



**REGULAR MEETING OF THE
SAN MARCOS PLANNING AND ZONING COMMISSION**

Tuesday, January 24, 2012, 6:00 p.m.
City Council Chambers
630 E. Hopkins Street

*Bill Taylor, Chair
Bucky Couch, Vice-Chair
Randy Bryan, Commissioner
Curtis O. Seebeck, Commissioner
Chris Wood, Commissioner
Travis Kelsey, Commissioner
Kenneth Ehlers, Commissioner
Carter Morris, Commissioner
Corey Carothers, Commissioner*

AGENDA

1. **Call to Order.**
2. **Roll Call.**
3. **Election of Officers:**
 - a. **Chair**
 - b. **Vice-Chair**
4. **Chairperson's Opening Remarks.**
5. ***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;*
6. **30 Minute Citizen Comment Period.**

Consent Agenda:

7. **Consider the approval of the minutes from the Regular Meeting on December 13, 2011.**
8. **PC-11-01(02) (Windemere)** Consider a request by Vigil & Associates, on behalf of Vinson Wood and Robert Haug for a Preliminary Plat for 74 lots on approximately 235 acres, located at 200 Lime Kiln Road.

Public Hearings:

9. **CUP-12-02 (Texas Music Theater)** Hold a public hearing and consider a request by San Marcos Entertainment, L.L.C., for renewal of an Unrestricted Conditional Use Permit to allow the sale of mixed beverages for on-premise consumption at 120 E. San Antonio Street.

10. **PDA-11-03 (Lazy Oaks Ranch)** Hold a public hearing and consider a request by ETR Development Consulting on behalf of Lazy Oaks Ranch, L.P., for a petition for a development agreement for approximately 1,396.9 acres out of the W. Burke Survey, Abstract No. 68, the W. Smithson Survey, Abstract No. 419, the J. Williams Survey, Abstract No. 43, and the J. Huffman Survey, Abstract No. 228, located off of Ranch Road 12 west of Wonder World Drive.
11. **A-11-03 (S. LBJ Drive & Guadalupe Street)** Hold a public hearing and consider a request by Richard E. Kinsey for the abandonment of a 285.86' X 16.67' undeveloped alleyway between S. LBJ Drive and S. Guadalupe Street and bound by the Donaldson Right-of-Way to the north and railroad tracks to the south.
12. **LUA-11-23 (Hillside Ranch Phase 2)** Hold a public hearing and consider possible action on a request by ETR Development Consulting, on behalf of Jared Shenk and Dan Anderson, for a land use map amendment from Low Density Residential (LDR) to Medium Density Residential (MDR) for 10.925 acres located at 1410 N. LBJ Drive.
13. **ZC-11-37 (Hillside Ranch Phase 2)** Hold a public hearing and consider possible action on a request by ETR Development Consulting, on behalf of Jared Shenk and Dan Anderson, for a zoning change from Single Family Residential (SF-6) to Multi-Family-12 (MF-12) for 10.925 acres located at 1410 N. LBJ Drive.
14. **PDD-11-11 (Hillside Ranch Phase 2)** Hold a public hearing and consider possible action on a request by ETR Development Consulting, on behalf of Jared Shenk and Dan Anderson, for a Planned Development District Overlay (PDD), with a base zoning of Multi-Family-12 (MF-12) for 10.925 acres located at 1410 N. LBJ Drive.

Non-Consent Agenda:

15. Receive presentation from staff regarding new permit software.
16. Discussion regarding policy establishing the timeframe when items can be considered by the City Council after going before Planning and Zoning Commission.
17. **Suggestions for future agenda items.**

Commission members and staff may discuss and report on items related to the Commission's general duties and responsibilities. The Commission may not take any vote or other action on any item other than to obtain a consensus regarding items that will be placed on future agendas for formal action.

18. Development Services Report

1. **Agenda Process**
2. **Level of Service**
3. **Downtown Architectural Standards**

19. Questions from the Press and Public.

20. Adjourn.

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**MINUTES OF THE REGULAR MEETING OF THE
SAN MARCOS PLANNING AND ZONING COMMISSION
COUNCIL CHAMBERS, CITY HALL
December 13, 2011**

1. Present

Commissioners:

Bill Taylor, Chair
Bucky Couch, Vice Chair
Sherwood Bishop
Kenneth Ehlers
Carter Morris
Chris Wood
Curtis Seebeck
Randy Bryan
Travis Kelsey

City Staff:

Matthew Lewis, Development Services Director
Francis Serna, Recording Secretary
John Foreman, Chief Planner
Christine Barton-Holmes, Chief Planner
Alison Brake, Planner
Abigail Gillfillan, Planner
John Stanley, Planner

2. Call to Order and a Quorum is Present.

3. Chairperson's Opening Remarks.

4. 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. Citizen Comment Period

Camille Phillips, Franklin Drive stated that if we want to keep people in our neighborhood we need to keep them healthy enough to stay in their homes. Ms. Phillips is teaching courses in How to Not Fall for people over the age of sixty. She explained that the course is offered by Texas State and is free. The first course will be held at First Lutheran on January 4th, Monday and Wednesday afternoon. She asked anyone interested to call First Lutheran Church at 392-2064. Ms. Phillips asked the Commission to vote against the Sessom-Loquat rezoning and others such as the Holland rezoning. She added that she supports students attending Texas State. She pointed out that the city needs to remain a community and wants people to live in San Marcos for a long time. Ms. Phillips mentioned that there are plenty of properties available that can be developed.

Ed Bolton, owner of Nexis Medical Consultant located at 101 Thermon Drive. He said he is before the Commission as a business owner and that he has an independent prospective. He pointed out that he does not do retail and does not have ties to the development. He said he employs people. Mr. Bolton added that we do need to educate people and keep them coming to Texas State but we need to keep people here and show them we are investing in them while they are students. Mr. Bolton stated that he does not want to speak on the negatives. He pointed out that there are a lot of valid points and also faults spread about the project. He added that we need to invest in our properties. Mr. Bolton brought up a couple of points that the project is a green project which takes care of Sessom Creek and the environment; project brings in much needed tax revenue.

Patrick Rose, 627 W. San Antonio Street asked what are you going to do with 14 acres across from the 36th largest university in the country? He stated that he strongly supports the project. He explained that the developer cares about the University and town; he is committed to the project; the developer has dedicated 5 acres of parkland; job creation that result in tax base which will be substantially beneficial to the community; our community success is related to Texas State success and vice versa. Mr. Rose pointed out that there is an opportunity for both the City and the University to thrive in this community. He explained that the University needs projects of this caliber. He added that in his opinion it is logical to have multi-family mixed use and student housing projects adjacent to the university. Mr. Rose asked the Commission for their support.

Chris Harness, 308 E. Melrose San Antonio, TX, Managing Director of the Casey Development Multi-family Group. Mr. Harness clarified that the project was originally named North Campus but the developer was informed that the name was used for a Texas State project directly across the street. He pointed out that there is no relation to their project and Texas State. Mr. Harness gave a brief overview of Casey Development based out of San Antonio, TX. He explained that they have constructed outstanding projects. They have state of the art design and construction process. Mr. Harness said he believes that this is a totally transparent project and they feel they have gotten the word out. He mentioned that as they continue to work with the community, they have incorporated several suggestions that city staff has come up with as well as the community. Mr. Harness asked for the Commission's support.

Greg Gibson, 814 Arron Parkway, San Antonio TX, Development Director for the Casey Development stated he will oversee the retail part of the project. He explained that they have had strong interest from tenants. He stated they are targeting nicer sit down restaurants, fast casual concepts, service oriented retail that would serve the community as well as the students. Mr. Gibson added that they are looking at speaking to people for coffee shops, smoothie businesses and book stores. He explained that the outdoor plaza will have multiple public seating and free Wi-Fi for the public. Mr. Gibson said they have received positive feedback and comfortable with community. He asked the Commission for their support.

Ted Barclay, 10403 Mt. Marey, San Antonio, TX. The Vice President of Design-Construction for Casey Development and Baxter Contracting explained that they have had many meetings with surrounding residents and many concerned interest groups. He stated that the building is a four story building, not seven stories. Mr. Barclay pointed out that they have removed detention as proposed; the development was 600 units now modified to 419 units; in addition they are modifying the design to improve the green nature of the project; the 12/24' water line will be outside of the retaining wall; the filtration will be handled by LID and LEED methods as suggested by Bill Couch and other city staff; bioswales, tree wells and roof gardens and terrace on the northeast corner that will have side drainage from the Scheib property. Sessom Creek will limit height to 10'. Mr. Barclay stated they will continue to review suggestions by the community and welcome any constructive comments.

Darren Casey, 405 Eldon, San Antonio, TX, stated he is involved for the long term with the City of San Marcos and the University, thanked the P&Z and knows it is difficult for all and is here to say he is involved for the long term with the City of San Marcos and Texas State University. Mr. Casey said he has instructed his team to build the best project for San Marcos and Texas State but also for it to be the greenest project possible that will allow it to be used as an example throughout the country and to show the transparency and involvement with the community. He added that they have reached out to the citizens that are concerned for the river and have considered their comments to make the project as sustainable as possible. Mr. Casey commented that no one loves the creek and river more than he does. They are going to do everything

scientifically possible to preserve the creek and river. He thanked everyone for their involvement and the opportunity. He asked the Commissioners for their support.

Steve Ramsey, Ramsey Engineering 3206 Yellow Pine Terrace, Austin Texas said he will speak on the civil engineering aspects of the project. He explained that they are no longer requesting storm water in the creek detention and is happy to report that they are going to provide onsite storm water detention within the project footprint. He added that the project limit of construction will not include disturbance of the existing creek. He reported that he is coordinating with the San Marcos River Foundation and their Engineering Consultant which will provide a second layer of review in addition to the city. Mr. Ramsey added that they have received a letter from the consultant and have made a preliminary review of the letter. He added that they disagree with the findings but will work with the issues and concerns raised and will come to a good solution for the project. He mentioned that they do agree with the Summary in which the State and City have mitigation regulations. Mr. Ramsey explained that the PDD does address mitigation aspects and does exceed State and Local Code requirements. He pointed out that he is contracted through the developer to provide the TPDS permit inspections during construction. He explained that he will inspect the erosion controls within 24 hours of each half inch rainfall or greater. He said if there is no rain he will be out on site every 14 days. He further explained he will write a report of the inspection and provide to the general contractor. Mr. Ramsey added that there will be daily logs.

Buck Scheib 503 Loquat stated that his property includes the 4.5 acres designated to become parkland. He explained when bars close at night, Loquat Street is used for people to go to apartments located behind them. He added that there have been ten accidents at night in the past eight years on Loquat. Mr. Scheib further explained that there are four houses on Loquat which two are empty. He pointed out that the area is no longer a neighborhood. They have listened to the concerns of the neighbors but no one has taken into consideration of the needs for the current Loquat residents. He explained that his family has been and is currently involved in many civic programs and always treats others with class and dignity. In addition they have been a steward of the land for 60 years but feels this is the time and proper way to let it go.

Harriet Raney, 328 Bluffcrest, San Antonio, Texas explained that her parents, Helen and Bob Van Gundy purchased 301 and 303 Loquat and two lots across the street. She explained how she grew upon the property and loved it. She said they have explored the property for four generations and have shared it with her children and grandchildren. Ms. Raney said they have listened and weighed carefully the proposals given by developers and did nothing until they heard from Darre Casey. She added that they investigated his quality of development. They feel it will stand the test of time. She added that this project will enhance the neighborhood. Ms. Raney stated that Darren Casey is involved emotionally, physically and financially with Texas State and the City of San Marcos. She asked the Commission to consider the request.

Melissa Derrick, 109 Kathryn Cove, Franklin Square stated they were currently rezoned from Low Density to Commercial and is not happy there and not happy that it is spreading throughout San Marcos. Ms. Derrick asked what considerations are being made to the Horizons Master Plan. She explained that when current property owners purchased their property they were under the impression that the area would be single family. She said she does not understand why the rezoning is being considered. Ms. Derrick also felt that the development would impact the river and damage the Edward's Aquifer. She asked the Commission to consider the Horizons Master Plan and what was promised to the citizens of San Marcos when making a decision for the request.

Jan Rudnicki, 123 Rideway Drive stated she was not present to talk about the Casey development but wants to speak as a representative of the west side of San Marcos. She said that she attended a meeting with the developers on the 5th. Ms. Rudnicki stated there was several issues discussed. She pointed out that that traffic has the most impact. She provided maps to the Commissioners for their review. She mentioned that the developers said they were going to redesign streets and that the city is going to pay for the redesign. Ms. Rudnicki added that a citizen commented if that is the case the citizens will pay for it. Ms. Rudnicki stressed on the impact on traffic that will occur with the Casey Development. She asked the Commission to please not consider the project.

Diane Wassenich, 11 Tanglewood advised the Commission that she has provided them with an email attachment through staff of the Dr. Lauren Ross report regarding Engineering Review of Water Quality and Drainage Issues Associated with the Proposed Casey Development. She pointed out the difference between this project and the Conference Center which was proposed for above Spring Lake is that a great location was found for the Conference Center that will not harm the river. Ms. Wassenich hopes this could also happen for this project. Ms. Wassenich read the summary of Dr. Ross' report which states that the proposed PDD will significantly contribute to increase storm flows that would tear out the banks and pour more dirt into the river. The effect of the changes would not be fully mitigated by the terms in the proposed PDD entitlement agreement because of the size of the development, its high impervious cover and location in sensitive head water of the creek and slope of land. She continued to say that the potential likelihood of erosion, flooding, water quality of degradation is correspondently high. The State and the City regulations nor this proposed development agreement require mitigation of these consequences. Ms. Wassenich pointed out that we do not have the specifics of the agreement to make a decision at this time. She urged the Commission to get the information and understand the charts and graphs that Dr. Ross provided before a decision is made. She stated she would not address traffic issues because the river is the real issue that should be addressed.

Jim Harrison, 111 Canyon Road stated he has lived there for thirty five years. He does not want project in his neighborhood. He asked why anyone would allow a multi family project in a single family neighborhood. Mr. Harrison asked that they move the project to a different location because he and his neighbors do not want it in their neighborhood.

Vincent Debrock, 100 W Hillcrest said he heard about the project two-three weeks ago. He said he moved to San Marcos in 98'. He added that the river and lake make San Marcos and without it the campus would not be here. Mr. Debrock mentioned that development at the top of the river should be carefully considered when it impacts the river and a residential neighborhood. He pointed out that 80% impervious cover will make the water flow go to retention pond and be a loss for the recharge area. He said we are at a time when everyone is talking about water conservation and should consider projects that focus on water conservation. Mr. Debrock there is a counter proposal for a nature preserve. He pointed out that there are currently 14,000 beds in apartments and multi-family development many of which are located near his neighborhood. Mr. Debrock stated we don't need more beds.

Jim Garber, 104 Canyon Fork heard the best way to approach this development is to keep emotions low and keep to the facts. He felt that facts are nonexistent. He pointed out that once again they had heard a new plan for the water detention. Mr. Garber pointed out that no one has done a pedestrian study. He said there are currently 1000 people crossing on Sessom and that is a big problem. Mr. Garber felt that a pedestrian study is as important as a traffic study. He asked where the study for security in the park was; how is the development going to be controlled or patrolled? Mr. Garber asked if the new development would compare to Sagewood with all the trash. He asked about the impact of noise, where is the study on noise and the stability of the hillside. He said we have a long way to go to finding the facts. He said he is not asking the Commission to vote no but asked the Commission to table the request until they can get more information. If no more information is provided then the right thing to do is vote no.

Larry Mock, 107 Canyon Road asked if any of the Commissioners have walked the walk from Alamo Street to LBJ through the woods on Sessom Creek. He urged the Commission to take the walk before making any zoning changes. Mr. Mock stated that somehow we have been convinced that more is better but better is a better judge of quality of life than quantity of life. Quality of life is different from most cities. He explained that Mensor Corp. moved to San Marcos for the quality and quantity but know that quantity only follows quality products. He felt that we can do more with less. He suggested that more manufacturers will move to San Marcos if they believe quality of life trumps the quantity of development that we have. Mr. Mock encouraged the Commission to walk this walk before voting on any zoning changes.

Jaimy L. Breihan, 134 E. Hillcrest, said he knows that the landowners want to sell their property and it's all about money. He said there should be a plan but developing the property is not the plan. He pointed out the property has been untouched for 1000's of years other than the kids that ran around on the property. He added that the canyon goes down to the river and that the natural resources will be gone. Mr. Breihan stated that the development will degrade the quality of life in the neighborhood. He added that there is currently plenty of empty building in San Marcos. He stated the development will not enhance the city and does not

see the need to build in the area. Mr. Breihan said there are plenty of other properties to build buildings but not in that location.

Maeghen Strahm, 1328 Chestnut Street stated she has been in the construction industry for 9 years and has her own business doing water quality, watershed and environmental remediation and water mediation for City of Austin. She remediates the water quality detention ponds similar to one showing on the site plans. Ms. Strahm mentioned that she currently does not work in San Marcos because San Marcos does not have very strict water quality regulations in place. She thinks that the Planning & Zoning Commission needs to look at the water quality that is in place now for a project of this size. Ms. Strahm stressed that the environmental studies need to be looked at. She is concerned what the development will do to the value of her home. She added that the area is currently fighting R1 zoning. The inconsistency of the project is also an issue. Ms. Strahm felt that the project should be postponed because there are not enough facts and needs more studying and public awareness for a project of this size.

