



# City of San Marcos

630 East Hopkins  
San Marcos, TX 78666

## Meeting Minutes - Draft Planning and Zoning Commission

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Tuesday, December 14, 2021

6:00 PM

City Council Chambers/Virtual

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**This will be a hybrid (in-person/virtual meeting). To view the meeting please go to <http://www.sanmarcostx.gov/541/PZ-Video-Archives> or watch on Grande channel 16 or Spectrum channel 10.**

### 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 6:00 p.m. on Tuesday, December 14, 2021 via Hybrid Meeting due to COVID-19.

### II. Roll Call

**Present** 8 - Commissioner Gabrielle Moore, Commissioner Travis Kelsey, Commissioner Griffin Spell, Commissioner Jim Garber, Commissioner William Agnew, Commissioner Zachariah Sambrano, Commissioner Lupe Costilla, and Commissioner Amy Meeks  
**Absent** 1 - Commissioner Betseygail Rand

### III. Chairperson's Opening Remarks

### IV. 30 Minute Citizen Comment Period

There were no speakers.

### EXECUTIVE SESSION

### CONSENT AGENDA

1. PC-20-63 (Center Point Storage) Consider a request by Kimley-Horn, on behalf of Outlet West Investors, Ltd. and S.M. Centerpoint Investments, LLC., for approval of a Final Plat for approximately 7.959 acres, more or less, out of the Edward Burleson Survey No. 18, Abstract No. 63, located on Centerpoint Road at the intersection of Transportation Way, south of the railroad line. (A. Brake)
2. PC-21-16 (Whisper Convenience) Consider a request by Vigil and Associates, on behalf of Whisper Master Community Limited Partnership, for approval of a Final Plat of approximately 1.525 acres, more or less, out of the Joel Miner Survey, Abstract No. 321, generally located at the NE corner of the intersection of IH-35 and Opportunity Boulevard. (J.Cleary)
3. Consider approval of the minutes of the regular meeting of October 26, 2021.

**A motion was made by Commissioner Kelsey, seconded by Commissioner Spell, that the Consent Agenda be approved. The motion carried by the following vote:**

**For:** 8 - Commissioner Moore, Commissioner Kelsey, Commissioner Spell, Commissioner Garber, Commissioner Agnew, Commissioner Sambrano, Commissioner Costilla and Commissioner Meeks

**Against:** 0

**Absent:** 1 - Commissioner Rand

## **PUBLIC HEARINGS**

Public Hearing items were heard in the following order: 5, 10, 11, 14, 15, 4, 6, 7, 8, 9, 12, 13, and 16.

4. CUP-21-36 (DoubleDave's Pizzaworks) Hold a public hearing and consider a request by Joseph Bramwell, on behalf of DD San Marcos, LLC. for renewal of an existing Conditional Use Permit to allow on-premise consumption of Beer and Wine, located at 748 N LBJ Drive, Suite 102. (S. Walker)

Chair Garber opened the Public Hearing.

Susan Walker, Senior Planner, gave an overview of the request.

Chair Garber closed the Public Hearing.

**A motion was made by Commissioner Kelsey, seconded by Commissioner Sambrano that CUP-21-36 (DoubleDave's Pizzaworks) be approved with staff conditions.**

**A motion was made by Commissioner Kelsey, seconded by Commissioner Agnew, to postpone consideration of the pending motion until the next meeting. The motion was withdrawn.**

**A motion was made by Commissioner Spell, seconded by Commissioner Agnew, that the main motion be amended so that: "No amplified outdoor music shall be allowed past 10 p.m." The motion carried by the following vote:**

**For:** 8 - Commissioner Moore, Commissioner Kelsey, Commissioner Spell, Commissioner Garber, Commissioner Agnew, Commissioner Sambrano, Commissioner Costilla and Commissioner Meeks

