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Concerns surround possible Falling Waters development

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HIGHLAND LAKES NEWSPAPERS

To San Antonio attorney Kirk Patterson, the proposed Falling Waters residential and commercial development represents an eventual luxury waterfront destination that would pump money into Marble Falls' economy.

But to software company owner Robert Ruff, who lives across Lake Marble Falls from the site of the proposed development, the plan is an irresponsible waste of natural resources.

Touted by its developers

and lambasted by its neighboring landowners, the Falling Waters plan involves converting nearly 357 acres of land primarily zoned as agricultural into a combination residential and commercial development.

At full build-out, it could include up to 200 single-family homes, 1,200 multifamily units, shopping centers, private community boat access and a hotel. The land stretches from the north bank of Lake Marble Falls to FM 1431 on the east side of the city.

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This picture depicts part of a 1,000-foot stretch of land at the top of a cliff located in the parcel of land that encompasses the proposed Falling Waters development.



COURTESY PHOTOS

These cliffs are distinct features of Marble Falls, according to Friends of Lake Marble Falls, a grassroots group that disapproves of the proposed Falling Waters development.

FALLING WATERS: A TIMELINE

- 2005:** The City of Marble Falls annexes a 256-acre plot of land owned by San Antonio attorney Kirk Patterson bordered on the west by East Avenue, on the north by FM 1431, and on the south by Lake Marble Falls.
- 2008:** The remaining 101 acres at the east edge of Patterson's property is annexed by the city. Patterson submits a conventional zoning application that splits the land into a commercial development at the north side, residential in the center, and mixed use on the shore line. P&Z recommends denial. The applicant voluntarily removes the residential and waterfront acreage from the application, instead asking to rezone commercial an 84-acre area along FM 1431. The conventional zoning application is approved by the Marble Falls City Council.
- 2010:** An application for a planned development district is submitted. This application calls for dividing the acreage — even that which is currently zoned agricultural — into nine development zones with a base zoning of mixed use. The plan calls for three residential areas at the property's east and west borders, a region near FM 1431 that would house big box stores and a village center, and an area about 1,000 feet from the shoreline that could eventually house a hotel. The plan also calls for preserving open space along the lake and curling north into the center of the property. After P&Z asks for clarification, clauses that protect a landmark landform, restrict access to the property from Sixth Street, delineate dock access and create a walking trail are added. P&Z recommends approval of the application.
- Present:** The application is scheduled for discussion by the Marble Falls City Council on Tuesday, Nov. 2.

Concerns: Falling Waters

From Page 1A

The proposed development has already encountered numerous obstacles and undergone scores of revisions, and will face its next test on Tuesday, Nov. 2, when it goes before the Marble Falls City Council.

Patterson, majority owner of the land, says the development could eventually generate a huge quantity of sales tax and property tax revenue that would be a boon to the city and its taxpayers. Opponents, which include owners of land adjacent and across from the planned development, have voiced concerns ranging from increased boat density on the lake to destruction of Marble Falls' cliffs.

The Marble Falls Planning and Zoning Commission has already approved Patterson's application, which involves converting the land from agricultural to being a Planned

Development District (PDD) with a base zoning of mixed use - a move meant to give the city and landowner greater oversight and input into the end product.

Before any building on the land could occur, the P&Z and city council would each have to approve specific site plan applications by the developer, which Marble Falls Director of Development Caleb Kraenzel said could be a lengthy process.

"Developers hate PDDs because they have to come back and get P&Z and city council approval all over again on each specific site plan," said Kraenzel. "They really are a burden for them to have to go through."

From wilderness

Patterson has owned the nearly 357-acre plot of land for more than three decades.

Though located in a small town, Patterson said he was

attracted to the rocky land's potential for development. In 2005, 256 acres were annexed into the Marble Falls city limits, and Patterson began working to get the land rezoned so it could be sold and developed. In 2008, the remaining 101 acres were annexed.

Eventually, at the city's recommendation, Patterson hired Mesa Design Group in Dallas to help him prepare a proposal that would be compatible with the city's comprehensive plan.

The city approved rezoning a portion of the land in 2008, when 84 acres was designated commercial. The remainder is still classified as agricultural.

Patterson believes Falling Waters, which would largely be aimed at tourists and investors, has the city's best interests at heart. The owner had Mesa perform a study that found that Falling Waters, when fully developed as a destination venue, would return to the city about \$3.3 million in annual ad valorem revenue and annual sales taxes exceeding \$5 million.

"According to our study, (Falling Waters) would generate more sales tax revenue and more property tax than the infrastructure would cost the city," Patterson said. "It's a net gain, and a lot of the sales tax revenue would be coming from people living outside the area, not from local residents."

Patterson said the land would likely be sold in portions to various developers, which is why he felt it was necessary to have it zoned as PDD with restrictions on different portions of the land. The plan calls for commercial development near FM1431 and in the center of the property, and residential development on the land's east and west borders. Two sections of docks for use by hotel guests and community residences are located at the east and west sides of the property, and access to the docks from the top of the cliffs would be included to meet requirements specified by the Americans with Disabilities Act of 1990.

"It's in our best interest to carefully enforce these restrictions on our future buyers," Patterson said. "That's why we went above code on everything - to benefit the city as well as ourselves. We've held this land for 31 years. We're going to be riding herd on this for a number of years."

While some have voiced concerns that buyers will purchase land and ignore the requirements specified by the PDD, Patterson doesn't think it will be a problem.

Essentially, a builder who puts apartments in an area zoned strictly for single-family dwellings wouldn't get away with it, he said.

"If they do something that's a violation of code, they'll have to tear the building down," he said.

If the city approves the rezoning on Nov. 2, Patterson said his next step would be contacting major brokers and

attempting to sell the land.

"If someone wants to buy the entire thing, that's fine, but I think that's unlikely," Patterson said. "Nobody wants to build commercial buildings, residences and hotels."

Patterson couldn't pinpoint how interested investors will be.

"Market conditions will determine (when we can sell)," Patterson said. "I can't predict when because I don't know when we'll come out of the recession."

Voices of dissent

On an unseasonably warm October afternoon with the wind blowing through his hair and sun shining on his face, Ruff's love for Lake Marble Falls was apparent as he sped through the water on his pontoon boat.

His expression shifted from cheerful to dour as he killed the boat's motor and gestured at the cliffs. While the PDD protects from development a 1,000-foot wide stretch at the top of one of the cliffs, it says nothing about the majority of the shoreline.

"You've got these beautiful cliffs that have been here for more than 250 million years... they're older than the Grand Canyon," Ruff said. "The city says they are a feature that should be preserved, but if you're putting in boat docks, they could be completely leveled. These cliffs need to be declared as a landmark, or they could be gone."

Like Ruff, a number of residents and Marble Falls landowners are vehemently against the PDD. More than 100 belong to a grassroots group called Friends of Lake Marble Falls.

Ruff, whose property is located on the south bank of Lake Marble Falls, says Patterson and the Mesa Group have betrayed the city's comprehensive plan.

"It's going to be 20 times more (population) dense there than it is in the rest of the city," Ruff said. "The plan now has Sixth Street going all the way through to FM 1431. It was supposed to be pedestrian access. There are 60 docks in the new plan, and the original plan said 56. Sixty docks would take up 40 percent of the entire waterfront."

Ruff and other dissenters also cite preservation of the cliffs as a major sticking point with them. They don't think sufficient language to preserve the cliffs and natural beauty has been outlined in the plan, and are worried that placement of boat docks and ADA compliant access points could end up obliterating the shoreline's natural beauty.

Harris Kaffee, who owns 375 acres adjacent to the property's east fence line, says he thinks everyone involved is in too big of a hurry to get things approved.

"There just seems to be an unjustified rush to me to get this thing permitted and titled, and I just don't see the

need for that urgency in today's economy," Kaffee said. "I think that the city is trying to grow, but our natural resources could be exploited to accommodate that. It's the city's role to make sure that (growth) is done with the best long term plans and use of resources."

Specifically, Kaffee is worried about the density that would be created by the additional boats on the lake and protecting the cliffs.

"I think density is a real issue, not only for the resources of the city but for our natural environment. I'm also concerned about the natural exploitation and destruction of our landforms and cliffs," he said. "In my mind, they are truly world class - they are 3 or 4 million years old. If you tear them up, you don't get a second chance."

Jack Irick, who lives on Old Escondido on the south side of Lake Marble Falls, is concerned that an added population of boats belonging to residents of the development would negatively affect the water level.

"I've read that you need about 10 acres (of water) per boat," Irick said. "Right now, we're at about 10 acres per boat. If we add 60 boats or 44 boats, we're going to be down to about four acres per boat. I'd like to request that the city council send a letter to LCRA to study the boat density on Lake Marble Falls."

Ruff has tried before to buy the property from Patterson, he said, but noted the asking price was too high.

"Last time I tried, he wanted about \$25,000 an acre," Ruff said, noting that this was several years ago. "For someone to come in and buy the property, it would have to be an entity like the Nature Conservancy. And really, I'm not against development of the land. I'd just like to see it done responsibly."

Marble Falls resident Kim Vidor, who lives at 503 East Ave., said she was concerned about the possibility of a bridge that would provide limited access to the development from Sixth Street. The bridge, she says, would encroach on a single-family residence located at 509 East Ave. and owned by Joe Bontke.

"I think we should buy Joe Bontke a troll outfit, because he'll be the troll under the bridge," Vidor said.

Working to compromise

Kraenzel said Patterson and Mesa Design Group have made compromises and concessions since September in an effort to finalize a plan that will pass muster.

According to Kraenzel, developers have agreed to compromises that include:

- Delineating community dock access, which was formerly unspecified. Now, access is divided into two access points measuring 600 feet wide and 1,200 feet wide, with a long stretch of uninterrupted shoreline in between.

- Adding a landmark land-

form polygon that makes off limits to developers a 1,000-foot stretch of land on top of one of the cliffs at the western edge of the shore.

- Adding a walking trail from the commercial area of the development to a waterfront viewing area.

- Limiting motor vehicle use from Sixth Street. A gate to the development would be installed, ensuring that Sixth Street doesn't become a major thoroughfare to FM 1431.

Kraenzel said plans for the development include a commercial shopping center located off FM 1431 and about 2,500 feet – or half a mile – from the shoreline. The closest non-residential development to the lake, excluding the dock, would be a hotel about 1,000 feet from the shore.

Additionally, provisions are in place to prohibit prolific penetration of the cliffs. Developers are prohibited from grading any elevations with an incline of greater than 20 percent.

"Most of the cliffs are about 90 percent," Kraenzel said.

Kraenzel dismissed the notion that the land would become overdeveloped.

"They have to choose," he said. "The land can't be both heavily residential and commercial. There are limits because of impervious structure requirements – you have to have enough parking to accommodate these buildings."

Lake Marble Falls is the shortest (5.75 miles) and narrowest (1,080 feet across) of the Highland Lakes, and the private community docks, or marinas, would be the first in the lake. However, Kraenzel doesn't think it likely that problems such as excessive runoff or overpopulation of boats will occur, citing the city's strict adherence to LCRA regulations.

"I hadn't heard (Irick's) 10-acre guideline," Kraenzel said. "The city has three other boat ramps to which any boat has access and numerous boat docks, and you still really only see three or four boats out on the water at one time."

Kraenzel also said dissenters were mistaken about the limited access roadway connecting the development to Sixth Street, saying it wasn't as close to 509 East Ave. as they thought.

"The Bontke thing has been a real exaggeration," he said. "It's about 40 feet from the house. The fact is, at the end of the street is a 350-acre lot. The fact is, they're up against a street, and they have a right to a driveway. They merely want the option. And, all of this takes into consideration that they would have to spend \$500,000 to \$1.5 million to build the bridge."

The plan still leaves a few questions unanswered. For instance, it doesn't specify the exact mode of ADA-compliant access from the top of the cliffs to the shoreline, where the docks would be located. It's also unclear if the landmark landform includes the entire cliff, from top to bottom, although Kraenzel believes it does.

"Dock access is not specified," he said. "I would think penetration of the cliffs would have to be limited, though. I could see this coming up (in future discussions)."

Kraenzel said he thought Patterson and Mesa had gone "above and beyond" what was required to preserve the natural beauty of the area.

"The cliffs are as much of an asset to them as they are to anybody else," Kraenzel said.

FALLING WATERS: BY THE NUMBERS

Total acreage	356 acres
Commercial development.....	Potentially 2 million square feet
Low-density residential areas	two
Distance from commercial area to waterfront	2,500 feet
Distance from hotel area to waterfront.....	about 1,000 feet
Number of dock areas.....	two
Number of dock access points	unknown
Size of docks	600 feet wide and 1,200 feet wide
Landmark landforms	One stretch of land measuring about 1,000 feet wide