Carlos Cedilla, 1200 MLK provided the Commission with pictures of the property. He said it was the heart of the land. Mr. Cedilla deferred the remainder of his time to Nancy Moore.

Nancy Moore, 15 Tangelwood asked the Commissioner to protect San Marcos and the Historic River. She called the city attorney and asked the definition of spot zoning. She said the city attorney responded that no one on city staff has ever asked him the questions. She suggested that staff find out the definition of spot zoning. Ms. Moore read the definition she found on the internet for spot zoning. She explained and expressed concerns regarding the increase in traffic to Sessom. She asked the Commission to stop the insanity.

6. Discussion regarding the joint Planning and Zoning Commission and City Council workshop related to Population Analysis and Future Growth Areas and provide direction to staff.

Staff reported the need to reach consensus on the city's population and asked the Commission in what direction to do they want to see growth for the upcoming Comprehensive Plan. The Commission recommended that staff encourage growth to east rather than the Hill Country and also to determine the fiscal impact.

Consent Agenda

7. Consider the approval of the minutes from the Regular Meeting on October 25, 2011 and November 22, 2011.

8. PC-11-40 (South End San Marcos Section One) Consider a request by Carlson, Brigance, and Doering, on behalf of Carson Diversified Land 1, LLC, for a final plat for approximately 2.010 acres, more or less, located along the north side of Wonderland Drive between Stagecoach Trail and Corporate Drive.

MOTION: Upon a motion made by Commissioner Seebeck and a second by Commissioner Wood, the Commission approved on consent to approve the minutes of the Regular Meeting of November 22, 2011 with corrections and PC-11-40.

Public Hearing

9. CUP-11-18 (Black Rabbit Saloon (currently Dillinger's)) Hold a public hearing and consider a request by FSW Ventures, LLC, on behalf of WC Williams Estate, for an amendment to an Unrestricted Conditional Use Permit allowing on-premise consumption of mixed beverages at 127 E. Hopkins.

Chair Taylor opened the public hearing. Brian Scofield, representing FSW Ventures, LLC said he owns Bar 41 and the property at 141 E. Hopkins. He explained that they intend to upgrade the building similar to the request from Harper's Hall. He asked what the prerequisites for the renewals were after the initial approval. There were no additional citizen comments and the public hearing was closed.

MOTION: Upon a motion made by Commissioner Seebeck and a second by Commissioner Ehlers, the Commission voted on consensus to approve CUP-11-18 with the conditions that the permit shall be valid for one (1) year, provided standards are met, subject to the point system; all required permits shall be obtained, and all required inspections shall be performed.

10. CUP-11-19 (Zelicks) – Hold a public hearing and consider a request by Zelicks Inc., on behalf of Kevin Katz, for the renewal of a Conditional Use Permit allowing on-premise consumption of mixed beverages at 336 West Hopkins.

Chair Taylor opened the public hearing.

Chris Jones, 206 Kaybarn said he was present to speak on this issue because this was an issue he had left during his tenure at City Council. He said he was not in favor or against the request. He asked the Commission to make a recommendation to Council that they adopt some form of policy that addresses noise issues when there is a business next to another business. Mr. Jones added that we are all a community and we are here to see that everyone is successful. He suggested that conditions be added to the request if they request is approved.

Barry James owns the Young Building at 321 W. Hopkins which is a multipurpose building with apartments upstairs across from Crystal River Inn. He explained that when the original request was submitted it was not presented as an open outside bar. Mr. James pointed out that they did not explain that they would have garage doors that would open up and have loud music. He pointed out that the business fills up Mr. Tidwell's strip center parking lot located next to his property. He mentioned that he does not dislike students but does not like bar patrons that are very noisy. Mr. James said that the request was presented as a neighborhood bar similar to Cheers. He said he wished that the request was accurately presented. Mr. James said the owners say they have to make money but we have invested money since 1986 and he also needs to make money.

Naomi Braden, House Director for Alpha Delta Pi, 316 W. Hopkins was asked to read a letter for Dr. & Mrs. Tidwell, Pecan Plaza shopping center owners, located across the street from Zelick's. The Tidwell's were unable to be here tonight but have strong feelings about use of their property by Zelick's patrons. The letter further explained that when the Tidwell's developed their property they were required to prove there was enough parking for the centers. They felt that the Centers could have been bigger if city allowed them to utilize street parking and adjacent lots the same way Zelick's is doing. She pointed out that Zelick's does not have sufficient parking and feels it is unfair. In addition the center parking lots are jam packed after 11:00 p.m. many nights during the week with trash and insurance issues. The Tidwell's have asked them not to use the parking lot but it continues to happen. They wished Zelick's much success and respectfully asked City Government to treat all taxpaying businesses both old and new fairly. The Tidwell's feel they are being abused and the Zelick's should not be allowed to renew their permit but encouraged to build their late night business outside the city limits where there is plenty of parking and no neighbors to bother.

Ryan Perkins, 727 W. Hopkins thanked staff and the Commission for addressing the issue. He also thanked the Katz brothers for their success in San Marcos. He didn't think that the Katz brothers should be punished or treated differently than the last time they were before the Commission. Mr. Perkins added that they have made any concessions for the sake of being good neighbors and they deserve to be treated fairly. Mr. Perkins pointed out that there are a lot of issues with bars and noise. He explained that the property is surrounded by T5 zoning within the SmartCode District and should not be asked to restrict their games or reduce their hours. He added that he is a neighbor and a patron of the bar and thinks that most of his neighbors that live in the Heritage District frequent Zelick's. They also have people from out of town that ask them if they are interested in opening a bar similar to Zelick's in their city limits. Zelick's is a success and the two young entrepreneurs should be applauded and commended for their success. Mr. Perkins asked the Commission to renew the request for 3 years with no conditions.

Sandra Kirk, 811 Furman St., stated she attended a wedding at Crystal River Inn and was concerned because the beautiful occasion was ruined by noise from the bar. The noise was from the horseshoe throwing, motorcycle noise and loud music. She explained that they could not enjoy and hear the ceremony due to the noise from Zelick's. Ms. Kirk pointed out that guests were planning to stay at hotel but decided not to stay there because of the noise. The noise was so loud they could not enjoy the wedding. She asked why should we run out one business to accommodate another business.

Chase Katz, 225 Comanche, TX State Alumni and resident of San Marcos. He owns Dos Gatos Bakery and Zelick's with his brother Seth Katz. He explained that they own a home and a business within the SmartCode District. He said Seth and himself have large financial investment in San Marcos. Mr. Katz stated that they are 100% in compliance and have no violations. Mr. Katz strongly encouraged the Board to approve the CUP. He added that they understand the issues and prior to breaking ground they met with the Dillon's. He explained that both businesses are within the heavily traveled business district. Mr. Katz stated that they want to be good neighbors with the fence that lies within 5 feet on their property and they have chosen not to remove the fence. He feels that they have respected neighbors with no outdoor noise. He pointed out that they are in their legal right to have outdoor speakers but have chosen not to. He further explained that the Dillon's came to them and asked them to pick up games and they immediately sound dampened the games. Mr. Katz added that they have had numerous meetings with the Dillon's they informed them they had previous noise issues with noise on Hopkins and had installed windows and have offered to pay for installing additional plexiglass windows to reduce the noise which the Dillon's refused.

Seth Katz, 225 Comanche said although the businesses are similar they are different in some respects. They Dillon's have taken an old building and rebuilt them as they have done. In addition, they have received a Historic Landmark Award as well as the Inn. He said neither business deserves to exist more than the other. Mr. Katz added that they share the same customers and at times have entire wedding parties come to the establishment. He pointed out that there have been several weddings at the Inn where music can be heard at Zelick's. Mr. Katz added that they have complied with requests by the Dillon's. He explained that they have no violations and that the renewal should be granted for 3 years. Mr. Katz encouraged the Commission to approve the request.

Brenda Smith, owner of property at 323 W Hopkins, across the street. She explained that most nights until 2 a.m. or 2:30 a.m. the noise is so loud it's as if she is listening to the radio in her car. Ms. Smith is requesting that there be no music. She said whatever is done tonight needs to be specific and measurable. She explained that when she has spoken to them, they respond that there is nothing they can do because they can't control the volume or noise. Ms. Smith said when they have the music on inside and the doors open everyone must speak loudly and the noise carries outside. She felt that this is not a livable environment. She suggested if the permit is approved that the request be approved for one year with no music allowed.

Christlan Johnson, 323 W Hopkins said he recently moved to that location. He explained that there is extreme loud noise and is causing him problems.

Clay Stevens stated he lives directly behind Zelick's. He said that Chris Jones nailed the points that need to be addressed. Mr. Stevens told the Commission that he lives and teaches in San Marcos. Mr. Stevens added that he enjoys living downtown but the issue is something that needs to be explored and doesn't see how others can tolerate much more. He said he likes both the Crystal River Inn and Zelick's and hopes something can be resolved. Mr. Stevens had no comments against either the Crystal River Inn or Zelick's.

Kathryn Tracy, 901 Franklin lived at 322 W Hopkins Ste. B for 12 years until Zelick's opened on May 13th. She explained that two weeks later she gave notice that she would be moving because of the noise from Zelick's. Ms. Tracy said the constant noise from the washers, horseshoes and bottles being thrown away would not allow her to sleep. She stated that she has spoke to the Zelick's and they have told her that there is no law against turning up the music for their employees to clean up. At that point she felt that there was no hope and knew she had to move.

Kathy Dillon, co owner of Crystal River Inn stated that what is difficult is that Zelick's is an awesome place and a good use of historic building. She explained that it's the beauty and charm of San Marcos that has brought guest to their Inn and has made them one of the oldest family-run bed and breakfast in the State. Ms. Dillon pointed out that they contribute taxes to the city as well as Zelick's. She stated that Zelick's is angelic until around until 11:00 p.m. until 2:00 a.m. Ms. Dillon mentioned that the business model that was brought before them 18 months ago is not the current model that exists today. She read the Noise Ordinance passed by City Council in 2009. She explained that she bought a decibel meter because the police said they do not have one. She felt that discussions should be made to address the problem of no decibel meters. Ms. Dillon pointed out that she has stood in the middle of her property with the decibel meter which reads about 65-70 decibels.

Carl Brown, 834 W. Hopkins, said he is in support of Zelick's and The Crystal River Inn where he has done business at both locations. Mr. Brown explained that he had a daughter that got married over the Thanksgiving holidays at Crystal River Inn. He was concerned about the venue because of what was located next door. He said he was pleased to find that he could have a wedding which ended around 11 p.m. Mr. Brown added that he did have some complaints from some of the wedding party that stayed at Crystal River Inn. Mr. Brown mentioned that he lives a few blocks away and on weekends is awoken about 2 or 3 in the morning from people walking and talking rather loudly coming from Zelick's. He asked if there can be a resolution on the noise issue and protecting the people that have been in the neighborhood trying to sleep and that the Commission not grant the permit.

Rick Coach, local business owner, stated he was present in support of Zelick's. He explained he has been in San Marcos for awhile. He remembers the two slogans, Keep San Marcos Beautiful and We'd Love Your Company. Mr. Coach said Zelick's embodies the slogans well. He explained that Zelick's is not your typical San Marcos College Bar; it is a beautiful community bar. He asked the Commission to support Zelick's.

Diane Wassenich, 11 Tanglewood stated she has known Mike and Kathy Dillon for 30 years when they first began to remodel the building. She said she is appalled to see that after 27 years of promoting tourism in San Marcos that the Dillon's would be put in position to really go out of business because of what was placed next door to them. She added that the establishment was not represented as the type of establishment it is today. Ms. Wassenich mentioned to the Commission if they want a 6th Street of Austin, to continue to allow things like this to happen in a residential area. If the Commission wants to support business they will have to get concessions from Zelick's because it seems as if they do not want to do concessions.

Rose Brooks stated she has been in San Marcos for 70 years. She said she voted for bars to remain open until 2:00a .m. but not to disturb neighborhoods. Ms. Brooks stated that the owners of Crystal River Inn run an excellent business. She said the Crystal River Inn is good for tourism. She expressed concerns regarding noise issues from Zelick's. Ms. Brooks pointed out that she would like to see the Dillon's stay in business. She encouraged the Commission to do the right thing.

Mike Dillon, husband of Cathy Dillon, runs the Crystal River Inn, explained that over a year ago Dr. Katz, his wife and sons came over and advised them that they purchased the property next door. He said the Katz' informed them that they wanted to open a fern bar with acoustics. Mr. Dillon said that Zelick's is the best looking bar in town. He explained that when the business opened, it was not what they got. There were issues with the games and the Katz' took care of it. Mr. Dillon felt that they can work out the noise issues with the Katz'. He said he saw the sign that states 'bikers welcome' and knew there would be an issue. Mr. Dillon explained when bikers leave, the noise is unbearable. He said they have spoke to the Katz' and were told to take care of it themselves. He explained they have tried to mitigate the issue with installing double pane glass, heavier drapes and installed an ac unit downstairs, which has not relieved the noise issues. Mr. Dillon suggested if the Commission approve the request, the request approved for one year to allow them to work things out.

Megan Strahm, 1328 Chestnut, said she frequents Zelick's and sees the two sides of issues. She explained the issue that she has is that the Commission granted Zelick's permission to open the bar next to a bed and breakfast. Ms. Strom stated that the two gentlemen are outstanding citizens of the community and trying to be the new people coming up and developing the town. She feels that it is unfair to go backwards after everything has been granted.

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

MOTION: Upon a motion made by Commissioner Morris and a second by Commissioner Kelsey, the Commission voted on nine (9) for and zero (0) against the motion to approve CUP-11-29 for six (6) months to allow Zelick's and The Crystal River Inn to work out the issues. The motion carried unanimously.

There was a 15 minute recess.

11. LUA-11-25 (Blanco River Village- Living Court Units) – Hold a public hearing and consider a request by the City of San Marcos for a Land Use Map Amendment from Low Density Residential (LDR) to Medium Density Residential (MDR) for the existing Living Court Units described as approximately 10.347 acres of land in Blocks E, F, H, and I of the amending plat of the Blanco River Village Subdivision and located east of Shadow Point along Rush Haven and north of Trestle Tree.

12. PDD-11-13 (Blanco River Village PDD) – Hold a public hearing and consider a request by the City of San Marcos for an amendment to the existing PDD and Concept Plan Overlay District for a 103.788 acre, more or less, tract of property located in the 1400 – 1900 blocks of State Highway 21 in the Blanco River Village Subdivision.

Chair Taylor opened the public hearing.

Terry Mitchell, partner in partnership of undeveloped land stated they are committed to working with TX DOT regarding turn lanes. He added that there are no additional changes and thanked the Commission for their time.

Jake Jacobson, 405 Shadow Point stated he has had the opportunity to speak with the folks with Bigelow and Mr. Mitchell since the last meeting. Mr. Jacobson said he is in support of the continuation of development providing the land details have been addressed. He added that he would provide photos to the Commission. He suggested that a secondary access be developed during construction. Mr. Jacobson mentioned that one of his concerns include turning the second phase of the development into high density residential. He suggested that the Commission include conditions to clean up the site, complete pad sites currently begun; that sidewalks are provided within 50 feet of sales office; and remove the fence currently in place. He continued stating the developers put a fence around sales office and now people have to walk on the street to get to the sales office. Mr. Jacobson stated that with the few changes he felt the HOA would be in full support of the request.

Deb Baheiser, 125 Rushhaven, Blanco River Village neighborhood said she is in support of single family homes. She explained that she purchased a home in San Marcos during the city incentive programs being offered. Ms. Baheiser pointed out that if the development is allowed she might as well live in Austin. She bought the home because it is a single family neighborhood.

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

MOTION: Upon a motion made by Commissioner Bishop and a second by Commissioner Bryan, the Commission voted all in favor to approve LUA-11-25 and PDD-11-13. The motion carried unanimously.

13. LUA-11-27 (301 Second St) – Hold a public hearing and consider a request by Shane Scott for a Land Use Map Amendment from Low Density Residential (LDR) to Mixed Use (MU) for Lot 41 of the AM Ramsey Subdivision, located at 301 Second Street.

14. ZC-11-41 (301 Second St) – Hold a public hearing and consider a request by Shane Scott for a Zoning Change from Single Family-6 (SF-6) to Mixed Use (MU) for Lot 41 of the AM Ramsey Subdivision, located at 301 Second Street.

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 Morris, the Commission voted all in favor to approve LUA-11-27 and ZC-11-41. The motion carried unanimously.

15. LUA-11-28 (418 Holland St) – Hold a public hearing and consider a request by Paula Artale for a Land Use Map Amendment from Low Density Residential (LDR) to Mixed Use (MU) for approximately 0.274 acres out of the Thomas J. Chambers Survey, Abstract No. 2, located at 418 W. Holland Street.

16. ZC-11-42 (418 Holland St) - Hold a public hearing and consider a request by Paula Artale for a Zoning Change from Single Family Residential (SF-6) to Mixed Use (MU) for approximately 0.274 acres out of the Thomas J. Chambers Survey, Abstract No. 2, located at 418 W. Holland Street.

Chair Taylor opened the public hearing.

Paula Artale, owner of the house introduced her daughter Sarah, who resides in the home. Ms. Artale explained that she purchased the home for her daughter to live in with possible roommates so that she could live in San Marcos. She pointed out that they do not know anything about zoning. Ms. Artale stated she wants the house to be single family but with zoning it only allows two people to live in the home. She pointed out that the house is a three bedroom, two bath home and want to allow three people to reside in the home. She said that the policeman advised her that they would monitor the home between 10 p.m. – 2 a.m. to make sure there are only two people residing in the home. Ms. Artale said she was uncomfortable with the policeman's response. She asked the Commission how they can be in compliance.

Kenneth Deez, 1412 Alamo St. said the request to rezone the property on Holland Street is a way for property owners to avoid the single family zoning restrictions. He pointed out that the zoning restriction is to protect the privacy and stability of the residents that live with that zoning. He stated that a mixed use zoning is a potential resale for the future owner. Mr. Deez informed the Commission that he spoke to the city attorney and was advised that spot zoning is not legal. He added that spot zoning has been going on for some time and it is time for spot zoning to stop. Mr. Deez stated that it seems that neighborhoods have to fight with the city to stop particularly in the established single family neighborhoods. He added that the city should be working with established neighborhoods rather than advocate for the developer. He said he thinks that many established neighborhoods are being changed to rental subdivisions. Mr. Deez asked the Commission to look strongly at the people that have lived in the neighborhood for many years and he encouraged the Commission to deny the request.

Terry McCabe, 1315 Alamo asked the Commission to deny the zoning change. He said that he counted twelve houses between Sessom and Holland that are occupied by renters. Mr. McCabe stated that only nine houses are owner occupied. He said that the city needs to tighten the zoning codes and encourage the codes to be enforced.

Irene Hindson, 1410 Alamo Street stated she agrees with everything that has been said. She added that the problem with changing the zoning is that once the zoning and land use is changed, you can't go back. Ms. Hindson stated this is a situation that the city needs to deal with. She suggested that the City Council may offer a CUP for situations that a CUP is appropriate.

MOTION: Upon a motion made by Commissioner Morris and a second by Commissioner Bishop, the Commission voted all in favor to deny LUA 11-28 and ZC-11-42. The motion carried unanimously

17. LUA-11-29 (412 Holland St) – Hold a public hearing and consider a request by Leola Gourley for a Land Use Map Amendment from Low Density Residential (LDR) to Mixed Use (MU) for a one acre tract out of the Thomas J. Chambers Survey, Abstract No. 2, located at 412 W. Holland Street.

18. ZC-11-43 (412 Holland St) – Hold a public hearing and consider a request by Leola Gourley for a Zoning Change from Single Family Residential (SF-6) to Mixed Use (MU) for a one acre tract out of the Thomas J. Chambers Survey, Abstract No. 2, located at 412 W. Holland Street.

Chair Taylor opened the public hearing.

Leola Gourley, has lived at 1414 Owens Street since 1958. She explained that they originally purchased the property for their parents to live in but they since have passed. She said that her grandson is going to Texas State and living in the home. Ms. Gourley added that they do not have any plans to do anything with the one acre located behind the property. She is requesting that the boys continue to live in the home for another year. She added that the boys are good neighbors and have never received any violations. Ms. Gourley stated she would appreciate it if they can do anything to allow the boys to live in the home.

Diane McCabe, 1315 Alamo Street stated they have lived in the home since 1989. She added that they love living in their home and walking to work at the University. Ms. McCabe said the neighborhood is changing but hopes that the Commission does not change the zoning for the Holland Street properties. Ms. McCabe added that the guys are great neighbors and wish there is something that can be worked out.

Kenneth Deez, 1412 Alamo Street said he just wanted to reiterate what has been said. He stated that it is not about the people living there, but about zoning enforcement. Mr. Deez said they get excuses from Code Enforcement about enforcement. He added that it is time for Planning and Zoning and the City to do some things to help out the families and neighborhoods.

Paula Artale, 418 Holland, agree with the other speakers. She said it seems that there should be a zoning classification between single family and multifamily. She added that they also do not want apartments located by the house. She asked the Commission for help.

MOTION: Upon a motion made by Commissioner Morris and a second by Commissioner Bishop, the Commission voted all in favor to deny LUA-11-29 and ZC-11-43. The motion carried unanimously.

Consideration:

Commissioner Morris recused himself from the discussion and vote on items 19-21.

19. LUA-11-24 (Casey Development (North Campus Housing)) – Consider a request by ETR Development, on behalf of Darren Casey Interests, Flow Wilks, Harriett Rainey, Christian and Diana Espiritu, Everette and Donna Swinney and Buck Schieb for a Land Use Amendment from Low Density Residential (LDR) to Mixed Use (MU) for approximately 13.51 acres located at Sessom Drive at Loquat Street.

20. ZC-11-38 (Casey Development (North Campus Housing)) – Consider a request by ETR Development, on behalf of Darren Casey Interests, Flow Wilks, Harriett Rainey, Christian and Diana Espiritu, Everette and Donna Swinney and Buck Schieb for a Zoning Change from Single Family Residential- 6 (SF-6) to Mixed Use (MU) for approximately 13.51 acres located at Sessom Drive at Loquat Street.

21. PDD-11-12 (Casey Development (North Campus Housing)) – Consider a request by ETR Development, on behalf of Darren Casey Interests, Flow Wilks, Harriett Rainey, Christian and Diana Espiritu, Everette and Donna Swinney and Buck Schieb for a PDD overlay district, with a base zoning designation of Mixed Use (MU), for approximately 13.51 acres located at Sessom Drive at Loquat Street.

AMENDED MOTION TO THE MAIN MOTION: Upon a motion made by Commissioner Wood and a second by Commissioner Seebeck, the Commission voted all in favor to include the conditions to the main motion that the onsite detention facility not be located in the creek channel; an acceleration lane be created; and proper pedestrian signalization be implemented for. The motion carried unanimously.

MAIN MOTION: Upon a motion made by Commissioner Couch and a second by Commissioner Ehlers, the Commission voted four (4) for and (4) against to approve the main motion with conditions for LUA-11-24; ZC-11-38; and PDD-11-12. The motion to approve with conditions failed. Commissioners Kelsey, Bishop, Bryan and Seebeck voted no. The motion carried.

MOTION: Upon a motion made by Commissioner Bishop and a second by Commissioner Kelsey, the Commission voted four (4) in favor and four (4) against to deny LUA-11-24; ZC-11-38; and PDD-11-12. The motion failed. Commissioners Couch, Ehlers, Seebeck and Taylor voted no. The motion failed.

MOTION: Upon a motion made by Commissioner Bryan and a second by Commissioner Seebeck, the Commission voted two (2) in favor and six (6) against to postpone LUA-11-24; ZC-11-38 and PDD-11-12 until the January 10th Planning & Zoning Commission meeting. The motion failed.

22. Discussion Items.

Commission members and staff may discuss and report on items related to the Commission's general duties and responsibilities. The Commission may not take any vote or other action on any item other than to obtain a consensus regarding items that will be placed on future agendas for formal action.

The Commissioners thanked Commissioner Bishop for his service to the Planning Commission. Commissioner Bishop said he enjoyed working with fellow Commissioners and staff.

Development Services Report

Matthew Lewis thanked Commissioner Bishop for all his hard work.

Commissioners' Report.

There were no reports.

23. Questions from the Press and Public.

Irene Hindson mentioned that there is an ordinance regarding not being allowed to park in the grass. Ms. Hindson pointed out that if not being allowed to park on the grass is enforced then possibly there would not be issues related to single family residential zoning. She suggested that realtors have a zoning information form that they can provide to clients prior to purchase of a property.

24. Adjourn.

Chair Taylor adjourned the Planning and Zoning Commission at 11:25 p.m. on Tuesday, December 13, 2011.

Bill Taylor, Chair

Bucky Couch, Vice Chair

Sherwood Bishop, Commissioner

Chris Wood, Commissioner

Kenneth Ehlers, Commissioner

Carter Morris, Commissioner

Curtis Seebeck, Commissioner

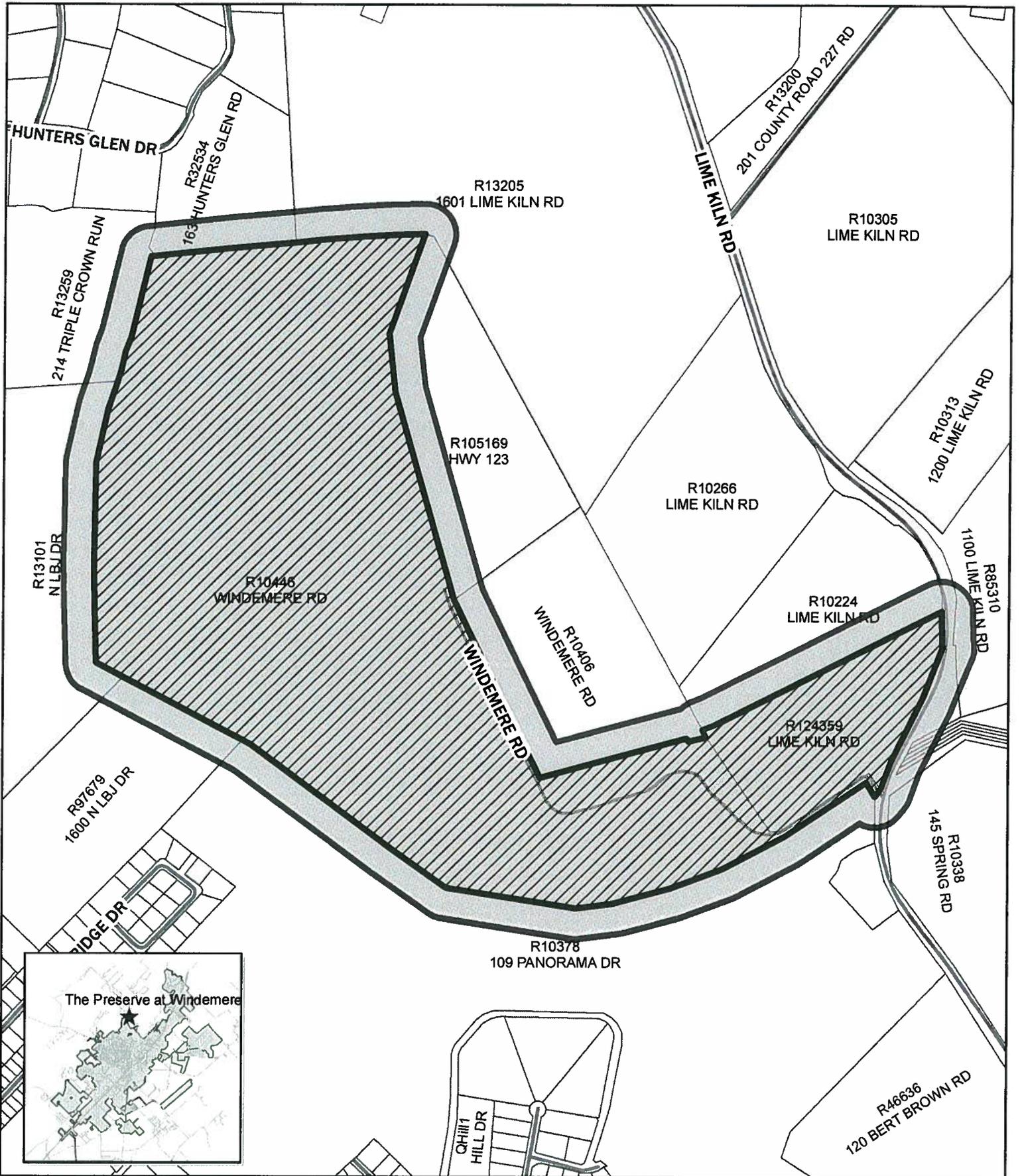
Travis Kelsey, Commissioner

Randy Bryan, Commissioner

ATTEST:

Francis Serna, Recording Secretary

DRAFT



PC-11-01(02)
The Preserve at Windemere
Map Date: 12/28/11

 Notification Buffer (200 feet)
 Site Location

This map was created by Development Services for reference purposes only. No warranty is made concerning the map's accuracy or completeness.

0 625 1,250 2,500
 Feet

 N

PC-11-01(02) Preliminary Plat The Preserve at Windemere



Applicant Information:

Agent: Joel Richardson, P.E.
Vigil and Associates
4303 Russell Drive
Austin TX 78704

Applicant/Property Owner: Rob Haug and Vince Wood
2009 RR 620 N., Suite 130
Austin, TX 78734

Notification: Notification not required

**Type & Name of
Subdivision:** The Preserve at Windemere (Preliminary Plat)

Subject Property:

Traffic / Transportation: The property reflected within this Concept Plan fronts on Lime Kiln Rd. The proposed access to the subdivision is located just north of a low water crossing over Sink Creek. Further to the south on Lime Kiln Rd, Sink Creek crosses the roadway again at the Sink Creek Bridge and low water crossing. Hays County has proposed a project to re-build this bridge bringing it out of the flood plain. This road project however would not alleviate the flood hazard conditions affecting access to the site. According to Section 7.4.1.2 of the Land Development Code the maximum number of lots permitted on the site is 74 due to the limited access.

Land Use Compatibility: The Preliminary Plan is proposing three phases of development.

- Phase 1A- Zoned SFR, with 42 lots proposed for development in Fall 2012. These lots are at the south end of the site.
- Phase 1B – Zoned SFR, with 32 lots proposed for development in Fall 2013. These lots are at the north end of the site, abutting the proposed extension of Craddock.
- Phase 2- is located along Lime kiln Rd. and is zoned FD. There is no proposed zoning indicated at this time; the Land Use is Very Low Density Residential

Utility Capacity: The proposed zoning in Phase I matches the Future Land Use. The subject property will be serviced by City of San Marcos Water and Wastewater. A water line will need to be constructed by the developer to connect to the Post Road water line. Electric is provided by Pedernales Electric Cooperative

Project Summary:

The following is a case history of prior approvals and recommendations:

- February 2008 – A Concept Plan was applied for and withdrawn by the applicant
- February 2008 – Watershed Protection Plan Phase I approved
- March 2008 – Land Use Map Amendment from VLDR to LDR was applied for and then withdrawn by the applicant
- June 2008 – A plat variance to allow 16 lots access from a medianed street was applied for and withdrawn
- August 2010 – A Plat Variance to allow less than the minimum required ROW for a 47 foot portion of the street was Approved with Conditions
- January 2011 – A Plat Variance to allow for a 6,500 foot block was approved with conditions
- January 2011 – A Plat Variance to allow a maximum temporary cul-de-sac length of 6,500 feet was approved with conditions
- January 2011 – A zoning change from FD to SFR was applied for and approved by P&Z on February 22nd and is scheduled for City Council
- January 2011 – A Variance to the minimum lot width was applied for and is scheduled to be heard by ZBOA
- February 2011 – Parks Advisory Board recommended approval of a Fee-in-lieu in the amount equivalent to .99 acres equaling \$24,750.
- March 2011 – Concept Plat submitted, approved by P&Z.

Planning Analysis:

The Concept Plan stage is the first stage in platting and is specifically required when a property is proposed to be developed in phases, as this one is proposing. Once the Concept Plan has been approved, the applicant may file the Preliminary Plats, and begin the process of platting the lots within each phase. A Final Plat will also need to be filed, and recorded.

The subject property is located over the Edwards Aquifer Recharge Zone and as a result the property is limited to 20% impervious cover. As identified on the Preliminary Plat the subject property is encumbered with numerous recharge features that are required to be protected through buffers and other measures identified by both TCEQ and the City of San Marcos.

Staff has reviewed the request and is recommending approval of the Subdivision Plat for the following reasons:

- The Subdivision Preliminary Plat is consistent with all the zoning requirements for the property.
- The Preliminary Plat conforms to the approved Watershed Protection Plan (Phase 1).
- The location, size, and sequence of the phases of development proposed assures orderly and efficient development of the land subject to the plan.

