflow

Prevention and Cross-Connection Control (Manual M14). Public water systems shall require testers to include test gauge serial numbers on "Test and Maintenance" report forms and ensure testers have gauges tested for accuracy.

§290.44(h)(4)(C) A test report must be completed by the recognized backflow prevention assembly tester for each assembly tested. The signed and dated original must be submitted to the public water supplier for recordkeeping purposes. Any form which varies from the format specified in commission Form No. 20700 must be approved by the executive director prior to being placed in use.

§290.44(h)(5) The use of a backflow prevention assembly at the service connection shall be considered as additional backflow protection and shall not negate the use of backflow protection on internal hazards as outlined and enforced by local plumbing codes.

§290.44(h)(6) At any residence or establishment where there is no actual or potential contamination hazard, a backflow prevention assembly is not required.

...

§290.44(i) Water hauling. When drinking water is distributed by tank truck or trailer, it must be accomplished in the following manner.

...

§290.44(i)(2)(E) Connections for filling and emptying the tank shall be properly protected to prevent the possible entrance of contamination. These openings must be provided with caps and keeper chains.

...

§290.44(j) If a structure is connected to a public water supply system and has a rainwater harvesting system, the structure must have appropriate cross-connection safeguards in accordance with subsection (h)(1) of this section.

§290.44(j)(1) A privately owned rainwater harvesting system with a capacity of more than 500 gallons that is connected to a public water system for a back-up supply shall have a backflow prevention assembly or an air gap installed at the storage facility for the harvested rainwater to ensure physical separation between the rainwater harvesting system and the public water system.

§290.44(j)(2) At each residence or facility where water from a rainwater harvesting system is used for potable purposes and there is a connection to a public water system, the public water system shall ensure that the rainwater harvesting system is installed and maintained by a master plumber or journeyman plumber licensed by the Texas State Board of Plumbing Examiners and who holds an endorsement issued by the Texas State Board of Plumbing Examiners as a Water Supply Protection Specialist.

§290.44(j)(3) A person who intends to connect a rainwater harvesting system to a public water system must give written notice of that intention to the municipality or the owner or operator of the public water system in which the rainwater harvesting system is located.

§290.44(j)(4) The public water system used as a back-up supply for the rainwater harvesting system may be connected only to the water storage tank and may not be connected to the plumbing of a structure.

§290.46. Minimum Acceptable Operating Practices for Public Drinking Water Systems

§290.46(f)(3) All public water systems shall maintain a record of operations.

...

§290.46(f)(3)(B) The following records shall be retained for at least three years: ...

§290.46(f)(3)(B)(v) the records of backflow prevention device programs; ...

§290.46(f)(3)(E) The following records shall be retained for at least ten years: ...

§290.46(f)(3)(E)(iv) copies of the Customer Service Inspection reports required by subsection (j) of this section; ...

[CSI Certificate retention: The CSI Certificate requires that it be retained permanently, whereas the rule references 10 years; therefore, a discrepancy exists. The TCEQ recommends that CSI Reports be retained permanently, as long as the inspected facility is in existence.]

...

§290.46(i) Plumbing ordinance. Public water systems must adopt an adequate plumbing ordinance, regulations, or service agreement with provisions for proper enforcement to insure that neither cross-connections nor other unacceptable plumbing practices are permitted (See §290.47(b) of this title (relating to Appendices)). Should sanitary control of the distribution system not reside with the purveyor, the entity retaining sanitary control shall be responsible for establishing and enforcing adequate regulations in this regard. The use of pipes and pipe fittings that contain more than 0.25% lead or solders and flux that contain more than 0.2% lead is prohibited for installation or repair of any public water supply and for installation or repair of any plumbing in a residential or nonresidential facility providing water for human consumption and connected to a public drinking water supply system. This requirement may be waived for lead joints that are necessary for repairs to cast iron pipe.

§290.46(j) Customer service inspections. A customer service inspection certificate shall be completed prior to providing continuous water service to new construction, on any existing service either when the water purveyor has reason to believe that cross-connections

or other potential contaminant hazards exist, or after any material improvement, correction, or addition to the private water distribution facilities. Any customer service inspection certificate form which varies from the format found in commission Form No. 20699 must be approved by the executive director prior to being placed in use.

