

Conditional Use Permit – Purpose-Built Student Housing	North & Lindsey Street
CUP-23-22	Student Housing

Summary

Request:	New Conditional Use Permit for purpose-built student housing		
Applicant:	Shannon Mattingly, Drenner Group 2705 Bee Cave Rd, Ste 100 Austin, TX 78746	Property Owner:	Daryl Burtshell, 409 North St, San Marcos, 78666 Peggy Taylor, 415 North St, San Marcos TX 78666 Matthew Kenyon, 420 North St LLC and 435 N Comanche Street LLC, 420 North St/435 N Comanche St, San Marcos, TX, 78666
CUP Expiration:	N/A	Type of CUP:	Purpose Built Student Housing
Parking Required:	788 spaces (750 beds at 1.05 spaces per bed)	Parking Provided:	563 proposed (750 beds at 0.75 per bed.) Does not include public parking spaces associated with AC-23-09.

Notification

Posted:	February 9, 2024	Personal:	February 9, 2024
Response:	See attached comments in packet.		

Property Description

Legal Description:	2.6 acres, more or less, out of the J.M Veramendi Survey, Abstract 17		
Location:	On the south side of Lindsey Street between N. Comanche St and North St, and southwest of the intersection between Lindsey St and North St.		
Acreage:	2.6 acres	PDD/DA/Other:	N/A
Existing Zoning:	CD-5D / MF-12/MF-18/MF-24	Proposed Zoning:	CD-5D
Existing Use:	Multifamily/ Residential	Proposed Use:	Purpose Built Student Housing
Preferred Scenario:	High Intensity Zone and Existing Neighborhood	Proposed Designation:	High Intensity Zone
CONA Neighborhood:	Downtown	Sector:	8
Utility Capacity:	Adequate	Floodplain:	No
Historic Designation:	N/A	My Historic SMTX Resources Survey:	Yes – High/ Medium

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<u>Surrounding Area</u>	Zoning	Existing Land Use	Preferred Scenario
North of Property:	Public and Institutional/ Multifamily-24	Texas State University Campus	Low Intensity
South of Property:	CD-5D (Character District-5 Downtown)	Sorority House/ Multifamily	Existing Neighborhood/ High Intensity- Downtown
East of Property:	CD-5D	Multifamily	High Intensity Zone
West of Property:	Multifamily-24	Multifamily/ single story residential	Existing Neighborhood

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Staff Recommendation

Approval as Submitted	X	Neutral/Approval with Conditions	Denial
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Due to varying factors including the conflict with the recently adopted Downtown Area Plan, staff is providing a **neutral** recommendation and leaves a decision of approval, denial, or approval with conditions up to the Planning and Zoning Commission.

Should the Commission choose to recommend approval of CUP-23-22, staff propose the following conditions:

1. The development shall register with the City of San Marcos Long Term Rental Registration program per Chapter 34, Article 7, Division 3 of the City’s Code.
2. The existing High and Medium Priority structures identified in the Historic Research Survey shall not be demolished and shall be integrated into the development or relocated.
3. The Purpose-Built Student Housing shall comply with all other development code regulations. Back up materials are provided for informational purposes only.
4. The project shall not charge tenants a separate fee to utilize the parking garage.
5. The lease shall be made publicly available on the property’s website and shall contain the following language: *“In the event the Leased Premises are unavailable for occupancy on or before the commencement date of this Lease, Landlord shall offer Tenant the choice of: 1) accepting temporary safe, decent, and sanitary housing, provided by Landlord, at an alternate location within the City of San Marcos, or within a seven mile radius of the Leased Premises, with Tenant remaining bound by the terms of the Lease; or 2) terminating the Lease with no financial penalty and with full reimbursement to Tenant of all deposits and pre-paid items within 10 days.”*
6. Where parking fee in lieu is allowed under Section 7.1.2.1.E.2 of the Code, the parking ratio for the project shall be at least 0.85 spaces per bedroom, in addition to any public parking requirements proposed under AC-23-09 (if approved).
7. This CUP shall expire within 3 years unless an application for a permit is submitted to the City.
8. The development shall offer both “rent by the bedroom” leases and conventional leases where the apartments may be rented in their entirety.
9. The development shall be a minimum of a silver in the LEED green building program. Evidence of certification shall be required prior to the issuance of a Certificate of Occupancy.
10. Current tenants of the existing residential structures shall be given a minimum of six (6) months’ notice to find other accommodations.

