



## Legislation Text

---

**File #:** Ord. 2022-52, **Version:** 1

---

### **AGENDA CAPTION:**

Consider approval of Ordinance 2022-52, on the first of two readings, clarifying the restrictions under a restrictive covenant agreement associated with Ordinance No. 2021-77 that approved a 22.58 acre "EC" Employment Center Zoning District located at the northwest corner of the Wonder World Drive by removing "warehouse" as a prohibited use; including procedural provisions; and providing an effective date.

**Meeting date:** July 5, 2022

**Department:** Planning & Development Services

### **Amount & Source of Funding**

**Funds Required:** N/A

**Account Number:** N/A

**Funds Available:** N/A

**Account Name:** N/A

### **Fiscal Note:**

**Prior Council Action:** At the City Council meeting held September 21, 2021, Council approved zoning from "FD" Future Development to "EC" Employment Center with a delayed effective date to allow a restrictive covenant be recorded to limit the location of hotels and to prohibit truck stop and warehouse uses. On October 19, 2021, Council approved both Ordinance No. 2021-77 and a restrictive covenant limiting and prohibiting the aforementioned uses, however, the applicant did not intend for warehouse uses to be included.

**City Council Strategic Initiative:** [Please select from the dropdown menu below]

N/A

N/A

N/A

**Comprehensive Plan Element (s):** [Please select the Plan element(s) and Goal # from dropdown menu below]

☐ Economic Development - Choose an item.

☐ Environment & Resource Protection - Choose an item.

☐ Land Use - Choose an item.

☐ Neighborhoods & Housing - Choose an item.

- ☐ Parks, Public Spaces & Facilities - Choose an item.
- ☐ Transportation - Choose an item.
- ☐ Core Services
- ☒ Not Applicable

**Master Plan:** *[Please select the corresponding Master Plan from the dropdown menu below (if applicable)]*

Choose an item.

**Background Information:**

On May 3, 2022, the applicant and their representatives contacted City staff to discuss an error that was made in their drafting of the restrictive covenant. In particular, the applicant's did not want to prohibit warehouse uses as [defined by SMDC 5.1.7.4 <https://user-3vpeqil.cld.bz/San-Marcos-Development-Code-9-1-2020/308/>](https://user-3vpeqil.cld.bz/San-Marcos-Development-Code-9-1-2020/308/). Conversely, the applicants acknowledge that they did agree to limit the location of hotels and to prohibit truck stop uses. Under the property's "EC" zoning, warehouse uses would require a conditional use permit. Below is a summary of Council's previous discussions:

At Council's first reading on September 21, 2021, in-depth discussion occurred regarding the (a) number of gas pumps and the (b) location of the hotel and about prohibiting (1) trucks stops, (2) light manufacturing, and (3) warehousing uses. The applicant agreed to prohibit truck stops and to limit the location of the hotel. Council directed the preparation of a draft restrictive covenant but no specific mention of exactly what it should limit and/or prohibit was provided.

Within Council's second reading packet on October 19, 2021, the applicant prepared and provided a hotel setback exhibit and draft restrictive covenant (enclosed), and the item was approved without discussion on consent agenda.

**Council Committee, Board/Commission Action:**

Click or tap here to enter text.

**Alternatives:**

Click or tap here to enter text.

**Recommendation:**

Provide staff **with direction** regarding removal of the warehouse use from the restrictive covenant. Under the property's "EC" zoning, warehouse uses would require a conditional use permit.