

**MINUTES OF THE REGULAR MEETING OF THE  
SAN MARCOS PLANNING AND ZONING COMMISSION  
COUNCIL CHAMBERS, CITY HALL  
November 8, 2011**

**1. Present**

**Commissioners:**

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

**City Staff:**

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

**2. Call to Order and a Quorum is Present.**

With a quorum present, the Regular Meeting of the San Marcos Planning & Zoning Commission was called to order by Chair Taylor at 6:00 p.m. on Tuesday November 8, 2011 in the Council Chambers, City Hall, City of San Marcos, 630 E. Hopkins, San Marcos, Texas 78666.

**3. Chairperson's Opening Remarks.**

Chair Taylor welcomed the audience.

4. **NOTE:** *The Planning & Zoning Commission may adjourn into Executive Session to consider any item listed on this agenda if a matter is raised that is appropriate for Executive Session discussion. An announcement will be made of the basis for the Executive Session discussion. The Planning and Zoning Commission may also publicly discuss any item listed on the agenda for Executive Session;*

**5. Citizen Comment Period**

Diane Wassenich provided a handout regarding some record Floods in Central Texas. Ms. Wassenich gave a brief overview of the handout. She pointed out that the Blanco River can cause the San Marcos River to backup and she asked the Commission not to overlook the areas that can flood in San Marcos.

Jeff Lowe stated that he has lived across the street from Hillside Ranch for twenty years and that he is opposed to the zoning change request. He provided an email requesting the item be denied. Mr. Lowe felt that the request should be postponed for three weeks which would give him enough time to get a petition submitted.

## Consent Agenda

6. **LUA-11-20 (1620 Old Ranch Road 12).** Consider postponement until November 22, 2011 of a request by ETR Development Consulting, LLC., on behalf of RF Sowell Jr., for a land use map amendment from Low Density Residential (LDR) to Commercial (C) for approximately 2.119 acres located at 1620 Ranch Road 12.
7. **ZC-11-31 (1620 Old Ranch Road 12).** Consider postponement until November 22, 2011 of a request by ETR Development Consulting, LLC., on behalf of RF Sowell Jr., for a zoning change from Single Family Residential-6 (SF-6) to Community Commercial (CC) for approximately 2.119 acres located at 1620 Ranch Road 12.
8. **PVC-11-05 (830 MLK Drive- lot depth to width plat variance).** Consider a request for postponement by Carlos Hernandez, on behalf of Virgilio Altamirano, for a subdivision plat variance to section 6.7.2.1(j) of the Land Development Code which requires that lot depth shall not exceed three times the lot width for lots platted after March 10, 1975 for a property located at 830 Martin Luther King Drive.

**MOTION:** Upon a motion made by Commissioner Seebeck and a second by Commissioner Bishop, the Commission approved on consent to postpone LUA-11-20, ZC-11-31, and PVC-11-05.

## Consideration

9. **LUA-11-19 (1311 N. IH-35 Luxury Apartments).** Hold a public hearing and consider a request by ETR Development Consulting, LLC., on behalf of Darren Casey Interests, Inc., for a land use map amendment from Commercial (C) to High Density Residential (HDR) for approximately 2.547 acres located at 1311 N. IH-35.
10. **ZC-11-30 (1311 N. IH-35 Luxury Apartment).** Hold a public hearing and consider a request by ETR Development Consulting, LLC., on behalf of Darren Casey Interests, Inc., for a zoning change from General Commercial (GC) to Multi-Family-24 (MF-24) for approximately 2.547 acres located at 1311 N. IH-35.
11. **PDD-11-09 (1311 N. IH-35 Luxury Apartment).** Hold a public hearing and consider a request by ETR Development Consulting, LLC., on behalf of Darren Casey Interests, Inc., for a Planned Development District (PDD) with a base zoning designation of MF-24 for approximately 10.735 acres located at 1311 N. IH-35.

Chair Taylor opened the public hearing for LUA-11-19, ZC-11-30 and PDD-11-09. Diane Wassenich, 11 Tanglewood, expressed concerns regarding water irrigation.

**MOTION:** Upon a motion made by Commissioner Bishop and a second by Commissioner Seebeck, the Commission voted five (5) for and three (3) opposed to approve LUA-11-19, ZC-11-30, and PDD-11-09, with the following conditions on PDD-11-09: 1) In order to help facilitate the improved streetscape the two storm water detention facilities shall be natural in shape and be designed as bioretention facilities per the City of Austin design criteria; and 2) Both street tree wells and parking lot tree wells shall be designed for collection of stormwater. The motion carried. Commissioners Ehlers, Kelsey and Wood voted no.

