



REGULAR MEETING OF THE SAN MARCOS PLANNING AND ZONING COMMISSION

Tuesday, February 8, 2011, 6:00 p.m.
City Hall Council Chambers
630 E. Hopkins Street

Sherwood Bishop, Chair
Bill Taylor, Vice-Chair
Randy Bryan, Commissioner
Bucky Couch, 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. **Hold a public hearing and consider revisions to section 4.3.4.2 of the Land Development Code: Conditional Use Permits for On-Site Alcoholic Beverage Consumption.**
7. **CUP-11-01 (Low Price Auto Glass)** Hold a public hearing and consider a request for a Conditional Use Permit by Saraj Anaem DBA Low Price Auto Glass to allow auto glass replacement and repair, tinting, and alarm installation in a Community Commercial zone at 1802 N IH 35.
8. **PVC-10-08 (830 Crest Circle Dr.).** Hold a public hearing and consider a request by Karen Moon for a variance to Section 6.7.2.1(j) of the Land Development Code, to allow the platting of a lot that exceeds a lot depth to width ratio of 3 to 1, for a tract of land located at 830 Crest Circle Drive.
9. **LUA-10-14 (1311 N. IH 35)** A request by ETR Development Consulting for a Future Land Use Map Amendment from Commercial (C) to High Density Residential (HDR) on approximately 2.547 acres, located at 1311 N IH 35.- WITHDRAWN

10. **ZC-10-20 (1311 N. IH 35)** A request for withdrawal by ETR Development Consulting for a Zoning Change from GC (General Commercial) to MF-24 (Multifamily), on approximately 2.547 acres, located at 1311 N IH 35.-WITHDRAWN
11. **LUA-10-15. (The Retreat at San Marcos)** Hold a public hearing and consider a request for postponement by ETR Development Consulting LLC, agent for Retreat Holdings, LLC, for a Future Land Use Map Amendment from Low Density Residential (LDR) to Medium Density Residential (MDR) for two tracts of land located at 508 Craddock Avenue.
12. **LUA-10-16. (The Retreat at San Marcos)** Hold a public hearing and consider a request for postponement by ETR Development Consulting LLC, agent for Retreat Holdings, LLC, for a Future Land Use Map Amendment from Commercial (C) to Medium Density Residential (MDR) for a 1.71 acre tract of land located in the 1500 Block of Old Ranch Road 12.
13. **LUA-10-17. (The Retreat at San Marcos)** Hold a public hearing and consider a request for postponement by ETR Development Consulting LLC, agent for Retreat Holdings, LLC, for a Future Land Use Map Amendment from Open Space (OS) to Medium Density Residential (MDR) for three tracts of land located at 508 Craddock Avenue.
14. **LUA-10-18 (The Retreat at San Marcos)** Hold a public hearing and consider a request for postponement by ETR Development Consulting LLC, agent for Retreat Holdings, LLC, for a Future Land Use Map Amendment from Commercial (C) to Medium Density Residential (MDR) for a tract of land located at 508 Craddock Avenue.
15. **LUA-10-19 (The Retreat at San Marcos)** Hold a public hearing and consider a request for postponement by ETR Development Consulting LLC, agent for Retreat Holdings, LLC, for a Future Land Use Map Amendment from Open Space (OS) to Commercial (C) for a tract of land located at 508 Craddock Avenue.
16. **ZC-10-21 (The Retreat at San Marcos)** Hold a public hearing and consider a request for postponement by ETR Development Consulting LLC, agent for Retreat Holdings, LLC, for a Zoning Change from Office Professional (OP) to Multi-Family Residential (MF-12) for a 1.71 acre tract located in the 1500 Block of Old Ranch Road 12.
17. **ZC-10-22 (The Retreat at San Marcos)** Hold a public hearing and consider a request for postponement by ETR Development Consulting LLC, agent for Retreat Holdings, LLC, for a Zoning Change from Single Family Residential (SF-6) to Community Commercial (CC) 2.75 acre tract located at 508 Craddock Avenue.
18. **ZC-10-23 (The Retreat at San Marcos)** Hold a public hearing and consider a request for postponement by ETR Development Consulting LLC, agent for Retreat Holdings, LLC, for a Zoning Change from Single Family Residential (SF-6) to Multi-Family Residential (MF-12) for a 39.4 acre tract located at 508 Craddock Avenue.
19. **PDD-10-02. (The Retreat at San Marcos)** Hold a public hearing and consider a request for postponement by ETR Development Consulting LLC, agent for Retreat Holdings, LLC, for a Planned Development District (PDD) overlay with a Multi-Family Residential (MF-12) and a Community Commercial (CC) base zoning for approximately 48.36 acre tract located at 508 Craddock Avenue and in the 1500 block of Old Ranch Road 12.
20. **TMA-11-01. (The Retreat at San Marcos)** Hold a public hearing and consider a request for postponement by ETR Development Consulting LLC, agent for Retreat Holdings, LLC, for an amendment to the city's Thoroughfare Plan removing the Hughson-Ramona Collector.

21. **ZC-11-01 (Frank's Auto Shop)** Hold a public hearing and consider request for postponement by Carlos Hernandez for a Zoning Change from CC (Community Commercial) to GC (General Commercial), being approximately 1.572 acres, located at 328 South Guadalupe Street.
22. **LUA-11-01 (Aspen Heights)** Hold a public hearing and consider a request by Aspen Heights, agent for 90 San Marcos Ltd & DRFM Investments, for a Land use Map Amendment from Commercial (C) to Medium Density Residential (MDR) for 8.38 acres, more or less, in the J.M. Veramendi Survey Number 2 at Telluride Street.
23. **ZC-11-02 (Aspen Heights)** Hold a public hearing and consider a request by Aspen Heights, agent for 90 San Marcos Ltd & DRFM Investments, for a Zoning Change from Community Commercial (CC) to General Commercial (GC) for 9.87 acres, more or less, in the J.M. Veramendi Survey Number 2 at Telluride Street.
24. **LUA-11-02 (Aspen Heights)** Hold a public hearing and consider a request by Aspen Heights, agent for 90 San Marcos Ltd & DRFM Investments, for a Land use Map Amendment from High Density Residential (HDR) to Medium Density Residential (MDR) for 8.38 acres, more or less, in the J.M. Veramendi Survey Number 2 at Telluride Street.
25. **ZC-11-03 (Aspen Heights)** Hold a public hearing and consider a request by Aspen Heights, agent for 90 San Marcos Ltd & DRFM Investments, for a Zoning Change from Future Development (FD) to Multi-Family (MF-12) for 9.87 acres, more or less, in the J.M. Veramendi Survey Number 2 at Telluride Street.
26. **PDA-10-02(C&G Development).** Hold a public hearing and consider a request by ETR Development Consulting, on behalf of C&G Development, for a petition for a development agreement for approximately 99.10 acres, out of the TJ Chambers Survey Abstract No. 2 and the John Williams Survey, Abstract No. 490 located at the intersection of Wonder World Drive and Craddock Avenue. Approval of this request would allow the applicant to start negotiations with the City of San Marcos for a development agreement for property located outside the city limits but within the ETJ.

27. 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

- a. Update on proposed downtown form-based code.
- b. Planning Commission 2011 retreat

Commissioners' Report.

28. Questions from the Press and Public.

29. 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.



DEVELOPMENT
SERVICES-PLANNING

MEMO

TO: PLANNING AND ZONING COMMISSION
FROM: John Foreman, Planner
DATE: January 20, 2011
RE: REVISION TO LDC 4.3.4.2

Following reports from staff and input from downtown business owners, at the January 18, 2011, meeting, City Council directed staff to draft the following revisions to the section of the Land Development Code (LDC) dealing with Restricted and Unrestricted Conditional Use Permits (for a detailed history of these CUPs, please see the attached memo):

- Increase the maximum number of Unrestricted CUPs from 12 to 14 in order to remove the two nonconformities.
- Leave the maximum number of Restricted CUPs at 15.
- Remove the "50% rule" and replace it with the "four-hour rule."
 - Reduce the number of entrees required from eight to three.
- Restricted CUPs shall be issued at a building and shall be valid until the TABC license has expired for 6 months or the building has been vacant for 6 months

These changes are reflected in the attached revised code excerpt provided by the City Attorney. One additional change recommended by council has not yet been drafted and included in the document:

- The ordinance should contain a provision for annual review by Council.

The sunset/review clause will be added to the actual ordinance that amends the code when it goes to Council. Additionally, staff is proposing that the Commission review and consider recommending changes to the following:

- Remove the reporting requirement to the city in (c) (5) (a). This section asks for a copy of sales reports submitted from Restricted CUP holders to TABC. According to TABC, no sales reports are submitted to them. They receive this information from the comptroller. Moreover, staff does not see the need for reports to be submitted if there are no minimum requirements for food sales.
- Change (c) (1) to state that Restaurant Permits are valid for up to three years from date of issuance. This would allow for an initial one-year approval period. Currently, all new Restricted CUPs may only be approved for three years, no more or less.

(7) Limitations in the CBA district.

- a. A business in the central business area zoning district that wishes to dispense alcoholic beverages for on-premise consumption, and does not operate a bona fide restaurant on the premises, must apply for, obtain and maintain an unrestricted Conditional Use Permit, to be known as an "unrestricted permit". A business in the central business area zoning district that wishes to dispense alcoholic beverages for on-premise consumption, and does operate a bona fide restaurant on the premises, must apply for, obtain and maintain either an unrestricted permit, or a restricted Conditional Use Permit, to be known as a "restaurant permit". Except as noted in subdivisions b and c below, both unrestricted permits and restaurant permits are subject to all provisions of this chapter that apply to Conditional Use Permits, including those pertaining to revocation of permits.
- b. The following provisions apply to unrestricted permits:
 1. The number of active unrestricted permits in the central business area zoning district shall not exceed ~~42~~14.
 2. If there are ~~42~~ 14 active unrestricted permits, any further applications for unrestricted permits in the district shall be placed on a waiting list and individually referred to the Commission for consideration within 45 days, in the same order as submitted, when the number of unrestricted permits is less than ~~42~~14.
 3. If the Commission authorizes a new unrestricted permit to be issued in the district, and a waiting list exists for further applications, the applicant whose permit was authorized must obtain the permit within 180 days of the Commission decision to authorize the permit, or the authorization is void and the next application on the waiting list will be referred to the Commission for consideration within 45 days.
 4. The following revisions to unrestricted permits in the district may be considered and made without regard for any waiting list that may exist for new unrestricted permits in the district:
 - a) Administratively approved revisions under subsection (b)(6)d above.
 - b) Revisions to a current valid permit from a beer and wine permit to a mixed beverage permit, or vice-versa.
 - c) Revisions due to the remodeling of a business that is not subject to administrative approval under subsection (b)(6)d above.
 5. An unrestricted permit shall be issued for on-premises consumption at a particular building. The unrestricted permit for a particular building shall be deemed revoked if the building remains vacant for more than 6 months or if no TABC permit for on-premises consumption is in effect at that building location for more than a 6

month period. In such event, a new unrestricted permit for that building is required and may be issued by the Commission only if there are less than 14 unrestricted permits currently in effect in the Central Business Area.

c. The following provisions apply to restaurant permits:

1. Restaurant permits are valid for three years from date of issuance. Each business holding a restaurant permit must apply for and obtain a renewal permit every three years, no later than the expiration date of the current permit. A renewal permit for a current permit holder may be administratively issued if the applicant has complied with all of the provisions of this Chapter, all provisions of the permit, and any other applicable statutes during the previous permit period, and has not been assessed any violation values under this section. Otherwise, the application for the renewal permit shall be considered by the Commission after a public hearing.
2. A business holding a restaurant permit must become operational and open to the public within one year of issuance, or the permit shall expire. Upon request of the permit holder for good cause, the Planning Director may permit one six-month extension. ~~A business holding a restaurant permit may not cease operations or close to the public for a continuous period of more than one year, or the permit shall expire.~~ A restaurant permit shall be issued for on-premises consumption at a particular building. The restaurant permit for a particular building shall be deemed revoked if the building remains vacant for more than 6 months or if no TABC permit for on-premises consumption is in effect at that building location for more than a 6 month period. In such event, a new restaurant permit for that building is required and may be issued by the Commission only if there are less than 15 restaurant permits currently in effect in the Central Business Area District.
3. A business holding a restaurant permit must comply at all times with all of the following standards for "bona fide restaurants":
 - a) The business must have a kitchen and food storage facilities of sufficient size to enable food the preparation, ~~and service of eight or more different entrees.~~ The kitchen must be equipped with, and must utilize, a commercial grill, griddle, fryer, oven, or similar heavy food preparation equipment. [Are these kitchen equipment standards necessary if the "three entrées" requirement can be met by serving sandwiches under subsection (c) ?]
 - b) The business must apply for, obtain and maintain a food establishment permit in accordance with chapter 18 of the City Code.

- c) ~~The business must maintain the same hours of operation for the sale and service of food and alcoholic beverages, except that food may be sold or served before or after the legal hours for sale of alcoholic beverages. During all times at which alcoholic beverages are served, the business must offer at least eight different entrees. The business must serve meals to customers during at least two meal periods each day the business is open. A meal must consist of at least one entrée, such as a meat serving, a pasta dish, pizza, a sandwich or similar food in a serving that serves as a main course for a meal. At least three entrees must be available during each meal period. A meal period means a period of at least four hours.~~
 - d) The business must be used, maintained, advertised and held out to the public as a place where meals are prepared and served.
 - e) ~~The business must not derive more than 50 per cent of its gross receipts aggregated over any nine month period from alcoholic beverage sales.~~
4. An application for a restaurant permit must be accompanied by all of the following:
- a) A diagram of the floor layout of the business, clearly indicating areas where food is stored, where food is prepared, and where food is served to customers.
 - b) A statement of the total seating capacity of the business, and a statement of the seating capacity of the areas of the business where food is served.
 - c) A menu indicating all food and drink items served at the business.
 - d) ~~The hours of operation of the business.~~
5. The holder of a restaurant permit must submit to the Director:
- a) A complete written update of all information required under the section above each year within 30 days of the annual renewal date of the state TABC license or permit for the holder's business; and a copy of each report submitted to the TABC that contains an indication of the portion of revenues of the business that are derived from alcoholic beverage sales, within five days of the submission of the report to the TABC
 - b) ~~For one year after the start of business operation under a new Conditional Use Permit, a monthly report on a form approved by the Director, bearing the signature of a Certified Public Accountant, indicating the gross receipts of the business and the portion of the gross receipts of the business derived from alcoholic beverage sales. The report~~

must be submitted by the 25th day of each month to cover the preceding month or any applicable portion thereof; and

- c) ~~After the first year after the start of business operation under a new Conditional Use Permit, a quarterly report on a form approved by the Director, bearing the signature of a Certified Public Accountant indicating the gross receipts of the business and the portion of the gross receipts of the business derived from alcoholic beverage sales. The report must be submitted by the 25th day of each January, April, July and October to cover the preceding quarter or any applicable portion thereof.~~
6. The holder of a restaurant permit agrees, as a condition of the permit, to allow the Planning Director or an authorized representative to enter and inspect the business premises at any time during normal business hours to verify compliance with the requirements for restaurant permits under this section.
7. The number of active restaurant permits in the central business area zoning district shall not exceed 15. If there are 15 active restaurant permits, any further applications for restaurant permits in the district shall be placed on a waiting list and individually referred to the commission for consideration within 45 days, in the same order as submitted, when the number of restaurant permits is less than 15.
- ~~8. In addition to all other provisions of this chapter that apply to restaurant permits, including those pertaining to revocation of Conditional Use Permits, the following provisions apply:~~
 - ~~a) A restaurant permit holder who fails to submit the reports required under subsection c.5. by the date specified shall be deemed out of compliance, and the holder's permit will be subject to revocation by the Planning and Zoning Commission.~~
 - ~~b) Monthly reports required under subdivision c.5.b) will be reviewed by the Planning Director or an authorized representative on a monthly basis. The Director will notify a permit holder if a review shows a business to have alcoholic beverage (including beer and wine) revenues in excess of 50 per cent of its gross receipts for the month. If a review of reports for any nine consecutive months shows that a permit holder's alcoholic beverage revenues are more than 50 per cent of its gross receipts, the permit shall be subject to revocation proceedings.~~
 - ~~e) Quarterly reports required under subdivision c.5.c) will be reviewed by the Planning Director or an authorized representative on a quarterly basis. The Director will notify a permit holder if a review shows a business to have alcoholic beverage (including beer and wine) revenues in~~

~~excess of 50 per cent of its gross receipts for the quarter. If a review of any nine consecutive months shows that a permit holder's alcoholic beverage revenues are more than 50 per cent of its gross receipts, the permit shall be subject to revocation proceedings.~~

~~(Ord. No. 2005-19, §§ 1-7, 3-1-05)~~

City of San Marcos
Planning & Development Services
(512) 393-8230
(512) 396-9190 Fax



Memo

To: Chuck Swallow, Development Services Manager
From: John Foreman, Planner
Date: April 8, 2009 (updated September 29, 2010)
Re: On-premise consumption CUP status

This is a brief summary of code requirements for Conditional Use Permits (CUP) for on-premise consumption of alcohol along with some additional background on the restricted and unrestricted CUPs in the CBA zoning district.

Overview and history

A CUP allows the establishment of uses which may be suitable only in certain locations or only when subject to standards and conditions that assure compatibility with adjoining uses. Conditional uses are generally compatible with permitted uses, but require individual review and imposition of conditions in order to ensure the appropriateness of the use at a particular location. CUPs, which were known as SUPs prior to 2004, have been required for on-premise consumption (OPC) of alcohol in San Marcos for over twenty years.

Restricted vs. Unrestricted CUP

Prior to 2001, the number of OPC permits in the CBA was limited to fifteen. At that time an ordinance was adopted creating two special types of permits in the CBA- restricted (also known as restaurant) and unrestricted. An unrestricted CUP does not require food sales as a condition. Council determined that three of the fifteen existing permits could function as restaurants, so the maximum number of unrestricted permits was set at twelve. However, all fifteen of the existing permits were converted to unrestricted permits. A waiting list was created for new permits.

There is a limit of twelve unrestricted CUPs in the CBA at any time. Since the adoption of the restricted/unrestricted provisions in 2001, fourteen of the original fifteen unrestricted permits have remained active, though some have been amended as allowed by code. In the CBA, permits may be amended to change the name of the permit holder or business without regard for any waiting list for new permits. In other words, the limit of twelve has been constantly exceeded. Consequently, although a waiting list has been maintained, no new unrestricted permits have been issued. The three that council determined in 2001 functioned as restaurants still operate in this way, though they are not required to by code.

Restricted (Restaurant) CUPs

Ordinance #2001-86 created the "restaurant permit." A number of restrictions and criteria were attached to this permit, including the "eight-hour rule" requiring that food be served for two meal periods of at least four hours per day. Ordinance #2005-19 modified these standards, replacing the eight-hour rule with a "50% rule" requiring at least 50% of sales to come from sources other than alcohol. This ordinance states that the four restaurant CUPs in existence at the time would continue to operate under the conditions in effect at the time they were approved, presumably the eight-hour rule, until they expired or were revoked or terminated. The maximum number of restricted CUPs was set at fifteen, and there are currently six. Two remain under the 2001 rules ("eight-hour rule") while the rest are under the 2005 rules ("50% rule").

To comply with the standards of the 2005 permit, the businesses must operate as a "bona fide restaurant"-

1. Kitchen facilities to serve eight entrees, including a commercial grill, griddle, fryer, oven or similar
2. A food establishment permit
3. Eight entrees must be served at all times alcohol is sold

4. The business must be advertised as a place where food is served
5. No more than 50% of gross receipts may come from alcohol

A series of sales reports must be submitted to the Planning Director to demonstrate compliance with item 5.

History of Individual Restaurant CUPs

200 N LBJ – J's Bistro – approved in 2004. Continues to operate under the eight-hour rule because no expiration was attached to the original permit and none was required under the 2001 ordinance

100 W. Hopkins – Hill Country Grill, then Newton Gang's Getaway, now the Vault – approved in 2004 for three years. Renewed in 2007 for three years, though the terms of the renewal did not specify which set of rules the restaurant was to follow. In the minutes, staff states that the restaurant does not submit reports on time, but the only condition attached to the permit was the three-year expiration. In 2009 changed name and license holder of permit. This required the issuance of a new CUP and changed the classification of the business from the 2001 rules to the 2005 rules.

202 N LBJ – Allniter Diner then Grey Horse Grill, now The Wine Cellar – approved in 2004. Amended in 2006 to allow a name change to the Grey Horse Grill and operational changes but continued to operate under the eight-hour rule. After Grey Horse Grill closed, The Wine Cellar was approved for a new restaurant permit, not an amendment, in 2007. Recently closed.

328 N LBJ – Gil's Broiler – approved in 2003. Continues to operate under the eight-hour rule because no expiration was attached to the original permit and none was required under the 2001 ordinance

215 N LBJ – Wesray's now the Root Cellar – approved in 2002. The Root Cellar applied for a new restaurant permit in 2006 and was granted the permit under the regulations in place at that time. The staff report states that The Root Cellar had already been operational at that time for about a year. Staff does not know at what time Wesray's closed. It was likely before March 1, 2005 because Ordinance -2005-16 states that there were four restaurant permits active at that time.

202 E. San Antonio St. – Sean Patrick's – approved in 2006.

Address	Name	Type
100 W HOPKINS ST	The Vault	Restricted
321 N LBJ DR	Showplace Cinema Grill	Restricted
200 N LBJ DR	J'S Bristo	Restricted (2001)
202 E SAN ANTONIO ST	Sean Patrick's	Restricted
202 N LBJ DR	The Wine Cellar	Restricted
215 N LBJ DR	Root Cellar Cafe	Restricted
328 N LBJ DR	Gil's Broiler	Restricted (2001)
100 N GUADALUPE ST	Nephew's	Unrestricted
120 E SAN ANTONIO ST	Texas Live Music Theater	Unrestricted
124 N LBJ DR	Green Parrot	Unrestricted
126 N LBJ DR	Cafe On The Square	Unrestricted
127 E HOPKINS ST	Dillinger's	Unrestricted
129 E HOPKINS ST	The Tap Room	Unrestricted
138 N LBJ DR	Rocky Larues	Unrestricted
138 S LBJ DR	Restless Wind	Unrestricted
139 E HOPKINS ST	Harper's	Unrestricted
141 E HOPKINS ST	Bar 141	Unrestricted
207 E HUTCHISON ST	Showdown	Unrestricted
143 S LBJ DR	Cat's Billiards	Unrestricted
110 N LBJ DR	Valentino's	Unrestricted
127 E HOPKINS ST	The Hungry Stick	Unrestricted

Dear Commissioners,

Myself and other CUP holders downtown have recently met with Jim Nuse, Matt Lewis and several of our city council members to discuss what may be the best way to move forward regarding adjustments to the Central Business Area CUP's. This discussion has come about due to the request by those who possess the 51% style of CUP to be changed to the two four hour style of CUP. Those involved in this discussion are supportive of this adjustment. Other small adjustments were agreed upon that have to deal with selling of ones business and a few other points that I'm sure staff has informed you of. The one remaining issue is that of number. There are currently 14 unrestricted CUP's and 7 that have some sort of restriction on them, totally 21 CUP permits in Central Business Area. With the above recommended changes that would put all 7 restricted CUP's in the two four hour period category. The debate is weather to allow anymore in this area of downtown or cap it at 21. In the spirit of leaving the door open for truly unique restaurant ideas, Council Member Jones has suggested to allow for five more two four hour period style CUP's. Each one of these five would be issued only after the restaurant has operated for one year. This solution is fresh, innovative, and insures the intent of the restaurateur. I can assure you that as someone who has opened both restaurants and bars, these CUP's will be restaurants. Not bars disguised as restaurants. I personally would be here tonight to speak to you about this issue, but I was informed by staff that you may be in for a long night without me taking up more of your evening family time. I hope this letter explains the views of those of us downtown. This issue is on the agenda for the Downtown Association's approval on Wednesday the 26th. Obviously a day late to attach with this letter. Thank you for your time and dedication to our city.

Sincerely,
Allen Shy

The Downtown Association of San Marcos

A Texas Natural!

January 25, 2011

Chairman and Commissioners
San Marcos Planning and Zoning Commission
603 Hopkins
San Marcos, Texas 78666

2011 JAN 25 PM 2 33

RE: CUP Ordinance Changes on Central Business Area (CBA)

Dear Chairman and Commissioners:

On your agenda tonight is an item calling for consideration of changing ordinances in the CBA involving conditional use permits (CUP's). In particular the change relates to eliminating the 51% food/alcohol rule and allowing for an increase to 15 in the number of establishments that could serve alcohol simply by offering food for two four hour segments.

This item went to City Council last week and is now on your agenda for consideration. Please be advised that this issue is also on the Downtown Association agenda for tomorrow night and is expected to be discussed before the San Marcos Main Street Advisory Board in their upcoming meeting effectively eliminating the benefit of any recommendations from either of these organizations whose focus is to protect and preserve our unique downtown.

In previous discussions with a number of the downtown business and building owners and in a subsequent meeting which included several of these owner along with members of City Staff, it was recommended that this increase be limited to include only those establishments currently restricted by the 51% food/alcohol ruling. This would only have an impact on four establishments: Sean Patricks, The Venue, Root Cellar Restaurant and Vodka Street Grill, formerly The Wine Cellar.

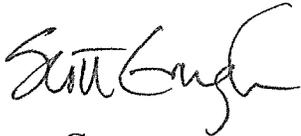
These businesses already have made substantial investments in our downtown and would be harmed if not included in the easing of this restriction. The concern however are the

remaining CUP's that have not been issued. It has always been our objective to not allow for a Sixth Street, Austin atmosphere to take place in downtown. It is the concern of many that releasing these permits unchecked would lead to a proliferation of bar operations in a relatively small area defined as the CBA.

While we all like to see truly unique entrants into the downtown, the obligation to serve food can be simply fulfilled with a toaster oven and microwave. Heatable microwavable foods can be served to meet this requirement creating nothing new or unique in our downtown. We ask that you take the time to study this issue and allow for input from relevant organizations and boards who actively represent downtown. A misstep of this proportion will have far-reaching implications on our on-going downtown revitalization and recovery which is fragile and still in its early stages. Allowing for a proliferation of additional drinking establishments will forever have a negative impact on the current character and beauty we call downtown.

Thanks for your consideration of this input to your decision and thanks for your service to our community.

Sincerely,

A handwritten signature in black ink, appearing to read "Scott Gregson". The signature is fluid and cursive, with the first name "Scott" being more prominent than the last name "Gregson".

Scott Gregson
President

**Conditional Use Permit
CUP-11-01
1802 N IH 35
Low Price Auto Glass**



Applicant Information:

Applicant: Saraj Anaem DBA Low Price Auto Glass
1802 N IH 35
San Marcos TX 78666

Property Owner: WS Limited
100 N Edward Gary Ste A
San Marcos TX 78666

Applicant Request: A Conditional Use Permit (CUP) to allow auto glass replacement and repair, tinting, and alarm installation in a Community Commercial zone

Notification: Public hearing notification mailed on Friday, January 28, 2011.

Response: No responses as of February 2, 2011

Subject Property:

Location: 1802 N IH 35

Legal Description: JUAN M VERAMENDI SURVEY, ACRES 0.5435 PT OF LOT 1 W P DONALSON

Frontage On: IH 35

Neighborhood: N/A

Existing Zoning: Community Commercial

Master Plan Land Use: Commercial

Sector: Sector 6

Utilities: Existing

Existing Use of Property: Vacant Structure

Proposed Use of Property: Auto glass tinting and repair

Zoning and Land Use Pattern:

	Current Zoning	Existing Land Use
N of Property	CC	Vehicle Sales
S of Property	CC	Vehicle Sales
E of Property	MH	Mobile Homes
W of Property	-	IH-35

Code Requirements:

A conditional use permit (CUP) allows the establishment of uses which may be suitable only in certain locations or only when subject to standards and conditions that assure compatibility with adjoining

uses. Conditional uses are generally compatible with permitted uses, but require individual review and imposition of conditions in order to ensure the appropriateness of the use at a particular location.

The Land Use Matrix lists "auto repair (general)" as conditional in Community Commercial.

Case Summary

The application states that no changes are proposed to the site or the building. The subject property is located east of IH 35 on the northbound frontage road. The existing structure has been used for auto repair in the past but has been vacant for over six months. The applicant proposes to use the existing site for auto glass replacement and repair, window tinting, and alarm installation.

Planning Department Analysis:

The Sector Six plan calls for attractive, high-quality development along IH 35. Auto repair uses are common along the IH 35 corridor and particularly in this area. Although no immediate site improvements are proposed, allowing an active use would promote investment in the site. Also, the Commission may choose to require additional landscaping along the street frontage to improve the appearance of the site, which is along one of the city's gateways.

The lot is currently not platted. According to the Land Development Code, 1.5.7.2, approval of a final plat is required prior to a Conditional Use Permit taking effect. Staff recommends this as a condition of approval.

The site plan provided by the applicant indicates five parking spaces. Based on the proposed use of the building, this is two spaces short of the LDC requirement (see chart). There appears to be adequate paved area on-site for seven parking spaces.

Use	Code Requirement	Area	Required Parking
Office	1/300	600	2
Auto repair	1/200	(2 car bays) 400	2
Warehouse	1/3000	2600	3
Total		3600	7

Staff has not identified compatibility issues with surrounding uses. The nearest residential area is the Uhland mobile home park located across an unimproved right-of-way, which, along with a fence along the rear property line of the subject property, effectively screens the use. The condition recommended below is to ensure that the screening is maintained.

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

- 1. No additional auto repair services are allowed on site without a new CUP**
- 2. Property may not be used as a tow yard, vehicle storage, or impoundment**
- 3. Facility shall be landscaped in the front of the property and screened from adjacent residential uses**
- 4. The applicant shall plat the property**
- 5. The site shall meet the LDC requirement for parking**

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

The Commission's Responsibility:

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

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

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

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

Prepared by:

John Foreman

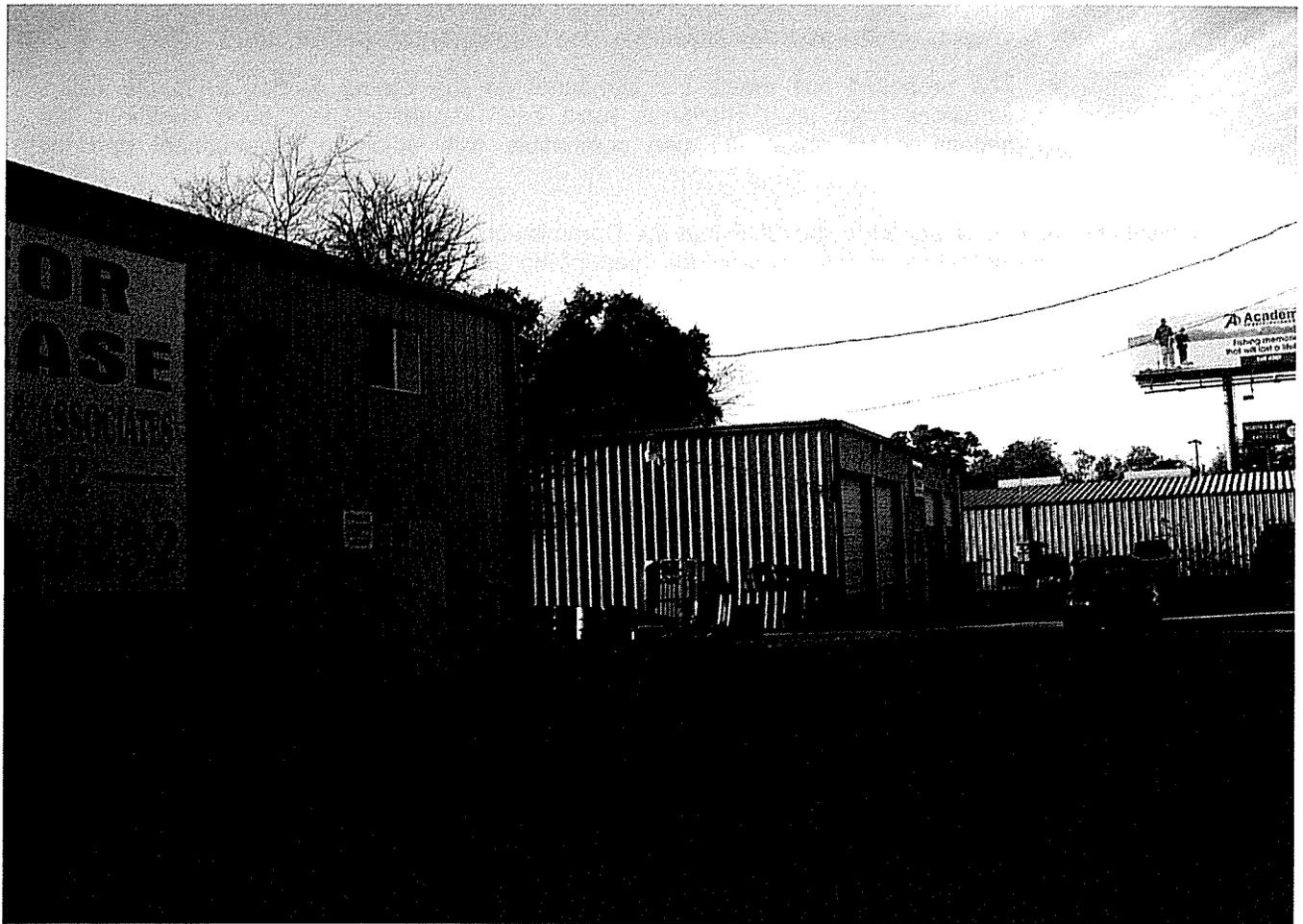
Planner

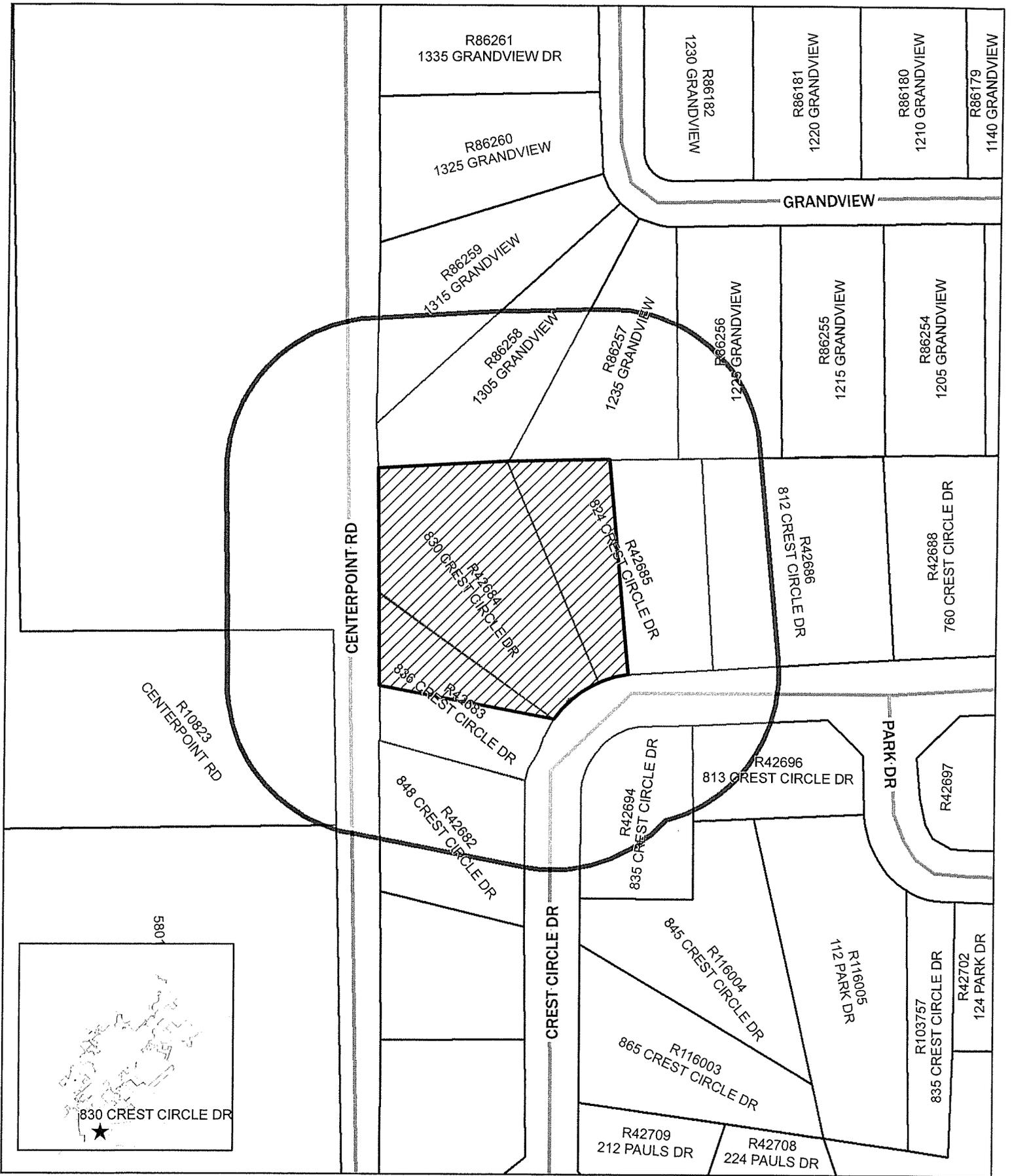
February 2, 2011

Name

Title

Date





PVC-10-08

830 Crest Circle Dr.

Map Date: 1/27/11

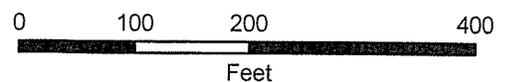


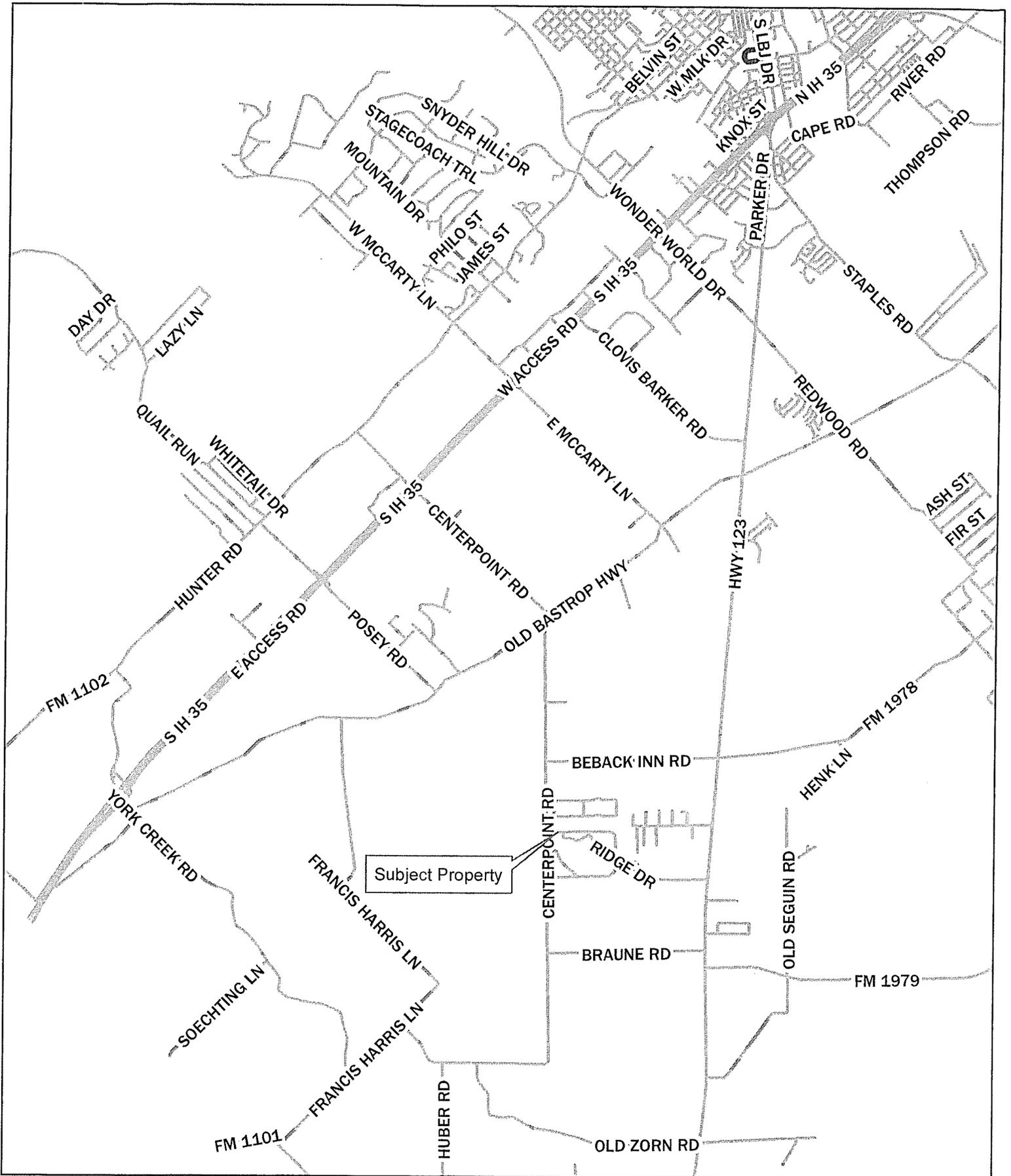
Notification Buffer
(200 feet)

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.

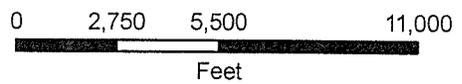




Subject Property

PVC-10-08
830 Crest Circle Dr.
Map Date: 1/25/11

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



**PVC-10-08
830 Crest Circle Drive
San Marcos ETJ**



Applicant Information:

Applicant: Karen Moon
830 Crest Circle Drive
San Marcos, TX 78666

Property Owner: Same

Applicant's Request: The applicant is requesting a variance from Section 6.7.2.1 (J) of the Land Development Code, which requires that lot depth shall not exceed the three times the lot width for lots platted after March 10, 1975.

Subject Property:

Location: 830 Crest Circle Drive, San Marcos, TX 78666
Subject property is in the northwest corner of the Southridge Estates subdivision, located off of Centerpoint Road, approximately one and a half miles south of Old Bastrop Hwy. This property is located in Hay County within the southeastern edge of the City of San Marcos ETJ.

Legal Description: Lot 23 and part of Lots 22 & 24, Southridge Estates; being a 2.28 acre tract.

Existing Zoning: None (outside City limits)

Land Use Map: Not designated.

Utilities: Water service is provided by City of San Marcos
Wastewater service is provided by an on-site private septic system
Electrical service is provided by Bluebonnet Electric Co-Op

Existing Use of Property: Residential.

Proposed Use of Property: Residential.

Planning Department Analysis:

The subject property is a 2.28 acre parcel of land in the Southridge Estates subdivision that is comprised of one lot (Lot 23) and part of the two lots on either side of that lot (Lots 22 & 24). The owner is proposing to submit an amending plat to subdivide this tract into two lots. One lot will contain 1.563 acres and have a lot depth of 267 feet (calculated as an average of each side property lines) and a lot width of 85 feet (width calculated at the building set-back line) and consequently have a depth to width ration of 3.14. The second lot will contain .72 acres and have a lot depth of 299 feet and a lot width of 83 feet, and consequently, have a depth to width ration of 3.6.

This request is for a variance to allow the platting of a lot that meet the current Land Development Code subdivision lot dept to width ratio requirements (lot depth 267 feet, lot width 100 feet) into two lots that are in excess of the maximum allow three to one length to width ratio.

The purpose of subdivision regulations are to:

- Promote the development and the utilization of land in a manner that assures an attractive and high quality community environment.
- Assist orderly, efficient and coordinated development within the City's limits and its extraterritorial jurisdiction.
- Integrate the development of various tracts of land into the existing community, and coordinate the future development of adjoining tracts.
- Protect the character and the social and economic stability of all parts of the community, and encourage the orderly and beneficial development of all parts of the community.
- Protect and conserve the value of land throughout the community and the value of buildings and improvements upon the land, and minimize conflicts among the uses of land and buildings.
- Prevent pollution of the air, streams, bodies of water, and aquifers; assure the adequacy of drainage facilities; safeguard both surface and groundwater supplies, as well as natural resources and endangered or threatened plant and animal life; and encourage the wise use and management of natural resources throughout the municipality in order to preserve the integrity, stability and beauty of the community and the value of the land.

Staff does not believe this request meets the Criteria for Approval as cited in Section 1.10.2.4 of the Land Development Code.

- There are **NO** circumstances causing the hardship that does not similarly affect all or most properties in the vicinity of the petitioner's land. Many of the neighboring parcels are similar to the subject property in shape, i.e. narrow and deep. Addressed in Items 1 & 2 of the required variance criteria.
- The hardship or inequity suffered by the petitioner **IS CAUSED WHOLLY OR IN SUBSTANTIAL PART BY THE PETITIONER**. Addressed in Item 7 of the required variance criteria.
- The request for a variance **IS BASED EXCLUSIVELY ON THE PETITIONER'S DESIRE FOR INCREASED FINANCIAL GAIN** from the property by creating another lot that will be a home site. Addressed in Item 8 of the required variance criteria.

Staff is recommending **denial** of this request; for the following reasons:

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

The Commission's Responsibility:

The Commission is charged with making the final decision regarding this variance request. The city charter delegates all platting variances 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 or deny this variance request.

Section 1.10.2.4 Criteria for Approval

In deciding the variance petition, the decision-maker shall apply the following criteria:

1. There are special circumstances or conditions arising from the physical surroundings, shape, topography or other feature affecting the land subject to the variance petition, such that the strict application of the provisions of this Land Development Code to the development application would create an unnecessary hardship or inequity upon or for the petitioner, as distinguished from a mere inconvenience, in developing the land or deprive the petitioner of the reasonable and beneficial use of the land;
2. The circumstances causing the hardship do not similarly affect all or most properties in the vicinity of the petitioner's land;
3. The variance is necessary for the preservation and enjoyment of a substantial property right of the petitioner;
4. Granting the variance petition will not be detrimental to the public health, safety or welfare, or injurious to other property within the area;
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 property;
6. Granting the variance petition is consistent with any special criteria applicable to varying particular standards, as set forth in Chapters 4 through 7 of this Land Development Code;
7. The hardship or inequity suffered by petitioner is not caused wholly or in substantial part by the petitioner;
8. The request for a variance is not based exclusively on the petitioner's desire for increased financial gain from the property, or to reduce an existing financial hardship; and
9. The degree of variance requested is the minimum amount necessary to meet the needs of petitioner and to satisfy the standards in this section.

Attachments

Location Map
Notification Map
Application
Warranty Deed
Aerial Map
Proposed replat

Prepared by:
Phil Steed

Planner

February 2, 2011

City of San Marcos
SUBDIVISION VARIANCE APPLICATION

	<u>APPLICANT</u>	<u>PROPERTY OWNER</u>
Name	<u>KAREN MOON</u>	<u>KAREN MOON</u>
Mailing Address	<u>830 CREST CIRCLE DR</u> <u>SAN MARCOS, TX 78666</u>	<u>SAME</u>
Daytime Phone	<u>512 228-7403</u>	
Email Address	<u>KMOON@SANMARCOS.NET</u>	

PROPERTY DESCRIPTION:

Street: CREST CIRCLE DRIVE Address No: 830

Legal Description (if platted): SOUTH RIDGE ESTATES LOT 23 & PT of 22
+ 24. 2.2

Tax ID: R 42684

Acres 2.2 Zoning Classification SINGLE RESIDENCE

Located In Floodway Edwards Aquifer Recharge Zone
 S.M. River Corridor Historic District

Note: If the variance is to waive, in its entirety, either a required Subdivision Master Plan or a required plat, a metes and bounds legal description or survey drawing indication the outer boundary of the subject property must be attached.

REQUESTED ZONING VARIANCE:

Variance to Chapter 6.7.2.1(D) of the Land Development Code which requires...

that lot depth shall not exceed three times the lot width for lots platted after March 10, 1975

Description of Proposed Variance from the Requirements of the Land Development Code:

proposed lot width of 77 feet and lot depth of 313.69 feet

SUBMITTAL REQUIREMENTS:

\$150 Application Fee, payable to the City of San Marcos

Answer the questions on the following pages, as evidence that this request complies with the conditions required for approval of a variance (extra pages and supplemental illustrations or photographs may be used if needed or desired).

I certify the preceding information is complete and accurate, and it is understood that I or another representative should be present at all meetings concerning this application.

I am the property owner of record, or

I have attached authorization to represent the owner, organization, or business in this application.

Signature:

Karen Moon

Date:

Printed Name:

KAREN MOON

TO BE COMPLETED BY STAFF:

Submittal Date: 12/20

1/25 meeting date
5 Business Days from Submittal:

Submittal: 12/28

Completeness Review By: John Foreman

Date: 12/20

Contact Date for Supplemental Info: _____

Supplemental Info Received (required within 5 days of contact): _____

Application Returned to Applicant: _____

Application Accepted for Review: _____

Fee: _____

The following information is provided by the applicant and may or may not be consistent with the Development Services-Planning information contained in the staff report for this request.

1. What special circumstances or conditions affect the subject property such that strict application of the provisions of the Land Development Code would create an unnecessary hardship or inequity upon the applicant or would deprive the applicant of the reasonable and beneficial use of the property?

Depth to width ratio is off - but all of property land is the same depth.

2. Do the circumstances or conditions causing the hardship similarly affect all or most of the properties in the vicinity of the subject property?

N/A No

3. What substantial property right would not be preserved or enjoyed if the provisions of the Land Development Code were literally enforced?

Unable to build a smaller home and sell my primary residence next door, for my retirement.

4. What effect, if any, would the variance have on the rights of owners or occupants of surrounding property, or on the public health, safety, or general welfare?

None

5. What effect, if any, would the variance have on the orderly subdivision of other land in the area in accordance with the provisions of the Land Development Code?

None

6. Is the hardship or inequity suffered by the applicant caused wholly or in substantial part by the property owner or applicant?

No

7. To what extent is the request for a variance based upon a desire of the owner, occupant, or applicant for increased financial gain from the property, or to reduce an existing financial hardship?

Reducing financial hardships is primary for this approval. My former husband has emptied the savings account and ^{not split} will help me in retirement.

8. Is the degree of variance requested the minimum amount necessary to meet the needs of the applicant or property owner?

Yes, and place a septic for new house.

WARRANTY DEED

172423

398 361

THE STATE OF TEXAS §
COUNTY OF HAYS §

KNOW ALL MEN BY THESE PRESENTS:

THAT LEE E. HORACEFIELD and wife, ETHEL L. HORACEFIELD of the County of Hays and State of Texas, for and in consideration of the sum of TEN AND NO/100 DOLLARS (\$10.00) and other good and valuable consideration, to the undersigned paid by the Grantees herein named, have GRANTED, SOLD, AND CONVEYED, and by these presents do GRANT, SELL, AND CONVEY unto ANDREW J. PATTON and wife, AMY M. PATTON, whose address is Rt. 1, Box 23 SE, San Marcos (78666), of the County of Hays and State of Texas, all of the following described real property in Hays County, Texas, to-wit:

TRACT I

All of Lot No. Twenty-Three (23) of SOUTHRIDGE ESTATES, a subdivision of Hays County, Texas, according to the map or plat thereof recorded in Volume 1, page 329, of the Plat Records of Hays County, Texas.

TRACT II

Being 0.27 acres of land, more or less, out of Lot Twenty-Two (22), of SOUTHRIDGE ESTATES, a subdivision of Hays County, Texas, and being more particularly described in Exhibit "A" attached hereto, to which reference is here made for all legal and relevant purposes.

TRACT III

Being 0.68 acres of land, more or less, out of Lot Twenty-Four (24), of SOUTHRIDGE ESTATES, a subdivision of Hays County, Texas, and being more particularly described in Exhibit "B" attached hereto, to which reference is here made for all legal and relevant purposes.

This conveyance is made and accepted subject to the following:

1. Those restrictions of Southridge Estates, dated September 15, 1976, and recorded in Volume 288, pages 885-887, of the Deed Records of Hays County, Texas.
2. That easement from Barnett E. Baker to Bluebonnet Electric Corp., dated April 22, 1976, and recorded in Volume 284, pages 236-237 of the Deed Records of Hays County, Texas.
3. That easement from Barnett E. Baker to San Marcos Telephone Co., dated August 26, 1976, and recorded in Volume 288, pages 12-13, of the Deed Records of Hays County, Texas.
4. That easement from Barnett E. Baker to Haysco Water Supply Co., dated May 1, 1976, and recorded in Volume 309, pages 567-570, of the Deed Records of Hays County, Texas.

TO HAVE AND TO HOLD the above described premises, together with all and singular the rights and appurtenances

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thereto in anywise belonging, unto the said Grantees, their heirs and assigns forever; and we do hereby bind ourselves, our heirs, executors, and administrators, to WARRANT AND FOREVER DEFEND all and singular the said premises, unto the said Grantees, their heirs and assigns, against every person whomsoever lawfully claiming, or to claim, the same or any part thereof.

Current ad valorem taxes on said property having been prorated, the payment thereof is assumed by Grantees.

EXECUTED this the 25th day of July, 1983.

Lee E. Horacefield
LEE E. HORACEFIELD

Ethel L. Horacefield
ETHEL L. HORACEFIELD

THE STATE OF TEXAS §
COUNTY OF HAYS §

This instrument was acknowledged before me on this 25th day of July, 1983, by LEE E. HORACEFIELD and wife, ETHEL L. HORACEFIELD.



Louise Roberts
NOTARY PUBLIC, State of Texas
LOUISE ROBERTS
(typed or stamped name of Notary)
My commission expires: 8-7-85

FIELD NOTES

Being all that certain 0.27 acres of land situated in the Charles Henderson Survey, Abst. 147, Hays County, Texas. Said 0.27 acre tract is part of TRACT NO. 22 of Southridge Estates Subdivision, Plat of said subdivision being recorded in Volume 4 at page 45, of the Map Records of Guadalupe County, Texas, and shown on a plat thereof recorded in Volume 1, at page 329, of the Hays County Map Records, and is described by metes and bounds as follows, to-wit:

BEGINNING at the North corner of the tract herein described, said corner being the East line of a county road known as Center Point Road and situated South 0° 20' East 178.3 feet from the Northwest corner of said subdivision;

THENCE South 53° 0' East 269.5 feet to the West line of Crest Circle Drive;

THENCE North 76° 11' West 221.0 feet to the East line of Center Point Road;

THENCE with said East line, North 0° 20' West 109.4 feet to the PLACE OF BEGINNING and containing 0.27 acres of land, and all instruments or plats herein referred to, and their records if recorded, are incorporated herein for information purposes.

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FIELD NOTES

Being all that certain 0.68 acre of land situated in the Charles Henderson Survey, Abst. 147, Hays County, Texas. Said 0.68 acre tract is part of TRACT NO. 24 of Southridge Estates Subdivision and is described by metes and bounds as follows, to-wit:

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353

BEGINNING at the Northwest corner of said TRACT NO. 24;

THENCE with the North line of TRACT NO. 24, North 89° 51' East 157.1 feet;

THENCE South 1° 59' East 283.7 feet to the North line of a public road known as Crest Circle Drive;

THENCE with said North line along a circular curve to the left, the radius of which is 142.6 feet and the long chord of which bears South 78° 01' West 49.5 feet to the Southwest corner of the tract herein described;

THENCE with a common line of TRACTS 23 and 24 of said subdivision, North 21° 59' West 316.4 feet to the PLACE OF BEGINNING, all corners of the tract herein described being marked with iron stakes and containing 0.68 of an acre of land, and all instruments or plats herein referred to, and their records if recorded, are incorporated herein for information purposes.

STATE OF TEXAS }
COUNTY OF HAYS }

I hereby certify that this instrument was FILED on the date and at the time stamped herein by me and was duly RECORDED, in the Volume and Page of the named RECORDS of Hays County, Texas, as stamped herein by me.



