

# MINUTES OF REGULAR MEETING

October 1, 2024

## MONTGOMERY PLANNING AND ZONING COMMISSION

### CALL TO ORDER

Chairman Simpson called the meeting to order at 6:01 p.m.

Present: John Fox, Daniel Gazda, Bill Simpson, Merriam Walker

Absent: Tom Czulewicz

Also Present: Dave McCorquodale, Director of Planning & Development  
Chris Roznovsky, WGA, City Engineer

### PUBLIC FORUM:

None at this time.

### REGULAR AGENDA

1. Consideration and possible action on two signs – one freestanding and one wall sign – for Lola & Viv Designs located at 305 Prairie Street in the Historic Preservation District (tabled on 9/3/24).

Mr. McCorquodale said this item from the last meeting was tabled. The applicant planned to be here he is not sure of what happened but he spoke with the sign company and they had affirmed the applicant was going to be here so he is not sure where the miscommunication was.

Mr. McCorquodale said the change here is last month the sign that you see on page five of your packet shows the roof of the front porch. He said that sign was up in the middle of those beams and they have moved it down.

Merriam Walker said she would like to recommend the sign that has the post on it be moved to the building instead of being on the beams. Daniel Gazda asked if that was for signs two and three. Merriam Walker said yes. Mr. McCorquodale said they talked about that earlier and he sees now there is a window on that side of the building although there could be space to the left of that. Bill Simpson said prior to this shop there was a hair salon there and they had their sign on the post because they did approve that for them to have their sign on the two cross posts as long as it was a hard mounted sign and not a fabric or vinyl sign. Bill Simpson said on that side of the building there are two windows, one in the front and one in the back just like the jewelry shop or with someone they approved a sign in between the windows along the side of the building, but then again you really cannot see the sign at that point. Daniel Gazda said if it was further back past that window he does not know how many people would be able to see it. Daniel Gazda asked for sign one what was your request last time. Merriam Walker said to lower it. She said this is what it looked like before and it just took away from the design of the building so they asked them to drop it. All they did was just move it down and she said she thinks it looks a little smaller. She needs to look to see the measurements. Daniel Gazda asked if this is more in line with the request. Merriam Walker said yes. She said they really did not have anything to say about the ones on the post. It was just when you walked or drove by it just took away from the gables.

Motion to approve the application as submitted was made by Daniel Gazda and seconded by John Fox. **All in favor. (4-0)**

2. Convene into a Public Hearing to receive comments on the draft Preliminary Report for a rezoning request of 15.46 acres along Lone Star Parkway west of Liberty Street from ID-Industrial to B-Commercial and R2-Multi-family Residential.

Mr. McCorquodale said the letter in front of you was received from a resident and property owner at the end of Lawson Street that he spoke with who is currently on active duty in the military. He asked her to put in writing her concerns and then he would give the letter to you as well as include in the minutes under the public hearing item. He said what the meat of her request was to ask the Commission to consider possibly swapping the commercial and the multi-family zoning portions such that the residential use backed up to an existing residential use and the commercial use was to the west along where the community center is.

Mr. Dennis Hatchett, 514 Lawson Street had questions concerning the proposed development's connection to Lawson and Simonton Streets. He asked if they are trying to incorporate Lawson and Simonton Streets into the development. He said what they would love to happen is that Lawson and Simonton would remain as they are.

Mr. McCorquodale said because a rezoning action is not a good forum to talk about the details of a proposed design he would suggest that when the Commission is looking at the rezoning to not let the decision hinge on a site plan because site plans can change. Do not make your decision solely based off that. They can ask the engineers to provide some comments on the connectivity of the development in the streets. He said the applicant is here and is sure that can be answered.

Bill Simpson said this item goes back to the August meeting where they had a site plan that was issued. He said he thinks they discussed the tract of land and what they had proposed and then they received this package. He asked if the whole package or just the letter was mailed out to the homeowners. Mr. McCorquodale said it had a letter and a map and then the breakdown of the two districts. He said you do not want to make a zoning decision off a proposed site plan. This is what the Commission needs to base the decision off of, not off of proposed plans. Bill Simpson said the problem is once this leaves they have no say so after that point. Mr. McCorquodale said it is fine to bring it up and talk about those specific points. He said the reason it is not in the packet and not in the mailer is it does not have a legal basis that anyone is going to use to make a decision. Bill Simpson said his point is when they saw this it was a big concern at the August meeting. Mr. McCorquodale said he was not here for the August meeting. Bill Simpson said it was his concern especially on the multi-family. He said it looks like a twin single and they have just a drive-in driveway or a drive-in parking lot in front of each one that maybe holds four cars, 28-foot roads one way in and one way out, and on the August 6<sup>th</sup> packet he thinks it is like 97 of these things are going to be in that area. He said one way in and one way out, no parking on the streets and if you get a guy in there that has a pickup truck, a pickup trailer that lives in there he is going to restrict that. He said he sees they are private streets and asked if that is correct. Mr. McCorquodale said he does not recall those details. Bill Simpson said if you blow that up it is called for private streets. He said the City is not going to have any control of what goes on in there. Daniel Gazda asked if they would see it, it would come back if any development was to take place on residential or commercial for the replatting of any development on there.

