

From: [Amy Meeks](#)
To: [Villalobos, Andrea](#); [Floyd, Terry](#)
Subject: [EXTERNAL] Data Center Restricted Covenants
Date: Sunday, February 22, 2026 8:38:57 PM

Hi Terry and Andrea,

Please include the below information to all city council members in their packet on February 25th.

Thank you,

Amy

In my view, the four most important protections needed for data centers would address:

1. Water use, 2. Electric use, 3. Backup generators, and 4. Noise.

That said, it's also a horrible zoning use that creates a large dead zone, with very few jobs. Given the externalities and the major utilities involved, the data center use should be a Conditional Use Permit in any zoning category and should be reserved for the highest industrial category. These things will kill an area just like a warehouse or factory, or worse because there are few employees.

To address the four elements:

Section X.001. Potable Water Use Restriction.

No Data Center may use a potable water source for cooling purposes. All cooling systems for Data Centers must use non-potable water sources, such as reclaimed water, or employ alternative cooling technologies that do not require potable water.

Section X.002. Energy Use Restriction.

No Data Center may use more than 5,000 megawatt-hours of electricity per year, unless it proves to the City that at least 80% of its energy comes from renewable sources.

Section X.003. Backup Generators.

The installation of any generator or other on-site energy production for use

to power the data center or its equipment shall be considered a Major Utility and must be approved pursuant to a conditional use permit.

Section X.004. Noise Restriction.

Noise from Data Centers shall not exceed 55 dBA, measured at the property line.

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COMMERCIAL REAL ESTATE
DEVELOPMENT ASSOCIATION

AUSTIN CHAPTER

Andrea Villalobos
Assistant Director of Planning
City of San Marcos
630 E Hopkins
San Marcos, TX 78666

December 15, 2025

RE: 1st round of comments on City of San Marcos draft Land Development Code (LDC) rewrite.

Dear Villalobos,

NAIOP is a real estate development association that provides advocacy, education and research for those in the commercial real estate development industry. Here in central Texas, we have a focus on infrastructure, tax policy and municipal land development codes. While we have several committees, the public policy committee focuses on policy updates at the federal, state and local levels, including municipal development code rewrites and updates. The NAIOP public policy committee has formed a subcommittee, made up of subject matter experts, to review the City of San Marcos LDC rewrite draft. Our goal is to work collaboratively with the City to assist in drafting a high-quality LDC that achieves the goals of the City.

Please accept the attached comments from the NAOIP public policy subcommittee and feel free to reach out with any questions. I would also like to make myself, and any of our subject matter experts, available to meet to discuss the comments in greater detail and answer any questions.

Sincerely,

Amanda Brown
NAIOP
Public Policy, Subcommittee Chair
Amanda.brown@hdbrownconsulting.com
214-694-9219

Cc:

NAIOP LDC rewrite subcommittee:

Andy Graham, PE, Kimley-Horn
Isabelle Parcel, Dunaway Associates LLC

Chapter 2, Development Procedures		
Item #	Author	Comment/ proposed amended language
Chapter 2, Section 2.6.1.2(A)(2)	Andy Graham, PE, Kimley-Horn	Consider allowing the approval of a plat with only a Phase 1 Watershed Protection Plan (WPP). This will allow the development community to more quickly plat, which provides the benefit of locking development standards and impact fees, while also ensuring that all environmental and flood control standards are in place at the time of site plan approval and implemented at the time of development of the property.
Chapter 3, Section 3.6.2.1	Andy Graham, PE, Kimley-Horn	Increase the maximum block size for traditional multi-family projects to 15 acres. The additional streets typically do not work well with these types of projects and add substantial cost which requires higher rents of the tenants.
Chapter 3, Section 3.10.1.2	Andy Graham, PE, Kimley-Horn	There have been significant challenges regarding parkland dedication, especially downtown. We appreciate attention to this matter.
Chapter 7, Section 7.1.1.3	Andy Graham, PE, Kimley-Horn	There have been significant challenges regarding maximum parking requirements. We appreciate attention to this matter.
Article 4, Division 1	Andy Graham, PE, Kimley-Horn	Allow for minor public improvements, associated with a development, to be exempt from a full Public Improvement Construction Plan (PICP). A PICP for minor improvements creates unnecessary complexity, cost and additional processes. For a minor public improvement the review and approvals can be addressed with the associated site development plan. Consider a trigger for a full PICP. For example: X linear feet or more of pipe or road extension shall require a PICP.
Chapter 3, Subdivision		
Item #	Author	Comment
Division 5, Section 3.6.5.1	Andy Graham, PE, Kimley-Horn	The Alternative Compliance process, in practice, is difficult to navigate. This section needs clarity on the process and criteria and flexibility. Consider adding the following language to section (A)5: “Or any other condition which the Official deems as a reasonable constraint”.
Chapter 4, Zoning Regulations		
Item #	Author	Comment
Article 1, Division 2, Section 4.1.2.4	Isabelle Parcel, Planning Analyst, Dunaway Associates LLC	The code explains when it should be applied, but it doesn’t offer a measurable or user-friendly framework. Consider incorporating quantifiable metrics, such as required percentages of frontage, parcels, or other applicable thresholds, to make the standard clearer and easier to administer.

