



# City of San Marcos

DRAFT

630 East Hopkins  
San Marcos, TX 78666

## Meeting Minutes Planning and Zoning Commission

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Tuesday, January 10, 2017

6:00 PM

City Council Chambers

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630 E. Hopkins

### I. Call To Order

**With a quorum present the regular meeting of the San Marcos Planning and Zoning Commission was called to order by Chair Garber at 6:02 p.m. on Tuesday, January 10, 2017 in the City Council Chambers of the City of San Marcos, City Hall, 630 E. Hopkins, San Marcos, Texas.**

### II. Roll Call

**Present** 7 - Commissioner Jim Garber, Commissioner Travis Kelsey, Commissioner Shawn Dupont, Commissioner Kate McCarty, Commissioner Betseygail Rand, Commissioner Lee Porterfield, and Commissioner Angie Ramirez

### III. Chairperson's Opening Remarks

**Item 6 was moved to be beginning of the Public Hearing Agenda.**

### IV. 30 Minute Citizen Comment Period

Adam Higdon, youngest son and one of the owner of Gumby's. He said that as requested they have made compromises to the design of Gumby's and were submitted. Mr. Higdon explained that the front patio has been changed to an enclosed glass patio to reduce noise, the wall with the sign to deter noise from the neighborhood is still negotiable. He added that changes will be made according to city regulations. In addition, he explained that the retaining fence for security of the Sorority members concerns have been addressed. Mr. Higdon said that to assist with security they currently have 16 security cameras. He pointed out that they have police records indicating any involvement with the police but have never had a noise or fight complaints at the current location. Mr. Higdon said they have served beer and wine and have never had an issue. He stated there are a lot of untrue statements and would like to point out that the business will not be a bar. He explained that the kitchen and fridge area is twice as large as the serving area.

Alex Robbins, RR 12 and member of community spoke in support of Gumby's. She stated that Gumby's is and has always been family owned and operated. She pointed out that this year is her 4 year anniversary working for the company. Ms. Robbins explained that Gumby's stands for family, integrity, passion, community and hard work. She said they understand how important it is to provide for others. Ms. Robbins added that Gumby's is not intended to be a bar. She pointed out that the property is

zoned T5. She added that they should be treated with the same respect as others. She mentioned that Gumby's is a big sponsorship for the community. They live, work and want to see the community thrive. Ms. Robbins said Gumby's should be granted their request.

Eric Lane, spoke on behalf of Gumby's. He said there is a misconception that it will be detrimental by proximity to the Montessori School, the Historic District or any other place nearby. He explained that if so, then Zelick's would have already been an issue and unable to operate. He pointed out that Gumby's is a pizza delivered restaurant first and foremost and has been proudly serving the community for almost seven years. Mr. Lane felt that to deny Gumby's is an injustice. He added that some comments have untrue facts. He stated that the restaurant is not trying to change location to change business but to grow their business. Mr. Lane asked the Commission to grant the same respect that other business have been granted in the area. He requested that they allow Gumby's to continue to operate and serve the community they love in a greater capacity.

Catherine Cox, spoke in support of Gumby's. She said they are a family and their core values are reflected within the business throughout the community of San Marcos. She explained that the Higdon's have taken care of her and now as a Manager she has the opportunity to spread that culture throughout many aspects of the community. Ms. Cox stated that their values will not be forgotten because they will serve alcohol. She explained that San Marcos is growing and they are happy to be a part of it. She asked that the Higdon's be granted the CUP.

John Higdon, a Charter Member of the American Institute of Certified Planners and proud partner at 321 W. Hopkins which is one and half blocks west of the Historic District. He explained the business is 150' from the HEB parking lot. He said after the December 13th meeting he felt it a good idea as a professional planner and a committed San Marcos business man to speak. He congratulated the staff for the correct and courageous recommendation to approve. Mr. Higdon pointed out that the staff report indicates compliance for approval. He added that the current T5 zoning allowed them to proceed with the request. He indicated that T5 is part of the Downtown SmartCode.

Shawn Horan, spoke in support of Gumby's. He thanked the Commission to allow him to speak and Gumby's for buying an older building and working to overhaul the exterior to enhance the aesthetics of the City. She pointed out that Gumby's enhances the walkability in the city and reduce already congested traffic. He added that there are numerous businesses serving alcohol and why should Gumby's not be able to operate. Mr. Horan explained he was a guest at Crystal River Inn and was fortunate to have Zelick's next door. He stated he understands the concerns with location and next to the Historic District, although Gumby's is not in the Historic District and other establishments that are much closer serve alcohol. Mr. Horan pointed out that Gumby's is not requesting to be a bar, but a restaurant that serves alcohol. He asked the Commission if a request is consistent with the City's Master Plan why would it not be supported.

