MINUTES OF THE REGULAR MEETING OF THE
SAN MARCOS PLANNING AND ZONING COMMISSION
COUNCIL CHAMBERS, CITY HALL
January 14, 2014

1. Present

Commissioners:

Bill Taylor, Chair
Carter Morris, Vice Chair
Chris Wood
Travis Kelsey
Curtis Seebeck
Randy Bryan
Kenneth Ehlers
Angie Ramirez

City Staff:

Matthew Lewis, Development Services Director
Kristy Stark, Development Services Assistant Director
Roxanne Nemcik, Assistant City Attorney
Francis Serna, Recording Secretary
John Foreman, Planning Manager
Emily Koller, Planner
Amanda Hernandez, Senior Planner
Tory Carpenter, Planning Tech

Call to Order and a Quorum is Present.

With a quorum present, the Regular Meeting of the San Marcos Planning & Zoning Commission was called to order by Chair Taylor at 6:00 p.m. on Tuesday January 14, 2014, in the Council Chambers, City Hall, City of San Marcos, 630 E. Hopkins, San Marcos, Texas 78666.

3. Chairperson's Opening Remarks.

Chair Taylor welcomed the audience and viewers.

4. 30 Minute Citizen Comment Period

Melissa Derrick encouraged the commission to approve environmental regulations. She said that she especially likes the cut and fill limitations. She felt that the regulations will help prevent flooding and sediment into the river. Ms. Derrick stated that the regulations are advancement for the community.

Lea Rice stated that she is in opposition of the SmartCode Warrant for the increased height for a proposed 9 story building in the T5 SmartCode Zoning District on N. Edward Gary. She said the Commission should consider the regulations in the SmartCode that establish the basic requirements for building mass and scale throughout downtown. Ms. Rice explained that the requirement is 2-5 stories with some variations. She further mentioned that a 9 story building does not fit the picture. She pointed out that a code adopted should stay in place. She said that any new development should preserve and enhance the key public views up to campus and down to the square. Ms. Rice added that new development in the area should provide visual interest and not overwhelm the distinct character of downtown. She felt that the Commission's decision will likely set the tone for all future requests for SmartCode warrants in deviation from the 5 stories by the current SmartCode. She said consideration should be given to the citizens that call San Marcos home.

Cama Davis, attorney stated she was born and raised in San Marcos and her family is also from San Marcos. Ms. Davis stated that she seconded everything that Ms. Rice said. She said it would be a shame for the downtown to turn into a place for students. She explained that there is currently not enough parking and throwing in a 9 story apartment for students will increase traffic. Ms. Davis added that she wants to be able to see Old Main and have that small town feel. She stated that her mother is opposed to the Carson building extension because the original story limit is 5 stories and the request should stay at 5 stories. She pointed out that the Fire Department will have issues putting out fires for a 9 story building. In addition, she stated that historic sections of San Marcos will not be visible. Ms. Davis said that there will be additional runoff into the river from the parking. She added that the decision of the Commission will set the tone for proposed future developments. She reported that Ellie Del Prado Dietz is also opposed to the project because of the obstruction to view Old Main and she felt that Old Main defines the area. She added that Ms. Dietz felt that there is not enough parking to accommodate the students and the development is too close to Texas State University. Ms. Davis adds that her dad is also opposed to the request.

Consent Agenda

NOTE: *The Planning & Zoning Commission may adjourn into Executive Session to consider any item listed on this agenda if a matter is raised that is appropriate for Executive Session discussion. An announcement will be made of the basis for the Executive Session discussion. The Planning and Zoning Commission may also publicly discuss any item listed on the agenda for Executive Session.*

5. **Consider the approval of the minutes of the Regular Meeting on December 10, 2013.**

6. **PC-13-45_03 (Posey Business Park)** Consider a request by Garrett-Ihnen Civil Engineers, on behalf of Posey 2000 LLC, for approval of a Final Plat and associated subdivision improvement agreement for approximately 3.631 acres, more or less, out of the Henry Warnell Survey No. 21, Abstract No. 492, establishing Posey Business Park Section One subdivision located near the intersection of Posey Road and Hunter Road.

