

## Legislation Details (With Text)

**File #:** 19-241 **Name:**  
**Type:** Presentation **Status:** Individual Item Ready  
**File created:** 3/25/2019 **In control:** City Council  
**On agenda:** 4/8/2019 **Final action:**  
**Title:** Presentation on protection of industrial zoning.  
**Sponsors:**  
**Indexes:**  
**Code sections:**  
**Attachments:**

Date	Ver.	Action By	Action	Result
4/8/2019	1	City Council		

Presenter

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**SUBJECT:**

Presentation on protection of industrial zoning.

**BACKGROUND / RATIONALE:**

**Council District:** All

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Zoning first came about in the early 1900s by popular demand. Citizens of various cities grew concerned with heights of buildings and intensity of uses impacting their properties and their health. After several cities experimented with zoning, the federal government developed the Standard Zoning Enabling Act in the 1920s through which states could model rules for their cities to enact. The Supreme Court upheld the rights of cities to regulate uses through zoning in 1926.

Early zoning ordinances were “pyramidal” or cumulative in nature, i.e. uses allowed in the least intense residential district were also allowed in the multi-family district; everything allowed in the multifamily district was allowed in the commercial district; and so on, all the way up to industrial districts which allowed everything. In the 1920s and 1930s, before the proliferation of the automobile, this development pattern was effective because it allowed residential to be built in close proximity to factories, providing Americans with easy walking access from their homes to the places they worked.

One example we still see remnants of is cities would zone land along their railroad tracks industrial to accommodate warehousing, factories, etc. adjacent to the predominant mode of commercial transport at the time. If the city’s zoning was cumulative, this did not preclude residences from also

being built near rail lines. If the commercial districts also allowed residential uses, pockets of homes might lie in close proximity to heavy commercial activity as well.

While this was an effective development pattern in the early 20<sup>th</sup> century, as the automobile made Americans more mobile, concerns emerged: many residents no longer wanted to live near intense commercial or industrial uses; and industrial uses were being impacted by concerned residents in close proximity.

Other zoning ordinances that came about at the same time, or soon thereafter, separated uses so that the cumulative effect did not occur, i.e. residential districts allowed only residential; commercial only commercial, etc. in efforts to ensure more compatibility of uses. Typical transitions would include rings of commercial zoning surrounding industrial before leading into residentially zoned property.

As time moved on, more innovative zoning concepts emerged such as performance zoning, form-based zoning, and others. Today, mixed-use zoning districts that ensure compatibility through development standards are a popular concept as people begin to experiment with a variety of different transportation modes and walking regains popularity.

New Braunfels' first zoning districts were cumulative in nature. In 1987, New Braunfels added a new set of zoning districts to their ordinance. The more cumulative "pre-1987 districts" remained but property could not be rezoned to the old districts.

Remnants of historic zoning and development patterns across the U.S. include a variety of residential home types near commercial uses or near property zoned industrial. Unintended consequences of the historic practices include:

1. Residents buy a home, and then industrial or commercial uses later develop adjacent to them.
2. Vacant industrial land that is difficult to develop or attract a job generator to, due to:
  - a. existing adjacent residential uses, or
  - b. vacant adjacent land zoned to allow residential.
3. The gradual evaporation of available industrial zoned land with no land being newly zoned to industrial.

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

<b>City Plan/Council Priority:</b> Envision New Braunfels Comprehensive Plan	<b>Action 1.3:</b> Encourage balanced and fiscally responsible land use patterns. <b>Action 1.8:</b> Concentrate future investment in industrial and employment centers near existing and emerging hubs, such as the airport; and along existing high capacity transportation networks, such as Interstate Highway 35. <b>Action 1.11:</b> Update policies and codes to achieve development patterns that implement the goals of Envision New Braunfels. <b>Action 3.3:</b> Balance commercial centers with stable neighborhoods. <b>Action 3.6:</b> Proactively provide a regulatory environment that remains business and resident friendly.
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#### **FISCAL IMPACT:**

Limiting residential encroachment into or near industrial areas protects opportunities for economic

development and job expansion, and protects property values for all.

**COMMITTEE RECOMMENDATION:**

City Council and the Planning Commission discussed this topic at their January joint workshop. City Council directed staff to analyze the issue further and bring forward potential steps to address the concern presented by historic cumulative zoning practices.

**STAFF RECOMMENDATION:**

There are several steps that can be taken to address the existing, and potential future, conflict of incompatible land uses. Staff recommends proceeding with 1(a) and 1(b) below, with the subsequent items to possibly follow with direction accordingly:

1. Protect existing vacant properties zoned industrial, or those in areas identified as Employment Centers in the Comprehensive Plan.
  - a. **Amend the industrial zoning districts to remove residential as an allowed use.**
  - b. **Review existing non-annexation agreements to determine status and/or expiration.**
  - c. Consider annexing properties near or within Future Employment Centers and near existing industrial greenfield; if annexed, zone to a district that prevents incompatible development.
2. Increase inventory of industrial greenfield.
  - a. Rezone properties within or near Employment Centers to industrial or mixed use zoning districts to accommodate future industrial.
  - b. Consider annexing property east of the airport; zone it industrial.
    - i. Protects airport from incompatible uses.
    - ii. Increases inventory of industrial.
    - iii. Pushes city limits east to capture ETJ recently conditionally released by Seguin.
  - c. Consider creating a new zoning district: BP (Business Park) for cohesive, master planned, campus style light industrial development.
3. Identify areas developed with industrial but are presently zoned commercial or residential; rezone accordingly.
  - a. Ensure adjacent vacant tracts do not allow new residential.
4. Identify areas developed with residential but are presently zoned industrial. Removing residential as an allowed use would make the homes nonconforming:
  - a. If the Comprehensive Plan calls for those areas to be residential, rezone them to residential.
  - b. If the Comprehensive Plan calls for those areas to be future Employment Centers, rezone them to commercial, mixed use or industrial.

While current trends in land use planning encourage mixed uses, such intermingling of uses should include necessary mitigation measures to ensure property values, housing affordability, job creation, economic development, and citizen quality of life are all maintained. Therefore:

5. Ensure mixed use zoning includes impact mitigation measures.
  - a. Amend mixed use districts if necessary to increase or tier buffers between incompatible uses based on intensity.