

Preferred Scenario Map Amendment Request PSA-25-01

904 Francis Harris Lane

Conservation/Cluster to
Commercial/ Employment Low



Summary

Request:	Change from Conservation/Cluster to Commercial/Employment Low on the Preferred Scenario Map.		
Applicant:	Arbrust & Brown, PLLC, 100 Congress Ave, #1300 Austin, TX, 78701	Property Owner:	Highlander SM One, LLC P.O Box 470249, Fort Worth, TX 76147 Donald and Germaine Tuff C/O: Kristen Quinney Porter P.O Box 312643, New Braunfels, TX 78131

Notification

Application:	December 30 th , 2024	Neighborhood Meeting:	N/A
Published:	March 9, 2025	# of Participants	N/A
Posted:	March 7, 2025	Personal:	March 7, 2025
Response:	2 speakers at Citizen Comment Period for the P&Z / City Council information presentations, see speaker list from 3/25/25 P&Z Meeting on the next page.		

Property Description

Legal Description:	Approximately 199.49 +/- acres of land, more or less, out of the A.M Esnaurizar Survey, Abstract No. 6		
Location:	Generally located on the western side of Francis Harris Lane, south of the intersection between Grant Harris Rd and Francis Harris Lane		
Acreage:	199.49 +/-	PDD/DA/Other:	N/A
Existing Zoning:	CD-2.5/ ETJ	Proposed Zoning:	Light Industrial
Existing Use:	Vacant/Residential	Proposed Use:	Data Center
Existing Occupancy:	Restrictions do apply in CD 2.5 zoning, but they do not apply in the land currently in the ETJ.	Occupancy:	Restrictions Do Not Apply
Preferred Scenario:	Conservation/Cluster	Proposed Designation:	Commercial/Employment Low
CONA Neighborhood:	N/A	Sector:	N/A
Utility Capacity:	Available (no data available for water and electricity as these will not be provided by the City of San Marcos)	Floodplain:	No
Historic Designation:	N/A	My Historic SMTX Resources Survey	No There is an existing cemetery within the boundary of the site, however the cemetery is not included within this request.

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Surrounding Area

	Zoning	Existing Land Use	Preferred Scenario
North of Property:	None (ETJ)	Vacant/ Rural Residential	Conservation/Cluster
South of Property:	Heavy Industria/ ETJ	Power Plant/ Agricultural/ Rural Residential	Conservation/Cluster & Commercial/Employment Low
East of Property:	Heavy Industria/ ETJ	Power Plant/ Vacant	Conservation/Cluster & Commercial/Employment Low
West of Property:	None (ETJ)	Vacant	Conservation/Cluster

Staff Recommendation

X	Approval as Submitted	Alternate Approval	Denial
Staff: Julia Cleary, AICP		Title: Senior Planner	Date: March 19, 2025

Commission Recommendation

	Approval as Submitted	Approval with Conditions / Alternate	X	Denial
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3/25/25 Speakers

In Favor:

Michael Whellan (applicant),
John Maberry (applicant),
Michael Whellan (applicant),
Linda Coker (general comments
regarding preservation of cemetery
and request for marker)

In Opposition:

Lisa Arceneaux (opposed)
Camille Phillips (opposed)
Jenny Holdson (opposed)
Cynthia Smith (opposed)
Annette Denver (opposed)
Abigail Lindsey (opposed)
Torrie Martin (opposed)

Michael Gaudini (opposed)
Nikkie Vargas (opposed)
Katy Kapow (opposed)
Abby Wetzel (opposed)
Destiny Guerra (opposed)
Mary Devine (opposed)
Emily McCuiston (opposed)
Hayat Qurunful (opposed)
Shannon Brown (opposed)
Si Frede (opposed)
Bobby Levinsky (opposed)
Dylan Dever (opposed)
Lisa Marie Copolletta (opposed)
Juniper Smith (opposed)
Carlos Monterroso (opposed)
Bill Miller (opposed)

Rebecca Kilbourn, in opposition
Sharon Herrera (opposed)
Nancy Moore (opposed)
Jordan Moser (opposed)
Corinne Lopefido (opposed)
Sauders Drucker (opposed)
Robert Tyler (opposed)
Jay Stiles (opposed)
Taylor Garret (opposed)
Ezra Hackler (opposed)
Kira Naomi (opposed)
Kaitlyn Lamb (opposed)
Maxfield Baker (opposed)
Aaron Brown (opposed)
Rebecca Porter (opposed)
Vam Gill (opposed)

Recommendation from the Planning and Zoning Commission Meeting held March 25, 2025

A motion was made by Commissioner Garber, second by Commissioner Meeks to recommend denial of the request.

The vote passed with an 8-1 vote

For: 8 (Agnew, Burleson, Costilla, Dunn, Garber, Kelsey, Meeks, Spell, Van Oudekerke)

Against: 1 (Case)

Absent: 0

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Discussion Topics:

Water/Energy Use Commissioner Garber noted that large data centers could use up to 100 Megawatts of power, which was the same as 80,000 households and so the data center could potentially consume double the amount of all City of San Marcos households. He also noted that per the Department of Energy 1% of all global electricity is consumed by data centers, and in 2023 data centers used 74 Gigawatts, which was a 55% increase from the previous year, so the consumption of electricity from data centers was increasing. Regarding water use, he also noted that it was not known how often the water would need to be changed. Commissioner Spell stated that he could not see a way to make the project acceptable, however maybe Council could find a way to “thread the needle” by requiring the development to use purple pipe.

Noise – Commissioner Garber stated that the average noise level in server areas was 92 decibels and 96 decibels in the server racks, compared to a heavy metal concert which is between 80-120 decibels, and cited a study which said the hum from data centers could be heard from up to 2 and a half miles away, and continued exposure to a low level hum could disrupt sleep and possibly cattle. He also noted that noise from the data center could negatively impact visitors to the cemetery.

Change to Comprehensive Plan so soon after adoption Commissioner Garber noted that there had been 2 requests to change the Comprehensive Plan since it was adopted, and that the community had specifically designated the Conservation/Cluster areas in order to limit growth in those areas of the City over the life of the comprehensive plan, and if the city continues to make changes then what was the point of the plan. Commissioner Agnew remarked that the site should probably have been designated as “Neighborhood Low” in the Preferred Scenario map due to the existing CD 2.5 zoning.

Restrictive Covenants/ Potential Postponement The applicant requested to postpone the item in order to draft restrictive covenants for consideration by the Planning and Zoning Commission. A motion to postpone the item to a further meeting failed 7-2.

Impact on Cemetery Commissioner Garber asked who owned the cemetery and had they been notified. Staff responded that appraisal district considered the cemetery and the applicant site as part of one site and so they would not have been notified per code. Staff also noted that the 1912 deed to the property specifically excluded the cemetery site and that the cemetery was reserved for descendants of those 1912 property owners.

Impact of Federal Policy/ Demand for Data Centers – Commissioner Spell referenced the August 2022 CHIPS Act from the Biden administration, which aimed to increase semiconductor production in the United States for the purpose of having more data centers in the United States in order to compete with China.

Development within the City Limits vs Outside –Chair Case stated that it would be preferable to have the development in the City limits as opposed to outside, as the City would have control over the regulations.

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History

This request for a Preferred Scenario Amendment from Conservation/ Cluster to Commercial/Employment Low covers 199.49 acres of land on the western side of Francis Harris Lane and is accompanied by the following applications:

- ZC-25-02 - Zoning change from Character District 2.5 (CD 2.5) and Future Development (FD) to Light Industrial (LI)
- AN-25-02 - Annexation request for the southwestern part of the site located outside of the city limits (approx. 64 acres).

The applicant is requesting the Preferred Scenario Amendment and associated zoning change in order to construct a data center. Data centers are considered a Light Industrial use and so would only be permitted under either Light Industrial or Heavy Industrial zoning. No proposed site plans have been received at this time.

The northeastern 137-acre tract that is currently within the city limits was annexed and zoned to CD 2.5 on August 2nd, 2022 (Ord. 2022-45). CD2.5 zoning predominantly allows single family residential development. Due to concerns regarding the proposed residential use adjacent the Hays Energy Power Plant located on the other side of Francis Harris Lane, Council requested that a restrictive covenant (Hays County Clerk Inst. 22049761) be placed on the site which would require the developer to notify potential residents on the site of the adjacent power plant and potential noise/industrial lighting impacts, as well as additional construction requirements for all homes within 1,500 ft of the power plant.

Additional Analysis

Page 110 of the adopted Vision SMTX Comprehensive Plan states that the existing "Conservation/Cluster Place Type "identifies areas where development would be discouraged over the life of the Comprehensive Plan" and that " Development that does occur within conservation and reserve areas should be low impact to the natural environment by using a variety of development techniques and strategies". Conversely, the requested Commercial/Employment Low would "facilitate lower density, auto-oriented retail, office and industrial type uses" (Vision SMTX Comprehensive Plan, p102).

Staff's recommendation for approval is based on the analysis that commercial/industrial uses are preferable to a new residential subdivision adjacent to the existing power plant, which is permitted by right under the current zoning for most of the site.

Comments from Other Departments

Police	No Comment
Fire	No Comment
Public Services	No Comment
Engineering	No Comment
Economic Development	The proposed use is a target industry under the Economic Development Policy identified as a desirable industry for the City of San Marcos. Target industry: Information Technology.

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Evaluation			Criteria for Approval (Sec. 2.4.2.4)
Consistent	Inconsistent	Neutral	
		<u>X</u>	Whether the proposed amendment is consistent with other policies of the Comprehensive Plan
		<u>N/A</u>	Whether the proposed amendment is consistent with any adopted small area plan or neighborhood character study for the area. <i>There is no neighborhood character study in effect for this area.</i>
<u>X</u>			Whether the proposed amendment promotes the orderly and efficient growth and development of the community and furthers the public health, safety, and general welfare of the City. <i>The request will allow commercial/ industrial uses next to the existing power plant</i>
		<u>X</u>	The proposed amendment corrects an error or meets the challenge of some changing condition, trend, or fact
<u>X</u>			Whether the proposed amendment constitutes a substantial benefit to the City as a whole and is not solely for the good or benefit of a particular landowner or owners at a particular point in time <i>The PSA would enable the associated zoning change from CD 2.5 (residential) to Light Industrial which will prevent a residential neighborhood from being constructed next to an existing heavy industrial use.</i>

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Evaluation			Criteria for Approval (Sec. 2.4.2.4)
Consistent	Inconsistent	Neutral	
<u>X</u>			<p>Whether the proposed amendment will impact:</p> <ul style="list-style-type: none"> • Adjacent properties. • Existing or future land use patterns <i>There is an existing Power Plant across the street on Francis Harris Lane. Due to the presence of the power plant, commercial or industrial uses are preferable to residential uses within this site.</i> • Existing or planned public services and facilities <i>The site is located within the Pedernales service area for electricity and Crystal Clear CCN for water. There are existing wastewater lines along Francis Harris Lane.</i> • Existing or planned transportation networks or greenways <i>A proposed Transportation Master Plan (TMP) thoroughfare runs along the northern boundary of the site – this should be incorporated into the development during the platting process. Grant Harris Lane is not dedicated right-of-way and so currently the divided lots along the northern boundary of the site do not have direct street frontage. Constructing the required TMP road will provide direct street frontage to these lots. However, it should be noted that Preferred Scenario Amendments and Zoning Changes do not change the requirement to incorporate TMP improvements when platting.</i> • The natural environment, including the quality and quantity of water and other natural resources, flooding, and wildlife management <i>The site is not located within the floodplain, Edwards Aquifer Recharge Zone or San Marcos River Corridor.</i>