

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

[REDACTED]
[REDACTED]

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 [REDACTED]
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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From: Lucas Baer [REDACTED]
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

San Marcos LDC Requests – 3/2/2026

Four Rivers Association of REALTORS Government Affairs
Subcommittee

General Discussion

This is the follow up document to the our document dated July 30, 2025 that contained our original requests for updates to the San Marcos Land Development Code. The last section of this document contains the unaltered Texas Realtor Public Policy Positions as originally stated in the 7/30/25 document, for reference. Please refer to the original document for the narrative portion of our policy positions as the pertain to San Marcos. This narrative section will discuss the new LDC redlines as they compare to our original requests from 7/30/25. There is also a new section here that discusses specific redline items, as necessary.

Helpful Reference Links:

[San Marcos Land Development Code](#)

[San Marcos Comprehensive Plan](#)

Specific Redline Item Discussion

Item #	Discussion
#0-2	We strongly approve of the removal of the word “density” from the Neighborhood District titles.
#2-5	Removal of the requirement of posted notices for Certificate of Appropriateness – we agree with this change
#2-6	We recommend a clear process to determine predictable standards and outcomes for demolition delay reviews that do not drag out.
#2-7	Agreed that if City requirements are stringent elsewhere, then this can be updated. No need to cause double paperwork. A discussion of the actual requirements and their merits is below in #2-21
#2-8 and #2-9	These are updated because of state law but for reference we generally agree with these updates from a policy standpoint.
#2-11	Request for a “posted notice best practice” or similar resource be made available by the city to ensure ease of compliance for applicants. Request that fees paid to the City be reduced accordingly to reflect the change in responsible posting party.

#2-13	We agree with these changes given the long timeline to finish a project these days.
#2-15	Agree with this update, except to point out that 2.4.2.4(A)2 regarding adopted area plans or neighborhood character studies should be approached with caution. Area plans and neighborhood studies should be consistent with the Comp Plan, not the other way around. Do not let area plans supersede the Com plan. Instead of “is consistent” in this section, consider updating to “considers”
#2-19	A good addition. It’s nice to have approval evaluation standards that matter. Side note – we would still like to see added language in the approval criteria about the long-term ability to maintain the utility infrastructure, per the Comp Plans’ financial analysis tool sections. Financing the initial provision of the utility is included here, but not the long-term maintenance, which should be considered just as heavily in relation to the land use that will be served.
#2-20	Seems like this will allow for more flexibility
#2-21	Seems like this removes differential standards between large and small developments and applies WSPPs uniformly. Also removes the need for P&Z meetings to approve a plan. We approve of this measure.
#2-22	No comments on the appropriate timeline for this process. Agreed on making the process clearer.
#2-24	Agree with this change
2.8.3.7.E	Generally, this section gives the unelected P&Z a lot of power over business and property owners. They can effectively end someone’s business for any reason they can come up with, even if the business owner is not breaking a law or any other LDC requirement. Consider giving this to ELECTED officials or providing more clear criteria for approval/denial of CUP that is so judicial and discretionary. One need look no further than the situation with Tantra and their music decibel limit to see how damaging this can be to a small business.
#3-1	Kudos for additional clarity
#3-3, #3-4, #3-6	Glad this is simplified and the timeline is reduced. The phasing plan is a better option
#3-10	Good simplification
#3-25	Strong support for this addition
#3-27	Agree – fiber capability will be an important piece of infrastructure
#3-29	Agree with this escrow requirement update
#3-31	Strong agree with the connectivity aspect here
#3-32	The smaller block size would be better at 2,000 ft for ND-4 and CD-4 but this is understandable as is.

#3-35	Strong support of the requirement to split a block with a pedestrian passage.
#3-39 – 42	Strong support for updated block and stub street standards.
#3-44	Agree with these strikes. Allow for more creativity on irregular lots.
#3-45	Disagree with the minimum lot widths here. The number seems arbitrary for vehicle access as argued. 50 foot lots will encourage sprawl.
#3-53	Great updates to the Greenway section. This will provide for a more connected transportation network for all modes.
#3-55	In support of this change. Setbacks per zoning district make more sense for streetscape widths.
#3-57	Strongly in favor of this update. This will make infill and small-scale development at a local scale more achievable.
#3-58	Support
#3-59	
#3-69	Strong approval of the removal of parking requirements for pocket parks
#4-3	Not in support of the BP districts. They’re going to be very sprawling and will cause lots of traffic and spreading. I don’t believe this place type is introduced in the comp plan. Unless the Business Parks are more mixed-use with some residential and residential supportive retail, these are not complete places.
#4-6	Strongly in favor of removing “density” from the neighborhood district names
#4-6	Should read “which encourage affordable ownership and ownership alternatives”
Table 4.3	<p>General Comments:</p> <ul style="list-style-type: none"> - Remove “uses that would interfere with the residential nature of the district are not allowed” from all district intent sections. Complete places will have a gentle mixture of appropriate uses, and people are increasingly working from home. - ND 3.2 and 3.5 are redundant and shouldn’t exist in the code. The jump from ND-3 to ND-4 is acceptable. The description of ND-3.5 should be the description of ND-3 and ND-4 should be left as-is.
#4-7	Small area plans should not supersede the Comp Plan
Table 4.4	CD-5 should be considered in ND-4
Table 4.5	Remove CD-2.5 entirely. The transition from CD-2 to CD-3 is acceptable as-is. CD-3 can encourage opportunities for homeownership too.

