

## Legislation Details (With Text)

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<b>On agenda:</b>	7/22/2019	<b>Final action:</b>	
<b>Title:</b>	Public hearing and first reading of an ordinance regarding the proposed rezoning to amend a Special Use Permit to allow a mixed-use development in the "C-3" Commercial District and the "R-2" Single-Family and Two-Family District, addressed at 1260 S. Business 35.		
<b>Sponsors:</b>			
<b>Indexes:</b>			
<b>Code sections:</b>			
<b>Attachments:</b>	1. Aerial Map, 2. Applicant Statement and Proposed Restrictions, 3. Land Use Maps, 4. Photographs, 5. Notification List, Map and Responses, 6. Section 3.6, Special Use Permits, 7. Draft Planning Commission Meeting Minutes, 8. Ordinance 2017-21, 9. Ordinance		

Date	Ver.	Action By	Action	Result
7/22/2019	1	City Council		

Presenter

*Stacy A.M. Snell, Planning and Community Development Assistant Director*  
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**SUBJECT:**

Public hearing and first reading of an ordinance regarding the proposed rezoning to amend a Special Use Permit to allow a mixed-use development in the "C-3" Commercial District and the "R-2" Single-Family and Two-Family District, addressed at 1260 S. Business 35.

**BACKGROUND / RATIONALE:**

**Case No.:** SUP19-157

**Council District:** 6

**Owner/Applicant:** Carolyn Lehmann  
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The subject property is a through-lot, 0.66 of an acre in size. It has frontage on the north side of S. Business 35 and extends through to W. Coll Street. The base zoning is split with C-3, Commercial District adjacent to Business 35, and R-2 Single- and Two-Family Residential District adjacent to Coll

Street, with an SUP (Special Use Permit) for a mixed-use development across the whole tract. The subject property was previously used by a plumbing company and then for auto repair and storage. In 2014, the applicant purchased the property to be used for a digital print shop.

The aforementioned SUP was requested by the current applicant and approved in February 2017. In addition to what is allowed in the base districts, the SUP overlay authorizes a music venue and one residence in addition to the office/digital print shop. A residence is under construction, and the applicant has applied for a commercial permit for the remodeling of structures that will become the music venue. Upon application for the commercial permit, it was discovered that the proposed commercial improvements were not in accordance with the approved 2017 SUP. In the applicant's current application, they state that "the 2017 SUP established restrictions on the specifics of the use that have caused unanticipated challenges in developing the property and prevents adjustments to the scope of the project during design". The applicant is seeking to amend the 2017 SUP to allow some flexibility on the additional restrictions and site plan.

The applicant is also requesting approval of an alternative site plan, Site Plan B, that would allow for increased development on the property if and when additional minimum off-street parking are provided and guaranteed through off-site parking agreements in compliance with city regulations. (see Attachment)

The proposed development is described below using "Building" numbers referenced on the site plan (see Attachment) based upon the applicant's application.

**Building 1:**

The existing house facing Business 35 is proposed to be renovated and converted into a "music studio/rehearsal space/listening room, meeting space, with retail space." This space is intended to be used by the applicant's son for recording and to host music listening sessions with alcohol allowed (BYOB scenario or with a beer/wine license) and food catered. Public assembly within Building 1 (any type of music "event") is proposed to take place in the evening after the print shop has closed.

**Building 2:**

The existing structure is intended to be renovated for storage use.

**Building 3:**

Continued use as a digital print shop.

**Building 4:**

Continued use as offices for the print shop.

**Building 5:**

"Hardy House." A residence is under construction on the property adjacent to W. Coll Street and is to be used as a long-term residential rental (a minimum of 30 days) or a bed and breakfast with a resident manager.

Parking for the proposed development breaks down as follows:

Building	Size	Parking Ratio	Min. Required
Building 1	1,600 s.f.	Nightclub - 1/75	21

Building 2	1,480 s.f.	Storage - 1/1,000	2
Building 3	1,650 s.f.	Print Shop - 1/300	6
Building 4	1,536 s.f.	Office - 1/300	5
Building 5	2,334 s.f.	Residence/B&B	2 or 4

Need:	Min.		With Shared:
<b>Worst case (B&amp;B)</b>	<b>38</b>		<b>27</b>
<b>Best case (residence)</b>	<b>36</b>		<b>25</b>

The submitted site plan identifies 27 parking spaces. The applicant proposes to share the parking spaces on the site by restricting the hours of full/event operation of Building 1 to evenings and restricting the hours of Buildings 3 and 4 to day time. Essentially, Buildings 1, 3 and 4 cannot be open and operating at the same time. In this shared parking scenario, the minimum number of parking spaces required by code would be available for all of the proposed uses during their allotted operating times.

As part of the proposed SUP amendment, the applicant is **seeking to maintain the previously approved deviations from the Zoning Ordinance requirements from the 2017 SUP** as follows:

#### Setbacks:

- **Building 4.** A minimum 2.5-foot setback adjacent to W. Coll Street that expands up to approximately 8 feet where the requirement is 25 feet. *The properties south of the subject property have minimal setbacks adjacent to W. Coll Street.*
- **Building 5.** A 20-foot setback adjacent to W. Coll Street where the requirement is 25 feet. *The property immediately adjacent to the north also has a similarly reduced setback.*

#### Fencing:

- **Height.** The applicant has constructed the 6-foot tall wooden privacy fence at the property line along the W. Coll Street property line that was approved with the 2017 SUP. The applicant considers this the “back entrance” and the fence provides security and shields the commercial activities from the residences across W. Coll Street. The privacy fence extends along the shared property line with Bill Hill Music to the west. The applicant wishes to maintain the location of the fencing.
- **Residential buffer.** The change in use necessitates residential buffer requirements of a masonry wall and 1 tree for every 25 linear feet. The 2017 SUP did not require additional trees to be planted along the shared property lines with the residences to the east. The property at 1255 W. Coll Street currently has a privacy fence and several mature trees along much of the common line.

