

## Legislation Text

---

**File #:** 19-247, **Version:** 1

---

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 to apply a Type 2 Special Use Permit to allow professional offices, an addition to a thrift store building and associated parking in the "R-2" Single and Two-Family District, addressed at 617 North Walnut Avenue and 6, 8, 10, and 12 Cane Street.

**BACKGROUND / RATIONALE:**

**Case No.:** PZ-18-051

**Council District:** 1

**Owner/Applicant:** Hope Hospice (Arlon Hermes, President)  
611 N. Walnut Ave.  
New Braunfels, TX 78130  
(830) 358-5248  
ahermes@hopehospice.net

**Staff Contact:** Matt Greene  
(830) 221-4053  
mgreene@nbtexas.org

**City Council held a public hearing on March 25, 2019 and unanimously approved the first reading of the requested rezoning (7-0-0).**

The 0.84-acre subject property is located on Walnut Avenue between Bavarian and Creek Drives. It consists of Lot 2, Tri County Subdivision, and the west 130 feet of Lots 6 and 7, Block 4, Bavarian Village Subdivision. A Type 2 Special Use Permit (SUP) was granted to the property in 2012 to allow the construction of professional offices and related parking in the "R-2" Single and Two-Family District. This current adopted SUP does not include the portion of Lot 6 described above (6 & 8 Cane Street).

The applicant is requesting approval of a new SUP as delineated on the proposed site plan (see Attachment 2) to replace the current SUP. The request includes:

- adding the property addressed at 6 and 8 Cane Street to the boundaries;
- adding a one-story addition to the back of the existing thrift store building (617 Walnut Avenue);
- reconfiguring existing parking and constructing new parking on the property addressed at 6

and 8 Cane Street;

- adding a donation drop-off adjacent to the proposed thrift store building addition; and
- removal of the 3 driveways on Cane St., replacing them with one single driveway.

The zoning ordinance requires commercial side setbacks to be:

- Zero feet when adjacent to other commercial
- 20 feet when adjacent to single or two-family residential; 20 feet, plus one additional foot setback for each foot of building height over 20 feet (added to the Zoning Ordinance in 2006)

The original building on the north side of the Hope Hospice property met the minimum setback requirements (6 feet) at the time it was constructed in 1990. In 2012 the current SUP was approved and authorized an expansion of this building. This expansion was adjacent to both commercial and residential. Through the SUP process, City Council approved the building's location to encroach 10 feet into the 20-foot setback required where partially adjacent to residential.

The site plan for the new SUP proposes an additional 3,000 square-foot single-story expansion to the thrift store building. This addition is proposed to be set back only 10 feet from the property lines abutting two single-family residential lots. Therefore, as part of this SUP request, the applicant is requesting this reduced setback. As proposed on the site plan, the building would be in line with the existing building on the tract. A masonry wall and landscape buffer will be required along the common property line of the two residential lots adjacent to the new commercial building addition and along the common residential property line adjacent to the new parking lot addition.

The new SUP also proposes a reconfiguration of the existing parking lot, including demolition of the existing duplex addressed at 6 and 8 Cane Street and adding additional parking in its place. With the reconfiguration of the parking lot, an additional 19 spaces will be gained, while some housing inventory would be lost.

Access to the property from Cane Street would be modified as well. There are currently 3 driveways with access to Cane Street; one for 617 Walnut Avenue, one for 10 and 12 Cane Street and one for 6 and 8 Cane Street. All current driveway approaches are proposed to be removed and replaced with a new driveway located closer to the center of the property. The current SUP requires the existing driveway to 617 Walnut Avenue to be gated with keypad or badge entry only with motion-controlled exit and to remain closed except when in use. The intent of this requirement was to deter cut-through traffic onto the neighborhood street. The applicant is proposing the new driveway not be gated. No feedback from the neighborhood has been received.

There are no proposed changes to the current approved uses of the property as office, retail and parking.

#### *Surrounding Zoning and Land Use:*

North - R-2 / Two single family residences

South - R-2 / Single family residence

East - C-1 / Remainder of Hope Hospice property and a law office

West - Across Cane St., R-2 / Single family residences

#### *Floodplain:*

A portion of the property is within the 1% annual chance flood zone (100-year floodplain).

**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 (*As an extension and continuation of the existing use, the proposed SUP would allow activity that is appropriate and compatible with existing development in the area. The block on which the subject property is located includes 4 commercial properties and 5 single-family residences. However, required buffers between the commercial and residential properties would be provided.*)
- 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 SUP should not conflict with the existing and proposed water supply, sanitary sewer and other utilities in the area. The adequacy of public facilities and utilities to serve the additional demand is evaluated by each utility provider.*)
- How other areas designated for similar development will be affected (*The proposed SUP should not negatively affect other areas designated for similar development.*);
- Any other factors that will substantially affect the public health, safety, morals, or general welfare (*A smaller setback than required between the proposed building addition and adjacent residential lots could infringe upon the rights of the residential lot owners to equally enjoy their properties as other residential lot owners in the City adjacent to commercial properties with compliant setbacks. However, the proposal is for an addition that would be an extension of the existing/previously approved setback which seems to have had negligible impact on the residences. Additionally, the removal of the access gate might minimally increase commercial traffic on Cane Street.*) and
- Whether the request is consistent with the Comprehensive Plan (*The subject property is situated within a Transitional Mixed-Use Corridor within the New Braunfels Sub Area.*)

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

<b>City Plan/Council Priority:</b> Envision New Braunfels	<b>Action 1.3:</b> Encourage balanced and fiscally responsible land use patterns. <b>Action 1.6:</b> Incentivize infill development and redevelopment to take advantage of existing infrastructure. <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.
---	---

**FISCAL IMPACT:**

N/A

**COMMITTEE RECOMMENDATION:**

The Planning Commission held a public hearing on March 5, 2019 and voted unanimously to recommend approval. (9-0-0)

**STAFF RECOMMENDATION:**

While the reduced setback and removal of the access gate might impact the surrounding residential neighborhood, the proposed use is consistent with existing low intensity commercial on the site and within this block of Walnut Avenue. Additionally, mitigating buffers are required between commercial and residential. Walnut Avenue is a Transitional Mixed-Use Corridor with a mix of walkable commercial and residential uses in this vicinity. Additional development of the subject property as proposed will provide services consistent with the existing corridor and will add to the existing positive, pedestrian-oriented environment. Therefore, staff recommends approval.

**Notification:**

Public hearing notices were sent to 31 owners of property within 200 feet; the City has received no responses in favor or in opposition.

**Attachments:**

1. Aerial Maps
2. Proposed SUP Site Plan
3. Land Use Maps (Zoning, Existing Land Use and Future Land Use Plan)
4. Notification List and Map
5. Photographs
6. Sec. 3.3-2, R-2 & Sec. 3.6, SUP
7. Ordinance No. 2012-43
8. Excerpt from Draft Minutes of March 5, 2019 Regular Planning Commission Meeting
9. Ordinance