MOTION: Upon a motion made by Commissioner Wood and a second by Commissioner Ehlers, the Commission voted all in favor to approve the consent agenda. The motion carried.

Public Hearings

7. CUP-13-41 (Tex Mex Sports Bar) Hold a public hearing and consider a request by Maricela Ramos, owner of Tex Mex Sports Bar, for approval of a new Conditional Use Permit at a location with an expired CUP to allow the sale of beer and wine for on-premise consumption at 1700 S. IH 35.

Amanda, Hernandez Staff Planner gave an overview of this project.

Chair Taylor opened the public hearing. There were no citizen comments and the public hearing was closed.

MOTION: Upon a motion made by Commissioner Kelsey and a second by Commissioner Bryan, the Commission voted all in favor to approve CUP-13-41 with the conditions that the permit be valid for one (1) year, provided standards are met, subject to the point system; and the permit shall be posted in the same area and manner as the Certificate of Occupancy. The motion carried.

8. **CUP-13-42 (322 Cheatham Street)** Hold a public hearing and consider a request by Jean Paul Jafari, on behalf of Dolcetto, L.L.C., for a new Conditional Use Permit to allow the sale of beer and wine for on-premise consumption at 322 Cheatham Street.

Alison Brake, Staff Planner gave an overview of this project.

Chair Taylor opened the public hearing.

Lisa M. Copoletta, spoke in opposition of the request. She stated that she is concerned that residents are not allowed in the street, there are only ten parking spaces and now staff is allowing on street parking. She expressed concerns regarding business hours, alcohol consumption, and loud music adjacent to residential properties. Ms. Copoletta strongly suggested that the Commission vote against the request.

Ryan Butler pointed out that they will not have any live band outdoor music. He felt that the noise would not be an issue. He pointed out that parking should not be an issue but if it is they will address is at the time. Mr. Butler said he would be available to answer questions.

Daniel Scales stated that Mr. Butler should be proactive and deal with parking so that there is not an issue in the future.

Jon Stone, designer of the project explained that the project is not a bar. He pointed out that the applicants attended school in San Marcos, graduated and decided to stay in San Marcos. Mr. Stone explained that the applicants want to display art and celebrate the culture on the area and artist. He added that they have met all the parking requirements. In addition, they have a privacy fence and have minimized the lights for the business. Mr. Stone said he was available to answer questions.

There were no additional citizen comments and the public hearing was closed.

MOTION: Upon a motion made by Commissioner Ehlers and a second by Commissioner Carothers, the Commission voted seven (7) for and one (1) against to approve CUP-13-43 with the conditions that the permit shall be valid for one (1) year, provided standards are met, subject to the point system, the permit shall be posted in the same area and manner as the Certificate of Occupancy, the permit shall not be valid until an approved TABC Permit is issued to the applicant and a copy is submitted to the Director, the permit shall not become effective until a Certificate of Occupancy is received, all Environmental Health permitting requirements must be met, and no live music shall be allowed on the property at any time without first amending the CUP. The motion carried. Commissioner Seebeck dissenting.

9. **CUP-13-43 (Cheatham Street Warehouse)** Hold a public hearing and consider a request by James Kent, on behalf of CSW Management LLC d/b/a/ Cheatham Street Warehouse for renewal of a Conditional Use Permit to allow the sale of mixed beverages for on-premise consumption at 119 Cheatham Street.

Tory Carpenter, Planning Staff gave an overview of this project.

Chair Taylor opened the public hearing. There were no citizen comments and the public hearing was closed.

