

# Zoning Request

## ZC-20-18

# 2801 Staples Road



### Summary

<b>Request:</b>	Zoning change from "FD" Future Development to "CD-5" Character District-5		
<b>Applicant:</b>	Todd Burek The Mayan at San Marcos River LLC 22711 Fossil Peak San Marcos, TX 78216	<b>Property Owner:</b>	Todd Burek The Mayan at San Marcos River LLC 22711 Fossil Peak San Marcos, TX 78216

### Notification

<b>Application:</b>	July 14, 2020	<b>Neighborhood Meeting:</b>	N/A
<b>Published:</b>	July 26, 2020	<b># of Participants</b>	N/A
<b>Posted:</b>	July 24, 2020	<b>Personal:</b>	July 24, 2020
<b>Response:</b>	None as of Staff Report date		

### Property Description

<b>Legal Description:</b>	+/- 42.872 acre tract out of the Benjamin & Graves Fulcher Survey, Abstract No. 813, the William A. Matthews Survey, Abstract No. 305, and the William Burnett Jr. Survey, Abstract No. 56, Hays County Texas and the Benjamin & Graves Fulcher Survey, Abstract No. 21, Guadalupe County, Texas		
<b>Location:</b>	2801 Staples Road		
<b>Acreage:</b>	+/- 42.872	<b>PDD/DA/Other:</b>	N/A
<b>Existing Zoning:</b>	"FD" Future Development	<b>Proposed Zoning:</b>	CD-5 "Character District-5"
<b>Existing Use:</b>	Vacant / Rural	<b>Proposed Use:</b>	Mixed Use (Commercial/Residential/Multifamily)
<b>Preferred Scenario:</b>	Area of Stability-Low Intensity/Area of Stability-Open Space	<b>Proposed Designation:</b>	Area of Stability-Low Intensity/Area of Stability-Open Space
<b>CONA Neighborhood:</b>	N/A	<b>Sector:</b>	N/A
<b>Utility Capacity:</b>	Developer is responsible for extending utilities.	<b>Floodplain:</b>	No
<b>Historic District</b>	N/A		

### Surrounding Area

	<b>Zoning</b>	<b>Existing Land Use</b>	<b>Preferred Scenario</b>
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North of Property:	ETJ	San Marcos River/Vacant/Residential	Area of Stability-Open Space/Area of Stability-Low Intensity
South of Property:	ETJ	Vacant/Redwood Community (Residential & Commercial Uses)	Area of Stability-Low Intensity
East of Property:	ETJ	Vacant/Rural	Area of Stability-Low Intensity
West of Property:	ETJ	Vacant/Rural	Area of Stability-Low Intensity

## Staff Recommendation

Approval as Submitted	<input checked="" type="checkbox"/>	Approval with Conditions / Alternate	Denial
<p>The Development Code states that a request for Character District-5 zoning in an Area of Stability – Low Intensity designation should be “Considered” based on the criteria provided in Section 2.5.1.4. Requests for this zoning in Area of Stability-Open Space designations are “Not Preferred” and require additional scrutiny.</p> <p>Although the proposed zoning change to Character District-5 in this area is not compatible with surrounding existing uses (rural and agricultural land) the subject property’s location abutting the proposed FM 110 San Marcos eastern loop may provide justification for support as it meets the intent of an “Employment Corridor” identified on the Preferred Scenario Map. FM 110 is identified as a major transportation network and will be initially funded by a Transportation Reinvestment Zone (TRZ) to capture a portion of the increased value of development occurring along the alignment. In addition, while the Comprehensive Plan envisions low intensity uses such as single family residential, bed and breakfasts, home offices, etc. in Low Intensity areas it also identifies mixed-use building types as appropriate at future nodes and corridors. While the interior street network of this development has not been identified at this time, the majority of the proposed CD-5 zoning is located along the FM-110 corridor.</p> <p>Finally, it should be noted that a portion of the subject property is located within the regulatory floodway. This portion of the proposed CD-5 zoning district is also located within an Open Space designation on the Preferred Scenario Map which according to the Comprehensive Plan is suitable for limited residential, agricultural, preservation, or active recreation (which would require special standards) uses.</p> <p>Due to the varying factors regarding current and future land configurations around the subject property, staff is providing a <b>neutral</b> recommendation and leaves a decision of approval, denial, or a recommendation of a lesser zoning district up to the Planning and Zoning Commission and City Council.</p> <p>Alternatively, to help address concerns with the regulatory floodway and the zoning district’s lack of alignment with the purpose and intent of Open Space designations on the Preferred Scenario Map, staff</p>			

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offers an alternate recommendation for the Commission's consideration that the applicant remove the ~12.546-acre tract located within the floodway and Open Space Preferred Scenario designation from their zoning request.

<b>Staff:</b> Shavon Caldwell	<b>Title:</b> Planner	<b>Date:</b> August 11, 2020
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### History

The subject property is within City limits and was annexed in 2008. The property is currently vacant and is surrounded almost exclusively by vacant, rural/agricultural land as well as the San Marcos River along the northernmost extent of the subject tract and some existing residential and commercial uses in the Redwood community along the southernmost extent of the subject tract. In addition, FM 110 is proposed to be located adjacent to the subject property and right-of-way has already been dedicated in order to provide for the future construction of FM 110.

The purpose of this zoning change to "Character District-5" is to allow for the development of approximately 43 acres of mixed commercial and multi-family uses along the future FM 110 corridor.

The City of San Marcos will provide wastewater services at the site and as the property is within the Crystal Clear CCN, Crystal Clear Special Utility District will provide water service. The developer will be responsible for extending water and wastewater facilities through the site as needed. Bluebonnet Electric Cooperative will provide electric service to this development.

### Additional Analysis

Analysis of the proposed zoning request includes deliberation of existing surrounding land uses, proposed transportation networks, and the goals and policies of the Comprehensive Plan. A few major points for consideration in the analysis are as follows:

- A portion of the subject property requesting "Character District-5" zoning is designated as "NP" Not Preferred within an "Area of Stability – Open Space" designation on the Preferred Scenario Map. These Open Space areas are generally suitable for limited residential and agricultural uses. Alternatively, a portion of the subject property is in a "Low Intensity" designation and is located along an "Employment Corridor" where Character Districts zoning designations are to be "Considered".
- The proposed zoning change to Character District-5 is not compatible with surrounding existing uses such as rural and agricultural land. However, the future FM 110 (see attached FM 110 map) adjacent to the property will most likely attract a diverse array of uses.
- The Comprehensive Plan envisions mixed-use building types at nodes and along corridors in Low Intensity areas. While the street network interior to the development is not identified at this time the majority of the proposed CD-5 zoning is located along the future FM 110 corridor.
- A portion of the subject property is located within the regulatory floodway. The preservation of flood hazard areas and environmentally sensitive lands should be considered as part of this zoning proposal and the allowed uses impervious cover maximums and uses under Character District-5 zoning.
- Hays County provides the following overview of the FM 110 project:  
*This project continues the loop east of San Marcos and involves initially constructing two travel lanes (one in each direction) with 10-foot shoulders where no road currently exists for the approximately 11.3-mile corridor and includes an interchange at SH 21 and a railroad overpass at the Union Pacific Railroad tracks. As traffic increases over time, two additional*

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*travel lanes and additional interchanges would be constructed. Initial construction costs will be funded through Transportation Reinvestment Zones (TRZs) created by Hays County and the City of San Marcos to capture a portion of the increased value of development occurring along the alignment. Caldwell County will also contribute to the project cost. The County is funding and conducting project development simultaneously for the initial stage of all three sections. TxDOT will let and manage construction of the project. Water line relocations will be in construction contracts.*

Additional details regarding this analysis is outlined in the staff report and the Comprehensive Plan Analysis checklist.

### Comments from Other Departments

<b>Police</b>	No issues with the proposed development.
<b>Fire</b>	This development is outside the City's existing fire station network's coverage area and a fire station location would ensure optimal coverage and response times. Portions of the development fall outside a 5-road mile distance (based on current road network) from an existing station which results in an ISO PPC (ISO Public Protection Program) rating of 10+. This rating indicates that the area's fire suppression doesn't meet the program's minimum criteria.
<b>Public Services</b>	No issues with the proposed development.
<b>Engineering</b>	A portion of the tract requested as CD-5 is in the regulatory floodway. Development in the regulatory floodway is prohibited unless the applicant is able to process a Conditional Letter of Map Revision or Letter of Map Revision to remove this area from the floodplain, demonstrate no increase in water surface elevation, and meet compensatory storage requirements per City Code of Ordinances, Chapter 39-Flood Damage Prevention. Engineering staff recommends that this tract be removed from the zoning request.

Evaluation			Criteria for Approval (Sec.2.5.1.4)
Consistent	Inconsistent	Neutral	
		<b>X</b>	<b>Whether the proposed zoning map amendment implements the policies of the adopted Comprehensive Plan and preferred scenario map</b> <i>The subject property is located within an "Area of Stability-Low Intensity" designation and an "Area of Stability- Open Space" designation on the Preferred Scenario Map. Per the Comprehensive Plan, "Character Districts" such as Character District-5 zoning are "Considered" within Low Intensity designations and are "Not Preferred" in Open Space designations on the Preferred Scenario Map. When a zoning map amendment is Not Preferred, further scrutiny is required to determine consistency with the Comprehensive Plan based</i>

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			<p>on the criteria in Section 2.5.1.4 and the district intent under Division 4, Chapter 4, Article 1.</p> <p><i>Vision San Marcos Comprehensive Plan states that "Areas of Stability-Low Intensity" will generally maintain their existing character. The Comprehensive Plan states that "being located in an area of stability does not mean that these areas should or will not change. It means that any changes whether new developments, zoning requests, or public improvements should be carefully planned and implemented so that the character of the area remains." The current character of the area is agricultural and rural and does not complement the proposed Character District-5 zoning. It should be noted that these surrounding properties are located outside the city limits and the city does not have zoning authority to regulate the use of these properties.</i></p> <p><i>The Comprehensive Plan Preferred Scenario Map establishes Open Space designations as areas "not developed and which are generally suitable for very limited residential or agricultural uses". The Comprehensive Plan envisions such uses as community gardens, recreation related commercial, camping, single family residential, bed &amp; breakfasts, and home office as potential uses in this area. This does not align with the CD-5 district purpose which is to provide for a variety of residential, retail, service, and commercial uses.</i></p> <p><i>Although a portion of the proposed zoning is in a "Not Preferred" designation on the Preferred Scenario Map and the proposed zoning does not match the existing character of the area as called for in Low Intensity designations, the Preferred Scenario Map also identifies FM 110 as an Employment Corridor. As per the Comprehensive Plan, Employment Corridors are primarily intended to "serve major employment related land uses" and should include "some mixture in uses including limited residential". This aligns with the Character District-5 zoning district's intent and purpose which is to provide for a variety of residential, retail, service, and commercial uses.</i></p>
		<b><u>N/A</u></b>	<p><b>Whether the proposed zoning map amendment is consistent with any adopted small area plan or neighborhood character study for the area</b></p> <p><i>Studies were not complete at time of request.</i></p>
		<b><u>X</u></b>	<p><b>Whether the proposed zoning map amendment is consistent with any applicable development agreement in effect</b></p> <p><i>A development agreement is not in effect.</i></p>

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		<u><b>X</b></u>	<p><b>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</b></p> <p><i>Character District-5 zoning primarily allows for attached and multifamily residential uses, a variety of commercial uses, with some allowances for light industrial uses (see attached land use matrix comparison exhibit). This zoning district is intended to “provide for a variety of residential, retail, service, and commercial uses” and to “promote walkability and compatibility through restricted auto-oriented uses, mixed use, and pedestrian-oriented activity”.</i></p> <p><i>The immediately surrounding area is not comprised of mixed residential and commercial uses but is almost exclusively rural/agricultural properties. However, while the area is currently agriculture/rural and there are no adjacent residential or commercial uses, the future FM 110 development adjacent to the property is likely to attract a diverse array of uses. In addition, mixed-use development would be appropriate at the nodes and along corridors. The location of these nodes and corridors is not known at the time of zoning.</i></p>
		<u><b>X</b></u>	<p><b>Whether the proposed zoning will reinforce the existing or planned character of the area</b></p> <p><i>Approval of this zoning change will not reinforce the existing character of the area which is primarily rural/agricultural and open space. However, the planned FM 110 will alter the existing character of the surrounding area as it will be a major eastern transportation loop.</i></p>
		<u><b>X</b></u>	<p><b>Whether the site is appropriate for the development allowed in the proposed district</b></p> <p><i>The property is vacant, will have easy access to the future FM 110, and will be required to construct roadways and utility infrastructure consistent with the Character District-5 zoning district. A portion of the subject property is shown to be on a moderate to highly constrained area on the Land Use Suitability Map primarily due to it being located within the regulatory floodway.</i></p>
<u><b>X</b></u>			<p><b>Whether there are substantial reasons why the property cannot be used according to the existing zoning</b></p> <p><i>The property is currently zoned Future Development (FD). The FD zoning district is intended to serve as a <u>temporary</u> zoning district for recently annexed properties that shall be developed in the future but are not yet ready to be zoned for a particular use.</i></p>
<u><b>X</b></u>			<p><b>Whether there is a need for the proposed use at the proposed location</b></p>



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			<i>The proposed rezoning would allow primarily commercial uses with allowances for attached and multifamily uses. The subject property's location along FM 110 would allow for such uses to be developed in accordance with city standards with access to a major transportation thoroughfare.</i>
<u>X</u>			<p><b>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</b></p> <p><i>The property is not located within the City's water service area and will be served by Crystal Clear Special Utility District. The property is not located within the City's wastewater service area and will be required to extend City wastewater lines to the property. This development is outside the City's existing fire station network's coverage area and a fire station location would ensure optimal coverage and response times.</i></p>
<u>X</u>			<p><b>Whether the proposed rezoning will have a significant adverse impact on property in the vicinity of the subject property</b></p> <p><i>The surrounding property is primarily vacant agricultural/rural. While this existing land type does not complement the proposed Character District-5 zoning there are no anticipated adverse impacts.</i></p>
		<u>N/A</u>	<p><b>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</b></p> <p><i>This request is not for a Neighborhood Density District.</i></p>
	<u>X</u>		<p><b>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</b></p> <p><i>A portion of the subject property is located within moderate to highly constrained area according to the Land Use Suitability Map and is located within the regulatory floodway. High density/high intensity uses are not ideal in this location.</i></p>
<u>X</u>			<p><b>Any other factors which shall substantially affect the public health, safety, morals, or general welfare</b></p> <p><i>None noted.</i></p>