MINUTES OF THE REGULAR MEETING OF THE
SAN MARCOS PLANNING AND ZONING COMMISSION
COUNCIL CHAMBERS, CITY HALL
October 23, 2012

1. Present

Commissioners:

Curtis Seebeck, Vice Chair
Chris Wood
Corey Carothers
Carter Morris
Travis Kelsey
Kenneth Ehlers
Bucky Couch
Randy Bryan

City Staff:

Matthew Lewis, Development Services Director
Kristy Stark, Development Services
Sam Aguierre, Assistant City Attorney
Francis Serna, Recording Secretary
Alison Brake, Planner
Emily Koller, Planning Tech

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 Vice Chair Seebeck at 6:00 p.m. on Tuesday October 23, 2012, in the Council Chambers, City Hall, City of San Marcos, 630 E. Hopkins, San Marcos, Texas 78666.

3. Chairperson's Opening Remarks.

Vice Chair Seebeck welcomed the audience and viewers.

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. 30 Minute Citizen Comment Period

There were no citizen comments.

Consent Agenda:

6. Consider the approval of the minutes from the Regular Meeting on October 9, 2012.

MOTION: Upon a motion made by Commissioner Morris and a second by Commissioner Kelsey, the Commission voted all in favor to approve the consent agenda. The motion carried unanimously.

Item 11 was moved after item 6.

11. Discussion regarding the Restricted Conditional Use Permit for the Vault at 100 W. Hopkins Street.

The Commissioners heard an update from the Vault regarding the closing of Fresh Cubed. Mike Keyser gave a brief presentation and explained plans to continue to sell food in order to be in compliance with the Conditional Use Permit.

Public Hearings:

Item 8, 9 and 12 were moved after item 11.

8. CUP-12-38 (Gumby's Pizza & Wings) Hold a public hearing and consider a request by John Higdon, on behalf of Gumby's Pizza & Wings, for the renewal of the existing Conditional Use Permit to allow the continued sale of beer and wine for on-premise consumption at 403-A N. Guadalupe Street.

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

MOTION: Upon a motion made by Commissioner Kelsey and a second by Commissioner Ehlers, the Commission voted all in favor to approve CUP-12-38 with the condition that the CUP be valid for three (3) years, provided standards are met, subject to the point system. The motion carried unanimously.

9. CUP-12-39 (Garcia's Mexican Food Restaurant) Hold a public hearing and consider a request by Juan Ybarra, on behalf of Garcia's Mexican Food Restaurant, for the renewal of the existing Conditional Use Permit to allow the continued sale of beer and wine for on-premise consumption at 1917 Dutton Drive.

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

MOTION: Upon a motion made by Commissioner Ehlers and a second by Commissioner Morris, the Commission voted all in favor to approve CUP-12-39 with the condition that the CUP be valid for three (3) years, provided standards are met, subject to the point system. The motion carried unanimously.

Non Consent Agenda:

12. Development Services Report

a. Update from staff on Comprehensive Plan

Matthew Lewis gave an update of future meetings and the Comprehensive Plan Process

The meeting continued with the Public Hearing items.

7. CUP-12-37 (Concho Commons) Hold a public hearing and consider a request by Casey Development, on behalf of W.C. Carson – Carson Diversified Properties LP, for a SmartCode Warrant to allow additional height beyond the 5-story limit for a proposed 13-story building in a SmartCode-T5 Zoning District at 101 Concho Street.

Ed Theriot, ETR Development Consulting, representing the applicant gave a brief presentation. Dan Alexander, Principal Architect with Jacobs Architectural Engineering Firm in Austin Texas also gave a brief presentation.

Vice Chair Seebeck opened the public hearing. John Meeks, 103 W Laurel Lane, said he serve as a, Managing Partner Release Limited. He explained that one of the properties they own is the Nelson Shopping Center and due to the proximity of the shopping center they received notice of the request. Mr. Meeks spoke in support of the request. He said they feel that the increase in height and the off street parking per the SmartCode will provide an opportunity to provide housing close to campus and additional parking to the

central business district. Mr. Meeks said they also applaud the urban renewal nature of the property on a piece of property that has remained vacant for several years. He added that parking for commuting student presents a challenge. He explained that the reduction of parking at the University imposes on the private businesses in Central Business District. He pointed out that the businesses carry of burden to protect parking in front of their businesses. Mr. Meeks said they applaud Mr. Casey for the risk of constructing a dormitory structure which unlike the University provides parking for the tenants as well as relieve the parking pressure of all in the Central Business District experience every day.

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

MOTION: Upon a motion made by Commissioner Morris and a second by Commissioner Wood, the Commission voted eight (8) for and none (0) against to approve CUP-12-37. The motion carried unanimously.

There was a ten minute recess.

10. PDD-09-01(a) (Retreat on Willow Creek) Hold a public hearing and discuss amendments to the existing Planned Development District for the Retreat on Willow Creek, consisting of 101.4 acres of land, more or less, out of the J.M. Veramendi Survey No. 1, Abstract No. 17, as originally approved by Ordinance No. 2009-81.

Vice Chair Seebeck opened the public hearing. Patrick Christensen, 1800 W. Commerce, San Antonio, TX representing the developer stated he preferred to speak after the public hearing so that he could address their concerns.

Beverly McClintock, 108 Howard Place, which is located in the County, said she lives on other side of fence of Area 2 of The Retreat at Willow Creek. She asked the Commission for consideration of impacts to the rural nature of their neighborhood. Ms. McClintock explained that her house is not large but sits on a 1.25 acre tract in which her house sets back 100'. She added that they have enjoyed privacy, quiet, wildlife and dark skies for many years. She said she knew that things would change but asked that the impacts not be so severe. Ms. McClintock suggested a 75' vegetated buffer between the development and the county neighborhood to help preserve the more rural nature of their homes. She also suggested larger lots, larger building setbacks, and stricter height restrictions on lots adjacent to their neighborhood. Ms. McClintock asked for consideration for anything that would alleviate the impact of noise, light and habitat loss that will occur with a dense small lot development that the development will have on the immediately adjacent rural neighborhood in the County.

