

Montgomery City Council
AGENDA REPORT

Meeting Date: April 13, 2021	Budgeted Amount: N/A
Prepared By: Dave McCorquodale	Exhibits: Request letter from developer; City letter granting exemption; City Council minutes of Dec. 16, 2014; letter to Summit Universal, LP related to a recent building permit application

Subject

Consideration and possible action regarding a building permit plan review fee exemption for Summit Universal, LP.

Description

In 2014, the developer of Summit Business Park requested an exemption to plan review fees for their development. After considering the matter, City Council granted the request. Details of the request can be found in the attached letters, and a summary is as follows:

Development plans called for a total of 17 buildings using 3 building designs:

- 8 identical office buildings (Type A)
- 5 identical office/warehouse buildings (Type B)
- 4 identical office/warehouse buildings (Type C)

The developer proposed to pay the adopted plan review fees for the first of each building type and then would be charged actual cost for the remaining 14 buildings. The premise of the request was that the development would be built out on a rapid timeline and that the City Building Official would not need to conduct a thorough review of each building since they would be identical to a recent submittal.

Currently, the development is approximately 50% built out. Additionally, the City updated its building codes in 2019. The extended build out timeline of the development coupled with updated building codes has created a situation where staff cannot adhere to both the adopted City building codes and the plan review fee exemption granted by City Council in 2014.

This is the only developer granted an exemption for building permit and plan review fees in the City. Staff recommends rescinding the exemption for Summit Universal, LP to allow for equal application of City regulations and a level playing field for all builders and developers in the City.

Recommendation

Discuss the matter and consider rescinding the plan review fee exemption for Summit Universal, LP.

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Approved By		
Asst. City Administrator	Dave McCorquodale <i>DM</i>	Date: 04/9/2021
City Administrator	Richard Tramm <i>RT</i>	Date: 04/9/2021

November 13, 2014

City of Montgomery
P.O. Box 708
Montgomery, TX. 77356

ATTN: Mr. Ken Knight
City Administrator

RE: Building permit fee schedule for Montgomery Summit Business Park.

Dear Mr. Knight,

Per our conversation this morning, I am requesting a waiver on the plan review fee for the following conditions:

Reserve B - Office Buildings

We intend to build 8 identical buildings. We have paid the full permit fee, and plan review fee on building # 1 (Type A). Since the remaining buildings are exactly the same, additional plan review would not be required. We request a waiver on buildings # 2 thru # 8 for plan review fee only.

Reserve F – Office Warehouses

We intend to build 4 units of Type B buildings and 5 units of Type C buildings in Section 1. We have paid the full permit fee, and plan review fee on building B-1 and C-1. We request a waiver on buildings Type B #2 thru 4 and Type C # 2 thru 5 for plan review fee only.

Our goal is to develop the park in the most efficient way possible while maintaining the quality of the park. Your help in controlling our costs and granting these waivers would be greatly appreciated.

Sincerely,



Mike Ogorchock
Partner
Summit Universal, LP



CITY OF MONTGOMERY

P. O. BOX 708 MONTGOMERY, TEXAS 77356

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

December 17, 2014

Mr. Mike Ogorchock
Partner
Summit Unlversal, LP
2234 FM 1097
Montgomery, Texas 77316

Dear Mr. Ogorchock;

Last night at its meeting the City Council considered your request regarding a waiver on the plan review fee or various buildings at your Summit Business Park. The Council's decision is as follows: If you will provide a letter from your Architect stating that you intend to build exactly like a previously plan approved building on each of the buildings after the first Plan Review then the city will provide a cursory Plan Review and will bill you for the actual time of the review, plus a slight city administrative expense, and you will not be liable for the full Plan Review Fee as provided in the building permit application.

For instance, on your Type A group of buildings you would pay the entire amount of the Plan Review Fee for building #1 and with your building permit application for Buildings #2 through #8 you would attach a letter from your Architect stating that the building being applied for is exactly the same as #1. The Plan would receive a cursory review by the Plan Reviewer of the city and you would be billed for the exact statement received by the city plus \$25.00 for the city administrative fee. The cursory amount, of course, will not exceed the normal amount for the Plan Review Fee. My estimate is that the cursory review will be approximately \$100-175 per building.

I believe that the reasoning of the Council for the partial waiver, rather than the full amount you requested, is that there is a remaining responsibility of the city for every building review that would cause at least a cursory review of the building plans, resulting in a cost to the city.

If you have any questions, please feel free to contact me.

Sincerely,

A handwritten signature in cursive script that reads "Jack Yates".

Jack Yates, Interim City Administrator

Exerpt from City Council Minutes of December 16, 2014

John Champagne, Kirk Jones, Jon Bickford, Dave McCorquodale and Rebecca Huss all voted for the motion.

4. Consideration and possible action on approval of closing City Hall on December 26, 2014 for the holiday

Discussion was taken on the amount of employees that would not have enough time to use a vacation day due to new employees, amount of pay for the city to close that day and all surrounding cities would be closed for the day. Dave McCorquodale made the motion to close city hall on December 26, 2014 for a holiday this year. Rebecca Huss seconded the motion. Dave McCorquodale, Rebecca Huss, Jon Bickford, John Champagne and Kirk Jones all voted for the motion.

