

ORDINANCE NO. 2021-

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS, TEXAS GRANTING A TYPE 2 SPECIAL USE PERMIT TO ALLOW A VARIETY OF RESIDENTIAL AND NON-RESIDENTIAL DEVELOPMENT ON APPROXIMATELY 49.5 ACRES OUT OF THE A-103, SARAH DEWITT SURVEY, ADDRESSED AT 614 & 720 WEST ZIPP ROAD; REPEALING ALL ORDINANCES IN CONFLICT; CONTAINING A SAVINGS CLAUSE; AND DECLARING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of New Braunfels has complied with all requirements of notice of public hearing as required by the Zoning Ordinance of the City of New Braunfels; and

WHEREAS, in keeping with the spirit and objectives of a Special Use Permit, the City Council has given due consideration to all components of said permit; and

WHEREAS, the City recognizes that granting such a permit is possible while promoting the health, safety and general welfare of the public, by providing harmony between existing zoning districts and land uses; and

WHEREAS, it is the intent of the City to ensure for the health, safety and general welfare of the public by providing compatible and orderly development, which may be suitable only in certain locations in a zoning district through the implementation of a Special Use Permit meeting those requirements cited in Sections 3.6-2 and 3.6-3, Chapter 144 of the New Braunfels Code of Ordinances; and

WHEREAS, the property is located in an area suitable for a variety of residential and non-residential development; and

WHEREAS, the requested rezoning is in accordance with Envision New Braunfels, the City's Comprehensive Plan; and

WHEREAS, the City Council desires to grant a Special Use Permit at 614 & 720 W. Zipp Road, to allow uses allowed in the following zoning districts: "R-1A-6.6" Single-Family "R-1A-4" Single-Family Small Lot Residential, "C-1A" Neighborhood Business and "C-1B" General Business; **now, therefore;**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS, TEXAS:

SECTION 1

THAT pursuant to Section 1.2-3, Chapter 144 of the New Braunfels Code of Ordinances, the Zoning Map of the City of New Braunfels is revised by adding the following tract of land as a "Special Use Permit" for the uses and conditions herein described:

Approximately 49.5 acres out of the A-103 Sarah Dewitt Survey, addressed at 614 & 720 West Zipp Road, as delineated on Exhibit "A" and described in Exhibit "B", attached.

SECTION 2

THAT the Special Use Permit be subject to the following additional restrictions:

1. A sidewalk that is at least 10 feet in width and separated from the roadway curb by a landscaping area of at least 7 feet in width (furnishing zone) is required along the south side of Walnut Avenue.
2. Street trees (1, minimum 3-inch diameter tree, for every 40 feet of roadway frontage) are required to be planted in the furnishing zone. If street trees are not permitted within the furnishing zone due to utility easement restrictions, they must be planted no more than 10 feet from the edge of the required sidewalk. The street trees requirement fulfills the landscaping requirements under Section 144-5.3-1(b)(7)(i)(2), City of New Braunfels Code of Ordinances – *Street Frontage Trees and Shrubs*.
3. During the design phase of the extension of Walnut Avenue, if it is determined that the developer is to install landscaped medians, the medians will include code- and city spec-compliant irrigation for the City’s long-term maintenance.
4. Non-residential buildings in the “C-1A” Neighborhood Business District will be limited to 1 story or a maximum height of 35 feet.
5. In no case shall a dumpster or dumpster enclosure be placed between the front façade of a building and any street between the “R-1A-6.6” Single Family and “C-1A” Neighborhood Business Districts.
6. For non-residential uses adjacent to any street between the “R-1A-6.6” Single-Family and “C-1A” Neighborhood Business Districts, the following requirements will apply:
 - a. *Street frontage landscape buffer area*. A minimum seven (7)-foot wide landscape buffer adjacent to the right-of-way is required.
 - b. *Street frontage fence*. A fence with concrete posts that is at least 50 percent open and no taller than 54 inches will be installed within or adjacent to the landscape buffer, subject to sight distance standards.
 - c. *Street frontage shade trees*. A minimum of one, minimum one and one-half inch diameter tree, shall be installed for every 40 feet (or portion thereof) of street frontage using trees from the approved plant list (Appendix A). Shade trees must be used, unless near utility lines where ornamental trees must be used, as required in Section 144-5.3-1(b)(6)ii.
 - d. *Street frontage understory trees*. A minimum of one ornamental tree shall be installed for every 160 feet (or portion thereof) of street frontage using trees from the approved plant list (Appendix A).
 - e. *Street frontage shrubs*. A minimum of eight (8), five-gallon or three-foot tall shrubs shall be planted for every 40 feet (or portion thereof) of street frontage.
 - f. The above requirements (a-e) fulfill the landscaping requirements under Section 144-5.3-1(b)(7)(i)(1) & (2), City of New Braunfels Code of Ordinances – Street frontage landscape buffer area and Street frontage trees and shrubs.
7. All other zoning standards and requirements in Chapter 144, City of New Braunfels Code of Ordinances shall apply independently to each base zoning district as identified on the Type 2 Site Plan.
8. The following list of uses are allowed on the portion of the property designated “C-1B” General Business District (non-preferred uses have been removed from the base zoning district):

