

**City Council Regular Meeting  
MINUTES  
October 8, 2024 at 6:00 PM**

**CALL TO ORDER:**

Mayor Sara Countryman stated there is a full quorum, the City Attorney is running late and called the meeting to order at 6:00 p.m.

Present:	Sara Countryman	Mayor
	Casey Olson	Mayor Pro Tem
	Carol Langley	City Council Place #1
	Cheryl Fox	City Council Place #4
	Stan Donaldson	City Council Place #5

Also Present:	Gary Palmer	City Administrator
	Dave McCorquodale	Director of Planning & Development
	Diana Titus	Deputy City Secretary
	Alan Petrov	City Attorney
	Katherine Vu	City Engineer

**INVOCATION:**

Councilmember Stan Donaldson gave the Invocation.

**PLEDGE OF ALLEGIANCE TO FLAGS:**

Mayor Sara Countryman led the Pledge of Allegiance to the United States and State of Texas flags.

**PUBLIC FORUM:**

No members of the public addressed the City Council.

**CONSENT AGENDA**

1. Approval of the August 12, 2024 Budget Workshop Minutes.
2. Approval of the August 13, 2024 Regular Meeting Minutes.
3. Approval of the August 27, 2024 Regular Meeting Minutes.
4. Approval of the September 10, 2024 Regular Meeting Minutes.
5. Approval of the September 16, 2024 Special Meeting Minutes.

Councilmember Casey Olson moved accept the Consent Agenda as presented.  
Councilmember Cheryl Fox seconded the motion. **Motion Passed (4-0).**

## REGULAR AGENDA

6. Police Department Recognition of Dr. Taylor Robertson, Mr. Arnette Easley, and Larry "Bubba" Evans for their generous contributions.

Mayor Countryman stated we are very fortunate to have these people in our community. Chief Solomon said they wanted to recognize some citizens who give them a huge hand for the work they do for the City and the work they do for the Police Department by helping them with all of the events they have. Chief Solomon recognized one of the Chaplain's Dr. Taylor Robertson. Chief Solomon said he works for the church but also comes down and visits them and rides with the officers. He also comes out and helps them with all these events. Chief Solomon said the building you see at Christmas time on FM 149 is part of his work and part of the things that he puts together. When it comes to one of their events, a 500 people event, he is really boosting them up on those events and they really appreciate it. Chief Solomon also recognized Mr. Arnette Easley. He said anytime they call on Mr. Easley he is always there, always there for this community, and always there for the people in the community. Chief Solomon recognized Brice Crocker who works in the City and does a fantastic job every day. He said when it is time to help, Brice is always there. Chief Solomon said when they have these events they start cooking around 4:30 p.m. on the pit and Brice starts cooking until the event is just about over with. Chief Solomon said he does it each year and we appreciate what he does because he is always there to help them out.

Ms. Kimberly Duckett, Court Administrator said on behalf of the municipal court they would like to give their appreciation, gratitude, and dedication to Larry Evans. Ms. Duckett said they give him a hard time in the court but they could not have functioned many years without his service.

7. Receive the Planning & Zoning Commission's Recommendation and Report related to a rezoning application of 15.46 acres along Lone Star Parkway west of Liberty Street from ID-Industrial to B-Commercial and R2-Multi-family Residential as submitted by SPT Montgomery, LLC (Dev. No. 2215).

Mr. McCorquodale said this is a required step for convening into a public hearing on the rezoning. This request is to accept the Planning and Zoning's recommendation and report.

Councilmember Casey Olson moved accept the Planning and Zoning Commission recommendation and report for item number seven. Councilmember Carol Langley seconded the motion. **Motion Passed (4-0).**

8. Convene into a Public Hearing to receive comments on 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 as submitted by SPT Montgomery, LLC (Dev. No. 2215).

Mayor Countryman convened into public hearing at 6:11 p.m.

Ms. Carolyn Hatchett, 514 Lawson Street, said she agrees with the Planning and Zoning in rezoning it. She did not know it was industrial because when she bought in that area it was residential but they are telling them it is industrial. She said they do not want industrial in there because it means they will bring in a lot of other stuff that they do not want. She said it would be nice if in doing this if they flipped where they have commercial up against

them and the residential back behind that if they would be willing to flip what they are doing with how they had it set up. The other thing is they did not want them coming into Lawson Street or Simonton Street. They are both cul-de-sacs or dead ends but Lawson Street actually dead ends into her family's property. It does not go all the way and she would not want that to come in and take the land away from them because of that road. She said bringing in dump trucks and all this stuff the City would have to redo that road because right now they are patching it as it is and they would not want to see that. She said they would just like it to stay a nice quiet community.

