



# City of San Marcos

630 East Hopkins  
San Marcos, TX 78666

## Regular Meeting Agenda - Final Planning and Zoning Commission

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Tuesday, October 25, 2016

6:00 PM

City Council Chambers

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630 E. Hopkins

III. Chairperson's Opening Remarks

IV. 30 Minute Citizen Comment Period

1. Receive a Staff presentation and hold discussion regarding the approval schedule and process for CodeSMTX, and provide direction to Staff.

### CONSENT AGENDA

2. Consider approval of the minutes of the Regular Meeting on October 11, 2016.

### PUBLIC HEARINGS

3. CUP-16-26 (The Still) Hold a public hearing and consider a request by Charles Valdez, on behalf of The Still, for a new Conditional Use Permit to allow the sale of mixed beverages for on-premise consumption at 1617 Aquarena Springs Drive. (A. Brake)
4. CUP-16-28 (Certified Auto Exchange) Hold a public hearing and consider a request by Brian Quigley, on behalf of Certified Auto Exchange, for a Conditional Use Permit to allow the use of Auto Dealer - Used Auto Sales in a Community Commercial (CC) zoning district located at 1420 South IH 35. (A. Brake)

### NON-CONSENT AGENDA

V. Question and Answer Session with Press and Public.

VI. Adjournment

Notice of Assistance at the Public Meetings

I certify that the attached notice and agenda of items to be considered by the Planning and Zoning Commission was removed by me from the City Hall bulletin board on the \_\_\_\_\_ day of \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_ Title:  
\_\_\_\_\_



## Legislation Text

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**File #:** ID#16-610, **Version:** 1

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**AGENDA CAPTION:**

Receive a Staff presentation and hold discussion regarding the approval schedule and process for CodeSMTX, and provide direction to Staff.

**Meeting date:** October 25, 2016

**Department:** Planning and Development Services

**Funds Required:** N/A

**Account Number:** N/A

**Funds Available:** N/A

**Account Name:** N/A

**CITY COUNCIL GOAL:** Beautify and Enhance the Quality of Place

**COMPREHENSIVE PLAN ELEMENT(s):** *Land Use Goal #1 Objective #4: Replace the Land Development Code with an updated document to support the preferred scenario.*

**BACKGROUND:**

The public draft of the new land development code was released on May 27, 2016. Since that time, staff has facilitated public review of the draft including:

- The collection of over one thousand (1,000) specific comments on “Open Comment” from over eighty-five (85) different individuals or organizations.
- Five (5) different Think Tank meetings to discuss and react to the comments received, review comparative financial modeling, and participate in “Hack the Code” sessions.
- Eight (8) presentations to discuss the new code with various organizations, advisory boards, and stakeholder groups.
- The Code SMTX public open house including seventy-five (75) participants and thirty (30) survey respondents.
- The Council Workshop and panel discussion on housing and affordability.
- Eight (8) E-Newsletter updates with between five hundred (500) and eight hundred (800) opens.

The next step in the process is to develop and propose a revised draft of the code based on the public comment and feedback received on the public draft. This revised draft will include a road map in the form of a spreadsheet identifying all requested changes, their location in the code, and the proposed resolution. In

addition, two (2) facilitated workshops have been scheduled to discuss and receive feedback from the Planning Commission first and then City Council on topics that have received the most attention through the public comment period.



**Planning and Zoning Commission**

**October 25, 2016**

# Proposed Changes are Deliberate and Comprehensive

**Stage I: The Vision –  
Completed April 2013**



**Stage II: The Tools –  
CodeSMTX scheduled for  
completion Winter 2017**



**Stage III: Applying the Tools -  
Re-Mapping beginning  
immediately after the  
adoption of CodeSMTX**



# Where are we now?

## Phase 1: Public Review

- When: June - September
- Who: Think Tank/ Public/ Staff
- Deliverable: What We Heard Report

## Phase 2: Revisions

- When: October - December
- Who: Council/ P&Z/ Staff
- Deliverable: Revised Draft; Comment/ Response Log

## Phase 3: Approval Meetings

- When: March - April
- Who: Planning Commission/ City Council
- Deliverable: Adopted Code

# Phase 1: Public Review Period



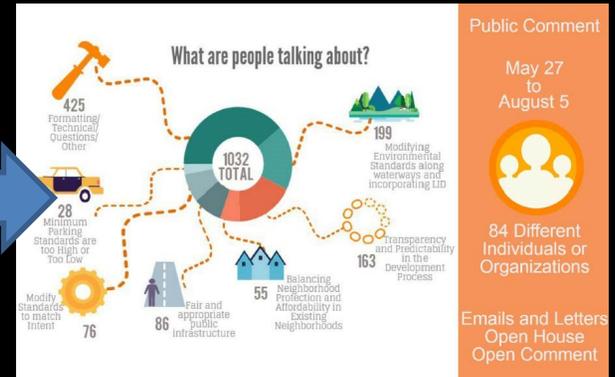
Comments entered directly on the draft

Think Tank

Open House

E-Newsletters and Presentations

Council Workshop Housing and Affordability



City of San Marcos TX - City Hall shared their event. August 29

The City of San Marcos is hosting a CodeSMTX City Council workshop tonight (Monday) from 5:30 to 8 p.m. at the San Marcos Activity Center, Room 3, 501 E. Hopkins.

The public workshop is focused on how our new development code can support the housing needs of both current and future residents. The City has invited a panel of experts from the Central Texas region with knowledge and experience in working with communities to deliver diverse and affordable housing options.

Watch live at [SanMarcosTX.gov/codesmbccworkshop](http://SanMarcosTX.gov/codesmbccworkshop)

**AUG 29** CodeSMTX - City Council Workshop  
Mon 5:30 PM - San Marcos  
36 people interested - 14 people going

# Phase 2: Revisions Period

## Financial and Comparative Development Modeling

### Comparative Modeling



#### What is the purpose?

Comparing the potential buildout under the old code vs. the new code provides insight into whether the new code will meet community goals

#### What was Measured?

- The amount of housing
- Ratio of rental to ownership
- Average rent per square foot
- Household Income needed to rent
- Average home price
- Household Income needed to buy
- Property Tax Revenue per acre
- Sales Tax Revenue per acre



## Test the code on hypothetical projects Hacking the Code

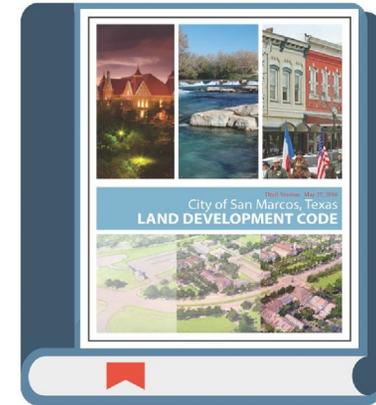
### Addressing Comments Received

 **Incorporated**  
Comment Accepted

 **No Change**  
No Text change is proposed

 **Minor Change**  
Text edits address a detailed comment

 **Major Change**  
Text edits address a higher level topic



## Address all Comments received on Public Draft

### Hacking the Code

#### What is the purpose?

Selecting hypothetical projects in different areas of town and reviewing them under the new code provides an opportunity to test the standards and determine if they are creating the type of development desired by the Comprehensive Plan.

#### Answers the questions:

Is the code able to deliver the type of project desired?

Are waivers or variances required?

Are there loop holes that need to be tightened?