	As above, remove “uses that would interfere with the residential nature of the district are not allowed” – you can’t have Cuevas produce in districts like this.
#4-12	Restricting CD-5D to downtown only removes opportunity at other future regional hubs, like the east side hub that has been discussed. Strike this or add in “or within other Regional Hubs, per the Comprehensive Plan”
#4-31	Agree with the new building types allowed here. Would still prefer the ability for some neighborhood commercial here.
#4-35	CD-2.5 lot widths should be dropped down and townhomes & cottage courts should be allowed. Neighborhood commercial where appropriate would also be nice.
#4-39	Strong support cluster development with open spaces between, especially in agricultural or env. Sensitive areas
#4-40	Thanks for updating to “Commercial Building” – it was a bit confusing with the old zoning category. Good update.
Table 4.9	<ul style="list-style-type: none"> - Cottage Court should be allowed in ND-3 - Duplex should be allowed in ND-3 and ND-4 - Small Multifamily would make sense in CD-4 - Multifamily would make sense in ND-CM to be supportive of. Commercial uses and complete places - Live-Work would make sense in ND-4, similar to Neighborhood Shopfront
#5-7	Make Data Center “considered” instead of preferred in HI. The considerations are different here and should be examined case by case, not granted by right.
#5-28	Solid parking garage definition and use requirements.
#7-2	We would argue for the limit to be lower than 150%, probably closer to 110% before mitigation begins.
#7-4	Strongly in favor of the allowable on-street public parking to go toward parking requirements.
Table 7.1	Allow for relaxed minimum parking for MF and Student Housing in walkable areas, such as within a distance from campus or within CD-5D. Ideally, allow for lower minimum parking requirements in denser districts. These static numbers are not adaptive to different places.
#7-4	Big supporters of the bicycle parking requirements
#7-12	Big supporters of parking lot landscaping
#7-18	Biodiversity rule is very positive

Priority Items from July 30, 2025, With Update Notes Appended

Generally, we'd love to see a new LDC that takes the following steps to implement the Comp Plan:

1. Make SF-R, SF-4.5, and SF-6 into Legacy Districts. No property owner will lose their entitlement, but these districts are no longer available for new rezoning.
 - a. This change was not enacted, but this committee is of the position the Comp Plan is better enacted via Neighborhood and Character Districts.
2. Permit existing SF-4.5 or SF-6 to develop under the ND-3 standards, and existing SF-R to develop under CD-2 by right.
 - a. This was regrettably not addressed yet.
3. Rename Neighborhood Density Districts into just Neighborhood Districts (don't scare people with the word "Density")
 - a. Thank you for this update!
4. Update Table 5.1 to remove the "Limited" qualifier on ADUs and Duplexes in all residential districts "XX-3" and up, and remove parking requirements.
 - a. This was regrettably not addressed yet.
5. Update Table 5.1 to allow for more Day Care Centers in residential districts.
 - a. Looks like there is more allowable Day Care Center land now – thank you!
6. Update Table 5.1 to allow for more community gardens, urban farms, and plant nurseries in residential districts.
 - a. This was not addressed, but having a local food supply is very important. Please consider this in the next round of updates.
7. Change all mentions of "minimum" parking requirements to maximum parking requirements. Update Table 7.1 to reflect. Add remaining ND/CD districts to Table 7.2.
 - a. Not addressed.
8. Eliminate "decimal districts" ND-3.2, ND-3.5, CD-2.5 and just go with the original "whole number" variants.
 - a. Not addressed but our position on these districts has been made clear.
9. Create the Highway Overlay District described in 4.5.3.3 and place it over any Special Districts along corridors such as IH-35 and SH 123 (discussion: this will stem the building of car-only services infrastructure that subverts complete neighborhoods)
 - a. Not addressed
10. Require a fiscal impact study or development cost model for everything. Streamline the development process/timeline for developments that are positive.

- a. Not addressed but this is a major point of emphasis for this committee to keep the City financially solvent.
- 11. Remove the Suitability Map and Planning Area District restrictions (which are no longer in the comp plan) and update them to considerations of Intensity and place types.
 - a. Some improvements made here to the Planning Area District. The suitability map is now removed and replaced with the Preferred Growth Scenario Map, as far as we can tell, which is also an improvement.
- 12. The Affordable Housing section of the LDC is far too detailed for the stage of entitlement typically associated with the LDC. Those incentives should have their own set of requirements elsewhere. The LDC should focus on form, use, and permitting. Details of whether a development qualifies as Affordable Housing should be handled outside of the scope of the LDC. Further, questions surrounding current tax credit and other Affordability measures make these steps unpredictable and they should be codified elsewhere. LDC updates to reflect new laws, etc., will be time consuming and slow to respond. This section is intended to address government subsidized Affordable Housing as discussed in the LDC, and should not be confused or conflated with market driven housing affordability, which we address in several different areas of this document.
 - a. Thank for making this update.
- 13. Adopt the standards of SB-2835 for single-stair apartment buildings. Namely, apartment buildings may have single stairways if they are no more than six stories tall with 4 units per floor. This substantially reduces construction costs and promotes affordability.
 - a. Not addressed, but please consider for future updates.
- 14. Remove language such as “Uses that would substantially interfere with the residential nature of the district are not allowed” from certain zoning districts. Complete places, as defined in the Comp Plan, “consist of a variety of places that provide opportunities for people to live, work, play, and meet their basic needs.” Page 65 of the Comp Plan provides ample evidence as to why this language should be removed. Neighborhood commercial can be approved on a case-by-case basis without arbitrary restrictions. Neighborhood areas are primarily, but not exclusively, residential in nature, per the Comp Plan page 68.
 - a. This language was not removed but our position remains the same.
- 15. In general, for all zoning categories, drastically reduce or remove setbacks, minimum lot areas, and minimum lot widths.
 - a. Some improvements made, but we will continue to advocate for more movement in this direction.

16. Updated Section 5.1.4.1. to remove the requirement to register renters with the city and remove the limit of no more than three unrelated persons per dwelling unit.
 - a. An amazing improvement. Thank you!
17. Similarly, update 9.3.4.4 to reflect the same unrelated persons requirements as item 16. Ideally, simply delete Section 9.3.4.4 in its entirety.
 - a. We would still love to see this section removed. Occupancy restrictions are undesirable for many different reasons.

Discussion of Texas REALTOR Legislative Priorities Pertaining to the LDC

Annexation – As Texas has ended forced annexation, cities can no longer rely on forced growth to increase property tax revenues. The new LDC should be mindful of this fact and responsibly use land already in the city limits to its highest potential. San Marcos should maximize their existing land in the following ways:

- Prioritize high-quality infill development, missing middle housing, relaxed parking standards, and connectivity
- Make annexation attractive to outlying properties by offering superior services at a lower cost. Proper annexation will allow the city to implement the goals of the LDC and comp plan for new development in outlying areas without creating strains on existing services.
- Require a financial analysis of proposed projects, plan for land-use efficiency, and redevelop underutilized properties

ETJs – Similar issue as above. As of 2023, landowners can be released from an ETJ and are no longer submitted to forcible annexation. Until regulations are updated, there is not much a city can do to coordinate with other entities (i.e., counties) to plan for long-term growth. The city should carefully consider this reality, as development in the ETJ and surrounding is not as regulated but will still rely on city services and infrastructure in many cases.