**Against:** 0

**Absent:** 1 - Commissioner Rand

**Chair Garber called for a vote on the main motion with the following conditions: 1.) The permit shall be valid for three (3) years, provided standards are met; 2.) The permit shall be posted in the same area and manner as the Certificate of Occupancy; and 3.) No amplified outdoor music shall be allowed past 10 p.m. The motion carried by the following vote:**

**For:** 8 - Commissioner Moore, Commissioner Kelsey, Commissioner Spell, Commissioner Garber, Commissioner Agnew, Commissioner Sambrano, Commissioner Costilla and Commissioner Meeks

**Against:** 0

**Absent:** 1 - Commissioner Rand

5. CUP-21-37 (Industry Restaurant) Hold a public hearing and consider a request by Cody Taylor, on behalf of Industry Restaurant, for renewal of an existing Conditional Use Permit to allow the sale and on-premise consumption of Mixed Beverages at 110 West MLK Street. (D. Dueitt)

Chair Garber opened the Public Hearing.

Dalton Dueitt, Planner, gave an overview of the request.

Yer Chang provided written comments that were read aloud. She said she lives close the restaurant, and expressed noise problems she's had with the restaurant in the past, stating she's had to call the police because of noise levels. She added the Commission should consider restricting outdoor noise to certain times.

Andy Greenwood provided written comments that were read aloud. He said the music from the restaurant is so loud he can hear it blocks away in his home. He said Office Cope with SMPD said they are reluctant to give an expensive ticket. Greenwood said outdoor music hours should be restricted, and they should have to follow the City's noise ordinance. He provided a list of signatures of neighbors that were in agreeance.

Cody Taylor, applicant, 1511 Owen St., said they've tried to regulate the noise level, including buying a decibel reader to monitor. He said they are familiar with the noise ordinance, and are staying within those parameters. He said they take the complaints seriously.

Chair Garber closed the Pubic Hearing.

**A motion was made by Commissioner Sambrano, seconded by Commissioner Moore, that CUP-21-37 (Industry Restaurant) be approved with staff conditions.**

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

**Agnew, that the main motion be amended so that: "The permit shall be valid for six months provided standards are met." The motion carried by the following vote:**

- For:** 6 - Commissioner Moore, Commissioner Spell, Commissioner Garber, Commissioner Agnew, Commissioner Costilla and Commissioner Meeks
- Against:** 1 - Commissioner Sambrano
- Absent:** 1 - Commissioner Rand
- Recused:** 1 - Commissioner Kelsey

**Chair Garber called for a vote on the main motion with the following conditions: 1.) The permit shall be valid for six months provided standards are met; 2.) Outdoor amplified music on the property shall not be permitted after 10 pm; and 3.) The permit shall be posted in the same area and manner as the Certificate of Occupancy. The motion carried by the following vote:**

- For:** 7 - Commissioner Moore, Commissioner Spell, Commissioner Garber, Commissioner Agnew, Commissioner Sambrano, Commissioner Costilla and Commissioner Meeks
- Against:** 0
- Absent:** 1 - Commissioner Rand
- Recused:** 1 - Commissioner Kelsey

- 6.** CUP-21-38 (Saltgrass Steakhouse) Hold a public hearing and consider a request by Lisa Burgess on behalf of Saltgrass, Inc., for renewal of an existing Conditional Use Permit to allow on premise consumption of Mixed Beverages, located at 1141 North IH 35. (S. Walker)

Chair Garber opened the Public Hearing.

Susan Walker, Senior Planner, gave an overview of the request.

Chair Garber closed the Public Hearing.

**A motion was made by Commissioner Agnew, seconded by Commissioner Costilla, that CUP-21-38 (Saltgrass Steakhouse) be approved with the following conditions: 1.) The permit shall be valid for three (3) years, provided the standards are met; and 2.) The permit shall be posted in the same area and manner as the Certificate of Occupancy. The motion carried by the following vote:**

- For:** 8 - Commissioner Moore, Commissioner Kelsey, Commissioner Spell, Commissioner Garber, Commissioner Agnew, Commissioner Sambrano, Commissioner Costilla and Commissioner Meeks

**Against:** 0

**Absent:** 1 - Commissioner Rand

7. CUP-21-39 (Pizza Hut) Hold a public hearing and consider a request by Debbie Pagano on behalf of Armadillo Beverage Co., Inc. for renewal of an existing Conditional Use Permit to allow on premise consumption of Beer and Wine, located at 900 Bugg Lane, #118. (S. Walker)

Chair Garber opened the Public Hearing.