Mr. Dennis Hatchett, 514 Lawson Street, said he concurs with everything his wife Carolyn Hatchett has said. He knows the community is growing and getting bigger. He was just wondering how could that be called industrial when they are living in a residential area. He said you would think there would be a lot of other places you could make industrial. Why would there be industrial that close to residential and even that close to the Lone Star Community Center for that matter. He said if it were up to them they would not have any industrial in there at all. If there has to be some industrial they would want the industrial to be on the opposite end of the development and that the residential would be closer to them. Also, he wants their streets Lawson and Simonton to remain a dead end cul-de-sac because the traffic is already horrendous getting in and out of Lawson and Simonton off of Liberty Street.

Ms. Rosa Gibson, 524 Simonton, said she has never heard of industrial; it was residential ever since she has been here 61 years. She said no one ever told them it was industrial.

Mayor Countryman asked if she understood correctly that there used to be a school there. Ms. Gibson said yes.

Councilmember Casey Olson asked if industrial could be institutional as well. Mr. McCorquodale said no just industrial uses. Councilmember Casey Olson asked how long has it been industrial. Mr. McCorquodale said he does not know but his guess is since we were zoned in 1995. Councilmember Casey Olson said it is zoned industrial and the request is to move part of it to commercial and part of it to residential. Mayor Countryman said the most western part is residential and the eastern part is industrial and they have asked to have that flipped. Councilmember Stan Donaldson said according to their ordinances an industrial zoning has to do with a building that has to be enclosed and it also has to conform to all the environmental situations that might arise as far as air quality and things like that. He said being that it is industrial right now it is a lot less likely to be developed and if they switch it to R2 or to a regular business development you are going to have a lot more activity in that area if they do change these zoning laws. He said he just wants to make it clear that industrial is not as bad as it sounds. There are protections in there for the citizens. They have to comply to certain things and it has to be indoors. Mr. Arnette Easley said what they are saying is they never knew it was zoned industrial.

Councilmember Carol Langley asked if this is the whole piece of property from the Community Building to FM 149. Mr. McCorquodale said yes. Councilmember Carol Langley said it is all industrial now and the bigger portion they are asking for it to be residential multi-family. Mr. McCorquodale said that is what they are asking for.

Councilmember Stan Donaldson said to him it is the classic cart before the horse situation. He said he does not like approving zoning changes and they do not know exactly what they

are going to do with the property. He thinks they should first present them with the proper plats and civil construction drawings for approval before they give them these zoning regulations. Mr. McCorquodale said he can understand the thought behind that and it is a very common one, however that is just counter to the way that zoning and development regulations are set up. If you think of the best way to do it, think of your regulatory framework like a layer cake. Your zoning operates up here and any of those uses in that commercial zone are okay. You tell them what their site plan conditions have to be such as the number of parking spaces they have to have, what their setbacks are, their lighting, their trees, and their landscaping. You are giving them the framework to operate within those regulations but you should never consider a zoning change request tied to a specific site plan because the site plan can and often does change. He said after a zoning it is 100 percent legal to sell the property and never build what you said which is why that is a perfect example of why you never tie zoning to a site plan. You have this layer cake and we need to let that process work where it does. The rezone site design is not in your rezoning, your site design is down here in your landscaping, setbacks, parking, those types of requirements. Councilmember Stan Donaldson said this is the second time they have had to deal with this property. They have already had one proposition where they wanted to completely put residential property in there and then it died. Councilmember Casey Olson said it is the same people. Mr. McCorquodale said it is the same people and believes it is generally the same plan. He thinks they are operating on the same concept that they have asked you. This is the technical question that would allow that to happen and it starts with the zoning. They are asking for the commercial use on one side and multi-family on the other. Councilmember Stan Donaldson said his point is if they change the zoning you are right. They can do whatever they want with the property and can let it sit another 20 years. It is surely going to make it more marketable if they change it to those zoning things than it is if it stays industrial. He said he would prefer for it to stay industrial until we find out exactly what they want to do.

Mr. Arnette Easley said a caveat could be in the aspect of developing it could the residential be more adjacent to the homeowners and any commercial be further down.

Mayor Countryman closed the public hearing and reconvened into the regular meeting at 6:23 p.m.

9. Consideration and possible action on: AN ORDINANCE BY THE CITY COUNCIL OF THE CITY OF MONTGOMERY, TEXAS AMENDING THE ZONING CLASSIFICATIONS AS DEFINED IN THE CITY CODE OF ORDINANCES CHAPTER 98, "ZONING," FOR A 15.46-ACRE TRACT SITUATED IN THE B. RIGSBY SURVEY, ABSTRACT NUMBER 31, MONTGOMERY COUNTY, TEXAS LOCATED AT THE NORTHWEST CORNER OF LONE STAR PARKWAY AND LIBERTY STREET, MONTGOMERY, TEXAS FROM "ID"- INDUSTRIAL, AS FOUND ON THE CITY'S OFFICIAL ZONING MAP, TO 7.77- ACRES OF "B" COMMERCIAL AND 7.69-ACRES OF "R2" MULTI-FAMILY RESIDENTIAL ZONING DISTRICT CLASSIFICATIONS; AND TO AMEND THE OFFICIAL ZONING MAP; PROVIDING A SAVINGS CLAUSE; PROVIDING A REPEALING CLAUSE; AND PROVIDING AN EFFECTIVE DATE UPON PASSAGE AND PUBLICATION.