MOTION: Upon a motion made by Commissioner Bryan and a second by Commissioner Ehlers, the Commission voted all in favor to approve CUP-13-43 with the conditions that the permit shall be valid for the lifetime of the TABC license, provided standards are met, subject to the point system and the permit shall be posted in the same area and manner as the Certificate of Occupancy. The motion carried.

There was a ten minute recess.

10. **CUP-13-44 (Garcia's Mexican Food Restaurant)** Hold a public hearing and consider a request by Juan Ybarra, on behalf of Garcia-Ybarra Investments, LLC d/b/a Garcia's Mexican Food Restaurant, approval of a new Conditional Use Permit at a location with an expired CUP to allow the sale of beer and wine for on-premise consumption at 403 South LBJ Street.

Amanda Hernandez, Staff Planner gave an overview of this project.

Chair Taylor opened the public hearing. There were no citizen comments and the public hearing was closed.

MOTION: Upon a motion made by Commissioner Kelsey and a second by Commissioner Ehlers, the Commission voted all in favor to approve CUP-13-44 with the condition that the permit shall be valid for one (1) year, provided standards are met, subject to the point system, and the permit shall be posted in the same area and manner as the Certificate of Occupancy. The motion carried.

11. **ZC-13-14 (117 Meiners)** Hold a public hearing and consider a request by Wen Feng Lin, President of Wenfeng Enterprises, Inc., on behalf of Life Church San Marcos, Inc. for a Zoning Change from Public and Institutional (P) to Mixed Use (MU) for Lot 20A, Millview Addition, located at 117 Meiners Street.

Emily Koller, Staff Planner gave an overview of this project.

Chair Taylor opened the public hearing.

Matt Chambers, 615 W. MLK Drive stated that he is a member of the Zoning Board of Adjustments and is in support of the request. He pointed out that he owns property on 103 Mill and 202 Meiners Street. He informed the Commission that both properties are zoned multi-use. Mr. Chambers felt that the request is an equal use of the property. In addition, he feels there will be no adverse effects of the area. Mr. Chambers stated that he was present representing Jason Howell, the owner of 117 Meiners. He noted that he and Mr. Howell support the request.

David Childress, resident of Maxwell Texas said they own two houses across from the proposed use. Mr. Childress expressed his concerns regarding the increase in traffic on the two small roads in the area. Mr. Childress explained that student's park on both sides of the road which makes it difficult for residents to back out of their driveway. He added that vehicles exiting the property shine their headlights into the windows of his houses. Mr. Childress read a letter previously provided to the Commission from Ms. Joan Childress. Ms. Joann Childress noted that she is in opposition to the request.

George Lopez, resident of San Antonio Texas stated he was representing the applicant. He shared that there is a long family history of the family operating restaurants with over 50 years of experience. Mr. Lopez stated that the applicants will be sure the restaurant is successful and a good business partner for the community and the area. Mr. Lopez explained that the applicant have not had any issues with the current restaurant and the property owners adjacent to their business. The applicants have made an effort to make sure there are no incidents. He asked for the Commission's consideration and approval of the application. Mr. Lopez stated he would be available to answer questions.

Lisa M. Coppoletta asked the Commission to postpone the request. She suggested that the applicant work with the families and correct the issues with the lights shining in their windows.

Joann Childress stated that she owns property on Eastwood Street. She explained that the property has been family owned for years. Ms. Childress pointed out that there are single family homes surrounding the property. Ms. Childress added that the University has taken part of Mill and there is excessive traffic on Reimer's and Eastwood. She felt that the restaurant will be best in a different area where they are not imposing on single family residents.

Don Eyssen expressed concerns regarding traffic. He felt that the area will be gutted if the request is approved. He explained that the taxes will increase in a low income neighborhood. He pointed out that the neighborhood is an established neighborhood and feels that the integrity of the neighborhood will be ruined.

Shirley Harris stated she owns two houses on Mill Street and that her renters cannot get in and out of their driveways. She felt that the traffic would increase the hazard on the street.

