

**MINUTES OF THE REGULAR MEETING OF THE
SAN MARCOS PLANNING AND ZONING COMMISSION
COUNCIL CHAMBERS, CITY HALL
November 27, 2012**

1. Present

Commissioners:

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

City Staff:

Matthew Lewis, Development Services Director
Sam Aguirre, Assistant City Attorney
Francis Serna, Recording Secretary
Alison Brake, Planner
John Foreman, Planning Manager
Tory Carpenter, Planning Technician

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 27, 2012, 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 and viewers. Chair Taylor advised that Item 17 & 18 will be postponed to the January 8, 2013 Planning & Zoning Commission meeting.

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

Jaimy Breihan, 134 E. Hillcrest pointed out that he met the Commissioners a year ago regarding a proposed development in the Sessom Canyon Watershed Area, 430 & 440 Holland Street. Mr. Breihan stated that there are thirty seven percent of neighbors in protest for the rezoning 142 & 148 Holland Street. He said no matter what you call the development it is going to be student housing. Mr. Breihan explained that the development is at the top of the watershed. He said people have bought homes and have been there for years and do not want to see the area transition to apartments, townhomes, or high density housing. Mr. Breihan pointed out that the two cases brought before the Commission a year ago were denied. He added that they want to go back living in their home and have faith that their city government will protect their investment.

Melissa Derrick, 109 Kathryn Cove stated she was present to speak on Capes Camp. She said the land that was gifted is useless and is located in the floodplain. She pointed out that nothing can be built on it and it will have to be maintained. Ms. Derrick stated that the Parks Board said the property is not sufficient for the one thousand students that would be living in the apartments. The park will be an amenity to the apartment and not a public park. Ms. Derrick pointed out that there are a lot of dangers to the adjacent neighborhoods with college student residing in apartment complexes. She explained that the property is in a floodplain therefore the developer would have to raise the land. She felt that raising the land would create a dam and endanger the residents. She said the propositions that didn't pass should have a bearing on their decision. Ms. Derrick stated that the City has the right to raise taxes, sell land or get grants; however they see fit to pay for the land. She said she hope that they vote against Capes Camp project and Holland Street rezoning requests.

Diane Wassenich, 11 Tanglewood stated she is representing the San Marcos River Foundation and pointed out their concerns regarding the request by Windemere. She pointed out that the request is not compatible with the existing uses in the area. The existing Master Plan calls for very low density and the request does not comply with the ordinance. Ms. Wassenich pointed out that the property only has one entrance and can only have a total of seventy-four homes which was covered in Phase I. She stated that they cannot have two phases with one entrance. She explained that the land is on the bank of Sink Creek below two large flood control dams. Ms. Wassenich told the Commission that they cannot ignore the danger that homes would be in located below the dams on the Sink Creek River bank. She pointed out that FEMA regulations are for the whole U.S. Ms. Wassenich explained that the City has had special computer modeling done by consultants of the Blanco River and some other creeks and rivers. She stated that it is important for the Commissioners to understand the results of the computer models. She felt the Commissioners should have training on information that the city has had for years. Ms. Wassenich asked the Commission to deny the rezoning for Windemere.

David Wendel, 118 E. Holland, referred to Capes Camp and Holland Street projects and asked the Commission to please not sign on for more rezoning. He pointed out that Capes Camp is in the 100 year flood plain. He said everyone knows that many more floods have occurred and Capes Camp is in a 500 year flood plain. Mr. Wendel stated that Holland lots are way too close to single family neighborhoods and not designed for single family living. He mentioned that students are not the problem it is the developers that are squeezing development where they do not belong. Mr. Wendel said that they cannot have college style behavior in single family areas. He felt that if Sagewood would not have been created in the location it is, they would not have had the complaints and issues. He added that The Retreat is having the same issues.

Bob Thornton, a longtime resident of San Marcos thanked the Commission for their service. Mr. Thornton stated he currently resides in Georgetown. He said he was present to speak regarding the Capes Camp issue. Mr. Thornton said he thinks the project is a good project for the City. He explained that the City will get the parkland and the connectivity that was important for a long time getting from Spring Lake to Cape Road. In addition, the City will get money to do upgrades on the land. He pointed out that the proposal is a first class development. He added that there is there has been plenty of discussion regarding flooding. Mr. Thornton pointed he has owned the land for over 100 years and has seen floods and has lived them. He said he hopes the Commission looks at the Capes Camp project as a positive development for the City.

