

**MINUTES OF THE REGULAR MEETING OF THE  
SAN MARCOS PLANNING AND ZONING COMMISSION  
COUNCIL CHAMBERS, CITY HALL  
September 10, 2013**

**1. Present**

**Commissioners:**

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

**City Staff:**

Matthew Lewis, Development Services Director  
Kristy Stark, Development Services Assistant Director  
Roxanne Nemcik, Assistant City Attorney  
Francis Serna, Recording Secretary  
Emily Koller, Planner  
Alison Brake, Planner  
Amanda Hernandez, Sr. 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 Vice Chair Morris at 6:00 p.m. on Tuesday September 10, 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.

**4. 30 Minute Citizen Comment Period**

Michael Watkins, resident of the San Marcos ETJ above Blanco Vista stated he is very concerned with the proposed Kyle truck stop. He felt that the truck stop will degrade the value of the homes in Blanco Vista. Mr. Watkins stated lighting, trash, and air pollution will be a problem to public health of residents in the neighborhood. Mr. Watkins explained the item will be presented before the Kyle Planning & Zoning and City Council. He recommended that the City of San Marcos give input on the proposed truck stop. He added that he worked with Kyle last year and asked that they work with San Marcos and allow public input from the citizens. Mr. Watkins stated that the Interlocal Agreement regarding waste water to the site is not a legal document and should not be carried forward.

Diane Wassenich stated that Laurie Moyer, City Engineer was present at the Parks Meeting to present the ESPY report for Sessom Creek. She said she hoped that the Commission has been provided the ESPY report. Ms. Wassenich explained that the report brings into focus what she has tried to explain to the Commission regarding high speed runoff on Sessom Creek. She pointed out that the report is very plain and explains what has happened to Sessom Creek in its sixty percent impervious cover in its watershed.

Ms. Wassenich stated that the trees, dirt and soil have washed away into the bedrock into Sessom Creek. She added that the University runoff also runs into the creek. She said that there are many issues that were brought up in the report worth reading and recommendations. Ms. Wassenich mentioned unfortunately the recommendation is to pour more concrete. She stated that she and Mr. Debrock gave other alternatives to pouring concrete.

**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.*

**Consent Agenda:**

**5. Consider the approval of the minutes of the Regular Meeting on August 27, 2013.**

**MOTION:** Upon a motion made by Commissioner Morris and a second by Commissioner Kelsey, the Commission voted on consent to approve the minutes of the Regular Meeting on August 27, 2013.

**Public Hearings:**

**6. CUP-13-25 (Headwaters Draft House)** Hold a public hearing and consider a request by HDH LLC for a new Conditional Use Permit to allow the sale of mixed beverages for on premise consumption at 205 W. Hopkins Street.

Commissioners Morris, Kelsey and Wood recused themselves from CUP-13-25.

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

Chair Taylor opened the public hearing.

Craig Steede, 309 E. 35<sup>th</sup> Street, Austin Texas, partner of the group who has purchased the property and a Sr. Partner in the group that operates numerous similar businesses around major college campuses. Mr. Steede stated he is available to answer questions and help the Commission understand his request.

Frank Flauto, 111 Ridgeway Drive, was present on behalf of Mr. H.C. Kyle who was unable to attend. Mr. Flauto gave a brief overview of the letter submitted to the Commission prior to the meeting. He addressed the 300' distance from front door to front door. He explained that even though the measurements are taken from front door, the door the children utilize the property falls well within 300'. Mr. Flauto also addressed the 1000' prohibition from a school. He stated that the LDC is intended to protect children. Mr. Flauto added that the bar will negatively impact the ministries and activities of the church.

Sue Ann Harrison, 2404 Missy Lane, San Marcos, Chair of First Methodist Church Pre School and Mother's Day Out which operates directly across the street from the proposed CUP. Ms. Harrison pointed out that the school is licensed and regulated by the state and enrolls over a hundred children and employees. She said that they just celebrated their 25th year of educating and nurturing children in San Marcos. Ms. Harrison stated that she is a licensed pediatrician and is concerned that the proposed use will increase pedestrian and vehicular traffic in the neighborhood and particular next to the children's area including the drop off and pick up area on Fredericksburg. She added that they are also concerned with the noise that will be generated from the proposed site. She asked the Commission to decline the proposed CUP for Headwaters Draft House.

Erwin Yanek, 403 Oak Ridge Drive, San Marcos, Lay Leader for the First United Methodist Church asked the Commission to deny the request. He said that the Commission will make a decision that will impact the future of bars and where they can be placed in the community. Mr. Yanek pointed out that he is not against bars but questioned if the location was suitable. He stated that he understands the 300' required but asked the Commission to consider the services provided by the church and the distance of 268' from property to property. Mr. Yanek pointed out that youth meet on Sunday and Wednesday evening. Mr. Yanek mentioned that there are currently 26 bars in the Central Business Area. He said the issue is not against bars but the

location of the proposed request. He pointed out that the Commission's decision will impact the future of San Marcos.

Amy Meeks, 832 Belvin, Chair of Church Council of the First United Methodist Church said part of her job is to represent and speak on behalf of the congregation. Ms. Meeks recapped the letter she provided to the Commission prior to the meeting. Ms. Meeks said they are concerned about the hours of operation and the increased vehicle and pedestrian traffic. Ms. Meeks added that they are also concerned that the establishment will not have a full kitchen and the stated intent of the establishment, a college establishment. In addition, she said there is nothing in discussions with the applicant that relieves their anxiety over the proposed request. She felt that the business is not appropriate and asked the Commission to deny the request.

Ollie Giles spoke in opposition to the request. She stated that there are too many bars downtown and told the Commission to respect the members of the church.

Chris Seacrest 719 W. San Antonio, Chair of Trustees stated his responsibility is preserving and protecting the building, their real estate interest and the entire campus. He pointed out that they have been on the grounds for 166 years and have made the conscious decision to stay to serve the downtown area and Texas State University. Mr. Seacrest said they have millions of dollars invested in land and real estate and have spent over a hundred thousand dollars recently reinvesting for the future of the children and the citizens of San Marcos. Mr. Seacrest pointed out that the church is a downtown treasure and an asset to the community. He asked the Commission on behalf of the Board of Trustees to decline the CUP for Headwaters Draffhouse.

Rev. Todd Salmi, 1307 Brown Street, Pastor at First United Methodist Church stated that the Montessori school has a pre-k and 1st grade curriculum. He said that the church has its roots since 1847. He said that not only is the history important but that they branch out in ministries seven days a week. Mr. Salmi said they have 1200 members and 11 employees which do not include the teachers. He gave an overview of the different ministries offered at First United Methodist Church. He pointed out that the Twice Blessed Consignment Store which has their front door on Hopkins Street for the past 10 years. Mr. Salmi added that he has met twice with representative of Headwaters Draffhouse and they have been clear on the intent to run a college bar and that the hours of operation are not flexible. He suggested an entertainment district. Mr. Salmi asked that the Commission to decline the permit.

Jane Hughson, stated that she is very concerned that the staff report did not include that a church building is immediately across the street from the proposed bar. She asked that someone take the responsibility that this does not happen again. Ms. Hughson pointed out that there are more churches in the downtown area and a similar item could come up again. She stated that she hopes the permit is not approved and pointed out there are no child care facilities located on Sixth Street in Austin. Ms. Hughson added that if the permit is approved, that the Commission put every condition possible to eliminate any possible diverse affects to the Methodist Church and remember the conditions in the future. She also requested that the Commission change the wording of 'no live outdoor music' to 'no outdoor music.' She asked the Commission to do the right thing.

Ron Jager, Price Senior Center, felt there is no adequate opportunity for citizens to be allowed to comment to decisions provided by the DRC. Mr. Jager stated that he has not been consulted by any city official, which he felt is inexcusable. Mr. Jager felt that public input is not allowed when implementing the SmartCode. He stated that the rules are exclusive and decisions made by administrative action have no further recourse to public consultation.

Dennis Phillips, member of church for over 30 years. He explained that students stay at the center during the week to help with events. He added that this is no area for a church with a bar across the street. Mr. Phillips informed the Commission that they pick up beer cans every Sunday from the bank and church parking lot because of college students going to and from these locations. He felt that the issue will increase. He hoped that the Commission would see fit not to allow the request happen in the community.

Cathy Dillon, 1000 Burlison, she asked the Commission to not give Hopkins Street to bars. She said issues with her business and Zelicks started three years ago and asked that the Commission not do that to the First United Methodist Church. Ms. Dillon said she is worried that if another bar is added to Hopkins, the issues will increase with noise, vandalism and traffic. She stated if the request is approved, that they be asked to close at midnight and no live or amplified outdoor music. She explained that the business will not have walls and be structured similar to Zelicks. Ms. Dillon stated that the Historic District is irreplaceable

Jim Garber, 104 Canyon Fork stated he was present to speak for the church. He pointed out that he is not a member of the church. Mr. Garber stated that tonight is a fight for the soul of San Marcos. He pointed out that there is no shortage in bars. Mr. Garber pointed out that the church has provided services for six generations. He felt that the issue is not a property rights issue but what is right for San Marcos. He stated that the property can be something other than a bar. Mr. Garber said that San Marcos does not need another bar.

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

**MOTION:** Upon a motion made by Commissioner Seebeck and a second by Commissioner Ramirez, the Commission voted five (5) for and zero (0) against to deny CUP-13-25. The motion carried unanimously.

7. **CUP-13-28 (Hays Co. Bar-B-Que)** Hold a public hearing and consider a request by Hays Co. Bar-B-Que & Catering, Inc. for a new Conditional Use Permit to allow the sale of beer and wine for on-premise consumption at 1612 South IH 35.

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

Chair Taylor opened the public hearing.

Michael Hernandez, Hays County BBQ stated that they have been serving San Marcos for six years. He told the Commission that customers have requested the sale of alcoholic beverages. Mr. Hernandez explained that the business will remain family oriented and they plan on providing music. He pointed out that he knows the hotel manager, although they have not spoken with him. Mr. Hernandez stated the hours of operation are Monday –Thursday, 11 am to 9 pm and Friday-Saturday, 11 a.m. to 10 pm. He advised that he was available to answer questions.

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

**MOTION:** Upon a motion made by Commissioner Morris and a second by Commissioner Wood, the Commission voted all in favor to approve CUP-13-28 with the conditions that the permit shall be effective upon issuance of the Certificate of Occupancy, the permit shall be valid for one (1) year, provided standards are met, subject to the point system and the permit shall be posted in the same area and manner as the Certificate of Occupancy. The motion carried unanimously.

8. **CUP-13-29 (Los Cucos)** Hold a public hearing and consider a request by Sergio Pineda, on behalf of Los Cucos Mexican Café XIV, Inc., to amend Conditional Use Permit No. 05-01 to extend the hours for the sale of alcohol for on-premise consumption at 1617 Aquarena Springs Drive from 11 a.m. to 12 a.m. to 11 a.m. to 2 a.m.

Tory Carpenter, Planning Technician 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 Kelsey, the Commission voted all in favor to approve CUP-13-29 with the conditions that the permit shall be valid for the lifetime of the TABC license, provided standards are met, subject to the point system, the permit shall be visibly posted in the same manner as the Certificate of Occupancy and in the same area; and no amplified music shall be allowed on the patio after 10:00 p.m. The motion carried unanimously

9. **CUP-13-31 (Pre-K Metal Siding)** Hold a public hearing and consider a request by Huckabee Engineering, on behalf of San Marcos CISD, for a Conditional Use Permit to allow metal siding on a new building located at 1225 Hwy 123..

Tory Carpenter, Planning Technician 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 Morris and a second by Commissioner Carothers, the Commission voted all in favor to approve CUP-13-31. The motion carried unanimously.

10. **CUP-13-33 (Sean Patrick's)** Hold a public hearing and consider a request by Brian Harper, on behalf of Sean Patrick's, for renewal of an existing Restricted Conditional Use Permit to allow the continued sale of mixed beverages for on-premise consumption at 202 E. San Antonio Street.

Chair Taylor opened the public hearing.

Jane Hughson, 100 N. LBJ Drive, requested clarification and intent regarding "amplified live music during any other time is not allowed" or "amplified music will be allowed." She stated she is not for or against the request just making sure the Commission knows what they are voting on.

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

**MOTION:** A motion made by Commissioner Morris and a second by Commissioner Wood to approve CUP-13-33 with amplified music from 10:00 p.m. to 1:00 a.m., was amended.

**AMENDED MOTION:** Upon an amended motion made by Commissioner Ehlers and a second by Commissioner Seebeck, the Commission voted four (4) in favor and three (3) opposed to approve CUP-13-33 with the conditions that the permit shall be valid for six (6) months, provided standards are met, subject to the point system, the permit shall be posted in the same area and manner as the Certificate of Occupancy, and no amplified or live music is allowed. The amended motion carried.

**MOTION:** Upon a motion made by Commissioner Morris and a second by Commissioner Wood, the Commission voted all in favor to approve CUP-13-33 with the conditions that the permit shall be valid for six (6) months, provided standards are met, subject to the point system, the permit shall be posted in the same area and manner as the Certificate of Occupancy, and no amplified or live music is allowed. The motion carried unanimously.

**Non Consent Agenda:**

11. **Development Services Report:**

- a. Update from staff on the Implementation of the Comprehensive Plan

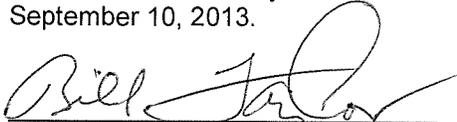
Staff gave a brief update.

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.*

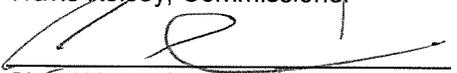
There were no questions and answers from the press and public.

14. Adjourn.

Vice Chair Morris adjourned the Planning and Zoning Commission meeting at 7:47 p.m. on Tuesday, September 10, 2013.

  
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Bill Taylor, Chair

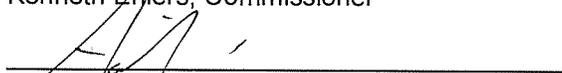
  
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Travis Kelsey, Commissioner

  
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Chris Wood, Commissioner

  
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Curtis Seebeck, Commissioner

  
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Carter Morris, Vice Chair

  
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Kenneth Ehlers, Commissioner

  
\_\_\_\_\_  
Angie Ramirez, Commissioner

  
\_\_\_\_\_  
Corey Carothers, 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 Planning & Zoning, (name of City Board, Commission, etc.) states under oath as follows:

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

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

- Ownership of 10 percent or more of the voting stock or shares of the business entity.
- Ownership of 10 percent or more of the fair market value of the business entity.
- Ownership of \$5,000 or more of the fair market value of the business entity.
- Funds received by me from the business entity exceed 10 percent of my gross income for the previous year.

\_\_\_\_\_ The interest described above belongs to a person related to me in the first degree by consanguinity (natural kinship) or affinity (marriage). Relative's name and relation.

The vote or decision involving this interest is on 10 Sept, 20 13 agenda of the governmental body, and is described as follows: \_\_\_\_\_

CIP-13-25 Headwaters Draft House

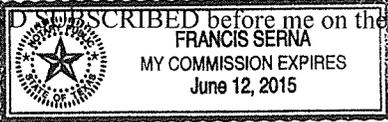
EXECUTED this 10<sup>th</sup> day of September, 20 13.

Signature \_\_\_\_\_

Travis Kelsey

Printed Name \_\_\_\_\_

Travis Kelsey

SWORN TO AND SUBSCRIBED before me on the \_\_\_\_\_ day of \_\_\_\_\_, 2013.  
Notary Stamp:  \_\_\_\_\_

Notary Public  
State of Texas

10 day of September, 20 13.

Francis Serina

FILED this 11 day of September, 20 13

Samuel P. Hylton  
City Clerk of the City of San Marcos

**CITY OF SAN MARCOS**  
**DISCLOSURE AFFIDAVIT-BUSINESS ENTITY**

STATE OF TEXAS  
COUNTY OF HAYS

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

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

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

- Ownership of 10 percent or more of the voting stock or shares of the business entity.
- Ownership of 10 percent or more of the fair market value of the business entity.
- Ownership of \$5,000 or more of the fair market value of the business entity.
- Funds received by me from the business entity exceed 10 percent of my gross income for the previous year.

The interest described above belongs to a person related to me in the first degree by consanguinity (natural kinship) or affinity (marriage). Relative's name and relation.

The vote or decision involving this interest is on 10 Sept, 2013 agenda of the governmental body, and is described as follows:

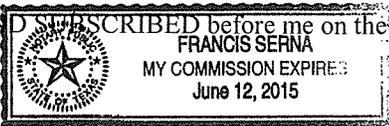
CUP-13-33 Scan Patricks

EXECUTED this 10<sup>th</sup> day of September, 2013.

Signature Travis Kelsey  
Printed Name Travis Kelsey

SWORN TO AND SUBSCRIBED before me on the

Notary Stamp:



10 day of September, 2013  
Francis Serina  
Notary Public  
State of Texas

FILED this 11 day of September, 2013.

Samuel Peltz  
City Clerk of the City of San Marcos

**CITY OF SAN MARCOS**  
**DISCLOSURE AFFIDAVIT-BUSINESS ENTITY**

STATE OF TEXAS  
COUNTY OF HAYS

The undersigned member of the City of San Marcos P:2, (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 Center 21 - Ralphe MORRIS & Assoc

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 of Impropriety

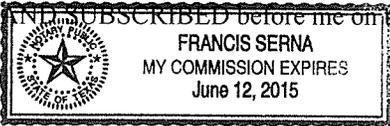
The vote or decision involving this interest is on CVF B-25, 20Sept 10 13 agenda of the governmental body, and is described as follows: CVF 13-25

EXECUTED this 9 day of September, 2013.

Signature [Signature]

Printed Name Carter MORRIS

SWORN TO AND SUBSCRIBED before me on the 9 day of September, 2013.

Notary Stamp  Francis Serina

Notary Public  
State of Texas

FILED this 10<sup>th</sup> day of September, 2013.

[Signature]  
City Clerk of the City of San Marcos

**CITY OF SAN MARCOS**  
**DISCLOSURE AFFIDAVIT-BUSINESS ENTITY**

STATE OF TEXAS  
COUNTY OF HAYS

The undersigned member of the City of San Marcos Chris Wood, (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  
# HEND WATERS DRIFT HOUSE

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.

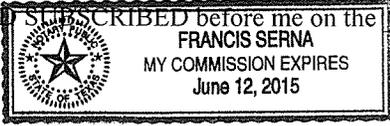
The interest described above belongs to a person related to me in the first degree by consanguinity (natural kinship) or affinity (marriage). Relative's name and relation.

X contracted as builder

The vote or decision involving this interest is on Sept 10, 2013 agenda of the governmental body, and is described as follows: \_\_\_\_\_

EXECUTED this 10 day of September, 2013.

Signature [Handwritten Signature]  
Printed Name Chris Wood

SWORN TO AND SUBSCRIBED before me on the 10 day of September, 2013  
Notary Stamp:  Francis Serina  
Notary Public  
State of Texas

FILED this 25<sup>th</sup> day of September, 2013  
[Handwritten Signature]  
City Clerk of the City of San Marcos