

**MINUTES OF THE REGULAR MEETING OF THE
SAN MARCOS PLANNING AND ZONING COMMISSION
COUNCIL CHAMBERS, CITY HALL
July 9, 2013**

1. Present

Commissioners:

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

City Staff:

Matthew Lewis, Development Services Director
Sam Aguierre, Assistant City Attorney
Francis Serna, Recording Secretary
John Foreman, Planning Manager
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 July 9, 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. 30 Minute Citizen Comment Period

Diane Wassenich stated that she heard that some Planning Commission members did not understand the one page flood summary sheet she handed out to the Commission recently. She explained that the sheet took data about flood volumes from other rivers surrounding San Marcos and it compared it to the '98 flood in San Marcos. She said the figures were taken from the USGS (United States Geologic Service) gauges and rivers. Ms. Wassenich pointed out that we need to build away from 100 year flood plain and preferably from our 500 year flood plain if we want to avoid death and property damage.

Consent Agenda:

5. Consider the approval of the minutes of the Regular Meeting on June 25, 2013.

MOTION: Upon a motion made by Commissioner Morris and a second by Commissioner Seebeck, the Commission voted on consent to approve the minutes of the Regular Meeting on June 25, 2013 with corrections.

Public Hearings:

6. PC-13-18_03 (WB Addition) Hold a public hearing and consider a request by Kimley Horn and Associates, on behalf of Whataburger Real Estate LLC, for approval of a replat of Lot 1, Whataburger Addition and Lot 3 Quarters Addition, and associated subdivision improvement agreement establishing Lot 1, WB Addition, located near the intersection of South IH 35 and State Highway 123.

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 Ehlers and a second by Commissioner Bryan, the Commission voted all in favor to approve PC-13-18_03 as submitted. The motion carried unanimously.

7. CUP-13-17 (Aquabrew) Hold a public hearing and consider a request by Carlos Russo, on behalf of Austin Street Tavern LLC, for a new Conditional Use Permit to allow the sale of mixed beverages for on-premise consumption at 150 S. LBJ Drive.

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

Chair Taylor opened the public hearing.

Carlos Russo, 728 Snyder Hill Drive, San Marcos said he had been working on the project for two years. He pointed out that it is an infill project. Mr. Russo stated that he has hired a new architect to create the final plans and hopes to open in a year. He wants to make sure his customers are happy as well as his neighbors. Mr. Russo proposed to mitigate the neighbors' concerns before there is an issue. Mr. Russo proposed to run decibel level tests and establish a decibel level that would not disturb his neighbors and would work for the business.

Mark Jansen, 110 E. San Antonio Street, said he walked down the property line and felt that the business is very close to his building. Mr. Jansen spoke in opposition to the request. He expressed his concerns with noise with the outdoor beer garden. He felt the music would be an annoyance all day and night. Mr. Jansen said he is opposed to the request.

John Hohn, partner and co-owner with Mark Jansen for the property at 110 E. San Antonio stated he was representing himself as well as all other owners on the western half of the 100 block of San Antonio Street. He stated that the proposed use represents the potential for an outdoor live music venue which will project to the back of his building. Mr. Hohn explained that he and Mark purchased the building 23 years ago, they spent a lot of money renovating the building and have developed a successful law business. Mr. Hohn stated that they would like to maintain the quiet status of the building. He felt that their property rights are being invaded. He said he appreciates that the Commission worked with Rooftop and reached a compromise. He asked that the Commission consider the same conditions for Aquabrew.

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 all in favor to approve CUP-13-17 with the conditions that the permit shall be effective upon issuance of the Certificate of Occupancy; and the permit shall be valid for six (6) months, provided standards are met, subject to the point system. The motion carried unanimously. Commissioner Morris recued himself.

8. **ZC-13-10 (Blacks Barbeque)** Hold a public hearing and consider a request by Kent Blacks Lockhart BBQ LLC for a Zoning Change from Light Industrial (LI) to Mixed Use (MU) for approximately .5 acres out of the J.M. Veramendi Survey Abstract 17, No. 1, located at 500 Hull Street.

9. **ZC-13-11 (Blacks Barbeque)** Hold a public hearing and consider a request by Kent Blacks Lockhart BBQ LLC for a Zoning Change from Heavy Industrial (HI) to Mixed Use (MU) for approximately .12 acres out of the J.M. Veramendi Survey Abstract 17, No. 1, located at 520 Hull Street.

Emily Koller, Staff Planner gave an overview of the project

Chair Taylor opened the public hearing for items ZC-13-10 and ZC-13-11.

Rudy Rodriguez, 533 Hull Street and said he is concerned about the location of the parking lot area. He stated that his neighbor, Ms. Vasquez who lives adjacent to the property would like a privacy fence installed to eliminate lights from shining towards her property. Mr. Rodriguez also pointed out that he is also concerned with cars parking on the street. He explained that there are a lot of children in the area. He said he is in support of the request.

Kent Black, Austin, Texas introduced his wife, Candy Black, son, Barrett Black, and Architect Frank Gomillion. Mr. Black said that he has met with the neighbors. He said they are very excited and bringing their BBQ to San Marcos. He feels that location is excellent and really want to try to recruit staff from neighborhood. Mr. Black added that he wants to be good neighbors. He said they have been in Lockhart for 81 years and would be honored and privileged to be in San Marcos. Mr. Black stated that he does not have a problem building a privacy fence.

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

MOTION: Upon a motion made by Commissioner Morris and a second by Commissioner Wood, the Commission voted all in favor to approve ZC-13-10 and ZC-13-11 as submitted. The motion carried unanimously.

10. **CUP-13-19 (Blacks Barbeque)** Hold a public hearing and consider a request by Kent Blacks Lockhart BBQ LLC for a new Conditional Use Permit to allow the sale of mixed beverages for on-premise consumption at 500 Hull Street.

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

Chair Taylor opened the public hearing.

Rudy Rodriguez, 533 Hull Street stated he is in support of the request. He requested that trash such as beer cans and bottles remain on the premises for the safety of the neighborhood. He suggested that security be provided.

Kent Black, owner stated that they will apply for on-premise consumption and that all alcohol will remain on premise. He pointed out that they are going to be a BBQ business and that serving alcohol is the last item on their list. Mr. Black added that they have had a good record serving alcohol in Lockhart with no problems. He felt that if a security is necessary they will try and eliminate the issues prior to having security.

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 all in favor to approve CUP-13-19 with the conditions that the permit shall be effective only upon approval by the City Council of the Petitions for Zoning Change at 500 Hull Street (ZC-13-10) and 520 Hull Street (ZC-13-11); The TABC license is provided to the City prior to issuance; The permit shall be effective upon issuance of the Certificate of Occupancy; and The permit shall be valid for one (1) year, provided standards are met, subject to the point system.

11. ZC-13-12 (1902 Medical Parkway) Hold a public hearing and consider a request by Edward Johnson, on behalf of Hays ASC Pursuit Partners, L.L.C., for a Zoning Change from Office Professional (OP) to General Commercial (GC) for Lot 5B, San Marcos MedPark Subdivision, located at 1902 Medical Parkway.

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

Chair Taylor opened the public hearing.

Hays County Nursing Administrator stated that he is not for or against the request. He asked what the applicant has proposed.

Edward Johnson replied that they were looking at a 44-46 bed assisted living memory care facility.

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

MOTION: Upon a motion made by Commissioner Morris and a second by Commissioner Wood, the Commission voted all in favor to approve ZC-13-12 as submitted. The motion carried unanimously.

12. LDC-13-05 (Procedures for Zoning Applications) Hold a public hearing and consider a recommendation to the City Council regarding revisions to Section 1.5.1.4(g) of the Land Development Code regarding waiting periods for zoning applications that are denied.

Matthew Lewis, Director of Development Services gave an overview of the project.

Chair Taylor opened the public hearing.

Diane Wassenich stated that she wanted to reiterate the reason why the City Council is considering this request. She added that there have been cases where things have changed at the last minute, come back over and over and take a tremendous amount of staff time and leave the community concerned for years at a time. Ms. Wassenich said she completely understands that the Real Estate development community would not like to see rules enacted because the rules are for the protection of the citizens.

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

MOTION: Upon a motion made by Commissioner Morris and a second by Commissioner Wood, the Commission voted six (6) for and three (3) against to deny LDC-13-05. Commissioners Ramirez, Seebeck and Taylor dissenting.

Non-Consent

13. Development Services Report

Update from staff on the following:

- a) Implementation of the Comprehensive Master Plan;
- b) Downtown Implementation;
- c) Impact Fee Report;
- d) Transportation Master Plan;
- e) July 25, 2013 City Council and Planning Commission Joint Meeting.

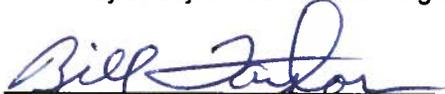
Staff gave a brief update.

14. 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.*

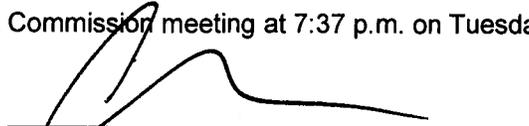
Diane Wassenich asked the Assistant City Attorney or City Attorney to review the discussion regarding the wording that City Council passed down to P&Z and determine if the two references that Mr. Morris made to the projects that we all know we are talking about is appropriate for him to talk about to the Commission.

15. Adjourn.

Chair Taylor adjourned the Planning and Zoning Commission meeting at 7:37 p.m. on Tuesday, July 9, 2013.



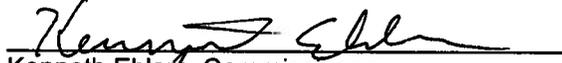
Bill Taylor, Chair



Carter Morris, Vice Chair



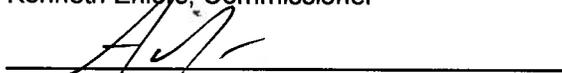
Travis Kelsey, Commissioner



Kenneth Ehlers, Commissioner



Chris Wood, Commissioner



Angie Ramirez, Commissioner



Randy Bryan, Commissioner



Corey Carothers, Commissioner



Curtis Seebeck, Commissioner

ATTEST: 

Francis Serna, Recording Secretary

CITY OF SAN MARCOS
DISCLOSURE AFFIDAVIT-BUSINESS ENTITY

STATE OF TEXAS
COUNTY OF HAYS

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

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

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

- _____ Ownership of 10 percent or more of the voting stock or shares of the business entity.
- _____ Ownership of 10 percent or more of the fair market value of the business entity.
- _____ Ownership of \$5,000 or more of the fair market value of the business entity.
- _____ Funds received by me from the business entity exceed 10 percent of my gross income for the previous year.
- _____ The interest described above belongs to a person related to me in the first degree by consanguinity (natural kinship) or affinity (marriage). Relative's name and relation.

Appearance (I Represented Applicant in purchase)

The vote or decision involving this interest is on July 9, 2013 agenda of the governmental body, and is described as follows: CUP-13-17 (aqueduct)

EXECUTED this 9 day of July, 2013.

Signature [Signature]
Printed Name Carter Morin

SWORN TO AND SUBSCRIBED FRANCIS SERVA in the presence of _____
Notary Stamp: 

9 day of July, 2013.
Francis Serva
Notary Public
State of Texas

FILED this 10th day of July, 2013.

[Signature]
City Clerk of the City of San Marcos