Mr. Roznovsky said the rezoning is independent of whatever land plan is in front of you. He said if you approve or disapprove the rezoning the land plan can still change. You cannot tie the land plan you saw in August to the rezoning decision he thinks is Mr. McCorquodale's point. Right now they have multi-family which that is a zone which would allow it but the commercial could change to be anything. Right now it is kind of office and then storage and that could change anything that is allowed in the commercial zone without having to come back for approval. To answer your question on the platting yes, the platting will depending on how they break this up because they are looking at extensions of public streets and utilities so it would go through the full plat process and you would see that but again, that is going to be for compliance with platting ordinances and setbacks and not necessarily use. The other thing to come with this development is they will need a development agreement because there are proposed variances they are looking at likely with some of the items in a development agreement to memorialize what happens to Lawson and Simonton and what happens to the public utilities that need extended across the road. Daniel Gazda said he understands that is independent of this discussion but from their point of view are they going to see it again or not before it impacts other residents or is this their only chance to assist how their only recommendation to provide any sort of input to assist with residents. Mr. McCorquodale said he thinks this rezoning is their best tool to affect that outcome. Mr. Roznovsky said because if there are no variances asked for the next step you would see is the platting. Bill Simpson said he knows they cannot make the judgement on what may be there or may not be there but not only the small residential but also the storage that is going to affect however many people. He said he knows at one time it was discussed on FM 1097 the store where the warehouses are that the next units that were built would have a backload so you would not drive down the road and see inside the businesses with the garage door on the front side. Mr. McCorquodale said that is more of an office warehouse. He said there is a storage component over there, an Uncle Bob's storage or maybe it is now another name. Bill Simpson said he thought that was also for the warehouses. Mr. McCorquodale said they have a warehouse but the front side of that is a commercial frontage where they have a little office on the front side. Bill Simpson said that is what he is concerned about. Mr. McCorquodale said he does need to verify but thinks that storage units are a buy right, conditional use, or special use. Bill Simpson asked if the storage units are going to be 24-hour access to where there is going to be noise for the residents along the back road. He said they do not want to handcuff anything but here we have a chance to keep a quality product without hampering the citizens that live back there. His concern is moving a commercial zoning next to an existing residential. He said if someone wants to bring a residential into an already commercial area that is up to the people that want to buy that house that backs up against that. To zone a commercial against an existing residential is one thing he would hate to see happen. Mr. McCorquodale said he can understand that sentiment for sure but he does want to remind the Commission the land is zoned industrial right now. In terms of impacts a planner would look at, industrial would be the most intrusive to the zone next door. He said that is not a rationale for doing anything but just wants to say it is not that the land is already zoned single family and they are asking for a use to a commercial from single family. Typically one of the things that the unified development code is going to have are these buffer zones between a purely commercial whether it is a multi-family or a single family development there will be a buffer zone or some type of a transition that happens in between the two.

Merriam Walker said her question is to the residents on Lawson Street and Simonton Street. She asked if they were aware of that property being industrial. A few unidentified residents said no. Merriam Walker asked so no one knew it was industrial, you just knew it was a piece of property. An unidentified resident said yes because there used to be homes there and Lawson High School was there. She said never to their knowledge has it been industrial. Merriam Walker

asked is a high school industrial. Mr. McCorquodale said he is not aware or familiar with Lawson High School. Merriam Walker asked what is a high school deemed. Mr. McCorquodale said it would be institutional. He said the City adopted zoning in 1995 and his understanding is that has been zoned industrial along that area for at least since he has been with the City since 2005. He said the Lone Star Parkway areas have always been that orange color on the zoning map which is industrial. Merriam Walker asked who can verify that. Mr. McCorquodale said he can and can also verify that if there were homes it was pre-zoning and pre-modern development patterns. He said he can look at historic aerial photography to find out when that was but does not know how long the current owner has owned it. He said Superior Properties is the current owner and before that he believes it was owned by Larry Jacobs and Michael Wise since at least the early 2000's.

Merriam Walker asked if anyone that lives in the neighborhood wants to say anything. She said they are being asked to rezone the property and that is what they are here to do tonight. They need to know why not to rezone it or to rezone it or if there is a different rezoning. She said your suggestions per this letter from Annie Butler is asking for a compromise and she is just wanting to switch the zones where the multi-family would be where the commercial is and the commercial would be on the other side. This is an example of what the public hearing is about if the public wants to speak to them to help them make a decision. An unidentified resident said she would not want it industrial and would rather just leave it residential. She said prior to Mr. Jacobs owning that piece of property Lawson High School was there and it was residential and has always been residential as far as she knows. When she bought that piece of property on Lawson Street it was residential. It is Mount Pleasant Heights subdivision. Another unidentified resident asked what exactly are they planning to put in there. Bill Simpson said that is what they do not know. Merriam Walker said if they say yes and move forward, commercial means commercial, residential means residential and they would have to bring forth the plats and feasibility and how they are going to put stuff in there. Then we go from that point saying no we do not want the driveways that deep, wide, or short. Now they are asking to move it from industrial, split it and make it commercial and multi-family residential. What you are here for tonight is to give us your input as residents of Montgomery of exactly what it is that you really do not want in your backyard. Commercial could be several cars coming in and out and going all hours of the night, opening a climate controlled storage unit or whatever commercial they want it to be. The way they have it set up now what they are talking about is further away from you would be residential. Right beside the properties looks to be a proposed restricted commercial. There will be concrete and moving cars and may or may not have anyone sitting there Saturday through Sunday 8am to 5pm. It may only be when people come in to do commercial business or storage or whatever. We do not know what they want to do. An unidentified resident said that is private property at the end of Lawson Street. Would they be able to put a road to connect to Lawson through that private property. Mr. Roznovsky said if they do not have frontage they would have to acquire the right to connect. Mr. Roznovsky explained the proposed zoning areas on the map. One resident said if they have to do commercial she would like it on the back side. She said personally she would love to make it all residential instead of the commercial as it is it is bad enough where she is right now on Lawson to hear all the traffic on Lone Star. Bill Simpson said the amount of traffic that is going to be added on Lone Star is another issue. Discussion continued among the residents and the Commission regarding potential issues. Mr. Roznovsky said one thing mentioned during the feasibility study is that prior to any plan approval they have to do an impact analysis based on their final land plan because is the access to storage off of Lawson or is the access to storage off of Lone Star Parkway it makes a big difference on the impacts on Lawson and that was one of the requirements of once they get through that development stage they have to do an impact analysis

and if that is going to require improvements to Lawson, improvements to turn lanes on FM 149 and Lone Star Parkway and that will be dictated by that study. He said it does not help you now with the rezoning but those are the pieces to come. From the developers standpoint they are not going to do those steps before the rezoning.

Merriam Walker asked who maintains Lawson Street. Mr. McCorquodale said the City does. She asked if it is a one car or two car. An unidentified resident said one car. Merriam Walker said let us just say we rezone it; it would come afterwards that they would say by the way we want to come in Lawson. If they rezone it and say yes to it they come in later and say we want to travel down Lawson and try to travel down Simonton to get to this property instead of coming off of Lone Star Parkway. They can ask for that and we would not know about it until after we make this change. Mr. Roznovsky said they can completely change their land plan from today. He said the rezoning does not commit them to the land plan nor does it commit them to developing the property. They could rezone it and then move on. He is not saying that is their intent but what their preliminary land plan is today does not lock them in by rezoning or not this property, just what type of business can they put on it. Right now it is zoned industrial which allows for manufacturing facilities and things like that. He said without a rezoning it does not change the requirements for plan reviews and impact analysis. What they are asking for is to be able to put commercial instead of industrial on this piece which includes the mini storage and then multi-family which is not allowed in the industrial zone.

John Fox said preliminarily to put the residents in the best place would be to rezone it now to get it out of the industrial because you obviously do not want industrial there but then you are going to have to keep up with the changes and land use that develops after it is rezoned.

One resident asked if Lone Star Parkway is residential or business. He said he owns property at the corner of Lone Star Parkway and does not really want any businesses right there because he has been keeping his land clear all these years and that is going to make their taxes go up too. Bill Simpson said no the designation does not raise your property taxes. He said it will not raise your property taxes unless you do improvements on your property.

Daniel Gazda asked if it is all industrial for now. Mr. McCorquodale said yes everything to the west of Liberty Street along Lone Star Parkway. He said the Lone Star Community Center is industrial. Bill Simpson asked if Lone Star Parkway is County. Mr. McCorquodale said it is County. He said their connection to Lone Star Parkway would ultimately be approved by the County.

A resident asked since it is already zoned industrial and they are wanting to have it zoned for commercial and residential why can't they just flip it and give you something saying this is what we will do. He said his mother-in-law lives at the end of the street and like you mentioned it will increase noise with businesses coming in and out and we do not want that. They could accommodate maybe but if you turn it over and say we zone it for this and then they still can turn around and do what they want. There is no way to get anything from them saying why don't we do it like this, commercial on the far end and residential, at least try to appease them. Merriam Walker said once we change it then when they go to develop it they have to go through the other steps and if it is something they have to approve like lights or you need to put up a fence or noise barrier, they can do what they want to right now because it is industrial. Bill Simpson said it is the worst of two evils. Merriam Walker asked if they can come back if we change it and come back as residents and say can you flop it and put commercial further down and have the residential back up to our residential. She asked if that is an option or is it going to

come to a point where someone has a say. Like this resident who wrote the letter wants to compromise and rezone it and switch multi-family and the commercial. Mr. McCorquodale said he is not 100 percent sure he follows but he would recommend that the recommendation that the Commission makes is a clear one that is going to move in a certain direction but in terms of someone being able to come back to the Commission to say would you now change that, is that what you are saying. Merriam Walker said no what she is saying is if they say yes to rezone this commercial and multi-family. Mr. McCorquodale said your recommendation to Council would be to go ahead and rezone what the request is. Merriam Walker said yes. She asked is there a point where the residents can come back and say we do not mind it being commercial and multi-family but we would like the multi-family to be over by the residents and make the commercial away from them or is this set in stone. Mr. Roznovsky said that would be another rezoning. He said if you recommended approval of the rezoning it would set part commercial part multi-family. In the future if they wanted to switch that to any other use it would be another rezoning to change it to whatever zoning. Merriam Walker asked if they can make a recommendation that they would like to see a rezoning but would like rezoning "A" be switched over and rezoning "B" to something else. Mr. McCorquodale said your recommendation can be whatever the Commission decides. He asked if she would like to affirm what the resident had suggested in switching them. Merriam Walker said yes. Daniel Gazda said it is basically like a recommendation to not approve with the request to revise to swap reserve "A" and "B." Bill Simpson said so you would like to see the 7.68 as being commercial and then 7.77 being multi-family. Daniel Gazda asked if the sizes can change and if the line can move. Mr. Roznovsky said the zoning is whatever area it is. The zoning does not necessarily follow property boundaries. If they decide multi-family is going to get divided into two properties it would still all be zoned that way. It does not follow property lines it follows whatever the boundary is when adopted. Daniel Gazda asked prior to that being adopted right now, if they were to revise it could they move that line right now before we say let us zone it to be commercial. When they swap them do they keep the same amount of size commercial but just over on the other side. Mr. Roznovsky said they are very close in size. He said his assumption is going to be they would likely want some commercial at the corner of Lone Star Parkway and FM 149. This is what they requested so he recommends action on what they requested with the suggestions to note in your report of these changes you would reconsider. He said at that time he believes it will go to Council; Council will then take action. The developer can revise his application after that time. Mr. McCorquodale said if it is a discreet enough change, unless one of the districts has changed in size and it is going to change the layout of the land plan. He said your recommendation is what is coming out of this meeting and next Tuesday night City Council is having their public hearing. City Council is going to receive your report and their hearing is going to be just like this one where you can give the same comments. They will have not heard these comments so you can give these same comments to the City Council. The difference is the City Council's next item after the public hearing is going to be action on an ordinance in some fashion. They are either going to deny the request in which case no action is needed other than to deny it or they can approve a rezoning based on a change that is agreeable in the meeting between the developer and Council. He said they have a lot more latitude of not needing to see a fully revised request if it is essentially a swap.