#### #1 S. Fredericksburg St.



ADDRESS	LOT AREA	APPLICABLE ZONING	PERMITTED USES
4111 S. Fredericksburg St.	41,110	SP-1 (Single-Family Planned)	Single-Family Detached
4112 S. Fredericksburg St.	41,110	SP-1 (Single-Family Planned)	Single-Family Detached
4113 S. Fredericksburg St.	41,110	SP-1 (Single-Family Planned)	Single-Family Detached
4114 S. Fredericksburg St.	41,110	SP-1 (Single-Family Planned)	Single-Family Detached
4115 S. Fredericksburg St.	41,110	SP-1 (Single-Family Planned)	Single-Family Detached
4116 S. Fredericksburg St.	41,110	SP-1 (Single-Family Planned)	Single-Family Detached
4117 S. Fredericksburg St.	41,110	SP-1 (Single-Family Planned)	Single-Family Detached
4118 S. Fredericksburg St.	41,110	SP-1 (Single-Family Planned)	Single-Family Detached
4119 S. Fredericksburg St.	41,110	SP-1 (Single-Family Planned)	Single-Family Detached
4120 S. Fredericksburg St.	41,110	SP-1 (Single-Family Planned)	Single-Family Detached

# Addressing Comments Received



## Incorporated

Comment Accepted



## No Change

No Text change is proposed



## Minor Change

Text edits address a detailed comment



## Major Change

Text edits address a higher level topic



# Comparative Modeling



## What is the purpose?

Comparing the potential buildout under the old code vs. the new code provides insight into whether the new code will meet community goals

## What was Measured?

- The amount of housing
- Ratio of rental to ownership
- Average rent per square foot
- Household Income needed to rent
- Average home price
- Household Income needed to buy
- Property Tax Revenue per acre
- Sales Tax Revenue per acre

# Hacking the Code

## What is the purpose?

Selecting hypothetical projects in different areas of town and reviewing them under the new code provides an opportunity to test the standards and determine if they are creating the type of development desired by the Comprehensive Plan.

## Answers the questions:

Is the code able to deliver the type of project desired?

Are waivers or variances required?

Are there loop holes that need to be tightened?

## #1 S. Fredericksburg St.



**PROJECT DESCRIPTION:**  
A surface parked residential multifamily project with access from Father Alley. Lot is already platted and has access to adequate utilities. Project proposes 14 Units and 21 Bedrooms in a 3 story Apartment building built around a courtyard. Not Located in floodplain or adjacent to a waterway.

STANDARD	EXISTING CONDITION	CURRENT CODE	CODESNTX
<b>ENTITLEMENTS</b>			
Comprehensive Plan	4.1.1.5 High Intensity Zone	High Intensity Zone	
Zoning	4.1.5.1 T5	T5	
Lot Size	80 x 120	80 x 120	
<b>PUBLIC INFRASTRUCTURE</b>			
Driveway and Access	3.6.4.2 Old Driveway at Frontage	Access from Alley, 24' max.	
Parkland Dedication	3.10.1.2 --	Not Required	
Parkland Development Fee	3.10.1.4 --	Not Required	
Streetscape Type	3.8.1.5 No Sidewalk, Street Trees at edges of Lot	Downtown-Cross Sections, 7' Sidewalk	
<b>SPECIFIC NOTES FOR CODE REVISIONS:</b>			
<ul style="list-style-type: none"> <li>Sec. 3.8.1.5: Reference Street Design Manual for Downtown and update for Midtown</li> <li>Sec. 3.10.1.1: Need to account for specialized parkland dedication requirements based on percentage of lot size.</li> </ul>			
<b>DISTRICT STANDARDS</b>			
Lot Coverage	4.4.3.6 0%	100%	
Building Type	4.4.3.6 None	No Building Types Included	
Building Height	4.3.3.1 0	2 story min, 5 story max 2' min ground floor elevation for residential	

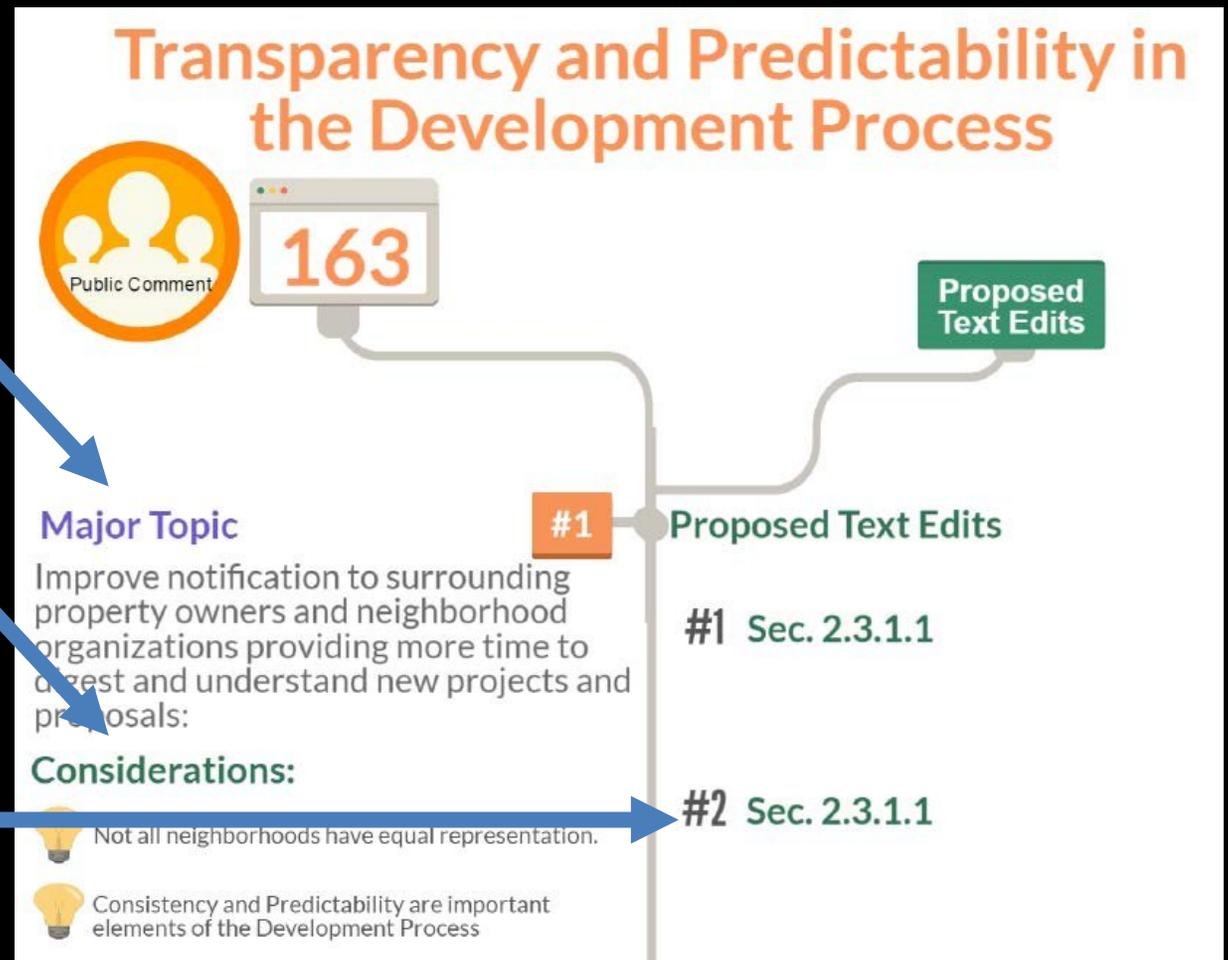
# Phase 3: Approval Meetings

**Purpose:** Discuss and provide feedback on the **Major Topics** and proposed solutions and to identify other issues of importance to be included in the final Draft.

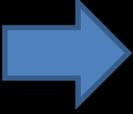
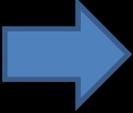
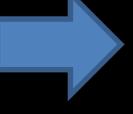
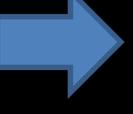
**#1 Summary of the Major Topic**

**#2 Key Considerations**

**#3 Proposed Solutions**



# Phase 3: Approval Meetings

<b>December 2016</b>		<b>Revised Draft and Comment Log is complete</b>
<b>January 30, 2017</b>		<b>Joint Workshop</b>
<b>February 8, 2017</b>		<b>Joint Workshop</b>
<b>Feb./March 2017</b>		<b>Final Draft to Planning Commission</b>
<b>March/April 2017</b>		<b>Final Draft to City Council</b>



Thank you



# City of San Marcos

630 East Hopkins  
San Marcos, TX 78666

## Legislation Text

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**File #:** ID#16-600, **Version:** 1

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**AGENDA CAPTION:**

Consider approval of the minutes of the Regular Meeting on October 11, 2016.