§290.46(j)(1) Individuals with the following credentials shall be recognized as capable of conducting a customer service inspection certification.

§290.46(j)(1)(A) Plumbing Inspectors and Water Supply Protection Specialists licensed by the Texas State Board of Plumbing Examiners (TSBPE).

§290.46(j)(1)(B) Customer service inspectors who have completed a commission-approved course, passed an examination administered by the executive director, and hold current professional license as a customer service inspector.

§290.46(j)(2) As potential contaminant hazards are discovered, they shall be promptly eliminated to prevent possible contamination of the water supplied by the public water system. The existence of a health hazard, as identified in §290.47(i) of this title, shall be considered sufficient grounds for immediate termination of water service. Service can be restored only when the health hazard no longer exists, or until the health hazard has been isolated from the public water system in accordance with §290.44(h) of this title (relating to Water Distribution).

§290.46(j)(3) These customer service inspection requirements are not considered acceptable substitutes for and shall not apply to the sanitary control requirements stated in §290.102(a)(5) of this title (relating to General Applicability).

§290.46(k) Interconnection. No physical connection between the distribution system of a public drinking water supply and that of any other water supply shall be permitted unless the other water supply is of a safe, sanitary quality and the interconnection is approved by the executive director.

Appendix F: Assessment of Hazard and Selection of Assemblies [from 30 TAC 290.47(f)]

The following table lists many common hazards. It is not an all-inclusive list of the hazards that may be found connected to public water systems.

Premises Isolation: Description of Premises	Assessment of Hazard	Required Assembly
Aircraft and missile plants	Health	RPBA or AG
Animal feedlots	Health	RPBA or AG
Automotive plants	Health	RPBA or AG
Breweries	Health	RPBA or AG
Canneries, packing houses and rendering plants	Health	RPBA or AG
Commercial car wash facilities	Health	RPBA or AG
Commercial laundries	Health	RPBA or AG
Cold storage facilities	Health	RPBA or AG
Connection to sewer pipe	Health	AG
Dairies	Health	RPBA or AG
Docks and dockside facilities	Health	RPBA or AG
Dye works	Health	RPBA or AG
Food and beverage processing plants	Health	RPBA or AG
Hospitals, morgues, mortuaries, medical clinics, dental clinics, veterinary clinics, autopsy facilities, sanitariums, and medical labs	Health	RPBA or AG
Metal manufacturing, cleaning, processing, and fabrication plants	Health	RPBA or AG
Microchip fabrication facilities	Health	RPBA or AG
Paper and paper products plants	Health	RPBA or AG
Petroleum processing or storage facilities	Health	RPBA or AG
Photo and film processing labs	Health	RPBA or AG
Plants using radioactive material	Health	RPBA or AG
Plating or chemical plants	Health	RPBA or AG
Pleasure-boat marinas	Health	RPBA or AG
Private/Individual/Unmonitored Wells	Health	RPBA or AG
Reclaimed water systems	Health	RPBA or AG
Restricted, classified or other closed facilities	Health	RPBA or AG
Rubber plants	Health	RPBA or AG
Sewage lift stations	Health	RPBA or AG
Sewage treatment plants	Health	RPBA or AG
Slaughter houses	Health	RPBA or AG
Steam plants	Health	RPBA or AG
Tall buildings or elevation differences where the highest outlet is 80 feet or more above the meter	Nonhealth	DCVA

