



**SAN MARCOS
PLANNING AND ZONING
COMMISSION REGULAR
MEETING
CITY COUNCIL CHAMBERS,
630 E. HOPKINS
TUESDAY, APRIL 9, 2013
6:00 P.M.**

1. Call To Order
2. Roll Call
3. **Chairperson's Opening Remarks**
4. Receive a presentation from Staff and discuss MyPermitNow system.

***NOTE:** The Planning and 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

CONSENT AGENDA

THE FOLLOWING ITEMS NUMBERED 6 - 6 MAY BE ACTED UPON BY ONE MOTION. NO SEPARATE DISCUSSION OR ACTION ON ANY OF THE ITEMS IS NECESSARY UNLESS DESIRED BY A COMMISSIONER OR A CITIZEN, IN WHICH EVENT THE ITEM SHALL BE CONSIDERED IN ITS NORMAL SEQUENCE AFTER THE ITEMS NOT REQUIRING SEPARATE DISCUSSION HAVE BEEN ACTED UPON BY A SINGLE MOTION.

6. **Consider the approval of the minutes of the Regular Meeting on March 26, 2013.**

PUBLIC HEARINGS

7. **CUP 13-07 (Louie's Beer Garden and Seafood Shack)** Hold a public hearing and consider a request by Allen Shy, on behalf of Shy SG Group LLC, for a new Conditional Use Permit to allow the sale of mixed beverages for on-premise consumption at 119 E. Hutchison Street.
8. **CUP-13-11 (Railyard Bar and Grill)** Hold a public hearing and consider request by Matt Hageman, on behalf of the Railyard Bar and Grill, for the renewal of a Conditional Use Permit to allow the sale of mixed beverages for on-premise consumption at 116 S. Edward Gary Street.
9. **PDD-07-02(a) (McCarty Commons)** Hold a public hearing and consider a request by SLF II - McCarty, L.P. for amendments to the existing Planned Development District for McCarty

Commons, consisting of 259.52 acres more or less out of Cyrus Wickson Survey, Abstract 474, and the Nathaniel Hubbard Survey, Abstract 250, as originally approved by Ordinance 2008-41.

- 10. Hold a public hearing and discuss the 10-year Capital Improvements Program.

NON-CONSENT AGENDA

- 11. **Development Services Report**
 - a. Update from staff on Comprehensive Plan
- 12. 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.*
- 13. Adjournment.

Notice of Assistance at the Public Meetings

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I certify that the attached notice and agenda of items to be considered by the Planning and Zoning Commission was removed by me from the City Hall bulletin board on the _____ day of

_____ Title: _____

Agenda Information

AGENDA CAPTION:

Chairperson's Opening Remarks

Meeting date: April 9, 2013

Department: Development Services

Funds Required: n/a

Account Number: n/a

Funds Available: n/a

Account Name: n/a

CITY COUNCIL GOAL:

BACKGROUND:

Agenda Information

AGENDA CAPTION:

Receive a presentation from Staff and discuss MyPermitNow system.

Meeting date: April 9, 2013

Department: Development Services

Funds Required: na

Account Number: na

Funds Available: na

Account Name: na

CITY COUNCIL GOAL:

Customer Friendly Processes

BACKGROUND:

In January 2012, San Marcos implemented the MyPermitNow system to manage permits and planning projects. Since that time, features have been added which allow applicants to submit applications and pay for permits online, and also allow the public to view permitting and planning reports and data. Additional improvements and features are expected.

Agenda Information

AGENDA CAPTION:

Consider the approval of the minutes of the Regular Meeting on March 26, 2013.

Meeting date: April 9, 2013

Department: Development Services

Funds Required: n/a

Account Number: n/a

Funds Available: n/a

Account Name: n/a

CITY COUNCIL GOAL:

BACKGROUND:

ATTACHMENTS:

March 26, 2013 PZ Minutes

**MINUTES OF THE REGULAR MEETING OF THE
SAN MARCOS PLANNING AND ZONING COMMISSION
COUNCIL CHAMBERS, CITY HALL
March 26, 2013**

1. Present

Commissioners:

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

City Staff:

Matthew Lewis, Development Services Director
Kristy Stark, Development Services Assistant Director
Roxanne Nemcik, Assistant City Attorney
Francis Serna, Recording Secretary
John Foreman, Planning Manager
Amanda Hernandez, Senior Planner
Alison Brake, Planner
Emily Koller, Planner

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 March 26, 2013, in the Council Chambers, City Hall, City of San Marcos, 630 E. Hopkins, San Marcos, Texas 78666.

Chairperson's Opening Remarks.

Chair Taylor welcomed the audience and viewers.

3. Election of Officers

Bill Taylor was elected Planning and Zoning Commissioner Chair. Carter Morris was elected as Planning and Zoning Commission Vice Chair.

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.*

4. 30 Minute Citizen Comment Period

Donna Hill, resident of 730 Belvin and the Steering Committee Vice Chair spoke in support of the Comprehensive Master Plan. She gave an overview of meetings and agendas of the Comprehensive Master Plan. She added that the Chair and Vice Chairs have been meeting with staff every Wednesday prior to the Wednesday night Committee meeting to discuss issues and the agenda. Ms. Hill explained that they have met twice at the direction of the Commission and have tried to resolve the concerns and comments of the Planning Commission. Ms. Hill asked the Commission for their support of the Comprehensive Master Plan.

Thomas Rhodes, ETR Development Consulting, 401 Dryden Lane, Buda Texas spoke on the Comprehensive Master Plan. He requested, on behalf of his clients, that the Commission consider expanding the maps that are included in the Comprehensive Plan to the west side of town to include the Lazy Oaks Ranch property as a low intensity preferred growth scenario. He explained that during the work on the Comp Plan that his client was also in negotiations with the city discussing a Development Agreement. He pointed out that the City Council approved the Development Agreement in early February. Mr. Rhodes stated he was available to answer questions.

Elena Duran, 1133 Lago Vista spoke in favor of the Gas Lamp District Project. She felt it is a quality project that the new Master Plan encourages. Ms. Duran stated that the Gas Lamp Development is a quality project and encouraged the Commission to approve the project.

Barrie Breed, President of SMABOR expressed the Boards sincere appreciation of the Citizen Advisory Committee, the Steering Committee and all city staff who worked very hard to provide the Comprehensive Master Plan. She explained that as Realtors and businesses associated with the real estate market that their future depends on the planning of the today. Ms. Breed said planning is crucial and hopes that they can move forward with everyone's different views and ideas in the true spirit of cooperation for the common goal of the future goal of San Marcos.

Sheran Seif, member of the San Marcos Arts Commission commended and thanked the Comprehensive Master Plan Committee members. Ms. Seif said the committees were very welcoming of the Arts Commission's view and made them feel a part of the comprehensive master plan process. She added that they hope that the Commission recommends the Comprehensive Plan to the City Council. Ms. Seif referred to memos provided to the Commission with amendments to the Master Plan. Ms. Seif stated she wants to make sure that the Commission is aware that the Arts Commission does fully support the compromise that was reached.

John David Carson offered his support of the Comprehensive Mater Plan. He explained that he has been actively involved in the process and wished to recognize the time and effort that everyone has spent on the Comprehensive Master Plan. Mr. Carson explained that at the end of last year there were many concerns about several aspects about visions, goals of the plan. He pointed out that not all the changes were incorporated but a great number have been. Mr. Carson stated that the document is strong document and thoroughly vetted by the community and provides a possibility of a better future for all stake holders involved. He encouraged the Commission to send a positive recommendation to City Council.

Consent Agenda:

5. Consider the approval of the minutes from the Regular Meeting on March 12, 2013.

MOTION: Upon a motion made by Commissioner Seebeck and a second by Commissioner Ehlers the Commission voted six (6) for and zero (0) opposed to approve the minutes of the Regular Meeting on March 12, 2013. Commissioners Kelsey, Carothers and Morris abstained.

Public Hearings:

6. LUA-13-02 (San Marcos Unitarian Universalist Fellowship) Hold a public hearing and consider a request by Dan Gibson, on behalf of San Marcos Unitarian Universalist Fellowship, for a Land Use Amendment from Low Density Residential (LDR) to Public (P) for a 2.01 acre tract described as Lot 1 of the Craddock Avenue Subdivision, located in the 1100 block of Craddock Avenue.

7. ZC-13-04 (San Marcos Unitarian Universalist Fellowship) Hold a public hearing and consider a request by Dan Gibson, on behalf of San Marcos Unitarian Universalist Fellowship, for a Zoning Change from Single-Family Residential (SF-6) to Public and Institutional (P) for a 2.01 acre tract described as Lot 1 of the Craddock Avenue Subdivision, located in the 1100 block of Craddock Avenue.

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

Chair Taylor opened the public hearing for LUA-13-02 and ZC-13-04. Dan Gibson, Chair for the Grounds Committee for the Church, thanked Alison Brake, Staff Planner for her hard work on the project. Mr. Gibson pointed out the number of members present in support of the project. He explained that there are currently 60 members but are still growing. He mentioned that they did receive approval from City Council for the approval of the Dale Drive abandonment. Mr. Gibson added that the property has been replatted and consists of 2 acres. Mr. Gibson felt that the church will be in a good location. He explained that zoning request is because of the need for additional impervious cover so that people will not park in the street.

Robert Eby, 1007 Dale Drive stated that he is within the 200' buffer. Mr. Eby spoke in opposition to the request. He said when they bought their house it was because of the quiet neighborhood. Mr. Eby expressed concerns that the church will bring high volume of traffic to the neighborhood. He felt that it will not be a small community church. He added that they are also concerned with children safety. Mr. Eby stated that the city does not have anything to gain with the zoning change request. He felt that a zoning change is not beneficial to the neighborhood. He added that if the church is allowed in the new Master Plan allow the change, but do not change the zoning. Mr. Eby expressed concerns regarding future use of the building if the church does not succeed.

Janice McMMain, 1609 Furman stated she lives across the street from the property requesting a zoning change. Ms. McMMain spoke in opposition to the request. She felt the church needs to be on a bigger piece of property. She expressed safety concerns with the children in the neighborhood. She added that there are a lot of elderly people in the neighborhood. She felt traffic safety will also be an issue. She was also concerned with the future of the building.

Lisa Craddock, President of the San Marcos Unitarian Universalist Fellowship addressed neighbors' concerns. She said they do not intend to become a big church. She said the property is currently zoned to allow a church. Ms. Craddock explained that they are requesting to allow a church and a parking lot to accommodate their members. She mentioned that they are environmentally aware. Ms. Craddock said that they can be very good friends with the neighbors and feels that a church is a good asset to the neighborhood. Ms. Craddock asked for the Commissions support.

Ronald Romero resident on Allen Street spoke in opposition to the request. He stated that he has similar concerns with pedestrian safety and vehicle traffic.

Brian Ferguson, Minister of the San Marcos Unitarian Universalist Fellowship said he was present to support the request. He stated that he would like to address the neighborhood concerns. He explained that they also have many children members. Mr. Ferguson explained that they will have areas for children to play. He pointed out that the rezoning request is to address parking and accommodate the neighbors.

Frank Flauto, 111 Ridgeway Drive, President of the United Campus Ministry and have been associated with the Unitarian Church for about 20 years. He explained that the Unitarian Church has been wonderful and are concerned about the environment. He added that the increase in parking will be on Sunday and they have little activity during the week. Mr. Flauto stated that the neighbors do not have anything to fear from this group.

Jeannie Lewis said she was a member of the small group of people that founded the Church back in 1986. She stated that the Unitarian Churches tend to be small neighborhood churches. Ms. Lewis pointed out that they have been around for 25 years and assured the neighborhood that they are here to stay and be good neighbors.

Mark Haygood stated he is new to the church and is a Principal Musician. He felt that the members are sincere in addressing safety of the neighborhood. Mr. Haygood spoke in support of the request.

Sarah Wren stated she lives on Franklin and Girard. She stated that she one of the older citizen in the neighborhood who walk daily and is not in fear of the traffic.

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 Carothers the Commission voted five (5) in favor and four (4) opposed to approve LUA-13-02. Commissioners Ramirez, Taylor, Bryan and Wood dissenting.

MOTION: Upon a motion made by Commissioner Morris and a second by Commissioner Ehlers the Commission voted all in favor to approve ZC-13-04.

8. ZC-11-29 (Gas Lamp District) Hold a Public Hearing and consider a request by Bury + Partners, on behalf of Walton Texas LP for a Zoning Change from Future Development (FD) to Smart Code (SC) for a 495 +/- acre site out of John H. Yearby Survey, located at the Northwest corner of Old Bastrop Highway and Centerpoint Road.

MOTION: Upon a motion made by Commissioner Morris and a second by Commissioner Seebeck the Commission voted five (5) in favor and four (4) opposed to postpone ZC-11-29 until after the Council discussion on the development agreement. Commissioners Seebeck, Bryan, Taylor and Ramirez dissenting.

9. WARRANT REQUEST (Gas Lamp District) Hold a public hearing and consider a request for Bury + Partners, on behalf of Walton Texas LP. for 13 warrants that allow deviation from SmartCode (SC) Zoning for a 495 +/- acre site out of the John H. Yearby Survey located at the Northwest corner of Old Bastrop Highway and Centerpoint Road, as follows: 1. Section 5.12 – allow the second layer of the lot to be 12 feet vs. 20 feet required for up to 49% of the total number of single family lots in the project; 2. Section 5.9.4 – allow driveways to be 12 feet wide in the right-of-way vs. 12 feet wide in the first layer for up to 49% of the total number of single family lots in the project; 3. Table 3.6 – allow pipe, post, column and double column light poles in any T-Zone; 4. Table 1.3 – allow an atypical cross section for Arterial A; 5. Table 3.3– allow head-in parking for street section CS-80-54 vs. reverse angle required; 6. Table 3.3 – allow cross sections ST-50-26 & ST-50-28 in all T-Zones; 7. Table 1.3 – reduction of setbacks in T3 zone from 24 feet front and 12 feet all other to 10 feet front and 5 feet all other; 8. Table 1.3 – allow a reduction in the building height from 2 stories to 1 story for age restricted or nursing facilities; 9. Section 3.8.2 – allow a minimum of 30% commercial (office/retail) in T5 Zone vs. 15% retail and 15% office required; 10. Section 3.5.4 – permit the reservation of a childcare / elementary school lot for 2 years after the sale of the last single family or multi-family lot vs. up to five years after the sale of the last lot; 11. Section 3.5.4 – Allow one 8 acre lot to be reserved for an elementary school vs. one 3 acre site in each of the 2 pedestrian sheds as required; 12. Table 1.3 – allow a 25 acre apartment site to have an increased block perimeter of 2,400 feet vs. 2,000 feet required and allow this to be measured at private streets and pedestrian passages in addition to public streets as stated in code; 13. Table 1.3 – allow the multifamily sites to have lot widths based on the block perimeters from Warrant #12 vs. 196 feet maximum width required.

MOTION: Upon a motion made by Commissioner Morris and a second by Commissioner Carothers the Commission voted all in favor to postpone running concurrently with the zoning request, ZC-11-29, at the soonest possible meeting following Council action of the Public Improvement District Request.

10. PC-12-29_03 (Weatherford Subdivision) Public Hearing and Consider a request by HMT Engineering, on behalf of Robert Theriot, Vikash Patel and Kishor Patel, for approval of a replat of Lot 13A, Weatherford Subdivision, establishing Lots 13A-1 and 13A-2, located near the intersection of South IH 35 and Wonder World Drive.

Emily Koller, Staff Planner gave an overview of the project.

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 Kelsey the Commission voted all in favor to approve PC-12-29_03.

11. PDD-07-02(a) (McCarty Commons) Hold a public hearing and discuss a request by SLF II - McCarty, L.P. for amendments to the existing Planned Development District for McCarty Commons, consisting of 259.52 acres more or less out of Cyrus Wickson Survey, Abstract 474, and the Nathaniel Hubbard Survey, Abstract 250, as originally approved by Ordinance 2008-41.

Emily Koller, Staff Planner gave an overview of the project.

Chair Taylor opened the public hearing. Ocie Vest, Partner with Stattford Land, Dallas Texas stated he was available to answer questions. There were no additional citizen comments and the public hearing was closed.

No action was taken.

12. Comprehensive (Master) Plan. Hold a Public Hearing and consider a recommendation to the City Council for adoption of the Final Draft of the Comprehensive (Master) Plan - Vision San Marcos: A River Runs Through Us - to guide the growth and development of the City of San Marcos.

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

MOTION: Upon a motion made by Commissioner Morris and a second by Commissioner Ehlers the Commission voted all in favor to approve the Comprehensive Master Plan with five text changes and the addition of Lazy Oaks Subdivision based on the development agreement which was approved by Council on all maps and to utilize the first option provided by Sherwood Bishop to update Goal 3, Objective 2 of Parks, Public Spaces and Facilities.

Non-Consent

13. Presentation from staff and discussion regarding Capital Improvement Plan (CIP).

John Foreman, Planning Manager gave a brief overview and schedule of the Capital Improvement Plan.

14. Development Services Report

Matthew Lewis, Development Services Director advised the Commission that staff will contact them regarding scheduling the Planning and Zoning Commission Retreat.

15. 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.*

Jeff Kilpatrick, Walton Development Management stated he was very disappointed with tonight's outcome. He stated that they did not get a chance to speak and make any clarifications. Mr. Kilpatrick said he was available to answer questions.

Paul Bury explained that he understood and the zoning and the PID would get to Council at the same time. They said they cannot get the PID if they don't get the zoning.

16. Adjourn.

Chair Taylor adjourned the Planning and Zoning Commission at 8:14 p.m. on Tuesday, March 26, 2013.

Bill Taylor, Chair

Carter Morris, Vice Chair

Curtis Seebeck, Commissioner

Kenneth Ehlers, Commissioner

Randy Bryan, Commissioner

Chris Wood, Commissioner

Travis Kelsey, Commissioner

Corey Carothers, Commissioner

Angie Ramirez, Commissioner

ATTEST:

Francis Serna, Recording Secretary

DRAFT

Agenda Information

AGENDA CAPTION:

CUP 13-07 (Louie's Beer Garden and Seafood Shack) Hold a public hearing and consider a request by Allen Shy, on behalf of Shy SG Group LLC, for a new Conditional Use Permit to allow the sale of mixed beverages for on-premise consumption at 119 E. Hutchison Street.

Meeting date: April 9, 2013

Department: Development Services - Planning

Funds Required: N/A

Account Number: N/A

Funds Available: NA

Account Name: NA

CITY COUNCIL GOAL:

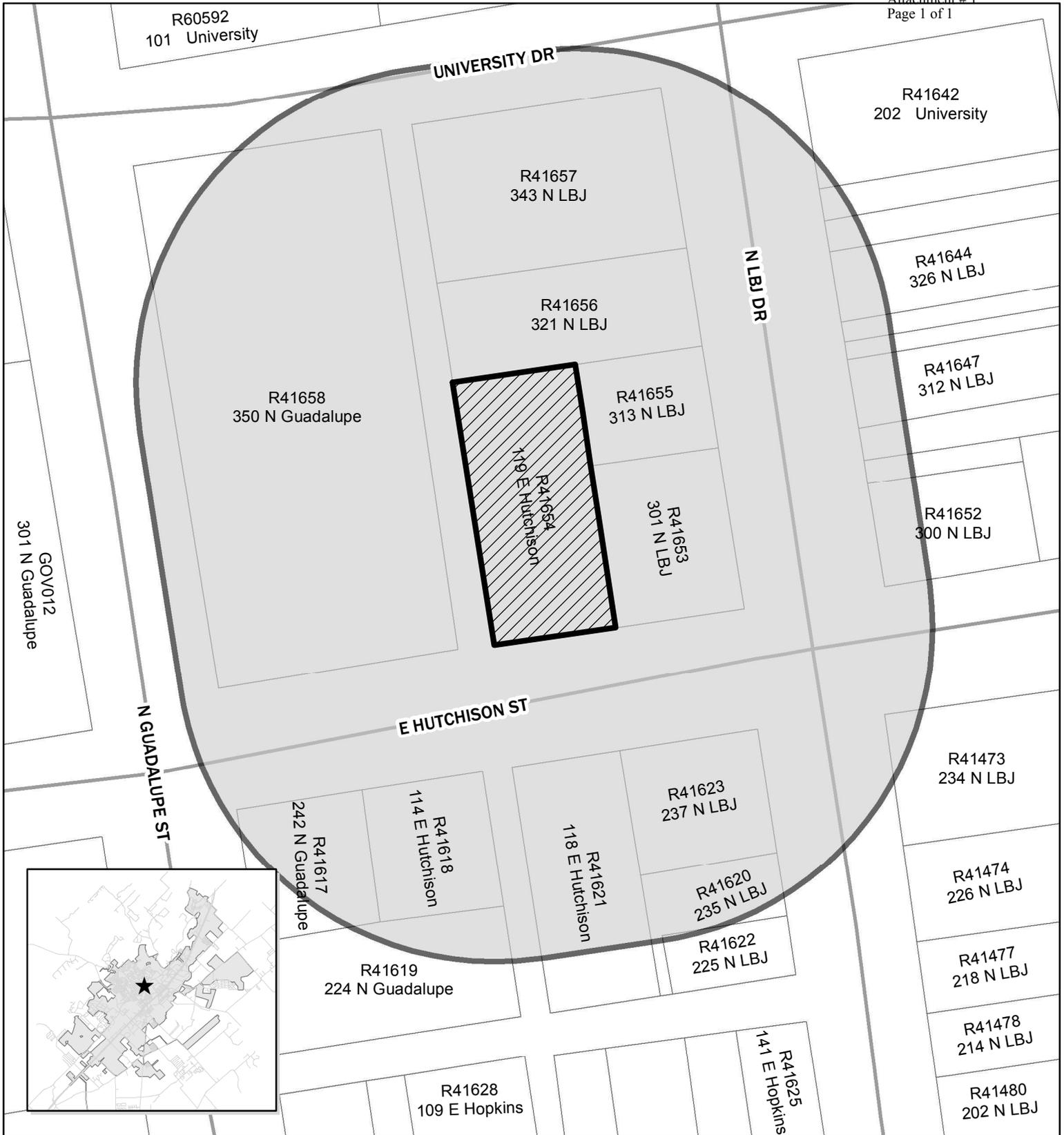
Strengthen the Middle Class, Encourage Strong Neighborhoods, Education and Workforce

BACKGROUND:

The applicant intends to remodel the old Taqueria Del Charro site for a beer garden and seafood restaurant. An Economic Development Waiver to waive the 12 month waiting period to serve mixed beverages was approved by City Council on March 19, 2013. This site is within the SmartCode and must follow all design standards.

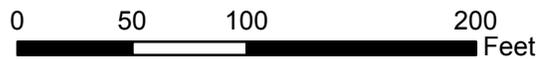
ATTACHMENTS:

Case Map
CUP-13-07 Staff Report
Elevations
Site Plan
Menu
CUP Application
Development Waiver



CUP-13-07
Louie's Beer Garden
& Seafood Shack
119 E Hutchison St
Map Date: 3/19/2013

-  Site Location
-  Notification Area (200 feet)



This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.

CUP-13-07

Conditional Use Permit

Louie's Beer Garden

119 E. Hutchison Street



Applicant Information:

Applicant: Allen Shy
Mailing Address: 139 E Hopkins St, Suite A
San Marcos TX 78666

Property Owner: Shy Penn L.T.D.
139 E Hopkins St, Suite A
San Marcos TX 78666

Applicant Request: Restricted Conditional Use Permit (CUP) to allow the sale and on-premise consumption of mixed beverages in a T5- Urban Center zoning district.

Public Hearing Notice: Public hearing notification was mailed on March 29, 2013

Response: None to date

Subject Property:

Location: 119 E Hutchison

Legal Description: Part of lots 1-2, block 24, Original Town of San Marcos

Frontage On: Hutchison

Neighborhood: Downtown

Existing Zoning: T5- Urban Center

Sector: Sector 8

Utilities: Sufficient

Existing Use of Property: Restaurant

Zoning and Land Use Pattern:

	Current Zoning	Existing Land Use
N of property	T5- Urban Center	Commercial
S of property	T5- Urban Center	Commercial
E of property	T5- Urban Center	Commercial
W of property	T5- Urban Center	Commercial

Code Requirements:

A conditional use permit allows the establishment of uses which may be suitable only in certain locations or only when subject to standards and conditions that assure compatibility with adjoining uses. Conditional uses are generally compatible with permitted uses, but require individual review and imposition of conditions in order to ensure the appropriateness of the use at a particular location.

A business applying for on-premise consumption of alcohol must not be within 300 feet of a church, school, hospital, or a residence located in a low density residential zoning district. This location **does** meet the distance requirements.

CUPs issued for on-premise consumption of alcohol make the business subject to the code standards and the penalty point system for violations (Section 4.3.4.2).

Mr. Shy has requested a **Restricted (Restaurant) Conditional Use Permit** which requires that the business must comply with the following standards at all times. The standards were revised in 2011. (Section 4.3.4.2):

- a) The business must have a kitchen and food storage facilities of sufficient size to enable food preparation. The kitchen must be equipped with, and must utilize, a commercial grill, griddle, fryer, oven, or similar heavy food preparation equipment.
- b) The business must apply for, obtain and maintain a food establishment permit in accordance with chapter 18 of the City Code.
- c) The business must serve meals to customers during at least two meal periods each day the business is open. A meal must consist of at least one entree, such as a meat serving, a pasta dish, pizza, a sandwich or similar food in a serving that serves as a main course for a meal. At least three entrees must be available during each meal period. A meal period means a period of at least four hours.
- d) The business must be used, maintained, advertised and held out to the public as a place where meals are prepared and served.
- e) The restaurant must be in operation for 6 months before a permit for beer and wine is issued, and 12 months before a permit for mixed beverages is issued.

Case Summary

The subject property is located on the north side of Hutchison Street between LBJ Drive and Guadalupe Street. The site is inside of the Central Business Area and the SmartCode district. The subject property was originally constructed as a Greyhound bus station, and was most recently a Mexican restaurant. There is currently a dwelling unit to the rear of the property that the applicant intends to remodel and use as housing for a staff member. Surrounding uses include a food trailer court, tire shop, movie theater, and fire station.

The applicant is proposing significant improvements which would meet the intent of the SmartCode. Railing will be installed up to the sidewalk along E. Hutchison Street and a covered patio will be placed over the existing parking lot on the west of the property. 13 onsite parking spaces will be provided at the rear of the property with alley access only. City sidewalks will extend from N LBJ Drive to the front of the property.

The application indicates hours of operation from 11 a.m. to 2 a.m. Sunday thru Saturday. The applicant has expressed that he may like to have live music in the future for special events.

Outdoor games such as horse shoes, washers, and “deck shuffleboard” will be placed on the site. Menu items include gumbo, lobster rolls, boudin balls, and alligator. According to the application, Louie’s Beer Garden & Seafood Shack will contain 34 indoor fixed seats and 165 outdoor fixed seats.

Comments from Other Departments:

There were no comments from police, fire or health departments.

Planning Department Analysis:

Staff has reviewed the request for compliance with the Land Development Code and it appears that the request is consistent with the policies and the general intent of the zoning district and does not generate pedestrian or vehicular traffic which is hazardous or conflicts with existing traffic.

Louie’s Beer Garden and Seafood Shack presents an opportunity to improve the streetscape and increase pedestrian activity near Downtown and Texas State University. This project meets the intent of the SmartCode by bringing the service area to the property line and by providing rear parking only.

On March 19, 2013 the San Marcos City Council approved an Economic Development Incentive Agreement to grant a waiver of the twelve month waiting period for on-premise sales of alcohol (Section 4.3.4.2c). This agreement was approved based on the City’s desire to promote local economic development and to stimulate business and commercial activity by encouraging new in-fill development and job creation in the downtown area (Resolution 2013-48). This allows the applicant to apply for this CUP without being subject to the waiting period.

Staff does not consider noise a major issue as their peak hours would likely be compatible will surrounding businesses and there are no single-family residences nearby. The nearest apartment complex, University Place, is approximately 700 feet from the site and there are some single-unit apartments downtown. To avoid potential noise issues, staff recommends that live music be limited to 12:00pm thru 11:00 pm.

In order to monitor new permits for on-premise consumption of alcohol, the Planning Department’s standard recommendation is that they be approved initially for a limited time period. Other new conditional use permits have been approved as follows:

- Initial approval for 1 year;
- Renewal for 3 years;
- Final approval for the life of the State TABC license, provided standards are met.

Staff recommends approval with the following condition:

- 1. The permit shall be valid for one (1) year, provided standards are met, subject to the point system;**
- 2. Live music shall be limited to 12:00pm - 11:00pm Sunday thru Saturday**

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

Prepared by:

Tory Carpenter

Planning Technician

4/4/13

Name

Title

Date

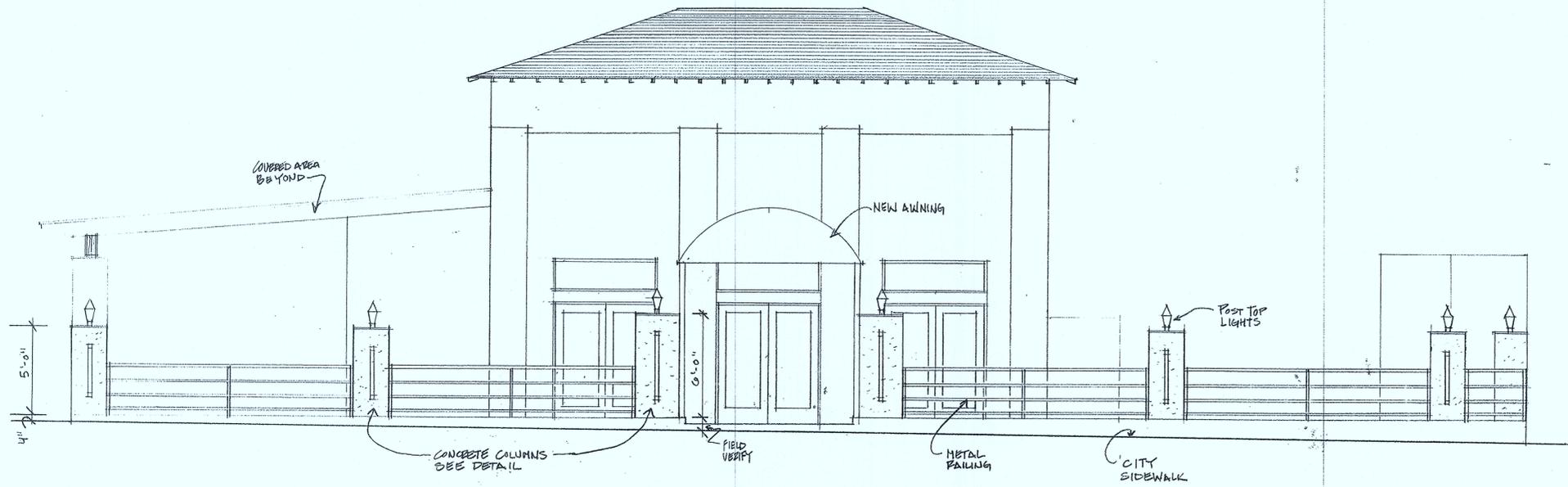
Commission's Responsibility:

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

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

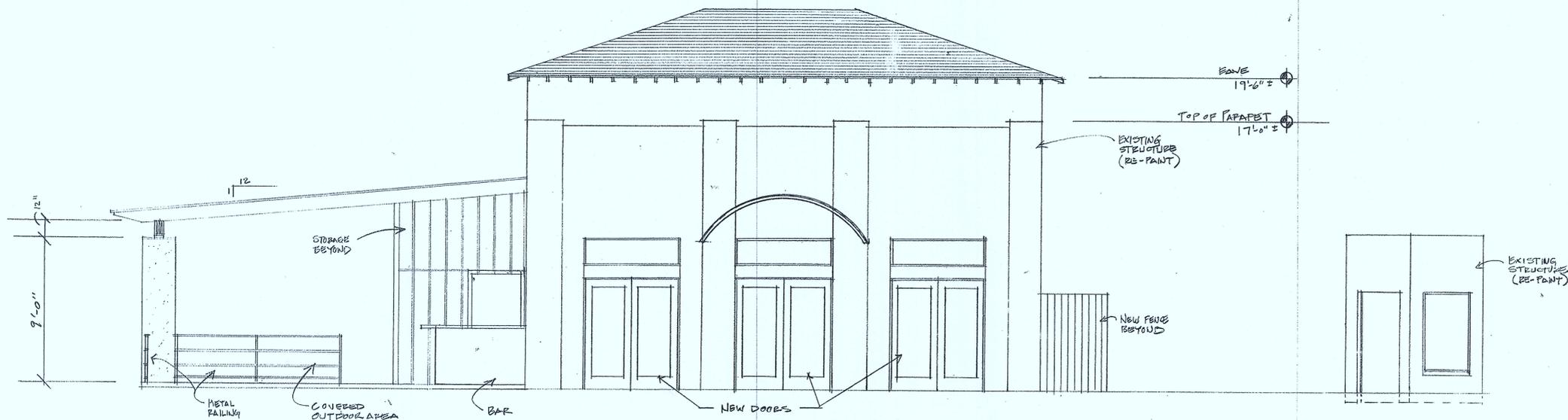
- is consistent with the policies of the Master Plan and the general intent of the zoning district;
- is compatible with the character and integrity of adjacent developments and neighborhoods;
- includes improvements to mitigate development-related adverse impacts; and
- does not generate pedestrian or vehicular traffic which is hazardous or conflicts with existing traffic in the neighborhood.

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



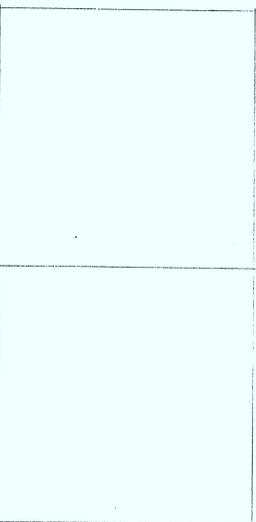
⊙ SOUTH ELEVATION (Q STREET)
1/4" = 1'-0"

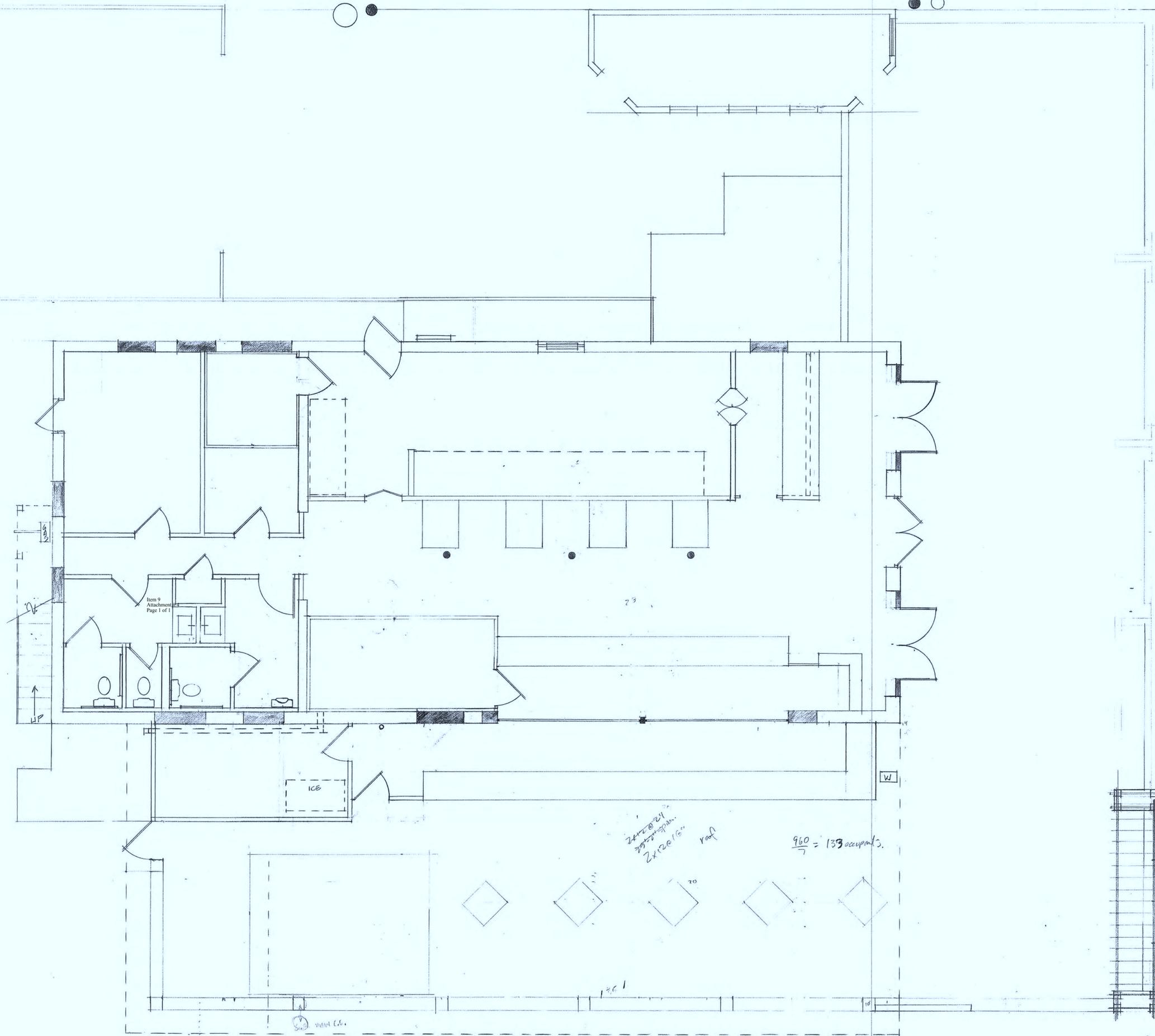
Item 9
Attachment # 3
Page 1 of 1



⊙ SOUTH ELEVATION (Q BUILDING)
1/4" = 1'-0"

Item 9





09/12



RECEIVED
JAN 23 2013

Restricted or Unrestricted
Conditional Use Permit Application Checklist
For Businesses within the Central Business Area

Provided by applicant as of date of submittal		By staff as of date of completeness review	
Completed	Required Item	Staff Verification	Staff Comments
<input type="checkbox"/>	A pre-application conference with staff is recommended	<input type="checkbox"/>	
<input type="checkbox"/>	A completed application for Conditional Use Permit and required fees. * (see note below)	<input type="checkbox"/>	
<input type="checkbox"/>	A site plan <i>drawn to scale</i> illustrating the locations of all structures on the subject property and on adjoining properties. * (see note below)	<input type="checkbox"/>	
<input type="checkbox"/>	Interior layout showing all proposed seating; kitchen and bar areas; and restroom facilities	<input type="checkbox"/>	
<input type="checkbox"/>	All information and illustrations necessary to show the nature and effect of the proposed variations to the standards of the zoning district.	<input type="checkbox"/>	
<input type="checkbox"/>	Authorization to represent the property owner, if applicant is not the owner	<input type="checkbox"/>	
Any of the following pieces of information as requested by the Director of Development Services : *(see note below)			
<input type="checkbox"/>	Landscaping and/or fencing of yards and setback areas and proposed changes	<input type="checkbox"/>	
<input type="checkbox"/>	Design of ingress and egress	<input type="checkbox"/>	
<input type="checkbox"/>	Off-street parking and loading facilities	<input type="checkbox"/>	
<input type="checkbox"/>	Height of all structures	<input type="checkbox"/>	
<input type="checkbox"/>	Proposed uses	<input type="checkbox"/>	
<input type="checkbox"/>	The location and types of all signs	<input type="checkbox"/>	
<input type="checkbox"/>	Hours of operation	<input type="checkbox"/>	
<input type="checkbox"/>	Impervious cover or drainage issues or impacts	<input type="checkbox"/>	

* For renewals, staff may accept a written statement that no changes have been made to these items if copies are available on file.

I hereby certify and attest that the application is complete and all information above is complete and hereby submitted for review.

Signed: Allen Shy

Date: 1-23-13

Print Name: Allen Shy

Engineer Surveyor Architect/Planner Owner Agent: _____
CUP- _____ - _____

09/12

City of San Marcos
RESTRICTED OR UNRESTRICTED
CONDITIONAL USE PERMIT APPLICATION

To Allow On-Premise Consumption of Alcoholic Beverages
for Businesses within the Central Business Area Zoning District

LICENSE INFORMATION

Trade Name of Business: Louie's Beer Garden & Seafood Shack
Application is filed by: Individual Partnership Corporation Other: L.L.C.
Name of Individual or Entity: Shy SG Group L.L.C. Phone Number: 512-627-5459
Mailing Address: 139 E. Hopkins Suite A San Marcos TX 78666
Email Address: allenshy7@yahoo.com
Type of Permit Requested: Mixed Beverage Beer & Wine Other: _____

PROPERTY

Street Address: 119 E. Hutchison St. San Marcos TX 78666
Legal Description: Lot _____ Block _____ Subdivision _____
Tax ID Number: R 46-1811985
Property Owner's Name: Shy Penn L.T.D. Phone Number: 512-627-5459
Address: 139 E. Hopkins Suite A San Marcos TX 78666

BUSINESS DETAILS

Primary Business Use: Restaurant (Restricted) Bar (Unrestricted) Other: _____
Hours of Operation: 11:00 AM - 2:00 am
Type of Entertainment Facilities: Restaurant
Indoor Fixed Seats: 34 Outdoor Fixed Seats: 165
Gross Floor Area Including Outdoor Above-ground Decks: 6,500 Square Feet
Number of Off-Street Parking Spaces Provided: 13
Located more than 300 feet from churches, public schools, hospitals, low density residential? Yes No

APPLICATION FOR CITY OF SAN MARCOS CONDITIONAL USE PERMIT-TABC

09/12

CUP PERMIT HISTORY *Check all that apply*

New request, no existing TABC CUP Permit at this location

Change to existing TABC Permit. Nature of Change: _____

Renewal

Change in name of license holder of existing business at same location

Change in name of existing business at this location

SUBMITTAL REQUIREMENTS

- **Beer and Wine Permit:** \$600 Application fee (non-refundable)
- **Mixed Beverage Permit:** \$600 Application fee (non-refundable)
- **Change to Existing Permit/Renewal:** \$300.00 Application fee (non-refundable)
- **Site Plan** drawn to scale, preferably on paper no larger than 11" x 17", showing dimensions of property, locations and square footage of building(s), interior layout showing dimensions of tables, bar area, etc., number of off-street paved parking spaces, and fences buffering residential uses.
- **Copy of State TABC License Application**

I certify that this information is complete and accurate. I understand that I or a representative should be present at all meetings regarding this application.

I am the property owner of record; or

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



Applicant's Signature

Printed Name: Allen Shy **Date:** 1-23-13

To be completed by Staff:

Meeting Date: _____ Application Deadline: _____

Accepted By: _____ Date: _____

RESOLUTION NO. 2013- R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS APPROVING AN ECONOMIC DEVELOPMENT INCENTIVE AGREEMENT PURSUANT TO SECTION 1.4.4.1 OF THE LAND DEVELOPMENT CODE (“LDC”) BETWEEN THE CITY OF SAN MARCOS AND ShySG, GROUP, L.L.C. THAT GRANTS A WAIVER OF THE REQUIREMENT UNDER SECTION 4.3.4.2 OF THE LDC THAT A RESTAURANT IN THE CENTRAL BUSINESS AREA MUST BE IN OPERATION FOR AT LEAST SIX MONTHS BEFORE IT MAY SELL BEER AND WINE FOR ON-PREMISES CONSUMPTION AND AT LEAST 12 MONTHS BEFORE IT MAY SELL MIXED BEVERAGES FOR ON-PREMISES CONSUMPTION IN CONNECTION WITH A PROPOSED RESTAURANT AND BAR AT 119 EAST HUTCHISON STREET; AUTHORIZING THE CITY MANAGER TO EXECUTE SAID AGREEMENT ON BEHALF OF THE CITY CONTINGENT UPON THE ISSUANCE OF A CONDITIONAL USE PERMIT FOR ON-PREMISES CONSUMPTION OF ALCOHOLIC BEVERAGES BY THE PLANNING AND ZONING COMMISSION; AND DECLARING AN EFFECTIVE DATE.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS:

PART 1. The attached Economic Development Incentive Agreement between the City of San Marcos and ShySG Group, L.L.C. (the “Agreement”) is hereby approved.

PART 2. The City Manager is hereby authorized to execute the Agreement on behalf of the City.

PART 3. This Resolution shall be in full force and effect immediately from and after its passage.

ADOPTED on March 19, 2013.

Daniel Guerrero
Mayor

Attest:

Jamie Lee Pettijohn

City Clerk

ECONOMIC DEVELOPMENT INCENTIVE AGREEMENT

Pursuant to Section 1.4.4.1 of the City of San Marcos Land Development Code, this agreement (the “Agreement”) is entered into by and between ShySG Group, L.L.C. (“Owner”) and the City of San Marcos, Texas (the “City”). The Owner and the City are collectively referred to as the “Parties.”

PART 1. RECITALS

Section 1.01. The City seeks to promote local economic development and to stimulate business and commercial activity in the City by, among other things, encouraging new in-fill development and job creation in the downtown area.

Section 1.02. Owner is the owner of the real property and improvements at 119 E. Hutchison St. (the “Property”). The Property is located within the Central Business Area (“CBA”) as defined in the City’s Land Development Code (“LDC”). The Property will be improved aesthetically and in compliance providing a new outdoor, family oriented, dining establishment.

Section 1.03. The Owner has proposed and intends to redevelop the Property by remodeling and expanding the existing structure, increasing the ad valorem property tax value of the improvements on the Property from \$302,130.00 to at least \$400,000.00, and opening a restaurant that will serve beer, wine and mixed beverages for consumption on the premises of the Property (the “Project”).

Section 1.04. The LDC establishes special conditions for the issuance of a Conditional Use Permit (“CUP”) for a restaurant serving alcoholic beverages for consumption on its premises. Pursuant to the requirements of Section 4.3.4.2 (b)(8) the LDC the Owner is subject a six-month waiting period before beer and wine may be sold from the Property for on-premises consumption and a 12 month waiting period before mixed beverages may be sold from the Property for on-premises consumption.

Section 1.05. Section 1.4.4.1 of the LDC authorizes the City Council to grant waivers of certain requirements under the LDC for economic development purposes. The waiting periods for the sale of alcoholic beverages for on-premises consumption under Section 4.3.4.2 (b)(8) of the LDC are major impediments to Owner’s successful execution of the Project and redevelopment of the Property and the Owner, therefore, seeks a waiver of these waiting periods.

Section 1.06. The City Council finds that the Owner’s request for a waiver complies with the requirements for granting a waiver of certain requirements of the LDC for economic development purposes under Section 1.4.4.1 of the LDC. The City Council, therefore, is amenable to waiving the applicability of the waiting periods to the Project.

Section 1.07. In consideration of the mutual benefits stated in the Agreement and the promises of the Parties set forth below, the Parties enter into this Agreement and agree to the terms and conditions set forth in this Agreement.

PART 2. OBLIGATIONS OF OWNER

Section 2.01. Execution of the Project. On or before May 1, 2013 the Owner will commence execution of the Project to include building renovation, landscaping, signage and related improvements in substantial conformance with plans and specifications approved by the City's Department of Development Services and as shown in Exhibit "A," attached hereto and made a part hereof. The Owner will pursue completion of the Project with commercially reasonable diligence, subject to *Force Majeure* events as defined in Section 5.05 below. The Owner, in executing the Project, shall comply with all requirements of all applicable City of San Marcos processes, procedures, ordinances, rules, regulations and standards.

Section 2.02. Employment. In conjunction with the Project, the Owner will employ approximately four full-time and 20-26 part-time employees with estimated wage rates as follows:

- a. Management: \$40,000.00 average annual salary;
- b. Cooks: \$30,000.00 average annual salary;
- c. Bartenders and Servers: \$35,000.00 annual salary

PART 3. ECONOMIC DEVELOPMENT WAIVER PROVIDED BY THE CITY

Section 3.01. Waiver of Certain Land Development Code Requirements. As to the Project, the waiting periods for the sale of alcohol for on-premises consumption under Section 4.3.4.2 (b) (8) of the LDC are hereby waived.

Section 3.02. Waiver Limited.

a. **Applies Only to Owner's Initial CUP.** The waiver granted under Section 3.01 applies only to that certain CUP approved by the City's Planning and Zoning Commission on _____ at the request of Owner and/or Owner's authorized representative. Upon the expiration, revocation or lapse of said CUP the waiver granted herein shall also automatically terminate, any future applicant for a CUP related to the sale of alcoholic beverages from the Property, whether Owner or any other person or entity, shall be subject to the then applicable requirements for the approval of such a CUP under the LDC or other ordinance.

b. **Subject to Other Requirements.** The waiver granted in Section 3.01 is subject to all other required approvals of the City under applicable ordinances, rules, regulations and standards. Except as specifically granted, the City grants no other waivers of any requirements under the LDC or its Code of Ordinances. The granting of the waiver through this Agreement is not a guarantee, representation or indication by the City regarding the likelihood of approval of any other applications, permits or requests related to the Project, including any certificates of occupancy.

PART 4. DEFAULT AND TERMINATION

Section 4.01. Default and Termination. The City may declare a default under this Agreement and may terminate this Agreement if the Owner:

- a. fails to commence and complete the Project within the time specified or according to the specifications in Section 2.01;
- b. made or makes any representation relied upon by the City in entering into this Agreement or in any request or submission to the City relating to this Agreement or the Project that is false or misleading in any material respect;
- c. assigns this Agreement without the consent of the City;
- d. allows ad valorem taxes on the Property or other property in the City owned by Owner to become delinquent; or
- e. fails to comply at all times with the standards for “bona fide restaurants” under Section 4.3.4.2 of the LDC during the first 12 months following the date of issuance of the CUP referenced in Section 3.02 (a).

Section 4.02. Notice of Default and Termination. If the City Manager reasonably determines that the Owner is in default under Sections 4.01 (a) or (d) the City Manager will notify the Owner in writing of such default, and if the default is not cured within 30 days from the date of the notice, the City Manager may terminate this Agreement, unless reasonable efforts are being made to cure said default and said default cannot reasonably be cured within 30 days. For any default under Sections 4.01 (b), (c) or (e) of this Agreement, the City Manager may terminate the Agreement upon sending written notice of termination to the Owner.

Section 4.03. Status of Waiver Upon Termination. Owner agrees that upon termination of this Agreement, the waiver granted under this Agreement shall be deemed revoked and Owner's conditional use permit for on-premises consumption of alcoholic beverages may, at the City's sole discretion, be suspended or revoked without a hearing, and without recourse against the City, its officers, agents, or employees.

Section 4.04. Automatic Termination. In addition to automatic termination under paragraph 3.02 (a), this Agreement shall terminate automatically upon the denial of any application, permit or request of the Owner related to the Project and the Owner's exhaustion of remedies related thereto making the Project infeasible under applicable laws, ordinances, rules and regulations.

Section 4.05. Remedies not Exclusive. In the event of default, either party may exercise its remedies hereunder together with any other statutory or common law remedies, including applicable penal and civil enforcement provisions of the Land Development Code or successor provisions, or other ordinances. Any failure by one party to enforce this Agreement with respect

to one or more defaults by the other party will not waive that party's ability to enforce the Agreement after that time. In the event litigation is commenced under the terms of this Agreement, the prevailing party shall be entitled to recover from the other reasonable attorney fees and costs.

PART 5. MISCELLANEOUS

Section 5.01. Notices. All notices required by this Agreement will be delivered to the following by certified mail or confirmed facsimile transmission if either party provides to the other a number for facsimile transmission:

City:

Owner

Section 5.07. No Joint Venture. It is understood and agreed between the parties that the City and the Owner, in executing this Agreement, and in performing their respective obligations, are acting independently, and not in any form of partnership or joint venture. **THE CITY ASSUMES NO RESPONSIBILITIES OR LIABILITIES TO ANY THIRD PARTIES IN CONNECTION WITH THIS AGREEMENT, AND THE OWNER AGREES TO INDEMNIFY, DEFEND AND HOLD THE CITY, ITS OFFICERS, AGENTS AND EMPLOYEES, HARMLESS FROM ANY SUCH LIABILITIES.**

EXECUTED in duplicate originals to be effective March 31, 2013.

CITY OF SAN MARCOS:

By: _____
James R. Nuse, P.E., City Manager

**OWNER:
ShySG Group, L.L.C.**

By: _____
Allen Shy, Member

APPLICATION FOR BUSINESS INCENTIVES

CITY OF SAN MARCOS, TEXAS

1. Company/Project Name: ShySG Group LLC		
Mailing Address: 139 E. Hopkins Street Suite A		
City: San Marcos	State: Tx	Zip: 78666
Phone: (512) 627-5459	Website:	
Fax:	Company Type:	<input type="checkbox"/> Public <input checked="" type="checkbox"/> Private
NAICS Code: 722511	Location (City, State) San Marcos, Tx	
Is the company a certified small, minority or woman-owned enterprise? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
2. Primary Contact Name: Allen Shy		
Title: Member		
Mailing Address: 139 E. Hopkins Street Suite A		
City: San Marcos	State: TX	Zip: 78666
Phone: (512) 627-5459	Fax:	
Email Address: allenshy1@yahoo.com		
3. Provide a chronology of plant openings, closings, and relocations over the past seven (7) years:		
N/A		
4. Provide a record of mergers and financial restructurings during the past seven (7) years:		
N/A		
5. Will the company own or lease the building? If leasing, are occupancy commitments already in place?		
Company will lease and yes there are commitments in place.		
6. Is the project a relocation of an existing facility, or a new facility to expand operations? If relocation, please provide addresses of all existing locations:		
N/A		
7. If an existing San Marcos business, will project result in abandonment of existing facility? If so, the value of the existing facility will be subtracted from the value of the new facility to arrive at total project value:		
N/A		

8. Property Description: Restaurant
 A. Attach a copy of the legal description detailing property's metes and bounds.
 B. Attach map of project including all roadways, land use and zoning within 500 feet of site.

9. Current Value. Attach copy of latest property tax appraisal from the Hays County Appraisal District (include both real and personal property).

10. Increased Value/Estimated Total Cost of Project:

Structures:	\$ 300,000.00	Site Development:	\$ 300,000.00
Personal Property:	\$ 150,000.00	Other Improvements:	\$

11. Indicate amount of tax abatement and number of years requested for each taxing entity:

City of San Marcos	%	Years: N/A
Hays County	%	Years: N/A

List any other financial incentives this project will request/receive (Example: Freeport Exemption, grants, training, etc.):

	\$
	\$
	\$

12. Give a brief description of the activities to be performed at this location, including a description of products to be produced and/or services to be provided:
 Food and Beverage

13. Project Construction Phase:

A. Estimate percentage of project development and construction dollars to be spent with San Marcos-based contractors or subcontractors.

Construction costs:	\$ 175,000.00	Percentage local contractors:	100 %
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B. Construction Employment Estimates.

Start Date (MO/YR): 04/13	Completion Date (MO/YR): 06/13
# of Construction Jobs: 20	Estimated Total Construction Payroll: 75 5,000.00

C. Describe any off-site infrastructure requirements.

- Water: N/A
- Wastewater: N/A

- Streets: N/A

- Drainage: N/A

- Other: N/A

14. Project Operation Phase. Provide employment information for the number of years the incentive is requested.

Employment Information	Existing Operation (if applicable)	At Project Start Date (MO/YR) <u>04</u> / <u>13</u>	At Term of Incentive
A. Total number of permanent, full-time jobs		24	
B. Employees transferred from outside San Marcos		0	
C. Net permanent full-time jobs (A minus B)		24	
D. Total annual payroll for all permanent, full-time jobs (A)		840000	

E. Types of jobs created. List the job titles and number of positions in each category that will be employed at the facility. Provide average wage for each category.

Kitchen Manager @ \$40,000.00, 10 Cooks @ \$30,000.00, 10 Servers @ \$35,000.00

F. Types of benefits provided. List the benefits that will be provided to the employees at the facility:

Healthcare for all Full Time employees paid by company at 50%.

G. Estimate annual utility usage for project:

Electric: \$ 15,000.00	Water: \$ 6,000.00
Wastewater: \$ 3,000.00	Gas: \$ 6,000.00

15. Describe any other direct benefits to the City of San Marcos as a result of this project (e.g., sales tax revenue or project elements identified in Incentive Policy):

Greatly increase sales tax revenue.

16. Is property zoned appropriately? Yes No
Current zoning: Commercial
Zoning required for proposed project: Commercial
Anticipated variances: None
17. Is property platted? Yes No
Will replatting be necessary? Yes No
18. Discuss any environmental impacts created by the project.
A. List any permits for which applicant must apply. (Applicant will be required to provide City with copies of all applications for environmental permits upon completion of application(s)):
N/A
B. Provide record of compliance to all environmental regulations for the past five years:
N/A
C. Provide information on hazardous material usage and storage for the proposed project:
N/A
19. Provide specific detail of any businesses/residents that will be displaced and assistance that will be available from the requesting company:
None
20. Provide description of any historically significant area included within the project's area as determined by the Historic Preservation Officer. If any, give details of how the historically significant area will be preserved:
None
21. Justification for incentive request: Substantiate and more fully describe the justification for this request. Include the amount of the abatement and incentives requested and show how it will contribute to the financial viability of the project. Submit attachments if necessary.
It will provide 40-50% of the revenue for the restaurant.

22. List additional incentive and abatement factors to be considered for this project:
None.
23. Financial Information: Attach copies of the last two years financial statements or, in the case of a new project, a business plan including financial projections.

This incentive application is submitted with the acknowledgement that additional certified financial information may be required.

Allen Shy

Authorized Signature

03/07/2013

Date

Agenda Information

AGENDA CAPTION:

CUP-13-11 (Railyard Bar and Grill) Hold a public hearing and consider request by Matt Hageman, on behalf of the Railyard Bar and Grill, for the renewal of a Conditional Use Permit to allow the sale of mixed beverages for on-premise consumption at 116 S. Edward Gary Street.

Meeting date: April 9, 2013

Department: Development Services

Funds Required: N/A

Account Number: N/A

Funds Available: N/A

Account Name: N/A

CITY COUNCIL GOAL:

Customer Friendly Processes

BACKGROUND:

This property is located on Edward Gary Street north of the railroad tracks and is not located within the Central Business Area. Hours of operation are as follows: 11 a.m. - 12 a.m. Sunday through Wednesday and 11 a.m. - 2 a.m. Thursday through Saturday. The application indicates fixed seating includes 58 inside and 112 outside. Parking is adequate under the requirements of the SmartCode.

The CUP that the Commission granted for the duration of one year has expired; it expired on March 27, 2013. In January, as part of the process for CUP renewals, Staff sent the applicant a letter reminding them of the expiration date. The letter laid out a timeline for submitting a renewal application that would allow the request to be placed on a Planning and Zoning Commission agenda prior to the expiration. After a second notification was sent via email, which was followed with a voice message and a face-to-face reminder, the applicant submitted an application on March 14, 2013. This did not allow Staff sufficient time to place the request for renewal on the March 26, 2013 agenda. Staff sent a certified letter to the applicant on March 26, 2013 that stated the sale of alcoholic beverages for on-premise consumption would not be allowed without a valid CUP. The Fire Marshal and the local TABC office were notified as well of the expired CUP.

There were no other concerns reported by any other departments.

Following the standard recommendation, this renewal period would have been for three (3) years. Staff finds that a one year renewal period is appropriate in light of the late renewal application.

Staff recommends approval of the CUP with the following conditions:

1. The permit shall be valid for one (1) year, provided standards are met, subject to the point system; and
2. All live music shall be restricted to the indoor stage and may continue until 2 a.m.

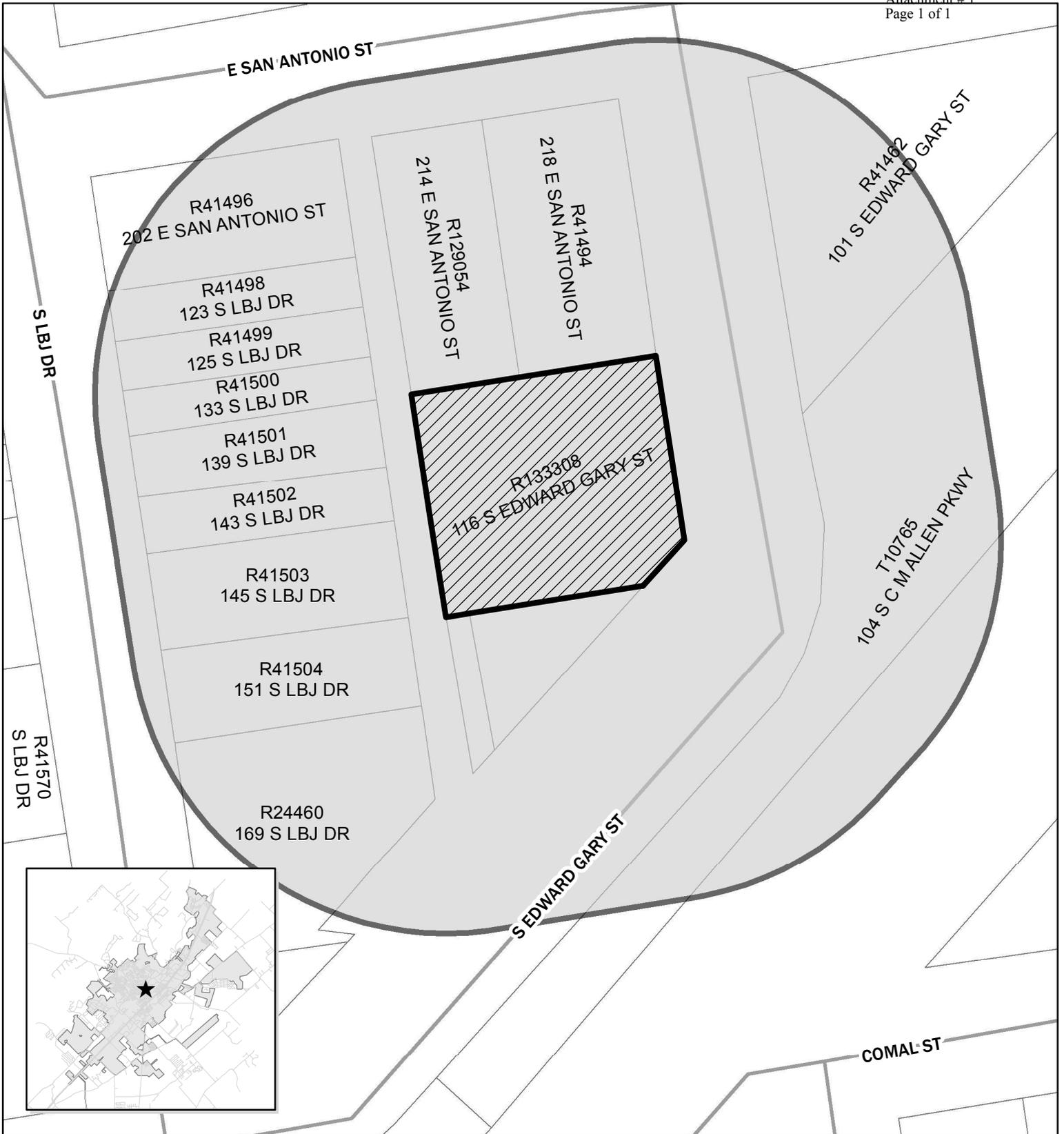
ATTACHMENTS:

Notification Map

Staff Report

Site Plan

Application



CUP-13-11
Railyard Renewal
116 S. Edward Gary St
Map Date: 3/22/2013

-  Site Location
-  Notification Area (200 feet)



This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.

CUP-13-11

Conditional Use Permit

Railyard Bar and Grill

116 S. Edward Gary Street



Applicant Information:

Applicant: Matt Hageman
Railyard Bar and Grill, L.L.P.

Mailing Address: 116 S. Edward Gary Street
San Marcos, TX 78666

Property Owner: Radiant Solutions, LLC
P.O. Box 91383
Austin, TX 78709

Applicant Request: Renewal of a Conditional Use Permit (CUP) to allow the on-premise consumption of mixed beverages

Public Hearing Notice: Public hearing notification was mailed on March 29, 2013.

Response: None as of April 4, 2013

Subject Property:

Expiration Date: March 27, 2013

Location: 116 S. Edward Gary Street

Legal Description: Original Town of San Marcos, Lot 2A, Block 9

Frontage On: Edward Gary Street

Neighborhood: Downtown

Existing Zoning: "T-5" – Urban Center

Sector: Sector 8

Utilities: Sufficient

Existing Use of Property: Restaurant/Bar

Zoning and Land Use Pattern:

	Current Zoning	Existing Land Use
N of property	T-5	Commercial
S of property	T-5	Commercial
E of property	T-5	Commercial
W of property	T-5	Commercial

Code Requirements:

A Conditional Use Permit (CUP) allows the establishment of uses which may be suitable only in certain locations or only when subject to standards and conditions that assure compatibility with adjoining uses. Conditional uses are generally compatible with permitted uses, but require individual review and imposition of conditions in order to ensure the appropriateness of the use at a particular location.

A business applying for on-premise consumption of alcohol must not be within 300 feet of a church, school, hospital, or a residence located in a low density residential zoning district. This location **does** meet the distance requirements. This location is outside the Central Business Area (CBA), and is not subject to the additional requirements in the CBA such as food sale requirements or a waiting period for alcohol sales.

CUPs issued for on-premise consumption of alcohol make the business subject to the code standards and the penalty point system for violations (Section 4.3.4.2).

Case Summary

The subject property is located on Edward Gary Street just north of the railroad tracks and is located within the T5 Zone of the Downtown SmartCode. The Commission approved a CUP in March of last year for the duration of one year to allow the on-premise consumption of mixed beverages due to the expiration of the existing CUP.

The application indicates hours from 11 a.m. to 12 a.m. Sunday through Wednesday and 11 a.m. to 2 a.m. Thursday through Saturday. The application indicates that fixed seating includes approximately 58 seats inside, with an interior stage for live music and 112 outside, as part of an outdoor recreation area with washers and horseshoe pits. The condition recommended below regarding live music is the same as the condition on the previous CUP. The site has 31 parking spaces. Parking is adequate under the requirements of the SmartCode.

In January, as part of the process for CUP renewals, Staff sent the applicant a letter reminding them that the existing CUP would expire on March 27, 2013. The letter laid out a timeline for submitting a renewal application that would allow the request to be placed on a Planning and Zoning Commission agenda prior to the expiration of the current CUP. The applicant did not submit their application when notified and subsequently, the CUP has expired. An application was submitted on March 14, 2013 after a second notification was sent to the applicant via e-mail and staff left a voice message stating that their CUP would expire on March 27th. This did not allow Staff sufficient time to place the request for renewal on the March 26, 2013 agenda. On March 26, 2013, Staff sent a certified letter to the applicant stating that the sale of alcoholic beverages for on-premise consumption is not allowed without a valid CUP; a copy of the letter was sent to the Fire Marshal. The local office of the Texas Alcoholic Beverage Commission was also notified the CUP would be expiring.

Comments from Other Departments:

Police, Health, Building, Engineering, and Code Enforcement have not reported major concerns regarding the subject property.

Planning Department Analysis:

Staff has reviewed the request for compliance with the Land Development Code and it appears that the request is consistent with the policies and the general intent of the zoning district and does not generate pedestrian or vehicular traffic which is hazardous or conflicts with existing traffic.

In order to monitor new permits for on-premise consumption of alcohol, the Planning Department's standard recommendation is that they be approved initially for a limited time period. Other new conditional use permits have been approved as follows:

- Initial approval for 1 year;
- Renewal for 3 years;
- Final approval for the life of the State TABC license, provided standards are met.

The applicant was given approval for a one year period on the previous CUP. Following the standard recommendation, this renewal would have been for a three (3) year period. As the applicant had sufficient time to submit a renewal application prior to the existing CUP expiring but failed to do so, staff feels a one year renewal period is appropriate which is consistent with previous action by the Commission on expired CUPs.

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

1. **The permit shall be valid for one (1) year, provided standards are met, subject to the point system.**
2. **All live music shall be restricted to the indoor stage and may continue until 2 a.m.**

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

Prepared by:

Alison Brake	Planner	April 1, 2013
Name	Title	Date

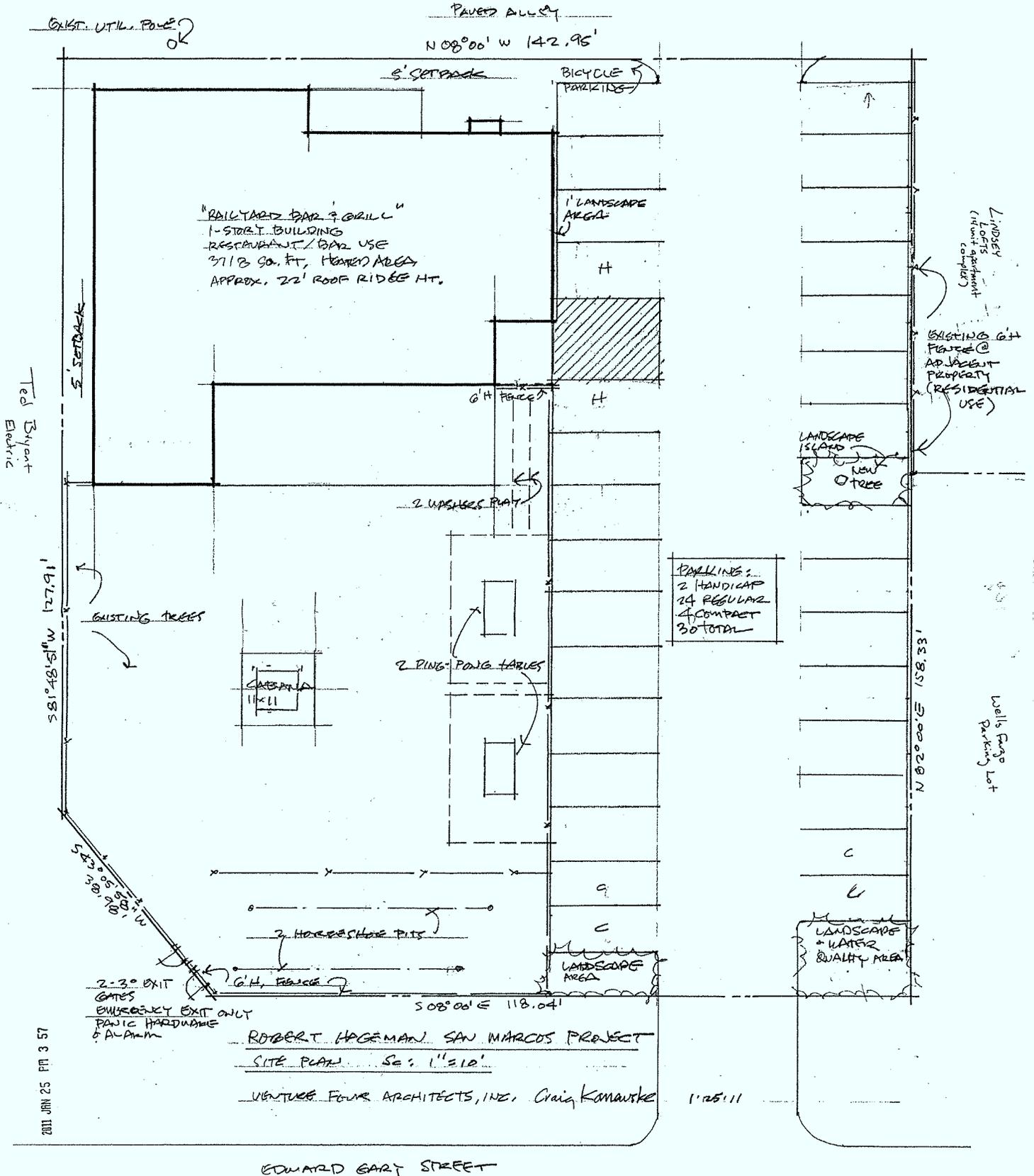
Commission's Responsibility:

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

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

- is consistent with the policies of the Master Plan and the general intent of the zoning district;
- is compatible with the character and integrity of adjacent developments and neighborhoods;
- includes improvements to mitigate development-related adverse impacts; and
- does not generate pedestrian or vehicular traffic which is hazardous or conflicts with existing traffic in the neighborhood.

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



CUP-13-11

09/12

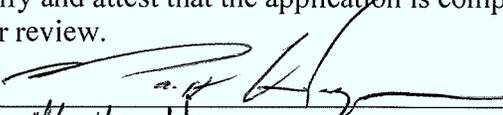


Conditional Use Permit Application Checklist To Allow On-Premise Consumption of Alcoholic Beverages Outside the Central Business Area

Provided by applicant as of date of submittal		By staff as of date of completeness review	
Completed	Required Item	Staff Verification	Staff Comments
<input checked="" type="checkbox"/>	A pre-application conference with staff is recommended	<input type="checkbox"/>	
<input checked="" type="checkbox"/>	A completed application for Conditional Use Permit and required fees. * (see note below)	<input type="checkbox"/>	
<input checked="" type="checkbox"/>	A site plan <i>drawn to scale</i> showing dimensions of property, locations and square footage of building(s), number of off-street paved parking spaces, and fences buffering residential uses. * (see note below)	<input type="checkbox"/>	
<input checked="" type="checkbox"/>	Interior layout showing all proposed seating; kitchen and bar areas; and restroom facilities	<input type="checkbox"/>	
<input checked="" type="checkbox"/>	All information and illustrations necessary to show the nature of the proposed use and its effect on surrounding properties	<input type="checkbox"/>	
<input checked="" type="checkbox"/>	Authorization to represent the property owner, if applicant is not the owner	<input type="checkbox"/>	
Any of the following pieces of information as requested by the Director of Development Services : *(see note below)			
<input type="checkbox"/>	Landscaping and/or fencing of yards and setback areas and proposed changes	<input type="checkbox"/>	
<input type="checkbox"/>	Design of ingress and egress	<input type="checkbox"/>	
<input type="checkbox"/>	Off-street loading facilities	<input type="checkbox"/>	
<input type="checkbox"/>	Height of all structures	<input type="checkbox"/>	
<input type="checkbox"/>	Proposed uses	<input type="checkbox"/>	
<input type="checkbox"/>	The location and types of all signs	<input type="checkbox"/>	
<input type="checkbox"/>	Copy of State TABC License application	<input type="checkbox"/>	
<input type="checkbox"/>	Impervious cover or drainage issues or impacts	<input type="checkbox"/>	
<input type="checkbox"/>	Menu	<input type="checkbox"/>	

* For renewals, staff may accept a written statement that no changes have been made to these items if copies are available on file.

I hereby certify and attest that the application is complete and all information above is complete and hereby submitted for review.

Signed: 
 Print Name: Matt Hageman
 Engineer Surveyor Architect/Planner Owner Agent

Date: 3/10/2013

RECEIVED

MAR 14 2013

BY: 

09/12

CUP- 13-11

City of San Marcos
CONDITIONAL USE PERMIT APPLICATION
To Allow On-Premise Consumption of Alcoholic Beverages
Outside the Central Business Area

LICENSE INFORMATION
 Trade Name of Business: Railyard Bar + Grill
 Application is filed by:
 Individual Partnership Corporation Other: _____
 Name of Individual or Entity: Railyard Bar + Grill LLC Phone Number: 512-392-7555
 Mailing Address: 116 S. Edward Gray St.
 Email Address: mhageman78@gmail.com
 Type of Permit Requested: Mixed Beverage Beer & Wine Other: _____

PROPERTY
 Street Address: 116 S. Edward Gray St. Current Zoning: CS
 Legal Description: Lot 2A Block 9 Subdivision Original town of San Marcos
 Tax ID Number: R 41493
 Property Owner's Name: Radiant Solutions LLC Phone Number: 512-301-3432
 Address: P.O. Box 91383 Austin, TX ~~78709~~ 78709

BUSINESS DETAILS
 Primary Business Use: Restaurant Bar Other: _____
 Hours of Operation: 11am - 12pm Sun-Wed 11am - 2am Thursday - Sat
 Type of Entertainment Facilities: outdoor games, outdoor stage, inside games + stage
 Indoor Fixed Seats Capacity: ~~58~~ 58 Outdoor Fixed Seats: 112
 Gross Floor Area Including Outdoor Above-ground Decks: _____ Square Feet
 Number of Off-Street Parking Spaces Provided: 31
 Located more than 300 feet from church, public school, hospital, low density residential? Y N

APPLICATION FOR CITY OF SAN MARCOS CONDITIONAL USE PERMIT-TABC

09/12

CUP PERMIT HISTORY *Check all that apply*

- New request**, no existing TABC CUP Permit at this location
- Change to existing TABC Permit.** Nature of Change: _____
- Renewal**
- Change in name of license holder** of existing business at same location
- Change in name of existing business** at this location

SUBMITTAL REQUIREMENTS

- Beer and Wine Permit: **\$600 Application fee** (non-refundable)
- Mixed Beverage Permit: **\$600 Application fee** (non-refundable)
- Change to Existing Permit/Renewal: **\$300.00 fee** (non-refundable)
- **Site Plan** drawn to scale, preferably on paper no larger than 11" x 17", showing dimensions of property, locations and square footage of building(s), interior layout showing dimensions of tables, bar area, etc., number of off-street paved parking spaces, and fences buffering residential uses.
- **Copy of State TABC License Application**

I certify that this information is complete and accurate. I understand that I or a representative should be present at all meetings regarding this application.

- I am the property owner of record; or*
- I have attached authorization to represent the owner, organization, or business in this application.*



Applicant's Signature

Printed Name: Matt Hageman Date: 3/10/2013

To be completed by Staff:

Meeting Date: _____ Application Deadline: _____
Accepted By: _____ Date: _____

Agenda Information

AGENDA CAPTION:

PDD-07-02(a) (McCarty Commons) Hold a public hearing and consider a request by SLF II - McCarty, L.P. for amendments to the existing Planned Development District for McCarty Commons, consisting of 259.52 acres more or less out of Cyrus Wickson Survey, Abstract 474, and the Nathaniel Hubbard Survey, Abstract 250, as originally approved by Ordinance 2008-41.

Meeting date: April 9, 2013

Department: Development Services - Planning

Funds Required: NA

Account Number: NA

Funds Available: NA

Account Name: NA

CITY COUNCIL GOAL:

Strengthen the Middle Class, Encourage Strong Neighborhoods, Education and Workforce

BACKGROUND:

The McCarty Commons Planned Development District was approved by City Council in September 2008. It encompasses approximately 259 acres on the east side of I35 between the Outlet Malls and the Embassy Suites/Convention Center. The base zoning is General Commercial, Community Commercial, and Public with the PDD allowing for a mix of uses including retail, restaurant, lodging, office and residential. The district is divided by Cottonwood Creek with the commercial uses lining I35 on one side of the creek and office and residential located on the other side. Nearly 60 acres of open space is provided through a recreation easement along Cottonwood Creek and a trail system runs throughout the development.

HEB has been working with the owner, Stratford Land, to purchase approximately 17 acres in the northwest corner of the district. Several requirements of the approved PDD require modification in order to allow HEB to build their typical store. Staff has worked with the land owner to draft these changes to the PDD while preserving the original vision and standards.

The amendments allow for a separate sub-area for the HEB tract with minimal development standards. Any improvements associated with the open space are delayed to the development of the subsequent sub-areas in order to expedite the site development for HEB. The master trail plan has been revised to connect the Embassy Suites/Convention Center with the Outlet Malls via a route along Cottonwood Creek. A comprehensive sign package is part of the amendments and

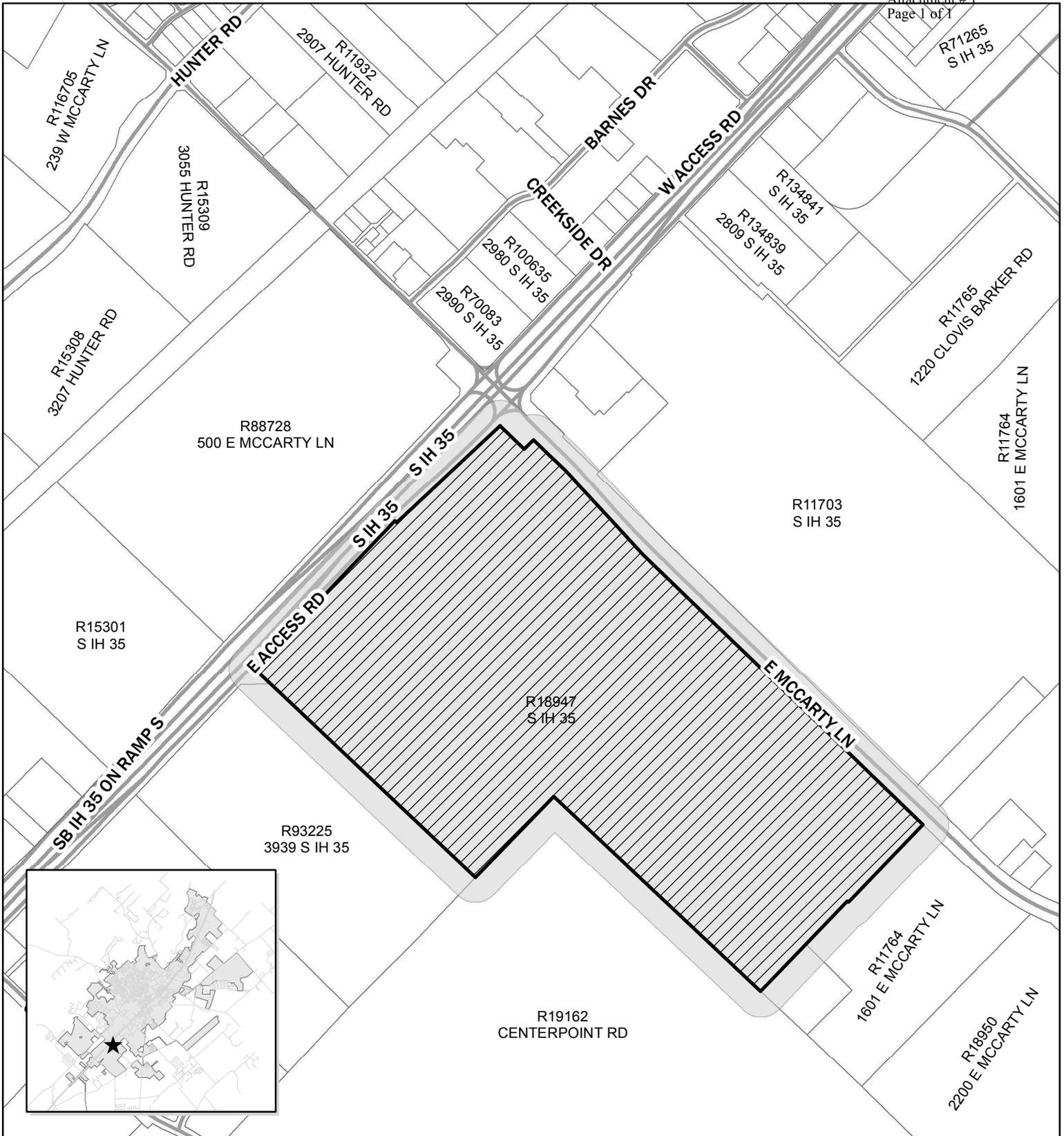
the proposed signage exceeds the standards of the Land Development Code while allowing flexibility for HEB. Engineering has reviewed the proposed design for the private drive and a compromise has been reached on the location and driveway spacing. A new exhibit is included in the PDD to illustrate these requirements.

Since the March 26 P&Z Public Hearing, staff has worked to incorporate the majority of redline comments provided by the applicant on March 22. Any additions and changes have been highlighted in the PDD document in yellow.

The first public hearing for this item was held on March 26 and notices were sent for the April 9 hearing as well. The Commission may take action on the proposed amendments at this meeting. Staff recommends approval of the amendments as submitted.

ATTACHMENTS:

Case Map
Staff Report
Amended PDD
PDD District Legal Description



PDD-07-02(a)
McCarty Commons
PDD Amendment
Map Date: 3/13/2013

-  Site Location
-  200 ft Buffer



This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.

PDD-07-02(a) Planned Development District (PDD) Amendment McCarty Commons



Summary:

Applicant/ Property Owner: SLF II – McCarty, L.P.
5949 Sherry Lane, Suite 1750
Dallas, TX 75225

Consultant: LJA Engineering
5316 Highway 290 West
Suite 150
Austin, TX 78735

Subject Property:

Legal Description: 259 acres out of the Cyrus Wickson Survey, Abstract 474, and Nathaniel Hubbard Survey, Abstract 250

Location: East of IH 35 and South of E. McCarty Lane

Existing Use of Property: Undeveloped Land

Existing Zoning: PDD overlay with General Commercial, Community Commercial and Public Base Zoning

Proposed Use of Property: Retail, Commercial, Office and Residential

Proposed Zoning: Same as existing zoning

Sector: 4

Frontage On: IH 35 and McCarty

Area Zoning and Land Use Pattern:

	Current Zoning	Existing Land Use
N of Property	General Commercial	Hotel and Convention Center
S of Property	General Commercial, Future Development	Outlet Mall, Vacant
E of Property	Future Development	Vacant
W of Property	Public	Single Family Residential

Comments from Other Departments

Comments from other departments have been incorporated into the amended document.

Comments from the Public

Notices have been mailed to property owners within 200 feet prior to both public hearings. No comments have been received.

Background

The McCarty Commons Planned Development District was approved by City Council in September 2008. It encompasses 259 acres on the east side of IH 35 between the Outlet Malls and the Embassy Suites/Convention Center. The base zoning is General Commercial, Community Commercial, and Public with the PDD allowing for a mix of uses including retail, restaurant, lodging, office and residential. The district is divided by Cottonwood Creek with the commercial uses lining I35 on one side of the creek and office and residential located on the other side. Nearly 60 acres of open space is provided through a recreation easement along Cottonwood Creek and a trail system runs throughout the development.

HEB has been working with the owner, Stratford Land, to purchase approximately 17 acres in the northwest corner of the district. Several requirements of the approved PDD require modification in order to allow HEB to build their typical store. Staff has worked with the land owner to draft these changes to the PDD while preserving the original vision and standards.

The major amendments include:

- Creation of a sub-area "A-1" on the Concept Plan for the HEB property;
- Separate development standards for sub-area "A-1";
- Architectural guidelines are required for each sub-area but may now be submitted at the time of site development, not preliminary plat;
- Carwash facilities are now a permitted use;
- Public amenities required in the original approved PDD for the open space area will not be required by HEB when Sub-area "A-1" develops;
- A POA (Property Owner Association) is responsible for maintenance of the Open Space and the creation of the POA may now be deferred until the residential or office develops;
- The trail system was revised to start at the corner of I-35 and McCarty, run along the HEB site to the creek and then south to a point of future connection to the Outlet Mall. Trails are required to be constructed as part of the public improvements for each sub-area including the HEB tract;
- Detention ponds may now be wet or dry;
- The private drive language has been revised to allow for a cross-section that is more consistent with the proposed shopping center; and
- Comprehensive sign package allowing for HEB's LED fuel signs.

Development and Public Improvements Timeline: I35 and McCarty Area

2000	Center Point Transmission Line Improvements (16" W line - \$275,000)
2002:	Cottonwood Creek Sanitary Sewer Improvements (36" WW line – \$900,000)
July 2007:	TX State sells land to SLF II McCarty LP
October 2007:	PDD, ZC and FLUM applications submitted for 252 acres
July 2008:	14.2 acres dedicated by SLF II McCarty for McCarty Lane Road Improvements
October 2008:	PDD, Zoning and FLU approved by City Council
December 2008:	Embassy Suites/Conference Center Grand Opening
2010:	McCarty Lane/Loop 110 Road Improvements and 16' W line - \$7 million
June 2012:	Gas Lamp District PID Petition submitted
September 2012:	McCarty Commons PDD Amendment Application submitted

Planning Department Analysis:

The original concept of the McCarty Commons Planned Development District was to promote a multi-use development with a high quality approach to site access, building placement, massing, materials, architectural theming and pedestrian amenities. Staff has worked to maintain as much of this concept as possible while providing the necessary flexibility for HEB as detailed above.

A requirement for a private drive constructed as a commercial collector from I35 to McCarty has generated much discussion between staff and the applicant. The drive was included in the original PDD to meet the block-length requirement of the LDC as well as to provide pedestrian and emergency access. The applicant believes the drive interferes with the parking plan for HEB and has worked with staff to reduce the drive to a 34' cross-section in the amended PDD.

Staff feels an east-west road across the site connecting I35 to future SH 21 (within the proposed Gas Lamp District) provides a long-term solution to concerns about access and traffic circulation in the area while eliminating the need for the private drive. There has been significant public investment in and around this tract to encourage development east of I35, and not linking I35 and SH 21 through two large developments would be short-sighted. This road could be located at the southern portion of the property.

The amendments in the document do not include language for the proposed east-west road from I35 to SH 21. However, the developer has agreed to pursue conversations with the City concerning the location and options for completion of this roadway.

Update Since 3/26 P&Z Public Hearing

Staff incorporated the majority of redline comments provided by the applicant on Friday, March 22. Any change to the document since the March 26 meeting is highlighted in yellow. The changes include:

- Provision of a Public Access Easement for the trail system
- Exclusion of HEB from the Property Owner Association
- Access easements will be noted by plat and conveyed prior to issuance of site preparation permits
- Delegation of approval rights granted in section 7 – Architectural Guidelines

The item is posted for public hearing and action by the Commission. Staff recommends approval of the amendments as submitted.

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

The Commission's Responsibility:

The Commission is required by law to hold a public hearing and receive public comment regarding the proposed zoning. After considering the public input, the Commission is charged with making an advisory recommendation to the City Council regarding the request. The City Council will ultimately decide whether to approve or deny the zoning change request. The Commission's advisory recommendation to the Council is a discretionary decision. Section 1.5.3.5 of the Land Development Code establishes the following criteria for approval:

- (1) The extent to which the land covered by the proposed PD district fits one or more of the special circumstances in Section 4.2.6.1 warranting a PD district classification.
- (2) The extent to which the proposed PD district furthers the policies of the Master Plan generally, and for the sector in which the proposed PD district is located.
- (3) The extent to which the proposed PD district will result in a superior development than could be achieved through conventional zoning classifications.
- (4) The extent to which the proposed PD district will resolve or mitigate any compatibility issues with surrounding development.
- (5) The extent to which the PD district is generally consistent with the criteria for approval of a watershed plan for land within the district.
- (6) The extent to which proposed uses and the configuration of uses depicted in the Concept Plan are compatible with existing and planned adjoining uses;

- (7) The extent to which the proposed development is consistent with adopted master facilities plans, including without limitation the water facilities, master wastewater facilities, transportation, drainage and other master facilities plans; and
 - (8) The extent to which the proposed open space and recreational amenities within the development provide a superior living environment and enhanced recreational opportunities for residents of the district and for the public generally.
- (b) *Conditions.* The Planning and Zoning Commission may recommend and the Council may impose such conditions to the PD district regulations and Concept Plan as are necessary to assure that the purpose of the PD district is implemented

Prepared by:

Emily Koller

Planner

March 25, 2013

Name

Title

Date

McCARTY COMMONS
INTERSTATE HIGHWAY 35/McCARTY LANE SEC
PLANNED DEVELOPMENT (PD) DISTRICT
DEVELOPMENT STANDARDS

SAN MARCOS, TEXAS

~~SEPTEMBER 9, 2008~~

Amended and Restated March 25, 2013

Prepared For:

SLF II - McCarty, L.P.
5949 Sherry Lane, Suite 1750
Dallas, Texas 75225

Prepared By:

Baker-Aicklen & Associates, Inc.
100 N. Edward Gary Street
Suite 101
San Marcos, Texas 78666

Good Fulton & Farrell
2808 Fairmount Street
Suite 300
Dallas, Texas 75201

**McCARTY COMMONS
PLANNED DEVELOPMENT DISTRICT**

DEVELOPMENT INFORMATION

Property Owner: SLF II - McCarty, L.P.
Attn: ~~David R. Denison, Kevin Watson~~ Ocie Vest, Steve Sanders
5949 Sherry Lane, Suite 1750
Dallas, Texas 75225
Phone# (214) 368-9191
Fax# (214) 368-9192

Property: The 259.52 acre, more or less, tract of land as described in the attached Exhibit "A".

1. Purpose and Intent

- 1.1 This PD Overlay District is intended for adoption by the City Council of San Marcos to allow for the establishment of these zoning and development standards (the "Development Standards") for the McCarty Commons development (the "Development") in accordance with Sections 1.5.2.2 and 4.2.6.1 of the City of San Marcos Land Development Code ("LDC"). The LDC allows a mixture of uses, including compatible commercial and residential uses, within the Development. The Development cannot be implemented under the standard LDC zoning categories methodology and requires greater design flexibility for a successful development. The Property Owner, heirs, successors or assigns (the "Owner") intends for the application of this PD Overlay District to result in development superior to that which would occur using the zoning and subdivision regulations of the Development that would otherwise apply, and to allow for flexible planning and development of multiple uses throughout the Development which promote compatible and different levels of commercial and residential uses.
- 1.2 The purpose of this document is to provide direction and guidance regarding the Owner's interest in promoting a high quality multi-use development, enhancing quality of life values, protecting and improving investments, and encouraging economic opportunities. It is intended to promote an integrated, coordinated, high quality approach to site access, building placement and massing, materials, architectural theming, and pedestrian amenities.
- 1.3 The proposed land uses depicted on the Concept Plan graphic attached hereto as Exhibit "B" ([the Concept Plan](#)). This plan provides the foundation for development of the site.
- 1.4 The Development includes specific development standards as described herein for each Sub-Area and the overall Development. The Development shall adhere to all of the provisions of

these Development Standards, including the Development Standards described on Exhibit "C". As to any standards not specifically addressed in these Development Standards, the Development shall adhere to the LDC standards in force at the time of submission of further development applications. All uses in the Development shall conform to the area, building and height standards in the applicable base zoning district unless specifically excepted in these Development Standards. These standards shall be utilized to establish the quality and character of anticipated development in the site. An Owner submitting a development application may appeal a denial of a development application based on the City Planning Director's interpretation of these Development Standards to the City Planning and Zoning Commission to determine whether the Planning Director's interpretation is reasonable.

1.5 The development guidelines, as stated in this document, are intended to provide a framework for future development. Prior to the approval of the first building permit or preliminary plat or site development plan for a specific piece of property within one of the designated sub-areas, the Owner(s) of such sub-area shall submit a set of detailed site development and architectural guidelines that further clarifies the design criteria for that particular sub-area as generally described in Section 7 and 89 of this document. These guidelines shall include the following items:

- 1.5.1 The development's compatibility with of the overall design guidelines in-with the Planned Development District Standards.
- 1.5.2 One architectural elevation in color of each building type on the plan, depicting materials used and color palette selected.
- 1.5.3 Drawings depicting a specific landscape design concept and, specific landscape features. Also, as may be designated in each sub-area, community identification features and gateway elements that require integration with the overall design of the Development.
- 1.5.4 Drawings and design criteria depicting specific lighting features that require integration with the overall design of the Development of each Sub-Area.
- 1.5.5 Drawings and design criteria depicting specific signage elements that require integration with the overall design of the Development of each Sub-Area.

2. Vision

- 2.1 The vision for the Development is an architectural design approach that is inspired by the Texas Hill Country vernacular, and interpreted in a crisp, contemporary manner. This design shall incorporate a strong respect for the past, yet represent the region's future economic opportunities. Colors include a rich, deep color palette using tan, ochre, beige and terra cotta—weathered by time. Facade materials shall incorporate richly colored natural stone, brick, stucco and wood, and shall be used in combination to represent an honesty of materials, expressing a rough-and-tumble, yet refined style. Canopies, trellises and awnings shall be used to provide both visual interest and protection from the harsh Central Texas climate. Open spaces in the project shall be integral to the overall design, with public areas expressly used for the pedestrian referencing back to the Hill Country's wide-open spaces intended for the public domain. Finally, strategically placed landscaping through its use of both native flora and those that have adapted to the hot Texas sun and variable soil types shall serve to unify the various individual buildings into a seamlessly integrated development.
- 2.2 ~~These Guidelines~~ The Development Standards establish standards that are consistent with the special character and quality intended for the Development, and shall meet or exceed

the standards set forth in the City of San Marcos LDC, or as set forth in Sections 7 and 9 below. The standards are intended to assist design professionals, developers, and builders in the planning, design and implementation of site elements and improvements as well as establish and maintain a community image that supports the natural and man-made environment of the Development.

3. Development Standards Applicable to Sub-Areas

3.1 Requirements for Sub-Areas “A-1” “A-2” and “B”

- 3.1.1 Base zoning. The base zoning district is (GC): General Commercial.
- 3.1.2 Purpose. The (GC) General Commercial zoning district is intended to provide locations for limited (light) commercial and service-related establishments, such as wholesale product sales automotive supply stores, veterinary services, and other similar limited commercial uses.
- 3.1.3 Authorized Uses. Except as indicated below, all permitted and conditional uses by right permitted within this zoning district per LDC Table 4.3.1.2 are allowed. The following uses are specifically prohibited as either a Permitted or Conditional Use: (1) Check Cashing Service, (2) Call Service Center, (3) Cabinet Shop (Manufacturing), (4) washateria /laundry (self serve), (5) Studio Tattoo or Body Piercing, (6) ~~Carwash (self-service, full-service or automated)~~, (7) Auto Glass Repair/Tinting, (8) ~~7~~ Tire sales (outdoors/storage), (9) ~~8~~ Bingo Facility, (10) ~~9~~ RV/Travel Trailer Sales, (11) ~~10~~ Maintenance/Janitorial Service, (12) ~~11~~ Pawn Shop, (13) ~~12~~ Portable Building Sales, and (14) ~~13~~ Temporary Outdoor Retail Sales/Commercial Promotion, (15) ~~14~~ Tool Rental (with Outdoor Storage), (16) ~~15~~ Gravestone/Tombstone Sales, (17) ~~16~~ Gun Smith, (18) ~~17~~ Auto Paint Shop, (19) ~~18~~ Truck Terminal, (20) ~~19~~ Metal Fabrication Shop, (21) ~~20~~ Moving Storage Company, (22) ~~21~~ Warehouse (Office and Storage), (23) ~~22~~ Outside Storage (as a primary use), (24) ~~23~~ Used Car Dealership/Sales, and (25) ~~24~~ Sexually oriented businesses and (26) ~~25~~ gaming facilities (eight liners, bingo halls and similar businesses). Any commercial or hotel use with on-site consumption of alcoholic beverages will be subject to the conditional use permit requirements in accordance with LDC Section 4.3.4.2.
- 3.1.4 Ancillary Outdoor Storage and Sales. The following outdoor storage and sales uses that are intended as ancillary uses for large ~~discount-super market~~ retailers and home improvement retailers larger than ~~80,000- 75,000~~ square feet shall not be prohibited as either a Permitted or Conditional Use: (1) Tire sales, (2) Outdoor Retail Sales/Commercial Promotion, (3) Tool Rental, (4) Warehouse and (5) Outside Storage (as a primary use).
- 3.1.5 Parking Regulations. All properties in Sub-areas A-2, B and C that have parking directly adjacent to open space in Sub-Area “E” ~~with parking areas will~~ shall provide signage stating that parking is allowed for use of the Parkland and should be located as close as possible to any trail head locations. Such Parkland parking areas will not be counted against the parking requirement for any land use and the number of Parkland parking spaces in any location shall be determined at the time of either site plan application or preliminary plat application, whichever occurs first.
- 3.1.6 Public Restrooms and Drinking Fountains. Each subarea adjacent to the open space in Subarea “E” shall provide directional signage where public restrooms and drinking fountains are available for users of the Parkland and shall be located as close to any trail head areas as possible.

3.2 Requirements for Sub-Areas “C” and “D”

- 3.2.1 Base Zoning. The base zoning district is (CC): Community Commercial
- 3.2.2 Purpose. The (CC) Community Commercial zoning district is established to provide areas for quality larger general retail establishments and service facilities for the retail sale of goods and services. This district should generally consist of retail nodes located along or at the intersection of major collectors or thoroughfares to accommodate high traffic volumes generated by general retail uses.
- 3.2.3 Authorized Uses. Except as indicated below, all permitted and conditional uses by right permitted within this zoning district per LDC Table 4.3.1.2 are allowed, including Multi-Family (Apartments), Single Family Detached House, Single Family Townhouse (Attached), and Single Family Zero Lot Line/Patio Homes. The following uses are specifically prohibited as either a Permitted or Conditional Use: (1) Check Cashing Service, (2) Call Service Center, (3) washateria /laundry (self serve), (4) Studio Tattoo or Body Piercing, (5) Carwash (self service, full service or automated), (6) Tire sales (outdoors/storage), (7) Bingo Facility, (8) Pawn Shop, and (9) Temporary Outdoor Retail Sales/Commercial Promotion, and (10) Auto Dealer, Used Auto Sales. Any commercial or hotel use with on-site consumption of alcoholic beverages will be subject to the conditional use permit requirements in accordance with LDC Section 4.3.4.2.
- 3.2.4 Parking Regulations. All properties directly adjacent to open space in Sub-Area “E” with parking areas will provide signage stating that parking is allowed for use of the Parkland and should be located as close as possible to any trail head locations. Such Parkland parking areas will not be counted against the parking requirement for any land use and the number of Parkland parking spaces in any location shall be determined at the time of either site plan application or preliminary plat application, whichever occurs first.
- 3.2.5 Public Restrooms and Drinking Fountains. Each subarea adjacent to the open space in Subarea “E” shall provide directional signage where public restrooms and drinking fountains are available for users of the Parkland and shall be located as close to any trail head areas as possible.

3.3 Requirements for Sub-Area “E”

- 3.3.1 Base Zoning. The base zoning district is (P): Public and Institutional District
- 3.3.2 The (P) Public and Institutional District is intended to accommodate uses of a governmental, civic, public service, or public institutional nature, including major public facilities, state colleges and universities. The review of the location for public facilities is intended to facilitate the coordination of community services while minimizing the potential disruption of the uses of nearby properties. This district is intended for properties used, reserved, or intended to be used for a civic or public institutional purpose or for major public facilities.
- 3.3.3 Authorized Uses. No Permitted and Conditional uses within this zoning district per LDC Table 4.3.1.2 are allowed except the following: (1) Park and/or Playground (Private), (2) Park and/or Playground (Public) and (3) baseball fields and soccer fields for practice only (not lighted).
- 3.3.4 Open Space Regulations. The Owner will designate as open space approximately 57.5 acres of property as depicted as Sub-Area “E” on the Concept Plan attached hereto as Exhibit “B”. A recreation easement shall be dedicated for the Open Space area by either a final plat or separate instrument approved by the City Attorney

concurrent with or prior to the first final plat for either Sub-area "C" or "D". The Open Space will be maintained by a property owners association (the "POA") created by the Owner for the administration of all of the Development, save and except Sub-Area "A-1", which is not required to be subject to the POA and the governing documents of the POA. The documents forming the POA will be subject to approval by the City Attorney, and the Owner will submit the final approved version to be filed in the public records before or at the same time as the first final subdivision plat for ~~the Development~~ Sub-area "C" or "D", whichever develops first, is filed. The Open Space may include improvements such as trails, ponds with fountains, lighting, park benches, landscaping, irrigation, public art and accessory building structures such as gazebos. ~~Property Owners Association-~~ The documents forming (the "POA") and the recreation easement ~~to shall~~ be approved by the San Marcos City Attorney, Parks and Recreation Commission and the P&Z prior to final platting of either Sub-Area "C" or "D" (whichever is developed first).

- 3.4 Detention and Landscape Regulations. Exceptions to the ~~City Development- LDC~~ Standards are as follows:
- 3.4.1 Detention ponds designed as water features shall not be required to have a security fence around its perimeter.
 - 3.4.2 Detention ponds shall not be allowed within a floodway or water quality zone, but may be allowed within a floodplain or buffer zone as long as the ponds do not increase the base flood elevation of the floodplain or floodway.
 - 3.4.3 Large shade trees are not required for parking lots when the parking areas are located in utility easements under overhead electric lines. Small ornamental trees may be substituted.

4. Park Land and Open Space.

- 4.1 The 57.5 acres, more or less, of Open Space (Shown as Sub-Area "E" on Exhibit "B") will be owned and maintained by the POA and open to the general public including the following:
- 4.1.1 A minimum of ~~two one~~ pedestrian access points from Sub-Areas "A-2" and "B" to the Open Space shall be open to the general public and ~~two one~~ pedestrian access points from Sub-Area "C" shall be open to the general public.
 - 4.1.2 Approximately 7.5 acres of drainage swale and easements.
 - 4.1.3 Approximately 10 acres of detention ponds yielding about 40 acres of net useable park land and open space suitable for use in active programmed park activities and passive park areas.
 - 4.1.4 The developer will construct an on-site trail system consisting of an eight foot (8') wide ~~asphalt concrete~~ (or similar material to be approved by the City) trail, including portions of the trail located in Sub-Area "E" that are adjacent to the Sub-Area proposed for development. The trail may be constructed in phases ~~and should generally be constructed along prior to or concurrently~~ with the respective ~~area of development~~ of each Sub-Area. The trail system shall be open to the public and contained within a Public Access Easement. The Public Access Easement shall be referenced by plat note and conveyed to the City prior to issuance of a site preparation permit for each respective Sub-Area. ~~A master plan of the trail system is shown on the Concept Plan. will be submitted prior to or concurrent with the first preliminary plat or site plan for any Sub-Area.~~

- 4.1.5 Concurrent with the first development of Sub-Areas “A-1” “A-2” and/or “B”, ~~the~~ the developer of each respective Sub-Area will coordinate with the City to construct portions of a trail to connect the intersection of McCarty Lane and I-35 with the Outlet Mall (subject to the Outlet Mall approval) running generally east-west along the south side of McCarty Lane, then south along the west side of Cottonwood Creek to the Outlet Mall, as generally shown on the Concept Plan, along the east side of the future pad sites fronting I-35. Each Sub-Area “A-2” and “B” will also provide a minimum of one trail connection to Sub-Area “E”. ~~In the event that the development of Sub-Areas “A” and “B” are phased, the developer may construct a temporary trail using asphalt paving through the undeveloped areas.~~
- 4.1.6 Concurrent with the first development of Sub-Areas “C” and/or “D”, the developer will construct a trail that will make a loop of about one mile in length. The trail loop will be on the east side of Cottonwood Creek along Sub-Area “C” and extend into development tracts within Sub-Areas “C” and “D”. This phase of the trail construction will also include the pedestrian crossings of Cottonwood Creek to connect to the trail stub-outs from Sub-Areas “A” and “B”.
- 4.1.7 The developer of Sub-Areas “A-2” and “B” will construct the water feature/detention pond on the west side of Cottonwood Creek concurrent with and designed to accommodate their respective development. Further, the developer of Sub-Area “C” will construct the water feature/detention pond(s) on the east side of Cottonwood Creek concurrent with and designed to accommodate their respective development. The water feature/detention pond for Sub-Area “C” shall be sized so as to also accommodate the detention needs for Sub-Area “D”. In the event that Sub-Area “D” develops before Sub-Area “C”, then a drainage easement will be provided across Sub-Area “C” to allow the storm water to be detained in the water feature/detention pond on the east side of Cottonwood Creek. Detention ponds may be dry or wet.
- 4.1.8 The water features, which may also serve as detention ponds, ~~will have a decorative fountain and~~ may include a source of make-up water to keep the water features at a consistent water level.
- 4.1.9 The combined baseball/soccer field will be constructed concurrent with the first residential development in Sub-Area “C” and is intended primarily for use by the residents of McCarty Commons for practice only and not used for games or other programmed events. The fields will not be lighted. The City Parks and Recreation Department will coordinate any programmed events such as use of the practice fields and passive open space with the POA.
- 4.1.10 The Park and Open Space area will be owned and maintained by the POA established for the McCarty Commons project Development.
- 4.1.11 Concurrent with or prior to the first final plat for either Sub-Area “C” or “D”, ~~the~~ the developer will provide a perpetual Park and Open Space easement, either by final plat or by separate instrument, to the City along with corresponding deed restrictions to ensure that the Park Land and Open Space area (Sub-Area “E”) will be restricted to only those uses in Sub-area “E” perpetuity.
- 4.1.12 The Park Land and Open Space land and improvements contained within Sub-Area “E” will satisfy all the park land and open space requirements for McCarty Commons the Development.
- 4.1.13 The trails and unimproved open space areas within Sub-Area “E” will be open to the public.

4.1.14 The developer will work with the owners of the Prime-Premium Outlet Mall to attempt a coordinated effort to connect the trail system to the mall site to the south.

5. Revisions of the PD District and Exhibit “B”.

5.1 Minor Revisions. The respective property Owner(s) of each Sub-area may submit a request for administrative approval of minor revisions to these Development Standards or Exhibit “B”. The City Planning Director may approve a minor revision subject to limitations in the LDC, if the Director determines that the revisions do not substantially impact the nature or purposes of the approved PD, whether individually or cumulatively, including (i) areas that are part of a final plat and (ii) the overall intent of the Development Standards or Exhibit “B”. The Planning Director’s approval of any minor revision shall be in writing. The following shall be considered a minor revision, subject to limitations in the LDC:

5.1.1 A minor change in the size or configuration of a lot, if the Director determines that the basic layout of the Development remains the same and Exhibit “B” functions as well as before the revision. A licensed architect, landscape architect, and/or engineer shall design all improvements.

5.1.2 Other minor adjustments to Exhibit “B” that the Director deems a minor revision.

5.2 Major Revisions. Any revision or change to these Development Standards or Exhibit “B” which is not categorized as a “minor revision” above or otherwise deemed a “revision” by the Director shall be a “major revision” and shall be subject to approval following the City’s procedure. Adding land area to the District is considered a major revision.

6. Residential Types

6.1 All Single Family Detached lots within the Development shall comply with all standards set forth by the City of San Marcos zoning regulations designated as SF-6 (Single-Family District), SF-4.5 (Single-Family District) and PH-ZL (Patio Home, Zero-Lot-Line Residential District) except as modified by additional development standards for McCarty Commons attached hereto as Exhibit “C”.

6.2 All Single Family Attached (as platted lots) within the Development shall comply with all standards set forth by the City of San Marcos zoning regulations designated as TH (Townhouse Residential District).

6.3 All Multi-Family within the Development shall comply with all standards set forth by the City of San Marcos zoning regulations MF-24 (Multiple Family Residential District).

7. Architectural Guidelines for Sub-Areas “A-2” “B” “C” “D” and “E”

7.1 Theme and Character

7.1.1 Architecture and the built environment make many important contributions to San Marcos’s visual context. Due to the importance of these elements, all architectural styles should produce a cohesive visual framework while maintaining architectural variety. All architecture should reflect high quality and craftsmanship, both in design

and construction. The use of unusual shapes, colors, and other characteristics that cause disharmony should be avoided.

7.2 Building Massing and Building Envelope

7.2.1 The massing of architectural form is the one gesture that articulates a building's integrity from all but very close views. It is the sculpture of the building and it should stand on its own, while remaining related to the scale of the landscape and other buildings in the development. Each building in the Development should complement its site. This is achieved through thoughtful attention to the massing and integration of each building's architectural components with the site and surroundings.

7.2.2 Buildings should be designed with a logical hierarchy of masses in order to highlight important building volumes and features, such as entries. This simple, yet varied massing of a development should promote a human-scaled, commercial character, with all primary retail entries being clearly delineated. The design and location of building entrances should take into account the quality of pedestrian circulation, landscaping and protection from the elements. Building entrances should be clearly visible from the street and be marked by canopies, awnings, raised parapet or roof treatment.

7.3 Architectural Variety

7.3.1 A Texas Hill Country style should be reflected through the use of natural materials and textures.

7.3.2 Buildings with multiple uses or tenants should be designed to appear as attached or clustered buildings while paying careful attention to the interconnecting quality of landscaping, open space and pedestrian areas. Development should not be designed exclusively as a collection of detached, separate pad buildings as this is the least desirable arrangement for providing well-integrated built environments. Separate, freestanding sites developed within a retail center should be integrated into the site design in terms of parking lot layout, on-site vehicular and pedestrian circulation routes, landscaping, and building design. The building design of pads should be complimentary to the surrounding center in terms of scale, proportion, materials, colors and design details; hence, franchise tenants are encouraged to incorporate their individual architectural style with the overall look of the Development.

7.4 Building Height

7.4.1 Building height and profile should be in scale with the surrounding structures and topography.

7.5 Exterior Surface Materials and Colors

7.5.1 All buildings within the Development should be designed with a high level of detail, with careful attention to the combination of and interface between materials. Materials chosen shall be appropriate for the theme and scale of the building, compatible with its location within the development, and expressive of the community's desired character and image. The Owner(s) of Sub-Areas "A-2", "B", "C" and "D" or the POA, as applicable will review all exterior materials as to type, color, texture and durability, as well as the extent of use of any single material or combination of materials. The Owner(s) of Sub-Areas "A-2", "B", "C" and "D" may delegate the approval rights granted in this Section 7 to the POA or another Owner

by assigning such rights in an a written instrument recorded in the Real Property Records of Hays County, Texas.

- 7.5.2 Reflecting the vision of the Development, the development guidelines call for exterior materials that express the natural environment and range of natural materials found in Central Texas. In order to achieve this design intent, a limited palette and range of exterior materials, colors, textures and finishes have been selected for all construction within the Development based on three native limestone colors: Leuders, Cordova Cream, and Shell Stone, or a similar matching manufactured stone. Comparable materials in color, finish, durability, and quality may be substituted with the approval of the Owner(s) of Sub-Areas "A-2", "B", "C" and "D", or the POA, as applicable.~~Owner.~~
- 7.5.3 Achieving a high quality of architectural design for all buildings within the Development is considered a principal goal of the design guidelines. Architectural façades that clearly define a base, middle and cap are strongly encouraged. These materials should be responsive to climate, adjacent context, site orientation and building usage. A variety of textures and natural materials should be used to provide visual interest and richness, particularly at the pedestrian eye-level.
- 7.5.4 For building façades of structures in the Development that are constructed primarily of stone masonry, this would include clay-fired brick, natural stone and cast stone. E.I.F.S. is not permitted as a building façade material. If such a finish is desired, stucco on masonry backup or a mechanically fastened system is suggested. Durable materials such as terra cotta and metal fascia are encouraged for architectural detailing and accents where appropriate. A more articulated use of details and accent materials are encouraged at building entries.
- 7.5.5 Brick masonry should not include liberal use of historical details such as quoins, soldier and coursing, patterned lay-ups or, articulated window headers and sills. Masonry veneers shall be consistent on all elevations and not be used as the predominant material. Mortars are to be cream or natural unless specifically approved by the Owner(s) of Sub-Areas "A-2", "B", "C" and "D", or the POA, as applicable.~~Owner.~~ Brick size shall be limited to modular.
- 7.5.6 Stone masonry joints shall be raked clean where appropriate, and held to a maximum of 1" in width. A 4'x4' sample lay-up of all stone masonry is required on-site, to be reviewed prior to installation of the stone. Tilt slab concrete wall construction is permitted, but all exposed panels must have an architectural finish. Tilt slab concrete walls shall have a smooth painted finish, sandblasted finish or a light-colored, exposed aggregate finish with aggregate not to exceed 1 inch in size. Concrete foundation walls shall not be exposed in excess of 12" and shall be faced or finished to blend with the general architectural design of the building.
- 7.5.7 The following are prohibited except with the expressed written consent of the Owner(s) of Sub-Areas "A-2", "B", "C" and "D", or the POA, as applicable:~~Owner:~~
- Metal structures such as sheds
 - Standard Concrete Masonry Units
 - Reflected Glass
 - Clay Tile Roofs
 - Wood Shingles
- Metal used as a building material other than for a roof requires a Conditional Use Permit (CUP) under the Land Development Code (LDC). The developer must have; a condition to obtaining a CUP shall require ~~consent of the Owner(s) of the Sub-Areas "A-2", "B", "C" and "D", or the POA, as applicable,~~ and the CUP must also be approved by the P&Z if required by the LDC.

7.5.8 The use of color shall generally be restricted to earth tones or natural colors found in the immediate surroundings, and shall apply equally to additions and/or alterations to existing structures as well as to new detached structures. Garish or unusual colors and color combinations, and/or unusual designs are discouraged. No bright, unfinished or mirrored surfaces will be allowed.

7.6 Roofs

7.6.1 Sloped roofs for commercial structures within the Development should generally exceed a 6:12 pitch. In order to establish harmony within the community, mansard, gambrel, and A-frame roof styles will not be allowed.

7.6.2 All metal, roofing, flashing, or miscellaneous sheet metal, shall be factory finished or have ~~an Owner approved a~~ field finish ~~approved by the Owner(s) of Sub-Areas "A-2", "B", "C" and "D", or the POA, as applicable.~~ All exterior metals should be galvanized, or Galvalume or have a 20 year guaranteed and warranted paint system, with at least a 70% Kynar resin and mix in the paint. All roofing systems must have hidden mechanical fasteners if possible. Any exposed fasteners must use neoprene insulators. The minimum thickness for metal roofing and flashing should be 24 gauge.

7.6.3 Roofing surfaces may include a built-up membrane. No wood shingles are permitted. Built up roofs and rooftops, which include equipment, piping, flashing, and other items behind the parapet walls shall be periodically painted and maintained for continuity of the roof appearance.

7.6.4 The ~~Owner's approval~~ ~~of the Owner(s) of Sub-Areas "A-2", "B", "C" and "D", or the POA, as applicable,~~ is required for rooftop equipment and accessories, unless specifically accepted in this section. All rooftop mechanical equipment shall be screened from neighboring development and public open space. Exposed flashing, gutters and downspouts shall be painted to match the fascia and siding material of the building. Any solar equipment and skylights shall be architecturally compatible with the building.

7.7 Canopies and Awnings

7.7.1 The use of canopies and awnings is strongly encouraged ~~by the Owner.~~ The materials and colors shall be the same or generally recognized as being complementary to the exterior of the building. Awning material may be cloth (such as sunbrella), standing seam metal or glass and steel. Translucent backlit awnings (with or without graphics) are not permitted in Development. Awnings and canopies must be a minimum height of eight feet (8') above the adjacent sidewalk surface. Each multi-tenant building shall have windows or storefronts in sections that include a canopy, trellis, arcade or awning of a minimum overhang of three feet (3') beyond the face of the glass. A pitched roof that extends beyond the wall over the windows can be used to meet this requirement.

8. Architectural Guidelines for Sub Area A-1

8.1 All commercial construction and buildings within the Sub Areas A-1 shall comply with the Exterior Materials Building standards set forth by the City of San Marcos Land Development Code, Section 4.4.2.1, including the use of split-face masonry unit as a permitted wall material.

8.2 All commercial construction and buildings within the Sub Areas A-1 shall comply with the Exterior Design of Buildings standards set forth by the City of San Marcos Land Development Code, Section 4.4.2.2, and City Technical Manual except as listed below:

A.—8.2.1 Horizontal and Vertical Offsets in exterior building design as shall not be required for facades more than 100 ft from McCarty Lane or 300 ft from Cottonwood Creek.

7-8-9. Sign Design Standards

7-8-9.1 Freestanding signs cannot exceed the heights and sizes as shown on the Project Master Signage Plan attached as Exhibit F and the requirements of the LDC in height size or operation characteristics including Changeable Electronic Variable Message signs (CEVMs) or other restrictions of the LDC.

7-9-10. Lighting Standards

7-9-10.1-Lighting standards shall be in conformance with the City of San Marcos LDC lighting standards.

8-11. -Pedestrian Connectivity and Access

8-1 11.1 Pedestrian and cyclist movement both within and traversing the site should be taken into consideration. It is desirable that access points for pedestrians be separated from vehicular access points, be clearly recognizable, and provide a safe and direct route to the development. Bicycle access to the site will usually be via the surrounding road network and the vehicle access points. Both the roads and the access points need to be provided adequately for both vehicles and bicycles.

8-2 11.2 All lots shall meet the City of San Marcos LDC standards for sidewalks and bike paths.

8-3 11.3 As shown on the Concept Plan graphic Exhibit "B", a private drive constructed as a commercial collector and access easement is being provided to connect the Interstate 35 frontage road to McCarty Lane at the existing median break depicted on Exhibit "B". This private drive and access easement will provide the necessary City emergency access and will satisfy the block length requirement in this area. The private drive shall be designed in cross section per Exhibit "E" and striped with a center turn lane. Driveway spacing along the private drive shall be a minimum of 100' between each driveway, except along the east side of that portion of the drive that crosses Sub-Area "A-1". A sidewalk shall be constructed along the west side of the private drive. The sidewalk and private drive shall be located within an Access Easement dedicated to the City by the developer(s) of Sub-Area "A-1" and Sub-Area "A-2". The Access Easement shall be referenced by plat note and conveyed to the City by recorded instrument prior to issuance of a site preparation permit for each respective Sub-Area.

9-12. Landscape Architecture

9-1—12.1 Landscape standards shall be in conformance with the City of San Marcos LDC standards.

~~Along with the architectural look of the project, the landscaping used has the best opportunity to tie the project together. Consideration should be made as to the image the project is trying to achieve. A common issue in many developed landscapes is a lack of attention to the overall effect created. Species should be carefully controlled so that a harmonious and pleasant landscape can be created. Tree and shrub requirements shall meet or exceed all requirements within the City of San Marcos' Landscape Ordinance. All development shall comply with the City of San Marcos LDC water conservation and drought regulations, standards and practices.~~

~~9.2 In keeping with the landscape theme of Development, it is important that all commercial landscapes blend with the surrounding environment. Careful integration of site grading, architecture and landscaping will accomplish this, while also maximizing each site's potential. Thoughtful attention to landscape design will ensure that as each commercial site is completed, it will become an integrated element in the overall character of the Development. To further this goal, it is important to preserve and incorporate native plant material and existing trees into each proposed landscape design.~~

~~9.3 Landscape design interest should be created through the use of plant materials, enhanced pavement materials, and publicly accessible accent features such as sculptures and fountains. Such plants should emphasize the design elements of form and texture as well as the seasonal nature of environmental changes.~~

~~10. Plant Materials~~

~~10.112.2~~ Plant materials for the Development shall comply with all requirements with the City of San Marcos LDC. Refer to Section 1.5 of this document for design standards for future site development.

~~11~~ **13. Water Features**

~~11.113.1~~ Water features, if installed, may incorporate ~~should adhere to~~ the following guidelines to achieve and maintain high water quality:

~~11.1.1~~ 13.1.1 All water elements should have a pump and filter system providing automatic water re-circulation and cleaning.

~~11.1.2~~ 13.1.2 Large bodies of water should have an appropriate edge to prevent shoreline erosion.

~~11.1.3~~ 13.1.3 Bottom slopes and depth of water should be designed both for public safety and to prevent algae growth.

~~11.1.4~~ 13.1.4 Water features should have suitable liners to minimize water loss through percolation.

~~11.1.5~~ 13.1.5 Water banks and shorelines should be landscaped with plant species that require little or no fertilization or pesticides and that do not drop large quantities of leaves and twigs.

~~11.1.6~~ 13.1.6 A mosquito abatement program should be developed and implemented in conformance to local governmental requirements.

~~11.1.7~~ 13.1.7 Large bodies of water and other water features should not be used for swimming, wading or other human activities other than as may be required for maintenance.

~~11.1.8~~ The developer of Sub Areas "A" and "B" will construct water features and detention area(s) on the west side of Cottonwood Creek concurrent with their respective

~~development. The developer of Sub-Area "C" will construct water features and detention areas on the east side of Cottonwood Creek concurrent with their respective development. The development's POA is responsible for maintenance of all water features and detention ponds.~~

~~EXECUTED on _____, 2008.~~

~~_____~~
~~_____~~

~~By: _____~~
~~Signature~~

~~_____~~
~~Printed Name/Title~~

~~STATE OF TEXAS~~

~~COUNTY OF HAYS~~

~~This instrument was acknowledged before me on _____, 2008 by _____, known personally to me to be the person who executed this instrument, on behalf of _____.~~

~~_____~~
~~_____~~
~~Notary Public, State of Texas~~

After recording return to:
Legal Department
City of San Marcos
630 E. Hopkins
San Marcos, TX 78666

EXHIBIT "A"

THE PROPERTY

EXHIBIT "C"

DEVELOPMENT STANDARDS

Subarea	Proposed Zoning	Max. Density (DU/AC)	Max. Imp. Cover (%)	Max. Building Height (FT)	Min. Landscape Area (%)
A	General Commercial	na	80	na	20
B	General Commercial	na	80	na	20
C	Community Commercial	na	80	na	20
	SF-6	5.5	60	42	na
	SF-4.5	7.5	60	42	na
	PH/ZL	7	75	42	na
	TH	12	70	42	25
	MF-24 Office	24 na	75 80	45 na	25 20
D	Community Commercial	na	80	na	20
	SF-6	5.5	60	42	na
	SF-4.5	7.5	60	42	na
	PH/ZL	7	75	42	na
	TH	12	70	42	25
	MF-24 Office	24 na	75 80	45 na	25 20
E	Public District	na	20	na	na

Color Legend:

- Increased city minimum standard
- Increased city maximum standard
- Decreased city maximum standard
- Same as city standard

EXHIBIT "D"

Trails Master Plan

EXHIBIT "D"

SIGNAGE MASTER PLAN

McCarty Commons / HEB / Pylon and Fuel Signage / San Marcos, Texas

10 SITE PLAN
SCALE: NTS

McCarty Commons is a 235-acre, mixed-use project located at Interstate 35 in the southern portion of San Marcos, Texas. The property is located at the southeast corner of the intersection of Interstate 35 and McCarty Lane. The Target Outlet Mall and San Marcos Premium Outlets are located along Interstate 35 immediately to the south of the property. The San Marcos Convention Center and the 285-room Embassy Suites Hotel, San Marcos High School is located to the north of the property. The San Marcos Convention Center and the 285-room Embassy Suites Hotel, San Marcos High School is located to the north of the property. The San Marcos Convention Center and the 285-room Embassy Suites Hotel, San Marcos High School is located to the north of the property.

- SIGNAGE TYPES**
- ST 1.0 PRIMARY PYLON
 - ST 1.1 ANCHOR SUBTENTIVE PYLON
 - ST 2.0 42.5' HEB PYLON
 - ST 3.0 25' HEB PYLON
 - ST 3.1 17' P&G PYLON
 - ST 4.0 16' LED P&G PNCR



McCARTY COMMONS
135 W McCARTY LANE
SAN MARCOS, TEXAS

Start Date: 12/1/2013
Last Revision: Job# 20130405
Drawing # 20130520.1_Coverage

Design:
BEN ANDLIN
SABER
BOB STROBECK

Revision Hist.
1) _____
2) _____
3) _____



McCarty Commons / H.E.B. and Development Pylons / San Marcos, Texas

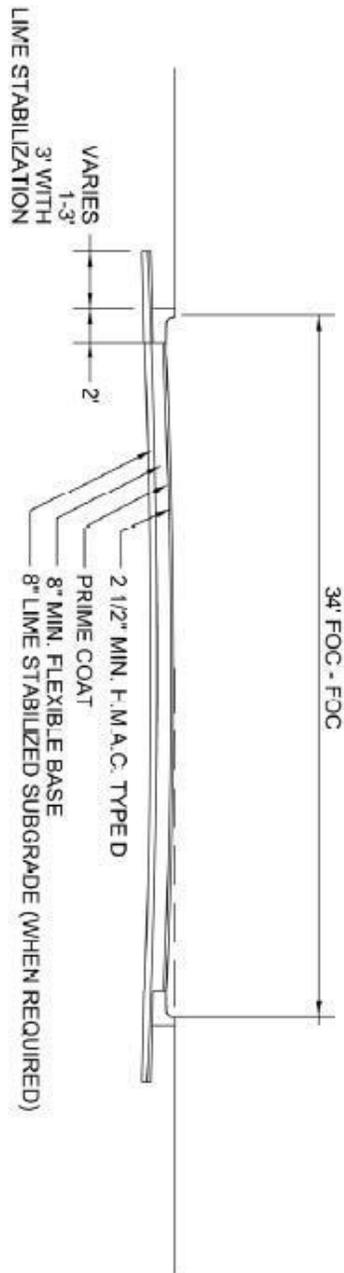
11 McCARTY COMMONS / SIGNAGE LINEUP
SCALE: 1/8" = 1'-0"



 <p>Facility Solutions Group 1350 McCarty Lane San Marcos, TX 78681</p>	<p>McCarty Commons 135 @ McCarty Lane San Marcos, Texas</p>	<p>Start Date: 1/21/2013 Last Revision: 1/21/13 Job#: 0218975 Drawing #: 0218975/SV_381_Lineup</p>	<p>Design: BBN ANGLIN SMAJ BOB STROBECK</p>	<p>Revision Hrs: 1 2 3</p>	 <p>Cortem Steel Finish</p>	 <p>H-E-B</p>	<p>RETAILER: K&L HAS FIELD & TAYLOR SARASOTA, FL 34231</p>	 <p>UL LISTED</p>
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EXHIBIT "E"

PRIVATE DRIVE CROSS SECTION



McCARTY COMMONS

CROSS-SECTION OF PRIVATE DRIVE CONNECTING IH-35 TO McCARTY LANE

NOTES:

1. BASE COURSE TO EXTEND BEYOND CURB 0.3 m (1') FOR SOILS WITH PI OF 20 OR LESS, 0.9 m (3') FOR ALL OTHER SOILS.
2. 100 mm (4") MINIMUM THICKNESS OF BASE UNDER CURB.
3. PAVEMENT THICKNESS IS A MINIMUM, ACTUAL THICKNESS TO BE DETERMINED BASED ON CCMPUTERIZED PAVEMENT DESIGN.

LJA Engineering, Inc.

5316 Highway 290 West
Suite 135
Austin, Texas 78735



Phone 512.439.4700
Fax 512.439.4716
FRN - F-1386

McCARTY COMMONS

**CROSS SECTION OF PRIVATE DRIVE
CONNECTING TO I-35 TO McCARTY LANE**

Agenda Information

AGENDA CAPTION:

Hold a public hearing and discuss the 10-year Capital Improvements Program.

Meeting date: April 9, 2013

Department: Development Services/Finance/Engineering

Funds Required: na

Account Number: na

Funds Available: na

Account Name: na

CITY COUNCIL GOAL:

Big Picture Infrastructure

BACKGROUND:

The Capital Improvements Program (CIP) requires an annual recommendation to City Council on projects that the Commission finds necessary or desirable. Staff will give a presentation on April 9th on the draft project list, and representatives from various departments will be available to answer questions. The Commission will vote on the CIP at the April 23rd meeting.

Agenda Information

AGENDA CAPTION:

Development Services Report

- a. Update from staff on Comprehensive Plan

Meeting date: April 9, 2013

Department: Development Services

Funds Required: n/a

Account Number: n/a

Funds Available: n/a

Account Name: n/a

CITY COUNCIL GOAL:

BACKGROUND:

- a. Update from staff on Comprehensive Plan.