

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

**1. Present**

**Commissioners:**

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

**City Staff:**

Matthew Lewis, Interim Director  
Francis Serma, Recording Secretary  
Sofia Nelson, Senior Planner  
Phil Steed, Planner  
John Foreman, Planner  
Christine Holmes, Chief 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 February 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**

There were no citizen comments.

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.

Chair Taylor opened the public hearing. Commissioner Kelsey recused himself from the discussion and action on Item #6.

Scott Gregson, 120 W. Hopkins, President of the Downtown Association. He explained that he presided over a meeting of the Downtown Association and the Main Street Advisory Board held the night before. He thanked Sofia Nelson, City Staff for attending the meeting and giving a presentation. In addition, thanked Commissioner Couch for attending the meeting. Mr. Gregson informed the Commission that they have before them a joint recommendation from both the Downtown Association and the Main Street Advisory Board. He stated they do not have a problem with the unrestricted CUPSs increasing from 12 to 14 and the restricted be set at 15. Mr. Gregson explained that they would prefer a new business to begin as a restaurant and not a bar. He pointed out that there are several restaurants downtown that are successful without serving alcohol. Mr. Gregson recommended that a new business begin as a restaurant for one year, at that time they have an option to apply for a conditional use permit to serve alcohol.

Dawna Figol, 333 Pinnacle Pkwy, New Braunfels, TX stated they are property owners in downtown on the square. Ms. Figol explained that they purchased a couple of buildings downtown that needed restoration. She stated that they have put a lot of time, work, effort and money into the buildings. Ms. Figol explained that when they purchased the properties, they were under the original 4 hour rule, then the rule changed and it was very difficult to find tenants that were willing to lease the property under the new rule. She added that all three buildings have been impacted by the 50% rule and have affected the value of the buildings. Ms. Figol explained that they were happy with the four hour rule when they purchased the property. She suggested that the regulations regarding a CUP be invalid once the TABC license has expired for 6 months or the building has been vacant for 6 month is changed to a building permit for 6 months. In addition, regarding the unrestricted license stays with address of buildings and restricted stay with business in place, she prefers to leave the restricted license with the property.

**MOTION:** Upon a motion made by Commissioner Seebeck and a second by Commissioner Bishop, the Commission voted all in favor to approve postpone action on revisions to Section 4.3.4.2 of the Land Development Code to the February 22, 2011 Planning and Zoning Commission meeting. The motion carried unanimously.

**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.

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

**MOTION:** Upon a motion made by Commissioner Bishop and a second by Commissioner Couch the Commission voted all in favor to approve CUP-11-01 with the conditions that no additional auto repair services are allowed on site without a new CUP; property may not be used as a tow yard, vehicle storage, or impoundment; facility shall be landscaped in the front of the property and screened from adjacent residential uses; the applicant shall plat the property; and the site shall meet the LDC requirement for parking. The motion carried unanimously.

**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.

Chair Taylor opened the public hearing. Karen Moon, 830 Crest Circle Dr., said that properties in the area do not meet the 3:1 ratio. Ms. Moon added that she feels that she is not setting a precedent because properties in the area have already set a precedent. She thanked the Commission for their time.

Benny Baker, 645 Ridge Drive, San Marcos Texas stated he is the owner of lot 24. He said the bottom line is that she does not meet the requirements. Mr. Baker added that lots were created as 1 acre tracts and feels that granting the variance will set a precedent. He added that if the requirements are not met, he does not want a home on the property.

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

**MOTION:** Upon a motion made by Commissioner Couch and a second by Commissioner Seebeck, the Commission voted eight (8) for and one (1) opposed to deny PVC-10-08 with the findings that there are no special circumstances causing the hardship that does not similarly affect all or most properties in the vicinity of the petitioner's land. Addressed in items 1 & 2 of the required variance criteria; the hardship or inequity suffered by the petitioner is causing wholly or in substantial part by the petitioner addressed in item 7 of the required variance criteria; the request is based exclusively on the petitioner's desire for increased financial gain from the property addressed in item 8 of the required variance criteria. The motion carried. Commissioner Seebeck opposed.

**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

**MOTION:** Upon a motion made by Commissioner Seebeck and a second by Commissioner Bishop the Commission voted all in favor to all the withdrawal by the applicant of LUA-10-14. The motion carried unanimously.

**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

**MOTION:** Upon a motion made by Commissioner Seebeck and a second by Commissioner Bishop the Commission voted all in favor to all the withdrawal by the applicant of ZC-10-20. The motion carried unanimously.

**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 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 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 discuss a request 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.

Chair Taylor opened the public hearing for 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; and TMA-11-01.

Chair Taylor opened the public hearing. John Williams, Williams and Associates, Athens GA, stated he is representing Retreat Partners. Mr. Williams thanks staff for their time and comments from the Commission. He felt that they are headed in the right direction and stated that it is their intent to submit a revised report before next Tuesday. There were no additional citizen comments and the public hearing was closed.

**MOTION:** Upon a motion made by Commissioner Bishop and a second by Commissioner Bryan the Commission voted all in favor to postpone LUA-10-15 to the February 22, 2011 Planning and Zoning Commission meeting. The motion carried unanimously.

**MOTION:** Upon a motion made by Commissioner Bishop and a second by Commissioner Seebeck the Commission voted all in favor to postpone LUA-10-16 to the February 22, 2011 Planning and Zoning Commission meeting. The motion carried unanimously.

**MOTION:** Upon a motion made by Commissioner Bishop and a second by Commissioner Seebeck the Commission voted all in favor to postpone LUA-10-17 to the February 22, 2011 Planning and Zoning Commission meeting. The motion carried unanimously.

**MOTION:** Upon a motion made by Commissioner Bishop and a second by Commissioner Bryan the Commission voted all in favor to postpone LUA-10-18 to the February 22, 2011 Planning and Zoning Commission meeting. The motion carried unanimously.

**MOTION:** Upon a motion made by Commissioner Bishop and a second by Commissioner Bryan the Commission voted all in favor to postpone LUA-10-19 to the February 22, 2011 Planning and Zoning Commission meeting. The motion carried unanimously.

**MOTION:** Upon a motion made by Commissioner Bishop and a second by Commissioner Seebeck the Commission voted all in favor to postpone ZC-10-21 to the February 22, 2011 Planning and Zoning Commission meeting. The motion carried unanimously.

**MOTION:** Upon a motion made by Commissioner Bishop and a second by Commissioner Bryan the Commission voted all in favor to postpone ZC-10-22 to the February 22, 2011 Planning and Zoning Commission meeting. The motion carried unanimously.

**MOTION:** Upon a motion made by Commissioner Bishop and a second by Commissioner Seebeck the Commission voted all in favor to postpone ZC-10-23 to the February 22, 2011 Planning and Zoning Commission meeting. The motion carried unanimously.

**MOTION:** Upon a motion made by Commissioner Bishop and a second by Commissioner Seebeck the Commission voted all in favor to postpone PDD-10-02 to the February 22, 2011 Planning and Zoning Commission meeting. The motion carried unanimously.

**MOTION:** Upon a motion made by Commissioner Bishop and a second by Commissioner Seebeck the Commission voted all in favor to postpone TMA-11-01 to the February 22, 2011 Planning and Zoning Commission meeting. The motion carried unanimously.

**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.

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

**MOTION:** Upon a motion made by Commissioner Seebeck and a second by Commissioner Wood the Commission voted all in favor to postpone ZC-11-01 to the February 22, 2011 Planning and Zoning Commission meeting. The motion carried unanimously.

**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.

John Foreman advised the Commission that agenda items #22, 23, 24 & 25 were posted incorrectly and therefore the item cannot be heard. Staff recommended that the items be postponed to the February 22, 2011 Planning and Zoning Commission meeting.

Chair Taylor opened the public hearing for LUA-11-01; ZC-11-02; LUA-11-02; and ZC-11-03.

Ray Cortez, 296 Briarwood spoke against the request. He understands a big development company trumps over a small group of homeowners. He felt drainage is a big concern and additional traffic issues will occur with only one outlet. Mr. Cortez suggested that in addition to a six foot fence that trees are left as buffers to the property. He pointed out that the apartment would be 3 stories high and would appreciate privacy once the development has been complete.

Nick Jonkoff, 461 Briarwood, stated he was sorry that the item was postponed. He asked what the vision for the city and end product is when all is said and done. Mr. Jonkoff commented that now we can create something beautiful, we can construct a jewel of a city to live, work and play. He pointed out that our community should include parks, open space, educational facilities. Mr. Jonkoff added that San Marcos development is top heavy with multi-family development. He felt that without raising expectations, San Marcos will have more multifamily development.

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

**MOTION:** Upon a motion made by Commissioner Seebeck and a second by Commissioner Bishop the Commission voted all in favor to postpone ZC-11-01 to the February 22, 2011 Planning and Zoning Commission meeting. The motion carried unanimously.

**MOTION:** Upon a motion made by Commissioner Seebeck and a second by Commissioner Bishop the Commission voted all in favor to postpone LUA-11-01 to the February 22, 2011 Planning and Zoning Commission meeting. The motion carried unanimously.

**MOTION:** Upon a motion made by Commissioner Seebeck and a second by Commissioner Bishop the Commission voted all in favor to postpone LUA-11-02 to the February 22, 2011 Planning and Zoning Commission meeting. The motion carried unanimously.

**MOTION:** Upon a motion made by Commissioner Seebeck and a second by Commissioner Bishop the Commission voted all in favor to postpone ZC-11-03 to the February 22, 2011 Planning and Zoning Commission meeting. The motion carried unanimously.

**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.

Chair Taylor opened the public hearing. Thomas Rhodes, ETR Development Consulting gave a brief presentation.