Internal Protection: Description of Cross Connection	Assessment of Hazard	Required Assembly
Aspirators	Nonhealth†	AVB
Aspirator (medical)	Health	AVB or PVB
Autoclaves	Health	RPBA
Autopsy and mortuary equipment	Health	AVB or PVB
Bedpan washers	Health	AVB or PVB
Connection to industrial fluid systems	Health	RPBA
Connection to plating tanks	Health	RPBA
Connection to salt-water cooling systems	Health	RPBA
Connection to sewer pipe	Health	AG
Cooling towers with chemical additives	Health	AG
Cuspidors	Health	AVB or PVB
Degreasing equipment	Nonhealth†	DCVA
Domestic space-heating boiler	Nonhealth†	RPBA
Dye vats or machines	Health	RPBA
Fire-fighting system (toxic liquid foam concentrates)	Health	RPBA
Flexible shower heads	Nonhealth†	AVB or PVB
Heating equipment		
Commercial	Nonhealth†	RPBA
Domestic	Nonhealth†	DCVA
Hose bibbs	Nonhealth†	AVB
Irrigation systems		
with chemical additives	Health	RPBA
without chemical additives	Nonhealth†	DCVA, AVB, or PVB
Kitchen equipment—Commercial	Nonhealth†	AVB
Lab bench equipment	Health or Nonhealth†	AVB or PVB
Ornamental fountains	Health	AVB or PVB
Swimming pools		
Private	Nonhealth†	PVB or AG
Public	Nonhealth†	RPBA or AG
Sewage pump	Health	AG
Sewage ejectors	Health	AG
Shampoo basins	Nonhealth†	AVB
Specimen tanks	Health	AVB or PVB
Steam generators	Nonhealth†	RPBA
Steam tables	Nonhealth†	AVB
Sterilizers	Health	RPBA
Tank vats or other vessels containing toxic substances	Health	RPBA
Trap primers	Health	AG
Vending machines	Nonhealth†	RPBA or PVB
Watering troughs	Health	AG or PVB

NOTE: AG = air gap; AVB = atmospheric vacuum breaker; DCVA = double check valve backflow prevention assembly; PVB = pressure vacuum breaker; RPBA = reduced-pressure principle backflow prevention assembly

AVBs and PVBs may be used to isolate health hazards under certain conditions, that is, back-siphonage situations. Additional area of premises isolation may be required.

†Where a greater hazard exists (due to toxicity or other potential health impact) additional area protection with RPBA is required.



City of Montgomery

Backflow Prevention Assembly Requirements

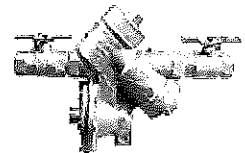
WHAT IS BACKFLOW?

In potable water supply systems, significant pressure is normally maintained to keep water flowing within the system which includes taps, showers or other internal fixtures. Maintaining pressure is critical for consistent water flow, but it is also important to prevent infiltration into the system. Water pressure may drop or fail when a water main breaks, pipes freeze or when there is unexpected high demand. For example, pressure may fluctuate when several fire hydrants are opened at the same time. Reduced pressure in the pipe may allow contaminated water from the soil, from a "cross-connection," or from other sources into the water system.

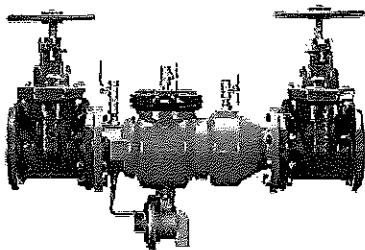
Points where a potable water system connects with a non-potable water system are called cross-connections. Cross-connections are household appliances such as washing machines and dishwashers. Appliances are normally designed and installed to prevent backwash or backflow. Another potential source of contamination would be an irrigation system.

WHAT IS A BACKFLOW PREVENTER?

A backflow preventer does exactly what it sounds like. It prevents the backflow of water from our homes and businesses from returning into the main water system. One way to provide backflow prevention is to provide an air gap. An air gap is simply an open vertical space between any device that connects to a plumbing system like a valve or a faucet or any place where contaminated water can collect or pool. For instance, many plumbing codes specify a minimum air gap distance for the drain connection to a dishwasher.



Backflow devices are used where there is not sufficient vertical clearance or physical space to install an air gap or when pressurized operation or other issues eliminate the use of an air gap. Because the devices have valves with moving parts, they are required to be inspected or tested periodically. If you have an irrigation system for your landscaping, you are familiar with the upside down U shaped device with the metal bell-like object on the top. That is your backflow preventer for your irrigation system.



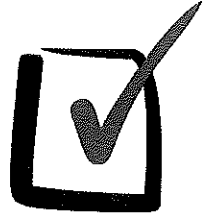
The Texas Commission on Environmental Quality (TCEQ) has specific requirements for the type of backflow prevention assembly to be installed, depending on the type of service your business or establishment provides. These guidelines, listed in Texas Administrative Code 290.44(h), serve as minimum requirements for the City to follow. The City may require a more stringent method of backflow prevention be installed, as deemed necessary.