12. **PDD-11-10 (Lime Kiln Rd- The Preserve at Windemere).** Hold a public hearing and consider a request by Vigil and Associates, on behalf of Robert L. Haug and Vinson J. Wood, for a Planned Development District (PDD) with a base zoning district of Single Family Rural Residential (SF-R) for approximately 149.14 acres located off of Lime Kiln Road.

Chair Taylor opened the public hearing. Diane Wassenich, 11 Tanglewood, addressed the petition that was submitted prior to the meeting and she also addressed her concern that flooding will occur on the single entrance to the property. Ms. Wassenich pointed out concerns regarding the safety of endangered species in the area.

Bill Guajardo, addressed concerns regarding caves on the property. He stated he has recently moved to the area and asked what is being done to preserve and protect the water area. Joel Richardson, Project Engineer, responded to Mr. Guajardo and explained that there is one cave and that the issue has been

addressed with TCEQ. Mr. Richardson also pointed out that the proper reports have been submitted to staff and approved. There were no additional comments and the public hearing was closed.

**MOTION:** Upon a motion made by Commissioner Bishop and a second by Commissioner Seebeck, the Commission voted three (3) for and five (5) opposed to deny PDD-11-10. The motion failed. Commissioners Bryan, Seebeck, Morris, Taylor and Wood voted no.

**MOTION:** Upon a motion made by Commissioner Carter and a second by Commissioner Bryan, the Commission voted five (5) for and three (3) opposed to approve PDD-11-10. The motion carried. Commissioners Bishop, Ehlers, and Kelsey voted no.

### **Public Hearing**

**13. CUP-11-17 (Garcia's- Dutton).** Hold a public hearing and consider a request by Juan Ybarra, on behalf of Garcia's Mexican Restaurant, for a Conditional Use Permit to allow the sale and consumption of Beer and Wine at 1917 Dutton Drive Suite 200.

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

**MOTION:** Upon a motion made by Commissioner Wood and a second by Commissioner Seebeck the Commission voted all in favor to approve CUP-11-17. The motion carried unanimously.

**14. LUA-11-22 (2002 Pecan Street).** Hold a public hearing and consider a request by Russell Grifo for a land use map amendment from Low Density Residential (LDR) to Medium Density Residential (MDR) for approximately 3.5 acres at 2002 Pecan Street.

**15. ZC-11-36 (2002 Pecan Street).** Hold a public consider a request by Russell Grifo for a zoning change from Single Family Residential-6 (SF-6) to Duplex Restricted (DR) for approximately 3.5 acres at 2002 Pecan Street.

Chair Taylor opened the public hearing for LUA-11-22 and ZC-11-36. Diane Wassenich, 11 Tanglewood, stated that if she were in the Commissioners shoes that she would ask for the research done on special modeling of the Blanco River which shows exactly what the flooding situation is in this particular area. She commended staff saying that she was happy to hear them talk of the reality of flooding in the area.

Shelton Ubanks, 1904 Pecan Street, stated that Mr. Grifo has owned property which has been used as a fraternity house. He expressed concerns regarding trash as well as issues with parties. Mr. Ubanks spoke in opposition to the request and pointed out that duplexes would increase problems.

Julie Escamilla, 1903 Pecan Street, concurred with Mr. Ubanks. She stated that she was opposed to the request and read a letter she wrote to the Commission.

Russell Grifo, the applicant, stated that he understood that the property is in the floodplain but felt that the flooding issue could be addressed. Mr. Grifo explained that the same issues would arise if the changes were not approved. He stated that he was available to answer questions.

**MOTION:** Upon a motion made by Commissioner Ehlers and a second by Commissioner Wood the Commission voted all in favor to deny LUA-11-22 and ZC-11-36. The motion carried unanimously. Commissioner Morris recused himself prior to the public hearing.

**16. LUA-11-23 (1410 N. LBJ – Hillside Ranch Phase 2).** Hold a public hearing and discuss a request by ETR Development Consulting, on behalf of Jared Shenk and Dan Anderson, for a land use map amendment from Low Density Residential (LDR) to Medium Density Residential (MDR) for 10.925 acres located 1410 N. LBJ Drive.

**17. ZC-11-37 (1410 N. LBJ- Hillside Ranch Phase 2).** Hold a public hearing and discuss a request by ETR Development Consulting, on behalf of Jared Shenk and Dan Anderson, for a zoning change from Single Family Residential (SF-6) to Multi-Family-12 (MF-12) for 10.925 acres located at 1410 N. LBJ Drive.

**18. PDD-11-11 (1410 N. LBJ- Hillside Ranch Phase 2).** Hold a public hearing and discuss a request by ETR Development Consulting, on behalf of Jared Shenk and Dan Anderson, for a Planned Development District Overlay (PDD), with a base zoning of MF-12 for 10.925 acres located at 1410 N. LBJ Drive.

