

## Legislation Text

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File #: 20-186, Version: 1

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Presenter

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**SUBJECT:**

Discuss and consider approval of the second and final reading of an ordinance regarding the proposed rezoning to apply a Special Use Permit to allow the short-term rental of a single-family dwelling and accessory dwelling unit in the "C-3" Commercial District, addressed at 676 S. Santa Clara Avenue.

**BACKGROUND / RATIONALE:**

**Case No.:** SUP19-316

**Council District:** 6

**Applicant/Owner:** Seals Family Properties, LLC (Gary Seals, Manager)  
2189 Waterford Grace  
New Braunfels, TX 78130  
(512) 659-6703 gseals@furtherholdings.com

**Staff Contact:** Matthew Simmont  
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**City Council held a public hearing on January 13, 2020 and approved the first reading of the ordinance (6-1-0). The second reading was postponed to February 24, 2020 and again until April 13, 2020 upon request from the applicant to allow additional time to contact surrounding property owners.**

**The applicant has requested an additional postponement until May 25, 2020 because they have been unable to make contact with surrounding property owners.**

The subject property is approximately 7,500 square feet (0.172 of an acre) and is located just north of the intersection of S. Santa Clara Avenue and W. Nacogdoches Street, just north of Business 35. The lot currently contains a 1,040 square-foot single-family residence and a 440 square-foot detached accessory structure. The C-3 Zoning District allows Short Term Rentals (STRs); however, because the proposed STR would be in a single-family dwelling (with a detached bedroom and bathroom in an accessory structure), an SUP is required per New Braunfels' current ordinance.

The zoning ordinance would allow a maximum occupancy of 8 (two per sleeping room plus an additional two) on this property. The applicant had originally applied under the previous short term rental ordinance rules, but has modified his request to comply with the current/recently amended ordinance. The applicant is proposing to utilize the paved driveway on the subject property which will provide the minimum number of required spaces (3).

**Surrounding Zoning and Land Use:**

North - SND-1 / Single-Family Residence

South - C-3 / Shear Magic Salon and Residence

East - Across S. Santa Clara Ave., C-3 / Single-Family Residence

West - C-3 / Pink Poodle Pet Grooming

**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 subject property is adjacent to the Business 35 commercial corridor and would provide a transitional use between businesses along the corridor and the residential neighborhood, with easy vehicular access to the thoroughfare.*)
- 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 and proposed schools, streets, or utilities in the area.*);
- How other areas designated for similar development will be affected (*The proposed use should not impact other areas designated for similar development so long as the residential appearance of the property is maintained*);
- Any other factors that will substantially affect the public health, safety, morals, or general welfare (*An STR will be subject to the supplemental standards in the Zoning Ordinance. These standards help to ensure that proper measures are in place to protect public health and safety.*) ; and
- Whether the request is consistent with the Comprehensive Plan (*The subject property lies within the New Braunfels Sub Area, near a Transitional Mixed-Use Corridor, and existing Education, Civic, Market and Employment 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.
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**FISCAL IMPACT:**

If approved, the STR will be subject to both state and local hotel occupancy tax. 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 December 3, 2019 and recommended approval with staff recommendations, plus a condition that the maximum occupancy be six (6) people over the age of three (5-0-3 with Commissioners Gibson, Mathis and Tubb in opposition).

**STAFF RECOMMENDATION:**

Approval with the following conditions:

- The two structures must be rented as one unit and cannot be rented separately.
- Maintain the residential appearance of the property.
- Each sleeping area must have at least one operable emergency escape and rescue opening. (now a requirement in the updated ordinance)

**Notification:**

Public hearing notices were sent to 16 owners of property within 200 feet. The City has received two responses (#10 & 14) in favor and two (#8 & 16) in objection. **More than 20% of the property within 200 feet is represented by opposition, therefore, pursuant to state statute, a supermajority vote of City Council is required to approve the request.**

**Attachments:**

1. Aerial Map
2. Site Plan and Floor Plan
3. Land Use Maps (Zoning, Existing Land Use, Future Land Use Plan)
4. Short Term Rental Vicinity Map
5. Notification List, Map and Responses
6. Ordinances:
  - Sec. 3.3-9 C-3
  - Sec. 3-6 Special Use Permits
  - Sec. 5.17 Short Term Rental or Occupancy (most recent ordinance updates)
7. Draft Minutes from Planning Commission
8. Ordinance