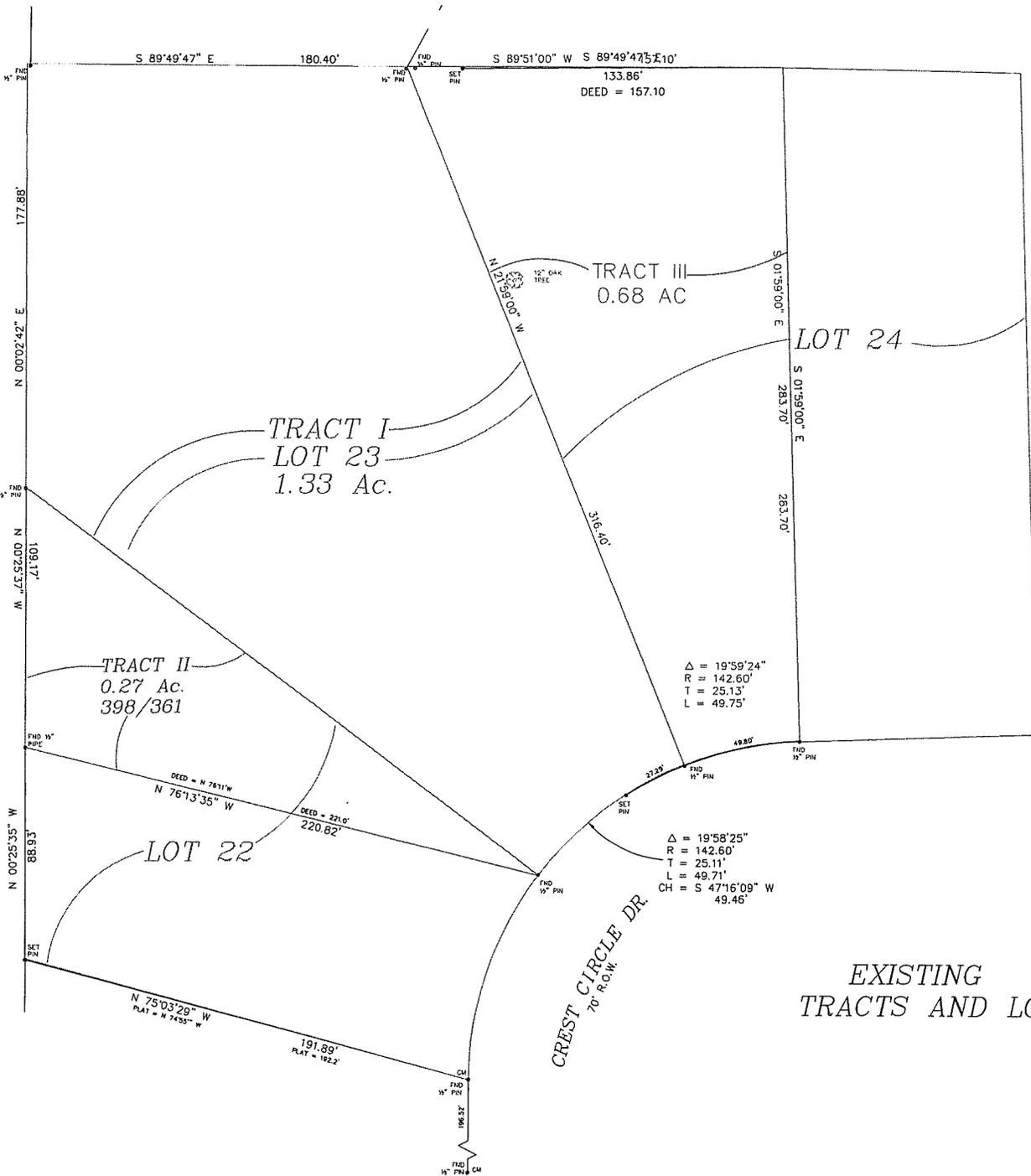
July 26 1983
Charles B. Clayton

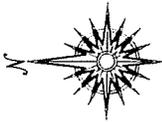
COUNTY CLERK
HAYS COUNTY, TEXAS

Charles B. Clayton
COUNTY CLERK

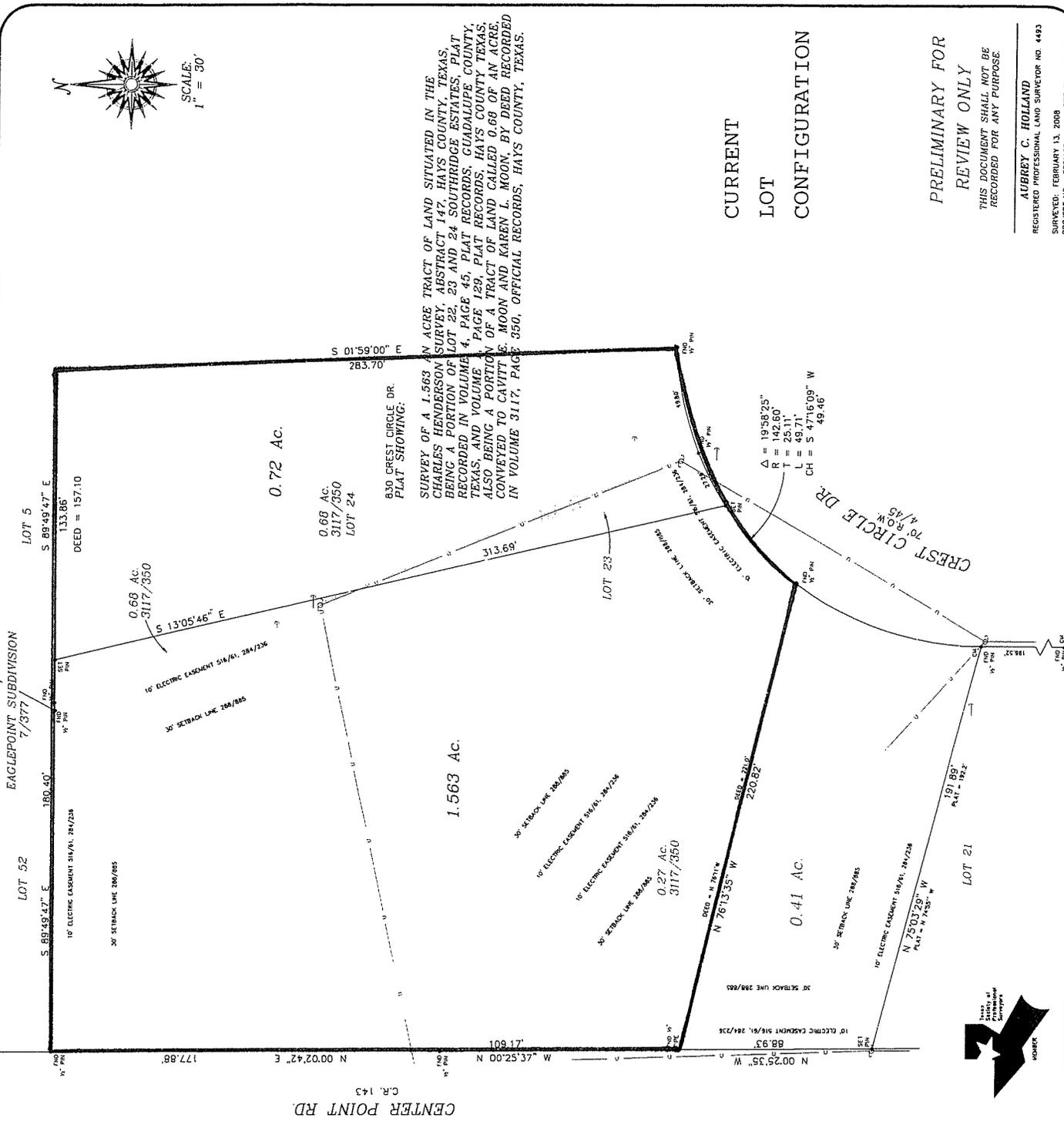
FILED
HAYS COUNTY, TEXAS
23 JUL 25 PM 4 12

CENTER POINT RD.
C.R. 143





SCALE:
1" = 30'



CURRENT
LOT
CONFIGURATION

PRELIMINARY FOR
REVIEW ONLY
THIS DOCUMENT SHALL NOT BE
RECORDED FOR ANY PURPOSE.

AUBREY C. HOLLAND
REGISTERED PROFESSIONAL LAND SURVEYOR NO. 4493
SURVEYED: FEBRUARY 13, 2008
PROJECT NO.: 08D1125
DWC No.: 08D1125

SURVEY OF A 1.563 ACRE TRACT OF LAND SITUATED IN THE CHARLES HENDERSON SURVEY, ABSTRACT 147, HAYS COUNTY, TEXAS, BEING A PORTION OF LOT 22, 23 AND 24 SOUTHRIDGE ESTATES, PLAT RECORDED IN VOLUME 4, PAGE 45, PLAT RECORDS, GUADALUPE COUNTY, TEXAS, AND VOLUME 129, PAGE 129, PLAT RECORDS, HAYS COUNTY, TEXAS, ALSO BEING A PORTION OF A TRACT OF LAND CALLED 0.68 OF AN ACRE CONVEYED TO CAVITT E. MOON AND KAREN L. MOON, BY DEED RECORDED IN VOLUME 3117, PAGE 350, OFFICIAL RECORDS, HAYS COUNTY, TEXAS.

630 CREST CIRCLE DR.
PLAT SHOWING:

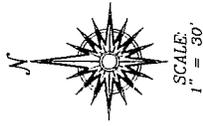
- HAYS COUNTY ELECTRIC CODE, 379 P.B.
- VOL. 286B, PG. 865 D.R.
- VOL. 786, PG. 192 A.P.R.
- VOL. 1153, PG. 781 B.P.R.
- VOL. 1153, PG. 781 B.P.R.
- RESTRUCTURED HAYS COUNTY ELECTRIC CODE, 379 P.B.
- VOL. 4, PG. 45 P.R.
- VOL. 514, PG. 61 D.R.
- VOL. 885, PG. 861 D.R.
- VOL. 1149, PG. 196 D.R.

- CH - CONTROLLING MONUMENT
- (D) - UTILITY POLE/UTILITY
- W - WATER METER
- - CYP
- - HIGH LOT
- - HIGH

THIS GRAPHIC WORK REPRESENTS THE RESULTS OF A SURVEY BEING PROVIDED BY TRI-COUNTY LAND SURVEYING, INC. FOR THE PURPOSE OF RECORDING THE SAME. THE SURVEYOR HAS REVIEWED THE ORIGINAL RECORDS AND HAS SHOWN HEREON. NO LICENSE HAS BEEN OBTAINED, EXPRESSED OR IMPLIED, TO COPY OR USE THIS GRAPHIC WORK OTHER THAN THAT WHICH IS EXPRESSLY STATED HEREON. THE SURVEYOR'S IMPRESSION SEAL AND SIGNATURE ARE REQUIRED TO BE AFFIXED TO THIS PLAT. THESE TWO CONDITIONS MUST BE MET. THIS PLAT DOES NOT HAVE THESE TWO CONDITIONS MET. TRI-COUNTY LAND SURVEYING ASSUMES NO LIABILITY FOR THE ACCURACY OF THIS SURVEY. THE ORIGINAL RECORDS AND THE COPIES BEARING THE ORIGINAL IMPRESSION SEAL, AND THE SIGNATURE SIGNED IN RED INK, OF THE SURVEYOR, AUBREY C. HOLLAND, REGISTERED PROFESSIONAL LAND SURVEYOR NO. 4493, FEBRUARY 13, 2008, PROJECT NO. 08D1125, DWC NO. 08D1125, SHALL BE KEPT ON FILE AT THE SURVEYOR'S OFFICE, 114 NORTH AUSTIN STREET, AUSTIN, TEXAS 78701. TEL: (830) 372-1001 FAX: (830) 378-1135 SURVEYING INC. (C)

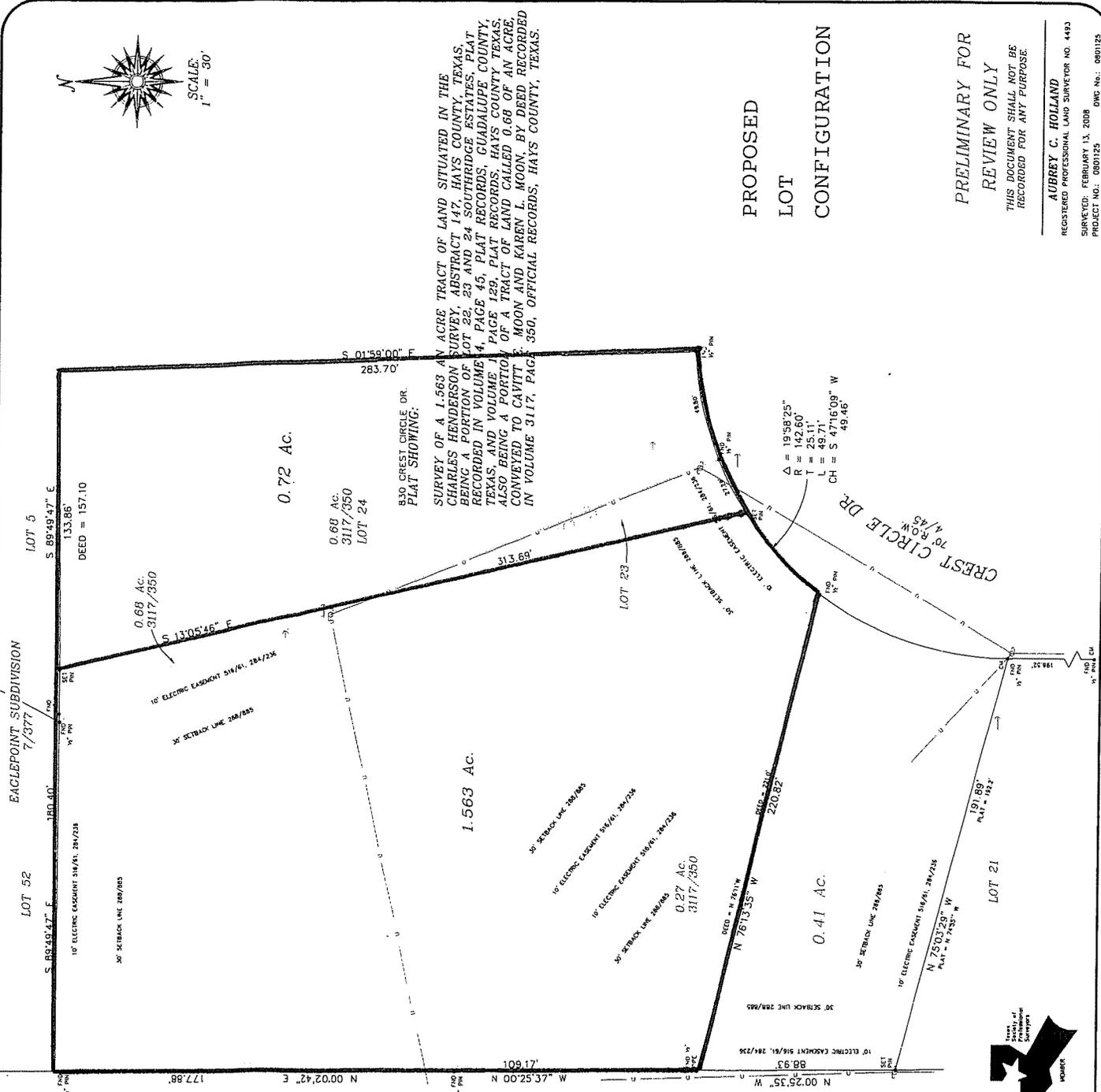
114 NORTH AUSTIN STREET
AUSTIN, TEXAS 78701
TEL: (830) 372-1001
FAX: (830) 378-1135
SURVEYING INC. (C)





HAYS COUNTY RESTRICTIONS:
 VOL. 208, P.C. 885 D.R.
 VOL. 208, P.C. 885 D.R.
 VOL. 788, P.C. 192 R.P.P.R.
 VOL. 794, P.C. 358 R.P.P.R.
 VOL. 1153, P.C. 701 R.P.P.R.
 GUADALUPE COUNTY RESTRICTIONS:
 VOL. 4, P.C. 45 P.R.
 VOL. 516, P.C. 61 D.R.
 VOL. 524, P.C. 70 D.R.
 VOL. 524, P.C. 70 D.R.
 VOL. 1149, P.C. 938 O.R.

C.R. 143
 CENTER POINT RD.



830 CREST CIRCLE DR. PLAT SHOWING:
 SURVEY OF A 1.563 ACRE TRACT OF LAND SITUATED IN THE CHARLES HENDERSON SURVEY, ABSTRACT 147, HAYS COUNTY, TEXAS, BEING A PORTION OF LOT 23, 23 AND 24 SOUTHWEST QUARTERS, PLAT RECORDED IN VOLUME 4, PAGE 45, PLAT RECORDS, GUADALUPE COUNTY, TEXAS, AND VOLUME 1, PAGE 129, PLAT RECORDS, HAYS COUNTY, TEXAS, ALSO BEING A PORTION OF A TRACT OF LAND CALLED MOON AND KAREN L. MOON AND KAREN L. MOON, BY DEED RECORDED IN VOLUME 3117, PAGE 350, OFFICIAL RECORDS, HAYS COUNTY, TEXAS.

PROPOSED LOT CONFIGURATION

PRELIMINARY FOR REVIEW ONLY
 THIS DOCUMENT SHALL NOT BE RECORDED FOR ANY PURPOSE.

AUBREY C. HOLLAND
 REGISTERED PROFESSIONAL LAND SURVEYOR NO. 4493
 SURVEYED, FEBRUARY 13, 2008
 PROJECT NO. 080125 DWG NO. 080125

- CH --- CONTROLLING MOVEMENT
- U --- OVERHEAD UTILITY
- W --- WATER METER
- --- DIRT
- △ --- CLEAN OUT
- --- HOLE

THIS GRAPHIC WORK REPRESENTS THE RESULTS OF THE SURVEY BEING PROVIDED BY TRI-COUNTY LAND SURVEYING, INC. SOLELY FOR THE EXCLUSIVE USE OF THE PARTIES TO THIS SURVEY. IT IS NOT TO BE REPRODUCED, COPIED, OR APPLIED TO ANY OTHER PROJECT WITHOUT THE WRITTEN CONSENT OF TRI-COUNTY LAND SURVEYING, INC. THE PARTIES TO THIS SURVEY ASSUME RESPONSIBILITY FOR COPIES OF THIS SURVEY OTHER THAN THE ORIGINAL. TRI-COUNTY LAND SURVEYING, INC. IS NOT RESPONSIBLE FOR ANY ERRORS OR OMISSIONS IN THIS SURVEY. TRI-COUNTY LAND SURVEYING, INC. 114 NORTH AUSTIN SECUR, TEXAS 78155 SIGNATURE SIGNED IN RED INK. TRI-COUNTY LAND SURVEYING, INC. (800) 378-1155 SURVEYING INC.



Zoning Change ZC-10-20 1311 N. IH 35	
Land Use Map Amendment LUA-10-14 1311 North IH-35	

Administrative Summary:

Applicant: ETR Development
Consulting
5395 Hwy 183 N
Lockhart, Texas 78644

Property Owner: Darren Casey Interest, Inc
814 Arion Parkway, Ste. 200
San Antonio, Texas 78216

The Applicant has submitted a request in writing, attached, to withdraw this request.

List of Attachments:
Withdrawal request

Prepared by
Christine Barton-Holmes, LEED AP Chief Planner February 1, 2011

Name	Title	Date
-------------	--------------	-------------

Holmes, Christine

From: Ed Theriot [ed@etrdevcon.com]
Sent: Friday, January 28, 2011 12:27 PM
To: Holmes, Christine
Subject: RE: IH 35 Rezone/LUA Updates

Christine,

We would like to withdraw our requested zoning and land use map amendment from consideration.

Thank you,

Ed

From: Holmes, Christine [mailto:CHolmes@sanmarcostx.gov]
Sent: Friday, January 28, 2011 11:31 AM
To: Ed Theriot
Subject: RE: IH 35 Rezone/LUA Updates

Hi, Ed,

Yes, you would be able to activate the case, up to six months later. It's at the P&Z's discretion, though.