Patrick Montgomery stated that he was unaware of the request. He felt that a mixed use in a residential area is not a sensible proposal and is not suitable for the area. Mr. Montgomery spoke in opposition of the request.

Stephanie Lopez, the applicant wife stated that the proposed loop will aide in the traffic concerns. She stated that the loop is due to begin construction in the spring. Ms. Lopez added that they are sensitive to the residential areas. She explained that the business will not be a loud, crazy out of control bar. Ms. Lopez explained that the business will be similar to their current business and will continue to provide the same service to San Marcos.

Pastor Chris Clemens, Pastor of the Church on Meiners stated that they are selling the property. Mr. Clemens explained that they have been at the property for two years and that the area in becoming more commercial with restaurants in the area. He stated that he thought a restaurant would be a perfect fit for the area but also thinks that the neighbor's concerns should be taken into consideration. Mr. Clemens pointed out that parking is adequate and felt that things can be done minimize the light concerns. He expressed that the proposed use will be a restaurant and not a bar. Mr. Clemens stated that the request is a great idea.

There were no additional citizen comments and the public hearing was closed.

MOTION: Upon a motion made by Commissioner Wood and a second by Commissioner Carothers, the Commission voted six (6) for and two (2) against to approve ZC-13-14. The motion carried. Commissioners Bryan and Ramirez dissenting.

12. **CUP-13-40 (117 Meiners Street)** Hold a public hearing and consider a request by Wen Feng Lin, on behalf of Wenfeng Enterprise Inc., for a new Conditional Use Permit to allow the sale of mixed beverages for on-premise consumption at 117 Meiners Street.

Emily Koller, Staff Planner gave an overview of this project.

Chair Taylor opened the public hearing. There were no citizen comments and the public hearing was closed.

MOTION: Upon a motion made by Commissioner Ehlers and a second by Commissioner Kelsey, the Commission voted all in favor to approve CUP-13-40 with the conditions that the permit shall be valid for one (1) year, provided standards are met, subject to the point system, the permit approval shall be effective only upon approval by the City Council of the Petitions for Zoning Change at 117 Meiners Street (ZC-13-14), the permit shall not be valid until an approved TABC Permit is issued tot eh applicant and a copy is submitted to the Director, all Environmental Health permitting must be met, the permit shall be effective upon issuance of the Certificate of Occupancy, and the permit shall be posted in the same area and manner as the Certificate of Occupancy. The motion carried.

13. **SCW-13-02 (206, 216 and 220 N. Edward Gary)** Hold a public hearing and consider a request by John David Carson, on behalf of Carson Diversified Properties 2, LLC, for a SmartCode Warrant to allow an increase in height beyond the 5-story limit for a proposed 9- story building in a SmartCode T5 zoning district at 206, 216 and 220 North Edward Gary Street.

Emily Koller, Staff Planner gave an overview of this project.

Chair Taylor opened the public hearing.

Jim Garber stated that this is an important project that has incredible implications for the future of San Marcos. He mentioned that the decision that the Commission makes will be the most important decision they will ever make. Mr. Garber felt that the ruling will set the tone for San Marcos for the next 100 years. Mr. Garber said he is not speaking for or against the project. He explained that this project begs for stakeholder input, because the project will affect everyone. He suggested that the item be tabled and that the Commission direct staff to conduct workshops, open houses, to have all stakeholders involved and to have discussions as held for the Master Plan. Mr. Garber suggested that all stakeholders be informed and for the Commission to get informed on what the stakeholders want for the future of their city.

Melissa Derrick stated that the city paid Gateway Planning to work on the Downtown Master Plan. Ms. Derrick referred to sections of the SmartCode. She stated that she was confused because the code was established and felt that a warrant was not allowed. She stated that many citizens and small business owners are against the warrant request.

