City of San Marcos
Regular Meeting
Zoning Board of Adjustments
June 20, 2024 6:00 PM
City Hall, Council Chambers
630 E. Hopkins Street

The Board member presiding over the meeting will be present at this location.

This will be a hybrid (in-person/virtual) meeting.
For more information on how to observe the virtual meeting, please visit:
http://sanmarcostx.gov/1119/Zoning-Board-of-Adjustments

The Zoning Board of Adjustments may adjourn into executive session to consider any item on the agenda if a matter is raised that is appropriate for Executive Session discussion. An announcement will be made on the basis for the Executive Session discussion. The Zoning Board of Adjustments may also publicly discuss any item listed on this agenda for Executive Session.

I. Call To Order

II. Roll Call

III. Citizen Comment Period. Persons wishing to participate/speak remotely (online) during the Citizen Comment Period must email planninginfo@sanmarcostx.gov no later than 12:00 p.m. on the day of the meeting. Written comments received prior to 12:00 p.m. on the day of the meeting will be emailed to the Board Members. Written comments received after the deadline will be provided to the Board Members at the meeting. Those wishing to speak in person may sign up in advance or appear in the City Council chambers at the time the item is called. Comments shall have a time limit of three minutes each and speakers must state their name.

IV. Consent Agenda

a. Consider approval, by motion, of the January 20, 2022, meeting minutes.
b. Consider approval, by motion, of the February 17, 2022, meeting minutes.
c. Consider approval, by motion, of the February 16, 2023, meeting minutes.
d. Consider approval, by motion, of the April 10, 2023, meeting minutes.
e. Consider approval, by motion, of the June 15, 2023, meeting minutes.
f. Consider approval, by motion, of the September 21, 2023, meeting minutes.
g. Consider approval, by motion, of the November 16, 2023, meeting minutes.
h. Consider approval, by motion, of the April 18, 2024, meeting minutes.

V. Public Hearings. Persons wishing to participate/speak remotely (online) during the Public Hearings must email planninginfo@sanmarcostx.gov no later than 12:00 p.m. on the day of the meeting. Written comments received prior to 12:00 p.m. on the day of the meeting will be emailed to the Board Members. Written comments received after the deadline will be provided to the Board Members at the meeting. Those wishing to speak in person may sign up in advance or appear in the City Council chambers at the time the item is called. Comments shall have a time limit of three minutes each and speakers must state their name and address.
a. **VR-24-05 (McCoy Retreat Subdivision Variance)** Hold a public hearing and consider a request by Eckermann Engineering on behalf of McCoy Corporation for a variance to Section 7.5.2.2.A of the San Marcos Development Code, which states that lighting in areas utilized for travel, parking, or routine use by people shall be no less than 0.3 foot-candles. (L. Clanton)

VI. **Action Items**

a. Consider approval of Zoning Board of Adjustments bylaws and provide feedback to staff.

VII. **Question and Answer Session with Press and Public.** This is an opportunity for the Press and Public to ask questions related to items on this agenda. Comments shall have a time limit of three minutes each and speakers must state their name. The allotted time will commence at the beginning of the speakers remarks and will include time spent in discussion with Board Members and staff. Any questions which are unable to be addressed in the allotted timeframe, or for which answers are not immediately available can be addressed outside the meeting.

VIII. **Adjournment**

Notice of Assistance at the Public Meetings

The City of San Marcos does not discriminate on the basis of disability in the admission or access to its services, programs, or activities. Individuals who require auxiliary aids and services for this meeting should contact the City of San Marcos ADA Coordinator at 512 393 8000 (voice) or call Texas Relay Service (TRS) by dialing 7 1 1. Requests can also be faxed to 512 393 8074 or sent by e mail to ADArequest@sanmarcostx.gov.

For more information on the Zoning Board of Adjustments, please contact the Planning and Development Services Department at 512-393-8230 or email planninginfo@sanmarcostx.gov.
ZONING BOARD OF ADJUSTMENTS
REGULAR MEETING MINUTES
THURSDAY, January 20, 2022

Due to COVID-19, the Zoning Board of Adjustments convened via a virtual meeting. To observe the virtual meeting, please go to: http://sanmarcostx.gov/3121/Zoning-Board-of-Adjustments-ZBOA-VideosA

I. Call to Order

With a quorum present, the Regular Meeting of the San Marcos Zoning Board of Adjustments was called to order by Chair Michael Nolen at 5:45 p.m.

II. Roll Call

Present – 5 – Michael Nolen, Floyd Akers, Gary Pack, Chana Temple (1st Alternate), Rodney Van Oudekerke (2nd Alternate)
Absent – 2 – Nicholas Costilla, Gloria Fortin

III. Chairperson’s Opening Remarks

Chair Nolen welcomed the audience.

IV. Citizen Comment Period

Chair Nolen opened the Citizen Comment Period. There were no speakers. Chair Nolen closed the Citizen Comment Period.

V. Consent Agenda Items

Consider approval of the minutes of the ZBOA Regular Meeting of November 18, 2021.

A motion was made by Member Akers, seconded by Chair Nolen, to approve the Consent Agenda. The motion carried by the following vote:

For – 5 – Michael Nolen, Floyd Akers, Gary Pack, Chana Temple, Rodney Van Oudekerke
Against – 0

PUBLIC HEARINGS

VI. VR-22-01 (Mystic Canyon Water Quality and Stormwater Detention Variance for an approximately 62 acre tract of land generally located west of the intersection of Craddock Avenue and Old Ranch Road 12, having frontage on Old Ranch Road 12, Stonehaven, and Meadow View Drive, and known as the Mystic Canyon subdivision) Hold a public hearing and consider a request by Bill E. Couch, Carlson Brigance and Doering, Inc. on behalf of David Tidwell, Kali Kate Service, Inc. for the following variances from the City’s Development Code:
a. a variance to Section 6.2.3.3(A), which states no development or impervious cover is permitted in a water quality zone within the Edwards Aquifer Recharge Zone, to allow construction of water quality and over-sized detention ponds designed to reduce flows and improve drainage conditions within the Castle Forest neighborhood, and

b. a variance to Section 3.9.1.1(B)(1), which does not allow diversion of stormwater away from a natural watercourse, to permit runoff directed away from a natural watercourse to an oversized detention pond designed to reduce flows and improve drainage conditions within the existing Castle Forest neighborhood.

Chair Nolen opened the public hearing.

Greg Schwarz, Senior Engineer, presented the staff report.

1) Bill E. Couch, no address indicated, in favor

2) S. P. Martinez, 2100 Lancaster Street, neutral, presented questions

3) Jhet Brazil, 2002 Stonehaven, opposed

Amanda Hernandez, Assistant Director of Planning, shared that one written comment was received after the deadline and was emailed to the Board Members.

Chair Nolen closed the public hearing.

A motion was made by Chair Nolen, seconded by Member Akers to approve VR-22-01 as presented. The motion carried by the following vote:

For – 4 – Michael Nolen, Floyd Akers, Gary Pack, Rodney Van Oudekerke
Abstain – 1 – Chana Temple

VII. Questions and Answer from the Press and Public

There were no speakers.

VIII. Adjourn

A motion was made by Member Akers, seconded by Member Pack, to adjourn. The motion carried by the following vote:

For – 5 – Michael Nolen, Floyd Akers, Gary Pack, Chana Temple, Rodney Van Oudekerke
Against – 0

The meeting was adjourned at 6:24 p.m.

____________________________________
Zoning Board of Adjustments Chair

ATTEST:

____________________________________
Amanda Hernandez, Recording Secretary
Due to COVID-19, the Zoning Board of Adjustments convened via a hybrid (in-person/ virtual) meeting.
To observe the virtual meeting, please go to: http://sanmarcostx.gov/3121/Zoning-Board-of-Adjustments-ZBOA-VideosA

I. Call to Order
With a quorum present, the Regular Meeting of the San Marcos Zoning Board of Adjustments was called to order by Vice Chair Nicholas Costilla at 6:00 p.m.

II. Roll Call
Present – 4 – Nicholas Costilla, Gloria Fortin, Gary Pack, Rodney Van Oudekerke (2nd Alternate)
Absent – 3 – Michael Nolen, Floyd Akers, Chana Temple (1st Alternate)

III. Chairperson’s Opening Remarks
Vice Chair Costilla welcomed the audience.

IV. Citizen Comment Period
Vice Chair Costilla opened the Citizen Comment Period. There were no speakers. Vice Chair Costilla closed the Citizen Comment Period.

PUBLIC HEARINGS

V. VR-22-02 (923 Burleson Street Historic Preservation Commission Appeal) Hold a public hearing and consider a request by Pekka Rintala appealing the decision of the Historic Preservation Commission to deny a request for a Certificate of Appropriateness to allow various exterior alterations at 923 Burleson Street.

Vice Chair Costilla opened the public hearing.

Susan Walker, Senior Planner, presented the staff report.

1) Pekka Rintala, 923 Burleson Street, in favor
2) Susan Braden, 925 Burleson Street, in favor
3) Linda Huff, 702 Maury Street, in favor
4) Bronwyn Sergi, 904 Burleson Street, in favor
5) Kathy Dillon, 1000 Burleson Street, in favor
6) Mike Dillon, 1000 Burleson Street, in favor
7) Additional written comments received from the public, read by Amanda Hernandez, Assistance Director of Planning:
   a) Carl Deal, 902 Burleson Street, in favor
   b) McKenna Welsh, no address listed, in favor
   c) N. Victor and Judy Felan, 501 Scott Street, in favor
   d) Robin and Ken Kelley, 702 Burleson Street, in favor
   e) Neighbor petition with approximately 15 signatures, in favor

Vice Chair Costilla closed the public hearing.

A motion was made by Member Fortin, seconded by Vice Chair Costilla, to remand the matter back to the Historic Preservation Commission.

The motion failed by the following vote:

For – 1 – Gloria Fortin
Against – 3 – Nicholas Costilla, Gary Pack, Rodney Van Oudekerke

A motion was made by Member Pack, seconded by Member Van Oudekerke, to reverse the decision of the Historic Preservation Commission and approve the Certificate of Appropriateness. The motion failed by the following vote:

For – 3 – Nicholas Costilla, Gary Pack, Rodney Van Oudekerke
Against – 1 – Gloria Fortin

Sam Aguirre stated that the Board’s options for the motion that failed would be to make an alternate motion to approve; or postpone the request to a later date when there were five members present.

A motion was made by Member Pack, seconded by Member Van Oudekerke, to reverse the decision of the Historic Preservation Commission and approve the Certificate of Appropriateness. The motion carried by the following vote:

For – 4 – Nicholas Costilla, Gloria Fortin, Gary Pack, Rodney Van Oudekerke
Against – 0

VI. Questions and Answer from the Press and Public

There were no speakers.

VII. Adjourn

A motion was made by Member Pack, seconded by Vice Chair Costilla, to adjourn. The motion carried by the following vote:

For – 4 – Nicholas Costilla, Gloria Fortin, Gary Pack, Rodney Van Oudekerke
Against – 0

The meeting was adjourned at 6:45 p.m.
Zoning Board of Adjustments Chair

ATTEST:

Amanda Hernandez, Recording Secretary
I. Call to Order

With a quorum present, the Regular Meeting of the San Marcos Zoning Board of Adjustments was called to order by Amanda Hernandez, Interim Director of Planning & Development Services, at 5:45 p.m. Amanda Hernandez announced that there would be no election of officers (Item #3) as Vice Chair Costilla was available to preside over the meeting.

II. Roll Call

Present – 4 – Nicholas Costilla, Thomas Sims Jr., Chana Temple, Rodney Van Oudekerke
Absent – 1 – William McCann (1st Alternate)

III. Chairperson’s Opening Remarks

Vice Chair Costilla welcomed the audience.

IV. Citizen Comment Period

Vice Chair Costilla opened the Citizen Comment Period. There were no speakers. Vice Chair Costilla closed the Citizen Comment Period.

V. Discussion Items

a. Receive a presentation from staff and discuss the Zoning Board of Adjustments (ZBOA) authorizing Codes and Ordinances, and related meeting requirements and procedures.

Amanda Hernandez, Interim Director of Planning & Development Services, gave the presentation.

VI. Public Hearings

a. VR-23-01 (1348 Thorpe Lane) Hold a public hearing and consider a request by Royal Signs and Awnings on behalf of the Summit Apartments for a variance to Section 7.3.3.2 and 9.4.3.3.N of the San Marcos Land Development Code, which permits a 7-foot monument sign, in order to erect a new 12-foot-tall monument sign.

Vice Chair Costilla opened the public hearing.

Craig Garrison, Planner, presented the staff report.
1) Jeremy Wayne Johnson, 3425 Longhorn Drive, Houston, Texas, in favor

Vice Chair Costilla closed the public hearing.

A motion was made by Member Temple, seconded by Member Van Oudekerke, to deny VR-23-01. The motion carried by the following vote:

For – 4 – Nicholas Costilla, Thomas Sims Jr., Chana Temple, Rodney Van Oudekerke
Against – 0

VII. Questions and Answer from the Press and Public

There were no speakers.

VIII. Adjourn

A motion was made by Member Van Oudekerke, seconded by Vice Chair Costilla, to adjourn. The motion carried by the following vote:

For – 4 - Nicholas Costilla, Thomas Sims Jr., Chana Temple, Rodney Van Oudekerke
Against – 0

The meeting was adjourned at 6:04 p.m.

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Zoning Board of Adjustments Chair

ATTEST:

______________________________
Amanda Hernandez, Recording Secretary
This was a hybrid (in person/virtual) meeting. To view the meeting please go to: http://sanmarcostx.gov/3121/Zoning-Board-of-Adjustments-ZBOA-VideosA

I. Call to Order

With a quorum present, the Special Meeting of the San Marcos Zoning Board of Adjustments was called to order by Amanda Hernandez, Director of Planning & Development Services at 5:48 p.m. Amanda Hernandez called for the board to elect an Interim Chair.

Rodney Van Oudekerke accepted the role of Chair for this meeting. There were no objections.

II. Roll Call


Absent – 0

III. Chairperson’s Opening Remarks

Interim Chair Van Oudekerke welcomed the audience.

IV. Citizen Comment Period

Interim Chair Van Oudekerke opened the Citizen Comment Period. There were no speakers. Interim Chair Van Oudekerke closed the Citizen Comment Period.

V. Public Hearings

a. VR-23-03 (Historic Preservation Commission Appeal – 1108 W. San Antonio Street) Hold a public hearing and consider a request by Vanessa McMahan for an appeal of the decision of the Historic Preservation Commission requiring wood pickets as the material for a front and side yard fence.

Interim Chair Van Oudekerke opened the public hearing.

Craig Garrison, Planner, presented the staff report.

1) Vanessa McMahan, 1108 W. San Antonio Street, in favor

Interim Chair Van Oudekerke closed the public hearing.

A motion was made by Member Perkins, seconded by Member Sims to affirm the Historic Preservation Commission decision for request VR-23-03.
Member Sims withdrew his second. The motion died for lack of a second.

A motion was made by Member Somers, seconded by Member McCann to reverse the Historic Preservation Commission decision and approve the Certificate of Appropriateness. The motion carried by the following vote:

For – 4 – Rodney Van Oudekerke, William A. McCann, Thomas Sims Jr., Daniel Somers  
Against – 1 – Ryan Patrick Perkins

VI. Questions and Answer from the Press and Public

There were no speakers.

VII. Adjourn

A motion was made by Member Perkins, seconded by Member Sims, to adjourn. The motion carried by the following vote:

For – 5 – Rodney Van Oudekerke, William A. McCann, Ryan Patrick Perkins, Thomas Sims Jr., Daniel Somers  
Against – 0

The meeting was adjourned at 6:10 p.m.

_____________________________________
Zoning Board of Adjustments Chair

ATTEST:

_____________________________________
Amanda Hernandez, Recording Secretary
I. Call to Order

With a quorum present, the Regular Meeting of the San Marcos Zoning Board of Adjustments was called to order by Amanda Hernandez, Director of Planning & Development Services at 5:45 p.m.

II. Roll Call

Present – 5 – Daniel Somers, Rodney Van Oudekerke, Thomas Sims Jr., Cody DeSalvo (1st Alternate), Victoria Briones (2nd Alternate)
Absent – 2 – William McCann, Ryan Patrick Perkins

III. Election of Officers

Daniel Somers nominated himself as Chair. The election carried by the following vote:

For – 5 – Daniel Somers, Rodney Van Oudekerke, Thomas Sims Jr., Cody DeSalvo, Victoria Briones
Against – 0

Rodney Van Oudekerke nominated himself as Vice Chair. The election carried by the following vote:

For – 5 – Daniel Somers, Rodney Van Oudekerke, Thomas Sims Jr., Cody DeSalvo, Victoria Briones
Against – 0

IV. Chairperson’s Opening Remarks

Chair Somers welcomed the audience.

V. Citizen Comment Period

Chair Somers opened the Citizen Comment Period. There were no speakers. Chair Somers closed the Citizen Comment Period.

VI. Public Hearings

a. VR-23-04 (1200 Davis Lane) Hold a public hearing and consider a request by Eckermann Engineering, Inc. on behalf of The McCoy Corporation for a variance to section 7.2.6.2 of the San Marcos Land Development Code, which states that a wall or fence must not exceed 6 feet in height and 4 feet in height along primary frontage, in order to erect a new 8-foot-tall fence.
Chair Somers opened the public hearing.

Craig Garrison, Planner, presented the staff report.

1) Sam Walker, Lampasas, Texas, in favor
2) Phil Hutchinson, 1350 IH 35 N, in favor
3) David Prado, 725 Mountain View, in favor

Chair Somers closed the public hearing.

A motion was made by Vice Chair Van Oudekerke, seconded by Chair Somers to approve VR-23-04. The motion carried by the following vote:

For – 5 – Daniel Somers, Rodney Van Oudekerke, Thomas Sims Jr., Cody DeSalvo, Victoria Briones
Against – 0

b. VR-23-05 (Historic Preservation Commission Appeal – 804 Burleson Street) Appeal of the decision of the Historic Preservation Commission to deny the construction of a two-story garage and Accessory Dwelling Unit.

Chair Somers opened the public hearing.

1) Kristy Money, 804 Burleson Street, in favor
2) Kathy Dillon, 1000 Burleson Street, in opposition
3) Linda Coker, 153 Tallow Trail, in opposition

Chair Somers closed the public hearing.

A motion was made by Chair Somers, seconded by Member Sims, to remand the decision back to Historic Preservation Commission. Chair Somers withdrew the motion.

A motion was made by Chair Somers, seconded by Member DeSalvo to affirm the Historic Preservation Commission decision. The motion carried by the following vote:

For – 4 – Daniel Somers, Rodney Van Oudekerke, Cody DeSalvo, Victoria Briones
Against – 1 – Thomas Sims Jr.

VII. Questions and Answer from the Press and Public

There were no speakers.

VIII. Adjourn

A motion was made by Chair Somers, seconded by Member DeSalvo, to adjourn. The motion carried by the following vote:

For – 5 – Daniel Somers, Rodney Van Oudekerke, Thomas Sims Jr., Cody DeSalvo, Victoria Briones
Against – 0

The meeting was adjourned at 6:28 p.m.
Zoning Board of Adjustments Chair

ATTEST:

Amanda Hernandez, Recording Secretary
ZONING BOARD OF ADJUSTMENTS
SPECIAL MEETING MINUTES
THURSDAY, SEPTEMBER 21, 2023

This was a hybrid (in person/virtual) meeting. To view the meeting please go to:
http://sanmarcostx.gov/3121/Zoning-Board-of-Adjustments-ZBOA-VideosA

I. Call to Order

With a quorum present, the Special Meeting of the San Marcos Zoning Board of Adjustments was called to order by Vice Chair Rodney Van Oudekerke at 5:45 p.m.

II. Roll Call

Present – 5 – Rodney Van Oudekerke, Cody DeSalvo, William McCann, Victoria Briones, William Moore (1st Alternate)
Absent – 1 – Daniel Somers

III. Chairperson’s Opening Remarks

Vice Chair Van Oudekerke welcomed the audience.

IV. Citizen Comment Period

Vice Chair Van Oudekerke opened the Citizen Comment Period.

1) Virginia Parker, no address, on behalf of San Marcos River Foundation, in opposition to VR-23-08

2) Laura Wilde, 1206 W. Martin Luther King Dr., in opposition to VR-23-08

Vice Chair Van Oudekerke closed the Citizen Comment Period.

V. Public Hearings

a. VR-23-08 (302 Chuck Nash Loop) Hold a public hearing and consider a request by Centerpoint Integrated Solutions, on behalf of BR 2020 Land BK, LLC, for a variance to Section 7.1.1.3 of the San Marcos Development Code, to not require mitigation for excess surface parking.

Vice Chair Van Oudekerke opened the public hearing.

Craig Garrison, Planner, presented the staff report.

1) Brad Loth, 1626 Cole Boulevard, Lakewood, CO, in favor

Vice Chair Van Oudekerke closed the public hearing.
Matt Gatto, 1251 Sadler Drive, answered questions from the Board related to the civil engineering of the project.

A motion was made by Member Briones, seconded by Member DeSalvo, to approve VR-23-08 with conditions. The motion failed by the following vote:

For – 0
Against – 5 – Rodney Van Oudekerke, Cody DeSalvo, William McCann, Victoria Briones, William Moore

A motion was made by Member Moore, seconded by Vice Chair Van Oudekerke, to deny VR-23-08. The motion carried by the following vote:

For – 5 – Rodney Van Oudekerke, Cody DeSalvo, William McCann, Victoria Briones, William Moore
Against – 0

VI. Questions and Answer from the Press and Public

There were no speakers.

VII. Adjourn

A motion was made by Member DeSalvo, seconded by Member McCann, to adjourn. The motion carried by the following vote:

For – 5 – Rodney Van Oudekerke, Cody DeSalvo, William McCann, Victoria Briones, William Moore
Against – 0

The meeting was adjourned at 6:26 p.m.

_____________________________________
Zoning Board of Adjustments Chair

ATTEST:
_____________________________________
Amanda Hernandez, Recording Secretary
This was a hybrid (in person/virtual) meeting. To view the meeting please go to: http://sanmarcostx.gov/3121/Zoning-Board-of-Adjustments-ZBOA-VideosA

I. Call to Order

With a quorum present, the Regular Meeting of the San Marcos Zoning Board of Adjustments was called to order by Chair Daniel Somers at 5:45 p.m.

II. Roll Call

Present – 5 – Daniel Somers, Rodney Van Oudekerke, Victoria Briones, Cody DeSalvo, William McCann
Absent – 1 – William Moore (1st Alternate)

III. Chairperson’s Opening Remarks

Chair Somers welcomed the audience.

IV. Citizen Comment Period

Chair Somers opened the Citizen Comment Period. There were no speakers. Chair Somers closed the Citizen Comment Period.

V. Public Hearings

a. VR-23-10 (McCoy Corporation) Hold a public hearing and consider a request by Eckermann Engineering, Inc. on behalf of McCoy Corporation for a variance to Section 5.1.5.9.B.2 of the San Marcos Development Code, which states that a Type D transitional protective yard as per Table 7.8 of the Development Code is required in all instances, along the entire perimeter of the property.

Chair Somers opened the public hearing.

Craig Garrison, Planner, presented the staff report.

1) Sam Walker, P.O. Box 388, Lampasas, Texas, in favor
2) Phil Hutchinson, 202 E. Mimosa Circle, in favor

Chair Somers closed the public hearing.

A motion was made by Member DeSalvo, seconded by Vice Chair Van Oudekerke, to approve VR-23-10. The motion carried by the following vote:
VI. Action Items

a. Consider approval of the 2024 meeting date calendar, including the meeting time, and provide feedback to staff.

Amanda Hernandez, Director of Planning & Development Services, presented the proposed meeting schedule including a change of meeting time to 6:00 p.m.

A motion was made by Vice Chair Van Oudekerke, seconded by Member Briones, to approve the meeting date calendar and meeting time. The motion carried by the following vote:

For – 5 – Daniel Somers, Rodney Van Oudekerke, Victoria Briones, Cody DeSalvo, William McCann
Against – 0

VII. Questions and Answer from the Press and Public

There were no speakers.

VIII. Adjourn

A motion was made by Vice Chair Van Oudekerke, seconded by Member DeSalvo, to approve the meeting date calendar and meeting time. The motion carried by the following vote:

For – 5 – Daniel Somers, Rodney Van Oudekerke, Victoria Briones, Cody DeSalvo, William McCann
Against – 0

The meeting was adjourned at 6:07 p.m.

_____________________________________
Zoning Board of Adjustments Chair

ATTEST:

_____________________________________
Amanda Hernandez, Recording Secretary
I. Call to Order

With a quorum present, the Regular Meeting of the San Marcos Zoning Board of Adjustments was called to order by Chair Daniel Somers at 6:03 p.m.

II. Roll Call

Present – 5 – Daniel Somers, Rodney van Oudekerke, William Moore, Chana Temple, William DeSoto (1st Alternate – not voting), Jessica James (2nd Alternate)
Absent – 1 – Cody DeSalvo

III. Citizen Comment Period

Chair Somers opened the Citizen Comment Period.

1) Jan Emberson, 524 W. Hopkins St. general comments on Item 5A

2) Forrest Fulkerson, 415 Harvey St., general comments

Chair Somers closed the Citizen Comment Period.

IV. Discussion Items

a. Receive a presentation from staff and discuss Codes and Ordinances related to the Zoning Board of Adjustments (ZBOA) and meeting requirements and procedures.

Amanda Hernandez, Director of Planning & Development Services, gave the presentation. There were no questions from the Board members.

V. Public Hearings

a. VR-23-01 (Valero Gas Station) Hold a public hearing and consider a request by Image Solutions on behalf of Sunoco, LLC for a variance to Section 7.3.4.1.B of the San Marcos Development Code, which states that no Changeable Electronic Variable Message (CEVM) signs are permitted within Character Districts, and Section 7.3.1.6.B, which states that no CEVM signs are permitted within 350 feet of residential districts and other locations specified in the Code, to allow a CEVM wall sign.

Chair Somers opened the public hearing.
Lauren Clanton, Chief Planner, presented the staff report.

1) Elizabeth Emberson, 503 Harvey St., opposed
2) Jason Colvin, 6631 Raymond Stotzer Pkwy., College Station, Texas, in favor
3) Donald Ewalt, Jr., 524 W. Hopkins St., opposed
4) Forrest Fulkerson, 415 Harvey St., opposed

Chair Somers closed the public hearing.

A motion was made by Chair Somers, seconded by Vice Chair van Oudekerke to deny VR-24-01. The motion carried by the following vote:

For – 5 – Daniel Somers, Rodney van Oudekerke, William Moore, Chana Temple, Jessica James
Against – 0

b. VR-24-02 (313 and 317 Mill Street) Hold a public hearing and consider a request by Vance J. Eliot for a variance to Section 9.4.3.3.H.1 and 7.2.6.2.G.1 of the San Marcos Development Code, which states that a fence located within the first layer along a primary frontage shall be 48 inches or less in height and 50% open, to allow a 6 ft. solid fence.

Chair Somers opened the public hearing.

Craig Garrison, Planner, presented the staff report.

1) Frank Gomillion, 1101 Thorpe Ln., in favor

Chair Somers closed the public hearing.

A motion was made by Chair Somers, seconded by Vice Chair van Oudekerke to deny VR-24-02. The motion carried by the following vote:

For – 5 – Daniel Somers, Rodney van Oudekerke, William Moore, Chana Temple, Jessica James
Against – 0

VI. Election of Officers

Daniel Somers nominated himself as Chair. The election carried by the following vote:

For – 5 – Daniel Somers, Rodney van Oudekerke, William Moore, Chana Temple, Jessica James
Against – 0

Chana Temple nominated Rodney van Oudekerke as Vice Chair. The election carried by the following vote:

For – 5 – Daniel Somers, Rodney van Oudekerke, William Moore, Chana Temple, Jessica James
Against – 0

VII. Questions and Answer from the Press and Public

There were no speakers.
VIII. **Adjourn**

A motion was made by Vice Chair van Oudekerke, seconded by Chair Somers, to adjourn. The motion carried by the following vote:

For – 5 – Daniel Somers, Rodney van Oudekerke, William Moore, Chana Temple, Jessica James  
Against – 0

The meeting was adjourned at 6:43 p.m.

_____________________________________
Zoning Board of Adjustments Chair

ATTEST:

_____________________________________
Amanda Hernandez, Recording Secretary
Summary

**Request:** Variance to Section 7.5.2.2.A of the Development Code to allow a driveway with lighting levels below 0.3 foot-candles.

**Applicant:** Sam Walker, P. E.  
Eckermann Engineering  
P. O. Box 388  
Lampasas, TX 76550

**Property Owner:** Chet Lange  
McCoy Corporation  
1350 IH 35 N  
San Marcos, TX 78667

Notification

**Personal:** June 7, 2024

**Response:** None as of the date of this report

Property Description

**Legal Description:** McCoy Retreat Subdivision, Lot 2, Block A

**Location:** Southeast of the intersection of Davis Lane and IH 35

**Acreage:** 7.12

**Existing Zoning:** Future Development (FD)

**Existing Use:** Vacant

**Preferred Scenario:** High Intensity (Midtown)

**CONA Neighborhood:** Two Rivers East

**Sector:** 6

**Utility Capacity:** Available

**Floodplain:** Yes

**Historic Designation:** N/A

**My Historic SMTX Resources Survey:** No

Surrounding Area

<table>
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<tr>
<th></th>
<th>Zoning</th>
<th>Existing Land Use</th>
<th>Preferred Scenario</th>
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<tbody>
<tr>
<td>North of Property:</td>
<td>Multifamily-24 (MF-24) Public (P)</td>
<td>Community services</td>
<td>High Intensity</td>
</tr>
<tr>
<td>South of Property:</td>
<td>Future Development (FD) General Commercial (GC) Manufactured Home (MH)</td>
<td>Railroad Retail strip center Mobile home park</td>
<td>High Intensity</td>
</tr>
<tr>
<td>East of Property:</td>
<td>Multifamily-24 (MF-24)</td>
<td>Vacant Church &amp; school</td>
<td>High Intensity</td>
</tr>
<tr>
<td>West of Property:</td>
<td>General Commercial (GC) Mixed Use (MU)</td>
<td>McCoy’s Headquarters</td>
<td>High Intensity</td>
</tr>
</tbody>
</table>
History
McCoy Retreat Center is under site plan review (Case No. 2023-48181) for an approximately 11,500 square-foot retreat space with parking and on-site amenities. A photometric plan is required to be submitted with the site permit. After approval of their photometric plan in April 2024, the applicant resubmitted the plan with alterations showing decreased lighting levels along the driveway connecting to Davis Lane.

Additional Analysis
The variance applies to the Code Sections in the table below.

<table>
<thead>
<tr>
<th>Code Section</th>
<th>Requirement</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>7.5.2.2.A</td>
<td>No lighting plan shall show point-by-point foot-candle readings less than .3 in areas utilized for travel, parking, or routine use by people.</td>
<td>Foot-candle readings as low as 0.0 along entry drive from retreat center to Davis Lane</td>
</tr>
</tbody>
</table>

Comments from Other Departments
<table>
<thead>
<tr>
<th>Department</th>
<th>Comment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Police</td>
<td>No Comment</td>
</tr>
<tr>
<td>Fire</td>
<td>No Comment</td>
</tr>
<tr>
<td>Public Services</td>
<td>No Comment</td>
</tr>
<tr>
<td>Engineering</td>
<td>No Comment</td>
</tr>
</tbody>
</table>
### Evaluation Criteria for Approval (Sec.2.5.1.4)

<table>
<thead>
<tr>
<th>Evaluation</th>
<th>Consistent</th>
<th>Inconsistent</th>
<th>Neutral</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>X</strong></td>
<td></td>
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<td></td>
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<td><strong>X</strong></td>
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</tbody>
</table>

**There are special circumstances or conditions arising from the physical surroundings, shape, topography or other feature affecting the land subject to the variance application, such that the strict application of the provisions of this Development Code to the development application would create an unnecessary hardship or inequity upon or for the applicant, as distinguished from a mere economic impact, an inconvenience, frustration of objectives in developing the land, not permitting the highest and best use for the land, or depriving the applicant of the reasonable and beneficial use of the land:**

The low density and low intensity of the development lends itself to a rural feel that is best achieved through low lighting. The applicant has stated that the irregular shape of the lot makes long, winding drives necessary and that the floodplain limits where structures and lighting can be placed.

**The circumstances causing the hardship do not similarly affect all or most properties in the vicinity of or similarly classified as the applicant’s land:**

Floodplain affects all properties in the vicinity.

**The variance is necessary for the preservation and enjoyment of a substantial property right of the applicant:**

The applicant has stated that higher lighting levels are inconsistent with company values. The applicant has not stated why low lighting is essential to meet these values. Staff finds the lighting levels required do not deprive the applicant of use of their property.

**Granting the variance application shall not be detrimental to the public health, safety or welfare, or injurious to other property within the area:**

Staff does not find that this request is detrimental to health, safety, or welfare of nearby properties.

**Granting the variance application shall not have the effect of preventing the orderly use and enjoyment of other land within the area in accordance with the provisions of this Development Code, or adversely affect the rights of owners or residents of surrounding property:**

This variance does not create any nuisances; instead, it reduces the chance of light trespass into neighboring properties.
### Criteria for Approval (Sec.2.5.1.4)

<table>
<thead>
<tr>
<th>Evaluation</th>
<th>Criteria for Approval</th>
</tr>
</thead>
<tbody>
<tr>
<td>Consistent</td>
<td>Granting the variance application is consistent with any special criteria applicable to varying particular standards, as set forth in Chapters 3 through 7 of this Development Code; No special criteria are applicable to this request.</td>
</tr>
<tr>
<td>Inconsistent</td>
<td>The hardship or inequity suffered by applicant is not caused wholly or in substantial part by the applicant; The applicant has requested the variance to accommodate their vision for the retreat center. Though some constraints exist on the property, this request is mostly caused by the applicant’s preference to develop outside Code standards.</td>
</tr>
<tr>
<td>Neutral</td>
<td>The request for a variance is not based exclusively on the applicant’s desire for increased financial gain from the property, or to reduce an existing financial hardship, and;</td>
</tr>
<tr>
<td></td>
<td>The degree of variance requested is the minimum amount necessary to meet the needs of the applicant and to satisfy the standards in this Section. Per the applicant, site design will comply with emergency lighting and accessibility standards.</td>
</tr>
</tbody>
</table>
This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.

