



# City of San Marcos

630 East Hopkins  
San Marcos, TX 78666

## Meeting Minutes City Council

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Wednesday, January 2, 2019

5:30 PM

City Council Chambers

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### 630 E Hopkins - Special Meeting

#### I. Call To Order

**With a quorum present, the special meeting of the San Marcos City Council was called to order by Mayor Hughson at 5:30 p.m. Thursday, January 2, 2019, in the City Council Chambers, 630 E. Hopkins, San Marcos, Texas 78666.**

#### II. Roll Call

##### **Council Member Marquez was absent due to holiday travel.**

**Present:** 6 - Mayor Pro Tem Lisa Prewitt, Council Member Saul Gonzales, Council Member Melissa Derrick, Mayor Jane Hughson, Council Member Ed Mihalkanin and Council Member Mark Rockeymoore

**Absent:** 1 - Council Member Joca Marquez

1. Receive a Staff presentation and hold a Public Hearing to receive comments for or against an appeal filed by Aquarena Plaza, LLC on behalf of Eskimo Hut regarding the Planning and Zoning Commission's decision to deny the Conditional Use Permit application (CUP-18-29) to allow the sale of beer and wine at 1504 Aquarena Springs Drive Ste. 110, San Marcos, TX 78666; and consider the appeal related to CUP-18-29 filed by Aquarena Plaza, LLC on behalf of Eskimo Hut, by motion.

**Shannon Mattingly, Planning and Development Services Director, provided the Council with a brief presentation regarding the Conditional Use Permit (CUP) appeal before the Council.**

**Ms. Mattingly provided the following information to the Council regarding the CUP Appeal:**

**This case is an appeal of a decision made by the Planning Commission on November 13, 2018.**

**The Planning Commission voted to deny the Conditional Use Permit application by a vote of 6-2.**

**The property owner of the proposed Eskimo Hut location is appealing the decision, not the business owner.**

**Mayor Hughson opened the Public Hearing at 5:36 p.m.**

**David Ross, 7800 IH10 San Antonio, TX, is appearing before the Council on behalf of the land owner, Vance Elliot. He stated that the denial of this permit was an abuse of discretion, and that the Planning and Zoning Commission did not follow the required procedures to arrive at their denial. He stated that the sale of beer and wine are compatible uses with the existing uses of land in the neighboring area. He stated that the concerns raised seemed to focus more on the actual TABC permitted process for the sale of the product, the use of the drive-thru. He stated that that ignores that those concerns would be present for any use of that property, not just for the use that required the conditional use permit application. He stated that those concerns also ignored that those homes, especially the one home, are situated in such a way that any vehicle that travels from Aquarena Springs up Zunker are going to shine their lights on that property. He stated that that is going to occur regardless of if there is a drive-thru there or not. He stated that they contend that those reasons, and those justifications, were not sufficient to meet the requirements for the conditional use permit, which is whether or not the use is compatible with the existing uses in the neighborhood. For those reasons, and on behalf of the land owner, he stated that they respectfully requested that the Council grant the conditional use permit, and thanked the Council for their time.**

**There being no further speakers, Mayor Hughson closed the Public Hearing at 5:40 p.m.**

**A motion was made by Council Member Mihalkanin, seconded by Council Member Derrick, to approve the appeal with the following conditions:**

- Permit shall be valid for one (1) year, provided standards are met.**
- Drinks shall not be served in foam based containers.**
- The permit shall become effective upon the issuance of the Certificate of Occupancy.**
- The permit shall be posted in the same area and manner as the Certificate of Occupancy.**

**The motion failed due to lack of super-majority, (6) affirmative votes, as required by Code.**

**For:** 4 - Mayor Pro Tem Prewitt, Council Member Derrick, Mayor Hughson and Council Member Mihalkanin

**Against:** 2 - Council Member Gonzales and Council Member Rockey Moore

**Absent:** 1 - Council Member Marquez

**A motion was made by Council Member Derrick, seconded by Mayor Pro Tem**

**Prewitt, to amend the conditions by adding the requirement that beverages prepared on-premise to be served in insulated reusable cups with a plastic cup sealer. The motion carried by the following vote:**

- For:** 4 - Mayor Pro Tem Prewitt, Council Member Derrick, Mayor Hughson and Council Member Mihalkanin
- Against:** 2 - Council Member Gonzales and Council Member Rockeymoore
- Absent:** 1 - Council Member Marquez

**A motion was made by Council Member Derrick, seconded by Council Member Mihalkanin, to postpone this item until the business owner of Eskimo Hut could be present. The motion carried by the following vote:**

- For:** 5 - Mayor Pro Tem Prewitt, Council Member Derrick, Mayor Hughson, Council Member Mihalkanin and Council Member Rockeymoore
- Against:** 1 - Council Member Gonzales
- Absent:** 1 - Council Member Marquez

III. Adjournment.

**Mayor Hughson adjourned the special meeting of the San Marcos City Council at 6:26 p.m.**

Jamie Lee Case, City Clerk

Jane Hughson, Mayor