An unidentified resident said he has a property on the corner of Lone Star Parkway. He said at the time when he got that property they told him he could use it for business or residential. He has not done anything with that property all these years. He would like to know if that is going to change his option. Mr. McCorquodale said that property right now is zoned industrial. Bill Simpson asked the resident if his property was across the street from the car place with the firewood. The resident said it was the opposite side of that. Mr. Roznovsky said if it is within

the red boundary it would get rezoned. His understanding is that they have closed on the property so according to what they purchased from Larry Jacobs it was everything within this red box. The resident said he is tax exempt on the property because of the trees and that is why he never did anything with it. Another unidentified resident said he wants the trees to remain in the existing neighborhood.

Bill Simpson closed the public hearing at 6:43 p.m. for the rezoning of the 15.46 acres along Lone Star Parkway west of Liberty Street from ID-Industrial to B-Commercial and R2-Multi-family Residential.

3. Consideration and possible action on a Final Report and Recommendation for a rezoning request of 15.46 acres along Lone Star Parkway west of Liberty Street from ID-Industrial to B-Commercial and R2-Multi-family Residential.

Mr. McCorquodale said the Commission has now held the public hearing on this and the next step is for the Commission to draft a recommendation to the City Council in which they can consider any of the comments they received. He said members will find at their desk the City Engineer's memo on rezoning and has left the draft of the report.

Daniel Gazda asked the developer if he had any response to their requests. Mr. Greg Phipps with J.A. Costanza & Associates Engineering said they developed the land plan for the owners SPT Montgomery. He said speaking specifically to the streets it is not the developer's desire to impact those streets at all. In fact, it is the developer's desire to leave those streets as they are, not tie into them or have any access to or from the ends of those two streets into the property. He said generally when there is a street that dead ends like that by planning, engineering typically would put a cul-de-sac on the end of it, some sort of a turnaround. Their original land plan that goes into the commercial on Lawson they show a cul-de-sac on the end of that turnaround. He said they do not need it and do not necessarily want it. They do not need access to Lawson to come and go from the development that they are planning. In fact, they felt like if the City required them to access or put a cul-de-sac on the end of Lawson they would have to go in and rebuild Lawson to city street criteria. Right now it is about a 14-foot asphalt paved road. They would just assume not spend several hundred thousand dollars and go in and rebuild a road and a cul-de-sac that they do not necessarily need. He said to the residents they are looking at this with as little to no impact to the residents as they possibly can. The codes require them that anytime commercial backs up to residential there is a 25-foot vegetation buffer. That is shown in their plans and they intend to honor that. He said it will stay either natural vegetation or enhanced vegetation. They have not done a tree survey so they do not know what is out there. The last thing they want to do is go in on that 25-foot area and take out a 150 year old oak tree so they will work around that. He said the only thing when they look at this their concern is if they had to use Lawson it would be for fire access only. They show two driveways that access Lawson. Off the backside of the main driveway there is a culvert in a driveway that comes in off of Lone Star that is generally where that single driveway comes in. He said if the Fire Marshal required them to put those driveways in they would and if need be they would gate them. They do not need people coming down Liberty FM 149 cutting down Lawson and dropping into their development, making a cut through. They do not need that anymore than the residents need cars cutting through on their property. The first driveway they have is generally about the corner where the church is across the street. It is the least impact to several of the homes that are between the church. He said they are looking at the frontage which is a piece of property that would have been helpful if Lone Star had dropped down about another 100 feet. To the south it is very narrow and there is not a whole lot you can do in there. They cannot get

a driveway off of Lone Star any closer than that existing driveway is with the culvert because of the left turn lanes that go in there. It is not their advantage and long term they hope the County will finish out Lone Star.