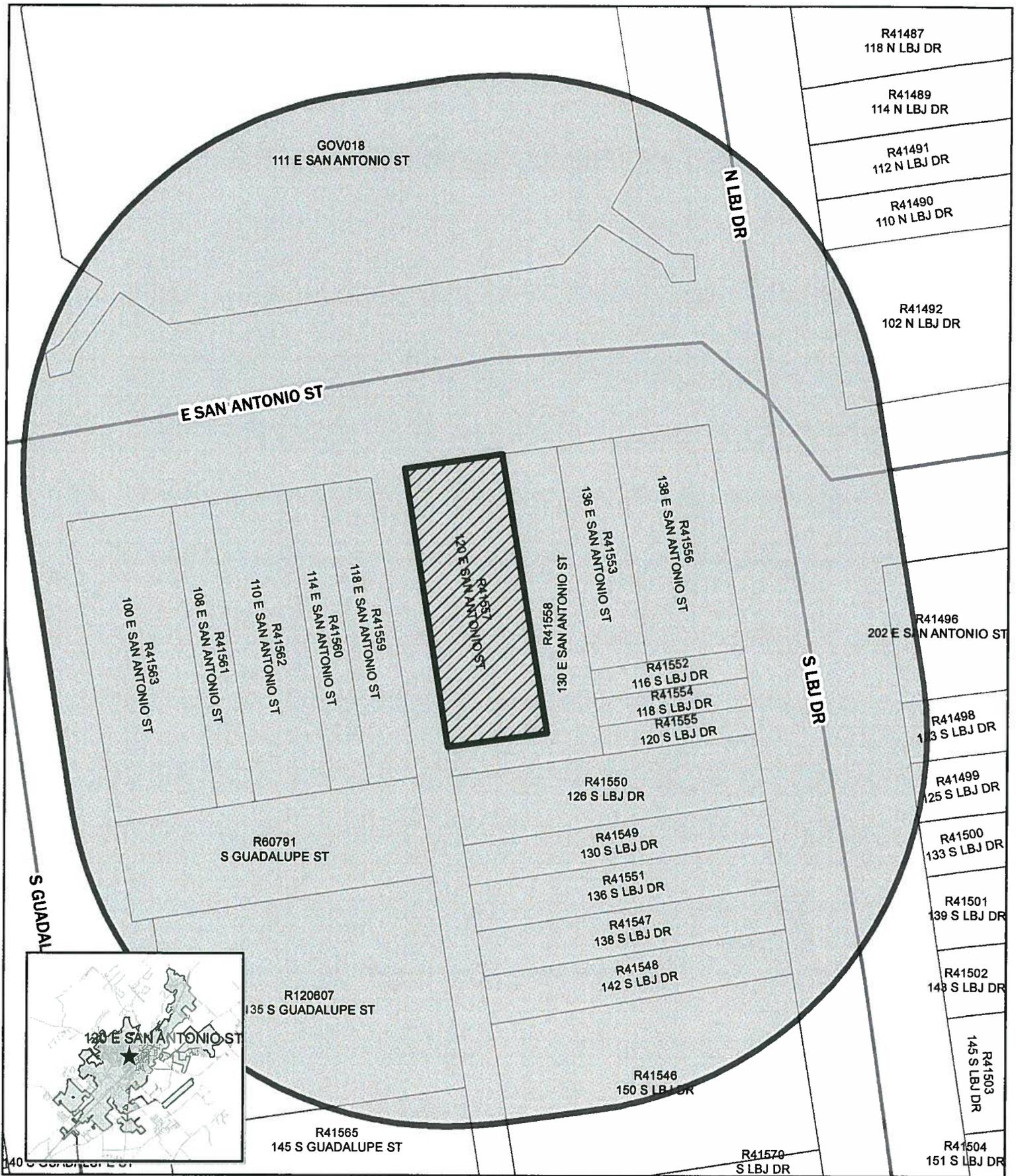
Planning Department Recommendation	
X	Approve as submitted
	Approve with conditions or revisions as noted
	Alternative
	Denial

The Commission's Responsibility:

The Commission is charged with making the final decision regarding this proposed preliminary plat. The City Charter delegates all subdivision platting authority to the Planning and Zoning Commission. The Commission's decision on platting matters is final and may not be appealed to the City Council. Your options are to approve, disapprove, or approve the plat with conditions.

Prepared By:

Christine Barton-Holmes, LEED AP Chief Planner January 19, 2012



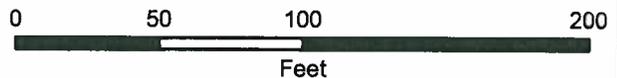
CUP-12-02

Texas Music Theater
120 E. San Antonio St
Map Date: 01/05/12



Notification Buffer
 (200 feet)
 Site Location
 Historic District

This map was created by Development Services for reference purposes only. No warranty is made concerning the map's accuracy or completeness.



CUP-12-02
Unrestricted Conditional Use Permit
Texas Music Theater
120 E. San Antonio St.



Applicant Information:

Applicant: San Marcos Entertainment, LLC
 120 W Hopkins
 San Marcos TX 78666

Property Owner: Texas Music Theater LLC
 120 W Hopkins
 San Marcos TX 78666

Applicant Request: A Conditional Use Permit (CUP) to allow on-premise consumption of liquor, beer, and wine in a Central Business Area zoning district, located at 120 E San Antonio St.

Notification Response: Public hearing notification mailed Wednesday, January 11, 2012
 None as of January 20, 2012

Subject Property:

Location: 120 E San Antonio St
 Legal Description: Original Town of San Marcos, Block 20, Pt Of Lot 5
 Frontage On: San Antonio St
 Neighborhood: Downtown Association
 Existing Zoning: T5
 Master Plan Land Use: Commercial
 Sector: Sector 8
 Existing Utilities: Adequate
 Existing Use of Property: Theater/ Bar
 Proposed Use of Property: Theater/ Bar
 Zoning and Land Use Pattern:

	Current Zoning	Existing Land Use
N of Property	CS/Civic Space	Courthouse
S of Property	T5	Commercial
E of Property	T5	Commercial
W of Property	T5	Commercial

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 in a low density residential zoning district. This location **does** meet the distance requirements.

CUPs 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).

There is a limit of 12 unrestricted CUPs in the CBA at any time. An unrestricted CUP does not require food sales as a condition. If a CUP is restricted, the business must comply at all time with the standards for "bona fide restaurants." This location currently owns one of the unrestricted permits

within the CBA. The CUP may be renewed without regard for any waiting list for new permits (4.3.4.2.b (7)).

Case Summary

This is a renewal of CUP-10-20, approved August 24, 2010 for the Texas Music Theater. That CUP was in turn a renewal and name change from Gordo's CUP-09-08, approved June 9, 2009. The theater was extensively renovated and reopened as the Texas Music Theater last fall.

Comments from Other Departments:

Building, Engineering, Fire, Police, Environmental Health and Code Enforcement have reported no major concerns regarding the subject property.

Planning Department Analysis:

The applicant is proposing occupancy of approximately 930 with no outdoor seating. The regular hours of operation will be Thursday through Saturday 7PM – 2AM and will include other special events at various hours throughout the remainder of the week. The applicant is proposing to have indoor amplified music. No food is proposed. The property is in the Central Business Area, and no off-street parking is provided or required.

In order to monitor new permits for on-premise consumption of alcohol, the Planning Department's standard 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;
- Final approval for the life of the State TABC license, provided standards are met.

The site has now been open as the Texas Music Theater for just over a year, and staff recommends a three-year renewal period for the CUP.

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

1. The CUP shall be valid for a period of three (3) years, provided standards are met, subject to the point system;

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:

- is consistent with the policies of the Master 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.

Attachments:

Location map
Application
Site Plan
Photos
Notification Letters
Notification List

Prepared by:

Christine Barton-Holmes, LEED AP Chief Planner January 9, 2012

Name	Title	Date
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PDA-11-03 Lazy Oaks Ranch Ranch Road 12



Applicant Information:

Property Owner/ Applicant: Lazy Oaks Ranch LP
700 Lavaca Street Suite 1300
Austin TX 78701

Agent: ETR Development Consulting
Ed Theriot
401 Dryden Lane
Buda, Texas 78610

Subject Property:

Summary: This site is located in the western ETJ. The applicant is requesting approval of a Petition for a Development Agreement to provide for the future annexation of approximately 1,396.9 acres to develop very low density single-family residential, limited commercial, and the remainder as conservation/open space. Approval of the petition allows staff to begin negotiating the agreement.

Traffic / Transportation: The site takes access from Ranch Road 12 near the San Marcos Baptist Academy. Future Loop 110 is located near the southern boundary of the property.

Utility Capacity: The City of San Marcos will provide water and wastewater service to the site. The applicant will incur the expense of extending any required infrastructure to the site at the time of development.

Code Requirements

The purpose of a petition for approval of a development agreement is to determine whether the City wishes to authorize, by binding contract, a plan of development for land located in the City's extraterritorial jurisdiction. The agreement can outline terms and a schedule for annexation.

Prior to beginning negotiations, the Land Development Code requires that the Planning and Zoning Commission and City Council hold public hearings and approve the petition for a Development Agreement. If Council approves the petition, the City Manager shall coordinate efforts to negotiate the agreement and a land use plan for the property with the property owner. The Council may appoint a subcommittee of its members for purposes of reviewing and facilitating negotiations with the property owner.

The draft agreement will then be presented to City Council for a final decision. The Council may accept, accept with modifications, or deny the proposal (1.4.2.4).

Staff Analysis and Recommendation

The Future Land Use Map calls for Very Low Density Residential on this site, and the stated intention of the proposal is consistent with this. Considering that city utilities are in place nearby and that the entire site is over the Edwards Aquifer Recharge Zone, staff finds that a development agreement can be an effective tool to outline the proposed development while ensuring conservation of a large area of sensitive land.

No other issues have been identified at this point that would make compliance with 2.2.1.2 impossible. Staff recommends approval of the request so that staff may begin negotiating terms of the Development Agreement.

Planning Department Recommendation	
X	Approve as submitted
	Approve with conditions
	Alternative
	Denial

The Commission's Responsibility:

The following policies shall be taken into consideration in deciding a petition for approval of a development agreement (2.2.1.2):

- (a) Development of the property under the proposed agreement and land use plan should implement the policies of the Master Plan;
- (b) Extension of public facilities and services to the property under the agreement should not compromise the City's ability to timely provide adequate public facilities to property inside the City or degrade environmental resources;
- (c) Water quality impacts arising from the proposed development should be mitigated by measures provided in the development agreement (or as a minimum required by TCEQ for areas over the recharge zone).
- (d) The agreement should not further creation or expansion of other utility providers to the City's detriment;
- (e) The agreement should authorize application of the City's zoning and development standards to the uses proposed, which otherwise could not be applied to the proposed development;
- (f) The agreement should authorize the City to recoup the costs of capital improvements provided to the development while it remains in the extraterritorial jurisdiction;
- (g) The schedule of annexation proposed in the agreement should further the City's policies on expansion and growth of the City;
- (h) The agreement should not create future barriers to annexation of land contiguous to the area subject to the agreement; and
- (i) The agreement should not promote economic development that undermines or inhibits economic development within the City center or other economic centers of the community;

- (j) Proposed development transfers should substantially further protection of water quality and result in compatible development on the receiving site.

Prepared By:

John Foreman	Chief Planner	January 17, 2012
Name	Title	Date



LEGEND

- █ LAZY OAK RANCH
- █ CITY OF SAN MARCOS BOUNDARY
- █ SAN MARCOS PD

0 500 1000 2000
SCALE 1" = 500'

N

EXH	DEVELOPER: LAZY OAK RANCH
	DESIGNED BY: _____
	PROJECT MANAGER: _____
	PROJECT MANAGER: _____
	JACOBS PROJECT # VJ064249

LAZY OAKS RANCH
SAN MARCOS
HAYS COUNTY, TEXAS

LOCATION MAP

JACOBS
TYPE Registration #1-2008
2705 Bee Cave Road, Suite 200
Austin, Texas 78746
1812 314-3100 Fax 1812 314-3135

Ed Theriot, AICP
Managing Member
(512) 618-2865
ed@etrdevcon.com



Thomas Rhodes
Managing Member
(512) 618-7449
thomas@etrdevcon.com

December 1, 2011

Mr. Matthew Lewis, Director
Planning and Development Services
City of San Marcos
630 E. Hopkins Street
San Marcos, Texas 78666

RE: Petition for Development Agreement, Lazy Oaks Ranch

Mr. Lewis,

On behalf of Lazy Oaks Ranch, LP, we are respectfully requesting approval of the attached Petition for Development Agreement for approximately 1,400 acres of land located off Ranch Road 12 in the extraterritorial jurisdiction (ETJ) of the City of San Marcos known as Lazy Oaks Ranch.

The subject property is located in the 2000 block of Ranch Road 12 and is adjacent to the San Marcos Baptist Academy. Lazy Oaks Ranch is intended to be developed primarily as a high quality, very low density single family residential community with limited commercial uses and considerable conservation, preservation and open space areas.

The property has frontage on Ranch Road 12; however, primary access to the property is provided through agreement with the Academy for shared access along the existing driveway. The main entrance to the development will be provided by the construction of a new entry boulevard at the location of the existing driveway of the adjacent Baptist Academy property. Additional connections to future roadways are envisioned, including the proposed Loop 110, the extension of Old Ranch Road 12 and other future planned roadway connections through adjacent undeveloped properties. Utilities will be provided through connection to existing water, wastewater and electric facilities located along Ranch Road 12. The existing utility and infrastructure systems will be analyzed for any potential improvements necessitated by this development.

This letter is being provided in conjunction with our application for a Petition for a Development Agreement in accordance with Chapter 1, Article 4, Division 2 of the City of San Marcos Land Development Code (LDC) , which states, *"The purpose of a petition for approval of a development agreement is to determine whether the City wishes to authorize by binding contract a plan of development for land located in the City's extraterritorial jurisdiction, to prescribe land uses, environmental standards, development standards and public facilities standards governing development of the land for the term of the agreement, to provide for*

delivery of public facilities to the property, and to provide for annexation of the property to the City."

The subject property is located within the ETJ of the City and is not adjacent to any properties currently within the City limits. The property is not currently subject to annexation and development of the property without a Development Agreement would be subject to limited regulation by the City. A Development Agreement will establish additional regulations for the development of the property by establishing the proposed land uses on the entire tract, establishing development standards that may not normally be applicable to the property, providing for connection to existing public facilities and infrastructure systems and providing for the future annexation of the property.

In accordance with Section 2.2.1.2 of the City's LDC, the following are justifications in support of a Development Agreement for the property:

Development of the property under the proposed agreement and land use plan should implement the policies of the Master Plan;

The City's FLUM designates a portion of the property as Very Low Density Residential. The remainder of the property is undesignated on the FLUM. The proposed development will be consistent with the current FLUM designation. Additionally, the preservation of open space and environmentally sensitive features on the property will further the environmental policies of the Master Plan. Any commercial uses to be developed on the property will be limited to neighborhood service type uses intended to provide conveniences to the proposed residents.

Extension of public facilities and services to the property under the agreement should not compromise the City's ability to timely provide adequate public facilities to property inside the City or degrade environmental resources;

There is existing water and wastewater infrastructure adjacent to the property. Extension of these existing facilities to serve this development will be analyzed and any necessary improvements will be facilitated through the agreement. Improvement and connection to these facilities should not impact the City's ability to provide service within the City limits.

Water quality impacts arising from the proposed development should be mitigated by measures provided in the development agreement;

The proposed Development Agreement will incorporate environmental and water quality standards that will exceed current City standards and will incorporate a variety of possible treatment methods that will mitigate the effects of the potential development. Additionally, the establishment of open space areas and critical water quality protection zones will preserve habitat and environmentally sensitive features.

The agreement should not further creation or expansion of other utility providers to the City's detriment;

The development of this property will require extension of existing City facilities that are currently adjacent to the property. No new utility providers are envisioned for the property.

The agreement should authorize application of the City's zoning and development standards to the uses proposed, which otherwise could not be applied to the proposed development;

The proposed Development Agreement will include regulations pertaining to use, development density and intensity and other development standards that would not normally be applicable to developments within the ETJ.

The agreement should authorize the City to recoup the costs of capital improvements provided to the development while it remains in the extraterritorial jurisdiction;

The development of this property will include an analysis of the existing infrastructure and the Development Agreement will identify the infrastructure capital improvements necessitated by this development and will specify the related cost and responsibilities for construction.

The schedule of annexation proposed in the agreement should further the City's policies on expansion and growth of the City;

The Development Agreement process will include a review of the growth and expansion policies of the City and will establish an annexation schedule that will provide for annexation of the property at a time agreed upon by the parties to the agreement.

The agreement should not create future barriers to annexation of land contiguous to the area subject to the agreement; and

The Development Agreement will provide for the scheduled annexation of the entire tract and will not inhibit the annexation of other adjacent lands contiguous to the subject property.

The agreement should not promote economic development that undermines or inhibits economic development within the City center or other economic centers of the community;

The proposed development of this property will provide for high quality single family residential and limited commercial uses which will be complimentary to existing uses within the City and surrounding properties and will not inhibit economic development within the City center or other economic centers of the City.

Proposed development transfers should substantially further protection of water quality and result in compatible development on the receiving site.

The development of this property does not contemplate any development transfers. Clustering of development on the site will be proposed to preserve sensitive areas and to substantially further the protection of water quality.

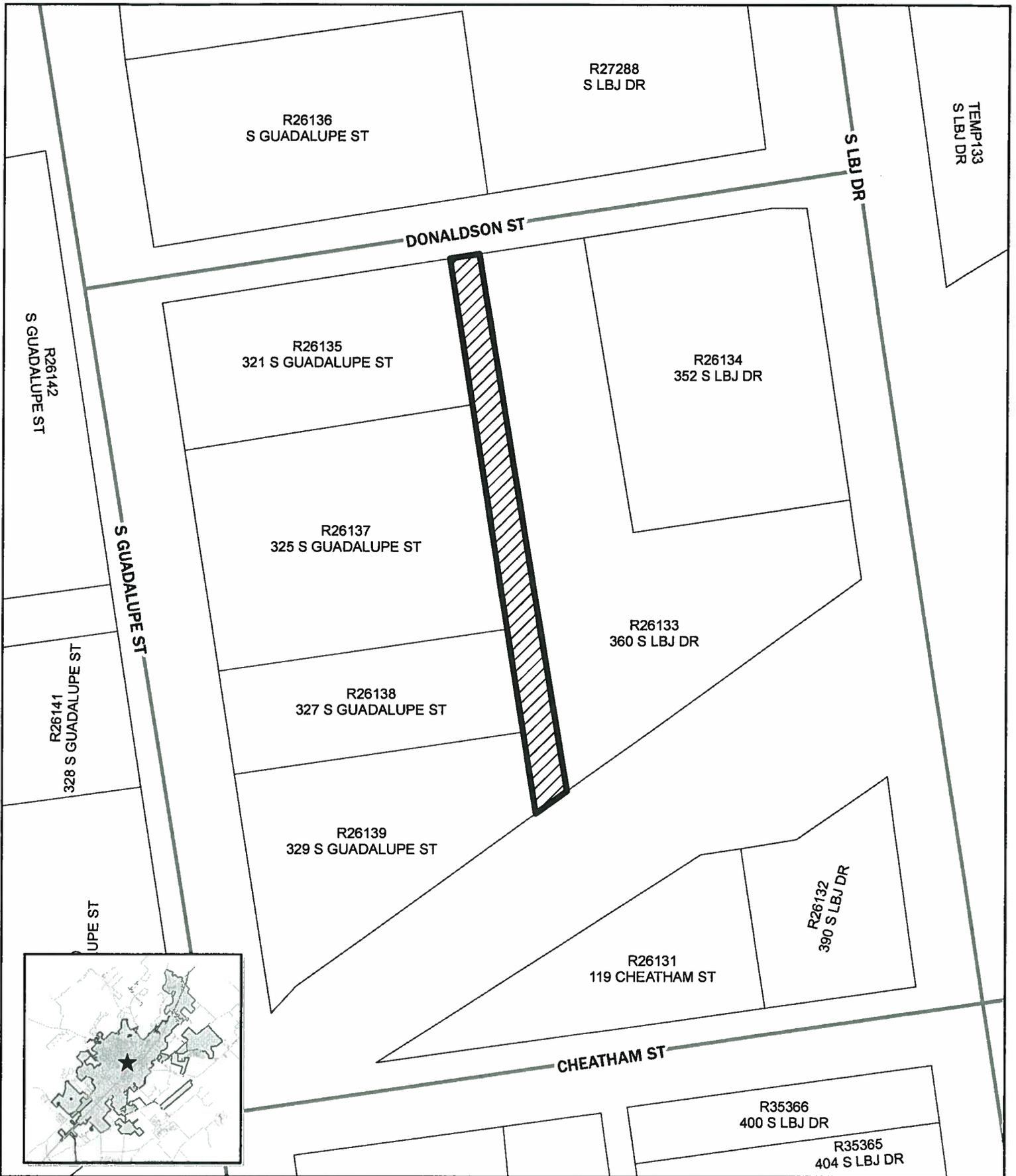
We appreciate your consideration in this matter and look forward to working with you on this potential development. We respectfully request to be placed on the first available agenda of the Planning and Zoning Commission and subsequently the City Council for consideration of our

Petition for a Development Agreement. Please do not hesitate to contact us if you have any questions or require any additional information to assist in your review of this request.

Sincerely,



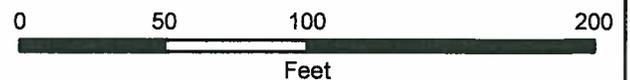
Thomas K. Rhodes, Managing Member
ETR Development Consulting, LLC



A-11-03
Richard E. Kinsey
Alley Abandonment
Map Date: 12/27/11

●  Site Location

This map was created by Development Services for reference purposes only. No warranty is made concerning the map's accuracy or completeness.





Staff Report
Alley Abandonment
A-11-03 – S. LBJ and Guadalupe St.

Prepared by: John Stanley
Date of Meeting: January 24, 2012

Applicant Information:

Applicant: Richard E. Kinsey
 104 Rogers Ridge
 San Marcos, TX 78666

Property Owner(s):	Richard E. Kinsey 104 Rogers Ridge San Marcos, TX 78666	Zeledon LLC P.O. Box 160788 Austin, TX 78715
	239 S. Guadalupe Partnership 329 S. Guadalupe St. San Marcos, TX 78666	Susie Flores % Gloria Delgadillo 7307 Granite Creek San Antonio, TX 78238

Applicant Request: Abandonment of an alleyway between S. LBJ and Guadalupe St.

Notification:

Date Mailed: *January 13, 2012*

Subject Property:

Location: An alley measuring 285.86 x 16.67' and located between S. LBJ and Guadalupe St.

Size: 4,765.29 square ft.

Existing Utilities: An 8" wastewater line runs through approx 50' of the alley

Existing Use of Property: Undeveloped alley

Other Departments:

Water/Wastewater
 A 15' wastewater easement is required for the length of the wastewater line that runs through the alley and neighboring properties.

CIP
 Exploring options for future development of the Donaldson ROW.

Case Summary:

The abandonment of the alley described above has been requested by the applicants on either side of the property. The subject alleyway begins at the Donaldson ROW to the north and terminates at the railroad track to the south and is currently undeveloped. The alleyway is not contiguous with any other alleys in the area. The applicants wish to abandon the alley in order to improve potential development possibilities and future consolidation of the properties as one. If approved by City Council, the alley will be divided and each owner will be entitled to their pro-

rata share of the alleyway through a quitclaim deed executed by the City Manager. Each property owner abutting the alleyway will receive direct proportion of the alleyway abutting their property unless another option is agreed upon in writing.

Deeds for abandoned streets will be delivered upon payment by the abutting owners of the fair market value of the areas covered by the deeds. The value of a street segment appraised as a unit will be divided pro rata on an area basis among two or more abutting owners. (Sec. 74.091, San Marcos City Code)

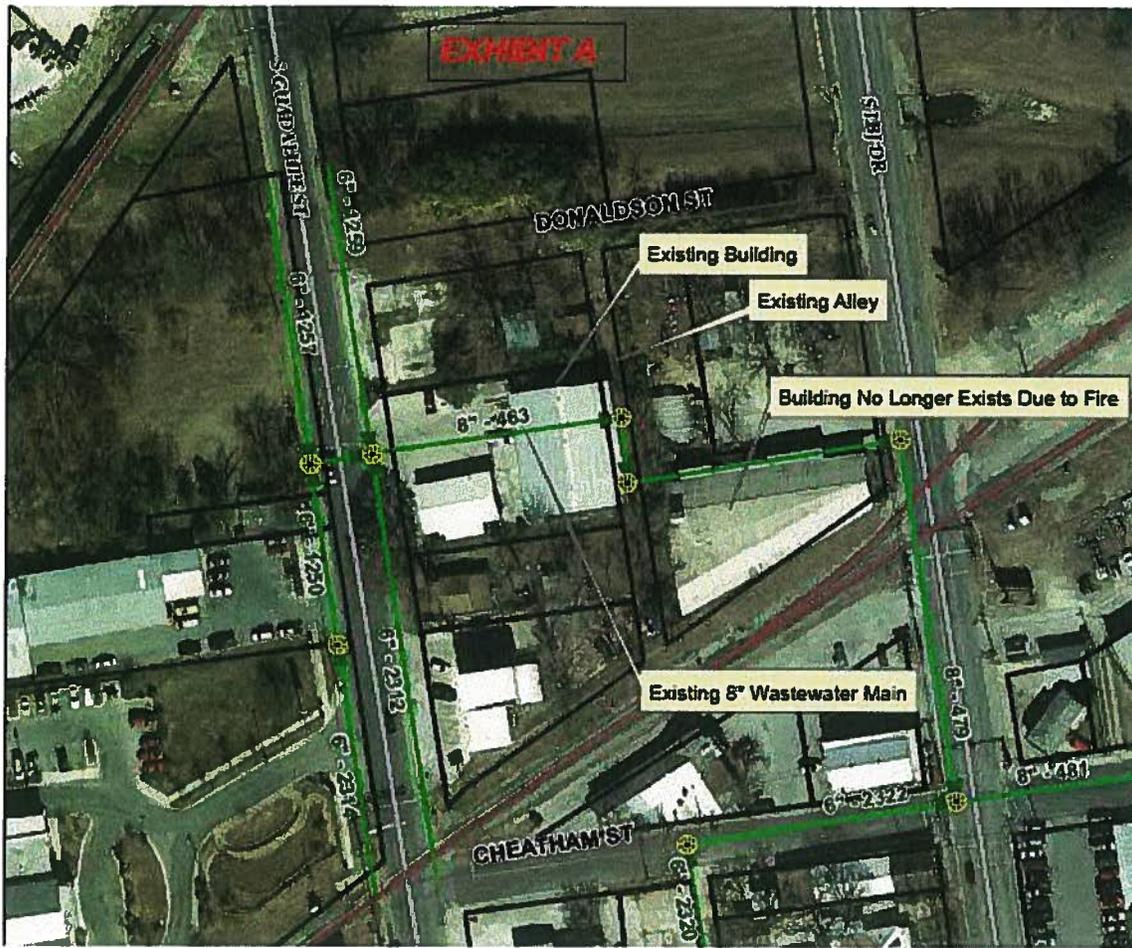
The City has an 8" wastewater line that runs through the properties and alley as shown in the attached figure. A portion of the properties to the east of the alleyway lay within the floodway and floodplain.

Staff Analysis:

The future Donaldson Street to the north, upon completion, would provide a much needed east-west access road between LBJ and Guadalupe St. decreasing the already excessive block length. The City has intentions of building the street as it was approved in the last bond election. As of right now, the funding is such that Donaldson St. construction has been delayed for the foreseeable future. Keeping this in mind, staff believes there are possibilities for the consolidation of the tracts at hand and for beneficial future development on the property.

An active 8" wastewater line runs through the property connecting to lines on both LBJ and Guadalupe Street. The line runs underneath an existing structure. Due to this, staff requests that a 15' easement be created along the length of the line continuing through the structure at 325 S. Guadalupe St. A license to encroach would be given to the property owner for continued use of the building if the owner chooses. This easement is important for future City access of the line for maintenance or purposes. Future movement of the line will be considered based on appraisals done by the property owner(s). City staff will investigate the physical and fiscal feasibility of actions such as movement of the line and ROW swap.

City staff have met with the owners of the property and both sides have agreed to continue discussing the possibility of future relocation of the wastewater line to the Donaldson Right-of-Way. Another future possibility would include right-of-way swap between the City and the owners of the property for the construction of Donaldson Road. Both sides will continue to work together to resolve long term issues regarding development of the property.



The San Marcos City Code indicates four (4) standards that must be met when considering the abandonment of a street or alley. The following analysis addresses the standards that must be met from the code:

Evaluation		Abandonment Standards (Section 74.087 of the San Marcos City Code)
Consistent	Inconsistent	
X		<p>Street and alleys will be abandoned only in whole segments, except that a portion of a dead-end street or alley may be abandoned if the abandonment does not cause a part of the street or alley to become landlocked.</p> <p>This abandonment will include the entire alleyway.</p>
X		<p>A street or alley abandonment will not be approved if it causes substantial interference with access to any tract or parcel of property.</p> <p>Access for rear-loading of the parcels would be eliminated, however, frontage along LBJ and Guadalupe St. would remain for all parcels providing adequate access.</p>
X		<p>A street or alley containing public utility facilities will be abandoned only if the facilities are relocated out of the street or alley or if a public utility easement is recorded covering the area occupied by the facilities. Unless otherwise agreed by the owners of the utilities, the cost of relocating the facilities or preparing survey descriptions for easements will be borne by the owners of the property abutting the segment to be abandoned.</p> <p>A 15' easement will be included over the existing wastewater line. The applicants</p>

Evaluation		Abandonment Standards (Section 74.087 of the San Marcos City Code)
Consistent	Inconsistent	
		will bear the fees for obtaining surveys and appraisals of the alleyway as well as the easement if movement of the line is pursued.
X		<p>A street or alley abandonment will be approved only if the street or alley is not needed for future road or utility improvements.</p> <p>The subject alleyway will not inhibit the future creation of Donaldson. Access to the easement will be granted throughout the course of the easement on the subject properties allowing for servicing of the wastewater line if needed.</p>

Staff is recommending approval of the alley abandonment subject to the following conditions:

- (1) *The applicants will dedicate a 15' wastewater easement centered along the path of an existing 8" wastewater main that crosses the subject tracts.*
- (2) *The owner will obtain an appraisal and metes and bounds survey description/exhibit of the alleyway to determine a monetary value of the subject tract.*
- (3) *The owner will obtain an appraisal and metes and bounds survey description/exhibit of the 15' wastewater easement for dedication to the city.*
- (4) *If feasible, future wastewater main relocation and consideration will be included in the easement dedication statement.*
- (5) *A license to encroach within the 15' wastewater easement may be pursued by the owner of an existing building on the property noted in the application which the 8" wastewater main passes underneath as shown in exhibit A.*

Planning Department Recommendation:	
<input type="checkbox"/>	Approve as submitted
<input checked="" type="checkbox"/>	Approve with conditions or revisions as noted
<input type="checkbox"/>	Alternative
<input type="checkbox"/>	Denial

The Commission's Responsibility

The Commission is required by law to hold a public hearing and receive public comment regarding the proposed street or alley abandonment. After considering the public input, the Commission is charged with making an advisory recommendation to the City Council regarding the abandonment requesting. The City Council will ultimately decide whether to approve or deny this request, and will do so as follows.

- City Council reviews the recommendation for the Planning and Zoning Commission and provides direction to staff on whether the abandonment is acceptable subject to the obtaining of an appraisal.
- An appraisal for the area to be abandoned will be obtained.
- City Council will hold a public hearing and vote on the adoption of an ordinance approving the abandonment and the conveyance of the street for the appraised value.
- The City Council will consider the ordinance a total of 3 times as required by the City Charter.

The Commission's advisory recommendation to the Council is a discretionary decision. Your recommendation should be based on the standards listed in Section 74.087 of the San Marcos City Code.

Prepared by: John Stanley	Planner	January 13, 2012
Name	Title	Date

**LUA-11-23
Land Use Map Amendment
Hillside Ranch Phase 2
1350 N. LBJ**



Summary: The applicant is requesting a Land use Map Amendment from Low Density Residential to Medium Density Residential

Consultant: ETR Development
401 Dryden Lane
Buda, TX 78610

Applicant: Jared Schenk, GEM Hillside Ranch
1350 N. LBJ
San Marcos TX 78666

Property Owner: Dan Anderson
1410 N. LBJ
San Marcos TX 78666

Notification: Personal notice sent and signs posted on January 13, 2012

Response: See attached

Subject Property:

Location: 1410 N LBJ

Legal Description: 10.925 acres out of the Thomas Chamber survey

Sector: Sector 3

Current Zoning: Single-family (SF-6)

Proposed Zoning: Multifamily (MF-12) with Planned Development District overlay

Current Future Land Use Map Designation: Low Density Residential

Proposed Future Land Use Map Designation: Medium Density Residential

Surrounding Area:

	Zoning	Existing Land Use	Future Land Use
N of Property	SF-6	City of San Marcos Parkland	Low Density Residential
S of Property	P/ MF-24	Church/apartment complex	High Density Residential
E of Property	MF-24	Apartment complex	High Density Residential
W of Property	SF-6	Single-family	Low Density Residential

Case Summary: Proposed Land Use Map Amendment from Low Density Residential to Medium Density Residential.

The subject property is approximately 10.925 acres and is located at the intersection of Holland Drive and N.LBJ Drive. This request is proceeding concurrently with a proposed base zoning change from single-family (SF-6) to multifamily (MF-12) and a Planned Development District (PDD) overlay.

The property is bounded by single family residences to the north, multi-family residences to the south and the Spring Lake Preserve to the east. The proposed development is an extension of the existing Hillside Ranch Apartments and would add up to 131 units (up to 393 bedrooms) to the area. Although designated Low Density Residential, the adjacent tract to the northeast is city parkland and will not be developed for residential use.

Planning Department Analysis:

Medium Density Residential (MDR) land uses have a density range of six to twelve dwelling units per acre and may include a variety of residential types such as duplexes, triplexes, fourplexes, townhomes, and zero lot-line homes. A variety of housing types may be allowed, so long as the overall density within a specific development or area is between six and twelve dwelling units per acre.

The subject property is located in a transition area between higher-density residential uses closer to the University and established residential neighborhoods to the west. Medium Density Residential Land Uses in this area can act as a transition between the more intense uses and the Low Density Residential. Medium Density Residential also provides an opportunity for a mix of housing types all located within the same area with access to commercial services. However, because of the large size of the lot and the fact that it is adjacent to thirteen single-family lots, the design of the development is vital. Adjacent tracts to the south and southwest are designated High Density Residential, while other tracts are designated Low Density Residential.

Staff has evaluated the request for consistency with the Horizons Master Plan and the Sector 3 Plan.