Fair Housing – TXR believes that *everyone* deserves a home of their own. Discrimination distorts the housing market and closes the door on the American dream of homeownership (or, as not everyone aspires to own a home, providing the right type of housing for renters). These days, discrimination can take place via zoning and land use laws that restrict certain property types, decrease mobility, or artificially reduce supply. The LDC updates should be mindful of these practices and seek to avoid them.

Housing Affordability – Affordability has been steadily declining both locally and across the US for a long time. TXR supports housing that is affordable to all Texans. As noted in the legislative priorities, regulatory barriers can be a significant impediment to the

development of new housing and TXR supports the reduction and elimination of cumbersome processes, requirements and restrictions, and lengthy permitting timelines.

Infrastructure – Infrastructure keeps our cities moving, healthy, and safe. Strong infrastructure is paramount to a strong real estate market. The city should be mindful of the costs required of providing infrastructure, such as transportation and water, and the types of development that are conducive to supporting that infrastructure. Failing to pay for infrastructure needs will ultimately cost state taxpayers an extraordinary amount of money and the LDC should be cognizant of these challenges. TXR supports multi-modal transportation, innovative transit technologies & solutions, and transit-focused development plans. Water will be a huge issue and the LDC should support measures that are less water intensive.

Insurance – Insurance premiums have been rapidly increasing, eroding affordability for residents. While the LDC does not directly control rates, it can influence risk factors, such as

- Limit development in high-risk areas such as flood plains and encourage permeable pavers, stormwater retention/detention, bioswales, and other measures that prevent flooding, erosion, and foundation damage
- Adopt wildfire resilient site design standards
- Encourage high quality construction methods that are resilient to local weather (hail, wind, floods)
- Encourage economically resilient areas that are easier to insure. More walkable and connected areas with diverse housing and businesses are easier to insure as they're more resilient.

Property Taxes – As the burden of maintaining our sprawling cities becomes more difficult to bear, cities will necessarily have to increase their property taxes. Unless efficient land use is required, the per capita tax burden will only continue to increase. The LDC should prioritize land use that lowers the tax burden of individuals by prioritizing efficiency, financial scrutiny, and a smoother and more transparent process of development. As evidenced by the city's latest budget proposal, the budget is not sound and when growth slows down, the city suffers and must raise taxes on an already highly taxed public.

Residential Leasing – The right to rent is considered a fundamental element of the bundle of property rights and also increases the accessibility of housing. TXR opposes any governmental limitation on rents and opposes revenue streams such as rental registration, licensing, or other costs. San Marcos in particular has an occupancy limit that we consider

to be harmful to the housing market and discriminatory. This should be removed from the LDC entirely.

From: [abigail lindsey](#)
To: [Hughson, Jane](#); [Council Members Mail Group](#); [Rodriguez, Amanda](#)
Subject: [EXTERNAL] development code public notice
Date: Monday, March 23, 2026 9:17:59 AM

Good morning, I just wanted to comment on the development code. Specifically, Chapter 2 – Development Procedures – Table 2.1 This edit shifts the responsibility of posted notices from the City to the applicant.

I am against this 100%. I believe this will be hard for the city to enforce and the ramifications of not having a physical sign alerting the public of a change is detrimental. This will reduce accountability, it could lead to conflict of interest, lack of transparency. Public notice is the back bone of our democratic process.

I understand HB24 gives you the choice to require you the city or the applicant to post notice. Please Please do not put this responsibility in the purview of the applicant. Seeing a sign posted on properties is how most of us receive notice. I am sure most applicants will follow the rules and regulations but there will be some that will put the sign out of view from the public or nothing at all.

To ensure rules an regulations are followed please continue to allow City Staff to post notice not the applicant.

Thank you
Abigail Lindsey

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[REDACTED]

[REDACTED]

[REDACTED]



[REDACTED]

[REDACTED] of San Marcos and may be subject to public disclosure under the [Texas Public Information Act](#).

From: Ed Theriot [REDACTED]
Sent: Thursday, March 5, 2026 10:13 AM
To: Villalobos, Andrea <avillalobos@sanmarcostx.gov>
Cc: Shannon Mattingly [REDACTED]
Subject: [EXTERNAL] Furniture Store Parking Requirements

Andrea,

It was good talking with you yesterday. I've attached our previous email regarding national and state parking requirements for furniture stores. It appears that nationally, some Cities have gone to a standard ranging between 1 space per 600 sq ft to 1 space per 1,000 sq ft. The state average seems to be around 1 space per 500 or 600 sq ft. The current Development Code for San Marcos does not list a specific requirement for furniture stores.

As we discussed, we would like the following amendment included in the current round of Development Code modifications scheduled for consideration by City Council in April.

Division 2: MINIMUM PARKING REQUIREMENTS
Section [7.1.2.1](#) Minimum Requirements and Standards
Table 7.1 General Minimum Parking Requirements

Furniture Stores - 1 space per 600 sf GFA

Please let us know if you would like to discuss or if additional information is needed.

Thank you,

Ed

Ed Theriot, AICP

Drenner Group, PC

2705 Bee Cave Road, Suite 100

Austin, Texas, 78746

[REDACTED]
[REDACTED]
[REDACTED]

From: Shannon Mattingly [REDACTED]
Sent: Tuesday, September 2, 2025 12:57 PM
To: Villalobos, Andrea <avillalobos@sanmarcostx.gov>
Cc: Ed Theriot [REDACTED]
Subject: Leather Showroom Furniture Store

Hello Andrea,

I hope you are doing well and enjoying your new role in the department.