Jill Keith, 200 Orchard stated she agrees with the previous speakers. She read the definition of a warrant in the SmartCode. She explained that the DRC (Development Review Committee) is allowed the administratively approve a warrant. She inquired on who is allowed to be appointed to the DRC. Ms. Keith referred to special requirements in A and B grids related to pedestrian connectivity. She expressed her concern that the B grids to not promote pedestrian activity. She felt that the request is not consistent with the Master Plan.

Lisa M. Coppoletta, 1322 Belvin said that the request needs to be open to the community and someone needs to speak to TCEQ (Texas Commission on Environmental Quality). She asked if staff has consulted with TCEQ. Ms. Coppoletta spoke in opposition to the request. She asked that the request be tabled.

Jay Hiebert, 209 W. Sierra Circle presented charts from a 2013 City of San Marcos Community Survey Report. He pointed out the top concerns of residents of the City of San Marcos. He felt that new leadership is necessary in planning services.

Patrick Montgomery felt that the loophole is the definition of a warrant. He pointed out that he is in real estate and their intent is to maximize their investment. Mr. Montgomery stated that the applicant is trying to maximize his investment. Mr. Montgomery stated that the applicant is asking for almost double height of what is allowed in the SmartCode. He added that change is inevitable and citizens want sensible development. Mr. Montgomery said that all members of the community embrace the nature of the town and become upset when unreasonable requests come before the Commission. He added that the city is putting the decision in the hand of the elected officials.

Don Eyssen expressed his concerns regarding a warrant not going before the City Council.

Stan Alt, property owner across the proposed building. Mr. Alt stated he is not against or in support of the request. He stated that he is concerned with parking due to the University. He felt that solutions should be addressed and the process has begun with city staff. Mr. Alt added that he would like to hear input from citizens before a decision is made. He explained that Michigan is 20 years ahead of San Marcos. Both cities had similar issues. Mr. Alt suggested that the Commission follow up with Mr. Garber's idea with tabling the request and hearing input from citizens.

HC Kyle, 711 W. San Antonio said Mr. Garber made an excellent point. He said he has spoken to several people and knows their opinions. He added that he hoped the Commission also knows what the citizen's opinions are. He asked the Commission to give careful consideration of the request and suggested that the item be postponed. Mr. Kyle expressed concerns regarding parking. Mr. Kyle commented that the paper stated that the request would give the students the opportunity to live downtown and not have a vehicle. He pointed out that only one of his occupants in his downtown units did not have a vehicle.

Daniel Scales expressed concerns regarding how far down they will have to dig with taller buildings. He asked the Commission if they knew where the TCEQ monitoring wells were located. He pointed out that the monitoring wells are located across the street and suggested that TCEQ be contacted.

Bridget Philips, Harvey Street read her comments previously submitted to the Commission. Ms. Phillips spoke in opposition to the request.

Camille Phillips explained that with the University going with online classes there may not be a need for more apartments. She stated that many current apartments are not full. Ms. Phillip's inquired about parking spaces for the proposed development. She said that downtown parking is currently an issue. She added that there are no drawings of the project. Ms. Phillips further explained that students cannot afford to not have a vehicle because they have to get to and from their jobs. She asked that the request be tabled.

Matt Chambers, MLK Drive stated that the project should not be denied. He felt that there should be more community discussion.

There were no additional citizen comments and the public hearing was closed.

MAIN MOTION: Upon a motion made by Commissioner Kelsey and a second by Commissioner Seebeck, the Commission voted six (6) for and two (2) against to approve that the SCW-13-02 be postponed for two weeks for staff to coordinate public input. The motion carried. Commissioners Wood and Taylor dissenting.

AMENDED MOTION: Upon a motion made by Commissioner Ehlers and a second by Commissioner Wood, the Commission voted seven (7) for and one (1) against to include that the postponement not exceed two (2) weeks. The motion carried. Commissioner Ramirez dissenting.