WHAT THE CITY DOES FOR YOU REGARDING BACKFLOW PREVENTERS

Our job is to make sure that backflow preventers are installed on commercial buildings and irrigation systems. When a commercial establishment is built, the City of Montgomery is responsible for ensuring the appropriate backflow prevention assembly is installed, tested, and certified.

If there is a backflow preventer installed on one of the commercial customers in the City, we will test it annually. Records on all backflow preventers are kept for three years. A licensed plumber or a licensed irrigator can install a backflow preventer, or the device can be installed by Public Works.

If a licensed third party inspector is used to perform the inspection, a copy of the approved inspection form must be submitted to the City of Montgomery Public Works for filing. Only a certified, licensed backflow preventer inspector can inspect a backflow preventer. Classes must be completed and a license must be issued by TCEQ to become a certified backflow preventer and assembly inspector. A license must be renewed thereafter. It is the responsibility of the commercial user to ensure that the backflow preventer is operational at all times and that they are tested annually.



WHAT IS REQUIRED OF ME?

The City of Montgomery City Council adopted Ordinance No. _____ on _____, 2018, which requires the installation a backflow prevention assembly at certain points of connection to the system. You are receiving this newsletter because you have been identified as a potential "high health hazard" user, as defined in TAC 290.44(h).

Per Ordinance No. _____, you are required to install a [insert backflow prevention device type] on your private water service line, immediately following the water meter. The City will perform annual testing on your device, and a fee will be placed on your water bill to cover the testing expenses. You will be responsible for all maintenance and repairs to the device. All maintenance performed on your backflow prevention assembly must be completed by a licensed backflow preventer inspector. The City of Montgomery Public Works Department can also provide these services, and will include the cost to do so in your water bill.

CONTACT INFORMATION

We thank you for your cooperation to help protect the public water supply of the City of Montgomery. If you have any questions or would like to discuss how to install a backflow prevention assembly, please do not hesitate to contact Mike Muckleroy, Director of Public Works, at (936) 597-6434 or by email at mmuckleroy@ci.montgomery.tx.us.



ORDINANCE _____

AN ORDINANCE OF THE CITY OF MONTGOMERY, TEXAS, REGARDING PUBLIC WATER SYSTEM BACKFLOW ASSEMBLY PREVENTION REQUIREMENTS FOR CERTAIN ESTABLISHMENTS IN THE CITY OF MONTGOMERY, TEXAS; ADDING NEW DIVISION VI, TO ARTICLE II, ENTITLED "BACKFLOW PREVENTION," TO CITY CODE OF ORDINANCES CHAPTER 90, ENTITLED "UTILITIES;" PROVIDING THE PURPOSE AND REGULATIONS FOR NEW AND EXISTING WATER CONNECTIONS; REQUIRING ANNUAL TESTING; PROVIDING A PENALTY CLAUSE FOR VIOLATING THE ORDINANCE; PROVIDING SEVERABILITY CLAUSE AND TEXAS OPEN MEETINGS ACT CLAUSE; AND PROVIDING AN EFFECTIVE DATE UPON PUBLICATION.

WHEREAS, the Texas Commission on Environmental Quality ("TCEQ") has issued a requirement in Section 290.44, "Water Distribution," of the Texas Administrative Code for backflow prevention assemblies to protect public water facilities from contamination; and

WHEREAS, the City Council for the City of Montgomery, Texas, desires to provide reasonable regulations concerning backflow prevention which will safeguard the public health, safety and general welfare of the City and its residents from contaminated public water;

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

SECTION I. AMENDMENTS TO CITY CODE

The City Code of Ordinances is hereby amended to add Division VI, "Backflow Prevention," to Article II, entitled "WATER AND SEWER SERVICE," of Chapter 90, "UTILITIES," to read as follows:

Division VI – BACKFLOW PREVENTION

Sec. 90-351- Purpose.

The purpose of this article is to:

1. Require the installation and annual testing of backflow prevention assemblies that will protect and ensure the quality of the City's potable public water system as required by the TCEQ in Section 290.44 (h) of the Texas Administrative Code.
2. Protect the public health, safety and general welfare.