Mr. Phipps said the land plan they have right now has 30 buildings with 60 units which are two and three bedroom units. He said typically the criteria is for ingress and egress into any subdivision is any subdivision that has 250 and fewer lots that allows for a single access. Once you get over 250 generally it would require a second access. He said it is seven and a half acres generally and 60 residential doors on it. It is not what you would typically attribute to a multi-family three story, 45 maximum roof heights. If you were to drive through the neighborhoods that this developer has for duplexes these just look like a normal home. He said it is a very nice home that serves a specific group of people that cannot afford the single family home but yet do not want to live in a multi-family unit development. It is a niche type development. Originally when they looked at it they looked at this whole piece going to residential and this unit but there was some concern about the overall density of putting 140 doors on it at 70 to 80 units. The long piece there that comes out does not work for any type of residential. It is not deep enough to put a street in with your building lines and putting two rows of those in. They looked at if they could flip these and they do not like it more than anyone to go from residential to a commercial to a residential but the land plan is a difficult land plan in this L shape and lends itself more to commercial. He said this developer here is that backside to the north where the self-storage is. They are putting that self-storage in so that there is not a lot of traffic in and out of there. They would typically close the gates and do the lockdown for certain hours you can come and go into it. If the City allowed Lawson to stay the way it is we did not access off of it. All of the access would come off of that one point off of Lone Star which would eliminate he hopes most of the concerns. He said it is not if they had to put Lawson in, if they had to put a cul-de-sac in there it does them no good. It is access off Lawson off of FM 149 where you sit and wait to turn left into it to get home. He drove down Simonton tonight and sat there waiting for quite a few minutes for traffic to clear.

Mr. Phipps said they do not want to impact the residents and if they have to go to the street and cul-de-sac and come back to it again it is money they are spending that they just do not need to. He said they do not need it and it does not help them at all. In fact, it may hinder them to put that street through but that will be a call the City Engineer and the City makes as to what their requirements are going to be.

Daniel Gazda said he does not know the sizes of what is required but his only question would be is if they asked to swap the two is the short skinny part enough for green space that is required or does it exceed that amount that is required to where it is not feasible to put the green space there and have the development along the fatter portion. Mr. Phipps said he is sure it could go in the green space. He said it is a very expensive piece of green space. If they are going to put green space they are going to build the green space into it that could be used. They could say they will take that green space and make a park if you want traffic on Saturday they will put a park there. It would impact the residents a whole lot more than what anything that they would put there.

Mr. Phipps said with any type of purchase and this is one that was a substantial purchase, they have title insurance on it so push comes to shove that is why they buy title insurance. He said he is sure the previous owner has title insurance when he bought it so somewhere down the chain either they are correct and there is an issue in title or there is not. He cannot say. He has



the title report that says it is a clear title. It needs to be resolved. He would recommend to the ownership that they get with the title company and this be investigated.

Merriam Walker asked the residents if they do move to make it commercial and multi-family residential you still do not want it industrial. You would like commercial and multi-family residential and definitely do not want it industrial. The residents said no they do not want it industrial. Bill Simpson said they have a form they can write recommendations to the City Council for them to review and help them make a decision. He said the residents need to show up also to help them.

Daniel Gazda said the main thing is Simonton and Lawson Streets both stay dead ends preferably without the cul-de-sac or access to the property off of that, maintain the 25-foot vegetation, and lighting to be facing Lone Star Parkway and not back towards Lawson Street or Simonton.

Motion to approve the application as a recommendation with the conditions of 1) the property is currently undeveloped and ID-industrial, 2) Simonton and Lawson Street both stay dead ends and are not tied into by any commercial properties, 3) We would maintain the 25-foot vegetation per code, 4) Any lighting in commercial areas would be facing Lone Star Parkway and mainly away from Simonton and/or Lawson Street was made by Daniel Gazda.

Discussion:

Mr. McCorquodale asked if the Commission is okay if it were a Fire Marshal recommendation for limited fire safety access. Bill Simpson said if the Fire Marshal says they have to have that as access but being locked, closed, and only their access. Mr. McCorquodale said right because these guys are able from a development standpoint to do that because it is not a public throughway. It is their property so they keep control of that access and make sure it does not become a cut through. He said just capturing the literally no connection at all versus a Fire Marshal says we need a connection here and does not want that to be in conflict. Merriam Walker said after this goes through to City Council then the next step as they start developing is when the Fire Marshal, the feasibility, and the water begins. Mr. McCorquodale said when the study is done the next steps would be the site specific design work kind of the refinement of the land plans that they have so far. Once that is finished and they really start to submit and say this is what we are asking to build, they are going to be submitting to the Fire Marshal at the same time and getting those comments. Daniel Gazda said the only way he would care is if the Fire Marshal said that is the only way. He said his preference would be to have two access points for the commercial zone off of Lone Star Parkway in lieu of one rather than impact the residents on Lawson Street. Mr. McCorquodale said just to affirm he is clear it is not a public access but if it were required by the Fire Marshal they still want to make sure they are in line with what you are thinking and what you are okay with. Bill Simpson asked if they need to amend number one. Mr. McCorquodale said he is fine if the Commission is good with it.

Motion seconded by Merriam Walker. **All in favor. (4-0)**

Mr. McCorquodale said just to remind all the public who are here the next public hearing on this request is next Tuesday night at 6 p.m. in front of City Council. Merriam Walker addressed the public also saying they will need to continue coming to the meetings because they will present to Planning & Zoning what they are going to do regarding sizes, feasibility, if it floods, how many lights, how much cement, when they will begin construction, if there is a special tree

that needs a ribbon around it. You need to come and say what you need to say because you are the residents and we welcome you back to see what they are doing to our town.