#### Landscaping:

- **Business 35 parking lot.** Most of the subject property has been utilized historically for parking or vehicle storage; however, the existing chip sealed areas are experiencing overgrowth. The Zoning Ordinance requires 1 tree and 4 shrubs per 40 feet of parking lot frontage along roadways. The applicant is proposing to maintain the 2017 SUP requirement to plant 8 ornamental trees and construct a 3-foot tall corrugated metal fence for approximately 107 feet along Business 35 to serve as screening in lieu of planting the shrubs for the parking

lot frontage. The yard in front of Building 1 may be improved with additional trees, shrubs and landscape features to enhance the curbside appeal.

As part of the proposed SUP amendment, the applicant is **seeking to include an additional deviation from the Zoning Ordinance requirements** as follows:

**Signage:**

- The applicant is requesting to use an existing sign pole to add a freestanding sign cabinet to the property. A new sign cabinet added to this pole would be restricted to a maximum of 20 feet in height and 50 square feet in area and is not intended to be an electronic message sign.

The existing pole does not meet the 5-foot setback requirement. Existing sign ordinance standards would allow the subject property to have:

- One freestanding monument sign up to 10 feet in height and 60 square feet in area, or
- One low-profile pole sign up to 10 feet in height and 20 square feet in area.
- An electronic message sign is also allowed up to 28 feet in height and 100 square feet for the sign face.

It is important to note that it is unknown if the existing pole is subject to any easement or utility restrictions, is of sufficient construction, or has a sufficient footing to support a sign cabinet in compliance with building code standards. If the sign deviation is included with the approval of the amended SUP, construction must still comply with all relevant building and safety code standards.

**General Information:**

*Surrounding Zoning and Land Use:*

North - Across W. Coll Street, R-2 / Residential - single-family residences

East - R-2 & C-3 / Residential - single-family residences

South - Across S. Business 35, C-3 / Commercial - Walnut Square Shopping Center and an auto repair business

West - C-3 / Commercial - music store

*Floodplain:*

No portion of the property is within the 1% annual chance flood zone.

*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 proposed commercial uses are of lesser intensity than the previous auto use.*);
- Whether the change is in accord with any existing or proposed public schools, streets, water supply, sanitary sewers, and other utilities to the area (*The proposed use should not conflict with existing or proposed schools, streets, water supply, sanitary sewer and other utilities in the area.*);
- How other areas designated for similar development will be affected (*There should be no negative effect on other areas designated for similar commercial development. The proposed fence along W. Coll Street and Business 35 should mitigate negative impacts from automotive headlamps on adjacent property and roadways.*);
- Any other factors that will substantially affect the public health, safety, morals, or general welfare (*The redevelopment of the subject property with the proposed mixture of uses and small*

scale structures should improve the site at this neighborhood gateway, and the aesthetics of the Business 35 Corridor.); and

- Whether the request is consistent with the Comprehensive Plan (*The property is located within the New Braunfels Sub-Area and a Transitional Mixed-Use Corridor. It is also near existing Employment and Civic Centers.*)

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

<b>City Plan/Council Priority:</b> Envision New Braunfels Comprehensive Plan	<b>Action 1.14</b> Ensure regulations do not unintentionally inhibit the provision of a variety of flexible and innovative lodging options and attractions. <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:**

Rental use of the property as a Bed and Breakfast is subject to hotel occupancy tax (HOT). The property owner will be responsible for remitting these taxes to the City and the State.

**COMMITTEE RECOMMENDATION:**

The Planning Commission held a public hearing on July 2, 2019 and recommended approval with the condition that no outdoor music be allowed (8-1-0) with Commissioner Laskowski opposed. The applicant is no longer seeking an allowance for outdoor music, the report and draft ordinance have been updated accordingly.

**STAFF RECOMMENDATION:**

Staff recommends approval. The proposed revisions to the SUP restrictions and site plan are minor modifications that will allow for the property owner to have more flexibility in achieving the originally approved development concept for the property in the 2017 SUP. The proposed use of the existing pole sign is in character with existing signage along the Business 35 corridor. And, the alternative site plan (Future Site Plan B) will allow increased use of the property while ensuring adequate parking is provided for said use(s).

**Notification:**

Public hearing notices were sent to 16 owners of property within 200 feet of the request. The City has received one response in favor (#14) and four responses in objection (#5, 7, 10 & 12).

**Attachments:**

1. Aerial Map
2. Applicant Statement and Proposed Restrictions
3. Land Use Maps (Zoning, Existing Land Use, Existing Centers, Future Land Use Plan)
4. Photographs
5. Notification List, Map and responses
6. Sec. 3.6 Special Use Permits
7. Draft Planning Commission Minutes
8. Ordinance No. 2017-21
9. Ordinance