

Zoning Request ZC-23-19	419 North St North Lindsey CD-5D
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Summary

Request:	Zoning change from MF-12, MF-18 and MF-24 to CD-5D		
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, 420 North St, San Marcos, TX, 78666

Notification

Application:	August 16, 2023	Neighborhood Meeting:	September 28, 2023 / Jan 31 2024
Published:	February 11, 2024	# of Participants	11 (1 st Meeting) & 46 (2 nd meeting, including 8 participants on Zoom)
Posted:	February 7, 2024	Personal:	February 7, 2024
Response:	See attached comments		

Property Description

Legal Description:	Approximately 1.931 acres of land, more or less, out of the J.M Veramendi Survey, Abstract 17		
Location:	Generally located 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:	1.931 acres	PDD/DA/Other:	N/A
Existing Zoning:	MF-12/MF-18/MF-24	Proposed Zoning:	Character District 5-D
Existing Use:	Residential/ Multifamily	Proposed Use:	Purpose Built Student Housing
Existing Occupancy:	Restrictions Do Not Apply	Occupancy:	Restrictions Do Not Apply
Preferred Scenario:	Existing Neighborhood and High Intensity Zone	Proposed Designation:	High Intensity Zone
CONA Neighborhood:	Downtown	Sector:	8
Utility Capacity:	Available	Floodplain:	No
Historic Designation:	N/A	My Historic SMTX Resources Survey	Yes – High/ Medium

Surrounding Area

	Zoning	Existing Land Use	Preferred Scenario
North of Property:	MF-24/ Public	Texas State University	Low Intensity
South of Property:	P (Public) and CD-5D	Multifamily/ Sorority House	High Intensity- Downtown/ Existing Neighborhood
East of Property:	CD-5D	Multifamily	High Intensity-Downtown
West of Property:	MF-24	Multifamily/ Residential	Existing Neighborhood



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Staff Recommendation

<input checked="" type="checkbox"/> Approval as Submitted	<input type="checkbox"/> Alternate Approval	<input type="checkbox"/> Denial
Staff recommends approval of ZC-23-19.		
If Council chooses not to approve the Preferred Scenario Amendment (PSA-23-02), they may elect to approve the zoning change for the part of the request which is east of North Street which is located in the existing Downtown High Intensity Zone Boundary.		
Staff: Julia Cleary, AICP	Title : Senior Planner	Date: February 21, 2024

Commission Recommendation

<input type="checkbox"/> Approval as Submitted	<input checked="" type="checkbox"/> Approval with Conditions / Alternate	<input type="checkbox"/> Denial
Speakers in favor or opposed		
Marha Mangum (in favor)		
Dave Anderson (in favor)		
Ed Theriot (in favor)		
Matthew Kenyon (in favor)		
Jared Chumsae (opposed)		
Darla Munoz (opposed)		
Vanessa Galvan (opposed)		
Tyler Opiela (opposed)		
Clay Smith (in favor)		
Edward Johnson (in favor)		
Lisa Marie Coppoletta (opposed)		
Isla Ruiz (opposed)		
Adam Arndt (opposed)		
Mikayla Rodi (opposed)		
Recommendation from the Planning and Zoning Commission Meeting held February 27, 2024		
A motion was proposed by Commissioner Spell, seconded by Commissioner Meeks, to recommend denial of ZC-23-19 for the area covered by PSA-23-02. The vote passed with a 9-0- vote.		
For: 9 (Agnew, Burleson, Case, Costilla, Dunn, Garber, Kelsey, Meeks, Spell)		
Against:0		
Absent:0		
A motion was proposed by Commissioner Spell, seconded by Commissioner Burleson, to recommend approval of the remaining property (Parcels 332207 and R53147). The vote passed with a 5-4 vote.		
For: 5 (Agnew, Burleson, Case, Dunn, Spell)		
Against:4 (Costilla, Kelsey, Meeks, Garber)		
Absent:0		
<u>Discussion Topics</u>		
Subsequent approvals – Commissioner Agnew stated that support for the zoning change did not necessarily mean that they supported the requests for 7 stories and student housing.		