Sec. 90-352 – Applicability

- a) This article applies to all connections that can be identified as potential health hazards, including all strip centers, establishments that prepare and/or sell food, auto repair and parts shops, industrial or manufacturing establishments, apartment buildings, irrigation systems, and as otherwise determined by the City Engineer.

Sec. 90-353 - New Connections - Initial Testing and Certification

- a) Irrigation systems will require a pressure vacuum breaker be installed immediately after the water meter.
- b) Domestic water connections will require a reduced pressure zone backflow prevention assembly to be installed immediately after the water meter.
- c) Fire water connections will require a double detector check backflow prevention assembly installed immediately after the connection to the public waterline.
- d) Customer shall be responsible for the initial installation and testing of all backflow prevention assemblies.
- e) Testing and certification must be completed within 7 days of the physical connection to the City's water system being made.
- f) Customers must submit a test report, completed by a licensed tester, to the City of Montgomery Public Works Director within seven (7) days of completing the test.

Sec. 90-354 - Existing Connections - Initial Testing and Certification

- a) Domestic water connections will require a reduced pressure zone backflow prevention assembly to be installed immediately after the water meter.
- b) Fire water connections will require a double detector check backflow prevention assembly installed immediately after the connection to the public waterline.
- c) Customers shall be notified by the City in writing that they are required to install an appropriate backflow prevention assembly within 90 days of the letter. If the

customer does not comply the City will install the backflow prevention assembly and back-charge the customer for the installation.

- d) After installation, testing and certification must be completed within 7 days at the expense of the Customer.
- e) Customers must submit the Test Report, completed by a licensed tester, to the City of Montgomery Public Works Director within seven (7) days of completing the test.

Sec. 90-355 - Annual Testing and Certification

- a) The City will have all backflow prevention assemblies tested and certified on an annual basis.
- b) The City will keep records of all certifications.
- c) A fee will be placed on the Customer's water bill during the month the testing is completed to cover the cost of the test and certification.
- d) If a Customer's backflow prevention assembly fails the test, the Customer will be notified that repairs are required and will be given 30 days to complete the repairs.
- e) After 30 days, the City will retest the backflow prevention assembly and a penalty fee will be placed on the Customer's water bill.
- f) If a Customer's backflow prevention assembly fails a second time, the Customer will be notified and given 7 days to complete the repairs. The City will retest the backflow prevention assembly and the corresponding fee will be placed on the Customer's water bill during the month the testing is completed.
- g) After a third failure, the City will cause the repairs to be made and the Customer will be charged the cost of the repairs plus 200%. The Customer will also be charged for an additional testing fee, to be placed on the Customer's water bill during the month the repairs and testing are completed.
- h) Any fees listed in this section shall be based on the most current revision of the Fee Schedule Resolution approved by the City of Montgomery City Council.

Section 90-356 – Criminal Penalty

Anyone charged with negligently, recklessly, knowingly, or intentionally violating any provisions of this Ordinance shall be fined by a penalty of not more than \$500, as provided for in Section 1-13 of the Code of Ordinances of the City of Montgomery. Each day that such violation continues shall constitute a separate offense and shall be punishable accordingly.

SECTION II –CODIFICATION OF THIS ORDINANCE

Whenever any provision of this Ordinance provides for the amendment of the Code of Ordinances of the City of Montgomery, Texas, such provision shall be liberally construed to provide for the

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

SECTION III. SEVERABILITY CLAUSE.

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

SECTION IV. TEXAS OPEN MEETINGS ACT.

It is hereby officially found and determined that the meeting at which this Ordinance was considered was open to the public as required and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Chapter 155, of the Texas Government Code.

SECTION V. EFFECTIVE DATE.

This Ordinance shall take effect and be in force immediately after its publication as provided by law.

PASSED AND APPROVED by the City Council of the City of Montgomery, Texas, on the _____ day of _____, 2018.

THE CITY OF MONTGOMERY, TEXAS

Kirk Jones, Mayor

ATTEST:

Susan Hensley, City Secretary

APPROVED AS TO FORM:

Larry L. Foerster, City Attorney