

CM to LI	2500BLK N IH 35 Whisper South Light Industrial
ZC-22-09	



Summary

Request:	Zoning change from CM (Commercial) to LI (Light Industrial)- RECONSIDERATION		
Applicant:	RW McDonald, IV Harris Hill Residential Land Holdings, Ltd 100 NE Loop 410, Suite 775, San Antonio, Texas, 78216	Property Owner:	RW McDonald, IV Harris Hill Residential Land Holdings, Ltd 100 NE Loop 410, Suite 775, San Antonio, Texas, 78216

Notification

Application:	01/25/2022	Neighborhood Meeting:	N/A
Published:	02/20/2022	# of Participants	N/A
Posted:	02/18/2022	Personal:	02/18/2022
Response:	None as of the date of this report		

Property Description

Legal Description:	Approximately 52.4 acres, more or less, out of the J. Veramendi Survey, Abstract 17, Hays County, Texas		
Location:	Between Harris Hill Road and the I-35 North Frontage Road, approximately 600 ft south of Saddle Run Way.		
Acreage:	52.4 acres	PDD/DA/Other:	Public Improvement District Resolution 2021-87R
Existing Zoning:	Commercial	Proposed Zoning:	Light Industrial
Existing Use:	Vacant	Proposed Use:	Warehouse and Distribution
Existing Occupancy:	N/A	Occupancy:	N/A
Preferred Scenario:	Medium Intensity Zone	Proposed Designation:	Same
CONA Neighborhood:	N/A	Sector:	6
Utility Capacity:	Extension Required at Developer's Expense	Floodplain:	No
Historic Designation:	N/A	My Historic SMTX Resources Survey	No

Surrounding Area

	Zoning	Existing Land Use	Preferred Scenario
North of Property:	MH	Manufactured Home Rental Community	Low Intensity
South of Property:	Commercial	Vacant	Medium Intensity
East of Property:	Future Development	Vacant	Medium Intensity
West of Property:	Future Development	Vacant/ Interstate-35	Low Intensity

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Staff Recommendation

<input checked="" type="checkbox"/> Approval as Submitted	<input type="checkbox"/> Alternate Approval	<input type="checkbox"/> Denial
<p>The updated staff recommendation for approval takes into account the submitted restrictive covenants proposed by the applicant which were discussed with the Whisper South Council Subcommittee on May 4th, 2022 (see “History” section on following page).</p>		
Staff: Julia Cleary	Title : Planner, AICP	Date: 06/09/2022

Commission Recommendation

<input checked="" type="checkbox"/> Approval as Submitted	<input type="checkbox"/> Approval with Conditions / Alternate	<input type="checkbox"/> Denial
<p><i>Please note that when this was initially taken to the Planning and Zoning Commission on March 8th, 2022 without the deed restrictions it was unanimously recommended for denial due to the impact of potentially noxious uses on the adjacent Saddlebrook Manufacture Home Community. Please refer to the staff report in the packet from the April 5th Council meeting (agenda item 12) for further details of that discussion. The updated recommendation considers the submitted deed restrictions.</i></p>		
<p>Speakers in favor or opposed RW McDonald – applicant (in favor) Lisa Marie Coppoletta (opposed) Felix Reta – Saddlebrook Community Manger (available for questions)</p>		
<p>Recommendation from the Planning and Zoning Commission Meeting held June 14, 2022 A motion was made by Commissioner Spell, seconded by Commissioner Meeks to recommend approval of the request with the restrictive covenants included in the packet. The motion passed 7-1. For: Commissioners Agnew, Case; Garber; Kelsey; Meeks; Mendoza; and Spell Against: Sambrano Absent: Costilla</p>		
<p>Discussion Topics: <u>Details of Committee Meeting</u> Commissioner Sambrano requested that the item be tabled until a report of the Whisper South Committee meeting could be provided to the Commission. Staff responded that the Committee meeting had not been recorded and minutes were not taken, as is typical for development related Council Committees. <u>Notification Requirements and Neighborhood Outreach</u> There was discussion regarding whether the neighborhood outreach had been sufficient. Commissioner Mendoza requested clarification on who had been notified and expressed concerns that the residents themselves had not been notified. Mr. Reta (Saddlebrook Community Manger) confirmed that there had not been a specific meeting with the residents. Commissioner Agnew asked whether the residents of Saddlebrook had been notified, or just the landowner. Staff clarified that only the landowner had been formally notified, per the process outlined in the City’s Code. <u>P&Z Recommendation on Conditions</u> Chair Garber noted that P&Z does not approve conditions. Assistant City Attorney Mr. Aguirre noted that in this instance it appeared that City Council was requesting the Commission weigh in on the covenants and so they could be considered as part of the discussion.</p>		

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History

The site is part of the Whisper South development and Public Improvement District (Resolution 2021-87R); although it was not included within the Whisper South Development Agreement (Resolution 2021-142R). The site was zoned to CM Commercial (previously EC Employment Center) on October 10th, 2021 (Ord 2021-81/ZC-21-14).

The applicant is requesting a more intense zoning district that does not have the site design and layout requirements of CM, which include a restriction on parking in front of the building, and a “Build to zone” requirement that 50% of the building façade be along the primary street. It is understood that the applicant intends to develop the property for warehouse and distribution – this is currently a “conditional use” under CM and is permitted by right under Light Industrial.

Previous P&Z/ City Council Action

This project was previously unanimously recommended for denial by the Planning and Zoning Commission at their March 8th, 2022 meeting. Following this denial, the applicant requested that a revised boundary be proposed to Council, along with restrictive covenants that would minimize the potential impact of bad neighbor uses.

At their April 5th meeting, City Council postponed the item and requested that the application be redirected to the Whisper South Council Committee and sent back to the Planning and Zoning Commission for reconsideration before taking action on the item. The Whisper South Council Committee met on May 4th, 2022 and recommended the following restrictive covenants:

- Prohibition of the following uses:
 - Waste related services
 - Vehicle Services
 - Food and beverage processing
 - Breweries and Wineries
- An enhanced 30’ transitional protective yard along the northern property line adjacent Saddlebrook.

It should be noted that the requested boundary submitted for reconsideration has reverted back to the original boundary – it has not changed from the original application – the only difference is the proposed restrictive covenants which have been included in the packet. The updated staff recommendation for approval reflects these proposed deed restrictive covenants.

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Additional Analysis

Although the site is located on the I-35 frontage road, it is also immediately adjacent a residential area (manufactured home rental community) and so care should be taken to avoid by right uses (shown as “P” on the Land Use Matrix) that may negatively impact those residents. The proposed warehouse and distribution use may be mitigated by the required minimum 20’ transitional protective yard set out in Section 7.2.2.2 of the City’s Code, however there are a few other uses permitted by right in Light Industrial which have the potential to impact the quality of life of the adjacent manufactured home rental community, such as Waste Related Services (which includes landfills, animal waste processing, and waste incineration). Food and beverage processing is also permitted by right under Light Industrial, which, in limited circumstances, can produce unpleasant odors and could impact adjacent residences to the north. However, the restrictive covenants proposed by the applicant, per the Whisper Council Subcommittee recommendation, would prohibit these uses.

Comments from Other Departments

Police	No Comment
Fire	No Comment
Public Services	No Comment
Engineering	No Comment

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Evaluation			Criteria for Approval (Sec.2.5.1.4)
Consistent	Inconsistent	Neutral	
		<u>X</u>	Whether the proposed zoning map amendment implements the policies of the adopted Comprehensive Plan and preferred scenario map <i>The site is located in a Medium Intensity zone. LI is a Special District – Special Districts are “Not Preferred in Medium Intensity Zones.” However, it should be noted that the existing CM zoning is also a special district.</i>
		<u>N/A</u>	Whether the proposed zoning map amendment is consistent with any adopted small area plan or neighborhood character study for the area
		<u>X</u>	Whether the proposed zoning map amendment implements the policies of any applicable plan adopted by City Council
		<u>N/A</u>	Whether the proposed zoning map amendment is consistent with any applicable development agreement in effect
<u>X</u>			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 <i>The site is located next to the I-35, and there are no known significant environmental constraints on the site which would prevent the site from being developed for industrial uses.</i>
		<u>X</u>	Whether the proposed zoning will reinforce the existing or planned character of the area <i>The site is part of the Whisper PID which was approved by Council in 2021 (Res. 2021-87R). The site is shown as “commercial” in the associated Concept Plan and Projected Land Use Table.</i>
<u>X (with restrictive covenants)</u>	<u>X (without restrictive covenants)</u>		Whether the site is appropriate for the development allowed in the proposed district <i>Due to its proximity to the Interstate, this site is considered appropriate for the majority of the uses in Light Industrial, however there are certain uses permitted by right which have the potential to impact the quality of life of the adjacent manufactured home rental community, such as Waste Related Services. Food and beverage processing is also permitted by right under Light Industrial, which, in limited circumstances, can produce unpleasant odors and could impact adjacent residences to the north. The restrictive covenants submitted by the applicant would prohibit these uses and require additional buffering between this site and the residential area.</i>

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Evaluation			Criteria for Approval (Sec.2.5.1.4)
Consistent	Inconsistent	Neutral	
	<u>X</u>		Whether there are substantial reasons why the property cannot be used according to the existing zoning <i>There are several uses permitted by right or with a conditional use permit under the existing CM zoning.</i>
		<u>X</u>	Whether there is a need for the proposed use at the proposed location
<u>X</u>			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 <i>The site is part of the approved Whisper South PID, which will provide funding for major utilities and infrastructure within the development.</i>
<u>X (with restrictive covenants)</u>	<u>X (without restrictive covenants)</u>		Whether the proposed rezoning will have a significant adverse impact on property in the vicinity of the subject property <i>There are several uses permitted by right in LI, such as Waste Related Services, which have the potential to have an adverse impact on the adjacent manufactured home community, although it is understood that the applicant intends to develop this site for warehouse and distribution. The restrictive covenants included in the application package would prohibit these uses and have also included an enhanced 30' landscape buffer along the border of the northern boundary of the site.</i>
		<u>N/A</u>	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
		<u>X</u>	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
		<u>X</u>	Any other factors which shall substantially affect the public health, safety, morals, or general welfare