Date: 6/3/2024
This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.

Date: 6/3/2024
This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.

Date: 6/3/2024
Notice of Public Hearing
Variance Request
Driveway Lighting
1200 Davis Lane

VR-24-05 (McCoy Retreat Subdivision Variance) Hold a public hearing and consider a request by Eckermann Engineering on behalf of McCoy Corporation for a variance to Section 7.5.2.2.A of the San Marcos Development Code, which states that lighting in areas utilized for travel, parking, or routine use by people shall be no less than 0.3 foot-candles.

The San Marcos Zoning Board of Adjustments will consider the above request at an upcoming public hearing to obtain citizen comments and will either approve, approve with conditions, or deny the request. Because you are listed as the owner of property located within 400 feet of the subject property, we would like to notify you of the public hearing and seek your opinion of the request.

A public hearing will be conducted via a hybrid virtual/ in-person meeting by the Zoning Board of Adjustments on Thursday, June 20, 2024, at 6:00 p.m. in the City Hall Chambers, 630 E. Hopkins St. One may watch the public hearing on Grande channel 16 or by using the following link: http://sanmarcostx.gov/1119/Zoning-Board-of-Adjustments, or email planninginfo@sanmarcostx.gov or call 512-393-8230 to request a link or phone number to participate in the public hearing by computer, mobile device, or phone.

Public Hearings will be a hybrid of in person and virtual meetings. All interested citizens are invited to attend in person but are encouraged to watch or participate in the public hearing by the means described above. If you cannot participate in the public hearing of the Planning and Zoning Commission, but wish to comment, you may write to the below address. All written comments and requests to participate must be received before 12 PM on the day of the meeting.

Planning and Development Services
630 East Hopkins Street
San Marcos, TX 78666
planninginfo@sanmarcostx.gov

For more information regarding this request, contact the case manager, Lauren Clanton, at 512.393.8238, or email at lclanton@sanmarcostx.gov. When calling, please refer to case number VR-24-05.

The City of San Marcos does not discriminate on the basis of disability in the admission or access to its services, programs, or activities. Individuals who require auxiliary aids and services for this meeting should contact the City of San Marcos ADA Coordinator at 512-393-8000 (voice) or call Texas Relay Service (TRS) by dialing 7-1-1. Requests can also be faxed to 512-393-8074 or sent by e-mail to ADArequest@sanmarcostx.gov

PLANNING AND DEVELOPMENT SERVICES
Enclosure: Map (See Reverse)
Headquarters Offices and Entry Gate at the North Side of the Retreat
Scale: 1 inch = 30 ft.

Calculation Summary

<table>
<thead>
<tr>
<th>Calculation</th>
<th>Units</th>
<th>Avg</th>
<th>Max</th>
<th>Min</th>
<th>Avg/Min</th>
<th>Max/Min</th>
</tr>
</thead>
<tbody>
<tr>
<td>Site w Property Lines, Top</td>
<td>lux</td>
<td>0.0</td>
<td>0.0</td>
<td>N.A.</td>
<td>N.A.</td>
<td>N.A.</td>
</tr>
</tbody>
</table>

Zone where footcandles are adjusted for requested Variance.
SUBDIVISION / ZONING VARIANCE APPLICATION

Updated: March, 2023

CONTACT INFORMATION

<table>
<thead>
<tr>
<th>Applicant's Name</th>
<th>Sam Walker, P.E.</th>
<th>Property Owner</th>
<th>McCoy Corporation (Attn: Chet Lange)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Company</td>
<td>Eckermann Engineering, Inc.</td>
<td>Company</td>
<td>McCoy Corporation</td>
</tr>
<tr>
<td>Applicant's Mailing Address</td>
<td>P.O. Box 388</td>
<td>Owner's Mailing Address</td>
<td>1350 IH 35 North</td>
</tr>
<tr>
<td></td>
<td>Lampasas, TX 76550</td>
<td></td>
<td>San Marcos, TX 78667</td>
</tr>
<tr>
<td>Applicant's Phone #</td>
<td>512-556-8160</td>
<td>Owner's Phone #</td>
<td>512-395-6644</td>
</tr>
<tr>
<td>Applicant's Email</td>
<td><a href="mailto:sam@eckermannengineering.com">sam@eckermannengineering.com</a></td>
<td>Owner's Email</td>
<td><a href="mailto:chet.lange@mccoys.com">chet.lange@mccoys.com</a></td>
</tr>
</tbody>
</table>

PROPERTY INFORMATION

Subject Property Address: 1200 Davis Lane, San Marcos, Texas 78666

Acres: 18.565

Tax ID #: R126548, 12019, 143267

Legal Description: Lot 2 Block A Subdivision McCoy Retreat Subdivision

Existing Use(s): Special Event Facility

DESCRIPTION OF REQUEST

Variance to Section: 7.5.2.2(A) of the Land Development Code, which requires:

No lighting levels lower than 0.3 foot candles.

Description of proposed variance (additional pages may be used): Remove the requirement for a minimum of 0.3 foot candles of lighting required on the subject property. Allow minimum lighting levels to be set by the Owner. (See Summary Letter)

AUTHORIZATION

I certify that the information on this application is complete and accurate. I understand the fees and the process for this application. I understand my responsibility, as the applicant, to be present at meetings regarding this request.

Filing Fee $750 Technology Fee $15 TOTAL COST $765

Submittal of this digital Application shall constitute as acknowledgment and authorization to process this request.

APPLY ONLINE – WWW.MYGOVERNMENTONLINE.ORG/

Planning & Development Services • 630 East Hopkins • San Marcos, Texas 78666 • 512-393-8230
<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
</table>
| 1) | What special circumstances or conditions affect the subject property such that strict application of the provisions of the Land Development Code would create an unnecessary hardship or inequity upon the applicant or would deprive the applicant of the reasonable and beneficial use of the property?  
See Summary Letter |
| 2) | Do the circumstances or conditions causing the hardship similarly affect all or most of the properties in the vicinity of the subject property? See Summary Letter |
| 3) | What substantial property right would not be preserved or enjoyed if the provisions of the Land Development Code were literally enforced? See Summary Letter |
| 4) | What effect, if any, would the variance have on the rights of owners or occupants of surrounding property, or on the public health, safety or general welfare? See Summary Letter |
| 5) | What effect, if any, would the variance have on the orderly subdivision of other land in the area in accordance with the provisions of the Land Development Code? See Summary Letter |
| 6) | Is the hardship or inequity suffered by the applicant caused wholly or in substantial part by the property owner or applicant? See Summary Letter |
| 7) | To what extent is the request for variance based upon a desire of the owner, occupant or applicant for increase financial gain from the property, or to reduce an existing financial hardship? See Summary Letter |
| 8) | Is the degree of variance requested the minimum amount necessary to meet the needs of the applicant or property owner? See Summary Letter |

*Note for the Board / Commission:*
The following responses were provided by the applicant and may not be consistent with the Department staff report.
PROPERTY OWNER AUTHORIZATION

I, ________________ (owner name) on behalf of
McCoy Corporation (company, if applicable) acknowledge that I/we
am/are the rightful owner of the property located at
1200 Davis Lane (address).

I hereby authorize ________________ (agent name) on behalf of
Eckermann Engineering, Inc. (agent company) to file this application for
Development Code Variance (application type), and, if necessary, to work with
the Responsible Official / Department on my behalf throughout the process.

Signature of Owner: ________________ Date: 5/2/2024
Printed Name, Title: Chet Lange, Director of Development

Signature of Agent: ________________ Date: 5/3/2024
Printed Name, Title: Sam Walker, P.E., Vice President

Form Updated October, 2019
The City of San Marcos Development Code requires public notification in the form of notification signs on the subject property, published notice, and/or personal notice based on the type of application presented to the Planning Commission and/or City Council.

