REGULAR MEETING OF THE
SAN MARCOS PLANNING AND ZONING COMMISSION

Tuesday, October 11, 2011, 6:00 p.m.
City Council Chambers
630 E. Hopkins Street

Bill Taylor, Chair
Bucky Couch, Vice-Chair
Sherwood Bishop, Commissioner
Randy Bryan, Commissioner
Curtis O. Seebeck, Commissioner
Chris Wood, Commissioner
Travis Kelsey, Commissioner
Kenneth Ehlers, Commissioner
Carter Morris, Commissioner
Brooks Andrews, Texas State University Student Liaison

AGENDA

1. **Call to Order.**

2. **Roll Call.**

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.**

Consent Agenda

6. **Consider approval of the minutes from the Regular Meeting on September 27, 2011.**

7. **PC-11-37(01)(McNaughton Addition/ Keith Addition Concept Plat). Waiver of 30 day review period.** Consider a request by Shawn Ash, on behalf of James R. Keith for approval of a waiver of the decision time for a concept plat for approximately 5.4 acres of property located at 203-211 Yale Street and 206 Orchard Street and at the terminus of Yale Street.

8. **PC-11-14(03)(McNaughton Addition/ Keith Addition). Waiver of 30 day review period.** Consider a request by Shawn Ash, on behalf of James Keith for approval of a waiver of the decision time for a final plat of approximately 1.172 acres of property located at 203-211 Yale Street and 206 Orchard Street.

9. **Land Development Code (LDC) Revisions.**- Consider possible action on the Land Development Code Revisions to the following sections: Chapter 1 Article 6-Platting Procedures, Section 6.7.2.1(j) Determination and Regulation of Lot Size, Section 2.2.1.1 Development Agreements, Chapter 1 Article 8 Division 1- Site Preparation Permits, Section 4.1.5.1 Creation of a new zoning district- Vertical Mixed Use, Chapter 4 Division 2 Public, Special, and Nonresidential Districts, Section 4.2.1.11 MF-12 Multiple- Family Residential Districts, Section 4.2.1.12 MF-18 Multiple Family Residential District, Section 7.4.2.3 General Requirements for Sidewalks, Section 1.5.6.6 and Section 1.10.1.4 Historic Preservation Appeals Process, Chapter 8 Glossary- Revisions to the Definition of Major, Minor, and Moderate Recharge Features.

Public Hearing

10. **WR-11-01(Stagecoach Trail and Wonder World Drive).** Hold a public hearing and consider a request by John David Carson, on behalf of Carson Diversified Land 1 LLC., for a warrant request to allow a variation to the allocation of transect zones within a SmartCode zoned property for a 5.05 acre area described as Lots 1-4 Block A of the Hays County Government Center Campus Subdivision and Lot 2 Section 4 of the San Marcos Business Park Subdivision and located at the intersection of Stagecoach Trail and Corporate Drive at Wonder World Drive.

11. **ZC-11-34 (Stagecoach Trail and Wonder World Drive).** Hold a public hearing and consider a request by John David Carson, on behalf of Carson Diversified Land 1 LLC., for a zoning change request from General Commercial (GC) to SmartCode District- Transect 5 (SC- T5) for a 5.05 acre area described as Lots 1-4 Block A of the Hays County Government Center Campus Subdivision and Lot 2 Section 4 of the San Marcos Business Park Subdivision and located at the intersection of Stagecoach Trail and Corporate Drive at Wonder World Drive.

Considerations

12. **PDD-11-07 (120 Warden Lane/ Thorpe Lane Lofts).** Consider possible action on a request by Austin Civil Engineering, on behalf of Javastone Capital Holdings, for a Planned Development District Overlay (PDD) at 120 Warden Lane.

13. **Land Development Code (LDC) Revisions.** Consider possible action on the Land Development Code Revisions to the following sections: Chapter 1 Article 7 Division 1-Watershed Protection Plans and Chapter 7.4.1.4 Specific Street Standards-Street Lights.

14. **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.

Development Services Report

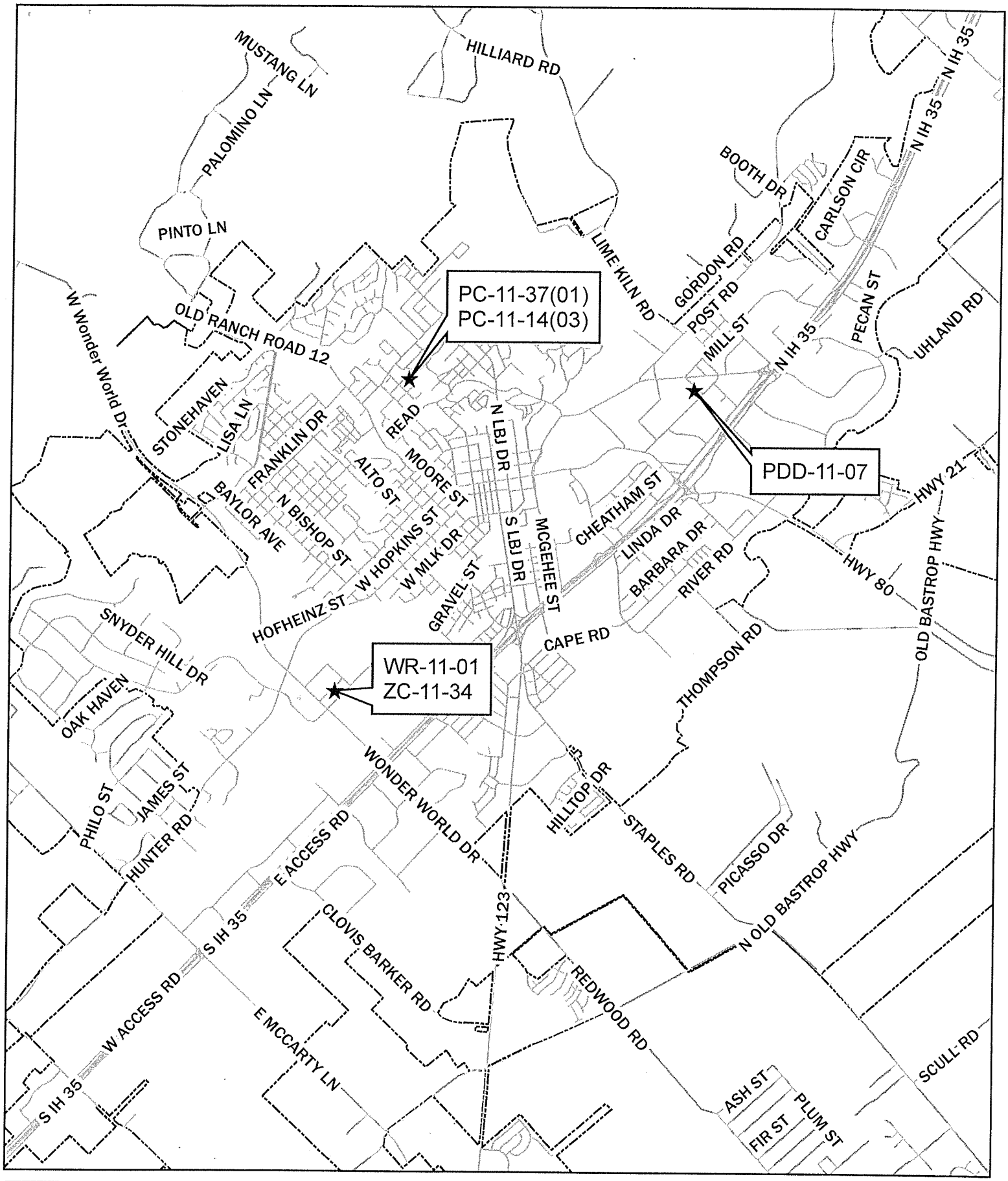
- **Update on SmartCode Design Standards**
- **Community Planning Month Activities**

Commissioners' Report.

15. Questions from the Press and Public.

16. Adjourn.

Notice of Assistance at the Public Meetings: The San Marcos City Hall is wheelchair accessible. The entry ramp is located in the front of the building. Accessible parking spaces are also available in that area. Sign interpretative for meetings must be made 48 hours in advance of the meeting. Call the City Clerk's Office at 512-393-8090.



Planning and Zoning Commission Meeting
October 11, 2011
Location Map

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

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MINUTES OF THE REGULAR MEETING OF THE
SAN MARCOS PLANNING AND ZONING COMMISSION
COUNCIL CHAMBERS, CITY HALL
September 27, 2011

1. Present

Commissioners:

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

City Staff:

Matthew Lewis, Development Services Director
Sofia Nelson, Chief Planner
Christine Holmes, Chief Planner
John Foreman, Planner
Francis Serna, Recording Secretary

2. Call to Order and a Quorum is Present.

With a quorum present, the Regular Meeting of the San Marcos Planning & Zoning Commission was called to order by Chair Taylor at 6:00 p.m. on Tuesday September 27, 2011 in the Council Chambers, City Hall, City of San Marcos, 630 E. Hopkins, San Marcos, Texas 78666.

3. Chairperson's Opening Remarks.

Chair Taylor welcomed the audience.

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

Paige Bishop, 1608 Lancaster Street thanked the P&Z for their service. She spoke regarding the Retreat Development and asked the Commission to consider changing the construction beginning and ending work times. Ms. Bishop said it is unfair that residents have to deal with the development.

Terry Hamilton, 1600 Lancaster resident across from the Retreat development stated she would like the construction hours to change because of the constant banging and beeping of the trucks.

Ed Davis, 107 Chaparral stated he purchased his home 26 years ago. He said it took him 12 years to build his water system. Mr. Davis explained that he has lost 50,000 gallons of water from the first 3 days from start of the Retreat development. He said he has many days cleaning mud out of the water pipes. Mr. David pointed out that he was just released from the hospital and thinks he was in the hospital due the development. He mentioned that the development has used his system. He added that plowing up the ground has increased dirt problems and they also bring up carcasses.

6. Update on Construction of Retreat at San Marcos.

Kristy Stark, Development Services Assistant Director-Permit Center gave the update.

Consent Agenda

7. Consider approval of the minutes from the Regular Meeting on September 13, 2011.

MOTION: Upon a motion made by Commissioner Bishop and a second by Commissioner Wood the Commission voted all in favor to approve on consent the minutes of the Regular Meeting on September 13, 2011. The motion carried unanimously.

Public Hearing

8. CUP-11-14 Thomas Cuevas (206 Flores). Hold a public hearing and consider a request by Thomas Cuevas to add an accessory residential structure on a site with an existing residence at 306 Luciano Flores Blvd.

Chair Taylor opened the public hearing for CUP-11-14. There were no 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 all in favor to approve CUP-11-14 with the following conditions: that two paved parking spaces shall be added; the permit is granted to the applicant and is required to be renewed when ownership of the main residence changes; the accessory dwelling may not be rented separately from the main residence; the single-family occupancy restrictions applies to the entire property; and there shall be no separate utility meters. The motion carried unanimously.

9. PDD-11-07 (120 Warden Lane/ Thorpe Lane Lofts)- Hold a public hearing and discuss a request by Austin Civil Engineering, on behalf of Javastone Capital Holdings, for a Planned Development District Overlay (PDD) at 120 Warden Lane.

Chair Taylor opened the public hearing for PDD-11-07. Brent Hammond, representing the client advised that he was available to answer questions. There were no additional citizen comments and the public hearing was closed.

10. LUA-11-15 (Blanco Riverwalk) - Hold a public hearing and discuss a request by Mike Cotter and Vista Del Blanco for a Land Use Map Amendment from Mixed Use (MU) to High-Density Residential (HDR) for approximately 13 acres out of Lot 1, Block C, Blanco Riverwalk Subdivision, located at Riverway Avenue and Cotter Avenue.

11. ZC-11-19 (Blanco Riverwalk) - Hold a public hearing and discuss a request by Mike Cotter and Vista Del Blanco for a Zoning Change from Mixed Use (MU) to Multi-Family (MF-24) for approximately 13 acres out of Lot 1, Block C, Blanco Riverwalk Subdivision, located at Riverway Avenue and Cotter Avenue.

12. PDD-11-08 (Blanco Riverwalk) – Hold a public hearing and discuss a request by Mike Cotter and Vista Del Blanco for a PDD overlay district for approximately 13 acres out of Lot 1, Block C, Blanco Riverwalk Subdivision, located at Riverway Avenue and Cotter Avenue, with a proposed base zoning of MF-24.

Chair Taylor opened the public hearing for LUA-11-15; ZC-11-19; and PDD-11-08. Steve Ramsey, Ramsey Engineering gave a five minute presentation. He said he would be available to answer questions. There were no additional citizen comments and the public hearing was closed.

13. LDC Revisions Public Hearing and Discussion.- Hold a public hearing and discuss Land Development Code Revisions to the following sections: Chapter 1 Article 7 Division 1-Watershed Protection Plans, Chapter 1 Article 6-Platting Procedures, Section 6.7.2.1(j) Determination and Regulation of Lot Size, Section 2.2.1.1 Development Agreements, Chapter 1 Article 8 Division 1- Site Preparation Permits, Section 4.1.5.1 Creation of a new zoning district- Vertical Mixed Use, Chapter 4 Division 2 Public, Special, and Nonresidential Districts, Section 4.2.1.11 MF-12 Multiple- Family Residential Districts, Section 4.2.1.12 MF-18 Multiple Family Residential District, Section 7.4.2.3 General Requirements for Sidewalks, Section 1.5.6.6 and Section 1.10.1.4 Historic Preservation Appeals Process, Chapter 7.4.1.4 Specific Street Standards-Street Lights, Chapter 8 Glossary- Revisions to the Definition of Major, Minor, and Moderate Recharge Features.

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

14. Discussion Items.

Commissioner Bishop requested that aerial photos be included in the staff reports or in the presentation.

Commissioner Morris thanked staff for including the land development code sections in their staff reports.

Development Services Report

a) The Use of the SmartCode.

Matthew Lewis announced that the Commission would be reviewing several SmartCode projects on the October 11, 2011 Planning Commission meeting.

Sofia Nelson gave a brief review of SmartCode.

Commissioners' Report

There were no reports.

15. Questions and answers from the Press and Public.

There were no questions from the public.

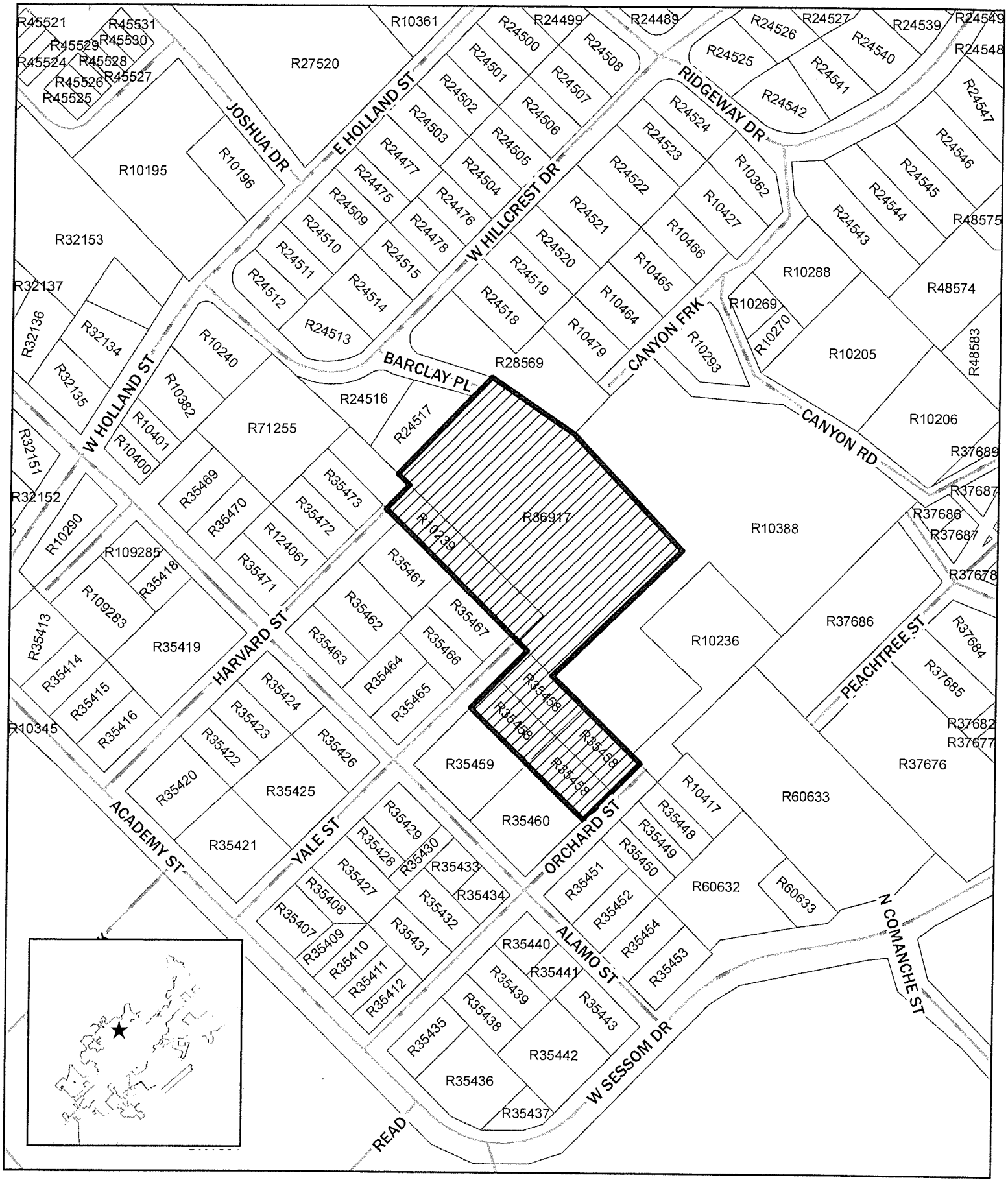
16. Adjournment

Chair Taylor adjourned the Planning and Zoning Commission at 8:51 p.m. on Tuesday, September 27, 2011.

Bill Taylor, Chair	Bucky Couch, Vice Chair
Sherwood Bishop, Commissioner	Chris Wood, Commissioner
Kenneth Ehlers, Commissioner	Carter Morris, Commissioner
Curtis Seebeck, Commissioner	

ATTEST:

Francis Serna, Recording Secretary



PC-11-37(01)
PC-11-14(03)
Yale Street
Map Date 10/06/11

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.

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Feet

PC-11-37(01) and PC-11-14(03)
Concept Plat and Final Plat- 30-day waiver request
G.A. McNaughton Addition

Applicant Information:

Applicant: Shawn T. Ash
Ash & Associates
142 Jackson Lane
San Marcos, TX 78666

Property Owner: James R. Keith Jr.
4301 Bissonnet Street # 40
Bellaire, TX 77401-4007

Notification: Notification not required

Type of Subdivision: Concept Plat and Final Plat Phase1

Subject Property:

Traffic / Transportation: The site has frontage on Orchard, Yale and Harvard Streets. The development of Phase 2 will require the extension of existing streets that currently terminate into the site.

Utility Capacity: Water, Wastewater, and Electric service will be provided by the City of San Marcos. Water and Wastewater extensions will be required as part of the development of Phase 1 and Phase 2.

Zoning: SF-6 (Single Family Residential)

Surrounding Zoning and Land use:

	Current Zoning	Existing Land Use
N of Property	SF-6	Single-family residential
W of Property	SF-6	Single-family residential
S of Property	SF-6	Single-family residential
E of Property	SF-6	Single-family residential

Planning Department Analysis:

The Land Development Code and Texas Local Government Code require action to be taken on a plat within 30 days. Staff has issued comments however the applicant has not yet addressed all of the comments. Staff is recommending approval of the 30-day waiver request in order to keep the plat in process. Staff has discussed this recommendation with the applicant and the applicant has indicated that the plat will be amended to address staff comments and will be ready for P&Z's review on October 25th.

Staff is recommending approval of the waiver of the 30-day review period.

Planning Department Recommendation	
X	Approve as submitted waiver request
	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 to statutorily deny (an action that keeps the applicant "in process") the plat.

The following criteria shall be used to determine whether the application for a Preliminary Subdivision Plat shall be approved, approved with conditions, or denied, where no Subdivision Concept Plat has been approved for the land subject to the proposed plat:

(1) The plat is consistent with all zoning requirements for the property, and any approved development agreement;

(2) The plat conforms to the approved Watershed Protection Plan (Phase 1); and

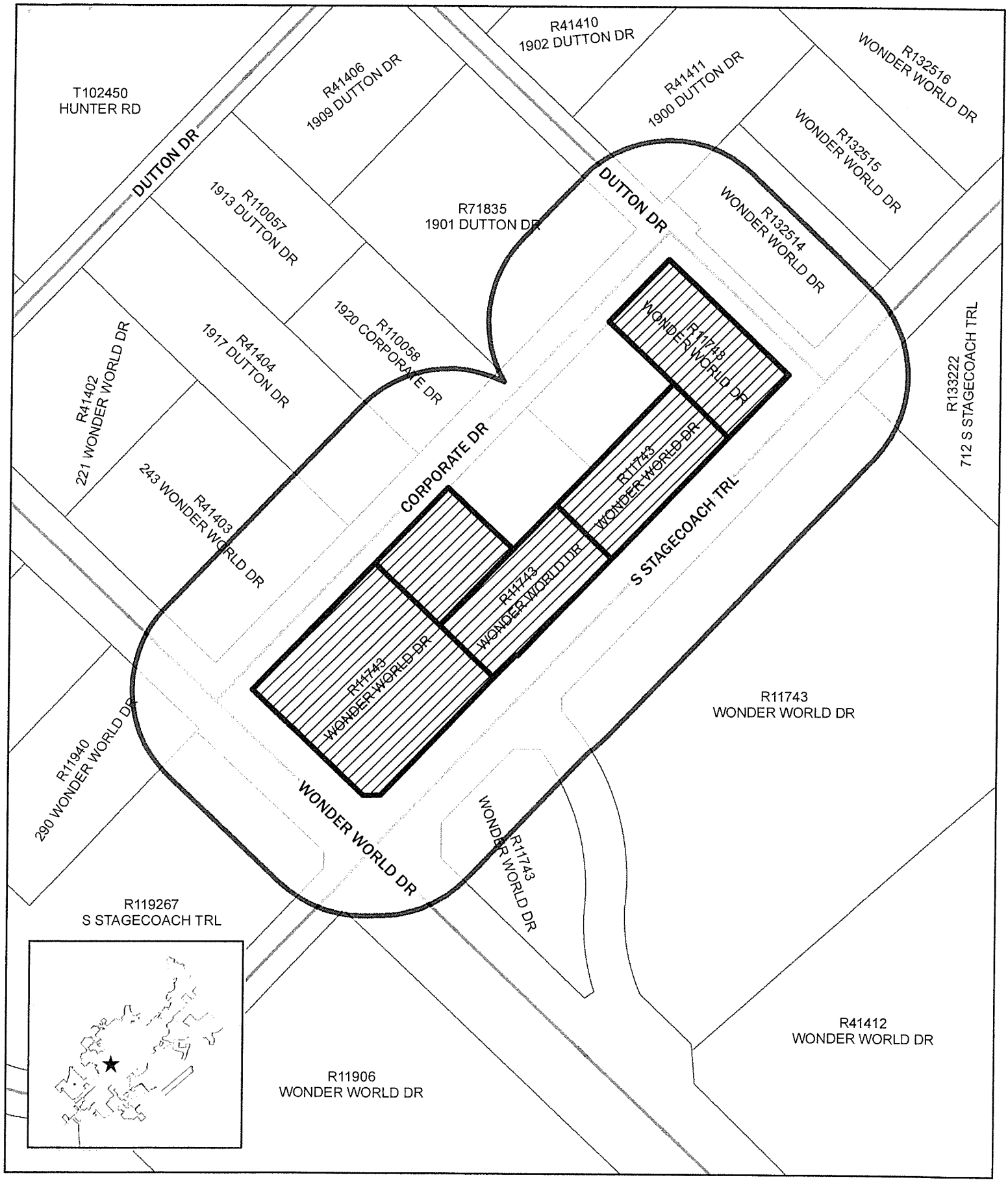
(3) The proposed provision and configuration of roads, water, wastewater, drainage and park facilities conform to the master facilities plans for the facilities, including without limitation the water facilities, wastewater facilities, transportation, drainage and other master facilities plans;

(4) The proposed provision and configuration of roads, water, wastewater, drainage and park facilities, and easements and rights-of-way are adequate to serve the subdivision and meet applicable standards of Chapters 6 and 7 of this Land Development Code;

(5) The plat meets any county standards to be applied under an interlocal agreement between the City and a county under Tex. Loc. Gov't Code ch. 242, where the proposed development is located in whole or in part in the extraterritorial jurisdiction of the City and in the county.

Prepared By:

Sofia Nelson	Chief Planner	October 6, 2011
Name	**Title**	**Date**



WR-11-01
Stagecoach and Corporate at Wonder World
Map Date: 9/30/11

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.

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Warrant Request
WR-11-07
Wonder World Drive at Stagecoach and Corporate Drive

Summary: **A warrant request to allow a variation to the allocation of transect zones within a SmartCode zoned property for a 5.05 acre area (A review of the Warrant process can be found in section 1.5 of the SmartCode)**

Applicant: John David Carson
1911 Corporate Drive #102
San Marcos, TX 78666

Property Owner: Carson Diversified Land 1 LLC
1911 Corporate Drive #102
San Marcos, TX 78666

Subject Property:

Location: Wonder World @ Stagecoach Trail and Corporate Dive

Legal Description: 5.05 acres consisting of Lots 1-4 of block A in the Hays County Government Center Subdivision and Lot 2, Section 4 in the San Marcos Business Park Subdivision

Current Zoning: General Commercial (GC)

Proposed Zoning: SmartCode T5

Current Future Land Use Map Designation: Commercial

Surrounding Area:

	Current Zoning	Existing Land Use
N of Property	GC	Undeveloped
S of Property	GC	Undeveloped
E of Property	GC	Undeveloped
W of Property	GC	Wonder World Drive

Planning Department Analysis:

The intent and purpose of the SmartCode is to enable, encourage, and implement development that supports the region, the local community, and each of the different transects (from the most natural area to the most dense area). Just as the Land Development Code has a conditional use permit process to review items that may be appropriate and in keeping with the intent of the zoning district, the SmartCode has a warrant process that would permit a practice that is not consistent with a specific provision of this Code, but that is justified by the Intent of the Code.

The subject property consists of 5.05 acres and is located along Wonder World Drive and bordered by the following existing thoroughfares: Corporate Drive, Stagecoach Trail and Dutton Drive. While the applicant has calibrated a regulating plan, consistent with the SmartCode requirements, for the 120 acres surrounding the warrant request area the collective area is under multiple ownership entities. As a result of the multiple ownership entities the applicant has identified the need to demonstrate the benefits of the SmartCode in a smaller area prior to entitling the entire area under the SmartCode development regulations.

Since the 5.05 acre tract is not large enough to accommodate for all required transect zones (T1-T5) the property owner is requesting a warrant to the required distribution of transects to allow for the rezoning of the subject property to SmartCode and developed to the T5 development standards.

Staff has reviewed the request to allow for a variation to the allocation of transect zones and has made the following findings:

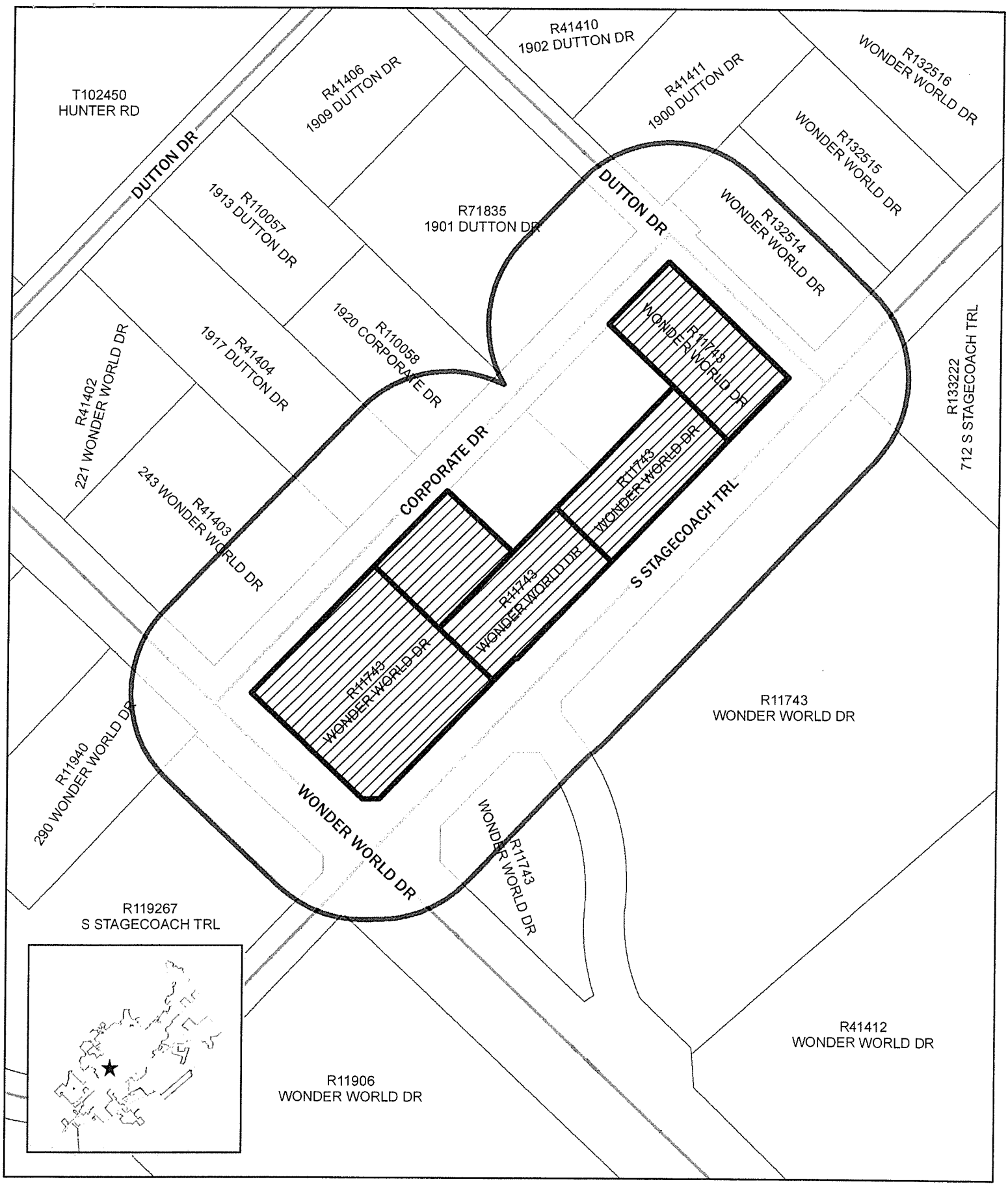
- Due to the development of the County Justice Center, newly developed multi-family apartments, and restaurants within the area the approval of this warrant supports the ability to accommodate for ordinary activities of daily living to occur within walking distance of one's residence.
- The subject property in located in close proximity of the Union Pacific Railroad, the approval of this warrant supports the intent of the SmartCode to build densities within walking distance of current and future transit opportunities.
- The granting of the warrant would allow for development that would adequately accommodate for automobiles while respecting the pedestrian and public areas.
- The preparation of a regulating for the surrounding 120 acres demonstrates the property owner's desire and a high level of commitment to utilizing the SmartCode to its fullest potential in the future.

Staff believes that the above findings demonstrate that the request is in keeping with the intent of the SmartCode and recommends APPROVAL of the request.

Planning Department Recommendation:	
☒	Approve as submitted
☐	Approve with conditions or revisions as noted
☐	Alternative-Public Hearing only
☐	Denial

Prepared by:

Sofia Nelson	**Chief Planner**	**October 7, 2011**
Name	**Title**	**Date**



ZC-11-34
Stagecoach and Corporate
at Wonder World
Map Date: 9/30/11

Notification Buffer (200 feet)

Site Location

Historic District

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Zoning Change
ZC-11-34
Wonder World Drive at Stagecoach and Corporate Drive

Summary: The applicant is requesting a Zoning Change from General Commercial (GC) to SmartCode T5 on a 5.05 acre tract of land

Applicant:
John David Carson
1911 Corporate Drive #102
San Marcos, TX 78666

Property Owner:
Carson Diversified Land 1 LLC
1911 Corporate Drive #102
San Marcos, TX 78666

Subject Property:

Location: Wonder World @ Stagecoach Trail and Corporate Dive

Legal Description: 5.05 acres consisting of Lots 1-4 of block A in the Hays County Government Center Subdivision and Lot 2, Section 4 in the San Marcos Business Park Subdivision

Current Zoning: General Commercial (GC)

Proposed Zoning: SmartCode T5

Current Future Land Use Map Designation: Commercial

Surrounding Area:

	Current Zoning	Existing Land Use
N of Property	GC	Vacant
S of Property	GC	Vacant
E of Property	GC	Vacant
W of Property	GC	Vacant, Commercial, and Public & Inst.

Planning Department Analysis:

The subject property consists of 5.05 acres and is located along Wonder World Drive and is boarded by the following existing thoroughfares: Corporate Drive, Stagecoach Trail, and Dutton Drive. The applicant is requesting a rezoning from "GC" General Commercial to "SC" SmartCode District- Transect 5. As is evident with the construction of the Hays County Government Center, the development of the Purgatory Creek Apartments and increase in restaurants, the area along Wonder World Drive, between Union Pacific Railroad and Hunter Road, is quickly becoming one of quickest growing activity centers in San Marcos.

The intent of the T-5 district is to create an urban center which consists of higher density mixed use buildings that accommodate retail, offices, rowhouses and apartments. It has a tight network of streets, with wide sidewalks, regularly spaced street tree plantings and buildings set close to the sidewalks. As development of the Hays County Government Center comes to a conclusion the need for offices, residences and services within close proximity to the center will continue to grow. Due to the current development standards outlined within the Land Development Code the only mechanism available to property owners/developers, with 40 acres or less, to develop within an urban context is through a Planned Development District (PDD).

Staff has reviewed the request and has made the following findings:

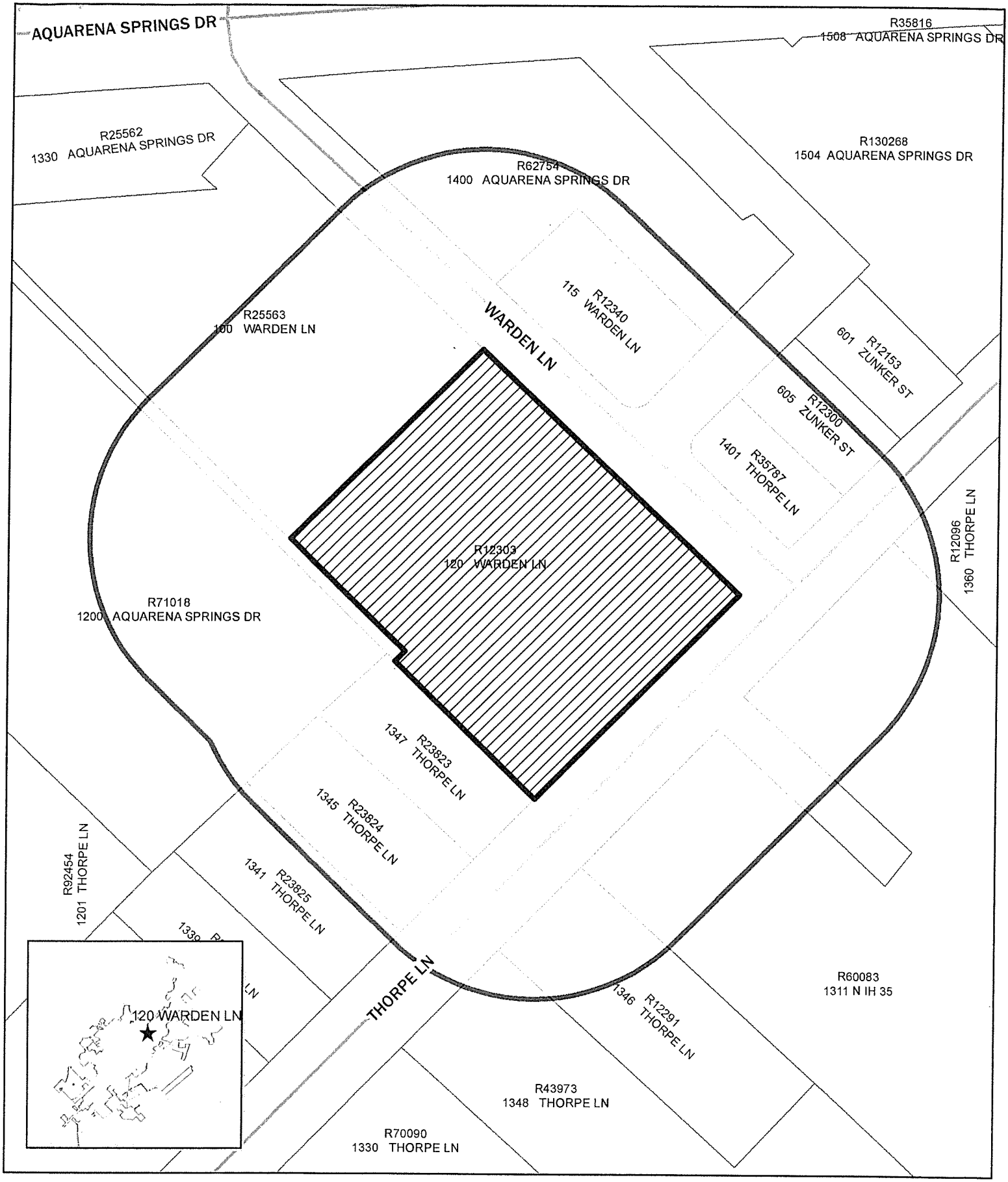
- The subject property is currently zoned General Commercial with a Commercial Future Land Use designation and is bordered by four existing thoroughfares. The proposed T5 zoning implements both the Sector and Comprehensive Plan goals of creating a commercial node, providing for complete context-sensitive street design, and promotes high quality attractive development along Wonder World Drive.
- While the area surrounding the subject property is rapidly becoming an activity center it is still surrounded by undeveloped property. As a result the development of the 5.05 acre tract will set a standard for the development of the surrounding properties. The uses permitted and the associated T5 development standards will compliment the surrounding properties should they develop under the Smartcode or should they development according to the Commercial and Mixed Use future land use designations of the surrounding tracts of land.
- Due to existing infrastructure in place the subject property has access to existing streets and utilities.

Staff has reviewed the request and is recommending the approval of the rezoning request.

Planning Department Recommendation:	
☒	Approve as submitted
☐	Approve with conditions or revisions as noted
☐	Alternative-Public Hearing only
☐	Denial

Prepared by:

Sofia Nelson	**Chief Planner**	**October 7, 2011**
Name	**Title**	**Date**



PDD-11-07
Thorpe Lane Lofts
120 Warden Ln
Map Date: 9/15/11

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.

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PDD-11-07
Planned Development District
Thorpe Lane Lofts

Summary:

Applicant/ Property Owner: Santiago Flores
Javastone Capital Holdings
1215 W. Drew St. Unit C
Houston, Texas 77006

Consultant: Brent Hammond
Austin Civil Engineering
2708 S. Lamar Suite 200A
Austin, Texas 78704

Subject Property:

Legal Description: 2.42 acres of JM Veramendi League Survey No. 2 and Lots 104 and a portion of lot 5 of the W.O Meiners Addition

Location: 120 Warden Lane

Existing Use of Property: Abandoned Nursing Home

Existing Zoning: Mixed Use

Proposed Use of Property: 5 story mixed use development (4 stories of residential with ground floor retail)

Proposed Zoning: PDD overlay with a Mixed Use base zoning

Sector: 7

Frontage On: Warden Lane and Thorpe Lane

Area Zoning and Land Use Pattern:

	Current Zoning	Existing Land Use
N of Property	Mixed Use	Medical and Professional Offices
S of Property	Office Professional	Medical Offices
E of Property	MF-24	Currently undeveloped
W of Property	Public and MF-24	Multi-family development and Texas State University track field

Thorpe Lane Loft
Project overview

The proposed development is a 174 unit mixed use development that incorporates structured parking, ground floor retail/ office, and multiple stories of loft apartments above. The project site is located at the corner of Warden Lane and Thorpe Lane immediately adjacent to the Texas State University Track Field. The subject property is located along a minor arterial roadway that services a variety of uses including multi-family, a grocery store, several banks, retail and restaurants. Due to the proximity of campus, services, and access to I-35 the Thorpe Lane corridor has seen a lot of interest for new development and redevelopment of already developed property.

Site Development

- 2.42 acre site
- 5 story development
- 174 units (1 and 2 bedroom units)
- Approximately 2,060 square feet of retail and/or office uses
- Approximately 2,907 square feet of clubhouse area serving the residential units.
- Zero Lot Line Development along the front property line

- Impervious Cover- 85%
- No parking variance requested. Parking will be handled through a parking garage. Access to the parking garage will be taken off of Thorpe Lane.

Parkland Dedication

The applicant has requested to pay a fee-in-lieu of land dedication. Based on the proposed number of units the fee-in-lieu of dedication is approximately $43,500.00

Environmental and Water Quality Standards

Utilizing Best Management Practices identified by TCEQ, EPA, and other environmental agencies the development will provide 85% Total Suspend Solid (TSS) removal. This exceeds the water quality standards of the Land Development Code.

Streetscape

The PDD identifies a minimum of a 10' wide sidewalk along with street trees, outdoor benches and seating area to be among some of the streetscape improvements that will be made to the site. Due to the importance of a streetscape for a mixed use development staff is working with the applicant to identify clear standards for this area of the development.

Planning Department Analysis- UPDATE :

Section 4.2.6.11 of the Land Development Code identifies the purpose of an overlay planned development zoning district ("PD District") is to provide for the development of land as an integral unit for single or mixed use in accordance with a PD Concept Plan that may include uses, regulations and other requirements that vary from the provisions of other zoning districts. PD districts are intended to implement generally the goals and objectives of the City's Master Plan. PD districts are also intended to encourage flexible and creative planning, to ensure the compatibility of land uses, to allow for the adjustment of changing demands to meet the current needs of the community, and to result in a higher quality development for the community than would result from the use of conventional zoning districts

At September 27th Planning and Zoning Commission meeting the Commission requested that a minimum square footage for retail/ office space be provided as part of the PDD district. The applicant has updated the PDD to provide for a minimum of 2,060 square feet of retail and/or office uses be provided.

Conformance with Sector and Master Plan Goals

The subject property is located within Sector 7. Sector 7 contains a mix of land uses ranging from single family homes to industrial businesses. The Sector Goals include creating a pedestrian-friendly, multimodal community; preserving and enhancing visual character; and improving open space and recreational opportunities. The area contained within Sector 7 typically is heavily auto-dependent, and one of the primary goals is to reduce the need to drive, both within the Sector and the whole city. The proposed development offers the opportunity to create a dense multi-family development within walking distance to campus facilities, services, and public transportation while providing commercial services.

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-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.

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

Staff has reviewed the PDD submittal against the Criteria for Approval identified in Section 1.5.3.5 of the Land Development Code and is recommending approval of the request for the following reasons:

- Due to the urban-mixed use nature of the proposed development the project requires more flexible and innovative design standards in order to develop effectively.
- The proposed PDD furthers both the Master Plan and the sector goals for the area.
- The proposed PDD will result in a superior architectural, water quality and streetscape standards than would be achieved through the conventional zoning classification.
- The development of a Mixed Use development is consistent with the existing zoning and future land use designation.

Planning Department Recommendation	
☒	Approve as submitted
☐	Approve with conditions or revisions as noted
☐	Public Hearing only
☐	Denial

Prepared by:

Sofia Nelson	Chief Planner	October 7, 2011
Name	**Title**	**Date**

ARTICLE 7: WATERSHED PROTECTION PLANS

DIVISION 1: APPROVAL AND APPLICATION PROCESS; APPEALS

Section 1.7.1.1 Purpose, Applicability, Exceptions and Effect

(a) *Purpose*. The purpose of a Watershed Protection Plan shall be to apply the environmental and flood control standards contained in Chapter 5 to a conceptual development design. A Watershed Protection Plan assures that such standards will be met at the time of development of the property by establishing terms and conditions for approval of applications for plats and Site Preparation Permits. For purposes of this Code, an Aquifer Protection Plan and a Site Plan for land in the San Marcos River Corridor which was under prior regulations for or in association with a plat application are Watershed Protection Plans.

(b) *Applicability*. Except as provided in subsections (c) or (d), approval of a Watershed Protection Plan is required within the City limits or within the City's extraterritorial jurisdiction prior to approval of a plat application or, for developments where a plat already has been approved for the property, prior to approval of a Site Preparation Permit. A Watershed Protection Plan shall include all land contiguous to and in the same ownership with the land subject to the plat application or Site Preparation Permit, except a remainder tract.

~~(c) *Option*. For a tract, parcel or lot for which division is not required or intended prior to development, a property owner may elect to apply for approval of a development plat under Article 6 of this Chapter 1 in lieu of applying for a Watershed Protection Plan.~~

(~~d~~c) *Exceptions*. A Watershed Protection Plan is not required for any land that is expressly exempted from the environmental standards contained in Chapter 5, Articles 1--4 of the Land Development Code.

(~~e~~d) *Effect*. Approval of a Watershed Protection Plan entitles the applicant to seek approval of a Cluster Development Plan, plat application or Site Preparation Permit, as the case may be.

Section 1.7.1.2 Sequence of Approvals

(a) *Phased Plans.* An application for a Watershed Protection Plan typically shall be prepared and acted upon by the City in two phases.

(1) A Watershed Protection Plan (Phase 1) shall be prepared prior to approval of the following types of development applications:

a. Utility Extension,

b. Development Transfer Petition,

c. Subdivision Concept Plat,

d. Preliminary Subdivision Plat,

e. Preliminary Development Plat,

f. Cluster Development Plan.

(2) A Watershed Protection Plan (Phase 2), which shall contain greater detail than a Phase 1 Watershed Protection Plan, shall be prepared prior to approval of the following types of development applications:

a. Minor Subdivision Plat or a replat, if the land is located within the Edwards Aquifer Recharge Zone, within a designated stream or river corridor, or if the land contains floodplain, floodway or a waterway as defined by this Code,

b. Construction plans,

c. Site Preparation Permit,

d. Final Subdivision Plat,

e. Final Development Plat.

(3) The Watershed Protection Plan (Phase 2) shall be consistent with the Watershed Protection Plan (Phase 1). An applicant may elect to submit a Watershed Protection Plan (Phase 2) in lieu of a Watershed Protection Plan (Phase 1).

(b) *Prior Approvals.* An application for a Watershed Protection Plan (either phase), shall not be approved until all petitions for legislative decisions authorizing the use of or provisions of services to the property have been approved and remain in effect for land to be subject to the Watershed Protection Plan (either phase). An application for a Phase 2 Watershed Protection Plan shall not be approved or approved with conditions prior to formal acceptance by FEMA of any required Conditional Letter of Map Revision.

(c) *Subsequent Approvals.* No plat application, Site Preparation Permit, or construction permit shall be approved unless a required Watershed Protection Plan, either phase as applicable, has been first approved for the land subject to the application.

(d) *Accompanying Applications.*

(1) A Watershed Protection Plan (Phase 1) may be accompanied by an application for a Cluster Development Plan.

(2) For land that is to be divided before development, an application for a Watershed Protection Plan (Phase 1) may be accompanied by an application for approval of a Subdivision Concept Plat or Preliminary Subdivision Plat.

(3) An application for a Watershed Protection Plan (Phase 2) may be accompanied by an application for approval of a Final Subdivision Plat.

(4) If a plat already has been approved or is not required for development of the land, an application for a development plat (preliminary or final) or Site Preparation Permit may be submitted with the application for a Watershed Protection Plan (Phase 2).

(5) In any case, the Watershed Protection Plan (Phase 1 or Phase 2 as applicable) shall be decided first.

(Ord. No. 2005-59, § 2, 8-16-05; Ord. No. 2006-45, § 15, 9-19-06)

Section 1.7.1.3 Application Requirements

(a) *Responsible Official.* The Engineering Director shall be the responsible official for an application for a Watershed Protection Plan, Phase 1 and Phase 2. The Planning Director shall advise and assist the Engineering Director in evaluating the application and preparing reports for the Planning and Zoning Commission or the City Council on appeal.

(b) *Contents.* An application for approval of a Watershed Protection Plan, Phase 1 and Phase 2, shall be prepared in accordance with Chapter 1 of the Technical Manual. Where land within a floodplain is proposed to be reclaimed, a Reclamation Concept Plan prepared in accordance with the Technical Manual also must be approved as an element of both phases of the Watershed Protection Plan.

Section 1.7.1.4 Processing of Application and Decision

(a) *Decision by Type of Watershed Protection Plan.* An application for approval of a Watershed Protection Plan, Phase 1 and Phase 2, initially shall be decided by the Engineering Director, except where the application is accompanied by any of the following requests, in which case the application shall be construed as an application for a Qualified Watershed Protection Plan, which shall be decided by the Planning and Zoning Commission following a recommendation by the City Engineer:

(1) A petition for a variance from water quality standards under Section 1.7.1.6;

(2) A request for an increase in impervious cover requiring a mitigation plan under Chapter 5, Articles 1, 2, or 3;

(3) ~~A request for reclamation of land in the 100-year floodplain under Chapter 5, Article 4, other than for the placement of detention facilities or structural water quality controls; or~~A request for reclamation of land in the floodway or 100-year floodplain under Chapter 5, Article 4, within a water quality zone or buffer zone; or

(4) A request for clustering or development transfers benefiting a water quality zone under Chapter 5, Articles 1, 2, or 3.

(b) *Commission Decision.*

(1) The Planning Director shall schedule a public hearing before the Planning and Zoning Commission on the application for approval of a Qualified Watershed Protection Plan. The public hearing may be combined with that for a Cluster Development Plan for the same land.

(2) The Commission shall approve, conditionally approve, or deny the application for a Qualified Watershed Protection Plan, subject to an appeal to the City Council under Section 1.7.1.6.

(c) *Time for Decision.* The Engineering Director or the Planning and Zoning Commission shall take action on an application for a Watershed Protection Plan (either phase as applicable and other than a Qualified Watershed Protection Plan) within 30 days from the official filing date. The Planning and Zoning Commission may defer action on any

Watershed Protection Plan (either phase) that proposes modification of a floodplain constituting wetlands or waters of the United States protected under Section 404 of the Clean Water Act until such time as the applicant demonstrates proof of compliance with all federal regulations pertaining to the protection and mitigation of such areas.

(d) *Conditions for Accompanying or Subsequent Development Application*. The approval or conditional approval of a Watershed Protection Plan (Phase 1 and Phase 2) will constitute conditions of approval of any subordinate development applications for the land subject to the Plan, and such development applications must be consistent with the Watershed Protection Plan (Phase 1 and Phase 2). The following elements shall be incorporated within any subordinate development application consistent with the approved or conditionally approved Watershed Protection Plan (Phase 1 and Phase 2):

a. Demarcation of all water quality zones and buffer zones for the property subject to the development application;

b. Location of impervious cover allocated to the property, including areas of intensified impervious cover, subject to the development application, or to be allocated among lots or tracts into which the property is to be divided;

c. For land in the Edwards Aquifer recharge or transition zones, identification of all sensitive features and demarcation of all sensitive feature protection zones for the property subject to the development application; and

d. The contours of any land authorized for reclamation.

(e) *Modification of Previously Approved Watershed Protection Plans*. The property owner shall submit a modified Watershed Protection Plan (Phase 1 and Phase 2, as applicable) for approval where the following activities are proposed:

(1) Any change in the nature or character of the development from that covered by the approved Watershed Protection Plan, or any change that would significantly impact the ability of the approved plan to preserve water quality.

(2) Any development on land previously identified as undeveloped in the approved Watershed Protection Plan.

(f) *Revised Permit Application.* If the conditions of approval of subsequent plats or permits require revision to the Watershed Protection Plan (Phase 1 and Phase 2, as applicable), a properly revised Watershed Protection Plan shall be submitted to the Engineering Director within thirty working days of receipt of the notice of decision. The Director shall have an additional 20 working days to approve or deny the revised application.

(Ord. No. 2006-45, § 16, 9-19-06)

Section 1.7.1.5 Criteria for Approval

(a) The following criteria shall be used to determine whether the application for a Watershed Protection Plan (Phase 1 and Phase 2, as applicable) shall be approved, approved with conditions, or denied:

(1) Edwards Aquifer zones - factors. Where land subject to the plan lies in whole or in part within the Edwards Aquifer recharge or transition zones:

a. Whether the Watershed Protection Plan is consistent with approved

legislative applications for the land subject to the plan;

b. Whether the Watershed Protection Plan meets the standards in Chapter 5, Article 1, Division 1, and the specific criteria in Chapter 5, Article 2;

c. Whether any proposed mitigation plan or enhanced geological assessment offsets the impacts to water quality resulting from increased development within a buffer zone;

d. Whether any proposed intensification of impervious cover for the area beyond the limits allowed by right subject to the Watershed Protection Plan is warranted; and

e. Whether the Watershed Protection Plan is consistent with proposed clustering or development transfers outside the plan area.

(2) Other water quality zones - factors. Where land subject to the plan lies in whole or in part within a river or stream corridor water quality zone located outside the Edwards Aquifer recharge or transition zones:

a. Whether the Watershed Protection Plan is consistent with approved legislative applications for the land subject to the plan;

b. Whether the Watershed Protection Plan meets the standards in Chapter 5, Article 1, and/or the specific criteria in Chapter 5, Article 3;

c. Whether any proposed mitigation plan offsets the impacts to water quality resulting from increased development within a buffer zone; and

d. Whether the Watershed Protection Plan is consistent with proposed clustering or development transfers outside the plan area.

(3) Reclaimed land - factors. For developments where reclamation of land within the 100-year floodplain is proposed:

a. Whether the Reclamation Concept Plan (which is an element of both phases of the Watershed Protection Plan when reclamation is proposed) is consistent with approved legislative applications for the land subject to the plan, including expressly any master drainage plan elements applicable to the land;

b. Whether the Reclamation Concept Plan (which is an element of both phases of the Watershed Protection Plan when reclamation is proposed) meets the general standards in Chapter 5, Article 1, and the specific criteria in Chapter 5, Article 4, Division 2; and

c. Whether any adverse impacts have been appropriately mitigated.

(4) Conditions. The Planning and Zoning Commission or the City Council on appeal may attach such conditions to approval of either phase of a Watershed Protection Plan as are necessary to assure that the Plan meets water quality standards, based on the recommendation of the Engineering Director, a qualified geologist, or a Texas-licensed professional engineer. Conditions may include a requirement to prepare or modify a mitigation plan.

(5) No Watershed Protection Plan (Phase 1 or Phase 2, as applicable) shall be approved or approved with conditions unless proper documentation is submitted

to the Director indicating that all applicable federal and state permits, approvals, and clearances have first been obtained.

(Ord. No. 2006-45, § 17, 9-19-06)

Section 1.7.1.6 Appeals and Relief Procedures

(a) *Appeal.* The applicant for either phase of a Watershed Protection Plan or any interested person may appeal the decision of the Engineering Director to the Planning and Zoning Commission. For a Qualified Watershed Protection Plan, the decision of the Commission may be appealed to the City Council, in accordance with Article 10, Division 1 of this Chapter 1. The Council may sustain, modify or reverse the Commission's decision.

(b) *Variance Petition.* The Planning and Zoning Commission may approve a variance from a standard applicable to a Watershed Protection Plan based on a variance petition submitted in accordance with Article 10, Division 2 of this Chapter 1, as part of its decision on a Qualified Watershed Protection Plan. In order to grant a variance petition, in addition to all approval criteria identified in Article 10, Division 2, the Commission must first determine that development in accordance with the variance will not result in violation of the water quality standards contained in the TCEQ Edwards Aquifer rules. The Planning and Zoning Commission shall make written findings concerning its decision on the variance petition, which shall be incorporated into the official minutes of the Commission meeting at which the petition and the Qualified Watershed Protection Plan are decided. In making the findings required in this subsection, the Planning and Zoning Commission shall take into account the alternatives that will achieve the purpose and intent of this Article, and the probable effect of the variance upon preservation of water quality. The approval of a variance petition shall require the affirmative vote of three-fourths of the Commission members present.

(c) *Vested Rights Petition.* Where an applicant claims exemption from one or more requirements applicable to a Watershed Protection Plan (Phase 1 and/or Phase 2, or Qualified) under this Land Development Code on grounds of vested rights, the applicant may submit a vested rights petition prepared in accordance with Article 10, Division 4 of this Chapter 1 for decision by the Planning and Zoning Commission. The petition shall be decided and appealed in accordance with Article 10, Division 4 of this Chapter 1.

(d) *Omnibus Relief Petition.* An applicant for a Watershed Protection Plan (Phase 1 and/or Phase 2, or Qualified) may petition the City Council for omnibus relief in accordance with Article 10, Division 5 of this Chapter 1. The petition must be submitted within ten days of a final decision by the Planning and Zoning Commission on the Watershed Protection Plan (Phase 1 and/or Phase 2, or Qualified). The City Council shall decide the petition in accordance with Article 10, Division 5 of this Chapter 1.

Section 1.7.1.7 Expiration, Extension and Reinstatement

(a) If a development application that may accompany a Watershed Protection Plan (Phase 1 and/or Phase 2) under Section 1.7.1.2 has not been approved or extended under Article 3, Division 5 of this Chapter 1 for the property subject to the Watershed Protection Plan within two years from the date of approval of either phase of the Plan, and if no progress has been made towards completion of the development of the property covered by the Watershed Protection Plan (as defined in Section 245.005(c) of the Texas Local Government Code, as amended), the applicable phase of the Watershed Protection Plan

shall expire. If progress is made towards completion of the development of the property covered by the Watershed Protection Plan (as defined in Section 245.005(c) of the Texas Local Government Code, as amended) during the two-year period, but after the progress is made, no further progress is made towards completion of the development of the property covered by the Watershed Protection Plan (as defined in Section 245.005(c) of the Texas Local Government Code, as amended) for a period of two years, the approval for the Watershed Protection Plan shall expire, unless extended in accordance with Article 3, Division 5 of this Chapter 1. In the event such development application subsequently expires or is revoked, the applicable phase of the Watershed Protection Plan shall likewise expire. In the event that a Watershed Protection Plan (Phase 2) expires, the associated Watershed Protection Plan (Phase 1) shall likewise expire.

(Ord. No. 2005-78, § 1, 10-18-05)

ARTICLE 6: PLATTING PROCEDURES

DIVISION 1: PROVISIONS APPLICABLE TO ALL PLATTING PROCEDURES

Section 1.6.1.1 Authority, Purpose and Applicability

(c) Applicability.

(1) The provisions of this Article 6 apply to any non-exempt division or development of land within the corporate boundaries of the City and within its extraterritorial jurisdiction.

(2) No construction permit shall be issued for any building, structure or on-site wastewater system on a property until a subdivision or a development plat has been approved and filed for record with the following exceptions:

a. Permits for repair, remodeling and expansion of existing buildings, if the current boundaries of the property existed in the same configuration on March 10, 1975, and the Engineering Director and the Director of Water and Wastewater have determined that the existing City infrastructure is adequate to serve the building and the proposed improvements. The cumulative area of building expansions allowed under this subsection is limited to 50 percent of the original floor area of ~~single-family and duplex residential structures, and 15 percent of the original floor area of multifamily~~ all residential and all nonresidential structures.

b. Permits for accessory buildings not connected to wastewater service.

c. Permits for repair or remodeling of an existing structure which involves no increase in square footage; or

d. Demolition permits, or permits for removal of a structure from a parcel or tract.

e. Permits for new construction, if all the following criteria are met:

1. If the current boundaries of the property existed in the same configuration on March 10, 1975

2. The Engineering Director and Director of Public Services, or their designees, have determined there is no need for additional easements or right-of-way dedication.

Section 6.7.2.1 Determination and Regulation of Size

(j) Lot depth shall not exceed three times the lot width for lots platted after March 10, 1975, except properties zoned (TH) Townhomes.

DIVISION 1: DEVELOPMENT AGREEMENTS

Section 2.2.1.1 Purpose and Applicability

(a) *Purpose.* The purpose of a development agreement is to enable development of land in the City's extraterritorial jurisdiction to occur at densities or intensities of use that require public water and wastewater services and that are to be governed by standards applicable to development inside the City limits. The purpose of the agreement also shall be to provide for development outside the City limits that is compatible with development inside the City limits in anticipation of eventual annexation of the land subject to the agreement into the City.

(b) *Applicability.* A development agreement shall be used where either of the following is applicable:

(1) It is likely that the property subject to the agreement will remain in the extraterritorial jurisdiction for a period exceeding five years and the property owner seeks to pursue development prior at urban level residential densities or intensities of use.

(2) The City proposes to annex a property within the ETJ that is appraised for ad valorem tax purposes as land for agricultural, wildlife management, or timber use. A development agreement, consistent with the provisions of the Local Government Code, shall be established.

ARTICLE 8: SITE PREPARATION PERMITS

DIVISION 1: APPROVAL AND APPLICATION PROCESS; APPEALS

Section 1.8.1.1 Purpose, Applicability, Exceptions and Effect

(a) *Purpose.* The purpose of a Site Preparation Permit shall be to apply the zoning, environmental, development and public facilities standards contained in Chapters 4, 5, 6 and 7 of this Land Development Code to a specific development design proposed for a platted tract, parcel or lot. A Site Preparation Permit assures that preparatory construction activities on the development site will meet City standards prior to soil disturbance, construction or placement of a structure on the tract, parcel or lot. A Site Preparation Permit application may consist of a series of schematic drawings designed to satisfy one or more criteria governing the decision on the permit.

(b) *Applicability.* Approval of a Site Preparation Permit is required prior to any non-exempt development of land within the City limits or within the City's extraterritorial jurisdiction. Within the City limits, the zoning, environmental, development and public facilities standards in Chapters 4, 5, 6 and 7 of this Land Development Code apply to a Site Preparation Permit application. Within the City's extraterritorial jurisdiction, only the environmental and public facilities standards in Chapters 5 and 7 apply to a Site Preparation Permit application.

(1) Separate Permit Required. A separate permit is required for all development meeting any of the criteria listed below. All other development shall submit a site plan with the applicable construction permit demonstrating compliance with ~~with~~ the requirements of this code.

(a) Existing nonresidential and multifamily uses that are proposing to add greater than 5000 square feet of impervious cover

(b) Existing nonresidential and multifamily uses that expand more than 50% of the building's originally constructed floor area

(c) Nonresidential and multifamily development that increases the value of the site by more than 50% of the ~~appraised~~ value of the lot, as determined by the applicable County Appraisal District

(d) All nonresidential and multi-family development located partially or completely on a lot within any of the following sensitive environmental regions:

1. Over the Edwards Aquifer Recharge or Contributing Zones
2. Within an Identified Floodway, or Floodplain
3. Within the San Marcos River Corridor
4. Wetlands or Jurisdictional Water

(2) Development activities that do not meet the criteria above and do not require a construction permit shall apply for a Site Preparation Permit but will not be subject to the requirement for an Engineer's seal.