Elena Duran, 1133 Lago Vista, spoke in support of Capes Camp. She explained that 76.47% of people voted for the proposition to acquire the land and 64.71% people voted against raising taxes to acquire the land. Ms. Duran pointed out that the city has an opportunity to acquire 20 acres of land and it is a win-win for the city. Ms. Duran added that the University is building parking garages which are nice but there is a traffic problem downtown. She felt that moving students away from campus will be good and move traffic out of downtown. Ms. Duran encouraged the Commission to vote yes for Capes Camp.

Carol Ginsberg, 323 W. Holland, spoke against the Holland Street projects. Ms. Ginsberg provided photos to the Commission. She explained that she lives adjacent to 325 W. Holland and there is a problem with junk, drugs and vehicles. Ms. Ginsberg said she has lived in San Marcos for 7 years and has owned her property for 15 years. She added that she is fed up with hauling junk and complaining to the police. Ms. Ginsberg stated that it's the landlord's job and they should be held accountable for their tenants.

Jay Hiebert, 209 W. Sierra Circle, spoke regarding the turn lane installed for the Retreat. Mr. Hiebert provided a drawing of the intersection. He said he recalls in the PDD that a traffic light was going to be installed. He pointed out that it is impossible to turn left out of Hughson Drive onto Old Ranch Road 12 because of The Retreat. Mr. Hiebert asked why the PDD was changed to put in a left turn lane instead of a traffic light. He added that he hopes in the future the Planning Department will be careful where they place an entrance.

Cori Schwartz, 101 W. Mimosa Circle, spoke regarding Capes Camp. She said she is new to San Marcos and has lived here for 5 years. Ms. Schwartz gave several examples of areas where she has lived. She explained that properties that have flooded were turned into city parks and is undevelopable. Ms. Schwartz asked the Commission to think about the future if they continue to build high density development in the flood plain. She explained that it is devastating to go back home and see the aftermath of a flood. She asked the Commission to not set San Marcos up for that future scenario. Ms. Schwartz told the Commission that they have the opportunity to vote no for the rezoning project.

Ed Kuny 212 Sierra Ridge Drive said he was speaking regarding 142 & 148 Holland Street projects. He pointed out that he and his neighbors are in Sector 3. Mr. Kuny explained that many of them built or bought their homes when they were all single family residential. He mentioned that since his move 10 years ago, they have been invaded twice by zoning change requests and feels that they are being invaded again. Mr. Kuny asked that the Commission to leave single family neighborhoods as single family neighborhoods.

Joan Byrd said she lives on Thorpe Lane and spends a lot of time on Mimosa Circle where her parents reside. She said that the river sets this town apart from other cities. She asked why this town being used in some way to make money. Ms. Byrd pointed out that there are many places to put apartments. In addition, she is not against Texas State and college students. Ms. Byrd pointed out that she is against putting the river in jeopardy.

Diane Coffee 702 Maury, stated that she is a renter, graduated from Texas State and had to go back to Houston because there were no jobs in San Marcos. Ms. Coffee explained that she came back to San Marcos with a company from Houston. She said that she is in the process of looking to purchase a home but cannot find a location that is not located near apartments or student housing. She added that she does not feel secure in investing her money in this town. Ms. Coffee said that there has to be a way to keep single family single family and to house students in an affordable fashion. She mentioned that it is very difficult to faith in the city's leaders, in our planners in this town when every time she turns around there has been nothing but conflict with single family neighborhoods being invaded by apartments. She added that the Commission has to learn to respect the values of people living in single family homes, protect the rivers and not allow it to be an amenity for college students.

Brian Dupre, 232 W. Sierra Circle, stated that he feels that the Planning & Zoning is not beneficial to homeowners. He explained that a light has not been installed on RR12 by the Retreat where there have been several accidents. He said it is pathetic that we have a Planning & Zoning Commission and the only things planned are apartment complexes. Mr. Dupre stated that as a taxpayer, he feels they are not being taken care of. He pointed out that larger developments are coming into neighborhoods. In addition, Mr. Dupree expressed concerns regarding the repaving of LBJ Street and they currently don't have sidewalks on N. LBJ. He asked the Commission to take care of pedestrian traffic and infrastructure instead of building apartment complexes. He added that there is a bus stop at the Retreat and the bus drivers are not using it.

Consent Agenda:

6. Consider the approval of the minutes from the Regular Meeting on November 13, 2012.

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

Public Hearings:

7. CUP-12-40 (906 Chestnut Street) Hold a public hearing and consider a request by Roger Jenkins, on behalf of Becky Jenkins, for a Conditional Use Permit to allow portable food facilities at 906 Chestnut Street.

