

## Legislation Text

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File #: 18-259, Version: 1

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Presenter

*Christopher J. Looney, Planning and Community Development Director*  
*clooney@nbtexas.org*

**SUBJECT:**

Approval of the second and final reading of an ordinance regarding the proposed rezoning request to apply a Special Use Permit to allow the bulk storage of up to 80,000 gallons of fuel in belowground storage tanks on approximately 2.43 acres in the "C-3" Commercial District, on Lot 1R, Johnson Commercial Subdivision, addressed at 4340 South IH 35.

**BACKGROUND / RATIONALE:**

Case No.: PZ-18-005

Council District: 1

Owner/Applicant: Circle K Stores Inc. (Doug Ford)  
19500 Bulverde Road  
San Antonio, TX 78259  
(210) 692-2717

Staff Contact: Matthew Simmont, Planner  
(830) 221-4058  
msimmont@nbtexas.org

City Council held a public hearing to consider the first reading of this requested rezoning ordinance on April 23, 2018, and unanimously approved the applicant's request with a condition that drainage affecting adjacent properties is improved with the project.

The subject property is located on the northeast corner of the intersection of IH 35 South Access Road and North Solms Road and is zoned "C-3" Commercial District. The property is about 2.5 acres in area and contains a convenience store and fueling station with gasoline pumps in the front along IH-35, and diesel pumps in the rear.

The applicant has indicated that the fueling station is currently supplied by underground tanks located on the adjacent tract (4320 IH 35) which are to be removed and will no longer be able to supply the subject property. Therefore, the applicant is requesting the ability to install new belowground tanks to continue fueling services on the site.

The applicant is requesting a Type 2 Special Use Permit (subject to a site plan) to allow for the installation of two 30,000-gallon belowground fuel tanks and one 20,000-gallon belowground fuel

tank with the use of a retail convenience store and fueling station. A Special Use Permit (SUP) is required to allow the installation of tanks exceeding 50,000 gallons. The applicant intends to install the tanks under an unimproved portion of the property, behind the rear fueling station and paved parking area.

The installation of fuel storage tanks is regulated by the Texas Commission on Environmental Quality (TCEQ). The City also reviews for adherence to Building and Fire codes. The tanks must comply with all environmental, electrical and construction regulations.

**General Information:**

Size: 2.534 acres

*Surrounding Zoning and Land Use:*

North - C-3 / Solms Bowling Club

South - IH 35

East - C-3 / Johnson Oil Company and undeveloped

West - Across N. Solms Road, APD and outside of City limits / Undeveloped and single-family residential

*Comprehensive Plan / Future Land Use Designation*

Commercial Industrial

*Floodplain:*

No portion of the property is located within the 100-year floodplain.

*Regional Transportation Plan:*

The property has frontage on IH 35 South indicated on the Regional Transportation Plan as an Interstate, up to 450 feet in width. The current right-of-way width along the subject property is approximately 390 feet. No additional right-of-way dedication was required with the replatting of the property in February 2015.

Solms Road is designated as a Major Collector with 90 feet of right-of-way width. The current right-of-way width along the subject property varies between 43 and 57 feet. Right-of-way dedication and reservation were reviewed with the replatting of the property in February of 2015. No additional right-of-way dedication or mitigation measures will be required with the proposed improvements on the property.

*Improvement(s):*

Retail convenience store and fueling station

*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 use of the property is suitable for the location at the intersection of an interstate and major collector. Commercial use is consistent with existing adjacent uses.*);
- Whether the change is in accord with any existing or proposed public schools, streets, water supply, sanitary sewers, and other utilities to the area (*It does not appear that the proposed*

- zoning change would negatively impact public schools, streets, or utilities.);
- 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 proposed fuel storage is strictly regulated by the State. The applicant will be required to comply with all regulations regarding fuel storage. The subject property is not within close proximity to the recharge zone or contributing zone of the Edwards Aquifer or other body of water.*); and
- Whether the request is consistent with the Comprehensive Plan (*The request is consistent with the Future Land Use Plan designation of Commercial Industrial.*)

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

✓ 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> Goal 1 Promote manageable growth to achieve a proper balance of economic expansion and environmental quality while maintaining the community's unique qualities. The continued commercial use of this property as a fueling station is appropriate as it is conveniently located to along the IH 35 corridor. <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. The proposed zoning and use is consistent with the Future Land Use Plan. <b>Goal 12:</b> Protect and enhance the visual environment of the City. The proposed belowground fuel tanks will have little to no impact to the public view. <b>Cons:</b> Goal 52: Safeguard natural resources through acquisition, preservation, and eco-friendly planning. Bulk fuel storage could pose a risk to groundwater or adjacent properties if a leak occurs, hence the strict regulations already in place.</p>
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**FISCAL IMPACT:**

N/A

**COMMITTEE RECOMMENDATION:**

The Planning Commission held a public hearing on April 3, 2018, and recommended approval of the request (7-1-0).

**STAFF RECOMMENDATION:**

Staff recommends approval of the request as it is consistent with the Future Land Use Plan designation of the site as Commercial Industrial and several goals and objectives of the Comprehensive Plan.

**Notification:**

Public hearing notices were sent to 4 owners of property within 200 feet of the request. The Planning

Division has received no responses.

Attachments:

1. Aerial, Regional Transportation Plan Map
2. Application
3. Site Plan
4. Zoning and Land Use Maps
5. Notification List and Map
6. Photographs
7. Zoning Ordinance Sections 3.3-9 and 3.6
8. Excerpt from the Planning Commission Meeting Minutes of April 3, 2018
9. Ordinance