



Public Hearing

San Marcos Development Code Amendments, 2023

Receive a staff presentation and hold a public hearing to receive comments for or against Ordinance 2023-XX, amending the San Marcos Development Code to, among other things, address changes made in the 2023 Legislative Session, improve development processes related to development agreements, certificates of appropriateness, demolition by neglect, and parks and open space dedication, add clarity, correct discrepancies within the Code, and incorporate City Council direction for Code amendments including improved Historic District & Landmark Designation Criteria, increasing the Occupancy Restriction limit from two to three unrelated persons, creating a new business park zoning district, and making Waste Related Services a conditional use in all instances, including procedural provisions, and providing an effective date, and consider approval of Ordinance 2023-XX on the first of two readings.

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Amendment Highlights

- Compliance with State Laws
 - Process Improvements
 - Add Clarity
 - Corrections
 - City Council Direction
-
- **Updates since the public hearing at Planning and Zoning Commission are highlighted with blue text**
 - **New text, not included in the City Council packet is highlighted with green text**

Compliance with State Laws

#1.1



- Chapter 3, Article 2, Plat Applications
 - Delegate plat approval to the Responsible Official to ensure compliance with the “Shot Clock Bill.”
 - Require plats be posted online within 45 days of approval

A. Responsible Official Action.

1. The Responsible Official shall review the application for a concept plat in accordance with the criteria in Section 3.2.1.4 ~~and provide a report and recommendation to the Planning and Zoning Commission.~~

B. ~~Planning and Zoning Commission Action.~~

1. The ~~Planning and Zoning Commission~~ Responsible Official shall decide whether to approve, approve with conditions, or statutorily deny the subdivision concept plat application.
2. The conditions may relate to, among other matters, compliance with the Comprehensive Plan, and the availability and capacity of public improvements.
3. The ~~Planning and Zoning Commission~~ Responsible Official may condition approval on exclusion of land from the subdivision concept plat or adjustments in the proposed sequence or timing in the proposed phases of the development.
4. The responsible official shall, within 45 days of the date of Concept Plat approval, cause the approved plat to be posted to the City’s website.

Compliance with State Laws

#1.1



- Chapter 3, Article 2, Plat Applications
 - Provide an option to appeal to Planning & Zoning Commission.

Section 3.2.3.7 Appeals

The applicant may appeal the decision of the Responsible Official to deny a plat application to the Planning & Zoning Commission in accordance with Section 2.8.1.1. The Planning & Zoning Commission shall apply the criteria Section 3.2.3.4 in deciding whether the Responsible Official's action should be upheld, modified or reversed.

- **Note: Chapter 3, Article 3 was not modified. Replats and Plat Vacations will still be presented to Planning & Zoning Commission following the required public hearing.**

Compliance with State Laws

#1.2



- Section 2.2.4.3 Appeal Authority – City Council
 - Added an overarching appeal statement for any applications which do not have an appeal process spelled out in the Code.
 - Also allow City Council to act as the final decision maker, upon appeal, on any application.

Section 2.2.4.3 Appeal Authority

- A. Where a development application does not include a provision for appeal, or where City Council is not the final appeal body, an applicant may appeal to City Council in accordance with Section 2.8.1.1.

- **Change Approved by P&Z**

- Remove “in accordance with Section 2.8.1.1.”
- Add “Any final appeal to City Council made under this Section 2.2.4.3 must be filed no later than the 15th day after the day the decision being appealed is made. City Council will make a decision on such an appeal on or before the 60th day after the day on which the appeal is filed. No hearing shall be required for this appeal.”

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Compliance with State Laws



#1.3

- Table 9.1 Land Use Matrix – Legacy Districts
 - Removed Private School and allow Public or Private School in any zoning district

School, K through 12 (Private)	G	G	G	G	G	G	G	G	G	G	G	G	G	P	P	P	P
School, K through 12 (Public <u>or Private</u>)	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P

- Section 2.8.1.3 Approval Process – Appeals
 - Update appeal process to better align with state laws

#1.4

C. Appellate Body Action

1. The ~~initial~~ public hearing on the appeal shall be held at the next regularly scheduled meeting of the appellate body for which notice can be provided and not later than the 60th calendar day after the date the appeal is filed. within twenty-five (25) working days after the filing of the appeal with the Responsible Official, unless a different time is
2. **Decision on Appeal.** ~~The appellate body shall decide the appeal within thirty (30) working days of the close of the public hearing.~~ The appellate body shall affirm, reverse or modify the decision from which the appeal was taken.

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Process Improvements

#2.1



- Section 2.4.3.5 Approval Process – Development Agreements
 - Require an informational meeting at Planning & Zoning Commission.
 - Include requirement for personal notice of the required City Council public hearing
 - **Note:** notices will be sent to property owners in accordance with Section 2.3.2.1 General Notice Requirements
 - General Process & Timing Improvements

TABLE 2.1 DEVELOPMENT APPLICATIONS, DECISION AUTHORITY, AND NOTICE REQUIREMENTS TABLE												
APPROVAL PROCESS			REVIEW AND APPROVAL AUTHORITY						NOTICE			
	CITATION	RESPONSIBLE OFFICIAL	STAFF	HISTORIC PRESERVATION COMMISSION	NEIGHBORHOOD PRESENTATION	ZONING BOARD IF ADJUSTMENTS	PLANNING COMMISSION	CITY COUNCIL	APPLICATION NOTICE	PUBLISHED NOTICE	PERSONAL NOTICE	POSTED NOTICE
Development Agreement	Section 2.4.3.1	P	R				PM	D/PH/PM		Y	N Y	N

Process Improvements



#2.2

- Section 2.5.5.3 Approval Process –
Certificates of Appropriateness
 - Change decision date from 45 to 60 days.
 - Add language to clearly allow HPC the ability to postpone items in order to request additional information.

The Historic Preservation Commission shall render its decision on the request within ~~forty-five (45) sixty (60)~~ days of the date the application is deemed complete and adequate for review, unless a later date is approved by the Historic Preservation Commission or requested by the Applicant in writing, subject to the supplemental options available under Section 2.5.5.5.

#2.3

- Section 4.5.2.1.N Demolition by Neglect
 - Change reporting requirement from 30 days to 45 days to better align with the regular meeting schedule of the Historic Preservation Commission.

and complete the work. The Responsible Official shall update the Historic Preservation Commission on the status of the property not less than every ~~fourty-five (45) thirty (30)~~ days once work begins on the property.

Process Improvements

#2.4



- Chapter 3, Article 10, Parks and Open Space
 - First review by Director of Parks & Recreation
 - Determination of Ownership
 - Include exception for small projects – 4 units or less**
 - **See Parks and Recreation Board Summary on Slide 12

Parkland and Open Space Dedication. Land proposed for dedication as public parkland or open space shall first be reviewed by the Responsible Official. Provisions for ownership and maintenance of new parks shall be determined by the Responsible Official, and may be accepted by the parks board based on the findings in Sec. Section 3.10.1.1A and the criteria identified in Section 3.10.1.2D.

1. Exemptions. New development, consisting of four units or less, shall be exempt from Parkland Dedication and Development fees.

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Process Improvements

#2.4



D. **Criteria for Acceptance of Parkland and Open Space.** Where all criteria for acceptance are met, Parkland and Open Space Dedication shall be approved at the time of plat approval.
~~The Parks Board should consider the following criteria when accepting land for parks or open space.~~

1. ~~A minimum of fifty percent (50%) of the proposed land is determined by the parks board as acceptable for use as an area of active recreation. Active recreation sites do land for dedication does~~ not typically include the following:

- a. Drainage ditches;
- b. Detention ponds;
- c. Power lines easements;
- d. Slopes greater than fifteen percent (15%); or
- e. Floodway; ~~and~~
- f. ~~All other areas that are determined by the Parks Board as insufficient for active recreation based on the nature or size of the land proposed for dedication.~~

- Chapter 3, Article 10, Parks and Open Space

- Proposed Administrative Approval

- Approved with Plat if criteria are met
 - Reduces potential conflicts with “Shot Clock Bill”

2. The dedicated parkland conforms with the intent, specifications, typical features, and parking, and access requirements of one of the identified park types in Section 3.10.2.1.

3. Appropriate plat notes describing the ownership and maintenance of all proposed parks are provided on the plat. ~~A minimum of 50% of the parkland required-~~

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Process Improvements

#2.4



- Chapter 3, Article 10, Parks and Open Space
 - Remove requirement for City maintenance of all / most parkland
 - Appeals Process:
 - Administrative Decision -> Parks & Recreation Board -> City Council

~~the plat. A minimum of 50% of the parkland required under this ordinance shall be dedicated to the City of San Marcos as a neighborhood or regional park under Section 3.10.2.1. The remaining 50% may be owned and managed by one of the entities under Section 3.10.1.6.~~

Parkland and Open Space Dedication Appeal Process. An applicant may appeal the decision for acceptance of parkland made by the Responsible Official to the Parks and Recreation Board.

1. The Board may consider the above criteria for acceptance as well as whether the proposed dedication is consistent with the goals of the City's adopted parks plan (as amended).
2. Any appeal of a decision of the Parks and Recreation Board shall be presented to the City Council for acceptance, acceptance with conditions, or denial.

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Process Improvements

#2.4



- Chapter 3, Article 10, Parks and Open Space: Resolution 2023-01RR recommended by Parks & Recreation Board in May, 2023
 - Require signage for publicly accessible, privately maintained parks
 - Update Fee-In-Lieu Calculation
 - **Change Approved by P&Z:** Fee-In-Lieu under \$100,000 approved by Responsible Official
 - **Note: this Article does not affect a developer's ability to provide private parks & amenities**

Notification of public access to privately owned and maintained parkland shall be provided by the installation of city approved signage located near the public access and visible from the public street.

The cash fee in lieu of parkland dedication shall be based on the fair market value determined by an appraisal of one acre of land within the tract being developed, multiplied by the number of acres required for dedication the following formula:

~~PARKLAND COST FACTOR X NUMBER OF PARKLAND ACRES~~

Process Improvements

#2.4



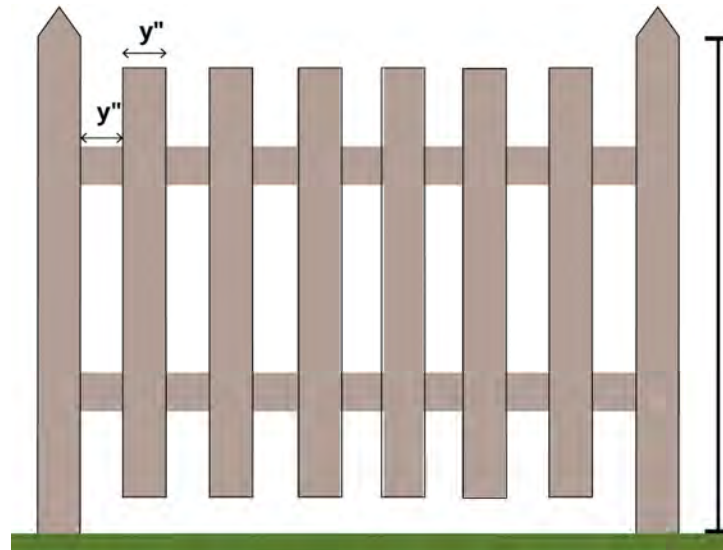
- Chapter 3, Article 10, Parks and Open Space
- At their regular meeting on August 24, 2023 the Parks and Recreation Board received a presentation on the Parks and Open Space Amendments.
 - The Board indicated general consensus in support of the proposed amendments.
 - The Board indicated they would like to see the exemption changed from 4 units to 8 units.
- ***Staff supports the Parks and Recreation Board's proposal to increase the exemption from 4 units to 8 units.***

Clarification

#3.1



- Section 7.2.6.2 General Requirements – Walls and Fences
 - Insert graphic to clarify what “50% open” means for front yard fences
 - **Note:** Fence may be vertical or horizontal, graphic is for illustrative purposes only



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Clarification

- Section 7.5.2.4 Universal Luminary Standards
 - Address newly annexed areas
 - Remove restriction on what uses can ask for Alternative Compliance

Environmental Performance Zone Upon Annexation. Upon annexation, land shall be designated as an E-3 Environmental Performance Zone. An owner may appeal this designation to the Responsible Official and may request E-1 or E-2 where the above descriptions apply to the subject property.



#3.2



SPECIFIC USE

ATM

Bank or Service
Window Drive-Thru

Gas Station
Canopies and
Approaches

Auto Dealerships

Outdoor Display
Areas

Athletic Facilities

The adjustment is based on a specific use identified in Section 7.5.2.4.

Clarification

#3.3



- Definitions
 - Added definition for Loft Apartment which was not carried over from pre-2018 Codes

Loft Apartment/Residential Loft: A residential living space that is located on the second floor (or above) of a structure that has a nonresidential use, such as an office or retail shop, operating on the first floor. This definition includes a similarly located space (but may include the first floor) within a structure that has been converted into a residential living area from some other originally intended use.

Clarification

#3.4



- Section 7.1.2.1 Minimum Parking Requirements
 - Include language to clarify which parking table applies in which zoning district.
- B. ~~The~~ Table 7.1 below includes minimum parking requirements for any proposed uses except those in the N-CM, CD-4, CD-5, or CD-5D zoning districts.

Section 7.1.2.2 ~~Mixed Use Parking Requirements~~

- A. ~~C. Minimum Parking Requirements.~~ The table 7.2 below includes the minimum parking requirements for uses within the N-CM, CD-4, CD-5 and CD-5D zoning districts.

TABLE 7.2 ~~MINIMUM MIXED USE~~ PARKING REQUIREMENTS FOR SPECIFIC ZONING DISTRICTS

USE	N-CM/CD-4	CD-5	CD-5D	BICYCLE PARKING*
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Clarification

#3.5



- Section 2.8.3.7 – Conditional Use Permit Renewal
 - Provided clarity regarding Restaurants vs. All CUP for administrative approval
 - **Note:** 'good standing' would include compliance with conditions of approval
 - **As currently worded an interpretation could limit this approval to restaurants downtown. This change allows administrative approval to apply to, for example, Hotels and Restaurants outside of the Central Business Area (CBA).**

- A. Administrative Approval.** The Responsible Official may administratively approve a renewal or modification of an existing conditional use permit under the conditions below. Otherwise the application shall be considered by the Planning and Zoning Commission in accordance with this section.
1. Where a new State TABC license or permit is required for a currently licensed or permitted establishment due to a change in the name of the permit holder, the name of the business, or the ownership of the business.
 2. Where remodeling occurs which does not involve the expansion of the existing business.
 3. For renewal of a restaurant conditional use permit where the applicant demonstrates that they are in good standing with all requirements under this Development Code and any other statute and has not been assessed any violation values under this section.

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Clarification

#3.6



- Section 3.6.2.1 – Block Perimeter – Block Standards
 - Add clarification to block perimeter requirement at the edge of a subdivision where adjacent to vacant land.
 - Add allowance for greenway and easements where lots are intended to be “double fronting” or backing onto a major thoroughfare
 - **Use of “provided” twice identified as a typo. The second instance of “provided can be replaced with “constructed”**

1. Residential blocks must ~~have sufficient width to provide for two (2) tiers of residential lots, except:~~
 - a. Where across from a public park or open space;
 - b. To allow for unusual topographical conditions; ~~or~~
 - c. When adjacent to the outer perimeter of a subdivision, as illustrated in Section 3.6.4.1, where the second tier of lots can be accommodated on the adjacent property; or
 - d. When adjacent to an existing or proposed thoroughfare to which lot access is prohibited, provided a Multi Use Greenway shall be provided adjacent to the thoroughfare including a 12 ft. wide multi use path within a minimum 32 ft. public access easement.

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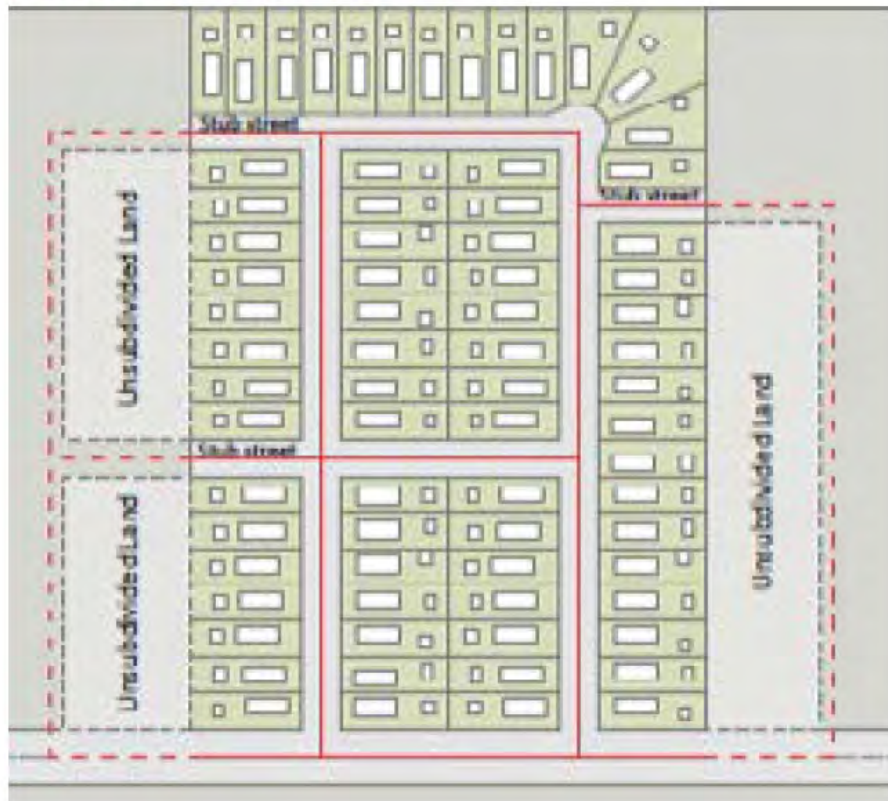
Clarification

#3.6



- Section 3.6.2.1 – Block Perimeter – Block Standards

FIGURE 3.10 SUBDIVISION ACCESS



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Clarification

#3.6



- Section 3.6.2.1 – Block Perimeter – Block Standards
- **Code Requires**



Clarification

#3.6



- Section 3.6.2.1 – Block Perimeter – Block Standards
- **Developers Propose**



Clarification

#3.6



- Section 3.6.2.1 – Block Perimeter – Block Standards
- **Clarification allows**



Clarification

#3.6



- Section 3.6.2.1 – Block Perimeter – Block Standards
 - Include “MH” on Table 3.1 Block Perimeter
 - Allow ETJ properties to use Internal Drives, similar to Special Districts

TABLE 3.1 BLOCK PERIMETERS

ZONING DISTRICT	BLOCK PERIMETER (MAX)	DEAD-END STREET (MAX)
FD, CD-1, CD-2	N/A	500 Ft.
SF-6, ND-3, SF-R, SF-4.5	3,000 Ft.	300 Ft.
ND-3.2, ND-3.5, ND-4, CD-2.5, CD-3	2,800 Ft.	250 Ft.
CD-4	2,400 Ft.	200 Ft.
CD-5, CD-5D	2000 Ft.	NOT ALLOWED
CM, <u>BP</u> , HC, HI, LI, <u>MH</u> , ETJ	5,000 Ft.	400 Ft.
LEGACY DISTRICTS	3,000 Ft.	300 Ft.

3. An Internal Drive in accordance with Section 3.7.2.6 may be used to satisfy the maximum block perimeter in the following circumstances:
 - a. Re-development in a CD-5 or CD-5D district where the existing transportation network does not meet the block requirements of this section.
 - b. In an CM, BP, HC, HI, or LI District.
 - c. In the City's Extraterritorial Jurisdiction (ETJ)

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Clarification



- Section 3.6.3.1 Lot Standards

#3.7

- Allow open space or drainage lots to be irregularly shaped

- a. Triangular, tapered, or flag lots shall be not be permitted except for use as dedicated parkland, open space, or drainage lots.

- Section 3.4.2.3 Security for Completion of Improvements

#3.8

- Allow other forms of security besides those already listed

Section 3.4.2.3 Security For Completion of Improvements

Whenever the obligation to install public improvements to serve a subdivision or development is deferred until after recordation of the final subdivision plat or final development plat, the property owner shall provide sufficient security to ensure completion of the required public improvements. The security shall be in the form of one of the following:

- F. Other forms of security may be considered by the City.

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Clarification

#3.9



- Table 3.2 Driveway Dimensions
 - Add Minimum Radius

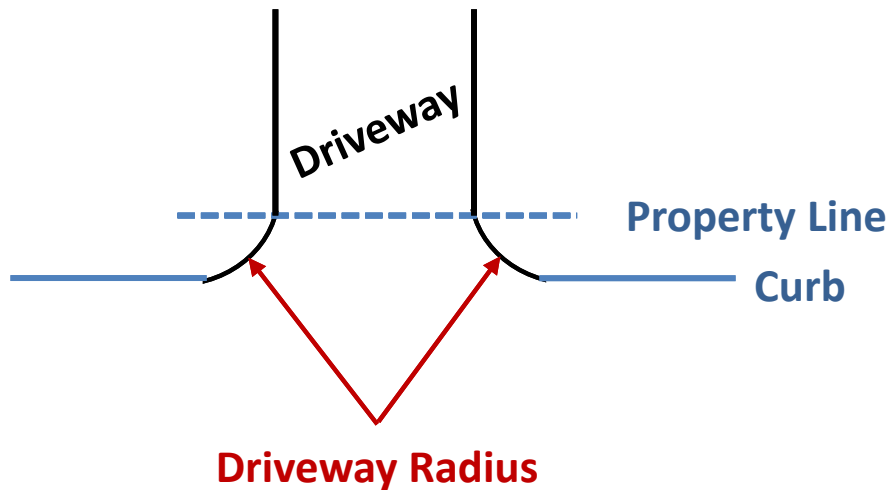


TABLE 3.2 DRIVEWAY DIMENSIONS

	WIDTH		RADIUS	
	MIN	MAX	MIN	MAX
Residential up to 6 off-street parking spaces	10'	18'	<u>5'</u>	5'
Residential 7 + off -street parking spaces (one-way)	12'	16'	<u>5'</u>	10'
Residential 7 + off -street parking spaces (two-way)	20'	24'	<u>5'</u>	10'
Mixed Use/ Commercial (one-way)	12'	18'	<u>5'</u>	10'
Mixed Use/ Commercial (two-way)	20'	32'	<u>10'</u>	15'
Industrial/ Service	30'	40'	<u>10'</u>	30'