5. Consideration and possible action on approval of wavier of plan review fee for Montgomery Summit Business Park

Discussion was taken on the fee would be half of the building permit fee, the plan review company charges by the square foot on the plans, all buildings would be the same, and the city would be responsible for the buildings. John Champagne made the motion to allow for a letter from the Architect stating that the buildings are the exactly like a previously plan approved building after the first plan review then the City will provide a cursory plan review and will bill for the actual time of the review. Dave McCorquodale seconded the motion. John Champagne, Kirk Jones, Jon Bickford, Rebecca Huss and Dave McCorquodale all voted for the motion.

EXECUTIVE SESSION:

6. Pursuant to the provisions of the Texas Open Meeting Act, Chapter 551 of the Government Code, in accordance with the authority contained in 551.074 (personnel matters) regarding City Attorney
7. 551.071 (consultation with attorney) and 551.087 (deliberation regarding economic development negotiations) regarding approval of PID agreement with Montgomery Summit Business Park and adoption of service and assessment
8. 551.071 (consultation with attorney) and 551.087 (deliberation regarding economic development negotiations) regarding a 380 agreement with Milestone

Mayor Pro Tem, Kirk Jones closed the regular meeting to convene into executive session at 7:00 p.m.

Mayor Pro Tem, Kirk Jones reconvened into regular session at 8:13 p.m.

DISCUSSION AND POSSIBLE ACTION FROM EXECUTIVE SESSION:

9. Discussion and possible action on approval of a 380 agreement with Milestone Council Member Jon Bickford commented on that he did not think everybody got everything they wanted, but the good news is we got very close, lots of work was done by a lot of people to get us here, lots and lots of analysis and therefore we got the best deal we felt we could for the city. Jon Bickford made the motion for a resolution that the prior 380 agreement on the property would be absorbed by Milestone Development of \$400,000, that a request for a grant to fund road, water and sewer improvements based on job creation by Kroger, that the new store would open by January 2018 or the agreement would be void and that the new store must be a Kroger Marketplace. Dave McCorquodale seconded the motion. Councilmember Rebecca Huss, commented that she could not support the city's financial commitment in the 380 agreement with not being comfortable with the amount and that Montgomery is a desirable location for the company and it would have likely built a grocery store without the city committing the amount and that she did not think the city needed to pay a premium to make the development happen. Jon Bickford, John Champagne, Kirk Jones and Dave McCorquodale all voted for the motion. Rebecca Huss voted against the motion.



March 22, 2021

Mr. Michael Ogorchock, Partner
Summit Universal, LP
15349 Summit Business Park Drive, Ste. 101
Montgomery, Texas 77356

RE: 2014 City Council Action granting building permit and plan review exemptions

Mr. Ogorchock,

In late 2014, Summit Universal approached the City to request an exemption to the adopted building permit plan review fees applicable to all building projects in the City. Specific details of the request included in the letter from Summit Universal, LP dated November 13, 2014 are:

- Summit Universal, LP would pay adopted fees for the plan review and building permit for Office Building #1 and receive an exemption to the plan review fee only for Office Buildings #2, 3, 4, 5, 6, 7, and 8.
- Summit Universal, LP would pay adopted fees for the plan review and building permit on Office/Warehouse Buildings B-1 and C-1, and receive an exemption to the plan review fee only for Buildings B-2, B-3, B-4, C-2, C-3, C-4, and C-5.

Conditions of City Council approval of the exemption granted on December 16, 2014 as stated in the letter from Jack Yates, Interim City Administrator dated December 17, 2014:

- Provide a letter from your Architect stating the proposed building is exactly like a previously approved building.
- In such case, the City will provide a Cursory Plan Review and charge only actual costs of the plan reviewer plus a small administrative fee.
- The City Council action, along with your request, only references the shell buildings proposed to be built by Summit Universal, LP. The buildout of individual suites is not referenced by any document.

You contend that the nature of the exemption granted by City Council allows Summit Universal, LP to submit 2014-dated drawings that do not accurately depict the proposed 2021 work. Said simply, the architectural plans and the MEP drawings do not match. The submittal does not comply with the requirement that the proposed building be exactly like a previously approved building permit. City Council granted an exemption specifically related to plan review fees for previously approved buildings, not an exemption from submitting a complete set of construction drawings.

After researching City records and meeting details of the City Council action of December 16, 2014, City staff believes there are enough substantive questions to warrant an affirmation or dissolution of the exemption granted by City Council. Notably, that all previously approved building plans were approved under a different Building Code edition than what the City currently uses. Staff intends to place the item on the April 13, 2021 meeting agenda for City Council review.

If you have any questions or need any additional information, please feel free to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read 'dm', is positioned above the typed name.

Dave McCorquodale, RLA, CPM
Assistant City Administrator
Director of Planning & Development