(c) *Exceptions*. The requirements of a Site Preparation Permit do not apply in whole or in part to the following activities or land uses:

(1) ~~Categorical e~~Exemptions.

a. Clearing that is necessary only for surveying purposes.

~~b. Construction or placement of a single-family dwelling, duplex dwelling or industrialized home on a legally platted lot, except for:~~

~~1. Landscaping, open space and tree preservation standards;~~

~~2. Public facilities standards related to subsurface sewage disposal; or~~

~~3. Floodplain improvement standards.~~

b~~c~~. ~~Lot improvements authorized under approved construction plans for a platted subdivision or tract.~~Agricultural Uses

c. Partial Exemptions: Refer to the applicability section of Chapters 4, 5, 6, and 7 of the Land Development Code to determine the applicability of each of these sections to the proposed development

(2) ~~Partial exemptions – zoning regulations. The following proposed land uses or activities are exempt from Site Preparation Permit requirements related to compliance with Chapter 4, Zoning Regulations:~~

~~a. Agricultural uses;~~

~~b. Single-family and duplex, or two-family, residential uses (multifamily, single-family attached, manufactured/mobile home, and nonresidential development projects in single- or two-family residential districts, such as churches, schools and day care facilities, are not exempt);~~

~~c. Public utilities authorized to use City rights-of-way and public utility easements by separate agreement or by state law; and~~

~~d. Existing nonresidential and multifamily uses that do not expand more than ten percent of the building's originally constructed floor area, and for which any additional required parking is provided.~~

~~(3) Partial exemptions – environmental regulations. The following proposed land uses or activities are exempt from Site Preparation Permit requirements related to compliance with the standards in Chapter 5, Environmental Regulations:~~

~~a. Any land subject to an approved development plat;~~

~~b. Any structure that is to be replaced or enlarged up to a maximum amount equal to 50% of the structure's original floor area; and~~

~~c. Agricultural uses.~~

~~(4) Partial exemptions – development standards. The following proposed land uses or activities are exempt from Site Preparation Permit requirements related to compliance with the development standards in Chapter 6:~~

~~a. Existing nonresidential and multifamily uses that do not expand more than 10% of the building's originally constructed floor area, and for which any additional required parking is provided; and~~

~~b. Agricultural uses.~~

~~(5) Partial exemptions – public facilities standards. The following proposed land uses or activities are exempt from Site Preparation Permit requirements related to compliance with the public facilities standards in Chapter 7:~~

~~a. Any land subject to an approved development plat; and~~

~~b. Existing platted lots where no site improvements are proposed.~~

(d) *Effect.* Approval of a Site Preparation Permit authorizes site preparatory activities other than construction or placement of a structure on the land, subject to the terms of the permit and for the duration of the permit. Approval of a Site Preparation Permit also authorizes the property owner to apply for a construction permit.

Section 1.8.1.2 Sequence of Approvals

(a) *Prior Approvals.* An application for a Site Preparation Permit shall not be approved unless the following petitions or development permits, where applicable, have been approved and remain in effect for the tract, parcel or lot:

(1) Within the City limits:

a. All legislative applications;

b. Watershed Protection Plan (Phase 2);

c. Final subdivision or development plat;

d. Conditional Use Permit;

e. Cluster Development Plan; and

f. Special exception.

(2) Within the ETJ:

a. All legislative applications;

b. Watershed Protection Plan (Phase 2); and

c. Final Subdivision Plat or development plat.

(b) *Accompanying Applications.* A Site Preparation Permit may be accompanied by an application for a construction permit for the same land, provided that the Site Preparation Permit shall be decided first.

Section 1.8.1.3 Application Requirements

(a) *Responsible Official.* The Engineering Director shall be the responsible official for a Site Preparation Permit. The Planning Director shall advise and assist the Engineering Director in evaluating and reaching a decision on the application. The Directors shall

coordinate review and evaluation of the application and shall formulate a single decision on the Site Preparation Permit.

~~(b)~~ (c) *Contents*. The application for a separate Site Preparation Permit shall be sealed by an engineer licensed in the State of Texas~~engineer~~ and prepared in accordance with Chapter 1 of the Technical Manual.

Section 1.8.1.4 Processing of Application and Decision

(a) *Decision*. The Engineering Director shall initially approve the application for a Site Preparation Permit, approve the application with conditions, or deny the application, subject to appeal as provided in Section 1.8.1.6.

(b) *Notification.* The Director shall notify the applicant of the Director's decision in accordance with Article 3, Division 2 of this Chapter 1.

(c) *Time for Decision.* The application for a Site Preparation Permit shall be decided within 30 working days of the official filing date.

(d) *Revised Permit Application.* If the conditions of approval require revision to the Site Preparation Plan, a properly revised Site Preparation Plan shall be submitted to the Director within 20 working days of receipt of the notice of decision. The Director shall have an additional 20 working days to approve or deny the revised application.

(Ord. No. 2006-45, § 18, 9-19-06)

Section 1.8.1.5 Criteria for Approval

(a) The following criteria shall be used to determine whether the application for a Site Preparation Permit shall be approved, approved with conditions, or denied:

(1) The development applications listed in Section 1.8.1.2 for the property subject to the Site Preparation Permit have previously been approved and remain in effect;

(2) The Site Preparation Permit is consistent with the approved petitions or applications;

(3) Where not excepted or satisfied through approval of priority development applications, the following standards in Chapter 4, Zoning Regulations, have been satisfied:

a. Zoning district regulations in which the property is located;

b. Special dimensional and design standards applicable within an overlay district to which the use is subject;

c. Conditional Use Permit (CUP) requirements or Planned Development (PD) requirements, when applicable;

d. Development Transfer (DT) requirements, when applicable; and

e. Any standards imposed as conditions for approval of a variance or special exception.

(4) Where not excepted or satisfied through approval of priority development applications, the standards in Chapter 5, Chapter 6, and Chapter 7 have been satisfied.

Section 1.8.1.6 Appeals and Relief Procedures

(a) *Appeal.* The applicant for a Site Preparation Permit or any interested person may appeal the decision of the Engineering Director to the Planning and Zoning Commission in accordance with Article 10, Division 1 of this Chapter 1. The Commission may sustain, modify or reverse the Director's decision.

(b) *Variance Petition.* A petition seeking to vary standards applicable to the Site Preparation Permit shall be filed, processed and decided by the Planning and Zoning Commission in accordance with Article 10, Division 2 of this Chapter 1 prior to the decision on the Site Preparation Permit.

(c) *Vested Rights Petition.* Where an applicant claims exemption from one or more requirements applicable to a Site Preparation Permit under this Land Development Code on grounds of vested rights, the applicant may submit a vested rights petition to the responsible official prepared in accordance with Article 10, Division 4 of this Chapter 1. The petition shall be decided and appealed in accordance with Article 10, Division 4 of this Chapter 1.

Section 1.8.1.7 Expiration and Extension

(a) *Time of Expiration.* A Site Preparation Permit expires if no progress has been made towards completion of the development authorized by the permit (as defined in Section 245.005(c) of the Texas Local Government Code, as amended) within two years after final approval of the permit. If progress is made towards completion of the development authorized by the permit (as defined in Section 245.005(c) of the Texas Local Government Code, as amended) during the two-year period, but after the progress is made, no further progress is made towards completion of the development authorized by the permit (as defined in Section 245.005(c) of the Texas Local Government Code, as amended) for a period of two years, the permit shall expire, unless extended in accordance with Article 3, Division 5 of this Chapter 1. The Site Preparation Permit may be revoked if a building permit or other permit authorizing construction of a structure on the property has not been issued within two years after the date of approval of the permit, or, if no permit is required, construction of a structure has not commenced on the development site within such period.

(b) *Extension.* A Site Preparation Permit may be extended for a period not to exceed an additional 90 days by the responsible official, within which development authorized by the permit on the property subject to the permit must be commenced. The date for issuance of a construction permit or commencement of construction of a structure may be extended by the responsible official for a period not to exceed one year.

(Ord. No. 2005-78, § 1, 10-18-05)

DIVISION 5: ZONING DISTRICTS ESTABLISHED

Section 4.1.5.1 Zoning District Names

The City of San Marcos is hereby divided into the following zoning districts:

Abbreviated Designation	Zoning District Name	Future Land Use Map Designation
FD	Future Development (FD) District (minimum 2-acre lots)	Very Low Density Residential (0-3 dupa)
AR	Agricultural Ranch District (minimum 5-acre lots)	Very Low Density Residential (0-3 dupa)
SF-R	Rural Residential District (minimum 1-acre lots)	Very Low Density Residential (0-3 dupa)
SF-11	Single Family District (minimum 11,000 square foot lots)	Low Density Residential (0-6 dupa)
SF-6	Single Family District (minimum 6,000 square foot lots)	Low Density Residential (0-6 dupa)
SF-4.5	Single Family District (minimum 4,500 square foot lots)	Medium Density Residential (0-12 dupa)
D	Duplex Residential District	Low Density Residential (0-6 dupa)
DR	Duplex Restricted District	Medium Density Residential (0-12 dupa)
TH	Townhouse Residential District	Low / Medium Density Res. (0-12 dupa)
PH-ZL	Patio Home, Zero-Lot-Line Residential District	Medium Density Residential (0-12 dupa)
MF-12	Multiple-Family Residential District (maximum 12 units per gross acre)	Medium Density Residential (0-12 dupa)
MF-18	Multiple-Family Residential District (maximum 18 units per gross acre)	High Density Residential (>12 dupa)
MF-24	Multiple-Family Residential District (maximum 24 units per gross acre)	High Density Residential (>12 dupa)
MR	Manufactured Home and Residential District	Low Density Residential (0-6 dupa)
MH	Manufactured Home District	Medium Density Residential (0-12 dupa)

Abbreviated Designation	Zoning District Name	Future Land Use Map Designation
MU	Mixed Use District	Mixed Use
VMU	Vertical Mixed Use District	Mixed Use
P	Public and Institutional District	Public
OP	Office Professional District	Commercial
NC	Neighborhood Commercial District	Commercial
CC	Community Commercial District	Commercial
GC	General Commercial District	Commercial
HC	Heavy Commercial District	Commercial
CBA	Central Business Area District	Commercial
LI	Light Industrial District	Industrial
HI	Heavy Industrial District	Industrial
PDD	PDD Overlay District	Mixed

Special or Non-Residential Districts

Standard Category	VMU	MU	P	NC	OP	CC	GC	HC	CBA	LI	HI
Lot/Parcel Area, Minimum Sq. Ft.	4000	6000	N/A	6000	6000	6000	6000	6000	6000	6000	6000
Lot/Parcel Area, Maximum Acres	20	20	N/A	5	5	N/A	N/A	N/A	N/A	N/A	N/A
Units per Acre, Maximum/Gross Acres	40	5.5	24.0	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Lot Frontage Minimum Feet	35	50	50	50	50	50	50	50	50	50	50
Lot Width, Minimum Feet	40	50	50	50	50	50	50	50	50	50	50
Front Yard Setback, Minimum Feet	0	25	25	20	20	20	20	25	0*	20	20
Side Setback, Minimum Feet, Interior	0	7.5	7.5	5	5	5	5	10	0	10	10
Side Setback, Corner, Minimum Feet	0	15	15	15	15	15	15	15	0	15	15
Rear Yard Setback, Minimum*	5	5ft.*	5ft.*	5ft.*	5ft.*	5ft.*	5ft.*	20ft.	5ft.	10ft.*	10ft.*
Lot Depth, Minimum Feet	100	100	100	100	100	100	100	100	100	100	100
*Impervious Cover, Max. %***	*85*	*60%*	*80%*	*80%*	*80%*	*80%*	*80%*	*80%*	*N/A*	*85%*	*85%*
Building Height, Maximum Feet*	5	30	N/A	*	*	NA	NA	NA *	*	N/A*	N/A

*Vertical Mixed Use buildings with 1st floor commercial uses may have a 1st story height of 25 feet from fished floor to finished ceiling.***Taller structures maybe approved by Conditional Use Permit*

DIVISION 2: PUBLIC, SPECIAL AND NONRESIDENTIAL DISTRICTS

Section 4.2.2.1 MU, Mixed Use District

(a) *Purpose.* The MU, Mixed Use District, when assigned to tracts of land generally greater than one acre, is intended to provide for a mixture of retail, office, and residential uses in close proximity to enable people to live, work, and purchase necessities in a single location. On tracts of one acre or less, the MU, Mixed Use District is intended to permit small scale mixed use buildings that have residential units above retail or office uses, especially on existing residential use properties. Bed-and-breakfast establishments could also be located in this district. Additionally, pedestrian walkways and open area are desired in order to promote a pedestrian-friendly environment. It is not the purpose of this zoning district to permit or encourage properties used for single-family residences to be converted to exclusively commercial or multi-family use. The following are key concepts that should be acknowledged through development practices within Mixed Use Districts:

(1) Residential uses in conjunction with nonresidential activities, possibly located above retail and office establishments;

(2) All types of residential uses, including single-family homes, townhouses, and loft-style multiple-family units;

(3) Central green spaces;

(4) Traffic flows that enable people to move freely without the use of an automobile by emphasizing the pedestrian; and

(5) Outside spaces, such as small parks, courtyards, and outdoor eating areas.

(b) *Authorized Uses.* Permitted and conditional uses, as authorized in the Land Use Matrix in Article 3, Division 1 of this Chapter 4. Accessory uses as authorized in Article 3, Division 2 of this Chapter 4.

(c) *Additional Development Standards.* See Table 4.1.6.1.

(d) *Additional Area, Building and Height Requirements*:

(1) Minimum Lot Area:

a. Internal: 6,000 square feet

b. Corner: 7,500 square feet

(2) Minimum Lot Width:

a. Internal: 50 feet

b. Corner: 60 feet

(3) Minimum Lot Frontage:

a. Internal: 50 feet

b. Corner: 60 feet

(4) Minimum Rear Yard: Five feet with an additional two feet required for each story above 24 feet, up to a maximum setback of 25 feet; there shall be no encroachment or overhangs into this required rear yard

(5) Structures higher than ~~30 feet~~ four stories may be approved by CUP.

(6) All uses shall provide connections to existing sidewalks, parks or open space.

(7) Parking areas for nonresidential uses shall be screened from single-family uses with a living or solid ~~masonary~~masonry screening device.

(e) *Additional Requirements.* See Chapter 6 for additional requirements and standards.

(Ord. No. 2006-45, § 28, 9-19-06)

Section 4.2.2.2 VMU, Vertical Mixed Use District

(a) *Purpose.* The VMU, Vertical Mixed Use District, is intended to provide for a mixture of retail, office, and dense residential uses in close proximity to enable people to live, work, and purchase necessities in a single location. It is not the purpose of this zoning district to permit or encourage properties to be converted to exclusively commercial or multi-family use. The following are key concepts that should be acknowledged through development practices within Vertical Mixed Use Districts:

(1) Residential uses in conjunction with nonresidential activities, located above retail and office establishments along street frontages;

(2) All types of residential uses, including single-family homes, townhouses, and loft-style multiple-family units;

(3) Traffic flows that enable people to move freely without the use of an automobile by emphasizing the pedestrian; and

(5) Outside spaces, such as sidewalk cafes, small parks, courtyards, and outdoor eating areas.

(b) *Authorized Uses.* Permitted and conditional uses, as authorized in the Land Use Matrix in Article 3, Division 1 of this Chapter 4. Accessory uses as authorized in Article 3, Division 2 of this Chapter 4.

(c) *Additional Development Standards.* See Table 4.1.6.1.

(d) *Additional Area, Building and Height Requirements:*

(1) Minimum Rear Yard: Five feet with an additional two feet required for each story above 24 feet, up to a maximum setback of 25 feet; there shall be no encroachment or overhangs into this required rear yard

(2) Structures higher than five stories may be approved by CUP.

(3) All uses shall provide connections to existing sidewalks, parks, or open space.