Shawn Holloway reiterated what Mr. Horan said. He pointed out that the business will be a T5 use. He explained Gumby's will be a restaurant that serves alcohol. Mr. Holloway stated the he does not understand why there have been long discussions. He said Gumby's is a good business to have downtown and they have been in the community for many years. He spoke in support of the request.

Ron Bowden, said he has been in San Marcos for 20 years and opposes the CUP. Mr. Bowden ceded his time to Kama Davis.

Kama Davis said it seems strange to her that CUP-16-34 proposal that they were told the negotiations went well. She explained that she has not been spoken to and she has a building at 323 W. Hopkins. She said she was told that "we are here, construction has begun and we will not be stopped" Ms. Davis said how did they assume they would get approval before coming to P&Z. She explained that there are other buildings in the area for sale and if we don't stop business encroaching in the Historic Neighborhoods. Ms. Davis said we need to as a community understand that houses have been built in the 1890 and 1900's.

Karl Brown, 834 W. Hopkins, said he has served on City Council in the past. He mentioned that an issue that keeps coming up is that development is getting ahead of infrastructure. He pointed out that traffic is already an issue. Mr. Brown owns a 100 year old historic home. He said the Historic District is a big asset to the community and should be protected. He hopes that the Commission will preserve the historic houses in the area. Mr. Brown added that he supports providing services to people struggling with alcohol. He feels it strange to allow a business serving alcohol til 2:00 a.m. next to a facility that assists those with addiction. Mr. Brown added that parking is an issue in San Marcos. He said he is concerned with the models that are used when we think about San Marcos. Mr. Brown said he was impressed with the City of Bolder and San Marcos should consider them as a model.

Karen Brown, ceded her time to H.C.Kyle.

H.C.Kyle, 711 W. San Antonio Street, said he also lives in a historic home in the Historic District. He explained that the University only houses about eight percent of their students which places a strain on the whole city. Mr. Kyle stated that they had a guest that they set up at the Crystal River Inn which he felt they were privileged to be able to do so. He feels that the CRI has been an asset to the neighborhood for 30 years. He said when he was on P&Z their primary objective was not to hurt who was currently there. He pointed out that a Sorority house is next door where people sleep and the Dillon's live 100 yards away. Mr. Kyle expressed his concerns about the noise and serving alcohol until 2 or 3 a.m. He stated that just because a location has the zoning does not mean they are entitled to a CUP.

Justin Payne, 2026 Halston Drive, San Marcos thanked the Commission for their time. He said this is not a discussion about the parking or hours of operation but simply whether or not you can order a beer or drink with your pizza. He pointed out that the

restaurant business in San Marcos is competitive and serving alcohol is an important component. Mr. Payne said evidence is looking at the number of CUP's being requested. He spoke in support and added that Gumby's has a great track record and has become a part in the community.

Greer Del Rio, Chapter Advisory for Alpha Delta Pi, 316 W. Hopkins, said that the President and Executive Vice President and a member of the Housing Corporation met with Adam, Forrest and Mr. Higdon and they were very accommodating. She said her biggest concern was safety with the girls living next door. Ms. Del Rio explained that the Higdon's talked about the plan to remove the only window facing their building, installing a taller fence and also discussed the security cameras. She said they also mentioned they would have security during late hours. Ms. Del Rio stated that they feel they can support the request.

Kama Davis, said she is an attorney and reads ordinances and statutes for fun. She expressed concerns that there is a City Ordinance 1.5.7.5 that was not considered for the approval of the CUP. She explained that there are eight criteria's for a CUP to be approved. She said that she requested to see several studies that should have been done and has not received them. The studies include a neighborhood character study, a current traffic study, a neighborhood compatibility study, to be done, neighborhood character study, drainage study and a study to determine whether a school, hospital or a church was within 300 feet of an establishment that serves liquor. She said if they have been done she is not sure why she did not receive them. Ms. Davis mentioned that the Commission should think about the impact that a business like Gumby's will have on the compatibility with the neighborhood, the area and adjacent buildings. She felt the business is not compatible and will not preserve the character or integrity of the adjacent neighborhoods.