Thanks,

Christine

Christine Barton-Holmes, LEED AP BD+C
Chief Planner
City of San Marcos, Texas 78666
(512) 393-8238 Direct
(512) 396-9190 Fax
Email: cholmes@sanmarcostx.gov

From: Ed Theriot [mailto:ed@etrdevcon.com]
Sent: Friday, January 28, 2011 9:56 AM
To: Holmes, Christine
Cc: Steed, Phil
Subject: RE: IH 35 Rezone/LUA Updates

Hi Christine,

If we were to withdraw the rezoning request from consideration at the February 8th meeting, could we reactivate the case again at a later date?

Thanks for your help,

Ed

From: Holmes, Christine [mailto:CHolmes@sanmarcostx.gov]
Sent: Thursday, January 27, 2011 10:17 AM
To: ed@etrdevcon.com
Cc: Steed, Phil
Subject: IH 35 Rezone/LUA Updates

Good morning, Ed,

Do you have any updates for us, for the IH 35 rezone/land use amendment? We're working on our reports, and wondered if there was any new information to incorporate.

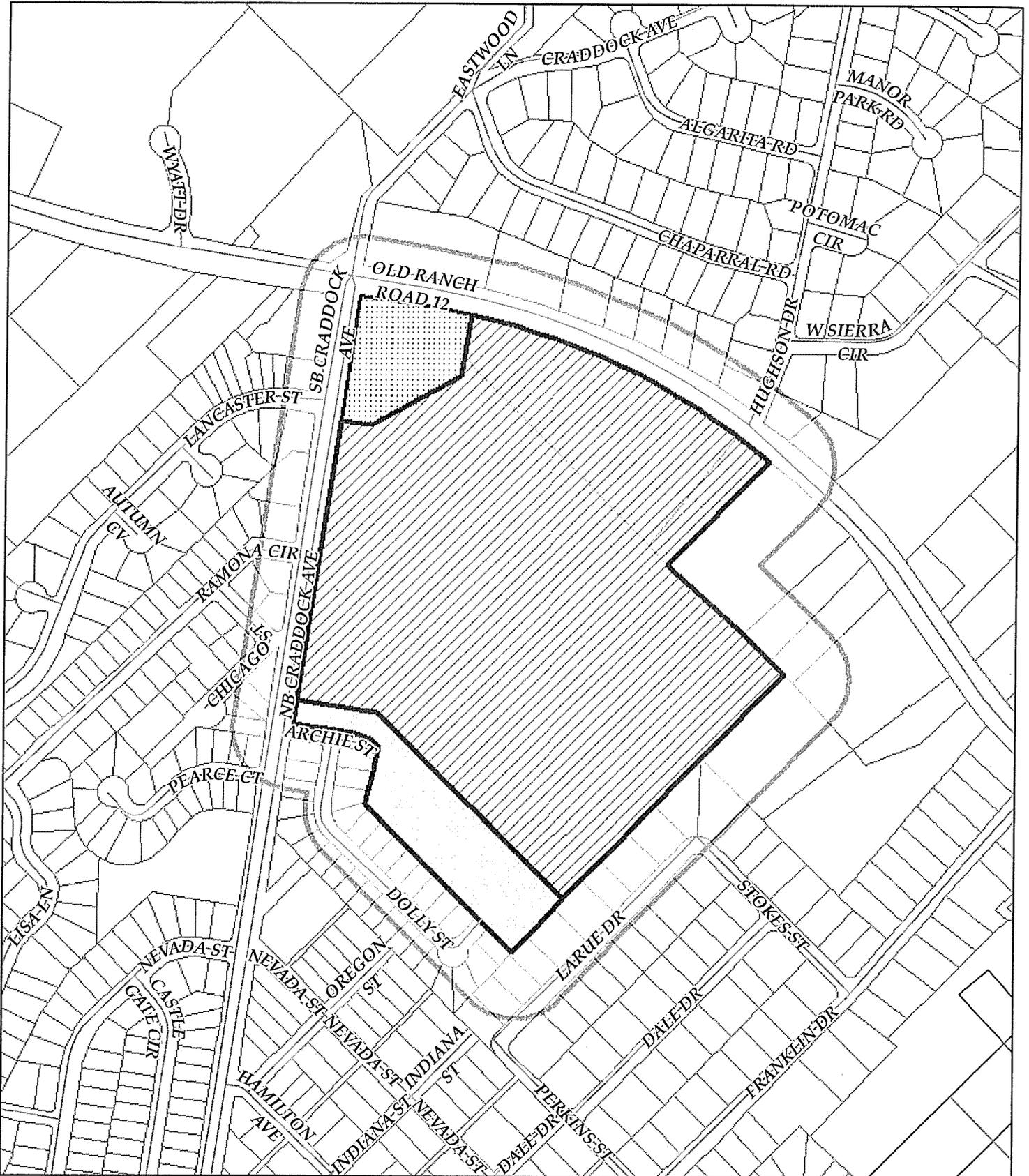
Thanks,

Christine

Christine Barton-Holmes, LEED AP BD+C
Chief Planner
City of San Marcos, Texas 78666
(512) 393-8238 Direct
(512) 396-9190 Fax
Email: cholmes@sanmarcostx.gov

San Marcos, TX ...Business Week Top 10 Places to Raise Kids in the U.S

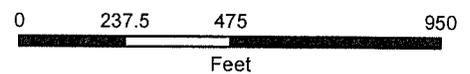
San Marcos, TX ...Business Week Top 10 Places to Raise Kids in the U.S



PDD-10-02
The Retreat at San Marcos
Weatherford and
Gilcrease Tracts
Map Date: 1/14/11

-  Tract 1 - Proposed Multifamily
-  Tract 2 - Proposed Commercial
-  Tract 3 - Proposed Park
-  Notification Buffer

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



**The Retreat at San Marcos
LUA-10-15, LUA-10-16, LUA-10-17,
LUA-10-18, LUA-10-19, ZC-10-21, ZC-10-22,
ZC-10-23, PDD-10-02, TMA-11-01**



Summary:

Applicant:	Retreat Holdings, LLC 148 Old Will Hunter Rd Main Office Athens, GA 30606	ETR Dev. Con., LLC 401 Dryden Lane Buda, Texas 78610
Property Owner:	Jack W. Weatherford 508 Craddock Ave San Marcos TX 78666	Whitetail JV 2001 W. McCarty Ln San Marcos TX 78666

Subject Property:

Legal Description:	48.36 acres out of the E. Clark Survey, Abstract No. 83
Location:	508 Craddock, Weatherford and Gilcrease Tracts
Existing Use of Property:	Vacant/Homesteads
Existing Zoning:	Community Commercial/SF-6
Proposed Use of Property:	Multi-family/Commercial
Proposed Zoning:	Multi-family (MF-12) and Community Commercial (CC), PDD overlay

The applicant requests that these cases be postponed to the February 22nd meeting.

Prepared by: John Foreman	Planner	2/03/2011
Name	Title	Date

Foreman, John

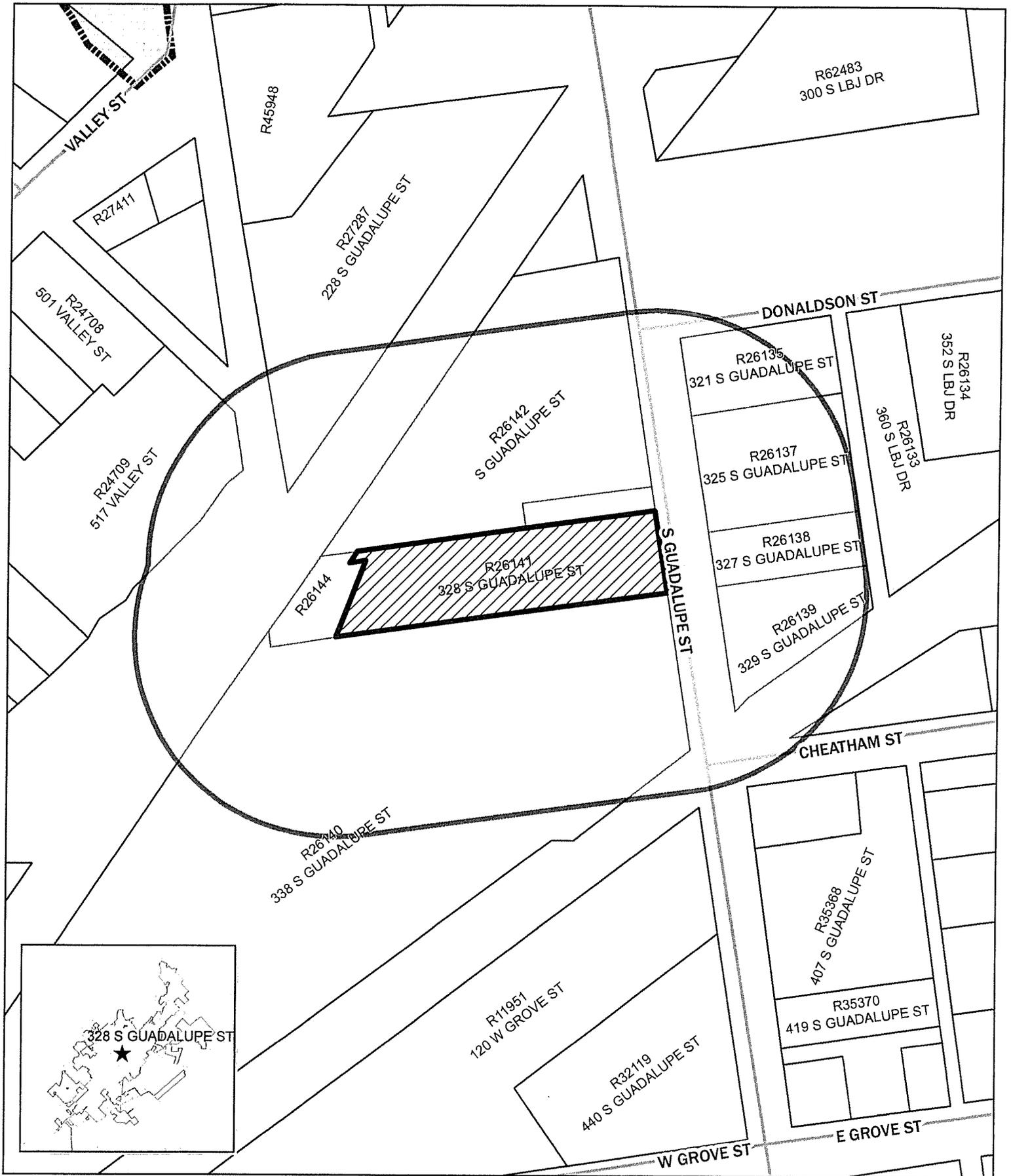
From: Ed Theriot [ed@etrdevcon.com]
Sent: Monday, January 31, 2011 3:31 PM
To: Foreman, John
Cc: Lewis, Matthew; Jon Williams; Thomas Rhodes; Couch, Bill; Steed, Phil
Subject: Retreat PDD

John,

In order to allow time for plan modifications related to our workshop meeting on February 8th, we are hereby requesting a postponement of P&Z consideration of the PDD, LUA, Thoroughfare Plan amendment, and zoning cases until the February 22nd regular meeting.

Thank you,

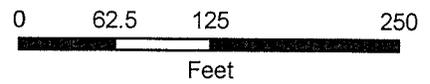
Ed Theriot



ZC-11-01
328 S. Guadalupe
Map Date: 1/11/11

-  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.



Zoning Change ZC-11-01 328 South Guadalupe Street



Administrative Summary:

Applicant: Carlos Hernandez
907 Field Street
San Marcos, Texas 78666

Property Owner: Frank Sanchez
328 South Guadalupe Street
San Marcos, Texas 78666

Notification: Public hearing notification mailed on January 28, 2011

Response: None as of the date of report publication

Property/Area Profile:

Legal Description: 1.572 acres in the BF Donaldson Addition, Block 2, Lot 4A

Location: 328 South Guadalupe Street

Existing Use of Property: Auto repair

Proposed Use of Property: Auto-body repair and painting

Future Land Use Map: Commercial

Existing Zoning: CC/Community Commercial

Proposed Zoning: GC/General Commercial

This request will need to be postponed until the February 22 hearing to allow for additional notice.

Prepared by

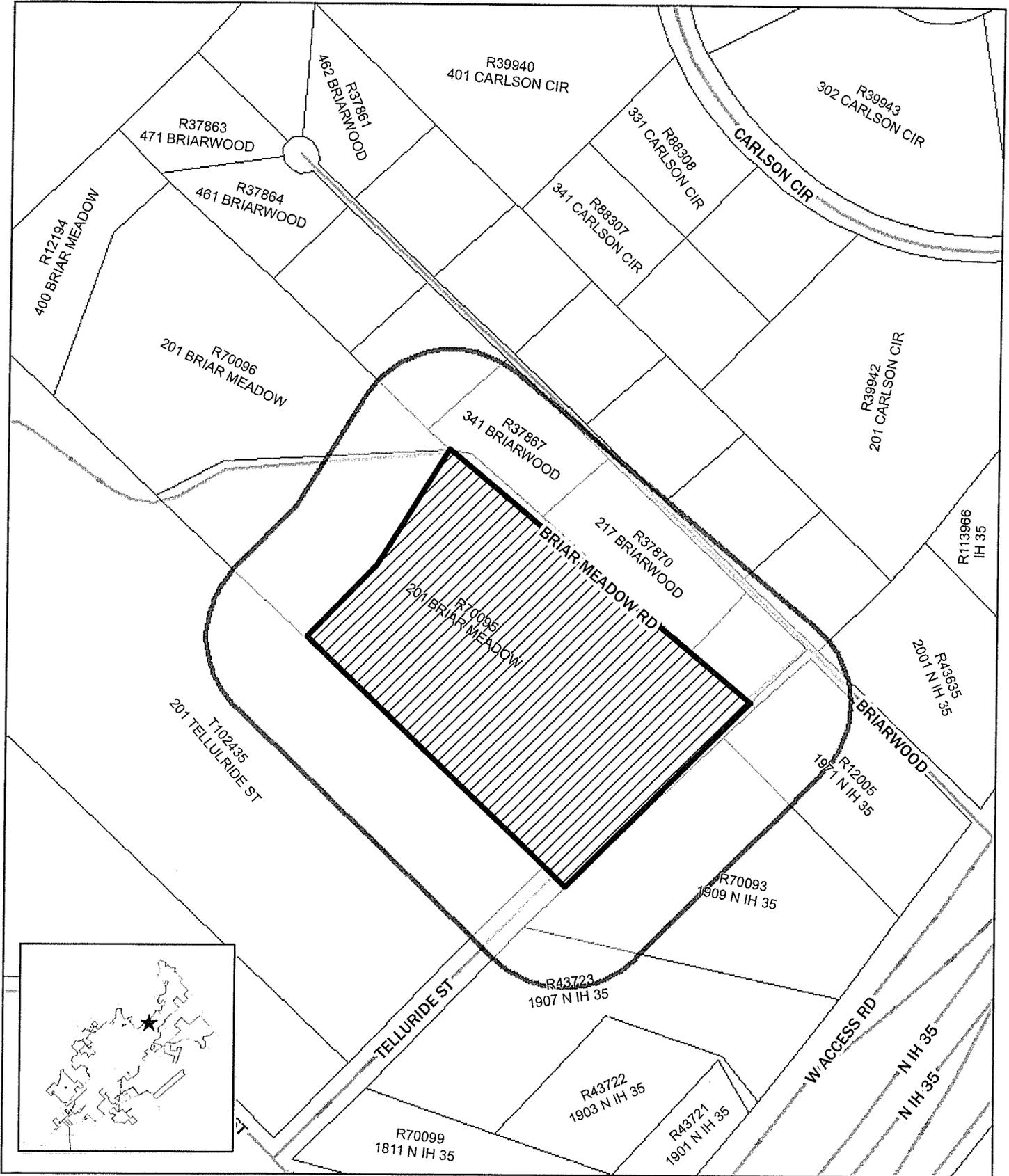
Christine Barton-Holmes, LEED AP Chief Planner

February 3, 2011

Name

Title

Date



LUA-11-01
Aspen Heights
Telluride St
Map Date: 1/27/11

 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.

0 125 250 500
 Feet

N

Land Use Map Amendment LUA-11-01 Aspen Heights



Summary:

The applicant is requesting a Land use Map Amendment from Commercial (C) to Medium Density Residential (MDR) at Telluride Street

Applicant: Aspen Heights
1301 S. Capital TX Hwy, Ste. B-201
Austin, Texas 78746

Property Owner: 90 San Marcos Ltd & DRFM Invt.
1124 Rutherford Dr/6700 Guadalupe
Austin TX, 78758/Austin, TX 78752

Notification: Personal notifications of the public hearing were mailed on to all property owners within 200 feet of the subject property.

Response: None as of date of report publication.

Subject Property:

Location: Telluride Street
Legal Description: N/A, not platted
Sector: N/A. Adjacent to Sector 7

Current Zoning: GC/General Commercial
MF-12/Multifamily

Proposed Zoning:

Current Future Land Use Map Designation: Commercial

Proposed Future Land Use Map Designation: Medium Density Residential

Surrounding Area:

	Current Zoning	Existing Land Use
N of Property	LI	Residential, warehouses
S of Property	N/A, GC	Undeveloped
E of Property	HC	Multifamily, service stations
W of Property	N/A, MF-18	Multifamily residential

Planning Department Analysis:

The subject property is located in northern San Marcos, west of IH 35 and Telluride Street and east of Post Road and the UPRR tracks. This request is proceeding concurrently with two zoning change requests from General Commercial and Future Development to Multifamily/MF-12. The applicant is proposing to develop the site with multifamily residential, similar to the first section of Aspen Heights, which is currently under construction.

Medium Density Residential (MDR) land uses are typically characterized by apartments and condominiums. The site is located adjacent to the south of two large multifamily developments, one of which is nearing completion, and the other, which is the first section of this project, currently under construction. The site is also located in close proximity to a single-family, large-lot residential development. This development, however, is recommended for High Density Residential development in the Future Land Use Map. This area of the city is characterized by duplexes and multifamily developments, and this project would be in keeping with surrounding uses.

Staff has evaluated the request for consistency with the Horizons Master Plan. The site is not within any of the Sector Plans.