Residential uses:

Accessory building /structure.

Assisted living facility/retirement home.

Bed and breakfast inn (see section 144-5.6).

Community home (see definition).

Hospice.

Non-residential uses:

Accounting, auditing, bookkeeping, and tax preparations.
Adult day care (no overnight stay).
Adult day care (with overnight stay).
Ambulance service (private).
Amusement devices/arcade (four or more devices).
Amusement services or venues (indoors).
Amusement services or venues (outdoors).
Animal grooming shop.
Answering and message services.
Antique shop.
Appliance repair.
Armed services recruiting center.
Art dealer/gallery.
Artist or artisan's studio.
Assembly/exhibition hall or areas.
Auction sales (non-vehicle).
Auto leasing.
Auto supply store for new and factory rebuilt parts.
Auto tire repair/sales (indoor).
Automobile driving school (including defensive driving).
Bakery (retail).
Bank, savings and loan, or credit.
Bar/tavern.
Barber/beauty college (barber or cosmetology school or college).
Barns and farm equipment storage (related to agricultural uses).
Battery charging station.
Bicycle sales and/or repair.
Billiard/pool facility.
Bingo facility.
Bio-medical facilities.
Book binding.
Book store.
Broadcast station (with tower) see section 144-5.7).
Cafeteria/café/delicatessen.
Campers' supplies.
Car wash (self service; automated).
Car wash, full service (detail shop).
Carpenter, cabinet, or pattern shops.
Carpet cleaning establishments.
Caterer.
Cemetery and/or mausoleum.
Check cashing service.
Child day care/children's nursery (business).
Church/place of religious assembly.
Civic/conference center and facilities.

Cleaning, pressing and dyeing (non-explosive fluids used).
Clinic (dental).
Clinic (emergency care).
Clinic (medical).
Club (private).
Coffee shop.
Communication equipment – Installation and/or repair.
Computer and electronic sales.
Computer repair.
Confectionary store (retail).
Consignment shop.
Contractor's temporary on-site construction office (only with permit from building official: see section 144-5.10).
Convenience store with or without fuel sales.
Country club (private).
Credit agency.
Curio shops.
Custom work shops.
Day camp.
Department store.
Drapery shop/blind shop.
Drug sales/pharmacy.
Electrical repair shop.
Electrical substation.
Exterminator service.
Farmers market (produce market – wholesale).
Farms, general (crops) (see chapter 6 and section 144-5.9).
Farms, general (livestock/ranch)(see chapter 6 and section 144-5.9).
Feed and grain store.
Filling station (fuel tanks must be below the ground).
Florist.
Food or grocery store with or without fuel sales.
Fraternal organization/civic club (private club).
Frozen food storage for individual or family use.
Funeral home/mortuary.
Furniture sales (indoor).
Garden shops and greenhouses.
Golf course (public or private).
Golf course (miniature).
Greenhouse.
Handicraft shop.
Hardware store.
Health club (physical fitness; indoors only).
Hospital, general (acute care/chronic care).
Hospital, rehabilitation.
Hotel/motel.
Hotels/motels – Extended stay (residence hotels).