**Meeting date:** October 25, 2016

**Department:** Planning and Development Services

**Funds Required:** n/a

**Account Number:** n/a

**Funds Available:** n/a

**Account Name:** n/a

**CITY COUNCIL GOAL:**

**BACKGROUND:**



# City of San Marcos

630 East Hopkins  
San Marcos, TX 78666

## Meeting Minutes Planning and Zoning Commission

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Tuesday, October 11, 2016

6:00 PM

City Council Chambers

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630 E. Hopkins

### I. Call To Order

**With a quorum present the regular meeting of the San Marcos Planning and Zoning Commission was called to order by Chair Garber at 6:00 p.m. on Tuesday, October 11, 2016 in the City Council Chambers of the City of San Marcos, City Hall, 630 E. Hopkins, San Marcos, Texas.**

### II. Roll Call

- Present** 8 - Commissioner Jim Garber, Commissioner Travis Kelsey, Commissioner Shawn Dupont, Commissioner Saul Gonzales, Commissioner Kate McCarty, Commissioner Betseygail Rand, Commissioner Lee Porterfield, and Commissioner Angie Ramirez
- Absent** 1 - Commissioner Douglas Beckett

### III. Chairperson's Opening Remarks

**Chair Garber announced that Item 3, CUP-16-26 (The Still) was removed from the agenda.**

### IV. 30 Minute Citizen Comment Period

There were no citizen comments.

### CONSENT AGENDA

1. Consider approval of the minutes of the Regular Meeting on September 27, 2016.
2. PC-16-09\_03 (Paso Robles Phase 2B Final Plat) Consider a request by Pape-Dawson Engineers, LLC, on behalf of Carma Paso Robles, LLC, for approval of a Subdivision Improvement Agreement and Final Plat for approximately 41.37 acres, more or less, out of the Edward Bureson Survey located near the intersection of Hunter Road and Centerpoint Road. (T. Carpenter)

**A motion was made by Commissioner Kelsey, seconded by Commissioner McCarty, that the Consent Agenda be approved. The motion carried by the following vote:**

**For:** 8 - Commissioner Garber, Commissioner Kelsey, Commissioner Dupont, Commissioner Gonzales, Commissioner McCarty, Commissioner Rand, Commissioner Porterfield and Commissioner Ramirez

**Against:** 0

**Absent:** 1 - Commissioner Beckett

## PUBLIC HEARINGS

3. CUP-16-26 (The Still) Hold a public hearing and consider a request by Charles Valdez, on behalf of The Still, for a new Conditional Use Permit to allow the sale of mixed beverages for on-premise consumption at 1617 Aquarena Springs Drive. (A. Brake)

Item 3 was pulled from the agenda.

4. PC-16-39\_04 (Springtown Replat) Hold a public hearing and consider a request by Endeavor Real Estate Group, on behalf of Humpty Dumpty SSM, Ltd., for approval of a replat of 8.49 acres, more or less, being Lot 5 of Springtown VI subdivision, establishing lots 5-A & 5-B, Springtown Subdivision, City of San Marcos, Hays County, Texas. (T. Carpenter)

Chair Garber opened the public hearing.

Tory Carpenter, Staff Planner gave an overview of the request.

There were no comments and the public hearing was closed.

**A motion was made by Commissioner Ramirez, seconded by Commissioner McCarty, that PC-16-39\_04 (Springtown Replat) be approved. The motion carried by the following vote:**

**For:** 8 - Commissioner Garber, Commissioner Kelsey, Commissioner Dupont, Commissioner Gonzales, Commissioner McCarty, Commissioner Rand, Commissioner Porterfield and Commissioner Ramirez

**Against:** 0

**Absent:** 1 - Commissioner Beckett

## NON-CONSENT AGENDA

### V. Question and Answer Session with Press and Public.

There were no questions from the press and public.

### VI. Adjournment

**A motion was made that the meeting be adjourned at 6:06 p.m. The motion carried by a unanimous vote.**

**Jim Garber, Chair**

**ATTEST:**

\_\_\_\_\_  
**Francis Serna, Recording Secretary**

Notice of Assistance at the Public Meetings

I certify that the attached notice and agenda of items to be considered by the Planning and Zoning Commission was removed by me from the City Hall bulletin board on the \_\_\_\_\_ day of \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
Title:



## Legislation Text

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**File #:** CUP-16-26a, **Version:** 1

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**AGENDA CAPTION:**

CUP-16-26 (The Still) Hold a public hearing and consider a request by Charles Valdez, on behalf of The Still, for a new Conditional Use Permit to allow the sale of mixed beverages for on-premise consumption at 1617 Aquarena Springs Drive. (A. Brake)

**Meeting date:** October 25, 2016

**Department:** Planning and Development Services

**Funds Required:** N/A

**Account Number:** N/A

**Funds Available:** N/A

**Account Name:** N/A

**CITY COUNCIL GOAL:** N/A

**COMPREHENSIVE PLAN ELEMENT(s):** N/A

**BACKGROUND:**

The subject property is located at the northeast corner of Aquarena Springs Drive and West Avenue. Bad Habits Hookah Lounge is also located on the property. Bad Habits originally requested a CUP to serve beer and wine for on-premise consumption earlier this year. Per the Fire Marshal, smoking lounges cannot sell alcohol for on-premise consumption as this would classify it as a bar. The San Marcos smoking ordinance bans smoking indoors in a public place such as a bar; however, tobacco selling establishments, or smoking lounges, are exempt. The owners of Bad Habits ultimately withdrew their request for a CUP.

The applicant is proposing to add a modified shipping container adjacent to Bad Habits and utilize it as a bar serving mixed beverages. Separate suite numbers will be assigned to each structure during site and building plan review. While there are no regulations in the Land Development Code (LDC) prohibiting the use of a shipping container as a building, it will have to meet the regulations of the 2015 International Building Code as well as the new requirements for masonry for commercial buildings (Ordinance 2016-25). According to the application, the gross floor area of the building will be approximately 1,280 square feet and will have approximately 27 indoor and 20 outdoor fixed seats. Hours of operation are from 6:00 p.m. to 2:00 a.m. The application indicates that there are 50 parking spaces provided on site. For eating and drinking establishments, the LDC requires one parking space for every 100 square feet of gross floor area or one parking space for every four seats, whichever is less. The site appears to have adequate parking for both Bad Habits and the proposed bar. The site plan states that Jumbo Jenga and a bean bag toss will be provided as entertainment facilities out on the deck.

Staff has reviewed the request for compliance with the Land Development Code and recommends **approval** of the Conditional Use Permit with the following conditions:

1. The permit shall be valid for one (1) year, provided standards are met, subject to the point system;
2. No live or amplified music shall be allowed on the patio;
3. Alcohol will not be allowed to be purchased at The Still and be consumed at Bad Habits;
4. Signs shall be posted at all exits stating that "Alcohol cannot be purchased and taken to Bad Habits for consumption.";
5. Outdoor games shall be shut down at 10:00 p.m. Sunday - Thursday and at midnight Friday - Saturday;
6. The permit shall be effective upon issuance of the Certificate of Occupancy; and
7. The permit shall be posted in the same area and manner as the Certificate of Occupancy.





**CUP-16-26**

**The Still**

**1617 Aquarena Springs Dr**

**Map Date: 9/27/2016**

 Site Location



0 150 300 600 Feet

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.

**CUP-16-26  
 Conditional Use Permit  
 The Still  
 1617 Aquarena Springs Drive**



**Applicant Information:**

Applicant: Charles Valdez  
 The Still  
 P.O. Box 380432  
 San Antonio, TX 78268

Property Owner: G&S Development LLC  
 6621 Olympia Drive  
 Pasadena, TX 77505

Applicant Request: Approval of a new Conditional Use Permit (CUP) to allow on-premise consumption of mixed beverages.

Notification: Public hearing notification mailed on October 14, 2016

Response: None as of report date.

**Subject Property:**

Location: 1617 Aquarena Springs Drive

Legal Description: Lot 5A, Block B, Westfield Addition

Frontage On: Aquarena Springs Drive and West Avenue

Neighborhood: Millview East

Existing Zoning: General Commercial

Preferred Scenario Designation: Area of Stability

Utilities: Adequate

Existing Use of Property: Hookah Lounge

Proposed Use of Property: Bar

Zoning and Land Use:

	<b>Current Zoning</b>	<b>Existing Land Use</b>
<b>N of Property</b>	MF-24	Multifamily
<b>S of Property</b>	OP, MF-18	Offices, Multifamily
<b>E of Property</b>	MF-18	Multifamily
<b>W of Property</b>	MF-24	Multifamily

## **Code Requirements:**

A conditional use permit allows the establishment of uses which may be suitable only in certain locations or only when subject to standards and conditions that assure compatibility with adjoining uses. Conditional uses are generally compatible with permitted uses, but require individual review and imposition of conditions in order to ensure the appropriateness of the use at a particular location.

A business applying for on-premise consumption of alcohol must not be within 300 feet of a church, school, hospital, or a residence located within a zoning district that limits density to six units per acre or less. This location does meet the distance requirements.

CUP's issued for on-premise consumption of alcohol make the business subject to the code standards and the penalty point system for violations (Section 4.3.4.2). This location is outside the Central Business Area and not subject to the additional restrictions with the CBA.

## **Case Summary**

The subject property is located at the northeast corner of Aquarena Springs Drive and West Avenue. Bad Habits Hookah Lounge is also located on the property. Bad Habits originally requested a CUP to serve beer and wine for on-premise consumption earlier this year. Per the Fire Marshal, smoking lounges cannot sell alcohol for on-premise consumption as this would classify it as a bar. The San Marcos smoking ordinance bans smoking indoors in a public place such as a bar. Tobacco selling establishments, or smoking lounges, are exempt from this ordinance. The owners of Bad Habits ultimately withdrew their request for a CUP.

The applicant is proposing to add a modified shipping container adjacent to Bad Habits and utilize it as a bar serving mixed beverages. Separate suite numbers will be assigned to each structure during site and building plan review. While there are no regulations in the Land Development Code (LDC) prohibiting the use of a shipping container as a building, it will have to meet the regulations of the 2015 International Building Code as well as the new requirements for masonry for commercial buildings (Ordinance 2016-25). According to the application, the gross floor area of the building will be approximately 1,280 square feet and will have approximately 27 indoor and 20 outdoor fixed seats. Hours of operation are from 6:00 p.m. to 2:00 a.m. The application indicates that there are 50 parking spaces provided on site. For eating and drinking establishments, the LDC requires one parking space for every 100 square feet of gross floor area or one parking space for every four seats, whichever is less. The site appears to have adequate parking for both Bad Habits and the proposed bar. The site plan states that Jumbo Jenga and a bean bag toss will be provided as entertainment facilities out on the deck.

## **Comments from Other Departments:**

The City's Police Department has concerns that the arrangement proposed would lend to people traveling back and forth between the smoking lounge and the bar taking their drinks with them. There were no other concerns from other City Departments.

## **Planning Department Analysis:**

Staff has some concern with noise from the outdoor entertainment facilities disrupting nearby multifamily residences. However, there is a large parking lot and an existing privacy fence between the property and the residences nearby. To ensure that music will not disrupt nearby residences, Staff recommends that no live or amplified music be allowed on the patio. To ensure that the outdoor games proposed by the applicant will not cause disruptions, Staff recommends that they be shut down at 10:00 p.m. Sunday – Thursday and at midnight Friday – Saturday.

Staff shares the same concern as voiced by the Police Department. To help ensure that alcohol is not consumed on-premise at Bad Habits, Staff recommends that a condition be included that alcohol cannot be purchased at The Still to be consumed at Bad Habits. Staff also recommends posting signs at all exits that state the same. Staff discussed the conditions with the Police Department and they were comfortable with their addition to the CUP. The conditions on a CUP can always be reexamined at the time of renewal.

Staff has reviewed the request for compliance with the Land Development Code and found that the request is consistent with the policies and the general intent of the zoning district and does not generate pedestrian or vehicular traffic which is hazardous or conflicts with existing traffic.

In order to monitor new permits for on-premise consumption of alcohol, the Planning Department's recommendation is that they be approved initially for a limited time period. Other new conditional use permits have been approved as follows:

- Initial approval for 1 year;
- Renewal for 3 years
- Lifetime of the TABC license

**Staff provides this request to the Commission for your consideration and recommends approval of the Conditional Use Permit with the following conditions:**

1. The permit shall be valid for one (1) year, provided standards are met, subject to the point system;
2. No live or amplified music shall be allowed on the patio;
3. Alcohol will not be allowed to be purchased at The Still and be consumed at Bad Habits;
4. Signs shall be posted at all exits stating that "Alcohol cannot be purchased and taken to Bad Habits for consumption.";
5. Outdoor games shall be shut down at 10:00 p.m. Sunday – Thursday and at midnight Friday – Saturday;
6. The permit shall be effective upon issuance of the Certificate of Occupancy; and
7. The permit shall be posted in the same area and manner as the Certificate of Occupancy.

Planning Department Recommendation:	
	Approve as submitted
<b>X</b>	Approve with conditions or revisions as noted
	Alternative
	Denial

**Commission's Responsibility:**

The Commission is required to hold a public hearing and receive comments regarding the proposed Conditional Use Permit. After considering public input, the Commission is charged with making a decision on the Permit. Commission approval is discretionary. The applicant, or any other aggrieved person, may submit a written appeal of the decision to the Planning Department within 10 working days of notification of the Commission's action, and the appeal shall be heard by the City Council.

The Commission's decision is discretionary. In evaluating the impact of the proposed conditional use on surrounding properties under section 1.5.7.5 of the LDC, the Commission should consider the extent to which the use:

- is consistent with the policies of the Comprehensive Plan and the general intent of the zoning district;
- is compatible with the character and integrity of adjacent developments and neighborhoods;
- includes improvements to mitigate development-related adverse impacts; and
- does not generate pedestrian or vehicular traffic which is hazardous or conflicts with existing traffic in the neighborhood.

Conditions may be attached to the CUP that the Commission deems necessary to mitigate adverse effects of the proposed use and to carry out the intent of the Code.

**Prepared by:**

Alison Brake, CNU-A

Planner

October 12, 2016

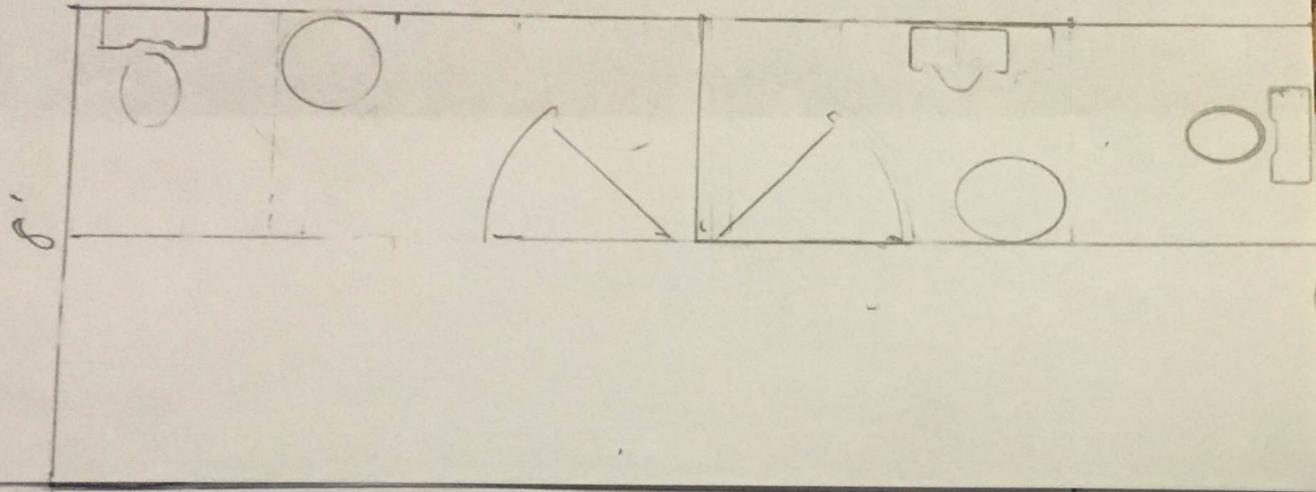
**Name**

**Title**

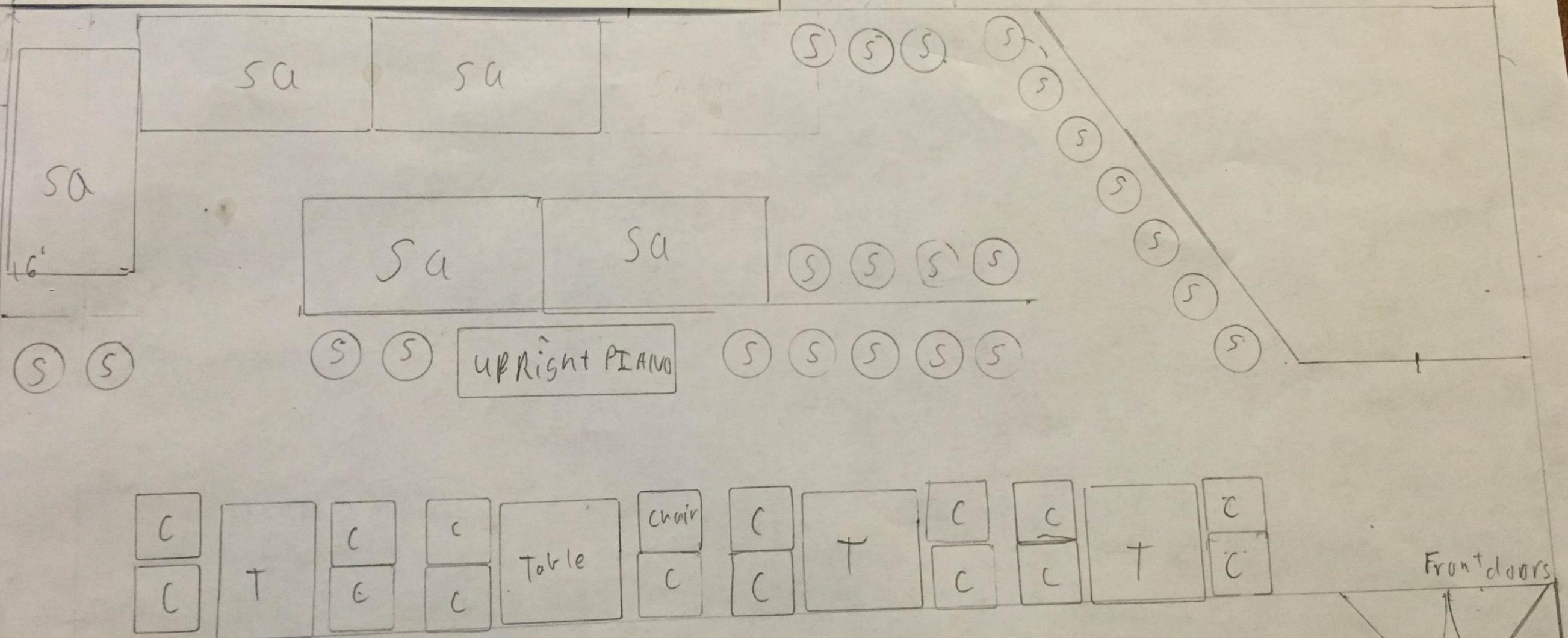
**Date**



20



sofa = sa  
 Table = T  
 Chairs = C  
 Stalls = S  
 1/4" = 1'



Scale 1/4" = 1'

Deck

City of San Marcos

CONDITIONAL USE PERMIT APPLICATION
To Allow On-Premise Consumption of Alcoholic Beverages
Outside the Central Business Area

LICENSE INFORMATION

Trade Name of Business: The Still

Application is filed by:

[X] Individual [ ] Partnership [ ] Corporation [ ] Other:

Name of Individual or Entity: Charles Valdez Phone Number: 210-544-9515

Mailing Address: P.O. Box 380452 San Antonio TX 78268

Email Address: ~~Charles~~ TheStill78065@gmail.com

Type of Permit Requested: [X] Mixed Beverage [ ] Beer & Wine [ ] Other:

PROPERTY

Street Address: 1617 Agave Springs Dr Current Zoning: GC

Legal Description: Lot SA Block B Subdivision Westfield Resear

Tax ID Number: R 47399

Property Owner's Name: Dale Grayson Phone Number: 713-305-0553

Address: 21 Olympia Pr Pasadena Texas 77505

BUSINESS DETAILS

Primary Business Use: [ ] Restaurant [X] Bar [ ] Other:

Hours of Operation: 6 pm - 2 am

Type of Entertainment Facilities: Washers, Horse shoes, 4 Hramate Bench

Indoor Fixed Seats Capacity: 27 Outdoor Fixed Seats: 20

Gross Floor Area Including Outdoor Above-ground Decks: 1280 Square Feet

Number of Off-Street Parking Spaces Provided: 50

Located more than 300 feet from church, public school, hospital, low density residential? [X] Y [ ] N



## Legislation Text

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**File #:** CUP-16-28, **Version:** 1

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**AGENDA CAPTION:**

CUP-16-28 (Certified Auto Exchange) Hold a public hearing and consider a request by Brian Quigley, on behalf of Certified Auto Exchange, for a Conditional Use Permit to allow the use of Auto Dealer - Used Auto Sales in a Community Commercial (CC) zoning district located at 1420 South IH 35. (A. Brake)