- **Notification Signs:** if required by code, staff shall place notification signs on each street adjacent to the subject property and must be placed in a visible, unobstructed location near the property line. It is unlawful for a person to alter any notification sign, or to remove it while the request is pending. However, any removal or alteration that is beyond the control of the applicant shall not constitute a failure to meet notification requirements. *It shall be the responsibility of the applicant to periodically check sign locations to verify that the signs remain in place had have not been vandalized or removed. The applicant shall immediately notify the responsible official of any missing or defective signs. It is unlawful for a person to alter any notification sign, or to remove it while the case is pending; however, any removal or alteration that is beyond the control of the applicant shall not constitute a failure to meet notification requirements.*

- **Published Notice:** if required by code, staff shall publish a notice in a newspaper of general circulation in accordance with City Codes and the Texas Local Government Code. *If, for any reason, more than one notice is required to be published it may be at the expense of the applicant. The renotification fee shall be $150 plus a $15 technology fee.*

- **Personal Notice:** if required by code, staff shall mail personal notice in accordance with City Codes and the Texas Local Government Code. *If, for any reason, more than one notice is required to be mailed it may be at the expense of the applicant. The renotification fee shall be $150 plus a $15 technology fee.*

I have read the above statements and agree to the required public notification, as required, based on the attached application. The City’s Planning and Development Services Department staff has my permission to place signs, as required, on the property and I will notify City staff if the sign(s) is/are damaged, moved or removed. I understand the process of notification and public hearing and hereby submit the attached application for review by the City.

**Signature:**  
Chet Lange  

**Print Name:**  
Chet Lange  

**Date:**  
5/2/2024
This document includes information that presents our case for a variance regarding the lighting design at McCoy's Retreat at 1200 Davis Lane, as outlined in the Subdivision Zoning Variance Application submitted to the Zoning Board.

Enclosed, you will find detailed responses to the Variance Considerations outlined in the application. These provide insights into our commitment to responsible land development, environmental stewardship, and community sensitivity. Additionally, comparisons between the original photometrics and those proposed following the reduction in footcandles requested in the variance are included. These serve as a reference point, demonstrating our dedication to balancing safety, aesthetics, and environmental impact.

1) **What special circumstances or conditions affect the subject property such that strict application of the provisions of the Land Development Code would create an unnecessary hardship or inequity upon the applicant or would deprive the applicant of the reasonable and beneficial use of the property?**

The variance request for McCoy's Retreat is based on the following factors:

a) Large Site with Minimal Development: The site spans a large area but has minimal development intensity, requiring specific lighting strategies tailored to its unique needs. This allows for a balance between development and maintaining the natural landscape.

b) Irregular Shape: The site's irregular shape necessitates long drives and spread-out development, making it challenging to apply standard lighting requirements. This configuration ensures accessibility while preserving the site's natural features.

c) Unique Development: The retreat's non-typical development doesn't fit well with the Land Development Code, which is more suited for residential, commercial, or retail projects. This uniqueness necessitates a customized approach to lighting and development.

d) Floodplain Constraints: Improvement locations are dictated by floodplain encroachment, limiting where structures and lighting can be placed. This constraint requires innovative solutions to ensure compliance and functionality.

e) Tree Preservation and Rural Feel: Long drives are designed to preserve existing trees and maintain a rural feel, requiring more lighting to meet ordinance intent. This approach enhances the retreat's natural aesthetics and environmental stewardship.

McCoy's Corporation emphasizes responsible land development, balancing environmental and community concerns. They adhere to lighting codes in central areas and use full cut-off fixtures to minimize light pollution. In peripheral areas, lighting levels are reduced to enhance the outdoor experience while maintaining safety. The variance seeks to reduce lighting requirements in less frequented areas from the required 0.3 footcandles.

to 0.0 footcandles, ensuring nuanced lighting strategies. Despite this variance, McCoy's Retreat will comply with emergency lighting and accessibility standards, ensuring safety and well-being for all visitors.

2) **Do the circumstances or conditions causing the hardship similarly affect all or most of the properties in the vicinity of the subject property?**

The circumstances causing the hardship do not similarly affect all or most of the properties in the vicinity of McCoy's Retreat.

3) **What substantial property right would not be preserved or enjoyed if the provisions of the Land Development Code were literally enforced?**

If the provisions of the Land Development Code were enforced without consideration for the variance request, McCoy's Corporation would be deprived of the substantial property right to implement their commitment to responsible land development, environmental stewardship, and community sensitivity.

Specifically, the property right at stake is the ability to design and implement nuanced lighting strategies that align with McCoy's Corporation's vision for McCoy's Retreat. Enforcing the Land Development Code's provisions without allowing for the requested variance would hinder McCoy's Corporation's ability to achieve their goals of creating a retreat that balances safety, environmental concerns, and community needs.

By strictly adhering to the code without flexibility in lighting design, McCoy's Corporation would be deprived of the reasonable and beneficial use of the property, as it would restrict their ability to create a retreat that harmonizes with their values and meets the needs of guests while maintaining compliance with safety and accessibility standards. Therefore, the substantial property right that would not be preserved or enjoyed without the variance is the ability to implement responsible and community-friendly development practices at McCoy's Retreat.

4) **What effect, if any, would the variance have on the rights of owners or occupants of surrounding property, or on the public health, safety or general welfare?**

Granting the requested variance for McCoy's Retreat would have no adverse effect on the rights of surrounding property owners or occupants, nor on public health, safety, or general welfare.

a) **Rights of Surrounding Property Owners or Occupants**: The variance pertains only to the lighting design on McCoy's Retreat property and does not infringe on neighboring rights. Through responsible land development and community sensitivity, McCoy's Corporation ensures minimal impact on surrounding properties.

b) **Public Health, Safety, and General Welfare**: The variance does not compromise public health, safety, or general welfare. McCoy's Corporation complies with emergency lighting and accessibility standards, ensuring safety and well-being. Their nuanced lighting strategies also aim to reduce light pollution, respecting the night sky.

Overall, granting the variance allows for responsible and considerate lighting design at McCoy's Retreat while preserving the rights of surrounding property owners and maintaining public health, safety, and welfare.

5) **What effect, if any, would the variance have on the orderly subdivision of other land in the area in accordance with the provisions of the Land Development Code?**

Granting the requested variance for McCoy's Retreat would have no significant effect on the orderly subdivision of other land in the area in accordance with the provisions of the Land Development Code.
a) Subdivision Orderliness: The variance specifically pertains to the exterior lighting design for McCoy's Retreat and does not directly impact the subdivision of other land in the area. The variance request focuses solely on nuanced lighting strategies within the retreat property boundaries and does not affect adjacent properties' subdivision processes or requirements.

b) Compliance with Code: McCoy's Corporation remains committed to complying with all relevant regulations, including emergency lighting requirements and accessibility standards, ensuring that subdivision processes for other land in the area are not hindered or disrupted.

c) Consideration of Neighboring Properties: McCoy's Corporation's approach to responsible land development and community sensitivity includes minimizing impacts on neighboring properties. By focusing the variance request on the retreat's lighting design, McCoy's Corporation aims to balance their development goals with the surrounding community's well-being.

Overall, the variance request for McCoy's Retreat does not impede the orderly subdivision of other land in the area in accordance with the provisions of the Land Development Code. It remains a specific consideration tailored to McCoy's Corporation's property and development objectives, ensuring that subdivision processes for other land in the vicinity are unaffected.

6) Is the hardship or inequity suffered by the applicant caused wholly or in substantial part by the property owner or applicant?

The hardship or inequity suffered by the applicant is not primarily caused by the property owner or applicant. It arises from external factors, such as balancing responsible land development, environmental stewardship, and community sensitivity with the Land Development Code. McCoy's Corporation has consistently adhered to these principles and relevant regulations in planning McCoy's Retreat. Therefore, the hardship results mainly from external factors, not the property owner's or applicant's actions.

7) To what extent is the request for variance based upon a desire of the owner, occupant or applicant for increase financial gain from the property, or to reduce an existing financial hardship?

The request for variance is not primarily driven by financial gain or to reduce financial hardship. Instead, it focuses on responsible land development, environmental stewardship, and community sensitivity. McCoy's Corporation aims to balance safety, environmental concerns, and community needs with this variance, aligning with their values and goals rather than financial motivations.

8) Is the degree of variance requested the minimum amount necessary to meet the needs of the applicant or property owner?

Yes, the requested variance is the minimum necessary to meet the applicant's or property owner's needs. It aims to reduce lighting levels in areas with low traffic after dusk while maintaining safety and environmental standards. This approach ensures responsible land development and community-friendly lighting without compromising safety or regulations, adhering to the Land Development Code.

KL Lighting Consultants
Jeff Mendrala, MIES, LC
111 Congress Avenue, Suite 500
Austin, Texas 78704
512-837-8848 o
jeff@kl-lightingstudios.com
Section 7.5.2.2 Minimum Lighting Levels

A. **Minimum Intensities.** No lighting plan shall show point-by-point foot-candle readings less than .3 in areas utilized for travel, parking or routine use by people.

B. **Light Loss Factor.** The total maintained light loss factor for all horizontal photometric analyses shall not be below 0.70 fc.