Ice delivery stations (for storage and sale of ice at retail only).
Kiosk (providing a retail service).
Laundromat and laundry pickup stations.
Laundry, commercial (without self serve).
Laundry/dry cleaning (drop off/pick up).
Laundry/washateria (self serve).
Lawnmower sales and/or repair.
Limousine/taxi service.
Locksmith.
Maintenance/janitorial service.
Major appliance sales (indoor).
Martial arts school.
Medical supplies and equipment.
Micro brewery (onsite manufacturing and/or sales).
Micro distillery (onsite manufacturing and/or sales).
Mini-warehouse/self storage units with outside boat and RV storage.
Mini-warehouse/self-storage units (no outside boat and RV storage permitted).
Motion picture studio, commercial film.
Motion picture theater (indoors).
Motion picture theater (outdoors, drive-in).
Moving storage company.
Museum.
Needlework shop.
Nursing/convalescent home/sanitarium.
Offices, brokerage services.
Offices, business or professional.
Offices, computer programming and data processing.
Offices, consulting.
Offices, engineering, architecture, surveying or similar.
Offices, health services.
Offices, insurance agency.
Offices, legal services, including court reporting.
Offices, medical offices.
Offices, real estate.
Offices, security/commodity brokers, dealers, exchanges and financial services.
Park and/or playground (public or private).
Parking lots (for passenger car only) (not as incidental to the main use).
Parking structure/public garage.
Pawn shop.
Personal services.
Personal watercraft sales (primarily new/repair).
Pet shop/supplies (10,000 square feet or less).
Pet store (more than 10,000 square feet).
Photographic printing/duplicating/copy shop or printing shop.

Photographic studio (no sale of cameras or supplies).
Photographic supply.
Plant nursery.
Plant nursery (retail sales/outdoor storage).
Plumbing shop.
Portable building sales.
Public recreation/services building for public park/playground areas.
Publishing/printing company (e.g. newspaper).
Quick lube/oil change/minor inspection.
Radio/television shop, electronics, computer repair.
Recreation buildings (private).
Recreation buildings (public).
Recycling kiosk.
Refreshment/beverage stand.
Research lab (non-hazardous).
Restaurant.
Restaurant/prepared food sales.
Retail store and shopping center.
Retirement home/home for the aged.
School, K-12 (public or private).
School, vocational (business/commercial trade).
Security monitoring company.
Security systems installation company (with outside storage).
Shoe repair shops.
Shopping center.
Specialty shops in support of project guests and tourists.
Studio for radio or television (without tower).
Studios (art, dance, music, drama, reducing, photo, interior decorating, etc.).
Tailor shop.
Tattoo or body piercing studio.
Taxidermist.
Telemarketing agency.
Telephone exchange buildings (office only).
Tennis court (commercial).
Theater (non-motion picture; live drama).
Tool rental.
Travel agency.
University or college (public or private).
Upholstery shop (non-auto).
Used or second hand merchandise/furniture store.
Vacuum cleaner sales and repair.
Vehicle storage facility.
Veterinary hospital (no outside animal runs or kennels).
Video rental/sales.
Waterfront amusement facilities-
Swimming/wading pools/bathhouses.

Water storage (surface, underground or overhead), water wells and pumping stations that are part of a public or municipal system.
Woodworking shop (ornamental).

Any comparable business or use not included in or excluded from any other district described herein.

SECTION 3

THAT all other ordinances, or parts of ordinances, in conflict herewith are hereby repealed to the extent that they are in conflict.

SECTION 4

THAT if any provisions of this ordinance shall be held void or unconstitutional, it is hereby provided that all other parts of the same which are not held void or unconstitutional shall remain in full force and effect.

SECTION 5

THIS ordinance will take effect upon the second and final reading in accordance with the provisions of the Charter of the City of New Braunfels.

PASSED AND APPROVED: First reading this 27th day of September, 2021.

PASSED AND APPROVED: Second reading this 11th day of October, 2021.

CITY OF NEW BRAUNFELS

RUSTY BROCKMAN, Mayor

ATTEST:

CAITLIN KROBOT, City Secretary

APPROVED AS TO FORM:

VALERIA M. ACEVEDO, City Attorney

EXHIBIT "B"



290 S. Castell Avenue, Ste. 100
New Braunfels, TX 78130
(830) 625-8555
TBPE-FIRM F-10961
TBPLS FIRM 10153600

METES AND BOUNDS DESCRIPTION FOR A 49.359 ACRE TRACT OF LAND

Being a 49.359 acre tract of land located in the Sarah DeWitt Survey No. 48, Abstract No. 103, Guadalupe County, Texas, being the residue of a called 50.00 acre tract, recorded in Document No. 201899014908, Official Public Records, Guadalupe County, Texas, said 49.359 acre tract of land being more particularly described as follows:

BEGINNING at a found 1/2" iron pin with cap stamped "RPLS 4907" in the Southeast right of way line of W. Klein Road, for the Southernmost corner of a called 0.573 of an acre right of way tract to the city of New Braunfels, recorded in Document No. 2017015586 Official Public Records of Guadalupe County, Texas, same point lying in the Northeast line of Lot 1, Amending Plat of Ridgemont Unit 1, recorded in Volume 8, Pages 437-440, Map and Plat Records, Guadalupe County, Texas, and the Southwestern line of said 50.00 acre tract;

THENCE departing the Northeast line of Lot 1, Amending Plat of Ridgemont Unit 1, with the Southeastern line of said 0.573 of an acre tract and the Southeast right of way line of W. Klein Road, the following five (5) calls:

1. Along the arc of a curve to the right, having a radius of 2951.00 feet, an arc length of 40.03 feet and a chord bearing of N 44°47'42" E, a distance of 40.03 feet to a found 1/2" iron pin with cap stamped "RPLS 4907" for a corner;
2. N 45°48'34" E, a distance of 268.53 feet to a set 1/2" iron pin with cap stamped "HMT" for a corner, and the beginning of a curve;
3. Along the arc of a curve to the left, having a radius of 3049.00 feet, an arc length of 79.80 feet and a chord bearing of N 44°48'29" E, a distance of 79.80 feet to a found 1/2" iron pin with cap stamped "RPLS 4907" for a corner;
4. N 44°13'52" E, a distance of 257.51 feet to a found 1/2" iron pin with cap stamped "RPLS 4907" for a corner;
5. N 43°43'08" E, a distance of 226.18 feet to a found 1/2" iron pin with cap stamped "RPLS 4907" in the Southeast right of way line of W. Klein Road, same point lying in the Southwest line of a called 10.243 acre tract, recorded in Volume 2073, Pages 47-49, Official Public Records, Guadalupe County, Texas, same point being the Northeastern corner of the aforementioned 0.573 of an acre tract, and the Northernmost corner of the herein described tract;

THENCE departing the Southeast right of way line of W. Klein Road, with the Southwest line of said 10.243 acre tract, continuing with the Southwest lines of a called 7.00 acre tract recorded in Volume 756, Pages 880-883, and in Volume 750, Pages 877-879, Official Public Records, Guadalupe County, Texas, the remainder of a called 11.478 acre tract recorded in Volume 756, Pages 880-883, Official Public Records, Guadalupe County, Texas, a called 2.84 acre tract, known as "Tract II", recorded in Document No. 2017003263, Official Public Records, Comal County, Texas, and a called 5.0 acre tract, known as "Tract I", recorded in Document No. 2017003263, Official Public Records, Comal County, Texas, S 46°00'14" E, passing a found 1/2" iron pin (no cap) at 1238.50, continuing a total distance of 2463.53 feet to a found 1" iron pipe in the Northwest right of way line of W. Zipp Road for the Southernmost corner of said 5.0 acre tract, and the Easternmost corner of the herein described tract;

EXHIBIT "B"



290 S. Castell Avenue, Ste. 100
New Braunfels, TX 78130
(830) 625-8555
TBPE-FIRM F-10961
TBPLS FIRM 10153600

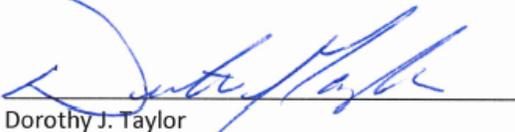
THENCE with the Northwest right of way line of W. Zipp Road, S 43°50'10" W, a distance of 871.49 feet to a found 60D nail for an Eastern corner of Lot 901, Amending Plat of Ridgemont Unit 4, recorded in Volume 9, Page 38, Map and Plat Records, Guadalupe County, Texas, same point being the Southernmost corner of the herein described tract;

THENCE departing the Northwest right of way line of W. Zipp Road, with the Northeast line of the said Amending Plat of Ridgemont Unit 4, continuing with the Northeast line of Ridgemont Unit 2B, recorded in Volume 8, Pages 758-760, Map and Plat Records, Guadalupe County, Texas, and the Northeast line of the aforementioned Amending Plat of Ridgemont Unit 1, recorded in Volume 8, Pages 437-440, Map and Plat Records, Guadalupe County, Texas, N 46°00'49" W, a distance of 2476.11 feet to the POINT OF BEGINNING, containing 49.539 acres of land in Guadalupe County, Texas.

Bearings shown hereon are based on the Texas Coordinate System, South Central Zone (4204), NAD 83.

Written October 22, 2020.

Reference survey of said 49.359 acre tract of land prepared this same date.


Dorothy J. Taylor

Registered Professional Land Surveyor No. 6295

10-22-20



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EXHIBIT "C"