Consistent	Neutral	Inconsistent	Horizons Master Plan Policy Statement
X			<p>Policy LU-1-1: The City shall ensure that all land use decisions are in accordance with the vision statement, goals, and policies in the Future Land Use Plan and other elements of the Master Plan.</p> <p><i>Comment: The subject property's proposed land use designation of Medium Density Residential is in keeping with surrounding properties.</i></p>
X			<p>Policy LU-1.21: The City shall encourage new development to locate in areas already served by utilities and other community facilities.</p> <p><i>Comments: Existing city utilities are in place to serve this property, and the proposed apartments would occupy a lot that is currently vacant.</i></p>
X			<p>Policy LU-3.2: The City shall provide safe and adequate housing opportunities to meet the Different housing needs of all income groups of the City's present and future populations. .</p> <p><i>Comment: The proposed change will provide the opportunity for additional, new housing.</i></p>
X			<p>Policy LU-3.3: The City shall provide adequate space in appropriate locations for residential development in order to provide safe and sanitary housing, to meet the housing and social needs for a desired standard of living for the City's present and future population.</p> <p><i>Comment: The proposed change will help provide adequate space in the appropriate location for residential development to meet the housing and social needs for the City's present and future population.</i></p>
X			<p>Policy LU-3.14: The City shall discourage any type of multifamily or single family residential development in such concentrations and expanses that, by accepted planning standards, there are not sufficient amenities to support such development and the quality of life in the area would be diminished.</p>

Consistent	Neutral	Inconsistent	Horizons Master Plan Policy Statement
X			<p>Policy LU-4.1: The City shall determine the need for multi-family dwelling units and shall ensure that the location of these units is compatible with adjacent land uses and is properly buffered and adequately served by roads and public utilities.</p> <p><i>Comment: The proposed duplexes would be located in an area characterized by a mix of duplexes and single-family, and with multifamily in close proximity. This property is adequately served by roads and public utilities.</i></p>
X			<p>Policy LU-4.2: The City shall encourage residential areas, especially higher density uses, have access to shopping, recreation, and work places that are convenient not only for automobile traffic but also for foot and bicycle traffic in order to minimize energy consumption, air pollution, and traffic congestion.</p> <p><i>Comment: The subject property is conveniently located within 1.5 miles of a grocery store, several restaurants, and several banks. Additionally, the property has easy access to IH-35 and the Texas State Tram bus route.</i></p>
X			<p>Policy LU-4.3: The City shall encourage medium and high density residential developments to have direct access to at least collector width streets to accommodate traffic volumes and turning patterns generated by high concentrations of people. They should also be located near major arterials. Low density residential development should not be impacted by heavy traffic generated by medium and high density areas.</p>
X			<p>Policy LU-4.4: The City shall require medium and high density residential developments be located on larger sites to allow the property buffering, adequate parking and landscaping, and enough flexibility in design and layout to insure adequate development.</p>
X			<p>Policy LU-6.8: The City shall recognize that commercial and residential uses are not generally compatible and will discourage residential usage of land in commercial districts except where residential uses are planned as part of a mixed-use concept.</p>
X			<p>Policy LU-6.11: The City shall discourage the zoning or commercial usage of land that has the potential of becoming undesirable strip commercial development, which is characterized by one or more of the following problems:</p> <ul style="list-style-type: none"> a. shallow lots, usually less than two hundred feet deep; b. numerous small ownerships; c. numerous curb cuts for entrances; d. numerous small buildings with no architectural unity; e. little or no landscaping in and around the parking lots; f. limited parking usually restricted to the front setback area or along the street; <p>and/or</p> <ul style="list-style-type: none"> g. the lack of landscape or other buffers, especially in the rear, with the adjacent residential areas exposed to blighting influences.

The applicant's request is a reduction in the intensity of the Future Land Use. Staff considers the request to change land use classification to Medium Density Residential to be supportive of the Horizons Master Plan and recommends approval.

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

The Commission's Responsibility:

The Code requires the Commission to hold a public hearing and receive public comment regarding the proposed Land Use Map Amendment. The Commission's advisory recommendation to the Council is a discretionary decision.

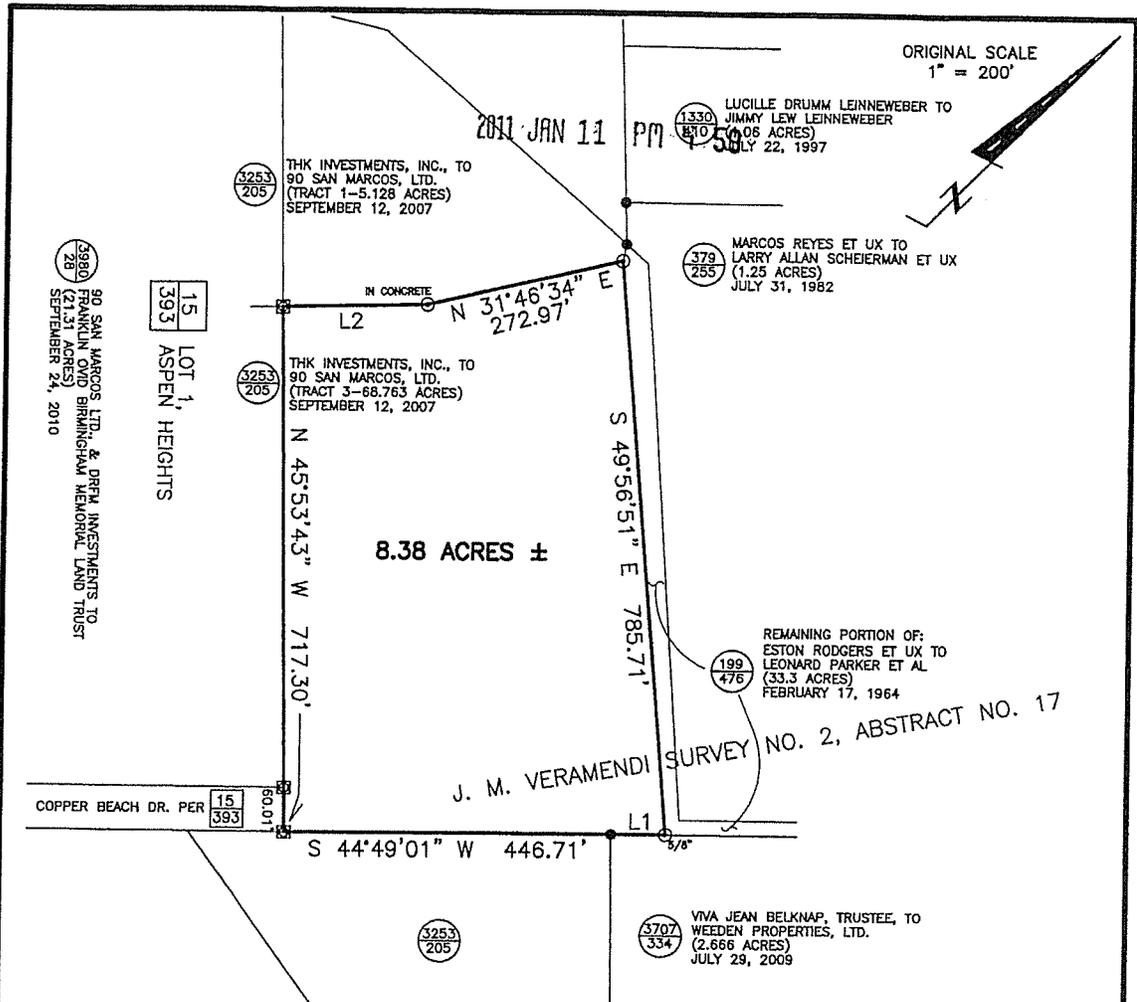
The City Council will ultimately decide whether to approve or deny this request, and will do so through the passage of an ordinance.

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

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

Prepared by:

Christine Barton-Holmes	Chief Planner	January 31, 2011
Name	Title	Date



ORIGINAL SCALE
1" = 200'

2011 JAN 11 PM

1330
870
50
LUCILLE DRUMM LEINWEBER TO
JIMMY LEW LEINWEBER
(1.06 ACRES)
JULY 22, 1997

3253
205
THK INVESTMENTS, INC., TO
90 SAN MARCOS, LTD.
(TRACT 1-5.128 ACRES)
SEPTEMBER 12, 2007

379
255
MARCOS REYES ET UX TO
LARRY ALLAN SCHEIERMAN ET UX
(1.25 ACRES)
JULY 31, 1982

393
28
28
90 SAN MARCOS LTD. & DRUM INVESTMENTS TO
BIRMINGHAM MEMORIAL LAND TRUST
SEPTEMBER 24, 2010

15
393
LOT 1,
ASPEN HEIGHTS

3253
205
THK INVESTMENTS, INC., TO
90 SAN MARCOS, LTD.
(TRACT 3-68.763 ACRES)
SEPTEMBER 12, 2007

8.38 ACRES ±

199
476
REMAINING PORTION OF:
ESTON RODGERS ET UX TO
LEONARD PARKER ET AL
(33.3 ACRES)
FEBRUARY 17, 1964

J. M. VERAMENDI SURVEY NO. 2, ABSTRACT NO. 17

15
393
60.01
COPPER BEACH DR. PER

S 44°49'01" W 446.71'

3707
334
VIVA JEAN BELKNAP, TRUSTEE, TO
WEEDEN PROPERTIES, LTD.
(2.666 ACRES)
JULY 29, 2009

3253
205

LEGEND

- HAYS COUNTY DEED, REAL PROPERTY OR OFFICIAL PUBLIC RECORDS
- HAYS COUNTY PLAT RECORDS
- 1/2" IRON ROD SET WITH PLASTIC CAP STAMPED "BYRN SURVEY"
- 1/2" IRON ROD FOUND OR DIAMETER NOTED
- 1/2" IRON PIPE FOUND OR DIAMETER NOTED
- 1/2" IRON ROD FOUND WITH PLASTIC CAP STAMPED "BYRN SURVEY"

LINE	BEARING	DISTANCE
L1	S 44°54'46" W	74.01'
L2	N 43°39'07" E	198.48'

SURVEYORS NOTES

1. FENCES MEANDER.
2. BEARINGS, DISTANCES AND AREAS IN PARENTHESES ARE FROM RECORD INFORMATION.
3. THE BEARING BASIS FOR THIS SURVEY IS BASED ON THE TEXAS STATE PLANE COORDINATE SYSTEM, SOUTH CENTRAL ZONE, AND REFERS TO GRID NORTH.
4. THIS SURVEY PLAT WAS PREPARED IN CONJUNCTION WITH A LAND DESCRIPTION DATED DECEMBER 30, 2010 PREPARED BY BYRN & ASSOCIATES, INC. OF SAN MARCOS, TEXAS.

TO ASPEN HEIGHTS, EXCLUSIVELY, AND FOR USE WITH THIS TRANSACTION ONLY:

I HEREBY STATE TO THE BEST OF MY SKILL AND KNOWLEDGE THAT THIS PLAT IS TRUE AND CORRECT ACCORDING TO AN ACTUAL SURVEY MADE ON THE GROUND ON DECEMBER 30, 2010 AND THAT ALL PROPERTY CORNERS ARE MONUMENTED AS SHOWN HEREON.

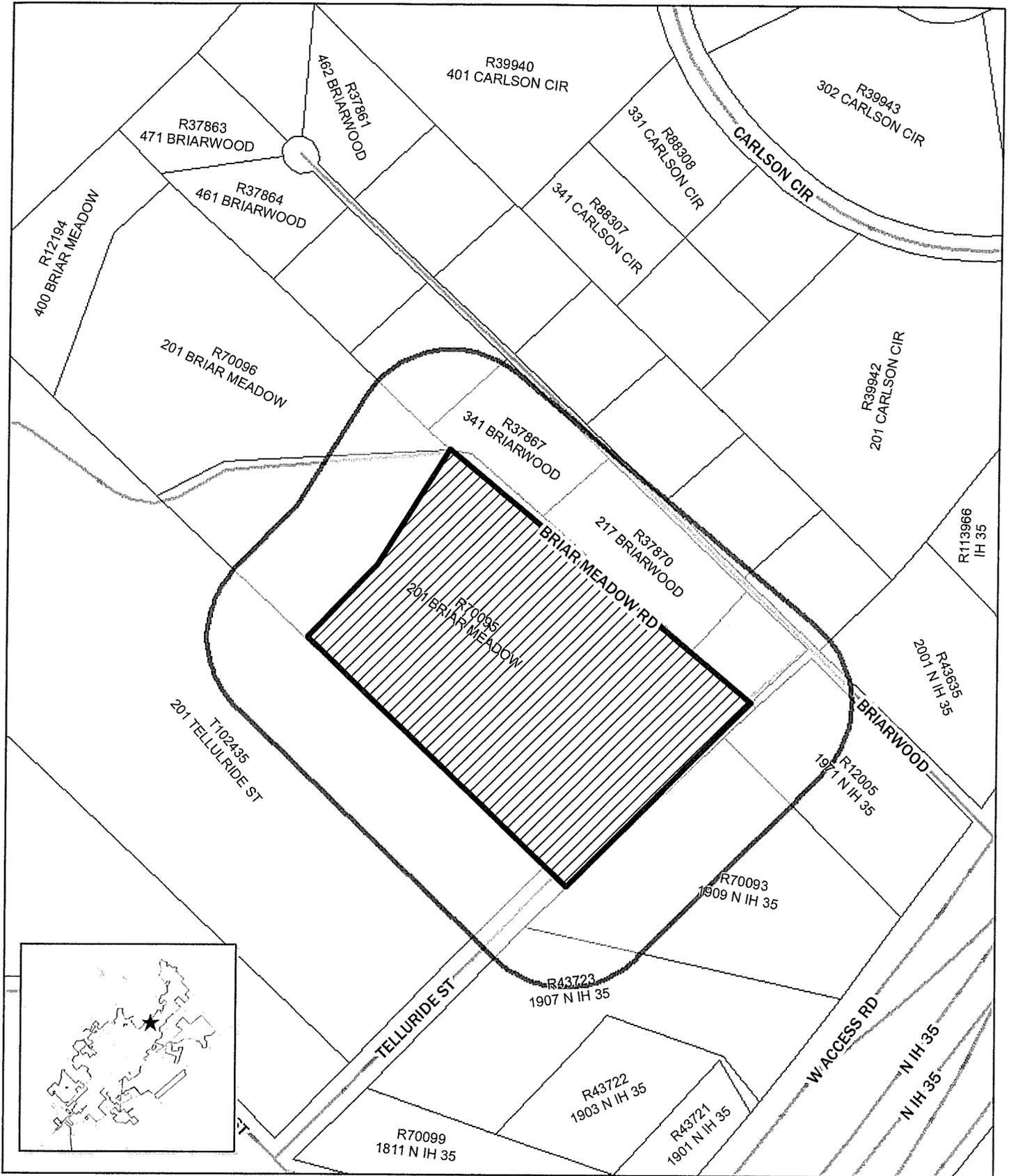


DAVID C. WILLIAMSON, R.P.L.S. NO. 4190

BYRN & ASSOCIATES, INC.
ENGINEERS SURVEYORS
P.O. BOX 1433 SAN MARCOS, TEXAS 78667
PHONE 512-396-2270 FAX 512-392-2945

PLAT OF 8.38 AC., MORE OR LESS,
IN THE J. M. VERAMENDI SURVEY
NO. 2, CITY OF SAN MARCOS,
HAYS COUNTY, TEXAS

CLIENT: ASPEN HEIGHTS
DATE: DECEMBER 30, 2010
OFFICE: BRYANT
CREW: EVERETT, LOZANO, C. SMITH
FB/P/G: 699/22
PLAT NO. 26348-10-14.2-a



ZC-11-02
Aspen Heights
Telluride St
Map Date: 1/27/11

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.

0 125 250 500
 Feet

Zoning Change ZC-11-02 Aspen Heights Telluride St.



Administrative Summary: The applicant is requesting a Zoning Change from General Commercial (GC) to Multifamily (MF-12) at Telluride Street

Applicant: Aspen Heights
1301 S. Capital TX Hwy, Ste. B-201
Austin, Texas 78746

Property Owner: 90 San Marcos Ltd & DRFM Inv.
1124 Rutherford Dr/6700 Guadalupe
Austin TX, 78758/Austin, TX 78752

Notification: Public hearing notification mailed on January 29, 2011

Response: None as of February 2, 2011

Property/Area Profile:

Legal Description: N/A, not platted

Location: Telluride St.

Existing Use of Property: Vacant

Proposed Use of Property: Multi-family

Future Land Use Map: Commercial (Proposed Medium Density Residential)

Existing Zoning: General Commercial (GC)

Proposed Zoning: Multi-family (MF-12)

Utility Capacity: Adequate

Sector: Sector 7

Area Zoning and Land Use Pattern:

	Zoning	Existing Land Use	Future Land Use
N of Property	Unzoned	Single-Family Residential	High-Density Residential
S of Property	GC	Commercial	Commercial
E of Property	GC	Commercial	Commercial
W of Property	MF-12	Apartments (under construction)	Medium-Density Residential

Case Overview

The applicant is requesting a zoning change for 8.38 acres, more or less, from General Commercial (GC) to Multifamily (MF-12).

The subject property is located one lot west of IH 35. This request, along with ZC-11-03, is for the second phase of the Aspen Heights apartment development. Phase One of Aspen Heights is located to the southwest, and Briarwood Court, a large-lot residential development outside the city limits, is located to the north. The request is proceeding concurrently with a Future Land Use Map Amendment. The request is located in Sector 7.

Planning Department Analysis

Section 1.5.1.5 of the Land Development Code (LDC) establishes guidance criteria for use by the Planning and Zoning Commission to evaluate zoning changes. The consistency of this proposed change to the criteria is summarized below:

Evaluation		Criteria (LDC 1.5.1.5)
Consistent	Inconsistent	
X		<p>Change implements the policies of the adopted Master Plan, including the land use classification on the Future Land Use Map and any incorporated sector plan maps.</p> <p><i>Comment: The requested zoning category is consistent with the proposed Future Land Use Map designation. Please see report for Future Land Use Map Amendment case for evaluation with master plans.</i></p>
N/A	N/A	<p>Consistency with any development agreement in effect</p> <p><i>Comment: No development agreements are in effect for this property.</i></p>
X		<p>Whether the uses permitted by the proposed change and the standards applicable to such uses will be appropriate in the immediate area of the land to be reclassified</p> <p><i>Comment: The immediate area is predominately multi-family, with the exception of the Briarwood subdivision to the north. Screening and buffering requirements in the LDC are intended to ensure compatibility with this area.</i></p> <p><i>The request does not extend to IH 35, which maintains the commercial zoning along the interstate. Retaining some commercial or mixed-use zoning in this area is vital as the population grows because demand will increase for local services.</i></p>
X		<p>Whether the proposed change is in accord with any existing or proposed plans for providing public schools, streets, water supply, sanitary sewers, and other public services and utilities to the area</p> <p><i>Comment: Utility availability appears to be adequate.</i></p>
X		<p>Other factors which substantially affect the public health, safety, morals, or general welfare</p> <p><i>Comment: Staff has not identified other issues affecting health, safety, or welfare.</i></p>

Planning Department Recommendation:

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

The Commission's Responsibility:

The Commission is required by law to hold a public hearing and receive public comment regarding the proposed zoning. After considering the public input, the Commission is charged with making an advisory recommendation to the City Council regarding the request. The City Council will ultimately decide whether to approve or deny the zoning change request. The Commission's advisory recommendation to the Council is a discretionary decision.

The Commission's advisory recommendation to the Council is a discretionary decision. Section 1.5.1.5 charges the Commission and the Council to consider:

- (1) Whether the proposed zoning amendment implements the policies of the adopted Master Plan, including the land use classification on the Future Land Use Map and any incorporated sector plan maps;
- (2) Whether there is a development agreement in effect;
- (3) Whether the uses permitted by the proposed change and the standards applicable to such uses will be appropriate in the immediate area of the land to be reclassified;
- (4) Whether the proposed change is in accord with any existing or proposed plans for providing public schools, streets, water supply, sanitary sewers, and other public services and utilities to the area; and
- (5) Other factors which substantially affect the public health, safety, morals, or general welfare.