Mr. McCorquodale said this is the ordinance that would accomplish the rezoning action. As he mentioned earlier the developer's representative is here and is sure he would like an opportunity to discuss the request with you.

Mayor Countryman said something she did forget to mention and she apologizes, they did get a note from a citizen that was included in the packet from Annie Butler.

Mr. Greg Phipps with J.A. Costanza & Associates Engineering said they are the civil engineering company for the developer SPT Montgomery. He said they do have a land plan and the last time they were here prior to last week's public hearing they were originally looking at doing this in a full duplex, two phases of duplex. There was some concern about the density and what that looked like so they went back and looked at that and how this best fits both commercial and the multi-family. Multi-family is not your three-story apartments. It is 30 buildings that are duplexes and are somewhere in the neighborhood of 1,200 to 2,000 square feet for each one of those in the land plan. He said on the east side the plan is along the frontage, the long L-shaped arm on it is to put four buildings in there that are small commercial retail on two of them and a couple of them then would have more of the office with a garage door on it along that strip. Behind that in the other area would be a self-storage center behind it. The discussion last week with Planning and Zoning was access off of Simonton and Lawson and they prefer not to have access off of either one.

Mr. Petrov, City Attorney arrived at the meeting at 6:27 p.m.

Their land plan they looked at thinking public works engineering typically on a street they do not want dead end streets; they want cul-de-sacs on it so on Lawson they put a cul-de-sac. Just in their land plan as he said last week they prefer not to have access off of Lawson or Simonton. He said it does not do anything for them. As far as traffic goes they do not need to impact the residents that live next to them and do not want that. The only thing he said is it depends on what the Fire Marshal wants and do they have to have an access point off the back of Lawson. If they did they would want it as far to the east as they could to where it is not across from the residents and is more across from the driveway of the church. Also, if the Fire Chief so desired they could gate that. He said they do not need traffic cutting through and then missing that light. As the residents spoke, those two streets are very difficult to get in and out of anyway. They would like to keep them isolated. The only thing they would do in there is there is a six or eight-inch waterline and they would work with public works to see if they want that extended and looped. If not, they would have no activity off that back street.

Mayor Countryman said she thinks the last time you were here Simonton and Lawson was going to be a construction way and then was going to potentially close off. She thinks there was some concern about that. She asked if they are planning on using those roads at all for construction. Mr. Phipps said they would have no construction off there. He said commercial against residential requires a 25-foot buffer. There are good trees and good brush under that area and they would stay out of that 25-feet and completely stay isolated. Mayor Countryman asked if your commercial side would have one in egress and ingress and then your residential side have their own ingress and egress. Mr. Phipps said yes there is an existing culvert and driveway down several hundred feet and that is where their driveway would be into the property. You would come in there, go straight in, go through there and up to the mini storage. You would have to turn right and drive down the driveway to get to three of the buildings. They would have detention ponds in the front and then there

would be separate access into the 30 building duplex that would come in from there to keep those two entrances isolated. Mayor Countryman said when you were here last in July or at Planning and Zoning there was a different map that was included, it is not in here but it had the commercial the three buildings, is that still somewhat what you are looking to do. Mr. Phipps said yes that land plan has not changed. He said they have three buildings along the long narrow and then a fourth building that is north south that the driveway goes in and would go up to the self-storage.

Councilmember Cheryl Fox asked other than the existing trees that you are talking about on Lawson and Simonton what would you plan on doing to buffer the residents from any noise or anything that would disrupt their way of life. Mr. Phipps said the only thing that would back up their development to their own development would be they would still have that 25-foot buffer because of commercial up against residential or multi-family so that 25-foot buffer is still there. It would be vegetation. The buildings in the mini storage would back to that in the plan that they have so there would not be any lights in people's backyards. The commercial part of it between the buildings and that development is a detention pond in that land plan. Councilmember Cheryl Fox asked so you would not plan on any type of wooden structure fences or anything to separate the storage units. Mr. Phipps said they would fence the backyards. Councilmember Cheryl Fox said no, the storage units and the commercial. Mr. Phipps said the self-storage is set inside of the commercial. He said he is sure they would want to screen the retail from that. He does not have a land plan specific for fencing.