**MOTION:** Upon a motion made by Commissioner Seebeck and a second by Commissioner Couch the Commission voted eight (8) in favor and one (1) opposed to approve PDA-10-02 with the condition that the permitting of the unpermitted fill work done at 1850 Craddock be done concurrently with the negotiation of the development agreement. The motion carried. Commissioner Bishop voted no.

## **27. Discussion Items.**

Commissioner Seebeck requested that staff look into a solution in the Land Development Code to include language to assist property owners living in the ETJ.

Matthew Lewis advised the Commission that staff is currently working on an Interlocal Agreement with Hays County.

Commissioner Couch commented that he enjoyed the joint City Council and Planning Commission Workshop. He recommended that a meeting with staff, Planning Commissioner and developers of The Retreat prior to the February 22, 2011 Planning and Zoning Commission meeting.

Commissioner Stark asked the Commissioners to view the photos in their packets regarding The Retreat and how the development will be developed.

Commissioner Bishop suggested that staff add history in their staff reports concerning variance requests for property located in the ETJ.

**Planning Report**

- a. Update on proposed downtown form-based code.

Matthew Lewis thanked the Commission and Council for attending the joint workshop. He added that staff will prepare a draft code and a schedule. Sofia Nelson gave a brief overview of the City Council – Planning & Zoning Commission Workshop held on Wednesday, February 2, 2011.

- b. Planning Commission 2011 retreat

Sofia Nelson informed the Commission that staff is proposing to schedule the retreat during the week from noon til 6:00 p.m. She added that some topics of discussion will include Downtown Code, recap the End of Year Report, the Master Plan Process and the Annexation Plan. Ms. Nelson asked the Commission to submit suggestions to staff.

**Commissioners' Report**

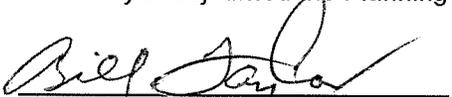
There was no Commissioners' Report.

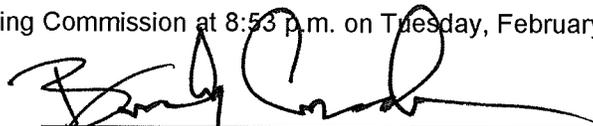
**28. Questions and answers from the Press and Public.**

There were no questions from the public.

**29. Adjournment**

Chair Taylor adjourned the Planning and Zoning Commission at 8:53 p.m. on Tuesday, February 8, 2011.

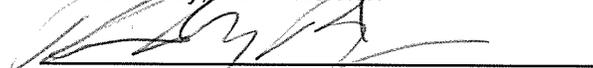
  
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Bill Taylor, Chair

  
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Bucky Couch, Vice Chair

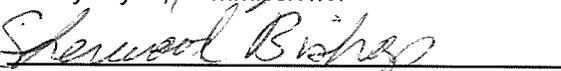
  
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Travis Kelsey, Commissioner

  
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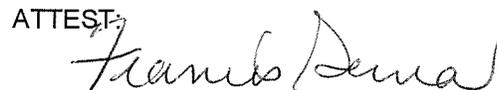
  
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Randy Bryan, Commissioner

  
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Kenneth Ehlers, Commissioner

  
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Sherwood Bishop, Commissioner

  
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Curtis Seebeck, Commissioner

ATTEST:

  
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Francis Serna, Recording Secretary

**CITY OF SAN MARCOS**  
**DISCLOSURE AFFIDAVIT-BUSINESS ENTITY**

STATE OF TEXAS  
COUNTY OF HAYS

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

I have a substantial interest in a business entity that may be involved in a vote or decision of the governmental body described above, and the vote or decision may have a special economic effect on the business entity that is distinguishable from the effect on the public. The name of the business entity is  
The Tap Room Texas LLC.

The nature and extent of my interest in the business entity is as follows: (check all that apply)

- Ownership of 10 percent or more of the voting stock or shares of the business entity.
- Ownership of 10 percent or more of the fair market value of the business entity.
- Ownership of \$5,000 or more of the fair market value of the business entity.
- Funds received by me from the business entity exceed 10 percent of my gross income for the previous year.
- 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.

The vote or decision involving this interest is on 8 Feb, 20 11 agenda of the governmental body, and is described as follows: Revisions to sec. 4-3.4.7 of the LDC - CUP's for Alcoholic Bev Consumption

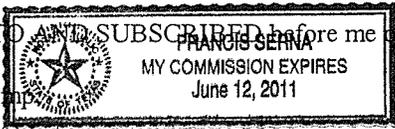
EXECUTED this 8<sup>th</sup> day of February, 20 11.

Signature Travis Keisey

Printed Name Travis Keisey

SWORN TO AND SUBSCRIBED before me on the 8 day of February, 20 11.

Notary Stamp Francis Seina



Notary Public  
State of Texas

FILED this 15 day of February, 20 11.

Samuel P. Peltier  
City Clerk of the City of San Marcos