**Meeting date:** October 25, 2016

**Department:** Planning and Development Services

**Funds Required:** N/A

**Account Number:** N/A

**Funds Available:** N/A

**Account Name:** N/A

**CITY COUNCIL GOAL:** N/A

**COMPREHENSIVE PLAN ELEMENT(s):** N/A

**BACKGROUND:**

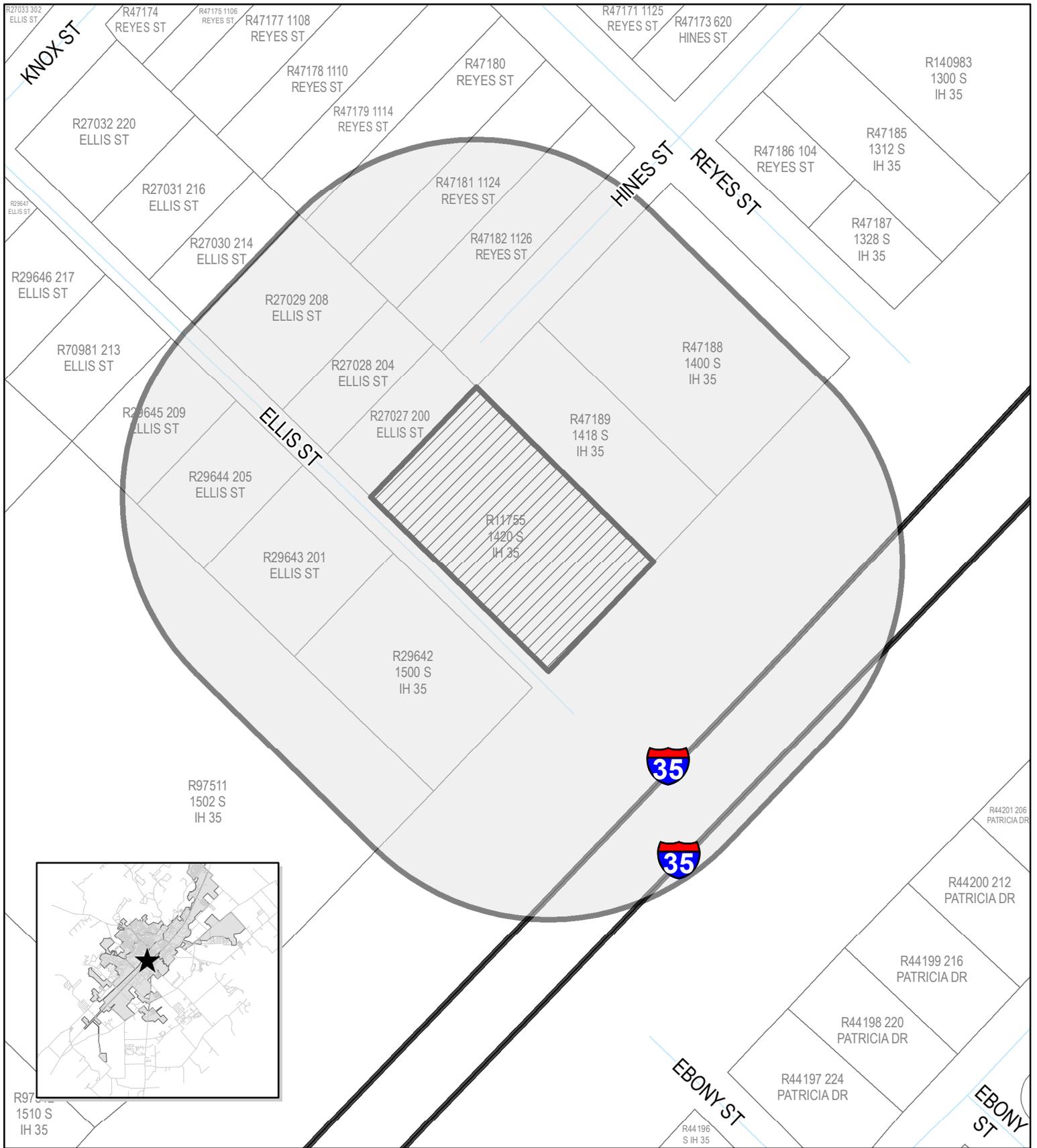
The subject property is located at the corner of the southbound IH 35 frontage road and Ellis Street. The site was utilized as a pawn shop previously and is currently vacant. The applicant proposes to open a used car dealership on the property with an inventory of approximately fifteen cars. The proposed hours of operation will be Monday through Saturday, 9:00 a.m. to 7:00 p.m., closed on Sunday. The applicant is proposing to use the existing building on the site as an office and will park the inventory in front of that building. The site plan shows an area for customer and employee parking behind the existing building. The existing sign on the site will remain and will be refaced. There is an existing six foot tall chain link fence that is proposed to remain that runs the entire property. The site plan shows that a landscape barrier will also remain at the rear of the property along with a large area of open space that will be unused. If the CUP is approved, site improvements will include new asphalt or concrete paving and lighting for the employee and customer lot.

Staff provides this request to the Commission for your consideration and recommends **approval** of the Conditional Use Permit with the following conditions:

- 1. No auto repair services are allowed on site;**
- 2. The barbed wire shall be removed from the existing chain link fence unless approved under Section 6.1.3.3(b)(3) of the Land Development Code;**
- 3. A six foot tall privacy fence shall be installed at the rear of the property per Section 6.1.2.1(b);**
- 4. The “car inventory parking” as designated on the site plan shall be screened in accordance**

**with Section 6.1.2.2 - Parking Area Screening; and**

- 5. The property may not be used as a tow yard, vehicle storage, or impoundment.**

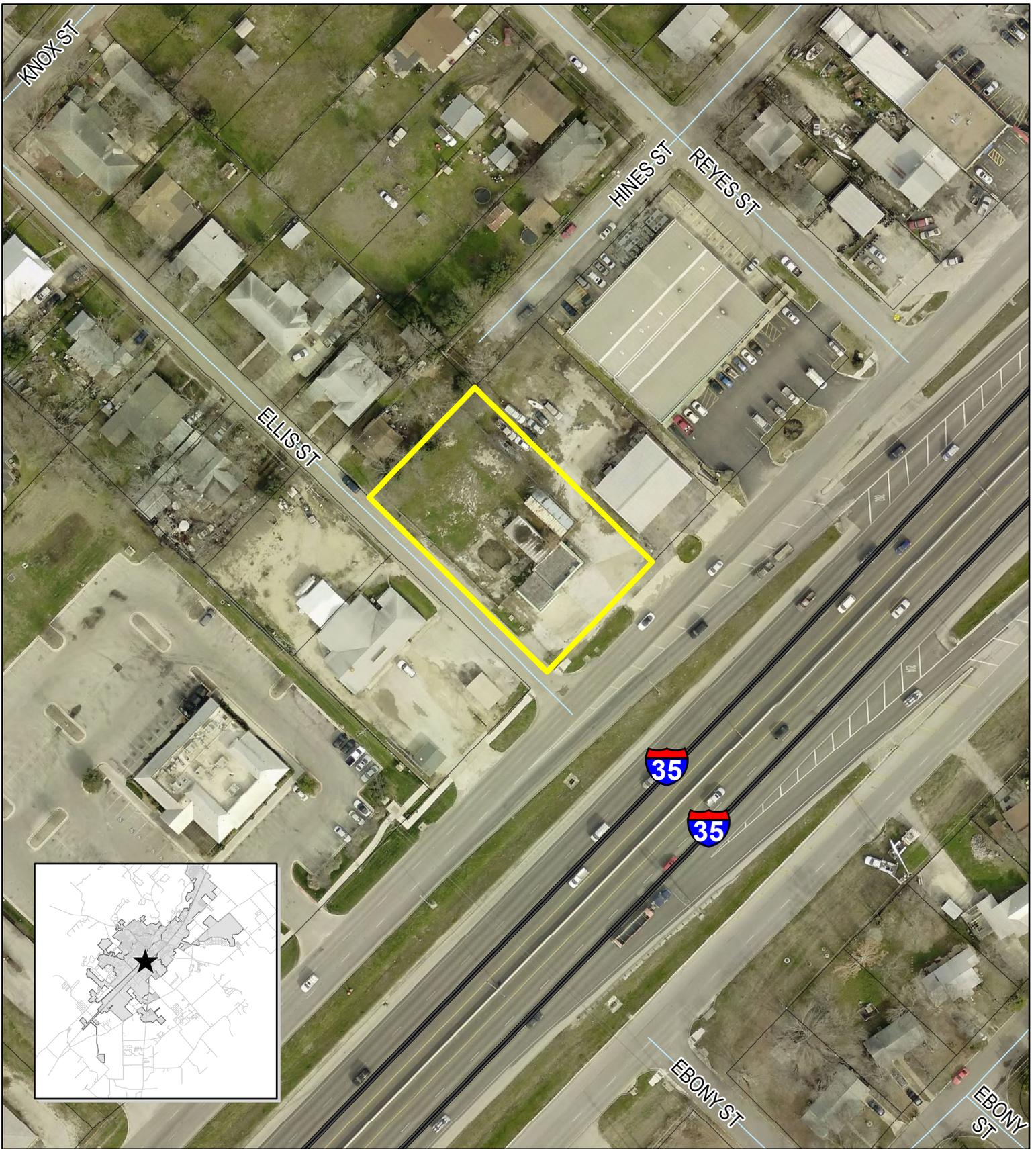


**CUP-16-28**  
**Certified Auto Exchange**  
**1420 S IH-35**  
**Map Date: 10/12/2016**

-  200 ft Buffer
-  Site Location



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.



**CUP-16-28**  
**Certified Auto Exchange**  
**1420 S IH-35**  
**Map Date: 10/12/2016**

 Site Location



0 75 150 300 Feet



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**Conditional Use Permit  
CUP-16-28  
1420 South IH 35  
Used Car Dealership**



**Applicant Information:**

Applicant: Brian Quigley  
Certified Auto Exchange  
2405 Lifehaus Industrial Dr., #110  
New Braunfels, TX 78130

Property Owner: W-San Marcos, L.L.C.  
Lori Cobb  
2730 SW 3<sup>rd</sup> Avenue, Suite 800  
Miami, FL 33129

Applicant Request: A Conditional Use Permit (CUP) to allow a used car dealership in a Community Commercial (CC) zone

Notification: Public hearing notification mailed on October 14, 2016

Response: None as of report date.

**Subject Property:**

Location: 1420 South IH 35

Legal Description: Juan M. Veramendi Survey, Tract 73, Acres 0.56 \* Pt of Lot 3 Weatherford Subdivision

Frontage On: IH 35 Frontage Road and Ellis Street

Neighborhood: Victory Gardens

Existing Zoning: Community Commercial

Preferred Scenario: Area of Stability

Sector: Sector 4

Utilities: Existing

Existing Use of Property: Vacant Structure

Proposed Use of Property: Used Car Dealership

Zoning and Land Use Pattern:

	<b>Current Zoning</b>	<b>Existing Land Use</b>
<b>N of Property</b>	HC	Auto Repair (Transmission Repair)
<b>S of Property</b>	GC	Mobile Home Parts and Supplies store
<b>E of Property</b>	MU	Single-family residences (across the highway)
<b>W of Property</b>	SF-6	Single-family residences

### **Code Requirements:**

A conditional use permit (CUP) allows the establishment of uses which may be suitable only in certain locations or only when subject to standards and conditions that assure compatibility with adjoining uses. Conditional uses are generally compatible with permitted uses, but require individual review and imposition of conditions in order to ensure the appropriateness of the use at a particular location.

The Land Use Matrix lists "Auto Dealer – Used Auto Sales" as conditional in Community Commercial.

### **Case Summary**

The subject property is located at the corner of the southbound IH 35 frontage road and Ellis Street. The site was utilized as a pawn shop previously and is currently vacant. The applicant proposes to open a used car dealership on the property with an inventory of approximately fifteen cars. The proposed hours of operation will be Monday through Saturday, 9:00 a.m. to 7:00 p.m. They will be closed on Sunday. The applicant is proposing to use the existing building on the site as an office and will park the inventory in front of that building. The site plan shows an area for customer and employee parking behind the existing building. The existing sign on the site will remain and will be refaced. There is an existing six foot tall chain link fence that is proposed to remain that runs the entire property. The site plan shows that a landscape barrier will also remain at the rear of the property along with a large area of open space that will be unused. If the CUP is approved, site improvements will include new asphalt or concrete paving and lighting for the employee and customer lot.

### **Comments from Other Departments:**

No other comments or concerns from other departments were received.

### **Planning Department Analysis:**

The subject property is zoned Community Commercial and is located in an Area of Stability on the Preferred Scenario; there are existing single family residences that are located behind the subject property. Auto related uses are common along the IH 35 corridor, such as the auto transmission repair shop adjacent to the subject property. Similar uses are allowed by right in Community Commercial including General Vehicular Sales and Service, Auto Supply Store, Auto Muffler Shop, Auto Tire Repairs, and Full Service Car Wash. The proposed use is potentially less disruptive than some uses currently allowed by right.

The business hours are compatible with surrounding uses and traffic generation from the use is not considered to be disruptive or hazardous in this area.

Landscaping requirements will not apply unless improvements to the structure exceed 50% of its rebuild cost. Based on the information submitted with the application, Staff does not expect this threshold to be reached. However, Staff feels that additional improvements to the site can decrease potential detrimental impacts on surrounding properties. Improving the landscaping along the frontage road and removal of existing barbed wire will enhance the site's visual appearance. Per Chapter 6, Article 5 of the Land Development Code, no light from the commercial use will be allowed to trespass onto adjacent residential properties. The applicant will have to show that the new parking area will not exceed the site's 80% impervious cover limitation at the time of site permitting. While there is a large area of open space between the new parking area located behind the existing building that acts as a buffer between the site and the existing single-family residences, Staff finds that the addition of a six foot tall privacy fence, installed at the rear of the property, can increase the compatibility between the two uses.

**Staff provides this request to the Commission for your consideration and recommends approval of the Conditional Use Permit with the following conditions:**

- 1. No auto repair services are allowed on site;**
- 2. The barbed wire shall be removed from the existing chain link fence unless approved under Section 6.1.3.3(b)(3) of the Land Development Code;**

3. A six foot tall privacy fence shall be installed at the rear of the property per Section 6.1.2.1(b);
4. The “car inventory parking” as designated on the site plan shall be screened in accordance with Section 6.1.2.2 – Parking Area Screening; and
5. The property may not be used as a tow yard, vehicle storage, or impoundment.

Planning Department Recommendation:	
	Approve as submitted
X	Approve with conditions or revisions as noted
	Alternative
	Denial

**The Commission's Responsibility:**

The Commission is required to hold a public hearing and receive comments regarding the proposed Conditional Use Permit. After considering public input, the Commission is charged with making a decision on the Permit. Commission approval is discretionary. The applicant, or any other aggrieved person, may submit a written appeal of the decision to the Planning Department within 10 working days of notification of the Commission’s action, and the appeal shall be heard by the City Council.

The Commission’s decision is discretionary. In evaluating the impact of the proposed conditional use on surrounding properties, the Commission should consider the extent to which the use:

- The proposed use at the specified location is consistent with the policies embodied in the adopted Comprehensive Plan;
- The proposed use is consistent with the general purpose and intent of the applicable zoning district regulations;
- The proposed use is compatible with and preserves the character and integrity of adjacent developments and neighborhoods, and includes improvements either on-site or within the public rights-of-way to mitigate development related adverse impacts, such as traffic, noise, odors, visual nuisances, drainage or other similar adverse effects to adjacent development and neighborhoods;
- The proposed use does not generate pedestrian and vehicular traffic which will be hazardous or conflict with the existing and anticipated traffic in the neighborhood;
- The proposed use incorporates roadway adjustments, traffic control devices or mechanisms, and access restrictions to control traffic flow or divert traffic as may be needed to reduce or eliminate development generated traffic on neighborhood streets;
- The proposed use incorporates features to minimize adverse effects, including visual impacts, of the proposed conditional use on adjacent properties; and
- The proposed use meets the standards for the zoning district, or to the extent variations from such standards have been requested, that such variations are necessary to render the use compatible with adjoining development and the neighborhood.

Conditions may be attached to the CUP that the Commission deems necessary to mitigate adverse effects of the proposed use and to carry out the intent of the Code.

**Prepared by:**

Alison Brake, CNU-A

Planner

October 12, 2016

**Name**

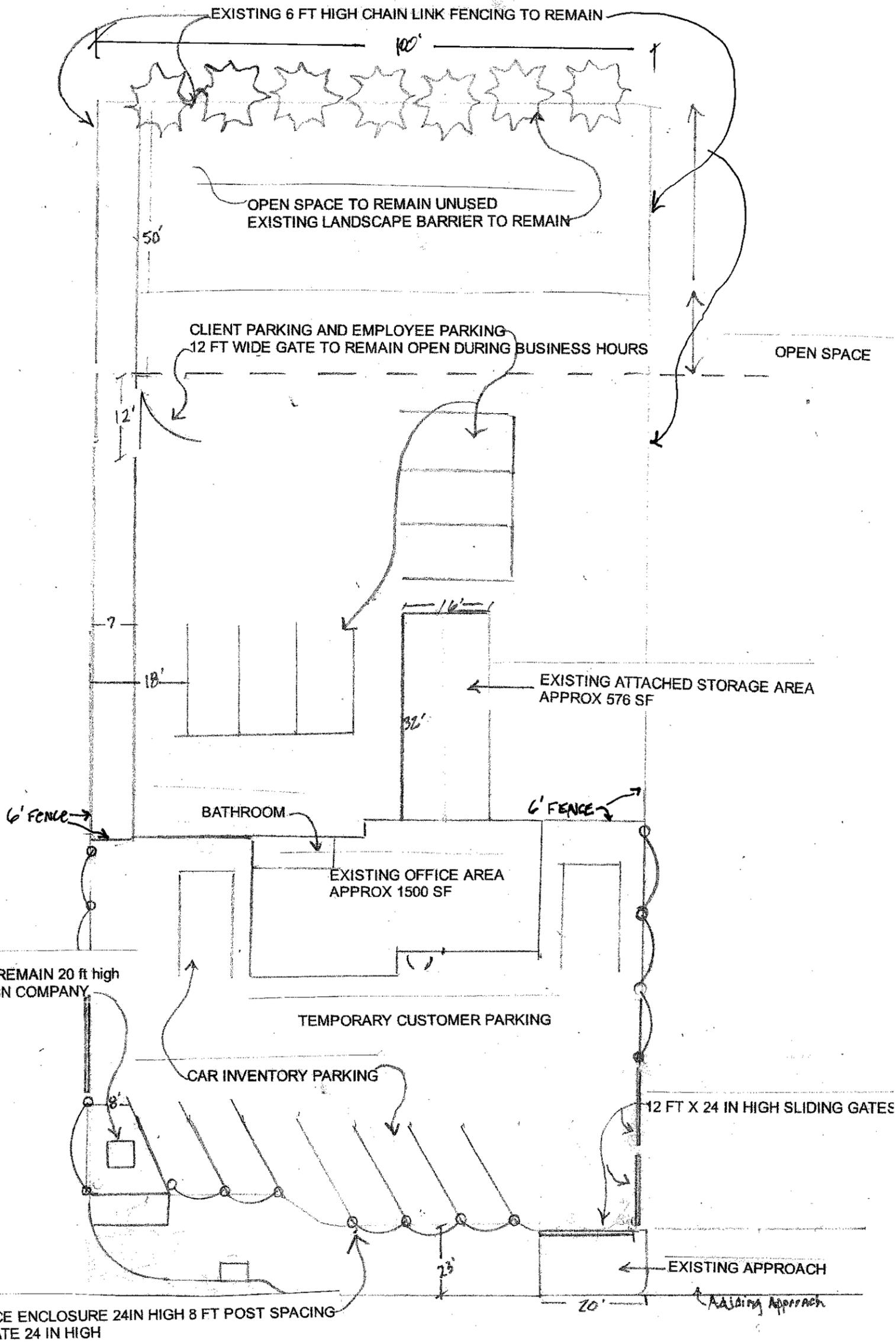
**Title**

**Date**

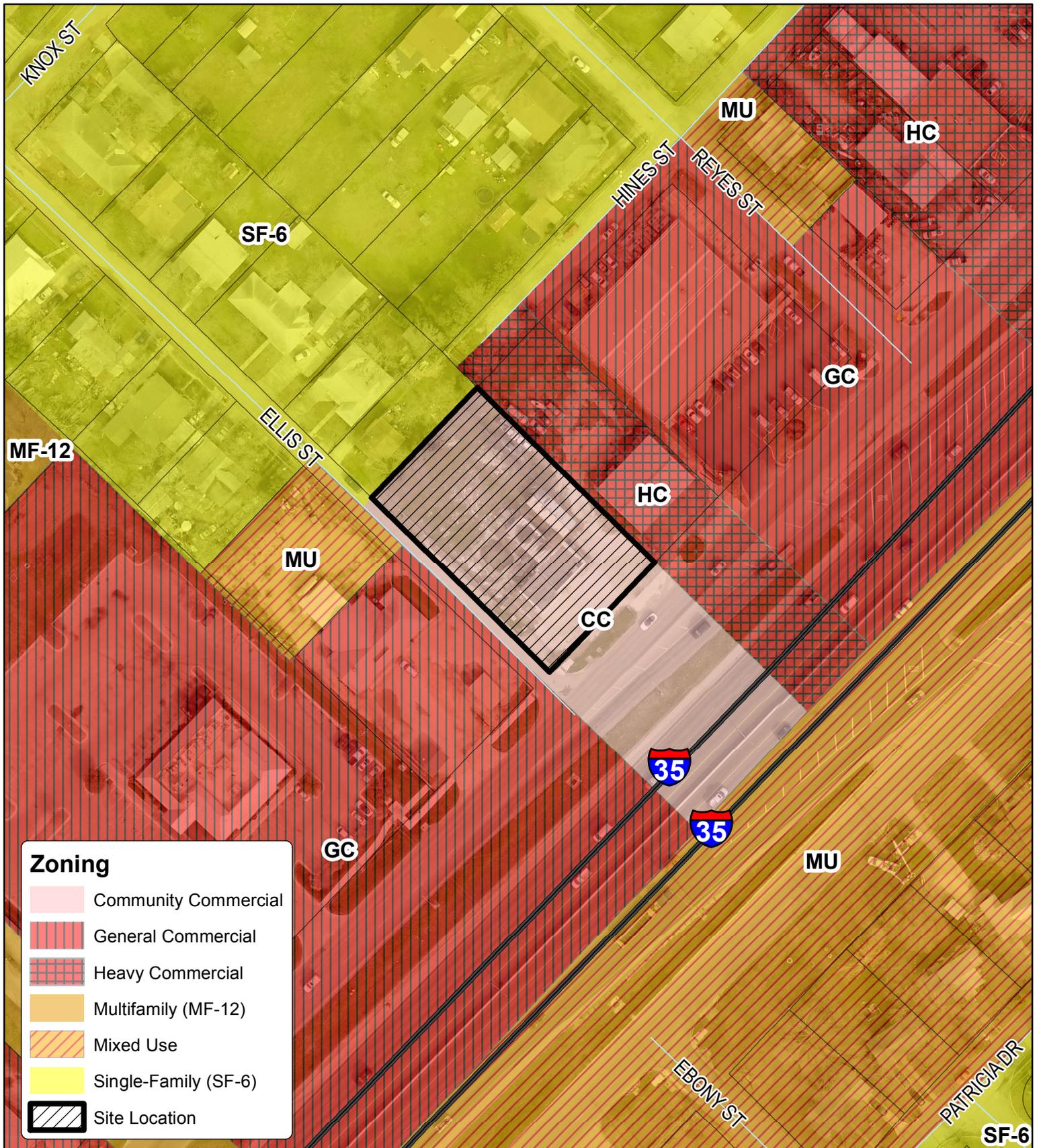
PLOT PLAN  
PARKING LAYOUT  
AUTO INVENTORY LAYOUT

BUSINESS HOURS  
MONDAY TO SATURDAY 9AM TO 7PM  
CLOSED SUNDAYS

\*\*\*\*\*NOTE NO CHANGE TO IMPERVIOUS COVERAGE



NEW POST AND CABLE FENCE ENCLOSURE 24IN HIGH 8 FT POST SPACING  
16 FT WIDE SLIDING PIPE GATE 24 IN HIGH



**CUP-16-28**  
**Certified Auto Exchange**  
**1420 S IH-35**  
**Map Date: 10/18/2016**



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Begin forwarded message:

**From:** Lori Cobb <[loricobb@keyes.com](mailto:loricobb@keyes.com)>  
**Date:** September 9, 2016 at 9:50:35 AM CDT  
**To:** Cari Patterson <[cari@vancejelliottrealty.com](mailto:cari@vancejelliottrealty.com)>  
**Subject:** RE: 1420 S IH 35, San Marcos, TX

Date: 09/09/2016

W-San Marcos, LLC  
2730 SW 3rd Avenue, Suite 800  
Miami, FL 33129

RE: Conditional Use Permit for the property located at 1420 S. IH 35, San Ma

This letter is confirm that W-San Marcos, LLC (Stig Wennerstrom, president) i:  
Authorized expected use is a Used Auto Sales business.

If any additional information is required contact W-San Marcos, LLC.

W-San Marcos, LLC  
Lori Cobb  
2730 SW 3rd Avenue, Suite 800  
Miami, FL 33129  
[954-501-5674](tel:954-501-5674)

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