



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

Tuesday, May 10, 2011, 6:00 p.m.  
City Hall Council Chambers  
630 E. Hopkins Street

*Bill Taylor, Chair*  
*Bucky Couch, Vice-Chair*  
*Sherwood Bishop, Commissioner*  
*Randy Bryan, Commissioner*  
*Curtis O. Seebeck, Commissioner*  
*Jim Stark, Commissioner*  
*Chris Wood, Commissioner*  
*Travis Kelsey, Commissioner*  
*Kenneth Ehlers, Commissioner*

**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.**
6. **PC-04-10(01G) (Cottonwood Creek).** Consider a request by Backer-Aicklen & Associates on behalf of Cottonwood Creek JDR, Ltd., for approval of the Master Plan renewal of Cottonwood Creek subdivision, consisting of approximately 471.97 acres at the intersection of State Highway 123 and Monterrey Oak, San Marcos, TX.
7. **WPP2-11-07 (Blanco Gardens South).** Hold a public hearing and consider possible action on a request by Jonathan Winkleman for a Qualified Watershed Protection Plan Phase 2 for the replatting of lots 25 and 26 in the Blanco Gardens South Subdivision.
8. **PC-11-10(01) (Thermon Industrial Park)** Consider a request by K-W Construction for approval of a concept plat for approximately 16.99 acres of property located in the 300 block of Barnes Drive.
9. **PC-11-10-(04) (Thermon Industrial Park No. 2, Unit Two)** Consider a request by K-W Construction for approval of a replat, vacating Lot 2B and establishing Lot 2C, Thermon Industrial Park No. 2, Unit Two.
10. Hold a public hearing and consider revisions to the following sections of the Land Development Code: Section 1.6.8.6 Simple Amendment to Plat Agreement, Section 4.3.4.2 Renewable Energy Systems, Chapter 1 Article 7 Division 1 Watershed Protection Plans, Chapter 8 Glossary, Section 1.2.2.2 Planning Director, Section 6.1.4.1 On-site Refuse and Recycling, Sections 6.1.3.1 and 6.1.3.3 Fence Requirements.

**11. PR-11-04 (Capital Improvement Project presentation)** Hold a public hearing and consider recommendations for Capitol Improvement Project nominations for 2011-2019.

**12. Consider appointment of a student liaison to the Planning and Zoning Commission.**

**13. 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.

**Planning Report**

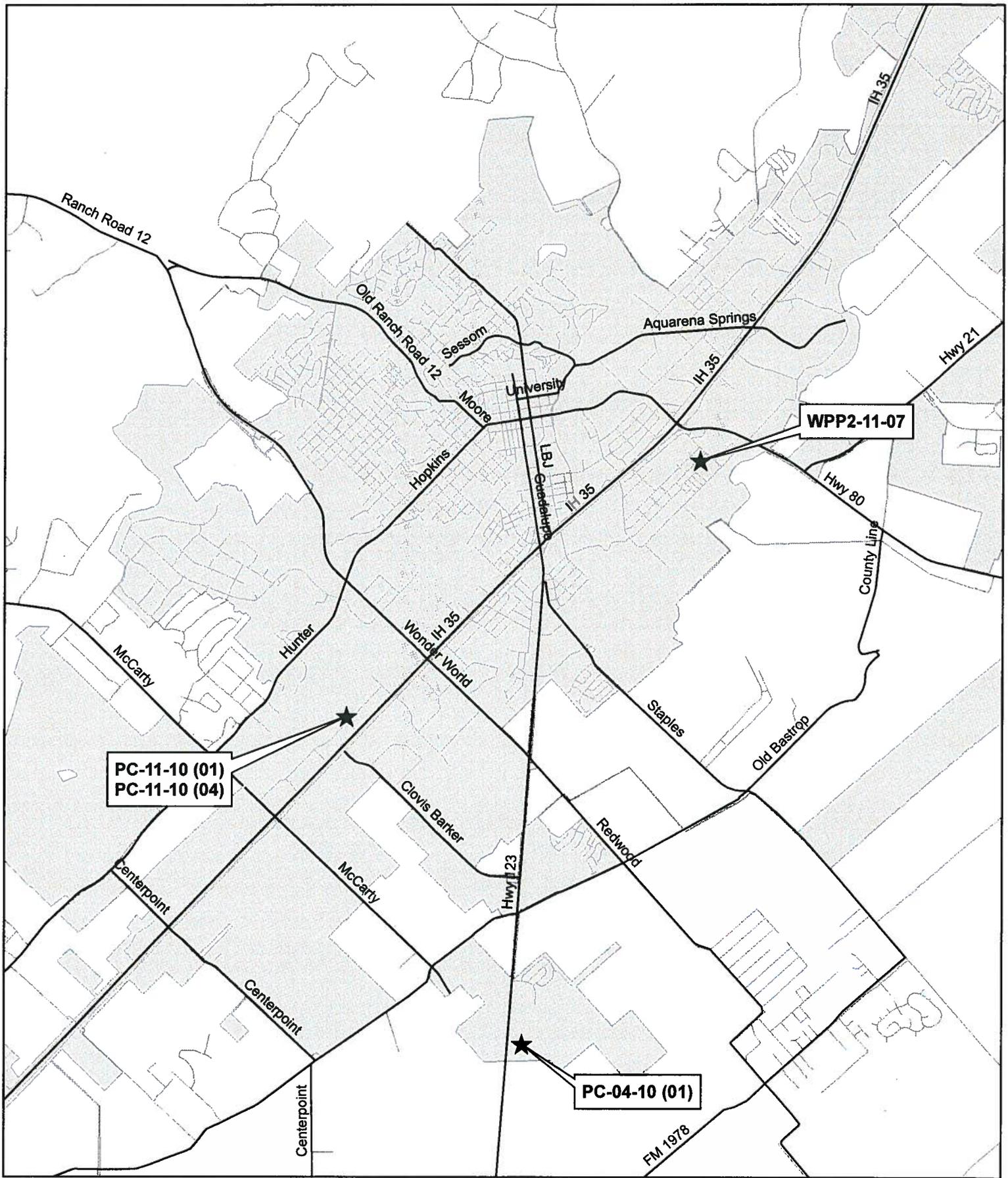
**Commissioners' Report.**

**14. Consider approval of the minutes from the Regular Meeting on April 26, 2011.**

**15. Questions from the Press and Public.**

**16. Adjourn.**

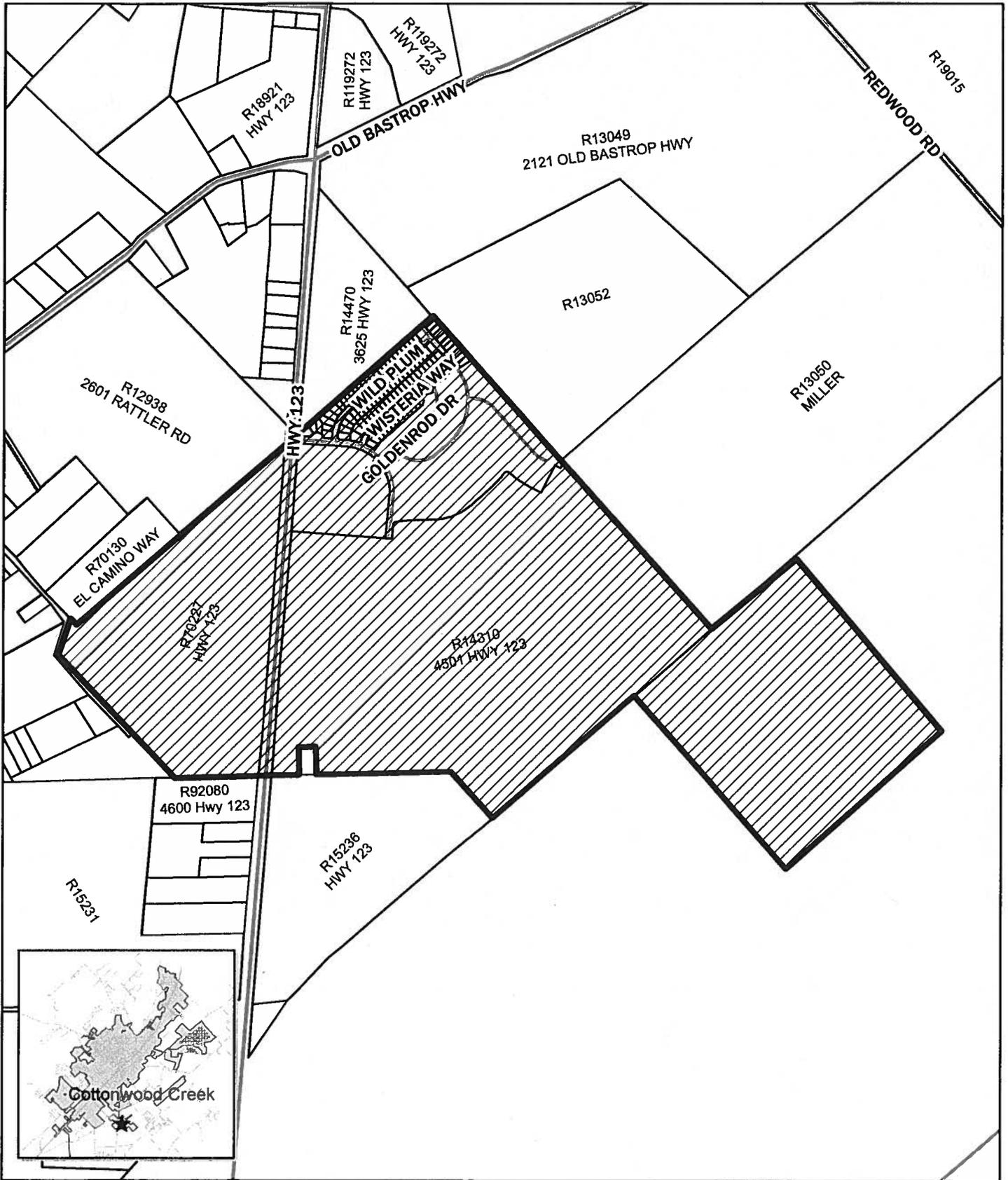
*Notice of Assistance at the Public Meetings: The San Marcos City Hall is wheelchair accessible. The entry ramp is located in the front of the building. Accessible parking spaces are also available in that area. Sign interpretative for meetings must be made 48 hours in advance of the meeting. Call the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



**Location Map  
May 10, 2011**

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**PC-04-10(01G)**  
**Cottonwood Creek**  
**Master Plan Renewal**  
**Map Date: 5/2/11**

● Site Location

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# PC-04-10(01G) Cottonwood Creek Subdivision Master Plan Renewal



## Applicant Information:

**Applicant:** Ramsey Engineering, LLC  
3206 Yellowpine Terrace  
Austin TX 78757

**Property Owner:** Cottonwood Creek, JDR, Ltd  
333 Cheatham Street  
San Marcos, TX 78666

**Notification:** Notification not required

**Type & Name of  
Subdivision:** Master Plan Renewal of Cottonwood Creek Subdivision

## Subject Property:

**Traffic /  
Transportation:** This Master Plan is proposing a thoroughfare network that will include the future extension of McCarty Road to State Highway 123. Access within the subdivision will be achieved by a means of arterials connecting to State Highway 123. An internal street network will provide access from the arterials to the residential portions of this subdivision.

**Land Use  
Compatibility:** The subject tract is located along State Highway 123 approximately one half mile south of Old Bastrop Road. The master plan is proposing the development of 2,694 residential dwelling units. The total number of dwelling units represents a mix of single-family homes, garden homes, two-family homes, town homes, and apartment units.

**Utilities:** The City of San Marcos will provide water and wastewater service and Bluebonnet Electric will provide electrical to this subdivision.

**Zoning Pattern:** The property is zoned in accordance with the land uses indicated on the active master plan for this subdivision

## **Planning Department Analysis:**

The Master Plan for Cottonwood Creek Subdivision was originally approved by the Planning and Zoning Commission in May 2004 and is vested under the ordinances and policies of the previous subdivision ordinance and consequently must receive approval by the Planning & Zoning Commission annually to maintain its vesting. This Master Plan was last reviewed by the Planning & Zoning Commission in May 2010. The expiration of the plan will occur this month unless the Planning & Zoning Commission approves the requested renewal.