14. **SCW-13-03 (520 S. LBJ)** Hold a public hearing and consider a request by Gloria Suarez, Owner, for a SmartCode Warrant to allow a reduction from the 80% frontage buildout requirement by incorporating a public park feature along Lee Street for a proposed mixed use building at the corner of Lee and S. LBJ Drive in a SmartCode T5 zoning district located at 520 S. LBJ Drive.

Emily Koller, Staff Planner gave an overview of this project.

Chair Taylor opened the public hearing. There were no citizen comments and the public hearing was closed.

MOTION: Upon a motion made by Commissioner Wood and a second by Commissioner Seebeck, the Commission voted all in favor to approve SCW-13-03. The motion carried.

15. **LDC-13-06 (Environmental Regulations)** Hold a public hearing and consider proposed revisions to Chapters 5 and 7 of the Land Development Code to clarify language, remove inconsistencies, and modify/add environmental protection standards contained within these chapters.

Rey Garcia, Staff Engineer gave an overview of this project.

Chair Taylor opened the public hearing.

Lisa M. Capoletta said that she sees no discussion regarding indigent's artifacts. She expressed concerns regarding preserving the artifacts. Ms. Capoletta stated that San Marcos has a lot of proactive people that are concerned about the artifacts. She encouraged staff to think about the long heritage of San Marcos. She explained that when she does gardening, she finds arrowheads all over her yard and feels that they are all over San Marcos.

Diane Wassenich pointed out that the changes are small but are important. The Habitat Conversation Plan is spending millions in the San Marcos River to preserve the habitat and improve the river. Ms. Wassenich pointed out that the massive clearing of the sediment in the river will not be done again. She said that they are looking at San Marcos to take care of the river in multiple ways. She stated that this is the first item coming before the Commission and more will follow in the next few years. Ms. Wassenich pointed out that it is very important that we move forward so that less sediment flows in to the river. Ms. Wassenich spoke in support of the environmental regulation changes. She asked the Commission to approve the changes.

Jill Keith, Orchard thanked Lisa for speaking about the unobserved heritage in San Marcos. She stated that she has lived in San Marcos for over forty years. Ms. Keith pointed out that she has buckets full of arrowheads that her children found. She added that she graduated from Texas State University and has the upmost respect for the university and advantages and academic environment it provides to San Marcos. Ms. Keith said she wanted it noted that we do not use our heritage to promote San Marcos.

Daniel Scales said his tribe is Azteca, and explained that the property was all one area. He asked the Commission if it wasn't enough that they have displaced his people but are desecrating their graves. He pointed out that the Commissioners are not part of any of the tribes.

There were no additional citizen comments and the public hearing was closed.

MOTION: Upon a motion made by Commissioner Kelsey and a second by Commissioner Ramirez, the Commission voted five (5) for and three (3) against to recommend approval to City Council the proposed revisions to Chapters 5 and 7 of the Land Development Code to clarify language, remove inconsistencies, and modify/add environmental protection standards contained within these chapters. The motion carried. Commissioners Taylor, Wood, Seebeck dissenting.

Non Consent Agenda:

16. Staff presentation and discussion on Municipal Utility Districts.

Amanda Hernandez and Roxanne Nemcik gave a brief presentation

17. **Development Services Report:**
    a. Comprehensive Master Plan Implementation update
    b. Code SMTX update

Matthew Lewis gave a brief update.

18. 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.*

Bridget Phillips asked why the warrant request was postponed for two weeks.

19. Adjourn.

Chair Taylor adjourned the Planning and Zoning Commission meeting at 9:50 p.m. on Tuesday, January 14, 2014.

Bill Taylor, Chair

Travis Kelsey, Commissioner

Chris Wood, Commissioner

Corey Carothers, Commissioner

Curtis Seebeck, Commissioner

Randy Bryan, Commissioner

Angie Ramirez, Commissioner

Kenneth Ehlers, Commissioner

ATTEST:

Francis Serna, Recording Secretary