Section 7.5.2.3 Light Trespass

A. **Maximum Light Trespass.**
   1. No lighting plan shall distribute light greater than .25 fc across a lot line to adjacent private property unless all lots are included in the site permit.
   2. No lighting plan shall distribute light onto a residential lot, other than light from street lights.

Section 7.5.2.4 Universal Luminary Standards

A. **Purpose.** Specific standards for luminaries are set forth to minimize negative outcomes of commercial lighting applications.

B. **Full Cut-Off Luminaries.** Full cut-off fixtures are required on all outdoor lighting applications including outdoor walkways, parking lots, canopy and building/wall mounted luminaries. This standards is also applicable to open sided parking structures and the top level of parking structures.

C. **Aesthetic Lighting.** Landscape and architectural lighting must use full cut off or directionally shielded luminaries aimed and controlled to substantially direct and confine light to the object intended to be illuminated.

D. **Canopy Lighting.** All canopies, free standing or attached, shall utilize flat lens, full cut-off fixtures.

E. **Specific Use Exceptions.** This table is provided to establish the uses and facilities that may utilize alternative compliance standards in a photometric lighting plan

F. **Environmental Performance Zone Upon Annexation.** Upon annexation, land shall be designated as an E-3 Environmental Performance Zone. An owner may appeal this designation to the Responsible Official and may request E-1 or E-2 where the above descriptions apply to the subject property.

### Table 7.11 Specific Use Exceptions

<table>
<thead>
<tr>
<th>Specific Use</th>
<th>Area Illuminated</th>
<th>Max. Avg. Light Level</th>
</tr>
</thead>
<tbody>
<tr>
<td>ATM</td>
<td>As Specified by State Banking Regulations</td>
<td>5 fc.</td>
</tr>
<tr>
<td>Bank or Service Window Drive-Thru</td>
<td>Area around the service window used for maneuvering, ordering etc.</td>
<td>5 fc.</td>
</tr>
<tr>
<td>Gas Station Canopies and Approaches</td>
<td>Canopy area plus an additional 5 ft.</td>
<td>20 fc.</td>
</tr>
<tr>
<td>Auto Dealerships</td>
<td>Canopy area plus 20 ft. for maneuvering</td>
<td>5 fc.</td>
</tr>
<tr>
<td>Outdoor Display Areas</td>
<td>A 30ft wide area around the front line or pedestal display</td>
<td>30 fc.</td>
</tr>
<tr>
<td>Athletic Facilities</td>
<td>General Athletic area</td>
<td>20 fc.</td>
</tr>
<tr>
<td></td>
<td>Playing field plus 20 ft</td>
<td>50 fc.</td>
</tr>
<tr>
<td></td>
<td>Golf Course</td>
<td>5 fc.</td>
</tr>
</tbody>
</table>

G. **Alternative Compliance Findings.** The Planning and Zoning Commission may in accordance with Section 2.8.4.1 allow an alternative to the lighting standards subject to the following findings:

1. The property is located on the edge of an environmental performance zone;
2. The adjustment is consistent with surrounding light patterns;
3. The adjustment does not adversely affect surrounding residential or park and open space areas; and
4. The adjustment meets the intent and purpose of the lighting standards in this Development Code.

(Ord. No. 2023-72, 10-17-2023)
BYLAWS OF THE
ZONING BOARD OF ADJUSTMENTS

ARTICLE 1. NAME.

The name of the board is the Zoning Board of Adjustments.

ARTICLE 2. PURPOSE AND DUTIES.

The Zoning Board of Adjustments is regulated by the Texas Local Government Code Section 211.008. The Zoning Board of Adjustments shall have powers and duties expressly granted to it under the ordinances of the City of San Marcos and the laws of the State of Texas. The purpose of the Board according to the San Marcos Development Code is to “… act as a final decision maker or authority in deciding appellate or relief requests…” and does not extend to legislative decisions. In the event of a conflict between these bylaws and any provision of the City Charter or ordinance, or law of the State of Texas, such charter provision, ordinance, or law shall govern.

ARTICLE 3. MEMBERSHIP.

A. The board is composed of 5 regular members and 2 alternate members appointed by the city council.

B. A member serves at the pleasure of the city council and may be removed if not in compliance with these bylaws.

C. Qualifications: All regular members and alternates shall reside within the City Limits.

D. Board members serve for a term of 2 years beginning March 1st on the year of appointment. If a member is appointed to fill a vacancy, that member will serve for the unexpired portion of the term to which they are appointed. All members must complete required orientation and training as applicable prior to their first meeting.

E. Prior to taking office all newly appointed members shall attend an orientation. This orientation will include, but may not be limited to, a review of Bylaws, Specific Board Ordinance and Charge, Open Meetings Act, Public Information Act, Ethics, parliamentary procedure, how to run a meeting, and procedures on how to file a complaint with the city.

F. All vacancies shall be filled in accordance with Section 2.071, Vacancies of the City Code and posted on the city council agenda.

G. Except as specifically duly authorized by their respective board or the City Council, an individual board member may not:

1) act in an official capacity on behalf of the board;
2) make any representations to third party or any governing body before which such member appears that the member is authorized to speak for or on behalf of the board; or
3) participate through written or public comment on a matter being considered by another board or commission or the city council that is an appeal of the decision of or succeeds the recommendation of the board or commission member’s respective board or commission.

H. Attendance at board meetings shall conform to the requirements outlined in Section 2.069 - Absence from meetings of the City Code.

I. A member who seeks to resign from the board shall submit a written resignation to the chair of the board and the staff liaison, who shall notify the city clerk’s office. If possible, the resignation should allow for a thirty-day notice.

J. Members must comply with Chapter 2, Article 5, Code of Ethics, of the San Marcos City Code of Ordinances. If, in connection with a decision or matter before the board or commission, a conflict of interest or appearance of impropriety as to a board or commission member is identified, the affected member shall:
   1) notify the staff liaison who shall provide a conflict of interest disclosure form to the member;
   2) complete and submit the conflict of interest disclosure form;
   3) when the matter is taken up by the board or commission, announce the nature of the conflict or appearance of impropriety;
   4) thereafter, leave the room until consideration of the matter is concluded; and
   5) abstain from any participation in the matter whether before the board or commission, a city department, another board or commission or the city council until the matter is finally concluded.

K. In accordance with Chapter 36 of the Texas Penal Code, members of the board shall not accept gifts from persons in connection with the member’s official duties and responsibilities.

**ARTICLE 4. OFFICERS.**

A. The officers of the board shall consist of a chair and a vice-chair.

B. Officers shall be elected annually by a majority vote of the board at the first regular meeting on or after March 1 during the agenda item posted for this purpose.
   1) In accordance with Section. 12.09 of the City Charter, if the previous chair continues on the board or commission they will preside over the meeting and conduct the election.
   2) If the previous chair is no longer on the board and the vice chair continues on the board the vice chair will preside over the meeting and conduct the election.
3) If neither the chair nor the vice-chair remain on the board the staff liaison shall conduct the election of the chair, at which point the newly elected chair will preside over the remainder of the meeting, including the election of the vice-chair.

C. In the event of a vacancy of the chair or vice-chair during the term, the board may hold an election at the next regular meeting. As needed, the vice-chair shall conduct the election of the chair or the chair shall conduct the election of the vice-chair.

D. The term of office shall be one year, beginning the first day of March and ending the last day of February.

E. A member may not hold more than one office at a time.

**ARTICLE 5. DUTIES OF OFFICERS.**

A. The chair shall be in person at the meeting location, preside at board meetings, review each final meeting agenda, and execute approved meeting minutes.

B. In the absence of the chair, the vice-chair may preside, if in person, and shall perform all duties of the chair.

C. In the absence of both the Chair and the Vice-Chair at the meeting location, the board should elect a temporary chair for that meeting, or until the Chair or Vice-Chair arrives. The staff liaison may conduct the election of a temporary chair, who shall serve only for the current meeting. The temporary chair must be present at the meeting location.

D. The Chair is responsible for promoting and maintaining order in meetings. The Chair should ensure adherence to the agenda for the meeting.

E. The Chair should control discussion to ensure that it focuses on the issue and not on any person. Personal remarks and attacks are not permitted. See also Article 7 (B).

**ARTICLE 6. AGENDAS.**

A. Agenda items must comply with Article 2. PURPOSE AND DUTIES.

B. The following general order of business should be used for regular meetings of the board :
   1. Call to order
   2. Roll call
   3. Citizen Comments – 3 minutes per speaker
   4. Consent Agenda (includes routine items which normally do not need separate discussion such as minutes from the previous meeting, )
   5. Presentations by city staff or outside entities invited by the board (or commission.)
   6. Public Hearings as needed
   7. Items for action or discussion/direction
8. Reports (report items should be listed individually as needed to comply with Open Meetings Act requirements)
9. Executive Session (in accordance with Open Meetings Act exceptions)
10. Question and Answer Session.
11. Adjournment

C. The board may only discuss or consider an item on the agenda that is stated within the assigned scope of work or charge of the board as provided in Article 2.