4. Presentation and discussion of the Feasibility Study for the proposed Mia Lago Reserve (Dev. No. 2411).

Mr. Roznovsky said they have two separate feasibility studies that were presented to Council at their last meeting for two different developments in the City. He said there are a lot of similarities obviously when it comes to capacities and things like that but there are a couple of big distinct differences between the projects to point out. The developers are reviewing their options but have not moved forward with a development agreement at this time.

Mr. Roznovsky said the first development called the Mia Lago Reserve is over at the end of the Estates of Mia Lago where it dead ends currently there is a 75-acre tract back there that is what this property was based off of. He said a couple big things to note is the majority of the tract is in the City of Conroe ETJ therefore before anything can get started the developer has to request to be removed from the EJT. A couple of legislative sessions ago the legislature made that kind of a fast track process so the developer can request and within 45 days it is automatically approved to go through that process. The City cannot annex, provide service or do anything until they are out of the Conroe ETJ and then they formally request to be brought into Montgomery's city limits. Daniel Gazda asked in that limbo what is the property at. Mr. Roznovsky said it is unincorporated Montgomery. He said his understanding to the reason behind it is cities like Conroe have large ETJ's that extend well beyond were holding people that they will never provide service to because of proximity hostage. Conroe's limits also wrap around to the north side of Montgomery where it is a long way around with the lake in between. His understanding is they are going through that process to get out of the ETJ. Bill Simpson asked if that goes into our EJT or are we automatically annexed. Mr. Roznovsky said there is a multi-step process. Once they are released from that ETJ that little chunk will be an unincorporated Montgomery County not within anyone's ETJ minus the little sliver that actually is in the City of Montgomery's EJT. They will then petition the City for annexation into the city limits and once that petition is approved they will then be brought into Montgomery's ETJ. Montgomery's ETJ will then extend that half mile outside the new boundary or to where it hits Conroe. Bill Simpson asked if this is where they are clearing everything right now. Mr. Roznovsky said no it is closer to Bois D Arc Bend. He Said from Bois D Arc to Walden Road that 96 acres is a different development. Bill Simpson asked then this property we are talking about is west. Mr. Roznovsky said correct. It is behind the large lots along Bois D Arc at the end of Mia Lago Drive. He said the access point would be off of Lone Star Bend. Daniel Gazda asked if it actually touches Lone Star Bend or does it have to get an easement. Mr. Roznovsky said it is really close. When you look at the high level land plans there looks to be a strip of land they need. He said ultimately they are going to have to acquire because they are going to have to have public right-of-way.

Mr. Roznovsky said what they are looking to do on this property is about 59 <sup>3</sup>/<sub>4</sub> acre lots. They have initially requested to do septic system so to have public water and septic which is the same as what is currently in the Estates of Mia Lago. John Fox asked if they have an ordinance against septic tanks. Mr. Roznovsky said you do. He said he will go through the feasibility. They put together the cost for sewer service and noted the developer requested it. Your ordinance says that septic systems are not allowed to have to connect to the public system available unless you get clearance. John Fox asked why would anyone want to allow them to have septic tanks. Mr. Roznovsky said he does not disagree with him. He said he has a lot of concerns with the septic.

As you know the back of that property is an existing canal body of water. For the original land plan they were chalking it up to be parts of the lot so the land owners would own that canal/pond. However, based on history and where they have other areas where the property owners own parts of the creek, their recommendation is a separate drainage reserve so it is a homeowners association responsibility not individual property owners responsibility. That was going to reduce those lot size but regardless with those lots 59, 58, 57 on that southernmost portion when you take out the distance from the water, the building pad there is not a whole lot of yard left when you put in the spray field for a septic system. He said those are their initial concerns with septic. John Fox asked in the pink shaded area are you indicating that to be a floodplain. Mr. Roznovsky said that is correct. He said green is flood way and that is Stuart Creek, the light blue is the 100-year floodplain, and the pink is the 500-year floodplain. John Fox asked when you talk about floodplains what is the flood of record in comparison of those elevations. Mr. Roznovsky said he does not have that information. He said they would have to do a drainage analysis for this and part of what they are saying in the initial is that the River Authority considers this canal is part of the lake and therefore they would be allowed to discharge in there without detention. Part of our report is we still have to prove there are no downstream impacts and provide written approval from the River Authority stating that you are allowed to discharge, this is a portion of Lake Conroe and you are allowed to discharge undetained into Lake Conroe.

Mr. Roznovsky said when Water Plant No. 2 is back up and running they are still looking at additional water plant needs with all the developments and all the potential developments. The first phase of that is a booster pump addition at Water Plant No. 3. It is a relatively small project and that is our limiting factor right now, our booster pump capacity. The second phase of that is the City is currently out for request for qualifications for the design of Water Plant No. 4 which includes the elevated storage tank that would be on the west side of town. Those combined will give us the water capacity we need. He said they talked about sewer capacity, the private septic. However, in lieu of private septic they will go with the public sewer system and they would be looking at a public lift station on this site force main and also it has the sewer plant capacity which they have a proposal for that design.

Mr. Roznovsky said looking at the home values and the potential assess value for the property based on the developers estimates they are estimating \$650,000 per home on those three-quarter acre lots. Based on the current tax rate let us look at about \$175,000 a year assuming that 95 percent of those homes take the 20 percent homestead exemption the City offers.