Susan Walker, Senior Planner, gave an overview of the request.

Chair Garber closed the Public Hearing.

**A motion was made by Commissioner Costilla, seconded by Commissioner Sambrano, that CUP-21-39 (Pizza Hut) be approved with the following conditions: 1.) The permit shall be valid for three (3) years provided standards are met; and 2.) The permit shall be posted in the same area and manner as the Certificate of Occupancy. The motion carried by the following vote:**

**For:** 8 - Commissioner Moore, Commissioner Kelsey, Commissioner Spell, Commissioner Garber, Commissioner Agnew, Commissioner Sambrano, Commissioner Costilla and Commissioner Meeks

**Against:** 0

**Absent:** 1 - Commissioner Rand

8. CUP-21-40 (Texas Bean and Brew House) Hold a public hearing and consider a request by Niyazi Colak, on behalf of Texas Bean and Brew, for renewal of an existing Conditional Use Permit to allow the sale and on-premise consumption of Beer and Wine at 1328 North Interstate 35. (D. Dueitt)

Chair Garber opened the Public Hearing.

Dalton Dueitt, Planner, gave an overview of the request.

Chair Garber closed the Public Hearing.

**A motion was made by Commissioner Kelsey, seconded by Commissioner Spell, that CUP-21-40 (Texas Bean and Brew House) be approved with the following conditions: 1.) The permit shall be valid for three (3) years, provided standards are met; 2.) No speakers or live music shall be allowed outdoors or in other unconditioned areas; and 3.) The permit shall be posted in the same area and manner as the Certificate of Occupancy. The motion carried by the following vote:**

**For:** 8 - Commissioner Moore, Commissioner Kelsey, Commissioner Spell, Commissioner Garber, Commissioner Agnew, Commissioner Sambrano, Commissioner Costilla and Commissioner Meeks

**Against:** 0

**Absent:** 1 - Commissioner Rand

9. CUP-21-42 (Twin Peaks) Hold a public hearing and consider a request by Michael Locey, on behalf of Twin Peaks, for renewal of an existing Conditional Use Permit to allow the sale and on-premise consumption of mixed beverages at 1207 South Interstate 35. (D. Dueitt)

Chair Garber opened the Public Hearing.

Dalton Dueitt, Planner, gave an overview of the request.

Chair Garber closed the Public Hearing.

**A motion was made by Commissioner Sambrano, seconded by Commissioner Agnew, that CUP-21-42 (Twin Peaks) be approved with the following conditions: 1.) The permit shall be valid for three (3) years, provided standards are met; 2.) No outdoor amplified music shall be permitted after 10 p.m.; and 3.) The permit shall be posted in the same area and manner as the Certificate of Occupancy. The motion carried by the following vote:**

**For:** 8 - Commissioner Moore, Commissioner Kelsey, Commissioner Spell, Commissioner Garber, Commissioner Agnew, Commissioner Sambrano, Commissioner Costilla and Commissioner Meeks

**Against:** 0

**Absent:** 1 - Commissioner Rand

10. CUP-21-43 (Toma Taco) Hold a public hearing and consider a request by Oscar Hernandez, on behalf of Toma Taco, for renewal of an existing Conditional Use Permit to allow the sale and on-premise consumption of beer and wine at 179 South LBJ Drive. (D. Dueitt)

Chair Garber opened the Public Hearing.

Dalton Dueitt, Planner, gave an overview of the request.

Chair Garber closed the Public Hearing.

**A motion was made by Commissioner Spell, seconded by Commissioner Agnew, that CUP-21-43 (Toma Taco) be approved with the following conditions: 1.) The permit shall be valid for three (3) years, provided standards are met; 2.) Food shall be available to patrons in all areas of the restaurant in a manner that meets the requirements of Section 5.1.5.5(4)(b), Eating Establishments - Downtown CBA Boundary; 3.) The business shall be responsible for maintaining all areas within 50 feet of an exit, and all areas within the permitted property in a clean and sanitary condition, free from litter and refuse at all times; and 4.) The permit shall be posted in the same area and manner as the Certificate of Occupancy. The motion carried by the following**

**vote:**

**For:** 7 - Commissioner Moore, Commissioner Spell, Commissioner Garber, Commissioner Agnew, Commissioner Sambrano, Commissioner Costilla and Commissioner Meeks

**Against:** 0

**Absent:** 1 - Commissioner Rand

**Recused:** 1 - Commissioner Kelsey

11. CUP-21-44 (Aqua Brew) Hold a public hearing and consider a request by Joe Bendetti, on behalf of Aqua Brew, for renewal of an existing Conditional Use Permit to allow the sale and on-premise consumption of mixed beverages at 150 South LBJ Drive. (D. Dueitt)

Chair Garber opened the Public Hearing.

Dalton Dueitt, Planner, gave an overview of the request.

Chair Garber closed the Public Hearing.

**A motion was made by Commissioner Spell, seconded by Commissioner Agnew, that CUP-21-44 (Aqua Brew) approved with the following conditions: 1.) The permit shall be valid for three (3) years, provided standards are met; 2.) No outdoor amplified music shall be permitted after 10 p.m.; 3.) Food shall be available to patrons in all areas of the restaurant in a manner that meets the requirements of Section 5.1.5.5(4)(b), Eating Establishments - Downtown CBA Boundary; 4.) The business shall be responsible for maintaining all areas within 50 feet of an exit, and all areas within the permitted property in a clean and sanitary condition, free from litter and refuse at all times; and 5.) The permit shall be posted in the same area and manner as the Certificate of Occupancy. The motion carried by the following vote:**

**For:** 7 - Commissioner Moore, Commissioner Spell, Commissioner Garber, Commissioner Agnew, Commissioner Sambrano, Commissioner Costilla and Commissioner Meeks

**Against:** 0

**Absent:** 1 - Commissioner Rand

**Recused:** 1 - Commissioner Kelsey

12. CUP-21-45 (Ivar's River Pub) Hold a public hearing and consider a request by Curtis Gunnarson, on behalf of Ivar's River Pub, for renewal of a Conditional Use Permit to allow the sale and on-premise consumption of Mixed Beverages at 701 Cheatham Street. (D. Dueitt)

Chair Garber opened the Public Hearing.

Dalton Dueitt, Planner, gave an overview of the request.

Curtis Gunnarson (owner) 326 Riverside Dr., was available for questions.

Denele Gunnarson (owner) 326 Riverside Dr., was available for questions.

Jamal Fraser, 216 Riverside Dr., submitted written comments that were read aloud. He said that Ivar's lets customers park in the lot on Riverside and Cheatham, which is a violation of their CUP. He said the condition is to protect the Heritage Oak Tree. He asked the Commission to now renew for three years until they take the CUP Conditions seriously.

Peggy Stone submitted written comments that were read aloud. She said she as against them reopening with a liquor license because of the Pub's past behavior, and their experience with noise and intoxicated patrons. She said since reopening, the Pub have been good neighbors, and have adhered to restrictions placed upon them. She said they should be allowed to renew.

Chair Garber closed the Public Hearing.

**A motion was made by Commissioner Kelsey, seconded by Commissioner Costilla that CUP-21-45 (Ivar's River Pub) be approved with staff conditions.**

**A motion was made by Commissioner Kelsey, seconded by Commissioner Garber, that the main motion be amended so that: "The permit shall be valid for six months, provided standards are met." The motion carried by the following vote:**

**For:** 5 - Commissioner Kelsey, Commissioner Garber, Commissioner Agnew, Commissioner Costilla and Commissioner Meeks

**Against:** 3 - Commissioner Moore, Commissioner Spell and Commissioner Sambrano

**Absent:** 1 - Commissioner Rand

**Chair Garber called for a vote on the main motion with the following conditions: 1.) The permit shall be valid for six months, provided standards are met; 2.) The applicant shall provide a barrier that prevents vehicular parking on the adjacent single-family lot; 3.) Hours of operation shall be no later than midnight; 4.) Live music shall not be permitted on the property after 9 p.m.; 5.) The floodlights along the deck shall be aimed downward toward the patio rather than at the San Marcos River; and 6.) The permit shall be posted in the same area and manner as the Certificate of Occupancy. The motion carried by the following vote:**

**For:** 8 - Commissioner Moore, Commissioner Kelsey, Commissioner Spell, Commissioner Garber, Commissioner Agnew, Commissioner Sambrano, Commissioner Costilla and Commissioner Meeks



**Against:** 0

**Absent:** 1 - Commissioner Rand

- 13.** CUP-21-46 (Black's Barbecue San Marcos) Hold a public hearing and consider a request by Kent Black on behalf of Kent Black's Lockhart Barbecue, LLC, for renewal of an existing Conditional Use Permit to allow on premise consumption of Mixed Beverages, located at 500 Hull Street. (S. Walker)

Chair Garber opened the Public Hearing.

Susan Walker, Senior Planner, gave an overview of the request.

Kent Black, 3805 Lost Oasis Hollow, Austin, TX, was available for questions.

Chair Garber closed the Public Hearing.

**A motion was made by Commissioner Costilla, seconded by Commissioner Agnew, that CUP-21-46 (Black's Barbecue San Marcos) approved with the following conditions: 1.)The permit shall be valid for three (3) years, provided standards are met; and 2.) The permit shall be posted in the same area and manner as the Certificate of Occupancy. The motion carried by the following vote:**

**For:** 8 - Commissioner Moore, Commissioner Kelsey, Commissioner Spell, Commissioner Garber, Commissioner Agnew, Commissioner Sambrano, Commissioner Costilla and Commissioner Meeks

**Against:** 0

**Absent:** 1 - Commissioner Rand

- 14.** CUP-21-47 (The Blind Salamander) Hold a public hearing and consider a request by Allen Shy, on behalf of The Blind Salamander, for an amendment of an approved Conditional Use Permit to expand the boundaries for the sale and on-premise consumption of mixed beverages at 301 North LBJ Drive, Suite 111. (D. Dueitt)

Chair Garber opened the Public Hearing.

Dalton Dueitt, Planner, gave an overview of the request.

Allen Shy, 2686 Blackbear Dr., New Braunfels, said they'd like to add on the sidewalk patio they thought was added on before.

Chair Garber closed the Public Hearing.

**A motion was made by Commissioner Sambrano, seconded by Commissioner Spell, that CUP-21-47 (The Blind Salamander) be approved with the following conditions: 1.) The permit shall be valid for one (1) years, provided standards**

are met; 2.) Food shall be available to patrons in all areas of the restaurant in a manner that meets the requirements of Section 5.1.5.5(4)(b), Eating Establishments - Downtown CBA Boundary; 3.) The business shall be responsible for maintaining all areas within 50 feet of an exit, and all areas within the permitted property in a clean and sanitary condition, free from litter and refuse at all times; 4.) The permit shall become effective upon issuance of a TABC license and a Certificate of Occupancy; and 5.) The permit shall be posted in the same area and manner as the Certificate of Occupancy. The motion carried by the following vote:

**For:** 7 - Commissioner Moore, Commissioner Spell, Commissioner Garber, Commissioner Agnew, Commissioner Sambrano, Commissioner Costilla and Commissioner Meeks

**Against:** 0

**Absent:** 1 - Commissioner Rand

**Recused:** 1 - Commissioner Kelsey

15. CUP-21-48 (Root Cellar Café) Hold a public hearing and consider a request by Kyle Mylius on behalf of Root Cellar Café, LLC, for renewal of an existing Conditional Use Permit to allow on-premise consumption of Beer and Wine, located at 215 N LBJ Drive. (S. Walker)

Chair Garber opened the Public Hearing.

Susan Walker, Senior Planner, gave an overview of the request.

Kyle Mylius, 1022 W. MLK Dr., was available for questions.

Chair Garber closed the Public Hearing.

A motion was made by Commissioner Costilla, seconded by Commissioner Spell, that CUP-21-48 (Root Cellar Café) be approved with the following conditions: 1.) Permit shall be valid for three (3) years, provided standards are met; 2.) Food shall be available to patrons in all areas of the restaurant in a manner that meets the requirements of Section 5.1.5.5(B)(4)(b), Eating Establishments - Downtown CBA Boundary; 3.) The business shall be responsible for maintaining all areas within 50 feet of any exit, and all areas of the permitted property in a clean and sanitary condition, free from litter and refuse at all times as set forth in Section 5.1.5.5(E)(2)(d); and 4.) The permit shall be posted in the same area and manner as the Certificate of Occupancy. The motion carried by the following vote:

**For:** 7 - Commissioner Moore, Commissioner Spell, Commissioner Garber, Commissioner Agnew, Commissioner Sambrano, Commissioner Costilla and Commissioner Meeks

**Against:** 0

**Absent:** 1 - Commissioner Rand

**Recused:** 1 - Commissioner Kelsey

16. ZC-21-21 (3030 and 3036 Hwy 123 / Hwy 123 Retail Center) Hold a public hearing and consider a request by Mirza T Baig, on behalf of 2101 Clovis Barker, LLC, for a zoning change from "FD" Future Development to "HC" Heavy Commercial, or, subject to consent of the owner, another less intense zoning district classification, for approximately 3.59 acres, more or less, out of the Cyrus Wickson Survey, Abstract 474, generally located at the northwest corner of the Hwy 123 and Clovis Barker Rd intersection. (W. Rugeley)

Chair Garber opened the Public Hearing.

Amanda Hernandez, Assistant Director, gave an overview of the request.

Chair Garber closed the Public Hearing.

**A motion was made by Commissioner Spell, seconded by Commissioner Agnew, that a zoning change from "FD" Future Development to "HC" Heavy Commercial for ZC-21-21 (3030 and 3036 Hwy 123 / Hwy 123 Retail Center) be recommended for denial. The motion carried by the following vote:**

**For:** 6 - Commissioner Kelsey, Commissioner Spell, Commissioner Garber, Commissioner Agnew, Commissioner Costilla and Commissioner Meeks

**Against:** 2 - Commissioner Moore and Commissioner Sambrano

**Absent:** 1 - Commissioner Rand

The Commission desires that City Council waives the application fee if they reapply for a Conditional Use Permit.

**A motion was made by Commissioner Spell, seconded by Commissioner Agnew, that a zoning change from "FD" Future Development to Commercial - CM be recommended for approval. The motion carried by the following vote:**

**For:** 8 - Commissioner Moore, Commissioner Kelsey, Commissioner Spell, Commissioner Garber, Commissioner Agnew, Commissioner Sambrano, Commissioner Costilla and Commissioner Meeks

**Against:** 0

**Absent:** 1 - Commissioner Rand

#### V. Question and Answer Session with Press and Public.

There were no questions from the Press or Public.

#### VI. Adjournment

The meeting was adjourned at 8:50 p.m.

**A motion was made by Commissioner Kelsey, seconded by Commissioner Agnew, that the meeting be adjourned. The motion carried by the following vote:**

**For:** 8 - Commissioner Moore, Commissioner Kelsey, Commissioner Spell, Commissioner Garber, Commissioner Agnew, Commissioner Sambrano, Commissioner Costilla and Commissioner Meeks

**Against:** 0

**Absent:** 1 - Commissioner Rand

#### 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: