

**MINUTES OF THE REGULAR MEETING OF THE  
SAN MARCOS PLANNING AND ZONING COMMISSION  
COUNCIL CHAMBERS, CITY HALL  
May 14, 2013**

**1. Present**

**Commissioners:**

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

**City Staff:**

Matthew Lewis, Development Services Director  
Sam Aguirre, Assistant City Attorney  
Francis Serna, Recording Secretary  
John Foreman, Planning Manager  
Amanda Hernandez, Senior Planner  
Alison Brake, Planner  
Emily Koller, Planner  
Tory Carpenter, Planning Tech

**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 May 14, 2013, in the Council Chambers, City Hall, City of San Marcos, 630 E. Hopkins, San Marcos, Texas 78666.

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

Chair Taylor welcomed the audience and viewers.

**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. Presentation, Discussion and Possible Action Regarding Planning and Zoning Commission Retreat held on May 8, 2013, including goal setting.

Vice Chair Morris gave an overview of the Planning & Zoning Retreat.

5. Receive an update from staff regarding status of petitions related to the Windemere project (ZC-13-05, LUA-12-09, ZC-12-14, and PDD-12-03) located at Lime Kiln Road and Windemere Road.

John Foreman, Planning Manager advised the Commission that the applicant has withdrawn ZC-13-05, ZC-12-04 and PDD-12-03. He said that the applicant has indicated that they will submit a new project.

## **6. 30 Minute Citizen Comment Period**

David Wendel spoke regarding single room occupancy. He expressed concerns regarding calling a single room occupancy as a mixed use development. He felt that there should be a separate zoning category for single room occupancy developments. He explained that the rooms are leased individually and share a common area. Mr. Wendel stated that multifamily is misleading and dishonest and that they have no intent to families. He felt that if a retirement home cannot be called multifamily then single room occupancy should not be called multifamily.

Don Eyssen referred to the preferred scenario vote and stated that the Commission seems to want to do it now or don't do it. He explained that he has never seen companies not being researched for two or three years prior to development. Mr. Eyssen stated that there is not a company that does not take the time to research a proposed development and has to have a decision within a month. He felt that there is no reason that the Commission should fast track their decision. Mr. Eyssen pointed out that he built the largest apartment complex in town, Copper Beach for student housing. He stated that he spoke to the property manager and was advised that there is not one family in any of the 50 buildings on site. He felt that proposed developments should be called what they are which is off campus housing.

Eric Ross stated he was representing himself and his clients who live at the Darren Casey student housing project. Mr. Ross stated that the proposed development is a great project. He added that the project has a small footprint and has a lot of parkland dedicated to the city. Mr. Ross stated he is in support of the project.

Betsy Roberston stated she would postpone her comments until the public hearing.

Sherwood Bishop referred to the map he provided to the Commission. Mr. Bishop spoke concerning Item 14, abandonment of streets and alleys. Mr. Bishop gave an overview of the map. He pointed out that Mr. Casey has requested that the parkland be smaller so that his development can be larger. He asked the Commission to vote against the abandonments. Mr. Bishop explained that he uses Loquat Street daily and uses Loquat Street, which was built and is maintained by the city for many years. He pointed out that it is difficult to drive and LBJ or on Sessom due to congestion.

Lila Ramos stated she has lived in the Sessom Creek neighborhood for about a year. She pointed out that it is a beautiful neighborhood and you can see kids running around. Ms. Ramos said it is difficult to think about an 800 room development being built next to her home. Ms. Ramos stated that she is against the request.

Ted Briehan inquired about why Commissioner Morris was allowed to be on the dais when he is the Real Estate Broker for the Casey Development. He felt the Commission Carter should not be present.

## **Consent Agenda:**

### **7. Consider the approval of the minutes from the Regular Meeting on April 23, 2013.**

**8. PC-04-10(011) (Cottonwood Creek Master Plan)** Consider a request by Ramsey Engineering, LLC, on behalf of Cottonwood Creek JDR, LTD., for consent to a one-year extension of the Master Plan of the Cottonwood Creek subdivision, consisting of approximately 471.97 acres at the intersection of State Highway 123 and Monterrey Oak, San Marcos, Texas.

**MOTION:** Upon a motion made by Commissioner Wood and a second by Commissioner Ehlers the Commission approved on consent the minutes of the Regular Meeting on April 23, 2013 and PC-12-04-10(011). Commissioner Morris recused himself from the consent agenda.

## Public Hearings:

**9. CUP 13-10 (Rio Vista Food Trailer Court)** Hold a public hearing and consider a request by Hilda Gomez, on behalf of Alfredo Lamas Leal, for a new Conditional Use Permit to allow portable food facilities at 413 Riverside Drive.

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

Chair Taylor opened the public hearing.

Hilda Gomez, the applicant stated she is very excited and is hoping to bring a new business to San Marcos. Ms. Gomez informed the Commission that on May 2<sup>nd</sup>, she and Carlos Hernandez met with the neighbors and would like to address their concerns. She introduced, Carlos Hernandez, her agent on the project.

Carlos Hernandez stated that he lives on Field Street around the corner from the project. Mr. Hernandez said he was available to answer questions from the Commission or neighbors.

Anessa Castello stated that she has concerns regarding traffic and noise. She explained that they do not have concerns with Herbert's because it is an enclosed business. She felt that the open court will disturb residences in the neighborhood. Ms. Castello wondered if the lighting was sufficient for safety but yet not to disturb the residences. She added that only having two tables is a concern because people will walk off and leave trash for someone else to pick up. She inquired on who would be responsible for emptying the trash bins. Ms. Castello pointed out that noise would also be an issue and if a barrier would be provided. She also mentioned that the roundabouts are new and are very confusing to navigate while driving and feels it is also confusing when trying to cross the intersections. Ms. Castello also had concerns regarding parking and patrons encroaching into the neighborhood.

Lena Tolbert stated that she has daycare directly next door to the facility. She said that she is not opposed to the request. She felt that the concerns that are spoken about are concerns that currently occur with the river. Ms. Tolbert said that Mr. Leal is very neat and there has not been a trash problem. She added that Mr. Leal works well with the community and is concerned. Ms. Tolbert also felt that trash would not be a problem. She explained that the two tables are in case people want to sit down and then go enjoy the river. Ms. Tolbert mentioned that the tube rentals have been in business for 3 years and that there has not been a noise and traffic problem and accessible to the river. She said she is not concerned.

Jodi Mann, lives behind Leal's Tire Shop and is not going anywhere. She said that the Leal's have been good neighbors. Ms. Mann stated that she has not seen problems with trash and the business is well maintained. She added that the property is zoned commercial and they should have rights to market the river. Ms. Mann stated that San Marcos is overdue to bring these types of businesses to San Marcos. She felt it is a great idea, there is a cross walk, people should use them. Ms. Mann suggested that more trash cans should be placed around the river. She stated that she is in support of the request.

Ana Mendoza stated she is a resident on Field Street since 1972 and has seen changes throughout the years. She said they have met with the applicant and are against the encroachment between the business and the neighborhood. She is concerned with the neighbor that is located across from the business. She said Ms. Cole has complained about trash and noise and is against the request. Ms. Mendoza said the neighborhood has six entrances into the neighborhood and only one entrance does not have a business. She said they have repeatedly come before the Commission to ask them to care of the neighborhood. Ms. Mendoza added that the plants are not going to protect the neighbors from trash and noise. She asked the Commission to deny the request.

Scott Morris stated he can see the property from his mail box. He said he is happy about food being served from the property. He said he was encouraged when the applicant spoke with the neighborhood. Mr. Morris stated that he was shocked that there would be four trailers and felt that two trailers would be sufficient. He asked the Commission to deny the request.

Rosemary Zuniga stated she has lived in Rio Vista Terrace for 43 years. Ms. Zuniga stated the issue with the project is the traffic that will encroach into the neighborhood. She said that they have met with the applicant and that there is another entrance on Riverside that appears not to be an option. Ms. Zuniga explained that the City has spent millions of dollars to upgrade the infrastructure in their neighborhood which include two roundabouts. She stated that the roundabouts were to curtail the entrance into the neighborhood. Ms. Zuniga stated that she felt that having the entrance and exit of the business would defeat the purpose of the roundabouts. She added that the project would work best if the entrance and exit of the property would be located on Riverside Drive.

Mary Collins stated she is against the request because of the encroachment to the neighborhood. She pointed out that at times she cannot park in her driveway because people park in front of the home. She said the business will bring in more traffic and trash. Ms. Collins felt that the business will decrease the value of the neighborhood.

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

**MOTION:** Upon a motion made by Commissioner Bryan and a second by Commissioner Kelsey the Commission voted 8-0 to approve CUP-13-10 with the conditions that the Permit shall be valid for 1 year; the hours of operation shall be limited to 9:00 am to 9:00 pm, Sunday through Saturday; no portable food vendor shall be placed within 50 feet of the property line of 902 Sycamore Street; no more than 2 trailers may be located on the site without first amending the CUP; the only entrance to the property must be on Riverside Drive; a fence be built along the property line until vegetation grows significantly and adequate trash cans be placed at each pedestrian entrance.

**10. CUP-13-12 (The Rooftop on the Square)** Hold a public hearing and consider a request by Brandon Cash, on behalf of The Rooftop on the Square, for renewal of an existing Restricted Conditional Use Permit to allow the continued sale of mixed beverages for on-premise consumption at 126 South Guadalupe.

Amanda Hernandez, Senior Planner gave an overview of the project.

Scott Withers, owner of the Rooftop stated he is a Texas State Alum and has lived in the San Marcos/Austin area since 2004. He said he is co owner with Brandon Cash. Mr. Withers referred to the video shown by staff and explained that the venue was leased by a third party event planner and they provided their own speakers. He pointed out that this is a onetime incident and that the same issue would not happen again. Mr. Withers mentioned that Officer Williams was present at the venue and can reassure the Commission that they have not had any other issues for 90 days. He addressed the 2 point violations due to serving to an intoxicated person. Mr. Withers explained that they have added additional security to help with identifying intoxicated patrons and bartender training for bartenders. Mr. Withers stated that they are dedicated to their business and want to contribute to the San Marcos community. He said he was available to answer questions.

Brandon Cash, co owner of the Rooftop on the Square said the video did look back and as soon as they were on the premises, they corrected the problem. He explained that since the last CUP hearing they have made changes to improve the business and maintain compliance of the CUP. Mr. Cash stated that they have removed the outdoor patio speakers as requested at the last hearing. In addition, they have reduced the volume of the interior speakers. Mr. Cash mentioned that after the last meeting they gave Mr. Hohn their cell phone numbers in case of any issues. He added that they maintained the meal periods and are currently working to expand their menu. Mr. Cash pointed out that the two points accessed to the business were verbal warnings and since then they have increased security. He asked the Commission that they are treated equally as others restaurants in the CBA to have low wattage outdoor speakers. Mr. Cash thanked the Commission for their consideration.

There was a ten minute recess.

Chair Taylor opened the public hearing.

HC Kyle owns building 118 and 120 N. LBJ on the square. He explained that years ago, Schulz Garden was great watering hole for law students and the conversation was louder than the music. He said there is a different story. Mr. Kyle explained that he can address some of the issues with the trash and drunks in the area but he cannot keep out of the noise. He expressed concerns that everyone on the Southside of the square has to put up with the Rooftop Bar. He added that there have been four violations since they have been in business. He felt that the business owners are trying to make the Commission believe that they will not have any other issues. Mr. Kyle told the Commission not to believe the owners and make sure the speakers are inside. He said that he hopes that the Commission can protect his tenants so that they can sleep.

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

**MOTION:** Upon a motion made by Commissioner Carter and a second by Commissioner Ramirez the Commission voted five (5) for and three (3) against to approve CUP-13-12 with the conditions that the permit shall be valid for 3 months; all requirements of Section 4.3.4.2 shall be met; no live music and no speakers in the outdoor patio areas highlighted in Exhibit A; all exterior doors must be maintained in an automatically assisted closed position and if any points are issued to the establishment during the approval period, the revocation process will be initiated.

**11. CUP-13-13 (216 North Street)** Hold a public hearing and consider a request by Chase Katz, on behalf of North Street Development Inc., for a new Conditional Use Permit to allow the sale of beer and wine for on-premise consumption at 216 North Street.

Emily Koller, Planner gave an overview of the project.

Chair Taylor opened the public hearing.

Benjamin Ackerman, manager of Zelick's re-enforced the hours and days and added that there will be no games. Mr. Ackerman said that they are trying to achieve the objectives of a T5 zoning as intended by the city. He stated that the business will create new jobs and support the economy. Mr. Ackerman added that the request fits with the long term plan for the City. Create new jobs and support the economy and fits in the long term plan for the City. He stated that they support staff's recommendation.

Kat Tracy, 901 Franklin used to work at Crystal River Inn said she received a letter from a tenant who resides in a garage apartment directly behind Crystal River Inn. She explained that the letter states that the music and noise level from Zelick's is unbearably loud. She mentioned that most nights she slept with ear plugs and at times were still able to hear the music. She felt that there is some type of city ordinance that would require Zelick's to be a better neighbor. She could not believe that one business is able to profit by the expense of another.

Don Eyssen pointed out that when Zelick's came up for renewal in front of City Council he has never observed two kids walk out of the City Council meeting so rude and screaming at the owner of Crystal River Inn. He explained that they were screaming saying how loud they were going to have the music and how they were going to make them pay. Mr. Eyssen said he was appalled on how they acted. He felt that they should apologize.

Barry James owns 323 W. Hopkins and not within 200 foot boundary of the new business stated that he is concerned with the code not requiring parking. Mr. James pointed out that parking is currently an issue at Zelick's and the patio for the new business will remove the employee parking cause additional street parking. He mentioned that all other businesses are required to have sufficient parking spaces. Mr. James felt that the SmartCode should be addressed if no additional parking is required.

Jane Hughson stated that it may be a new business but it is the same people. She asked if history will repeat itself.

There was a ten minute recess.

Clint Giles, owner of the four plex at 323 Hutchison, stated that he leases to mainly students. He explained that his daughter has lived at the duplex for two years. Mr. Giles said he likes the Katz brothers and the business but the noise is a major issue and has no doubt that the expansion will increase the noise. Mr. Giles explained that he received a call from his daughter at one in the morning saying that a drunk was banging on her door wanting to get into her apartment. He added that his daughter also mentioned that several times they have seen people urinating on the wall. Mr. Giles mentioned that with the doors always open there is not a difference between indoor and outdoor. He said he has a contract with the Dillon's to purchase the adjoining property build a sorority house. Mr. Giles stated that he has had tenant move out because of the noise from Zelick's. He added that he has not previously had issues leasing the units and now it is a problem. He pointed out that there are more residential areas near the expansion.

Diane Wassenich, 11 Tanglewood said every morning she walks down San Antonio Street and picks up beer cans and beer bottles. She said that no one cleans up what the patrons leave behind. Ms. Wassenich said it is infuriating that the downtown is turning into a bar district. She added that we do not want the crime issues that Austin has. Ms. Wassenich stated that the Bed & Breakfast that is a great business who has invested their lives to try and survive. She added that there are a lot of residences in the area and it doesn't make sense to continue to deteriorate downtown with more bars. Ms. Wassenich stated that the Commission is making it harder for current businesses to make a profit. In addition, the Commission is making it hard to fill apartment complexes by approving more apartments. She told the Commission they have a choice about what happens in the downtown smart growth area. She said it doesn't make sense to keep allowing bars unless they are going to make them pick up their trash and deal with the extra law enforcement that will be necessary. She felt that the citizens should not have to deal with it.

Melissa Derrick said she enjoys both establishments. She felt that the buffer on North Street will not be enough to keep the noise away. She said she wished there was a solution that would allow both businesses to exist. Ms. Derrick pointed out that Jack's is in a residential area and they do not get complaints because they are in an enclosed area. She added that the problem is that the business is not enclosed. Ms. Derrick stated that she would not have wanted to get married at Crystal River Inn if there was a food trailer next door and in view. She added that she hopes that they can work things out.

Cathy Dillon, 1000 Burleson and co-owner of Crystal River Inn stated that the most pertinent information is who applied for the permit. She said that the North Street Corporation says volume because the Katz brothers have purchased everything along North Street to Hutchison as her property does. She felt that what they say they are going to do is not the same as what they will do. Ms. Dillon explained that three years ago they said they were going to have a quiet little garden and that is not what it is today. She felt that the request is for a large expansion of Zelick's. She pointed out that she does not have a problem with the restaurant. She added that she has supported their permit and requested that conditions be applied but feels that they have not conformed to the conditions. Ms. Dillon stated that motorcycles are not being parked on North Street and that the establishment is not the quiet little garden bar. She pointed out that the noise is tremendous and that they have had 4 live bands since February when they were told no live bands. Ms. Dillon mentioned that Saturday resulted in a citation. She suggested that the bar be enclosed because if it hurts her business then it becomes her business. She confirmed that the property is on the market and hopes to sell the property to someone that will keep it the legacy it has been for San Marcos.

John McGlothlin mentioned that when the Katz's came the first time they presented something totally different than what is there now. He pointed out that lawyers have been involved and multiple hearing because incompatible uses were placed next to each other. Mr. McGlothlin felt that the Commission approved the request because the use was presented differently. He added that it would be naïve to think that the same issues would not happen again. Mr. McGlothlin pointed out that the Katz's are currently not abiding by the current conditions that were placed on their conditional use permit. He felt that the Katz's should respect the process prior to requesting an additional condition use permit.

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

**MOTION:** Upon a motion made by Commissioner Ehlers and a second by Commissioner Kelsey the Commission voted seven (7) for and one (1) against to postpone CUP-13-13 to the May 28<sup>th</sup>, 2013 Planning and Zoning Commission meeting. Commissioner Morris dissenting.

**12. CUP-13-14 (1127 W. San Antonio)** Hold a public hearing and consider a request by Clarke and Monica Hammond for a Conditional Use Permit to allow an accessory dwelling unit at 1127 W. San Antonio.

**13. A-13-02 (1127 W. San Antonio)** Hold a public hearing and consider a request by Clarke and Monica Hammond to abandon a 20' by 84.25' portion of an alley between Wilson Street and Johnson Street.

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

Monica Hammond, 1127 W. San Antonio Street stated that staff and the Historic Preservation Commission gave a favorable recommendation and she promised her parents would be quiet.

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 Wood the Commission voted all in favor to approve CUP-13-14 with the conditions that the accessory dwelling unit shall not be rented separately from the main residence, the single-family occupancy restriction applies to the entire property and there shall be no separate utility meters.

**MOTION:** Upon a motion made by Commissioner Wood and a second by Commissioner Carothers the Commission voted five (5) for and three (3) against to approve A-13-02 as submitted. Commissioners Ehlers, Morris and Taylor dissenting.

**14. A-13-01 (Sessom Drive Multifamily Community-Loquat Street, a/k/a Pecan Street, Locust Street and Peachtree Street)** Hold a public hearing and consider a request by ETR Development Consulting, L.L.C., on behalf of Darren Casey Interests, to abandon streets and alleys in the Park Addition, First and Second Division, as follows: a 16 foot alley between lots 43 and 50 to the north and lots 41, 42, 51 and 52 to the south from Sessom Drive to Peachtree Street; a 16 foot alley between lots 39, 53, 56 and 61 to the north and lots 38, 54, 57 and 60 to the south from Sessom Drive to the northwest boundary of said Park Addition; Locust Street from Loquat Street (a/k/a Pecan Street) to the northeast corner of lot 50; Loquat (a/k/a Pecan) Street from Sessom Drive to Peachtree Street; and Peachtree Street from the southeast corner of lot 63 to the northwest corner of lot 50.

Commissioner Morris recused himself from items, 14, 15, 16 and 17.

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

Chair Taylor opened the public hearing.

Ed Theriot, ETR Development Consulting, 401 Dryden, Buda, TX stated that staff covered their request well. Mr. Theriot pointed out that the ROWs were platted in 1908 and never developed with the exception of Loquat Street. He added that the City has utilized Peachtree ROW for utility construction. He mentioned that they have proposed to maintain the ROW on Peachtree to provide for safer ingress and egress to a controlled intersection instead of the current dangerous Loquat intersection. Mr. Theriot pointed out that they are in agreement to all of staff's recommendations. He asked the Commission for a favorable recommendation.

Diane Wassenich begged the Commission not to abandon Peachtree or cut off Loquat. She felt that the biggest mistake San Marcos made was cutting off LBJ instead of finding a solution. Ms. Wassenich asked the Commission to not cause another problem for San Marcos. She felt that Peachtree should remain

because it has a major water main and should stay in the city's control. She pointed out that Loquat is necessary for the homes in the area. Ms. Wassenich said if an exit is made on Peachtree from the proposed project there will be a lot of traffic pouring into the quiet residential street. She felt the request is a very bad idea.

Dell Hood, owner of 207 Canyon Road stated that he invested in San Marcos more than 30 years and continues to invest in the property. He explained that he purchased the property as a retirement home and when they resided at the home, they enjoyed it and felt it was the prettiest area in San Marcos. Mr. Hood added that they could walk to square and the university. In addition, they maintained the woods in Sessom Canyon. He stated that abandoning the entrance off Sessom through Loquat and Canyon Fork would severely impact him from using his property. He urged the Commission to not grant the request.

Larry Mock, 107 Canyon Road stated that he also using Loquat. He explained that the street is a one way street and access by emergency vehicles will be more difficult to access. Mr. Mock spoke in opposition to the request and asked that the request not be granted.

Sally Ploeger, Canyon Road stated she is against the request in its entirety. She said if the street is closed there would be an issue. Ms. Ploeger stated it is not a good idea to give away real estate.

Jay Hiebert, Sierra Circle stated he is in support of what Sherwood Bishop mentioned. He explained that the Canyon was donated or purchased by the city with the intent to become dedicated parkland. Mr. Hiebert pointed out that people have been working for about a year and a half through the Parks Board and on the City Council rolling agenda to dedicate the property as parkland. He asked the Commission to deny the request and allow the city to create a contiguous green space.

Don Eyseen stated that he lives on other side of water tower. He explained that they are blocking off the only other exit from the neighborhood. He pointed out that it will be difficult for emergency and a ladder truck will not fit. Mr. Eyssen stated that the entrance is essential for the neighborhood. He said that the abandonment would make it more dangerous for the neighborhood and there is no reason to abandon the ROW. He pointed out that a water line was just installed and we need to keep it. Mr. Eyssen asked the Commission to think about integrity of the neighborhood. He stated that the property has been there for generations and we should keep it.

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

**MOTION:** Upon a motion made by Commissioner Wood and a second by Commissioner Carothers, the Commission voted all in favor to delay action on A-13-01 until after items 15, 16 & 17 have been discussed. The motion carried unanimously.

There was a ten minute recess.

**15. LUA-13-01 (Sessom Drive Multifamily Community)** Hold a public hearing and discuss a request by ETR Development Consulting, L.L.C., on behalf of Darren Casey Interests, Flo Wilks, Harriett Rainey, Christian and Diana Espiritu, Everette and Donna Swinney, and Buck Scheib, for an amendment to the Future Land Use Map from Low Density Residential (LDR) to Mixed Use (MU) for approximately 9.5 acres of land out of the Park Addition, First and Second Division, located at Sessom Drive at Loquat Street (a/k/a Pecan Street).

**16. ZC-13-03 (Sessom Drive Multifamily Community)** Hold a public hearing and discuss a request by ETR Development Consulting, L.L.C., on behalf of Darren Casey Interests, Flo Wilks, Harriett Rainey, Christian and Diana Espiritu, Everette and Donna Swinney, and Buck Scheib, for an amendment to the Zoning Map from Single-Family Residential (SF-6) to Vertical Mixed Use (VMU) for approximately 9.5 acres of land out of the Park Addition, First and Second Division, located at Sessom Drive at Loquat Street (a/k/a Pecan Street).

**17. PDD-13-01 (Sessom Drive Multifamily Community)** Hold a public hearing and discuss a request by ETR Development Consulting, L.L.C., on behalf of Darren Casey Interests, Flo Wilks, Harriett Rainey, Christian and Diana Espiritu, Everette and Donna Swinney and Buck Scheib, for a PDD overlay district, with a base zoning of Vertical Mixed Use (VMU) for approximately 9.5 acres out of the Park Addition, First and Second Division, located at Sessom Drive at Loquat Street (a/k/a Pecan Street).

Matthew Lewis, Development Services Director gave a brief background of the project.

Steve Drenner, lawyer with Winstead PC, Austin Texas spoke on behalf of Sessom Drive Multifamily development. Mr. Drenner presented an overview of the project.

Chair Taylor opened the public hearing. Chair Taylor asked for anyone wishing to speak in favor of the request.

Darren Casey, San Antonio Texas, stated that Steve Drenner's presentation is facts and wanted to make sure everyone understands they have worked for eighteen months trying to make a better project. He thanks citizens for challenging them. He pointed out that the proposed project has been very contentious but feels that they have a much better project. Mr. Casey stated that he is committed to San Marcos and is invested in San Marcos. Mr. Casey asked for the Commissions support a consideration.

Bryan Van de Walle, Cedar Park Texas, Senior Traffic Engineer with Kimley-Horn spoke on behalf of the project stated that it is obvious that traffic is on everyone's mind. He said they have been working with staff to identify potential use continuous flow intersections. Mr. Van de Walle pointed out that there is CAMPO money that can be used to make improvements to Sessom Drive. He added that they are committed to work with Mr. Casey, city staff, Texas State and TXDOT to come up with a solution to help relieve traffic. Mr. Van de Walle stated he was available to answer questions.

Landon Bullard, a student of Texas State and a member of the community stated that he has lived on campus and explained the positive effects. He pointed out that traffic is a problem. Mr. Bullard added that very few are lucky to live in a house near campus and walking to campus. He spoke in support of the proposed development stating that the ability to walk to campus is environmentally friendly. He added that moving students near the university will help alleviate traffic. He said it is import for the Commission to approve the request.

Dave Rasco, a graduate of Texas State University, a resident and a strong supporter of the request. He said he is a small business owner in San Marcos. He pursued his Master's Degree has fallen in love with the city. Mr. Rasco stated that he does not agree that San Marcos is a college town, which students get an education and move on to pursue career elsewhere. He feels that San Marcos is a dynamic city with growing abilities for all. He believes that a majority of the students leaving is a missed opportunity. Mr. Rasco stated that we should try and keep alumni, professionals and families in San Marcos. Mr. Rasco spoke in support of the request and asked the Commission to approve the request and support future projects that invest in San Marcos.

Melissa Jewitt, 2709 Oak Haven Drive, said she is a parent of a student at Texas State. She explained that it is very difficult to find an available apartment. Ms. Jewitt said the waiting list for a lease is terrible. She said that she called multiple apartment and they all have a year wait. Ms. Jewitt said San Marcos needs this type of development near campus. She addressed the issues of not having enough apartments in San Marcos.

Jeff Jewitt, 2709 Oak Haven Drive, San Marcos stated that there are codes, restrictions and regulations to protect public health and natural resources. Mr. Jewitt read the TCEQ mission statement. He said in his experience there has been an overwhelming opposition to development. He added that it is apparent that our city needs additional development and student housing is lagging behind.

Jim Keith, 1001 Bishop Street stated that he has no ties to the group and owns land adjacent to property. He said when he drives around the neighborhood, he sees a lot of properties built to the old codes and would like to see them fixed. He felt that the development is not a threat to the river and that there are measures in place to protect the river. Mr. Keith added that he is for growth as long as it is done properly. He stated that the property value will go up. He explained that he is in the 1st phase of developing his property, Mr. Keith has worked with city staff and the state and they have been very helpful and did a great job. He thinks that San Marcos is poised to take the next step into proper development and trust the process and people in place to get it done.

Nathan McDaniel, Student Body President at Texas State University and resides on Craddock spoke in support the project. He felt that these types of project are the ones that need to be implemented in San Marcos. He stated that the location is a prime spot for students to walk to campus and library and not have to rely on vehicular traffic. Mr. McDaniel said the closer the project to the University the more beneficial to the University, the city and the students. He asked the Commission to approve the request.

Nick Razzolo, student graduate of Texas State and current entrepreneur and small business owner in San Marcos. He said that in the past 4 years he has seen city grow at an accelerating rate. Mr. Razzolo stated that he decided to have a business in San Marcos because the city holds promise and great opportunities. He said the economic benefits of the Sessom Creek Project leaves our town with resources it needs to grow. Mr. Razzolo expressed his support for the request and asked the Commission for approval.

Patrick Rose, 627 W. San Antonio Street, thanked all who were present and spoke in support and in opposition of the project. He pointed out that the sellers and buyers are known in the community and are well respected people. He added that the developer has invested in the community. He felt that the project is better for the environment than building single family lots. Mr. Rose said that the tax base is staggering numbers and would benefit the community. He added that the University is growing and asked where we are going to put the students. Mr. Rose felt that the line of sight is not the issue. He mentioned that Sessom traffic is an issue today and will always be an issue. He said that the question today is what is the highest and best use of development is for the parcel because the property will be developed. Mr. Rose spoke in support of the request.

Pam Couch, 203 Sierra Ridge, San Marcos stated that she is in support of the request. She thanked Mr. Casey for investing in San Marcos. She said she knows how hard it is to get things done in San Marcos. Ms. Couch pointed out that we all know that the property has to be developed. She said people do not want students in the neighborhoods and wise decisions need to be made to where we put students. Ms. Couch pointed out that parents want nice project for their young adults to live. She asked the Commission to take the emotion out of the decision and look at it as business decision and what is best for San Marcos and its future.

Brett Baker, 1110 Baldwin Street, Houston Texas gave a brief background of himself and explained that Mr. Casey has stepped up to help the university. He said that Mr. Casey has a passion for San Marcos. Mr. Baker explained that the project will allow the city and the university to work together and make a step forward. He said with the project, students will be able to walk to campus and the library. He pointed out that older students do not want to live on campus. Mr. Baker said it is important to look at the city and the university is amazing together. He said this is an opportunity to have a world class development near campus.

Ed Theriot, ETR Development Consulting, 401 Dryden, Buda Texas added that the CAMPO funding that the city has available has not been designated for a specific project because no modeling of the intersection has been done. Mr. Theriot wanted to pass on to the Commission that Mr. Casey has committed to perform the modeling of the intersection and identify the specific projects current with the platting and watershed protection process associated with the project. In addition, he clarified that they will maintain access through the project via Peachtree Street which will continue to be public ROW connecting to Sessom Drive.

Chair Taylor asked for anyone wishing to speak in opposition to the request.

Larry Mock stated the Commission will hear opposition to the request because of noise, traffic, encroachment in the neighborhood and spoke against the project due to noise, traffic, encroachment. Mr. Mock read quotes from Jayme Briehe written in the Mercury to protect Sessom Canyon. Mr. Mock stated that he told Mr. Briehe that he would continue his vision to protect Sessom Canyon and wished that the Commission would join him.

Diane Wassenich, 11 Tanglewood stated that she believes that the Commission should ask questions about wells located next to the site that will be excavated. She felt that the property is suitable for homes near the parkland and felt confident that the Commission would uphold the Master Plan. Ms. Wassenich pointed out that Sessom cannot be widened without harming the critical habitat at the head of the river. She asked the Commission not to add to the traffic load and put more vehicles on Sessom. She stated that the master plan lays it out for the Commission and place student housing and high rises on Thorpe Lane and Springtown where student can walk and bike to campus and no harm is done to the river. Ms. Wassenich told the Commission to do what is right and protect the river.

Betsy Robertson, 1410 Progress, spoke on behalf of the President of Council of Neighborhood Association. Ms. Robertson stated that the location on a busy street demands a mixed, dense retail development project in which the developer has submitted two such proposals. However, the site sits at the top of a watershed and backs ups to a quiet neighborhood. Ms. Robertson pointed out that the project will impact the Sessom Creek neighborhood. She pointed out that the 4.6 acre donation would normally benefit the neighborhood but is a distance from houses and closer to apartments and will be used by the apartments. She added that a much larger problem is that Canyon road will remain open and cause increased traffic. Ms. Robertson asked if growth is what the city needs right now. She pointed out that there are a large number of apartments currently in construction. She added that the owner occupied homes is what provides stability in the community. She urged the Commission to deny the current proposed PDD.

Dale Hood, 207 Canyon Road stated he has a passion of San Marcos and has lived in San Marcos for over 30 years. He pointed out that pictures taken from a drone must have been taken in one of the greenest summers he has ever seen. He explained that from sitting on his front porch in January, he can look into the rooms of the new dormitory on Sessom Street. Mr. Hood stated that he is not looking forward to the view from the proposed development.

Jill Keith, 200 Orchard stated she is not opposed to development but is opposed to this request. She pointed out that the young people with yellow shirts have no idea why they wore them. She told the Commission that they are to protect the citizens and listen to them. She stated she didn't understand how a builder can state that they will put in lower end housing. Ms. Keith mentioned that she had photos of the water line that is located by the water tower that is broken and remains open. She pointed out that the water main is a city problem and questions the control that the city may have on other projects. She asked the Commission to vote no.

Don Eyssen, 200 Orchard stated that the campus should not be compared to the development because the campus does not pay taxes. He said since the city is in disagreement with project as well as the abutting property owner, should be considered a supermajority. Mr. Eyssen said the Commission should listen to the head of development. Mr. Eyssen spoke in opposition to the request. He mentioned that the development is a high end development and the student leasing will all have vehicles. He pointed out that a roundabout would not work in the area because there are currently a lot of traffic accidents on Sessom. Mr. Eyssen added that you cannot build within 200 ft. of tributaries and pointed out that the development is within the 100 year flood plain.

Andrew Swink, 102 Sierra Circle, a student at Texas State stated that the project is short sided and there is not a shortage of apartments. He challenged the Commission to call and try to lease an apartment because they will be able to find a room. Mr. Swink asked if it is worth it to build on the property when it has been scientifically proven to be environmentally sensitive. He felt that the Commission should listen to the voice of the citizens. He added that there are many other Texas State students that feel the property should remain parkland.

Vincent DeBrock, 100 W. Hillcrest Drive said he would like the Commission to count the number of comments against and for the project. He stated that the people in support are saying to neglect the neighborhood, river and Sessom Creek. He pointed out that there was a petition with 200 signatures. Mr. DeBrock mentioned that the project does not belong in the area. He added that the Parks Boards unanimously denied the project. He felt that the project could be better and less of a footprint. He stated retail is practical in the area. Mr. DeBrock spoke in opposition to the request.

David Sergi, 904 Burluson, representing San Marcos Voice, referred to spot zoning and said that the staff evaluation is that the property is suitable as currently zoned. Therefore, there is no need to change the zoning. He asked if there has been a substantial change in neighborhood. He pointed out that the University is not a tax payer and should not be considered. Mr. Sergi added that the neighbors do not want the development. Mr. Sergi referred to staff's evaluation and pointed out if the proposed development will address an unmet public need. He stated that the development will cause a detriment to the neighborhood. Mr. Sergi stated that if the Commission approves the request, they will approve spot zoning. He added that they Commission will put the city in litigation over the concept of spot zoning.

Linda Hopson stated that the project is wrong for the property. She said that the neighborhood wants to keep the property as part of their neighborhood. She told the Commission to wait until a proposed project is amenable to the neighborhood. Ms. Hopson mentioned that the area is great for senior housing. The Casey project will increase traffic issues in the area. She pointed out that kids will walk to campus but will not walk to Wal-Mart, HEB or to the liquor store. Ms. Hopson spoke in opposition to the high density. She said students come and go and the neighbors have paid taxes for years and will be here for years. She asked the Commission to not put the project on Sessom Creek.

Jim Garber, 104 Canyon Fork referred to Concho Commons and stated that in 2003 there were no taxes paid because the development didn't happen. Mr. Garber also referred to development on Thorpe stating the development didn't happen. He expressed concerns regarding a roundabout on Sessom and the proposed reduction in traffic. He said there was a lot of talk about Austin and felt the development should be built in Austin. Mr. Garber pointed out that the Master Plan does not call for the proposed development in the area.

Jay Hiebert, Sierra Circle, stated that he was concerned about the residents. He explained that the residents purchased their homes to get a fair return on their investment for their property and in a single family neighborhood. He asked if the developer is going to backfill the 35' deep hole, who will pay for road that gets destroyed in the process. Mr. Hiebert pointed out that Mr. Casey has multiple projects that have not been developed. He said he does not like the direction that San Marcos is going.

Lisa Prewitt pointed out that it is impossible to place all students near campus. She mentioned that Keller Williams Realtor was asking home owners if they were interested in selling their homes to people that were looking at purchasing three to four bedroom houses. Ms. Prewitt stated that she has listened to all the comments and felt that the Commission should get emotional because they are dealing with people's homes. She pointed out that we had a master plan that was ignored because it was outdated. Ms. Prewitt explained that a new Master Plan was created and the community decided that multi family was not wanted at this location. She asked the Commission to respect what the community has requested and protect the community's desires.

Sally Ploeger referred to a previous statement about TCEQ following the regulations and explained that TCEQ was sued in federal court and lost for not following federal laws. In addition, she said people are acting like the land was recently discovered but they live there and the property has been developed. Ms. Ploeger pointed out that people have lived in the neighborhood a long time. She mentioned that apartments on LBJ Drive to Hillside Ranch are offering a \$500 gift card and move in today. Ms. Ploeger said she lives next door to the proposed project and spoke in opposition to the request. She hoped the Commission considers denying the request.

Corey Schwartz, Mimosa Circle stated that it was finally clear that the proposed development will be student housing and should be called student housing. She pointed out that there will be 800 households living in the space that will need to get groceries. Ms. Schwartz added that Texas State does not have guest parking and a parking permit is required. She asked who would be responsible for the inspections and maintenance of the watershed. Ms. Schwartz stated that everyone has made great points and hopes the Commission will keep the property as SF-6. In addition, she hopes that if Mr. Casey develops the property as single family that he will develop as a high quality as his reputation says he will do in other projects in San Marcos.

Paul Murray explained that the Parks Board was confused about why they were hearing the project because staff was recommending denial of the request. He asked the Commission to stand up for the Master Plan, the Land Development Code and the proper procedures that everyone is expected to follow.

David Wendel, 118 E. Holland, explained that there will be a lot of foot traffic because people will not be driving. He said younger students will cross Sessom to attend parties and felt that underage drinking will increase. Mr. Wendel stated that people have discussed taxes, but the criteria that the Commission is to be voting for are whether the development is compatible with the neighborhood. He pointed out that there is no justification for the project and asked the Commission to vote no.

Jean Fleming, lives on Dartmouth stated that when she moved to San Marcos she thought it would be a temporary move. She felt it was hard to buy a house in San Marcos. Ms. Fleming explained that she has searched a lot of areas in San Marcos and is scared because she doesn't know what is going to be developed in the backyard. She said she agrees with the developers that there has been a lot of damage to the river and are environmental issues. Ms. Fleming said she has stayed in San Marcos because of the river and the spring. She stated that there is still a chance to save some areas. Ms. Fleming felt that we need to focus on what we can do to improve the damage that has already occurred.

Sherwood Bishop, 124 Elm Hill Court lived in Austin for 9 years prior to coming to San Marcos. He pointed out that a project requiring a 35' fill will not be administratively approved in Austin. He stated that Mr. Casey has had many options to purchase the property and has not done so. He said Mr. Casey has said he does not have enough room to develop what he wants and wants to take additional parkland. In addition, Mr. Casey will need to take streets that people use to get to and from work. Mr. Bishop explained that students will use Sessom and asked the Commission to go to the site and see how far they can see down Sessom from Loquat. He added that the Parks Board voted unanimously against the request.

Nancy Moore asked how the city owned property be handled. She also asked if the water tower will be moved.

**MOTION:** Upon a motion made by Commissioner Bryan and a second by Commissioner Carothers, the Commission voted five (5) for and two (2) against to table action on A-13-01 until the May 28<sup>th</sup> Planning Commission meeting. Motion passed. Commissioner Ramirez and Wood dissenting.

### **Non-Consent**

#### **18. Development Services Report**

- a. Update from staff on implementation of Vision San Marcos.

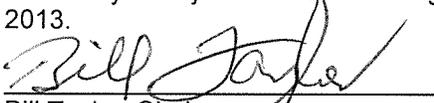
Matthew Lewis advised that staff would email the update to the Commission.

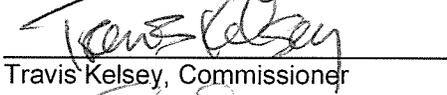
**19. Question and Answer Session with Press and Public.** *This is an opportunity for the press and public to ask questions related to items on this agenda.*

There were no questions from the press and public.

**20. Adjourn.**

Chair Taylor adjourned the Planning and Zoning Commission meeting at 12:44 a.m. on Tuesday, May 14, 2013.

  
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Bill Taylor, Chair

  
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Travis Kelsey, Commissioner

  
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Chris Wood, Commissioner

  
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Randy Bryan, Commissioner

  
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Carter Morris, Commissioner

  
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Kenneth Ehlers, Commissioner

  
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Angie Ramirez, Commissioner

  
\_\_\_\_\_  
Corey Carothers, Commissioner

ATTEST:   
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Francis Serna, Recording Secretary