Amy Meeks, Belvin Street, expressed her concerns with a pizza place being allowed near a neighborhood where people want to sleep. She said this is a perfect example of why we should look at other areas in San Marcos. Ms. Meeks pointed out that with LDC and other committees looking at the City Charter is a good time for us to step back and look what is happening throughout the city. She feels that Gumby's should not be granted the CUP for alcohol license they have requested. Ms. Meeks stated she feels it would cause more problems in the neighborhood where they are currently moving. She asked the Commission to deny the CUP.

Cathy Dillon said that she is not against Gumby's but 3:30 in the morning is difficult for people to sleep and there are many sleepers surrounding the area. She said this is not a battle to save their 33 year business but in a sense it is. Ms. Dillon said they didn't fight Zelick's because they didn't know they should. She felt if the restaurant was closing at a reasonable time she would not have an issue. She spoke in opposition of Gumby's staying open until 3:30 a.m and alcohol fueled issues. Ms. Dillon stated that tourism should be the City's biggest asset. She pointed out that she spoke to someone at AJ's Grill and was advised that they have had issues.

Sharon Fraker Bates said she came to this beautiful city 9 years ago because the city

is in the center and because of the Historic District. She said Gumby's is a wonderful restaurant but does not want to see it close to the homes in historic district. She felt that the business should be placed closer to the city area downtown. Ms. Bates states that the homes are old and should stay secluded. She explained that when Gumby's moves in she is concerned about customers parking in the neighborhood. She feels that they will have intoxicated people walking in their neighborhoods. She said that Gumby's is doing well where they are and there are other places within the city limits where they can have their business.

Gloria Fortin explained that until recently she had an office across from Crystal River Inn. When Zelick's opened her clients did not feel safe coming to her office. She feels that if Gumby's is approved they are going to drive more daytime business out of the area. Ms. Fortin stated that when people move they are going to move way out and there are currently two families that have houses for sale because the San Marcos they fell in love with is no longer the same. She also pointed out that residents in Hughson Heights are moving all the time due to apartment complexes being built. Ms. Fortin said that San Marcos has the largest Historic District in the State. She asked the Commission consider historical value of the city and do not allow growth to take over areas that are not appropriate.

Darrell Harris, reiterated what has been discussed about not wanting Gumby's with a bar in the Historic District. He said there has been an increase in growth with vandalism, noise and, traffic. Mr. Harris said they do not need another bar in the Historic District.

Diana Baker stated that she loves Gumby's. She said you don't bring in one business to destroy another. She has not problem with Gumby's but does have an issue with 3:00 a.m. She felt that is they close around 11 or 12 then there is a great compromise. Ms. Baker explained that it is very difficult to get a historic designation. She said she would like to come to a solution so that some of the older houses don't get torn down. Ms. Baker added that she does not understand how the area was designated at T5.

Laura Hughes, 718 Easton Dr, said that as she listens she understands this is a hard decision because Gumby's is a good place with great owners but this is not a good spot. She explained that she moved to San Marcos two years ago and is very concerned about San Marcos. She said she moved here because of the new and the old and especially the Historic District. Ms. Hughes felt that if we lose the Historic District which is one of the greatest assets then nothing else will stand out but the college. She pointed out that San Marcos has a great atmosphere, and the Historic District draws people to San Marcos. She mentioned that Zelick's is a sore thumb and now you want to put another business in the area. She begged the Commission to look long term, look at why people come to San Marcos.

Robert Kidd, owner of Right Step, and has been in the field for 25 years. He explained that they fight to help people get sober and treat dual diagnosis and co-reoccurring disorders. Mr. Kidd said he works really hard to create a safe

environment for people. He said the alcohol next door does not make sense. It is the environment not the pizza, its the alcohol, and the noise. He explained that his patients come out the back door and that is the environment they are going to be facing. He added that the meeting was not a waste of time because he is sure that someone has been touched by addiction. He does not want someone walking out of his sessions seeing alcohol and the environment. Mr. Kidd spoke in opposition to the alcohol environment.

James Baker, 727 Belvin said he came to San Marcos in 2005 from New Orleans after Katrina. He pointed out that they stayed at the Crystal River Inn and many years later he is still in San Marcos. Mr. Baker said once they saw the Historic District and places in San Marcos they can't find anywhere else. He said there is no other place like Crystal River Inn and many places that serve pizza and alcohol. Mr. Baker pointed out that he was present when Zelick's came to ask for their permit and he remembers clearly how it was presented. He asked the Commission to consider because things do change and hopes they can maintain some of the character of the City.