Erin Leavitt, 817 Willow Creek Circle, stated the development is directly on the other side of her fence. She explained that she purchased her house 3 months ago because of the beauty and rural atmosphere of the neighborhood. Ms. Leavitt said that currently there is a wall of solid 30' trees and when the trees are removed there will be 2-3 story houses which will affect property values. She suggested that they compromise with a buffer of trees along the back of their properties with good size acreage. Ms. Leavitt asked that wildlife be protected and that they keep their property value up. She suggested that the neighbors meet with the developers and come up with a compromise.

Pat Heim, 2240 Garden Court, said she has multiple concerns. She pointed out that her main concern is water control. Ms. Heim explained that the water was designed to drain onto the property of the new development. She mentioned that when it rains, the property is like a floodplain. Ms. Heim said she is also concerned that there is no buffer zone between the properties. She felt that the request needs more consideration and people need to know what is going on in the area.

Joey Martin, 2248 Garden Court, said he was representing many of the neighbors concerns. He explained that when they purchased their homes, they bought them knowing when they walk out back they would have a beautiful view. He said now the view is going to be someone's house or a road. Mr. Martin pointed out that they are concerned with the runoff, the shade the trees provide, home sale value, privacy, noise level, and very concerned about the increased traffic. Mr. Martin stated that they hope that they some green space is required to deal with their concerns. He said they wish that the Commission will represent the concerns of the people that are currently residing and the new residents. Mr. Martin said they are not against development. He felt that the development can happen but still maintain the quality of their living and their property value.

Nancy McClintock said she does not live in the area but is present in support of mother and some day to live in her house. She said she was happy to know that The City of San Marcos does address residential compatibility standards in the Code. Ms. McClintock asked for clarification if the provision is applicable to the current proposed development. She also inquired on when does the provision come in to play and when does the neighborhood get involved. Ms. McClintock noted that there has been no discussion with the neighbors and the developers. She added that on behalf of her mother she would like to request that discussion and commitment to provide compatibility to occur before the approval of amendment and that they should be placed as provisions to the amendment. Ms. McClintock mentioned that a fence will not provide compatibility between properties or prevent the property value loss that will occur without a meaningful transition.

Roland Guerrero, 312 Laurel Hill, pointed out there will be two entrances adjacent to two schools. He said that the entrances are already backed up and kids can't walk. Mr. Guerrero stated he is concerned for the safety of the children. He asked the Commission to consider the access and the improvements that are needed to provide our kids with a safe access to and from school. In addition, Mr. Guerrero asked the Commission to consider the wildlife. He said that his neighborhood is in the county and they are allowed to burn brush. Mr. Guerrero commented that the City Fire Department does not know that because every time he burns his brush the Fire Department is around his neighborhood looking for the smoke. He said people living in the county are allowed to do certain things that people living in the city are not. Mr. Guerrero stated that they were not consulted by the developer and allow them to work together to maintain all the elements.

Patrick Christensen, 1800 W. Commerce, San Antonio, Texas stated that he represents the owners of the property, Preferred Development Partners. He pointed out that two KB Homes Representatives were available to answer questions. Mr. Christensen gave a brief explanation of the original request in which he did not represent the owners. In prior negotiations with a more intense development they would develop a 205' buffer around the perimeter of the existing houses. Mr. Christensen added that in negotiations with the City they have agreed to numerous design guidelines above and beyond what the SF-6 requirements. He explained that they asked that the 205' buffer be removed because he felt that the property cannot be developed as a single family subdivision with the buffer. He pointed out that KB Homes is proposing a 25' buffer for area 1 and have not discussed a buffer for area 2. He mentioned that the parkland has changed and the developer is proposing parking and funds for the trail. He said he takes responsibility if someone in the neighborhood was not contacted. Mr. Christensen said he made a presentation to the Willow Creek Neighborhood Association and the Gardens at Willow Creek back in May. He added that in regards to saving trees, single family development saves the most trees. He said trees add value to a single family residence. He pointed out that they will consider a 6' foot fence adjacent to the neighborhood as requested. Mr. Christensen asked the Commission for their support.

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

13. Question and Answer Session with Press and Public. *This is an opportunity for the Press and Public to ask questions related to items on this agenda.*

There were no questions from the press and public.

14. Adjourn.

Vice Chair Seebeck adjourned the Planning and Zoning Commission at 8:00 p.m. on Tuesday, October 23, 2012.

Curtis Seebeck, Vice Chair

Travis Kelsey, Commissioner

Corey Carothers, Commissioner

Kenneth Ehlers, Commissioner

Carter Morris, Commissioner

Chris Wood, Commissioner

Bucky Couch, Commissioner

Randy Bryan, Commission

ATTEST:

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 Rachel Morris and Associates Real Estate, Cottonwood Creek JDR, 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 $15,000 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:

X I am abstaining only to avoid the appearance of impropriety.

The vote or decision involving this interest is on the 9-11-12 (date) agenda of the governmental body, and is described as follows: PC 12-23 (03).

EXECUTED on 9/11/12 (date).

Signature _____

Printed Name Carter Morris

SWORN TO AND SUBSCRIBED before me on September 11, 2012 (date).

Notary Stamp

JAMIE LEE PETTIJOHN
Notary Public, State of Texas
My Commission Expires
March 03, 2014

Notary Public
State of Texas

FILED on 9/11/12 (date).

City Clerk of the City of San Marcos

COSM Form 11/10