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Impervious cover and flooding – Commissioner Kelsey stated that he was concerned with increasing the allowed impervious cover to 100% given previous flooding in the neighborhood. Commissioner Burleson asked what the cause of the previous Pointe apartments flood downhill had been. Chair Garber said there had been a substantial increase in surface runoff and flooding all the way down to San Antonio – whether that was a causal relationship, he didn’t know, but both things were occurring. Staff noted that part of the flows were also coming across the university campus and that the developer would be required to demonstrate that no negative impact to surrounding properties would occur at the time of site development.

Loss of existing apartments - Chair Garber noted that the zoning change would pave the way for the removal of the 2 existing traditional apartment complexes which are older and are presumably more reasonably priced. Commissioner Agnew said that he had been more concerned with the loss of the existing housing on the western part of the site. Commissioner Spell said that given the size, surrounding height and proximity to campus of the existing apartment complexes, in the long term they were likely going to be demolished regardless. He also reminded the Commission of the apartment fire in 2018 and said he liked the idea of making sure that complexes are up to today’s fire code and they way you do that is having them built to follow the new fire code. Commissioner Costilla asked what was going to happen to the people who are already there.

Lack of need - Commissioner Meeks said that she was not convinced that there was a need for the development and that the City should not be responsible for solving the University’s housing need.

History

A previous 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 City Council in 2021 (ZC-21-09/ CUP-21-15).

The application is part of an approximately 3 acre site proposed for student housing which has 4 different zoning districts. Approximately half an acre is zoned CD-5D while the remainder is zoned “Multifamily-12”, “Multifamily-18” and “Multifamily-24” which allow 12, 18 and 24 units per acre respectively. Student Housing is a “Conditional” Use under these zoning districts.

The nearest lots which are zoned Single Family (SF-6) are west of Moore Street, over 600 feet from the subject property. Nearby zoning consists of Character District 5 Downtown, Multifamily 24, 18, and 12, Mixed Use, and Public. To the south, the property zoned Public is used as a sorority house and to the north is Texas State University. The remainder of properties in the vicinity are multifamily and student housing.

This zoning change request is one of four applications 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
- Conditional Use Permit for Student Housing (CUP-23-22)
- Alternative Compliance request to allow for an increase from 5 to 7 stories (AC-23-09)

Additional Analysis

See additional analysis below.

Comments from Other Departments

Police	No Comment
Fire	No Comment
Public Services	No Comment
Engineering	There is an existing drainage structure within the property at the entrance on Lindsey St which should be retained during the redevelopment of the site.

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Evaluation			Criteria for Approval (Sec.2.5.1.4)
Consistent	Inconsistent	Neutral	
		<u>X</u>	<p>Whether the proposed zoning map amendment implements the policies of the adopted Comprehensive Plan and preferred scenario map <i>There is currently a pending Preferred Scenario Amendment for the portion of the subject property west of North St (PSA-23-02). The portion of the subject property east of North Street is located within a High Intensity Designation on the Comprehensive Plan.</i></p> <p><i>The request is consistent with Land Use Goal 1 of the Comprehensive Plan (Direct Growth, Compatible with Surrounding Uses) as it is adjacent existing CD-5D and multifamily zoning and is over 600ft from any Single-Family zoning districts.</i></p> <p><i>It is also considered to meet part of Housing Goal 2 (Housing Opportunities for Texas State University in Appropriate Areas) given the site’s location immediately adjacent to the University Campus.</i></p> <p><i>Many other policies exist in the Comprehensive Plan which do not address or consider the expansion of the Character District 5D Zoning.</i></p>
		<u>X</u>	<p>Whether the proposed zoning map amendment is consistent with any adopted small area plan or neighborhood character study for the area <i>For the portion of the property west of North Street: Studies were not complete at the time of the request.</i></p> <p><i>For the portion of the property east of North Street: The site is located within the “Greater Downtown Area” in the adopted Downtown Area Plan. No specific plans for this site are currently identified in the Plan. The Downtown Area Plan discusses housing as part of a wider package of recommendations “contributing to an environment where all community members are welcome to gather, live, work and enjoy the charm, walkability, and vibrancy of downtown” stating that “Downtown should be one of the most dense residential areas in San Marcos”(p58) It should be noted that the Area Plan specifically calls for “non-student oriented rental housing”(p56) and housing types which are “marketed to all demographics (not just or primarily to students)(p58).” The specific request for student housing will be subject to a separate CUP request (CUP-23-22)</i></p>
		<u>X</u>	<p>Whether the proposed zoning map amendment implements the policies of any applicable plan adopted by City Council <i>See above.</i></p>
		<u>N/A</u>	<p>Whether the proposed zoning map amendment is consistent with any applicable development agreement in effect <i>There are no development agreements in effect for this site.</i></p>
<u>X</u>			<p>Whether the uses permitted by the proposed change in zoning district classification and the standards applicable to such uses shall be appropriate in the immediate area of the land to be reclassified <i>Yes – CD-5D allows a mixture of residential, commercial and civic uses including retail, offices and multifamily.</i></p>