Mike Dillon, 1000 Burleson, he and his wife run Crystal River Inn, 326 W. Hopkins said he hearts Gumby's too, it's good pizza and they are good people. Mr. Dillon said people want to come here, live here, go to school and stay here and want to run businesses here. He hates to see more and more bars and alcohol being sold. He said there are plenty of bars in San Marcos. Mr. Dillon added that bars are moving closer to neighborhoods and selling alcohol later at night. He pointed out that if Gumby's would stop selling alcohol at midnight it would be a big help.

Dana Glaze, Development Director for the Catholic University Parrish Campus for Texas State University who have had a relationship with Gumby's since they opened 7 years ago. He said as an Alumni of Texas State and works in San Marcos with his family are regulars at Gumby's. Mr. Glaze said he has heard a ton of empty statements on how Gumby's will ruin the neighborhood but has not heard evidence. He pointed out that Gumby's is not a bar but a restaurant. He felt that comparing Gumby's to Zelick's is comparing apples to oranges. Mr. Glaze spoke in support of Gumby's and said that the Higdon's and their employees have the common sense to not allow their patrons to become belligerent or drunk. He pointed out that AJ's is a couple blocked down from Gumby's location and is open until 3:00 a.m. and doesn't see any concerns.

Ollie Giles, representative for the Dunbar Neighborhood asked the Commission to respect the neighborhoods and the Historic Neighborhoods. She explained beer joints are coming into neighborhoods and now the Tuttlles request as well. Ms. Giles said she lives on Valley Street and wants to keep it a Historic Neighborhood. She spoke in opposition of the Tuttlles request. She said they do not want apartments in the neighborhood and love their small homes. She told the Commission to not bring developments into the neighborhoods. She asked that they respect the seasoned citizens and keep out of the Dunbar Neighborhood.

Rachel Moon, President of Alpha Delta Pi said after meeting with Forrest and his

family they became better informed on their plans and feels that Gumby's will be beneficial and wishes them the best of success. She said she feels comfortable because she feels that if issues arise they will be willing and ready to help. Ms. Moon added that San Marcos should support the family owned business. She pointed out that San Marcos has gotten so big because of the Texas State population and thinks that instead of talking negatively . The town has gotten so big because of students and instead of talking negatively about the growth that the students have contributed to, they should respect the students.

Linda Julepka, 4113 Night Street, outside of the city limits said she is a long time resident and was once a student. She stated that the city has to have bars, restaurants and things where students will spend their money. Ms. Julepka stated that she is in opposition to the 3:30 a.m. closing. She pointed out as a Realtor people have many options of nearby cities but they like to live in San Marcos for the availability of bars but they love the Historic District. She added that we have to keep tourism, music and young people that want to live in the Historic District. She spoke in opposition of putting bars near the neighborhoods.

Rio (no last name given) said he is a downtown business owner said he is fortunate to have working with the Higdon's. They have made a big effort to help out the community. He pointed that the Higdon's are following all the rules and have made accommodations as requested. He feels that Gumby's is not a place where people will go and drink too much. He said the business will benefit the neighborhood. He spoke in support of the request.

Bill Taylor said he has a business in San Marcos which he will be celebrating 40 years. Mr. Taylor stated that he knows the owner of Gumby's and can only speak for the owner. He explained that Forrest is a very responsible person and one of the brighter lights in the fraternity. Mr. Taylor added that it seems to him that given what is the immediate proximity to the Crystal River Inn, Gumby's will not be detrimental to the neighborhood.

Derrick Lee, 113 S. Mitchell Street commented that he has never seen a chaotic atmosphere at Gumby's. He said Gumby's is not a place where people will walk out the door and stumble into the street.

Scott Maupin said he lives in San Marcos for 40 plus years when he decided to move to San Marcos and raise his family. He explained that the small town is no longer here and that progress has taken over. He pointed out that he originally was against the request but the T5 zoning allows them to have a sidewalk business. Mr. Maupin explained that the zoning designation was determined by Council and Board Members which will effect some negatively and some positively.

Ramus Marous, 230 W. Sessom read a letter from Melinda Habengrath in support of Gumby's. She asked the Commission to approve the request. Mr. Ramous also spoke in support of Gumby's.

Carrie Caranza said she is a past employee of Gumby's and is still treated as family by the Higdon's. She explained that she has never worked with a company that is so involved in the community. Ms. Caranza said it is frustrating to hear that they have to defend their legal rights. She said she respects the communities opinions. She pointed out that Gumby's is within their legal rights and if the Commission feels they are not, the legal rights are currently not in place.

Liz Castaneda, 805 Aquarena Springs Drive said she is in support of Gumby's. She has called San Marcos her home since she started TX State in 1999. Ms. Castaneda said after attending last month's meeting she felt the need to express her support for Gumby's. She pointed out the the new location is zoned T5, which falls in line with San Marcos' high intensity usage plan for the vision of San Marcos and feels that this is the type of growth that the Commission should encourage. Secondly, Gumby's history proves that Gumby's should be able to open and have had no complaints at their current location which is currently open til 3:30 am. She added that they will not be the only restaurant in the area currently open until 3:30 a.m. Ms. Castaneda said the owners are TX State Alum and care about the community and people. She has known Forrest since her Freshman year and he has always been a man of integrity and grace. She pointed out that the request clearly meet the requirements and the request should be approved.

David Montolongo, 701 MLK stated he is in opposition of the Tuttlles request. He explained that they currently have a problem on MLK with development. He said they have two apartments, one located in front of his house and another to the left and right of his home. Mr. Montolongo pointed out that the houses rent by bedroom and often there are at least sixteen cars which means there were sixteen individuals. He expressed his concerns with additional apartments going up on Cheatham and Guadalupe and Tuttlles. Mr. Montelongo said the development will increase the chaos in the neighborhood. He pointed out that the developers do not respect the residential areas because they do not live there. He asked the Commission to consider the citizens of San Marcos because they are the backbone of the community. He added that the Commission should consider who are the ones that really deal with the issues.

Zach Helfin, 905 Dartmouth said he has lived in San Marcos for 12 years. He pointed out that the property is zoned T5 and the building has been abandoned for five years. He encouraged the Commission to follow staff's approval recommendation. He stated that the owners have made concessions with the Sorority members and are willing to make future accommodations if necessary. Mr. Helfin encouraged the Commission to approve the conditional use permit.

Bill Himon, said he works with Gumby's on all their business owner insurance. He stated that it has been a pleasure to work with the Higdon's. He explained that the owners truly understand how to conduct a business with policy, procedure and the importance of safety. He added that they have cooperated in every way and have gone above and beyond. He pointed out that Gumby's require motor vehicle and background checks on all their delivery drivers. In addition, the owners do a well job

on training their employees. Mr. Himon said the drivers have not had any loses. Mr. Himon said he truly believes that they are opening a restaurant.

Phillip Gregory, a resident and homeowner in San Marcos spoke in support of Gumby's request. He explained that the family business has given back to the community in many ways.

Hector Rosales, 103 Blanco Street said he works with Gumby's for a number of years. He said they are trying to move to a new location to open a new restaurant and increase the volume of sales. He added that they will be able to contribute more to the Community as they have in the past. Mr. Rosales spoke in support of the request.

Forrest Higdon, owner of Gumby's, thanked the Commission for allowing everyone to speak. He said in respect of the Commissions time he has asked the people that are present to speak on his behalf to not speak so that the Commission can continue with the agenda. Mr. Hidgon pointed out that they have made a lot of concessions and significant changes to their business model. He requested the opportunity to answer questions. Mr. Higdon feels that his request for the CUP will be good for the area and appreciates the time for everyone allowed to speak. Mr. Hidgon stated his goal is in the best interest of San Marcos.

Mari Ann Moore, 2930 Summit Ridge Drive said she has not heard anyone say anything negative about the owners and the business. She pointed out that what she has heard is that the late night hours are going to be a problem. She feels that they cannot control what people are going to do once they walk out of their establishment. Ms. Moore feels people that walk through the neighborhood will disturb the people of the neighborhood. She suggested that the Commission consider the issues with the late hours.

Lisa M. Coppoletta, 1322 Belvin lives in the Historic District stated that she has not heard anyone talk about Headwaters, another establishment that wanted to sell hard liquor downtown and was denied. She asked the Commission to follow the precedent and deny the CUP. She feels it will be domino effect. Ms. Coppoletta said the owners may be good people but they cannot control behavior of customers. She explained that there is a bed and breakfast, Sorority house, church, two schools, renters, the Historic District and the Drug and Alochol Rehabilitation near the proposed business. She explained that state law indicates that you cannot have a liquor establishment within school that serves 100 children. She explained that 115 children are pre-k and they do not have the same rights as kinder students. In addition, the Montassori school has 36 children, which is way above the state law regulations. Ms. Coppoletta said it is unfortunate that the applicant refuses to change the hours.

## **CONSENT AGENDA**

1. Consider approval of the minutes of the Regular Meeting on December 13, 2016.

**A motion was made by Commissioner Ramirez, seconded by Commissioner**

**McCarty, that the Consent Agenda to be approved. The motion carried by the following vote:**

**For:** 7 - Commissioner Garber, Commissioner Kelsey, Commissioner Dupont, Commissioner McCarty, Commissioner Rand, Commissioner Porterfield and Commissioner Ramirez

**Against:** 0

## **PUBLIC HEARINGS**

**Item 6 was presented and voted on.**

2. CUP-16-36 (Foxtail Self-Storage) Hold a public hearing and consider a request from KLove Engineering on behalf of Harold Hansuch, for a Conditional Use Permit to allow the use of mini-warehouse/self-storage at 2425 Hunter Road. (W. Parrish)

Chair Garber opened the public hearing.

Will Parrish, Planning Tech gave an overview of the request.

Harold Hansuch, the applicant gave a brief presentation.

Lisa Marie Coppoletta, 1322 Belvin pointed out that tree mitigation is a concern. She said she hopes that a flood analysis has been performed that would not impact the neighbors.

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

**A motion was made by Commissioner Ramirez, seconded by Commissioner Kelsey, that CUP-16-36 (Foxtail Self-Storage) Item be denied. The motion carried by the following vote:**

**For:** 7 - Commissioner Garber, Commissioner Kelsey, Commissioner Dupont, Commissioner McCarty, Commissioner Rand, Commissioner Porterfield and Commissioner Ramirez

**Against:** 0

3. ZC-16-15 (Emli at East Village) Hold a public hearing and consider a request by Richard Ashton, on behalf of Barnum George Estate, for a zoning change to "MF-24" Multifamily for 9.91 acres of land which is currently outside the City Limits, being a portion of the Cyrus Wickson survey located at 2301 Rattler Road. (T. Carpenter)

Chair Garber opened the public hearing.

Tory Carpenter, Staff Planner gave an overview of the request.

Richard Ashton, the applicant gave a brief presentation.

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

**A motion was made by Commissioner Garber, seconded by Commissioner Kelsey, that ZC-16-15 (Emli at East Village) be postponed to the March 28, 2017 Planning and Zoning Commission Meeting. The motion carried by the following vote:**

**For:** 4 - Commissioner Garber, Commissioner Kelsey, Commissioner McCarty and Commissioner Ramirez

**Against:** 3 - Commissioner Dupont, Commissioner Rand and Commissioner Porterfield

4. 2016-20039 (Tuttle Lumber Qualified Watershed Protection Plan) Hold a public hearing and consider a request by ETR Development Consulting, LLC, on behalf of Tuttle Lumber Co., Ltd., for approval of a Qualified Watershed Protection Plan Phase 2 for 3.27 acres, more or less, out of the Juan Martin De Veramendi Survey located at 228 South Guadalupe Street (G. Schwarz)

Chair Garber opened the public hearing.

Greg Schwarz, City of San Marcos Senior Engineer gave an overview of the request.

Thomas Rhodes, ETR Development Consulting, the applicant gave a brief presentation.

Ollie Giles, said she lives in the neighborhood on Valley Street. She explained that they were in the floodplain and many residents had to be move. In addition, when the dam was built the neighborhood was removed from the floodplain designation. Ms. Giles added that the only reason the property was able to sell is because the designation was removed. She said Dunbar is doing great and expressed her concerns with the proposed development. She pointed out that she has all the history of the Tuttle property and the neighborhood.

Lisa Marie Coppoletta, 1322 Belvin said she strongly opposes the request. She suggested that the request be tabled because not all the data was received until yesterday. She felt that the request will be another Woods Development. She added that the approved HEB project will impact her neighborhood. She expressed concerns for the Dunbar neighborhood. She explained that flooding was going to be a top priority as developments continue.

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

**A motion was made by Commissioner Dupont, seconded by Commissioner Porterfield, that 2016-20039 (Tuttle Lumber Qualified Watershed Protection Plan) be approved. The motion carried by the following vote:**

**For:** 7 - Commissioner Garber, Commissioner Kelsey, Commissioner Dupont, Commissioner McCarty, Commissioner Rand, Commissioner Porterfield and Commissioner Ramirez

**Against:** 0

**NON-CONSENT AGENDA**

5. PC-15-13\_03 (Tuttle Lumber Final Plat) Consider a request by ETR Development Consulting, LLC, on behalf of Tuttle Lumber Co., Ltd., for approval of a final plat for 3.27 acres, more or less, out of the Juan Martin De Veramendi Survey located at 228 South Guadalupe Street (T. Carpenter)

**A motion was made by Commissioner Dupont, seconded by Commissioner Porterfield, that PC-15-13\_03 (Tuttle Lumber Final Plat) be approved. The motion carried by the following vote:**

**For:** 7 - Commissioner Garber, Commissioner Kelsey, Commissioner Dupont, Commissioner McCarty, Commissioner Rand, Commissioner Porterfield and Commissioner Ramirez

**Against:** 0

6. CUP-16-34 (Gumby's Pizza and Wings) Consider a request by 312 Ventures LLC for a new Conditional Use Permit to allow the sale of mixed alcoholic beverages for on-site consumption at 312 West Hopkins Street. (T. Carpenter)

**A motion was made by Commissioner Dupont, seconded by Commissioner Porterfield to approve with conditions CUP-16-34 (Gumby's Pizza and Wings).**

**A motion was made by Commissioner Garber, seconded by Commissioner McCarty, that the main motion be amended to allow a beer and wine permit and no late hours TABC permit. The motion failed by the following vote:**

**For:** 2 - Commissioner Garber and Commissioner McCarty

**Against:** 4 - Commissioner Dupont, Commissioner Rand, Commissioner Porterfield and Commissioner Ramirez

**Recused:** 1 - Commissioner Kelsey

**A motion was made by Commissioner Ramirez, seconded by Commissioner Rand, that the main motion be amended that the applicant cannot apply for a late hours TABC permit. The motion carried by the following vote:**

**For:** 5 - Commissioner Garber, Commissioner Dupont, Commissioner Rand, Commissioner Porterfield and Commissioner Ramirez

**Against:** 1 - Commissioner McCarty

**Recused:** 1 - Commissioner Kelsey

**A motion was made by Commissioner Garber, seconded by Commissioner McCarty, that the main motion be amended to include that music and speakers are not permitted outdoors. The motion carried by the following vote:**

**For:** 4 - Commissioner Garber, Commissioner McCarty, Commissioner Rand and Commissioner Ramirez

**Against:** 2 - Commissioner Dupont and Commissioner Porterfield

**Recused:** 1 - Commissioner Kelsey

**A motion was made by Commissioner Garber, seconded by Commissioner McCarty, that the main motion be amended to include that bottles can only be disposed of during daylight hours. The motion carried by the following vote:**

**For:** 6 - Commissioner Garber, Commissioner Dupont, Commissioner McCarty, Commissioner Rand, Commissioner Porterfield and Commissioner Ramirez

**Against:** 0

**Recused:** 1 - Commissioner Kelsey

**Chair Garber called for a vote on the main motion to approve CUP-16-34 (Gumby's Pizza and Wings) with the conditions: The CUP shall be valid for one (1) year, provided standards are met, subject to the point system; the permit shall be effective upon the issuance of the Certificate of Occupancy; the CUP shall be posted in the same area and manner as the Certificate of Occupancy; the applicant cannot apply for a late hours TABC permit; bottles can only be disposed of during daylight hours; and speakers are not permitted outdoors.**

**For:** 5 - Commissioner Garber, Commissioner Dupont, Commissioner McCarty, Commissioner Rand and Commissioner Ramirez

**Against:** 1 - Commissioner Porterfield

**Recused:** 1 - Commissioner Kelsey

V. Question and Answer Session with Press and Public.

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

VI. Adjournment

**A motion was made that the meeting be adjourned at 9:48 p.m. The motion carried by a unanimous vote.**

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**Jim Garber, Chair**

**ATTEST:**

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**Francis Serna, Recording Secretary**

Notice of Assistance at the Public Meetings

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

\_\_\_\_\_  
\_\_\_\_\_  
Title: