

## Legislation Text

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**File #:** 21-297, **Version:** 1

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**SUBJECT:**

Discuss and consider the second and final reading of an ordinance regarding a proposed rezoning to amend an existing Special Use Permit to allow for two-story townhomes on approximately 10 acres located on the west side of Independence Drive, approximately 1,300 feet north of the intersection of Independence Drive and Oak Run Parkway.

**BACKGROUND / RATIONALE:**

**Case No.:** SUP21-036

**Council District:** 5

**Applicant:**

James Ingalls, P.E.

Moeller & Associates  
2021 SH 46 W., Ste 105  
New Braunfels, TX 78132  
(830) 358-7127  
plats@ma-tx.com

**Owner:**

Westpointe Commercial, Ltd. (Mark

Wauford)  
P.O. Box 702348  
Dallas, TX 75370  
mark.wauford@pcdci.com

**Staff Contact:**

Matthew Simmont, AICP  
(830) 221-4058  
msimmont@nbtexas.org

**City Council held a public hearing on March 22, 2021 and approved the first reading of the applicant's requested rezoning (4-3).**

The subject property is situated between the future Mission Hill Park and Westpointe Self-Storage. The site is currently zoned MU-A, Low Intensity Mixed-Use District. A Special Use Permit (SUP) was approved in January 2017 that prohibited multifamily and assisted living facility/retirement home uses, restricted the maximum height on this tract to 960 feet above mean sea level (msl), and limited townhouse (attached) or duplex/two-family dwelling/duplex condominium development to one story.

To preserve the views from the top of Mission Hill Park (summit is 974 feet above msl), a maximum building height of 960 feet above msl was set with the approval of the 2017 SUP. Additionally, the base zoning district of MU-A sets a maximum building height of 35 feet for this property. Building height is measured from the finished grade, while the msl elevation will maintain a constant height

since excavation and backfill of the site is not restricted. Currently, the property generally slopes downward from west to east with a maximum grade elevation of approximately 930 feet above msl along the proposed Mission Hill Park property down to approximately 900 feet above msl along Independence Drive.

The applicant has indicated the intent of the submitted request is to allow for a development that will maintain the maximum height restriction of 960 feet above msl or 35 feet, whichever is more restrictive, while offering the opportunity to develop with two-story residential use.

The SUP process provides an opportunity for site-specific consideration of certain uses or activities that might otherwise be incompatible with adjacent uses or existing land use patterns. SUPs can be approved with conditions to achieve compatibility and protect neighboring properties.

*Surrounding Zoning and Land Use:*

North - MU-A/ Westpointe Self-Storage

South - MU-A/ Proposed Mission Hill Park and Elan Westpointe (Senior Living)

East - Across Independence Dr., C-1B / Westpointe Village Shopping Center

West - MU-A/ Proposed Mission Hill Park

*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 request would allow increased residential variety while maintaining the maximum building height restriction previously approved to protect the views from the top of Mission Hill Park.)*
- Whether the change is in accord with any existing or proposed public schools, streets, water supply, sanitary sewers, and other utilities to the area *(NBISD was sent notice of this request. The adequacy of public facilities and utilities to serve the property is evaluated by each provider at the platting and permitting stages.);*
- How other areas designated for similar development will be affected *(The proposed zoning change should not impact other areas designated for similar development.);*
- Any other factors that will substantially affect the public health, safety, morals, or general welfare *(None identified. Drainage, utility and traffic impact issues will be reviewed and addressed through the platting process.);* and
- Whether the request is consistent with the Comprehensive Plan: *see below*

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

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<b>City Plan/Council</b> <b>Priority:</b> Envision New Braunfels Comprehensive Plan Workforce Housing Study	<b>Action 3.13:</b> Cultivate an environment where a healthy mix of different housing products at a range of sizes, affordability, densities, amenities and price points can be provided across the community as well as within individual developments. <b>Future Land Use Plan:</b> The property is situated in the Hoffmann Lane Sub-Area (6), near an intersection of two Transitional Mixed-Use Corridors and is within existing Market, Outdoor Recreation, Civic and Education Centers. • Ensure through city zoning and other required legal entitlements related to housing construction that new types of housing products (small-lot, duplex, townhome, etc.) are allowed by regulations. • Create or adjust city regulations that allow for multi-unit owned/rented mix like two and three-flats where the owners earn rental income.
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**FISCAL IMPACT:**

N/A

**COMMITTEE RECOMMENDATION:**

The Planning Commission held a public hearing on March 2, 2021 and recommended approval (6-2) with Commissioners Reaves and Meyer opposed and Commissioner Gibson absent.

**STAFF RECOMMENDATION:**

Approval with the following conditions:

1. No direct vehicle access shall be permitted from the subject property to the adjacent Mission Hill Park property.
2. Site development shall be in compliance will all other standards of the City's Code of Ordinances.
3. All other restrictions associated with the existing SUP shall remain in effect.

The proposed amendment to the Type 1 Special Use Permit to allow for the development of two-story townhomes is consistent with mixed-use development in the immediate area and addresses Comprehensive Plan and Workforce Housing Study goals. In addition, the applicant's request to maintain the maximum height restriction of 960 feet above msl will serve to protect the views from the top of Mission Hill Park.

**Notification:**

Public hearing notices were sent to 7 owners of property within 200 feet. The City has received 2 responses (#1 & 2) in favor of the request.

**RESOURCE LINKS:**

- Chapter 144, Section 3.4-10. *"MU-A" Low Intensity Mixed Use District* of the City's Code of Ordinances:  
[https://library.municode.com/tx/new\\_braunfels/codes/code\\_of\\_ordinances?](https://library.municode.com/tx/new_braunfels/codes/code_of_ordinances?)
- Chapter 144, Section 3.6 (SUP) of the City's Code of Ordinances:  
[https://library.municode.com/tx/new\\_braunfels/codes/code\\_of\\_ordinances?](https://library.municode.com/tx/new_braunfels/codes/code_of_ordinances?)

**ATTACHMENTS:**

1. Aerial Map
2. Land Use Maps (Zoning, Existing Land Use, Future Land Use Plan)
3. Ordinance 2017-15 (SUP proposed to be amended)
4. Traffic Impact Analysis (TIA) Worksheet
5. Notification List, Map and Responses
6. Draft Planning Commission Meeting Minutes
7. Ordinance