Staff: Julia Cleary, AICP	Title : Senior Planner	Date: February 21, 2024
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History

In 2017, a SMART Code warrant for student housing at 410 North St was approved by City Council (Res 2017-128R).

In 2021, a subsequent zoning change and Student Housing Conditional Use Permit for part of the site located east of North St was denied by the Planning and Zoning Commission and withdrawn by the applicant (ZC-21-09/ CUP-21-15).

Additional Analysis

A Student Housing CUP would allow the project to be marketed specifically to students and would allow more than 3 bedrooms per unit. Note: “rent by the bedroom” leases are not regulated by the City.

Per Chapter 7, Article 1 of the Development Code, 1.05 parking spaces are required per bedroom for Purpose Built Student Housing which would result in a parking requirement of 788 spaces based on the applicant’s current plan for 5 & 7 story buildings. The applicant has indicated they will request fee in lieu to allow a parking ratio of 0.75 per bedroom and has provided a summary of the provided parking in other student developments within the City (included in the packet). Parking fee in lieu is processed during the site permit stage and is permitted in the Development Code. Staff are proposing a condition that would require a parking ratio of at least 0.85 spaces per bedroom which is consistent with the 2017 student housing approval conditions. The applicant must pay a fee for the remaining spaces.

In addition to this conditional use permit request the following applications have also been submitted by the applicant for this site:

- Preferred Scenario Amendment for the land west of North St from Existing Neighborhood to High Intensity (Downtown) - PSA-23-02
- Zoning Change request from MF-24/MF18 and MF-12 to CD-5D (ZC-23-19)
- Alternative Compliance request to allow for an increase from 5 to 7 stories (AC-23-09)

The Downtown Area Plan was adopted by Council on November 6, 2023 after the application was submitted, and any new purpose Built Student Housing would not meet the intent of the adopted Area Plan. The request is not considered to be in compliance with the “Recommended Housing Types” on page 58 of the Downtown Area Plan which states “*Multi-family and mixed-use housing types are the primary products recommended in and near Downtown and should be marketed to all demographics (not just or primarily to students).*” Staff are proposing a “neutral” recommendation in lieu of a “denial” because aside from the recommendations in the Downtown Area Plan, the site’s location next to the University is generally considered to be an appropriate location for Student Housing, and the Conditional Use Permit offers a tool to impose conditions on the development which would otherwise be unavailable should the applicant develop under a multifamily use which is already allowed by right on the site.

Comments from Other Departments

Police	No Comment
Fire	No Comment
Public Services	No Comment
Engineering	Existing drainage structure and entrance from Lindsey St should be considered as part of the site permit.

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Evaluation			Criteria for Approval (Sec. 2.8.3.4)
Consistent	Inconsistent	Neutral	
<u>X</u>			<p>The proposed use at the specified location is consistent with the policies embodied in the adopted comprehensive plan.</p> <p><i>The development is currently located within 2 separate designations in the Comprehensive Plan and a Preferred Scenario Amendment for the eastern part of the site is being considered concurrently.</i></p> <p><i>Vision San Marcos envisions a vibrant Downtown in which density is encouraged and supported “while also (prioritizing) maintaining the unique character of downtown, especially historic structures and local businesses” (p70). There are several historic structures on the part of the site to the west of North Street and the applicant is proposing to include a condition which would require them to be either integrated into the development or relocated.</i></p> <p><i>The Comprehensive Plan also encourages Student Housing in appropriate locations (Housing Goal 2) and location next to the University Campus makes it ideal for student housing.</i></p>
	<u>X</u>		<p>The proposed use is consistent with any adopted neighborhood character study for the area.</p> <p><i>This site is partially located within the draft Downtown Plan. Purpose Built Student Housing is not in compliance with the “Recommended Housing Types” on page 58 of the Downtown Area Plan Multi-family and mixed-use housing types are the primary products recommended in and near Downtown and should be marketed to all demographics (not just or primarily to students).”</i></p>