Consistent	Neutral	Inconsistent	Horizons Master Plan Policy Statement
X			<p>Policy LU-1.21: The City shall encourage new development to locate in areas already served by utilities and other community facilities.</p> <p><i>Comments: Existing city utilities are in place to serve this property.</i></p>
X			<p>Policy LU-3.2: The City shall provide safe and adequate housing opportunities to meet the different housing needs of all income groups of the City's present and future populations.</p> <p><i>Comment: The proposed change will provide the opportunity for additional housing opportunities.</i></p>
X			<p>Policy LU-3.3: The City shall provide adequate space in appropriate locations for residential development in order to provide safe and sanitary housing, to meet the housing and social needs for a desired standard of living for the City's present and future population.</p>
X			<p>Policy LU-3.14: The City shall discourage any type of multifamily or single family residential development in such concentrations and expanses that, by accepted planning standards, there are not sufficient amenities to support such development and the quality of life in the area would be diminished.</p> <p><i>Comment: The location near the parkland and the university ensure adequate amenities.</i></p>

Consistent	Neutral	Inconsistent	Horizons Master Plan Policy Statement
X			<p>Policy LU-4.1: The City shall determine the need for multi-family dwelling units and shall ensure that the location of these units is compatible with adjacent land uses and is properly buffered and adequately served by roads and public utilities.</p> <p><i>Comment: The process of determining the need for multi-family units is ongoing. The location between High Density and Low Density Residential is appropriate for Medium Density Residential. The primary challenge for this location is the fact that single-family lots are adjacent to the property, and under the proposed base zoning, the 128 units could be placed in any arrangement on the lot. Without careful attention to the design of the lot, compatibility is not ensured. However, the proposed PDD design orients buildings away from the houses along Elm Hill, adds a 30' natural buffer, and calls for a fence.</i></p>
X			<p>Policy LU-4.2: The City shall encourage residential areas, especially higher density uses, have access to shopping, recreation, and work places that are convenient not only for automobile traffic but also for foot and bicycle traffic in order to minimize energy consumption, air pollution, and traffic congestion.</p> <p><i>Comment: Existing and proposed commercial uses and Texas State University are within walking distance, and improvements to LBJ Drive will improve pedestrian access in the area.</i></p>
	X		<p>Policy LU-4.3: The City shall encourage medium and high density residential developments to have direct access to at least collector width streets to accommodate traffic volumes and turning patterns generated by high concentrations of people. They should also be located near major arterials. Low density residential development should not be impacted by heavy traffic generated by medium and high density areas.</p> <p><i>Comment: Pending TIA</i></p>
X			<p>Policy LU-4.4: The City shall require medium and high density residential developments to be located on larger sites to allow the property buffering, adequate parking and landscaping, and enough flexibility in design and layout to insure adequate development.</p>
	X		<p>Policy LU-5.6: The City shall not allow the rezoning any property to a more intensive residential district without proof that the street system, utilities, drainage, and other requirements are adequate for the proposed density.</p> <p><i>Comment: Although utilities are in place, there is a wastewater capacity concern that city staff is working to address.</i></p>

The Sector 3 Plan contains goals such as walkable neighborhoods, interconnected streets, and a variety of housing types. From a land-use perspective, Medium Density Residential can be consistent with these goals. The Sector 3 plan also recommends that Medium Density Residential within the sector be located near the University along LBJ.

Planning Department Recommendation:	
<input type="checkbox"/>	Approve as submitted
<input type="checkbox"/>	Approve with conditions or revisions as noted
<input checked="" type="checkbox"/>	Alternative – Postpone (see PDD report)
<input type="checkbox"/>	Denial

Prepared by:

John Foreman

Chief Planner

January 20, 2012

Name

Title

Date

The Commission's Responsibility:

The Code requires the Commission to hold a public hearing and receive public comment regarding the proposed Land Use Map Amendment. The Commission's advisory recommendation to the Council is a discretionary decision. The City Council will ultimately decide whether to approve or deny this request, and will do so through the passage of an ordinance.

After considering the public input, your recommendation should be based on the "fit" of this proposal for a land use amendment with the general character, land use pattern and adopted policy for the area. Section 1.4.1.4 charges the Commission to consider the following criteria for amendments to the Master Plan's Future Land Use Map:

- Whether the amendment is consistent with the policies of the Master Plan that apply to the map being amended;
- The nature of any proposed land use associated with the map amendment; and,
- Whether the amendment promotes the orderly and efficient growth and development of the community and furthers the public health, safety and general welfare of the City.

PDD-11-11/ ZC-11-37 Planned Development District (PDD) Hillside Ranch Phase 2



Summary:

Applicant/ Property Owner: Dan Anderson
1410 N. LBJ Drive
San Marcos, Texas

Consultant: ETR Development
401 Dryden Lane
Buda, Texas 78610

Jared Schenk, GEM Hillside
1350 N. LBJ Drive
San Marcos, Texas

Subject Property:

Legal Description: 10.925 acre tract situated in the JM Veramendi League Number 2 Survey.

Location: 1410 N. LBJ Drive

Existing Use of Property: Single Family residence

Existing Zoning: SF-6

Proposed Use of Property: Multi-family

Proposed Zoning: PDD overlay with a MF-12 base zoning

Sector: 3

Frontage On: N. LBJ Drive

Area Zoning and Land Use Pattern:

	Current Zoning	Existing Land Use
N of Property	SF-6	Single Family Residences
S of Property	MF-24	Multi-family
E of Property	P	Spring Lake Preserve
W of Property	P	Church

Project Overview

The subject property is approximately 10.925 acres and is located at the intersection of Holland Drive and N. LBJ Drive, between an existing high-density residential multi-family development and an existing single-family residential neighborhood. The site is located in the Edwards Aquifer Transition Zone and currently is used as one single family residence. The applicants have held numerous meetings with the adjacent neighbors, and have incorporated a number of their suggestions into the PDD.

Site Development

- 10.925 acre site.
- The project features 2 to 3 story cottage-style apartment units.
- 12 units per acre maximum (staff recommends a slight reduction).
- Divided into two density zones.
- Enhanced streetscape standards to include 6' sidewalk and street trees every 30 feet along LBJ.
- All parking requirements will be met plus bicycle parking is provided.
- Construction hours will be limited.
- Parkland dedication of a trail connection to Spring Lake Preserve.

Density

Density on the site is limited to 12 units per acre maximum in Section 4. This would allow 131 units maximum, but Exhibit B indicates 111 units. For transparency and clarity of enforcement staff recommends that the number of units be set and described the same way in all areas. See the staff recommendation below.

A maximum of three bedrooms per unit is proposed. The PDD divides the site in two density zones. Zone 1, 4.62 acres, borders the single-family homes on Elm Hill Court. Density in this area is limited to 6 units per acre, which is consistent with the level of density in Low-Density Residential areas. The remainder of the units will be located in Zone 2, 6.3 acres, which is closer to Hillside Ranch Phase I.

Exterior construction standards

The PDD establishes a minimum of 80% masonry and various sustainable design elements.

Parkland Dedication

The applicant is proposing to dedicate approximately 1.34 acres of land for the construction of a hike/bike trail that would lead from N. LBJ Drive to the Spring Lake Preserve. In addition, the PDD would require that the applicant to provide materials for the trail and to construct public parking and signage at the trailhead. This is consistent with the recommendation of the Parks Advisory Board (see attached).

Water Quality

The development will provide 85% Total Suspended Solids (TSS) removal using Low Impact Development (LID) techniques. This is a standard that is not currently required by the Land Development Code.

Buffer and Compatibility

In order to provide a transition to the adjacent single-family neighborhood, the applicant has designed the site to provide a buffer between the lots fronting on Elm Hill Court. This buffer / park area ranges 90 to 100 feet to the first internal driveway and 150 feet to the face of the first home and extends from N. LBJ all the way to the Spring Lake Hills Nature Preserve. This buffer mirrors the distance from the curb of the Elm Hill Court residences to the backyard fences of these homes. Also, at the request of the adjacent property owners, the PDD requires an invisible hanging fence along the common property line with the Elm Hill Court lots (see illustration in PDD document).

The PDD requires that the site will participate in the Achieving Community Together (ACT) program, imposes an occupancy restriction of one person per lease per bedroom, and outlines pet restrictions.

Access to Hillside Ranch Phase I

The PDD proposes to provide a driveway connection to Hillside Ranch Phase I across approximately 25' of city right-of-way in order to reduce the impact on LBJ north of Holland. This would be negotiated as a license agreement or other separate process, and approval of this PDD does not guarantee approval of this agreement. Should an agreement not be approved, the PDD must be revised to reflect only a single point of access.

Comments from Other Departments

Electric stated that an easement will be required to ensure access to a feeder main, and National Electric Code clearance to buildings must be maintained. Staff advised the applicant of this, and these issues will be addressed at the platting and site design phases.

The approved Traffic Impact Analysis (TIA) for the development indicated that no mitigation was required. However, the TIA indicated 88 units for the development, and the most recently submitted PDD authorizes more than this (see density section). Staff has requested that this be updated to reflect the correct density of the site.

Comments from the Public

A petition in opposition was received in November. Since that time several people who signed the petition have asked to be removed. A letter in opposition is attached.

Planning Department Analysis:

The subject property is located approximately a half mile from the Texas State University campus and is within Sector 3, which encompasses approximately 1.5 square miles north of Texas State University and as a result feels the effects of the growth of the University more than any other sector in the City. As is evident in the number of rezoning requests that the Planning and Zoning Commission has seen in Sector 3 more and more developers are seeking to develop or redevelop sites within walking distance to campus. This sector of the City is currently experiencing a transition from what was once a mixture of residential uses to multi-family development. While staff believes that this request has incorporated site development planning techniques to provide a smooth transition between low density-single family homes and a high-density multi-family development within this area it is important for the Planning and Zoning Commission to discuss the long range benefits and challenges associated with increased density in this area. While this area is not only serves as a gateway to the Texas State University campus it also functions as a gateway into multiple established single family residential neighborhoods. As a gateway location it is critical to review the request not only with regard to how many units per acre will be allowed, but also to pay close attention to the site design of the development and the architectural quality of the development.

The LDC outlines the following criteria to be used by P&Z in deciding whether to approve, approve with modifications, or deny a petition for a PDD:

- (1) The extent to which the land covered by the proposed PDD fits one or more of the special circumstances in Section 4.2.6.1 warranting a PDD classification.

Staff evaluation: The property fits the description of 4.2.6.1 (b) (1): The land is located in close proximity to established residential neighborhoods where conventional zoning classifications may not adequately address neighborhood concerns regarding the quality or compatibility of the adjacent development, and where it may be desirable to the neighborhood, the developer or the City to develop and implement mutually-agreed, enforceable development standards;

- (2) The extent to which the proposed PDD furthers the policies of the Master Plan generally, and for the sector in which the proposed PDD is located.

Staff evaluation: The request for a PDD supports the following Sector 3 Goals:

- *"Walkable" pedestrian-friendly neighborhoods*
- *Context-sensitive street design giving equal value to vehicular movement, community aesthetics, pedestrian and cyclist safety.*
- *"Neighborhood friendly" development mitigating negative impacts on higher intensity uses.*

The request supports the following Master Plan Goals:

- *Policy LU 4.2- The City shall encourage residential areas, especially higher density uses, have access to shopping, recreation, and work places that are convenient not only for automobile traffic but also for foot and bicycle traffic in order to minimize energy consumption, air pollution, and traffic congestion.*

- *Policy LU-1.21: The City shall encourage new development to locate in areas already served by utilities and other community facilities.*

Staff is awaiting the TIA to determine consistency with the following -

- *Policy LU-4.3: The City shall encourage medium and high density residential developments to have direct access to at least collector width streets to accommodate the traffic volumes and turning patterns generated by high concentrations of people. They should also be located near major arterials. Low density residential development should not be impacted by heavy traffic generated by medium and high density areas.*

- (3) The extent to which the proposed PDD will result in a superior development than could be achieved through conventional zoning classifications.

Staff evaluation: – In short, the PDD contains enhancements in water quality, streetscape improvements, tree preservation, and exterior design standards. The request is superior in these regards to a development meeting the minimum standards for MF-12.

However, there is nothing in the MF-12 standards that prevent most of these enhancements. With the exception of the reduced setbacks for the townhomes along LBJ, this project and its enhancements could be achieved by right in an established MF-12 district.

- (4) The extent to which the proposed PDD will resolve or mitigate any compatibility issues with surrounding development.

Staff evaluation – Because of the buffers provided, the density zones established, the occupancy restrictions imposed, and participation in the ACT program, immediate nuisance issues such as noise should have a minimal effect on surrounding single-family properties.

- (5) The extent to which the PDD is generally consistent with the criteria for approval of a watershed plan for land within the district.

Staff evaluation –The Watershed Protection Plan Phase I has been approved. A WPP Phase II will be required prior to the final plat.

- (6) The extent to which proposed uses and the configuration of uses depicted in the Concept Plan are compatible with existing and planned adjoining uses;

Staff evaluation – The proposed multi-family use is not typically compatible with the surrounding single-family neighborhoods, though the PDD does mitigate this incompatibility as described in #4.

- (7) The extent to which the proposed development is consistent with adopted master facilities plans, including without limitation the water facilities, master wastewater facilities, transportation, drainage and other master facilities plans;

Staff evaluation – No variation from adopted plans is proposed.

- (8) The extent to which the proposed open space and recreational amenities within the development provide a superior living environment and enhanced recreational opportunities for residents of the district and for the public generally.

Staff evaluation –The proposed trail and parking area provides the entire area access to the Spring Lake Preserve.

Additionally, the Commission should consider:

- (1) Is the property suitable for use as presently zoned?

Staff evaluation: The property could be developed as single-family, but a number of the additional standards such as the trail would not be required by the Land Development Code.

- (2) Has there been a substantial change of conditions in the neighborhood surrounding the subject property?

Staff evaluation: Texas State University has continued to increase enrollment, and the area north of campus is densifying.

- (3) Will the proposed rezoning address a substantial unmet public need?

Staff evaluation: The rezoning will provide for public access to the Spring Lake Preserve for the area, which is not currently available anywhere in the area.

- (4) Will the proposed rezoning confer a special benefit on the landowner/developer and cause a substantial detriment to the surrounding lands?

Staff evaluation: The owner would receive no special benefit and contains a number of design requirements to prevent detrimental effects on the surrounding land.

- (5) Will the proposed rezoning serve a substantial public purpose?

Staff evaluation: In addition to the public access to the Spring Lake Preserve for the area, the request expands housing options near the university.

Although Section 7.4.3.2 of the Land Development Code requires only that a TIA be submitted along with the PDD application and does not technically require approval before the PDD, because of the location of the site, staff feels that an accurate TIA should be submitted prior to Commission review.

Also, clarifying the density of the site is critical. Showing a proposed number of units on Exhibit A that is less than are actually entitled is misleading and could lead to confusion in the future. For transparency and clarity of enforcement staff recommends that the number of units be set and described the same way in all areas of the PDD document.

Staff is recommending POSTPONEMENT of the request to allow:

1. clarification of the density proposed, and
2. amendment to the TIA.

Considering that this request was last heard by the Commission in November, staff feels that this is consistent with the intent of the Department's policy for Planned Development Districts, which are typically heard over two Planning and Zoning meetings.

Planning Department Recommendation	
<input type="checkbox"/>	Approve as submitted
<input type="checkbox"/>	Approve with conditions or revisions as noted
<input checked="" type="checkbox"/>	Alternative - Postpone
<input type="checkbox"/>	Denial

Prepared by:

John Foreman

Chief Planner

January 19, 2012

Name

Title

Date



City of San Marcos
Community Services - Parks and Recreation Department

PARKS ADVISORY BOARD
Regular Session

Tuesday, October 25, 2011

The following represents the action taken by the City of San Marcos, Parks Advisory Board in the order they occurred during the meeting. While the minutes may not be in sequential order, all agenda items were discussed.

Board Members in attendance:

Stephen Sundquist, Chairman
Gary Aalen, Vice-Chair
Bill Taylor
Sheila Torres-Blank
Chad Williams
Ted Ingwersen
H.L. "Butch" Crunk
Rick Henderson
Vacancy

Others Present:

See Sign-in List

Staff Members in attendance:

Rodney Cobb, Director of Community Services
William Ford, Asst. Director of Community Services and Parks and Recreation
Ken Claybourn, Facility Manager
Oscar Hairell, Operations Manager
Richard Merritt, Athletic Manager
Melani Howard, Watershed Protection Manager
Lisa Morris, Recreation Manager
Debbie Dietz, Recording Secretary

VI – Discussion and/or Recommendation – Hillside Ranch Park Proposal –

Sophia Nelson did the presentation saying that the property is approximately 10.925 acres and is located at the intersection of Holland Drive and North LBJ Drive. The property is bounded by single family residences to the north, multi-family residences to the south and the Spring Lake Preserve to the east. The proposed development is an extension of the existing Hillside Ranch apartments and would add approximately 106 units (approximately 400 bedrooms) to the area. The owner of the property is proposing the following to meet the parkland dedication requirements of the code.