(4) Parking areas for nonresidential uses shall be screened from single-family uses

with a living or solid masonry screening device.

(5) Parking ~~shall be set back a minimum of 20 feet from the front property line~~ shall not be located between the front façade and the front property line.

(e) *Additional Requirements.* See Chapter 6 for additional requirements and standards.

Section 4.2.2.3~~2~~ P, Public and Institutional District

(a) *Purpose.* The P, Public and Institutional District is intended to accommodate uses of a governmental, civic, public service, or public institutional nature, including major public facilities, state colleges and universities. The review of the location for public facilities is intended to facilitate the coordination of community services while minimizing the potential disruption of the uses of nearby properties. This district is intended for properties used, reserved, or intended to be used for a civic or public institutional purpose or for major public facilities.

(b) *Authorized Uses.* Permitted and conditional uses, as authorized in the Land Use Matrix in Article 3, Division 1 of this Chapter 4. Accessory uses as authorized in Article 3, Division 2 of this Chapter 4.

(c) *Additional Development Standards.* See Table 4.1.6.1.

(d) *Additional Area, Building and Height Requirements*:

(1) Minimum Lot Width:

a. Internal: 50 feet

b. Corner: 60 feet

(2) Minimum Lot Frontage:

a. Internal: 50 feet

b. Corner: 60 feet

(3) Minimum Rear Yard: Five feet; an additional two feet is required for each story above 24 feet, up to a maximum setback of 25 feet; there shall be no encroachment or overhangs into this required rear yard.

(e) *Additional Requirements.* See Chapter 6 for additional requirements and standards.

Section 4.2.2.4~~3~~ NC, Neighborhood Commercial District

(a) *Purpose.* The NC, Neighborhood Commercial District is established to provide low intensity office, retail and service facilities for the local neighborhood area. These uses should be compatible with residential uses in the neighborhood. Hours of business operation should be limited during the week, and businesses should generally close by 10:00 p.m. on the weekends. Businesses shall use landscaping and other buffering techniques to minimize their impact on the adjacent community. Equipment such as dumpsters and storage units shall be located away from residential uses and be screened. NC, Neighborhood Commercial District areas should generally be located on

collector streets at the intersection of collector or arterial roadways and act as buffer areas for residential uses from the arterial traffic.

(b) *Authorized Uses.* Permitted and conditional uses, as authorized in the Land Use Matrix in Article 3, Division 1 of this Chapter 4. Accessory uses as authorized in Article 3, Division 2 of this Chapter 4.

(c) *Additional Development Standards.* See Table 4.1.6.1.

(d) *Additional Area, Building and Height Requirements*:

(1) Minimum Lot Area:

a. Internal: 6,000 square feet

b. Corner: 7,500 square feet

(2) Minimum Lot Frontage:

a. Internal: 50 feet

b. Corner: 60 feet

(3) Minimum Rear Yard: Five feet, with an additional two feet required for each story above 24 feet, up to a maximum setback of 25 feet; there shall be no encroachment or overhangs into this required rear yard

(e) *Additional Requirements.* See Chapter 6 for additional requirements and standards.

(Ord. No. 2006-45, § 29, 9-19-06)

Section 4.2.2.5~~4~~ OP, Office Professional District

(a) *Purpose.* The OP, Office Professional District is established to provide areas primarily for low intensity, small scale office uses and service facilities. Office uses should be compatible with residential uses, and should incorporate established landscape and buffering requirements.

(b) *Authorized Uses.* Permitted and conditional uses, as authorized in the Land Use Matrix in Article 3, Division 1 of this Chapter 4. Accessory uses as authorized in Article 3, Division 2 of this Chapter 4.

(c) *Additional Development Standards.* See Table 4.1.6.1.

(d) *Additional Area, Building and Height Requirements*:

(1) Minimum Lot Area:

a. Internal: 6,000 square feet

b. Corner: 7,500 square feet

(2) Minimum Lot Frontage:

a. Internal: 50 feet

b. Corner: 60 feet

(3) Minimum Rear Yard: Five feet, with an additional two feet required for each story above 24 feet, up to a maximum setback of 25 feet; there shall be no encroachment or overhangs into this required rear yard

(4) Maximum Height of Structures: 30 feet or 2 1/2 stories whichever is less.

(e) *Additional Requirements.* See Chapter 6 for additional requirements and standards.

(Ord. No. 2006-45, § 30, 9-19-06)

Section 4.2.2.6~~5~~ CC, Community Commercial

(a) *Purpose.* The CC, Community Commercial is established to provide areas for quality larger general retail establishments and service facilities for the retail sale of goods and services. This district should generally consist of retail nodes located along or at the intersection of major collectors or thoroughfares to accommodate high traffic volumes generated by general retail uses.

(b) *Authorized Uses.* Permitted and conditional uses, as authorized in the Land Use Matrix in Article 3, Division 1 of this Chapter 4. Accessory uses as authorized in Article 3, Division 2 of this Chapter 4.

(c) *Additional Development Standards.* See Table 4.1.6.1.

(d) *Additional Area, Building and Height Requirements*:

(1) Minimum Lot Area:

a. Internal: 6,000 square feet

b. Corner: 7,500 square feet

(2) Minimum Lot Frontage:

a. Internal: 50 feet

b. Corner: 60 feet

(3) Minimum Rear Yard: Five feet, with an additional two feet required for each story above 24 feet, up to a maximum setback of 25 feet; there shall be no encroachment or overhangs into this required rear yard

(e) *Additional Requirements.* See Chapter 6 for additional requirements and standards.

Section 4.2.2.7~~6~~ GC, General Commercial District

(a) *Purpose.* The GC, General Commercial District is intended to provide locations for limited (light) commercial and service-related establishments, such as wholesale product sales, automotive supply stores, veterinary services, and other similar limited commercial uses. The commercial uses within this district will have operation characteristics that are generally compatible with the CC, Community Commercial District.

(b) *Authorized Uses.* Permitted and conditional uses, as authorized in the Land Use Matrix in Article 3, Division 1 of this Chapter 4. Accessory uses as authorized in Article 3, Division 2 of this Chapter 4.

(c) *Additional Development Standards.* See Table 4.1.6.1.

(d) *Additional Area, Building and Height Requirements*:

(1) Minimum Lot Area:

a. Internal: 6,000 square feet

b. Corner: 7,500 square feet

(2) Minimum Lot Frontage:

a. Internal: 50 feet

b. Corner: 60 feet

(3) Minimum Rear Yard: Five feet, with an additional two feet required for each story above 24 feet, up to a maximum setback of 25 feet; there shall be no encroachment or overhangs into this required rear yard

(e) *Additional Requirements.* See Chapter 6 for additional requirements and standards.

Section 4.2.2.8~~7~~ HC, Heavy Commercial District

(a) *Purpose.* The HC, Heavy Commercial District is intended to provide locations for more intense commercial and service-related establishments than are generally permitted within the GC, General Commercial District, such as mini-warehouse, auto-body repair shops, lumber yards, and other similar heavy commercial uses. The commercial uses within this district will have operation characteristics that are generally incompatible with residential and office uses, as well as some uses in the CC, Community Commercial District.

(b) *Authorized Uses.* Permitted and conditional uses, as authorized in the Land Use Matrix in Article 3, Division 1 of this Chapter 4. Accessory uses as authorized in Article 3, Division 2 of this Chapter 4.

(c) *Additional Development Standards.* See Table 4.1.6.1.

(d) *Additional Area, Building and Height Requirements*:

(1) Minimum Lot Area:

a. Internal: 6,000 square feet

b. Corner: 7,500 square feet

(2) Minimum Lot Frontage:

a. Internal: 50 feet

b. Corner: 60 feet

(e) *Additional Requirements.* See Chapter 6 for additional requirements and standards.

Section 4.2.2.9~~8~~ CBA, Central Business Area District

(a) *Purpose.* The CBA, Central Business Area District is intended to maintain and encourage development and redevelopment within the central business section (old downtown) of the City. Standards for the district are generally intended to regulate development such that new structures look similar to existing ones within this Section of the City. They are also intended to preserve and enhance the image, character and unique qualities of the City's original business district. This district may be appropriate in areas where TND style development is planned.

(b) *Authorized Uses.* Permitted and conditional uses, as authorized in the Land Use Matrix in Article 3, Division 1 of this Chapter 4. Accessory uses as authorized in Article 3, Division 2 of this Chapter 4.

(c) *Additional Development Standards.* See Table 4.1.6.1.

(d) *Additional Area, Building and Height Requirements*:

(1) Minimum Lot Area:

a. Internal: 6,000 square feet

b. Corner: 7,500 square feet

(2) Minimum Lot Frontage:

a. Internal: 50 feet

b. Corner: 60 feet

(3) Minimum Front Yard: Zero feet; all structures shall be constructed within three feet of the side or front property lines.

(4) Minimum Rear Yard: Five feet, with an additional two feet required for each story above 24 feet, up to a maximum setback of 25 feet; there shall be no encroachment or overhangs into this required rear yard.

(5) Maximum Height of Structures: See Section 4.2.4.1. Downtown Building Height Overlay District.

(e) *Additional Requirements.* See Chapter 6 for additional requirements and standards.

Types of Land Uses	Residential Zoning Districts																	Non-Residential Districts								
	FD	AR	SF-R	SF-11	SF-6	SF-4.5	D	DR	TH	PH-ZL	MF-12	MF-18	MF-24	MR	MH	MU	VMU	P	NC	OP	CC	GC	HC	CBA	LI	HI
Agricultural Uses																										
Barns and Farm Equipment Storage	P	P	C																							
Bulk Grain and/or Feed Storage/Processing	P	P	C																							
Farmers Market	P															P	P	P	C		C	C		C		
Farms, General (Crops)	P	P	P													P	P									
Farms, General (Livestock/Ranch)	P	P	P																							
Hay, Grain, and/or Feed Sales (Wholesale)	P	C																								
Livestock Sales/Auction	C	C																								
Plant Nursery (growing for commercial purposes but no retail sales on site)	P	P																								
Stables	P	P																								
Stables (Private, Accessory Use)	P	P	P	C														C								
Residential Uses																										
Accessory Building/Structure (No larger than 625 sf in size and 12' in height)	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	C	P	P
Accessory Building/Structure (Larger than 625 s.f. in size OR 12' in height)	P	P	P	C	C						P	P	P		C	C	C	P	C	C	P	P	P		P	P
Accessory Dwelling (One Accessory Dwelling Per Lot)	P	P	P	C	C											C	C	P	C	C	C	C	C	P	C	C
Bed and Breakfast Inn	C	C	C	C	C	C	C	C	C	C	P	P	P	P	P	P	P	C	P		P	P	P	P		
Caretaker's/Guard's Residence															P	P	P	P	C	C	P	P	P	P	P	P
Community Home	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P								
Residential Hall or Boarding House											P	P	P			C	C	P	C							
Duplex / Two-Family / Duplex Condominiums							P	P	P		P	P	P			C	C	P								
Family Home Child Care	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P									
Four Family (Quadraplex) or Three Family (Tri-Plex)											P	P	P			C	C									
Fraternity or Sorority Building											C	C	C			C	C	P								
Home Occupation	(See Chapter 4, Article 3, Division 3)																									

HUD code–Manufactured Home														P	P											
Loft Apartments											P	P	P			P	P	C	C	C	C	C	C	P		
Multi-Family (Apartments)											P	P	P			C	C	C						C		
Private Street Subdivision	(See Section 7.4.1.2)																									
Single Family Detached House	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	C	C							
Single Family Industrialized Home	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	C	C							
Single Family Townhouse (Attached)								P	P		P	P	P			P	P									
Single Family Zero Lot Line / Patio Homes									C	P	P	P	P			C	C									
Office Service Type Uses																										
Armed Services Recruiting Center																P	P	P	P	P	P	P	P	P		
Bank or Savings and Loan (w/o Drive-thru)																P	P		C	P	P	P	P	C		
Bank or Savings and Loan (w Drive-thru)																C	C		C	C	P	P	P	C		
Check Cashing Service																C	C		P		P	P	P	P		
Offices (Health Services)																P	P		P	P	P	P	P	P		
Offices (Medical Office)																P	P		P	P	P	P	P	P		
Offices (Professional)																P	P	C	P	P	P	P	P	P		
Call Service Center																					P	P	P	P	P	P
Personal and Business Service Uses																										
Appliance Repair																C	C		C		P	P	P	P		
Artist or Artisans Studio	P	P														P	P		P		P	P	P	P		
Ambulance Service (Private)																		P	C		C	P	P	C	C	C
Automobile Driving School (including Defensive Driving)																P	P	P	C	C	P	P	P	C		
Automatic Teller Machines (ATM's)																P	P	P	P		P	P	P	C	P	P
Barber/Beauty College (barber or cosmetology school or college)																		P	C	C	P	P	P	P		
Barber/Beauty Shop, Haircutting (non-college)																P	P		P	C	P	P	P	P		
Bed and Breakfast (No Permanent Residence)	C	C									P	P	P	P	P	P	P		C		P	P	P	P		
Communication Equipment (Installation and/or Repair – No outdoor sales or storage)																					C	P	P	C	P	P
Dance/Drama/Music Schools (Performing Arts)																P	P	P	P	C	P	P	P	P		
Extended Stay Hotels / Motels (Residence hotels)																C	C				C	P	P	C		

Exterminator Service (No outdoor sales or storage)															P	P					P	P			
Funeral Home																					P	P	C		
Hotel/Motel															P	P				C	P	P	C		
Kiosk (Providing A Retail Service)																		C		P	P	P	P	P	P
Laundry/Dry Cleaning (Drop Off/Pick Up)															P	P		C		P	P	P	P		
Martial Arts School															P	P	P	C	C	P	P	P	P		
Medical Supplies and Equipment															P	P		P		P	P	P	P		
Mini-Warehouse/Self Storage Units															C						C	P		C	
Off-Premise Freestanding Sign																				P	P	P		P	P
Photocopying/Duplicating/Copy Shop															P	P		C		P	P	P	P	P	P
Sexually Oriented Business	(See Section 18, Article 6 of the City Code)																								
Studio for Radio or Television (without tower)															P	P	P	~~P~~		P	P	P	P	P	P
Tool Rental (Indoor Storage only)															P			C		C	P	P	C	P	P
Tool Rental (with Outdoor Storage)																					C	P		C	P
Washateria/Laundry (Self Serve)																		C		P	P	P	P		
Retail and Service Type Uses																									
All Terrain Vehicle (go-carts) Dealer / Sales																				C	P	P			
Antique Shop (with outside storage)															C	C		C		C	P	P	C		
Auto Dealer (Primarily New/Used Auto Sales as accessory use only)																					P	P		C	C
Auto Dealer, Used Auto Sales																				C	P	P			
Auto Supply Store for New and Rebuilt Parts															C	C				P	P	P			
Bike Sales and/or Repair															P	P				P	P	P	P		
Building Material Sales																					P	P			
Cabinet Shop (Manufacturing)																					P	P		P	
Convenience Store without gas sales															P	P		C		P	P	P	P		
Convenience Store with gas sales															C			C		C	P	P	C		
Department Store																				P	P	P	P		
Food or Grocery Store with Gasoline Sales															C			C		C	P	P			
Food or Grocery Store without Gasoline Sales															P	P		C		P	P	P	P		
Gravestone/Tombstone Sales																					C	P			P
Gun Smith																					C	P			

Home Improvement Center (10,000 s.f. or more)															C	C				P	P	P			
Lawnmower Sales and/or Repair															C	C				C	P	P		C	C
Liquor Sales (retail)																				P	P	P			
Market (Public, Flea)															C	C		C			C	P	C		
Pharmacy															P	P		C		P	P	P	P		
Plant Nursery (Retail Sales / Outdoor Storage)	P	P													C	C	P	C	C	P	P	P			
Recycling Kiosk															P	P	P	C	C	P	P	P	P		
Restaurant/Prepared Food Sales															P	P	C	C		P	P	P	P		
Restaurant/Prepared Food Sales with beer/wine for off-premise consumption																				P	P	P	C		
Restaurant/Prepared Food Sales with drive thru															C	C				C	P	P	P		
Retail Store (Misc.) without Drive Thru Service (Under 100,000 s.f. Bldg.)															C	C				P	P	P	P		
Retail Store (100,000 s.f. or more Bldg.)																				C	P	P		C	C
Retail Store (over 10,000 sf or more Bldg.) outside sales															C	C		C		C	P	P	C		
Retail Store(under 10,000 sf or more Bldg.) outside sales															C	C		C		P	P	P	C		
Retail Store (under 10,000sf or more Bldg.) no outside sales															P	P		C		P	P	P	C		
Security Systems Installation Company																					P	P	P	P	P
Shopping Center (Over 5 Acres)																				P	P	P		C	
Studio Tattoo or Body Piercing															C	C		C		P	P	P			
Temporary Outdoor Retail Sales / Commercial Promotion (4 day time limit; Permit Required by Building Official)															P	P		C		P	P	P	P	P	P
Upholstery Shop (Non-Auto)																					P	P			
Veterinarian (Indoor Kennels)															C	C				C	P	P			
Woodworking Shop (Ornamental)															P	P		P		P	P	P	P	P	P

Transportation and Automotive Uses

General Vehicular Sales and Service															C	C				P	P	P	C		
Auto Body Repair																					C	P		C	P
Auto Muffler Shop																				P	P	P			

Auto Paint Shop																						C	P		C	P
Auto Repair (General)																C	C				C	P	P			
Auto Repair as an Accessory Use to Retail Sales																C	C				P	P	P			
Auto Tire Repair /Sales (Indoor)																C	C				P	P	P	C		
Auto Wrecker Service/ Tow Yard																							P			C
Car Wash (Self Service; Automated)																C	C				C	P	P			
Full Service Car Wash (Detail Shop)																C	C				P	P	P			
Heavy Load Vehicle Sales/Repair																							P		C	C
Limousine / Taxi Service																C	C				P	P	P	C		
Public Garage / Parking Structure																C	C	C		C	C	C	C	C	C	C
Tire Sales (Outdoors/Storage)																					C	P	P			
Transit Terminal																					C	C	P	C		
Truck Terminal																						C	P		P	P
Amusement and Recreational Uses																										
Amusement Services or Venues (Indoors)																C	C				C	P	P	P		
Amusement Services or Venues (Outdoors)	C	C	C	C	C	C	C	C	C	C	C	C	C			C	C	C				P	P			
Bar																C	C				C	C	C	C		
Billiard / Pool Facility/Nightclub (Three or More Tables) No alcohol consumption																					C	P	P	P		
Smoking Lounge																C	C		C		C	P	P	C	P	P
Broadcast Station (with Tower)																		P					P		P	P
Civic/Conference Center																P	P	P			C	P	P	C	C	C
Country Club (Private)	C	C	C	C	C	C	C	C	C	C	C	C	C			C	C		C		C	C	C		C	C
Dance Hall / Dancing Facility																					C	P	P	C		
Day Camp	C	C																				P	P		P	P
Driving Range																						P	P			
Fair Ground	C																	P								
Health Club (Physical Fitness; Indoors Only)																P	P		P		P	P	P	P	P	P
Motion Picture Theater (Indoors)																C	C				C	P	P	P		
Motion Picture Studio, Commercial Film																						P	P	P	P	P
Museum (Indoors Only)																P	P	P	P		P	P	P	P		
On-Premise Consumption of Alcohol																C	C		C		C	C	C	C		
Park and/or Playground	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P		P	P	P	P	P	P

Travel Trailers / RVs (Short Term Stays)																						P	P			
Rodeo Grounds	C																	P					P			
RV/Travel Trailer Sales																						P	P			
Tennis Court (Lighted)	P	C	C	C	C	C	C	C	P	C	P	P	P	P	P	C	C	P			C	C	C			
Theater (Non-Motion Picture; Live Drama)																C	C	P			C	P	P	P		
Institutional / Governmental Uses																										
Adult Day Care (No Overnight Stay)																P	P	P	C		P	P	P			
Antenna (Non-Commercial)	(See Section 4.3.4.1)																									
Antenna (Commercial)	(See Section 4.3.4.1)																									
Assisted Living Facility/Hospice											P	P	P			P	P		C		P	P	P			
Broadcast Towers (Commercial)	(See Section 4.3.4.1)																									
Cellular Communications Tower / PSS	(See Section 4.3.4.1)																									
Cemetery and/or Mausoleum	C	C																P								
Child Day Care (Business)																P	P		C		P	P	P			
Meeting Place/Nonreligious					C	C	C	C	C	C						P	P		C		P	P	P	P		
Place of Religious Assembly/Church	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P		P	P
Clinic (Medical)																P	P	P	C	P	P	P	P	P		
Electrical Generating Plant	C																	C							C	C
Electrical Substation	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C		C	C	C		C	C
Emergency Care Clinic																P	P		C		P	P	P	C	C	C
Franchised Private Utility (not listed)	(See Section 4.3.4.1)																									
Fraternal Organization/Civic Club																P	P		C		P	P	P	P		
Governmental Building or Use (Municipal, State or Federal)	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Heliport																C	C	P				C	C	P	C	C
Helistop (Non-Emergency)																		P							C	C
Household Care Facility	P	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	P								
Hospital (Acute care / Chronic Care)											C	C	C			C	C	C	C	C	C	P	P		P	P
Nursing/Convalescent Home											P	P	P			P	P		C		P	P	P			
Philanthropic organization																P	P		C	P	P	P	P	P	C	C
Post Office (Private)																P	P	P	P	P	P	P	P	P	P	P
Post Office (Governmental)	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	P	P	P	P	P	P	P	P	P	P	P
Radio/Television Tower (Commercial)	(See Section 4.3.4.1)																									

Rectory/Parsonage with Place of Worship	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P		P	P	P			
Retirement Home/Home for the Aged											P	P	P			P	P				P	P	P			
School, K through 12 (Private)	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	P	P		P	P	P	C	P	P
School, K through 12 (Public)	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P		P	P	P	P	P	P
School, Vocational (Business/Commercial Trade)																C	C	P	C		P	P	P	P	P	P
University or College	C																	P						P		
Commercial and Wholesale Trade Uses																										
Auction Sales (Non-Vehicle)																					P	P	C	C	P	
Bio-Medical Facilities																						C		P	P	
Caterer																P	P		C		C	C	P	P	P	P
Extermination Service																					P	P			P	
Feed and Grain Store	C																				P	P			P	
Furniture Manufacture																						P		P	P	
Maintenance/Janitorial Service																C	C		C		P	P		P	P	
Manufactured Home Sales																						P			C	
Metal Fabrication Shop																					C	P		C	C	
Moving Storage Company																					C	P		P	P	
Portable Building Sales																					P	P			P	
Taxidermist																					P	P	P		P	
Transfer Station (Refuse/Pick-up)																								C	C	
Veterinarian (Outdoor Kennels or Pens)	C	C																				C		C	C	
Warehouse / Office and Storage																					C	P		P	P	
Welding Shop																						P		P	P	
Industrial / Manufacturing Uses																										
Aircraft Support and Related Services																		P								P
Airport																		P							C	P
Manufacturing																									P	P
Contractor's Office/Sales, With Outside Storage including Vehicles																						P		C	P	
Contractor's Temporary On-Site Construction Office (only with permit)	(Issued by the Building Official)																									

Distribution Center																							P		P	P
Electronic Assembly/High Tech Manufacturing																						P	P		P	P
Engine Repair/Motor Manufacturing Re-Manufacturing and/or Repair																							P		C	P
Food Processing (no Outside Public Consumption)																							C		P	P
Laboratory Equipment Manufacturing																									P	P
Leather Products Manufacturing																							C		P	P
Machine Shop																							P		C	P
Manufacturing Processes not Listed																									C	C
Marble or Stone Finishing																							C		P	P
Micro Brewery (onsite mfg. and sales)																C	C				C	C	C	C	C	C
Motor Freight Terminal																							C		P	P
Outside Storage (as primary use)																						C	P		C	C
Paint Manufacturing																										P
Petroleum Bulk Storage																									C	P
Plastic Products Molding/Reshaping																									P	P
Research Lab (Non-Hazardous)																				C		C	P	C	P	P
Sand/Gravel Sales (Storage or Sales)																							C		C	P
Sign Manufacturing																							P	C	P	P
Stone/Clay/Glass Manufacturing																							C		P	P
Wrecking/Junk Yard																							C			C

Section 4.2.1.11 MF-12, Multiple-Family Residential District

(a) *Purpose.* The MF-12 Multiple-Family Residential District is intended for development of multiple-family, apartment residences at not more than 12 units per acre. This district should be located adjacent to a major thoroughfare and may serve as a buffer between low or medium density residential development and nonresidential development or high-traffic roadways.

(b) *Authorized Uses.* Permitted and conditional uses, as authorized in the Land Use Matrix in Article 3, Division 1 of this Chapter 4. Accessory uses as authorized in Article 3, Division 2 of this Chapter 4.

(c) *Additional Development Standards.* See Table 4.1.6.1.

(d) *Additional Area, Building and Height Requirements*:

(1) Minimum Lot Area:

a. 3,630 square feet per dwelling unit for the first three dwelling units, plus as much additional lot area as necessary for each dwelling unit over three so that the total gross density does not exceed 12 dwelling units per acre.

b. The minimum lot area for all other uses shall be determined by the applicable minimum lot dimensions.

(2) Minimum Lot Width:

a. Duplex, group home: ~~60~~ 45 feet

b. All other uses: ~~90~~ 60 feet

(3) Minimum Lot Frontage:

a. Duplex, group home: 40 feet

b. All other uses: 60 feet

(4) Minimum Rear Yard: Ten feet; there shall be no encroachment or overhangs into this required rear yard.

(5) Minimum Side Yard, Interior:

a. Duplex, group home. Five feet

b. All other uses: Ten feet

(e) *Additional Requirements.* See Chapter 6 for additional requirements and standards.

Section 4.2.1.12 MF-18, Multiple-Family Residential District

(a) *Purpose.* The MF-18 Multiple-Family Residential District is intended for development of multiple-family, apartment residences at not more than 18 units per acre. This district

should be located adjacent to a major thoroughfare and may serve as a buffer between low or medium density residential development and nonresidential development or high-traffic roadways.

(b) *Authorized Uses.* Permitted and conditional uses, as authorized in the Land Use Matrix in Article 3, Division 1 of this Chapter 4. Accessory uses as authorized in Article 3, Division 2 of this Chapter 4.

(c) *Additional Development Standards.* See Table 4.1.6.1.

(d) *Additional Area, Building and Height Requirements*:

(1) Minimum Lot Area:

a. 2,425 square feet per dwelling unit for the first three dwelling units, plus as much additional lot area as necessary for each dwelling unit over three so that the total gross density does not exceed 18 dwelling units per acre.

b. The minimum lot area for all other uses shall be determined by the applicable minimum lot dimensions.

(2) Minimum Lot Width:

a. Duplex, group home: ~~50~~ 45 feet

b. All other uses: ~~70~~ 60 feet

(3) Minimum Lot Frontage:

a. Duplex, group home: 40 feet

b. All other uses: 60 feet

(4) Minimum Side Yard, Interior:

a. Duplex, group home. Five feet

b. All other uses: Ten feet

(e) *Additional Requirements.* See Chapter 6 for additional requirements and standards.

Section 4.2.1.13 MF-24, Multiple-Family Residential District

(a) *Purpose.* The MF-24 Multiple-Family Residential District is intended for development of multiple-family, apartment residences at not more than 24 units per acre. This district should be located adjacent to a major thoroughfare and may serve as a buffer between low or medium density residential development and nonresidential development or high-traffic roadways.

(b) *Authorized Uses.* Permitted and conditional uses, as authorized in the Land Use Matrix in Article 3, Division 1 of this Chapter 4. Accessory uses as authorized in Article 3, Division 2 of this Chapter 4.

(c) *Additional Development Standards.* See Table 4.1.6.1.

(d) *Additional Area, Building and Height Requirements*:

(1) Minimum Lot.Area:

a. 12,000 square feet; gross density shall not exceed 24 dwelling units per

acre.

b. The minimum lot area for all other uses shall be determined by the applicable minimum lot dimensions.

(2) Minimum Lot Width:

a. Duplex, group home: 45 feet

b. All other uses: 60 feet

(3) Minimum Lot Frontage:

a. Duplex, group home: 45 feet

b. All other uses: 60 feet

(4) Minimum Rear Yard: Ten feet; there shall be no encroachment or overhangs into this required rear yard.

(5) Minimum Side Yard, Interior:

a. Duplex, group home. Five feet

b. All other uses: Ten feet

(e) *Additional Requirements.* See Chapter 6 for additional requirements and standards.

Section 7.4.2.3 General Requirements for Sidewalks

(a) *Required in Subdivisions.* Sidewalks are required in all subdivisions except in residential areas where all lots are equal to or exceed one acre.

(b) *Installation.* Sidewalks shall be installed as follows:

(1) Sidewalks shall be located on the front of lots and along the street sides of corner lots.

(2) Sidewalks shall be constructed in compliance ~~width~~ with the width and location requirements indicated in the TCSS.

(c) *Requirements for Sidewalks in Existing Platted Subdivisions.* Sidewalks are required ~~on all existing vacant lots, and on all lots on which any development or redevelopment activities are planned ,~~ in accordance with subsection (b) above, and construction of ~~required~~ sidewalks shall be completed prior to the issuance of a certificate of occupancy for the following types of development ~~for construction of the new building or acceptance of site improvements.~~

(1) A new single family residential ~~home~~dwelling.

(2) All non-residential single family residential development except where the only improvements planned are the remodeling or renovation of an existing building. ~~*Exceptions.* Sidewalks are not required to be constructed in the following cases:~~

~~a. The only improvements planned are the remodeling or renovation of an existing building.~~

~~b. The only improvements planned are site improvements on a residential lot not involving the construction or expansion of floor area of a residential structure where there is no existing sidewalk on the same side of the street within the same block as the lot on which the improvements are planned.~~

(d) *Site Layout, Construction and Drainage of Sidewalks.* Sidewalks shall be constructed in accordance with the TCSS, and as required by the Engineering Director. Where sidewalks are installed, the following minimum requirements shall be met:

(1) *Sidewalk permits required.* Unless sidewalk construction plans are approved as part of subdivision construction plans or building permit plans, a separate permit shall be issued by the Engineering Director for all sidewalk construction installed within City right-of-way, easements or property.

(2) *Widths and location.* Where sidewalks are installed, the following minimum widths and locations shall be required:

a. Sidewalks shall be in constructed in compliance with the width and location specifications indicated in the TCSS.

b. Wherever water from roof or adjacent buildings is drained or conducted under sidewalks through aqueducts or concrete troughs, any openings in the sidewalks shall be fitted with strong metal covers which shall be securely held in place with screws or other fasteners that will not rust or corrode. The covers shall be set flush with the surface of the sidewalk

and securely bolted, fastened or so constructed that they cannot slip, shift or lose alignment with the surface of the sidewalk. Downspouts shall not drain across the surface of sidewalks or pedestrian ways.

(e) *Sidewalk Ramps.* Sidewalks constructed to the requirements in this section shall include a standard sidewalk pedestrian ramp whenever a curb return or other structure may present an architectural barrier to handicapped access within a pedestrian path or at street/sidewalk intersections constructed in accordance with ADA requirements.

(f) *Fee in Lieu of Dedication.* A cash fee for the installation of offsite sidewalks may be paid in lieu of all or part of the sidewalks required under Section 7.4.2.3(b)(1). The cash fee in lieu of sidewalk installation shall be set by resolution of the City Council (see the Technical Manual). All fees in lieu of installation shall be paid prior to the issuance of a building permit. Fees in lieu of installation may be accepted if the Director consents. In evaluating the request, the Director shall consider:

(1) Proximity to the nearest existing sidewalk;

(2) Proximity to public facilities, such as public or private schools, libraries and other government buildings;

(3) Whether any public sidewalk improvements are planned or contemplated in the area; and

(4) Any other information deemed appropriate in the professional judgment of the Director.

ISSUE, ACTION OR DECISION	CURRENT PROCESS (WITH LDC REFERENCE)	PROPOSED CHANGE
Initial Decision on Certificate of Appropriateness	HPC shall be the initial decision-maker for a Certificate of Appropriateness, subject to appeal to the ZBOA. *LDC § 1.5.6.4 (a).*	None.
Record of Decision	If the HPC denies the request for a Certificate of Appropriateness or approves the request subject to conditions, it shall place upon its records the reasons for its determination. *LDC § 1.5.6.4 (c).*	None. However, staff will assist the Commission to make a more detailed record of basis for a decision.
Appeal	An applicant or other interested person may appeal a final decision of the HPC on an application for a Certificate of Appropriateness to the Zoning Board of Adjustments ("ZBOA") within 10 days of decision. *LDC § 1.5.6.6.*	None.
Purpose of Appeal	Purpose of appeal is to contest an initial decision on a development application based upon alleged misapplication of the criteria for approval of the application. An appeal shall not be used as a means of amending, varying or otherwise modifying the standards of the LDC. *LDC § 1.10.1.1 (a).*	This provision remains, but amendment will impose a burden of proof requiring the applicant to establish that the decision of the Commission is not supported by substantial evidence.
Record on Appeal	If an appeal from the HPC is filed, the planning staff "shall compile all documents constituting the record of the decision on appeal and transmit the record to the [ZBOA]." *LDC § 1.10.1.3 (a).*	None. However, staff will seek to provide a complete record that includes the detailed findings of the Commission.
Decision on Appeal	"The [ZBOA] shall affirm, reverse or modify the decision from which the appeal was taken." *LDC § 1.10.1.3 (a).*	None. However, the basis for the decision would be based on a new standard of review that limits the discretion of the ZBOA.
Criteria for Decision and Standard of Review on Appeal	In evaluating the merits of the appeal, the ZBOA shall apply the same criteria that governed the initial decision of the HPC.* *LDC § 1.10.1.4.* This means applicant gets a new hearing at which ZBOA may substitute its judgment for that of the Commission provided ZBOA applies the same criteria as the Commission.	ZBOA would not be allowed to substitute its judgment for that of the Commission. Instead, it would review the decision to determine whether it is supported by substantial evidence, i.e., evidence that a reasonable mind might accept as adequate to support a conclusion.

***Note:** Section 1.5.6.5 (a) of the LDC establishes the following criteria for consideration:

(1) Consideration of the effect of the activity on historical, architectural or cultural character of the historic district or landmark;

(2) For historic zoning districts, compliance with zoning district regulations;

(3) Whether the property owner would suffer extreme hardship, not including loss of profit, unless the Certificate of Appropriateness is issued;

(4) The construction and repair standards and guidelines [for buildings in historic districts] in Section 4.2.5.1(j), e.g., visual compatibility, considering height, proportions, spacing, materials, roof shapes, walls of continuity, scale, etc.

PROPOSED AMENDMENTS TO LDC
(Underlining indicates new text. Strikethroughs indicate deleted text.)

Section 1.5.6.6 Appeals

(a) *General Procedure*. An applicant or other interested person may appeal a final decision of the Historic Preservation Commission on an application for a Certificate of Appropriateness to the Zoning Board of Adjustments within ten days of the Commission's action on the application. The Zoning Board of Adjustments shall decide the appeal in accordance with Article 10, Division 1 of this Chapter 1, except as supplemented or modified in subsections (b) and (c) of this Section.

(b) *Supplemental Procedure*. In considering the appeal the Zoning Board of Adjustments shall:

(1) review the record of the proceeding from which an appeal is sought;

(2) receive an overview of the case from the responsible official including previous recommendations from city staff and the decision of the Historic Preservation Commission;

(3) hear arguments from the party appealing the decision of the Historic Preservation Commission; and

(4) remand the matter back to the Historic Preservation Commission when testimony and evidence is presented that was not previously presented at the time of the hearing before the Historic Preservation Commission.

(c) *Criteria on Appeal.*

(1) The board shall apply the substantial evidence test to the decision of the Historic Preservation Commission.

(2) The burden of proof before the board shall be on the appealing party, who must establish that the record reflects the lack of substantial evidence in support of the decision of the Historic Preservation Commission;

(3) The board may not substitute its judgment for the judgment of the Historic Preservation Commission on the weight of the evidence on issues committed to the commission's discretion.

Section 1.10.1.4 Criteria

In deciding the appeal, other than appeals from a decision of the Historic Preservation Commission, the appellate body shall apply the same criteria that govern the initial decision on the development application under the provisions of this Chapter 1. The Zoning Board of Adjustments shall apply the criteria and standard of review set forth in Section 1.5.6.6 for appeals from a decision of the Historic Preservation Commission.

Major recharge feature means a sensitive geologic feature or manmade feature that, because of its characteristics and setting, is likely to cause a significant quantity of direct recharge of surface water to the Edwards Aquifer, and has a contributing drainage area of greater than 10 acres and/or occurs within a floodplain or streambed.~~potential recharge rating of more than 20 points on a geologic assessment prepared to TCEQ standards by a qualified geologist.~~

Minor recharge feature means a sensitive geologic feature or manmade feature that, because of its characteristics and setting, may cause small quantities of surface water to recharge the Edwards Aquifer, and has a contributing drainage area of less than 1.6 acres.~~potential recharge rating of less than 15 points on a geologic assessment prepared to TCEQ standards by a qualified geologist.~~

Moderate recharge feature means a sensitive geologic feature or manmade feature that, because of its characteristics and setting, is likely to cause small quantities of surface water to directly recharge the Edwards Aquifer, and has a contributing drainage area between 1.6 acres and 10~~potential recharge rating of 15 to 20 points~~, inclusive~~, on a geologic assessment prepared to TCEQ standards by a qualified geologist~~.

Section 7.4.1.4 Specific Street Standards

(a) *Arrangement of Streets Not Shown on the Thoroughfare Plan.* For streets that are not shown on the City's Thoroughfare Plan, such as local residential streets, the arrangement of such streets within a subdivision shall:

(1) Provide for the continuation or appropriate projection of existing streets from or into surrounding areas - every 1,200 feet, there shall be a projection that would allow for such continuation;

(2) Conform to a plan for the neighborhood approved or adopted by the City to meet a particular situation where topographical or other conditions make continuance or conformity to existing streets impractical;

(3) Provide for future access, such as by stubbing streets for future extension, to adjacent vacant areas which will likely develop under a similar zoning classification or for a similar type of land use; and

(4) Not conflict in any way with existing or proposed driveway openings (including those on the other side of an existing or planned median-divided arterial, in which case new streets shall align with such driveway openings such that median openings can be shared).

(b) *Discouragement of Through Traffic on Residential Streets.* Residential collector streets and local residential streets shall be laid out such that their use by "cut through" traffic will be discouraged, with the development of a hierarchical street system and such measures as circuitous routes or multiple turns or offsets, but such that access is provided to adjacent subdivisions.

(c) *Transitions of ROW Width.* Wherever the right-of-way width of a residential local or collector street must transition to a greater or lesser width, the transition shall not occur within an intersection but within the street ROW so that the ROW shall be the same on both sides of the street intersection.

(d) *Subdivisions Abutting or Containing Arterial Streets.* Where a subdivision abuts or contains an existing or proposed arterial street, the Planning and Zoning Commission may require marginal access streets, shared driveway access on commercial lots, reverse or double-lot frontage (lots which back onto the arterial), deep lots with rear service alleys, or such treatment as may be necessary for adequate protection of residential properties and to afford separation of through and local traffic. Construction of residential driveways onto major and minor arterials shall be prohibited, except in the FD and AR zoning districts.

(e) *Reserve Strips.* Reserve strips controlling access to streets shall be prohibited except where their control is required by the City and approved by the Planning and Zoning Commission.

(f) *Configuration Shall Reduce Minimal Offsets.* Intersecting, undivided streets with centerline offsets (or jogs) of less than 125 feet shall be avoided. Intersecting streets onto an existing or future divided roadway must be configured such that the centerline offset will accommodate the appropriate median opening and left-turn lanes (with required transition and stacking distances) on each divided roadway, and shall be

aligned with any existing or proposed streets or driveways on the opposite side of the divided roadway (in order to share the median opening).

(g) *Intersections.* A street intersection with a classification of minor arterial or above shall be at a 90 degree angle and shall be tangent to the intersecting street for at least 100 feet. All other street intersections shall be laid out so as to intersect as nearly as possible at a 90 degree angle or radial to the centerline of the intersecting street for the full right-of-way width of the intersecting street, and tangent to the intersecting street for at least 50 feet. No street shall intersect at an angle that is less than 85 degrees.

(h) *Right-of-Way Widths.* Street right-of-way widths shall be as shown on the Thoroughfare Plan and as defined by the corresponding roadway cross-sections on the Thoroughfare Plan and in the City's TCSS Manual.

(i) *Half Streets.* Construction of half streets shall be prohibited, except when essential to the reasonable development of the subdivision in conforming with the other requirements of this Code and the Thoroughfare Plan, and where the Planning and Zoning Commission makes a determination that there is no immediate benefit to be gained by constructing the full street section since no access from the street will be needed by the subdivision in question. The Planning and Zoning Commission may also find that it would be more practical, or cost effective, to delay construction of the other half of a street until when the adjoining property is developed.

(j) *Maximum Length of a Block or Street Segment.* The maximum length of any block or street segment (including a looped street) shall be 1,200 feet except 1,600 feet shall be permitted along major thoroughfares, and the minimum length of any block or street segment shall be 600 feet, as measured along the street centerline and between the point(s) of intersection with other through streets (i.e., not dead-end streets or cul-de-sacs).

(k) *Maximum Length of a Cul-De-Sac Street.* A cul-de-sac street shall not be longer than 500 feet, and at the closed end shall have a turnaround bulb with an outside pavement diameter of at least 80 feet and a right-of-way diameter of at least 100 feet. The length of a cul-de-sac shall be measured from the centerline of the intersecting street to the centerline of the cul-de-sac bulb. In nonresidential areas, the turnaround shall have a minimum right-of-way diameter of 100 feet and a paving surface with a minimum width of 90 feet.

(l) *Variances for Overlength Streets or Cul-De-Sacs.* The Planning and Zoning Commission may approve variances for overlength streets or cul-de-sacs, whether temporary or permanent, upon considering the following:

(1) Alternative designs which would reduce street or cul-de-sac length;

(2) The effect of overlength streets upon access, congestion, delivery of municipal services, and upon convenience to residents of the subdivision in traveling to and from their homes; and

(3) Means of mitigation, including but not limited to additional mid-block street connections, limitation on the number of lots to be served along an overlength street segment or cul-de-sac, temporary (or permanent) points of emergency access, and additional fire protection measures.

(m) *Dead-End Streets.* Except when recommended by the City Engineer, no dead-end streets will be approved unless they are provided to connect with future streets on

adjacent land. In the case of dead-end streets which will eventually be extended into the adjacent property, no more than one lot (per side) can front onto the dead-end street stub unless a temporary turnaround bulb (with the appropriate temporary street easement) is provided at the end. A temporary dead-end street shall not exceed the maximum allowed length of a normal cul-de-sac, and the temporary turnaround bulb must be constructed like a cul-de-sac, as provided in subsection (k) above. A note shall be placed on the final plat clearly labeling any temporary dead-end streets (if any) that will at some point be extended into the adjacent property, and signage shall be placed at the end of the constructed street stub, such as on the barricade, also stating that the street will be extended in the future. Signage and lettering must be large enough to be legible by a person with normal vision at a 50-foot distance. Any required temporary turnaround easements shall be shown on the final plat along with their appropriate recording information, if they are off-site or established by separate instrument.

(n) *Names of Extensions of Existing Streets.* New streets which extend existing streets shall bear the names of the existing streets, and shall be dedicated at equal or greater right-of-way widths than the existing streets for an appropriate transition length, if applicable.

(o) *Construction of Streets.* All streets shall be constructed in accordance with paving widths and specifications as set forth in the TCSS of the City of San Marcos at the time at which the preliminary plat application is officially submitted and deemed a complete application.

(p) *Street Grades and Horizontal Curves.* Minimum and maximum street grades and horizontal curves will conform to standards set forth in the TCSS Manual.

(q) *Pavement Widths and Rights-of-Way.* Pavement widths and rights-of-way shall be as specified in the City's Major Thoroughfare Plan (see the Technical Manual).

(r) *Curbs and Gutters.* Curbs and gutters, or ribbon curbs, where approved, shall be installed in the subdivision on both sides of all interior streets and on the subdivision side of all streets forming part of the boundary of the subdivision, according to the TCSS.

(s) *Street Names.*

(1) New streets in a subdivision shall be named in a way that will provide continuity of street names and prevent conflict or confusion with existing street names in the City, in the City's extraterritorial jurisdiction or in a neighboring jurisdiction. A proposed new street name is in conflict with this subsection where:

a. It duplicates or sounds phonetically similar to the name of a street already in use within the City or the City's extraterritorial jurisdiction or designated as a future extension in the current thoroughfare plan;

b. It differs from an existing street name in the City or the City's extraterritorial jurisdiction by the addition of an auxiliary designation including "avenue", "way", "boulevard", etc.; or

c. The street to be named is an extension of or is in substantial alignment with an existing street in the City, the City's extraterritorial jurisdiction or a neighboring jurisdiction and the proposed street name is different from the existing street name.

(2) Renaming of existing streets shall be in accordance with Section 74.041 of the City Code.

(t) *Street Signs.* Street signs shall be installed by the developer at all intersections within and abutting the subdivision. These signs shall be of a type approved by the City, and shall be installed according to City standards.

(u) *Streetlights.* Streetlights shall be installed by the developer at all intersections and at the ends of cul-de-sacs, and shall have no greater distance than ~~600~~400 feet between them within or abutting the subdivision. Street Lighting inside the City Limits and within the ETJ of the City of San Marcos shall be installed and suitable to accept power by the developer or property owner of new residential, commercial, or industrial developments at all intersections and at the end of cul-de-sacs, and shall have no greater distance than 400 feet between the fixtures within or abutting the subdivision. Poles shall be located a minimum of two feet behind existing or planned curbs or sidewalks on public rights-of-way. Street lighting structures shall use 100 watt or 250 watt high-pressure sodium (HPS), full cut-off luminaries at an allowable voltage of 120 volts, each controlled by individual photocells, and in accordance with the *City of San Marcos Electric Utilities Underground Installation Specifications.* Street lights shall be fully shielded in such a manner that light emitted by the fixture, either from the lamp or indirectly from the luminaire, is projected below a horizontal plane running through the lowest point on the fixture where light is emitted. All street light installations shall be in accordance with the National Electrical Code and National Electrical Safety Code, and shall also conform to City laws, codes and specifications governing such work. Variances in street lighting installations will be administered by The Electric Utility Division of the City of San Marcos Public Services Department on a case by case basis. All street lights shall be connected, by the serving utility, to the permanent power supply and function properly prior to final acceptance. Service to locations where City electric utility facilities are not available will be made at the discretion of The Electric Utility Division of the City of San Marcos Public Services Department and at an additional charge, per existing tariffs, to the developer or property owner to cover the costs of installation and maintenance, including appropriate overheads, additional poles, conductors, other facilities, and increased maintenance expenses. State or Federal street lighting requirements supersede this ordinance.

(v) *Access Management.* Access management standards and requirements related to TXDOT roadways shall be in accordance with the standards adopted in the TXDOT Access Manual. Access management standards and requirements related to City roadways shall be in accordance with the TCSS Manual and Chapter 7, Article 4, Division 2 (Driveways) of this Land Development Code.

(w) *Screening Along Arterial Roadways.* Screening requirements for arterial roadways shall be in accordance with Section 6.1.2.3.

(Ord. No. 2005-59, § 7, 8-16-05; Ord. No. 2006-45, § 62, 9-19-06)