Chair Taylor opened the public hearing. Diane Wassenich, 11 Tangelwood, stated this she lived in this neighborhood which is one of the nicest in town. She said the project is lovely if placed somewhere else and felt the apartments should end on Holland. Ms. Wassenich added that adding apartments will depreciate property values while urging the Commission to stand up for San Marcos and hold out for what San Marcos should be. She said this project is not for a single family residential area.

Francis Horne, 204 Oakridge, stated that he developed Elm Hill Court and asked the Commission to keep in mind growth. He said Ms. Wassenich is correct about the encroachment on single family homes. Mr. Horne pointed out that he has suggested to the developer that they concentrate on building in the back away from single family while leaving the front area open.

Cynthia Gonzales, 1113 Elm Hill Court, thanked the applicant for their presentation but stated that the residents have only been involved with the process for two weeks. She was concerned with the increase in traffic this project could bring and she stated that she would like a study on the trails. She also suggested that alternate egress locations were looked into.

Paul Henrich, 79 Elm Hill Court, said this was the first he has heard about the request. He felt that the project would decrease property values. He stated that he does not think putting apartments next to residential is a good idea.

Cynthia Alba-Love, 106 Elm Hill Court, said that she had been a resident since 1995 and that when she purchased the home there was a vacant lot behind hers; she felt that she would like to raise her family here. She stated that she did not know that there would ever be apartments behind her property. She was concerned with the increase in waste water and traffic adding that every weekend there are increased issues. She proposed that the greenspace be used to build single family homes.

Jane Hughson, 1600 N. LBJ Drive, she said when citizens purchased homes on Elm Court they did not expect apartments to be developed and stated that if it has to be multifamily then the applicant needs to justify the change.

Jason Moyer, 15 Tangelwood, stated that he has seen change in the neighborhood and is fighting to keep the integrity of the neighborhood. He also stated that this is the first time he has been notified. Mr. Moyer spoke in opposition to the request and expressed his concerns that there has been an increase in the police force as a response to the parties in the area. He felt that the apartments would not help the issues currently in the area and expressed concerns about the buffer zone.

Patricia Alva, 107 Norcrest, stated after reviewing past P&Z minutes there are more zoning changes to accommodate apartments in the city. She gave a brief estimate of costs per unit and said apartments are not quality homes. She said the area is great to build single family homes for young professional and suggested incentives be given so that professional people will purchase homes in the area. She also was concerned with increased vehicles and traffic and asked the Commission to consider keeping the area single family residential.

Greg Vineyard, Elm Court, compared the left and right side of the property and asked what will families do sitting on their desk and with the view of the apartments.

RC White said that he had lived on Elm Hill Court for 21 years and explained that the people in the neighborhood like having extra lots with trees and the space between lots. He expressed concerns with traffic and the number of students currently in the neighborhood. Mr. White said that he does not object to the request but expressed concerns with no sidewalks with thousands of students walking through the area.

Bill Guajardo 113 Elm Hill Court, said there are several issues he would like the Commission to consider (i.e. construction, noise, dust, majority of residents will be students, etc.). He said he hears a lot of noise

from Hillside Ranch apartments and feels that a buffer is not going to be sufficient. He stated that the developer should build for the sake of neighborhood and not the tax base. Mr. Guajardo expressed his concerns with no sidewalks and low lighting in the area.

Jared Schenk, said that he has been the Hillside Ranch owner since 2005. He explained they want to be good citizens, are members of ACT with Lisa Dvorak, and that they have had a dialogue with staff for 18 months. Mr. Schenk said he understands the sentiment of the neighbors. Mr. Schenk added that they have done a Traffic Impact Analysis study. He concluded stating that they want a development that the city will be proud of.

Pat Courley, 104 Elm Hill Court, said she is not in support of student housing and said that she felt that the quality of life in San Marcos was being lost.

There was discussion only; action to be taken on November 22, 2011. Commissioners discussed the proximity of the project to single family residential and to the Texas State University campus. Commissioner Bishop recused himself prior to the public hearing.

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

There was a 10 minute intermission. Commissioner Bryan left the meeting at 7:45 p.m.

**19. A-11-02 (Advance St).** Hold a public hearing and consider a request by Frances Minerva Moreno to abandon a 171.35 foot by 50 foot portion of Advance Street located adjacent to 804 and 800 Bishop Avenue.

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

**MOTION:** Upon a motion made by Commissioner Wood and a second by Commissioner Morris the Commission voted all in favor to approve A-11-02. The motion carried unanimously.

**20. Land Development Code (LDC Revisions).** Discuss a revision to Section 7.4.2.3 of the Land Development Code- General Requirements for Sidewalks.

Commissioner Wood expressed a need to not mandate sidewalks or fee if owner decides not to develop sidewalks.