Mr. Roznovsky said when it comes to drainage this is on Stewart Creek, it does not affect Town Creek, it does not affect the rest of the City, however, the River Authority is stating they do not have to provide detention but they need that in writing and a study showing no down impacts. He said to reiterate again, their recommendation is that the entire pond, canal, or lake, whatever you want to call it is in its own separate reserve and not the responsibility of the individual property owners because that has potential to cause a bunch of issues in the future. Bill Simpson asked who would maintain that. Mr. Roznovsky said they would need an HOA to be responsible for maintaining the banks and the shoreline of that waterway. Daniel Gazda said if they do provide the letter of no future or downstream impacts is that only for the development of infrastructure or if they start to develop homes along the 59 or so and that starts to have potential impacts on downstream, he is thinking additional erosion or anything like that from homes or additional waste. Mr. Roznovsky said if the River Authority is granting them access and saying that is part of the lake they would take that over as far as the impacts of that full built out development downstream. He said the confluence of the canal in Stuart Creek is further downstream so this point where the confluence actually occurs which is by the build to rent

community, they are not necessarily discharging into the channel, they are discharging into the lake. The River Authority has historically allowed to not have detention requirements if discharging directly into the lake. Mr. Roznovsky said what they do not want is the same situation like we have at Town Creek in Waterstone. In Town Creek Waterstone you have the canal and you have homes that own half of the canal and the other side owns the other half of the canal. He said they are not going to do that again. It needs to be one entity and not individual property owners to maintain that but one HOA or other entity that has that power to do so.

Mr. Roznovsky said regarding traffic, as Mia Lago is a private street that is gated, they are proposing public streets to not be gated so they only have one point of connection which is at Lone Star Bend. He said that is a County road that was constructed by the County or the Lone Star Bend project so they would need to submit a TIA and get approval from Montgomery County for that tie-in and any type mitigation measures for the impacts of that development. He said their big concern is 59 more homes that go in Lone Star Bend that ultimately go out to Lone Star Parkway because that is already a bad intersection as it is today so they would make a special note of that to the County voicing the concerns of the City of these additional homes and where that County intersection of those two streets are that they mitigate it appropriately.

Mr. Roznovsky said studies have been provided to the developer which the developers are reviewing. He has not heard anything additional from them. There are a lot of changes he thinks that need to be seen. Their next steps when they come back to request the development agreement with the City to memorialize the development plan who is paying for extensions, the water versus septic because they are going to have to get a variance on that. They were not looking at any variances regarding lot size however, they would be looking at a variance for septic systems as well as when they redo the land plan. Mr. McCorquodale said the ETJ question is likely going to put this one on the shelf for a while, at least for the next few months as some of these legal challenges to this have started to work themselves out through the courts. Daniel Gazda asked if they have already submitted to be withdrawn from Conroe's ETJ. Mr. Roznovsky said he does not know if this tract specifically has, however they have other developments that have not in the City. He said the City of Conroe has taken the stance of no response. The Attorney General has taken the stance of you have to have a response even though the statute says it is just 45 days that it is automatic so there is ongoing litigation regarding is no response automatic approval or is no response disapproval. Mr. McCorquodale said there are some questions that have to be answered and this is probably not going to be the piece of property that answers those questions.

5. Presentation and discussion of the Feasibility Study for the proposed Villages of Montgomery (Dev. No. 2412).

Mr. Roznovsky said this development is right across the street so it extends around Solomon Electric all the way from Shepperd Street to essentially Town Creek. Mr. McCorquodale mentioned that the Planning and Zoning Commission saw a short presentation from the developers a couple of months ago in advance of that. They then did not get to go to the Council but the Commission has seen this at least once before. He said this is the piece where they have looked at their end and have made their recommendations. Mr. Roznovsky continued saying they are looking at a mixed use development. They have a mixture of 45-foot and 50-foot lots, commercial pad sites, and mixed use pad sites. He said some are alley loaded developments which he thinks is what they presented to the Commission. Regarding the valuation they are looking at about a \$22 million full valuation which would be approximately \$83,000 a year in additional tax revenue for the City. A couple things to note is from the water system standpoint

we would have them connect to three different points along the system to create loops. Right now College Street is a dead end and Caroline Street is a semi dead end and then connect at SH 105 as well. They would connect to all three points to close those loops in the system so College Street would not be a dead end, Caroline Street would have additional loops in it and connect to the 12-inch on SH 105 to loop your water system. He said capacities are the same and still the same booster pump water, and the Water Plant No. 4 addition is what they would recommend. He said sewer capacity is a little different. He said they are going to generally split so some of their flow will go toward Shepperd Steet depending on the topography and the majority of it will head down to Lift Station No. 5. Currently there is a lift station in front of Solomon Electric, a small grinder pump station so their recommendation is that they would extend a gravity sewer line all the way down SH 105 to pass Lift Station B to be able to take that one out and gravity flow all of this to Lift Station No. 5. As a reminder, Lift Station No. 5 is the one that is down at the creek and it is being relocated by the Tri Pointe development. That proposal has been approved and the request for deposit from Tri Pointe is just sitting in their hands and then that design to relocate and resize that lift station will get started.

Mr. Roznovsky said in regard to drainage this does go to Town Creek so a full drainage impact analysis would be required like every other development. They would need to get their impacts to prove no downstream impacts especially on Town Creek that you know has issues and a lot of development around it.