Tory Carpenter, Staff Planning Technician, gave an overview of the project.

Chair Taylor opened the public hearing. Becky Jenkins, 906 Chestnut, presented the Commission with exhibits of the property. Ms. Jenkins gave an overview of the proposed project. She explained that the neighborhood is in transition and because they are presently zoned mixed use they would like to earn revenue while preserving the integrity of the property. She thanked the Commission for their consideration. 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 Ehlers, the Commission voted seven (7) for and two (2) against to approve CUP-12-40 with the conditions that the CUP be valid for one year, provided standards are met, subject to the point system; no amplified music be allowed on the property; hours of operation be between 7:00 a.m.- 9:00 p.m. Sunday thru Saturday; the site be screened from 905 N. LBJ Drive; portable toilets be screened from the right-of-way and adjacent properties; no direct hookups to water and/or wastewater be allowed and no permanent foundation be placed on the site. The motion carried. Commissioners Carothers and Bryan dissenting.

8. PC-12-16(03) (Park at Willow Creek Replat) Hold a public hearing and consider a request by Vigil & Associates, on behalf of WDG-Park, LTD., for approval of a replat of Lot 34 and Lot 35, Park at Willow Creek Subdivision, establishing Park Court at Willow Creek Subdivision, located in the 300 block of Stagecoach Trail, and associated subdivision improvement agreement.

Alison Brake, Staff Planner, gave an overview of the project.

Chair Taylor opened the public hearing. Joel Richardson, Vigil & Associates, stated that the case was presented well by staff. He said the request is in line with the preliminary plat that was approved. Mr. Richardson said he was available for questions. 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 Bryan, the Commission voted all in favor to approve PC-12-16(03) with the condition that security be posted for the construction of the public improvements prior to the recordation of the plat. The motion carried unanimously. Commissioner Wood recused himself from the dias.

9. LUA-12-08 (142 & 148 W. Holland Street) Hold a public hearing and consider a request by Kris Richter, on behalf of the Elvin Lee Anderson Estate, for a Land Use Amendment from Low Density Residential (LDR) to Medium Density Residential (MDR) for approximately 2.17 acres out of the Thomas J. Chambers Survey, Abstract No. 2, Tracts 6 and 7, located at 142 and 148 W. Holland Street.

10. ZC-12-13 (142 & 148 W. Holland Street) Hold a public hearing and consider a request by Kris Richter, on behalf of the Elvin Lee Anderson Estate, for a Zoning Change from Single-Family Residential (SF-6) to Townhouse Residential (TH) for approximately 2.17 acres out of the Thomas J. Chambers Survey, Abstract No. 2, Tracts 6 and 7, located at 142 and 148 W. Holland Street.

Alison Brake, Staff Planner, gave an overview of the project.

Chair Taylor opened the public hearing.

Kenneth Dees, 1412 Alamo Street, CONA Representative for Holland Hills which includes Holland Street, stated that the developer may want to develop high end townhomes but the next person may not. He said there are currently several large properties on Holland Street that could be developed as townhomes. Mr. Dees added the single family area will see an increase in density, a population of most likely college students, increase in traffic and the possibility of decreased property values in the area. He mentioned that many residents have met with the developer and expressed their views. Mr. Dees stated the Mr. Richter

seems to be sincere in wanting to build quality units. However, Mr. Richter is not willing to reduce the density. He pointed out that the majority of properties in the area are single family homes. The neighborhood would like to keep their single family zoning in the area. He encouraged the Commission to not approve the zoning at this time.

Diane Wassenich, 11 Tangelwood spoke regarding the Compatibility Ordinance. She explained that the Holland Street lots are not compatible or appropriate to place townhomes. She said that the neighborhood has made it very clear that they want to preserve the character of their neighborhood. Ms. Wassenich pointed out that this is a goal that is being worked on through the Master Plan. She stated that they had three masonry homes built on N. LBJ by someone who promised that they were being built for elderly people. The three homes have become housing for students where parking is an issue and the students are constantly blocking the sidewalks. Ms. Wassenich stated that they want their neighborhoods to remain with decent property values. She told the Commission they would appreciate it if they would help them maintain their property values.

Kris Richter, the applicant said that Alison did a great job at presenting his request. Mr. Richter gave a brief overview of the surrounding properties. He explained that they will have an HOA with covenants and restrictions to maintain the noise. In addition the single family occupancy restrictions will apply. He pointed out that the development will be very similar to the Tarrod Phillips property located behind the lots. Mr. Richter stated that he has met with the land owners around the property they do not have any issues with the Phillips property. He added that he will build a much nicer development. He stated that he will maintain as many trees as possible. Mr. Richter feels that the traffic will not be an issue and that there is a shuttle that runs through the area. He mentioned that there will not be a swimming pool and that it will not be a party place.

Jim Garber, 104 Canyon Fork, said that on Ridgeway, Hillcrest and Holland there are several single family homes that have been invaded by students that are in violation of occupancy restrictions. He stated that at their neighborhood meeting they turn in approximately 10 violations and maybe 1 gets addressed. He pointed out that the occupancy restriction are good but are not enforced. Mr. Garber said students are beating the system because they move their cars because they know the system. He said that the city does not have an ordinance that is enforced. He asked the Commission to help protect the integrity of the neighborhoods.

Rachel Vetz, 209 S. Comanche, said she was a student for a long time and actually lived on Chestnut and Walnut. She said the problem is consistent with the City Council & Planning & Zoning against the University. She explained that the students are going to park in the area no matter where they live because they like walking to school and parking is terrible. Ms. Vetz pointed out that students will reside in the townhomes because their parents give them money. She commented that the development is beautiful but it is not in the right area. She felt that students need to move away from the main area of the University because students are going to drive no matter what. Ms. Vetz stated the Holland Street was not a good location for the development.

Patrick Durran, 110 W. Hillcrest Drive, stated he is against the zoning change. He feels his neighborhood is under assault. Mr. Durran pointed out that there seems to be a lot of people that are interested in building in the area. He explained that he built his house 16 years ago and does not want to see his property values decline. He mentioned that he never hears a developer say they are going to build for students, but we all know what happens. Mr. Durran explained that the city has occupancy restrictions that are not being enforced. He asked the Commission to help him protect his property. He pointed out that his neighbors feel the same way and wish to remain a single family neighborhood. Mr. Durran asked the Commission to vote no against the zoning request.

Melissa Derrick, 109 Kathryn Cove stated she was present in opposition to the rezoning at Holland. She said her neighborhood is under attack as well with the Retreat in her neighborhood. She pointed out that no one feels comfortable buying a single family home or living in a single family home. Ms. Derrick explained that when a multi-family house is approved everyone thinks that they can continue to building more multi-family housing in a single family neighborhood. She commented that it is all about money and endangering the neighborhoods and not compatible with what the citizens want in their single family neighborhoods.

She told the Commission she hopes they vote no to the rezoning because they need to preserve the neighborhood.

Derrick Lee, 209 S. Comanche, said he wanted to correct a comment stating that there is no shuttle service than runs by the subdivision. He explained that the routes were revised from last year and currently there is no bus service.

Michael Gonzales, 1425 Highland, a student, said he understands that the development isn't necessarily for students but students don't have to look too far to find new developments in the area. He pointed out when looking for a good Comprehensive Plan it is good to look at the initial picture but also envision what they may look like a few years down the road.

Jay Hiebert, 209 W. Sierra Circle, presented a map of San Marcos. He said he was part of the San Marcos Voice group that filed a lawsuit regarding the Hillside Ranch II because they felt there was a continuance of encroachment of apartments into the single family neighborhoods. He explained that they went into a settlement with Hillside Ranch II. He said they agreed to the settlement because they had negotiated with the city that a triangle of property located from Craddock, N. LBJ, and Holland to RR 12, the property would be excluded from zoning changes. Mr. Hiebert said he understands it is not legally binding, but they had a moral agreement. He felt that the moral agreement stands higher than a legal agreement in this situation. He asked the Commission to protect the neighborhood.

David Wendel, 118 E. Holland spoke in opposition to the request. He pointed out that most people with tuition cost and expenses will have to work their way through school and will need to drive. Mr. Wendel said traffic is an issue. He explained he has driven down Alamo Street during peak hours and it is backed up. Mr. Wendel stated adding 60 beds and cars will increase traffic in the area and we have to put a stop to it.

Diane Coffee, 702 Maury Street, said the Commission needs to take into account that they would not want a multifamily development in their neighborhood. She said it is not right to subject people who have invested in this town within the city limits. Ms. Coffee said people want to make their home a livable place without traffic, noise and partying. She explained that people park in front of your house all day long. She added that the occupancy restrictions ordinance is not enforced and most people that own houses could care less about the condition of the houses.

Greg Folster lives across the street from the request. He said speaking from personal experience if the lease says 2 students that means 4 and if the lease says 4 that means 6. He explained that when he delivers to apartments, they organize by last name, sometimes there are eight names. Mr. Folster explained that when he gets home, he will have students that park in his driveway so I block them in. The students knock on his door and tell him they are blocked in and he has to get up and move his truck so they can get out of his driveway. Mr. Folster said if you build it they will park in our driveways.

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

MOTION: Upon a motion made by Commissioner Ehlers and a second by Commissioner Carothers, the Commission voted six (6) in favor and two (2) opposed to deny LUA-12-08 and ZC-12-18. The motion carried. Commissioner Bryan recused himself from the dias. Commissioners Taylor and Wood dissenting.

There was a ten minute recess.

11. PDD-12-02 (The Woodlands of San Marcos – Capes Camp) Hold a public hearing and consider a request by ETR Development Consulting, L.L.C. on behalf of Dovetail Development, L.L.C., J.R. Thornton, et al, Clara L. Cape Testamentary Trust, Cape Family Ltd. Partnership, and RAM Consolidated Holdings, for a PDD overlay district, with a base zoning of Multifamily-12 (MF-12) for approximately 45 acres located on the east side of IH-35, south of River Road, west of Cape Road and north of the San Marcos River.

12. ZC-12-05 (The Woodlands of San Marcos – Capes Camp) Hold a public hearing and consider a request by ETR Development Consulting, L.L.C. on behalf of Dovetail Development, L.L.C., J.R. Thornton, et al, Clara L. Cape Testamentary Trust, Cape Family Ltd. Partnership, and RAM Consolidated Holdings, for a Zoning Change from Future Development (FD) to Multiple-Family Residential (MF-12) for approximately 22.51 acres out of the J.M. Veramendi Survey No. 2, Abstract No. 17, located along River Road.

13. ZC-12-06 (The Woodlands of San Marcos –Capes Camp) Hold a public hearing and consider a request by ETR Development Consulting, L.L.C. on behalf of Dovetail Development, L.L.C., J.R. Thornton, et al, Clara L. Cape Testamentary Trust, Cape Family Ltd. Partnership, and RAM Consolidated Holdings, for a Zoning Change from Community Commercial (CC) to Multiple-Family Residential (MF-12) for approximately 0.651 acres out of the J.M. Veramendi Survey No. 2, Abstract No. 17, located along the frontage road of IH-35.

14. ZC-12-11 (The Woodlands of San Marcos – Capes Camp) Hold a public hearing and consider a request by ETR Development Consulting, L.L.C. on behalf of Dovetail Development, L.L.C., J.R. Thornton, et al, Clara L. Cape Testamentary Trust, Cape Family Ltd. Partnership, and RAM Consolidated Holdings, for a Zoning Change from Future Development (FD) to Multiple-Family Residential (MF-12) for approximately 5.64 acres out of the J.M. Veramendi Survey No. 2, Abstract No. 17, located at the intersection of River Road and Cape Road.

15. LUA-12-04 (The Woodlands of San Marcos – Capes Camp) Hold a public hearing and consider a request by ETR Development Consulting, L.L.C. on behalf of Dovetail Development, L.L.C., J.R. Thornton, et al, Clara L. Cape Testamentary Trust, Cape Family Ltd. Partnership, and RAM Consolidated Holdings, for a Land Use Amendment from Commercial (C) to Medium Density Residential (MDR) for approximately 4.2 acres out of the J.M. Veramendi Survey No. 2, Abstract No. 17, located at River Road and the frontage road of IH-35.

16. LUA-12-06 (The Woodland of San Marcos – Capes Camp) Hold a public hearing and consider a request by ETR Development Consulting, L.L.C. on behalf of Dovetail Development, L.L.C., J.R. Thornton, et al, Clara L. Cape Testamentary Trust, Cape Family Ltd. Partnership, and RAM Consolidated Holdings, for a Land Use Amendment from Very Low Density Residential (VLDR) to Medium Density Residential (MDR) for approximately 5.64 acres out of the J.M. Veramendi Survey No. 2, Abstract No. 17, located at the intersection of River Road and Cape Road.

Chair Taylor opened the public hearing.

Ruben Becerra, 328 N. LBJ Drive, spoke in support of the request. He said the truth is San Marcos has always been a college town. Mr. Becerra commented that the project is good for San Marcos because it is out of the way, off to the side and easy access to the highway. Mr. Becerra mentioned that he is on the Parks Board, but not representing the Board. He added that even though the Board was not in support of the project, he has seen nothing but support and cooperation from the developers. He explained that he had permission to walk the property and see the beauty of the land. In addition, the project is a great connectivity project, housing project and he feels that the project will benefit the City of San Marcos. He encouraged the Commission to do the right thing and support the request.

Fred Bost, 1029 Tate Trail, said he is part of the Stokes family that owns the corner lot on Cape Road and River Road. He said he thinks it's a great project which includes a 20 acre parkland dedication. Mr. Bost explained that prior to selling the property they had several conversations with Mr. Mulkey and realized it is a great project. He pointed out that the property has good access to IH 35 and River Road. Mr. Bost said we need to get the request passed to get the revenue for the school district and the city.

Diane Wassenich, 11 Tangelwood presented a floodplain map from the city's website to the Commission. She gave a brief location description of the map. Ms. Wassenich said if the property is developed, the area will flood. She explained that the Planning Department should show the Commission maps of flood plain when they are required to make critical decisions in floodplains. She pointed out that the area where the small river parks are is where 50 years ago people were moved out of the area so they would not be in danger of flooding. Ms. Wassenich added that the land where they want to build is lower than the property where they moved people out to create our river park. She suggested that instead of endangering lives with

rezoning the Commission should be pointing out great locations that the Master Plan has identified. He asked the Commission to wait until the Master Plan is complete.

Gina Flemming, 1013 Dartmouth, said that they are not only concerned with suspended solids, but hydrocarbons and trash. Ms. Flemming stated that she is also has safety concerns about having parkland behind an apartment development. She said from experience of being a monitor for Ringtail Ridge she has observed blow gun dart practice, archery practice and gun fire. She pointed out that the apartments will become a party place for students. Ms. Flemming explained there is a security risk with having 1000 people converging along the river and being so close to IH 35. She added that her main concern is what the development will do to the river. Ms. Flemming stated that people speaking against the project are speaking for the interest of the public and not for public gain.

Rachel Vetz, 209 S. Comanche, said that the dedicated parkland will not be used by the community but will be used by the students. She said she is worried about pesticides making their way into the river run from the development. She added that she is also worried that it is a flood plain and doesn't feel that having trails along the river is enough. She felt that if we lose our green spaces the city will also lose tax payers that will stay in the city. Ms. Vetz said is the river continues to be threatened people will leave. She mentioned Dream San Marcos and felt the Commission should consider what they are developing. Ms. Vetz said if the Commission approves the request, they will lose the faith of the community.

Douglas Beckett, 1714 Barbara Drive, stated he has been through three floods and pointed out that there is not only water but debris. He said he was please that Proposition 1 passed. Mr. Beckett provided the Commission with photos of Capes Camp during sunset. He pointed out that the Blanco River runoff will go directly to the Capes Camp property to the San Marcos River. Mr. Beckett provided a superimposed photo of the apartments on Capes Camp and pointed out limitations of the sunset view of Capes Camp. Mr. Beckett expressed concerns with flooding.

Stephen Occhialini, 521 Stagecoach Trail, said he has lived in San Marcos for over 20 years and plans to retire in San Marcos. He stated that the Capes Camp project seems reasonable to him. He explained that there is 20 acres of parkland, an increased tax base, more housing to meet demand and all from an experienced developer. Mr. Occhialini said he is not alone if he considers the results of the recent non binding referendum. He asked the Commission to approve the Capes Camp PDD and zoning changes. He thanked Commission for their service.

Michael Gonzales, 1425 Highland, spoke in opposition to the request. He felt that would give Dovetail time to clean up some discrepancies. He mentioned he is working on a comp plan for a class for the University on the Capes Camp property. Mr. Gonzales made suggestions to the proposed development.

Jay Hiebert, 209 W Sierra Circle, stated he had two major concerns in his opposition to the request. He reiterated the presentation by Diane Wassenich regarding the flood plain. He stated he is very concerned with what is going to happen to the neighborhood to the east of the development. He pointed out that Landa Park is 200 acres and the total San Marcos River Park is 70 acres. Mr. Hiebert said there was a great deal of discussion on how to purchase the property besides eminent domain or raising taxes. He pointed out that City Council mentioned that they could purchase the property with city funds or possibly grant funds.

David Wendel, 118 E. Holland, said he was impressed with the picture presented of development. He felt that the development will be for students and there will be a high density of people on the river. Mr. Wendel said the location is not the right place for the development.

Angie Ramirez, 612 Barbara Drive, spoke regarding the development being consistent with our current master plan. She pointed out that we have issues today that our current master plan does not address. She said that the proposed apartment complexes did not exist when the currently master plan was drafted. Ms. Ramirez explained that the new Master Plan identifies suitable locations for this type of development. She stated that the completion of the master plan is near. She added that citizens need to stop being defensive against things that want to be built and be more pro active about what we want. Ms. Ramirez commented that the city should benefit from development but there is a better spot for this type of development.

Kenneth Smith, 1101 Leah Avenue, said there is a need for more apartments. Mr. Smith expressed his concerns regarding flooding and traffic. He asked the Commission to oppose the request.

Nancy Moore, 15 Tanglewood, said we need to protect the heritage of San Marcos. Ms. Moore pointed out that the city is currently at 85% apartments. She added that the river can be a continuous river. She asked the Commission to listen to the people that did vote and give them a chance to find a way to purchase the property in a good way.

Lisa Prewitt, 619 Maury said that there is one misconception of the non binding referendum. She read the referendum to the Commission. She pointed out that the referendum did not say 20 or 25 acres behind the student apartment complex. Ms. Prewitt explained that there was City Meeting last year where people requested that zoning changes be put on hold until the Comp Plan was complete. She explained that people voted no to pay taxes because they do not know what the increase in taxes would be. Ms. Prewitt said the development will pollute the river and asked the Commission to preserve the river. She pointed out that the property will be a party area for the students where she would not bring her children.

Derrick Lee, 209 S. Comanche, pointed out that grass doesn't grow green in Texas. He explained that it will take many chemicals to keep the grass green, which will run into the river. He expressed concerns about the endangered species in the river. Mr. Lee also pointed out that traffic is currently congested and inviting more people in the area that is already stressed. He added that there are currently issues with buses being full in the area.

Patrick Montgomery, 626 Centre Street, spoke in opposition to the request. He pointed out that student housing should not be the City's responsibility. Texas State is growing out of control and they should be the ones to address student housing. He said he keeps hearing about increasing the tax base. He felt that developers should develop in areas zoned multifamily and why try to force the Commission to change the zoning. Mr. Montgomery added that it should be noted that the seller said he is not going to sell. He felt that the seller will sell to whoever brings him a check. He stated that spot zoning an issue in this city. Mr. Montgomery added that city officials should represent the citizens best interest.

Camille Phillips, lives on Franklin mentioned Texas State Law and stated that all zoning changes are discretionary. She told the Commission that they can deny the request because it is not a taking. She commented that the Commission should be careful of giving the city away to student apartments. Ms. Phillips said she lives on Franklin Drive and are the victims of The Retreat built by developers from Georgia and is a mess. She pointed out that The Retreat has been sold. In addition, she stated that many issues have arisen by the Retreat. She asked the Commission to deny request.

Jaimy Breihen, 134 Hillcrest, said he was torn apart about the project. He said that he feels that many will not agree with his opinion about an open field with road infrastructure on two sides is more acceptable than a location that lacks these assets. Mr. Breihen stated his concerns are that the project is adjacent to a single family neighborhood and the serious flood issues. He added that the positives of the development is that it is located on IH-35, there is minimal wildlife, it is adjacent to MF-24 zoning and it could possible bring up the neighborhood. In addition he said the City gets free parkland. Mr. Breihen said that the developer could possibly assist with drainage problems. He pointed out that he is not saying the development is good thing or a bad thing. He said in addition to the parkland the developer could offer a security agreement.

Diane Coffee, 702 Maury Street said she has been to Capes Camp and has enjoyed it. She said Capes Camp is a jewel and we have a moral obligation to protect the jewel. Ms. Coffee stated that it should not be a place blocked off by a 3 story building that blocks the view for everyone. The development should not be a detriment to the existing neighborhood. She mentioned that the river is this town and people are here and have come back because of the river. She told the Commission that we have a moral opportunity to rise above because we value the river and it is our duty to be good stewards of the land.

Ron Hart, 1660 W. McCarty Lane, a licensed real estate broker, said he has had the privilege to represent Dave Mulkey and Dovetail Company for approximately fourteen months. He pointed out that they took what Mr. Bryan suggested and came back with a PDD as requested. He assured the Commission that what they have before them is a well thought out PDD. Mr. Hart felt that there can be a common ground that can be found and feels that is what is in front of them today.

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

MOTION: Upon a motion made by Commissioner Kelsey and no second to deny the request the motion failed.

MOTION: Upon a motion made by Commissioner Carter and a second by Commissioner Couch, the Commission voted eight (8) in favor and one (1) opposed to approve PDD-12-02, ZC-12-05, ZC-12-06, ZC-12-11, LUA-12-04, LUA-12-06 with the conditions that the landscape islands in the proposed parking areas be designed following Low Impact Development (LID) practices, the project will be subject to the Architectural Renderings and Elevations as shown in Exhibit "E," all park improvements will need to be engineered and constructed or will need to be paid for prior to the recordation of the plat, itemization of the structural and non-structural LID practices that will be focused on on-site, distributed, at the source controls, per the City of San Marcos Green Infrastructure-LID Practices Manual, Itemization of the end of network of structural and non-structural LID BMPs, previous material will be used for the pool area in the Buffer Zone, a right-turn lane will be constructed along the IH35 northbound frontage road from the bridge over the San Marcos River to the proposed main entrance and on River Road, the on-site apartment management company participate in the ACT Program and the wording of the pedestrian access easement from IH 35 to the trail is changed from "a minimum of 10-foot" to "a minimum of 24-foot." The motion carried. Commissioner Kelsey dissenting.

17. LUA-12-09 (Windemere) Hold a public hearing and consider a request by Vigil and Associates, on behalf of Robert Haug and Vinson Wood, for a Land Use Amendment from Very Low Density Residential (VLDR) to Low Density Residential (LDR) for approximately 22.5 acres out of the Thomas J. Chambers Survey, Abstract No. 2, located at 200 Lime Kiln Road.

18. ZC-12-14 (Windemere) Hold a public hearing and consider a request by Vigil and Associates, on behalf of Robert Haug and Vinson Wood, for a Zoning Change from Single-Family Rural (SF-R) to Single-Family Residential (SF-6) for approximately 22.5 acres out of the Thomas J. Chambers Survey, Abstract No. 2, located at 200 Lime Kiln Road.

MOTION: Upon a motion made by Commissioner Seebeck and a second by Commissioner Kelsey, the Commission voted all in favor to postpone LUA-12-09 and ZC-12-14 to the January 8, 2013 Planning and Zoning Commission meeting. Motion carried unanimously.

Non-Consent Agenda

19. Receive a presentation from staff on possible amendments to the San Marcos SmartCode, and provide direction to staff.

John Foreman, Planning Manager gave a presentation and asked the Commission for direction.

20. Development Services Report

- a. Update from staff on Comprehensive Plan

Matthew Lewis announced the November 28th Comp Plan Meeting.

21. 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.

22. Adjourn.

Chair Taylor adjourned the Planning and Zoning Commission at 10:36 p.m. on Tuesday, November 27, 2012.



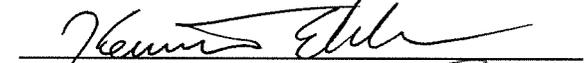
Bill Taylor, Chair



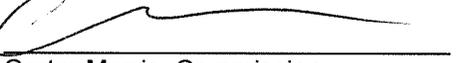
Curtis Seebeck, Vice Chair



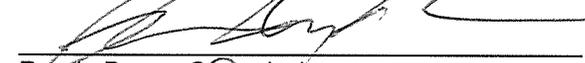
Chris Wood, Commissioner



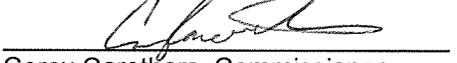
Kenneth Ehlers, Commissioner



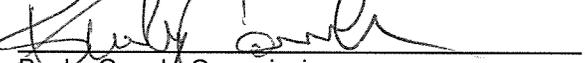
Carter Morris, Commissioner



Randy Bryan, Commissioner



Corey Carothers, Commissioner



Bucky Couch, Commissioner



Travis Kelsey, Commissioner

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 P:Z, (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 PDC-Park LA.

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.

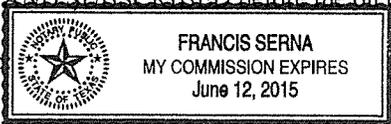
The vote or decision involving this interest is on 11/27, 2012 agenda of the governmental body, and is described as follows: the park to willow creek

EXECUTED this 11 day of December, 2012.
Signature [Signature]

Printed Name Chris West

SWORN TO AND SUBSCRIBED before me on the 11 day of December, 2012

Notary Stamp



Francis Serna
Notary Public
State of Texas

FILED this 12 day of December, 2012.
[Signature]
City Clerk of the City of San Marcos