

## Legislation Text

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File #: 17-846, Version: 1

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Presenter

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

Public hearing and consideration of a resolution amending the 2006 Future Land Use Plan and the second and final reading of an ordinance regarding the proposed rezoning to apply a Type 1 Special Use Permit to allow specific commercial uses on 2.937 acres out of the Sarah Dewitt Survey No. 48, Abstract No. 103, Guadalupe County, Texas, located at the southwest intersection of Klein Road and Klein Meadows in the "APD" Agricultural/Pre-Development District.

**BACKGROUND / RATIONALE:**

**Case No.:** PZ-17-047

**Council District:** 2

**Owner/Applicant:** New Leaf Homes, LLC (Fred Ghavidel, President)  
6735 IH 10W  
Ste 103  
San Antonio, TX 78201  
(210) 559-1888

**Staff Contact:** Matt Greene, Planner  
(830) 221-4053  
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**City Council held a public hearing on January 8, 2018 and unanimously approved the first reading of the applicant's requested rezoning ordinance to apply a Type 1 Special Use Permit as recommended by the Planning Commission with the additional elimination of several uses (adult day care with overnight stay; 24-hr emergency clinic; hospital; retirement home; live drama theater; auto tire repair/sales; drapery/blind shop; custom work shop; woodworking shop) as finalized in the attached ordinance. (7-0-0).**

The subject property is situated at the intersection of Klein Road and Klein Meadows. It was zoned "APD" Agricultural/Pre-Development District when annexed in 2007. The property was identified by the original developer as a commercial tract on their Legend Pond Master Plan, but was not included within the boundaries of the "Legend Pond" Planned Development (PD) zoning district which focused on single-family residential. The subject property shares a boundary with the site of New Braunfels

Middle School, which is zoned C-1B (General Business District).

In 2013, the original developer of the Legend Pond subdivision requested a zoning change on the subject property from APD to C-1A (Neighborhood Business District) with a Type 1 Special Use Permit (SUP) to allow: convenience store with fuel sales, automated car wash, and full-service car wash (detail shop). That request was denied by City Council.

In October of 2017, the applicant requested a zoning change on this property from APD to C-1A (no additional uses requested as part of an SUP); the Planning Commission recommended approval (5-0 -0). At the October 23, 2017 City Council meeting, the applicant withdrew his request as several residents from the nearby neighborhoods expressed concerns about some of the commercial uses allowed in C-1A.

In response to resident concerns, the applicant discussed further with the neighborhood representatives and then submitted a Type 1 SUP application requesting approval for specific commercial uses of the property. The applicant derived his list of proposed uses from the list of uses allowed in C-1A, but with the removal of more intense uses based on his conversations with the neighborhood (see Attachment 7). **The list in the attached ordinance has been updated pursuant to City Council's vote on January 8 to remove additional uses from the list.**

The Future Land Use Plan calls for Low Density Residential on the subject property and surrounding area. If the applicant's request is approved, staff recommends a concurrent Future Land Use Plan amendment to Commercial with the second and final reading of the rezoning ordinance.

**General Information:**

Size: = 2.937

*Surrounding Zoning and Land Use:*

North - Across Klein Rd., outside City Limits / undeveloped agricultural land

South - Across Klein Meadows, "Legend Pond" PD / undeveloped, proposed for single family dwellings

East - Across Klein Meadows, C-1A and "Legend Pond" PD / undeveloped, proposed for commercial and single-family dwellings

West - C-1B / NBISD Klein Road Elementary School

*Comprehensive Plan/ Future Land Use Designation:*

Open Space

*Floodplain:*

A small portion of the property is located in a Special Flood Hazard Area Zone A.

*Regional Transportation Plan:*

The section of Klein Road adjacent to the subject property is identified as a 94-foot wide Minor Arterial on the 2012 Regional Transportation Plan. The City has completed right-of-way acquisition in the immediate area for the Klein Road widening project called out in the 2013 Bond.

Klein Meadows is designated as a 60-foot wide Minor Collector. The right-of-way width of Klein Meadows currently meets or exceeds 60 feet and no additional right-of-way dedication will be required with platting.

*Improvement(s):*

None.

*Determination Factors:*

In making a decision on rezoning, 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 located at the intersection of Klein Road, a Minor Arterial, and Klein Meadows, a Minor Collector. The proposed SUP uses are in keeping with the intent to allow less intense neighborhood-scale commercial uses near residential tracts along Klein Road.*);
- 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 (*The applicant's proposal is intended to complement those properties designated for similar development.*)
- Any other factors that will substantially affect the public health, safety, morals, or general welfare (*None as development of the property will be required to comply with adopted development standards intended to protect the public interest.*) and
- Whether the request is consistent with the Comprehensive Plan. (*The proposed use is not consistent with the Future Land Use Plan designation of the subject site as Low Density Residential. If the rezoning is approved, staff recommends a concurrent Future Land Use Plan amendment to Commercial with the second and final reading of the ordinance by City Council.*)

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

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√	Yes	<p><b>City Plan/Council Priority:</b> 2006 Comprehensive Plan  <i>Pros and Cons Based on Policies Plan</i></p>	<p><b>Pros:</b> <b>Objective 1A:</b> Evaluate proposed zone changes to maintain land use compatibility, as well as the integration of mixed land uses as a component of achieving better places to live. <b>Objective 20G:</b> Discourage incompatible uses from abutting residential areas. C-1A is intended to be compatible with residential areas by encouraging small-scale, neighborhood friendly uses within walking distance of neighborhoods. The applicant's proposed SUP with list of allowed uses is more restrictive than C-1A further limiting the intensity of allowed uses. A Future Land Use Plan amendment will keep the zoning consistent with the Comprehensive Plan per State Law. <b>Cons:</b> None.</p>
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**FISCAL IMPACT:**

N/A

**COMMITTEE RECOMMENDATION:**

At their December 5, 2017 meeting, the Planning Commission recommended approval of the applicant's request with staff recommendation for the Future Land Use Plan amendment (8-0-0).

**STAFF RECOMMENDATION:**

Staff recommends approval of the applicant's request. The subject property is located at the intersection of a Minor Arterial and Minor Collector, and is adjacent to property zoned C-1B, as well as a C-1A tract across Klein Meadows. While there are presently no abutting residential uses, the requested SUP uses would offer neighborhood-scale commercial uses within walking distance of the nearby neighborhood. The proposed uses would also be consistent with existing commercially zoned pockets along Klein Road.

Staff also recommends a concurrent Future Land Use Plan amendment from Low Density Residential to Commercial with the second and final reading of the requested rezoning ordinance by City Council. This will ensure the zoning remains consistent with the Comprehensive Plan per state law.

***Notification:***

Public hearing notices were sent to 2 owners of property within 200 feet of the request and inside the City Limits. The Planning and Community Development Department has received one response in favor (#2) and none opposed.

1. Aerial, Regional Transportation Plan and Floodplain Map
2. Application
3. Zoning and Land Use Maps
4. Notification List, Notification Map and Notification Responses
5. Photographs
6. Proposed List of SUP Uses

7. Comparison of C-1A and Proposed SUP Uses
8. Sec. 3.6 Special Use Permits
9. Excerpt of Minutes from the December 5, 2017 Planning Commission regular meeting
10. Ordinance with updated list of uses, and Future Land Use Plan Resolution