Mr. Roznovsky said they would need to get TxDOT's approval for their tie-ins to SH 105 and they would need to do a traffic impact analysis on their impacts to Caroline Street and College Street as they are tying into both of those. You need to make sure that if they need to bring the road up to a better condition it will have to get approved as well. One thing to note is when the west side of the park development went through, part of that development agreement was that Shepperd Street would be finished. If you have gone down that street you have seen how Shepperd gets skinny as you get closer to SH 105. The agreement at that time was whenever those last lots got developed that would be finished. This development would include those three lots and they would be required to expand Shepperd Street all the way to SH 105 as part of their development. Daniel Gazda asked if there has been any kind of response to them about College Street or Caroline Street improving them. Mr. Roznovsky said he has not heard. They were provided this at the same time and have not heard any response from them. He said when they had the predevelopment meeting all this was talked about at that time and we knew that College Street and Caroline Street have limited capacity and are small streets where adding a good amount of homes and potential traffic to them Shepperd Street it is relatively minor in comparison to the rest, however he has not heard positively or negatively from them on what that would be. There would be a good amount of variances they would be requesting on this property between the lot sizes. We do not have an alley product in your zoning so your street widths would be different. There are a lot of potential variances that come with this. This is not a traditional product either that they are proposing. Merriam Walker asked if it is mimicking some of the houses on Caroline Street. Mr. Roznovsky said he thinks maybe that is it but he does not know. He thinks the development in Shenandoah is the one they were referencing where they did this same type of product. Merriam Walker said it looks like one row you can go into the front and then most of them are alley entry. Mr. Roznovsky said correct. He said the outside row is more of your traditional 50-foot wide lots and the inner rows are the alley load 45-foot wide. Mr. McCorquodale said they are looking for that very traditional kind of neighborhood street. He said if you walk through a neighborhood that has a driveway in the front, that front load you do not have that same kind of architectural mass of the facades of all the houses are generally lining up and they are close together. He said he thinks they are trying

to focus that extension of Caroline Street as kind of the focal point of the boulevard access of the development but then on those 10 lots they were talking that those would have your traditional driveways. Merriam Walker asked if they are going to come back and ask for a variance for the lot width or they are proposing. Mr. Roznovsky said their next steps are they will have a development agreement. The City is taking a stance now that all developments need to have a development agreement. He said anything whether there are extensions of public roads, extensions, etc., we need a development agreement. That may or may not include as part of the agreement the variances or those will go separately. It is going to be up to a little bit of timing and the developer because his assumption is there are going to be requests for variances before they get too far into this process to understand what is and is not going to be allowed. Merriam Walker asked if they are going to have their own park. Mr. Roznovsky said yes they are proposing currently a single park. Merriam Walker said there is not a lot of green space. Mr. Roznovsky said they are allowed to count their detention areas as green space so when you add up those and then the mixed use obviously is going to have some component of commercial, green space, and there has been office condo ideas that have been thrown out. He said there are a lot of to be determines in that mixed use area of what that ultimately looks like. Regardless, they are going to have to prove they have the adequate compensating green space and/or requested variants if they do not. Daniel Gazda said he is having trouble reading the zoning plan and asked how much of this would have to be rezoned. Mr. Roznovsky said if you projected Caroline Street, south of that is commercial and north of that is single family. There is going to be some rezoning based on their final land plan around the entrance. Those commercial zones can stay and the mixed use zone part of that is commercial, part of that is single family currently and some of that will need to get changed too. Daniel Gazda said it would just be reorganizing it all. Mr. Roznovsky said correct. Mr. Roznovsky said also currently the corner of Shepperd is a commercial reserve and they are proposing to make single family lots. He said that is a platted commercial reserve. Merriam Walker asked if there will be a public hearing for those who live on College or Caroline. Mr. McCorquodale said any rezoning triggers a public notice.

### **COMMISSION INQUIRY:**

Daniel Gazda asked if anything has moved forward on the property right next door to where they are talking that extends from SH 105 all the way to Lone Star Parkway property. Mr. Roznovsky said yes that is the Tri Pointe development and the Council has approved a development agreement with them. They have not fully executed because they have not closed on the property. He said he thinks that is scheduled any day now or if it has not already occurred. The development agreement has them funding the waterline extension on Lone Star Parkway as well as the relocation expansion replacement of Lift Station No. 5. Both of those have been approved and both of those deposit letters were sent to the developer. He also said the 56 acres on Lone Star Parkway is moving forward and Taylor Morrison is moving forward as they have all their variances. Daniel Gazda asked which 56 one is that. Mr. Roznovsky said Buffalo Springs and Lone Star Parkway it is not the immediate northeast corner but it is just offset. Daniel Gazda asked if no burial ground was found. Mr. Roznovsky said that is in their court.

Mr. Roznovsky said Home Depot is wrapping up and are expected to open later this month. The signal is operational and the roadway open with a few minor punch list items remaining. One of the items that is still ongoing for future Council meetings is the development on the Stowe property along the railroad track. Daniel Gazda asked during construction who inspects the SWPP. Mr. Roznovsky said we do.

### **ADJOURNMENT**

Merriam Walker moved to adjourn the meeting at 7:45 p.m. Daniel Gazda seconded the motion. **All in favor. (4-0)**

Prepared by: \_\_\_\_\_ Date approved: \_\_\_\_\_  
Diana Titus, Deputy City Secretary

\_\_\_\_\_  
Bill Simpson, Chairman

Attest: \_\_\_\_\_  
Dave McCorquodale, Director of Planning & Development