D. The chair or two or more members may place a discussion item on an agenda for a regular board meeting no later than 10 business days prior to the meeting. If two or more members wish to place a discussion item on a meeting agenda, they must separately contact the staff liaison and the chair in writing or by email with the specific topic. The agenda item must comply with Article 2 PURPOSE AND DUTIES.

E. After first consulting with and receiving input from the staff liaison, the chair shall review each final meeting agenda as prepared by the staff liaison. The chair may not remove an item placed on an agenda by the staff liaison, prior direction of the board under subsection (B) above or placed on an agenda as a discussion item by two members under subsection (C) above.

F. The staff liaison will submit the meeting agenda, and packet as applicable, to the City Clerk’s Office for posting no later than 72 hours before the meeting. If the 72 hour deadline should fall on a weekend or holiday it is the responsibility of the staff liaison to provide the meeting agenda to the City Clerk’s Office by noon on the last business day before the weekend or holiday.

G. Posting of the agenda must comply with Texas Government Code Chapter 551 (Texas Open Meetings Act).

ARTICLE 7. MEETINGS.

A. The board meetings shall comply with Texas Government Code Chapter 551 (Texas Open Meetings Act) in that discussion and action is limited to the items listed on the agenda for this meeting.

B. If a quorum (a majority of the voting members) does not convene within fifteen minutes of the posted time for the meeting, then the meeting may be cancelled. If there is not a quorum, no business can be conducted, no votes or action can be taken, and there are no minutes.

C. The board will conduct its meetings by the rules of common courtesy and procedure identified in Article 10.

D. The Chair should introduce each item as it appears on the agenda, and in the order in which it appears on the agenda. The Chair may allow items to be considered out of order with the informal consent of the board.
E. The following types of actions may be taken or motions can be made during a meeting:

1. **Approval** - Means the item is approved as proposed.
2. **Conditional approval** - Means approval for the item will take effect upon the occurrence of the conditions.
3. **Approval as amended** - Means the item is approved with changes from the original proposal.
4. **To Table** - Means to temporarily delay the consideration of the item while another item is brought up for consideration.
5. **Remove from Table** – Means to bring back the previously delayed item for consideration.
6. **Postpone** - Means postponement of consideration of the item, either until a definite date or event, or indefinitely. Action on the item at a subsequent meeting requires the item to be placed on the agenda for that meeting.
7. **Reconsider** - Means to reopen discussion of an item that was already acted upon. Reconsideration may only occur at the same meeting, or at the next meeting after the one at which the original action occurred. A motion to reconsider may only be made by a person who voted on the prevailing side on the original action. Reconsideration of an item at a subsequent meeting requires the item to be placed on the agenda for that meeting.
8. **Withdraw** - Made by the person who made the motion. Does not require a formal vote unless a member objects to the withdrawal.
9. **Close debate** ("calling for the question") – Requires a motion and second and 2/3 vote. If it passes, a vote is then taken on the motion that was under discussion, without further debate. If it fails, debate resumes on the motion that was being discussed.
10. **Amend** - Usually consists of striking out, inserting, adding, or substituting words, sentences or paragraphs to the subject of the original motion. This motion is voted upon separately from the original motion.
11. **Recess** - A temporary break in a meeting may be called by the Chair. This does not require a formal vote unless a member objects to the recess.
12. **Limited discussion or debate** - The Chair may establish a reasonable time limit for consideration of an item, or a reasonable time limit on each person addressing the board, or upon each board member who comments on an issue. This does not require a formal vote unless a member objects to the limits.

F. The board shall meet monthly as needed. In October of each year, the board shall adopt a schedule of the meetings for the upcoming year.

G. Special meetings of the board shall be called by the staff liaison to comply with a statutory deadline or a deadline established by Council or by a vote by the board. A special meeting may be called upon the written request of the chair or two members of the board no more often than once a quarter.

H. Executive sessions are permitted only when they have been posted in advance and conform to those requirements of the Texas Government Code Chapter 551 (Texas Open Meetings Act) which pertain to executive sessions.
I. Four voting members of the Board constitute a quorum, in keeping with Section 2.2.5.3 of the San Marcos Development Code.

J. To be effective, a board action must be adopted by an affirmative vote of four or more members.

K. All votes shall be conducted by roll call rather than simple voice vote.

L. The chair has the same voting privilege as any other member. The voting privileges of members is defined in the Ordinance defining that board.

M. The board will allow citizens to address the board during a period of time set aside for citizen communications during their regular meeting. Each speaker will be limited to three minutes, may speak only once per time period, and may not yield time to others. See Section 2.045 of the City Code for details.

N. The staff liaison shall prepare the meeting minutes. The minutes of each board meeting must include the vote of each member on each item before the board and indicate whether a member voted in favor, against, abstained or is absent. Example: For: Member 1, Member 2, Member 3, Member 4 Against: Member 6 Absent: Member 5 (line only needed if someone is absent) Recused: Member 7 (line only needed if someone has recused)

O. The city clerk shall retain agendas, approved minutes, internal review reports and bylaws. The Planning and Development Services Department shall retain all other board documents. The documents are public records under Texas Local Government Code Chapter 552 (Texas Public Information Act).

P. The chair shall adjourn a meeting not later than 10 p.m., unless the board votes to continue the meeting.

ARTICLE 8. RECOMMENDATIONS.

A. The board is encouraged to provide the city council with advisory recommendations on matters of city policy within their purpose and duties provided in Article 2 as necessary.

B. In order to communicate recommendations by a board to the City Council, the board must develop a recommendation resolution. If the recommendation resolution is approved by a majority of the membership, the staff liaison must submit the recommendation resolution to the city clerk and city manager for distribution to the city council within 30 days. In addition, the staff liaison will prepare a cover memo including Staff Recommendations for Implementation which may include budget impacts, staff time required, and/or other considerations.
C. The board will submit an annual report to the city clerk by February 28 of each year.

**ARTICLE 9. COMMITTEES.**

A. The Zoning Board of Adjustments does not have any standing committees, but may have ad hoc committees as necessary.

B. Each committee must be established by an affirmative vote of the board. Each committee shall consist of at least two, maximum of three (limit of two if the board has less than 7 members) board members approved by the board. A staff member shall be assigned to each committee by the director of the Planning and Development Services Department.

C. A committee may choose the chair, with the members’ consent, but is not required to do so.

D. Quorum requirements do not apply to committees.

E. Committees are not required to post their meetings in accordance with the Texas Government Code Chapter 551 (Texas Open Meetings Act). A quorum of the membership is not allowed to be present.

F. Each committee shall update the board at least quarterly on their work.

**ARTICLE 10. RULES OF COMMON COURTESY AND PROCEDURE.**

A. During meetings, members shall preserve order and decorum, and shall not interrupt or delay proceedings. Board meetings will adhere to Section 2.046 - Rules of Decorum for City Council and City Board and Commission Meetings of the City Code.

B. Members shall demonstrate respect and courtesy to each other, to city staff members, and to members of the public appearing before the board.

C. Members shall refrain from rude and derogatory remarks and shall not belittle staff members, other board members, or members of the public.

D. The Chair should exercise control over persons who abridge this policy or disrupt a meeting in the following ascending order of action:
   1. Call the person to order, advising the person of the infraction.
   2. Advise the person that the infraction must cease immediately or the person will be ordered to leave the meeting.
   3. Order the person to leave the meeting. If the offending person is a member of the board, the Chair shall call for a vote on the expulsion of the member from the meeting.

**ARTICLE 11. GENERAL POWERS AND DUTIES**

A. Personnel Issues: Personnel matters are not within the purview of the Board/Commission and are not appropriate for posting on an agenda, discussion at a meeting, or as a subject for
a board/commission recommendation. Neither the Board/Commission nor any of its members shall recommend, instruct or request the City Manager or any of the City Manager’s subordinates to change the job qualifications for a current employee, appoint, or remove any person from, office or employment. The Board/Commission and its members are prohibited from giving order to subordinates of the City Manager either publicly or privately.

B All Boards and Commissions shall adhere only to their specific general powers and duties within their Ordinance, as provided in Article 2.

ARTICLE 12. AMENDMENT OF BYLAWS.

A bylaw amendment is not effective unless approved by the Council Finance and Audit Committee.

The bylaws were approved by the Zoning Board of Adjustments at their meeting held on _______.

(Signature of Executive or Staff Liaison)   (Title of Executive or Staff Liaison)