- The applicant is committing to calculating the required parkland dedication based on the number of bedrooms (400) rather than basing it on the number of units (126). The change in calculation results in an additional 0.68 acres of dedication.
- The property owner will dedicate a minimum of a 30 ft. wide public pedestrian access easement parallel to the rear property lines of lots in the adjacent Elm Hill subdivision. The owner will be responsible for construction of a minimum ten foot width multi-use path within the public pedestrian access easement.
- Dedication of a .23 acre neighborhood park. The owner has committed to the construction of a gazebo or covered patio, picnic tables, or benches and a water fountain within the parkland area.

Planning and Development staff has reviewed the parkland proposal for the development and found the following:

- The proposed trail connection to Spring Lake Preserve supports the parkland connectivity goals of both the City's comprehensive Master Plan and the Parks Master Plan.
- While staff does agree that an active neighborhood park is needed north of campus, staff is concerned about the amount of usage a park of the proposed size would get. Additionally the cost of the associated maintenance for the park is of concern to the staff.

Staff is recommending approval of the construction and dedication of a 10" trail to be counted towards the required parkland dedication requirements. Additionally staff is recommending that in lieu of the neighborhood park, proposed by the property owner, the remainder of the parkland dedication requirements be satisfied through fee-in-lieu of dedication and the construction of a trail head.

Parks staff concurs with Planning and Development staff, and request approval from the Parks Board if the above items can be implemented in the development plan.

After discussion with the public, board members and staff a **motion** was made by Chad Williams that the board recommend that we receive the required 1.22 acres parkland dedicated on the northwest side of the trailhead.

Gary Aalen offered a friendly amendment to add that there will be a minimum width 50 ft. buffer between the trail and homes. Chad Williams accepts the amendment.

The **motion** is seconded by Gary Aalen and the motion passes (8-0).



January 19, 2012

Planning and Zoning Commission
630 E. Hopkins
San Marcos, Texas 78666

RE: ENVIRONMENTAL FEATURES OF HILLSIDE RANCH PHASE II PROJECT, SAN MARCOS, TEXAS

Dear Sirs:

The Hillside Ranch Phase II project is a multi-family housing development on a 10.925 acre site. The development proposes to include planning and design that goes beyond the minimum environmental requirements for the City of San Marcos.

1. The project is voluntarily complying with water quality regulations within the PDD that exceed the current standards of the City of San Marcos and the Texas Council of Environmental Quality (TCEQ). The site is not within the boundaries of the Edwards Aquifer Recharge Zone, but the proposed standards and methods used will exceed the local and state standards for the sensitive area abutting a significant preserve for the City of San Marcos (parkland to the north).
2. Tree and Vegetation Protection Program –
 - A tree survey has been developed and will be used in the planning and design of the site improvements.
 - The project team has identified significant heritage trees as well as areas of significant native vegetation to be preserved and included in the landscape plan for the development. The current site plan saves 23 of the heritage trees on the site.
 - The project will preserve areas of native vegetation adjacent to the neighborhood to the west. A significant portion of the tree and brushy landscape will be preserved to screen the parking lot as well as the structures of the new housing.
 - Other areas of selected native vegetation will be incorporated into the site design to allow further infiltration of stormwater.
3. The project will include Water Quality protection devices and structures which will be blended into the site and will provide infiltration, biofiltration and other means of lessening the impact of stormwater pollutants. The landscape plans will be coordinated with the civil engineering to ensure a seamless merging of landscape and water quality controls.
4. The clustering approach to the site planning allows better flexibility in siting landscape infiltration features as well as storm water controls. Minimizing the alteration of existing terrain will also help in lessening the impact of the new construction. Wildlife will be more attracted to the zones of preserved vegetation with this approach.
5. Depending on the final design and construction techniques used, the type and configuration of the LID water quality techniques that are incorporated into the project may allow the project to increase the actual Total Suspended Solids (TSS) removal to a level above 90%.

The following water quality techniques will be considered in the landscape and engineering plans:

 - a. Vegetated Filter Strips: Engineered vegetated slopes that pretreat stormwater as it sheet drains across them.
 - b. Bioswales: Vegetated swales with check-dams that slow, clean, and infiltrate stormwater as it is conveyed through the site.
 - c. Rain Gardens: Depressed and vegetated areas where stormwater is channeled for cleansing and infiltration.

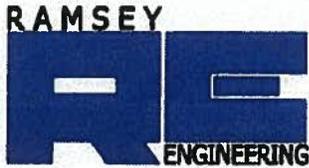
J. Robert Anderson, FASLA Landscape Architects
3718 Manchaca Road • Austin, Texas 78704 • p. 512.440.1049 • f. 512.440.8000
www.jrobertanderson.com

- d. Biofiltration Pond: Similar to sand filtration ponds with the addition of vegetation to provide a higher degree of pollutant removal.
- e. Pervious Paving in Parking Spaces: allow stormwater to infiltrate through paving rather than running off.
- f. Native Plants for Landscaping: reduce irrigation water demand, provide wildlife habitat, and retain a small volume of stormwater.

A handwritten signature in black ink, reading "J. Robert Anderson" with a long horizontal flourish at the end.

J. Robert Anderson, FASLA

J. Robert Anderson Landscape Architects
3718 Manchaca Rd.
Austin, TX 78704
512-440-1049



Ramsey Engineering, LLC

Civil Engineering - Consulting
TBPE Firm No. F-12606

3206 Yellowpine Terrace
Austin, Texas 78757
Cell: 512-650-6800
skramsey53@att.net

January 19, 2012

City of San Marcos
Planning & Zoning Commission
630 E. Hopkins Street
San Marcos, Texas 78666

RE: Hillside Ranch Phase 2
1410 North LBJ Drive
San Marcos, Texas
Preliminary Engineering Evaluation Report
Project No. 11-017-11

Dear Commissioners:

Please accept this letter with attachments as our preliminary engineering evaluation report. This report is provided in conjunction with the pending re-zoning and Planned Development District (PDD) overlay cases with the City. A summary of our findings is highlighted following.

- The proposed impervious cover is approximately 47.5% of the project site and less than the 50% allowed for SF-6 zoning.
- The Sink Creek watershed area, to the confluence point for this project drainage, is about 43.7 square miles, or, almost 28,000 acres. The proposed project impervious cover represents only about 0.02% of the Sink Creek watershed area (to confluence point).
- 2-Year and 25-Year on-site stormwater detention to be provided. Stormwater runoff peak flow rates will not be increased over the existing conditions.
- Stormwater runoff velocities will not be increased. Erosion potential will not be increased as a result of this project.
- Water quality best management practices for 85% removal of Total Suspended Solids (TSS) increase over existing conditions to be provided, and, will exceed TCEQ or City requirements.
- Project will not result in an adverse impact to downstream properties.

Existing Project Site Conditions

This 10.925-acre tract is located along North LBJ Drive, opposite the Holland Street intersection. This tract is predominately undeveloped, with only one (1) single family residence, a small barn and a small one-story rock building. The existing impervious cover is approximately 0.39 acres or about 3.6% of the total tract area.

Topographically, this tract is predominately gently sloping, with some steep slopes, from south to north (from North LBJ frontage to the rear of the property). A topographic high point or ridge splits the tract into two (2) on-site drainage areas. Approximately 2/3 of the tract drains to the northwest property corner, with the remaining approximate 1/3 draining to the northeast corner. No off-site drainage is conveyed through this tract from the south and east sides. North LBJ Drive provides for a drainage divide along the south side of the tract. An existing ephemeral creek, just off-site and along the east property line, conveys stormwater runoff from the surrounding developed areas and away from this tract. The existing single family lots along Elm Hill Court, to the west of and abutting this tract, drain to the property. Consequently, off-site drainage conveyance through this tract is limited to this west side only.

The project is located within the Edwards Aquifer Contributing Zone within the Transition Zone. Therefore, in addition to the City of San Marcos, the Texas Commission on Environmental Quality (TCEQ) will have jurisdictional authority over the project development.

Proposed Site Development Conditions

Attachment A provides the proposed Site Plan. This site development, i.e., buildings, parking, drives, site disturbance, etc., have been located and aligned so to account for three (3) important development and construction aspects. They are: (1) to substantially preserve all of the on-site existing specimen trees (24" and larger in diameter); (2) to improve the site constructability by working with and parallel to the existing slopes, to the greatest extent possible; and (3) to minimize rock excavation and the resulting dust associated with that type of excavation. We feel these three project aspects are important to note because they all work together and toward minimizing site disturbance and preserving the natural character of the property.

For the Site Plan in Attachment A, we estimate the proposed impervious cover for the project to be approximately 5.19 acres or about 47.5% of the total tract area. This impervious cover ratio is well below the 75% maximum allowed in the proposed PDD Standards. This proposed impervious cover is also less than that allowed for single family residential zoning (50% allowed).

More importantly, the proposed impervious cover represents only about 0.02% of the total Sink Creek watershed area (to this drainage confluence to the creek). We have verified the approximate total watershed area to this location to be about 43.7 square miles or almost 28,000 acres (see Attachment B). The watershed boundary goes almost to the Ranch Road 12 and Farm To Market Road 32 intersection, near Wimberley. Because of the inconsequential amount of impervious cover with this project, relative to this very large watershed area, and in combination with no increase in stormwater peak flow rates and velocities from the development (see below), this project will not and cannot result in an adverse impact to the downstream properties and the receiving Sink Creek.

On-site stormwater detention improvements will be included with the project development. In consideration of the existing topography (see above), one (1) on-site detention pond will be constructed at or near to each rear property corner. Both ponds will be designed to detain the

increase in stormwater peak flow rates for the 2-year and 25-year design storms. We will also evaluate the 100-year storm to ensure no adverse impact downstream. A level flow spreader and velocity dissipater will be provided at the outlet of each pond. These pond outlet improvements will ensure non-erosive velocities and to prevent point discharge of the stormwater, i.e, returning the discharge to a sheet flow condition, similar to the existing conditions.

We wish to point out that the primary function of a stormwater detention pond is to maintain the peak flow rates, for a particular design storm, at or below the existing conditions. The increase in stormwater runoff volume (from the existing conditions) is detained and released over an extended time period. By doing so, and by providing certain pond outlet improvements (see above), discharge velocities from the development, and, velocities in the receiving creek or channel are not increased. With no increase in stormwater velocities, the erosion potential in the receiving drainageway cannot be increased, over the existing conditions, as a result of this project.

In addition, on-site water quality controls are to be provided. Both the City and TCEQ will require these controls since the project is located within the Edwards Aquifer Contributing Zone. Both entities will require 80% removal of the increase in Total Suspended Solids (TSS) loadings over the existing conditions (calculated in pounds [lbs] per year). The proposed project controls will exceed this requirement by providing 85% removal of the TSS increase. Consequently, the project development will provide an improved mitigation to this pollutant loading from the site. Of special note is the fact that neither the City or TCEQ require 100% removal of the TSS increase. Both entities recognize that such a removal efficiency is not warranted.

City Watershed Protection Plan Permitting

The Watershed Protection Plan Phase 1 (WPP1) Permit was approved by the City on October 13, 2011. The approval certificate number is WPP1-11-08. This permit addressed the existing site and soil conditions, topography, and trees 9" and larger in diameter, as well as providing for the preliminary proposed improvements plan.

Prior to final platting and after zoning entitlements are obtained, the City will require a Phase 2 (WPP2) Permit application and approval. This permit will specifically address the final design and construction/installation of the temporary and permanent erosion and sedimentation controls, on-site stormwater detention and on-site water quality controls.

TCEQ Contributing Zone Plan

Concurrent with the above City WPP2 Permit application, we will submit a Contributing Zone Plan (CZP) application to TCEQ. This CZP entails similar requirements as the City watershed permit.

Site Visits/Observations

With consideration to all of the above, numerous site and area visits have been made to observe the existing conditions. These observations are critical in understanding the existing drainage

conditions, in particular. We have observed no noticeable soil erosion within or from this 10.925-acre tract.

However, we understood there was a neighborhood concern regarding erosion in this immediate area. We did observe some off-site soil erosion near the east property line. This soil erosion is downstream of an existing City 36" storm culvert and sedimentation basin for Holland Street. An existing dry creek, partially located on the existing Hillside Ranch Apartment complex at 1350 North LBJ Drive, conveys stormwater runoff to the north to Sink Creek. Photographs have been taken to document this existing drainage condition. Refer to Attachment C. We believe this observed soil erosion is the result of erosive velocities due to the existing steep slopes downstream of the existing City drainage improvement. Further, it is our opinion this soil erosion is not the result of stormwater discharge from this 10.925-acre tract or the existing Hillside Ranch Apartments at 1350 North LBJ.

Summary

The proposed project development will have a total impervious cover less than that allowed for SF-6 zoning. Further, the proposed impervious cover represents only 0.02% of the Sink Creek watershed to the project drainage confluence with the creek. This is like "a grain of sand at a very large beach". Additionally, stormwater runoff peak flow rates will not be exceeded for the 2-year and 25-year storms. By providing on-site detention for the smaller but more frequent storm events, non-erosive velocities can be ensured. Thus, streambank erosion can be minimized and not be increased as a result of this project. Therefore, it is our opinion that this project would not result in an adverse impact to the downstream properties.

We trust you will find this preliminary engineering report to be satisfactory. Please advise if you need anything else.

Sincerely,



Stephen Ramsey, P.E.
Manager/President

Enc.



ATTACHMENT A

ATTACHMENT B

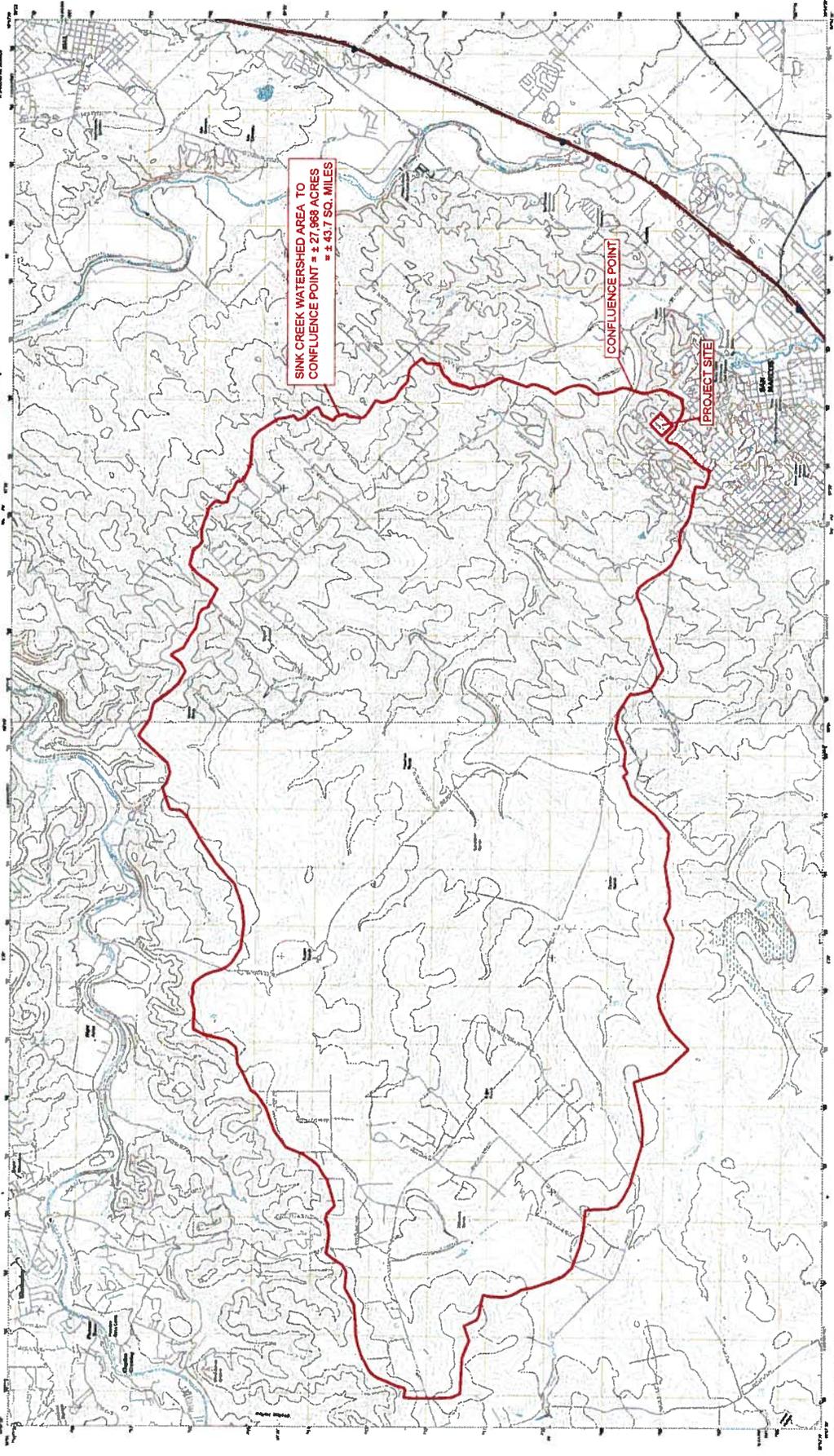
U.S. DEPARTMENT OF THE INTERIOR
U.S. GEOLOGICAL SURVEY

US Topo

U.S. DEPARTMENT OF THE INTERIOR
U.S. GEOLOGICAL SURVEY

US Topo

SAN MARCO COUNTY GEOL. MAP
1:50,000 SCALE



SINK CREEK WATERSHED AREA TO
CONFLUENCE POINT = ± 27,968 ACRES
± ± 43.7 SQ. MILES

CONFLUENCE POINT

PROJECT SITE

Scale bars for 1:50,000 and 1:25,000. A legend table with symbols for various features. A north arrow. A title block with the following text: 'SAN MARCO COUNTY, TEXAS', '1:50,000 SCALE', '1979', and 'U.S. GEOLOGICAL SURVEY'. A small inset map of Texas showing the location of San Marcos County.

ATTACHMENT C



City 36" RCP and Sedimentation Basin Downstream of and For Holland



City 36" RCP and Sedimentation Basin Downstream of and For Holland



Existing Soil Erosion Downstream of City Drainage



Existing Soil Erosion Downstream of City Drainage



Existing Soil Erosion Downstream of City Drainage



Existing Soil Erosion Downstream of City Drainage



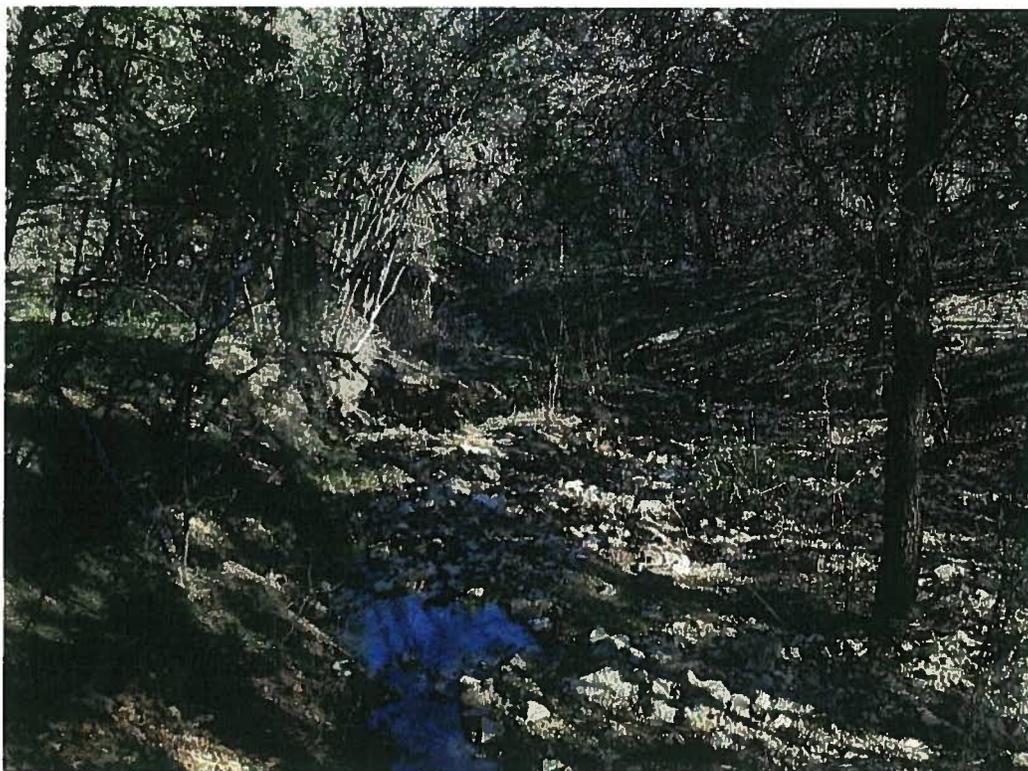
Existing Soil Erosion Downstream of City Drainage



Existing Soil Erosion Downstream of City Drainage



Existing Soil Erosion Downstream of City Drainage



Existing Soil Erosion Downstream of City Drainage

**City of San Marcos
Protest to Proposed Rezoning**

Notes:

1. A protest to a proposed rezoning of property must be signed by the owners of at least 20 percent of either 1) the area of the proposed change, or 2) the area of the lots or land within a 200 foot perimeter around the area of the proposed change.
2. Copies of this form may be used, but all signatures must be original, and all forms must be submitted to the City Clerk's office at five (5) business days before the scheduled City Council public hearing on the rezoning.
3. You must be an owner of property for your signature to count in determining the protest area.

To the San Marcos City Council:

We, the undersigned, protest the proposed rezoning of the following property: Hillside Ranch Phase 2 (Fill in with street address or legal description, or attach a map) from single family current zoning to multi family (proposed zoning).

Printed Name	Signature/Date	Residence Address	Legal Description or Street Address of your property
Dianne + Tom Wassenich	11/9/11 <i>Dianne H. Wassenich</i>	11 Tanglewood San Marcos TX 78666	11 Tanglewood San Marcos TX
Jaime + Rosario Hernandez	11/10/11 <i>Rosario Hernandez</i>	115 Elm Hill Ct San Marcos TX 78666	115 Elm Hill Ct San Marcos TX 78666
ERIGOR IVIMAR	11/19/11 <i>[Signature]</i>	108 Elm Hill Ct. San Marcos, TX	108 Elm Hill Ct. San Marcos, TX
Alexander Vardell	11/19/11 <i>[Signature]</i>	1422 N. LBJ San Marcos, TX	1422 N LBJ DR San Marcos, TX
Don & Betsy SINGLETON	11/10/11 <i>[Signature]</i>	96 Elm Hill Ct San Marcos TX	96 Elm Hill Ct San Marcos, TX 78666
Ryan Gotcher	11/10/2011 <i>[Signature]</i>	1420 N LBJ 78666	1420 N LBJ 78666
PAT CORLEY	11/10/2011 <i>[Signature]</i>	104 Elm Hill Ct. SAN MARCOS, TX	104 Elm Hill Ct SAN MARCOS, TX
GARY FORE	11/10/11 <i>[Signature]</i>	103 Elm Hill Ct San Marcos, TX	103 Elm Hill Ct San Marcos, TX
Linda FORE	11/10/11 <i>[Signature]</i>	103 Elm Hill Ct San Marcos, TX	103 Elm Hill Ct San Marcos, TX

not within 200 ft. →

*

same address ←

Circulator's statement: I circulated this petition and all of the signatures were placed on it in my presence.

Signature: Jeff Lowe Printed Name: Jeff Lowe Date: 11/10/11

FOR CITY CLERK'S USE ONLY

Petition received on the 15 day of November, 2011. [Signature]
City clerk/deputy city clerk

**City of San Marcos
Protest to Proposed Rezoning**

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To the San Marcos City Council:

We, the undersigned, protest the proposed rezoning of the following property: Hillside Ranch Phase 2 (Fill in with street address or legal description, or attach a map) from Single family (current zoning) to Multi Family (proposed zoning).

Printed Name	Signature/Date	Residence Address	Legal Description or Street Address of your property
(Guejardo) → Cynthia Gonzalez	 10 Nov 2011	113 Elm Hill Ct. SM TX 78667	113 Elm Hill Ct. SM TX 78667
Elizabeth Hernandez	 10 Nov 2011	126 Cypress Ct.	126 Cypress Ct.
JANICE Golick	 11 Nov 2011	102 Elm Hill Ct. SAN MARCOS, TX 78666	102 Elm Hill Ct. SAN MARCOS, TX 78666
Sarah Sullivan	 11/11/11	1336 Chestnut San Marcos, TX	1336 Chestnut San Marcos, TX
Linda Porter	 11/11/11	119 Elm Hill Ct San Marcos TX	119 Elm Hill Court San Marcos, TX
ARNOLD ANAYA	 11/11/11	101 ELM HILL CT. SAN MARCOS, TX	101 ELM HILL COURT SAN MARCOS, TX
FERRANDO ZAMORA	 11/12/11	125 CYPRESS COURT SAN MARCOS TX	125 CYPRESS COURT + SAN MARCOS TX
R 27089 R 27090 Carol Fernandez	 11/12/11	125 Elm Hill Ct SAN MARCOS, TX	125 Elm Hill Ct SAN MARCOS, TX 78666
Nancy Fisher	 11-12-11	95 ELM HILL CT SM, TX 78666	95 ELM HILL CT. SM, TX 78666

Circulator's statement: I circulated this petition and all of the signatures were placed on it in my presence.

Signature: Jeff Loun Printed Name: Jeff Loun Date: 11-12-11

FOR CITY CLERK'S USE ONLY

Petition received on the 15 day of November, 2011.

City clerk/deputy city clerk

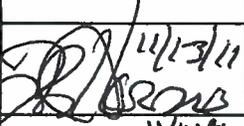
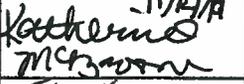
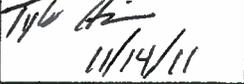
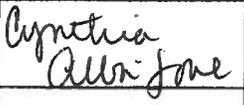
**City of San Marcos
Protest to Proposed Rezoning**

Notes:

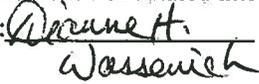
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3. You must be an owner of property for your signature to count in determining the protest area.

To the San Marcos City Council:

We, the undersigned, protest the proposed rezoning of the following property: Hillside Ranch 2 (Fill in with street address or legal description, or attach a map) from single family (current zoning) to apartments (proposed zoning).

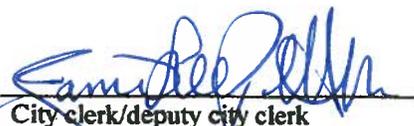
Printed Name	Signature/Date	Residence Address	Legal Description or Street Address of your property
FR HORNE	 11/13/11	204 Orange St San Marcos	105 Elm Hill Ct
Katherine McBroom	 11/14/11	111 Elm Hill Ct	111 Elm Hill Ct
Tyler Heideke	 11/14/11	1424 N LB	1424 N LB
Cynthia Alba-Lou		106 Elm Hill Ct	106 Elm Hill Ct

Circulator=s statement: I circulated this petition and all of the signatures were placed on it in my presence.

Signature:  Printed Name: Dianne H. Wassenich Date: 11/13

FOR CITY CLERK'S USE ONLY

Petition received on the 15 day of November, 2011.


City clerk/deputy city clerk



**City of San Marcos
Protest to Proposed Rezoning**

Notes:

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To the San Marcos City Council:

We, the undersigned, protest the proposed rezoning of the following property: Hillside Ranch 2 (Fill in with street address or legal description, or attach a map) from single fam (current zoning) to apartment (proposed zoning).

Printed Name	Signature/Date	Residence Address	Legal Description or Street Address of your property
Sally Ploeger	¹¹⁻¹²⁻¹¹ Sally Ploeger	(P.O. Box 173 San Marcos) 105 Canyon	1255 N. LBJ DR.

2 lots

Circulator's statement: I circulated this petition and all of the signatures were placed on it in my presence.

Signature: Jeff Lowe Printed Name: Jeff Lowe Date: 11-14-11

FOR CITY CLERK'S USE ONLY

Petition received on the 15 day of November, 2011.

Samuel P. [Signature]
City clerk/deputy city clerk

20007 Cedar Branch
Garden Ridge, Texas 78266
January 15, 2012

2012 JAN 19 AM 10 50

Development Services-Planning (DSP)
630 East Hopkins
San Marcos, Texas 78266

Dear Sir:

My wife, Nancy B. Fisher, and I are writing in response to your (DSP) letter of January 12, 2012, regarding "Notice of Public Hearing for Planned Development District Zoning Change & Land Use Amendment at Hillside Ranch Phase 2, 1410 North LBJ Drive, San Marcos, Texas" in which you are requesting a Zoning Change from Single Family Residential to Multi-Family Residential status and a Land Map Amendment from Low Density Residential (LDR) to Medium Density Residential (MDR) for 10.925 acres located at 1410 North LBJ Drive, San Marcos, Texas. We are requesting that this letter be read into the minutes of the upcoming public hearing to be held in the City Council Chambers of City Hall, 630 Hopkins, on Tuesday, January 24th, 2012, at 6: p.m., since we are not able to attend the meeting.

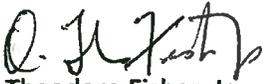
We own a single-family residence located at 95 Elm Hill Court, San Marcos, Texas. Therefore, our property, according to the above mentioned DPS letter and map, is located within the proposed affected rezoning area, and specifically, our property is depicted on the map as existing within 200 feet of the subject property.

We are **STRONGLY OPPOSED** to any rezoning of the subject area which would allow Multi-Family Residences (MFR) to be constructed in the future. One of the main reasons for the latter opposition is that there was no specific information as to the exact type of MFR's which would be built. It is logical and reasonable for the property owners to know what type of MFR's the developer plans to construct. Also, it would appear that the developer, ETR Development, may already know the exact type of MFR's they desire to construct since this would be the main thrust of their rezoning request. Could you please advise us as to what type of MFR's this area is proposed to include? Will the proposed results of this rezoning issue include the Planning & Zoning Commission allowing the developer to construct public housing/project units, multi-storied and low-rent apartment units or middleclass and tastefully constructed duplex, triplex and/or fourplex units on single lots, cottage homes and/or townhome units?

Our property on 95 Elm Hill Court currently exists among other dwellings as a well-kept, tranquil and safe middleclass neighborhood of SFR's. The only negative aspect about this immediate area is that North LBJ Drive is in need of widening, and it is overdue for repaving to keep up with the increased vehicular traffic especially if the DPS intends on constructing MFR's in that area. Also, it is our particular concern that depending on what type of MFR's are constructed, this neighborhood could become a breeding ground for the type of citizenry which would decrease both the quality of life and property values of property owners and as always follows in these types of rezoning scenarios. It would result in a higher rate of both personal and property crimes.

We request and would greatly appreciate a response from DSP regarding the above questions; to include what type of MFR's would be built in the rezoned area before the planned meeting, if possible. We thank you in advance.

Sincerely,


O. Theodore Fisher, Jr.


Nancy B. Fisher

January, 2012

Re: Elm Hill Court Support of the proposed 1410 N. LBJ Development (Hillside Ranch Phase II)

To the San Marcos City Planning & Zoning Staff, Members of the Planning and Zoning Commission and the San Marcos City Council:

The residents of Elm Hill Court have been actively working with the proposed developer of 1410 N. LBJ in refining the PDD for the proposed multifamily development at this location. This has resulted in numerous revisions to the originally proposed plan resulting in a final proposal that we consider favorable. We ask you, the members of the Planning & Coning Commission and the City Council to likewise vote for approval of this project.

We feel that the provisions specified in the revised PDD, which are the result of good-faith negotiations between us and the project developer, will provide a project, which will be superior to the traditional single-family development, which might otherwise be built there. The PDD will provide us with a wide buffer of dedicated parkland between Elm Hill Court property lines and the closest apartments, with a trail through the parkland giving our neighborhood direct access to the Spring Lake Hills Preserve. Also, the density of apartment units in Zone 1, the 4.62 acres closest to our neighborhood will be limited to six units per acre, the same density as surrounding single-family neighborhoods.

This has been a collaborative effort. The specifications of the PDD achieve the goals of our neighborhood.

Please remove my name from the Protest to Proposed Rezoning petition that I signed last year.

Property Owner Signature Cynthia Gonzalez

Printed Name Signature Cynthia L. Gonzalez

Property Address 113 Elm Hill Ct. SM TX 78666

2012 JAN 17 PM 2 40

January, 2012

Re: Elm Hill Court Support of the proposed 1410 N. LBJ Development (Hillside Ranch Phase II)

To the San Marcos City Planning & Zoning Staff, Members of the Planning and Zoning Commission and the San Marcos City Council:

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Property Owner Signature Janice B. Golick

Printed Name Signature JANICE B. Golick

Property Address 102 Elm Hill Ct, San Marcos, TX 78666

2012 JAN 17 PM 2 40

January, 2012

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Property Owner Signature 

Printed Name Signature PAT CORLEY

Property Address 104 Elm Hill Ct.

2012 JAN 17 PM 2 40

January, 2012

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Property Owner Signature Arnold Araya

Printed Name Signature ARNOLD ARAYA

Property Address 101 ELM HILL CT.

2012 JAN 17 PM 2 40

January, 2012

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Property Owner Signature Linda Sue Porter

Printed Name Signature Linda Sue Porter

Property Address 119 Elm Hill Court, San Marcos, TX 78666

2012 JAN 17 PM 2 40

January, 2012

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Property Owner Signature Carol Fernandez

Printed Name Signature Carol Fernandez

Property Address 125 + 127 Elm Hill Court
San Marcos, TX
78666-3028

January, 2012

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Property Owner Signature



Printed Name Signature

DON SINGLETON 1/18/12

Property Address

96 Elm Hill Ct

January, 2012

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Property Owner Signature Ryan Gatchen

Printed Name Signature Ryan Gatchen

Property Address 1420 N LBJ

2012 JAN 20 PM 12 13

January, 2012

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Property Owner Signature Nancy B. Fisher

Printed Name Signature Nancy B. Fisher

Property Address 95 Elm Hill Ct. San Marcos, TX

78666

2012 JAN 20 PM 12:14

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Property Owner Signature Alexander Vardell

Printed Name Signature Alexander Vardell

Property Address 1422 N LBJ DR, San Marcos, TX

2012 JAN 20 PM 12 13