Councilmember Stan Donaldson asked what Mr. Phipps response is to the citizens request because you have the business zone up against Lawson Street and where you are going to put in the duplexes is on the opposite side. He asked if there is any way he can reverse that. Mr. Phipps said they looked at that and the issue that they have is that long narrow strip. He said they would do one of two things. They would either face the duplexes to where the driveways go too long and use locking as an access and have the backyards facing the major thoroughfare or they would flip them but then they would have housing and driveways that would be facing a major thoroughfare. He does not know what the residents would think of that but they are trying to keep that as much of a separation as they can. Councilmember Stan Donaldson asked if the duplexes are front loading as far as the garages. Mr. Phipps said the duplexes do not have garages. He said the ones they have now some of them have covers on them but each door of the duplex has two parking spaces and then the thinks the land plan shows 10 or 12 visitor parking spaces. Councilmember Stan Donaldson said so it is up front and it is not anything from the rear. Mr. Phipps said no. Councilmember Cheryl Fox asked if it is all going to be rental units. Mr. Phipps said yes it is a single ownership.

Councilmember Casey Olson said the dilemma is there are three different opinions on this piece of land. Even if you were willing to swap, that is not what this is so we would have to deny this and you would have to reapply to swap it the other way. Mr. Phipps said since he read it if it is denied it is a six month wait. Mr. Petrov, City Attorney said if it was swapped that is a different application. Mr. Palmer said you can withdraw the application and do it again.

Councilmember Casey Olson said the land plan that Mayor Countryman just showed him shows a street running south of Lawson so it would be parallel to Lawson just on the other side of those homes running down the strip and that was the original commercial plan so

an added street. He said if they were worried about having homes exit onto Lone Star it would be residential if adding another street there. Mr. Phipps approached and explained the layout of the map. Councilmember Casey Olson said his question is the citizens would like this to be residential and your concern is like theirs is as traffic builds on Lone Star could you just flip them around. Mr. Phipps said if they flip these the land plan would be they would have driveways facing Lawson and Lawson would become their street and at that point the City would have to make that determination of whether they put a cul-de-sac at the end or not. Councilmember Casey Olson said that sounds like a better deal. He said they would get their residential. Mayor Countryman said but she did not hear that they wanted to take on more traffic and that sounds like there would be more traffic. Councilmember Casey Olson said you would have to widen that street.

Councilmember Casey Olson thanked them for coming and giving them their opinion. He said it is very helpful so they know what you want. They want to make sure that they are trying to please all parties. Councilmember Cheryl Fox said we welcome you to the City but we really want to respect our residents also.

Councilmember Casey Olson moved to table item #9 until the next Council meeting on October 22, 2024. Councilmember Cheryl Fox seconded the motion. **Motion Passed (4-0).**

10. Consideration and possible action on setting a new Public Hearing date related to a Special Use Permit application for a paramedical and fine-line tattooing business located at 14375 Liberty Street, Montgomery, Texas.

Mr. McCorquodale asked Council to call a public hearing at the specified date to put on the agenda and have it published. Councilmember Casey Olson asked how many days do they have to give them and if it is 30 days from now for the public hearing. Mr. McCorquodale said it is. Mayor Countryman said the date is November 12<sup>th</sup> at 6:00 p.m.

Councilmember Casey Olson moved to set a public hearing for November 12, 2024 concerning the paramedical and fine-line tattooing business located at 14375 Liberty Street, Montgomery, Texas to be held at Montgomery City Hall. Councilmember Carol Langley seconded the motion. **Motion Passed (4-0).**

11. Consideration and possible action on a request from the Montgomery First Baptist Church for relief from Chapter 90 Utilities, Section 90-68(a) which governs the cost of the City's public water system tap.

Mr. Palmer said Montgomery First Baptist Church added square footage to their building which kicked in the requirements for our tap fee. Mr. Palmer stated Pastor Gober is here tonight requesting relief. Pastor Gober said they took on a project to give themselves a façade improvement and expanded their foyer by 200-feet. When they did that it triggered the need to get up to code on their building for their fire suppression system. He said they raised \$300,000 from their congregation over a couple years to get that suppression system in but as they went to hook up to the City tap it required a new tap to power this. They have had their existing tap for quite some time but there is a new one just for the fire suppression system. He said when the cost came back for that it was \$7,500 to put it in, there was a \$900 plan review, and then by ordinance there is a 200 percent markup on that tap. He said he is here to throw himself before the mercy of the Council and ask for some relief on

behalf of their church. If there is anything Council can do to lessen that load it would be greatly appreciated.

Mayor Countryman asked if they were putting together a private school. Pastor Gober said they do have a school in their church and right now it is kindergarten. He said they also have a group of homeschool students who come in and use their facility on Tuesdays and Thursdays.

Ms. Kay Piland, a member of the staff at Montgomery First Baptist Church said what they are really coming for today is not just relief but mercy because this extra 200 percent is not going to take money away from bonuses and salaries for church staff or to a pastor or for trips. She said what this is going to affect is they are going to be limited to the amount of resources they are currently giving to Mount Sinai Baptist Church and to Brownwood Baptist Church. She said what they are doing at Medley Ranch with the after school Bible club is they feed all the title one families from MES and from Lincoln every single year so it is not just money that is in the budget. It is money that is going to take away from what they are actually already doing in the community. She is asking for mercy on this because she thinks they are more active or as active as anyone in the community and this really takes money away from what they are doing for the local community.

Councilmember Stan Donaldson said they just denied MISD the same request and he cannot in good conscience give it to you and not give it to them. He said he is going to recommend they take no action. He is sorry but the City has bills to pay also. Their budget is stretched and they are under budget on their capital improvement plan. He said he cannot give it to them and not give it to somebody else as it would not be right.

Councilmember Stan Donaldson moved to take no action. Councilmember Casey Olson seconded the motion. **The Motion carried with 3-Ayes and 1-Nay vote by Councilmember Carol Langley. (3-1).**

12. Consideration and possible action on a Development Agreement by and between the City of Montgomery, Texas and Morning Cloud Investments and Solid Bridge Construction for Montgomery Crossing, a proposed 86-acre single-family residential development (Dev. No. 2403).

Ms. Vu said they presented the initial feasibility study for this development back in April and then the developers came to you during a workshop in July to present what they were proposing for this development. She said she would walk Council through the terms of the development agreement and point out the highlights of some things that may be unique to this specific development.

Ms. Vu said the for the wastewater treatment facilities this tract will require an on-site public lift station and this agreement outlines that it will be designed and constructed by the City. They would of course coordinate with the developer to determine the final location but as far as completing the design, calculations, and knowing what is needed that would come from the City at the developer's expense and then construction would then be coordinated by the City at the developer's expense as well. Similarly the force main leading out of the lift station and where the force main discharges into your existing gravity system that gravity line needs to be upsized so that work would be completed by the City at the developer's expense and based on the terms of the agreement.



Ms. Vu said the development will receive water both from the east and the west side of the development. They will tie into the 12-inch waterline along Old Dobbin-Plantersville which is currently in the contracts period. You just awarded that contract a couple Council meetings ago, which it will be existing and in service by the time this development is ready to connect. They will also be connecting to the eight-inch waterline on Old Plantersville on the east side of their development just north of the tracks. Additionally, they will be required to extend an eight-inch waterline to stub out to the north to allow for future connection as needed. Councilmember Casey Olson asked from the sewer standpoint what is their capacity. Ms. Vu said knowing the timing of build out with single family tying that in with timing of building the wastewater treatment plant, this does fall right in line with the timing they have been discussing. It does not put us into a need to greatly accelerate the timing of the new wastewater treatment plant and thankfully they have known about this development since before they went out for proposals for the wastewater treatment plant design so they were able to build it into that timing projection. You are looking at 36,900 gallons per day at full build out of the full 235 homes. Her understanding is that this is going to be phased in two phases starting from the west and moving to the east and as of today, she does not anticipate capacity issues in your current wastewater treatment plant as we continue to build out as long as we continue that process for the new wastewater treatment plant. Councilmember Casey Olson asked if it would lock them in to that new wastewater treatment plant based on the dates of this build up. Ms. Vu said she would not feel comfortable delaying that wastewater treatment plant. Councilmember Casey Olson asked the builder what do you foresee as first build and how far along in the process are you. Ms. Vu said this is still preliminary as they have not reviewed any plans and this is just outlining in terms of it. Councilmember Casey Olson said he understands that but they may have it ready to just hand it to you. He does not know. Ms. Marjorie Cox said certainly they intend to close on the property within 60 days or so. They have a timeline in place and they expect the engineering to take about 12 months and if it could take six to 12 months that would be helpful, but they are looking to factor that in and then construction for six months. Mr. Vance Bridges, a partner of Ms. Marjorie Cox said it would be a year and a half to two years. Councilmember Stan Donaldson asked if it would be a year and a half before the first house is built. Mr. Bridges said no, the start of construction of the house. Councilmember Stan Donaldson asked when they open the subdivision up for houses for sale do they need to have Well No. 2 online and when are they going to really have to have improvements in their water system. Councilmember Casey Olson said right now they are just talking about the sewer as she has not talked about water yet. Councilmember Stan Donaldson apologized. Mr. Bridges said a good scenario for them would be to start home construction in two years and take those homes to be completed and a good phase for them would be 60 to 80 home in that first year of construction. Councilmember Stan Donaldson asked when should they build the first house. He asked if the current sewer system they have is adequate to take care of them. Ms. Vu said yes. Ms. Vu said the contract for Well No. 2 is completion in June for next year well before they will still be in designs, plan reviews, and potentially early construction. Councilmember Stan Donaldson asked if she is sure it is June. Ms. Vu said the contract completion is in June and the Well is expected to be online in April to allow two months for punch lists, wrapping up the construction of the plan, but contract completion is June.

Ms. Vu said just as they have done with previous development agreements impact fees will be assessed and due at the time of platting, so all up front. This is kind of an exception from the ordinance so how it is written is it is assessed at the time of platting and due at the time of connection as they have been doing with these development agreements they do it all at

the time of platting. Councilmember Casey Olson asked Mr. Petrov if the ordinance changes they are making currently are going to fall on our existing ordinances or the new. Mr. Petrov said it would be based on when they actually submit plans. The ordinances we have on the books when they submit plans are the ones that control. Councilmember Casey Olson asked if they will have their new ordinances in place by then. Mr. Palmer said yes.

Ms. Vu said they are proposing to have two connections for paving and traffic. Getting in and out of the subdivision off of Old Dobbin-Plantersville and one off of Old Plantersville. They will be required to complete a traffic impact analysis that is submitted to both Montgomery County for Old Dobbin-Plantersville connection and to the City for the Old Plantersville connection. Additionally the developer will be contributing a 70-foot dedicated right-of-way with a 36-foot wide concrete pavement. This is shown in the exhibit on page 117 of your packet. This is the land plan and as you can see there is a highlighted section of 70-foot right-of-way with 36-foot pavement width going through their property which will be connected to the north to allow for the option for a future thoroughfare plan. In talking with the developer in previous conversations they understand the current temperature. As far as thoroughfares the developer and my understanding also see the benefit that this could potentially provide to the City looking in the future thinking long term as well. Another condition of the paving and traffic section of their development agreement is that they must continue to provide access to the property owner to the west so a portion of this property there is a single family owner that will be land locked by the purchase of this property. They are required to maintain access for that homeowner, which is outlined in this section as well.

Ms. Vu said as far as drain facilities all storm sewer will be conveyed to the City and all detention ponds will remain the property and responsibility of the developer.

Ms. Vu said parks, open spaces, and requirements are outlined. One thing she does want to point out is the developer will be maintaining a tree buffer of at least 20-feet in width along the railroad for privacy and it is written specifically to maintain because that tree buffer does already exist so they are responsible for just upkeeping and maintaining it. Councilmember Casey Olson asked if that railroad property is considered industrial or commercial and would our 25-foot buffer apply. Ms. Vu said she does not believe the railroad property has a zone. Mayor Countryman said on the other side of the railroad it is industrial. Councilmember Casey Olson said you cannot count the railroad as your buffer. Mayor Countryman said she knows but the very next zoning is industrial. Ms. Vu said right across the railroad tracks and catty corner from this development across the railroad, yes that is industrial on that corner. This property will be zoned single family and then there is the railroad cutting through but there is already an existing tree buffer a large majority of which is on the railroad's right-of-way. Some of it bleeds over into this property so they are just outlining in here that the developer is required for maintaining at least 20-feet on their property. She said this is outlined in that land plan. To be clear, this is not a separate setback on the private property owners, this is outlined in a landscape reserve. It is a little bit different than a vegetative setback that you would see on a commercial property and it is being specifically placed within a reserve so that ownership and maintenance control remains with the developer and that it is not being placed on the property owners to try to maintain that 20-foot. Mayor Countryman asked who ensures that that takes place because they have other properties that are supposed to have that buffer that do not have it. She asked if the onus is on us as the City or is the onus on the developer. Ms. Vu asked the onus as far as who maintains it. Mayor Countryman said who is going to make sure that

true 25-foot is happening instead of like we do not want them to build out and go oh, there is only 13-foot. Ms. Vu said the landscape reserve will be platted as that 20-foot minimum and it would be enforced by the HOA as far as maintaining it. Ms. Vu said since it was part of the code, part of their requirement, it would potentially defer to your code enforcement officer to make sure it is being enforced.

Ms. Vu said as far a development regulations they are requesting a variance to go to 65-foot wide lots with a 7,800 square foot area and side yard setbacks of seven and a half on each side for all adjacent lots. This is the same as what was originally presented to you.

Ms. Vu said one thing that is very unique for this development specifically is article six, City's consent to creation. This is where they get into the creation of the PID itself so as you recall what is being proposed as the financing mechanism for this development is a PID. What that means is if you look at section 4.1 within 10 days of closing of the property the developer will be submitting to the City the petition to create the district itself. That is that petition cannot be submitted until they close on the property because you have to be the owner in order to submit it. As part of approving this development agreement the City is approving the formation of the district. It is being taken care of all in one motion but again it just cannot be filed until they own the property. Councilmember Cheryl Fox asked if this project is predicated on having a PID. Ms. Vu said she would defer to the developer but her understanding is yes the PID is essential for funding the development. As far as getting into the terms of the PID, looking at subsection C of the portion of the agreement that we are looking at, the developer will be reimbursed solely from assessments levied on property only within the development itself. This is not a separate tax; it is a levy over a term of 30 years. Section D outlines this as \$2,000 per year for each lot that does include both principal and interest. It is \$2,000 which includes principal and interest for reimbursement to the developer. There are terms in here that the district cannot annex additional land with into the boundaries of district without the permission of the City. Any annexation that the district would choose to do does come back to City Council for approval.

Ms. Vu said the next sections of this agreement are your standard miscellaneous. We are getting into severability and your standard development agreement language, which is essentially the same as all of your previous development agreements have been. When you get to exhibit D, which is on page 105 of your packet this shows where the utilities are going to be constructed, where they will be connecting to that 12-inch and the eight-inch waterline on either side of the development and where their proposed force main will be to be constructed by the City itself and then discharging into the existing gravity line along SH 105 to then be upsized as well. Exhibit E is the form of the utility agreement. This also outlines everything we have discussed regarding water supply facilities, wastewater facilities, drainage, paving, etc. This is all outlined again in the form of the utility agreement. The difference is that after the PID is created the utility agreement is then executed by the PID whereas the development agreement is executed by the developer.

Ms. Vu stated on page 117 is the latest land plan they have received. This does show that 70-foot right-of-way with a 36-foot concrete pavement width as well as the location of the detention ponds and where the lots will be. Starting from development they will be starting on the west side and moving towards the east in phase one and phase two.

Councilmember Casey Olson asked if he heard correctly when you said part of the water would be City and part would be Dobbins-Plantersville. Ms. Vu said that is not correct. It will all be City water. She said the waterline that you are currently going through the contract period for with Bull G Construction that is the one that is going along Old Dobbins-Plantersville. It is Old Dobbins-Plantersville Road but a City owned waterline.

Councilmember Stan Donaldson asked Mr. Palmer what is his experience as far as the administrative side if they have a PID to the City, is it zero. Mr. Palmer said zero.

Ms. Cox said in their experience with the City of Conroe and the City of Tomball it is very minimal and it is funded by the developer and not an expense to the City. Ms. Vu said the City currently has a PID for Montgomery Summit Business Park that is a commercial PID that the City really has no administrative maintenance to do with it. It is all essentially self-maintained. The attorney comes to you once a year to give you a report on PID. Mayor Countryman said the other PID they had was not a great experience. She said it just expired. Ms. Vu said that it was not a PID. A PID is specifically a reimbursement and a funding finance mechanism. The agreement that you are referencing was different.

Councilmember Stan Donaldson moved to accept the development agreement as presented. Councilmember Casey Olson seconded the motion. **The Motion carried with 3-Ayes and 1-Nay vote by Councilmember Cheryl Fox. (3-1).**

13. Consideration and possible action on the following items related to the sale of right-of-way to TxDOT along SH 105 at city hall for their upcoming SH105 improvements project:
  - a. Memorandum of Agreement
  - b. Possession and Use Agreement
  - c. Property deed of 0.0517-acre portion of city hall site.

Mr. McCorquodale said as you are aware TxDOT is working on a project that is along the western half of our City. They are acquiring right-of-way from all the adjacent frontage properties and we are one of them. On page 118 of the memo he has highlighted the section. The section of property in question is a sliver out by the road. The unfortunate thing is both of the brick planters are within the area we are going to sell and they are going to demolish those. We have asked to retain the two flag poles which cost us \$1 each but it will cost them more than that when Mr. Muckleroy has to move them but the intent is to pull those out of the planters, they take and demo the planters, but we reinstall the flag poles in a place that is somewhere that is out of the way of that and out of the way of trees. He said he did not argue with TxDOT on this value. If Council tells him to go back and tell them this is not enough he will be happy to do that but he did not want to presume anything just in his role as trying to get this to Council. Councilmember Stan Donaldson asked if they are losing money. Mr. McCorquodale said he does not believe so. He said it feels like a fair enough ask given we are a public entity and they are a public entity and he does not feel like they are taking advantage of us. Councilmember Stan Donaldson asked how wide is that proposed row. Mr. McCorquodale said he is guessing it is about 20-feet or so at the most. He said the planter is only maybe five feet wide. Councilmember Casey Olson asked Ms. Vu if they have any pipes there. Ms. Vu asked as far as utilities. Councilmember Casey Olson said yes. Ms. Vu said not within that specific proposed right-of-way. Councilmember Casey Olson said it is over \$200 a square foot so it seems like a fair price.

Ms. Vu said it is about 35-feet wide. Councilmember Casey Olson said he is assuming they are widening SH 105 and putting in a sidewalk. Ms. Vu said they are widening, putting in sidewalks, and access management from Shepperd west to Grimes County line. Councilmember Casey Olson said it will be an improvement and look nice. Mr. Petrov asked if they will need to move any of their existing utilities for the widening project. Ms. Vu said there are a couple of adjustments they are going to need to make. Some relocations are being conveniently timed with other developments that are going on where they were already planning to relocate utilities but the short answer is yes they do need to relocate utilities. Councilmember Casey Olson asked for the entire project but just not right here. Ms. Vu said correct.

Councilmember Casey Olson moved to accept item #13 as presented. Councilmember Stan Donaldson seconded the motion. **Motion Passed (4-0).**

14. Consideration and possible action on designating two Council members to serve as primary and alternate representatives, for the Houston-Galveston Area Council (HGAC), to the State's 2025 General Assembly.

Mr. Palmer said in the package there is a form designating those representatives from our Council and a letter from the Executive Director of HGAC requesting those nominations. He recommends Council nominate two people to serve as representatives from the City to HGAC. Mayor Countryman said she and Councilmember Stan Donaldson have been the HGAC advocates for the City and she is happy to be nominated.

Councilmember Casey Olson moved to nominate Mayor Countryman as primary and Councilmember Stan Donaldson as secondary to represent HGAC at the State's 2025 General Assembly. Councilmember Cheryl Fox seconded the motion. **Motion Passed (4-0).**

15. Consideration and possible action on a Resolution establishing the annual Christmas Parade as a public-purpose event and authorizing the City to enter into a 5-year agreement with TxDOT to close portions of SH149 and SH105 during the parade.

Councilmember Casey Olson moved to accept item #15 as presented. Councilmember Stan Donaldson seconded the motion. **Motion Passed (4-0).**

16. Consideration and possible action regarding termination of the warranty period and release of the maintenance bond for the Water Plant No. 3 Improvements project.

Ms. Vu said this is a project you might not have heard of for a while. She said the warranty period for this project technically ended on August 3, 2023. They conducted a warranty inspection before that date and issued the punch list at that time. If you remember earlier this year they then engaged with a rover company to send a rover inside your ground storage tank to do an interior inspection, again trying to capitalize on the winter months when usage is down. This is when you typically want to do your interior inspections of your tanks. With the rover report that came back as well as your new operator that came into the City, they found some issues and punch list items that were never initially resolved. They have been working through those with the contractor R&B Group. They did end up needing to reach out to the bonding company to get those addressed. All items have since been addressed and the plant is in good working condition. It was never not in good

working condition to be clear. Your operator did a great job of receiving what they were given and making sure that everything was operational and then working with the contractor to get it to where it is supposed to be, which is where it is today. Given all that has been addressed they do recommend formally ending the warranty period and releasing the maintenance bond which the City has held against R&B Group.

Councilmember Stan Donaldson moved to accept item #16 regarding termination of the warranty period and the release of the maintenance bond for Water Plant No. # improvement project. Councilmember Casey Olson seconded the motion. **Motion Passed (4-0).**

### **COUNCIL INQUIRY:**

Mayor Countryman said she needs to apologize as they had a special guest and she did not announce him. She said Landon Riles from Troop 419 was here earlier learning about government and we always appreciate our Boy Scout Troops coming in and learning about how the City works. It was great to see him and to see young folks interested.

Mayor Countryman said Faith and Blue was a huge success and nearly 500 people attended. She said it was fantastic and there was a lot of great feedback.

Mayor Countryman announced they have the Quilt Walk coming up this weekend around town. There will be about 200 quilts decorating their downtown area. She said also it is their fourth or fifth year for their Halloween celebration downtown to take place October 26<sup>th</sup> from 3:00 p.m. – 6:00 p.m.

### **EXECUTIVE SESSION:**

Adjourn into Closed Executive Session as authorized by the Texas Open Meetings Act, Chapter 551 of the Government Code, Section(s): of the State of Texas.

551.071 (consultation with attorney) General Matters

551.071 (consultation with attorney), to Discuss Matters Within the Attorney Client Privilege Concerning City Council Authority and Responsibility Related to Personnel.

551.072 (deliberation regarding real property)

Council adjourned into Executive Session at 7:19 p.m.

Council reconvened into Open Session at 8:26 p.m.

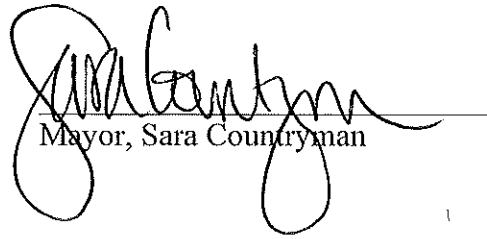
### **ACTION FROM EXECUTIVE SESSION:**

No action was taken on items from Executive Session.

**ADJOURNED at 8:26 P.M.**

Date Approved: 10-22-2024

Submitted by: Diana Titus  
Diana Titus, Deputy City Secretary

  
Mayor, Sara Countryman