Prepared by

John Foreman

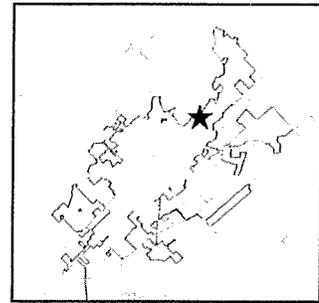
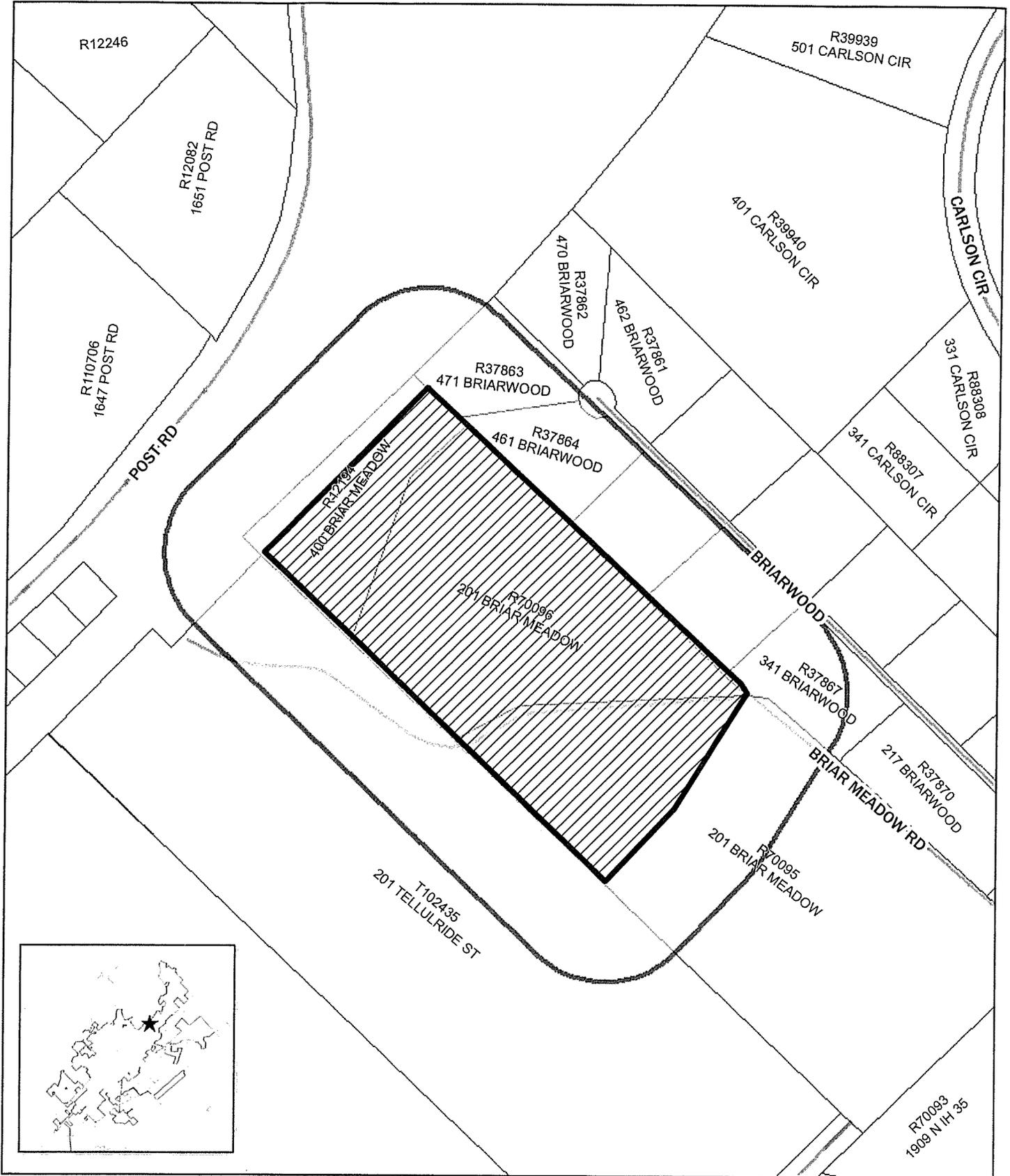
Planner

February 2, 2011

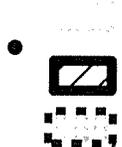
Name

Title

Date



LUA-11-02
Aspen Heights
Telluride St
Map Date: 1/27/11

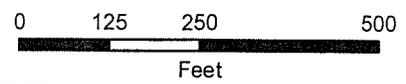


Notification Buffer
(200 feet)

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.



Land Use Map Amendment

LUA-11-02

Aspen Heights



Summary:

The applicant is requesting a Land use Map Amendment from High Density Residential (HDR) to Medium Density Residential (MDR) at Telluride Street

Applicant:

Aspen Heights
1301 S. Capital TX Hwy, Ste. B-201
Austin, Texas 78746

Property Owner:

90 San Marcos Ltd & DRFM Invt.
1124 Rutherford Dr/6700 Guadalupe
Austin TX, 78758/Austin, TX 78752

Notification:

Personal notifications of the public hearing were mailed on to all property owners within 200 feet of the subject property.

Response:

None as of date of report publication.

Subject Property:

Location:

Telluride Street

Legal Description:

N/A, not platted

Sector:

7

Current Zoning:

FD/Future Development

Proposed Zoning:

MF-12/Multifamily

Current Future Land Use Map Designation:

High Density Residential

Proposed Future Land Use Map Designation:

Medium Density Residential

Surrounding Area:

	Current Zoning	Existing Land Use
N of Property	LI	Residential, warehouses
S of Property	N/A, GC	Undeveloped
E of Property	HC	Multifamily, service stations
W of Property	N/A, MF-18	Multifamily residential

Planning Department Analysis:

The subject property is located in northern San Marcos, west of IH 35 and east of Telluride Street and Post Road. This request is proceeding concurrently with two zoning change requests from General Commercial and Future Development to Multifamily/MF-12. The applicant is proposing to develop the site with multifamily residential, similar to the first section of Aspen Heights, which is currently under construction.

Medium Density Residential (MDR) land uses are typically characterized by apartments and condominiums. The site is located adjacent to the south of two large multifamily developments, one of which was recently completed, and the other, which is the first section of this project, which is under construction. The site is also located in close proximity to a single-family, large-lot residential development. This development, however, is recommended for High Density Residential development in the Future Land Use Map. This area of the city is characterized by duplexes and multifamily developments, and this project would be in keeping with surrounding uses.

Staff has evaluated the request for consistency with the Horizons Master Plan and the Sector 7 Plan. Medium Density Residential is recommended for just over 6% of the total area of Sector 7.

Consistent	Neutral	Inconsistent	Horizons Master Plan Policy Statement
X			<p>Policy LU-1-1: The City shall ensure that all land use decisions are in accordance with the vision statement, goals, and policies in the Future Land Use Plan and other elements of the Master Plan.</p> <p><i>Comment: The subject property's proposed land use designation of Medium Density Residential is in keeping with surrounding properties.</i></p>
X			<p>Policy LU-1.21: The City shall encourage new development to locate in areas already served by utilities and other community facilities.</p> <p><i>Comments: Existing city utilities are in place to serve this property, and the proposed apartments would occupy a lot that is currently vacant.</i></p>
X			<p>Policy LU-3.2: The City shall provide safe and adequate housing opportunities to meet the Different housing needs of all income groups of the City's present and future populations. .</p> <p><i>Comment: The proposed change will provide the opportunity for additional, new housing.</i></p>
X			<p>Policy LU-3.3: The City shall provide adequate space in appropriate locations for residential development in order to provide safe and sanitary housing, to meet the housing and social needs for a desired standard of living for the City's present and future population.</p> <p><i>Comment: The proposed change will help provide adequate space in the appropriate location for residential development to meet the housing and social needs for the City's present and future population.</i></p>
X			<p>Policy LU-3.14: The City shall discourage any type of multifamily or single family residential development in such concentrations and expanses that, by accepted planning standards, there are not sufficient amenities to support such development and the quality of life in the area would be diminished.</p>
X			<p>Policy LU-4.1: The City shall determine the need for multi-family dwelling units and shall ensure that the location of these units is compatible with adjacent land uses and is property buffered and adequately served by roads and public utilities.</p> <p><i>Comment: The proposed duplexes would be located in an area characterized by a mix of duplexes and single-family, and with multifamily in close proximity. This property is adequately served by roads and public utilities.</i></p>

Consistent	Neutral	Inconsistent	Horizons Master Plan Policy Statement
X			<p>Policy LU-4.2: The City shall encourage residential areas, especially higher density uses, have access to shopping, recreation, and work places that are convenient not only for automobile traffic but also for foot and bicycle traffic in order to minimize energy consumption, air pollution, and traffic congestion.</p> <p><i>Comment: The subject property is conveniently located within 1.5 miles of a grocery store, several restaurants, and several banks. Additionally, the property has easy access to IH-35 and the Texas State Tram bus route.</i></p>
X			<p>Policy LU-4.3: The City shall encourage medium and high density residential developments to have direct access to at least collector width streets to accommodate traffic volumes and turning patterns generated by high concentrations of people. They should also be located near major arterials. Low density residential development should not be impacted by heavy traffic generated by medium and high density areas.</p>
X			<p>Policy LU-4.4: The City shall require medium and high density residential developments be located on larger sites to allow the property buffering, adequate parking and landscaping, and enough flexibility in design and layout to insure adequate development.</p>
X			<p>Policy LU-6.8: The City shall recognize that commercial and residential uses are not generally compatible and will discourage residential usage of land in commercial districts except where residential uses are planned as part of a mixed-use concept.</p>
X			<p>Policy LU-6.11: The City shall discourage the zoning or commercial usage of land that has the potential of becoming undesirable strip commercial development, which is characterized by one or more of the following problems:</p> <ul style="list-style-type: none"> a. shallow lots, usually less than two hundred feet deep; b. numerous small ownerships; c. numerous curb cuts for entrances; d. numerous small buildings with no architectural unity; e. little or no landscaping in and around the parking lots; f. limited parking usually restricted to the front setback area or along the street; <p>and/or</p> <ul style="list-style-type: none"> g. the lack of landscape or other buffers, especially in the rear, with the adjacent residential areas exposed to blighting influences.

Consistent	Neutral	Inconsistent	Sector 7 Plan Sector Goals
X			Install pedestrian and bicycle facilities on Aquarena Springs, Mill, Uhland, Post, Thorpe, Lime Kiln, Hopkins and along the Blanco River.
X			Assure future development meets the provisions of the Transportation Master Plan, particularly roadway connectivity, pedestrian and cycling facilities.

The applicant's request is a reduction in the intensity of the Future Land Use. Staff considers the request to change land use classification to Medium Density Residential to be supportive of the Horizons Master Plan and the Sector 7 Plan and recommends approval.

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

The Commission's Responsibility:

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

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

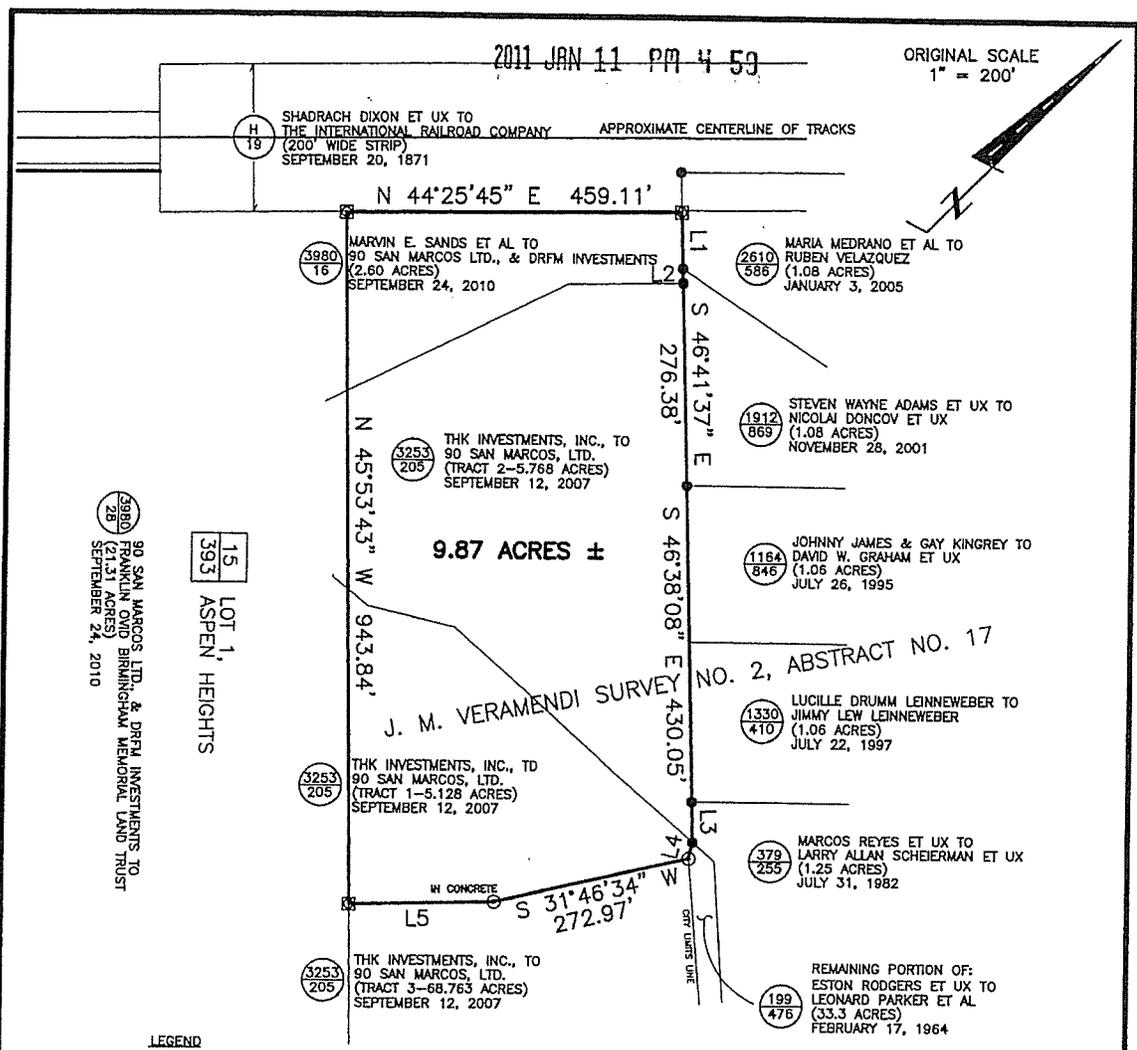
- Whether the amendment is consistent with the policies of the Master Plan that apply to the map being amended;
- The nature of any proposed land use associated with the map amendment; and,
- Whether the amendment promotes the orderly and efficient growth and development of the community and furthers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

Prepared by:

Christine Barton-Holmes	Chief Planner	January 31, 2011
Name	Title	Date

2011 JAN 11 PM 4 59

ORIGINAL SCALE
1" = 200'



15
393
LOT 1,
ASPEN HEIGHTS

3980
28
90 SAN MARCOS LTD., & DRFM INVESTMENTS TO
FRANKLIN OVID BIRMINGHAM MEMORIAL LAND TRUST
SEPTEMBER 24, 2010

3980
16
MARVIN E SANDS ET AL TO
90 SAN MARCOS LTD., & DRFM INVESTMENTS
SEPTEMBER 24, 2010

3253
205
THK INVESTMENTS, INC., TO
90 SAN MARCOS, LTD.
(TRACT 2-5.768 ACRES)
SEPTEMBER 12, 2007

3253
205
THK INVESTMENTS, INC., TO
90 SAN MARCOS, LTD.
(TRACT 1-5.128 ACRES)
SEPTEMBER 12, 2007

3253
205
THK INVESTMENTS, INC., TO
90 SAN MARCOS, LTD.
(TRACT 3-68.763 ACRES)
SEPTEMBER 12, 2007

2610
586
MARIA MEDRANO ET AL TO
RUBEN VELAZQUEZ
(1.08 ACRES)
JANUARY 3, 2005

1912
869
STEVEN WAYNE ADAMS ET UX TO
NICOLAI DONCOV ET UX
(1.08 ACRES)
NOVEMBER 28, 2001

1184
846
JOHNNY JAMES & GAY KINGREY TO
DAVID W. GRAHAM ET UX
(1.06 ACRES)
JULY 26, 1995

1330
410
LUCILLE DRUMM LEINNEWEBER TO
JIMMY LEW LEINNEWEBER
(1.06 ACRES)
JULY 22, 1997

379
255
MARCOS REYES ET UX TO
LARRY ALLAN SCHEIERMAN ET UX
(1.25 ACRES)
JULY 31, 1982

199
476
REMAINING PORTION OF:
ESTON RODGERS ET UX TO
LEONARD PARKER ET AL
(33.3 ACRES)
FEBRUARY 17, 1964

LEGEND

- HAYS COUNTY DEED, REAL PROPERTY OR OFFICIAL PUBLIC RECORDS
- HAYS COUNTY PLAT RECORDS
- 1/2" IRON ROD SET WITH PLASTIC CAP STAMPED "BYRN SURVEY"
- 1/2" IRON ROD FOUND OR DIAMETER NOTED
- 1/2" IRON PIPE FOUND OR DIAMETER NOTED
- 1/2" IRON ROD FOUND WITH PLASTIC CAP STAMPED "BYRN SURVEY"

LINE	BEARING	DISTANCE
L1	S 46°47'39" E	76.59'
L2	S 46°23'02" E	19.97'
L3	S 46°34'55" E	55.83'
L4	S 32°29'44" E	23.27'
L5	S 43°39'07" W	198.48'

SURVEYORS NOTES

1. FENCES MEANDER.
2. BEARINGS, DISTANCES AND AREAS IN PARENTHESES ARE FROM RECORD INFORMATION.
3. THE BEARING BASIS FOR THIS SURVEY IS BASED ON THE TEXAS STATE PLANE COORDINATE SYSTEM, SOUTH CENTRAL ZONE, AND REFERS TO GRID NORTH.
4. THIS SURVEY PLAT WAS PREPARED IN CONJUNCTION WITH A LAND DESCRIPTION DATED DECEMBER 30, 2010 PREPARED BY BYRN & ASSOCIATES, INC. OF SAN MARCOS, TEXAS.

TO ASPEN HEIGHTS, EXCLUSIVELY, AND FOR USE WITH THIS TRANSACTION ONLY:

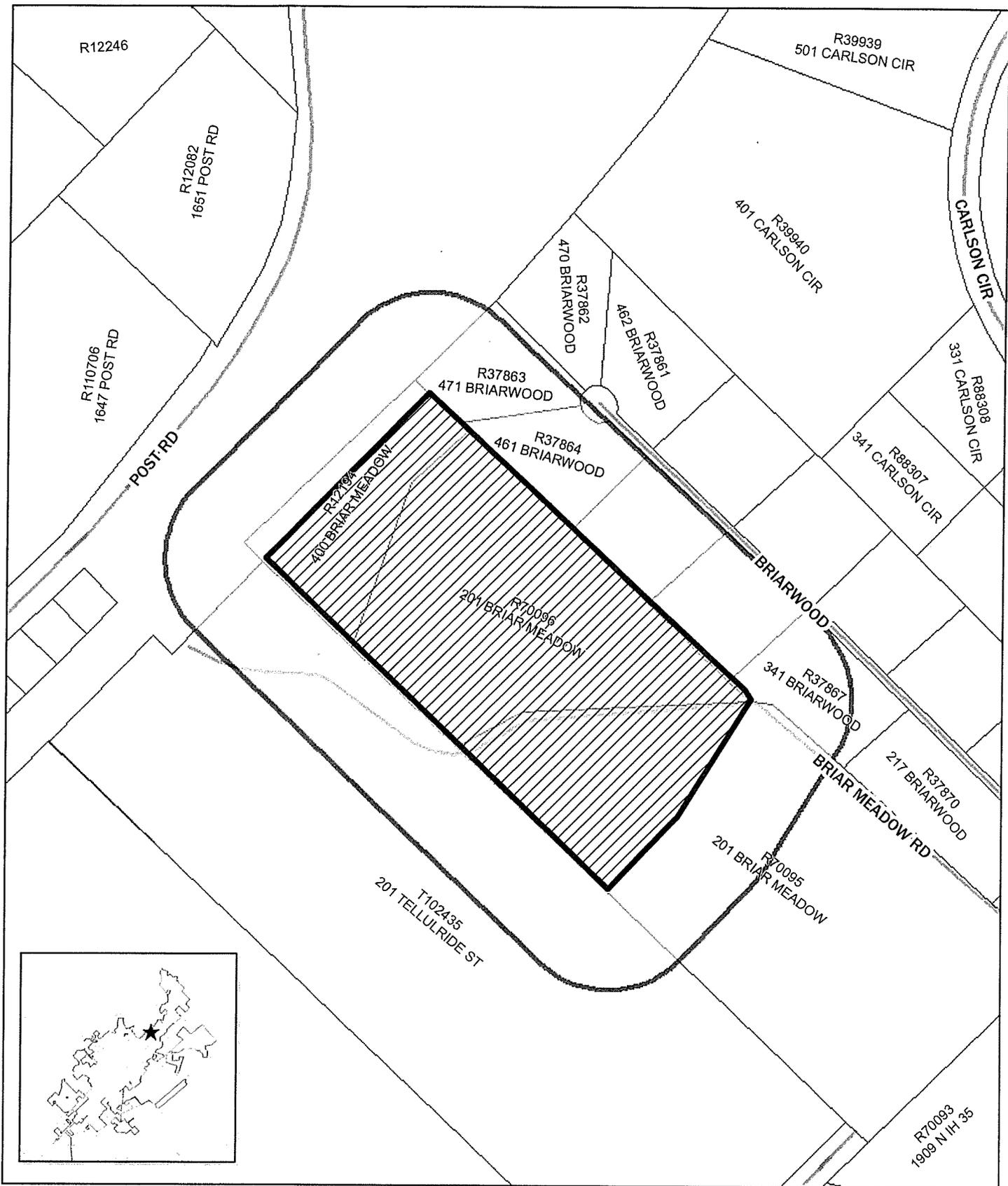
I HEREBY STATE TO THE BEST OF MY SKILL AND KNOWLEDGE: THAT THIS PLAT IS TRUE AND CORRECT ACCORDING TO AN ACTUAL SURVEY MADE ON THE GROUND ON DECEMBER 30, 2010 AND THAT ALL PROPERTY CORNERS ARE MONUMENTED AS SHOWN HEREON.

STATE OF TEXAS
REGISTERED
DAVID C. WILLIAMSON, R.P.L.S. NO. 4190
LAND SURVEYOR

BYRN & ASSOCIATES, INC.
ENGINEERS SURVEYORS
P.O. BOX 1433 SAN MARCOS, TEXAS 78667
PHONE 512-396-2270 FAX 512-392-2945

PLAT OF 9.87 AC., MORE OR LESS,
IN THE J. M. VERAMENDI SURVEY
NO. 2, CITY OF SAN MARCOS,
HAYS COUNTY, TEXAS

CLIENT: ASPEN HEIGHTS
DATE: DECEMBER 30, 2010
OFFICE: BRYANT
CREW: EVERETT, LOZANO, C. SMITH
FB/PG: 699/22
PLAT NO. 26348-10-14.1-d



ZC-11-03
Aspen Heights
Telluride St
Map Date: 1/27/11

-  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.



Zoning Change ZC-11-03 Aspen Heights Telluride St.



Administrative Summary: The applicant is requesting a Zoning Change from Future Development (FD) to Multifamily (MF-12) at Telluride Street

Applicant: Aspen Heights
1301 S. Capital TX Hwy, Ste. B-201
Austin, Texas 78746

Property Owner: 90 San Marcos Ltd & DRFM Invt.
1124 Rutherford Dr/6700 Guadalupe
Austin TX, 78758/Austin, TX 78752

Notification: Public hearing notification mailed on January 29, 2011

Response: None as of February 2, 2011

Property/Area Profile:

Legal Description: N/A, not platted

Location: Telluride St.

Existing Use of Property: Vacant

Proposed Use of Property: Multi-family

Future Land Use Map: Commercial (Proposed Medium Density Residential)

Existing Zoning: Future Development (FD)

Proposed Zoning: Multi-family (MF-12)

Utility Capacity: Adequate

Sector: Adjacent to Sector 7

Area Zoning and Land Use Pattern:

	Zoning	Existing Land Use	Future Land Use
N of Property	-	Post Road/Railroad	
S of Property	GC (MF-12 Proposed)	Vacant	Commercial (Medium Density Residential proposed)
E of Property	Unzoned	Single-family residential	High Density Residential
W of Property	MF-12	Apartments (under construction)	Medium-Density Residential

Case Overview

The applicant is requesting a zoning change for 9.87 acres, more or less, from Future Development (FD) to Multifamily (MF-12).

The subject property is located two lots west of IH 35. This request, along with ZC-11-02, is for the second phase of the Aspen Heights apartment development. Phase One of Aspen Heights is located to the south, and Briarwood Court, a large-lot residential development outside the city limits, is located to the northeast. The request is proceeding concurrently with a Future Land Use Map Amendment. The subject property was annexed in 2010 in preparation for development and is located adjacent to Sector 7.

Planning Department Analysis

Section 1.5.1.5 of the Land Development Code (LDC) establishes guidance criteria for use by the Planning and Zoning Commission to evaluate zoning changes. The consistency of this proposed change to the criteria is summarized below:

Evaluation		Criteria (LDC 1.5.1.5)
Consistent	Inconsistent	
X		<p>Change implements the policies of the adopted Master Plan, including the land use classification on the Future Land Use Map and any incorporated sector plan maps.</p> <p><i>Comment: The requested zoning category is consistent with the proposed Future Land Use Map designation. Please see report for Future Land Use Map Amendment case for evaluation with master plans.</i></p>
N/A	N/A	<p>Consistency with any development agreement in effect</p> <p><i>Comment: No development agreements are in effect for this property.</i></p>
X		<p>Whether the uses permitted by the proposed change and the standards applicable to such uses will be appropriate in the immediate area of the land to be reclassified</p> <p><i>Comment: The immediate area is predominately multi-family, with the exception of the Briarwood subdivision to the north. Screening and buffering requirements in the LDC are intended to ensure compatibility with this area.</i></p>
X		<p>Whether the proposed change is in accord with any existing or proposed plans for providing public schools, streets, water supply, sanitary sewers, and other public services and utilities to the area</p> <p><i>Comment: Utility availability appears to be adequate.</i></p>
X		<p>Other factors which substantially affect the public health, safety, morals, or general welfare</p> <p><i>Comment: Staff has not identified other issues affecting health, safety, or welfare.</i></p>

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

The Commission's Responsibility:

The Commission is required by law to hold a public hearing and receive public comment regarding the proposed zoning. After considering the public input, the Commission is charged with making an advisory recommendation to the City Council regarding the request. The City Council will ultimately decide whether to approve or deny the zoning change request. The Commission's advisory recommendation to the Council is a discretionary decision.

The Commission's advisory recommendation to the Council is a discretionary decision. Section 1.5.1.5 charges the Commission and the Council to consider:

- (1) Whether the proposed zoning amendment implements the policies of the adopted Master Plan, including the land use classification on the Future Land Use Map and any incorporated sector plan maps;
- (2) Whether there is a development agreement in effect;
- (3) Whether the uses permitted by the proposed change and the standards applicable to such uses will be appropriate in the immediate area of the land to be reclassified;
- (4) Whether the proposed change is in accord with any existing or proposed plans for providing public schools, streets, water supply, sanitary sewers, and other public services and utilities to the area; and
- (5) Other factors which substantially affect the public health, safety, morals, or general welfare.

Prepared by

John Foreman

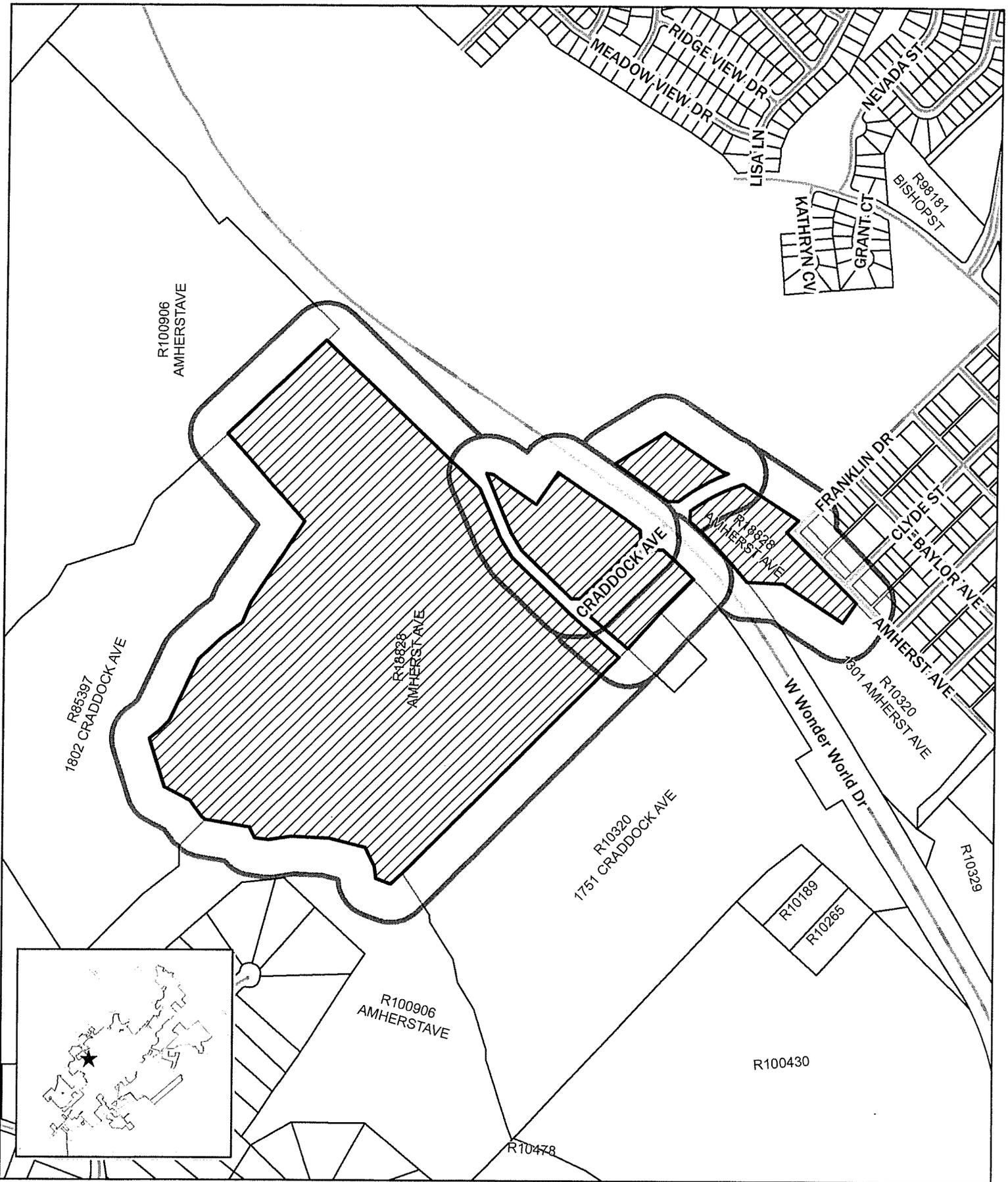
Planner

February 2, 2011

Name

Title

Date



PDA-10-02

C&G Development

R18828/R124345

Map Date: 1/14/11

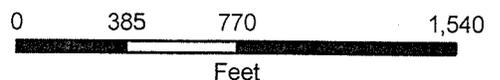


Notification Buffer
(200 feet)

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.



PDA-10-02

C&G Development



Applicant Information:

Property Owner/ Applicant: C&G Development
Ed Caffey and Danny Gribbon
PO BOX 1171
San Marcos, Texas 78667

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

Subject Property:

Summary: This site is located adjacent to Wonder World Drive near its intersection with Craddock Avenue. C&G Development own each of the four corners at the intersection of Wonder World Drive and Craddock. For the exception of the northeast corner of Craddock Avenue and Wonder World Drive, the C&G property is located outside the city limits. The applicant is requesting approval of a Petition for a Development Agreement to provide for the future annexation of approximately 93.5 acres.

Traffic / Transportation: The subject property has frontage on Wonder World Drive and Craddock Avenue. The development of this property will require dedication and improvements to be made to an access easement that is currently referred to as Park Road (runs parallel to Wonder World Drive). Access to the property will be limited to Craddock Avenue or Park Road.

Utility Capacity: The City of San Marcos will provide water and wastewater service to the site. A utility service agreement is expected for the coordination of infrastructure construction in this area. The applicant will incur the expense of extending any required infrastructure to the site at the time of development.

Case Summary :

The purpose of a petition for approval of a development agreement is to determine whether the City wishes to authorize, by binding contract, a plan of development for land located in the City's extraterritorial jurisdiction. The plan will prescribe the following which will govern the development of the land for the term of the agreement, to provide for

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

- land uses
- environmental standards
- development standards
- public facilities standards

The applicant is requesting approval of a Petition for a Development Agreement to provide for the future annexation of approximately 93.5 acres located adjacent to Wonder World Drive near its intersection with Craddock Avenue. The proposed agreement will establish land use regulations applicable both before and after annexation. The applicant is proposing the dedication of approximately 36 acres to the City of San Marcos for preservation and parkland use as part of the development agreement.

The applicant is proposing a commercial and residential component of the development with an allowable project density of 260 units based on the following:

- A maximum of 180 units, 12 units per acre, permitted within the 15 acre Commercial Area. The commercial areas are identified as the 3 corners of Craddock Avenue and Wonder World Drive located outside the city limits (the northwest corner, the southwest corner and the southeast corner)
- A maximum of 80 units, 1 unit per acre, over the remainder of the project.

The applicant is requesting the maximum number of units may be distributed evenly throughout the project or may be allocated to any portion of the property utilizing a clustered development plan. The property will be subject to 20% impervious cover requirements for property located over the Edwards Aquifer Recharge Zone.

Staff Analysis and Recommendation

Staff has evaluated the request and the conceptual land plan submitted by the applicant and has made the following observations:

- Development of the property under the proposed agreement and land use plan appears to implement the policies of the Master Plan;
- Extension of public facilities and services to the property under the agreement does not appear to compromise the City's ability to timely provide adequate public facilities to property inside the City or degrade environmental resources provided appropriate water quality control measures are utilized and approved mitigation measures including storm water best management practices.
- The schedule of annexation proposed in the agreement appears to further the City's policies on expansion and growth of the City;
- The agreement does not appear to create future barriers to annexation of land contiguous to the area subject to the agreement; and

- The agreement does not appear to promote economic development that undermines or inhibits economic development within the City center or other economic centers of the community;

Staff received a phone call from a concerned citizen regarding fill work that was done on the subject property. Staff investigated the concern and identified that permits for the work were never applied for or issued. Code Enforcement staff has cited the owner for the fill work done on the property. However, as of the date of this memo the property owner has not made contact with Code Enforcement staff to come into compliance. As a result staff is recommending that the City not proceed with the negotiation of development agreement with the property owner until the required permits with the City and TCEQ have been issued.

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

The Commission's Responsibility:

According to Section 2.2.1.2 of the Land Development Code the Planning and Zoning Commission are required to consider the following issues when deciding on a petition for a development agreement:

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

- (i) The agreement should not promote economic development that undermines or inhibits economic development within the City center or other economic centers of the community;
- (j) Proposed development transfers should substantially further protection of water quality and result in compatible development on the receiving site.

List of Attachments:

Application
Land Use Plan

Prepared By:

Sofia Nelson	Senior Planner	January 31, 2011
Name	Title	Date

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



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

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

The owners of C & G Development, Ltd are requesting approval of a Petition for a Development Agreement to provide for the future annexation of approximately 93.5 acres of land located adjacent to Wonder World Drive near its intersection with Craddock Avenue. The proposed agreement will also establish land use regulations applicable both before and after annexation and will provide for the dedication of approximately 36 acres to the City of San Marcos for preservation and parkland use.

The agreement also will establish a modified schedule for the preparation of related development process applications. The agreement will require that the submittal of a Watershed Protection Plan, Traffic Impact Analysis, and Concept Plan be submitted prior to the initiation of the first plat application on all or any portion of the property. A proposed draft of this agreement is attached for your review.

We believe that the proposed terms of the draft agreement are beneficial to both the City of San Marcos and C & G Development and we request your favorable consideration. In accordance with Section 2.2.1.2. of the Land Development Code, the P&Z and Council are required to consider the following issues when deciding on this petition:

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

This agreement will provide for the designation of a 15 acre commercial node located at the intersection of Wonder World Drive and Craddock Avenue. Approximately 12.5 acres of this tract is located outside of the current City limits. In addition, the agreement will indicate the clustering of the allowable number of residential dwelling units on the upland area of the tract. The creation of the commercial node and the total number of dwelling units proposed are consistent with the recommendations of the Master Plan for the City. Also, in support of the policies of the City's Master Plan, this agreement will provide for the dedication of land for preservation and parkland use. This parkland and preservation area will be adjacent to the City's existing Purgatory Creek Greenspace.

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

C & G Development is currently working with the City of San Marcos and adjoining property owners to facilitate the extension of public utilities to the site in accordance with City regulations and policies.

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

The subject property is located over the Edwards Aquifer Recharge Zone and is subject to all local and state rules regarding water quality treatment, impervious cover limitations, and aquifer protection features. Variations to these standards are not proposed.

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

Any future development of this tract will utilize the water and wastewater services of the City of San Marcos.

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

The agreement will provide for the immediate annexation and zoning of the 12.5 acres proposed for commercial use located at the intersection of Wonder World Drive and Craddock Avenue. A concurrent application will also be initiated on the 5.6 acre area that is currently in the City limits. The remaining portion of the land will be annexed and zoned at the time a plat is proposed on the property.

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

The agreement does not propose that utilities will be provided to the site without annexation occurring. Additionally, any costs associated with capital improvements provided to the site will be apportioned in accordance with City utility policies and regulations.

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

The proposed annexation schedule will provide for the orderly growth and expansion of the City limits as the property develops.

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

The agreement will not establish a barrier to the future annexation of land contiguous to the tract.

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

The agreement provides for the orderly development of uses identified in the Master Plan of the City of San Marcos.

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

The allowance for the clustering of the residential density will increase opportunities to improve water quality, reduce impervious cover, and preserve sensitive areas.