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Evaluation		Criteria for Approval (Sec.2.5.1.4)	
Consistent	Inconsistent	Neutral	
<u>X</u>			<p>Whether the proposed zoning will reinforce the existing or planned character of the area <i>The parcels to the east of North St are immediately adjacent to existing higher density multifamily and are currently located within a High Intensity designation in the Comprehensive Plan. The surrounding land is predominantly comprised of multifamily and university buildings. The western part of the site, while less intense in nature and closer to several single-story residential structures, is immediately bounded by a multifamily lot zoned for MF-24 which allows multifamily development up to 4 stories high.</i></p>
<u>X</u>			<p>Whether the site is appropriate for the development allowed in the proposed district <i>The site contains a mixture of existing multifamily and smaller, historical residential structures, one of which is classified as “High Preservation Priority” on the MyHistoricSMTX Historic Resources Survey. Staff has proposed a condition as part of the associated student housing CUP (CUP-23-22) that the High and Medium Priority structures be relocated or integrated into the development should the CUP be approved.</i></p>
	<u>X</u>		<p>Whether there are substantial reasons why the property cannot be used according to the existing zoning <i>The site could currently be used/redeveloped for multifamily uses under its existing MF-12/ MF-18 and MF-24 zoning. A student housing CUP could be requested in these zoning districts.</i></p>
		<u>X</u>	<p>Whether there is a need for the proposed use at the proposed location <i>CD-5D allows a number of uses by right including retail, restaurants and multifamily residential. Regarding the specific student housing use requested by the applicant (which will be considered under a separate CUP), the City does not have an analysis of the demand for Student Housing within the City limits, Pages 56 and 58 of the recently adopted Downtown Area Plan (which covers the part of the site to the east of North Street only) specifically call out the need for <u>non</u>-student oriented multifamily development within the Downtown Area, which is allowed by right in this district.</i></p>
<u>X</u>			<p>Whether the City and other service providers will be able to provide sufficient public facilities and services including schools, roads, recreation facilities, wastewater treatment, water supply and stormwater facilities, public safety, and emergency services, while maintaining sufficient levels of service to existing development <i>The development would constitute a repurposing of an existing residential/multifamily site which is already served by City utilities, services, and infrastructure.</i></p>

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Evaluation		Criteria for Approval (Sec.2.5.1.4)	
Consistent	Inconsistent	Neutral	
<u>X</u>			<p>Whether the proposed rezoning will have a significant adverse impact on property in the vicinity of the subject property <i>There are no "bad neighbor" uses allowed by right in this district which would be harmful to the public health of adjacent residences/properties.</i></p>
		<u>N/A</u>	<p>For requests to a Neighborhood Density District, whether the proposed amendment complies with the compatibility of uses and density in Section 4.1.2.5 <i>This is not a request for a Neighborhood Density District.</i></p>
<u>X</u>			<p>The impact the proposed amendment has with regard to the natural environment, including the quality and quantity of water and other natural resources, flooding, and wildlife management <i>The subject property is currently developed and includes existing impervious cover. The subject property is not located within the Floodplain and is located within a 3 (moderately constrained) designation on the Land Use Suitability Map.</i></p>
<u>X</u>			<p>Any other factors which shall substantially affect the public health, safety, morals, or general welfare <i>Staff is not aware of any other factors which would substantially affect the public health, safety, morals, or general welfare.</i></p>