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Evaluation			Criteria for Approval (Sec. 2.8.3.4)
Consistent	Inconsistent	Neutral	
<u>X</u>			<p>The proposed use is compatible with and preserves the character and integrity of adjacent developments and neighborhoods, and includes improvements either on-site or within the public rights-of-way to mitigate development related adverse impacts, such as traffic, noise, odors, visual nuisances, drainage or other similar adverse effects to adjacent development and neighborhoods.</p> <p><i>There are several purpose-built student housing and multifamily developments in the immediate area. The proposed use is compatible with the surrounding multifamily development and Texas State Campus to the North. The proposed student housing use is similar to and compatible with the student housing uses to south and east of the site – the Sanctuary Lofts to the south and the Vistas apartments to the east of the development were recently purchased by Texas State. The Pointe apartments is also marketed as “Student Housing”. The nearest single-family zoning is located 600 feet away.</i></p> <p><i>The property is required to meet all development requirement including Chapter 6 Environmental Standards and the requirement for a Watershed Protection Plan per Chapter 2, Article 6 of the Land Development Code.</i></p>
<u>X</u>			<p>The proposed use does not generate pedestrian and vehicular traffic which shall be hazardous or conflict with the existing and anticipated traffic in the neighborhood.</p> <p><i>While this development would likely increase pedestrian and vehicular traffic in the immediate area, the ultimate vision for downtown is to provide a walkable environment. The proposed student housing use is similar to the Multi-family use permitted by right under the existing zoning districts. The developer will be required to construct significant streetscape improvements, including sidewalks, at the time of development. Furthermore, student housing adjacent to Texas State University will likely reduce the number of students driving to campus which can reduce commuter vehicular traffic.</i></p>

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Evaluation			Criteria for Approval (Sec. 2.8.3.4)
Consistent	Inconsistent	Neutral	
		<u>X</u>	<p>The proposed use incorporates roadway adjustments, traffic control devices or mechanisms and access restrictions to control traffic flow or divert traffic as may be needed to reduce or eliminate development generated traffic on neighborhood streets.</p> <p><i>No specific adjustments have been proposed by the applicant at this time however a Traffic Impact Analysis will be required at the time of development to determine any required mitigation. No additional curb cuts are currently proposed.</i></p>
<u>X</u>			<p>The proposed use incorporates features to minimize adverse effects, including visual impacts, of the proposed conditional use on adjacent properties.</p> <p><i>The developer would be required to follow all City codes, including the new downtown design architectural requirements related to massing and articulation for the land zoned CD-5D.</i></p>
<u>X</u>			<p>The proposed use meets the standards for the applicable district, or to the extent variations from such standards have been requested that such variations are necessary to render the use compatible with adjoining development and the neighborhood.</p> <p><i>The development must meet Code requirements including the CD-5D district standards (for the part of the site zoned CD-5D) for parking, articulation and varied massing requirements for buildings over 3 stories high. Please note that these are not necessarily reflected in the images submitted by the applicant which are provided for reference only. An Alternative Compliance request has been submitted to increase the height to 7 stories (AC-23-09) – this will be considered separately; and staff are recommending partial approval only.</i></p>

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Evaluation			Criteria for Approval (Sec. 5.1.4.9)
Consistent	Inconsistent	Neutral	
		<u>X</u>	<p>The ability for the development to transition in the future to accommodating a more diverse population <i>The development will be constructed as apartments which could be transitioned to conventional units in the future. It should be noted that CD-5D allows no more than 3 bedrooms per unit for traditional multifamily.</i></p>
<u>X</u>			<p>The durability, energy efficiency, and longevity of the building; <i>The developer is proposing to construct the building to LEED standards (silver). A condition requiring certification prior to a Certificate of Occupancy is attached to this CUP.</i></p>
<u>X</u>			<p>The location of the development in relation to alternative transportation networks to and from the university including sidewalks, bike lanes, and transit networks; <i>The site is located across the street from the University and so is accessible on foot.</i></p>
		<u>X</u>	<p>Mitigation of any adverse effects on adjacent property or neighborhoods; <i>See previous responses regarding Approval Criteria 2.8.3.4. No significant adverse impacts are anticipated on adjacent properties when compared to the multifamily use allowed by right, and the development is similar to the existing surrounding student housing.</i></p>
	<u>X</u>		<p>Compliance with the Comprehensive Plan, Downtown Master Plan, and any other adopted city plans or policies. <i>See response to criteria for approval Section 2.8.3.4 – Purpose Built Student Housing is not considered to be in compliance with the “Recommended Housing Types” on page 58 of the Downtown Area Plan Multi-family and mixed-use housing types are the primary products recommended in and near Downtown, and should be marketed to all demographics (not just or primarily to students).”</i></p>