Article 1, Division 2, Section 4.1.2.5	Isabelle Parcel, Planning Analyst, Dunaway Associates LLC	The code currently ties single-family preservation standards to zoning maps dated April 18, 2018. This reference is outdated and no longer reflects current development patterns. Consider shifting from a fixed zoning date to a form-based measurement, such as evaluating existing built conditions within a 200-foot radius to better capture the present-day neighborhood context and ensure a more consistent application of the standard.
Article 3, Division 1, Section 4.3.1	Isabelle Parcel, Planning Analyst, Dunaway Associates LLC	The code still references outdated sections and does not outline current application procedures, which makes the process difficult to follow. Consider consolidating these requirements into a single, user-friendly chart that summarizes all available incentives along with their eligibility criteria, bonus provisions, and required documentation. This would streamline the process for applicants and improve administrative consistency.
Article 3, Division 2, Section 4.3	Isabelle Parcel, Planning Analyst, Dunaway Associates LLC	The code does not address irregular lots.
Article 3, Division 3, Section 4.3.3	Isabelle Parcel, Planning Analyst, Dunaway Associates LLC	The code uses “build-to” and “setback” interchangeably, which creates confusion since the two standards serve different purposes. Consider adding explicit definitions for each term and clarifying the criteria that apply to both. Clear, distinct definitions would improve consistency in interpretation and enforcement.
Article 3, Division 6, Section 4.3.6.1.	Isabelle Parcel, Planning Analyst, Dunaway Associates LLC	The code states that it should “...accommodate and encourage appropriate transitions between higher-intensity new development areas and existing residential properties,” but terms such as “higher intensity” and “appropriate transitions” are not defined. To improve clarity and consistent application, consider establishing specific transition triggers, such as height differentials, adjacency to residential zoning, or changes in permitted uses that outline when and how transition standards apply.
Article 4, Division 2, Section 4.4.2.2	Isabelle Parcel, Planning Analyst, Dunaway Associates LLC	The code includes nearly identical language across the neighborhood density districts (ND-3, ND-3.2, ND-3.5, ND-4), which limits their usefulness as distinct tools. Consider expanding each district’s description to clearly differentiate expected unit yields, allowable frontage types, and walkability metrics. Adding these details would better communicate the intended development pattern for each district and improve predictability for applicants and reviewers.

Article 4, Division 4, Section 4.4.2	Isabelle Parcel, Planning Analyst, Dunaway Associates LLC	The code lists ND-3.5 before the other neighborhood density districts, which is inconsistent with the order used earlier in the document. The sequence should be revised to ND-3, ND-3.2, ND-3.5, and ND-4 to maintain clarity and alignment with the established hierarchy.
Article 4, Division 4, Section 4.4.3.9	Isabelle Parcel, Planning Analyst, Dunaway Associates LLC	The phrase “parkland or civic buildings and the maintenance responsibility” is vague and may create uncertainty about which entity, HOA, the City, or a PID, is responsible for ongoing maintenance. To avoid conflict or inconsistent interpretation, consider designating the specific type of maintenance entity required for each scenario or providing a clear hierarchy for assigning responsibility.
Article 4, Division 4, Section 4.4.3.9	Isabelle Parcel, Planning Analyst, Dunaway Associates LLC	The code refers to a “Major Utilities Plan,” but the term <i>major</i> is not defined. This ambiguity can lead to disputes about whether 8-inch, 12-inch, or other line sizes must be included on the plans. Consider adding a clear definition of what constitutes “major utilities,” such as specifying line sizes (e.g., 8-inch or 12-inch and above) or other measurable thresholds. Providing this clarification would improve consistency in plan preparation and review.
Article 4, Division 4, Section 4.4.3.9	Isabelle Parcel, Planning Analyst, Dunaway Associates LLC	The code does not currently provide any credit for trail easements or greenways, even though these facilities contribute to the overall open-space network. Consider revising the standard to allow trail corridors and greenways to count toward the required parkland dedication for a site. This adjustment would better reflect the recreational and connectivity value these spaces provide.
Article 4, Division 4, Section 4.4.4.4	Isabelle Parcel, Planning Analyst, Dunaway Associates LLC	The minimum lot size of 7,000 square feet and 70 feet of width creates a barrier to developing smaller flex-industrial pads and incubator-style spaces. Consider allowing reduced lot sizes, such as 3,000 to 4,000 square feet, in designated industrial subareas, particularly where shared access or common circulation can be provided. This adjustment would better support modern light-industrial and entrepreneurial space needs.
Article 4, Division 5, Section 4.4.5.1	Isabelle Parcel, Planning Analyst, Dunaway Associates LLC	The standard limiting accessory building footprints to one-half (½) the size of the principal structure, capped at 1,000 square feet, may be overly restrictive for larger lots in higher-intensity districts. The cap does not scale proportionally with the size of the primary building. Consider adding an increased maximum, such as 1,200 square feet, for lots over 10,000 square feet to provide more flexibility while maintaining appropriate limits.
Article 4, Division 5,	Isabelle Parcel, Planning	The Cottage Court’s minimum lot size of 22,000 square feet and 5-unit minimum restrict the model to only the largest parcels, limiting its applicability on smaller blocks. Consider reducing

Section 4.4.5.3	Analyst, Dunaway Associates LLC	the minimum site area to 12,000–15,000 square feet and lowering the minimum unit count to three. This adjustment would make the Cottage Court format feasible on a wider range of infill sites while still preserving its defining characteristics.
Chapter 5, Use Regulations		
Item #	Author	Comment
Article 1, Division 2, Section 5.1.2.1	Isabelle Parcel, Planning Analyst, Dunaway Associates LLC	The requirement that “the structure shall be no more than 800 square feet in size” is overly rigid across all zoning districts and lot sizes, and it limits the ability to accommodate modern agricultural structures. This fixed cap often results in unnecessary variances or noncompliance on larger lots. Consider replacing the blanket maximum with a lot- and district-based standard such as: “Maximum floor area is the lesser of 5% of the lot area or 2,000 square feet, unless a larger structure is approved through a conditional use permit.” It would also be helpful to cross-reference applicable fire-separation or building-code limitations to ensure consistency with safety requirements.
Article 1, Division 4, Sections 5.1.4.6 (B)(2), 5.1.4.7(B)(2), 5.1.4.8 (B)(2)	Isabelle Parcel, Planning Analyst, Dunaway Associates LLC	Across all three sections, the code limits each unit to “no more than three bedrooms,” which restricts the production of family-sized units (4–5 bedrooms) needed for multigenerational or larger households. This blanket cap can inadvertently encourage an oversupply of smaller units, which in turn may increase parking demand and contribute to higher tenant turnover. Consider replacing the fixed limit with a mixed-unit requirement, for example, requiring that at least 20% of units include two or more bedrooms, or allowing 4–5 bedroom units in certain districts through a conditional use permit, particularly in locations near schools, parks, or transit. This approach would support a more balanced housing mix and better reflect community needs.
Article 1, Division 5, Section 5.1.5.1(B)	Isabelle Parcel, Planning Analyst, Dunaway Associates LLC	The code’s requirements “must be located on the first floor or in a one-story building at the intersection of two public streets; the building or unit cannot exceed 4,000 square feet; hours of operation... 6 AM... 11 PM...” create a rigid, one-size-fits-all standard. These limitations discourage upper-floor commercial uses, such as co-working or small offices, within mixed-use buildings.
Article 1, Division 5, Section 5.1.5.5 (B&C)	Isabelle Parcel, Planning Analyst, Dunaway Associates LLC	The code provisions stating, “The number of active restaurant permits in the central business area... shall not exceed 25,” and “In the Downtown CBA boundary, the total number of bars is limited to 14,” can distort market rents and fail to account for changes in building stock, tourism, and transit access. These hard caps also create an administrative burden by generating waiting lists, which can delay reinvestment when one business closes and another is ready to open. Consider replacing the numeric caps with performance- and parking-based standards, such as

		minimum separation distances between bar entrances, enhanced noise and security requirements, and strengthened litter management conditions.
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From: Lucas Baer <lucas@lucasbaer.com>
Sent: Monday, February 9, 2026 3:06:49 PM
To: Rugeley, Will <WRugeley@sanmarcostx.gov>
Cc: Soto, David <DSoto@sanmarcostx.gov>
Subject: [EXTERNAL] RE: [EXTERNAL] Last Minute Code Comment

Will,

Thank you for taking the time to respond. I do see that rezoning to Neighborhood Districts already requires a Neighborhood Regulating Plan, however (if I am interpreting the code correctly) a Neighborhood Regulating Plan does not allow nearly the customization to the base district that a Development Overlay Regulating Plan does.

Also, and unrelated, I have noticed quite a few inconsistencies since the last email I sent. Please see them outlined below:

- Live/Work is allowed for ND-4 in Table 4.9 but not section [4.4.2.4](#), and Duplexes allowed in Section [4.4.2.4](#) but not Table 4.9

- ND-3.2 left out of Table 4.9 entirely
- Block perimeters are not updated in the ND categories to be in line with [3.6.2.2](#)

Respectfully,
Lucas Baer

From: Lucas Baer <lucas@lucasbaer.com>
Sent: Tuesday, January 20, 2026 12:40 PM
To: Planning Info planninginfo@sanmarcostx.gov; Rugeley, Will
<WRugeley@sanmarcostx.gov>
Subject: [EXTERNAL] Last Minute Code Comment

To Whom it May Concern,

I am aware that the deadline for citizen comments has well passed and I apologize for not catching this earlier, but if it is worth having it is worth asking for, and in this case I think this is rather important to get this one right the first time:

As it stands in the published draft code, Development Overlay Regulating plans, page 4:147 (see attached), will not be allowed for Neighborhood Density Districts. If current trends toward walkable neighborhoods with community commercial anchors continue, as time progresses I suspect Neighborhood Districts will represent a growing share of the sections of the city that are inhabited in a residential capacity. They will play a pivotal role in both new developments and transition zones between high and low density areas. Moreover, these types of curated, livable spaces that

often break traditional rules (and thereby require an overlay) are the same spaces that are so desired by young professionals, a demographic the city is trying to attract. Under the revised code, each project seeking a Development Overlay Regulating plan will already be reviewed on a case by case basis by the Planning & Zoning commission and City Council, as is the case with all zoning changes. To that end, it seems premature to administratively ban overlay zones for an entire set of districts when there are numerous sites within the city presently that would only make sense for the community to be developed in exactly this way: a neighborhood district with a Development Overlay Regulating plan. **If an Overlay Plan doesn't make sense for a specific Neighborhood District site it won't happen regardless, so there is no upside to the community by banning them outright, only downside.**

Perhaps this was an unintentional omission or there is some logic that I am simply not seeing, and if so I would be curious to that end. I will make sure to make these comments in person at the P&Z and City Council review sessions as well, but it feels prudent to also send this email so that perhaps it can be given further consideration at this earlier date where changes may be easier on staff.

CC'ing Will Rugeley on this as well because he was very insightful at the open house for the draft code.

**Respectfully,
Lucas Baer**

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