**21. Discussion Items.**

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

**Development Services Report**

- Mr. Lewis informed the Commission about the Joint Planning and Zoning Commission and City Council Meeting on November 16<sup>th</sup> at 6:15 p.m. in the Activity Center. Commissioner Morris asked that the new P&Z appointees be invited to attend the Joint Meeting.
- Mr. Lewis announced that Sofia Nelson was leaving the City to take the position as Director of Planning in Kyle. He also announced that John Foreman was promoted to Chief Planner and introduced Alison Brake as the new Planner on staff.

**Commissioners' Report.**

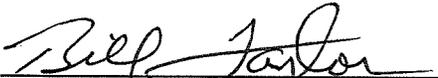
There were no reports.

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

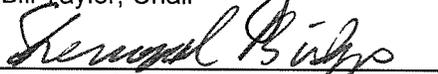
There were no questions from the public.

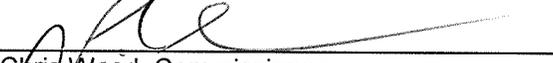
23. Adjourn.

Chair Taylor adjourned the Planning and Zoning Commission at 9:14 p.m. on Tuesday, November 8, 2011.

  
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Bill Taylor, Chair

  
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Bucky Couch, Vice Chair

  
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Sherwood Bishop, Commissioner

  
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Chris Wood, Commissioner

  
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Kenneth Ehlers, Commissioner

  
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Carter Morris, Commissioner

  
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Curtis Seebeck, Commissioner

  
\_\_\_\_\_  
Travis Kelsey, Commissioner

  
\_\_\_\_\_  
Randy Bryan, Commissioner

ATTEST:

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

**CITY OF SAN MARCOS**  
**DISCLOSURE AFFIDAVIT- REAL PROPERTY**

STATE OF TEXAS  
COUNTY OF HAYS

The undersigned member of the City of San Marcos P. Z (name of City Board, Commission, etc.) states under oath as follows:

I have a substantial interest in real property that may be involved in a vote or decision of the governmental body described above, and it is reasonably foreseeable that the vote or decision will have a special economic effect on the value of the property, distinguishable from its effect on the public.

The real property is described as follows:

LWA-11-22 + ZC-11-36

I acknowledge that my interest in this real property has a fair market value of \$2,500 or more.

The vote or decision involving this interest in real property is on the \_\_\_\_\_, 20\_\_ agenda of the governmental body, and the subject matter of the vote or decision is as follows:

Check if applicable:

\_\_\_\_\_ The interest described above belongs to a person related to me in the first degree by consanguinity (natural kinship) or affinity (marriage). Relative's name and relation:

EXECUTED this 8 day of November, 20 11.

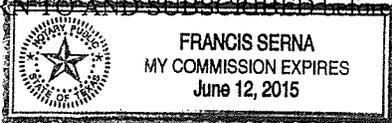
Signature

Printed Name

Carter Morris

~~SWORN TO AND SUBSCRIBED to for me~~ on this

8 day of November, 20 11.



Notary Public, State of Texas

Notary Stamp:

FILED this 9 day of November, 20 11.

City Clerk of the City of San Marcos

**CITY OF SAN MARCOS**  
**DISCLOSURE AFFIDAVIT- REAL PROPERTY**

STATE OF TEXAS  
COUNTY OF HAYS

The undersigned member of the City of San Marcos Planning & Zoning Com. (name of City Board, Commission, etc.) states under oath as follows:

I have a substantial interest in real property that may be involved in a vote or decision of the governmental body described above, and it is reasonably foreseeable that the vote or decision will have a special economic effect on the value of the property, distinguishable from its effect on the public.

The real property is described as follows:

Vacant Lot at 120 Elm Hill Court, San Marcos 78666

I acknowledge that my interest in this real property has a fair market value of \$2,500 or more.

The vote or decision involving this interest in real property is on the Nov. 8, 2011 and the Nov. 22, 2011 agenda of the governmental body, and the subject matter of the vote or decision is as follows:

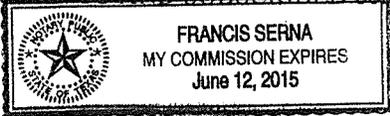
Hillside Ranch, Phase II PDD-11-11

Check if applicable:

The interest described above belongs to a person related to me in the first degree by consanguinity (natural kinship) or affinity (marriage). Relative's name and relation:

EXECUTED this 8 day of November, 2011.

Signature Sherwood Bishop  
Printed Name Sherwood Bishop

SWORN TO AND SUBSCRIBED before me on this 8 day of November, 2011.  
  
Francis Serina  
Notary Public, State of Texas

Notary Stamp:

FILED this 9 day of November, 2011.  
Emilio Peltigler  
City Clerk of the City of San Marcos