Construction of single-family homes in Phase I Section 1B has continued since the previous renewal, and Phase I Section 1C has been platted.

Building Permits Issued	
May 2009-May 2010	57
May 2010-May 2011	33

### **The current composition of the Cottonwood Creek Master Plan is as follows:**

- The development consists of approximately 492 acres divided into four Phases.
  - Phase I is a 146.30 acre tract that is currently being developed as follows:
    - 17.7 acres developed as an Elementary School, platted July, 2005 as Sec 1-A
    - 19.32 acres to be developed as 102 Single Family lots, platted May, 2008 as Sec 1-B
    - 14.618 acres to be developed as 72 single family lots and two private parks that function as trail connections, platted December 2010 as Sec 1-C
    - 64.662 acres yet to be platted or developed
  - Phase II is an 85.44 acre tract – yet to be developed, identified as Multi-family, Duplex, Senior Group Home, Commercial, Public & Institutional, and Parkland.
  - Phase III is a 139.47 acre tract – yet to be developed, identified as Single-Family, Garden Homes, Townhomes, Commercial, Public and Institutional, and Private Park.
  - Phase IV is a 100.76 acre tract – yet to be developed, identified as Single-Family and Private Park.
- Some of the street and lot designs of various Phases illustrated on the Master Plan are not in compliance with block length requirements of either the previous or current

subdivision regulations. As new plats are submitted for review and approval, they must be in compliance with the subdivision requirement under which this Master Plan is being regulated.

- The renewal of the Cottonwood Creek Master Plan is subject to discretionary approval by the Planning & Zoning Commission.

#### **Changes from previously approved Concept Plan**

- The parkland perimeter road has been removed
- A trail has been added at various points (shown on the plan as "16' Private Parkland") for compliance with block length requirements
- The plat note referring to lots along the parkside road has been removed

The developer is proposing the removal of the parkside roads in order to reallocate the funds that would have gone into the parkside roads on the extension of McCarty Lane to the east. This change to McCarty is not shown on the concept plan and would be handled through a separate process.

The following is an analysis of the implications for the Cottonwood Creek development and the City of San Marcos if the Master Plan was renewed and if the plan was not renewed.

#### **If the Master Plan was renewed**

- The current Master Plan would be required to be submitted, reviewed, and approved by the Planning & Zoning Commission every year until the entire subdivision is platted. This could be anywhere between 10 to 20 years.
- As new phases and sections are developed a preliminary plat may be required.
- A Watershed Protection Phase 2 will be required for each new phase and section developed.
- As new phases and sections are developed a final plat must be submitted.
- Under the previous subdivision ordinance the City is required to cost share the construction of the parkland perimeter roads (a cost estimate for the City's portion as of 2005 was in excess of \$100,000). The majority of these roads are removed in the currently proposed Master Plan.

#### **If the Master Plan was NOT renewed**

- Prior to the platting of the next stage of the subdivision the applicant would be required to submit a Watershed Protection Plan Phase 1.
- A new Concept Plan will be required and once approved will be effective for five years
- As new phases and sections are developed a preliminary plat may be required.
- A Watershed Protection Plan Phase 2 will be required for each new phase and section developed.
- As new phases and sections are developed a final plat must be submitted.

- The City would not be responsible for cost sharing the construction of the parkland perimeter roads.

**Reasons that support the Planning & Zoning Commission's decision to DENY the renewal of the Cottonwood Creek Master Plan.**

- **The Master Plan must be reviewed and approved each year until the project is complete.**
- **The City would be relieved of its obligation to cost sharing the construction of the remainder of the parkland perimeter roads.**
- **The current illustrated design of this project does not exhibit neighborhood connectivity goals with full utilization the assets of its location. The removal of the park roads reduces internal connectivity, although connectivity to adjacent tracts is maintained.**

**Reasons that support the Planning & Zoning Commission's decision to APPROVE the renewal of the Cottonwood Creek Master Plan.**

- **An additional year of approval allows the developer and the planning staff time to address development revisions.**
- **The McCarty/Rattler extension may be constructed sooner with the funds from the parkside roads.**

## **The Commission's Responsibility:**

The Commission is charged with making the final decision regarding this proposed master plan extension. 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. The Commission must take action on this plat at the May 12, 2009 meeting in order to avoid problems with the 30-day clock established in State law. Your options are to approve, disapprove, or to statutorily deny (an action that keeps the applicant "in process") the plan.

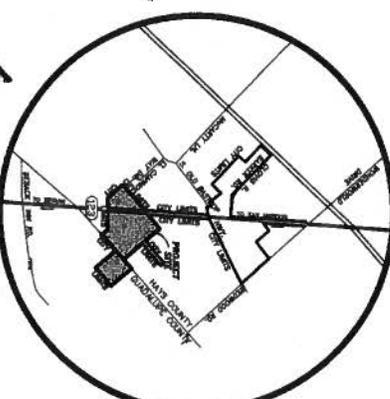
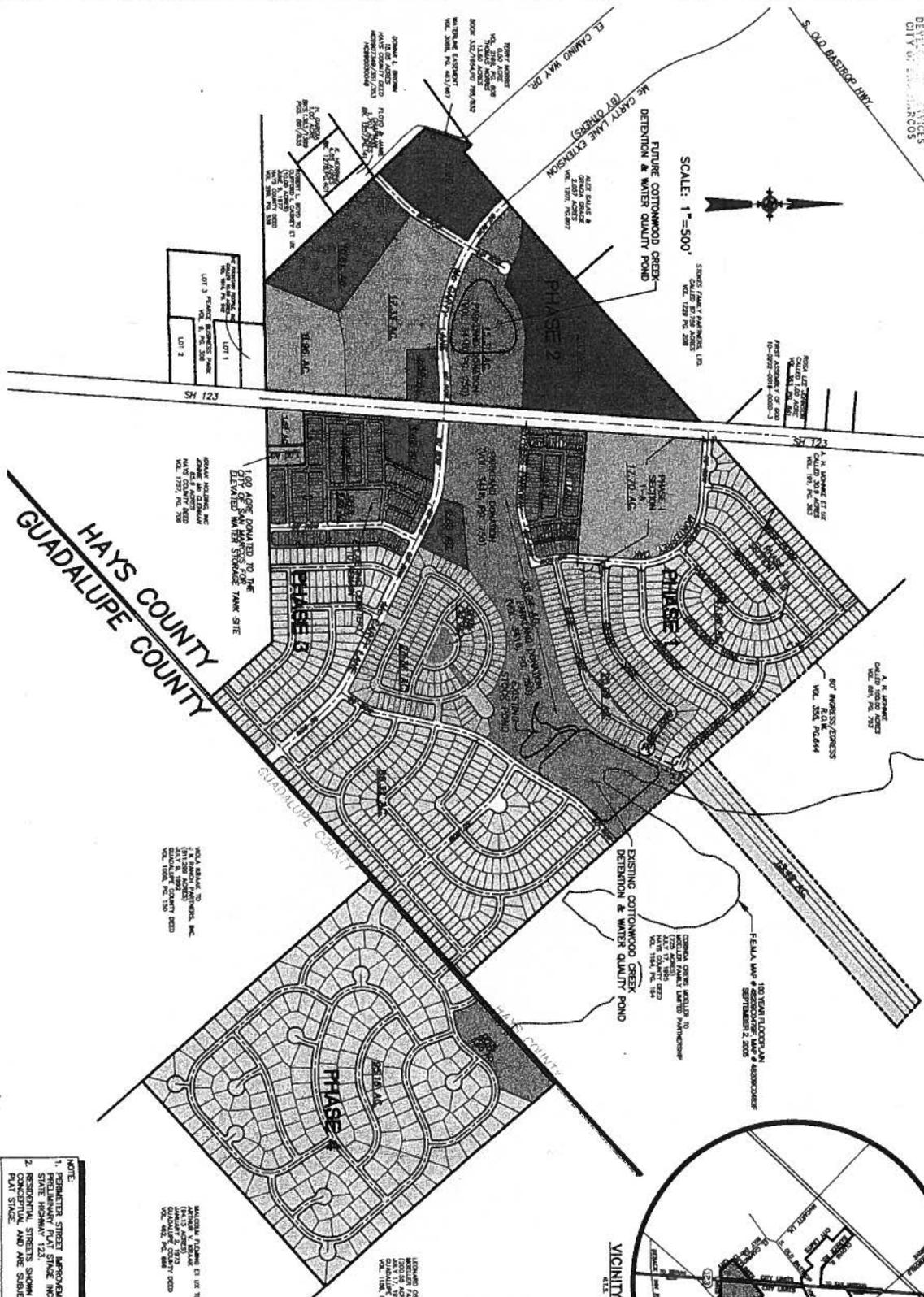
The following criteria should be used to determine whether the application for a Subdivision Master Plan shall be approved, approved with conditions, or denied:

- (1) Provide for the most orderly, efficient and economical development of its residential, commercial and industrial land uses and community facilities to include transportation, water, sewerage, drainage, schools, parks, recreation and any other related element.
- (2) Guide and phase any and all developments to maximize the utilization of existing and proposed public improvements.
- (3) Guide and regulate the financial impact of new development on city facilities, services and capabilities.
- (4) Ensure that the comprehensive and coordinated plans affected by the various land use controls of the city are not negated by disorganized, unplanned and uncoordinated development that would create an undue burden and hardship on the ability of the community to translate the development into reality.
- (5) Establish and maintain municipal control over the character of development and the quality of community facilities and services.
- (6) Aid in establishing and maintaining a desirable degree of balance among the uses of land.
- (7) Enhance the community aesthetically and preserve and improve the quality of life within the community.





2010 APR -9 AM 8:32  
 DEVELOPER: BAKER-AICKLEN ENGINEERS  
 CITY OF SAN MARCOS



- LEGEND**
- GARDEN HOMES
  - RESIDENTIAL ESTATES
  - SINGLE-FAMILY RESIDENTIAL
  - TOWNHOMES AND OPEN SPACE
  - MULTIFAMILY RESIDENTIAL
  - THRU-FAMILY HOMES
  - APARTMENTS
  - PUBLIC AND INSTITUTIONAL
  - COMMERCIAL
  - SENIORS GROUP HOME

**NOTE:**  
 1. FUTURE STREET IMPROVEMENTS TO BE RETURNED AT PROPRIOETARY RISK. STREET IMPROVEMENTS AT STATE HIGHWAY 123.  
 2. RESIDENTIAL STREETS SHOWN IN PHASES ONE, THREE, AND FOUR ARE PLAT STREETS AND ARE SUBJECT TO CHANGE IN THE FUTURE.

