

## Legislation Text

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File #: 18-575, Version: 1

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Presenter

*Christopher J. Looney, Planning and Community Development Director  
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**SUBJECT:**

Discuss and consider approval of the second and final reading of an ordinance regarding the proposed rezoning to apply a Special Use Permit to allow short-term rental of a single-family residence in the "C-3" Commercial District addressed at 730 S. Mesquite Avenue.

**BACKGROUND / RATIONALE:**

**Case No.:** PZ-18-026

**Council District:** 1

**Owner/Applicant:** Robert Hudson  
730 S. Mesquite Avenue  
New Braunfels, TX 78130  
(830) 632-5067  
rhrconstruction@msn.com

**Staff Contact:** Holly Mullins, Sr. Planner  
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**City Council held a public hearing on September 24, 2018 and approved the first reading of the ordinance for the applicant's requested rezoning (5-1).**

The subject property is located at the southwest corner of Mesquite Avenue and Hillview Avenue, between IH-35 South and Business 35 in the New Braunfels Sub Area. The property is approximately 5,900 square feet and contains a 1,500 square foot residential structure built in 1952. The applicant currently resides in the house and utilizes a portion of it as a home office for his real estate and home construction business, as allowed under the Home Occupation section of the Zoning Ordinance (144-5.5) (Home Occupations are authorized commercial activity out a home limited by performance standards to prevent negative impact to neighbors.)

The "C-3" zoning district allows rental or occupancy for less than one month. However, the structure is a single-family dwelling which requires approval of a Special Use Permit (SUP) before it can be used as a short-term rental. If the SUP is approved, an administrative Short Term Rental Permit is also required prior to the first rental, along with annual fire inspections.

The residence currently contains three bedrooms and two bathrooms. The applicant is proposing to

rent only a suite consisting of the master bedroom, one bath, kitchen, living and utility rooms, approximately 925 square feet, on a short-term basis. The remaining rooms will be accessed through a separate entrance and contain his office and personal belongings. The request does not qualify as a bed & breakfast because the owner/applicant may not be present when the suite is rented.

Minimum required off-street parking is one space per sleeping area (1) and the maximum is that number plus one (2 spaces). Two additional spaces are required for the office/residential use of the remaining 600 square feet of the house, for a minimum total of 3 spaces and a maximum of 4. The applicant's site plan indicates paved parking for three vehicles on the Hillview Avenue side, and a permit was recently issued for one additional space on the side of the house from Mesquite Avenue. The applicant will not construct the new driveway unless the SUP is approved.

The Zoning Ordinance sets maximum occupancy of the rental portion at two adults per bedroom plus an additional 4 adults (6 adults total).

**General Information:**

Size: = 5,895 square feet

**Surrounding Zoning and Land Use:**

North - Across Hillview, C-3/ Unimproved parking

South - C-3/ Single-family residence

East - Across Mesquite, C-3/ Undeveloped

West - C-3/ Single-family residence

**Comprehensive Plan:**

- New Braunfels Sub Area
- Proximity to a Future Market Center
- Between two Transitional Mixed-Use Corridors

**Floodplain:** No portion of the property is located within the 1% chance floodplain.

**Improvement(s):** Single-family residence with home occupation office

**Determination Factors:**

In making a decision on zoning, the following factors are to be considered:

- Whether the permitted uses will be appropriate in the immediate area and their relationship to the area and to the City as a whole (*The subject property is zoned C-3 in an area of mixed commercial and residential uses. Although not in the immediate area of major visitor attractions, the property is centrally located with easy vehicular access to arterial roadways.*);
- Whether the change is in accord with any existing or proposed public schools, streets, water supply, sanitary sewers, and other utilities to the area (*There do not appear to be any conflicts with these elements.*);
- How other areas designated for similar development will be affected (*There should be no negative impact on other areas designated for similar development.*);
- Any other factors that will substantially affect the public health, safety, morals, or general welfare. (*The use of this property as a short term rental will be subject to the supplemental standards as required in Section 5.17 of the Zoning Ordinance. These standards help to*

ensure that proper measures are in place to protect public health and to encourage appropriate use of the property.); and

- Whether the request is consistent with the Comprehensive Plan. (*The Future Land Use Plan places the subject property between two Transitional Mixed-Use Corridors, and in close proximity to a Market Center.*)

Supplemental standards for short term rentals are attached, and include:

- An administrative Short-Term Rental Permit and annual inspections are required, in addition to the SUP;
- a maximum of two (2) adults per sleeping area plus an additional four (4) adults per residence (**one (1) sleeping area plus four (4) additional adults allows for a maximum total of 6 adults**);
- display of a short-term rental decal;
- a minimum of one (1) off-street parking space per sleeping area, not including a garage, and not to exceed the number of sleeping areas plus one (1) (**minimum of one (1) and maximum of two (2) spaces not counting requirements mentioned above for the residential/office use**);
- adherence to the City’s adopted building codes regarding life safety issues;
- compliance with City codes related to conduct on premises;
- signage in compliance with the current Sign Ordinance (no monument or freestanding pole signs; attached signage is not regulated); and
- required tenant information posted indoors and attached to the rental agreement including quiet hours, parking limitations and emergency information.

**ADDRESSES A NEED/ISSUE IN A CITY PLAN OR COUNCIL PRIORITY:**

|     |                                                                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
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| Yes | <b>City Plan/Council Priority:</b><br><b>Envision New Braunfels</b> | <b>Action 1.14</b> <i>Ensure regulations do not unintentionally inhibit the provision of a variety of flexible and innovative lodging options and attractions.</i> Use of the subject property for a short term rental will create a flexible lodging option in a central portion of the City with easy access to main thoroughfares, limiting traffic through the neighborhood. <b>Action 3.3</b> <i>Balance commercial centers with stable neighborhoods.</i> The subject property is along an area of mixed commercial and residential uses. Authorized short term rentals can create an appropriate transition of uses on the periphery of a neighborhood. Potential impacts are managed through the SUP process and associated development standards. |
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**FISCAL IMPACT:**

If approved, the property will be subject to state and local hotel occupancy tax (HOT). The property owner will be responsible for remitting the local portion of taxes to the City.

**COMMITTEE RECOMMENDATION:**

The Planning Commission held a public hearing on September 5, 2018 and recommended approval of the applicant’s request with staff recommended conditions. (8-0 with Commissioner Sonier absent)

**STAFF RECOMMENDATION:**

Staff recommends approval of the applicant's requested rezoning. The proposed use of the property will complement the mixed uses in the area while maintaining a residential appearance and would be in accordance with the Comprehensive Plan. Staff's recommendation includes the following conditions:

1. The applicant will complete construction of the paved driveway on Mesquite Avenue.
2. The residential character of the property must be maintained.
3. The property will remain in compliance with the approved site plan. Any significant changes to the site plan will require a revision to the SUP.

*Notification:*

Public hearing notices were sent to 11 owners of property within 200 feet of the request. The Planning Division received two responses in favor (#2, 3) and none in objection.

**ATTACHMENTS:**

1. Aerial, Regional Transportation Plan Map
2. Application
3. Land Use Maps
4. Existing Centers
5. Future Land Use Plan
6. Site Plan and Floor Plan
7. Notification Map
8. Photographs
9. Draft Minutes from Planning Commission
10. Ordinances:
  - Sec. 3.3-9 "C-3" Commercial District
  - Sec. 3.6 Special Use Permits
  - Sec. 5.17 Short Term Rentals
11. Ordinance