



City of Montgomery Planning and Zoning Commission Regular Meeting Agenda

March 04, 2025 at 6:00 PM
Montgomery City Hall – Council Chambers
101 Old Plantersville Rd. Montgomery, TX 77316

NOTICE IS HEREBY GIVEN that a Regular Meeting of the Planning and Zoning Commission will be held on **Tuesday, March 04, 2025 at 6:00 PM** at the City of Montgomery City Hall, 101 Old Plantersville Road, Montgomery, Texas.

Members of the public may view the meeting live on the City's website under www.montgomerytexas.gov Agenda/Minutes and then select Live Stream Page (located at the top of the page). The Meeting Agenda Pack will be posted online at www.montgomerytexas.gov. The meeting will be recorded and uploaded to the City's website.

OPENING AGENDA

1. Call meeting to order.
2. Pledges of Allegiance.

PUBLIC FORUM:

The Planning and Zoning Commission will receive comments from the public on any matters within the jurisdiction of the Commission. Speakers will be limited to three (3) minutes each. Persons wishing to participate (speak) during the Public Forum portion of the meeting must sign-in to participate prior to the meeting being called to order. Please note that discussion, if any, on subjects for which public notice has not been given, are limited to statements of specific factual responses and recitation of existing policy.

REGULAR AGENDA

All items on the Regular Agenda are for discussion and/or action.

- 3.** Presentation by BCS Capital Group on a proposed new multi-family and mixed-use commercial development on 32 acres, southeast of the intersection at CB Stewart Drive and Buffalo Springs Drive and north of Eva Street.
- 4.** Consideration and possible action on the proposed installation of a privacy fence along the west property line at 606 College Street.
- 5.** Consideration and Possible action by the Planning & Zoning Commission to make a recommendation to City Council for a variance request related to lot minimum frontage and side yard setbacks of lots 27 & 28 for the Hills of Town Creek Section 5 development.
- 6.** Discussion of Utility and Economic Feasibility Study for the KHR Properties Commercial Tract (Dev. No. 2415).
- 7.** Presentation of the zoning determination by the Planning/Zoning Administrator for the restaurant with drive-through service (KHR, Properties – Jack in the Box 4947).
- 8.** Consideration and possible action on the Regular Meeting Minutes of February 04, 2025.

COMMISSION INQUIRY

Pursuant to Texas Government Code Sect. 551.042 the Planning & Zoning Commission may inquire about a subject not specifically listed on this Agenda. Responses are limited to recitation of existing policy or a statement of specific factual information given in response to the inquiry. Any deliberation or decision shall be limited to a proposal to place on the agenda of a future meeting.

CLOSING AGENDA

9. Items to consider for placement on future agendas.

10. Adjourn.

The Planning & Zoning Commission reserves the right to adjourn into executive session at any time during the course of this meeting to discuss any of the matters listed below, as authorized by the Texas Government Code Sections 551.071 (Consultation with Attorney), 551.072 (Deliberations about Real Property), 551.073 (Deliberation Regarding Prospective Gifts), 551.074 (Personnel Matters), 551.076 (Deliberations regarding Security Devices), and 551.087 (Deliberation regarding Economic Development Negotiations).

I, Ruby Beaven, City Secretary, the Undersigned Authority, do hereby certify that this notice of meeting was posted on the website and bulletin board at City Hall of the City of Montgomery, Texas, a place convenient and readily accessible to the general public at all times. This notice was posted at said locations on the following date and time: **February 28, 2025 by 5:00 p.m.** and remained so posted continuously for at least 72 hours preceding the scheduled time of said meeting. I further certify that the following news media was notified of this meeting as stated above: The Courier

/s/ Ruby Beaven

City Secretary

This public notice was removed from the official posting board at the Montgomery City Hall on the following:

Date: _____ Time: _____

By: _____
City Secretary's Office
City of Montgomery, Texas

This facility is wheelchair accessible and accessible parking spaces are available. Please contact the City Secretary's office at 936-597-6434 for further information or for special accommodations.

Montgomery Planning and Zoning Commission
AGENDA REPORT

Meeting Date: 03/04/2025	Budgeted Amount: NONE
Department: Administration	Prepared By: Corinne Tilley

Subject

Presentation by BCS Capital Group on a proposed new multi-family and mixed-use commercial development on 32 acres, southeast of the intersection at CB Stewart Drive and Buffalo Springs Drive and north of Eva Street.

Recommendation

For discussion only.

Discussion

The developer, BCS Capital Group, is proposing to develop the 32-acre parcel of land southeast of the intersection at CB Stewart Drive and Buffalo Springs Drive and north of Eva Street. The location is shown on the attached aerial/zoning map and site schematic.

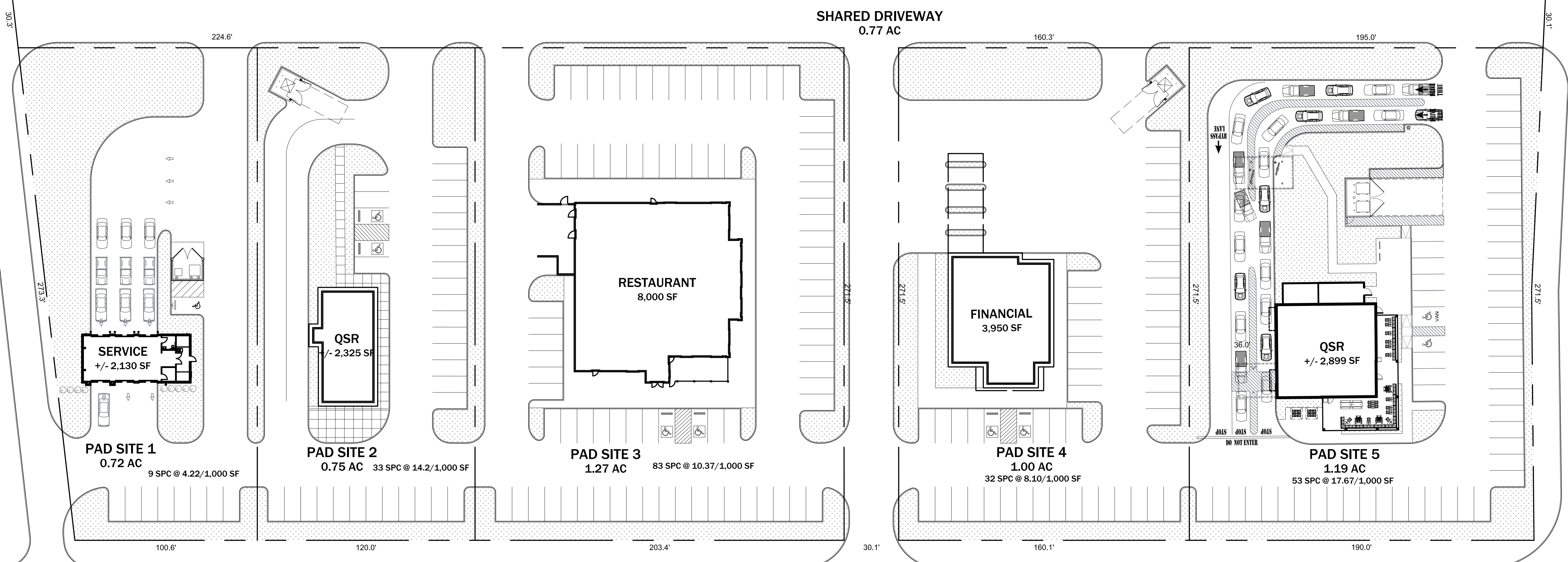
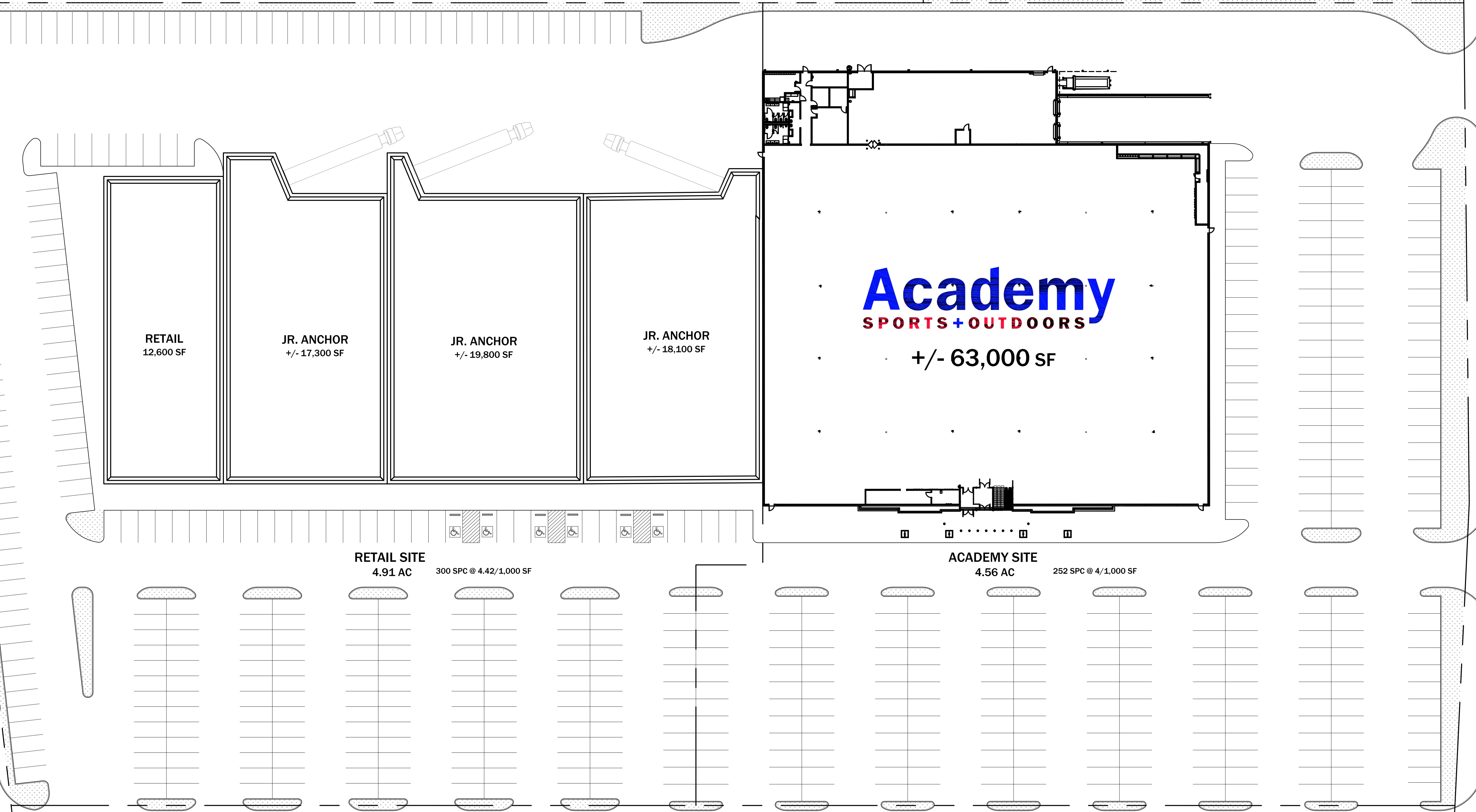
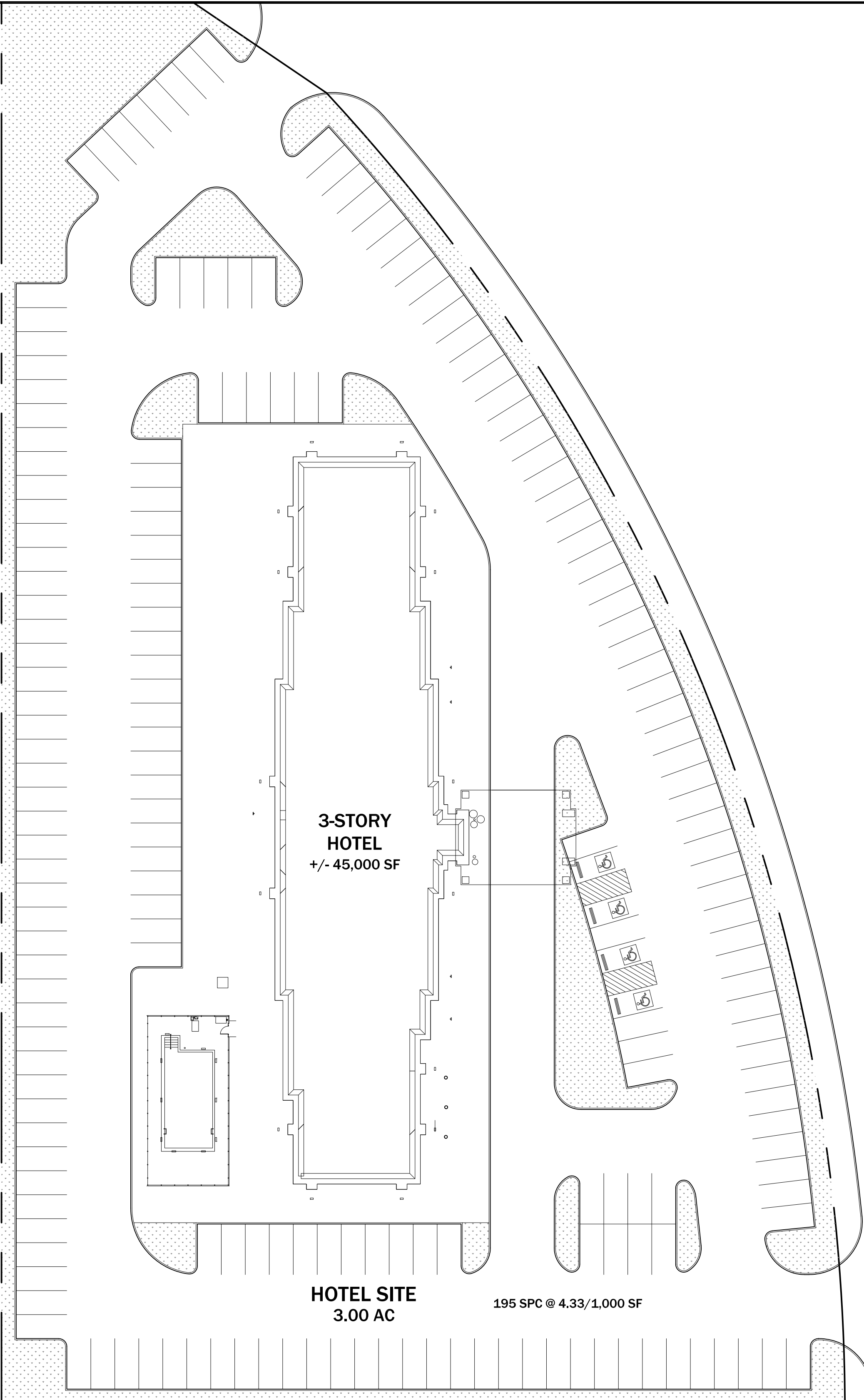
The developer is here to formally meet with you all and provide an update on their proposal.

Note: The feasibility study for this proposed development was presented and accepted by City Council on January 28 and presented to the Planning and Zoning Commission on February 4.

Approved By

City Secretary & Director of Administrative Services	Ruby Beaven	Date: 01/30/2025
Interim City Administrator & Police Chief	Anthony Solomon	Date: 01/30/2025

MULTIFAMILY TRACT 14.33 AC



BUFFALO SPRING DR.

STATE HIGHWAY 105

01 SITE PLAN - OPT 1 SCALE: 1" = 30'-0"

Montgomery Planning and Zoning Commission
AGENDA REPORT

Meeting Date: 03/04/2025	Budgeted Amount: NONE
Department: Administration	Prepared By: Corinne Tilley

Subject

Consideration and possible action on the proposed installation of a privacy fence along the west property line at 606 College Street.

Recommendation

Staff recommends approval of the proposed installation of a privacy fence along the west property line at 606 College Street, subject to the following conditions:

1. The fence must be installed entirely (including fence posts) within the property boundary of 606 College Street.
2. The proposed fence must adhere to the Planning and Zoning Commission's approved design elements, as it is submitted on March 4, 2025, and based on the adopted design guidelines of the City of Montgomery.
3. Any modifications to the approved plans that alter the appearance of exterior elements visible from the public right-of-way must be resubmitted to the Planning and Zoning Commission for review.

Discussion

606 College Street is located in the Residential Zoning District and the Historic Preservation District.

The property owner proposes to install a 6' high privacy fence along 87' of the west property line (towards the rear yard) and a 4' high privacy fence along 63' of the west property line (towards the front yard).

Code References:

Sec. 98-347. Approval for alteration within historic preservation districts.

Sec. 98-350. Criteria for approval. (adopted design guidelines)

Findings:

Sec. 98-350

2. Fences. Fences must be consistent with the same period of the building.
 - This finding is met. The principal structure (single family dwelling) was constructed mid to late 2012 in a north american small victorian style. Since wood is a traditional building material often used in Victorian style houses, a wooden fence would be a period-appropriate look.
 - a. Form. Fences must be constructed and maintained in a vertical position.
 - This finding is met. The proposed fence will be constructed and maintained in a vertical position as depicted in the example photo.

Montgomery Planning and Zoning Commission
AGENDA REPORT

- b. Heights. Within a front yard, no fence or wall shall be erected to exceed a height of four (4) feet.
This finding is met. The proposed fence height along the west property line, in the front yard will be 4’ in height.
- c. Location.
 - (i) A fence in an interior side yard must be located no further forward on the lot than the front of the main building.
This finding does not apply.
 - (ii) A fence in a corner side yard must not be directly in front of the corner side façade, ...
This finding does not apply.
 - (iii) A fence must run either parallel or perpendicular to a building wall or lot line.
This finding is met. The proposed fence will run parallel to the lot line.
- d. Materials. A fence in a front or corner side yard must be constructed of wrought iron, wood or brick.
This finding is met. The proposed fence will be constructed of wood.
- e. Masonry columns and bases.
This finding does not apply.
- f. Metal fences.
This finding does not apply.
- g. Wooden fences.
 - (i) All wooden structural posts must be a least four (4) inches by four(4) inches in diameter.
This finding is met. The proposed fence posts are 4x4 pressure treated lumber posts.
 - (ii) Wooden fences facing a public street must present the finished side to the street.
This finding does not apply. The proposed fence does not face the public street.
 - (iii) Wooden fences may be painted or stained a color that is complementary to the main building.
This finding is met. The property owner proposes to keep the wood natural. The property owner states that as the wood ages, it will fade to a greyish color.

Neighboring, similar wood privacy fences visible from the public right-of-way, photos attached:

- A – rear yard of 14387 Liberty, corner lot
- B – interior rear yard of 603 College, SW corner of College and Pond
- C – rear yard of 504 Caroline, but front yard of 210 Pond
- D – rear yard of 603 College, but side yard of 605 College
- E - side yard of 14287 Liberty, corner lot
- F – rear yard of 602 Caroline, but front yard of 207 Pond
- G – rear yard of 14387 Liberty, corner lot
- H – rear yard of 504 Caroline, corner lot

Approved By		
City Secretary & Director of Administrative Services	Ruby Beaven	Date: 02/25/2025
Interim City Administrator & Police Chief	Anthony Solomon	Date: 02/25/2025



Item 4.

02/25/2025 08:45





Linda Sherwood

606 College Street
Montgomery, TX 77356

February 18, 2025

**City of Montgomery, TX
Planning and Zoning Commission**

Dear Commissioners,

The following information is being presented to the Planning and Zoning Commission asking for approval to install a fence along the property line between 606 College Street and 704 College Street.

The following is the description of the materials and location of the proposed fence.

The proposed fencing material consists of 4x4 pressure treated lumber posts and the fence pickets are of pressure treated lumber. (Please refer to City of Montgomery Design Guidelines Item 2 d. and g (i). Sample photos are attached.)

Proposing a 4 ft fence (referenced in City of Montgomery Design Guidelines Item 2 b.) along the property line (63 linear feet, indicated on the attached survey).

Proposing a 6 ft fence along the property line (87 linear feet, indicated on the attached survey). This portion of the fence will be totally in the backyard and not in view from the street.

The iron rods marking the property lines have been located as indicated on the attached survey and the fence will be installed on our side of the line. In order to do this, we will need to clean up the current fence line and remove vines and trees that have destroyed the chain link fence. You can easily see this in the photos attached. Once the current fence is cleaned up and straightened, the property line can easily be seen and our fence will be legally on our side of the property.

We are respectfully submitting this fence proposal and believe we are within the required guidelines. If you need additional information, please do not hesitate to give me a call at 281-216-1661.

Sincerely,

Linda Sherwood

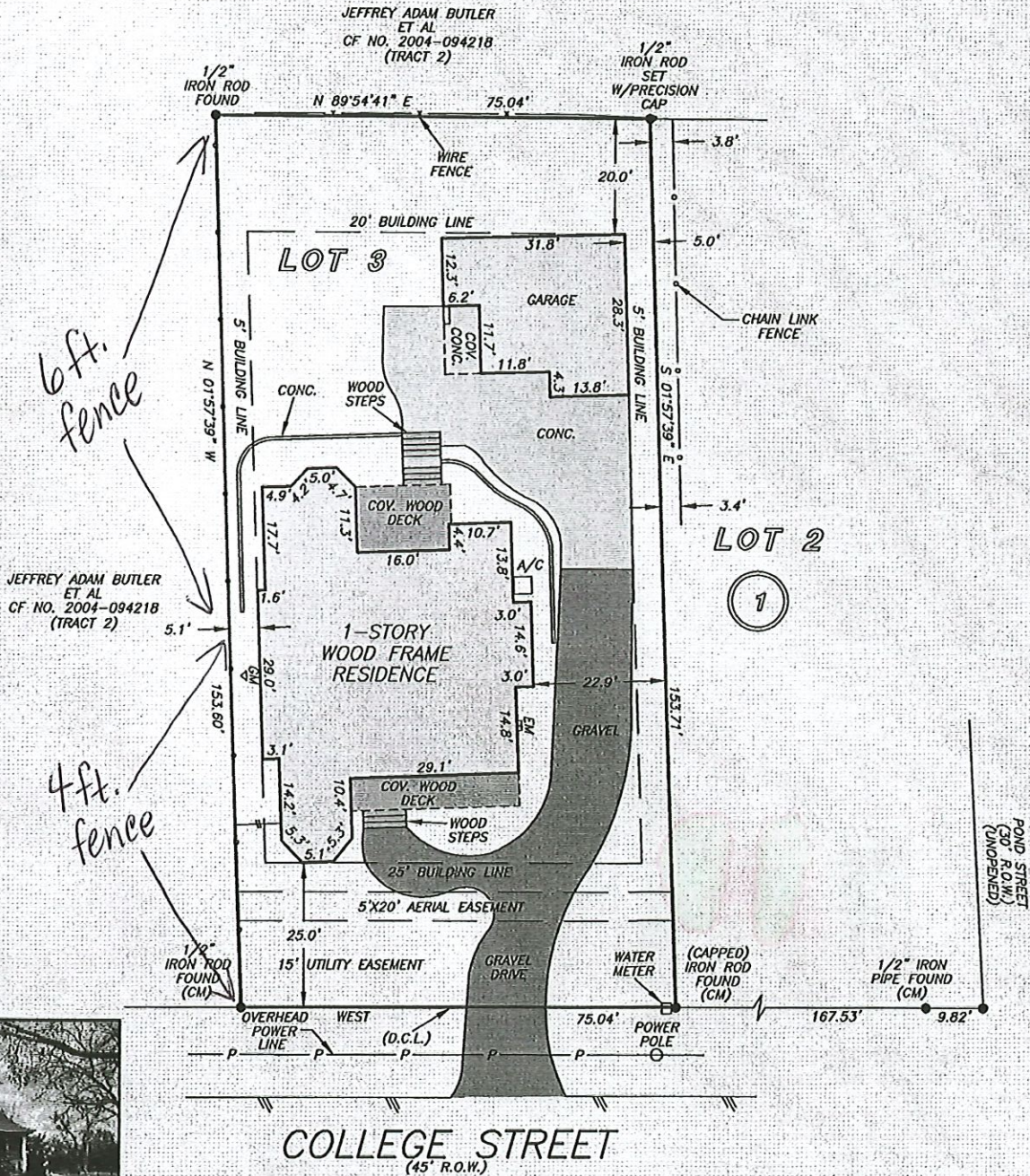
Linda Sherwood

Attachments:

Survey of Property
Fence examples
Photos of current property condition

LOT 3, BLOCK 1 SUBER SUBDIVISION

ACCORDING TO THE MAP OR PLAT THEREOF RECORDED
IN CABINET Y, SHEET 167 OF THE MAP RECORDS
OF MONTGOMERY COUNTY, TEXAS



THIS PROPERTY DOES NOT LIE WITHIN THE
100 YEAR FLOOD PLAIN AS PER FIRM
PANEL NO. 48339C 0200 G
MAP REVISION: 08/18/2014
ZONE X
BASED ONLY ON VISUAL EXAMINATION OF MAPS.
INACCURACIES OF FEMA MAPS PREVENT EXACT
DETERMINATION WITHOUT DETAILED FIELD STUDY

I HEREBY CERTIFY THAT THIS SURVEY WAS MADE
ON THE GROUND, THAT THIS PLAT CORRECTLY
REPRESENTS THE FACTS FOUND AT THE
TIME OF SURVEY AND THAT THERE ARE NO
ENCROACHMENTS APPARENT ON THE GROUND,
EXCEPT AS SHOWN HEREON. THIS SURVEY IS
CERTIFIED FOR THIS TRANSACTION ONLY AND
ABSTRACTING PROVIDED IN THE ABOVE
REFERENCED TITLE COMMITMENT WAS RELIED
UPON IN PREPARATION OF THIS SURVEY.







Current fence at the front of property



Current fence at front of property.



Back view from backyard looking toward the front

Back looking to front.
Fence is bowed in on property
line



Back



Montgomery Planning and Zoning Commission
AGENDA REPORT

Meeting Date: 2/25/2025	Budgeted Amount: NONE
Department: Administration	Prepared By: WGA

Subject

Consideration and Possible action by the Planning & Zoning Commission to make a recommendation to City Council for a variance request related to lot minimum frontage and side yard setbacks of lots 27 & 28 for the Hills of Town Creek Section 5 development.

Recommendation

WGA has no objections to the variance request and supports a recommendation to City Council that the variances be approved.

Discussion

The Engineer’s Memo and the Variance Application is attached.

The Developer is requesting a variance to the City’s code of ordinance Section 98-122(b) radial lot building lines to allow for a 10’ reserve strip to a proposed playground behind lots 27 & 28 of the subdivision. The proposed variance would allow for 45’ minimum lot width from the typical 75’ radial lot width.

It should be noted that City Council previously approved variances on December 14, 2021 for 50’ minimum lot width, 5’ side yard setback, and a minimum lot area of 5,500sf. Lots 27 & 28 would still maintain the minimum lot area with a proposed area of 10,774sf and 8,525sf respectively.

Approved By

City Secretary/Director of Administrative Services	Ruby Beaven	Date: 02/25/2025



February 25, 2025

The Planning and Zoning Commission
 City of Montgomery
 101 Old Plantersville Road
 Montgomery, Texas 77316

Re: Variance Request
 Hills of Town Creek Section 5 (Dev. No. 2406)
 City of Montgomery

Dear Commission:

K. Hovnanian of Houston II, LLC (the "Developer") has identified some modifications on Lots 27 and 28 within The Hills of Town Creek Section 5 Subdivision, situated along Lone Star Parkway just west of Montgomery ISD Football Stadium. As a reminder, these plans were approved by Council at the May 14, 2024 meeting, and the final plat was approved by Council at the January 14, 2025 meeting. The reason for the variance is to create an access path to a reserve in order for them to create a park. The Developer is requesting the following variances from the City's Code of Ordinances:

- Section 98-122(a): The Code of Ordinances requires the rear yard to have a minimum depth 10' from the property line and side lot setbacks requiring a minimum of 10' from property line. Section 98-122(b): The Code of Ordinances requires the radial lots to have a minimum width of 75' and for a distance of 30' behind building line. The Developer is proposing Lots 27 and 28 to have a minimum frontage of 45' at the building line of the cul-de-sac lots. The 10' reserve strip would be dedicated to the HOA and used for a path to the proposed playground behind the lots. Lots 27 and 28 would maintain the approved variance side yard setback of 5', minimum lot depth of 120', and minimum lot area of 5,500 sf. The adjusted lot sizes would be Lot 27 being 10,774 sf and Lot 28 being 8,525 sf.
- Referenced Variance approval: December 14, 2021 allowed for 50 feet at building line and 5' side yard setbacks.

Enclosed you will find the request for variance as submitted by the engineer for the development. It is important to note that the Developer is proposing more than the minimum required compensating green space for the lot size variance.

We find no issue with the variance request as submitted, and will require that the Developer submit plans to the access path, and playgrounds to ensure that the City's waterline remains free of obstructions.

Approval of the requested variances does not constitute plan approval and only allows the Developer to further refine the proposed plat and site plans, which will require the full review and approval of the City.

If you have any questions or comments, please do not hesitate to contact me.

Sincerely,

Chris Roznovsky, PE
 City Engineer

Variance Request – Hills of Town Creek Section 5

City of Montgomery

Page 2 of 2

February 25, 2025

Enclosures: Variance Request

Cc (via email): Ms. Corinne Tilley – City of Montgomery, Planning & Development Administrator & Code Enforcement Officer

Mr. Anthony Solomon – City of Montgomery, Interim City Administrator, and Police Chief

Ms. Ruby Beaven – City of Montgomery, City Secretary

Mr. Alan Petrov – Johnson Petrov, LLP, City Attorney



L SQUARED ENGINEERING

MUNICIPAL COMMERCIAL RESIDENTIAL

3307 W. Davis St. #100
Conroe, Texas 77304
P: 936-647-0420 F: 936-647-2366
www.L2Engineering.com

February 11, 2025

City of Montgomery
101 Old Plantersville Rd.
Montgomery, TX 77356

To Whom It May Concern:

We are requesting a variance to the minimum lot frontage for platted lots 27 & 28 of The Hills of Town Creek Section 5 to have a minimum lot frontage of 45 feet at the building line of the cul-de-sac lots. The purpose of the variance request is to add a 10-foot reserve strip between the lots to connect the subdivision to a proposed playground behind lots 27 & 28. The 10-foot reserve would remove the property from the homeowner and on to the HOA for maintenance purposes. The proposed reserve would also allow the city unencumbered access to their waterline easement which also splits lots 27 & 28.

The resulting lots 27 & 28 would still meet the minimum lot depth of 100 ft and minimum lot area of 5,500 square feet set forth by variance for the development approved on December 14, 2021. The resulting area for lots 27 & 28 would equal 8,525 square feet and 10,774 square feet respectively.

Regards,

Nickolas Hemann, P.E.





Variance Request Application

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

Item 5.

Upon completion return application to dmccorquodale@ci.montgomery.tx.us

Contact Information

Property Owner(s): K. Hovnanian of Houston II, LLC

Address: 13111 NW Fwy, Ste. 200 Houston, TX Zip Code: 77040

Email Address: fwilliams@khov.com Phone: 713-460-6239

Applicants: L Squared Engineering

Address: 3307 W Davis Street, Ste. 100 Conroe, TX 77304

Email Address: NHemann@L2Engineering.com Phone: 936-647-0420

Parcel Information

Property Identification Number (MCAD R#): 362324, 396538

Legal Description: Lots 27 & 28 within The Hills of Town Creek Section 5 Subdivision, Benjamin Rigsby Survey, A0031

Street Address or Location: 468 East Rose Marie Lane Montgomery, TX 77356

Acreage: 18.4998 Present Zoning: Residential (R1) Present Land Use: Single-Family Residential

Variance Request

Applicant is requesting a variance from the following:

City of Montgomery Ordinance No.: Ch. 98, Article III, Division 2 Section(s): 98-122(a), (b)

Ordinance wording as stated in Section 98-122(a), (b):

(a) Size of yards. (3) Rear yard. There shall be a rear yard having a depth of not less than ten feet from the property line.

This also applies to side lot setbacks, which shall be 10' minimum. Variance approved December 14, 2021 allowed 5' side yard setbacks. (b) Size of lots. (2) Lot width. Radial lots shall have a minimum width of 75 feet at and for a distance of 30

feet behind the building line. Variance approved December 14, 2021 allowed for 50 feet at building line.

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

We are requesting a variance to the minimum lot frontage for Lots 27 & Lot 28 of The Hills of Town Creek Section 5 plat to have a minimum lot frontage of 45' at the building line of the cul-de-sac lots. The 10' reserve strip will be dedicated to the HOA and used for a path to a proposed playground behind the lots. The lots would maintain the approved variance side yard setback of 5', minimum lot depth of 100', and minimum lot area of 5,500 sq. ft. The adjustment to the lot sizes would result in lots 27 & 28 area to be 10,774 sq. ft. and 8,525 sq. ft respectively.

Item 5.

Signatures

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

Signature: _____ Date: _____

Signature: _____ Date: _____

Signature: _____ Date: _____

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

The following information must also be submitted:

 Cover letter on company letterhead stating what is being asked.

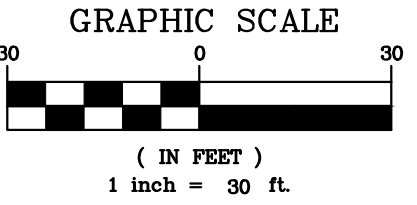
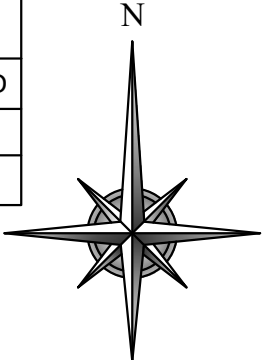
A site plan.

 All applicable fees and payments. **All fees paid by credit card are subject to a 5% merchant fee.** The application from must be signed by the owner/applicant. If the applicant is not the owner, written authorization from the owner authorizing the applicant to submit the variance request shall be submitted.**Date Received***Office Use*

55

23

CURVE TABLE					
NO.	LENGTH	RADIUS	DELTA	CHD. BRG.	CHORD
C1	71.71'	60.00	68°28'32"	N 72°48'54" W	67.52'
C2	12.86'	3,910.00	0°11'18"	N 48°07'22" E	12.86'



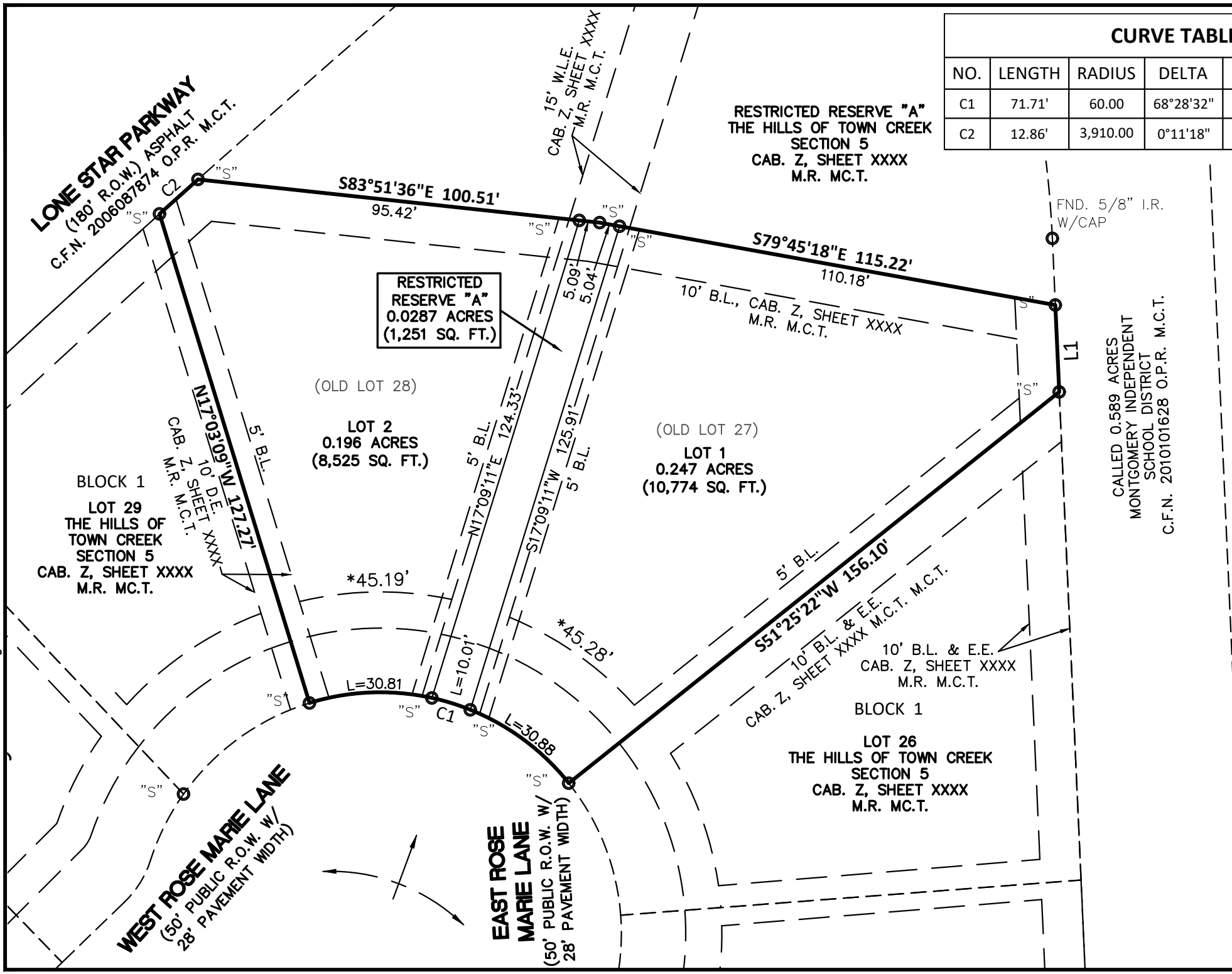
LINE TABLE		
NO.	BEARING	LENGTH
L1	S 02°33'39" E	21.64'

LOT 27 AND 28 REPLAT EXHIBIT
0.4718 ACRES (20,550 SQ. FT.)
ALL OF LOTS 27 AND 28
OUT OF THE HILLS OF TOWN CREEK
SECTION 5
RECORDED UNDER
CABINET Z, SHEET XXXX M.R. M.C.T.
IN THE
BENJAMIN RIGBY SURVEY, A-31
MONTGOMERY COUNTY, TEXAS



104 W. PAULINE ST.
CONROE, TX 77301
T: 936.443.0507

TBPLS REG NO. 10194866
ct@fulcrumsurveying.com
fulcrumsurveying.com



24-097-2_HOTC SEC 5_LT 27_28 EX.dwg

Montgomery Planning and Zoning Commission
AGENDA REPORT

Meeting Date: 03.04.2025	Budgeted Amount: NONE
Department: Administration	Prepared By: WGA

Subject

Discussion of Utility and Economic Feasibility Study for the KHR Properties Commercial Tract (Dev. No. 2415)

Recommendation

No formal action needed. Discuss with the City Engineer as you see fit.

Discussion

The Engineer’s Memo is attached.

The proposed development falls on a 0.76-acre tract, on the southeast corner of SH-105 and FM 149. The subject tract is currently zoned B – Commercial, and would not require rezoning prior to receiving service. The proposed development would also be subject to impact fees since it is not currently platted. No public utility extensions would be required to serve this Development

The acceptance of the Feasibility Study does not bind the City to any agreement or obligations to development. The study only outlines the infrastructure improvements, estimated costs, and other general requirements the Developer would be subject to in order to move forward. All terms of the Development would be outlined in a separate Development Agreement, should both parties want to move forward.

Approved By

City Secretary/Director of Administrative Services	Ruby Beaven	Date: 02.25.2025

**0.76-Ac Jack in the Box Development
KHR Properties LLC
FEASIBILITY STUDY
(Dev. No. 2414)**

FOR

THE CITY OF MONTGOMERY



WGA PROJECT NO. 00574-148-00

February 2025

PREPARED BY



OVERVIEW

- 1 Executive Summary
- 2 Introduction
- 3 Analysis

Exhibits:

- A: Tract Location
- B: Zoning Map
- C: Utility Layout
- D: Preliminary Site Plan
- E.1: Water Demand Projection
- E.2: Wastewater Demand Projection
- F: City of Montgomery Impact Fee Table
- G: Escrow Calculation

1 EXECUTIVE SUMMARY

KHR Properties, LLC (the “Developer”) has requested the City of Montgomery (the “City”) to perform a feasibility study for the City to serve a commercial development on a 0.76-acre tract located on the southwest corner of SH-105 (Eva Street) and FM 149 (Liberty Street), also referred to as the Jack in the Box tract. The tract is located within City limits and would not need to be annexed prior to receiving utility service.

Based on the preliminary land plan provided by the Developer, this development would consist of a Commercial Development. The final land plan may affect the estimated costs of, and revenues associated with, the development.

The analysis shows that after the completion of the City’s Water Plant No. 2 Improvements project currently in construction and Water Plant No. 3 Booster Pump addition project, currently in design, the City will have the water capacity to serve the development and existing developments for the next few years but will need additional water plant capacity to serve all existing and proposed developments at full build out.

The analysis also shows that the City will have the sanitary sewer capacity to serve the proposed development, existing developments, and committed developments at full build out when the Town Creek WWTP plant project is completed. However, to serve all committed developed as well as those in feasibility, the City will need to begin planning for additional wastewater treatment plant upsizing in the next few years.

The estimated total costs that will be associated with the development are:

Escrow Account	\$7,500
Water Impact Fee	\$23,039
Wastewater Impact Fee	\$22,104
<hr/>	
Total Estimated Costs	\$52,643

Based on information provided by the Developer the estimated total assessed valuation for the development would be approximately \$ 750,000 at full build out. Based on the City’s current tax rate (\$0.0970 debt service and \$0.3030 for operations and maintenance) and an assumed 100% collection rate, the development will bring in approximate tax revenues as shown below:

Debt Service	\$ 727
Operations and Maintenance	\$ 2,273
<hr/>	
Total Estimated Annual Tax Revenue	\$ 3,000

2 INTRODUCTION

This undeveloped tract is located on the southwest corner of SH-105 (Eva Street) and FM 149 (Liberty Street) and falls entirely within the City limits.

The Tract's boundary in relation to the City's surrounding facilities is enclosed as **Exhibit A**. A preliminary site plan is enclosed as **Exhibit D** and indicates the Developer's intentions to develop this 0.76-acre tract.

The property is not platted and will be required to plat prior to development of the tract.

As shown in **Exhibit B**, the tract is currently zoned B – Commercial and would not require rezoning approvals prior to service. Based on the preliminary land plan, the proposed development consists of commercial development. All the referenced approvals would be required prior to receiving service from the City. The City's Director of Planning and Development will provide additional information on the use of the property within the existing zone.

3 ANALYSIS

Water Production and Distribution

System Capacity

The City has begun the construction of a water plant improvements project at the existing Water Plant No. 2 to restore the capacity of the City's water system. Upon completion, the City will have three (3) active water wells and two existing water plants with a capacity of 2,500 connections or 568,000 gallons per day average daily flow per Texas Commission on Environmental Quality ("TCEQ") requirements.

The City is also currently in design of the Water Plant No. 3 Booster Pump addition project which once complete will increase the water system capacity to 2,500 connections or 730,000 gallons per day average daily flow. This project is expected to complete construction in late 2025.

Finally, the City is currently soliciting for engineer firms to complete the design of their Water Plant No. 4 project. The scope of the project includes the construction of a 500,000-gallon elevated storage tank and 1,000gpm water well in the Jasper aquifer. The completion of this project will increase the City's water system capacity to approximately 5,000 connections or 1,216,000 gallons per day average daily flow. As a reminder the City has already obtained the permit for this well from the Lone Star Groundwater Conservation District. The project is expected to be constructed in 2026.

Water Demand

The current average daily flow ("ADF") in the City is approximately 474,876 gpd. At full build out of all existing developments and those in construction or design (with a development agreement) the City has committed approximately 950,000 gpd and 2,895 connections. A graph of the updated water usage projections is included as **Exhibit E1**. Once the Water Plant No. 2 Improvements Project and Water Plant No. 3 Booster Pump Addition project is complete, the City will have committed approximately 130% of the total ADF capacity and 116% of the connection capacity. After the completion of Water Plant No. 4, the City will have sufficient capacity to service all developments that are existing or in construction/design (with development agreements) at full build out.

Based on the preliminary site layout, and information provided from the Developer, the Tract's estimated water capacity requirement is approximately 1,285 gpd. This usage assumes the full build out of the proposed commercial tract. This development alone does not significantly impact the water system. However, inclusive of existing connections, platted developments, developments currently underway, other developments in feasibility, and this development, the City will have committed approximately 1,090,310 gpd and 3,308 connections. In order to serve all of these developments at full build out Water Plant No. 4 must be completed.

Exhibit E1 shows a graphical representation of historical water usage, projected water demand, and water plant capacity. As you will see there is a substantial increase in projected water demand in the scenarios shown. Those scenarios are as follows:

1. **A – Ready to Connect:** These are developments that are platted, infrastructure accepted, etc. that are ready to connect to the system at any time.

2. **B – A Plus in Design/Construction with Agreement:** This shows all of the developments in A plus those that the City has development agreements that are actively in the design or construction process.
3. **C – B Plus in Feasibility without Agreement:** This shows all of the developments in B plus the developments that are actively going through the due diligence process but have not yet entered into a development agreement with the City. This includes developments such as this development, BCS Capital, HEB, and Superior Properties.
4. **D – C Plus Anticipated Additional Development within the City Limits:** This includes everything in C plus tracts that are in the City limits but not actively working through the development process.

As you will see, there is a significant difference in the scenarios, also it is important to note:

1. The timing of developments is a huge factor and this graph is only based on end of year demands and then spread out linearly. Therefore, projects expected to come online late in the year will artificially inflate the projected demand earlier in the year.
2. It is also important to note that there is built in contingency to the projected numbers as our projected flows today show approximately 525,000 gpd but actual flows are 474,000 gpd.
3. Water demand is projected based on information provided by the developer and typically based on industry standards which are intended to be conservative. It is typical to see actual demand come in under this amount, however we plan for the higher.
4. Finally, it is important to note that the water plant capacity is based on Average Daily Flow capacity not peak capacity. For example, the capacity of the water system after the booster pump addition at Water Plant No. 3 is 730,000 gpd average daily flow but can produce in a max day scenario approximately 3,150,000 gpd. That number shown for capacity is limited by a 2.4 peaking factor and we have to assume that the largest booster pump is out of service in the calculation.

In summary, the City is getting tight on water system capacity and must continue to aggressively push to proceed with the required expansion projects to meet all of the expected demand.

Linear Utilities

There is an existing waterline located on the southeastern side of the property, that can serve the development. No public utility extensions are required.

The Developer is responsible for providing engineered plans and specifications for the on-site improvements to serve the proposed development to the City Engineer for review and approval prior to commencing construction, and to obtain all required City Council and development approvals and permits.

Sanitary Sewer Collection and Treatment

Sewer System Capacity

The City's existing wastewater facilities include 19 public lift stations and two (2) wastewater treatment plants (one of which is currently decommissioned). The Stewart Creek Wastewater Treatment Plant (TPDES Permit No. WQ0011521001) has a permitted capacity of 400,000 gpd.

The TCEQ requires the City to initiate design of a wastewater treatment capacity expansion when the ADF exceeds 75% of the City's 400,000 gpd permitted capacity (300,000) for 3 consecutive months. Based on our conservative estimates this is expected to occur in Q3 of 2025. Anticipating this requirement to be triggered, the City has selected Halff Associates to complete the design of a 0.3 MGD WWTP to replace the existing Town Creek WWTP that is currently decommissioned. Additionally, the TCEQ requires the commencement of the construction phase of the expansion after 3 consecutive months of ADF exceeding 90% of the permitted capacity (360,000 gpd). This is expected to occur in Q4 of 2026. Halff Associates plans to be complete with design of the 0.3 MGD Town Creek WWTP in late 2025 with construction being completed in late 2026.

The City will need to continue to proceed with design of additional plant expansions in order to keep up with demand. After completion of the Town Creek Wastewater Treatment Plant, the City will be treating sanitary sewer at 2 different locations and each location has a permit in place to expand. The location of the next expansion will depend on the location of development in order to make sure each plant is being optimally used. The City can either complete a 0.3 MGD expansion to the Town Creek Wastewater Treatment Plant or a 0.4 MGD expansion to the Stewart Creek Wastewater Treatment Plant.

Sanitary Sewer Demand

The current ADF at the Stewart Creek Wastewater Treatment Plant is 230,167 gpd or 58%. At full build out of all existing developments and those in construction or design (with a development agreement), the City has committed approximately 568,000 gpd or 142% of existing permitted capacity. Upon completion of the Town Creek Wastewater Treatment Plant the City will have committed approximately 81% of permitted capacity at full build out.

Based on the City's historical usage for similar types of development and information from the Developer, the Tract's estimated sanitary sewer capacity requirement is 1,285 gpd (38,550 gallons per month) at full build out. Inclusive of existing connections, platted developments, developments currently underway, other developments in feasibility, and this development, the City will have committed 684,000 gpd or 171% of existing permitted capacity and 98% of the expanded capacity at full build out.

Exhibit E2 shows a graphical representation of historical sanitary sewer flow, projected demand, and wastewater treatment plant capacity. As you will see there is a substantial increase in projected sanitary sewer demand in the scenarios shown. Those scenarios are as follows:

1. **A – Ready to Connect:** These are developments that are platted, infrastructure accepted, etc. that are ready to connect to the system at any time.
2. **B – A Plus in Design/Construction with Agreement:** This shows all of the developments in A plus those that the City has development agreements that are actively in the design or construction process.

3. **C – B Plus in Feasibility without Agreement:** This shows all of the developments in B plus the developments that are actively going through the due diligence process but have not yet entered into a development agreement with the City. This includes developments such as this development, BCS Capital, HEB, and Superior Properties.
4. **D – C Plus Anticipated Additional Development within the City Limits:** This includes everything in C plus tracts that are in the City limits but not actively working through the development process.

As you will see, there is a significant difference in the scenarios, also it is important to note:

1. The timing of developments is a huge factor, and this graph is only based on end of year demands and then spread out linearly. Therefore, projects expected to come online late in the year will artificially inflate the projected demand earlier in the year.
2. It is also important to note that there is built in contingency to the projected numbers as our projected flows today show approximately 297,000 gpd but actual flows are 230,000 gpd.
3. Sewer demand is projected based on information provided by the developer and typically based on industry standards which are intended to be conservative. It is typical to see actual demand come in under this amount, however we plan for the higher.

In summary, the City is getting tight on sanitary sewer system capacity and must continue to aggressively push to proceed with the required expansion projects to meet all of the expected demand.

Linear Utilities

The Developer will be responsible for the connection of proposed private gravity sanitary sewer line to existing sanitary line located on the eastern boundary of the tract. The Developer is responsible for providing engineered plans and specifications for the on-site improvements to serve the proposed development to the City Engineer for review and approval prior to commencing construction, and to obtain all required City Council and development approvals and permits.

The Developer will also need to coordinate the installation of sanitary sewer tap(s) into the public system with the City's Department of Public Works and will be responsible for all costs associated with said work.

Drainage

The onsite storm sewer system and detention system will be designated private and remain the responsibility of the Developer to maintain. All drainage and detention improvements must be designed per the City's current Code of Ordinances, requiring compliance with the City's floodplain regulations and all applicable TxDOT and Montgomery County Drainage Criteria Manual Standards. The Developer will also be required to perform and submit a drainage study showing the development's impact on the drainage downstream of the Tract and on adjacent properties. The drainage study must be submitted to TxDOT for review and approval prior to submitting plans to the City for review.

The Developer is responsible for providing engineering plans and specifications for the drainage and detention system interior to the development to the City Engineer for review and approval prior to commencing construction, and to obtain all required Planning and Zoning Commission, City Council, and development approvals and permits.

Paving and Traffic Planning

Per the current preliminary land plan, the Developer is proposing one (1) connection to State Highway 105 (Eva Street) and one (1) connection to FM 149 (Liberty Street). The Developer will be required to submit a Traffic Impact Analysis to TxDOT to show how the proposed connections will impact traffic on these streets to ensure there will be no backup of traffic in the drive through that would impact the adjacent roads.

Per the current preliminary land plan, the Developer is also proposing one cross access between the proposed development and the adjacent development. The Developer will be responsible for obtaining all the necessary easements or agreements with the neighboring property owner for the proposed driveway.

The Developer will also be responsible for obtaining all required TxDOT permits for the driveway connections.

Development Costs

The Developer will need to engineer and construct the onsite water, sanitary sewer, paving, and drainage facilities to serve the proposed Tract.

The Developer will also need to pay water and wastewater impact fees to the City. The impact fees will be assessed at the time of recordation of the final plat and collected prior to receiving water and sanitary sewer taps. Enclosed as **Exhibit F** are the 2023 Revisions to the Montgomery Impact Fee Analysis Report. The estimated ADF provided by the developer requires the equivalent use of (1) 2- inch water tap for the commercial reserve, per **Exhibit F**. These sizes are based on our best judgment and are subject to change based on the Developer's final land plan.

An escrow agreement has been Executed by the Developer and the City, and funds have been deposited to cover the cost of this feasibility study. An estimated additional \$7,500 will be required to cover the City's remaining expenses for the development, which includes administrative costs, legal fees, plan reviews, developer and construction coordination, and construction inspection. This is with the assumption that the development will require 3 plan reviews. The fees calculation can be seen in **Exhibit G**. These additional funds must be deposited into the escrow prior to any work being completed by the City, and do not include the engineering costs associated with the design of the offsite improvements.

Below is a summary of the estimated costs associated with the development:

Escrow Account	\$7,500
Water Impact Fee	\$23,039
Wastewater Impact Fee	\$22,104
Total Estimated Costs	\$52,643

These estimates are based on the projected water and wastewater usage provided by the developer. The actual costs will depend on the final land plan, final design, and actual construction costs.

Financial Feasibility

The Developer estimates the total assessed value (A.V.) at full development to be approximately \$750,000. Based on the estimated total A.V. and assuming 100% collection, the in-city development would generate approximately \$727 per year in debt service revenue, and approximately \$2,273 per year in operations and maintenance revenue. These estimates are based on the City's \$0.0970/\$100 valuation debt service tax rate and the \$0.3030/\$100 valuation Operations & Maintenance (O&M) tax rate.

Next Steps

If the Developer decides to move forward with the proposed development, the Developer will need to first provide the additional escrow deposit. Next the developer will need to obtain any necessary special use permits or variances. The Developer will then be required to enter into a Development Agreement that outlines the development including impact fees and any other specific terms that need to be defined. Once completed, the Developer would be responsible for submitting and getting approval for their plat and private site civil drawings.

This report is our engineering evaluation of the funds required to complete the anticipated future capital improvement for this Tract and of the potential increase in tax revenue to the City. This report is not intended to be used for the issuance of municipal financial products or the issuance of municipal securities. The City's Financial Advisor(s) can address potential recommendations related to the issuance of municipal financial products and securities.

Thank you for the opportunity to complete this feasibility study and offer our recommendations. Please contact me or Katherine Vu, P.E., should you have any questions.

Sincerely,



Chris Roznovsky, PE
City Engineer



- Legend**
- City Limits
 - City ETJ
 - Tax Parcel
 - Tract Boundary
- Ongoing Developments**
- In Design/Construction
 - Planning/Feasibility
- Flood Hazard Zones**
- Regulatory Floodway
 - 1% Annual Chance Flood Hazard
 - 0.2% Annual Chance Flood Hazard

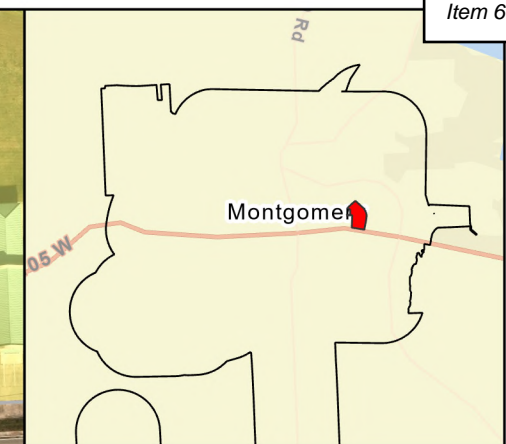
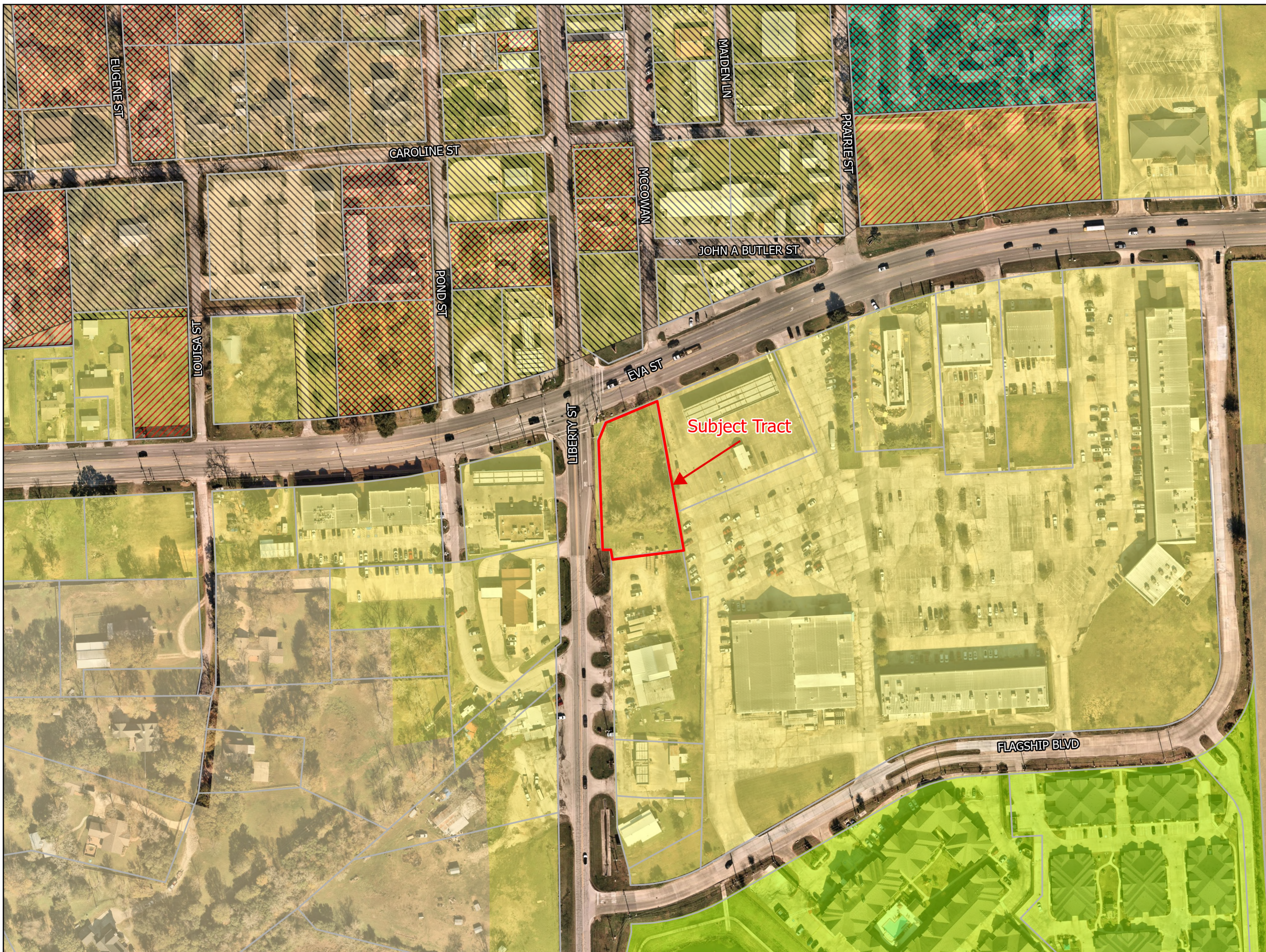
Exhibit A Tract Location

Jack In The Box Feasibility Study



Disclaimer: This product is offered for graphical purposes only and may not be suitable for legal, engineering, or surveying purposes. The information shown on this exhibit represents the approximate location of property, municipal boundaries or facilities.





Legend

- City Limits
- Tax Parcel
- Tract Boundary

Zoning

- B - Commercial
- ID - Industrial
- I - Institutional
- R2 - Multi-Family
- PD - Planned Development
- R1 - Residential
- Historical Preservation
- Historical Landmark

Exhibit B Zoning Map

Jack In The Box Feasibility Study



Disclaimer: This product is offered for graphical purposes only and may not be suitable for legal, engineering, or surveying purposes. The information shown on this exhibit represents the approximate location of property, municipal boundaries or facilities.



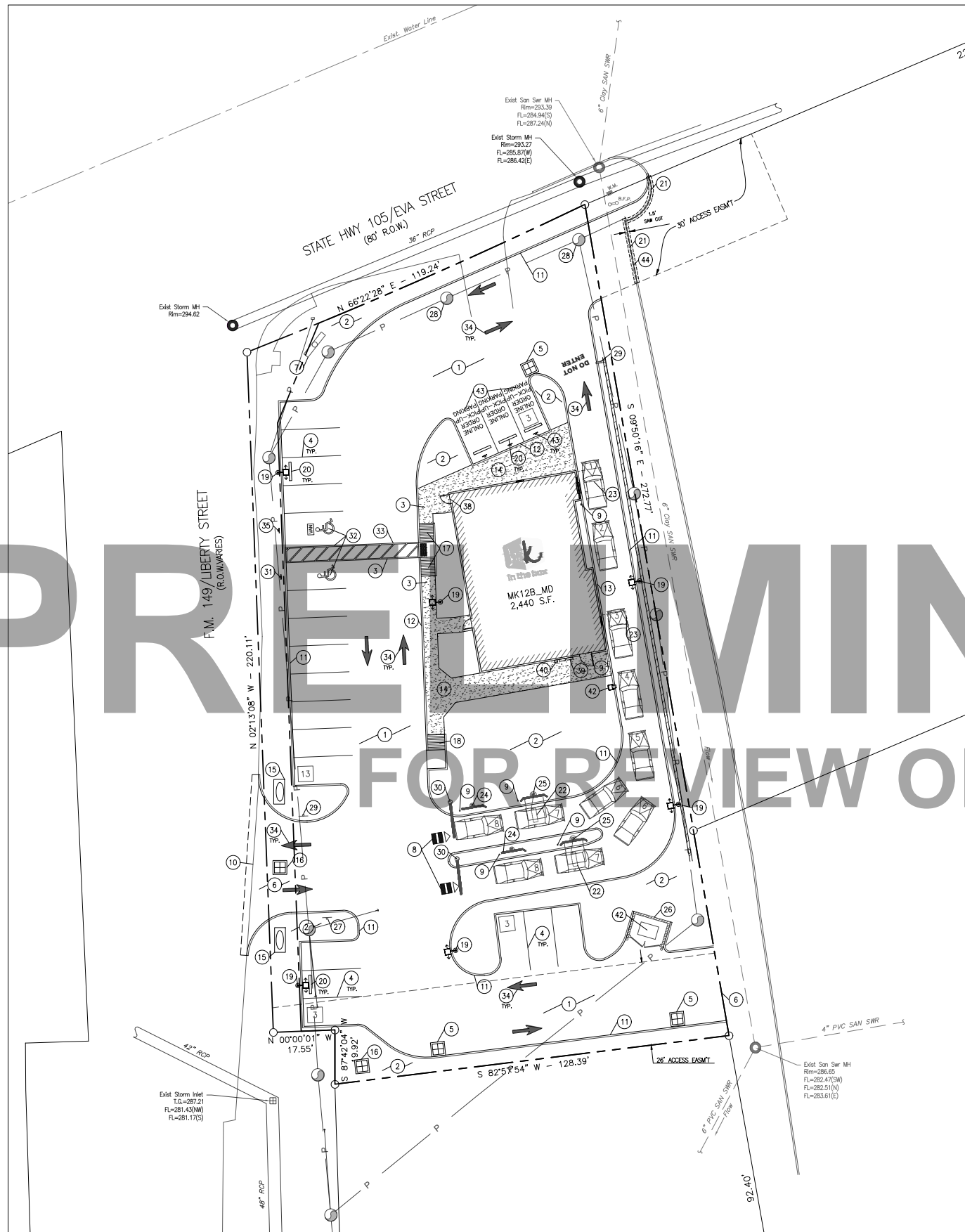


- Legend
- Tax Parcel
 - City ETJ
 - City Limits
 - Tract Boundary
- Water
- ⊗ Hydrant
 - ⊗ Water Main Valve
 - Water Main
- Sanitary Sewer
- Sanitary Sewer Manhole
 - Sanitary Sewer Gravity Main

Exhibit C Utilities Layout

Jack In The Box
Feasibility Study





SITE PLAN KEY NOTES

- PROPOSED REINFORCED CONCRETE PAVEMENT. SEE GENERAL NOTE 10.1 SHEET SD1.1.
- PROPOSED LANDSCAPE AREA. SEE LANDSCAPE PLANS.
- PROPOSED ADA TRAVEL WAY. MAX CROSS SLOPE 2%; SLOPE ALONG THE TRAVEL WAY 5%.
- PROPOSED 4" WIDE PARKING STRIPING. STRIPING SHALL BE WHITE.
- PROPOSED INLET, SEE DETAIL SHEET SD2.3.
- PROPOSED CONCRETE DRIVEWAY WITH CULVERT PER TxDOT STANDARDS AND DETAILS. SEE DETAIL SHEET XX.
- PROPOSED PYLON SIGN; GENERAL CONTRACTOR TO PROVIDE CONDUIT AND WIRING PER SHEET ES1.0. INSTALLATION BY SIGN CONTRACTOR.
- DRIVE-THRU ARROW, PAINTED IMPULSIVE PURPLE, SEE DETAIL 20/SD2.2.
- STALL BARRIER POSTS AT PREVIEW BOARD, MENU BOARD, AND PERIPHERAL TO BUILDING CORNERS; SEE DETAIL 4/SD2.1. CONTRACTOR TO PROVIDE SLEEVES THROUGH CURB AND GUTTER WHERE APPROPRIATE. SEE A1.0 FOR DIMENSIONING CONTROL & BARRIERS ADJACENT TO BUILDING.
- PROPOSED THICKENED CONCRETE EDGE SEE DETAIL 8/SD2.0.
- CONSTRUCT CONCRETE CURB AND GUTTER; SEE DETAIL 1/SD2.0.
- CONSTRUCT CONCRETE CURB AND SIDEWALK; SEE DETAIL 4/SD2.0.
- CONSTRUCT CONCRETE CURB AT BUILDING SIDE OF DRIVE-THRU LANE; SEE DETAIL 6/SD2.0.
- INSTALL 4" THICK CONCRETE SIDEWALK WITH LIGHT BROOM FINISH; SEE DETAIL 13/SD2.0.
- PROPOSED STANDARD END TREATMENT; SEE DETAIL SHEET XX.
- PROPOSED JUNCTION BOX INLET. SEE DETAIL SHEET SD2.3
- PROVIDE RAMP AND LANDINGS AT HANDICAP ACCESSIBLE PARKING SPACES; SEE DETAIL 15/SD2.0.
- CONSTRUCT DELIVERY RAMP; SEE DETAILS 17/SD2.0.
- INSTALL LIGHT POLE BASE' SEE DETAIL 16/SD2.1. REFER TO SHEET ES1.1 FOR POLE AND FIXTURE REQUIREMENTS.
- INSTALL CONCRETE WHEEL STOP TYPICAL AT HANDICAP SPACES AND STANDARD SPACES FRONTING 6' OR LESSER WIDTH SIDEWALKS; SEE DETAIL 9/SD2.0.
- DEMOLISH EXISTING CONCRETE CURB.
- INSTALL DETECTOR LOOP FOR ORDER BOARD; SEE DETAIL 18/SD2.1.
- INSTALL DETECTOR LOOP AT PICK UP WINDOW; SEE DETAIL 10/SD2.1.
- INSTALL PREVIEW BOARD; SEE DETAIL 20/SD2.0.
- INSTALL ORDER BOARD AND WEATHER PROTECTION CANOPY; SEE DETAIL 18/SD2.1.
- CONSTRUCT MASONRY BLOCK TRASH ENCLOSURE; SEE DETAIL 6/SD2.2.
- SITE 'ENTRY' SIGN UNDER SEPARATE COVER. GENERAL CONTRACTOR REFER TO SHEET ES1.0 FOR CONDUIT AND WIRING REQUIREMENTS.
- RELOCATE POWER POLE; CONTRACTOR SHALL COORDINATE WITH CENTERPOINT.
- SITE 'THANK/DO NOT ENTER' SIGN UNDER SEPARATE COVER. GENERAL CONTRACTOR REFER TO SHEET ES1.0 FOR CONDUIT AND WIRING REQUIREMENTS.
- INSTALL SINGLE BAR HEIGHT CLEARANCE (9'-0") AND WARNING POLE SIGN; SEE DETAIL 20/SD2.1. INCLUDE SITE 'DRIVE-THRU' SIGN; SEE NOTE 28.
- INSTALL ACCESSIBLE PARKING SIGN; SEE DETAIL 8/SD2.1.
- PAINT ACCESSIBLE PARKING SYMBOLS, TEXT, AND DIAGONALS; SEE DETAIL 13/SD2.2.
- PROPOSED 4" WHITE STRIPES AT 36" O.C. AND 45 DEGREES TO TRAFFIC DIRECTION. BORDER WITH 4" SOLID WHITE STRIPE.
- PAINT TRAFFIC DIRECTIONAL ARROWS; SOLID WHITE, TYPICAL AS SHOWN.
- INSTALL ACCESSIBLE PARKING SIGN WITH 'VAN' PLACARD. SEE DETAIL 8/SD2.1.
- PROPOSED TRANSFORMER LOCATION CONTRACTOR TO COORDINATE WITH THE APPROPRIATE UTILITY PROVIDER. BOLLARDS INSTALLED PER PROVIDER STANDARDS. REFER TO SHEETS PS1.0 AND ES1.0.
- PROPOSED GREASE TRAP; SEE PLUMBING PLAN DETAIL SHEET P5.1.
- PROVIDE INTERNATIONAL SYMBOL OF ACCESSIBILITY DECAL ON DOOR.
- PROPOSED ELECTRIC METER AND C/T CABINET MOUNTING, CONTRACTOR TO COORDINATE WITH THE APPROPRIATE UTILITY PROVIDER. REFER TO SHEET PS1.0.
- PROPOSED GAS METER LOCATION CONTRACTOR TO COORDINATE WITH THE APPROPRIATE UTILITY PROVIDER. BOLLARDS INSTALLED PER PROVIDER STANDARDS. REFER TO SHEETS PS1.0 AND P3.0.
- PROPOSED SANITARY SEWER MANHOLE, SEE DETAIL SHEET SD2.3 & SHEET SD1.2 FOR BACKFILL REQUIREMENTS.
- PROVIDE TRASH RECEPTACLE. LOCATE AS REQUIRED FOR SITE CONDITIONS.
- DEDICATED WAITING STALL PARKING SIGN, SEE DETAIL 8/SD2.1. PAINT PARKING STALL STRIPING IMPULSIVE PURPLE FOR ONLINE ORDERING/DELIVERY PARKING SPOTS. PAINT WHEEL STOPS AT THE DEDICATED WAITING SPACES IMPULSIVE PURPLE.
- PROPOSED EXPANSION CONSTRUCTION JOINT. SEE DETAIL 6/SD2.1.

NOTE
OVERHEAD AND UNDERGROUND UTILITIES MAY EXIST IN THE VICINITY OF THIS PROJECT. LOCATIONS SHOWN FOR EXISTING UTILITIES ARE APPROXIMATE AND OTHER UTILITIES MAY EXIST IN THE VICINITY OF THE PROJECT WHICH ARE NOT SHOWN ON THE PLANS. IT IS THE RESPONSIBILITY OF THE CONTRACTOR TO LOCATE EXACT ALL EXISTING UTILITIES IN THE VICINITY OF THE PROJECT, PRIOR TO BEGINNING CONSTRUCTION. IF ANY DISCREPANCY EXISTS, NOTIFY ENGINEER.

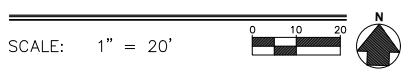
LEGEND

PARKING COUNT
 CAR STACKING

PARKING REQUIREMENTS

1 SPACE PER 6 CUSTOMER SEATS
 1 SPACE PER 2 EMPLOYEES
 50 SEATS + 7 EMPLOYEES = 13 MIN.

PARKING PROVIDED **20 SPACES**
 ADA PARKING PROVIDED **2 SPACES**
 TOTAL PARKING PROVIDED **22 SPACES**



DATES

RELEASE: JANUARY 2024

P.M. UPDATES: _____

SUBMITTAL DATE:

1: _____

2: _____

3: _____

BID: _____

CONSTRUCTION: _____

REVISIONS



NOVEMBER 4, 2024

SITE INFORMATION

MK TYPE: MK12B_MD

JIB #: 4947

ADDRESS:
21049 EVA STREET
MONTGOMERY, TX 77356

DRAWN BY: AK

PROJECT #: 1181.39

SCALE: 1=20'

SITE PLAN
SD1.0

Exhibit E.1:
Water Demand Projections
February 17, 2025

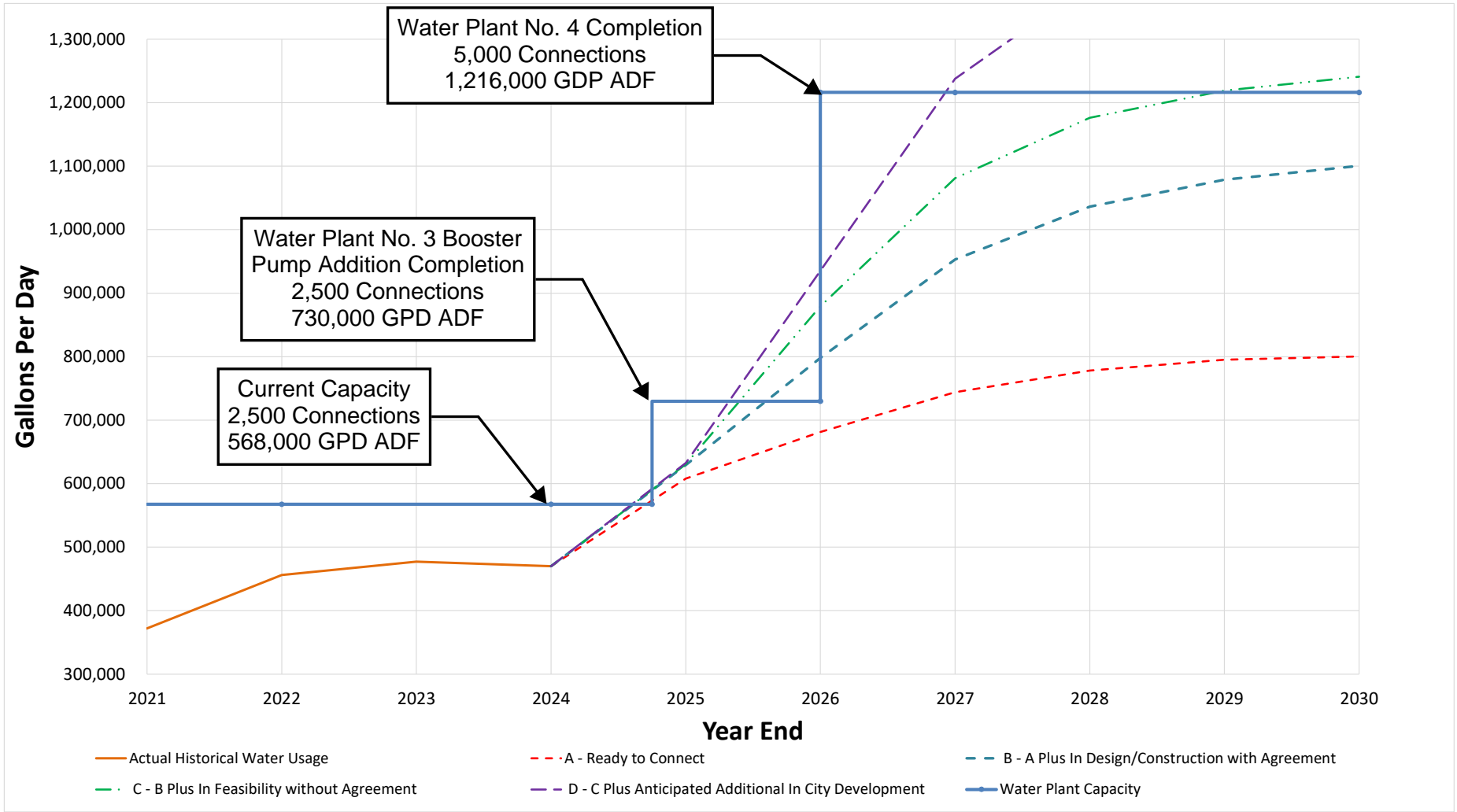
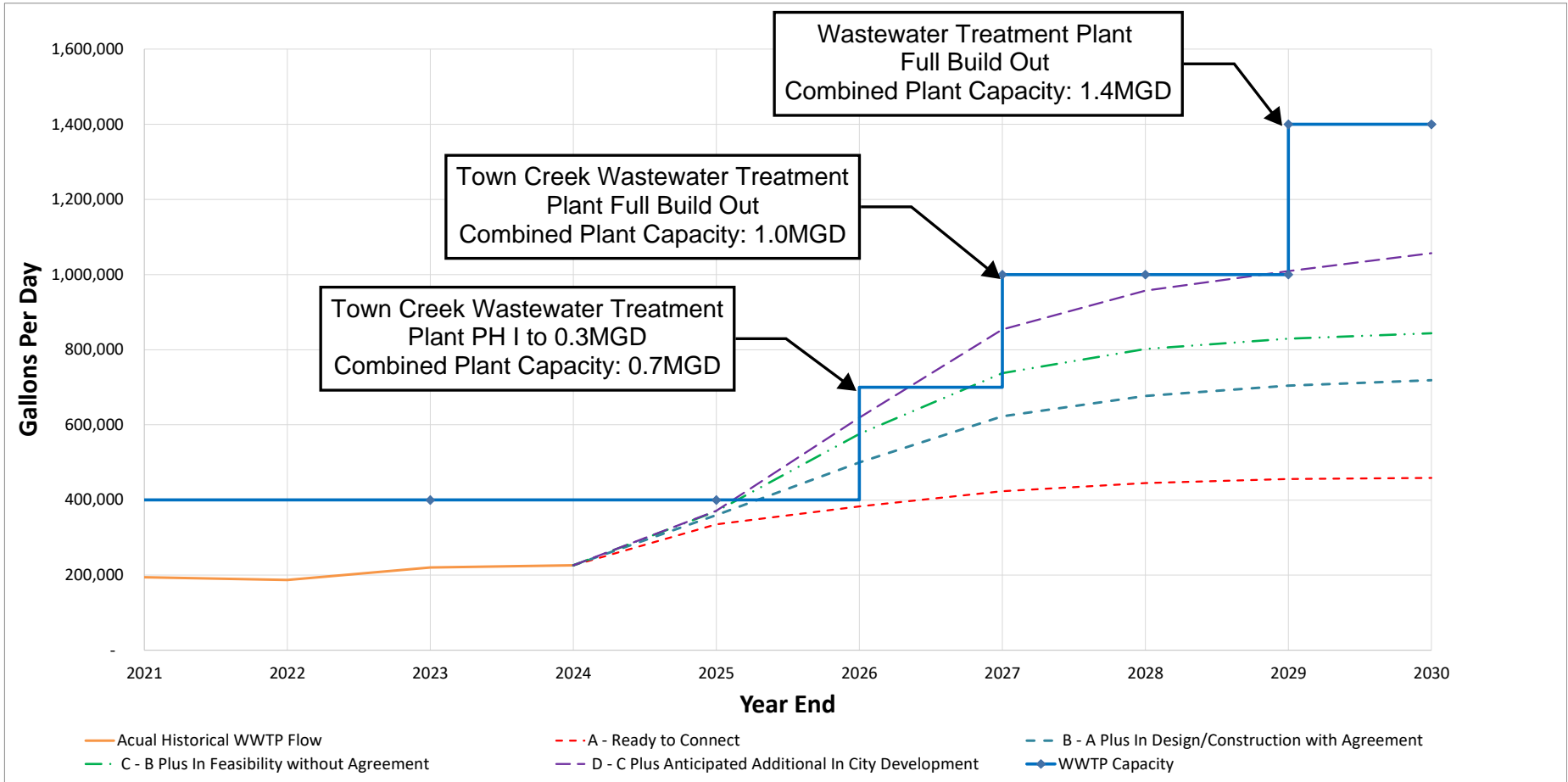


Exhibit E.2:
Wastewater Demand Projections
February 17, 2025



EXIHIBIT F: IMPACT FEE SUMMARY
September 2024

Meter Size ⁽¹⁾	Maximum Capacity (GPM)	Maximum Assessable Water Fee (\$/ESFC)	Maximum Assessable Wastewater Fee (\$/ESFC)	Maximum Assessable Fee (\$/ESFC)
5/8"	15	2,033	1,951	3,984
3/4"	25	3,396	3,258	6,654
1"	40	5,429	5,209	10,638
1 1/2"	120	16,268	15,607	31,875
2"	170	23,039	22,104	45,143
3"	350	47,441	45,515	92,956
4"	600	81,339	78,037	159,376
6"	1,200	162,679	156,074	318,753
8"	1,800	244,018	234,111	478,129

1. 5/8" Meter size is used for all connections equal to 1 ESFC (Equivalent Single Family Connection), and reflects the installation of a 5/8" x 3/4" meter.

ESCROW AGREEMENT, SECTION 2.03 ATTACHMENT

BY AND BETWEEN

THE CITY OF MONTGOMERY, TEXAS,

AND

Jack in the Box

Dev. No. 2414

THE STATE OF TEXAS ⊃

COUNTY OF MONTGOMERY ⊃

As per section 2.03, the Feasibility Study completed an estimate of the additional escrow amount, which was determined for administration costs, legal fees, plan reviews, developer coordination, construction coordination, construction inspection, and warranty of services. The required additional amount is below:

Administration	\$ 1,500
City Attorney	\$ 1,500
City Engineer	\$ 4,500
<hr/>	
TOTAL	\$ 7,500

Note: Any changes to the site plan or phasing of the project may result in changes to the cost to the City. In that event, additional deposits would be required by the Developer.

Montgomery Planning and Zoning Commission
AGENDA REPORT

Meeting Date: 03/04/2025	Budgeted Amount: NONE
Department: Administration	Prepared By: Corinne Tilley

Subject

Presentation of the zoning determination by the Planning/Zoning Administrator for the restaurant with drive-through service (KHR, Properties – Jack in the Box 4947).

Recommendation

For discussion.

Discussion

The zoning determination letter is attached.

Approved By

City Secretary & Director of Administrative Services	Ruby Beaven	Date: 01/30/2025
Interim City Administrator & Police Chief	Anthony Solomon	Date: 01/30/2025



City of Montgomery



February 21, 2025

KHR, Properties
 Jack in the Box 4947
 20008 Champions Forest Dr Suite 501
 Spring TX 77379

RE: Zoning determination for a proposed fast-food restaurant with drive-through service at 21049 Eva Street (Legal description: 124078 - S728008 - Montgomery Townsite 08, Lot 1, 2, 3, 4, BROGDON SUB; lot size: .7064 acres / 30.769 sf)

Based on the review of the current zoning ordinance and the City zoning map, the property located at 21049 Eva Street (PIN/legal description: 124078 - S728008 - Montgomery Townsite 08, Lot 1, 2, 3, 4, BROGDON SUB; lot size: .7064 acres / 30.769 sf) in Montgomery, Texas is located in the District B Commercial zoning. This district is designated for a wide range of business uses within enclosed areas as well as the other uses provided for in the zoning code (Sec. 98-178).

It has been determined that the proposed use of a fast-food restaurant with accessory drive-through window at 21049 Eva Street is permitted with a special use permit. Therefore, there are two options to proceed: 1) complete an application for a special use permit or 2) file an appeal with the board of adjustment to challenge the zoning determination made by the planning/zoning administrator.

To support this determination, the following are provided:

1. Definitions - The code of ordinances does not provide definitions for "restaurant", "fast-food", or "restaurant with drive-through".

According to the Oxford dictionary:

- a restaurant as a place where people pay to sit and eat meals that are cooked and served on the premises.
- fast-food is food kept hot or partially prepared by a snack bar or restaurant, so that it can be served as a quick meal or taken away.
- a restaurant with a drive-through serves customers without them leaving their cars.

2. Zoning Regulations

Sec. 98-88 (a): A restaurant is a permitted use in the B Commercial Zoning District. Accessory uses (ie the drive-through) is permitted with a special use permit (listed under "CC").

Sec. 98-88 (b): Any use not specifically permitted in the table (Sec. 98-88 (a)) or district use regulations (Sec. 98-179) requires a special use permit.

Sec. 98-1: Defines *Accessory use or building* as a subordinate use or building customarily incident to and located on the same lot occupied by the main use or building.

3. Special Use Permit

Sec. 98-27: The city council, by an affirmative four-fifths vote, may by ordinance grant a special permit for those uses listed under "CC" in the table of permitted uses in section 98-88, and may impose appropriate conditions and safeguards, including a specified period of time for the permit, to protect property and property values in the neighborhood. A special use permit may be revoked or canceled by the city council upon violation of any permit granted. Before authorization of any of such special uses, the request therefor shall be referred to the planning and zoning commission for study and report concerning the effect of the proposed use on the comprehensive plan and on the character and development of the neighborhood. A public hearing shall be held in relation thereto before the city council, and notice and publication of the time and place for which shall conform to the procedure prescribed:

A public hearing shall be held by the city council before adopting any proposed special use permit. Notice of such hearing shall be given by publication one time in a newspaper of general circulation in the city stating the time and place of hearing, which time shall not be earlier than 15 days from the date of publication.

4. Appeal

This zoning determination may be appealed. I have attached a copy of the section of the Texas Local Government Code Section 211.008 for your reference.

Please contact me if you have any questions or require further information.

Respectfully,



Corinne Tilley # 1635
Code Enforcement Officer
Planning/Zoning Administrator

Attachments: Sec. 98-1 Definitions
Sec. 98-27 Special use permits
Special use permit application
Sec. 98-88 Table of permitted uses and special uses
Texas Local Government Code Section 211.008

Sec. 98-1. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Accessory use or building means a subordinate use or building customarily incident to and located on the same lot occupied by the main use or building.

Adjoining or abutting means touching, in contact with, bounding on, or bordering on. Where all or any part of a lot touches or borders on another lot, it adjoins and abuts such other lot which touches or borders on such street and is situated across the street from the lot or portion thereof. The width of the street shall not be included in calculating the minimum yard requirements required by this section.

Alley means a public way which affords only a secondary means of access to property abutting thereon.

Apartment hotel means an apartment house which furnishes, for the use of its tenants, services ordinarily furnished by hotels, but the privileges of which are not primarily available to the public.

Bed and breakfast means a house used for the temporary residence of motorists or travelers.

Boardinghouse and lodginghouse mean a building other than a hotel occupied as a single housekeeping unit where lodging or meals are provided for five or more persons for compensation, pursuant to previous arrangements for definite periods, but not to the public or transients.

Building means any structure designed or built for the support, enclosure, shelter, or protection of persons, animals, chattels or property of any kind. The term "building" shall include the term "structure."

Building, height of, means the vertical distance from the grade to the highest point of the coping of a flat roof or to the deck line of a mansard roof, or to the mean height level between eaves and ridge for gable, hip and gambrel roofs.

Building line means a line parallel or approximately parallel to the street line, and beyond which, buildings may not be erected.

Building official means any person or officer of the city duly designated by official resolution of the city council having the duty to enforce the regulations contained in this chapter.

Clinic means an establishment where patients, who are not lodged overnight, are admitted for examination and treatment by physicians providing medicine, or other health care professionals.

Club means a building or portion thereof or premises owned or operated by a corporation, association, or person for a social, educational or recreational purpose, but not primarily for profit or to render a service which is customarily carried on as a business.

Demolition means an act or process which destroys a site or structure in its entirety, or which destroys a part of a site or structure and permanently impairs its structural, historic or architectural integrity.

Design guidelines for the City of Montgomery means written guidelines adopted by the city, as a reference and guide to provide information on appropriate methods for new construction of buildings within the historic preservation district and rehabilitation or restoration of historic properties. The design guidelines shall remain on file with the city secretary.

District means a section of the city for which regulations governing the use of buildings and premises, the size of yards, and the intensity of use are uniform under this chapter.

Dwelling means any building or portion thereof which is designed for or used for residential purposes.

Dwelling, multifamily, means a building designed for or occupied exclusively by more than one family.

Dwelling, single-family, means a building designed for or occupied exclusively by one family.

Exterior architectural feature means the architectural style, design, general arrangement and components of all of the outer surfaces of a building or structure, as distinguished from the interior surfaces enclosed by such outer surfaces. Exterior architectural features shall include, by way of example but not by limitation, the kind, color, surface texture of the building material and the type and style of all windows, doors, lights, signs and other fixtures appurtenant to such building or structure.

Exterior walls and façades means the outermost covering of a building that is visible from any public right-of-way, street or roadway.

Family means one or more individuals living together as a single housekeeping unit, as distinguished from a group occupying a boardinghouse, lodginghouse, or hotel.

Frontage, block, means all the property on one side of a street between two intersecting streets (crossing or terminating), measured along the line of the street, or, if the street is dead-ended, then all of the property abutting on one side between an intersecting street and the dead-end of the street.

Historic landmark means an individual property designated by the city council under this chapter, as having outstanding historical and cultural significance in the nation, region, or community. The designation "historic landmark" recognizes that the historic place, or the building, structure, accessory buildings, fences, or other appurtenances at the place are of basic and vital importance for the preservation of culture and neighborhoods and economic development and promotion of tourism. The initial historic landmarks shall consist of the tracts or parcels of land and existing buildings or structures located at the physical addresses shown on the list and map kept on file in the office of the city secretary. For historical landmark buildings or structures located on a tract or parcel of land exceeding 9,000 square feet in area, only the buildings or structures and a 25-foot buffer around said buildings or structures shall be subject to the provisions of this chapter. Said list and map shall remain on file with the city secretary and the county clerk's office.

Historic preservation district means an area of the city designated by the city council under this chapter, as having definable geographic boundaries, and a significant concentration, linkage or continuity of sites, buildings, or structures united historically or aesthetically by plan, appearance, or physical development. The designation "historic preservation district" recognizes that the component historic buildings, structures, accessory buildings, fences, or other appurtenances of the district are of basic and vital importance for the preservation of culture and neighborhoods, and economic development and promotion of tourism. The initial historic preservation district shall consist of the area shown on the map, and the map shall remain on file with the city secretary.

Hotel means a building in which lodging, or boarding and lodging, are provided and offered to the public for compensation and in which ingress and egress to and from all rooms is made through an inside lobby or office supervised by a person in charge at all hours. As such, it is open to the public, in contradistinction to a boardinghouse, a lodginghouse, or an apartment.

Lot means a parcel of land occupied or intended for occupancy by a use permitted in this chapter, including one main building together with its accessory buildings, and the open spaces and parking spaces required by this chapter, and having its principal frontage upon a street or upon an officially approved place. The term "lot" includes the term "plot."

Lot, depth of, means the mean horizontal distance between the front and rear lot lines.

Main entryways and corridors means the two primary, intersecting thoroughfares in the city, namely State Highway 105 and State Farm Road 149, along with the Lone Star Parkway.

Metal panels means profiled metal panels, deep-ribbed panels and concealed fastener systems.

Motor court and *motel* mean a building or group of buildings used for the temporary residence of motorists or travelers.

Nonconforming structures means commercial, residential, and/or institutional buildings or other structures existing within an historic preservation district but not possessing the character nor the designation of an official historic landmark.

Nonconforming use, building or yard means a use, building, or yard, existing legally at the time of passage of the ordinance from which this chapter is derived, which does not, by reason of design or use, conform with the regulations of the district in which it is situated.

Ordinary maintenance means repairs and other work necessary for the upkeep of buildings and other structures that may include, but is not limited to, minor building material replacement, cleaning, caulking, painting, etc. Ordinary maintenance does not require a building permit.

Parking space, off-street, means an area of not less than 162 square feet (measuring approximately nine feet by 18 feet) not on a public street or alley, surfaced with an all-weather surface, enclosed or not enclosed. The parking space shall be durably surfaced and so arranged to permit satisfactory ingress and egress of an automobile. A public street shall not be classified as off-street parking in computing the parking requirements for any use.

Place means an open, unoccupied space, other than a street or alley, permanently reserved as the principal means of access to abutting property.

Planning and zoning approval means an indication on the building permit evidencing the approval of the planning and zoning commission, signed and dated by the chairperson of the commission, for the installation, construction, alteration, change, restoration, removal, or demolition of an exterior architectural feature, resource or other significant appurtenance of any historic landmark or of any building or structure located within the historic preservation district to be issued in cases further defined in this chapter, where approval for the same is required.

Story means that portion of a building, other than a cellar, included between the surface of any floor and the surface of the floor next above it, or, if there is no floor above it, then the space between the floor and the ceiling next above it.

Street means a public or private thoroughfare which affords the principal means of access to the abutting property.

Street line means a dividing line between a lot, tract or parcel of land and a contiguous street.

Structural alterations means any changes in the supporting members of a structure, such as bearing walls, columns, beams or girders.

Structure means anything constructed or erected which requires location on the ground, or attached to something having a location on the ground, including, but not limited to, buildings of all types, advertising signs, billboards, and poster panels, but exclusive of customary fences, or boundary or retaining walls.

Temporary building means any structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities.

Used for includes the meaning "designed for" or "intended for."

Visual barrier means a continuous unbroken and solid screen of masonry construction, or fencing, natural hedge or vegetation at maturity (two years), or a combination thereof, of not less than six feet measured from the existing natural ground level. Non-vegetative barriers must be a maximum of eight feet in height measured from the existing natural ground level. Vegetation must consist of any combination of trees, shrubs, berms, or other natural flora. The visual barrier improvements shall be adequate to accommodate the proposed screening, and must be a minimum of one foot in width for non-vegetative screening and five feet in width for vegetative screening, provided it creates a visual barrier. The city shall not be responsible for the maintenance of required

screening. Deed restrictions and covenants, if any, filed of record and running with the land for any tract, shall make provisions for a maintenance entity authorized to provide maintenance of the visual barrier improvements through assessment of the costs thereof to lot owners.

Wetland means any swamps, marshes or bogs or other areas classified as jurisdictional wetland which would require appropriate permits from the Corps of Engineers for any construction.

Yard means an open space at grade between a building and the adjoining lot lines, unoccupied and unobstructed by any portion of a structure from the ground upward except as otherwise provided in this chapter. In measuring a yard for the purpose of determining the width of a side yard, the depth of a front yard or the depth of the rear yard, the minimum horizontal distance between the lot line and the main building shall be used.

Yard, front, means a yard extending across the front of a lot between the side lot lines, and being the minimum horizontal distance between the street or place line and the main building or any projections thereof other than the projections of the usual uncovered steps, uncovered balconies, or uncovered porch. On corner lots, the front yard shall be considered as parallel to the street upon which the lot has its least dimensions.

Yard, rear, means a yard extending across the rear of a lot and being the required minimum horizontal distance between the rear lot line and the rear of the main building or any projections thereof other than the projections of uncovered steps, enclosed balconies or unenclosed porches. On all lots, the rear yard shall be in the rear of the front yard.

Yard, side, means a yard between the main building and the side line of the lot, extending from the required front yard to the required rear yard and being the minimum horizontal distance between a side lot line and the side of the main building or any projections thereto.

(Ord. No. 2014-03, § 1, 5-20-2014)

Sec. 98-27. Special use permits.

- (a) The city council, by an affirmative four-fifths vote, may by ordinance grant a special permit for special uses in any district, for those uses listed under "CC" in the table of permitted uses in section 98-88, or which are otherwise not expressly permitted by this chapter, and may impose appropriate conditions and safeguards, including a specified period of time for the permit, to protect property and property values in the neighborhood. A special use permit may be revoked or canceled by the city council upon violation of any permit granted. Before authorization of any of such special uses, the request therefor shall be referred to the planning and zoning commission for study and report concerning the effect of the proposed use on the comprehensive plan and on the character and development of the neighborhood. A public hearing shall be held in relation thereto before the city council, and notice and publication of the time and place for which shall conform to the procedure prescribed in subsection (b) of this section.
- (b) A public hearing shall be held by the city council before adopting any proposed special use permit. Notice of such hearing shall be given by publication one time in a newspaper of general circulation in the city stating the time and place of hearing, which time shall not be earlier than 15 days from the date of publication.

(Ord. No. 2014-03, § 1, 5-20-2014)



Special Use Permit

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

Applicant Information

Owner/leaseholder Name: _____

Address: _____

Email: _____ Phone: _____

Name of owner (if different): _____

Contact person (if different): _____

Address: _____

Email: _____ Phone: _____

Parcel Information

Type of Business: _____

Legal Description: _____

Street Address or Location: _____

Special Use Permit Request

Description of request:

Applicant's Signature _____ Date _____

Submission Information

Submit the completed application with supporting documentation to:

**City of Montgomery
Planning/Zoning Administrator
101 Old Plantersville Road
Montgomery, Texas 77316**

Or via email: ctilley@ci.montgomery.tx.us

Additional Information

Date Application received by the City of Montgomery: _____

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

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

Signature: _____ Date: _____

Signature: _____ Date: _____

Signature: _____ Date: _____

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

Date Received

Office Use

Public Hearings

Parties in interest and citizens shall have an opportunity to be heard at public hearings conducted by the Planning and Zoning Commission and the City Council before any amendment to a district regulation, restriction, or boundary shall become effective. Regularly scheduled meetings are as follows and will be held accordingly unless public notice has been given of a change of dates:

Planning and Zoning Commission: **1st Tuesday of every month at 6:00 p.m.**

City Council: **2nd and 4th Tuesday of every month at 6:00 p.m.**

Protests

If a protest against a proposed zoning change including PDD and SUP requests has been filed with the City Secretary, duly signed and acknowledged by the owners of twenty percent (20%) or more, either of the area of the land included in such a proposed change or those owners of property immediately adjacent to the subject property and extending two hundred feet (200) there from, such zoning change shall not become effective except by a three-fourths (3/4) vote of governing body in accordance with the provisions of Section 211.006 of the Texas Local Government Code.

Resubmission

Rezoning requests which have been heard and decided by the Council of the City of Montgomery may not be re-filed with the city for six (6) months after the date of such decision by the Council, absent a change in circumstances.

Rezoning requests for the same property to a different classification than the denied request may be re-filed prior to the expiration of six (6) months.

Sec. 98-88. Table of permitted uses and special uses.

(a) Permitted uses and special uses in the various zoning districts are as specified in the following table:

Table 1. Table of Permitted Uses						
Permitted Uses	R-1	R-2	B	ID	I	CC
Accessory uses						X
Aerial or ground survey			X			
Air conditioning sales, retail, complete enclosed (services incidental)			X			
Air conditioning—Refrigeration services repair (completely enclosed) with no installation of central units—Heating or cooling						X
Airport (nongovernmental)						X
Air product manufacturing				X		
Alcoholic beverage sales off premises			X			
Alcoholic beverage sales on premises						X
Alcoholic beverage storage			X			
Altering and repairing of wearing apparel			X			
Ambulance service			X			
Amusement arcade						X
Amusement park (commercial)						X
Animal shelter or dog pound (nongovernmental)						X
Antique store (completely enclosed)			X			
Apartment hotel						X
Apothecary, limited to the sale of pharmaceutical and medical supplies			X			
Apparel and accessory store			X			
Appliance repair (completely enclosed)			X			
Armory						X
Art gallery and/or museum (commercial retail sale of objects d'art only)			X			
Asphalt or creosote manufacturing or treatment						X
Assisted living		X	X			

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Automobile and truck sales and service (new and used) (service completely enclosed)			X			
Automobile car wash			X			
Automobile filling station and/or service (all repair in district to be completely enclosed)			X			
Automobile glass sales and installation			X			
Automobile muffler sales and installation (completely enclosed)			X			
Automobile parking lots or parking garages (commercial)						X
Automobile rental			X			
Automobile repair			X			
Automobile upholstery sales and installation (completely enclosed)			X			
Automobile wrecking, dismantling or salvage (enclosed by fence)						X
Aviary						X
Bait store			X			
Bakery (retail)			X			
Bakery (wholesale)			X			
Barber shop			X			
Beauty salon			X			
Bed and breakfast	X		X			
Churches					X	
Community home as required by V.T.C.A., Human Resources Code § 123.003	X	X				
Compressed gas manufacturing, repacking and/or storage						X
Dairy equipment (wholesale) (completely enclosed)			X			
Dairy products sales (retail)			X			
Dairy products sales (wholesale)			X			
Delicatessen			X			
Department store			X			

Dog pound or animal shelter (nongovernmental)						X
Drug manufacture						X
Drug sales (wholesale)			X			
Drugstore			X			
Dry cleaning pickup and pressing shops			X			
Dry cleaning plant						X
Dry goods store			X			
Dry goods (wholesale) (completely enclosed)			X			
Electric power generator station (primary station)						X
Electric repair (appliances) (completely enclosed)			X			
Electric repair shop (heavy equipment)				X		
Electrical substation, to be enclosed by a fence or wall of minimum six feet in height, with physical installation being enclosed by a barrier which constitutes a visual screen. Visual screening would not be required in ID district				X		
Electrician			X			
Electroplating			X			
Elevator maintenance and service				X		
Exterminator (completely enclosed)			X			
Farm equipment sales and service (completely enclosed in B-2 district)			X			
Farm supplies			X			
Farming and truck gardening, but not for retail sales (permitted in any district)				X		
Feed store or seed and fertilizer			X			
Felt manufacture (cloth)				X		
Fish market (fenced outside storage)				X		
Fish market (retail)			X			
Fish market (wholesale)			X			
Fix-it shop (completely enclosed)			X			
Floor covering sales (retail completely enclosed)			X			

Floral shop (completely enclosed)			X			
Florist (wholesale) (completely enclosed)			X			
Food locker plant (retail)			X			
Food products (wholesale storage and sales)			X			
Food products manufacture and processing (not rendering)				X		
Food store			X			
Food to go (retail, no curb service)			X			
Foundry						X
Freight depot (railroad and/or truck)				X		
Fruit and produce (wholesale)			X			
Fruit and vegetable stand or store			X			
Funeral home, mortuary or undertaking establishment			X			
Fur dyeing, finishing and storing (no tanning, no hide storage)				X		
Furniture (wholesale sales)			X			
Furniture repair and upholstering (completely enclosed)			X			
Furniture repair and upholstering (fenced outside storage)			X			
Furniture store, retail (completely enclosed) (no repair)			X			
Furniture store, retail (fenced outside storage)			X			
Garage, public or storage				X		
Garden specialty store			X			
Gas filling station and/or service (all repairs to be completely enclosed)			X			
Gas regulation station (screening)				X		
Gift shop (completely enclosed)			X			
Glass (retail sales) (service incidental to sales) (completely enclosed)			X			
Glass (wholesale sales)			X			
Glass manufacturing and glass products manufacturing				X		

Golf course and country club, but no driving range, pitch and putt or miniature golf course						X
Golf driving range, pitch-and-putt or miniature golf course						X
Greenhouse or nursery, retail			X			
Greenhouse or nursery, wholesale				X		
Grocery (wholesale)			X			
Grocery store			X			
Gymnasium (commercial)			X			
Hair products manufacturing and processing				X		
Hardware manufacture				X		
Hardware sales (wholesale)			X			
Hardware store			X			
Heliport			X			
Hobby supply store			X			
Hosiery manufacture			X			
Hospital or sanitarium			X			
Hotel			X			
Ice cream and ice milk (retail)				X		
Ice cream manufacturer (wholesale)				X		
Ice cream store			X			
Ice house (no on-premises consumption of alcoholic beverages in B-1 district)			X			
Ice manufacture				X		
Insulation manufacture and fabrication				X		
Interior decorating studio			X			
Jewelry store			X			
Junkyard, salvage yard, including storage, baling or selling of rags, papers, iron or junk, need not be enclosed within a structure, but must be enclosed within a fence at least six feet high and adequate to obstruct view, noise and passage of persons; chain-link or similar fencing may be permitted if screen planting is provided						X
Laboratory (dental or medical)			X			

Laboratory (research)			X			
Laboratory (testing)			X			
Landfill						X
Laundry and dry cleaning (self service)			X			
Laundry or dry cleaning (pickup station)			X			
Laundry plant				X		
Leather goods or luggage store			X			
Library (nongovernmental)						X
Linen supply, diaper service or uniform supply			X			
Loan office			X			
Locksmith			X			
Lumber yard and building materials (wholesale)			X			
Machine shop				X		
Machine, tools and construction equipment sales and service			X	X		
Marine and boat manufacturing				X		
Marine and boat storage						X
Mattress manufacturing and rebuilding				X		
Massage parlor			X			
Metal products fabrication				X		
Milliner (custom)			X			
Millinery manufacture				X		
Millwork and similar wood products manufacture				X		
Mobile food unit			X*	X	X	
Mobile food court						X**
Motel			X			
Motorcycle sales and service			X			
Moving and transfer company				X		
Music store			X			
Nail salon			X			
News stand			X			
Night club/dance hall						X
Novelty and souvenir manufacture				X		

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Nursery, daycare, or kindergarten (care of up to six children)	X	X				
Nursery, daycare, or kindergarten (care of up to 20 children)			X			
Nursery, daycare, or kindergarten (care of over 20 children)			X			
Nursing home		X	X			
Office equipment and furniture manufacture				X		
Office equipment and supplies (retail)			X			
Office equipment and supplies (wholesale)			X	X		
Offices (professional)			X			
Oil and well supplies and machinery sales				X		
Optical goods (retail)			X			
Optical goods (wholesale)			X			
Optician			X			
Packing and gasket manufacture				X		
Packing plant (no rendering)						X
Paint and wallpaper store			X			
Paper produce manufacture				X		
Paper supplies (wholesale)				X		
Parks, playgrounds, community buildings and other public recreational facilities owned and/or operated by the city or other public agency					X	
Passenger depot (railroad or bus)						X
Pawnshop (completely enclosed)			X			
Pecan shelling				X		
Pet shop (completely enclosed)			X			
Petroleum storage (wholesale)				X		
Photographic equipment and supplies sales			X	X		
Photographic studio			X			
Picture framing			X			
Pipe storage				X		X
Pipeline and electrical transmission lines						X
Playground equipment manufacture				X		
Plumber			X			

Plumbing fixture sales (completely enclosed) (retail)			X			
Plumbing fixture sales (wholesale)			X	X		
Printer			X	X		
Public buildings, including libraries, museums, police stations and fire stations					X	
Radio station or studio, without transmitter tower						X
Radio station with transmitter tower						X
Reading room			X			
Recycling plant						X
Reducing salon			X			
Refrigerator equipment manufacture				X		
Restaurant			X			
Riding stable or academy						X
Roominghouse or boardinghouse						X
Rug and/or carpet sales			X			
Rug cleaning				X		
Sand or gravel storage yard				X		
Schools					X	
Shoe manufacture				X		
Shoe repair shop			X			
Shoe sales (retail)			X			
Shoe sales (wholesale) (completely enclosed)			X			
Sign, advertising (excluding business signs)			X			
Sign shop			X	X		
Sign shop (completely enclosed)			X			
Skating facility (outdoor)						X
Skating rink (enclosed)			X			
Small animal clinic or kennel			X			
Small animal clinic or kennel (completely enclosed)			X			
Sporting goods store			X			
Sporting goods (wholesale) (completely enclosed)			X	X		
Stamp, coin sales (retail)			X			
Stationery sales			X			

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Stone cutting or monument manufacturing				X		
Stone monument sales			X			
Stone quarry or gravel pit				X		
Studio for professional work or teaching of any form of fine arts, photography, music, drama, dance, painting, etc.			X			
Surgical or dental supplies store			X			
Tanning salon			X			
Tattoo parlor						X
Tavern						X
Taxidermist						X
Television station or studio without transmitter tower			X			
Television station with transmitter tower						X
Textile manufacture				X		
Theater (indoor)			X			
Theater (outdoor, including drive-in theaters)						X
Tile manufacturer (ceramic)				X		
Tobacco processing				X		
Tobacco store			X			
Tool manufacture				X		
Tool rental (completely enclosed)			X			
Tool rental (fence outside storage)			X	X		
Toy manufacture			X	X		
Toy store			X			
Trailer manufacture				X		
Trailer sales			X			
Transit vehicle storage and service				X		
Truck repair and maintenance			X	X		
Truck stop						X
Variety store			X			
Venetian blinds and metal awning fabrication, repair and cleaning				X		
Veterinarian (animal on premises)			X			
Warehousing				X		
Watch repair			X			

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Water or sewage pumping (nongovernmental)						X
Water storage (overhead)						X
Welding shop				X		
Well drilling contractors			X	X		

* Mobile food units in the historic overlay zone requires special use permit.

** Mobile food courts require a special use permit.

(b) Any use not specifically permitted in this table or in the use regulations of each district set out below, shall require a special use permit (see section 98-27, special use permits).

(Ord. No. 2014-03, § 1, 5-20-2014; Ord. No. 2023-14, § 2, 6-13-2023)

LOCAL GOVERNMENT CODE

TITLE 7. REGULATION OF LAND USE, STRUCTURES, BUSINESSES, AND RELATED ACTIVITIES

SUBTITLE A. MUNICIPAL REGULATORY AUTHORITY

CHAPTER 211. MUNICIPAL ZONING AUTHORITY

SUBCHAPTER A. GENERAL ZONING REGULATIONS

Sec. 211.008. BOARD OF ADJUSTMENT.

(a) The governing body of a municipality may provide for the appointment of a board of adjustment. In the regulations adopted under this subchapter, the governing body may authorize the board of adjustment, in appropriate cases and subject to appropriate conditions and safeguards, to make special exceptions to the terms of the zoning ordinance that are consistent with the general purpose and intent of the ordinance and in accordance with any applicable rules contained in the ordinance.

(b) A board of adjustment must consist of at least five members to be appointed for terms of two years. The governing body must provide the procedure for appointment. The governing body may authorize each member of the governing body, including the mayor, to appoint one member to the board. The appointing authority may remove a board member for cause, as found by the appointing authority, on a written charge after a public hearing. A vacancy on the board shall be filled for the unexpired term.

(c) The governing body, by charter or ordinance, may provide for the appointment of alternate board members to serve in the absence of one or more regular members when requested to do so by the mayor or city manager. An alternate member serves for the same period as a regular member and is subject to removal in the same manner as a regular member. A vacancy among the alternate members is filled in the same manner as a vacancy among the regular members.

(d) Each case before the board of adjustment must be heard by at least 75 percent of the members.

(e) The board by majority vote shall adopt rules in accordance with any ordinance adopted under this subchapter and with the approval of the governing body. Meetings of the board are held at the call of the presiding officer and at other times as determined by the board. The presiding officer or acting presiding officer may administer oaths and compel the attendance of witnesses. All meetings of the board shall be open to the public.

(f) The board shall keep minutes of its proceedings that indicate the vote of each member on each question or the fact that a member is absent or fails to vote. The board shall keep records of its examinations and other official actions. The minutes and records shall be filed immediately in the board's office and are public records.

(g) The governing body of a Type A general-law municipality by ordinance may grant the members of the governing body the authority to act as a board of adjustment under this chapter.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 126, Sec. 1, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 724, Sec. 1, eff. Aug. 28, 1995; Acts 1997, 75th Leg., ch. 363, Sec. 1, eff. Sept. 1, 1997.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 820 (H.B. [2497](#)), Sec. 1, eff. September 1, 2019.

Sec. 211.009. AUTHORITY OF BOARD.

(a) The board of adjustment may:

(1) hear and decide an appeal that alleges error in an order, requirement, decision, or determination made by an administrative official in the enforcement of this subchapter or an ordinance adopted under this subchapter;

(2) hear and decide special exceptions to the terms of a zoning ordinance when the ordinance requires the board to do so;

(3) authorize in specific cases a variance from the terms of a zoning ordinance if the variance is not contrary to the public interest and, due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship, and so that the spirit of the ordinance is observed and substantial justice is done; and

(4) hear and decide other matters authorized by an ordinance adopted under this subchapter.

(b) In exercising its authority under Subsection (a)(1), the board may reverse or affirm, in whole or in part, or modify the administrative official's order, requirement, decision, or determination from which an appeal is taken and make the correct order, requirement, decision, or determination, and for that purpose the board has the same authority as the administrative official.

(b-1) In exercising its authority under Subsection (a)(3), the board may consider the following as grounds to determine whether compliance with the ordinance as applied to a structure that is the subject of the appeal would result in unnecessary hardship:

(1) the financial cost of compliance is greater than 50 percent of the appraised value of the structure as shown on the most recent appraisal roll certified to the assessor for the municipality under Section 26.01, Tax Code;

(2) compliance would result in a loss to the lot on which the structure is located of at least 25 percent of the area on which development may physically occur;

(3) compliance would result in the structure not being in compliance with a requirement of a municipal ordinance, building code, or other requirement;

(4) compliance would result in the unreasonable encroachment on an adjacent property or easement;
or

(5) the municipality considers the structure to be a nonconforming structure.

(c) The concurring vote of 75 percent of the members of the board is necessary to:

(1) reverse an order, requirement, decision, or determination of an administrative official;

(2) decide in favor of an applicant on a matter on which the board is required to pass under a zoning ordinance; or

(3) authorize a variation from the terms of a zoning ordinance.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 126, Sec. 2, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 724, Sec. 2, eff. Aug. 28, 1995.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 318 (H.B. [1475](#)), Sec. 1, eff. September 1, 2021.

Sec. 211.010. APPEAL TO BOARD.

(a) Except as provided by Subsection (e), any of the following persons may appeal to the board of adjustment a decision made by an administrative official that is not related to a specific application, address, or project:

(1) a person aggrieved by the decision; or

(2) any officer, department, board, or bureau of the municipality affected by the decision.

(a-1) Except as provided by Subsection (e), any of the following persons may appeal to the board of adjustment a decision made by an administrative official that is related to a specific application, address, or project:

(1) a person who:

(A) filed the application that is the subject of the decision;

(B) is the owner or representative of the owner of the property that is the subject of the decision; or

(C) is aggrieved by the decision and is the owner of real property within 200 feet of the property that is the subject of the decision; or

(2) any officer, department, board, or bureau of the municipality affected by the decision.

(b) The appellant must file with the board and the official from whom the appeal is taken a notice of appeal specifying the grounds for the appeal. The appeal must be filed not later than the 20th day after the date the decision is made. On receiving the notice, the official from whom the appeal is taken shall immediately transmit to the board all the papers constituting the record of the action that is appealed.

(c) An appeal stays all proceedings in furtherance of the action that is appealed unless the official from whom the appeal is taken certifies in writing to the board facts supporting the official's opinion that a stay would cause imminent peril to life or property. In that case, the proceedings may be stayed only by a restraining order granted by the board or a court of record on application, after notice to the official, if due cause is shown.

(d) The board shall set a reasonable time for the appeal hearing and shall give public notice of the hearing and due notice to the parties in interest. A party may appear at the appeal hearing in person or

by agent or attorney. The board shall decide the appeal at the next meeting for which notice can be provided following the hearing and not later than the 60th day after the date the appeal is filed.

(e) A member of the governing body of the municipality who serves on the board of adjustment under Section 211.008(g) may not bring an appeal under this section.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1997, 75th Leg., ch. 363, Sec. 2, eff. Sept. 1, 1997.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 820 (H.B. [2497](#)), Sec. 2, eff. September 1, 2019.

Planning & Zoning Commission
AGENDA REPORT

Meeting Date: March 04, 2025	Budgeted Amount: N/A
Department: Administration	Prepared By: Ruby Beaven

Subject
 Consideration and possible action on the Regular Meeting Minutes of February 04, 2025.

Recommendation
 Staff recommends approval of meeting minutes, as presented.

Discussion
 Please see the accompanying minutes:
 Regular Meeting Minutes of February 04, 2025

Approved By	Ruby Beaven	Date: February 25, 2025
City Secretary & Director of Administrative Services		

**PLANNING AND ZONING COMMISSION
MEETING MINUTES
FEBRUARY 04, 2025**

OPENING AGENDA

1. Call meeting to order.

Chairman Simpson called the meeting to order at 5:59 p.m.

Present: Commission Member Daniel Gazda, Chairman Bill Simpson, Commission Member Merriam Walker, Vice Chairman Tom Czulewicz

Absent: Commission Member John Fox

Also Present: Chief Anthony Solomon, Chief of Police / Interim City Administrator
Corinne Tilley, Code Enforcement / Planning & Zoning Administrator
Ruby Beaven, City Secretary
Diana Titus, Deputy City Secretary
Chris Roznovsky, City Engineer

2. Pledges of Allegiance.

Chairman Simpson led the Pledge of Allegiance and Pledge of Allegiance to the Texas State Flag.

PUBLIC FORUM:

No citizen comments presented for this meeting.

REGULAR AGENDA

3. Consideration and possible action on the Regular Meeting Minutes of January 07, 2025.

Motion: Commission Member Gazda made a motion to approve the Regular Meeting Minutes of January 07, 2025. Commission Member Walker seconded the motion. Motion carries with all present voting in favor.

4. Consideration and possible action on a proposal to make improvements on a property located at 914 College Street.

Ms. Marily Thompson stated she has owned this property since 1999. She is endeavoring to make improvements to the property and make it her homestead.

Commission Member Walker said you mentioned you are going to build up on one side to divert the water that is coming from the other side. Do you have water that goes through your property? Ms. Thompson said she will not be building up on the east side which neighbors Ms. Langley's house. It slopes right into her house so what she would like to do

is create a swell between her house and their house to divert that to go into her backyard because currently it goes right underneath her house and that is what has been causing a lot of her settlement issues. The purpose of raising the home 16 inches is to be able to build that up and make it aesthetically pleasing and functional. Commission Member Walker asked is that something the City has to look into because you are moving the landscape of the land because there are natural waterways? Ms. Thompson said she hopes it is a simple issue where she is moving it from going across her property to the west and diverting it to the north because behind her property is a flood way and so nothing is going to be built there. It is just going to go down to the creek and move on. She does not think it adversely affects any neighboring tracts.

Chairman Simpson asked City Engineer Roznovsky if that needs to be in that swell? City Engineer Roznovsky said if it is just for lot drainage it does not. The College Street drainage the City is undertaking, which is at the culverts and improving that area, it also includes improving the roadside ditch in front of this property. As far as on the surface drainage, she is making slight changes to her own grade and landscape and that does not affect it. Commission Member Walker said she is upgrading her landscaping. Chairman Simpson said basically what that water will do instead of dumping into that swell between your property and the Langley's now, it will take a shortcut to the back. Ms. Thompson said correct. Ms. Thompson said and if you so choose to talk about the addition of the garage, that is the same idea as well. The roof line will follow the existing house and her intention would be to gutter front and back and then she can pipe the front gutter to the rear gutter and get it all the way to the back of the property so it has no effect to the neighboring property on the west side of her.

Commission Member Walker asked you are standing before us to ask about the improvements and the considerations of what you have written? Ms. Thompson said yes because her understanding is because she is going to relevel the home and also request that it be raised 16 inches, she has to bring that before the Board because she falls within the historical guidelines. Ms. Thompson said she thinks the idea of raising it gives her the opportunity to get better access under the home which she does not have now because there is only about four inches on the front corner and therefore she cannot properly address any issues whether it be piper or insulation or it is too wet and there are some rotting issues. Commission Board Member Walker said she appreciates her coming to them prior to her doing it. She also wants to say thank you because you realize you are in the historic district. Not so much your house or piece of property, but you are in the district and you have enough consideration for the City of Montgomery to come in and to seek what we can and cannot have done in the historic district. Commission Board Member Gazda said also the thoroughness of the application was fantastic. Chairman Simpson said everything you are doing to update the house and the garage looks like it will match. Our only big concern is that variance on the west side.

Commission Member Walker said she knows we had that 10 foot setback for the subdivision that we are putting in, but when she looked at the home it is not a regular subdivision. It is actual property and asked Ms. Thompson if you were to put that garage there, is there another swell or drop in your property? Ms. Thompson said the history of that is originally the property to the west of her was part of her property. The City approved them to subdivide that and separate it so instead of it being .70 acres it is now .30 and .40. At the time they did that there was no such thing as side building lines. Her understanding

from the survey company is when you make a subdivision like that, that is what they call it, a subdivision. The division of that or separation of that created a subdivision.

Commission Member Walker asked City Engineer Roznovsky if this goes along with their ordinances for subdivisions for this piece of property? City Engineer Roznovsky said he has not researched it. Chief Solomon said it requires 10, but she is asking five to seven. The ordinance says 10. Chairman Simpson said that is on item #5 so they will get item #4 out of the way first. It is for the improvements on the house and the property.

Vice Chairman Czulewicz asked if the skirting after the house is raised 16 inches is just lattice work? Ms. Thompson said yes it will remain as lattice work because she still needs to have access and the house needs to breathe. She thinks that is the appropriate thing to do and it would be painted to match the siding. It is not going to be white because nothing on the house will be technically white other than trim so she would carry that siding color down onto the lattice which is the way it is now.

Commission Member Gazda asked if Ms. Thompson has physical copies of the samples of the paint. Ms. Thompson said yes it is in the package. Ms. Thompson said it is not dissimilar to what exists there now. The green might be a slight shade different. Ms. Thompson said she can bring the actual samples in. Commission Member Walker said any type of material you do in the historic district they really like to see, feel, and touch it. They have had colors given to them and they did not actually match. Different lights that hit it make it look differently. Commission Member Walker said they just want to be consistent because other people that have come before them and they have been specific and said bring this to them to let them see so they have a backup. Ms. Thompson said these are actual swatches from Sherwin Williams so you will have the number.

Commission Member Walker said she has a question about the trees. Ms. Thompson said they were causing some problems. The one tree is right where the garage is going to be placed and the other tree was causing foundation issues with movement and squirrels. Commission Member Walker asked if on pier and when she adds on if she will be doing pier? Ms. Thompson said she is not adding on she is just raising it up. The footprint of the home on the outside is not changing at all. She will contract with Allied who will put the concrete pilings in. They will drive them in and they are going to be stabilized with a collar. They will then lift it 16 inches so she can get insulation under the front part of her home and move the plumbing that needs corrected because it is coming apart.

Ms. Thompson said the only other question Code Enforcement Officer and Planning/Zoning Administrator Tilley had mentioned that you might be concerned about is fencing. Ms. Thompson passed out a handout and said the red areas are where they are talking about fencing. It would be a wood privacy gate so the air conditioning system and garbage cans would be hidden. The sidelines will come back to the existing fence that she would like to be wrought iron and will not be anything higher than five foot. Commission Member Walker asked if there are any ordinances regarding the height of the fence for backup? Is it four or five foot? Chairman Simpson said he thinks the five foot is side yard.

Commission Member Walker asked if it is a two car garage? Ms. Thompson said it is if they approve it. She made it a bit longer than a normal garage because she has a four door F250 pickup truck. Commission Member Walker asked if this is the home she will be living

in or is it a rental property? Ms. Thompson said it has been rental property, but she is downsizing and it will be her primary residence.

Commission Member Walker asked if she has already been in touch with the City about where they are coming with the culvert so that when you put your driveway in, it will be in proportion to where they are putting it? Ms. Thompson said she has received an email from Public Works and they are going to work with her and maybe even do some cost share when they get ready to set the culvert because her goal would be to extend the throat of her driveway a bit wider because it is pretty narrow, but there is an existing sewer manhole there. When they come to do the restructuring of the ditch, she has not seen plans on that, but hopefully they can work together to come up with a plan that looks way better than what is out there now. Commission Member Walker asked City Engineer Roznovsky if there is any problem with Ms. Thompson widening her driveway? City Engineer Roznovsky said no, as long as the culvert is there it does not necessarily matter. That project just got kicked off a couple weeks ago so they are surveying now.

Commission Member Walker said she sees railing outside of the house, but what is the other trim color and what is being done with the shutters? Ms. Thompson said the shutters will remain black. There are going to be a few windows missing on the right side of the house and the rear of the house, but the shutters will remain on the other windows. Commission Member Walker asked if the windows are going to look like they do now? Ms. Thompson said she is going to retain those windows and use the ones she is removing on the garage because they are not very old. They do a nice job to implement the idea of a craftsman style home.

Ms. Thompson said she has met with Entergy. She wants to take the overhead line that goes from the pole to her riser on the house where the electric goes to her house. It is so low that she will not be able to get concrete trucks in there. In her proposal she wants to make that an underground service to her home from the power pole. Entergy told her that the electrician would be handling that work and they would come out and inspect and reconnect when they are ready. Ms. Thompson said she spoke with her electrician and called to get line locations. By Thursday she should have those and then they can begin the process. The unsightly wires will be gone as well as guttering for the HVAC system that will all be on the inside of the house and the secondary drain for the HVAC system on the right will be gone and put within a soffit. Commission Member Walker asked if she is doing gas and electric? Ms. Thompson said it will remain all electric.

Chairman Simpson asked about all the permits. Ms. Thompson said not yet because she is waiting to get an approval from the Board concerning lifting the home 16 inches. Her permits are all filled out. After that they will need to address the variance issue and believes she has to return and go before Council to get that, but if the Board grants her the ability to proceed then the remodeling will begin.

Commission Member Walker said she feels Ms. Thompson is keeping with the characteristics of the historical area and keeping her home to the historical stat that it is right now. She said she is not sure about the wrought iron fence in the back, but it is in the back and she is sure it is not going to be a problem. She asked Ms. Thompson if she has any intention of doing any fencing in the front yard? Ms. Thompson said just the back to contain a dog. Commission Member Walker said she feels Ms. Thompson is keeping with the historical preservations of the downtown area and has brought us all the information.

She said Code Enforcement Officer and Planning/Zoning Administrator Tilley will be watching and the City will make sure your permits are up to date.

Motion: Commission Member Walker made a motion to **APPROVE** a proposal to make improvements on a property located at 914 College Street. Vice Chairman Czulewicz seconded the motion. Motion carries with all present voting in favor.

5. Consideration and possible action on a request for a side yard setback variance for a proposed new accessory structure (garage) on the property located at 914 College Street.

Commission Member Gazda asked if this is a recommendation to City Council or an approval? City Secretary Beaven said the recommendation is staff recommends approval of the five to seven foot side with the following three conditions. 1) To appropriate the building of trade, permits must be approved and issued prior to the commencement of work. 2) Submit a fully certified survey of the exact location of the proposed new accessory structure when presenting the request for variance to the City Council. 3) Obtain final approval of the side yard setback variance from the City Council.

Motion: Vice Chairman Czulewicz made a motion to approve a request for a side yard setback variance for a proposed new accessory structure (garage) on the property located at 914 College Street. Commission Member Gazda seconded the motion. Motion carries with all present voting in favor.

Discussion: Commission Member Walker asked Ms. Thompson if she knows when she is going to start with the trees. Ms. Thompson said the trees are gone because Code Enforcement Office and Planning/Zoning Administrator Tilley said she could remove them. She said she will be putting another tree in her front yard and another in the backyard to replace the ones she took down. She really does appreciate the trees but they caused a big expense for her.

6. Consideration and possible action on a proposed cover/roof over an existing second floor balcony at 401 College Street (northeast corner).

Chief Solomon said this Board approved the northwest corner a year ago and now they are asking to have the same cover for the northeast corner. Commission Member Walker said it is the only corner that is not covered so far. All of the others are. She said she drove by there and it does not look structurally sound. Maybe it needs boards replaced on the decking. She asked if Code Enforcement Officer / Planning and Zoning Administrator Tilley can look at it before he starts. Chief Solomon said he knows she has looked at it, but he will have her take another look at it. Commission Member Walker said she noticed the wrought iron that is up there. When he was presenting it last year he said he had found some wrought iron that he was using. It looked good and worked with everything. She noticed there are three or four that are already standing back in that corner where the roof is not there yet. Her concern is how long have they been there? She knows when they go to put the roof on the roofer is not going to just slap a roof on there without it being sturdy. She was wondering if they are going to leave the wrought iron, if he is going to replace it, or he is using that because he wanted to use that in the front? She is not sure about the ones he currently has on there. Chairman Simpson said he will have to come with all the structural drawings and attachments.

Motion: Commission Member Walker made a motion to **APPROVE** a proposed cover/roof over an existing second floor balcony at 401 College Street (northeast corner) with the condition of checking the structure itself in those metal awnings/pillars. Vice Chairman Czulewicz seconded the motion. Motion carries with all present voting in favor.

7. Consideration and possible action on all-weather windscreens installed around the front porch at 14335 Liberty Street.

Chief Solomon said in speaking with Code Enforcement Officer / Planning and Zoning Administrator Tilley, the gentleman seems to think Mr. Dave McCorquodale approved it for him before he left. You did not approve it last year and he has put it back up. Chairman Simpson said no, they did not approve it last year and Mr. McCorquodale is no longer here, plus that is something that should come before them to begin with. It seems like we went through this last year. It should have made sense they need to follow the process this time. Vice Chairman Czulewicz said it actually looks worse than it did last year. Chairman Simpson said what he is understanding is there was some other temporary post put up that needed to be approved and permitted. Chief Solomon said whatever the Board decides, they need to come before you first. Chief Solomon said he was given the impression that he would be here tonight.

City Secretary Beaven asked if the Board Members saw the six items indicated by Code Enforcement Officer / Planning and Zoning Administrator Tilley for the subject to the following conditions for approval? She said she can read them off if you need her to. Chairman Simpson said okay. City Secretary Beaven said staff recommends approval of all the weather windscreens installed around the front porch subject to the following conditions: 1) Submit building permit application for the existing windscreens including all necessary documentation and fees doubled for installation without permit within seven days of this approval. 2) The installed windscreens must be inspected by the building official to ensure they meet all safety and structural requirements. Any modifications to bring the windscreens into compliance must be completed within 7 days. 3) If the windscreens cannot be brought into compliance, the property owner must remove them at their own expense within 7 days. 4) If the windscreens are brought into compliance, they can remain in place for a period not to exceed 75 days from January 8th the first day of notification. After March 24, 2025 the windscreens must be promptly removed by the property owner. 5) Continued violations and non-compliance will result in community remedies including escalating fines and penalties. Civil action will be initiated against both the property owner Race Horse Investments, LLC – 14435 Liberty Street Series and the tenant Crawfish Kai LLC. This could include lawsuits, injunctions, or other legal measures to enforce compliance and protect the community's interest. 6) You may appeal this decision within 10 days of this approval to the Board of Adjustments which is the City of Montgomery City Council.

Vice Chairman Czulewicz said he thinks that meets all the ideas of the building permits and structural, but the issue they are dealing with is it is in the historic district. It is a total eyesore. Commission Member Walker said we have continually had issues with that area as well with the compliances and also issues with the trash canisters. We did not want them to put it up last year and she does not approve of what it looks like now. It should be taken down.

Chairman Simpson said he knows Code Enforcement Officer / Planning and Zoning Administrator Tilley put the six items on here, but should there not be something in here about the historical downtown standards? City Secretary Beaven said they can add that into the motion.

Motion: Vice Chairman Czulewicz made a motion to deny an all-weather windscreens installed around the front porch at 14335 Liberty Street. Commission Member Walker seconded the motion. Motion carries with all present voting in favor.

8. Presentation and discussion on a new mural proposed at 14259 Liberty Street.

Mr. Anthony Noreiga and his wife Rebecca of TX and Beyond presented an idea of incorporating additional artwork on the current mural on the north side of the building. Chairman Simpson asked if these pictures will be situated on either side of the existing one? Mr. Noreiga said yes. The wall is 38 feet long and the current mural is 20 feet long so they have eight or nine feet on each side. The one side will have a photograph of Charles B. Stewart and then a picture of one of the buildings that he owned. On the left side, part of that will incorporate a picture of the Texas flag. Chairman Simpson said it looks like you are working with Mr. Larry Forester on getting some of the pictures. Mr. Noreiga said yes.

Vice Chairman Czulewicz said the submission indicates the picture is two foot by two foot. How big is the picture of the house? Mr. Noreiga said small. To give you an idea we had an artist do a depiction of what it would look like. Council Member Gazda asked if they had the other picture of Samuel McCulloch? Mr. Noreiga said yes. That one would be about three feet. Commission Member Walker asked Mr. Noreiga if he would be working with the same artist that did the first one? Mr. Noreiga said no. He said the sculptor that did Samuel McCulloch at the bank recommended an artist that they used. He is a retired professor who knows everything about art and is in the process of doing a rough draft now. A different artist will be doing Charles B. Stewart. Vice Chairman Czulewicz said as a matter of fact we will be celebrating Charles B. Stewart's birthday this Saturday at the Historic Society. Mr. Noreiga said this should be ready by Flag Day. Vice Chairman Czulewicz said the Historic Society is going to celebrate his birthday every year now after this time. It will be an annual event.

Motion: Vice Chairman Czulewicz made a motion to approve the request for a new mural proposed at 14259 Liberty Street. Commission Member Gazda seconded the motion. Motion carries with all present voting in favor.

9. Presentation and discussion of a Utility and Economic Feasibility Study for the BCS Capital Commercial and Multi-Family Tract (Dev. No. 2415).

City Engineer Roznovsky said a feasibility study is prepared and will be presented both to Council and Planning and Zoning since both have a role in development of the City. This feasibility study was presented to Council last week. There was also a workshop with the developer Monday of last week that went over general concepts which he will review.

This property is located behind Ransom's. There is a large 32 acre piece of property that goes from C.B. Stewart to SH-105 all along Buffalo Springs and wraps around the Ransom property. What they are looking to do on the property is a mixed use development with

multi-family at the northern end of the property and then a commercial retail space on the southern portion closer to SH-105. Vice Chairman Czulewicz asked what type of multi-family? Is it apartments? City Engineer Roznovsky said yes, it is apartments. As far as the details, they do not have those yet. In their presentation to Council they offered some example products and are looking at having around 300 units. City Engineer Roznovsky said one of the main things as part of the study is the zoning of the property today. Right now the northern portion of the property is zoned planned development (PD) and the remainder which is the majority of the property is zoned commercial. The use of retail commercial space obviously in the commercial zone is allowed. The PD zone allows multi-family, however it has to get separate approval from who controls the PD which the PD use is controlled by the Buffalo Springs Architectural Control Committee. They would have to obtain approval to use the property. In the restrictions multi-family is allowed within this area of the PD, but they will still have to get the additional approval. In 2004 a plan development district was created over the center portion of the City. One thing to note is based on their preliminary, their multi-family would extend past that PD zone so they would have to request a rezone of the portion of the property that is currently zoned commercial that they would want the multi-family located on.

City Engineer Roznovsky said as far as water and capacity goes, obviously there is a lot of variation in what the final use of this property does. They are looking at 60,000 to 70,000 gallons a day of total water and sewer demand for the entire build out of the property. In regards to the water plant capacity, they are aware currently the City is replacing and upsizing the water well at water plant number two which is right off of Houston Street. The City has authorized the design of a booster pump addition project at water plant number three. They have requested qualifications for an engineering firm to start on the design for water plant number four which will be located near the Red Bird Meadows property. It would include an elevated storage tank. All those things that are ongoing in order to continue to meet the demand is everything within the City as it continues to build out. Vice Chairman Czulewicz asked if there are 300 apartments, is each apartment a connection to the water system? City Engineer Roznovsky said yes. Vice Chairman said when they are estimating 60,000 gallons is that based on 300 apartments or less? City Engineer Roznovsky said 300 apartments and then the retail restaurant space all combined. Vice Chairman Czulewicz said he had a hard time figuring it out from the chart. City Engineer Roznovsky said they are going to take all those tables of usages and put them in one chart showing capacity and projections over time to help make that a lot more condensed and easier to follow because it is a lot of information. Chairman Simpson asked City Engineer Roznovsky his professional opinion on the water. He said developments are going to cause us to have water shortages. City Engineer Roznovsky said the City has already permitted their next water well and we have already started that process. The property has been acquired and those are moving forward. Also, when we do our projections we tend to be conservative. For example, right now we are projecting about 80,000 gallons a day more usage than we are actually seeing. Some of that is it is a connection, but it is a vacant home so it is not using all of that yet, but we have some play within our numbers. It is tight but things have to continue to move. It cannot stop. Vice Chairman Czulewicz said as he was reading through he did not see any addressing of instances such as when we had a pump struck by lightning and that disrupts the system. City Engineer Roznovsky said the capacities that we list throughout the study are based on what the TCEQ requires which has redundancy built in. For example, right now our limiting capacity is based on the booster pump, what actually puts the pressure into the system, but that is because on paper the TCEQ requires that you assume the largest pump is out and not operational. The

addition of this pump raises that from 568 to 730. Effectively, we have a whole lot more than that because you have a whole other pump that is in service, but it assumes that pump is out. As far as the actual water well capacity, that has not been our limiting factor. It is more of the production and getting it out because the wells that are out of FM 1097 are quite large and have a lot of capacity that they are not running heavily today so there is a lot of room they can ramp up. It is also based on the distribution in the system. That means how far and spread out everything is which is why water plant number four is located on the west side of town to help so we are not currently pumping from FM 1097 to get out to the Hills of Town Creek. Red Bird Meadows is constructing a waterline loop that will connect what is right outside here all the way back by the high school, down Old Plantersville, and then the water plant will sit there so it makes that distance the water is pumping a whole lot shorter to get the pressure to where we need it. Vice Chairman Czulewicz asked when the water tank is done is that going to be helpful to the whole system or just a region? City Engineer Roznovsky said the entire system. You definitely have a lot of variation amongst the City. With the Tri Pointe development, they are extending the waterline to cross so it will connect Lone Star Parkway to SH-105 on the west side of town. The more loops and shortening that distance we can put together the better. Right now, in order for water to get to this tract it goes around Lone Star Parkway or down FM 149. What is proposed in this packet is that they extend the waterline that currently ends at the north end of Home Depot, connect it up to Lone Star Parkway to again shorten that distance. We then have redundant and loop so that one break does not knock out a large portion of the City and helps shorten that distance to get better pressure and flow throughout the system as a whole. Commission Member Walker asked if TxDOT has anything to do with this as far as lights and are they just going to leave it? City Engineer Roznovsky said they will. City Council authorized the contract to begin the design of the waste material plant expansion that has already been permitted last week so that project is moving forward which is the timeline that is assumed in this study. Regarding roadways, obviously the final use of this tract and the final land plan will dictate a lot of that, but they will have to do an impact analysis on all the roads they connect to. TxDOT will have a requirement for them as well as the City will have a requirement for their connections to C.B. Stewart and Buffalo Springs. The results of that analysis will tell us if they need to do additional turn lanes or additional roadway improvements. In the cost of this estimate that was in this study, we assume they do roadway improvements, similar to what Home Depot prepared from where Home Depot left off up to the C.B. Stewart intersection as well as in the cost of repaving a portion at least of C.B. Stewart because that road is in need of repair. All of those projects, the roadway improvements, the linear utilities which is the waterline up Lone Star Parkway, as well as water and sewer along SH-105 are going to be subject to a development agreement to work out the financing, the funding, and the final scope as far as what the developer will contribute, and if the City has an option to reimburse the developer.

Chairman Simpson asked who makes the decision on traffic lights? City Engineer Roznovsky said in this case it will be TxDOT. It is an intersection in the City and a TxDOT road so there will have to be a signal warrant analysis that will have to get approved by TxDOT which is what Home Depot did. Previously the City had done a signal warrant analysis and TxDOT said they would put in the signal on their timeline. Once Home Depot came through, the City updated that signal warrant analysis and put it into the development agreement with Home Depot to fund the installation of the signal. Chairman Simpson said that is going to put a lot of traffic on Buffalo Springs. Vice Chairman Czulewicz asked where in the planning is it going to be taken care of from C.B. Stewart and Buffalo Springs to Lone Star Parkway because as you know that whole street is in need of repair? City

Engineer Roznovsky said it would be hard to put that on this one developer, but we know there has been interest in the Rampy Lake property on the opposite side of Buffalo Springs so looking at that as well as working with the other local partners because Buffalo Springs, especially with the light is much more than just a local City street. There is a lot of outside the City traffic that is using Buffalo Springs, especially with the light now to be able to get to SH-105, Home Depot, Kroger, all of those entities. There are many more cars on there than are residents of the City. There are preliminary discussions with the County regarding improvements in general and Buffalo Springs is definitely on that list.

Vice Chairman Czulewicz asked if there is some interest in the cattle ranch? City Engineer Roznovsky said there has been, but it has been quiet lately. This property and the property immediately on the hard corner of C.B. Stewart and SH-105 there has been interest. Vice Chairman Czulewicz asked if that is for residential? City Engineer Roznovsky said it has not gone anywhere. The initial was a commercial property as well. City Engineer Roznovsky asked Vice Chairman Czulewicz if he was referring to the property behind Rampy Lake? Vice Chairman Czulewicz said yes. City Engineer Roznovsky said yes, that is residential.

Commission Member Gazda asked if there was anything in the agreement for the church that is going in for the road revisions or modifications? City Engineer Roznovsky said that agreement is still in the works. They are extending a waterline and they are also doing sidewalks along that side of the road. Since the City completed the Clepper sidewalks project to get to Fernland, having then completed it to Race Track, now we have a short distance that can be closed to have a full sidewalk from essentially Ransom's all the way into downtown. As far as the roadway improvements themselves, they have not been asked to do roadway improvements for that church. Commission Member Walker asked if the house on the hill that used to be city hall many years ago is part of this development? City Engineer said yes it is. Commission Member Walker asked if it will be torn down or is it historical? City Engineer Roznovsky said he is not aware of any historical significance, but it does not mean there is not. His understanding is that it would be torn down. Commission Member Walker asked all those trees too? City Engineer Roznovsky said yes. He said their level of planning is not to that detail to say we are going to carve this out, we are going to make this a feature, but the high level concept of about 17 acres if multi-family and the remainder being between detention and commercial. Commission Member Walker asked if it is three acres of detention? City Engineer Roznovsky said they are working through the detention questions. TxDOT will have a heavy hand in this project with the drainage going toward TxDOT so TxDOT will have to approve that as well as any driveways or driveway modifications. Vice Chairman Czulewicz asked is there any discussion on what this commercial reserve area would be? City Engineer Roznovsky said during their presentation last Monday, they have a couple different concepts. One is a big box anchor, potentially Academy or some other type of big box retail to anchor the space, but they did not have any hard commitments from any development at this time on what those would be.

Commission Member Walker asked if the grand plan for Montgomery would be approved in time for the face of what is going to hit SH-105 because as you see now it is kind of hodge podge? Commission Member Gazda said during planning they are also discussing the backside especially if you are going to see it from that hill. Commission Member Walker asked if the master plan is going to hit so that if they bring a Michael's in or a box store are they going to be able to follow our guidelines? City Engineer Roznovsky said the

next item on the agenda is to give an update on the KKC project, however, as far as the timeline goes, we are pushing for action at the second meeting in February to at least get that process started because the proposed changes include zoning changes and subdivision ordinance changes. There are a handful that require public hearings and rezonings. It is going to take some time to work through, but there is a push to get that. At least the interim ordinance work started. It really depends on where they end up in their process, how quickly they move forward, and when the ordinances are in effect versus who gets grandfathered in. Vice Chairman Czulewicz said that plan says no big box west of Buffalo Springs. City Engineer Roznovsky said correct. Commission Member Walker said she thought they were going to have in the master plan major things in the front in and say pass these so that we could advert to what is happening to us right now until we get the grand plan finally approved. This is why she is saying something now. We knew it was coming. When Home Depot came we knew the others are following. The face of Montgomery is rapidly changing and she was hoping we could push some ordinances rapidly through that we could give to the current people that are trying to move into Montgomery. This is the face of historical Montgomery and it needs to start looking as such. City Engineer Roznovsky said correct. He said he cannot speak exactly to the timing, who will they take in, who gets grandfathered in, or who would be in the new rules. We do have a call tomorrow with the attorneys, staff, and KKC to make sure everything is teed up to get what we can moving forward as quickly as possible and how that falls with all the developments. Chief Solomon said this is what the next agenda item is about. KKC has completed these and they are the ones that are going to put all those things in the right place. Chairman Simpson said he downloaded the presentation from last Monday but his computer went down. He asked if they could get the package emailed to them to review the proposed redesign of the ordinances? Chief Solomon said yes. Vice Chairman Czulewicz asked if they are actually the land owner? City Engineer Roznovsky said not currently. They are under contract to purchase the land but they have not closed on it. Currently Mr. Phillip LeFevre is the land owner.

Chairman Simpson said concerning the KKC packet if someone would have a question or concern, who should they email? Chief Solomon said to call him, City Secretary Beaven, or Code Enforcement Officer / Planning and Zoning Administrator Tilley. City Secretary Beaven said it would be easier if you have any questions to email them to her.

City Engineer Roznovsky said when you look at this development based on their anticipated usages, you are looking at an approximately \$97 million development after all is built out, which based on your current tax rate is approximately \$368,000 a year in property tax off of this development excluding any type of sales tax. It is all preliminary, subject to change.

City Engineer Roznovsky said one question that came up from Council is with the vagueness of the final plan, what would that change as far as feasibility and development timing? Obviously there are a lot of steps yet for them to go through. Where they are at this point they will have to make a decision on if they want to continue to proceed forward and start the rezoning process as well as a development agreement. Typically, these development agreements will tighten up term so it is not just develop 32 acres for whatever you want. It is develop 32 acres with the assumption of 300 apartment units and 100,000 square feet of retail restaurant space as an example and have some allowance in there like you did on Redbird. You would look at the same thing here. You give some guidelines in the agreement. What a feasibility study does is just that. It lays out the general high level

of what the development is, what are some considerations, what are some costs to consider to move into a development agreement when actually an agreement to provide service is made.

10. Discussion of the initial preliminary proposed interim ordinances submitted by Kendig Keast Collaborative.

City Secretary Beaven said this was the interim ordinances for Chapter 78 subdivisions and 98 for Articles 1, 3, 6, 7, and 9 that were presented and they are here for you to look at to see if there are any questions you may have. This is for you to be kept in the loop of what they were bringing forward for consideration for approval and then we will be having a meeting with the attorneys and the engineers on this. Email comments to City Secretary Beaven this evening or first thing in the morning.

Vice Chairman Czulewicz said the lighting is one of the things in the historic district. The other thing as currently submitted in the subdivisions, lots are called for 75 by 120, streets are called for 50 feet. To date, the City has given variances in every one of those things. If the City is going to keep giving variances they should set the standards the way they should be where they expect the variances to go. He said he loves the idea of 75 by 120 and definitely 50 foot streets, but it is going to send the wrong message to the citizens of this City if we put this whole thing in place and then six months later City Council says no, we are going to go with 45 foot lots which is ridiculous when you reduce them by 60 percent from what you said originally. He said his point is is the City Council really aware of what we are looking at when we talk about 75 by 120 and 50 foot streets because every developer that is going to come in here now is going to ask for variance? City Engineer Roznovsky said he cannot speak for Council's understanding, however, the intent of this round of ordinances is a temporary stop gap with the long-term plan really getting more into the weeds on addressing the lot sizes. He believes they are looking at multiple zonings of residential to allow for smaller lots, higher density, lower density, and larger lot zoning. One of the biggest changes is that creation of the downtown development district which would help with what Commission Member Walker was talking about regarding the aesthetics and the look and the use of central core that would get rezoned to be the downtown development district. If you have seen the presentation it has a scoring system between different types of development ,façade, and heights to give it variation so it is not just flat buildings all over the place. He does not know the details to be able to go into the scoring, but the State has requirements on what you can and cannot regulate. This scoring system is a way to be able to get around it because it gives both incentives to provide a higher quality product to the City in exchange for those things.

Chief Solomon said he will speak on behalf of Council. Yes, they have gotten the message about variances and about the streets being narrow. It has happened over and over again. What we talked about early on this year was this Board was never given a chance to say this is how this should be. Council has come to the point where they are not going to be handing those out like they were in the past. Vice Chairman Czulewicz said that is good. From the very beginning his concern has always been with the streets because the narrow streets make it unsafe for emergency vehicles. He was an emergency planning manager for a County in Pennsylvania and learned the hard way. There is no reason for the City to make the same mistakes. The standard should be 50 feet and definitely 75 foot lots. Chief Solomon said when developers come in they are trying to get more houses. Vice Chairman said he understands that process and that is why he brings this up because it is embarrassing

if you spend all this money and have KKC come in and with our opinion put this thing out there. He said he knows the Mayor is going to brag about what they are doing, but then six months later she is going to turn around and the City Council is going to say no we are going to grant variances. Chief Solomon said it is on Council's radar and thinks they got real sick of doing that.

Commission Member Walker asked with honing in on the mentioned chapters and articles, will this help with the aesthetics or the historic look moving into Montgomery with any company that wants to start building? City Secretary Beaven said these are temporary proposed ordinances that will once they are adopted would take place and it would effect anything from that point moving forward once adopted until the final versions are brought back. Chairman Simpson said that is all within the new downtown unified development. It only goes so far east, west, north, and south. Commission Member Walker said right, but like Vice Chairman Czulewicz brought up on the west side we have an ordinance where it says no box stores, but they are encroaching. It is coming and we have to stand our ground and say this is Montgomery and we are trying to keep something without losing money. City Secretary Beaven said these topics are for subdivisions, general district and zoning maps, historic preservation building design, and tree preservation.

COMMISSION INQUIRY

Commission Member Walker said she wants to bring up the trash cans again. Chairman Simpson said they are putting something in the ordinances for those. It was also brought up by Ms. Cheryl Fox at the Monday meeting.

CLOSING AGENDA

11. Items to consider for placement on future agendas.

No items were brought forth to consider.

12. Adjourn.

Motion: Vice Chairman Czulewicz made a motion to adjourned the regular meeting of the Planning and Zoning Commission at 7:15 p.m. Commission Member Walker seconded the motion. Motion carries with all present voting in favor.

APPROVED:

Bill Simpson, Commission Chairman

ATTEST:

Ruby Beaven, City Secretary