PROJECT No. 1262-4-001-58  
 SHEET No. 1 OF 2

**SHEET TITLE**  
 MASTER PLAN OF THE COTTONWOOD CREEK SUBDIVISION (VESTED DEVELOPMENT)

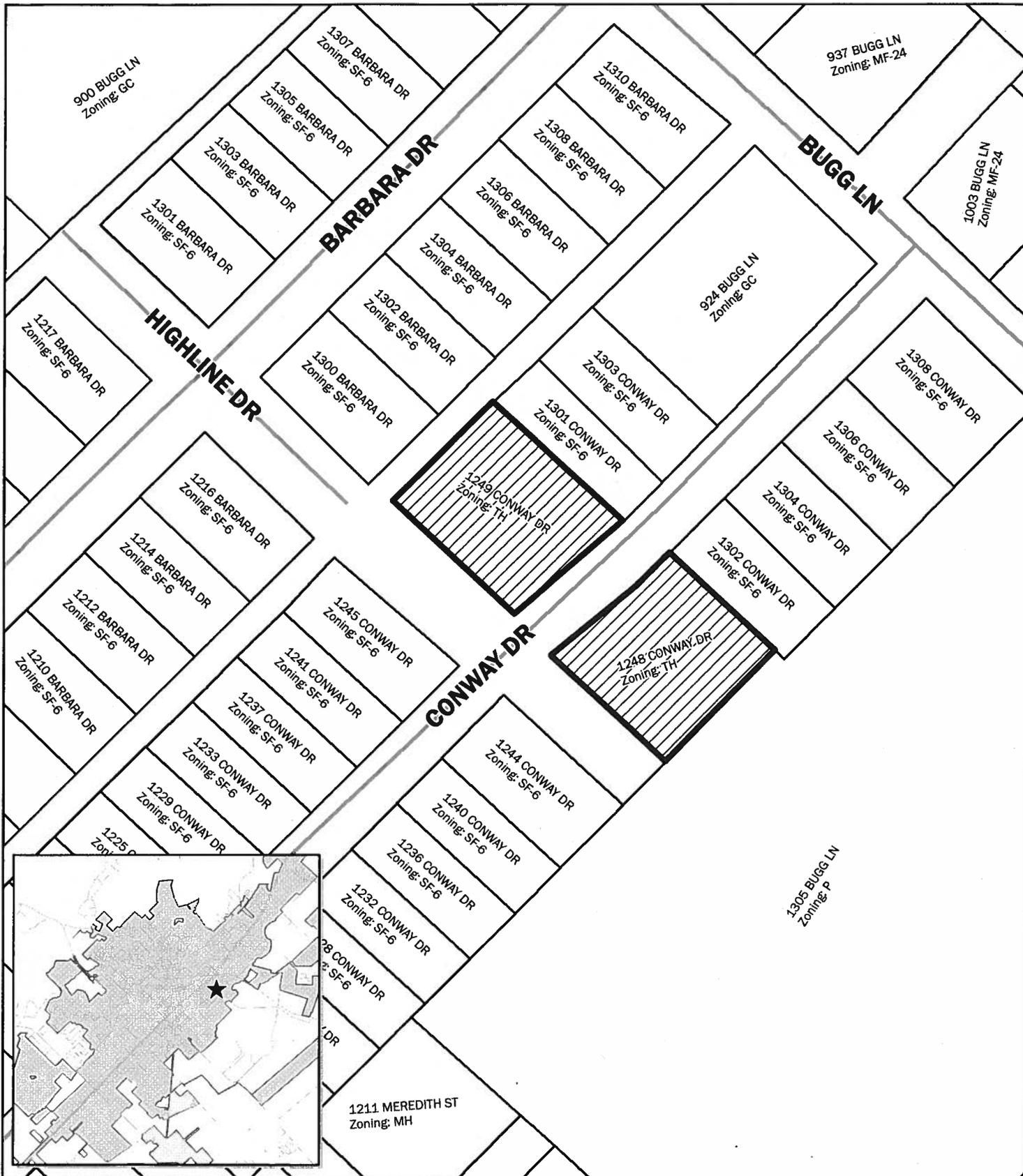
**CLIENT/OWNER**  
 COTTONWOOD CREEK, JDR, LTD.  
 RANDALL MORRIS, PRESIDENT  
 333 CHEATHAM ST.  
 SAN MARCOS, TEXAS 78666

No.	DATE	REVISIONS	BY	CHKD.	RECORD



**BAKER-AICKLEN & ASSOCIATES, INC.**  
 ENGINEERS/SURVEYORS  
 1100 Hays Road, Ste 100  
 San Marcos, Texas 78666  
 (512) 393-4400

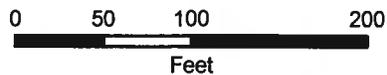
DESIGNED: S.A.B. SCALE: 1"=500'  
 DRAWN: A.L.E. DATE: APRIL, 2010  
 CHECKED: S.A.B. DATE: APRIL, 2010  
 RECOMMENDED: S.A.B. DATE: APRIL, 2010



**WPP2-11-07**  
**1248 and 1249 Conway Dr**  
**Map Date 5/4/11**

-  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.



# Report for Qualified Watershed Protection Plan Phase 2 WPP2-11-07



## Applicant Information:

**Engineer:** Kari E. Tharpe, PE  
**Property Owner:** Jonathan Winkelman, JW Concepts, Inc.  
**Applicant's Request:** Reclamation of land within the existing 100-year floodplain  
**Public Hearing Date:** May 10, 2010

## Subject Property:

**Location:** 1248 and 1249 Conway Drive  
**Legal Description:** Lots 25 and 26 Blanco Gardens South Subdivision  
**Frontage On:** Conway Drive  
**Existing Zoning:** Townhouse Residential  
**Future Land Use Map:** Medium Density Residential  
**Sector:** 6  
**Existing Use of Property:** Undeveloped  
**Proposed Use of Property:** Construction of Single Family and/or Duplex Dwelling Units

## **Zoning and Land Use Pattern:**

	<b>Current Zoning</b>	<b>Existing Land Use</b>
<b>N of Property</b>	<b>SF-6</b>	Medium Dens. Res.
<b>S of Property</b>	<b>SF-6 and Public</b>	Low Dens. Res. And Public Institutional
<b>E of Property</b>	<b>Duplex and Public</b>	Medium Dens. Res. And Public Institutional
<b>W of Property</b>	<b>SF-6</b>	Low Dens. Res.

## Engineering Analysis :

The applicant is requesting approval of a Qualified Watershed Protection Plan, Phase 2 (QWPP2) based upon reclamation of land within Flood Zone AH between the San Marcos and Blanco Rivers. The Federal Emergency Management Agency (FEMA) defines Zone AH is an area of shallow flooding with an average depth ranging from 1 to 3 feet. The approximate depth of flooding in the vicinity of the proposed project is 6 inches to 1 foot.

The project is in the Blanco Gardens South Subdivision. The subdivision is fully developed with the exception of the two lots proposed for this development. Buildings on the lots will be required to comply

with all standards for construction in a floodplain (LDC Division 5.4.3). No adverse impacts are anticipated to be caused by development of this project.

Each original lot (prior to proposed subdivision) within the project proposes a maximum impervious cover of less than 5,000 square feet and is therefore exempt from the requirement for stormwater detention in accordance with Land Development Code Section 5.1.1.3(c). Runoff from the development shall be discharged as sheet flow through grass areas to reduce peak runoff rates as well as providing a water quality measure prior to discharge from the site.

Based upon the engineering review of this Qualified Watershed Protection Plan, Phase 2, it meets the applicable technical requirements of Chapter 5 of the Land Development Code.

Development Services Engineering Recommendation	
<b>X</b>	Approve as submitted
	Approve with conditions as noted
	Alternative
	Denial

**The Commission's Responsibility:**

The Commission is required by law to hold a public hearing and receive public comment regarding the proposed Qualified Watershed Protection Plan, Phase 2. After considering the public input, the Commission, following the recommendation of the City Engineer, is charged with approving, conditionally approving, or denying the request.

The criteria for evaluating a request for a Qualified Watershed Protection Plan 2 are:

- (1) 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.

The Commission's action on the Qualified Watershed Protection Plan, Phase 2 may be appealed to the City Council.

List of Attachments:

- Site Layout Exhibit
- Floodplain Exhibit
- Firmette

Prepared by:

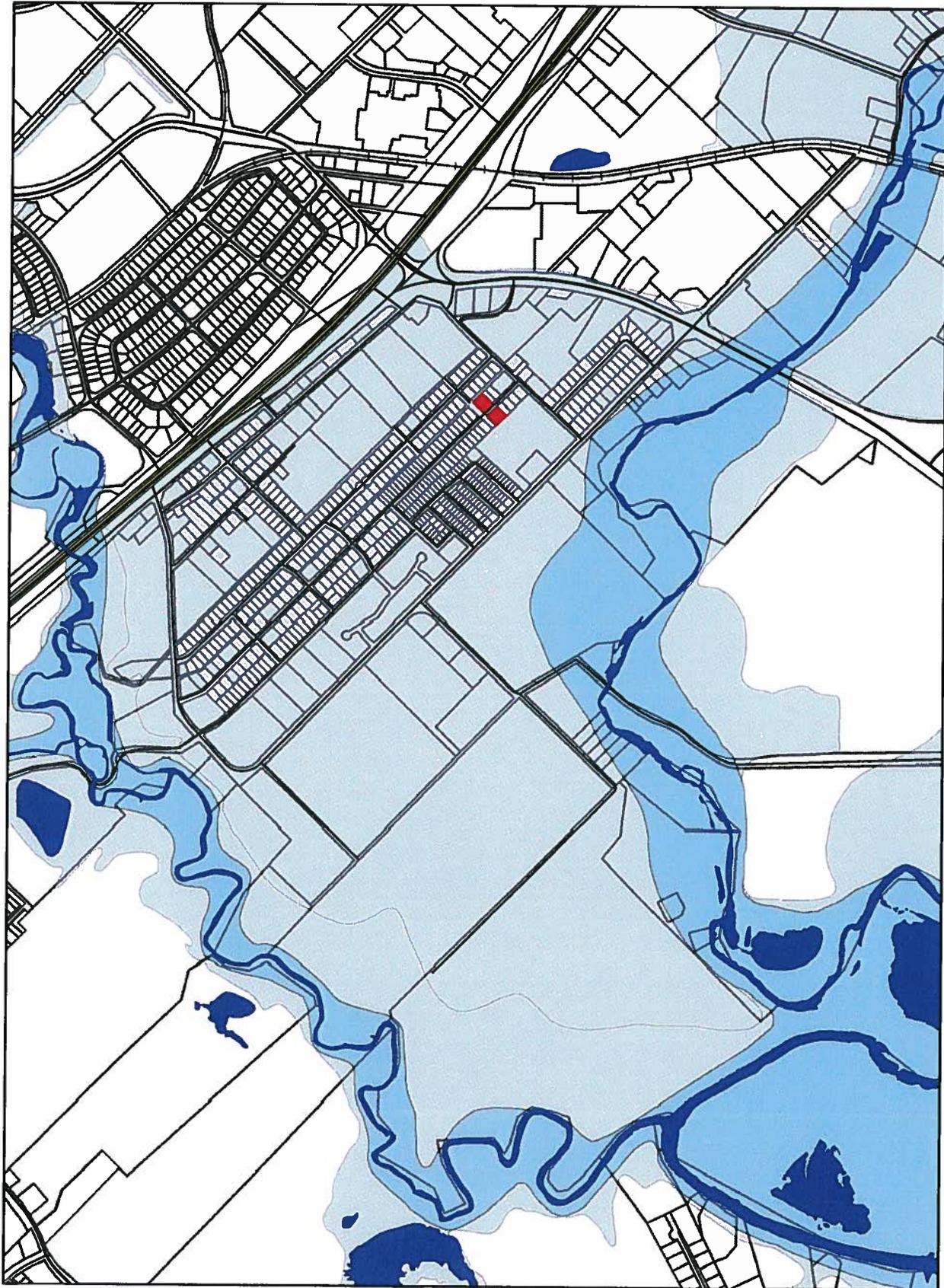
*Kathryn Woodlee*

**Kathryn Woodlee, PE, CFM  
Senior Engineer, Permit Center Manager**

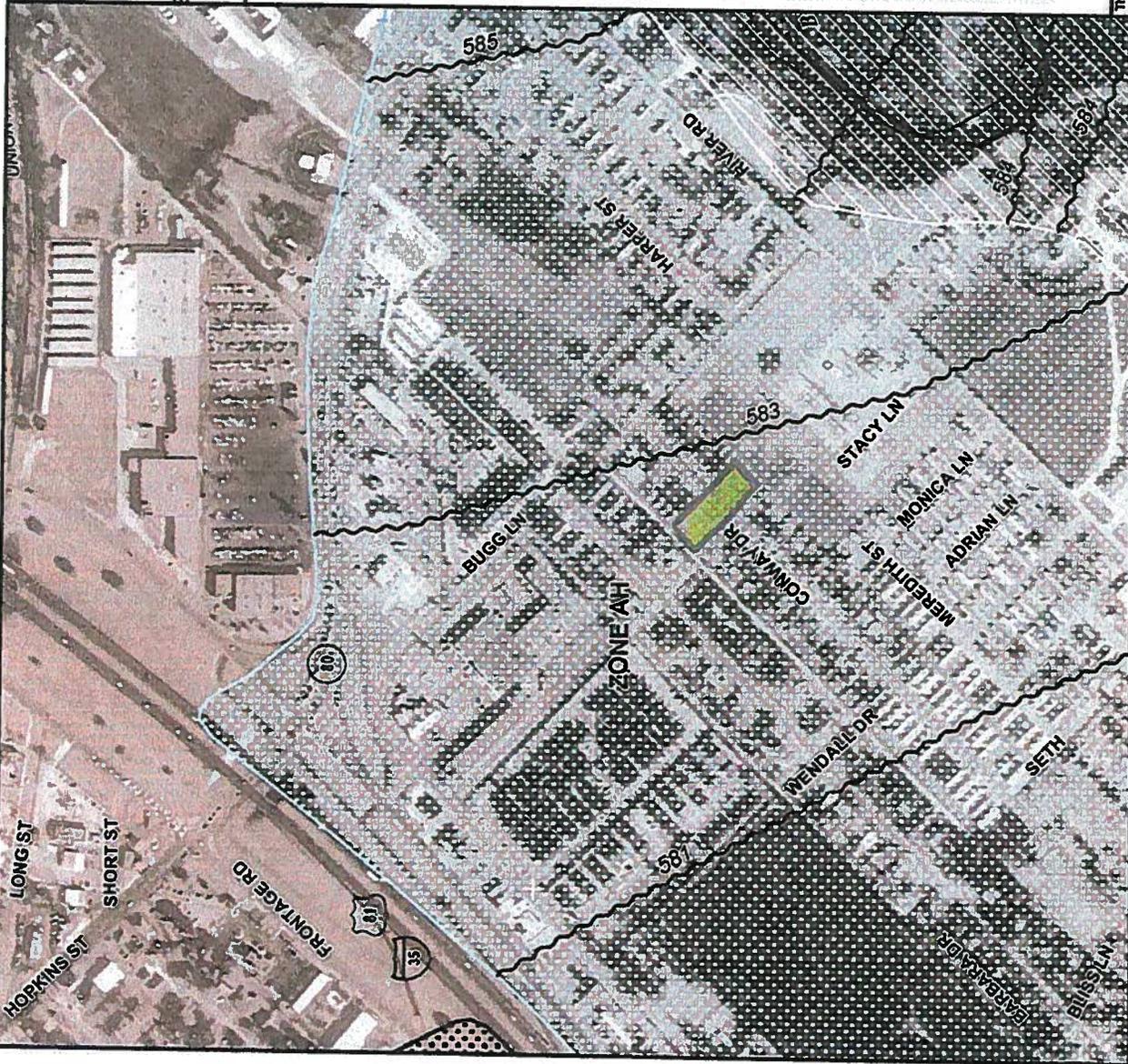




# Floodway and Floodplain of San Marcos and Blanco Rivers



0 850 1,700 3,400 Feet



JOINS PANEL 0481

MAP SCALE 1" = 500'



**NFIP NATIONAL FLOOD INSURANCE PROGRAM**

PANEL 0393F

**FIRM**  
**FLOOD INSURANCE RATE MAP**  
**HAYS COUNTY,**  
**TEXAS**  
**AND INCORPORATED AREAS**

PANEL 393 OF 495

(SEE MAP INDEX FOR FIRM PANEL LAYOUT)

COMMUNITY	MEMBER	PAVEL	SUFFIX
HAYS COUNTY	480321	0393	F
SAN MARCOS, CITY OF	483505	0393	F

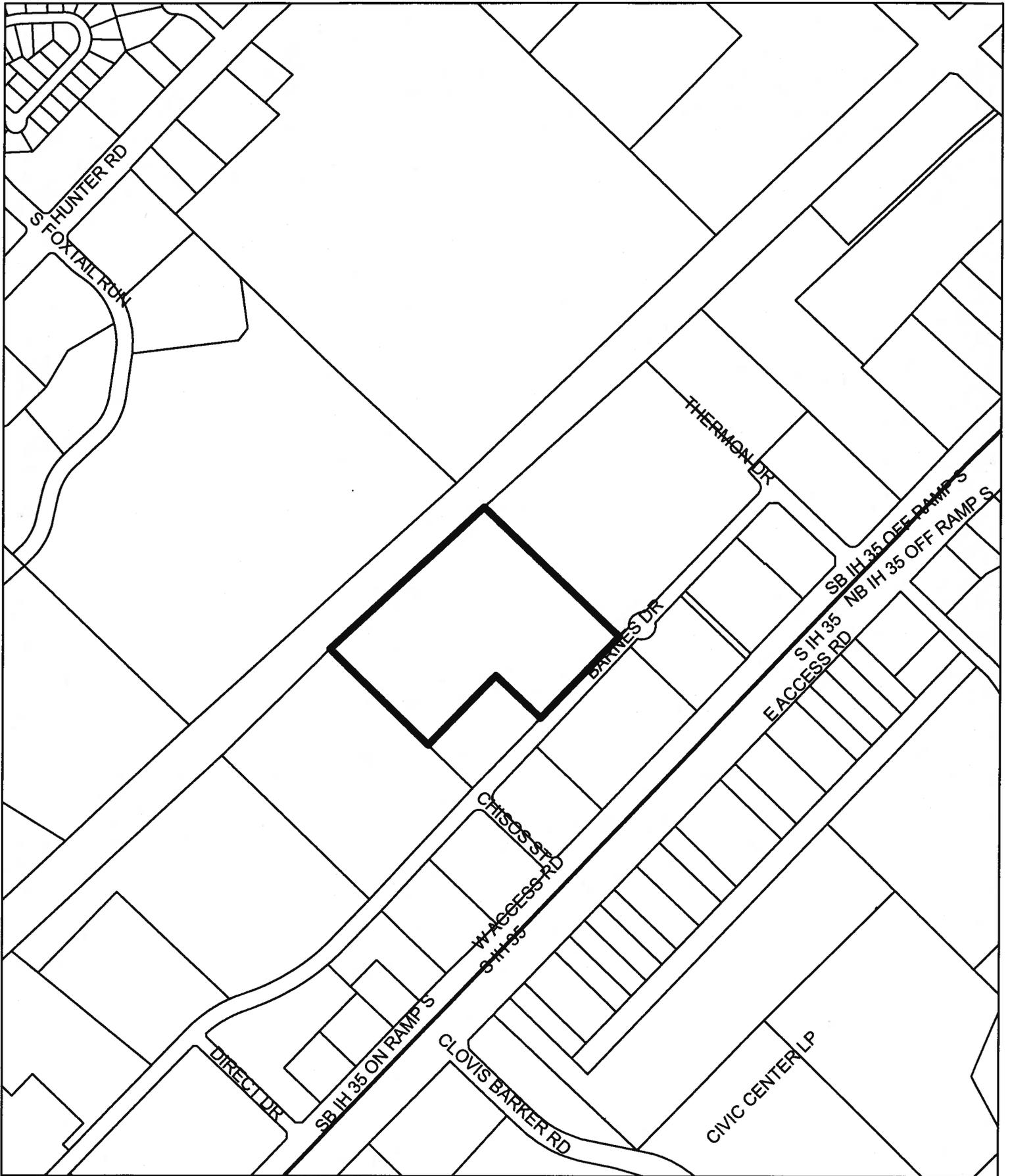
Notice to User: The Map Number shown below should be used when placing map orders, the Community Number shown above should be used on insurance applications for the subject community.



MAP NUMBER  
 48209C0393F  
 MAP REVISED  
 SEPTEMBER 2, 2005

Federal Emergency Management Agency

This is an official copy of a portion of the above referenced flood map. It was extracted using F-MIT On-Line. This map does not reflect changes or amendments which may have been made subsequent to the date on the title block. For the latest product information about National Flood Insurance Program flood maps check the FEMA Flood Map Store at [www.nema.fema.gov](http://www.nema.fema.gov)

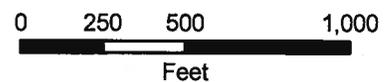


**PC-11-10(01)**

**Thermon Industrial Park**

**Map Date: 05/02/11**

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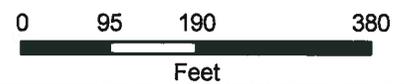


**PC-11-10(01)**

**Thermon Industrial Park**

**Map Date: 05/02/11**

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# PC-11-10(01) Concept Plat Thermon Industrial Park



**Applicant Information:**

**Applicant:** James H. Kelley, President  
K-W Construction  
350 Barnes Drive, Suite 109  
San Marcos, TX 78666

**Property Owner:** K-W Construction  
350 Barnes Drive, Suite 109  
San Marcos, TX 78666

**Notification:** Notification not required

**Name of Subdivision:** Thermon Industrial Park, No. 2, Unit Two

**Type & Purpose:** Concept Plat, the purpose of this plat is to provide information about the Phasing for the remaining undeveloped tracts on this property.

**Subject Property:**

**Location:** Subject property is located in the southwest quadrant of the City, between Barnes Drive and the Union Pacific Railroad, south of Thermon Drive and north of Chisos Street.

**Traffic / Transportation:** This property fronts onto Barnes Drive, designated by the Master Transportation Plan as a Neighborhood Collector.

**Utility Capacity:** Water, Wastewater, and Electric service will be provided by the City of San Marcos.

**Land Use Compatibility:** Surrounding land uses are compatible with the proposed land use of this property.

**Surrounding Zoning and Land use:**

Proximity	Current Zoning	Existing Land Use
<b>N of Property</b>	LI, Light Industrial	Vacant/Industrial
<b>S of Property</b>	LI, Light Industrial	Industrial
<b>E of Property</b>	HC, Heavy Comm.	Vacant/Commercial
<b>W of Property</b>	LI, Light Industrial	Railroad

**Zoning:** LI Light Industrial District

**Planning Department Analysis:**

This concept plat delineates the vacated Lot 2B, Thermon Industrial Park No. 2, Unit Two into two phases:

- Phase 1 delineates the new Lot 2C, a 5.00 acre tract as industrial development.
- Phase 2 establishes 11.99 acres for development reserve, future industrial.

This concept plat is subject to all requirements of the Land Development Code; and has been reviewed for consistency with existing City Ordinances and policies.

The City of San Marcos Environment & Engineering Department has:

- Approved the Traffic Impact Analysis
- Deferred the submittal of a Watershed Protection Plan Phase 1 to the time of comprehensive site plan submittal.

Staff is recommending **approval** of this concept plat as submitted.

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

**The Commission's Responsibility:**

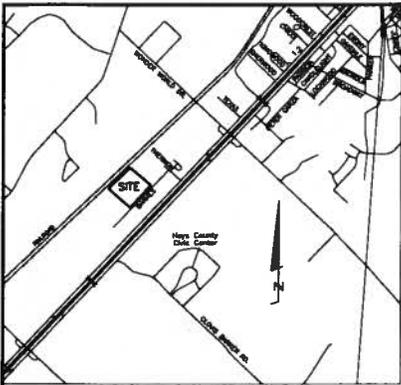
The City Charter delegates all subdivision platting authority to the Planning and Zoning Commission. The Commission's decision on platting matters is final and may not be appealed to the City Council. Your options are to approve, disapprove, or to statutorily deny (an action that keeps the applicant "in process") the plat.

**List of Attachments:**

Location Maps  
Proposed Plat

**Prepared by:**

Phil Steed, Planner



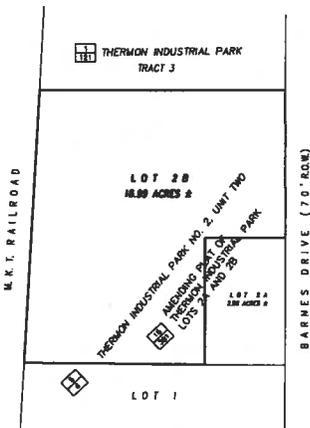
VICINITY MAP - NOT TO SCALE

**SURVEYORS NOTES**

1. BEARINGS, DISTANCES AND AREAS IN PARENTHESES ARE FROM RECORD INFORMATION.
2. ACCORDING TO SCALING FROM THE CURRENT F.E.M.A FLOOD INSURANCE RATE MAP NO. 48296C04777 DATED SEPTEMBER 2, 2005, THIS TRACT LIES WITHIN ZONE X (AREAS DETERMINED TO BE OUTSIDE THE 0.2% ANNUAL CHANCE FLOODPLAIN).
3. THIS SUBDIVISION LIES WITHIN THE SAN MARCOS CONSOLIDATED INDEPENDENT SCHOOL DISTRICT.
4. SIDEWALKS ARE REQUIRED AT THE TIME OF DEVELOPMENT.
5. WPP 1 AND/OR WPP 2 REQUIRED AT THE TIME OF FINAL PLAT SUBMITTAL.
6. CUL-DE-SAC LABELED FUTURE R.O.W. TO BE DEDICATED AND CONSTRUCTED TO CITY STANDARDS, IF "DEVELOPMENT RESERVE" IS DEVELOPED IN MORE THAN ONE (1) LOT.

**LEGEND**

- VOL** HAYS COUNTY  
**PG** PLAT RECORDS
- 1/2" IRON ROD SET WITH PLASTIC CAP STAMPED "BYRN SURVEY"
  - 1/2" IRON ROD FOUND OR DIAMETER NOTED
  - 3/4" IRON PIPE FOUND OR DIAMETER NOTED
  - 1/2" IRON ROD FOUND WITH PLASTIC CAP STAMPED "RPLS#2633"



EXISTING LOT CONFIGURATION  
BEING LOT 2B, THERMON INDUSTRIAL PARK NO. 2, UNIT TWO, CITY OF SAN MARCOS, HAYS COUNTY, TEXAS

PHASING PLAN	SCHEDULE OF PHASING	ACERAGE	FUTURE LAND USE MAP DESIGNATION	ZONING	NUMBER OF DWELLING UNITS	POPULATION DENSITIES
PHASE 1 LOT 2C	SUMMER 2011	5	INDUSTRIAL	LI	0	0
PHASE 2 DEVELOPMENT RESERVE	2011-2015	11.99	INDUSTRIAL	LI	0	0

**CITY OF SAN MARCOS\*  
CERTIFICATE OF APPROVAL\***

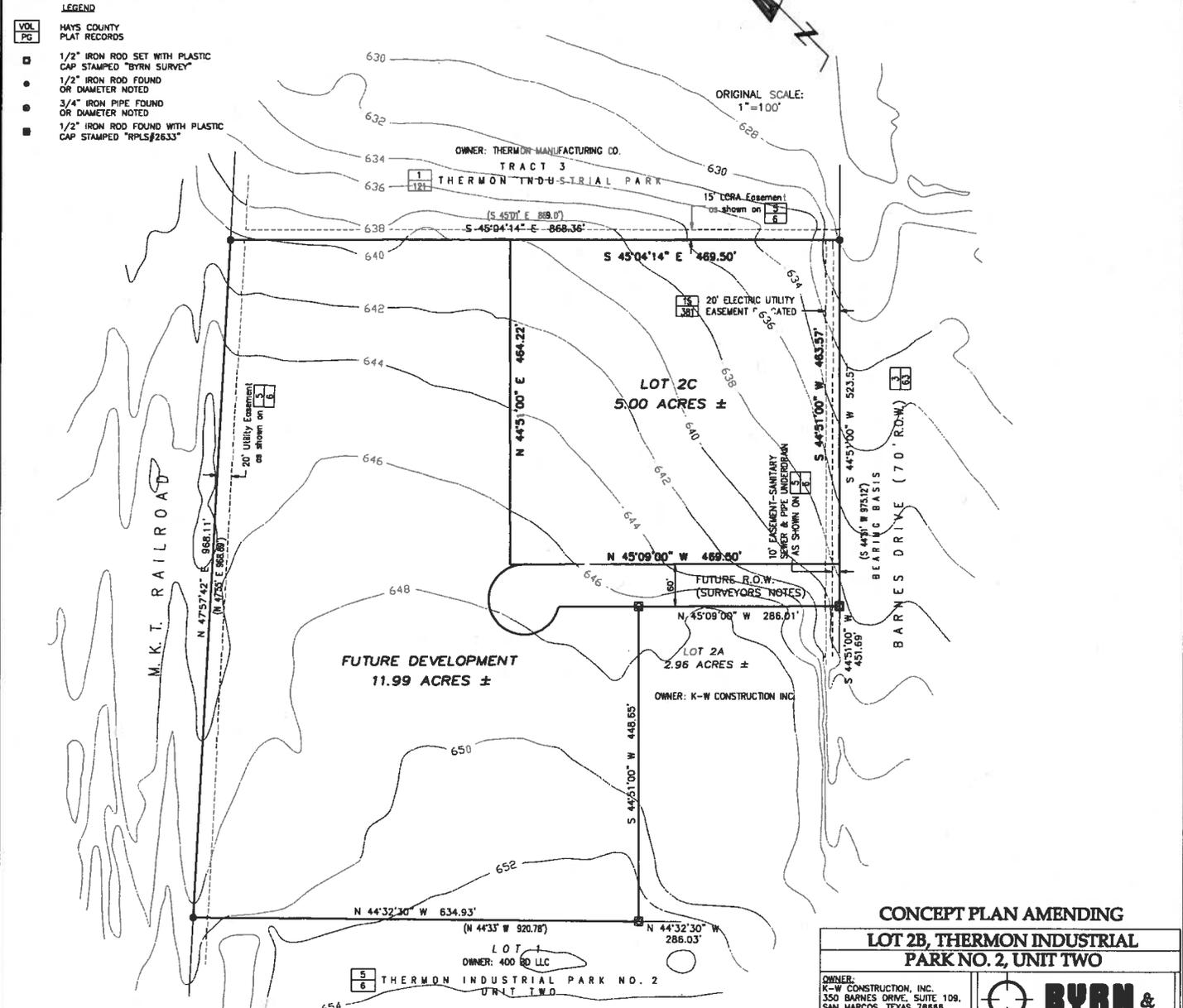
APPROVED BY THE CITY OF SAN MARCOS PLANNING AND ZONING COMMISSION ON THE \_\_\_\_\_ DAY OF \_\_\_\_\_ 2011.

\_\_\_\_\_  
BILL TAYLOR, CHAIRMAN  
PLANNING AND ZONING COMMISSION

\_\_\_\_\_  
FRANCIS SERNA,  
RECORDING SECRETARY

\_\_\_\_\_  
MATTHEW LEWIS, CHU-A  
INTERIM DIRECTOR DEVELOPMENT SERVICES

\_\_\_\_\_  
DATE

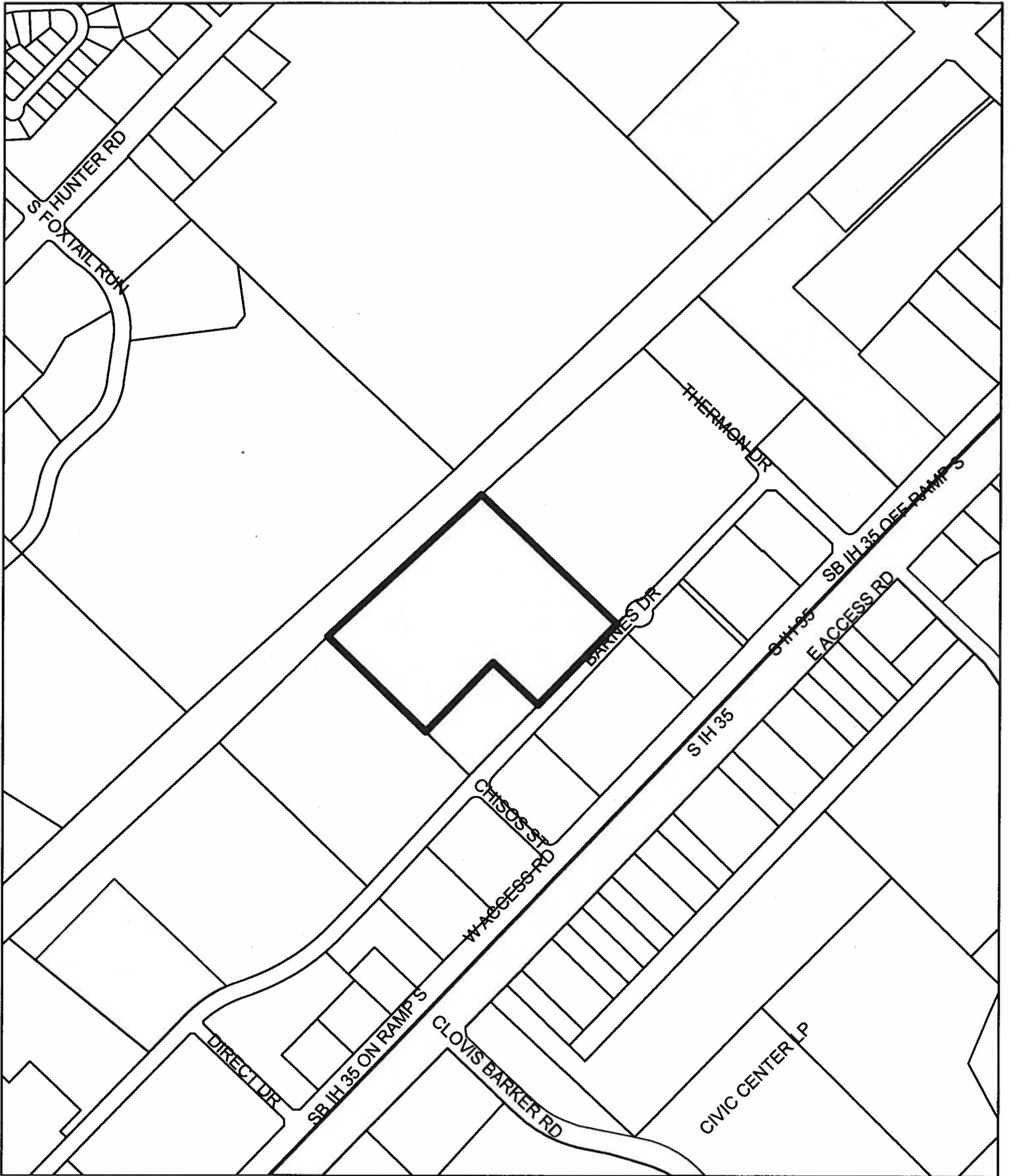


CLIENT: KELLEY, J.  
DATE: MAY 27, 2010  
OFFICE: BRYANT  
CREW: EVERETT, LOZANO, C. SMITH  
FB/PG: 682/79  
PLAT NO. 28471-10-1-c  
JOBS/11/28471/28471-3 CONCEPT.DWG

CONCEPT PLAN  
VACATING LOT 2B AND ESTABLISHING LOT 2C, THERMON INDUSTRIAL PARK NO. 2, UNIT TWO, CITY OF SAN MARCOS, HAYS COUNTY, TEXAS

**CONCEPT PLAN AMENDING**  
**LOT 2B, THERMON INDUSTRIAL PARK NO. 2, UNIT TWO**

OWNER: K-W CONSTRUCTION, INC. 350 BARNES DRIVE, SUITE 109, SAN MARCOS, TEXAS 78666 512 353-5900	 <b>BYRN &amp; ASSOCIATES, INC.</b> <b>ENGINEERS SURVEYORS</b> P.O. BOX 1433 SAN MARCOS, TEXAS 78867 PHONE 512-396-2270 FAX 512-392-2843
DATE: MAY 27, 2010 SCALE: 1" = 100'	

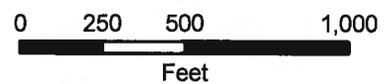


**PC-11-10(04)**

**Thermon Industrial Park**

**Map Date: 05/02/11**

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



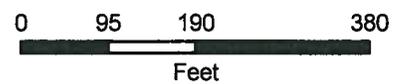


**PC-11-10(04)**

**Thermon Industrial Park**

**Map Date: 05/02/11**

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**PC-11-10(04) Replat, Vacating  
Lot 2B and Establishing Lot 2C  
Thermon Industrial Park No. 2,  
Unit Two**



**Applicant Information:**

**Applicant:** James H. Kelley, President  
K-W Construction  
350 Barnes Drive, Suite 109  
San Marcos, TX 78666

**Property Owner:** K-W Construction  
350 Barnes Drive, Suite 109  
San Marcos, TX 78666

**Notification:** April 24<sup>th</sup> newspaper publication of Public Hearing

**Name of Subdivision:** Thermon Industrial Park, No. 2, Unit Two

**Type & Purpose:** Replat, vacating Lot 2B, and establishing Lot 2C  
Thermon Industrial Park, No. 2, Unit Two

**Subject Property:**

**Location:** Subject property is located in the southwest quadrant of the City, between Barnes Drive and the Union Pacific Railroad, south of Thermon Drive and north of Chisos Street.

**Traffic / Transportation:** This property fronts onto Barnes Drive, designated by the Master Transportation Plan as a Neighborhood Collector.

**Utility Capacity:** Water, Wastewater, and Electric service will be provided by the City of San Marcos.

**Land Use Compatibility:** Surrounding land uses are compatible with the proposed land use of this property.

**Surrounding Zoning and Land use:**

Proximity	Current Zoning	Existing Land Use
<b>N of Property</b>	LI, Light Industrial	Vacant/Industrial
<b>S of Property</b>	LI, Light Industrial	Industrial
<b>E of Property</b>	HC, Heavy Comm.	Vacant/Commercial
<b>W of Property</b>	LI, Light Industrial	Railroad

**Zoning:** **LI Light Industrial District**

**Planning Department Analysis:**

This replat is vacating Lot 2B, Thermon Industrial Park, No. 2, Unit Two (a 16.99 acre lot) and establishing Lot 2C (a 5.0 acre lot), Thermon Industrial Park No. 2, Unit Two and a 11.99 acre remainder tract.

This replat is subject to all requirements of the Land Development Code; and has been reviewed for consistency with existing City Ordinances and policies.

The City of San Marcos Environment & Engineering Department has:

- Approved the Traffic Impact Analysis
- Deferred the submittal of a Watershed Protection Plan Phase 2 until time of comprehensive site plan submittal.

Staff is recommending **approval** of this concept plat as submitted.

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

**The Commission's Responsibility:**

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.

**List of Attachments:**

Location Maps  
Proposed Replat

**Prepared by:**

Phil Steed, Planner





DEVELOPMENT  
SERVICES-PLANNING

# MEMO

**TO:** PLANNING AND ZONING COMMISSION  
**FROM:** Sofia Nelson, Senior Planner  
**DATE:** May 3, 2011  
**RE:** LDC REVISIONS

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## Background

As presented at the April 26<sup>th</sup> Planning and Zoning Commission meeting staff has drafted minor amendments to the Land Development Code revisions for your review. The minor amendments are intended to address inconsistent and unclear language, conciseness, and usability and to support good planning practices.

The sections that are being reviewed for possible revisions include the following:

- **Section 1.2.2.2 Planning Director approval-** This amendment would allow for administrative approval of minor variances.
- **Section 1.6.8.6 Simple Amendment to Plat Agreement-** This amendment would allow for construction over lot lines with a recorded document requiring both lots to remain under the same ownership
- **Chapter 1 Article 7 Division 1 Watershed Protection Plans-** This amendment would allow the administrative approval of the qualified watershed protection plans.
- **Section 4.3.4.2 Renewable Energy Systems-** The purpose of the ordinance is to facilitate the installation and construction of small wind and solar energy systems in the City of San Marcos for private landowners, subject to reasonable restrictions, which will mitigate possible nuisances and preserve the public health and safety
- **Section 6.1.4.1 On- site refuse and Recycling-** This amendment would establish requirements for screening of recycling and refuse dumpsters.
- **Chapter 6.1.3.1 Fencing Requirements.** This amendment clarifies the definition of a fence and allows for front yard fences within nonresidential and multi-family areas.
- **Chapter 8 Glossary-** This amendment would establish definitions for studio/efficiency, small renewable energy system and large renewable energy

The proposed amendments are identified as follows: underlining indicates added text, ~~strikethrough~~ indicates deleted text.

**Action Required**

The Planning and Zoning Commission is charged with holding a public hearing on the revisions to the Land Development Code and recommending any necessary or desirable changes to the council.

**Section 1.2.2.2(b)(5)**

The Planning Director is hereby authorized to approve minor variances. Minor variances shall be considered to be those changes that do not materially affect or change factors such as but not limited to project density, land area or size; intensity of land uses; or parking or traffic generation by more than 10%. Any minor variances the Planning Director declines to approve, may proceed with the process for appeals outlined in this code.

### Section 1.6.8.5 Simple Amendment to Plat Agreement

- (a) Purpose. The purpose of a simple amendment to plat agreement shall be to provide an expeditious means of developing over a middle lot line between two adjacent lots under the same ownership.
- (b) Applicability. The procedures for a simple amendment to plat agreement shall apply only if the sole purpose of the amending plat is to develop over a single lot line between two contiguous legal lots.
- (c) Effect. Upon approval by the Director of Development Services, a simple amendment to plat agreement may be recorded and is controlling over the recorded plat until such time as the structure requiring the simple amendment to plat is destroyed or demolished.
- (d) Contents. An application for approval of a simple amendment to plat agreement shall be prepared in accordance with Chapter 1 of the Technical Manual.
- (e) Decision. The Director of Development Services shall either approve, approve with conditions, or deny the application for a simple amendment to plat agreement.
- (f) Criteria for Approval. The Director of Development Services shall decide whether to approve, conditionally approve, or deny the simple amendment to plat application based on the following criteria:
  - (1) A simple amendment to plat shall meet all dimensional standards within the City's Land Development Code.
  - (2) Both lots must be under the same ownership.
  - (3) Both lots must be legally platted whole lots within an existing subdivision.
  - (4) A simple amendment to plat agreement shall not attempt to remove or modify recorded covenants or restrictions or easements.
  - (5) A simple amendment to plat agreement shall not require the dedication of any additional ROW or Easements.
- (g) Expiration. A simple amendment to plat agreement shall expire if:
  - (1) Development of the lot does not occur within 2 years of the recordation of a simple amendment to plat agreement
  - (2) The structure developed under this agreement is either demolished or destroyed.
- (h) Rescinding. Upon expiration of the simple amendment to plat agreement the agreement must be formally rescinded and this shall be filed at the county of record.

## ARTICLE 7: WATERSHED PROTECTION PLANS

### DIVISION 1: APPROVAL AND APPLICATION PROCESS; APPEALS

#### 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 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~~
  - (4) A request for clustering or development transfers benefiting a water quality zone under Chapter 5, Articles 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 4.3.4.2 Renewable Energy Systems**

- (a) *Purpose:* The purpose of this ordinance is to facilitate the installation and construction of renewable energy systems in the City of San Marcos, subject to reasonable restrictions, which will mitigate possible nuisances and preserve the public health safety, and general welfare..
  
- (b) *Applicability:* The requirements set forth in this ordinance shall govern the siting of renewable energy systems used to generate electricity or perform work which may be connected to the electric distribution grid, serve as an independent source of energy, or serve in a hybrid system. The requirements of this ordinance shall apply to all renewable energy systems proposed after the effective date of this ordinance. Renewable energy systems for which a required permit has been properly issued prior to the effective date of this ordinance shall not be required to meet the requirements of this ordinance; provided, however, that no modification that increases the height of the system or significantly increases its output shall be allowed without full compliance with this ordinance.
  
- (c) *Zoning:*
  - (1) Small Renewable Energy Systems may be permitted as an accessory structure in all districts. If the system does not meet the standards of this article a conditional use permit may be available.
  - (2) Large Renewable Energy Systems may be permitted in the Heavy Commercial (HC), and Heavy Industrial (HI) Zoning District, or with a Conditional Use Permit in the Light Industrial (LI) Zoning District.
  
- (d) *Removal of defective or abandoned renewable energy systems:* Any renewable energy system found to be unsafe by the building official shall be repaired by the landowner to meet federal, state and local safety standards or removed within six months. If any renewable energy system is not operational for a period of 12 consecutive months or more, the city will request by registered mail and provide 45 days such response for the landowner to provide corrective action. In such a response, the landowner shall set forth reasons for the operational difficulty and provide a reasonable timetable for corrective action. If the city deems the timetable for corrective action as unreasonable, they must notify the landowner and such landowner shall remove the structure at their own expense within 120 days of receipt of notice from the city. The city shall have the authority to pursue legal action if necessary.
  
- (e) *Size:*
  - (1) The size of all small renewable energy systems shall not exceed the total number of kilowatts needed to generate the amount of electricity for the established uses on the property unless the applicant can demonstrate the on-site need for additional power
  - (2) A large renewable energy system is any system designed to exceed the total number of kilowatts needed on the property on a consistent basis.

**(f) Application Requirements**

- (1) Compliance with International Building Code: Building permit applications for renewable energy systems shall be accompanied by standard drawings, and site plan (showing the location of the proposed renewable energy system and the locations of all existing buildings, structures and property lines to scale along with distances).**
- (2) Building permit applications for renewable energy systems shall be accompanied by a line drawing of the electrical components in sufficient detail to allow for a determination that the manner of installation conforms to the National Electrical Code. This information may be supplied by the manufacturer.**
- (3) An engineering analysis of any structure over 24 feet total height showing compliance with the International Building Code and certified by a licensed professional engineer shall also be submitted.**
- (4) When a renewable energy source will be connected to the electric distribution grid an interconnect agreement with the electrical utility provider must be in place prior to the issuance of a building permit.**

**(g) Additional Requirements for Small Wind Energy Systems**

- (1) Visual Appearance; Lighting; and Power Lines**
  - a. Wind Turbines shall be painted a non-reflective, non-obtrusive color such as the manufacturer's default color option or a color that conforms to the environment and architecture of the community. Small wind energy towers shall maintain galvanized steel, brushed aluminum or white finish, unless FAA standards require otherwise. The Director of Development Services may require a photo of a small wind energy system of the same model that is the subject of the landowner's application adjacent to a building or some other object illustrating scale (e.g., manufacturer's photo).**
  - b. At small wind energy system sites, the design of the buildings and related structures shall, to the extent reasonably possible, use materials, colors, textures, screening and landscaping that will blend the small wind energy system to the natural setting and the existing environment.**
  - c. Small wind energy systems shall not be artificially lighted, except to the extent required by the FAA or other applicable authority.**
  - d. Small wind energy systems shall not be used for displaying any advertising except for reasonable identification of the manufacturer or operator of the wind turbine.**

- e. Electrical controls and control wiring and power-lines shall be wireless or underground except where small wind energy system wiring is brought together for connection to the transmission or distribution network, adjacent to that network.
  - f. The applicant shall provide evidence that the proposed height of the small wind energy system tower does not exceed the height recommended by the manufacturer or distributor of the system.
- (2) The following setbacks and separation requirements shall apply to all small wind energy systems and MET Towers(Meteorological Tower);
- a. No small wind energy structure shall be closer to any property line than a distance equal to 1.1 times the height of the structure. Such setback/distance shall be measured as the shortest possible distance in a straight line from the structure to the closest point of a property line. Setbacks from property lines do not apply to wind energy systems attached to existing towers, utility structures, or to turbines mounted upon a building.
  - b. Wind energy systems mounted upon a building shall not project more than 8 feet above the roof or parapet.
  - c. The tower height of a free-standing small wind energy system shall not exceed a maximum height of 80 feet on a parcel of between ½ acre and one acre. For property sizes of one acre or more, there is no limitation on maximum height except as imposed by required setbacks and FAA regulations. For property sizes less than ½ acre tower height is restricted by the applicable setbacks.
  - d. Communication and electrical lines: Each small wind energy system shall be set back from the nearest above-ground public electric power line, telecommunication line, or supporting structure a distance no less than 1.1 times its total height, determined from any part of the existing power line telecommunications line or supporting structure.
  - e. No portion of small wind energy systems or MET towers, including guy wire anchors, may extend closer than 30 feet from any property line.
  - f. Roof-top wind energy installations shall be set back from the edge of the building a minimum distance of two times the height of the turbine
- (3) *Minimum Ground Clearance:* The blade tip of any wind turbine shall, at its lowest point, have ground clearance of no less than fifteen (15) feet, as measured at the lowest point of the arc of the blades.
- (4) Safety

- a. Wind turbine towers shall not be climbable up to 12 feet above ground level.
- b. All access doors to wind turbine towers and electrical equipment shall be lockable and should remain locked when not being serviced.
- c. Appropriate warning signage (e.g., electrical hazards) shall be placed on wind turbine towers, electrical equipment, and small wind energy systems.
- d. Compliance with FAA Regulations: Wind energy systems must comply with regulations of the Federal Aviation Administration (FAA), including any necessary approvals for installations close to airports.

(h) **Additional Requirements for Small Solar Energy Systems**

(1) **Height**

- a. Roof-mounted systems shall not project above the ridge of a gabled or gambrel roof.
- b. Roof-mounted systems shall not project more than five feet above the deck or parapet of a flat roof. All mounting hardware shall be screened from view according to Section 6.1.2.4.
- c. Ground-mounted systems shall not be higher than eight feet.
- d. Appurtenant components must be located within an enclosed structure or screened according to Section 6.1.2.4.

(i) **Additional Requirements for Large Solar Energy Systems**

- (1) **Misdirection of Solar Radiation:** The proposed solar energy project shall be designed and will be operated to prevent the misdirection of concentrated solar radiation onto nearby property, public roads, or other areas accessible to the public.
- (2) **Public Safety:** The proposed solar energy project shall be designed and will be operated to protect public safety, including development and implementation of a plan or operating procedures to prevent public access to hazardous areas.
- (3) **Airport Proximity:** The proposed solar energy project is not located adjacent to or within the control zone of any airport.
- (4) **Cleaning Chemicals and Solvents:** All chemicals or solvents used to clean photovoltaic panels and heliostats shall be low in volatile organic compounds and the operator will use recyclable or biodegradable products to the greatest extent possible.

#### **Section 6.1.4.1 On-Site Refuse and Recycling**

- (a) Applicability. This section shall apply to Commercial and Multi-Family developments that are seeking a building permit to construct, re-construct or enlarge a structure on the property to an extent exceeding 50% of the current replacement cost of the structure in conformance with Section 6.1.1.3(b) of this Land Development Code.
- (b) Standards.
1. A Recycling Enclosure of equal size and shape to the required Refuse Enclosure shall be provided on-site.
  2. All Recycling and Refuse Enclosures shall be screened in accordance with Section 6.1.2.4(a)1
  3. Construction standards for the installation of required on-site refuse and recycling pad sites shall be in conformance with the City's TCSS Manual.

### **Section 6.1.3.1 - General Requirements for Fences**

(a)

*Fence* means any hedge, structure, or partition, constructed of any material or combination of materials, including, but not limited to wood, stone, rock, brick, wire, steel, metal or plastic, and [then] erected for the purpose of enclosing a piece of land, or to divide a piece of land into distinct portions, or to separate two contiguous properties. *Fence* also include any enclosure about a space, or about any object intended to prevent intrusion from without or straying from within.

(b)

*Permit Required.* No fence shall be erected or constructed without a permit first having been issued by the Director of Development Services or his/her designee.

(1)

*Gates for Vehicular Access.* Gates designed for vehicular access shall be set back from the property line a minimum of 24 feet.

(2)

*Fences within Public Easements.* Fences crossing a public easement shall have a gate or removable panel to allow for maintenance access to such easement. No fence within a public utility easement shall be allowed to run parallel with the easement.

(3)

*Fences within Drainage Easements.* Fences within a drainage easement should be constructed in a manner to not restrict the flow of drainage water.

(Ord. No. 2006-45, § 47, 9-19-06; Ord. No. 2009-73, § 22, 12-1-09)

### **Section 6.1.3.2 - Fences in Residential Areas, Except Multiple-Family**

(a)

*Fences in the Front of Side Yard Adjacent to a Public Street.*

(1)

*Materials Permitted.* Chain link, woven wire mesh metal panel or similar materials are not considered decorative fencing, and therefore not allowed in front yards. Fences may be constructed of wood, decorative metal, chain link or other materials traditionally used in private fence construction. In an older neighborhood, when it can be documented that the use of chain link in the front yard is an established standard for the particular neighborhood, the responsible official may approve its use for a new fence. Other materials may be approved for use by the responsible official if the material is proven to be sturdy, durable, decorative and relatively maintenance-free.

(2)

*Height and Location.* Any fence or wall located between the property line and the required front yard setback line (or side yard setback line if a corner lot) of a building shall not exceed four feet in height. Decorative fences with openings not less than 50% of the fence area and not exceeding four feet in height are permitted in required front and side yards. Any fence or wall built at or behind the required front yard setback (or side yard if a corner lot) shall not exceed six feet in height. No residential fence shall be closer than 15 feet to a public street; however, in cases where the side or rear building line of the yards on continuous corner lots adjoin (i.e., the side yard lot is not a key corner lot), the fence may be constructed out to the property line of the side yard, such that the street side yard may be included as part of the lot's rear yard area. (See Figure 6-2.)

(b)

*Fences in the Rear Yard (and side yard not adjacent to public streets).*

(1)

*Material Permitted.* Fences may be built of wood, decorative metal, chain link, woven wire mesh, or other materials traditionally used in private fence construction. Above-ground electrical fencing (does not include underground "virtual fencing", which is allowed), wire mesh (such a hog wire, chicken wire) and barbed wire are prohibited as perimeter fencing except on parcels or lots of one acre or greater in size in the Future Development (FD) district, Agricultural Ranch (AR) district, and Rural Residential (SF-R) district.

(2)

*Height.* Fences shall not exceed six feet in height unless the following conditions are met:

a.

A joint fencing application is made with the signature of both adjacent property owners; and

b.

The Planning Director considers the desired fence to protect the interests of the adjacent property owners and the community at large.

**Section 6.1.3.3 - Fences in Nonresidential and Multi-Family Areas**

(a)

*Fences Permitted Adjacent to a Street, Park or Trail.*

(1)

*Materials permitted.* Fence or walls may be constructed of wood, decorative metal, masonry or other decorative materials. New and innovative materials may be approved for use by the responsible official if the material is compatible with creating a positive streetscape and enhancing the area's appearance. Chain link, woven wire mesh metal panel, or similar materials are not considered decorative fencing, and are therefore not allowed for this purpose except for property in Industrial and Heavy Commercial districts. Those properties may utilize chain link fencing along a street if additional landscape material is provided between the fence and property line to assure compatibility with properties along that subject street.

(2)

*Location of fencing.* No fencing shall be placed between the property line and the building setback line when adjacent to a public or private street right-of-way, park or trail.

(2)

*Height and Location.* Any fence or wall located between the property line and the front facade (or the side facade if a corner lot) of a building shall not exceed four feet in height. Decorative fences with openings not less than 50% of the fence area and not exceeding four feet in height are permitted in required front and side yards unless the following conditions apply: (3)

*Height of fences.* Any fence or wall located between the street right-of-way and the front facade (or side facade if a corner lot) of a building shall not exceed three feet in height unless one of the following conditions applies:

a.

The fence is less than eight feet tall and is on property in an Industrial or Heavy Commercial zoning district.

b.

The fence is less than eight feet tall, decorative and encloses only outdoor dining or recreation areas.

(43)

*Fences between buildings on the same lot.* Any fence located facing a street that is between adjacent buildings and behind the front most facade of either building may not exceed eight feet in height.

(b)

*Fences Permitted Along Private Property Lines.*

(1)

*Materials permitted.* Generally fences or walls may be constructed of wood, decorative metal, masonry, chain link or other similar materials. New and innovative materials may be approved for use by the responsible official if the material is compatible.

(2)

*Location of fencing.* Fences are permitted along adjacent property lines situated as follows:

a.

No fencing shall be placed along an adjacent property line with segments that are not in conformance with subsection (b) of this section.

b.

No fencing shall be located in a manner to preclude landscape maintenance or fence repair without a suitable access agreement.

c.

No fencing above three feet in height shall be located closer than the building setback line adjacent to single-family residential uses.

d.

No chain link or wire fencing shall be located closer than the building setback line adjacent to single-family or multiple-family residential uses.

(3)

*Height of fences.* All fences or walls located along adjacent property lines shall be no taller than eight feet at the building setback line or six feet if located closer unless the following conditions are met:

a.

A joint fencing application is made with the signature of both adjacent property owners; and

**b.**

The Planning Director considers the desired fence to protect the interests of adjacent property owners and the community at large.

**(c)**

Barbed wire, razor wire or similar security fencing features are prohibited unless approved under subsection (b)(3) of this section.

**(d)**

Above-ground electrical fencing (does not include underground "virtual fencing," which is allowed), wire mesh (such as hog wire, chicken wire) and barbed wire are prohibited as perimeter fencing except on undeveloped parcels of five acres or greater in size, or platted lots with a recognized agricultural tax exemption.

## Chapter 8 Glossary

**Small Renewable Energy System:** Any facility or installation which is designed and intended to produce energy from natural forces such as wind, water, sunlight, or geothermal heat, or from biomass, for onsite use.

**Large Renewable Energy System:** Any facility or installation which is designed and intended to produce energy from natural forces such as wind, water, sunlight, or geothermal heat, or from biomass, for offsite use.

**Efficiency Apartment or Studio Unit -** Usually a small apartment consisting of a single room used both as a living room and as a bedroom, together with a kitchen alcove and a bathroom. Some units may use partial partitions, or room dividers including pocket doors and rolling dividers, to separate living, kitchen, and dining area from sleeping quarters, sanitary facilities and storage closets. Efficiencies are typically between 200 and 400 sq. ft. in size.

**MINUTES OF THE REGULAR MEETING OF THE  
SAN MARCOS PLANNING AND ZONING COMMISSION  
COUNCIL CHAMBERS, CITY HALL  
April 26, 2011**

**1. Present**

**Commissioners:**

Bill Taylor, Chair  
Sherwood Bishop  
Travis Kelsey (in 6:02)  
Jim Stark  
Chris Wood  
Kenneth Ehlers  
Curtis Seebeck  
Randy Bryan

**City Staff:**

Matthew Lewis, Development Services Director  
Francis Serna, Recording Secretary  
Sofia Nelson, Senior Planner  
Christine Barton-Holmes, Chief Planner  
John Foreman, Planner  
Abby Gillfillan, Planner

**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 April 26, 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**

There were no citizen comments.

6. PR-11-05. (Underground Utility Area Ordinance) Hold a public hearing and consider amending the Land Development Code Section 4.3.4.6 to require all new construction to be built within the area generally bounded by University Drive on the north, LBJ Drive on the west, Hutchison Street on the south and Moon Street on the east to have underground utilities from the building to the property line.

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

**MOTION:** Upon a motion made by Commissioner Stark and a second by Commissioner Bishop, the Commission voted all in favor to approve PR-11-05. The motion carried unanimously.

**7. CUP-11-02. (Frank's Auto Shop)** Hold a public hearing and consider a request by Carlos Hernandez, on behalf of Frank Sanchez, to use 7,500 square feet of an existing 13,500 square foot auto repair garage as an auto paint and body garage.

Chair Taylor opened the public hearing. Carlos Hernandez, 907 Field Street and applicant stated he is working with Frank Sanchez and was available to answer questions. There were no additional citizen comments and the public hearing was closed.

**MOTION:** Upon a motion made by Commissioner Bishop and a second by Commissioner Ehlers, the Commission voted one (1) for and seven (7) opposed to deny CUP-11-02. The motion to deny failed. Commissioners Bishop, Bryan, Ehlers, Seebeck, Kelsey, Taylor and Wood voted no.

**MOTION:** Upon a motion made by Commissioner Bryan and a second by Commissioner Kelsey, the Commission voted seven (7) for and one (1) opposed to approve CUP-11-02 with the conditions that the property may not be used a tow yard; the site shall meet all applicant city code requirements for parking or obtain variances as allowed by code prior to this CUP taking effect; and all ventilation and other building code requirements for painting areas shall be met prior to any auto painting on-site. The motion carried. Commissioner Stark voted no.

**8. CUP-11-05 (Panhandler Pizza)** Hold a public hearing and consider a request by Dough Dough, LLC, on behalf of Hunter Retail Partners, Ltd., for renewal of a Conditional Use Permit to allow the on-premise consumption of beer and wine at 102 Wonderland Drive #401.

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

**MOTION:** Upon a motion made by Commissioner Wood and a second by Commissioner Kelsey, the Commission voted all in favor to approve CUP-11-05 with the condition that the permit shall be valid for three (3) years provided standards are met, subject to the point system. The motion carried unanimously.

**9. A-11-01 (Chestnut Street Lofts)** Hold a public hearing and consider a request by Chestnut Street Lofts, LLC, on behalf of 817 Statehouse, Inc, to abandon undeveloped ROW described as Live Oak Street on the plat and commonly known as Acorn Street from the intersection of Acorn Street and Chestnut Street to the intersection of Acorn Street and W. Sessoms Drive.

**10. LUA-11-04 (Chestnut Street Lofts)** Hold a public hearing and discuss a request by Chestnut Street Lofts LLC, on behalf of 817 Statehouse, Inc, for a land use map amendment from Low Density Residential to Mixed Use for 0.36 acres described as Lot 108 of the Park Addition, Third Division and located at 907 Chestnut Street.

**11. ZC-11-07 (Chestnut Street Lofts)** Hold a public hearing and discuss a request by Chestnut Street Lofts LLC, on behalf of 817 Statehouse, Inc, for a zoning change request from MF-12 to Mixed Use for 0.36 acres described as Lot 108 of the Park Addition, Third Division and located at 907 Chestnut Street.

**12. LUA-11-05 (Chestnut Street Lofts)** ) Hold a public hearing and discuss a request by Chestnut Street Lofts LLC, on behalf of 817 Statehouse, Inc, for a land use map amendment from Commercial to Mixed Use for 1.387 acre area described as Lots 111, 114, 110, 115, and 116 of the Park Addition, Third Division and located at 817 Chestnut Street.

**13. ZC- 11-08 (Chestnut Street Lofts).** Hold a public hearing and discuss a request by Chestnut Street Lofts LLC, on behalf of 817 Statehouse, Inc, for a zoning change request from Neighborhood Commercial (NC) to Mixed Use (MU) for 1.387 acre area described as Lots 111, 114, 110, 115, and 116 of the Park Addition, Third Division and located at 817 Chestnut Street.

**14. PDD-11-01 (Chestnut Street Lofts)** Hold a public hearing and discuss a request by Chestnut Street Lofts LLC, on behalf of 817 Statehouse, Inc, for a PDD Overlay with a Mixed Use (MU) base zoning district for 1.90 acre area described as Lots 108,111,114,110, 115, and 116 of the Park Addition, Third Division and the adjacent undeveloped ROW of Live Oak Street (also known as Acorn Street) and located at 817 Chestnut Street.

Chair Taylor opened the public hearing for A-11-01; LUA-11-04; ZC-11-07; LUA-11-05; ZC-11-08; and PDD-11-01.

Diane Wassenich 11 Tanglewood, representing the San Marcos River Foundation stated she was pleased to see how hard the applicants are working and that they have brought in professionals who know something about LID and biofiltration. Ms. Wassenich expressed concerns about regulations being enforced. She asked if the biofilters can be mandated to be checked or required to be changed. She added that she has concerns regarding five parking spaces for the park. Ms. Wassenich feels that the park is not really a park. She mentioned we should think about having a pocket park for the enormous amount of residents in the area who would walk to the park. Ms. Wassenich suggested that there be enforcement regarding her concerns.

Derrick Lee, 2013 Lisa Lane stated he is a resident of the general area. He said he wants to make sure that there is going to be enforcement on trash, erosion control and litter that builds up at Sessoms creek. Mr. Lee stated that we need to protect the river.

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

**MOTION:** Upon a motion made by Commissioner Bryan and a second by Commissioner Ehlers, the Commission voted all in favor to approve A-11-01, LUA-11-04, ZC-11-07, LUA-11-05, ZC-11-08, and PDD-11-01 with the conditions: maintenance of a rainwater collection system for the primary source of irrigation of on-site landscaping; 1 parking space be dedicated for each bedroom; strike out language on the use of meters on the parking spaces dedicated to parkland and add language to the PDD to require signage identifying the parkland parking spaces. The motion carried unanimously.

**AMENDED MOTION:** Upon a motion made by Commissioner Seebeck and a second by Commissioner Bryan, the Commission voted all in favor to amend the main motion to include maintenance of a rainwater collection system for the primary source of irrigation of on-site landscaping. The motion carried unanimously.

**AMENDED MOTION:** Upon a motion made by Wood and a second by Commission Ehlers, the Commission voted five (5) for and three (3) against to amend the main motion to include 1 parking space be dedicated for each bedroom. The motion carried. Commissioners Bryan, Seebeck and Stark voted no.

**AMENDED MOTION:** Upon a motion made by Commissioner Seebeck and a second by Commissioner Bryan, the Commission voted all in favor to amend the main motion to strike out language on the use of meters on the parking spaces dedicated to parkland and add language to the PDD to require signage identifying the parkland parking spaces. The motion carried unanimously.

There was a ten minute recess.

**15. PVC-10-05 (4848 Lost Prairie Lane)** Hold a public hearing and consider a request for a variance to section 6.7.2.1(b) of the Land Development Code, which requires that each lot on a plat shall front onto a dedicated improved public street, for an approximately 1.0012 acre tract out of and part of the S.A. and M.G. railroad co. Survey No. 534 Abstract No. 308 in Guadalupe County, Texas.

Chair Taylor opened the public hearing

Randy Johnson, 810 E. 30th Street, Austin, Texas said he would like Ms. Aguilar to speak and he would speak second.

Maria DelCarmen Aguilar said they came before the Commission in December to ask for the variance and having living on the property since 2006. We are asking for the variance because we need the permit for the septic tank. Thank you.

Randy Johnson, 810 E. 30<sup>th</sup> Street, Austin Texas spoke directly about the issue by staff concerning the hardship or inequity suffered by petitioner is not caused wholly or in substantial part by the petitioner. He pointed out that they feel that hardship is not caused by the petitioner because he purchased the property and was taken to a title company. Mr. Johnson said that Mr. Aguilar thought he was taking all the right measures when he acquired the property. He further explained that the property was divided into 3 tracts over ten years ago with no enforcement at the time. He added that his client is requesting the variance to fix an existing problem. Mr. Johnson stated that if the applicant cannot get a septic permit or get the property platted, he will not get legal rights to his property. Mr. Johnson explained that they have met with Guadalupe County and the City to come to a solution for the existing issue. He added that they would like to see amendments to the Interlocal Agreement; it is out of their control. Mr. Johnson stated that they feel their client meets all the qualifications and hopes the Commission agrees.

Patrick Doll, 4601 Avenue D, Austin Texas stated he would like to address the other two issues concerning the request in Section 1.10.2.4(2) and 1.10.2.4(5). He said the circumstances are part of the timing and most of the neighbors are platted or have septic tanks and were grandfathered in prior to the ETJ expansion. Mr. Doll commented that the statute states "circumstances causing the hardship do not similarly affect all or most properties in the vicinity of the petitioner's land. He felt that there are many properties but not 50% of the properties. Mr. Doll spoke on the second criteria addressed by staff Section 1.10.2.4(5) "preventing the orderly use and enjoyment of other land with the area" regarding the Public ROW variance. He stated that it is confusing that it would be better for the City if the ROW is dedicated. He added that the public ROW is not governed by the City or the Land Development Code. He stated that the ROW is governed by County Interlocal Agreement Mr. Doll quoted Section 2a in the Interlocal Agreement with Guadalupe County.

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

**MOTION:** Upon a motion made by Commissioner Stark and a second by Commissioner Ehlers, the Commission voted five (5) for and three (3) opposed to deny PVC-10-05 based on the following criteria being met: Section 1.10.2.4(2) the circumstances causing hardship do not similarly affect all or most properties in the vicinity of the petitioner's land; Section 1.20.1.4(5) granting the variance petition will not have the effect of preventing the orderly use and enjoyment of other land within the area in accordance with the provisions of this Code, or adversely affect the rights of owners or residents of surrounding properties; and Section 1.10.2.4(7) the hardship or inequity suffered by petitioner is not caused wholly or in substantial part by the petitioner. The motion carried. Commissioners Bryan, Seebeck and Wood voted no.

**16. PVC-10-06 (4848 Lost Prairie Lane)** Hold a public hearing and consider a request for a variance to section 6.7.2.1(j) of the Land Development Code, which requires that lot depth shall not exceed three times the lot width for lots platted after March 10, 2075, for an approximately 1.0012 acre tract out of and part of the S.A. and M.G. railroad co. Survey No. 534 Abstract no. 308 in Guadalupe County, Texas.

Chair Taylor opened the public hearing.

Frances Leos Martinez, Austin TX, stated she wanted to expand on the idea of hardship. She explained that the Aguilar family did what they believed to be the right steps. She said that at the time the County sited them for the septic, they were not aware that they needed a septic tank permit. Ms. Martinez further explained that when the Aguilar's found out they were not in compliance, this whole process began. She pointed out that under a contract for deed regulations the developer is suppose to tell the buyer whether the property is platted and what steps need to be taken to develop the property. Ms. Martinez added that this was not a flagrant disregard but that the Aguilar's did not know they needed a septic tank permit. She said that they feel that Mr. Aguilar did not cause the hardship and has done everything he can to avoid the hardship as soon as he was aware of the problem.

Patrick Doll commented that the statue states "wholly or substantially" and he does not feel it is "wholly or substantially" part by the petitioner.

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

**MOTION:** Upon a motion made by Commissioner Wood and a second by Commissioner Bryan, the Commission voted five (5) for and three (3) against to approve PVC-10-06. The motion carried. Commissioners Ehlers, Stark and Taylor voted no.

**17. Discussion Items.**

Commissioner Stark informed the Commission that several candidates were interviewed for the student liaison position and he will be prepared to nominate a student at the May 10 Planning Commission meeting.

The Commission directed staff to research other cities regarding properties located in the ETJ that have variance issues and how they handle the issues. Commissioner Seebeck recommended an amendment to the Land Development Code that allows properties to be grandfathered that were purchased prior to the ETJ expansion.

**Planning Report**

**a. Land Development Code**

Staff informed the Commission that minor revisions to the Land Development Code will be brought for the Commission's review on the May 10, 2011 Planning Commission meeting. Staff explained that the revisions are intended to allow for some administrative flexibility and address minor changes to the Code.

**Commissioners' Report**

No Commissioner's Report.

**18. Consider approval of the minutes from the Regular Meeting on April 12, 2011.**

**MOTION:** Upon a motion made by Commissioner Bishop and a second by Commissioner Seebeck, the Commission voted all in favor to approve the minutes of the Regular Meeting on April 12, 2011. The motion carried unanimously.

**19. Questions and answers from the Press and Public.**

There were no questions from the public.

**20. Adjournment**

Chair Taylor adjourned the Planning and Zoning Commission at 10:12 p.m. on Tuesday, April 26, 2011.

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Bill Taylor, Chair

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Sherwood Bishop, Commissioner

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Jim Stark, Commissioner

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Travis Kelsey, Commissioner

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Chris Wood, Commissioner

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Curtis Seebeck, Commissioner

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Kenneth Ehlers, Commissioner

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Randy Bryan, Commissioner

ATTEST:

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Francis Serna, Recording Secretary

DRAFT