Ed and I would like to schedule a meeting with you to discuss the administrative approval of an unlisted use as authorized by Chapter 5.1.1.1.D. of the Land Development Code. A "Furniture Store" is not a specifically identified use in the Chapter 5 or Chapter 9 land use matrix. Chapter 5 provides for the Planning and Development Services Director (the responsible official) to make an administrative determination that a new or unlisted use is similar in the majority of characteristics to a listed use. We believe a furniture store use has many characteristics similar to a warehouse use and would like to discuss this in detail when you are available.

We are representing a client that owns a furniture store in San Marcos called the Leather Showroom. The store shares Lots 24 and 25 of the Municipal Airport Subdivision (2609 IH 35 S) with two other buildings and the parking area is accessible to all three buildings.

The store is currently parked at the standard retail requirement of 1 space per 250 square feet for the retail sales area and the parking is significantly underutilized. If you've ever gone into a furniture store, you've seen that there are very seldom more than one or two customers in the retail sales area at any one time and a lot of purchases tend to be made online. Most cities have recognized this characteristic of the use and have developed a separate parking standard

for the furniture store uses. We have provided information from APA as well as other City's that have designated furniture store parking separate from retail.

Please let us know of a couple of date / times that will work with your schedule, and we will confirm.

Thank you,

Shannon S. Mattingly, AICP
Director of Land Use and Entitlements
Drenner Group, PC
2705 Bee Cave Road, Suite 100
Austin, TX 78746

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A few more thoughts-- I would also request that the construction of power plants be restricted to Heavy Industrial and require CUPs approved by City Council. As I understand it, the LDC draft contained in the March 3rd packet considers coal and natural gas power plants to be Major Utilities ([5.1.7.10](#) and [5.1.6.3](#)) and therefore allows them in zoning categories as low as Business Park with a P&Z approved CUP (Table 5.1). Even if some members of council consider Business Park to be appropriate zoning for some data centers, I suspect that we can agree it is not appropriate for coal, natural gas, or nuclear power plants, including power plants built on-site to accompany data centers. Either Section [5.1.6.3](#), Section [5.1.7.10](#), and Table 5.1 should be changed to create separate zoning restrictions for power plants, or all Major Utilities should be limited to Heavy Industrial with council-approved CUPs.

My reason for requesting that power plant CUPs require approval by City Council is principally that most power plants consume huge quantities of water. According to the document attached below which I shared with you in February, the water required for energy production in our region is typically 530 gal/MWh for coal-fired power plants, 280 gal/MWh for natural gas, and 460 gal/MWh for nuclear (gal/kWh x 1000 = gal/MWh). The average power plant in Texas produces [1,435,319 MWh per year](#) (total production / # of power plants), 3,932 MWh per day, or an average rate of production of 164 MW (*Since this average rate of production is lower than many new data centers' rate of consumption, I believe what follows should be considered a conservative estimate*). Based on these figures, a typical natural gas power plant might be expected to use around 401,889,320 gallons per year, or **1,101,067 gallons per day**. If a new power plant produces more electricity than the current average, which seems plausible since it might be purpose-built to serve large data centers which consume energy at rates hundreds of MW higher than the previously stated average production, that water consumption could be considerably higher.

Because of these huge quantities of water which might be used by power plants, City Council should have the opportunity to set the terms of their development and, when necessary, block the development of those which do not use our city or region's resources responsibly. I believe requiring power plant CUPs to be approved by Council will achieve this, while preserving council's ability to exercise discretion and avoiding the imposition of inflexible or unfair restrictions on development.

Best,
Zach

On Wed, Mar 25, 2026 at 9:58 PM Zachary Tyndall [REDACTED] wrote:

Mayor Hughson and Amanda Rodriguez,

Here are my notes on the Land Development Code. Any section numbers, page numbers, amendment numbers, or quotations are from the LDC draft included in the March 3rd, 2026 Regular Meeting Agenda Packet, unless otherwise noted.

- **Section 2.2.4.2, pg. 2:10, #2-9**

- **I am in favor of Staff Amendment #2, simplifying and clarifying Section 2.2.4.2 and, I believe, correcting a possible mistake in the previous draft.**
 - If I am interpreting it correctly, the previous draft of the LDC Section 2.2.4.2.D.2.b, as it appears in the 3-3-2026 Regular Meeting Agenda Packet, seems to indicate that only a simple majority is required to approve an application in the event of a protest described by section 2.2.4.2.D.1.c (petition from 60% of neighbors of increased density residential rezoning, for short.). I assume this was a mistake-- if only a *simple majority* is required in the event of a protest, what is the point of the protest? Staff Amendment #2 seems to fix this, requiring a super-majority vote in the case of any valid protest. The text proposed in Staff Amendment #2 is also much clearer than the previous version, though Section 2.2.4.2.A.3, as it is appears in the Staff Amendment, could benefit from more commas.

- **Section 2.3.2.1.E&F, pg. 2:14, #2-10**

- **Do not shift responsibility for posting notices from the "responsible official" to the applicant.**
 - It seems to me that it would take just as much time and effort for city staff to monitor and enforce applicants' compliance with notice requirements as it would for staff to just post notices themselves. I am also concerned this will increase the likelihood of errors or noncompliance while yielding little to no benefit. Staff should weigh in on this, but I'd like to know what problem this amendment is supposed to solve.

- **Section 2.8.3.4.A, pg. 2:55, #0-1**

- **Add the following to CUP Criteria for Approval.**
 - Add "11. *The proposed use may contribute to strain on natural*

resources, such as water," or similar.

- Add "12. *The proposed use may contribute to strain on public services or utilities, such as electricity, water, and wastewater," or similar.*
- The above would direct P&Z and City Council to *consider* a conditional use's impact on important resources, while still preserving their ability to exercise discretion. With growing concern over increasing resource use and scarcity, especially in the case of water, this will help ensure that developments' impact on important resources is part of the conversation, without imposing inflexible limits on development.

- **Section 3.5.2.7.C, pg. 3:23, #3-26**

- **Do not adopt P&Z Amendment #2 changing "if applicable" to "at the option of the applicant."**

- A summary of the significance of suggested street names should be required, not optional. However, I suspect the "if applicable" phrase could be reworked to reduce ambiguity.

- **Table 5.1, pg. 5:8, #5-7**

- **Designate data centers as Conditional Use in any and all zoning categories in which they are allowed.**

- Requiring CUP's for data centers will give the city more opportunities to review, and approve or deny, data center development. It will also incentivize transparency from developers pursuing PSA's and zoning changes for the purpose of developing data centers, since they will likely wish to apply for the CUP alongside the PSA and zoning change in cases where the latter are required.

- **Restrict data centers to Heavy Industrial.**

- It is my understanding that if more than one zoning category allows data centers, a data center developer who has had a PSA or zoning change denied may choose to skip the waiting period usually mandated by that denial by submitting an application for the same project under a different zoning category. This is because the new application would not be considered "substantially similar," even though the intended use is effectively the same. Those waiting periods are there for a reason. By limiting data centers to a single zoning category, we may save city staff,

the Planning and Zoning Commission, City Council, and the public from being required to process and review *functionally* similar applications as soon as the previous one has been denied.

- Diesel generators would typically be employed by data centers in the event that they must disconnect from the grid. I don't believe operating diesel generators, even intermittently, on the scale required by modern data centers is compatible with the intent of Business Park or Light Industrial zoning. Even though the generators are would only be used occasionally, I imagine the diesel generation needed to operate, for example, a 375 MW data center might constitute, if not a public health concern, at least a nuisance by virtue of the noise, pollution, and odor created by the generators. Remember that the average rate of electricity used by [all San Marcos Utilities customers combined in 2023 was 74.5 MW](#) (652,265 MWh annual total, divided by 365 days, divided by 24 hours. equals 74.46 MW). So in this example, we are talking about 5 times that much electricity being produced by diesel generators. Note that in Business Park zoning, "[d]evelopment should be operated in a clean and quiet manner, and should not cause excess light, odor, noise, traffic, or otherwise be obnoxious to nearby residential or commercial uses" and that in Light Industrial zoning, "[d]evelopment should be operated in a relatively clean and quiet manner, and should not be obnoxious to nearby residential or commercial uses" (Sect. [4.4.4.2](#) and [4.4.4.4](#)). Heavy Industrial, on the other hand, "is intended to accommodate a broad range of high impact manufacturing or industrial uses, that by their nature create a nuisance, and which are not properly associated with or are not compatible with nearby residential or commercial uses" (Sect. [4.4.4.5](#)).

- **Section 5.1.5.5.A.4.b.3, pg. 5:23, #5-27**

- **Remove the proposed amendment instituting 8-hour food service requirement for alcohol CUP's at eating establishments in the CBA boundary.**

- I believe this amendment may adversely affect brunch restaurants or restaurants which have shortened summer hours. I am thinking of places like Root Cellar and Blue Dahlia which, if I remember correctly, have sometimes had short business hours which would have fallen below the 8-hour requirement. Consider that if a restaurant is only open for breakfast and lunch from 8am to 3pm, they would fall below the 8-hour limit and would not be allowed to serve things like mimosas.

- **Section 5.1.5.5.B.2, pg. 5:22**

- **Formatting error?**

- Section 5.1.5.5.B.2 is titled "Use Standards" then the description of use standards begins with Section 5.1.5.5.B.3

- **Section 5.1.5.5.B.7, pg. 5:23**

- **I am opposed to Staff Amendment #1, requiring that restaurants within the CBA be responsible for cleaning the area within 100 feet instead of 50 feet of any exit.**

- Seems excessive. A restaurant is already "responsible for maintaining the sidewalk, gutters, parking lot, all areas within 50 feet of any exit, and all areas of the permitted property." Extending this from 50 feet to 100 feet would typically mean restaurant workers are responsible for cleaning public spaces well beyond the immediate vicinity of the business. If we assume the area in question forms a semicircle, this change means the difference between 3,927 sq ft and 15,708 sq ft for each exit. This additional responsibility would often fall on restaurant servers working after hours (this sort of cleaning is usually included in servers' closing duties) and being paid as little as \$2.13/hr (the minimum wage for tipped employees-- tip your servers!). While it is reasonable for businesses to be expected to clean up after themselves and their customers in the *immediate* vicinity of the business, this staff amendment would effectively shift the responsibility of maintaining public spaces onto some of the lowest-paid workers in our community.

- **Section 5.1.6.3, pg. 5:29**

- **Designate diesel generator systems capable of unusually intensive use as Major Utilities.**

- I gather that, under the latest LDC draft, backup diesel generators would likely be considered Minor Utilities, and would therefore be "Permitted Use" in all zoning categories. Considering the high power demands created by facilities such as modern AI data centers and their need for huge amounts of backup energy, there is a need to reevaluate regulations

on backup generators. For facilities with diesel generators which collectively have the capacity for unusually high energy output, or which cause excessive noise, pollution, or are otherwise obnoxious to nearby residential or commercial uses, those generators should be considered Major Utilities and therefore require CUP's. In determining what should be considered unusually intensive diesel generator use, it may be worthwhile to consider what more traditional facilities with backup generators such as hospitals use, so these more common facilities are not adversely affected. One more generous way to draw the line may be reference generators for Large Load facilities. The [Texas Legislature](#) considers Large Load consumers to be those which use at least 75MW.

- **Section 5.1.7.10.B, pg. 5:36-37, #5-24**
 - **Require City Council approval for data center CUP's.**
 - Add "4. Where a data center is allowed as a conditional use it may be permitted by the City Council upon a recommendation by the Planning and Zoning Commission in accordance with Section [2.8.3.1](#). A conditional use permit request for a data center shall not become effective except by the favorable vote of three-fourths of all members of the City Council when the P&Z recommends denial of the request." (This language is borrowed from 5.1.4.9.B.2, Purpose-Built Student Housing)
 - Due to many data centers' intensive use of resources and the degree of public interest, an elected body should be included in the process of deciding if and how they are developed in the city. Requiring City Council approval of CUP's achieves this.

Thank you for seeking additional public input on this matter. I'd be happy to discuss further.

Best,
Zachary Tyndall

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From: [Villalobos, Andrea](#)
To: [Soto, David](#)
Subject: Fw: [EXTERNAL] Data Center vote for 4/21/2026
Date: Monday, April 20, 2026 7:44:34 AM

[REDACTED]

[REDACTED]

[REDACTED]

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From: Matt Payne [REDACTED]
Sent: Sunday, April 19, 2026 8:24:59 AM
To: Council Members Mail Group [REDACTED]
Subject: [EXTERNAL] Data Center vote for 4/21/2026

Dear City Council Members,

It is my understanding that this Tuesday (and again May 5th) you will hold a vote on Data Centers in San Marcos.

Please do whatever possible to reject a data center from our future. Please vote "no permit". Do not be fooled that you have no power in this matter. It may be a hard fight, but a worthy one.

I trust you know the scope of this decision and are aware of the public opinion, so i will not go on about it. But know, that I will not re-elect a single member of this council if data centers are opened here. I went to school at Texas State University, left town for many years, but chose to come back because I recognize the special gem of this place. I will feel betrayed if San Marcos and its surrounding vicinities are whored out to Corporate interest and foolish deals.

Thank you for your time in reading my letter. The world changes, lives change, and we continue on with "new stuff", but not with the things we've lost. Do the honest work you can be proud of.

Sincerely,
Matthew Payne

From: Sean Jones <[REDACTED]>
Sent: Tuesday, April 21, 2026 11:04 AM
To: Council Members Mail Group <councilmembers@sanmarcostx.gov>
Subject: [EXTERNAL] Agenda Item 11 - Ordinance 2026-08

Hello Council,

I'd like to address item 11 on the agenda for today regarding updates to land development codes, especially as they pertain to Data Centers.

As was clear in the last council meeting regarding this topic, the majority of this city doesn't want data centers in our city. Any changes to the proposals around Data Center development should further reflect and honor the wishes of our citizens. That means making it more difficult for them to be developed, not easier.

The proposal tonight should honor that and make the development of data centers and the codes surrounding them more stringent and difficult to be developed in San Marcos. We must avoid all the environmental concerns they certainly will bring with them and only allow them if they meet the strictest of standards. Over the past weeks the number of concerns have grown with the rise of data around heat islands they create for the lands and people around them. Texas is hot enough y'all!

As I stated at the last meeting I attended I believe that the following should be applied:
- They should not be allowed to be zoned business park - They can only be zoned high industrial - They still require conditional use permit in high industrial zoning - They require council vote as well, not only P&Z If these have not been met then we shouldn't pass the proposed codes tonight. Unfortunately I cannot be there tonight, but please take my words into consideration as they are echoed by the majority of our city. The silent majority is not the majority, they are simply the influential. Please honor the majority of your San Marcos residents

Sean Jones

[REDACTED]

[REDACTED]



[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]



[REDACTED]

[REDACTED] San Marcos and may be subject to public disclosure under the [Texas Public Information Act](#).

From: Gena Fleming [REDACTED]

Sent: Thursday, March 26, 2026 9:33 PM

To: Rodriguez, Amanda [REDACTED] Hughson, Jane

[REDACTED]

Subject: [EXTERNAL] Data Center Development Code

Dear Mayor Hughson and Council Member Rodriguez,

The following are my thoughts about development code changes for data centers. I believe the changes on data centers should be a separate discussion, considered in a focused session after all the other development code edits have been discussed and finalized. This is a complicated topic that is rapidly evolving. ***It is imperative that we reserve the right at the municipal level to deny development that threatens our water supply and public health.*** There are both technical and legal considerations that have yet to be fully explored. Please give this issue the full consideration it is due.

With that being said, this is where my opinions lie at the current moment.

- 1) Due to the high energy and water consumption, and potential for adverse effects on public health and the environment, data centers should only be considered for **Heavy Industrial Zoning, and then only upon approval of a conditional use permit by both P&Z and Council.** It might be useful to also have a discussion on whether the zoning designation should be strictly for "data centers" or a more general term inclusive of related development.
- 2) The **effects on public health and the environment need to be holistically evaluated** before approval of any proposed development that draws heavily on natural resources and energy, and/or poses risk of environmental pollution. I'm astonished we do not have an Environmental Commission or other branch of municipal government charged with oversight of these issues. Before we finalize development code determinations for data centers, we need to have a discussion on how and by whom these environmental and health parameters are going to be effectively assessed. Ideally, the entity would include a partnership between other municipalities and counties that overlie the same affected aquifer(s).
- 3) **Drought Management.** We need a drought stage system that reflects a critical drought stage. I do not understand the rationale for approving any high energy and water use industries when we are in the midst of life threatening drought conditions. We also need increased transparency of alternative water management systems under consideration, including the potential adverse effects. In addition, residents should not be the only ones required to restrict water use or pay increased fees. Corpus Christi, for example, has recently proposed a Fair Water Amendment. <https://www.fairwateramendment.com/read-the-amendment>
- 4) I disagree with the proposal that all data centers should require a closed loop cooling system. Such a condition perpetuates the misunderstanding that closed loop cooling systems use less water. While they do consume less water on-site, they may consume more water off-

site due to higher energy consumption. They also require chemicals that need to be periodically drained off, introducing a potential contamination hazard. The cooling method should be considered in the conditional use permit, but in a holistic manner that takes in consideration the full range of effects, and allows for new developments and consideration of other options that might be available in the future. In short, the appropriate metric for evaluating the best cooling method will likely evolve over time.

Thank you for your service and consideration.

Best wishes,

Gena Fleming
San Marcos, TX

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From: Gena Fleming <[REDACTED]>
Sent: Tuesday, April 28, 2026 5:42:11 PM
To: Council Members Mail Group <councilmembers@sanmarcostx.gov>
Subject: [EXTERNAL] Data Center Development Code

Dear Mayor Hughson and City Council Members,

I found some items in another state's city-county data center development code ordinance that included some items I don't recall being covered in the previous meeting. I do remember that Mayor Hughson had mentioned concerns about decommissioning data centers during one of the Maberry/CyrusOne discussions.

I believe the City, not just SUDs, should hold the responsibility of assuring adequate water supply for the entire region before a data center is approved. This should include consideration of indirect water consumption associated with fossil fuel extraction and electricity production, as well as the potential for groundwater contamination or air pollution. This might be included in a section on Environmental and Public Health. In addition, someone had suggested to me that the sale of water to Kyle could be contingent on them not having a data center or equivalent high capacity industrial project approved.

Even if all conditions are met, I hold that the City should still retain the authority to deny a data center.

Selected text with link to full text below.

"9. Required site and operational plan(s)

1. All data centers shall be subject to an approved Site Plan, Plan of Operation, utility consumption and capacity reports which identify:
 - a. The Subject property including the property lines, setback lines, and right-of-way lines; and
 - b. Physical features including but not limited to roads, special flood hazard areas, wetlands, existing and proposed buildings, parking areas, equipment, proposed locations of underground or overhead electric lines and utility poles, landscaping, and fencing.
 - c. Proposed access routes for emergency response vehicles.
 - d. A facility security plan that provides, at a minimum, the location and specifications for perimeter security fencing, security gates and exterior building and parking lot lighting.
 - e. Visual screening report that includes at least the following:
 1. An area map showing all properties and principal buildings within 600 feet of the proposed data center site;
 2. Locations and types of existing vegetation that may provide screening of views of the data center and associated improvements;
 3. Any topographic features that provide screening of the facility;
 4. A proposed landscape and screening plan.

5. Heritage Tree assessment and mitigation plan.

f. A water management plan detailing how the facility will meet their anticipated cooling needs and how the used water will be discharged and disposed.

g. An electricity capacity plan that details the electrical load requirements for the primary building and all accessory buildings and/or structures on-site.

h. A noise study and mitigation plan prepared by an acoustics engineer describing the facility's anticipated noise levels and all proposed mitigation efforts (e.g., sound walls, baffles, ventilation silencers, landscaping) that will be employed to ensure compliance with the maximum sound level standard. Prior to issuance of an ILP, a report that describes the methodology on how the property owner/operator shall measure and monitor decibel levels at the property line shall be submitted to ensure compliance with all rules and regulations related to permitted level of noise.

i. A decommissioning plan that provides, at a minimum:

1. Definition of the scope of the decommissioning process: full or partial decommission.
2. Anticipated timeline for the decommissioning process.
3. Identification of the required compliance measures with local, state and federal building code and environmental regulations.
4. Inventory Removal Plan including asset disposition, e-waste tracking reports and hazardous materials handling.
5. Identification of the required documentation for the destruction of inventory.?

2. All proposed data centers shall provide written verification in the form of a will serve letter from the utility provider(s) and agencies serving the site. At a minimum, the utility provider(s) and agencies shall verify that:

- a. Adequate electrical capacity is available to meet the current customer electrical load and the expected electrical load for the proposed data center.
- b. Utility supply equipment, including supply lines, substations and related electrical infrastructure, are sufficiently sized and can safely accommodate the proposed data center;
- c. The proposed data center will not cause electrical interference or fluctuations in line voltage.
- d. Adequate water supply is available to meet the current customer demand and the expected demand of the data center facility.
- e. Adequate means of providing sanitary sewer and the management of waste and wastewater for the project are available.
- f. Compliance with the Airspace Secondary Zoning District regulations and all applicable Federal Aviation Administration (FAA) guidelines,"

<https://us-east-1-indy.graphassets.com/ActDBC5rvRWeCZINnLrDz/cmo8km4rc012207k3kk2seaaw>

Best wishes,

Gena Fleming

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CITY-COUNTY GENERAL ORDINANCE NO.____, 2026
Proposal No.____, 2026

METROPOLITAN DEVELOPMENT COMMISSION
DOCKET NO. 2026-AO-001

PROPOSAL FOR A GENERAL ORDINANCE to amend Chapter 740-202 (Definitions), 742-109 (Special Use Districts) and Table 743-208-1 of the Consolidated Zoning and Subdivision Control Ordinance of Indianapolis-Marion County, Indiana, concerning data center development.

WHEREAS the City of Indianapolis-Marion County Consolidated Zoning and Subdivision Ordinance establishes definitions of terms as well as Special Use Districts and development standards; and

WHEREAS there is a need to create a Special Use District specifically for Data Center development; and

WHEREAS, therefore, the creation of a new Special Use District for Data Center development will require the addition of certain definitions and development standards;

**BE IT ORDAINED BY THE CITY-COUNTY
COUNCIL OF THE CITY OF INDIANAPOLIS
AND OF MARION COUNTY, INDIANA:**

SECTION 1. Section 740-202 of the Consolidated Zoning and Subdivision Control Ordinance of Indianapolis/Marion County, Indiana is hereby amended by adding the language that is underlined and deleting the language that is stricken-through, to read as follows:

Data Center: A facility used primarily for the storage, management, processing, and transmission of digital data and that houses computer or network equipment, systems, servers, appliances, and other associated components related to digital data storage, processing, and related operations. Data center uses include data storage facilities, server farms, artificial intelligence training or processing, image processing, cloud computing, email servicing, and similar uses. This definition does not include information technology (IT) services and equipment which are incidental and subordinate to a primary, permitted use.

SECTION 2. Section 742-109 of the Consolidated Zoning and Subdivision Control Ordinance of Indianapolis/Marion County, Indiana is hereby amended by adding the language that is underlined and deleting the language that is stricken-through, to read as follows:

Section 742-109(B) Permitted uses and developments standards

Table 742-109-1: SU Districts Permitted Use and Development Standards Summary Table		
Zoning District Symbol	Applicable District for Development Standards Review	Permitted Use
<u>SU-47</u>	<u>I-3</u>	<u>Data Center facilities</u>

Section 742-109(L) Additional standards for SU-47 district (Data Center)

In addition to the regulations of subsections B. through G. above, the following regulations apply to the SU-47 district:

1. Land use restriction. Land use permitted in the SU-47 district is limited to data center facilities as defined. Whenever the applicable standards or requirements of any other ordinance, or governmental unit or agency thereof are higher or more restrictive, the latter shall control land use permitted in the SU-47 district.

2. Existing Structures. When a data center facility occupies a legally established, legally non-conforming structure, the change of use shall require compliance with all the standards of the current Ordinance.

3. Protected District separation. Minimum separation of 200ft. between the primary building of the data center facility and the property line of a Protected District (pertaining to industrial development).

4. Sound levels. Maximum sound levels associated with any component of a data center may not exceed 65 decibels (dB), measured at the property line.

5. Mechanical equipment. All mechanical and electrical equipment will be screened from the view of the public right-of-way and adjoining properties.

- All backup generators are subject to compliance with Indiana Department of Environmental Management permitting under 326 Indiana Administrative Code (IAC) 2 and limited to emergency use only. Any and all testing of equipment or generators is prohibited between 5:00 p.m. and 7:00 a.m.

6. Screening. All mechanical equipment, including but not limited to generators, HVAC systems, and cooling/chilling systems shall be screened from the view of the public right-of-way and adjoining properties by the following standards:

- A fence or wall that is a minimum of 10 feet in height and 100% opacity shall be provided to screen the equipment from abutting properties. Roof-mounted equipment shall be limited to 10 feet above the maximum building height;
- An undulating earthen berm shall be constructed to provide a continuous buffer strip along a lot line that is adjacent to a Protected District. An earthen berm shall be built to a minimum height of eight (8) feet above the natural surface of the ground. In no instance shall the peak height of an earthen berm be less than three (3) feet measured from the established street grade;
- A vegetated buffer strip shall be planted and maintained consisting of two (2) staggered rows of evergreen trees, each row planted 15 feet on center, with a height of five (5) feet at time of planting in all yards that are adjacent to a Protected District.

7. Buried utilities. All on-site utility lines must be placed underground, as permitted by the serving utility, with the exception of the main service connection at the utility company right-of-way and any new interconnection equipment including, without limitation, any poles with new easements and right-of-way.

8. Sidewalks, multi-use paths and greenways. The construction of sidewalks is required along all rights-of-way adjacent to the SU-47 parcel. If a segment of a multi-use path and/or greenway is proposed adjacent to the SU-47 parcel, it shall be constructed within three (3) years of the issuance of an Improvement Location Permit.

- The SU-47 parcel owner will also be responsible for multi-use path and/or greenway enhancements that are enumerated in the Comprehensive Plan, including but not limited to: proposed trail heads, restrooms, benches and other amenities.

9. Required site and operational plan(s)

1. All data centers shall be subject to an approved Site Plan, Plan of Operation, utility consumption and capacity reports which identify:

a. The Subject property including the property lines, setback lines, and right-of-way lines; and

b. Physical features including but not limited to roads, special flood hazard areas, wetlands, existing and proposed buildings, parking areas, equipment, proposed locations of underground or overhead electric lines and utility poles, landscaping, and fencing.

c. Proposed access routes for emergency response vehicles.

d. A facility security plan that provides, at a minimum, the location and specifications for perimeter security fencing, security gates and exterior building and parking lot lighting.

e. Visual screening report that includes at least the following:

1. An area map showing all properties and principal buildings within 600 feet of the proposed data center site;
2. Locations and types of existing vegetation that may provide screening of views of the data center and associated improvements;
3. Any topographic features that provide screening of the facility;
4. A proposed landscape and screening plan.
5. Heritage Tree assessment and mitigation plan.

f. A water management plan detailing how the facility will meet their anticipated cooling needs and how the used water will be discharged and disposed.

g. An electricity capacity plan that details the electrical load requirements for the primary building and all accessory buildings and/or structures on-site.

h. A noise study and mitigation plan prepared by an acoustics engineer describing the facility's anticipated noise levels and all proposed mitigation efforts (e.g., sound walls, baffles, ventilation silencers, landscaping) that will be employed to ensure compliance with the maximum sound level standard. Prior to issuance of an ILP, a report that describes the methodology on how the property owner/operator shall measure and monitor decibel levels at the property line shall be submitted to ensure compliance with all rules and regulations related to permitted level of noise.

i. A decommissioning plan that provides, at a minimum:

1. Definition of the scope of the decommissioning process: full or partial decommission.
2. Anticipated timeline for the decommissioning process.
3. Identification of the required compliance measures with local, state and federal building code and environmental regulations.
4. Inventory Removal Plan including asset disposition, e-waste tracking reports and hazardous materials handling.
5. Identification of the required documentation for the destruction of inventory.

6. Facility Restoration Plan including the removal of all equipment and restoration of the building insuring that it is a building code compliant structure.

2. All proposed data centers shall provide written verification in the form of a will serve letter from the utility provider(s) and agencies serving the site. At a minimum, the utility provider(s) and agencies shall verify that:

a. Adequate electrical capacity is available to meet the current customer electrical load and the expected electrical load for the proposed data center.

b. Utility supply equipment, including supply lines, substations and related electrical infrastructure, are sufficiently sized and can safely accommodate the proposed data center:

c. The proposed data center will not cause electrical interference or fluctuations in line voltage.

d. Adequate water supply is available to meet the current customer demand and the expected demand of the data center facility.

e. Adequate means of providing sanitary sewer and the management of waste and wastewater for the project are available.

f. Compliance with the Airspace Secondary Zoning District regulations and all applicable Federal Aviation Administration (FAA) guidelines.

SECTION 3. Table 743-208-1 of the Consolidated Zoning and Subdivision Control Ordinance of Indianapolis/Marion County, Indiana is hereby amended by adding the language that is underlined and deleting the language that is stricken-through, to read as follows:

Table 743-208-1: USES PROHIBITED IN NON-SU DISTRICTS	
DISTRICT	USES
<u>SU-47</u>	<u>Data Center facilities</u>

THE FOREGOING amending ordinance, 2026-AO-001 to the “Revised Code of the Consolidated City and County” of Indianapolis-Marion County, Indiana, is hereby recommended for approval by the affirmative vote of the undersigned members of said Commission, this the 20th day of May, 2026.

John J. Dillon III, Commissioner and President

Megan Garver, Commissioner and Vice President

Bruce Schumacher, Commissioner and
Acting Secretary

Brandon Herget, Commissioner

Brigid Robinson, Commissioner

Brent Lyle, Commissioner

Daniel Moriarty, Commissioner

Brian P. Murphy, Commissioner and Secretary

Gregg West, Commissioner

**METROPOLITAN DEVELOPMENT COMMISSION
OF MARION COUNTY, INDIANA**

ATTEST:

Brian P. Murphy, Secretary
Metropolitan Development Commission
of Marion County, Indiana

APPROVED AS TO LEGAL FORM
AND ADEQUACY this 20th day of
May, 2026

Christopher Steinmetz
Assistant Corporation Counsel