



**CITY OF NEW BRAUNFELS, TEXAS  
CITY COUNCIL MEETING**



**CITY HALL - COUNCIL CHAMBERS  
550 LANDA STREET**

**MONDAY, JULY 22, 2019 at 6:00 PM**

Barron Casteel, Mayor	Matthew E. Hoyt, Councilmember (District 4)
Shane Hines, Councilmember (District 1)	Wayne Peters, Mayor Pro Tem (District 5)
Justin Meadows, Councilmember (District 2)	Leah A. García, Councilmember (District 6)
Harry Bowers, Councilmember (District 3)	Robert Camareno, City Manager

***MISSION STATEMENT***

***The City of New Braunfels will add value to our community  
by planning for the future, providing quality services, encouraging  
community involvement and being responsive to those we serve.***

**AGENDA**

**CALL TO ORDER**

**CALL OF ROLL: City Secretary**

**INVOCATION: Councilmember Harry Bowers**

**PLEDGE OF ALLEGIANCE & SALUTE TO THE TEXAS FLAG**

**REQUEST ALL PHONES AND OTHER DEVICES BE TURNED OFF, EXCEPT  
EMERGENCY ON-CALL PERSONNEL.**

**PRESENTATIONS:**

- A) Presentation on 2019 Bond Project for all ability inclusive play equipment.  
*Stacey Dicke, Parks and Recreation Director*
- B) Presentation on Library Without Fines: An Equitable Approach to Removing Barriers  
*Gretchen Pruett, Library Director*

**1. MINUTES**

- A) Discuss and consider approval of the minutes of the regular City Council meeting of July 8, 2019.  
*Patrick Aten, City Secretary*

**2. CITIZENS' COMMUNICATIONS**

This time is for citizens to address the City Council on issues and items of concerns not on this agenda. There will be no City Council action at this time.

**3. CONSENT AGENDA**

*All items listed below are considered to be routine and non-controversial by the City Council and will be approved by one motion. There will be no separate discussion of these items unless a Councilmember or citizen so requests, in which case the item will be removed from the consent agenda and considered as part of the normal order of business.*

*Resolutions & Action Items*

- A) Approval of the appointment of one individual to the Airport Advisory Board for a term ending May 12, 2022.  
*Patrick Aten, City Secretary*
- B) Approval of the appointment of one individual to the Building Standards Commission for a term ending October 26, 2020.  
*Patrick Aten, City Secretary*
- C) Approval of the issuance of invitations for Competitive Sealed Proposals for Fischer Park Dam No. 1 Spillway Repair.  
*Deborah Kimball, Buyer*
- D) Approval of a ratification for the submission of a grant application to the Firehouse Subs Public Safety Foundation for safety equipment valued up to \$32,850, and authorization for the City Manager to execute all contract documents associated with the grant, including formal acceptance of the equipment.  
*Patrick O'Connell, Interim Fire Chief*
- E) Approval for the submission of the Community Development Block Grant Annual Action Plan, and associated funding recommendations, for Program Year 2019 to the U.S. Department of Housing and Urban Development.  
*Jennifer Gates, Grants Coordinator*
- F) Approval of an Interlocal Agreement between the City of New Braunfels and Comal County for the utilization and improvement of County owned properties located at 340 North Seguin Avenue, 155 East Bridge Street and 396 North Seguin Avenue for use as public parking.  
*Robert Camareno, City Manager*
- G) Approval of a contract with Sterling McCall Ford for the purchase of an ambulance to be housed at Fire Station #7.  
*Barbara Coleman, Purchasing Manager*
- H) Approval of a contract modification to Cobb Fendley Engineering for the

proposed 2019 Bond Citywide Street project at Lamar School area.

*Joshua Niles, Capital Project Manager*

- I) Approval of a contract with PGAL Architects to provide final design, bid phase, and construction phase services for a new Police Department facility.

*Joshua Niles, Capital Project Manager*

- J) Approval of a purchase from EnvisionWare, Inc. for a Radio Frequency Identification system for the New Braunfels Public Library at a cost of \$39,203.

*Gretchen Pruett, Library Director*

#### *Ordinances*

*(In accordance with Section 3.10 of the City Charter, a descriptive caption of each ordinance shall be read on two separate days.)*

- K) Approval of the second and final reading of an ordinance amending Chapter 130-26 of the Code of Ordinances to change the criteria for members of the Board of Trustees of New Braunfels Utilities.

*Barron Casteel, Mayor*

- L) Approval of the second and final reading of an ordinance amending Chapter 126-355 of the City's Code of Ordinances to remove the prohibition of overnight parking in the Downtown Parking Zone and extend the limits of the Downtown Parking Zone to include both sides of East San Antonio Street from Market Avenue to Gilbert Avenue, and the southwest side of North Market Avenue from East Mill Street to East San Antonio Street.

*Amy McWhorter, Downtown Development Coordinator*

- M) Approval of the second and final reading of an ordinance amending the Code of Ordinances Chapter 86-2 regarding refunds of reserved picnic area and individual picnic table usage fees in city parks.

*Stacey Dicke, Parks and Recreation Director*

- N) Approval of the second and final reading of an ordinance Chapter 86-122 regarding fees for Das Rec Family Membership-Additional Family members.

*Stacey Dicke, Parks and Recreation Director*

- O) Approval of the second and final reading of an ordinance amending Section 126-354 of the City of New Braunfels Code of Ordinances to revise Parking by Permit Area K.

*Garry Ford, City Engineer*

- P) Approval of the second and final reading of an ordinance amending Sections 114-98, 114-99, and 118-46 of the Code of Ordinances regarding access on collector or major thoroughfare streets, turn lane and traffic impact analysis requirements, and removal of references to the sub-collector street section.  
*Garry Ford, City Engineer*

**4. INDIVIDUAL ITEMS FOR CONSIDERATION**

- A) Discuss and consider approval of the appointment of two individuals to the Animal Services Advisory Board for terms ending November 1, 2022.  
*Patrick Aten, City Secretary*
- B) Presentation on the FY 2018-19 Debt Issuance Strategy and consideration of the approval of a resolution authorizing proceeding with the issuance of Certificates of Obligation; Directing Publication of Notice of Intention to Issue Certificates of Obligation; and other related matters.  
*Jared Werner, Chief Financial Officer*
- C) Public hearing and consideration of the second and final reading of an ordinance disannexing approximately 62.4 acres of land out of the J. M. Veramendi Survey No. 2, Abstract 3, Comal County, Texas, located along the northwest right-of-way line of Loop 337 in the corporate limits of the City.  
*Stacy Snell, Planning and Community Development Assistant Director*
- D) Public hearing and consideration of the second and final reading of an ordinance rezoning approximately six acres out of the William Mockford Survey 285, addressed at 2850 Loop 337, from "R-2" Single and Two-family District to "C-1B" General Business District.  
*Stacy Snell, Planning and Community Development Assistant Director*
- E) Public hearing and first reading of an ordinance regarding the proposed rezoning of approximately 0.80 acres out of the A M Esnaurizar Survey, addressed at 947 State Highway 46 South, from "R-2" Single and Two-family District to "MU-B" High Intensity Mixed Use District.  
*Stacy Snell, Planning and Community Development Assistant Director*
- F) Public hearing and first reading of an ordinance regarding the proposed rezoning to amend an existing Special Use Permit to allow a commercial tuber entrance and takeout in the "C-4" Commercial Resort District on property presently addressed as 444 East San Antonio Street.  
*Stacy Snell, Assistant Planning and Community Development Director*



- G) Public hearing and first reading of an ordinance regarding the proposed rezoning to amend a Special Use Permit to allow a mixed-use development in the “C-3” Commercial District and the “R-2” Single-Family and Two-Family District, addressed at 1260 S. Business 35.

*Stacy A.M. Snell, Planning and Community Development Assistant Director*

- H) Public hearing and first reading of an ordinance regarding the proposed rezoning to apply a Special Use Permit to allow the short-term rental of a single-family residence in the “C-3” Commercial District, addressed at 358 East Nacogdoches Street.

*Stacy Snell, Planning and Community Development Assistant Director*

- I) Public hearing and first reading of an ordinance regarding the proposed rezoning of a 0.25 acre tract out of the J Noyes Survey 259, Abstract 430, addressed at 471 Engel Road and a 2.0 acre tract out of the J Noyes Survey 259, Abstract 430 and a 3.0 acre tract out of the J Thompson Survey 21, Abstract 608, addressed at 491 Engel Road, from “APD” Agricultural/Pre-Development District to “C-1B” General Business District.

*Stacy A.M. Snell, Planning and Community Development Assistant Director*

## **5. EXECUTIVE SESSIONS**

In accordance with Texas Government Code, Subchapter D, the City Council may convene in a closed session to discuss any of the following items; any final action or vote taken will be in public.

- A) Deliberate issues regarding economic development negotiations in accordance with Section 551.087, of the Texas Government Code, including but not limited to:
- Project Nautilus
  - Project Maintenance
- B) Deliberate the purchase, exchange, lease or value of real estate in accordance with Section 551.072 of the Texas Government Code
- Property for city facilities

*NOTE: The City Council reserves the right to retire into executive session concerning any of the items listed on this Agenda whenever it is considered necessary and legally justified under the Open Meetings Act (Chapter 551 of the Texas Government Code).*

## **6. RECONVENE INTO OPEN SESSION AND TAKE ANY NECESSARY ACTION RELATING TO THE EXECUTIVE SESSION AS DESCRIBED ABOVE.**

## **7. ADJOURNMENT**

**CERTIFICATION**

I hereby certify the above Notice of Meeting was posted on the bulletin board at the New Braunfels City Hall on July 22, 2019, at 5:00 p.m.

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Patrick Aten, City Secretary

NOTE: Persons with disabilities who plan to attend this meeting and who may need auxiliary aids or services such as interpreters for persons who are deaf or hearing impaired, readers, or large print, are requested to contact the City Secretary's Office at 221-4010 at least two (2) work days prior to the meeting so that appropriate arrangements can be made.

**City Council Agenda Item Report**550 Landa Street  
New Braunfels, TX**7/22/2019**

Agenda Item No. A)

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**Presenter/Contact***Stacey Dicke, Parks and Recreation Director  
(830) 221-4350 - [sdicke@nbtexas.org](mailto:sdicke@nbtexas.org)***SUBJECT:**

Presentation on 2019 Bond Project for all ability inclusive play equipment.

**BACKGROUND / RATIONALE:**

Staff has worked with community members on a plan for adding inclusive play equipment to existing parks as part of the 2019 Bond Program. The funding will be focused on two parks: Morningside Park and Landa Park.

Morningside Park, developed with 2013 Bond funding, was constructed with Phase 1 amenities leaving ample room for additional play equipment. Inclusive equipment identified for this location includes a 5-12-year-old play structure, swings, merry-go-all, inclusive zip line, and activated pathways (trails/sidewalk) to make the ADA route an active and exciting route.

The City applied for the 2019 Texas Recreation And Park Society Statewide Program matching funds through GameTime, a PlayCore partner. As a recipient we are entitled to a 1 to 1 matching grant for a qualifying playground system, with a minimum of \$60,000 list price. A playground system with various activities will be the best value for creating an inclusive play environment and maximize local dollars. In addition to the matching grant the playground site will be designated as a National Demonstration Site for Inclusive Play. This grant will be applied to the playground structure proposed for Morningside Elementary.

The Landa Park portion of the equipment purchase will include a new “musical” trail connecting to the existing playground area. The new musical trail will create an inclusive experience joining nature, music and fun.

In addition to the musical instruments, multi-generational swings will be added to Landa Park.

These plans have been reviewed by our stakeholders and they are supportive of the concepts.

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

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**FISCAL IMPACT:**

[Enter Fiscal Impact Here]

**COMMITTEE RECOMMENDATION:**

The Parks and Recreation Advisory Board recommended approval of this concept at their meeting on July 16, 2019.

**STAFF RECOMMENDATION:**

N/A

# All-Ability Park Amenities

A 2019 BOND PROJECT



PARKS AND RECREATION DEPARTMENT



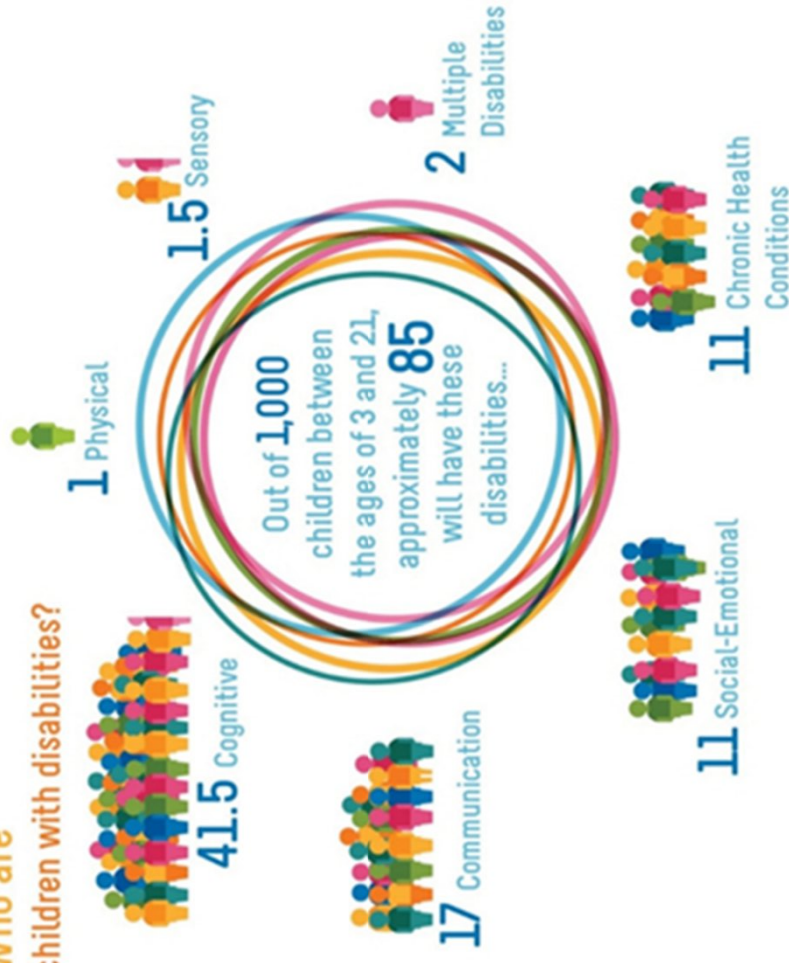
# The 7 Principles of Inclusive Playground Design

Best practices for creating meaningful  
play environments for people of all  
ages and abilities.

Developed in partnership with:



Who are  
children with disabilities?



# Getting the Most Play for All- Abilities

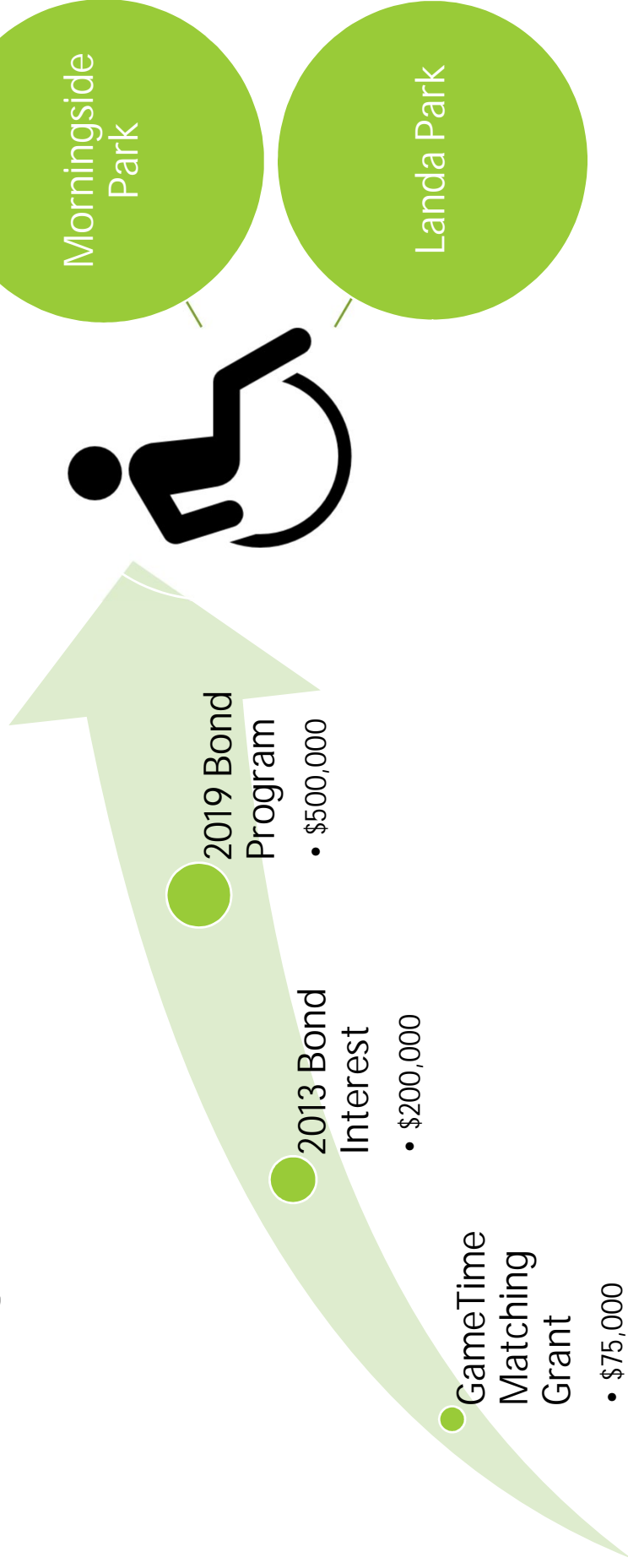
# Getting More Play for More Kids

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- Adding new play equipment and amenities will make parks more inclusive, but will require improved access such as walkways, enhanced fall surfacing, and adding shade
  - Using feedback from Callen's Castle public outreach process
  - Using 7 Principles of Inclusive Playground Design
- These play elements will be a substantial portion of the \$500,000 budget
  - Identified Capital Funds savings to supplement project for infrastructure needs such as sidewalks, parking spaces, surfacing, etc.
- GameTime Playground grant recipient toward playground structure
  - 1:1 match grant with minimum \$60,000 equipment purchase
  - Will be used for play structure at Morningside Park
- Staff recommends:
  - Target funding at Morningside Park & Landa Park
  - Utilize GameTime grant at Morningside
  - Seek alternative sources of funding for non-equipment needs



# Budget Breakout

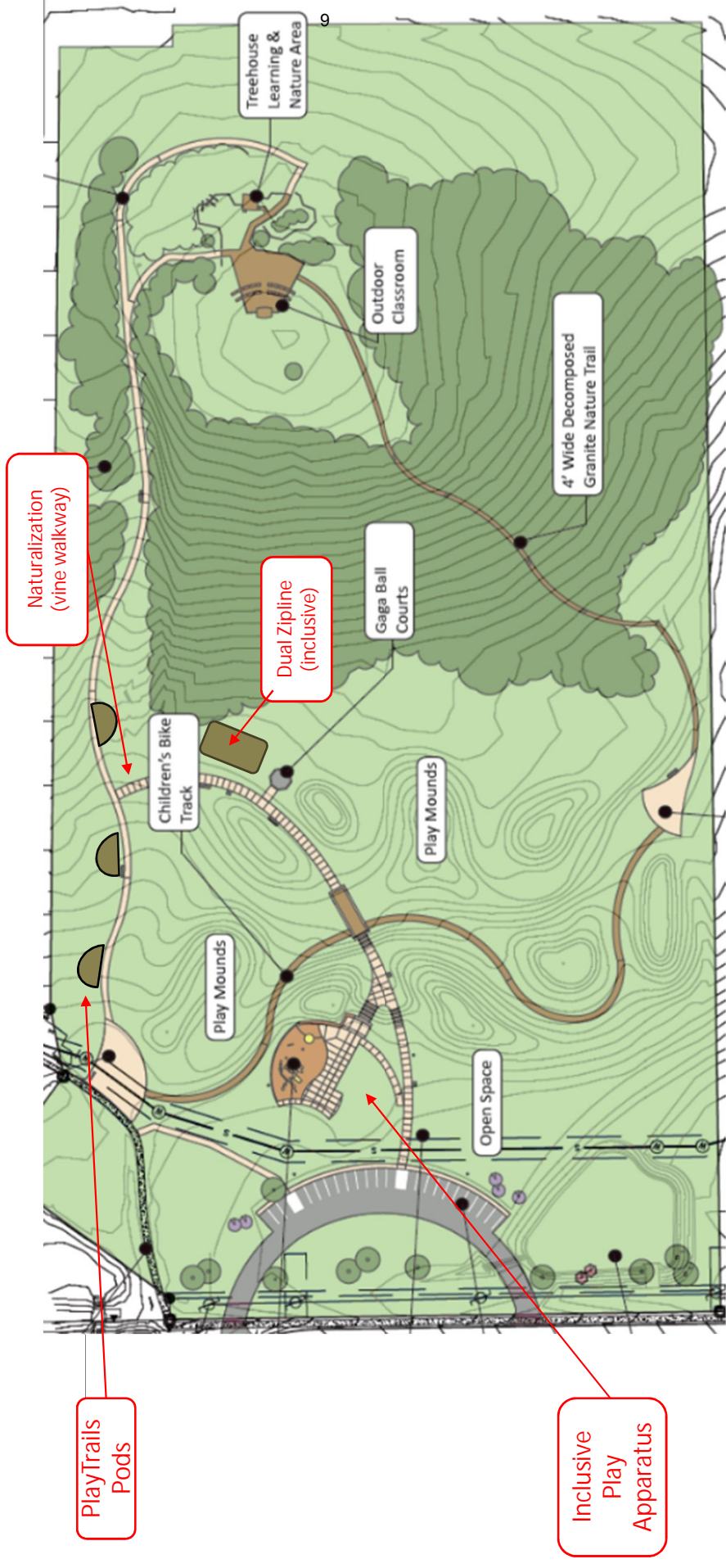




# Morningside Park

- New play space with inclusive elements
  - Sensory elements – tactile, visual and audio
  - GT sensors/adaptive switch connection
  - Slide transfer station
  - Roller slide
  - 40' wide ramps at grade
- Merry-Go-All (high backs)
- Sensory Wave Spinning Seat
- New play pockets along trail and ADA route
  - Naturalization
  - Vegetated tunnels
  - Sensory relief
  - Gathering or observation spots
- Zipline with a Zero G Seat
- Poured-in-place surfacing
- Inclusive Swings i.e. "mommy and me" or Zero G seat

# TRANSFORM Morningside!





Balancing



Spinning



Brachiating



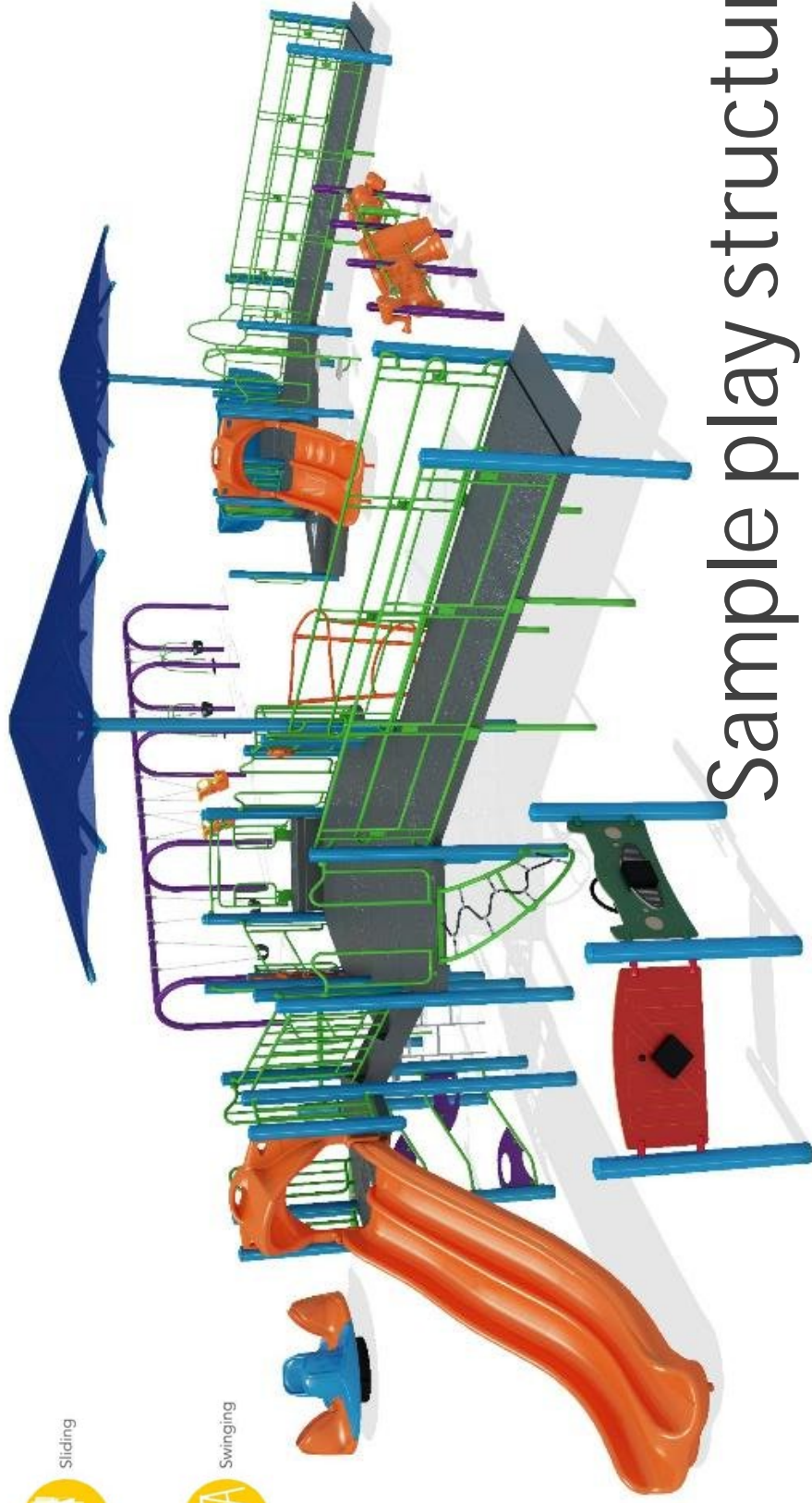
Sliding



Climbing



Swinging



Sample play structure





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12





# Activated Pathways

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# Landa Park

- New musical play trail
- 6' concrete pathway with connections to existing play pods and sidewalks
- Merry-Go-All (high backs)
- Inclusive Swings i.e. "mommy and me" or Zero G seat
  - Requires replacement of a bay of swings
- Naturalization and new landscaping







Musical Trail Pod to  
connect to existing  
play areas

Existing  
Playground Pods











# Questions & Comments



PARKS AND RECREATION DEPARTMENT





## City Council Agenda Item Report

550 Landa Street  
New Braunfels, TX

**7/22/2019**

Agenda Item No. B)

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Presenter/Contact

*Gretchen Pruett, Library Director*  
*[gpruett@nbtexas.org](mailto:gpruett@nbtexas.org)*

**SUBJECT:**

Presentation on Library Without Fines: An Equitable Approach to Removing Barriers



# Library Without Fines:

## An Equitable Approach to Removing Barriers

22

Gretchen Pruett

Library Director

July 22, 2019



# 3 Reasons to Eliminate Fines



1. Fines can cause an inequitable barrier to library use.
2. Fines don't work the way we think they do.
3. Fines create negative experiences for patrons and staff.

# Library Mission Statement



To provide the community with equal access to physical and virtual environments that support and encourage lifelong learning and enrichment.



# Current Fines and Lending



Material type	Length of Checkout	# of Renewals	Fine per Day	Maximum Fine
Books, Audiobooks, CDs	3 weeks	1	15 Cents	\$5.00
NEW materials	2 weeks	2	15 cents	\$5.00
DVDs	1 week	2	15 cents	\$5.00

- Automatic renewals unless item is requested.
- Account is blocked for use once fines/fees reach \$10.

# Unreturned Item Charges

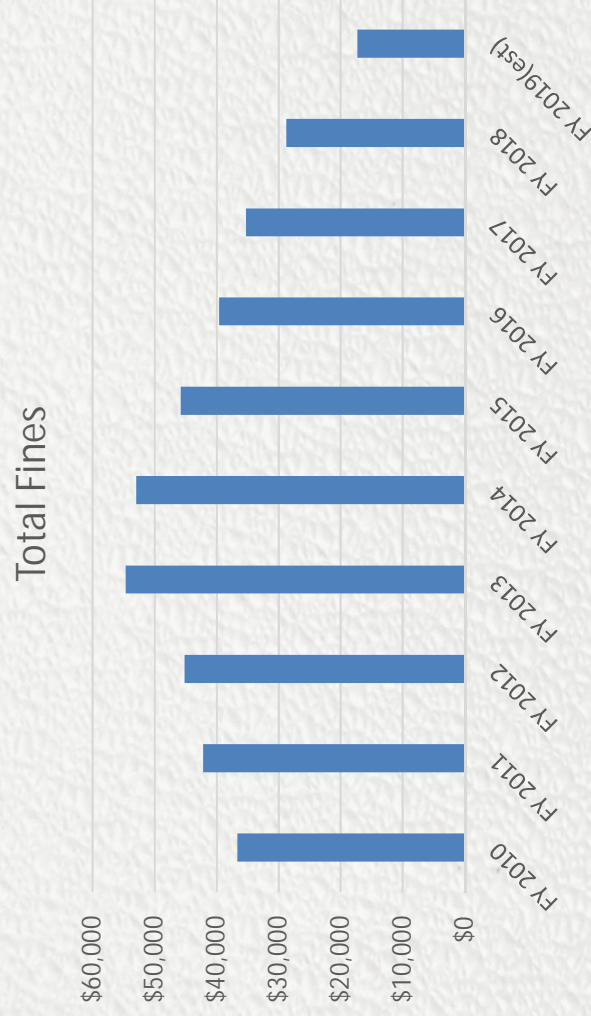


At 90 days overdue, the item enters lost status

- Patron is charged the replacement price of the item plus a \$5 processing fee.
- Processing fee is waived when the item is returned.
- Borrowing privileges are suspended until items are returned/paid for.



# Funds Collected Via Fines



FY 2019 - \$18,000 (est.)  
 FY 2017 - \$35,269  
 FY 2015 - \$45,817  
 FY 2013 - \$51,646

Decrease in fines collected is due to:

- Fine amnesty months
- Auto-renewals of items
- E-materials – no fines assessed

# Library Revenue



- All library revenue is part of the General Fund of the City of New Braunfels





# Inequitable Barrier

- 36% of NBISD and 29% of CISD students are Economically Disadvantaged (living in poverty)
- 99% of main library users arrive at library by private vehicle
- Fear of accidentally incurring late fees is a deterrent to many

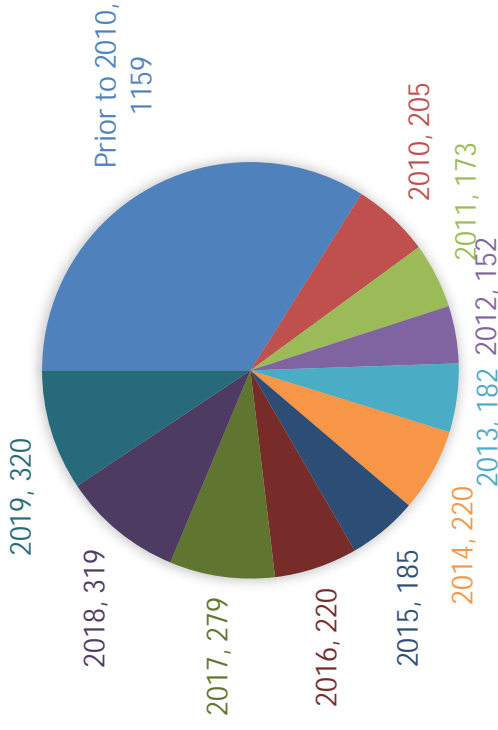
“Transportation and mobility can sometimes become an issue. For our family, fines can add up very quickly because of these mobility issues.”



# Blocked Library Cards - Fines



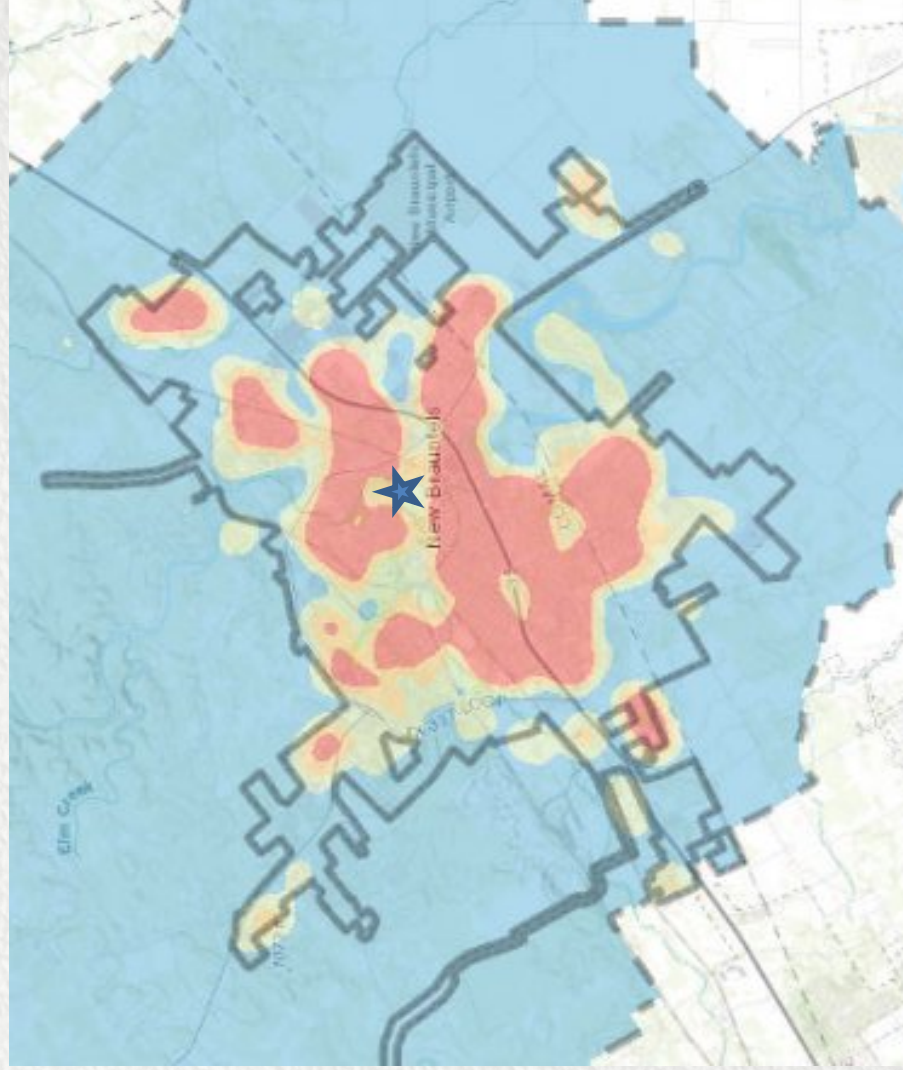
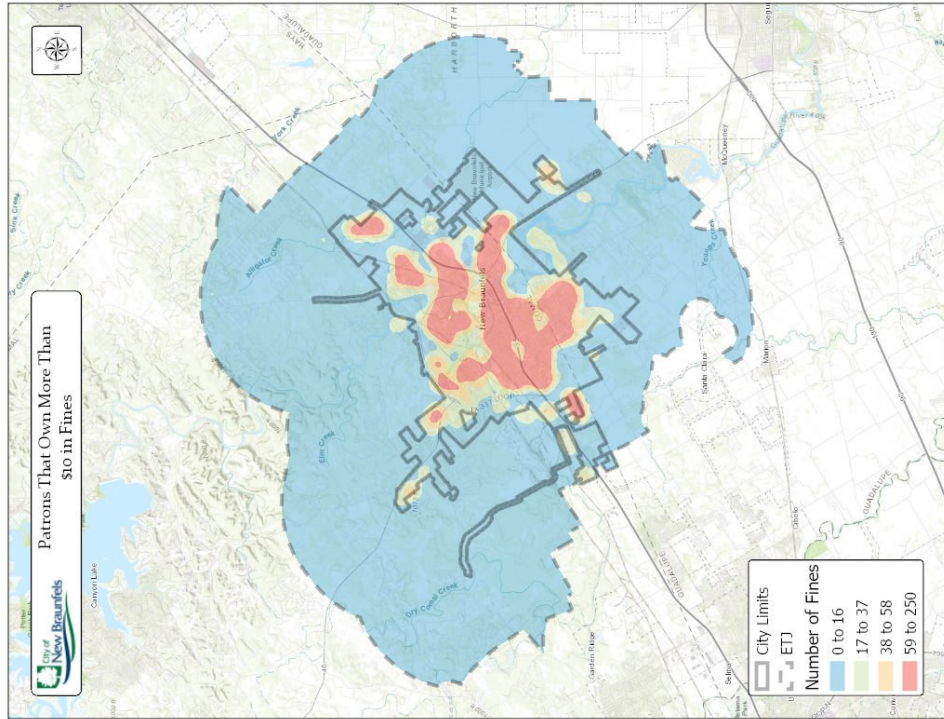
# OF BLOCKED CARD HOLDERS



\$53,381 - Total Fines owed by blocked cards  
 3,256 – Total cards blocked by fines  
 \$16 - Average amount owed  
 22% - Blocked Children's cards



# Map of Blocked Cards





# Fines don't work



No significant difference in overdue rates between libraries that charge fines and those that don't

- Currently, 10% of the materials checked out are overdue

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Only significant fines affect material return rate

- Results in significant loss of patrons

Fines teach civic responsibility to children

- Parents must drive to return materials, not the children

11



# Negative Experience



Many people find out their card has been blocked when they try to check out

- Library software notifies about lost items, not overdue charges

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Lost materials do generate a notice to the patron

Once items are returned, all fees are waived and privileges are restored.

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# Fine Free Texas Libraries

- Abilene
- Dallas
- Denton
- Frisco
- Georgetown
- Jeff Davis County
- Plano
- Burleson
- Flower Mound
- Haltom City
- Irving
- McKinney
- Mesquite
- Sanger
- Austin Public – Children’s materials only
- San Antonio Public – Children’s materials only



# Proposed Actions

- Eliminate overdue fines
- Clear all existing overdue fines from customer accounts
- Shorten time for item to be declared lost from 90 days overdue to 14 days overdue







# Questions?



## City Council Agenda Item Report

550 Landa Street  
New Braunfels, TX

**7/22/2019**

Agenda Item No. A)

---

Presenter/Contact

*Patrick Aten, City Secretary*  
*(830) 221-4010 - [paten@nbtexas.org](mailto:paten@nbtexas.org)*

**SUBJECT:**

Discuss and consider approval of the minutes of the regular City Council meeting of July 8, 2019.

**MINUTES  
OF THE NEW BRAUNFELS CITY COUNCIL  
REGULAR MEETING OF MONDAY, JULY 8, 2019**

The City Council of the City of New Braunfels, Texas, met in a Regular Session on July 8, 2019, at 6:00 p.m.

City Councilmembers present were:

**Present:** 6 - Councilmember Shane Hines, Councilmember Justin Meadows, Councilmember Harry Bowers, Councilmember Matthew E. Hoyt, Mayor Pro Tem Wayne Peters, and Councilmember Leah García

**Absent:** 1 - Mayor Barron Casteel

The meeting was called to order by Mayor Pro Tem Peters in the New Braunfels City Hall Council Chambers at 6:00 p.m. Councilmember Meadows gave the invocation and Mayor Pro Tem Peters led the Pledge of Allegiance and Salute to the Texas Flag.

**PROCLAMATIONS:**

A) Comal Springs

**Mayor Pro Tem Peters recognized the Comal Springs for being historically and culturally relevant.**

B) Parks and Recreation Month

**Mayor Pro Tem Peters proclaimed June as Parks and Recreation Month.**

**PRESENTATIONS:**

A) Comprehensive Solid Waste Management Plan

**Mayor Pro Tem Peters read the aforementioned caption.**

**Mike Mundell, Michelle Leonard, and Vita Quinn presented the item.**

**No action was taken.**

**1. MINUTES**

A) Discuss and consider approval of the minutes of the regular City Council meeting of June 24, 2019.



**Mayor Pro Tem Peters read the aforementioned caption.**

**Councilmember Hines moved to approve the item. Councilmember Bowers seconded the motion which passed unanimously.**

## **2. CITIZENS' COMMUNICATIONS**

This time is for citizens to address the City Council on issues and items of concerns not on this agenda. There will be no City Council action at this time.

**Mayor Pro Tem Peters read the aforementioned caption.**

**No one spoke.**

## **3. CONSENT AGENDA**

*All items listed below are considered to be routine and non-controversial by the City Council and will be approved by one motion. There will be no separate discussion of these items unless a Councilmember or citizen so requests, in which case the item will be removed from the consent agenda and considered as part of the normal order of business.*

### *Resolutions & Action Items*

- A) Confirmation of the reappointment of one individual to the Civil Service Commission for a term ending August 10, 2022.
- B) Approval of extending the current terms of two positions on the Downtown Board by one year.
- C) Approval of annual contracts with Kahlig Enterprises Inc. dba Bluebonnet Motors Inc. and Griffith Ford Seguin LLC, for the purchase of City vehicles, on an as-needed basis.
- D) Approval to renew the following annual contracts, as allowed for by their contract language: Auditing Services; Golf Course Concessionaire; Cemetery Maintenance Services; Landscape Services-Flood Properties & Medians; Road Construction Work; Dental Healthcare Administrative Services; Medical and Pharmacy Administrative Services; HVAC Maintenance Services and Aviation Fuel Services for New Braunfels Regional Airport.
- E) Approval of a contract with Myers Concrete for the construction of rain garden filtration systems and approval authority for the City Manager

to approve any changes up to the contingency amount for project expenditures as part of the Panther Canyon Erosion Control Improvements Project included in the 2013 Bond Program.

- F) Approval of a contract increase with K Friese and Associates Inc. for professional engineering services to provide third party assistance for development plan review for the City.
- G) Approval of the issuance of invitations for Competitive Sealed Proposals for San Antonio Street from Krueger Avenue to Spur Street as part of the 2019 Bond City-Wide Streets Program.
- H) Approval of the Comprehensive Solid Waste Management Plan.

#### *Ordinances*

*(In accordance with Section 3.10 of the City Charter, a descriptive caption of each ordinance shall be read on two separate days.)*

- I) Approval of the first reading of an ordinance amending the Code of Ordinances Chapter 86-2 regarding refunds of reserved picnic area and individual picnic table usage fees in city parks.
- J) Approval of the first reading of an ordinance Chapter 86-122 regarding fees for Das Rec Family Membership-Additional Family members.
- K) Approval of the first reading of an ordinance amending Chapter 130-26 of the Code of Ordinances to change the criteria for members of the Board of Trustees of New Braunfels Utilities.

**Mayor Pro Tem Peters read the aforementioned captions.**

**Councilmember Garcia moved to approve the Consent Agenda. Councilmember Hoyt seconded the motion which passed unanimously.**

#### **4. INDIVIDUAL ITEMS FOR CONSIDERATION**

- A) Discuss and consider approval of a temporary road closure for the inaugural Downtown Harvest Dinner to be held on October 20, 2019.

**Mayor Pro Tem Peters read the aforementioned caption.**

**Amy McWhorter and Nathan Manlove presented the item.**

**Councilmember Meadows moved to approve the item. Councilmember Garcia seconded the motion which passed unanimously.**

- B) Discuss and consider approval of the first reading of an ordinance amending Chapter 126-355 of the City's Code of Ordinances to remove the prohibition of overnight parking in the Downtown Parking Zone and extend the limits of the Downtown Parking Zone to include both sides of East San Antonio Street from Market Avenue to Gilbert Avenue, and the southwest side of North Market Avenue from East Mill Street to East San Antonio Street.

**Mayor Pro Tem Peters read the aforementioned caption.**

**Amy McWhorter and Garry Ford presented the item.**

**Colie Reno spoke on the item.**

**Councilmember Hines moved to approve the item. Councilmember Garcia seconded the motion which passed unanimously.**

- C) Public hearing and first reading of an ordinance disannexing approximately 62.4 acres of land out of the J. M. Veramendi Survey No. 2, Abstract 3, Comal County, Texas, located along the northwest right-of-way line of Loop 337 in the corporate limits of the City.

**Mayor Pro Tem Peters read the aforementioned caption.**

**Chris Looney presented the item.**

**No one spoke during the public hearing.**

**Councilmember Meadows moved to approve the item. Councilmember Hines seconded the motion which passed unanimously.**

- D) Public hearing and first reading of an ordinance amending Section 126-354 of the City of New Braunfels Code of Ordinances to revise Parking by Permit Area K.

**Mayor Pro Tem Peters read the aforementioned caption.**



**Garry Ford presented the item.**

**Diana Saenz and Oscar Castillo spoke during the public hearing.**

**Councilmember Hines moved to approve the item. Councilmember Bowers seconded the motion which passed unanimously.**

- E) Discuss and consider approval of the first reading of an ordinance amending Sections 114-98, 114-99, and 118-46 of the Code of Ordinances regarding access on collector or major thoroughfare streets, turn lane and traffic impact analysis requirements, and removal of references to the sub-collector street section.

**Mayor Pro Tem Peters read the aforementioned caption.**

**Garry Ford presented the item.**

**Councilmember Hoyt moved to approve the item. Councilmember Meadows seconded the motion which passed unanimously.**

## **5. EXECUTIVE SESSIONS**

In accordance with Texas Government Code, Subchapter D, the City Council may convene in a closed session to discuss any of the following items; any final action or vote taken will be in public.

- A) Deliberate issues regarding economic development negotiations in accordance with Section 551.087, of the Texas Government Code, including but not limited to:
- Project Nautilus

**Mayor Pro Tem Peters read the aforementioned caption.**

**City Council recessed into Executive Session from 7:31 p.m. - 7:50 p.m.**

**No vote or action was taken.**

- B) Deliberate the purchase, exchange, lease or value of real estate in accordance with Section 551.072 of the Texas Government Code
- Property for city facilities

**This caption was not read.**

*NOTE: The City Council reserves the right to retire into executive session concerning any of the items listed on this Agenda whenever it is considered necessary and legally justified under the Open Meetings Act (Chapter 551 of the Texas Government Code).*

6. **RECONVENE INTO OPEN SESSION AND TAKE ANY NECESSARY ACTION RELATING TO THE EXECUTIVE SESSION AS DESCRIBED ABOVE.**

The City Council reconvened into Open Session at 7:51 p.m. No vote or action was taken.

7. **ADJOURNMENT**

The meeting adjourned at 7:51 p.m.

Date Approved: July 22, 2019

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Barron Casteel, Mayor

Attest:

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Patrick Aten, City Secretary





## City Council Agenda Item Report

550 Landa Street  
New Braunfels, TX

7/22/2019

Agenda Item No. A)

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Presenter/Contact

*Patrick Aten, City Secretary*  
*(830) 221-4010 - [paten@nbtexas.org](mailto:paten@nbtexas.org)*

**SUBJECT:**

Approval of the appointment of one individual to the Airport Advisory Board for a term ending May 12, 2022.

**BACKGROUND / RATIONALE:**

The Airport Advisory Board is made up of seven members serving three-year staggered terms. Five members serve at-large, and two members serve as city/ETJ residents with aviation experience.

The vacancy for this position was posted from March 16, 2019, through July 15, 2019.

The following qualified application was submitted:

- Gary Edwards (incumbent)

Applicant's current & prior service on Boards and Commissions

Gary Edwards currently serves on the Airport Advisory Board.

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

N/A

**FISCAL IMPACT:**

N/A

**COMMITTEE RECOMMENDATION:**

N/A

**STAFF RECOMMENDATION:**

Staff recommends approval of the appointment of one individual to the Airport Advisory Board for a term ending May 12, 2022.



## City Council Agenda Item Report

550 Landa Street  
New Braunfels, TX

**7/22/2019**

Agenda Item No. B)

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Presenter/Contact

*Patrick Aten, City Secretary*  
(830) 221-4010 - [paten@nbtexas.org](mailto:paten@nbtexas.org)

**SUBJECT:**

Approval of the appointment of one individual to the Building Standards Commission for a term ending October 26, 2020.

**BACKGROUND / RATIONALE:**

The Building Standards Commission has five regular members and two alternates. One regular member serves as an at-large city resident, and four regular members serve from each of the following professions: real estate, home building, development, and legal.

The vacancy for a member representing the home building profession was posted March 15, 2018, through July 15, 2019.

The following qualified application was submitted:

- Michael Harrell

Applicant's current & prior service on Boards and Commissions

Michael Harrell has no prior experience on City boards.

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

N/A

**FISCAL IMPACT:**

N/A

**COMMITTEE RECOMMENDATION:**

N/A

**STAFF RECOMMENDATION:**

Staff recommends the approval of the appointment of one individual to the Building Standards Commission for a term ending October 26, 2020.





**City Council Agenda Item Report****7/22/2019**

Agenda Item No. C)

Presenter/Contact*Deborah Kimball, Buyer**(830) 221-4081 - DKimball@nbtexas.org***SUBJECT:**

Approval of the issuance of invitations for Competitive Sealed Proposals for Fischer Park Dam No. 1 Spillway Repair.

**BACKGROUND / RATIONALE:**

The Fischer Park Dam 1 Spillway Repair was designed by Freese and Nichols engineers for the repair project. The Texas Commission on Environmental Quality (TCEQ) performed inspections of all regulated City of New Braunfels dams in July 2016 as part of TCEQ's Dam Safety Program. The TCEQ inspection reports included recommendations to address erosion on the downstream side of the Fischer Park Dam No. 1 Spillway. The City contracted with Freese and Nichols to provide recommendations and to perform engineering design for the dam spillway repairs to address TCEQ concerns. The repair design plans have been submitted to and approved by TCEQ's Dam Safety division.

The Competitive Sealed Proposal (CSP) method allows the City to evaluate the most qualified contractors and the best value for the project. The evaluation of the proposals received by City staff will be presented to City Council for direction regarding the approval of a contract for construction.

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

<input checked="" type="checkbox"/>	Yes	<b>City Plan/Council Priority:</b>	Strategic Priorities: Continue an ongoing program of infrastructure construction and maintenance
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**FISCAL IMPACT:**

The action above does not have any direct fiscal impact. Staff is planning to allocate the costs associated with this project in the FY 2019-20 Proposed Budget. All purchases that exceed \$25,000 will be brought before City Council for approval.

**COMMITTEE RECOMMENDATION:**

N/A

**STAFF RECOMMENDATION:**

Staff recommends approval of the issuance of invitations for Competitive Sealed Proposals for Fischer Park Dam No. 1 Spillway Repair.





**City Council Agenda Item Report****7/22/2019**

Agenda Item No. D)

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**Presenter/Contact***Patrick O'Connell, Interim Fire Chief  
(830) 221-4267 - POConnell@nbtexas.org***SUBJECT:**

Approval of a ratification for the submission of a grant application to the Firehouse Subs Public Safety Foundation for safety equipment valued up to \$32,850, and authorization for the City Manager to execute all contract documents associated with the grant, including formal acceptance of the equipment.

**BACKGROUND / RATIONALE:**

The New Braunfels' City Council strategic priorities include using a variety of funding sources for operational and capital needs. As such, New Braunfels Fire Department ("NBFD") staff submitted a grant application to the Firehouse Subs Public Safety Foundation ("Foundation") to receive 50 ballistic rescue task force vests and accessories for a total Foundation cost not to exceed \$32,850.

NBFD has received an award notification from the Foundation; therefore, Staff is requesting approval for a ratification of the grant application, and authorization for the City Manager to execute all contract documents associated with the award, such as formal acceptance of the equipment by the City. It is anticipated that the equipment will be delivered to NBFD by September 30, 2019.

The total value of the equipment is up to \$32,850 with no match requirement; therefore, there is no cost to the City.

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

<b>Yes</b>	<b>Strategic Priorities</b>	Use a variety of funding sources for operational and capital needs.
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**FISCAL IMPACT:**

The granting agency will provide the requested safety equipment directly to NBFD at no cost therefore there is no fiscal impact to the City.

**COMMITTEE RECOMMENDATION:**

N/A

**STAFF RECOMMENDATION:**

Staff recommends approval of a ratification for the submission of a grant application to the Firehouse Subs Public Safety Foundation for safety equipment valued up to \$32,850, and authorization for the City Manager to execute all contract documents associated with the grant, including formal acceptance of the equipment.



## City Council Agenda Item Report

550 Landa Street  
New Braunfels, TX

7/22/2019

Agenda Item No. E)

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Presenter/Contact

*Jennifer Gates, Grants Coordinator*  
(830) 221-4383 - [JGates@nbtexas.org](mailto:JGates@nbtexas.org)

**SUBJECT:**

Approval for the submission of the Community Development Block Grant Annual Action Plan, and associated funding recommendations, for Program Year 2019 to the U.S. Department of Housing and Urban Development.

**BACKGROUND / RATIONALE:**

The City of New Braunfels has been fortunate to receive annual grants from the U.S. Department of Housing and Urban Development (HUD) Community Development Block Grant (CDBG) Entitlement Program since 1994. The annual funding amount varies each year as it is determined on a formula basis and then provided to entitled cities, counties, and states to help develop viable urban communities. Funds are distributed by the City throughout the community to provide eligible recipients with grant funding that can be used to revitalize neighborhoods, support affordable housing, provide economic opportunities, and improve community facilities and services intended for low- and moderate-income (LMI) residents.

In accordance with CDBG funding requirements, the City is preparing to submit the Annual Action Plan to HUD. The Annual Action Plan, developed according to the City's Citizen Participation Plan, outlines the projects and programs the City will support with CDBG funds during the upcoming HUD Program Year, thereby furthering the goals of the HUD-approved Consolidated Plan, a five-year strategic planning document. After submission of the Annual Action Plan, projects and programs are then implemented in accordance with the approved one-year budget and activities.

The City's allocation for Program Year (PY) 2019 is \$393,910 and will begin October 1, 2019. Of the total funding amount, up to 15 percent (\$59,086.50) can be allocated for public service activities, 20 percent (\$78,782) for program administration, and the remaining 65 percent (\$256,041.50) is to be used for housing and public facilities projects as per HUD CDBG requirements. Any additional funds, including from previous Program Years, are retained in the U.S. Treasury to be utilized by the City at a future date in accordance with timeliness requirements and project/program eligibility.

The Community Development Advisory Committee (CDAC) is composed of nine citizens of New Braunfels who have applied and been approved by City Council to serve in an advisory capacity on matters relating to the CDBG Program including reviewing competitive applications for funding, hosting agency presentations, and making recommendations for funding allocations to be considered and approved by City Council. Funding allocations are subsequently included in the City's Annual Action Plan.

After previous extensive review and discussion, CDAC members met on April 10 to publicly rank the



applications and consider funding allocations for CDBG Program Year 2019. Recommendations for funding were based upon factors such as how the program/project will benefit LMI residents, availability of funding, past/current performance for organizations who had previously received funding, and the experience and capacity of the agency in managing the proposed program/activity.

The following allocations are being recommended by CDAC. As the table illustrates, there is approximately \$100,000 in additional available funding. These funds are earmarked for housing/public facilities projects.

CDBG PROGRAM YEAR 2019 (PY19) TOTAL GRANT AMOUNT: \$393,910		
<b>ADMINISTRATION (20% Cap): \$78,782</b>		
Administration and oversight of CDBG program		
NOTE : Administration allocation is not subject to ranking by committee.		
<b>PUBLIC SERVICES (15% Cap): \$59,086.50</b>		
Name of Organization	Project/Program	Recommended Funding
CASA of Central Texas, Inc.	court advocacy services	\$ 13,333.00
Family Life Center & Counseling Center	emergency rent & utility assistance	\$ 10,318.50
River City Advocacy & Counseling Center	counseling program	\$ 5,000.00
San Antonio Food Bank	food distribution	\$ 12,500.00
Comal County Senior Citizens Foundation	Meals on Wheels program	\$ 17,935.00
		<b>\$ 59,086.50</b>
<b>HOUSING / PUBLIC FACILITIES (65% Cap): \$256,041.50</b>		
Name of Organization	Project/Program	Recommended Funding
Comal County Habitat for Humanity	closing cost assistance	\$ 8,500.00
Comal County Habitat for Humanity	home repair program	\$ 65,798.00
Comal County Senior Citizens Foundation	minor home repair program	\$ 80,000.00
Westside Community Center	replace/improve electrical lighting	\$ 12,000.00
Westside Community Center	complete roof replacement	\$ 50,000.00
		<b>\$ 216,298.00</b>
<b>ADDITIONAL AVAILABLE FUNDING (TO-DATE): \$100,008.50</b>		
CDBG Program Year	Project/Program	Available
Previous CDBG Program Years	TBD Housing/Public Facilities	\$ 60,265.00
Program Year 2019	TBD Housing/Public Facilities	\$ 39,743.50
		<b>\$ 100,008.50</b>

HUD requires a 30-day comment period, and two public hearings prior to submission, allowing for citizens to comment on the information proposed in the Annual Action Plan. The comment period for CDBG Program Year 2019 was from June 11 to July 12; a full draft of the Annual Action Plan was

available for review at the City Secretary's Office and the New Braunfels Public Library, and information was also available on the City's Community Development - CDBG Program website during this timeframe. The first public hearing was held on June 17 at the Westside Community Center and the second public hearing was on June 24 during the regular City Council meeting.

No comments were received during the public comment period, therefore, upon receipt of City Council approval, the finalized Annual Action Plan will be delivered to HUD no later than August 16, 2019.

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

<input checked="" type="checkbox"/>	Yes	Strategic Priorities	20. Protect the integrity of our neighborhoods.
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**FISCAL IMPACT:**

There is no direct fiscal impact to the City. The program is fully supported by federal dollars.

**COMMITTEE RECOMMENDATION:**

The Community Development Advisory Committee (CDAC) has approved the above-referenced recommendations for City Council consideration.

**STAFF RECOMMENDATION:**

Staff recommends approval for the submission of the Community Development Block Grant Annual Action Plan, and associated funding recommendations, for Program Year 2019 to the U.S. Department of Housing and Urban Development.





**City Council Agenda Item Report**550 Landa Street  
New Braunfels, TX**7/22/2019**

Agenda Item No. F)

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**Presenter/Contact***Robert Camareno, City Manager*  
(830) 221-4280 - [rcamareno@nbtexas.org](mailto:rcamareno@nbtexas.org)**SUBJECT:**

Approval of an Interlocal Agreement between the City of New Braunfels and Comal County for the utilization and improvement of County owned properties located at 340 North Seguin Avenue, 155 East Bridge Street and 396 North Seguin Avenue for use as public parking.

**BACKGROUND / RATIONALE:**

The New Braunfels Economic Development Corporation (4B) has dedicated funding for the improvement of the County owned lots located at 340 North Seguin Avenue and 155 East Bridge Street to be used as public parking for the Downtown area. The improvements will consist of paving and striping the unpaved lot that is located at 340 North Seguin Avenue and seal costing and restriping the lot located at 155 East Bridge Street. Additionally lighting will be added to these 2 lots.

In order for construction on the improvements to begin and these lots as well as the County owned lot located at 396 North Seguin Avenue, which is behind the Comal County Elections Center, to be designated as public parking, certain terms and conditions will need to be agreed upon as set forth in the proposed Interlocal Agreement.

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

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**FISCAL IMPACT:**

NBEDC (4B) funding has already been approved and allocated for this project.

**COMMITTEE RECOMMENDATION:**

N/A

**STAFF RECOMMENDATION:**

Staff recommends approval of this interlocal agreement.

## INTERLOCAL AGREEMENT

STATE OF TEXAS           §  
                                      §  
 COUNTY OF COMAL       §

This Interlocal Agreement (hereinafter referred to as the “Agreement”) is made by and between Comal County, Texas, a political subdivision of the State of Texas (hereinafter referred to as the “County”), acting through its duly authorized representative, County Judge, Sherman Krause and the City of New Braunfels, a Municipal Corporation located in Comal County, Texas (hereinafter referred to as the “City”), acting through its duly authorized City Manager, Robert Camareno. This Agreement is for the utilization and improvement of the County owned properties located at 340 North Seguin Avenue, and 155 E. Bridge Street, and to construct a public parking lot. An additional County owned property, the existing parking lot behind 396 N. Seguin Avenue will also be included with the above mentioned properties to serve as public parking.

WHEREAS, Chapter 791 of the Texas Government Code authorizes local governments to enter into interlocal cooperation agreements; and

WHEREAS, the County and the City desire to enter into this Agreement for the public purpose of improving the County owned properties located at 340 North Seguin Avenue and 155 E. Bridge Street by constructing and operating a public parking lot; and

WHEREAS, the County in order to satisfy the parking requirements for the newly remodeled and enlarged building located at 199 Main Plaza will include its parking lot located behind the property addressed at 396 North Seguin Avenue into this Agreement which will also provide additional parking to the public, and

WHEREAS, the County and the City have determined that this interlocal agreement will serve the best interests of the citizens of Comal County and the City of New Braunfels; and

WHEREAS, the governing bodies of both the County and the City have authorized the Agreement.

NOW, therefore, in consideration of the mutual promises and covenants herein contained and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the County and the City agree as follows:

## **ARTICLE I PREMISES**

1. **PREMISES:** The following County-owned properties are subject to this Agreement (hereinafter referred to as the “Premises”) and shall be used as public parking lots.
  - a. The property located at 340 North Seguin Avenue legally described as, 0.315 Acres, City Block 2013, Lot W 71.8 Lots 229 and 230 and the property located at 155 E. Bridge Street legally described as 0.526 Acres, SE 119.6 feet of Lots 229 and 230, City Block 2013 hereinafter referred to as the “Properties”. Said Properties being more particularly described in a diagram attached as Exhibit “A” and incorporated herein by reference for all purposes.
  - b. The property located behind 396 North Seguin Avenue which faces Zinc Street which is legally described as 0.414 Acres, City Block 2013, Lot E. 95 Lots 247-248. Said Property to be described as the “Additional Property” and more particularly described in a diagram attached as Exhibit “A”.

## **ARTICLE II TERM**

1. **INITIAL TERM:** The initial term of this agreement shall be for a period of ten (10) years commencing on August 1, 2019.
2. **EARLY TERMINATION:** After the first anniversary of this Agreement, the County may terminate this Agreement upon 60 days written notice to the City, provided that the County shall reimburse the City for the unamortized portion of the cost of enhancing the Parking Lot on the Properties. In connection to such reimbursement, the County’s obligation shall be premised on the following: the initial cost of such parking lot enhancements shall not exceed \$150,000 and the cost shall be amortized in a nine (9) year straight line amortization schedule. Should the County request termination of this Agreement, the City shall be reimbursed on the prorated basis set forth above prior to any termination becoming effective. Other than the foregoing, this Agreement may only be terminated by the mutual agreement in writing between the County and the City and approved by the respective governing bodies.

## **ARTICLE III IMPROVEMENTS**

The City shall cause to be constructed on the Properties, an approximately 97 space parking lot as described on the attached Exhibit “B”. The City will be expending \$150,000 on the improvement of the Properties in the construction described above. Construction shall commence no later than September 1, 2019 and shall be completed no later than December 31, 2019.



#### **ARTICLE IV MAINTENANCE AND REPAIRS**

The County at its sole cost and expense, shall have the responsibility to maintain the Properties and Additional Property, except the City shall be have the responsibility to maintain the lighting system and the sign located on the Properties.

#### **ARTICLE V UTILITIES**

The City agrees that it will pay for all costs associated with connecting and usage of any and all utilities related to lighting on the Properties.

#### **ARTICLE VI USE OF PARKING LOT**

1. The City and County agree that the amount of parking available on the Properties and Additional Property is being counted toward the overall parking requirement for the County's facilities located at 100 Main Plaza, 199 Main Plaza and 188 North Seguin Avenue. If this Agreement remains in effect, this Agreement shall satisfy the City's requirement for an offsite parking agreement.
2. The City and County agree that the Properties and Additional Property shall be made available for public parking 24 hours per day, 7 days per week and the County authorizes the City to install the appropriate signage to advertise this public parking lot.
3. The City and County further agree that no parking spaces shall be reserved or made exclusive for the use of the County or others, and all spaces shall be available to the public at all times on the Properties and Additional Property.
4. Notwithstanding the foregoing, the County is authorized to temporarily restrict the Additional Property as needed to provide for voter parking during election voting periods.

#### **ARTICLE VII NATURE OF RELATIONSHIP**

1. Nothing contained in this Agreement shall be deemed or constructed to create the relationship of principal and agent or that of partnership or joint venture or any association between the County and the City, and any intention to create a joint venture or partnership relationship between the Parties hereto is hereby expressly disclaimed. The City shall maintain exclusive control, direction and management of its own employees, and the County shall have no rights with respect thereto, except for the County's right to enforce covenants of the City as set forth in this agreement.

2. **IMMUNITY:** It is expressly understood and agreed that, in the execution of this Agreement, neither the City nor County waive, nor shall be deemed hereby to waive, any immunity or defense that would otherwise be available to it against claims arising in the exercising of governmental powers and functions.
3. **LIABILITY:** Both parties shall be responsible for the acts or failure to act of their respective employees, agents or servants, provided, however, their responsibility shall be subject to the terms, provisions and limitations of the Constitution and laws of the State of Texas, particularly the Texas Tort Claims Act..

### **ARTICLE VIII INSURANCE**

1. The County shall be responsible for providing all necessary insurance to cover the property during the term of this agreement.

### **ARTICLE IX ASSIGNMENT**

1. The City shall not assign or sublet any portion of the premises without the County's written consent. The County likewise shall not assign or sublet any portion of the premises without the City's written consent.

### **ARTICLE X PROVISIONS**

1. **NOTICES:** All notices required herein shall be sent to the respective parties at the following addresses:

To the County:	Comal County Attn: County Judge Sherman Krause 150 N. Seguin Ave. New Braunfels, TX 78130
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To the City:	City of New Braunfels Attn: City Manager 550 Landa Street New Braunfels, TX 78130
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2. **BINDING EFFECT:** The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, successors and permitted assigns.

3. **GOVERNING LAW/VENUE:** This Agreement shall be governed, construed, and enforced in accordance with the laws of the State of Texas. Exclusive venue shall be in a court of competent jurisdiction in Comal County, Texas.
4. **SEVERABILITY:** If any term or provision of this Agreement, or the application to any person or circumstance shall, to any extent, be held to be invalid or unenforceable by a court of competent jurisdiction, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.
5. **REPRESENTATIONS AND WARRANTIES:** The County and City represent that each respective signatory has the full and complete authority to enter into this Agreement and that the joinder of no other person is required in order to cause this Agreement to be fully binding upon their respective properties.
6. **AMENDMENT:** This Agreement may not be altered, waived, or otherwise modified, except where done in writing, and signed by the duly authorized representative of the County and the City.
7. **CURRENT REVENUES:** Each party shall render performance and/or payment required under this Agreement from then-current revenues legally available to each party.
8. **ENTIRE CONTRACT:** This instrument contains the entire Agreement between the parties relating to the subject matter herein. There are no other verbal or written understandings, promises, agreements, or representations relating to the subject matter of this Agreement which have not been included herein, and this Agreement supersedes any and all other agreements, either oral, or in writing, between the parties hereto with respect to the subject matter herein.

**IN WITNESS WHEREOF**, this instrument is executed this \_\_\_\_ day of \_\_\_\_\_, 2019.

**COUNTY**

By: \_\_\_\_\_  
Sherman Krause, County Judge

Date: \_\_\_\_\_

Attest:

By: \_\_\_\_\_  
Bobbie Koepp, County Clerk

Date: \_\_\_\_\_

**CITY**

By: \_\_\_\_\_  
Robert Camareno, City Manager

Date: \_\_\_\_\_

Attest:

By: \_\_\_\_\_  
Patrick Aten, City Secretary

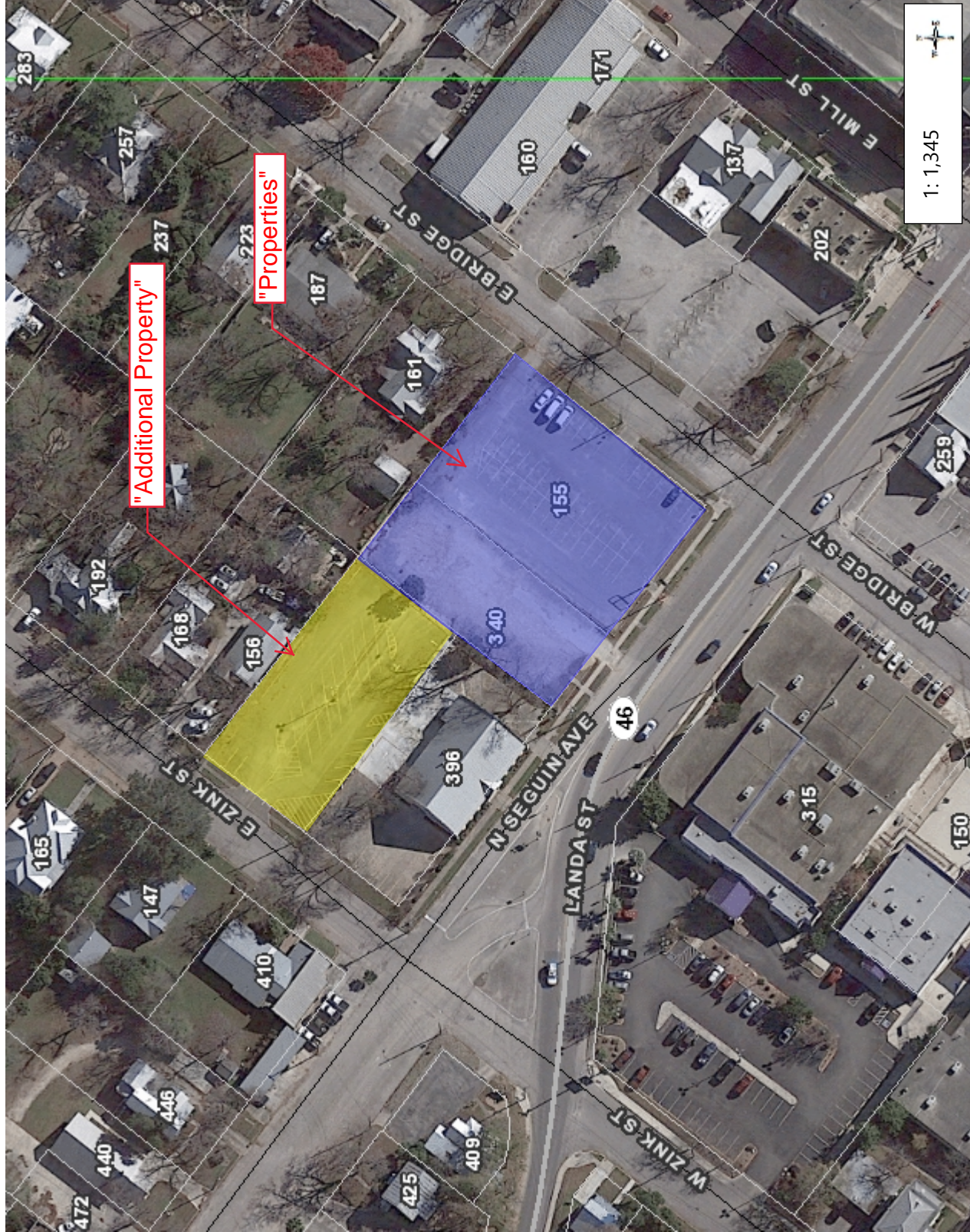
Date: \_\_\_\_\_





- Legend**
- Permits**
- Septic
  - Piprow/Driveway
  - Floodplain
  - Utility
- Addresses**
- Major Roads**
- Farm roads
  - Highways
- Streets**
- Parcels**
- Future Parcels**
- Red: Band\_1
  - Green: Band\_2
  - Blue: Band\_3

Notes



This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.

THIS MAP IS NOT TO BE USED FOR NAVIGATION

0.0 0.02 0.0 Miles

NAD\_1983\_StatePlane\_Texas\_South\_Central\_FIPS\_4204\_Feet

Comal County GIS

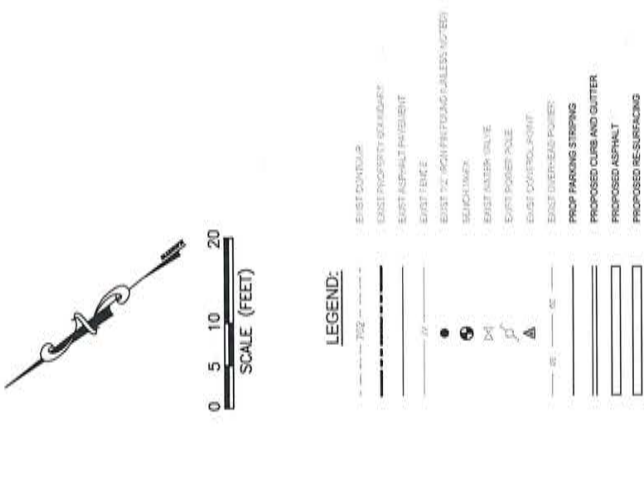




BRIDGE STREET PARKING LOT  
340 N. SEGUN AV.  
NEW BRAUNFELS, TX. 78130  
PROPOSED SITE PLAN -  
DIMENSION CONTROL PLAN

JOB: 18CON001				
DATE: 2019-02-15				
DRAWN: T.J. PM				
DESIGN: BA	DM			
CHECK: LK	OTHER:			
REVISIONS:				
DELTA	DESCRIPTION	DATE		

SHEET: C3.0



### PAYMENT MARKINGS:

1. CONTRACTOR SHALL CLEAN PAVEMENT OF DIRT, OIL, SAND, AND OTHER CONTAMINANTS PRIOR TO APPLYING MARKINGS AS RECOMMENDED BY PAINT MANUFACTURER.
2. PAYMENT MARKINGS SHALL BE APPLIED BY MACHINE AT A RATE OF 1 GALLON/100 SQUARE FEET.
3. PAYMENT MARKINGS SHALL NOT BE APPLIED DURING PERIODS OF HEAVY HUMIDITY OR PAVEMENT TEMPERATURES BELOW 50° F.
4. MINIMUM LINE WIDTH IS 4 INCHES. PAYMENT MARKINGS MUST COMPLY WITH ALL LOCAL, STATE, AND FEDERAL TRAFFIC SAFETY STANDARDS.
5. A MINIMUM OF 10 DAYS SHALL BE REQUIRED, WAIT 30 DAYS AFTER PAVEMENT INSTALLATION BEFORE APPLYING THE SECOND COAT OF PAYMENT MARKINGS.
6. CLOSE AREAS TO TRAFFIC FOR THE DURATION OF DRYING TIME, WHICH SHALL BE LONGER THAN THE MINIMUM RECOMMENDED BY THE PAINT MANUFACTURER.
7. TRAFFIC PAINT SHALL BE SHERWIN WILLIAMS PAVEMENT TRAFFIC PAINT OR APPROVED EQUAL.

Point #	Raw Description	Elevation	Northing	Easting
1	MAG	621.641	13048476.300	254545.47350
2	MAG	628.813	13048170.300	2545792.54400
3	MAG	629.115	13048091.300	2545542.69600
4	MAG	632.200	13048033.100	2545279.46800
100	RPT 12	631.411	13048038.200	2545594.91900
5	MAG	631.825	13048089.200	2545054.71800
101	RPT 14	630.892	13048048.500	2545636.33600
102	RFC ORANGE LEGIBLE	632.831	13048177.800	2545817.14400
103	RPT 12	628.817	13048069.400	2545513.32000
104	RPT 12	623.446	13050581.000	2545731.36200
105	RPT 12	628.102	13051575.900	2545936.62900
106	FOUND 4 IN COAC	629.872	13048745.000	2545865.92000





**City Council Agenda Item Report****7/22/2019**

Agenda Item No. G)

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**Presenter/Contact***Barbara Coleman, Purchasing Manager  
(830) 221-4389 - Bcoleman@nbtexas.org***SUBJECT:**

Approval of a contract with Sterling McCall Ford for the purchase of an ambulance to be housed at Fire Station #7.

**BACKGROUND / RATIONALE:**

On June 24, City Council approved the purchase for an ambulance from Frazer to be housed at Fire Station #7. It has been determined that although Frazer is administering the contract on behalf of Sterling McCall Ford, due to the Houston-Galveston Area Council (HGAC) purchasing cooperative contract requirements, the purchase of the ambulance must be in the name of Sterling McCall Ford. Sterling McCall is the authorized motor vehicle dealer and Frazer will coordinate the upfit of the ambulance with Sterling McCall Ford.

The purpose of this request is to change the contracted vendor for the ambulance purchase from Frazer to Sterling McCall Ford in the amount of \$273,248 as previous approved on June 24, 2019.

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

<b>X</b>	Yes	<b>City Plan/Council Priority:</b> Strategic Priorities: Continue an ongoing program of infrastructure construction and maintenance.
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**FISCAL IMPACT:**

There are sufficient reserves available in the Creekside TIRZ Fund to support the expenditure described above. These funds have been incorporated into the FY 2019-20 TIRZ Fund Budget, which was also approved by the TIRZ Board at their June 11, 2019 meeting.

**COMMITTEE RECOMMENDATION:**

On June 11, 2019 the Creekside TIRZ board approved a recommendation to the City Council for the purchase of the ambulance.

**STAFF RECOMMENDATION:**

Staff recommends approval of a contract with Sterling McCall Ford for the purchase of an ambulance to be housed at Fire Station #7.





**City Council Agenda Item Report**550 Landa Street  
New Braunfels, TX**7/22/2019**

Agenda Item No. H)

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**Presenter/Contact***Joshua Niles, Capital Project Manager  
(830) 221-4638 - jniles@nbtexas.org***SUBJECT:**

Approval of a contract modification to Cobb Fendley Engineering for the proposed 2019 Bond Citywide Street project at Lamar School area.

**BACKGROUND / RATIONALE:**

The Citywide Street Program projects could include: Asphalt excavation and replacement, base repairs, curb repair/replacement, sidewalk repairs/replacement, mill and overlay, and concrete diamonds around meter boxes and manholes.

On September 10, 2018 City Council approved the Lamar School area project for design as part of the 2019 Bond Citywide Street and Sidewalks Program. Cobb Fendley Engineering was awarded the project. After further review, the sidewalk portion of this project is up for a potential safe routes to school (SRTS) funding through TXDoT. City staff recommends additional funding to support breaking the project into a road work and separate sidewalk project. Additionally, three sidewalk sections need to be added to the sidewalk project to provide connections to Union Avenue and the Fair Grounds.

The original contract amount for design, survey and TDLR review on the Lamar School area project was for \$133,170. Breaking the sidewalks out of this project, an additional \$4,400 needs to be added. The three new sidewalk sections requires additional design and survey for a total of \$42,054. In total the contract for Cobb Fendley needs an additional \$46,454.

If the sidewalk project is approved for SRTS, staff would bring back to Council the remaining fees to cover TXDoT coordination, bid phase and construction phase totaling \$83,740.

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

<input checked="" type="checkbox"/>	Yes	<b>City of New Braunfels Strategic Priorities</b>	Infrastructure-Continue an ongoing program of infrastructure construction and maintenance.
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**FISCAL IMPACT:**

There are sufficient funds remaining from the 2019 Bond Citywide streets project.

**COMMITTEE RECOMMENDATION:**

N/A

**STAFF RECOMMENDATION:**

City Staff recommends approving a contract modification to Cobb Fendley for \$46,454 to complete

the additional sidewalk design and creation of two separate projects around the Lamar School area.

**City Council Agenda Item Report****7/22/2019**

Agenda Item No. I)

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**Presenter/Contact***Joshua Niles, Capital Project Manager  
(830) 221-4638 - [jniles@nbtexas.org](mailto:jniles@nbtexas.org)***SUBJECT:**

Approval of a contract with PGAL Architects to provide final design, bid phase, and construction phase services for a new Police Department facility.

**BACKGROUND / RATIONALE:**

The city contracted PGAL on September 26, 2018 for concept design and rendering imagery for the new Police Department Headquarters in support of the May 2019 Bond election.

The proposed new Police Headquarters will be located on San Antonio Street across from the Comal County Sheriff's office. It is expected to accommodate the entire City of New Braunfels Police Department. The main building is approximately 64,000 square feet which will be two stories and will include but not limited to a training room, dispatch, offices, storage, conference rooms, expansion area, and forensic labs. The second building is approximately 11,000 SF which will house the maintenance garage, restrooms, gym and storage.

The final design contract with PGAL includes design for the above-mentioned facilities and associated site work, bidding and construction phase services for a not to exceed amount of \$1,877,000. Staff continues to work with the consultant on pricing and should the number change, we will bring that new information to the Council at the meeting.

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

<input checked="" type="checkbox"/>	Yes	<b>City Plan/Council Priority:</b>	<b>Strategic Priorities:</b> Continue an ongoing program of infrastructure construction and maintenance.
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**FISCAL IMPACT:**

There are sufficient funds available in the year one issuance of the 2019 Bond Program.

**COMMITTEE RECOMMENDATION:**

N/A

**STAFF RECOMMENDATION:**

Staff recommends approval of a contract with PGAL Architects to provide final design, bid phase, and construction phase services for a not to exceed amount of \$1,877,000 for the new police department facility.





**City Council Agenda Item Report****7/22/2019**

Agenda Item No. J)

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**Presenter/Contact***Gretchen Pruett, Library Director*  
(830) 221-4322 - [gpruett@nbtexas.org](mailto:gpruett@nbtexas.org)**SUBJECT:**

Approval of a purchase from EnvisionWare, Inc. for a Radio Frequency Identification system for the New Braunfels Public Library at a cost of \$39,203.

**BACKGROUND / RATIONALE:**

The FY2018-19 budget approved \$35,000 for the acquisition of a self-check out/check-in standalone kiosk for the main library. After discussion with three vendors who supply this equipment, Library Staff learned that pricing for Radio Frequency Identification (RFID) systems has decreased substantially, and it will be possible to convert all library materials to RFID as well as provide the equipment to upgrade all self-checkout systems to RFID and also purchase the self check-in/check-out kiosk.

Based upon quotes received from multiple vendors, the Library Department is recommending the EnvisionWare system at a cost of \$39,204. This is \$4,200 more than the original budget amount which will be supported by the library operating budget.

The RFID system will allow the library customers to quickly and accurately check in their own library materials, as well as save library staff check in time by a factor of 5 times the current check in rate. The system also provides increased accuracy, ease of use and decreased time on material checkouts for staff and customers. The system will also enable customers to pay library charges either at the self check-out terminal or online without staff assistance.

The annual maintenance costs for the equipment is \$1,382, annual software maintenance cost is \$674 and the annual fee for the credit card collection software is \$3,026 - totaling \$5,082. If approved, these costs will be included in the 2019-20 proposed budget.

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

<input type="checkbox"/>	Yes	8	Maintain Fiscal Stability of City Operations
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**FISCAL IMPACT:**

Funding for \$35,000 of the contract described above was incorporated into the Library Department Budget and the Library Operating Budget will support the \$4,200 difference. Therefore, sufficient funds are available for the recommended contract.

**STAFF RECOMMENDATION:**

Staff recommends approval of the purchase from EnvisionWare, Inc. of a RFID System for the New Braunfels Public Library in the amount of \$39,204.

## City Council Agenda Item Report

550 Landa Street  
New Braunfels, TX

**7/22/2019**

Agenda Item No. K)

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Presenter/Contact

*Barron Casteel, Mayor*

*(830) 221-4507 - [bcasteel@nbtexas.org](mailto:bcasteel@nbtexas.org)*

**SUBJECT:**

Approval of the second and final reading of an ordinance amending Chapter 130-26 of the Code of Ordinances to change the criteria for members of the Board of Trustees of New Braunfels Utilities.

**BACKGROUND / RATIONALE:**

Currently, the ordinance containing the eligibility criteria to sit on the NBU Board of Trustees allows a trustee to be an employee or board member of another utility in the area however, this presents a conflict that needs to be resolved. This amendment will disqualify an applicant who is employed by or serves as a board member for a utility, another governmental body, or agency that regulates NBU, thereby resolving this conflict.

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

N/A

**FISCAL IMPACT:**

N/A

**COMMITTEE RECOMMENDATION:**

N/A

**STAFF RECOMMENDATION:**

N/A



**ORDINANCE NO. 2019-****AMENDING THE CITY OF NEW BRAUNFELS, TEXAS, CODE OF ORDINANCES CHAPTER 130-26; REPEALING ALL ORDINANCES IN CONFLICT; CONTAINING A SAVINGS CLAUSE AND ESTABLISHING AN EFFECTIVE DATE.**

WHEREAS, the current criteria to sit on the NBU Board of Trustees allows a trustee to be an employee or board member of another utility in the area; and

WHEREAS, this presents a conflict of interests and loyalties that needs to be remedied; and

WHEREAS, this amendment will disqualify an applicant who is employed by or serves as a board member for a utility, another governmental body, or agency that regulates NBU, thereby resolving this conflict.

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

**Section 1**

The findings and recitations set out in the preamble to this Ordinance are found to be true and correct and are hereby adopted by the City Council and made a part hereof for all purposes.

**Section 2**

That Chapter 130-26 (c) is amended to read as follows:

Sec. 130-26. - Composition and term of office.

- (a) Pursuant to authority contained in V.T.C.A., Government Code, §1502.070, and by the Charter of the city, the complete management and control of the city's waterworks, sanitary sewer and electric light systems shall be through a board of trustees, to consist of five citizens, one of whom shall be the mayor, permanently residing in New Braunfels, Comal County, Texas, to be known as the board of trustees of the New Braunfels Waterworks, Sanitary Sewer and Electric Light Systems, and referred to as the board of trustees, New Braunfels Utilities, in which name such board of trustees shall act and transact business, and referred to in this chapter as the "board of trustees" or "board."
- (b) All members of the board of trustees, except the mayor, shall be appointed by the city council to serve for five-year terms of office; with such term of office to commence on November 1;

provided that vacancies in office for any reason other than the expiration of a trustee's term of office shall be filled only for the unexpired term of the office vacant.

- (c) Any member of the board of trustees whose term of office has expired shall continue to serve as a member of the board until their successor in office has been appointed. Appointments to the board of trustees resulting from the expiration of a member's term of office shall be made by the city council at its first regular meeting in October each year in which the term of office to be filled shall expire, or as soon as possible thereafter. All vacancies in membership on the board of trustees, other than the mayor, whether occasioned by failure or refusal of any person named to such board to accept appointment, or by expiration of the term of office or otherwise, shall be filled by the majority vote of the city council. No person who is related within the second degree of consanguinity or affinity to any member of the city council shall be eligible to membership on the board. No person who is employed by or serves as a board member for a utility, a governmental body other than the New Braunfels City Council, or an agency that regulates NBU shall be eligible to serve on the NBU Board of Trustees. The term "employed" includes part-time and full-time employees, as well as someone who serves under contract as an attorney, consultant, engineer, manager, architect, or in some other professional capacity for the utility.

### **Section 3. Severability**

It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this Ordinance are severable and, if any phrase, clause, sentence, paragraph or section of this Ordinance should be declared invalid by the final judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Ordinance.

### **Section 4. Repealer**

All provisions of the Code of Ordinances of the City of New Braunfels not herein amended or repealed shall remain in full force and effect and all ordinances or parts thereof in conflict herewith are repealed to the extent of such conflict only.

### **Section 5. Effective Date**

This Ordinance shall become adopted and effective upon its second reading, signature required by City Charter, filing with the City Secretary's Office.

**PASSED AND APPROVED:** First reading this 8<sup>th</sup> day of July, 2019

**PASSED AND APPROVED:** Second reading this 22<sup>nd</sup> day of July, 2019.

**CITY OF NEW BRAUNFELS, TEXAS**

By: \_\_\_\_\_

**Barron Casteel, Mayor**

**ATTEST:**

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**Patrick D. Aten, City Secretary**

**APPROVED AS TO FORM:**

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**Valeria M. Acevedo, City Attorney**

## City Council Agenda Item Report

**7/22/2019**

Agenda Item No. L)

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Presenter/Contact

*Amy McWhorter, Downtown Development Coordinator*  
*amcwhorter@nbtexas.org*

**SUBJECT:**

Approval of the second and final reading of an ordinance amending Chapter 126-355 of the City's Code of Ordinances to remove the prohibition of overnight parking in the Downtown Parking Zone and extend the limits of the Downtown Parking Zone to include both sides of East San Antonio Street from Market Avenue to Gilbert Avenue, and the southwest side of North Market Avenue from East Mill Street to East San Antonio Street.

**BACKGROUND / RATIONALE:**

**City Council held a public hearing on the first reading of this proposed ordinance on July 8, 2019 and voted to approve (6-0-0, Mayor Casteel absent).**

The existing Downtown Parking Zone is defined to include the following public streets:

- (1) Main Plaza (with the exception of the Comal County Courthouse);
- (2) Seguin Avenue from Mill Street to Coll Street;
- (3) San Antonio Street from Market Avenue to Academy Avenue (with the exception of the Comal County Courthouse);
- (4) Castell Avenue from Mill Street to Coll Street.

Recent increases in river recreation tourist parking between Market Avenue and the Comal River, coupled with the proliferation of parking-by-permit-only areas in adjacent residential neighborhoods, has concentrated parking demand in the remaining unrestricted, on-street parking along East San Antonio Street and Market Avenue. This phenomenon is limiting parking availability for patrons of commercial uses in the area.

Additionally, there is currently a prohibition of on-street parking in the Downtown Parking Zone overnight. Overnight is defined as the hours between 1:00 a.m. and 4:00 a.m. This prohibition is problematic for Downtown residents (residential living in Downtown was not as prevalent when the overnight parking prohibition was adopted). The prohibition is also cumbersome for employees of Downtown nightlife establishments who often use on-street parking due to high weekend and evening occupancy rates in Downtown parking lots. This prohibition could also discourage Downtown patrons from using safe transportation to return home from Downtown dining and entertaining establishments.

Staff engaged stakeholders by sending notices to property and business owners of the 11 parcels directly adjacent to the proposed additional 2-Hour time limited parking areas. The notices informed them of the proposed changes and provided them an opportunity to comment. The City has received



one response in favor and none in opposition. Additionally, one business owner attended the May 21, 2019 Downtown Board Meeting and expressed support for the recommendation.

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

Envision New Braunfels Comprehensive Plan	<b>Action 1.11:</b> Update policies and codes to achieve development patterns that implement the goals of this plan. <b>Action 2.26:</b> Achieve and update Downtown Implementation Plan goals for quality places downtown...
Downtown Implementation Plan	<b>Critical Success Factor P1</b>

**FISCAL IMPACT:**

N/A

**COMMITTEE RECOMMENDATION:**

The **Transportation and Traffic Advisory Board** reviewed and recommended approval of the extension of the 2-Hour time limited parking area at their June 13, 2019 meeting, and recommended approval of the removal of the prohibition of overnight on-street parking in the Downtown Parking Zone at their April 11, 2019 meeting.

The **Downtown Board** reviewed and recommended approval of the extension of the 2-Hour time limited parking area at their May 21, 2019 meeting, and recommended approval of the removal of the prohibition of overnight on-street parking in the Downtown Parking Zone at their February 19, 2019 meeting.

**STAFF RECOMMENDATION:**

Staff recommends approval of both items.

Sec. 126-355. - Downtown parking zone.

(a) *Definitions.* The following terms, as used in this section, have the following definitions:

*Chief of police* shall mean the chief of police of the City of New Braunfels, Texas or his designee.

*Director of planning* shall mean the director of planning and community development of the City of New Braunfels, Texas or his designee.

*Downtown parking zone* shall mean the area comprised of the following public streets as identified in appendix A:

- (1) Main Plaza (with the exception of the Comal County Courthouse);
- (2) Seguin Avenue from Mill Street to Coll Street;
- (3) San Antonio Street from ~~Market Avenue~~ **Gilbert Street** to Academy Avenue (with the exception of the Comal County Courthouse);
- (4) Castell Avenue from Mill Street to Coll Street;
- (5) **The south/west side of Market Street from E. Mill Street to E. San Antonio Street**

*Motor vehicle* shall mean any mechanically or electrically powered device not operated on rails, upon which or by which any person or property may be transported upon a land highway. The load on a motor vehicle or trailer attached to it, is considered part of the vehicle. Tractors and motorized machinery are included while self-propelled in transit or used for transportation.

~~*Overnight parking* is defined as from 1:00 a.m. to 4:00 a.m. of any day.~~

*Temporary visitors permit* shall be issued, free of charge, for persons visiting from out of town, at the written request of any person residing within the downtown parking zone or any owner/operator of a "hotel" located within the downtown parking zone. (For the purposes of this section, the term "hotel" shall have the same meaning as set forth in V.T.C.A., Tax Code § 156.001.) These temporary visitor permits shall be valid only on the date(s) noted on the permit.

The chief of police has authority to enforce this section as described below.

(b) *Offenses.*

- (1) Except as provided in subsection (d), no person shall park any motor vehicle on any public street in the downtown parking zone for more than two consecutive hours between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday, without displaying a temporary visitor permit.
- ~~(2) Except as provided in subsection (d), no person shall park any motor vehicle on any public street in the downtown parking zone overnight.~~
- ~~(3)~~ **2** An individual commits an offense if he displays a permit issued pursuant to this section on a motor vehicle other than the motor vehicle for which the permit was issued.
- ~~(4)~~ **3** An individual commits an offense if he displays a permit issued pursuant to this section on a motor vehicle on a day other than the day issued.
- ~~(5)~~ **4** A person commits an offense if he falsely represents himself as being eligible for a temporary visitors permit, submits false documents, or otherwise makes a false statement of material fact on an application for a permit.

(c) *Penalties.*

- (1) Any vehicle parked for more than two consecutive hours in the downtown parking zone, during times when parking is restricted and without displaying a valid permit issued under this section, will be subject to:
  - a. A warning for the first offense;

- b. A fine not to exceed \$50.00 for the second offense plus court costs;
  - c. A fine not to exceed \$200.00 for the third offense plus court costs; and
  - d. A fine not to exceed \$500.00 for the fourth and any subsequent offenses plus court costs.
- (2) A person who commits any other violation against the provisions of this section is subject to the penalties provided for in this Code.
- (3) For purposes of this subsection, counting of repeat offenses shall commence on January 1st and end on December 31st of each calendar year. Offenses committed in prior calendar years shall not be counted in determining the level of penalty applied for offenses committed in subsequent calendar years.
- (d) *Exceptions.* The terms of this section shall not apply in the following instances:
  - (1) Motor vehicles that are used in individuals to carry equipment and goods necessary for making improvements and repairs, providing actual labor, and performing other related services at any location within the downtown parking zone. Not including employees of the business.
  - (2) The provisions of this section shall not apply to vehicles that display a valid temporary visitors permit.
- (e) *Temporary visitor parking zone permits.* Temporary visitor permits shall be issued, free of charge, for persons visiting in the area from out of town, at the written request of any person residing within the downtown parking zone or any owner/operator of a "hotel" located within the downtown parking zone. (For the purposes of this section, the term "hotel" shall have the same meaning as set forth in V.T.C.A., Tax Code § 156.001.) These temporary visitor permits shall be valid only on the date(s) noted on the permit and only two permits per business will be issued daily. Permits will be issued by the director of planning and community development.
- (f) *Miscellaneous.*
  - (1) A permit issued pursuant to this section, and properly displayed, authorizes the visitor's motor vehicle to be parked in the downtown parking zone for more than two consecutive hours when otherwise prohibited by this section. A permit does not authorize the visitor's motor vehicle to be parked in a manner or location that is prohibited or otherwise governed by regulations, ordinances, statutes, or laws other than provided for in this section.
  - (2) A permit is not transferable from one motor vehicle to another.
  - (3) A lost or stolen permit may be replaced. The visitor must submit a signed affidavit stating that the permit was lost or stolen and not transferred to another vehicle, nor given or conveyed to another individual.

(Ord. No. 2009-50, § I, 7-27-09; Ord. No. 2011-14, § I, 1-24-11)

**ORDINANCE NO. 2019-**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS, TEXAS, AMENDING CHAPTER 126 OF THE CITY'S CODE OF ORDINANCES BY REMOVING THE PROHIBITION OF OVERNIGHT ON-STREET PARKING IN THE DOWNTOWN PARKING ZONE AND EXTENDING THE DOWNTOWN PARKING ZONE TO INCLUDE BOTH SIDES OF EAST SAN ANTONIO STREET BETWEEN MARKET AND GILBERT STREETS, AND THE SOUTH/WEST SIDE OF EAST MARKET STREET BETWEEN EAST MILL STREET AND EAST SAN ANTONIO STREET; PROVIDING A SAVINGS CLAUSE AND AN EFFECTIVE DATE.**

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**WHEREAS**, the City of New Braunfels, Texas, regulates parking in the Downtown parking zone to promote an active pedestrian environment and robust commercial activity; and

**WHEREAS**, the New Braunfels Downtown Board recommended approval of the amendments to Chapter 126 at their regular meetings in February and May of 2019;

**WHEREAS**, the New Braunfels Transportation and Traffic Advisory Board recommended approval of the amendments to Chapter 126 at their regular meetings in April and June of 2019;

**WHEREAS**, New Braunfels' City Council finds that the attached code amendment regulating the use of on-street parking is reasonable and prudent in light of the desire to ensure adequate available parking for Downtown businesses, visitors, residents, and employees throughout the Downtown area;

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

**Section 1. Findings of Fact**

The foregoing recitals are incorporated into this Ordinance by reference as findings of fact are found to be true and correct and that they are hereby adopted by the City Council and made a part hereof for all purposes. The City Council hereby finds and determines that the rules, regulations, terms, conditions, provisions, and requirements are reasonable and necessary to protect the public health, safety, and quality of life.



**Section 2. Amendment to Chapter 126.**

**Chapter 114 of City of New Braunfels Code of Ordinances is hereby amended so as Section 126-355 to read as follows:**

Sec. 126-355. - Downtown parking zone.

(a) Definitions. The following terms, as used in this section, have the following definitions:

Chief of police shall mean the chief of police of the City of New Braunfels, Texas or his designee.

Director of planning shall mean the director of planning and community development of the City of New Braunfels, Texas or their designee.

Downtown parking zone shall mean the area comprised of the following public streets as identified in appendix A:

- (1) Main Plaza (with the exception of the Comal County Courthouse);
- (2) Seguin Avenue from Mill Street to Coll Street;
- (3) San Antonio Street from Gilbert Street to Academy Avenue (with the exception of the Comal County Courthouse);
- (4) Castell Avenue from Mill Street to Coll Street;
- (5) The south/west side of Market Street from E. Mill Street to E. San Antonio Street

Motor vehicle shall mean any mechanically or electrically powered device not operated on rails, upon which or by which any person or property may be transported upon a land highway. The load on a motor vehicle or trailer attached to it, is considered part of the vehicle. Tractors and motorized machinery are included while self-propelled in transit or used for transportation.

Temporary visitors permit shall be issued, free of charge, for persons visiting from out of town, at the written request of any person residing within the downtown parking zone or any owner/operator of a "hotel" located within the downtown parking zone. (For the purposes of this section, the term "hotel" shall have the same meaning as set forth in V.T.C.A., Tax Code §

156.001.) These temporary visitor permits shall be valid only on the date(s) noted on the permit.

The chief of police has authority to enforce this section as described below.

(b) Offenses.

(1) Except as provided in subsection (d), no person shall park any motor vehicle on any public street in the downtown parking zone for more than two consecutive hours between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday, without displaying a temporary visitor permit.

(2) An individual commits an offense if he displays a permit issued pursuant to this section on a motor vehicle other than the motor vehicle for which the permit was issued.

(3) An individual commits an offense if he displays a permit issued pursuant to this section on a motor vehicle on a day other than the day issued.

(4) A person commits an offense if he falsely represents himself as being eligible for a temporary visitors permit, submits false documents, or otherwise makes a false statement of material fact on an application for a permit.

(c) Penalties.

(1) Any vehicle parked for more than two consecutive hours in the downtown parking zone, during times when parking is restricted and without displaying a valid permit issued under this section, will be subject to:

- a. A warning for the first offense;
- b. A fine not to exceed \$50.00 for the second offense plus court costs;
- c. A fine not to exceed \$200.00 for the third offense plus court costs; and
- d. A fine not to exceed \$500.00 for the fourth and any subsequent offenses plus court costs.

(2) A person who commits any other violation against the provisions of this section is subject to the penalties provided for in this Code.

(3) For purposes of this subsection, counting of repeat offenses shall commence on January 1st and end on December 31st of each calendar year. Offenses committed in prior calendar years shall not be counted in determining the level of penalty applied for offenses committed in subsequent calendar years.

- (d) Exceptions. The terms of this section shall not apply in the following instances:
- (1) Motor vehicles that are used in individuals to carry equipment and goods necessary for making improvements and repairs, providing actual labor, and performing other related services at any location within the downtown parking zone. Not including employees of the business.
  - (2) The provisions of this section shall not apply to vehicles that display a valid temporary visitors permit.
- (e) Temporary visitor parking zone permits. Temporary visitor permits shall be issued, free of charge, for persons visiting in the area from out of town, at the written request of any person residing within the downtown parking zone or any owner/operator of a "hotel" located within the downtown parking zone. (For the purposes of this section, the term "hotel" shall have the same meaning as set forth in V.T.C.A., Tax Code § 156.001.) These temporary visitor permits shall be valid only on the date(s) noted on the permit and only two permits per business will be issued daily. Permits will be issued by the director of planning and community development.
- (f) Miscellaneous.
- (1) A permit issued pursuant to this section, and properly displayed, authorizes the visitor's motor vehicle to be parked in the downtown parking zone for more than two consecutive hours when otherwise prohibited by this section. A permit does not authorize the visitor's motor vehicle to be parked in a manner or location that is prohibited or otherwise governed by regulations, ordinances, statutes, or laws other than provided for in this section.
  - (2) A permit is not transferable from one motor vehicle to another.
  - (3) A lost or stolen permit may be replaced. The visitor must submit a signed affidavit stating that the permit was lost or stolen and not transferred to another vehicle, nor given or conveyed to another individual.

### **Section 5. Severability**

**THAT** it is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this Ordinance are severable and, if any phrase, clause, sentence, paragraph or section of this Ordinance should be declared invalid by the final judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Ordinance.

**Section 6. Repealer**

**THAT** all provisions of the Code of Ordinances of the City of New Braunfels not herein amended or repealed shall remain in full force and effect and all Ordinances or parts thereof in conflict herewith are repealed to the extent of such conflict only.

**Section 7. Effective Date and Publication.**

**THIS** ordinance shall become adopted and effective on July 22, 2019. This Ordinance must also be **published** in a newspaper of general circulation at least one time within ten (10) days after its final passage, as required by the City Charter of the City of New Braunfels.

**PASSED AND APPROVED:** First reading this 8<sup>th</sup> day of July 2019.

**PASSED AND APPROVED:** Second reading this 22<sup>nd</sup> day of July 2019.

**CITY OF NEW BRAUNFELS**

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**BARRON CASTEEL, Mayor**

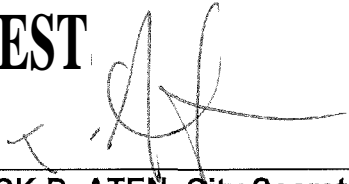
**APPROVED AS TO FORM:**

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**VALERIA M. ACEVEDO, City Attorney**

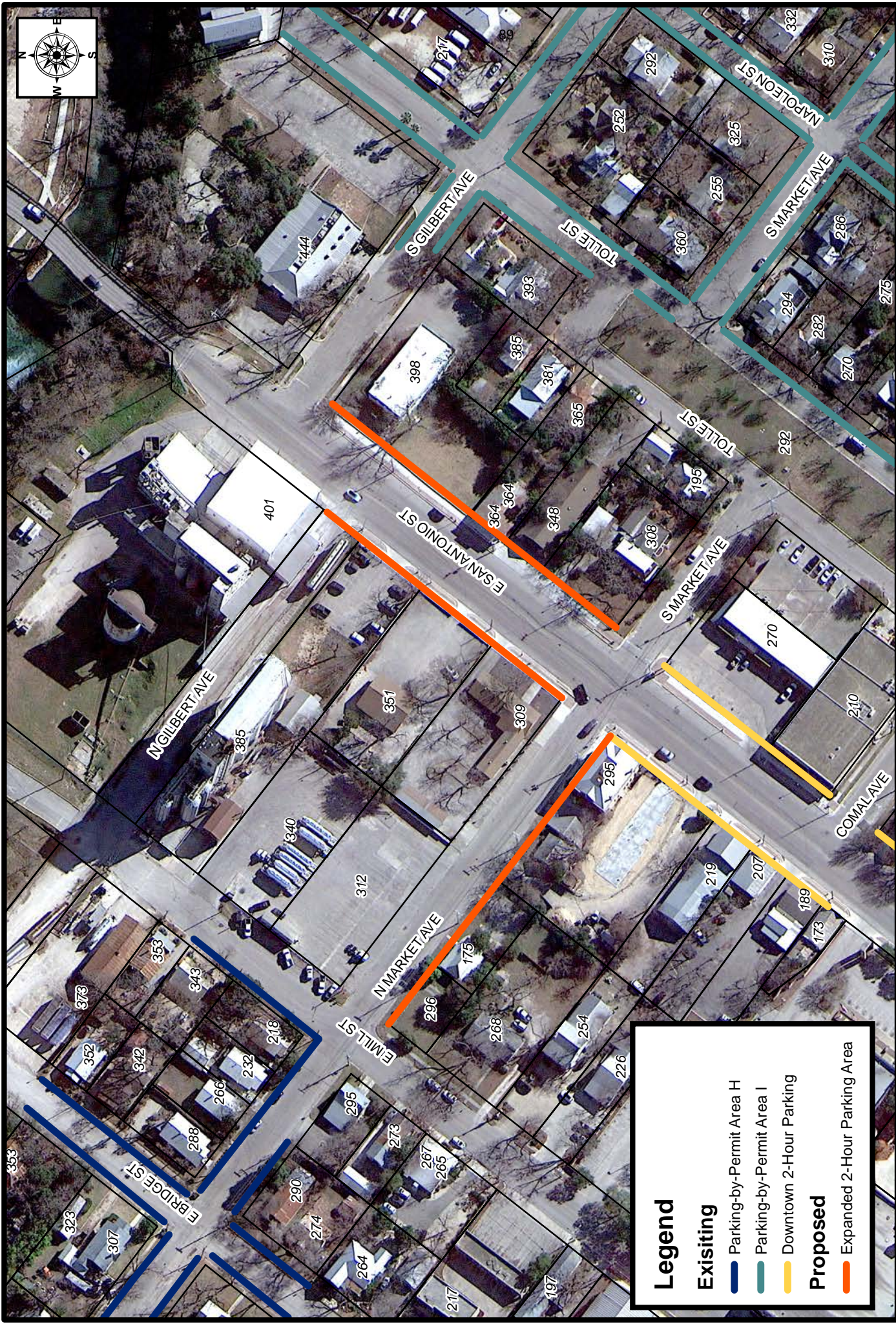
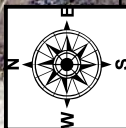


**ATTEST**

A handwritten signature in dark ink, appearing to read 'P. D. Aten', written over a horizontal line.

**PATRICK D. ATEN, City Secretary**





### Legend

#### Existing

- Parking-by-Permit Area H
- Parking-by-Permit Area I
- Downtown 2-Hour Parking

#### Proposed

- Expanded 2-Hour Parking Area



## Potential Expanded 2-Hour Parking Area New Braunfels Downtown





## City Council Agenda Item Report

**7/22/2019**

Agenda Item No. M)

---

Presenter/Contact

*Stacey Dicke, Parks and Recreation Director*  
(830) 221-4350 - [sdicke@nbtexas.org](mailto:sdicke@nbtexas.org)

**SUBJECT:**

Approval of the second and final reading of an ordinance amending the Code of Ordinances Chapter 86-2 regarding refunds of reserved picnic area and individual picnic table usage fees in city parks.

**BACKGROUND / RATIONALE:**

The first reading of the ordinance passed unanimously on July 8, 2019.

Staff recently reviewed the refund policies for both program registrations and park reservations. To insure a consistent procedure throughout the department, a Parks and Recreation Refund Policy was written.

Staff is recommending the following changes in regard to refunds of reservation areas. The change is proposed in order to better accommodate customers. The handling fee is proposed to be eliminated due to the majority of customers receiving refunds on credit cards vs. paper checks. The \$7 fee was originally set to cover costs associated with check refunds.

### Chapter 86-2

- c) The reservation fee, as set forth in this section, may be refunded under the following conditions:
- (1) ~~A \$7.00 handling fee will be assessed to any patron requested refund.~~
  - (2) ~~Full refund of the reservation fee in those cases where the director of parks and recreation is notified in writing of cancellation of reservation not less than 14 days prior to the date of use of the reserved area less the \$7.00 handling fee.~~
  - (3) ~~Refund of one-half of the reservation payment may be authorized if cancellation is received by the director of parks and recreation in writing between 14 days and the day prior to the date of use of the reserved area, less the \$7.00 handling fee.~~
  - (4) ~~The only exception to the refund provisions as set forth in this subsection shall be with the approval of the parks and recreation advisory board.~~
1. Inclement Weather (rain out): Inclement weather rain outs will be determined by the Parks and Recreation Director or designee. Reservation holders may reschedule based on availability and within 90 days from the original reservation date. Customers must notify the Parks Administration Office (830) 221-4350 within the first three working days of the rain out date in order to reschedule.
2. Cancellations by Customer



- a. Peak season is defined as March - September. During peak season, if cancellation is received less than two weeks prior to the reservation date, customer will be issued a 50% refund or account credit. Outside of peak season, customer will be issued a full refund when reservation is cancelled independent of cancellation date.
3. No Refund: If customer fails to show up or no cancellation notice is received prior to the date of the reservation, no refund will be issued.
4. Special Circumstances: Special circumstances related to cancelation requests not specifically covered within this policy will be determined at the discretion of the Parks and Recreation Director or designee.

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

<input checked="" type="checkbox"/>	Yes	<b>Core Values</b>	Fiscal Responsibility: Our decisions reflect sound fiscal management and prudence.
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**FISCAL IMPACT:**

N/A

**COMMITTEE RECOMMENDATION:**

The Parks and Recreation Board approved these changes at their meeting on June 18, 2019 by a 6-0 vote.

**STAFF RECOMMENDATION:**

Staff recommends approval to the change of Code of Ordinances for park reservation refunds.



PARKS AND RECREATION DEPARTMENT

## City of New Braunfels Parks and Recreation Department

110 Golf Course Road, New Braunfels, TX 78130

830-221-4350 [www.nbtexas.org/parks](http://www.nbtexas.org/parks)**TITLE: Refund Policy****EFFECTIVE DATE:****REFERENCE NUMBER: AD008****CAPRA STANDARD(S):****NEXT REVIEW DATE:****RESPONSIBLE AUTHORITY: Director****PAGES: 3****Purpose**

To communicate a fair and equitable credit and refund policy for all fee-based classes, programs, and leagues and facility reservations. And, to effectively manage customer accounts and general fund budgets in a fiscally responsible and timely manner.

**Policy****I. Program Registrations****1. Cancellation by NB Parks and Recreation Department (NB PARD)**

There may be occasions when cancellations are made by NB PARD for facility reservations or programs due to the failure of a class or program to meet a minimum participation requirement, an instructor vacancy, facility conflict or safety issue, or other unforeseen event.

In the case that NB PARD cancels a facility reservation, program, class, or league, in its entirety, registered participants will receive a 100% refund or account credit, at the discretion of the participant.

**2. General Participant Withdrawal**

A participant wishing to withdraw from a class, program or league that has not been canceled by NB PARD must request to be withdrawn at least five working days before the scheduled start of a class, program or league's first practice. The participant will receive, at the discretion of the participant, either a 100% account credit or a refund. Exception: Adult sports team registration fees are not refundable unless the league is cancelled by NB PARD.

**3. Medical/Hardship Withdrawal**

A participant may request a withdrawal due to an unforeseen medical or hardship condition within five working days prior to the class, program, or league or during the course of the activity. The request must be made in writing or via email. The participant may be considered to receive a full or prorated refund or account credit based on a case by case review.

**4. Satisfaction Guarantee**

NB PARD continually strives to provide quality programs and offers a Satisfaction Guarantee. In the event that the participant is not satisfied with a class or program, the participant may either repeat the program at no cost, or receive a 100% refund or account credit, at the discretion of the participant.

Requests stating the reason must be made in writing or via email within 5 days of the completion of the class or program. NB PARD reserves the right to limit use of this Guarantee by an individual or group on a case-by-case basis after thorough review of circumstances and/or history.

### 5. Special Circumstances

Special circumstances related to withdrawal requests not specifically covered within this policy will be determined at the discretion of the NB PARD Director or designee.

### 6. Account Credit Option

When a program participant or reservation holder opts for an account credit, rather than a refund. The account credit is valid for one year. At the one-year anniversary of the purchase amount being applied as an account credit, the customer will be contacted by email to confirm that they would like to receive their refund or if they would like to donate all or a portion of their credit to the Scholarship Fund. If a response is not received within thirty days, the funds will be transferred to the NB PARD Department Scholarship Fund without further contact from the City of New Braunfels.

## II. Facility Reservations

### 1. Inclement Weather (Rain Outs)

Inclement weather rain outs will be determined by NB PARD staff. Reservation holders may reschedule based on availability and within 90 days from the original reservation date. Customers must notify the Parks Administration Office (830) 221-4350 within the first three working days of the rain out date.

### 2. Cancellations by Customer

- A. Full Refund: If cancellation is received two weeks or more prior to the reservation date, customer will be issued a full refund or account credit.
- B. Half Refund: Peak season is defined as March – September. During peak season, if cancellation is received less than two weeks prior to the reservation date, customer will be issued a 50% refund or account credit. Outside of peak season, customer will be issued a full refund.
- C. No Refund: If customer fails to show up or no cancellation notice is received prior to the date of the reservation, no refund will be issued.

### 3. Special Circumstances

Special circumstances related to cancellation requests not specifically covered within this policy will be determined at the discretion of the NB PARD Director or designee.

**ORDINANCE NO. 2019 - \_\_\_\_**

AMENDING THE CODE OF ORDINANCES OF THE CITY OF NEW BRAUNFELS, TEXAS, CHAPTER 86, SECTION 86-2 REGARDING REFUNDS OF RESERVED PICNIC AREAS AND PICNIC TABLE USAGE FEES IN CITY PARKS; REPEALING ALL ORDINANCES IN CONFLICT; CONTAINING A SAVINGS CLAUSE; AND DECLARING AN EFFECTIVE DATE.

WHEREAS, the Parks and Recreation Department recently reviewed refund policies for both program registrations and park reservations and developed the Parks and Recreation Refund Policy to ensure uniformity; and

WHEREAS, the current ordinance in 86-2 sets a handling fee of \$7.00 for processing refunds that covered the costs associated with check refunds; and

WHEREAS, the majority of customers pay with credit cards so that refunds can be credited back to the customer's credit card thereby eliminating the need to issue refund checks; and

WHEREAS, due to the popularity of these park amenities that are limited in quantity and availability, additional costs are associated with providing and maintaining these amenities for the benefit of the public; and

WHEREAS, staff recommends a new refund structure for peak season, off season, inclement weather related cancellations, and special circumstances; and

WHEREAS, the City Council intends that the revenue shall not materially exceed the cost associated with providing these amenities.

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

**SECTION 1:** Amendment.

The City of New Braunfels Code of Ordinances is hereby amended in the following sections with deleted language indicated using strikethrough font and new language indicated using underlined font:

**Sec. 86-2. - Reserved picnic areas and individual picnic table usage fees in city parks.**

c) The reservation fee, as set forth in this section, may be refunded under the following conditions:

- ~~(1) A \$7.00 handling fee will be assessed to any patron requested refund.~~
- ~~(2) Full refund of the reservation fee in those cases where the director of parks and recreation is notified in writing of cancellation of reservation not less than 14 days prior to the date of use of the reserved area less the \$7.00 handling fee.~~
- ~~(3) Refund of one-half of the reservation payment may be authorized if cancellation~~



~~is received by the director of parks and recreation in writing between 14 days and the day prior to the date of use of the reserved area, less the \$7.00 handling fee.~~

~~(4) The only exception to the refund provisions as set forth in this subsection shall be with the approval of the parks and recreation advisory board.~~

1. Inclement Weather (rain out): Inclement weather rain outs will be determined by the Parks and Recreation Director or designee. Reservation holders may reschedule based on availability and within 90 days from the original reservation date. Customers must notify the Parks Administration Office (830) 221-4350 within the first three working days of the rain out date in order to reschedule.
2. Cancellations by Customer:
  - a. Peak season is defined as March – September. During peak season, if cancellation is received less than two weeks prior to the reservation date, customer will be issued a 50% refund or account credit. Outside of peak season, customer will be issued a full refund when reservation is cancelled independent of cancellation date.
3. No Refund: If customer fails to show up or no cancellation notice is received prior to the date of the reservation, no refund will be issued.
4. Special Circumstances: Special circumstances related to cancellation requests not specifically covered within this policy will be determined at the discretion of the Parks and Recreation Director or designee.

**SECTION 2:** All Ordinances or parts thereof in conflict herewith are repealed to the extent of such conflict only.

**SECTION 3:** If any provisions of this Ordinance shall be held void, illegal, or unconstitutional, it is hereby provided that all other parts of the same which are not held void, illegal or unconstitutional shall remain in full force and effect.

**SECTION 4:** This ordinance shall become effective upon its passage by City Council. This Ordinance has been publicly available in the office of the City Secretary prior to its adoption.

**PASSED AND APPROVED:** First reading this the \_\_\_\_ day of \_\_\_\_\_, 2019.

**PASSED AND APPROVED:** Second reading this the \_\_\_\_ day of \_\_\_\_\_, 2019.

**CITY OF NEW BRAUNFELS, TEXAS**

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BARRON CASTEEL, Mayor

ATTEST:

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Patrick D. Aten, City Secretary

APPROVED AS TO FORM:

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Valeria M. Acevedo, City Attorney



**City Council Agenda Item Report****7/22/2019**

Agenda Item No. N)

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**Presenter/Contact**

*Stacey Dicke, Parks and Recreation Director*  
(830) 221-4350 - [sdicke@nbtexas.org](mailto:sdicke@nbtexas.org)

**SUBJECT:**

Approval of the second and final reading of an ordinance Chapter 86-122 regarding fees for Das Rec Family Membership-Additional Family members.

**BACKGROUND / RATIONALE:**

The first reading of the ordinance was approved on July 8, 2019.

Fees for memberships at Das Rec were approved by City Council on February 12, 2018. Only one fee was inadvertently not included in the ordinance: the addition of a family member to a Family Pass. A family pass membership at Das Rec includes four individuals living in the same household. Additional members can be added for a fee.

The fee that was approved by Council for additional family members was equal to 50% of the actual fee for an individual member, or:

- Adult: \$17.50 (Resident), \$21 (Non-Resident)
- Youth/Senior: \$12 (Resident), \$13.50 (Non-Resident)

Our software program, RecTrac, is not able to distinguish the four family members included in the set fee and those who would be the additional members. For example: if you wanted to add someone age 10 to your account as an additional member, she would be considered a youth and be an additional \$12 a month. Most members want a youth to be the additional family members because they are a lower fee. Our software system does not automatically choose the lowest priced fee for the additional member.

To correct this, we have had to recreate numerous family memberships to force the additional person to be the youth rate. This takes time, leaves room for error and is not a best practice.

To rectify the situation, staff recommends making one fee for all additional members regardless of age. The recommended fee is \$12 for residents and \$13.50 for non-residents. There currently just over 600 "additional" members at the facility, and only 60 of these are adults. By approving just one rate there will be minimal revenue loss and a gain in staff efficiency.

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

<b>X</b>	Yes	<b>Core Values</b>	Fiscal Responsibility: Our decisions reflect sound fiscal management and prudence.
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**FISCAL IMPACT:**

Due to the low number of adult additional family members, it is anticipated that the fee change will result in less than \$4,000 revenue reduction. As a result of increased membership overall, this change will not jeopardize the current cost recovery goals of Das Rec.

**COMMITTEE RECOMMENDATION:**

The Parks and Recreation Advisory Board approved this rate change at their meeting on June 18, 2019, by a 6-0 vote.

**STAFF RECOMMENDATION:**

Staff recommends changing the additional family member rate to a single rate, regardless of age, at \$12 for residents and \$13.50 for non-residents.

**ORDINANCE NO. 2019 - \_\_\_\_**

**AN ORDINANCE AMENDING CHAPTER 86 PARKS AND RECREATION SECTIONS 86-122 OF THE CODE OF ORDINANCES OF THE CITY OF NEW BRAUNFELS, TEXAS REGARDING DAS REC, NEW BRAUNFELS RECREATION CENTER RENTAL AND USE FEES; REPEALING ALL ORDINANCE IN CONFLICT; CONTAINING A SAVINGS CLAUSE; AND DECLARING AN EFFECTIVE DATE.**

**WHEREAS**, the existing fees, charges, and rates for memberships at Das Rec were originally approved in February 2018; and

**WHEREAS**, certain membership rates are recommended to be adjusted.

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

**SECTION 1:** That the findings and recitations set out in the preamble to this Ordinance are found to be true and correct and are hereby adopted by the City Council and made a part hereof for all purposes.

**SECTION 2:** That Section 86-122 “Das Rec, New Braunfels Recreation Center rental and use fees” shall be amended to hereinafter read as follows:

**(c) The following schedule of fees shall be paid by users of the Das Rec, New Braunfels Recreation Center for memberships:**

	<b>Annual Fee</b>	<b>Daily Fee</b>
<b>Member Type – Resident</b>		
Youth/Senior	\$288.00 (\$24.00/month)	\$10.00
Adult	\$420.00 (\$35.00/month)	\$12.00
Family	\$684.00 (\$57.00/month)	\$24.00
<i>Additional Family Members-Adult</i>	<del>\$220 (\$17.50/month)</del> \$144 (\$12.00/month)	n/a
Additional Family Members-Youth/Senior	\$144 (\$12.00/month)	n/a
<b>Member Type – Non-Resident</b>		
Youth/Senior	\$324.00 (\$27.00/month)	\$10.00
Adult	\$504.00 (\$42.00/month)	\$15.00
Family	\$828.00 (\$69.00/month)	n/a
<i>Additional Family Members-Adult</i>	<del>\$252.00 (\$21.00/month)</del> \$144 (\$12.00/month)	n/a
<i>Additional Family Members-Youth/Senior</i>	<del>\$162.00 (\$13.50/month)</del> \$144 (\$12.00/month)	n/a

**SECTION 3:** It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this Ordinance are severable and, if any phrase, clause, sentence, paragraph or section of this Ordinance should be declared invalid by the final

judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Ordinance.

**SECTION 4:** All provisions of the Code of Ordinances of the City of New Braunfels not herein amended or repealed shall remain in full force and effect.

**SECTION 5:** All Ordinances or parts thereof in conflict herewith are repealed to the extent of such conflict only.

**SECTION 6:** In accordance with the provisions of the City Charter, this Ordinance may be read and published by descriptive caption only. This Ordinance has been publicly available in the office of the City Secretary prior to its adoption.

**SECTION 7:** This Ordinance shall become adopted upon its second reading, signature required by City Charter, filing with the City Secretary's Office. This Ordinance must also be published in a newspaper of general circulation at least one time within ten (10) days after its final passage, as required by the City Charter of the City of New Braunfels.

**PASSED AND APPROVED:** First reading this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

**PASSED AND APPROVED:** Second reading this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

**CITY OF NEW BRAUNFELS, TEXAS**

By: \_\_\_\_\_  
**Barron Casteel, Mayor**

**ATTEST:**

\_\_\_\_\_  
**Patrick D. Aten, City Secretary**

**APPROVED AS TO FORM:**

\_\_\_\_\_  
**Valeria M. Acevedo, City Attorney**

## City Council Agenda Item Report

**7/22/2019**

Agenda Item No. O)

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Presenter/Contact

Garry Ford, City Engineer  
(830) 221-4020 - [gford@nbtexas.org](mailto:gford@nbtexas.org)

**SUBJECT:**

Approval of the second and final reading of an ordinance amending Section 126-354 of the City of New Braunfels Code of Ordinances to revise Parking by Permit Area K.

**BACKGROUND / RATIONALE:****Council District: 5**

City Council unanimously approved the first reading of an ordinance to amend Section 126-354 of the City of New Braunfels Code of Ordinances to revise Parking by Permit Area K on July 8, 2019.

Staff has received a request from property owners along Kuehler Avenue to be included in the existing Parking by Permit Area K. The requested area consists of single-family homes and commercial properties.

Signed petitions have been received from the property owners and residents requesting addition into Parking by Permit Area K on both sides of Kuehler Avenue between East Nacogdoches Street and St Mary Street. This request is for daily between 8:00 a.m. to 8:00 p.m., from May 1 to September 30, which is consistent with the existing Parking by Permit Area K ordinance.

The proposed designated parking by permit area is a contiguous residential area and matches the schedule of existing parking by permit areas. Over two thirds of the affected residents have submitted a signed statement of the following for the initial requested area:

*We the undersigned are residents and/or property owners of the proposed designated permit area described in this application. We understand that: (i) if this area is designated, certain restrictions will be placed upon on-street parking within the area; (ii) residents and/or residential property owners of the area will be entitled to obtain a limited number of parking permits exempting their vehicles from such parking restrictions, but if a resident and/or property owner owns a vehicle without having a permit displayed, that vehicle will be subject to the parking restrictions; (iii) parking permits will be issued for a term of one year and require replacement each year; (iv) the cost of issuing the annual parking permits will be paid by the residents and/or property owners.*

A public hearing on the application shall be conducted by City Council. Notices of the public hearing were mailed to all property owners (as shown on the latest tax roll) within a 300 foot radius of the requested area and all residents listed on the petition.

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

Envision New Braunfels Strategy 1: Support Vibrant Centers: Action 1.2: Create plans for neighborhoods and transitional areas to maintain quality of life.

**FISCAL IMPACT:**

Traffic control signs cost approximately \$150 each. Sufficient funding is available in the FY18-19 approved streets and drainage budget.

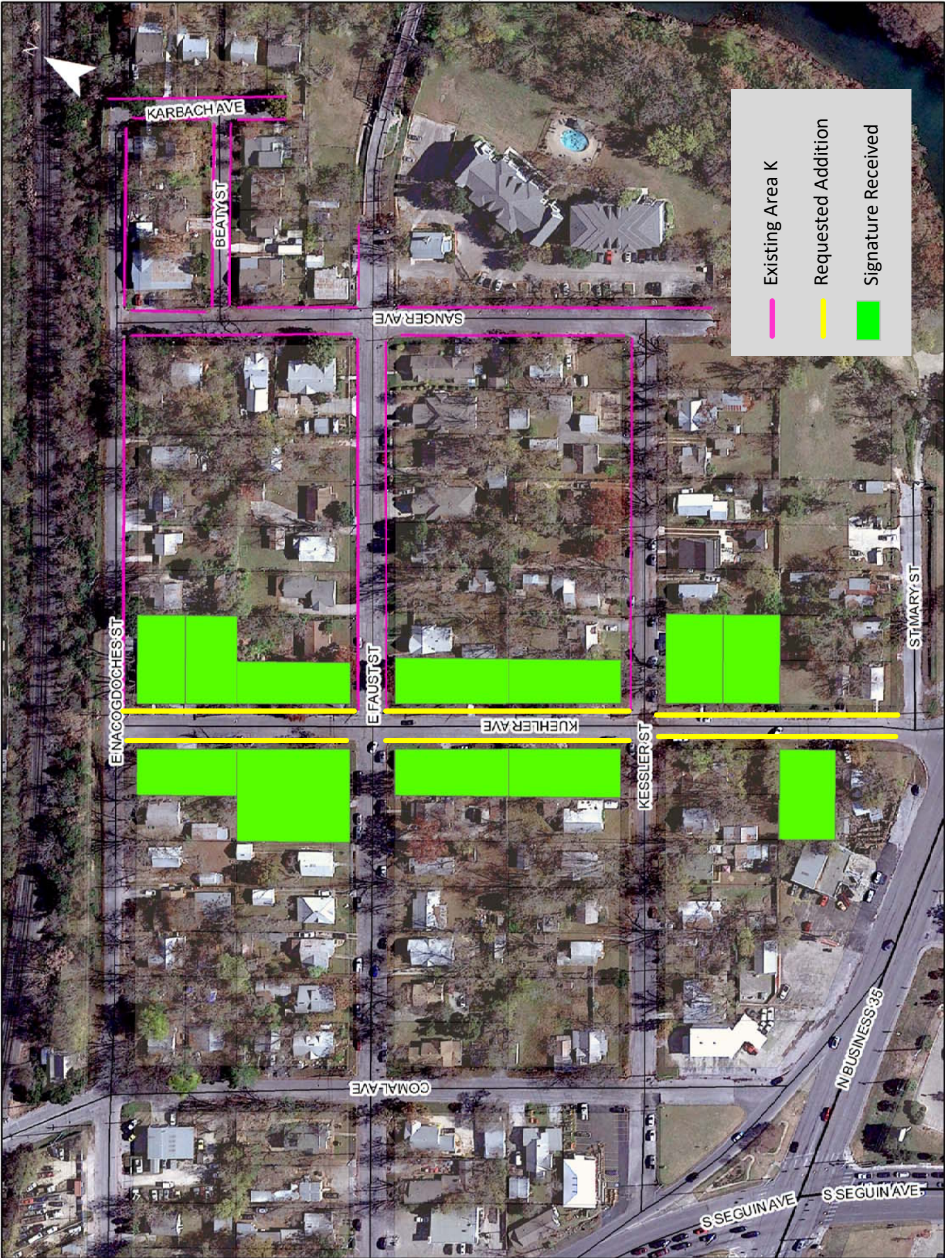
**COMMITTEE RECOMMENDATION:**

The Transportation and Traffic Advisory Board unanimously approved a recommendation to City Council to amend Section 126-354 of the City of New Braunfels Code of Ordinances to revise Parking by Permit Area K to include both sides of Kuehler Avenue between East Nacogdoches Street and St Mary Street at their meeting on June 13, 2019.

**STAFF RECOMMENDATION:**

Staff recommends approval of amending Parking by Permit Area K to include both sides of Kuehler Avenue between East Nacogdoches Street and St Mary Street.





Requested Addition to Parking by Permit Area K



**ORDINANCE NO. 2019-\_\_\_\_\_****AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NEW  
BRAUNFELS, TEXAS, AMENDING SECTION 126-354 (c) TO AMEND  
PARKING BY PERMIT AREA K.**

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WHEREAS, the City Council has determined that Section 126-354 (c) Parking by Permit Only, Designated Permit Areas be amended in order to protect the health, safety and welfare of the citizens.

WHEREAS, after engineering and field investigation, the Transportation and Traffic Advisory Committee and the City Engineer have recommended that traffic control signs be installed on certain streets, avenues, thoroughfares and boulevards within the corporate limits of the City of New Braunfels in order to protect the health, safety and welfare of the citizens.

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

**I.**

THAT Section 126-354 (c) is hereby amended to read:

- (12) Area K, between the hours of 8:00 a.m. and 8:00 p.m. from May 1st through September 30th.
  - b. On both sides of Kuehler Avenue from East Nacogdoches Street to St Mary Street.

**II.**

THAT the Public Works Department is directed to obtain and install the traffic control signs in the locations as set forth in this ordinance, and is directed to maintain the signs in a manner that provides for the health, welfare and safety of the citizens of New Braunfels.

**III.**

THAT all provisions hereof are hereby declared to be severable and if any provisions hereof is declared to be invalid or unconstitutional, such shall not invalidate or affect the remaining provisions hereof which will be and remain in full force and effect.

**IV.**

This Ordinance shall become adopted and effective upon its second reading, signature required by City Charter, and filing with the City Secretary's Office. This Ordinance must also be published in a newspaper of general circulation at least one time within ten (10) days after its final passage, as required by the City Charter of the City of New Braunfels.

PASSED AND APPROVED: First reading this the \_\_\_\_\_ day of \_\_\_\_\_, 2019.

PASSED AND APPROVED: Second reading this the \_\_\_\_\_ day of \_\_\_\_\_, 2019.

CITY OF NEW BRAUNFELS, TEXAS

\_\_\_\_\_  
BARRON CASTEEL, MAYOR

ATTEST:

\_\_\_\_\_  
PATRICK D. ATEN, CITY SECRETARY

APPROVED AS TO FORM:

\_\_\_\_\_  
VALERIA M. ACEVEDO, CITY ATTORNEY



**City Council Agenda Item Report**550 Landa Street  
New Braunfels, TX**7/22/2019**

Agenda Item No. P)

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**Presenter/Contact****Garry Ford, City Engineer**  
(830) 221-4020 - [gford@nbtexas.org](mailto:gford@nbtexas.org)**SUBJECT:**

Approval of the second and final reading of an ordinance amending Sections 114-98, 114-99, and 118-46 of the Code of Ordinances regarding access on collector or major thoroughfare streets, turn lane and traffic impact analysis requirements, and removal of references to the sub-collector street section.

**BACKGROUND / RATIONALE:**

City Council unanimously approved the first reading of an ordinance amending Sections 114-98, 114-99, and 118-46 of the Code of Ordinances regarding access on collector or major thoroughfare streets, turn lane and traffic impact analysis requirements, and removal of references to the sub-collector street section on July 8, 2019.

**This item was presented to the Development Community on January 17, 2019, Transportation and Traffic Advisory Board on February 21, 2019, and Planning Commission on May 7, 2019.**

City staff is proposing amendments to *Chapter 114 - Streets Sidewalks and Other Public Places, Article IV - Right-of-way Access and Management, Section 114-98 - General specifications for all roadways* and *Section 114-99 - Approval methods for granting access to roadways*, and *Chapter 118 - Platting, Article IV - Design Standards, Section 118-46 - Streets* of the Code of Ordinances. The proposed amendments will specify that traffic impact analysis (TIA) trip generation shall consider potential land use based on future land use and/or zoning when specific land use is unknown; add deceleration lane requirements; add provisions for residential lot access on collector and major thoroughfare streets; and remove references to the sub-collector street section.

**Traffic Impact Analysis Trip Generation**

The Code of Ordinances specifies that no master plan, plat, building permit or driveway access shall be approved unless a traffic impact analysis (TIA) is completed by the developer and approved by the city engineer. Furthermore, a TIA may also be required by the planning director, planning commission or the city council as part of a zoning change application. A TIA is intended to determine the development's traffic impact and need for any improvements to the internal and adjacent transportation system to maintain satisfactory level of service, acceptable level of safety and appropriate access provisions. A TIA should be submitted at several stages in the development process including:

- Zoning and rezoning;
- Master plan;
- Preliminary and final plat;
- Site plan review;



- Access permits; and
- Building permits.

Separate studies are not needed at each development stage; however, studies need to be updated to include more detail as site plans and development become more specific. It is critical that a TIA is submitted during the master plan and plat process to determine right-of-way needs, address community concerns, and legally specify mitigation requirements as part of city approval.

City staff received recent requests to not require a TIA at the master plan or plat stage since the specific land use was unknown or receive TIA worksheets that are not compatible with the site and just under the peak hour threshold that requires a TIA report. The city also receives requests to conduct the TIA at the time of building permit which often results in piecemeal TIA worksheets that do not address the impact of the overall development. Staff's response is the TIA shall be based on the future land use and/or zoning with consideration to existing topography, comparable properties and updated as development progresses. Furthermore, an experienced transportation professional who has specific training and experience in preparing TIA can forecast and analyze proposed developments early in the development process. The proposed amendment will codify the specific language to better address future requests.

### **Turn Lane Requirements**

Turn lanes are exclusive deceleration and storage lanes that allow for vehicles to turn left and right at intersections and driveways outside the through lane. Turn movements at intersections, especially movements that are made from lanes that are shared with through traffic, cause delays and adversely impact safety. Turn lanes are one strategy to improve operations and safety on the city's transportation system. The Code of Ordinances Section 114-98 (f) provides limited guidance on turn lanes and engineers use various guidelines or only one factor to warrant and recommend them through the TIA process. The proposed amendment will provide standard criteria with the consideration of other factors.

The guiding document for street design is the American Association of State Highway and Transportation Officials (AASHTO) *A Policy on Geometric Design of Highways and Streets*. AASHTO states that warrants for turn lanes cannot be definitely stated and many factors should be considered, including speeds, traffic volumes, frequency of intersections and site conditions. Guidance for left turn lanes is provided based on opposing and advancing traffic volumes, with additional considerations for local conditions, functional classification and character of traffic.

The Texas Department of Transportation (TxDOT) guidance for right turn lanes is provided in the *Access Management Manual*. It specifies that right turn lanes should be considered when speeds are greater than 45 miles per hour and turn volume is greater than 50 vehicles per hour, and when speeds are equal to or less than 45 miles per hour and turn volume is greater than 60 vehicles per hour. The manual also specifies other conditions that may warrant the need for a right turn lane when volumes are less than provided including high crash experience, heavy peak hour flow, truck traffic and limited sight distance.

TxDOT guidance for left turn lanes is provided in the *Roadway Design Manual*. Like AASHTO, guidance for left turn lanes is provided based on opposing and advancing traffic volumes, with additional considerations for local conditions and character of traffic. In some cases, engineers use TxDOT right turn volume guidance to warrant left turn lanes.

The most recent left turn lane design guidance is provided by the National Cooperative Highway Research Program (NCHRP) sponsored by AASHTO and the Federal Highway Administration. The design guidance is based on benefit-cost approach considering delay savings, crash costs, crash reduction and construction costs. The guidelines are based on the peak hour volumes and intersection configuration. The left turn peak hour volume for a left turn lane for various scenarios, including urban/suburban streets, is 50 vehicles per hour. Additionally, the City of San Antonio's threshold for left and right turn lanes is 50 vehicles per hour, and 500 vehicles per day.

Staff recommends establishing turn lane requirements at 50 vehicles per hour following the NCHRP and City of San Antonio guidelines including review of other factors. Additional amendments are proposed to the requirements including design and construction requirements.

### **Access on Collector or Major Thoroughfare Streets**

The existing Code of Ordinances does not permit driveway access on arterial roads that require backing maneuvers in a public street right-of-way. The proposed amendment will add other thoroughfare streets (expressway, parkway and collector streets) to the list of roadway classifications where backing maneuvers from driveways is not permitted. These types of streets are designed to provide a higher level of mobility with limited access.

This amendment also addresses the operational and safety issues on collector streets in residential subdivisions. Collector streets can carry up to 5,000 vehicles per day, and it is common and best practice to restrict standard one and two-family lots fronting and driveway access on collector streets. Homes fronting collectors is a common neighborhood issue and city staff and the Transportation and Traffic Advisory Board have reviewed many traffic concerns on collector streets in New Braunfels including Sungate Drive, Dove Crossing Drive, Divine Way, Pahmeyer Road, Oak Run Parkway and Stone Gate Drive. Engineering and Police Department staff received complaints from residents when daily traffic volumes are as little as 500 vehicles per day. Furthermore, the city continues to receive new subdivision plans with residential lots fronting collectors and with planned driveway access that requires backing onto the street.

Good examples of design collectors without homes fronting and having driveway access include Southbank Boulevard, Avery Parkway, Pahmeyer Road within the Voss Farms subdivision, and the collector network in Veramendi.

The proposed amendment will revise Chapters 114 and 118 to not allow residential lot access to collector or major thoroughfare streets that require backing onto street. Residential lots having direct access on collector roadway may be platted only if:

1. All lots are greater than one acre, have a minimum lot frontage of 100 feet and provide a permanent vehicular turnaround on the lot preventing backing onto the street;
2. Permit access to lots less than one acre if a marginal access street or easement is constructed and access is spaced a minimum of 200 feet apart and from an existing driveway or street;
3. The street is classified as a residential collector with a minimum of 36 feet of pavement, has daily traffic volumes of less than 2,000 vehicles per day, and includes traffic calming measures; or
4. The street is classified as a residential collector with a minimum of 40 feet of pavement, has daily traffic volumes of less than 4,000 vehicles per day, and includes traffic calming

measures.

The marginal access street shall be designed for emergency access, on-street parking, sidewalk connection and solid waste operations that do not require backing within the marginal access street or easement.

The residential collector provision is also based on consideration of pavement width, traffic and parking operations, traffic safety and neighborhood livability. It is also a start at implementing "Complete Streets" as identified in Envision New Braunfels and addressing neighborhood concerns. A residential collector currently has a pavement width of 36 feet and maximum daily traffic of 5,000 vehicles per day. A local street has a pavement width of 30 feet and maximum daily traffic of 1,000 vehicle per day.

### **Remove References to the Sub-Collector Street Section**

The proposed amendment removes the sub-collector classification as it is not used in practice and was removed from the platting ordinance in a recent update.

### **Remove Duplicate Traffic Impact Analysis Requirements**

The proposed amendment removes the TIA requirements from Section 114 and refers to the requirements, including turn lane requirements, in Section 118.

### **Review Process**

This item was presented to City Council, Planning Commission and the Transportation and Traffic Advisory Board in 2018. Planning Commission requested that the proposed amendments be presented to the development community at a "face to face" meeting. A meeting was held with the development community on January 17, 2019. The feedback received at the meeting was related to allowing a higher traffic volume threshold for backing maneuvers onto residential collectors, removing planning commission discretion on the requirement of turn lanes, and the timing and vesting of the proposed amendments. Staff revised the proposed amendments and recommend that they become effective after city council approval. Approved master plans and plat may be vested based on application and in accordance with Chapter 245 of the Texas Local Government Code.

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

Envision New Braunfels Strategy 7: Connect All: Action 7.22: Adopt a Complete Streets policy to ensure ease of access for all people and all transportation modes.

### **FISCAL IMPACT:**

N/A

### **COMMITTEE RECOMMENDATION:**

The Transportation and Traffic Advisory Board unanimously recommended approval of the proposed amendments on February 21, 2019. The Planning Commission unanimously recommended approval of the proposed amendments on May 7, 2019.

### **STAFF RECOMMENDATION:**

Staff recommends approval of the proposed amendments to Sections 114-98, 114-99, and 118-46 traffic impact analysis trip generation, turn lanes, and access on collector or major thoroughfare streets, and removal of references to the sub-collector street section.

## Proposed Amendments (February 11, 2019)

### CHAPTER 114 - STREETS, SIDEWALKS AND OTHER PUBLIC PLACES

#### ARTICLE IV. - RIGHT-OF-WAY ACCESS AND MANAGEMENT

Sec. 114-98. - General specifications for all roadways.

(a) *Generally*

- (3) No driveways, other than those required for one and two family residential structures on local streets or as approved on final plat, shall be constructed in such a way as to require backing maneuvers into the public right-of-way.

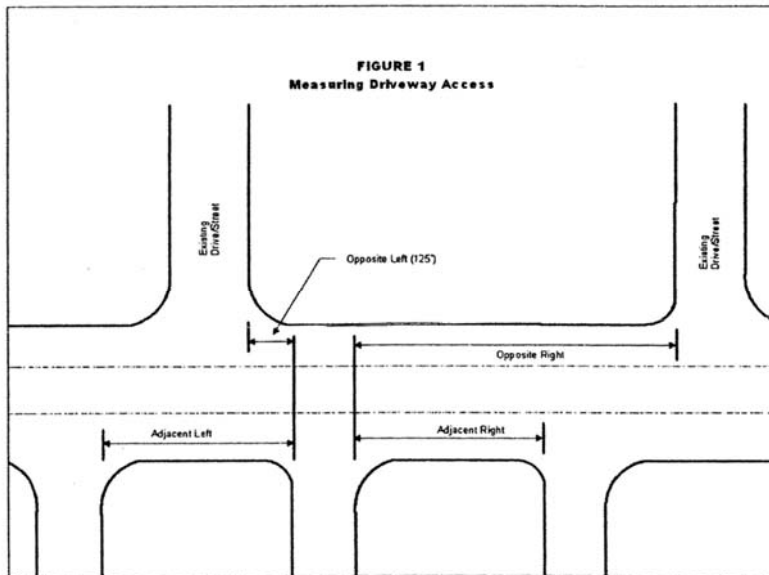
(b) *Location of driveway access.*

- (1) Driveway access to expressway, parkway, arterial and collector roads shall not be permitted for parking or loading areas that require backing maneuvers in a public street right-of-way. Driveway access to streets for commercial or multifamily developments shall not be permitted for parking or loading areas that require backing maneuvers in a public street right-of-way. Additional provisions for access on a collector are provided in Section 118-46(m).
- (2) No curb cuts through a left turn lane of a median shall be permitted in order to provide for left turn movements to driveway approaches.
- (3) Driveways in right turn lane transition areas shall not be permitted.

(c) *Spacing of driveway access.*

- (1) Application of the driveway access location and design policy requires identification of the functional classification of the street on which access is requested. Street sections are classified as follows:
  - a. Local street;
  - ~~b. Sub-collector;~~
  - ~~eb.~~ Collector;
  - ~~ec.~~ Minor arterial;
  - ~~ed.~~ Major arterial;

- (2) Driveway access spacing shall be measured from the closest edge of pavement of the first access connection to the closest edge of pavement of the second access connection. (Figure 1)



*Figure 1—Measuring Driveway Access*

- (3) Opposite right driveways, for other than one or two family development, shall be located per the following requirements:

Street Classification	Spacing
Local	Must match or greater than 15 feet
Sub-collector	Must match or greater than 15 feet
Collector	Must match or greater than 100 feet
Minor arterial	Must match or greater than 225 feet
Major arterial	Must match or greater than 300 feet
Major arterial median	To be determined by city engineer

- (4) Additional opposite right spacing exceeding that set forth in the above section may be required if it is determined by the city engineer that there is insufficient left turn queue storage or weave maneuver area between the opposite right and proposed driveway. This determination shall be made under peak traffic conditions.



- (5) Opposite left driveways, for other than one and two family development, shall be located per the following requirements:

<i>Street Classification</i>	<i>Spacing</i>
Local	Must match or greater than 15 feet
<del>Sub-collector</del>	<del>Must match or greater than 15 feet</del>
Collector	Must match or greater than 125 feet
Minor arterial	Must match or greater than 125 feet
Major arterial	Must match or greater than 125 feet
Major arterial median	To be determined by city engineer

- (6) Where possible, opposite driveways for other than one or two family development shall align. These drives shall be considered as an intersection.

- (7) Adjacent driveways, for other than one or two family development, shall be located per the following requirements:

<i>Street Classification</i>	<i>Spacing</i>
Local street	Greater than 25 feet
<del>Sub-collector</del>	<del>Greater than 75 feet</del>
Collector	Greater than 100 feet
Minor arterial	Greater than 150 feet
Major arterial	Greater than 250 feet

- (8) Exceptions. Where driveway spacing according to the standards in this section may not be possible or practical, the city engineer may require one or a combination of the following:

- a. Where adequate access connection spacing cannot be achieved, the city engineer may allow for a lesser spacing when shared access is established with an abutting property.
- b. Where no other alternatives exist, construction of an access connection may be allowed along the property line farthest from the intersection. To provide reasonable access under these conditions but also provide the safest operation, consideration shall be given to designing the driveway connection to allow only the right-in turning movement or only the right-in/right out turning movements, if feasible.

- (d) *Corner clearance.*

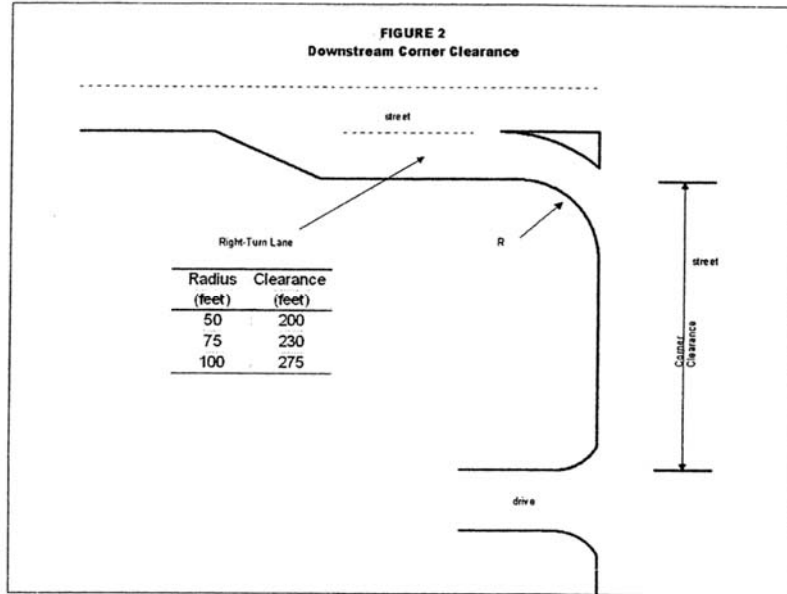
- (1) Corner clearance, the distance between a street intersection and a driveway, for driveway access other than to one or two family development, shall meet or exceed the minimum driveway spacing requirements for that roadway, as shown above.
- (2) Downstream corner clearance. When minimum spacing requirements cannot be met due to lack of frontage and all means to acquire shared access drives or cross access easements have been exhausted, the following shall apply: at intersections with channelized right-turn lanes with yield control, a corner clearance as shown in the following may be approved by the city engineer:
  - a. Local streets. No closer than 30 feet.

~~b. Sub-collectors. No closer than 75 feet.~~

~~eb. Collectors. No closer than 75 feet.~~

~~dc. Minor arterials. No closer than 100 feet.~~

~~ed. Major arterials. No closer than 120 feet.~~

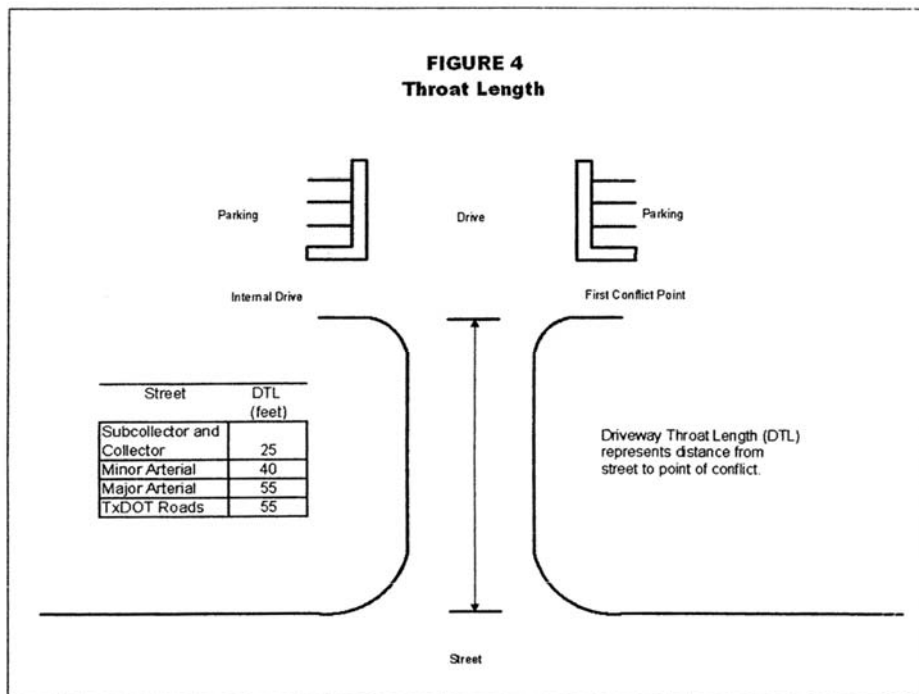


*Figure 2—Downstream Corner Clearance*

(f) *Geometric design of driveway access.*

- (1) All driveways shall meet the city's standard specifications for street construction and construction standards.
- (2) Curb cuts for driveways shall not be permitted in the curb return of an intersection.
- (3) The curb return radii or flares for driveways intersecting at right angles with the roadway and without a deceleration lane shall be as follows:
  - a. Curb return radii or flares for one or two family driveways shall be five feet or have a three feet flare.
  - b. Curb return radii or flares for industrial, commercial and multi-family driveways shall be a minimum of 15 feet to a maximum of 30 feet.
  - c. Curb return radii or flares for driveway types not included in this section shall be determined by the city engineer.
  - d. The city engineer may allow a larger radii or flare in special circumstances, for instance where there will be significant large truck, bus, or shuttle traffic on a daily basis.
- (4) The tangent point of the driveway curb return at the public roadway line or flare shall be a minimum distance of one foot off the property projected perpendicular to the street centerline, except single family zero lot line lots. On single family zero lot line lots where the drive is on the zero lot line, the tangent point or flare shall be no greater than three feet beyond the adjoining property line projected perpendicular to the street centerline.

- (5) The maximum width of a one- or two-family driveway approach measured at the property line shall not exceed 30 feet in width, while the minimum width shall not be less than 12 feet in width unless the driveway is shared, in which case the driveway shall not exceed 40 feet in width.
- (6) The maximum width of a commercial, industrial and multi-family driveway approach for two-way operation shall not exceed 40 feet except that the city engineer may issue permits for driveway approaches greater than 40 feet in width on major streets to handle special traffic conditions. The minimum width of a commercial and multifamily driveway approach for two-way operation shall not be less than 20 feet.
- (7) The width of a driveway approach that is a combination of two driveways for one or two family circular drives shall not exceed 28 feet.
- (8) Throat length. A minimum driveway throat length of 25 feet for ~~sub-collectors and~~ collector streets, 40 feet for minor arterials, and 55 feet for major arterials, as shown in figure 4, may be required as determined by the city engineer to allow for traffic entering the site to be stored on site in order to avoid a queue of traffic from the development from being out on the roadway causing delays to the through traffic stream. The driveway throat length shall be defined as the distance from the street to the first point of conflict in the driveway.



- (9) Driveway median. On collector, minor arterials, and major arterials, access points may be required to be designed to prohibit certain types of turning movements (for example, left turns). Driveways not meeting the spacing guidelines in subsection 114-98(c) may be designed for limited access by the addition of a median to the driveway.
- (10) ~~Turn lanes. Right turn deceleration lane. Turn lanes are exclusive deceleration and storage lanes that allow for vehicles to turn left and right at intersections outside the through lane. On collector, minor arterials, and major arterials, tapered or channelized deceleration lanes for vehicles turning right into high volume or intersection type driveways may be required if warranted. Turn lanes requirements are provided in Section 118-46(y). Design of right turn deceleration lanes shall be in accordance with the AASHTO Green Book on auxiliary lanes.~~

- (11) The spacing requirements for driveways not meeting the specifications in subsection 114-98(c) may be lessened or waived by the city engineer if tapered or channelized deceleration lanes are used.
- (12) Signalization. Access points on collector, minor arterials, and major arterials may be required to be signalized in order to provide safe and efficient traffic flow. A development may be responsible for all or part of any right-of-way, design, hardware, and construction costs of a traffic signal if it is determined that the signal is necessitated by the traffic generated from the development. The procedures for signal installation and the percent of financial participation required of the development in the installation of the signal shall be in accordance with criteria set forth by the city engineer.

Sec. 114-99. - Approval methods for granting access to roadways.

*Granting approval to all roadways.* The city engineer will require one of the following before granting an applicant access to any roadways:

- (1) The applicant must meet the requirements listed within this article for all roadways.
- (2) The city engineer may require an engineering study or traffic impact analysis (TIA) to be completed and approved by the city engineer and improvements made according to the approved TIA for a development, including a subdivision master plan and the issuance of a building permit, that would generate more than 100 peak hour trips (PHT) on any street or where the standards of this article cannot be met to ensure safety at access points. A building permit shall not be issued for a development that is required to have an approved TIA until such TIA has been approved and any improvements called for in the TIA have been approved as part of the building permit plans. A certificate of occupancy shall not be issued until any improvements required in the approved TIA have been completed, inspected and approved by the director of public works or his designee or as otherwise approved by the city engineer ~~in accordance with subsection e.~~ TIA requirements are provided in Section 118-46(y).

Remove subsections a-g.

## Proposed amendments (February 11, 2019)

### CHAPTER 118 - PLATTING

#### ARTICLE IV - DESIGN STANDARDS

##### Sec. 118-46. - Streets

~~(m) *Marginal access streets.* Where a one-family or two-family residential lot or development has frontage on or borders an arterial street, highway or freeway, the planning commission may require marginal access streets to be provided on the residential development side of these streets, unless the adjacent lots back up to, side up to, or front with extra depth (see subsection 118-45(e)), or access off an alley, and provide some other means of restricting individual access directly to an arterial street, highway or freeways, or unless the planning commission determines such marginal access streets are not desirable under the facts of a particular case for adequate protection of the lots and separation of through and local traffic.~~

(m) *Access and driveways.* The provisions of this section and chapter 114 shall apply to all access and driveways. Access shall be approved in accordance with the approved plat and by the local agency with permitting authority.

(1) *Frontage and access on collector or major thoroughfare streets.* Access to collector or major thoroughfare streets shall not be allowed for residential lots that require backing maneuvers onto a street. Residential lots having direct access on a collector or major thoroughfare streets may be platted only if:

(a) All lots are greater than one (1) acre in size, have a minimum lot frontage of one hundred (100) feet, and provide for permanent vehicular turnaround on the lot to prevent backing onto the street. A note shall be placed on the plat stating a permanent vehicular turnaround shall be provided on each lot to prevent a vehicle from backing onto the street.

(b) Access points which would permit vehicular access to lots less than one (1) acre in size may be allowed if a marginal access street or easement to serve two (2) or more lots spaced a minimum of two hundred (200) feet apart and two hundred (200) feet from an existing driveway or street is constructed. The marginal access street or easement shall be designed to prevent a vehicle from backing onto collector or major thoroughfare streets.

(c) The street is classified as a residential collector with a minimum of 36 feet of pavement, has daily traffic volumes of less than 2,000 vehicles per day, and includes traffic calming measures.

(d) The street is classified as a residential collector with a minimum of 40 feet of pavement, has daily traffic volumes of less than 4,000 vehicles per day, and includes traffic calming measures.

(2) *Marginal access street or easement.* Where a developer furnishes a marginal access street or easement, it shall be designed to allow for emergency access, on-street parking, sidewalk connection to the collector or major thoroughfare street, and solid waste operations that do not require backing within the marginal access street or easement.



(y) *Traffic impact analysis.*

- (1) *Requirements.* No master plan, plat, building permit or driveway access shall be approved unless a traffic impact analysis (TIA) worksheet or TIA, as provided for in this section, is completed by the developer and approved by the city engineer. A TIA may also be required by the planning director, the commission or the city council as part of a zoning change application. If the specific land use is unknown, the TIA worksheet or appropriate level TIA shall be based on the Future Land Use Plan with consideration to existing topography and comparable properties.

(9) *Turn lane requirements.* Turn lanes are exclusive deceleration and storage lanes that allow for vehicles to turn left and right at intersections outside the through lane. Design of deceleration lanes shall be in accordance with the latest edition of AASHTO *A Policy on Geometric Design of Highways and Streets*.

(a) Left and right turn lanes shall be required:

- (1) At all driveway or street intersections with a daily entering traffic volume of five hundred (500) vehicle trips or fifty (50) vehicle peak hour trips;
  - (2) At all driveway or street intersections on the state highway system at the option of TxDOT; or
  - (3) Based on other factors such as street classification, travel speeds, sight distance, truck traffic, crash history, and other site conditions.
- (b) The design of turn lanes shall be based on the existing centerline of the roadway. The existing and new pavement for turn lane improvements shall be designed based on the development traffic loads and may include rehabilitation. At minimum, a surface course treatment is required for the full improvements including taper and pavement marking area.
- (c) The construction of turn lanes may be limited due to topographic conditions or need to obtain right-of-way from adjacent property owners. The applicant must show that all reasonable efforts have been made to implement turn lanes required by the TIA or this chapter. This may include relocating driveways or streets to allow for the construction of turn lanes or alternate design options.

**ORDINANCE NO. 2019-\_\_\_\_\_**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS, TEXAS, AMENDING SECTIONS 114-98, 114-99, AND 118-46 OF THE CODE OF ORDINANCES REGARDING ACCESS ON COLLECTOR AND MAJOR THOROUGHFARE STREETS, TURN LANE AND TRAFFIC IMPACT ANALYSIS REQUIREMENTS, AND REMOVAL OF DUPLICATE TRAFFIC IMPACT ANALYSIS REQUIREMENTS AND REFERENCES TO THE SUB-COLLECTOR STREET SECTION.**

---

WHEREAS, the State of Texas has enacted legislation empowering municipalities to exercise authority relating to subdivision regulation; and

WHEREAS, the City Engineer may amend city standards from time to time, upon recommendation of Planning Commission to City Council; and

WHEREAS, the Transportation and Traffic Advisory Board and Planning Commission unanimously recommend to the City Council adoption of amendments regarding access on collector and major thoroughfare streets, turn lane and traffic impact analysis requirements, and removal of duplicate traffic impact analysis requirements and references to the sub-collector street section; and

WHEREAS, the City Council has determined that it is in the best interest of the citizens of New Braunfels to amend Sections 114-98, 114-99, and 118-46 of the Code of Ordinances.

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

**I.**

THAT, Section 114-98, General specifications for all roadways, is amended by deleting subsections (a)(3), (b)(1), (c)(1), (c)(3), (c)(5), (c)(7), (d)(2) and (f)(10), and adding new subsections (a)(3), (b)(1), (c)(1), (c)(3), (c)(5), (c)(7), (d)(2) and (f)(10) as follows:

- (a)(3) No driveways, other than those required for one and two family residential structures on local streets, shall be constructed in such a way as to require backing maneuvers into the public right-of-way.

(b)(1) Driveway access to expressway, parkway, arterial and collector roads shall not be permitted for parking or loading areas that require backing maneuvers in a public street right-of-way. Driveway access to streets for commercial or multifamily developments shall not be permitted for parking or loading areas that require backing maneuvers in a public street right-of-way. Additional provisions for access on a collector are provided in Section 118-46(m).

(c)(1) Application of the driveway access location and design policy requires identification of the functional classification of the street on which access is requested. Street sections are classified as follows:

- a. Local street;
- b. Collector;
- c. Minor arterial; and
- d. Major arterial.

(c)(3) Opposite right driveways, for other than one or two family development, shall be located per the following requirements:

Street Classification	Spacing
Local	Must match or greater than 15 feet
Collector	Must match or greater than 100 feet
Minor arterial	Must match or greater than 225 feet
Major arterial	Must match or greater than 300 feet
Major arterial median	To be determined by city engineer

(c)(5) Opposite left driveways, for other than one and two family development, shall be located per the following requirements:

<i>Street Classification</i>	<i>Spacing</i>
Local	Must match or greater than 15 feet
Collector	Must match or greater than 125 feet
Minor arterial	Must match or greater than 125 feet
Major arterial	Must match or greater than 125 feet
Major arterial median	To be determined by city engineer

(c)(7) Adjacent driveways, for other than one or two family development, shall be located per the following requirements:

<i>Street Classification</i>	<i>Spacing</i>
Local street	Greater than 25 feet

Collector	Greater than 100 feet
Minor arterial	Greater than 150 feet
Major arterial	Greater than 250 feet

(d)(2) Downstream corner clearance. When minimum spacing requirements cannot be met due to lack of frontage and all means to acquire shared access drives or cross access easements have been exhausted, the following shall apply: at intersections with channelized right-turn lanes with yield control, a corner clearance as shown in the following may be approved by the city engineer:

- a. Local streets. No closer than 30 feet.
- b. Collectors. No closer than 75 feet.
- c. Minor arterials. No closer than 100 feet.
- d. Major arterials. No closer than 120 feet.

(f)(10) Turn lanes. Turn lanes are exclusive deceleration and storage lanes that allow for vehicles to turn left and right at intersections outside the through lane. Turn lanes requirements are provided in Section 118-46(y).

## II.

THAT, Section 114-99, Approval methods for granting access to roadways, is amending by deleting subsection (2), and adding new subsection (2) as follows:

- (2) The city engineer may require an engineering study or traffic impact analysis (TIA) to be completed and approved by the city engineer and improvements made according to the approved TIA for a development, including a subdivision master plan and the issuance of a building permit, that would generate more than 100 peak hour trips (PHT) on any street or where the standards of this article cannot be met to ensure safety at access points. A building permit shall not be issued for a development that is required to have an approved TIA until such TIA has been approved and any improvements called for in the TIA have been approved as part of the building permit plans. A certificate of occupancy shall not be issued until any improvements required in the approved TIA have been completed, inspected and approved by the director of public works or his designee or as otherwise approved by the city engineer. TIA requirements are provided in Section 118-46(y).

## III.

THAT, Section 118-46, Streets, is amending by deleting subsections (m), (y)(1), and (y)(9), and adding new subsections (m), (y)(1), and (y)(9) as follows:

- (m) *Access and driveways.* The provisions of this section and chapter 114 shall apply to all access and driveways. Access shall be approved in accordance with the approved plat and by the local agency with permitting authority.
- (1) *Frontage and access on collector or major thoroughfare streets.* Access to collector or major thoroughfare streets shall not be allowed for residential lots that require backing maneuvers onto a street. Residential lots having direct access on a collector or major thoroughfare streets may be platted only if:
- (a) All lots are greater than one (1) acre in size, have a minimum lot frontage of one hundred (100) feet, and provide for permanent vehicular turnaround on the lot to prevent backing onto the street. A note shall be placed on the plat stating a permanent vehicular turnaround shall be provided on each lot to prevent a vehicle from backing onto the street.
  - (b) Access points which would permit vehicular access to lots less than one (1) acre in size may be allowed if a marginal access street or easement to serve two (2) or more lots spaced a minimum of two hundred (200) feet apart and two hundred (200) feet from an existing driveway or street is constructed. The marginal access street or easement shall be designed to prevent a vehicle from backing onto collector or major thoroughfare streets.
  - (c) The street is classified as a residential collector with a minimum of 36 feet of pavement, has daily traffic volumes of less than 2,000 vehicles per day, and includes traffic calming measures.
  - (d) The street is classified as a residential collector with a minimum of 40 feet of pavement, has daily traffic volumes of less than 4,000 vehicles per day, and includes traffic calming measures.
- (2) *Marginal access street or easement.* Where a developer furnishes a marginal access street or easement, it shall be designed to allow for emergency access, on-street parking, sidewalk connection to the collector or major thoroughfare street, and solid waste operations that do not require backing within the marginal access street or easement.
- (y)(1) *Requirements.* No master plan, plat, building permit or driveway access shall be approved unless a traffic impact analysis (TIA) worksheet or TIA, as provided for in this section, is completed by the developer and approved by the city engineer. A TIA may also be required by the planning director, the commission or the city council as part of a zoning change application. If the specific land use is unknown, the TIA worksheet or appropriate level TIA shall be based on the Future Land Use Plan with consideration to existing



topography and comparable properties.

- (y)(9) *Turn lane requirements.* Turn lanes are exclusive deceleration and storage lanes that allow for vehicles to turn left and right at intersections outside the through lane. Design of deceleration lanes shall be in accordance with the latest edition of AASHTO A Policy on Geometric Design of Highways and Streets.
- (a) Left and right turn lanes shall be required:
    - (1) At all driveway or street intersections with a daily entering traffic volume of five hundred (500) vehicle trips or fifty (50) vehicle peak hour trips;
    - (2) At all driveway or street intersections on the state highway system at the option of TxDOT; or
    - (3) Based on other factors such as street classification, travel speeds, sight distance, truck traffic, crash history, and other site conditions.
  - (b) The design of turn lanes shall be based on the existing centerline of the roadway. The existing and new pavement for turn lane improvements shall be designed based on the development traffic loads and may include rehabilitation. At minimum, a surface course treatment is required for the full improvements including taper and pavement marking area.
  - (c) The construction of turn lanes may be limited due to topographic conditions or need to obtain right-of-way from adjacent property owners. The applicant must show that all reasonable efforts have been made to implement turn lanes required by the TIA or this chapter. This may include relocating driveways or streets to allow for the construction of turn lanes or alternate design options.

#### IV.

This Ordinance shall become adopted and effective upon its second reading, signature required by City Charter, and filing with the City Secretary's Office. This Ordinance must also be published in a newspaper of general circulation at least one time within ten (10) days after its final passage, as required by the City Charter of the City of New Braunfels. The amendments shall be filed with the City Secretary at least ten days before it becomes effective.

PASSED AND APPROVED: First reading this the \_\_\_\_\_ day of \_\_\_\_\_, 2019.

PASSED AND APPROVED: Second reading this the \_\_\_\_\_ day of \_\_\_\_\_, 2019.

CITY OF NEW BRAUNFELS, TEXAS

\_\_\_\_\_  
*BARRON CASTEEL, MAYOR*

ATTEST:

\_\_\_\_\_  
*PATRICK D. ATEN, CITY SECRETARY*

APPROVED AS TO FORM:

\_\_\_\_\_  
*VALERIA M. ACEVEDO, CITY ATTORNEY*

**City Council Agenda Item Report****7/22/2019**

Agenda Item No. A)

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Presenter/Contact*Patrick Aten, City Secretary*  
(830) 221-4010 - [paten@nbtexas.org](mailto:paten@nbtexas.org)**SUBJECT:**

Discuss and consider approval of the appointment of two individuals to the Animal Services Advisory Board for terms ending November 1, 2022.

**BACKGROUND / RATIONALE:**

The Animal Services Advisory Board is made up of seven members serving three-year terms. One member serves at-large and six members serve from each of the following categories: licensed veterinarian that is a representative of the Comal County Veterinary Medical Association, municipal official, county official that is a representative of Comal County's designated Texas Department of Health local rabies control authority, Humane Society of New Braunfels Area (HSNBA) employee, HSNBA board member, and animal facility owner/operator.

The vacancies were advertised from June 17, 2016 to July 15, 2019.

The following qualified application was received for the animal facility owner position:

- Eric Trager

The following qualified applications were received for the at-large position:

- Burt Barnes
- Julie Brinkman
- Kristen Davis
- Heather Morehouse
- Marcy Noyce
- Tanya Palmer
- Allen Roby

Applicants' current & prior service on Boards and Commissions

Eric Trager has no prior City of New Braunfels board or commission experience.  
Julie Brinkman has no prior City of New Braunfels board or commission experience.  
Burt Barnes has no prior City of New Braunfels board or commission experience.  
Kristen Barnes has no prior City of New Braunfels board or commission experience.  
Heather Morehouse has no prior City of New Braunfels board or commission experience.  
Marcy Noyce has no prior City of New Braunfels board or commission experience.  
Allen Roby has no prior City of New Braunfels board or commission experience.  
Tanya Palmer has no prior City of New Braunfels board or commission experience.

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

N/A

**FISCAL IMPACT:**

N/A

**COMMITTEE RECOMMENDATION:**

N/A

**STAFF RECOMMENDATION:**

Staff recommends the approval of the appointment of two individuals to the Animal Services Advisory Board for terms ending November 1, 2022.

**City Council Agenda Item Report****7/22/2019**

Agenda Item No. B)

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**Presenter/Contact***Jared Werner, Chief Financial Officer*  
(830) 221-4385 - [jwerner@nbtexas.org](mailto:jwerner@nbtexas.org)**SUBJECT:**

Presentation on the FY 2018-19 Debt Issuance Strategy and consideration of the approval of a resolution authorizing proceeding with the issuance of Certificates of Obligation; Directing Publication of Notice of Intention to Issue Certificates of Obligation; and other related matters.

**BACKGROUND / RATIONALE:*****FY 2018-19 Debt Issuance Strategy***

*2013 Bond Program* - Staff recommends issuing \$2,509,500 for proposition 1 (streets). After the issuance, there will only be \$2,550,500 authorized, but unissued proceeds stemming from the 2013 bond program - all of which are earmarked for proposition 2 (drainage).

*2019 Bond Program* - The 2019 bond program requires growth in new and existing values over the next five years to be delivered with no impact to the total tax rate. At the June 3<sup>rd</sup> City Council retreat, staff presented the projected bond issuance schedule associated with the 2019 bond program (\$117 million). In addition, project schedules were presented that aligned to the issuance capacity as well as taking advantage of the other funding sources available to those projects (roadway impact fees, contribution from the new Braunfels Economic Development Corporation). Council ultimately approved one of the presented schedules and gave staff direction to look for opportunities to expedite the issuance(s) and projects if the opportunity presented itself. Factors that could expedite the issuance timeline include: higher than projected property values, lower borrowing rates than projected, bond refunding opportunities. With those factors in mind, staff estimates the first 2019 bond program issuance to be approximately \$7,500,000 to \$17,500,000. Final amounts by proposition will be available shortly after certified values have been released on July 25.

*Certificate of Obligation* - As part of the overall 2019 bond program investment, the New Braunfels Economic Development Corporation approved a contribution to the sports complex project, not to exceed \$15,000,000. Staff recommends utilizing a Certificate of Obligation to fund the first \$5,000,000 of this contribution. While the debt service will be fully supported by the NBEDC, the Certificate of Obligation will be issued on behalf of the City's credit rating. Doing so, the NBEDC can take advantage of better interest rates.

Attached for Council consideration is the resolution related to the issuance in an amount not to exceed \$5.0 million in certificates of obligation for the public purpose of design, construction, improvement, organization, and equipping of a sports complex to include multi-purpose fields and playing surfaces for softball, baseball and soccer, as well as other sports, and possible facilities,



infrastructure or other expenditures connected therewith, and (ii) the payment of professional services in connection therewith including legal, fiscal and engineering the costs of issuing the certificates of obligation.

The Certificates of Obligation will be issued in accordance with the timeline provided below.

- Monday, July 22 - Authorization of notice of intent resolution (pending council approval)
- Wednesday, July 31 - First publication of notice of intent
- Wednesday, August 7 - Second publication of notice of intent
- Monday, September 9 - City Council authorized the issuance
- Wednesday, September 25 - Obligations closing, funds wired to bank depository

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

N/A

**FISCAL IMPACT:**

The proceeds will be utilized to support various 2013 and 2019 bond projects. The first year payments on the property tax supported portions of the proceeds will be sized to align to the current tax rate. The annual debt service for the certificate of obligation will be fully supported by the NBEDC.

**COMMITTEE RECOMMENDATION:**

N/A

**STAFF RECOMMENDATION:**

Staff recommends approval of the attached resolution



**SIGNED AND SEALED** the 28th day of May, 2019.

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City Secretary

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Mayor

**[CITY SEAL]**

**RESOLUTION NO. \_\_\_\_\_****A RESOLUTION RELATING TO ESTABLISHING THE CITY'S INTENTION TO REIMBURSE ITSELF FOR THE PRIOR LAWFUL EXPENDITURE OF FUNDS RELATING TO CONSTRUCTING VARIOUS CITY IMPROVEMENTS FROM THE PROCEEDS OF TAX-EXEMPT OBLIGATIONS TO BE ISSUED BY THE CITY FOR AUTHORIZED PURPOSES; AUTHORIZING OTHER MATTERS INCIDENT AND RELATED THERETO; AND PROVIDING AN EFFECTIVE DATE**

WHEREAS, the City Council (the "Governing Body") of the City of New Braunfels, Texas (the "Issuer") has entered into or will enter into various contracts pertaining to the expenditure of lawfully available funds of the Issuer to finance (i) \$1,000,000 towards constructing, acquiring, improving, extending, expanding, upgrading and/or developing streets, roads, bridges and intersections including, utility relocation, sidewalks, traffic safety and operational improvements, the purchase of any necessary land, rights-of-way, drainage and other related costs; (ii) \$750,000 towards constructing, acquiring, improving, renovating, developing and equipping, land and buildings for park and recreational purposes, parkland, scenic easement and trail acquisition, development and improvement and related infrastructure and other costs; and, (iii) \$2,250,000 towards constructing, acquiring, improving, renovating and equipping City public safety facilities for police and fire protection, including the acquisition of any necessary sites and related infrastructure, demolition and other costs (collectively, the "Project"); and

WHEREAS, the provisions of Section 1201.042, as amended, Texas Government Code ("Section 1201.042") provide that the proceeds from the sale of obligations issued to finance the acquisition, construction, equipping, or furnishing of any project or facilities, such as the Project, may be used to reimburse the Issuer for costs attributable to such project or facilities paid or incurred before the date of issuance of such obligations; and

WHEREAS, the United States Department of Treasury (the "Department") released Regulation Section 1.150-2 (the "Regulations") which establishes when the proceeds of obligations are spent and therefore are no longer subject to various federal income tax restrictions contained in the Internal Revenue Code of 1986, as amended (the "Code"); and

WHEREAS, the Issuer intends to reimburse itself an amount not to exceed \$4,000,000, within eighteen months from the later of the date of expenditure or the date the property financed is placed in service (but in no event more than three years after the original expenditures are paid), for the prior lawful capital expenditure of any funds from the proceeds of one or more series of tax-exempt obligations (the "Obligations") that the Issuer currently contemplates issuing in the aggregate principal amount not to exceed \$4,000,000 to finance a portion of the costs of the Project; and

WHEREAS, under the Regulations, to fund such reimbursement with proceeds of the Obligations, the Issuer must declare its expectation to make such reimbursement before making the expenditures; and

WHEREAS, the Issuer hereby finds and determines that the reimbursement for the prior expenditure of funds of the Issuer is not inconsistent with the Issuer's budgetary and financial circumstances; and

WHEREAS, the Governing Body hereby finds and determines that the adoption of this Resolution is in the best interests of the residents of the Issuer; now, therefore,

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

Section 1. This Resolution is a declaration of intent to establish the Issuer's reasonable, official intent under section 1.150-2 of the Regulations and Section 1201.042 to reimburse itself from certain of the proceeds of the Obligations for any capital expenditures previously incurred (not more than 60 days prior to the date hereof) or to be incurred with respect to the Project from the Issuer's General Fund or other lawfully available funds of the Issuer.

Section 2. The Issuer intends to issue the Obligations and allocate within 30 days after the date of issuance of the Obligations the proceeds therefrom to reimburse the Issuer for prior lawful expenditures with respect to the Project in a manner to comply with the Regulations.

Section 3. The reimbursed expenditure will be a type properly chargeable to a capital account (or would be so chargeable with a proper election) under general federal income tax principles.

Section 4. The Issuer intends to otherwise comply, in addition to those matters addressed within this Resolution, with all the requirements contained in the Regulations.

Section 5. This Resolution may be relied upon by the appropriate officials at the Office of the Attorney General for the State of Texas and establishes compliance by the Issuer with the requirements of Texas law and the Regulations.

Section 6. The recitals contained in the preamble hereof are hereby found to be true, and such recitals are hereby made a part of this Resolution for all purposes and are adopted as a part of the judgment and findings of the Governing Body.

Section 7. All ordinances and resolutions, or parts thereof, which are in conflict or inconsistent with any provision of this Resolution are hereby repealed to the extent of such conflict, and the provisions of this Resolution shall be and remain controlling as to the matters resolved herein.

Section 8. If any provision of this Resolution or the application thereof to any person or circumstance shall be held to be invalid, the remainder of this Resolution and the application of such provision to other persons and circumstances shall nevertheless be valid, and the Governing Body hereby declares that this Resolution would have been enacted without such invalid provision.

Section 9. It is officially found, determined, and declared that the meeting at which this Resolution is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this Resolution, was given, all as required by Chapter 551, as amended, Texas Government Code.

Section 10. This Resolution shall be in force and effect from and after its final passage, and it is so resolved.



PASSED, ADOPTED AND APPROVED on this the 28th day of May, 2019.

CITY OF NEW BRAUNFELS, TEXAS

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Mayor

ATTEST:

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City Secretary

(CITY SEAL)

APPROVED AS TO LEGALITY:

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Valeria M. Acevedo, City Attorney



**City Council Agenda Item Report**550 Landa Street  
New Braunfels, TX**7/22/2019**

Agenda Item No. C)

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**Presenter**

*Stacy Snell, Planning and Community Development Assistant Director  
ssnell@nbtexas.org*

**SUBJECT:**

Public hearing and consideration of the second and final reading of an ordinance disannexing approximately 62.4 acres of land out of the J. M. Veramendi Survey No. 2, Abstract 3, Comal County, Texas, located along the northwest right-of-way line of Loop 337 in the corporate limits of the City.

**BACKGROUND / RATIONALE:****Council Districts:** 3 & 4

**Applicant/Owner:** Veramendi/ASA Properties (Peter James)  
387 West Mill Street, Suite 108  
New Braunfels, TX 78130  
(830) 643-1338

**Staff Contact:** Holly Mullins  
(830) 221-4054  
hmullins@nbtexas.org

**City Council held a public hearing on July 8, 2019 and unanimously approved the first reading of the ordinance.**

In 2013, the City of New Braunfels entered into a Development Agreement with Word-Borchers Ranch Joint Venture regarding the development of approximately 2,400 acres of land known as Veramendi. Approximately 62.4 acres of the Veramendi project is located within the City of New Braunfels city limits. As stipulated in the Development Agreement, when a sector plan that includes property located within the city limits is approved, the City would disannex said property within 180 days of the sector plan approval.

Sector Plan 2, which contains all 62.4 acres, was approved by City Council on February 25, 2019. A formal request for disannexation from Veramendi Development Company, LLC is attached.

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

<b>CITY PLAN/COUNCIL PRIORITY:</b> Veramendi Development Agreement Envision New Braunfels Comprehensive Plan	To implement the adopted agreement. <b>Strategy 8:</b> Cultivate local and regional partnerships. <b>Regional Planning:</b> Special Districts
---	---

**FISCAL IMPACT:**

Portions of the subject property will be part of a future limited purpose annexation as specified within the Development Agreement.

**COMMITTEE RECOMMENDATION:**

N/A

**STAFF RECOMMENDATION:**

Approval.

**Attachments:**

1. Disannexation Request
2. Ordinance



April 18, 2019

The City Manager  
City of New Braunfels  
550 Landa Street  
New Braunfels, TX 78130

Attn: Robert Camareno  
RE: Veramendi Disannexation

Dear Sir,

In progressing the disannexation of property on the Veramendi Development from the City in accordance with the provisions of the Development Agreement and in consultation with the New Braunfels City Staff, it has come to our attention that there is a discrepancy in the property area being disannexed.

To confirm, the total area for disannexation is 62.4 acres, which is as described in the attached metes and bounds descriptions and depicted on the attached illustration. We formally request the City proceed with the disannexation of the 62.4 acres. These 62.4 acres are the same as depicted in the diagram attached as Exhibit C to the Development Agreement, which we believe eliminates the need for a formal amendment to the Development Agreement to correct the metes and bounds description. This request is made in accordance with the requirements of the City of New Braunfels Charter, the Texas Local Government Code and the Development Agreement between the City of New Braunfels and Veramendi Development Company, LLC, as successor to the Word-Borchers Ranch Joint Venture, signed February 25, 2013.

Yours sincerely,  
**Veramendi Development Company, LLC**

**By: ASA Properties, LLC**

**Its: Sole Manager**

A handwritten signature in black ink, appearing to read 'Peter James', written over a horizontal line.

**Peter James**  
**CEO**



**ORDINANCE NO. 2019-**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS, TEXAS, DISANNEXING APPROXIMATELY 62.4 ACRES OF LAND OUT OF THE J.M. VERAMENDI SURVEY NO. 2, ABSTRACT 3, COMAL COUNTY, TEXAS, LOCATED ALONG THE NORTHWEST RIGHT-OF-WAY LINE OF LOOP 337 IN THE CORPORATE LIMITS OF THE CITY; REPEALING ALL ORDINANCES IN CONFLICT; CONTAINING A SAVINGS CLAUSE; AND DECLARING AN EFFECTIVE DATE.**

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**WHEREAS**, the city is authorized to disannex territory in accordance with the Texas Local Government Code, Chapter 43 and the City of New Braunfels, Texas home-rule charter, Section 1.04 and by other statutory authority; and

**WHEREAS**, said territory proposed to be disannexed is subject to the Development Agreement between the City of New Braunfels, Texas and Word-Borchers Ranch Joint Venture for a proposed Mixed Use Development ("Agreement") which was fully executed on February 25, 2013; and was effective when filed of record on July 24, 2015.

**WHEREAS**, Section 3.6 of the Agreement provides for disannexation of certain real property within the City limits when a sector plan covering that certain real property is approved by City Council.

**WHEREAS**, the Veramendi Sector Plan 2 which includes the certain property for disannexation was approved by the City Council on February 25, 2019; and

**WHEREAS**, the owner of the property additionally requested that the 62.4-acre tract be disannexed by the City for subsequent inclusion into the boundaries of the Comal County Water Improvement District No. 1 which is also known as the Veramendi Development; and

**WHEREAS**, it is the desire of the City of New Braunfels to disannex this 62.4-acre tract of land and the City Council finds said territory is not necessary for City purposes; **now, therefore:**

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

**SECTION 1**

**THAT** the following described territory is hereby disannexed from the corporate limits of the city and shall be subsequently included into the boundaries of the Comal County Water Improvement District No. 1 :

62.4 acres of land out of the J.M. Veramendi Survey No. 2, Abstract 3, Comal County, Texas, located along the northwest right-of-way line of Loop 337, as delineated on Exhibit "A" and described in Exhibit "B" attached.

**SECTION 2**

**THAT** the official map and boundaries of the city are hereby amended and revised so as to exclude the area disannexed.

**SECTION 3**

**THAT** as the disannexation is requested pursuant to the Agreement and by the property owner on the unimproved and uninhabited 62.4-acre tract, no refund of fees or taxes are owed under Texas Local Government Code Section 43.143.

**SECTION 4**

**THAT** the City Secretary is hereby directed to file with the County Clerk and other appropriate officials and agencies, as required by state and federal law and city annexation procedures, a certified copy of this ordinance.

**SECTION 5**

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

**SECTION 6**

**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 7**

**THIS** ordinance will take effect upon the second and final reading of same.

**PASSED AND APPROVED:** First Reading this the 8th day of July, 2019.

**PASSED AND APPROVED:** Second and Final Reading this the 22nd day of July, 2019.

**CITY OF NEW BRAUNFELS, TEXAS**

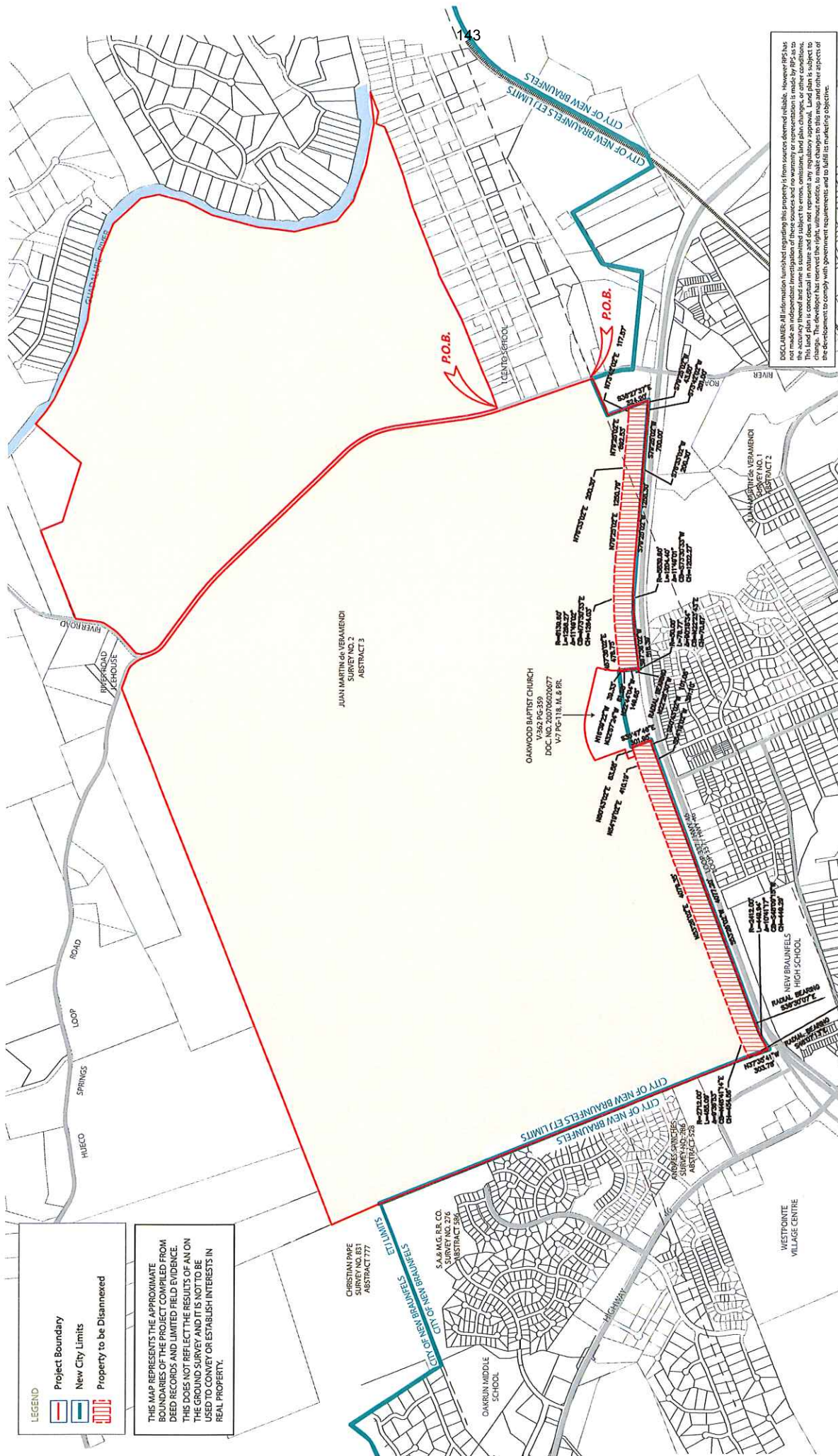
**BY:** \_\_\_\_\_  
**BARRON CASTEEL, Mayor**

**ATTEST:**

\_\_\_\_\_  
**PATRICK D. ATEN**, City Secretary

**APPROVED AS TO FORM:**

\_\_\_\_\_  
**VALERIA M. ACEVEDO**, City Attorney



**LEGEND**

- Project Boundary
- New City Limits
- Property to be Disannexed

THIS MAP REPRESENTS THE APPROXIMATE BOUNDARIES OF THE PROJECT COMPILED FROM DEED RECORDS AND LIMITED FIELD EVIDENCE. THIS DOES NOT REFLECT THE RESULTS OF AN ON THE GROUND SURVEY AND IT IS NOT TO BE USED TO CONVEY OR ESTABLISH INTERESTS IN REAL PROPERTY.

DISCLAIMER: All information furnished regarding this property is from sources deemed reliable. However, RPS has not made an independent investigation of these sources and no warranty or representation is made by RPS as to the accuracy thereof and same is submitted subject to errors, omissions, land plan changes, or other conditions. The developer has reserved the right, without notice, to make changes to this map and other aspects of the development to comply with government requirements and to fulfill its marketing objective.

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LAND DEVELOPMENT   ENVIRONMENTAL   TRANSPORTATION   WATER RESOURCES   SURVEYING

---

FIELD NOTES  
FOR A  
DE-ANEXATION TRACT  
CITY OF NEW BRAUNFELS, TEXAS

Being 27.8 acres, more or less, out of the J.M. Veramendi Survey No. 2, Abstract 3, Comal County, Texas. Said 27.8 acres also being a portion of a 2086 acre tract of land described as First Tract in Deed recorded in Volume 167, Pages 80-92 of the Deed Records of Comal County, Texas. Said 27.8 acre tract being more fully described as follows;

BEGINNING: At a point on the northwest right-of-way line of State Highway Loop 337, the southeast corner of the called 17.089 acre tract of land conveyed to Oakwood Baptist Church of New Braunfels, Texas, by Deed Recorded in Document No. 200706020677, of the Official Records of Comal County, Texas;

THENCE: departing the northwest right-of-way line of State Highway Loop 337 and along the common line between said 17.089 acres and the herein described tract, the following bearings and distances:

along a non-tangent curve to the left, said curve having a radial bearing of North 22°28'30" West, a radius of 50.00 feet, a central angle of 90°15'34", a chord bearing and distance of North 22°23'43" East, 70.87 feet, for an arc length of 78.77 feet to a point,

North 22°44'04" West a distance of 149.65 feet to a point,

North 32°57'24" West a distance of 61.98 feet to a point,

North 16°39'22" West a distance of 39.33 feet to a point of intersection with the New Braunfels City Limits line,

THENCE: departing said common line, over and across said 2086 acre tract, along and with the New Braunfels City Limits line, said City Limits line being parallel to and offset 300' from said northwest right-of-way line of State Highway Loop 337 the following bearings and distances:

North 67°36'02" East a distance of 476.75 feet to a point,

Along a tangent curve to the right, said curve having a radius of 6139.60 feet, a central angle of 11°49'02", a chord bearing and distance of North 73°30'33" East, 1264.03 feet, for an arc length of 1266.27 feet to a point,

North 79°25'02" East a distance of 1250.79 feet to a point,

North 76°33'02" East a distance of 200.30 feet to a point,

North 79°25'02" East a distance of 692.53 feet to a point,



27.8 Acres  
Job No. 9127-10  
Page 2 of 2

North 73°42'02" East a distance of 117.57 feet to a point on the southwest line of a 9.839 acre tract described in Document Number 200406026508 of the Official Records of Comal County, Texas;

THENCE: departing the New Braunfels City Limits line, along and with the common line of said 9.839 acre tract and said 2086 acre tract, South 36°27'37" East a distance of 324.20 feet to a point on the northwest right-of-way line of State Highway Loop 337;

THENCE: along said northwest right-of-way line of State Highway Loop 337, the following bearings and distances:

South 79°25'02" West a distance of 43.50 feet to a point,

South 73°42'02" West a distance of 201.00 feet to a point,

South 79°25'02" West a distance of 700.00 feet to a point,

South 76°33'02" West a distance of 200.30 feet to a point,

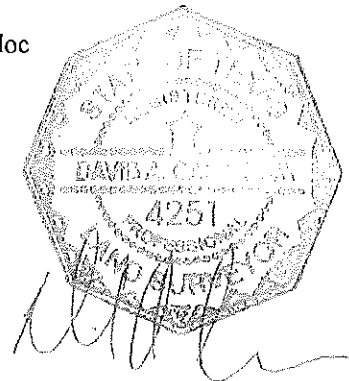
South 79°25'02" West a distance of 1258.30 feet to a point,

along a tangent curve to the left, said curve having a radius of 5839.60 feet, a central angle of 11°49'01", a chord bearing and distance of South 73°30'33" West, 1202.27 feet, for an arc length of 1204.40 feet to a point, and

South 67°36'02" West a distance of 518.39 feet to the POINT OF BEGINNING, and containing 27.8 acres.

This document was prepared under 22 TAC 663.21, does not reflect the results of an on the ground survey, and is not to be used to convey or establish interests in real property except those rights and interests implied or established by the creation or reconfiguration of the boundary of the political subdivision for which it was prepared.

PREPARED BY: PAPE DAWSON ENGINEERS, INC.  
DATE: March 23, 2012  
JOB No.: 9127-10  
FILE: N:\Survey10\10-9100\9127-10\WORD\27.8 Ac DEANNEX E MBs.doc





LAND DEVELOPMENT ENVIRONMENTAL TRANSPORTATION WATER RESOURCES SURVEYING

FIELD NOTES  
FOR A  
DE-ANEXATION TRACT  
CITY OF NEW BRAUNFELS, TEXAS

Being 34.6 acres, more or less, out of the J.M. Veramendi Survey No. 2, Abstract 3, Comal County, Texas. Said 34.6 acres also being a portion of a 2086 acre tract of land described as First Tract in Deed recorded in Volume 167, Pages 80-92 of the Deed Records of Comal County, Texas. Said 34.6 acre tract being more fully described as follows;

**BEGINNING:** at a point on the northwest right-of-way line of State Highway Loop 337, being the south most corner of the called 17.089 acre tract of land conveyed to Oakwood Baptist Church of New Braunfels, Texas, by Deed Recorded in Document No. 200706020677, of the Official Records of Comal County, Texas;

**THENCE:** along the northwest right-of-way line of State Highway Loop 337, the following bearings and distances:

South 60°43'02" West a distance of 101.06 feet to a point,

South 54°19'02" West a distance of 391.10 feet to a point,

South 53°26'02" West a distance of 4077.20 feet to a point,

along a non-tangent curve to the left, said curve having a radial bearing of South 36°30'07" East, a radius of 2412.00 feet, a central angle of 10°41'17", a chord bearing and distance of South 48°09'15" West, 449.29 feet, for an arc length of 449.94 feet to a point on the south line of said 2086 acre tract and of the herein described tract;

**THENCE:** departing the northwest right-of-way line of State Highway Loop 337, along and with the south line of said 2086 acre tract, North 37°35'41" West a distance of 303.78 feet to a point of intersection with the New Braunfels City Limits line;

**THENCE:** departing the south line of said 2086 acre tract, over and across said 2086 acre tract, along and with the New Braunfels City Limits line, said City Limits line being parallel to and offset 300' from said northwest right-of-way line of State Highway Loop 337 the following bearings and distances:

34.6 Acres  
Job No. 9127-10  
Page 2 of 2

along a non-tangent curve to the right, said curve having a radial bearing of South 46°07'13" East, a radius of 2712.00 feet, a central angle of 09°36'53", a chord bearing and distance of North 48°41'14" East, 454.56 feet, for an arc length of 455.09 feet to a point,

North 53°26'02" East a distance of 4079.35 feet to a point,

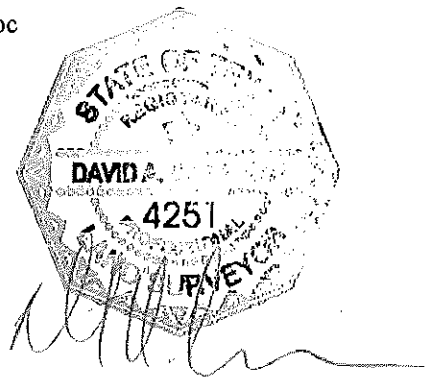
North 54°19'02" East a distance of 410.19 feet to a point,

North 60°43'02" East a distance of 83.58 feet to a point on the southwest line of said called 17.089 acre tract,

THENCE: departing the New Braunfels City Limits line, along and with the southwest line of said called 17.089 acre tract, South 35°47'46" East a distance of 301.95 feet to the POINT OF BEGINNING, and containing 34.6 acres.

This document was prepared under 22 TAC 663.21, does not reflect the results of an on the ground survey, and is not to be used to convey or establish interests in real property except those rights and interests implied or established by the creation or reconfiguration of the boundary of the political subdivision for which it was prepared.

PREPARED BY: PAPE DAWSON ENGINEERS, INC.  
DATE: March 23, 2012  
JOB No.: 9127-10  
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**City Council Agenda Item Report****7/22/2019**

Agenda Item No. D)

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**Presenter**

*Stacy Snell, Planning and Community Development Assistant Director*  
*ssnell@nbtexas.org*

**SUBJECT:**

Public hearing and consideration of the second and final reading of an ordinance rezoning approximately six acres out of the William Mockford Survey 285, addressed at 2850 Loop 337, from "R-2" Single and Two-family District to "C-1B" General Business District.

**BACKGROUND / RATIONALE:**

**Case No.:** PZ-18-049

**Council District:** 3

**Applicant:** Caroline McDonald  
Brown & Ortiz, PC  
112 E. Pecan Street, Suite 1360  
San Antonio, TX 78205  
caroline@brownortiz.law  
(210) 299-3704

**Property Owner:** Richard Kiesling, et al  
2850 Loop 337  
New Braunfels, TX 78130  
Rick@kieslinglaw.com  
(830) 237-7459

**Staff Contact:** Holly Mullins  
(830) 221-4054  
hmullins@nbtexas.org

**City Council held a public hearing on February 25, 2019 and unanimously approved the first reading of this requested rezoning ordinance. At the applicant's request, the second reading was not scheduled until July 22, 2019. As a courtesy, notice of the second reading was published in the newspaper and resent to surrounding owners of property and this item placed on the agenda for individual consideration rather than consent.**

The subject vacant property is located on the west side of Loop 337 at its intersection with Oak Run Parkway. The 5.95 acres subject to this request are within the city limits, but are part of a larger tract that extends outside the city limits. The portion outside the city limits is not subject to zoning or building permitting.



C-1B zoning is intended for areas located at or near the intersections of major collectors and arterials as it allows for a variety of retail and service uses.

*Surrounding Zoning and Land Use:*

North - Across Oak Run Parkway, C-1B/ Commercial

South - R-2/ Residential

East - Across Loop 337, R-2/ Residential; NB Christian Academy

West - Outside City limits/ Undeveloped

*Floodplain:* No portion of the property is within the 1% annual chance flood zone.

*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 (*C-1B zoning allows uses with an intensity that makes it appropriate at major intersections, and it is consistent with other commercial zoning in the area.*);
- 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 requested commercial zoning should not conflict with existing and proposed schools. 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 would add to the inventory of C-1B zoning in the vicinity creating opportunities for competition without saturation.*);
- Any other factors that will substantially affect the public health, safety, morals, or general welfare (*There should be no other factors that will substantially affect the public health, safety, morals, or general welfare. Drainage, utilities and traffic impact will be reviewed and addressed through the platting and permitting processes.*); and
- Whether the request is consistent with the Comprehensive Plan (*The subject property is located in the Hoffmann Lane Sub Area, within a Transitional Mixed-Use Corridor and near an existing Market Center and future Outdoor Recreation Center.*)

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

<b>City Plan/Council Priority:</b> Envision New Braunfels	<b>Action 3.3:</b> Balance commercial centers with stable neighborhoods. <b>Action 5.2</b> Discourage development in Edwards Aquifer Recharge and contributing zones. Where development in these areas must occur, require that it be environmentally sound using tools such as but not limited to low impact development (LID).
--	--

**FISCAL IMPACT:**

N/A

**COMMITTEE RECOMMENDATION:**

The Planning Commission held a public hearing on February 5, 2019 and recommended approval (8-0-0).

**STAFF RECOMMENDATION:**

The subject property is adjacent to Westpointe, an existing Market Center with a mix of commercial and residential uses. New commercial development at the subject location will provide services walkable from the Westpointe node, as well as drivable from the stable residential areas across Loop 337 and down Oak Run Parkway. While the site is over the recharge zone, TCEQ will review new development proposals. C-1B is consistent with the Transitional Mixed-Use Corridor, the location at an intersection of a collector and expressway, and with existing zoning, Centers, and development trends in the area. Therefore, staff recommends approval.

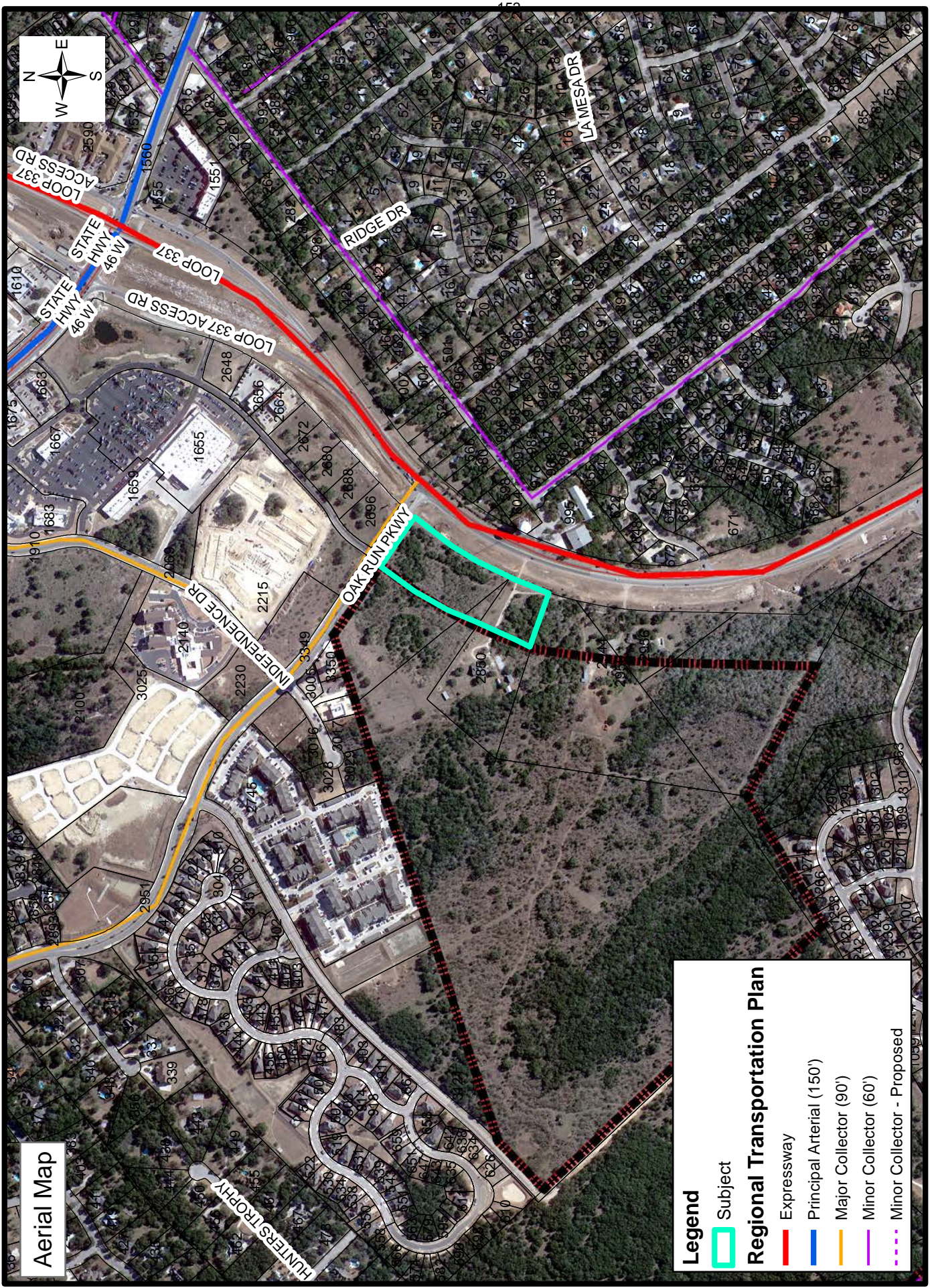
**Notification:**

Public hearing notices were sent to 6 owners of property within 200 feet of the request. The City has received no responses.

**Attachments:**

1. Aerial Map
2. Land Use Maps (Zoning, Existing Land Use, Future Land Use Plan)
3. Notification Map and List
4. Sec. 3.4-13 C-1B
5. Photograph
6. Ordinance

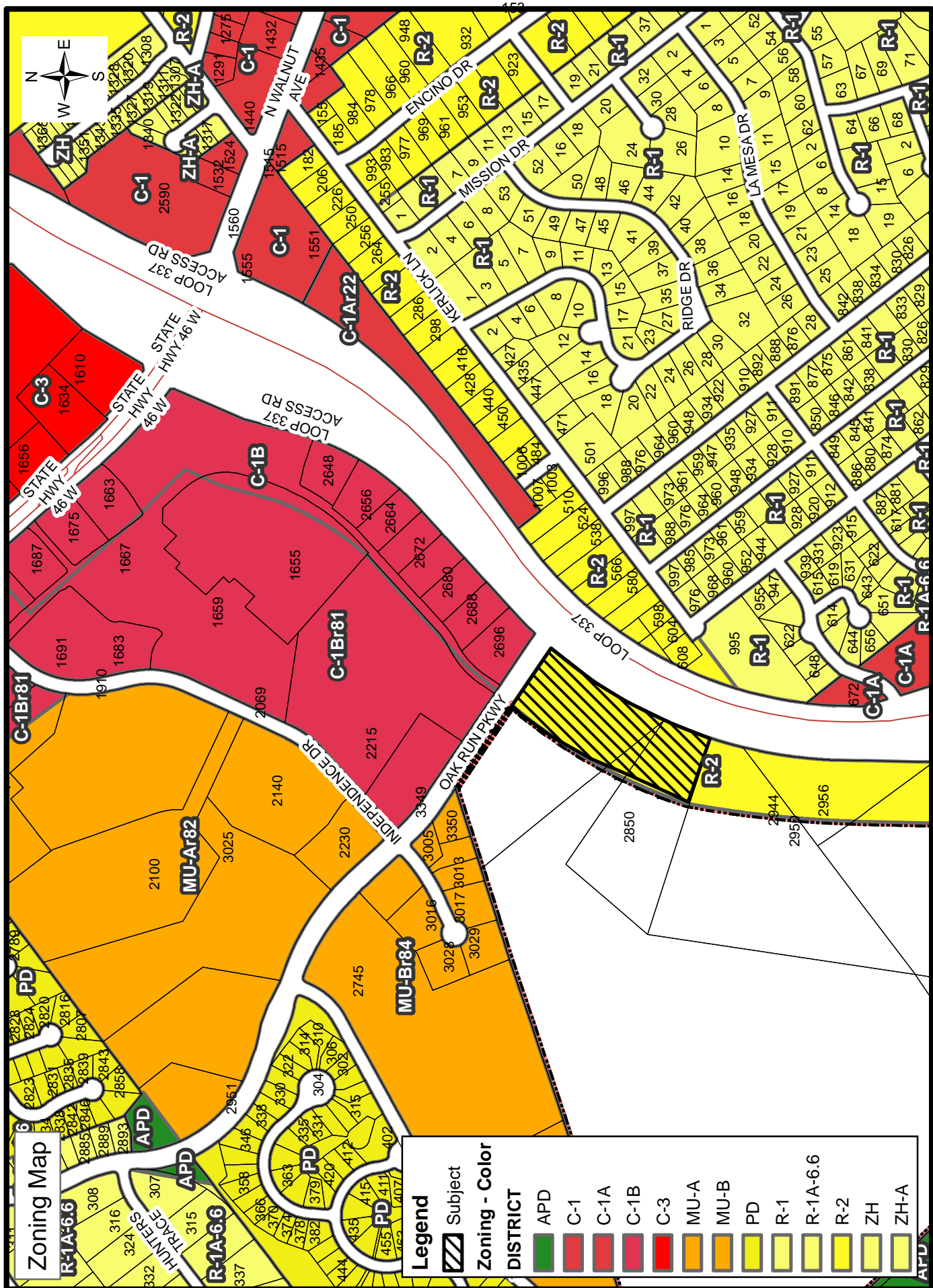




PZ-18-049  
2850 Loop 337  
R-2 to C-1B

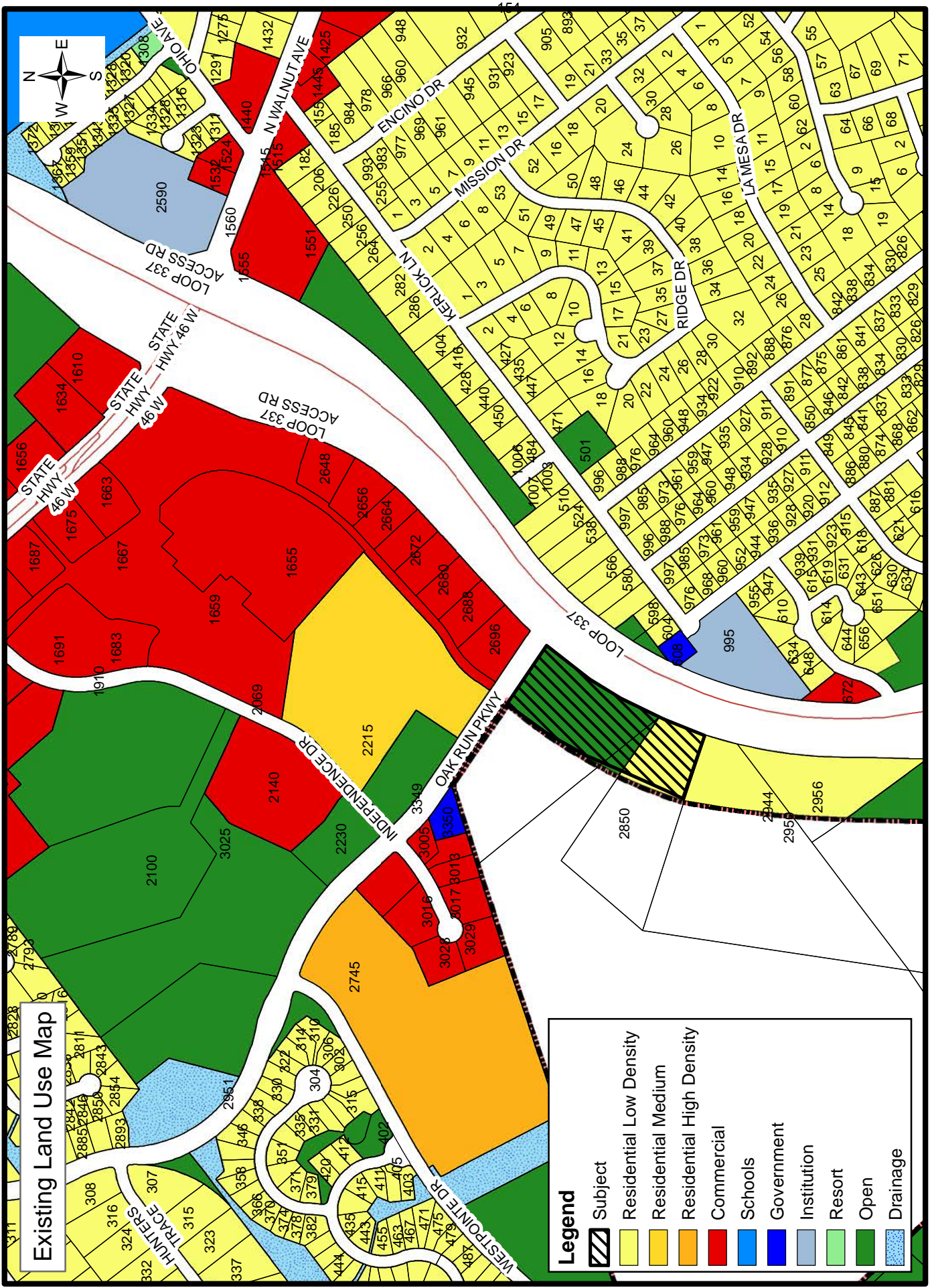






PZ-18-049  
2850 Loop 337  
R-2 to C-1B





Existing Land Use Map

**Legend**

	Subject
	Residential Low Density
	Residential Medium
	Residential High Density
	Commercial
	Schools
	Government
	Institution
	Resort
	Open
	Drainage

PZ-18-049  
2850 Loop 337  
R-2 to C-1B





## EXISTING CENTERS

Centers are the middle, core or heart of an area. It is a point of activity and vitality. Centers come in many sizes and have different purposes or activities within. They may have endangered species habitat or aquifer recharge areas that require additional standards and consideration relating to future growth. It is envisioned that all centers be walkable, connected, and have a mix of uses. These centers must provide adequate infrastructure to support the commercial development present especially mobility and access for pedestrians, bicycles, vehicles and transit. Given the mixed-use nature of these centers, parking should be shared and not detract from the aesthetic of the area.

### ● EMPLOYMENT CENTER

Employment Centers are mixed-use areas centered around office or industrial uses that can support significant employment.

### ● MARKET CENTER

Market Centers are mixed-use areas anchored by a retail destination where surrounding residents go to get daily goods and services.

### ● MEDICAL CENTER

Medical Centers are mixed-use areas centered around a medical destination such as a hospital or clinic.

### ● CIVIC CENTER

Civic Centers are mixed-use areas centered around a civic destination such as City Hall, a library or a recreation center.

### ● OUTDOOR RECREATION CENTER

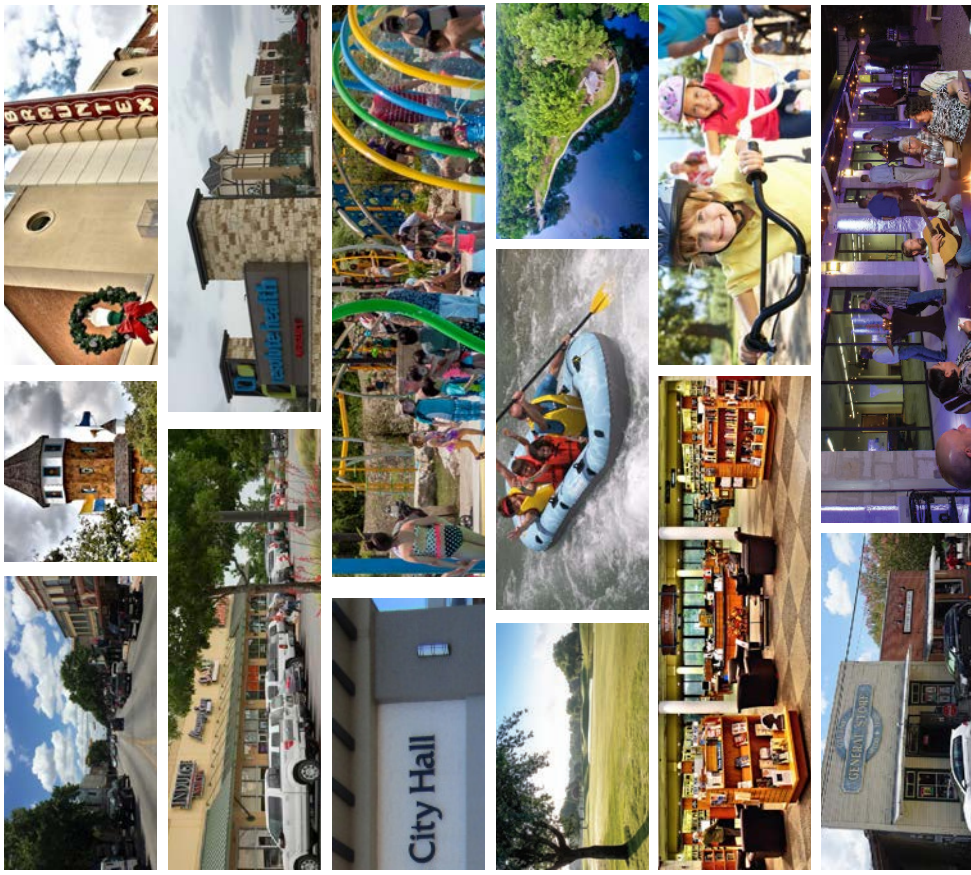
Outdoor Recreation Centers center around a public or private outdoor destination such as Landa Lake.

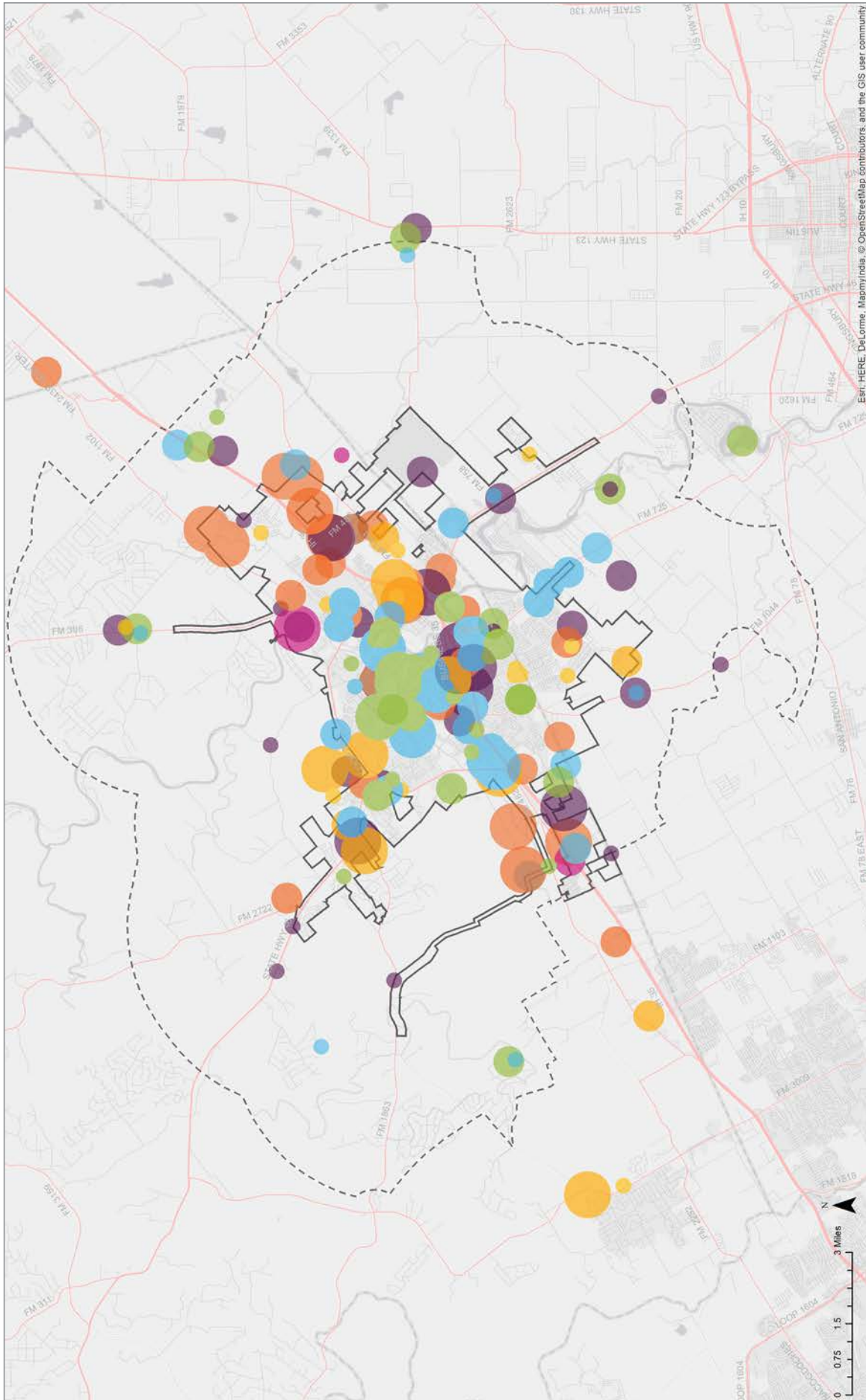
### ● EDUCATION CENTER

Education Centers are mixed-use areas centered around an educational destination such as a K-12 school or university/college.

### ● TOURIST/ENTERTAINMENT CENTER

Tourist/Entertainment Centers are mixed-use areas around an entertainment venue such as Gruene Hall or a tourist destination such as the Tube Chute.





The location of existing centers was determined through the analysis of previous studies and background documents, windshield surveys, and reviewed by City staff, Steering Committee members, and Plan Element Advisory Group members during a public workshop.

# FUTURE LAND USE PLAN

A future land use plan is how land is envisioned to be. It establishes priorities for more detailed plans (sub area plans) and for detailed topical plans (such as parks and open spaces, trails and roads). It cannot be interpreted without the goals and actions of Envision New Braunfels.

## TRANSITIONAL MIXED-USE CORRIDOR

Transitional Mixed-Use Corridors express an aspiration to retrofit existing auto-dominated retail corridors with a mix of uses and a variety of travel modes over time.

## OUTDOOR RECREATION CENTER

Outdoor Recreation Centers are centered around a public or private outdoor destination like Fischer Park.

## EMPLOYMENT CENTER

Employment Centers are mixed-use areas centered around office or industrial uses that can support significant employment.

## MARKET CENTER

Market Centers are mixed-use areas anchored by a retail destination where surrounding residents go to get daily goods and services.

## CIVIC CENTER

Civic Centers are mixed-use areas centered around a civic destination such as City Hall, a library or a recreation center.

## SUB AREA 1

Sub Area 1 includes the Downtown, Gruene and the Mid-Century or older neighborhoods that surround them. It is home to the natural springs and headwaters of flowing rivers that have attracted New Braunfelsers to the town for centuries.

## SUB AREA 2

Sub Area 2 refers to the neighborhoods and residential enclaves that have grown alongside the Hill Country landscape.

## SUB AREA 3

Sub Area 3 includes a planned community offering a diversity of housing, distinct community centers and preserved Hill Country landscape features.

## SUB AREA 4

At the heart of Sub Area 4 is Fischer Park. Proximity to IH-35, downtown and neighboring communities like McQueeney makes this area highly desirable and accessible.

## SUB AREA 5

Sub Area 5 bridges together many communities east of IH-35. It includes the scenic landscape along both banks of the Guadalupe River between Highway 46 and FM 725.

## SUB AREA 6

Sub Area 6 expresses an aspiration for conservation communities focused around maintaining and enhancing ecological integrity while allowing some level of development to occur.

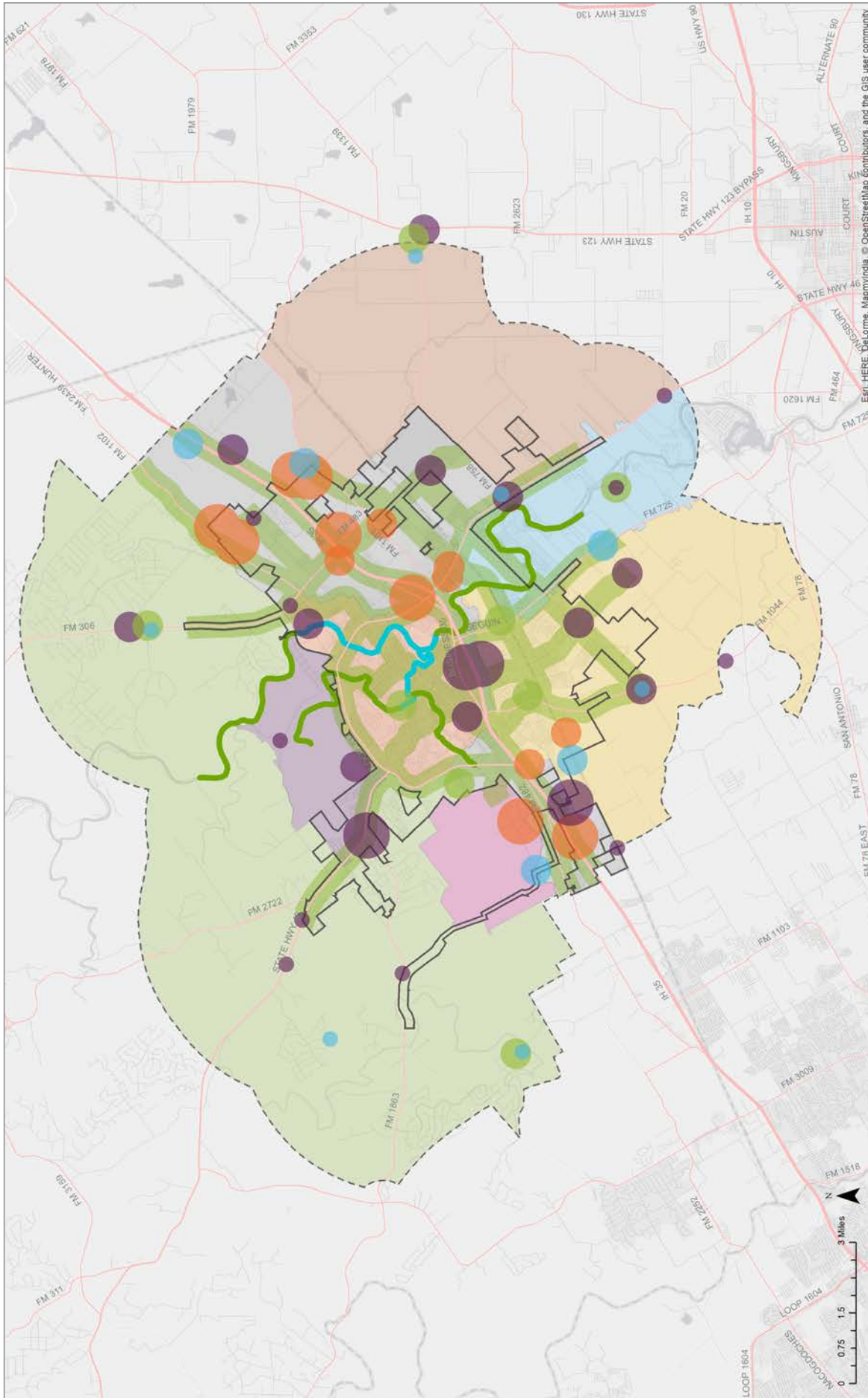
## SUB AREA 7

Sub Area 7 includes parts of the city currently being mined for natural resources. These sites may become parks and open space, mixed-use communities or new commercial or entertainment areas in the future.

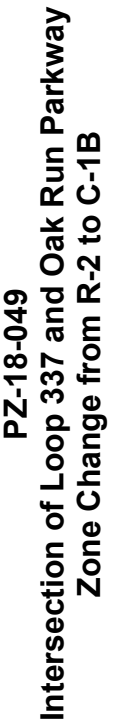
## SUB AREA 8

This fast-growing Sub Area includes many neighborhoods offering affordable places for young families to live.





A Comprehensive Plan shall not constitute zoning regulations or establish zoning district boundaries. Preferred future growth scenario combines Scenarios A and C per recommendations of the Envision New Braunfels Steering Committee (February 2018). Exact boundaries of sub areas, centers, and corridors may be [zoomed and viewed online](#).



**PLANNING COMMISSION – FEBRUARY 5, 2019 – 6:00PM**

New Braunfels City Hall Council Chambers

**Applicant/Owner:** Caroline McDonald**Address/Location:** 5.95 acres addressed at 2850 Loop 337**PROPOSED ZONE CHANGE – CASE #PZ-18-049**

The circled numbers on the map correspond to the property owners listed below. All information is from the Appraisal District Records. The property under consideration is marked as “Subject Property”.

- |                             |                            |
|-----------------------------|----------------------------|
| 1. KIESLING BOB R           | 4. LPF WESTPOINTE LLC      |
| 2. KIESLING BOB R & BETTY A | 5. TAWV PROPERTY OWNER LTD |
| 3. NB RETAIL LTD            | 6. WESTPOINTE PLAZA LLC    |

**SEE MAP**

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### 3.4-13. "C-1B" general business district.

*Purpose.* The general business district is established to provide areas for a broad range of office and retail uses. This district should generally consist of retail nodes located along or at the intersection of major collectors or thoroughfares to accommodate high traffic volumes generated by general retail uses. The following regulations shall apply in all "C-1B" districts:

- (a) *Authorized uses.* Uses permitted by right shall be those set forth in the Land Use Matrix in Section 4 of this Chapter. The allowed uses in the district, which are intended to be identical with those listed in the Land Use Matrix, are as follows

(1) *Uses permitted by right:*

Residential uses:

- Accessory building/structure
- Assisted living facility/retirement home
- Bed and breakfast inn (see Sec. 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)
- All terrain vehicle (ATV) dealer / sales
- Ambulance service (private)
- Amphitheater
- 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
- Athletic fields
- Auction sales (non-vehicle)
- Auto body repair, garages (see Sec. 5.11)
- Auto glass repair/tinting (see Sec. 5.11)
- Auto interior shop / upholstery (see Sec. 5.11)
- Auto leasing
- Auto muffler shop (see Sec. 5.11)
- Auto or trailer sales rooms or yards ((see Sec. 5.11)
- Auto or truck sales rooms or yards - primarily New (see Sec. 5.12)
- Auto paint shop (see Sec. 5.11)
- Auto repair as an accessory use to retail sales (see Sec. 5.11)
- Auto repair garage (general) (see Sec. 5.11)
- 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)  
 Barber/beauty shop, haircutting (non-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  
 Bowling alley/center (see Sec. 5.13)  
 Broadcast station (with tower) (see Sec. 5.7)  
 Bus barns or lots  
 Bus passenger stations  
 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  
 Commercial amusement concessions and facilities  
 Communication equipment - installation and/or repair  
 Computer and electronic sales  
 Computer repair  
 Confectionery store (retail)  
 Consignment shop  
 Contractor's temporary on-site construction office (only with permit from Building Official; see Sec. 5.10)  
 Convenience store with or without fuel sales  
 Country club (private)  
 Credit agency  
 Curio shops  
 Custom work shops  
 Dance hall / dancing facility (see Sec. 5.13)  
 Day camp  
 Department store  
 Drapery shop / blind shop  
 Driving range  
 Drug sales/pharmacy  
 Electrical repair shop  
 Electrical substation  
 Exterminator service  
 Farmers market (produce market - wholesale)  
 Farms, general (crops) (see Chapter 6, Municipal Code and Sec. 5.9)

Farms, general (livestock/ranch) (see Chapter 6, Municipal Code and Sec. 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)  
 Heavy load (farm) vehicle sales/repair (see Sec. 5.14)  
 Home repair and yard equipment retail and rental outlets  
 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 (w/o 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)  
 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)  
 Motorcycle dealer (primarily new / repair)  
 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 watercraft sales (primarily new / repair)  
 Pet shop / supplies (10,000 sq. ft. or less)  
 Pet store (more than 10,000 sq. ft.)  
 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  
 RV park  
 RV/travel trailer sales  
 School, K-12 (public or private)  
 School, vocational (business/commercial trade)  
 Security monitoring company  
 Security systems installation company (with outside storage)  
 Shoe repair shops  
 Shooting gallery - indoor (see Sec. 5.13)  
 Shopping center  
 Sign manufacturing/painting plant  
 Specialty shops in support of project guests and tourists  
 Storage – exterior storage for boats and recreational vehicles  
 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)  
 Tire sales (outdoors)  
 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  
 Wholesale sales offices and sample rooms  
 Woodworking shop (ornamental)

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

- (2) *Conflict.* In the event of conflict between the uses listed in the Land Use Matrix and those listed in Subsection (1), the uses listed in this subsection shall be deemed those authorized in the district.

(b) *Maximum height, minimum area and setback requirements:*

- (1) *Height.* 75 feet.
- (2) *Front building setback.* 25 feet.
- (3) *Side building setback.* No side building setback is required except that where a side line of a lot in this district abuts upon the side line of a lot in any residential zone, a side building setback of not less than six feet shall be provided.
- (4) *Corner lots.* Buildings on corner lots shall have 15-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the rear lot lines of the adjacent lots. Buildings on corner lots shall have 25-foot side building setbacks adjacent to the street where the rear lines of the corner lots coincide with the side lot lines of the adjacent lots. Where a minimum 25-foot setback is required, a canopy at least eight feet in height, attached to the main building, may be built within 15 feet of the property line so long as such construction will not obstruct the vision of vehicular or pedestrian traffic.
- (5) *Garage setback.* Where a driveway is located in front of a garage, the garage shall be setback 20 feet from the right-of-way or the driveway to the garage shall be at least 20 feet long to provide enough space for a vehicle to park without overhanging into the right-of-way, if the garage door is closed. (See Illustration 8 in Sec. 5.1-1)
- (6) *Residential setback.* Effective November 8, 2006, where any building abuts a one or two family use or zoning district, the setback from the one or two family property line shall be at least 20 feet plus one foot for each foot of building height over 20 feet.
- (7) *Rear building setback.* 20 feet.
- (8) *Width of lot.* 60 feet.
- (9) *Lot depth.* 100 feet.
- (10) *Parking.* See Section 5.1 for permitted uses' parking.



Subject property at the intersection of Loop 337 and Oak Run Parkway



**ORDINANCE NO. 2019-**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS, TEXAS REZONING APPROXIMATELY SIX ACRES OUT OF THE WILLIAM MOCKFORD SURVEY 285, ADDRESSED AT 2850 LOOP 337, FROM “R-2” SINGLE AND TWO-FAMILY DISTRICT TO “C-1B” GENERAL BUSINESS DISTRICT; 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 the “C-1B” General Business District, the City Council has given due consideration to all components of said district; and

**WHEREAS**, it is the intent of the City Council to provide harmony between existing zoning districts and proposed land uses; and

**WHEREAS**, the City Council desires to amend the Zoning Map by rezoning approximately six acres out of the William Mockford Survey 285, addressed at 2850 Loop 337, from “R-2” Single and Two-Family District to “C-1B” General Business District; **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 rezoning the following described tract of land from “R-2” to “C-1B” General Business District:

5.95 acres out of the William Mockford Survey 285, addressed at 2850 Loop 337, as described in Exhibit “A” and delineated in Exhibit “B” attached.

**SECTION 2**

**THAT** all provisions of the Code of Ordinances of the City of New Braunfels not herein amended or repealed shall remain in full force and effect.

### **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 25th day of February, 2019.

**PASSED AND APPROVED:** Second reading this 11th day of March, 2019.

**CITY OF NEW BRAUNFELS**

\_\_\_\_\_  
**BARRON CASTEEL**, Mayor

**ATTEST:**

\_\_\_\_\_  
**PATRICK D. ATEN**, City Secretary

**APPROVED AS TO FORM:**

\_\_\_\_\_  
**VALERIA M. ACEVEDO**, City Attorney



**DESCRIPTION OF  
A 1.804 ACRE TRACT**

A **1.804 acre** tract of land situated in the Andres Sanchez Survey No. 286, Abstract No. 528 and the William Mockford Survey No. 285, Abstract No. 393, in the City of New Braunfels, Comal County, Texas, and being a portion of that called 6.366 acre tract of land conveyed to Richard A. Kiesling and Kimberly D. Kiesling and described in Document No. 200206031434, recorded September 20, 2002 in the Official Public Records of Comal County, Texas, (O.P.R.), said 1.804 acre tract of land being more particularly described by metes and bounds as follows:

**BEGINNING** at  $\frac{1}{2}$ " iron rod found in the northwesterly right-of-way of State Highway Loop 337 (240' R.O.W.) at the southwest corner of said 6.366 acre tract of land and the northeast corner of that called 12.500 acre tract of land conveyed to Bob R. Kiesling and Betty A. Kiesling and described in Document No. 9706001264, recorded January 16, 1997 in the O.P.R., for the southeast corner of the herein described tract of land, whence a found TXDOT Type I monument bears a chord of S 08°03'57" W, a chord length of 680.09 feet;

**THENCE: N 72°30'52" W**, along and with the northeasterly line of said 12.500 acre tract of land and the southwesterly line of said 6.366 acre tract of land, a distance of **300.00 feet** to a  $\frac{1}{2}$ " iron rod with blue plastic cap stamped "KFW SURVEYING" set for the southwest corner of the herein described tract of land, and at the beginning of a non-tangent curve to the right, whence a  $\frac{1}{2}$ " iron rod found for a common corner of said 6.366 acre and 12.500 acre tracts of land bears N 72°30'52" W, a distance of 603.02 feet;

**THENCE:** Over and across said 6.366 acre tract of land, and along and with and the arc of said non-tangent curve to the right being concentric with and offset 300.00 feet northwesterly from the northwesterly right-of-way of said State Highway Loop 337, having a radius of **2325.10 feet**, through a central angle of **07°31'26"**, an arc length of **302.32 feet**, and a chord bearing of **N 21°27'46" E** and a chord length of **305.11 feet** to a point in the northeasterly line of said 6.366 acre tract of land and the southwesterly line of that called 84.3 acre tract of land conveyed to Bob R. Kiesling and Betty A. Kiesling and described in Document No. 200206031433, recorded September 20, 2002 in the O.P.R., for the northwest corner of the herein described tract of land, whence a  $\frac{1}{2}$ " iron rod found for a common corner of said 6.366 acre and 84.3 acre tracts of land bears N 55°59'47" W, a distance of 459.91 feet;

**THENCE: S 55°59'47" E**, along and with the northeasterly line of said 6.366 acre tract of land and the southwesterly line of said 84.3 acre tract of land, a distance of **304.09 feet** to a point in the northwesterly right-of-way of said State Highway Loop 337 and the beginning of a non-tangent curve to the left for the most southerly corner of said 84.3 acre tract of land, and the northeast corner of said 6.366 acre tract of land and the herein described tract of land, whence a found PK nail bears N 66°05'12" W, a distance of 0.41 foot;

**THENCE:** Along and with the northwesterly right-of-way of said State Highway Loop 337 and the arc of said curve to the left having a radius of **2025.10 feet**, through a central angle of **06°10'44"**, an arc length of **218.39 feet**, and a chord bearing of **S 20°49'19" W** and a chord length of **218.28 feet** to the **POINT OF BEGINNING** and containing 1.804 acres or 78,562 square feet more or less, situated in the City of New Braunfels, Comal County, Texas and being described in accordance with a survey prepared by KFW Surveying.

Job No.:	18-129
Prepared by:	KFW Surveying
Date:	December 14, 2018
File:	S:\Draw 2018\18-129 Abiso New Braunfels\DOCS\18-129 Abiso 1.804 ACRES description TCP 121226.doc



**EXHIBIT "A"**



**DESCRIPTION OF  
A 4.147 ACRE TRACT**

A **4.147 acre** tract of land situated in the Andres Sanchez Survey No. 286, Abstract No. 528 and the William Mockford Survey No. 285, Abstract No. 393, in the City of New Braunfels, Comal County, Texas, and being a portion of that called 84.3 acre tract of land conveyed to Bob R. Kiesling and Betty A. Kiesling and described in Document No. 200206031433, recorded September 20, 2002 in the Official Public Records of Comal County, Texas, (O.P.R.), said 4.147 acre tract of land being more particularly described by metes and bounds as follows:

**BEGINNING** at ½" iron rod with blue plastic cap stamped "KFW SURVEYING" set at the intersection of the southwesterly right-of-way of Oak Run Parkway (92' wide R.O.W) as described in WESTPOINTE SUBDIVISION UNIT 1, a subdivision of record in Document No. 200906014170, Map and Plat Records of Comal County, Texas (M.P.R.) with the northwesterly right-of-way of State Highway Loop 337 (240' wide R.O.W.) for the most easterly corner of said 84.3 acre tract of land and the herein described tract of land, whence a ½" iron rod found for the most easterly corner of Lot 1, Block 1, WESTPOINTE SUBDIVISION UNIT 1 bears N 55°59'11"W, a distance of 740.88 feet, thence N 51°25'00" E, a distance of 0.59 foot, and being at the beginning of a curve to the left;

**THENCE:** Along and with the northwesterly right-of-way of said State Highway Loop 337 and the arc of said curve to the left having a radius of **2025.10 feet**, through a central angle of **17°02'37"**, an arc length of **602.40 feet**, and a chord bearing of **S 32°25'59" W** and a chord length of **600.18 feet** to the northeast corner of that called 6.366 acre tract of land conveyed to Richard A. Kiesling and Kimberly D. Kiesling and described in Document No. 200206031434, recorded September 20, 2002 in the O.P.R., for the southeast corner of said 84.3 acre tract of land and the herein described tract of land, whence a found PK nail bears N 66°05'12" W, a distance of 0.41 foot;

**THENCE:** N 55°59'47" W, along and with the northeasterly line of said 6.366 acre tract of land and the southwesterly line of said 84.3 acre tract of land, a distance of **304.09 feet** to the southwest corner of the herein described tract of land, and at the beginning of a non-tangent curve to the right, whence a ½" iron rod found for a common corner of said 6.366 acre and 84.3 acre tracts of land bears N 55°59'47" W, a distance of 459.91 feet;

**THENCE:** Over and across said 84.3 acre tract of land, and along and with and the arc of said non-tangent curve to the right being concentric with and offset 300.00 feet northwesterly from the northwesterly right-of-way of said State Highway Loop 337, having a radius of **2325.10 feet**, through a central angle of **14°49'52"**, an arc length of **601.86 feet**, and a chord bearing of **N 32°38'25" E** and a chord length of **600.18 feet** to a ½" iron rod with blue plastic cap stamped "KFW SURVEYING" set in the southwesterly right-of-way of said Oak Run parkway for the most northerly corner of the herein described tract of land;

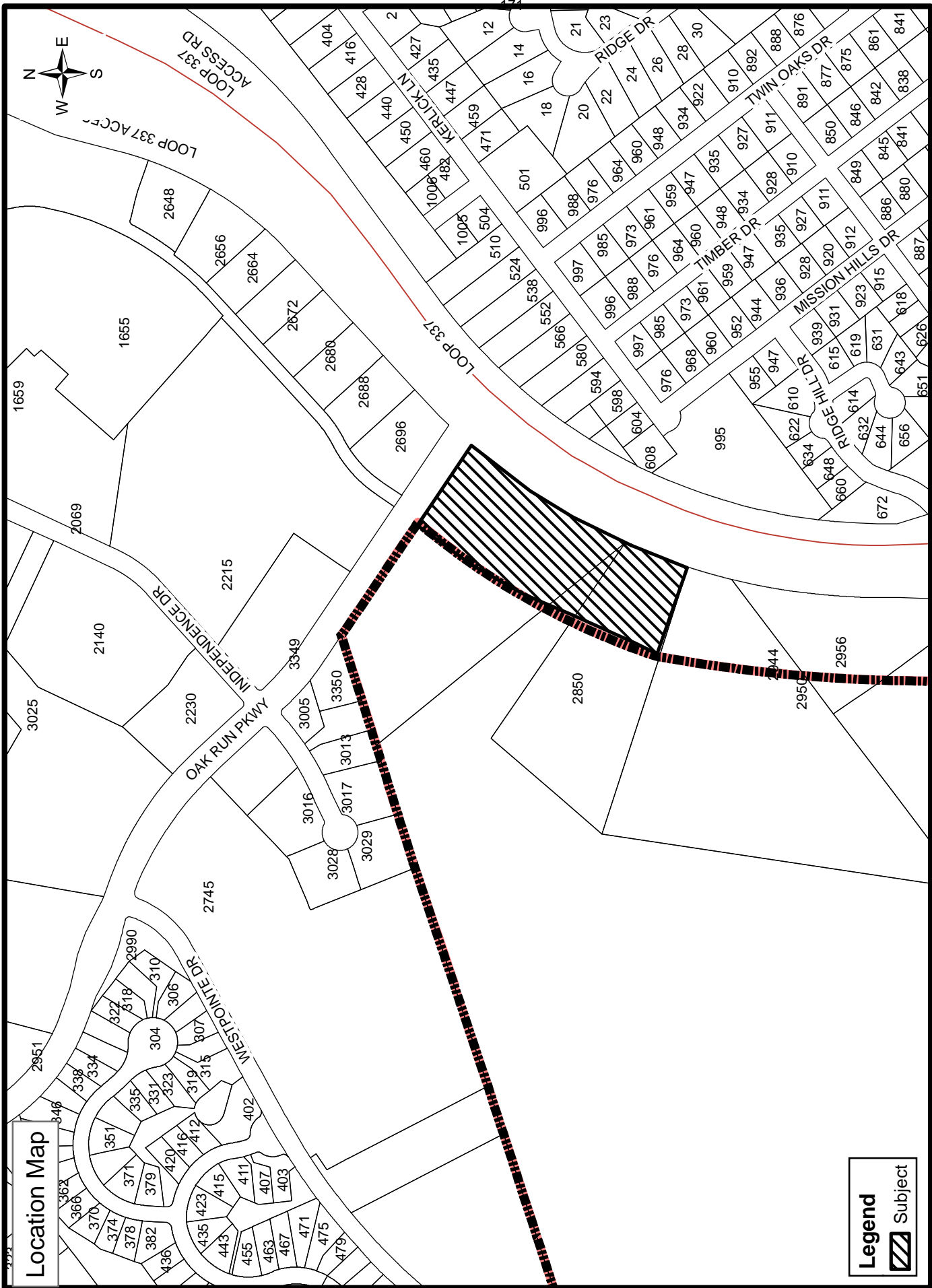
**THENCE:** S 55° 59' 11" E, along and with the southwesterly right-of-way of said Oak Run Parkway and the northeasterly line of said 84.3 acre tract of land, a distance of **301.93 feet** to the **POINT OF BEGINNING** and containing 4.147 acres or 180,632 square feet more or less, situated in the City of New Braunfels, Comal County, Texas and being described in accordance with a survey prepared by KFW Surveying.

  
 21 DEC 2018



Job No.:	18-129
Prepared by:	KFW Surveying
Date:	December 14, 2018
File:	S:\Draw 2018\18-129 Abiso New Braunfels\DOCS\18-129 Abiso 4.147 ACRES description TCP 121418.doc





**PZ-18-049**  
**2850 Loop 337**  
**R-2 to C-1B**







**City Council Agenda Item Report**550 Landa Street  
New Braunfels, TX**7/22/2019**

Agenda Item No. E)

---

**Presenter/Contact***Stacy Snell, Planning and Community Development Assistant Director  
(830) 221-4051 - ssnell@nbtexas.org***SUBJECT:**

Public hearing and first reading of an ordinance regarding the proposed rezoning of approximately 0.80 acres out of the A M Esnaurizar Survey, addressed at 947 State Highway 46 South, from "R-2" Single and Two-family District to "MU-B" High Intensity Mixed Use District.

**BACKGROUND / RATIONALE:****Case No.:** PZ19-0155**Council District:** 5

**Applicant:** Howard and Kelli Guidry  
27014 Rockwall Parkway  
New Braunfels, TX 78132  
(210) 269-5656  
howardbackyardvacation@gmail.com

**Property Owner:** HKC Holding, LLC  
17460 IH-35 N  
Schertz, TX 78154  
(210) 269-5656

**Staff Contact:** Holly Mullins  
(830) 221-4054  
hmullins@nbtexas.org

The subject property, located on State Highway 46 South between Caddell and Alves Lanes, is currently developed with a single-family residence. At one time there were many residential properties fronting Highway 46, but very few remain today. This is the only remaining property zoned R-2 on the east side of Highway 46 between IH-35 and Stone Gate Drive, a distance of approximately 1.3 miles. Zoning on the adjacent property was changed from R-2 to C-1B in 2001; however, use of that property appears to still be residential.

The applicants own a business installing in-ground swimming pools and would like to use the property for their office and showroom, plus equipment storage and a one-bedroom apartment. Their intent is to remodel the existing residential structure for the office and showroom and construct a new building for their living space and storage.

To accommodate this mix of uses, they are requesting the "MU-B" High Intensity Mixed Use

District. MU-B allows opportunities for a mixture of retail, office and industrial uses in close proximity to residential uses, to enable people to live, work and shop in a single location. The applicants' proposal is consistent with this description, on a small scale.

The attached conceptual site plan illustrates the proposed building layout. However, this is not a Special Use Permit request, therefore a site plan cannot be made a part of or condition of the zoning change request. If the requested rezoning is approved all uses allowed in MU-B would be permissible. While "MU-B" allows a mix of uses, mixed-use is not required.

An office/showroom with indoor storage could be accomplished with "C-1B" General Business District zoning, but C-1B does not allow for the residential component.

### **General Information:**

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

North - C-1B/ Single-family residence; formerly a professional office  
 South - C-3/ Commercial (car wash)  
 East - C-3/ Undeveloped  
 West - Across Hwy 46, M-1/ Commercial (auto repair)

#### *Floodplain:*

No portion of the property is within the 1% annual chance flood zone.

#### *Regional Transportation Plan:*

Highway 46 South is identified as a 120-foot wide Major Arterial. The current right-of-way width at this location is approximately 115 feet.

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

<b>City Plan/Council Priority:</b> Envision New Braunfels Comprehensive Plan	<b>Action 1.3:</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.
--	--

### **FISCAL IMPACT:**

N/A

### **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 (*MU-B zoning is appropriate along Major Arterials: with its mixed use component, it can facilitate prevention of strip commercialization of thoroughfares while still allowing for enhanced commercial investment; although some of the permitted uses may not be compatible with the adjacent residential use without setbacks and buffers. Given the size and location of the property, it is unlikely to be used for the more intense MU-B uses such as fairgrounds, truck terminal with outside freight storage, or heliport. Converting use of the subject property from residential to commercial will trigger buffering requirements where adjacent to residential use.*);

- 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 zoning should not conflict with existing and proposed schools, street, or utilities in the area.);*
- How other areas designated for similar development will be affected *(The proposed zoning should not impact other areas designated for similar development other than providing opportunities for positive market competition.);*
- Any other factors that will substantially affect the public health, safety, morals, or general welfare *(There should be no other factors that will substantially affect the public health, safety, morals, or general welfare.);* and
- Whether the request is consistent with the Comprehensive Plan *(The subject property lies within the Oak Creek Sub Area, a Transitional Mixed-Use Corridor (Highway 46), and existing and future Employment Centers.)*

**COMMITTEE RECOMMENDATION:**

The Planning Commission held a public hearing on July 2, 2019 and unanimously recommended approval of the rezoning request. (9-0-0)

**STAFF RECOMMENDATION:**

The requested MU-B zoning is consistent with the Transitional Mixed-Use Corridor designation of the Future Land Use Plan and buffering requirements should mitigate any potential impact on adjacent residential use. Therefore, staff recommends approval of the requested rezoning.

**Notification:**

Public hearing notices were sent to 8 owners of property within 200 feet. The City has received no responses to date.

**Attachments:**

1. Aerial Map
2. Application and Conceptual Site Plan
3. Land Use Maps (Zoning, Existing Land Use, Future Land Use Plan)
4. Notification Map
5. Sec. 3.4-11 MU-B
6. Photograph
7. Draft Minutes
8. Ordinance





Aerial Map

**Legend**

- Subject

**Regional Transportation Plan**

- Principal Arterial (150')
- Minor Arterial (120')
- Minor Arterial - Proposed
- Minor Collector (60')
- Minor Collector - Proposed

PZ19-0155  
947 Hwy 46 South  
R-2 to MU-B





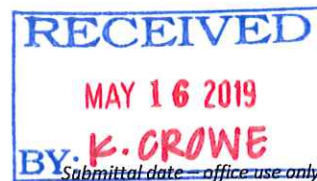


**Planning & Community Development Department  
Planning Division**

550 Landa St. New Braunfels, TX 78130  
(830) 221-4050 www.nbtexas.org

177

CC/Cash/Check No.: 2919 Case No.: PZ19-0155  
Amount Recd. \$ 1030  
Receipt No.: 2169



## Zone Change Application

Any application that is missing information will be considered incomplete and will not be processed.

1. Applicant - If owner(s), so state; If agent or other type of relationship, a letter of authorization must be furnished from owner(s) at the time submitted.

Name: Howard and Kelli Guidry

Mailing Address: 27014 Rockwall Pkwy, New Braunfels TX 78132

Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_ Mobile: 210-269-5656

Email: Howardbackyardvacation@gmail.com

2. Property Address/Location: 947 Highway 46 S, New Braunfels TX 78130

3. Legal Description:

Name of Subdivision: \_\_\_\_\_

Lot(s): \_\_\_\_\_ Block(s): \_\_\_\_\_ Acreage: .78

4. County: ☒ Comal ☐ Guadalupe School District: ☐ CISD ☐ NBISD ☐ OTHER: \_\_\_\_\_

5. Is the property located in the floodway or floodplain: ☐ YES ☐ NO

6. Existing Use of Property: residence

7. Zoning Change Request:

Current Zoning: R2

Proposed Zoning: MU-B

8. Proposed Use of Property and/or Reason for request (attach additional or supporting information if necessary):

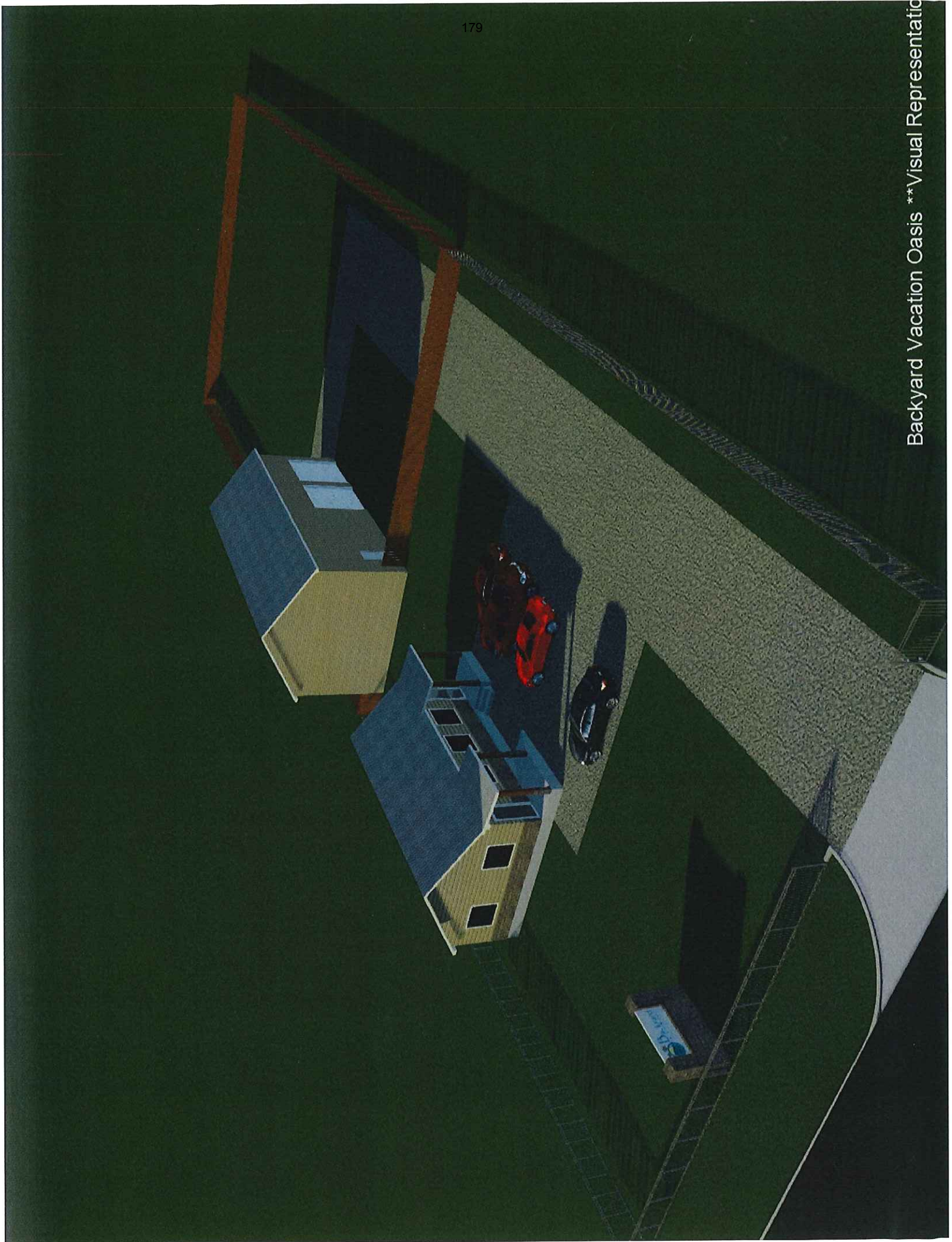
We own Backyard Vacation Oasis, LLC, we install inground swimming pools. We want to use the property for our showroom/Office /small one bedroom Apartment / equipment Storage.

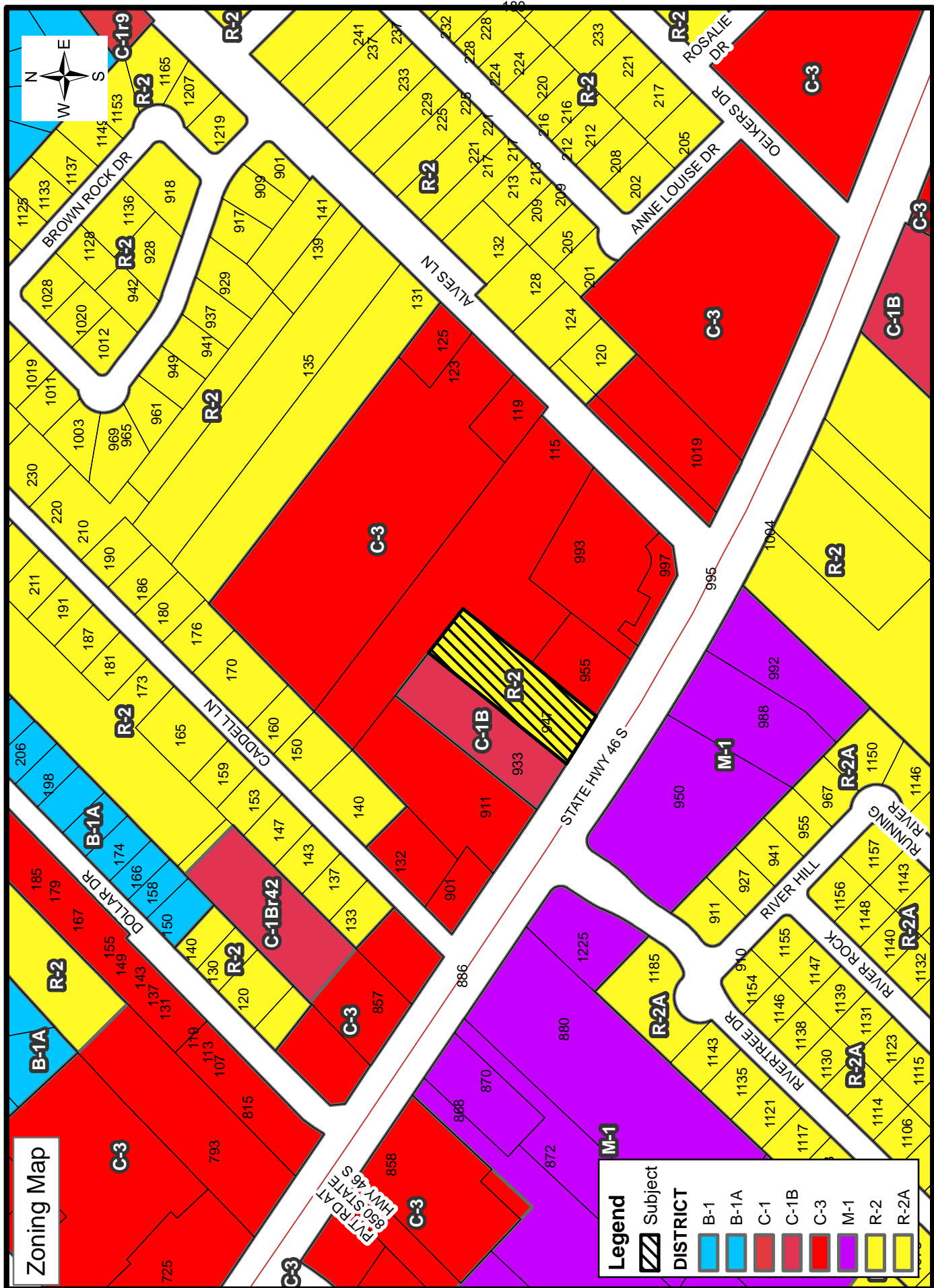




Backyard Vacation Oasis \*\*Visual Representation







**PZ19-0155**  
**947 Hwy 46 South**  
**R-2 to MU-B**









## EXISTING CENTERS

Centers are the middle, core or heart of an area. It is a point of activity and vitality. Centers come in many sizes and have different purposes or activities within. They may have endangered species habitat or aquifer recharge areas that require additional standards and consideration relating to future growth. It is envisioned that all centers be walkable, connected, and have a mix of uses. These centers must provide adequate infrastructure to support the commercial development present especially mobility and access for pedestrians, bicycles, vehicles and transit. Given the mixed-use nature of these centers, parking should be shared and not detract from the aesthetic of the area.

### ● EMPLOYMENT CENTER

Employment Centers are mixed-use areas centered around office or industrial uses that can support significant employment.

### ● MARKET CENTER

Market Centers are mixed-use areas anchored by a retail destination where surrounding residents go to get daily goods and services.

### ● MEDICAL CENTER

Medical Centers are mixed-use areas centered around a medical destination such as a hospital or clinic.

### ● CIVIC CENTER

Civic Centers are mixed-use areas centered around a civic destination such as City Hall, a library or a recreation center.

### ● OUTDOOR RECREATION CENTER

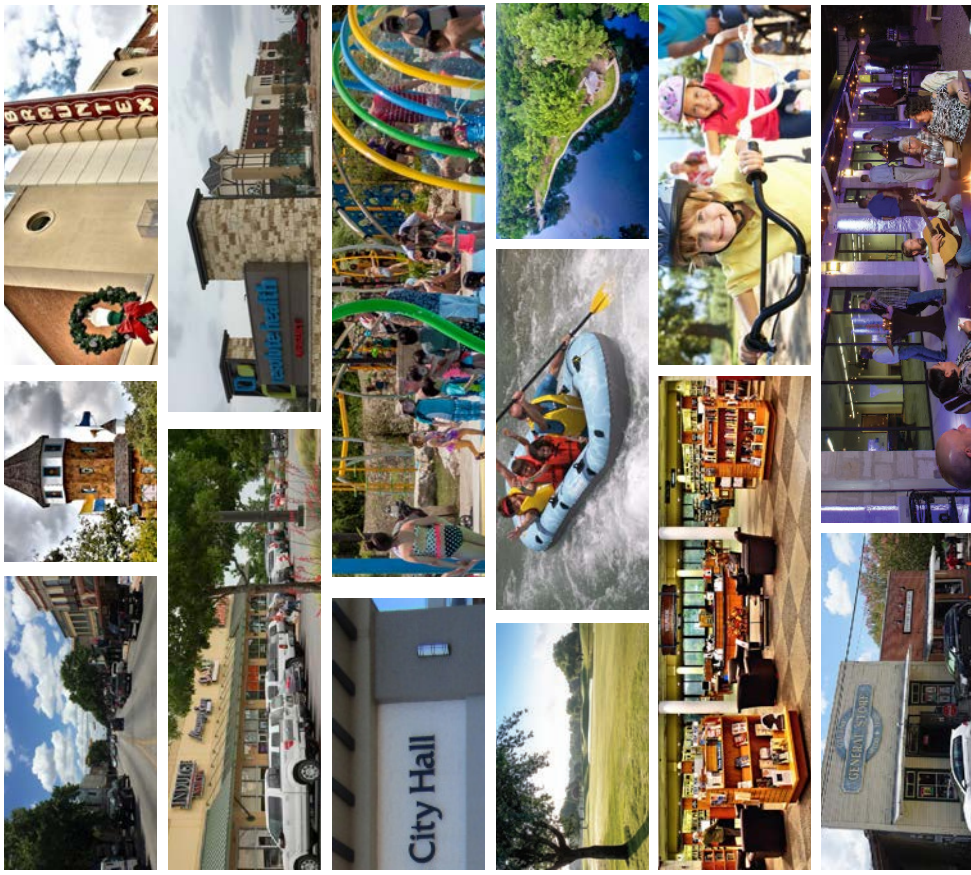
Outdoor Recreation Centers center around a public or private outdoor destination such as Landa Lake.

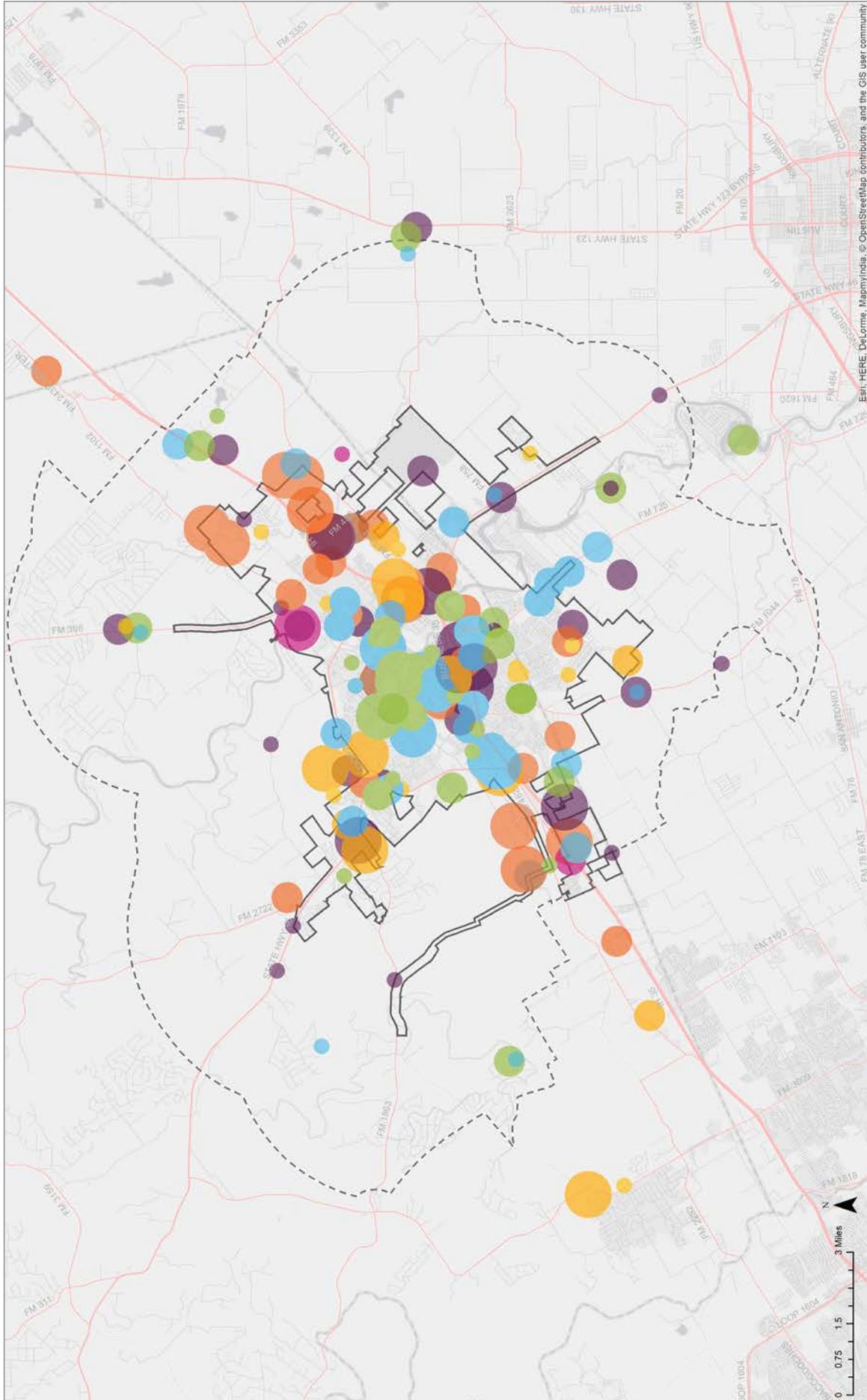
### ● EDUCATION CENTER

Education Centers are mixed-use areas centered around an educational destination such as a K-12 school or university/college.

### ● TOURIST/ENTERTAINMENT CENTER

Tourist/Entertainment Centers are mixed-use areas around an entertainment venue such as Gruene Hall or a tourist destination such as the Tube Chute.





The location of existing centers was determined through the analysis of previous studies and background documents, and reviewed by City staff, Steering Committee members, and Plan Element Advisory Group members during a public workshop.

# FUTURE LAND USE PLAN

A future land use plan is how land is envisioned to be. It establishes priorities for more detailed plans (sub area plans) and for detailed topical plans (such as parks and open spaces, trails and roads). It cannot be interpreted without the goals and actions of Envision New Braunfels.

## TRANSITIONAL MIXED-USE CORRIDOR

Transitional Mixed-Use Corridors express an aspiration to retrofit existing auto-dominated retail corridors with a mix of uses and a variety of travel modes over time.

## OUTDOOR RECREATION CENTER

Outdoor Recreation Centers are centered around a public or private outdoor destination like Fischer Park.

## EMPLOYMENT CENTER

Employment Centers are mixed-use areas centered around office or industrial uses that can support significant employment.

## MARKET CENTER

Market Centers are mixed-use areas anchored by a retail destination where surrounding residents go to get daily goods and services.

## CIVIC CENTER

Civic Centers are mixed-use areas centered around a civic destination such as City Hall, a library or a recreation center.

## SUB AREA 1

Sub Area 1 includes the Downtown, Gruene and the Mid-Century or older neighborhoods that surround them. It is home to the natural springs and headwaters of flowing rivers that have attracted New Braunfelsers to the town for centuries.

## SUB AREA 2

Sub Area 2 refers to the neighborhoods and residential enclaves that have grown alongside the Hill Country landscape.

## SUB AREA 3

Sub Area 3 includes a planned community offering a diversity of housing, distinct community centers and preserved Hill Country landscape features.

## SUB AREA 4

At the heart of Sub Area 4 is Fischer Park. Proximity to IH-35, downtown and neighboring communities like McQueeney makes this area highly desirable and accessible.

## SUB AREA 5

Sub Area 5 bridges together many communities east of IH-35. It includes the scenic landscape along both banks of the Guadalupe River between Highway 46 and FM 725.

## SUB AREA 6

Sub Area 6 expresses an aspiration for conservation communities focused around maintaining and enhancing ecological integrity while allowing some level of development to occur.

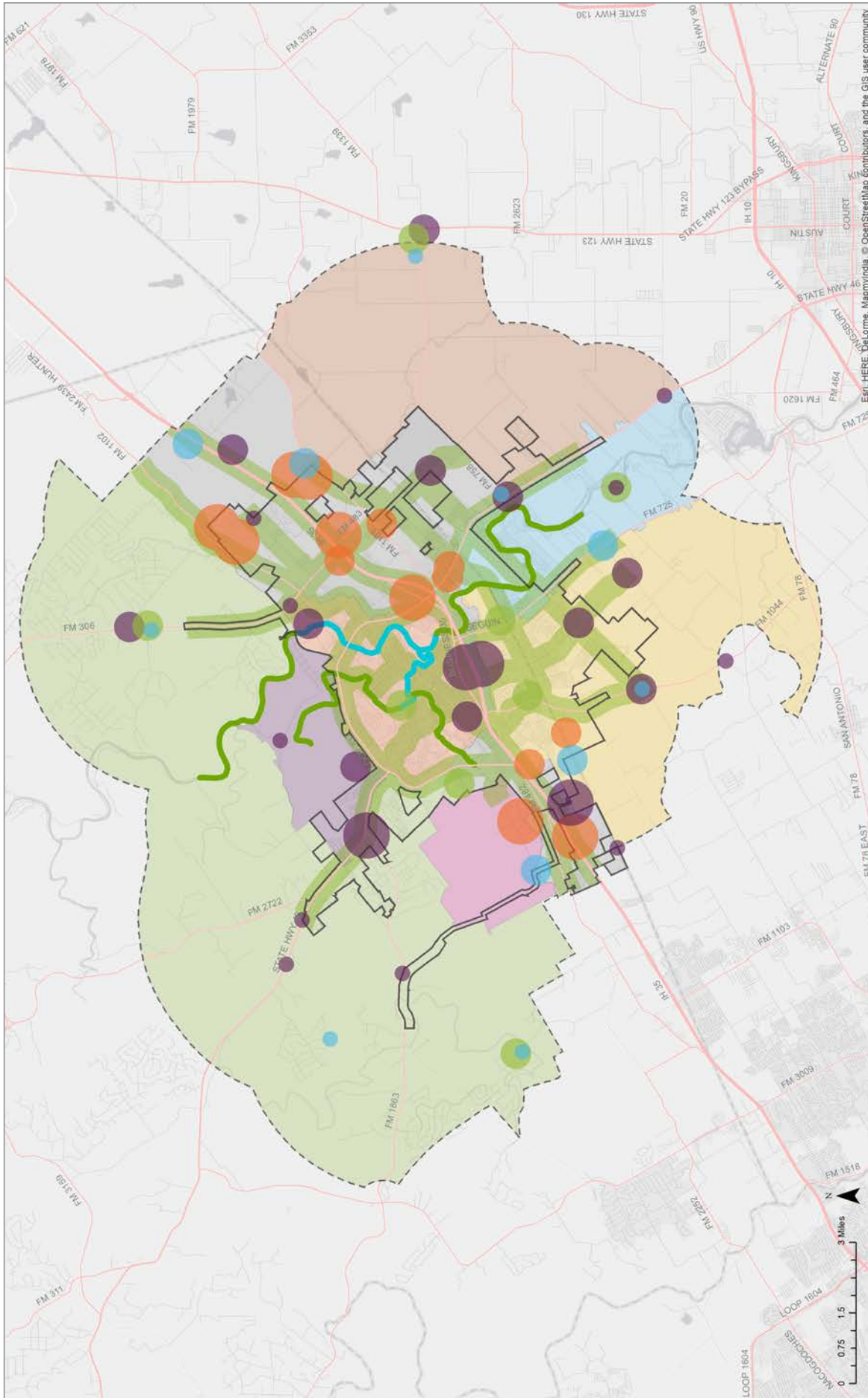
## SUB AREA 7

Sub Area 7 includes parts of the city currently being mined for natural resources. These sites may become parks and open space, mixed-use communities or new commercial or entertainment areas in the future.

## SUB AREA 8

This fast-growing Sub Area includes many neighborhoods offering affordable places for young families to live.





A Comprehensive Plan shall not constitute zoning regulations or establish zoning district boundaries. Preferred future growth scenario combines Scenarios A and C per recommendations of the Envision New Braunfels Steering Committee (February 2018). Exact boundaries of sub areas, centers, and corridors may be [zoomed and viewed online](#).

**PLANNING COMMISSION – July 2, 2019 – 6:00PM**

New Braunfels City Hall Council Chambers

**Applicant:** Howard & Kelli Guidry**Address/Location:** 947 Highway 46 South**PROPOSED ZONE CHANGE – CASE #PZ19-0155**

Circled numbers on the map correspond to the property owners listed below. All information is from the Appraisal District Records. The property under consideration is marked as “Subject”.

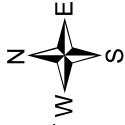
1. Alves Ln Park LLC
2. TIFDOM LLC
3. NB Kaffee Investments LLC
4. NB Wash LLC
5. CZCNB LLC
6. Suntech Building Systems Inc
7. Sanchez Francisco & Yslendia M
8. Nationwide DG McAllen Inc

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**SEE MAP**



# Notification Map



**Legend**

- Subject
- 200' Buffer Area

**PZ19-0155**  
**947 Hwy 46 South**  
**R-2 to MU-B**



### 3.4-11. "MU-B" high intensity mixed use district.

*Purpose.* The MU-B High Intensity Mixed Use District is intended to provide for a mixture of more intense retail, office, and industrial uses in close proximity to enable people to live, work and shop in a single location. Bed-and-breakfast establishments could also be located in this district. Pedestrian walkways and open areas are desired in order to promote a pedestrian-friendly environment.

- (a) *Authorized uses.* Uses permitted by right shall be those set forth in the Land Use Matrix in Section 4 of this Chapter. The allowed uses in the district, which are intended to be identical with those listed in the Land Use Matrix, are as follows

(1) *Uses permitted by right:*

**Residential uses:**

Accessory building/structure  
Bed and breakfast inn (see Sec. 5.6)  
Boardinghouse/lodging house  
Community home (see definition)  
Dormitory (in which individual rooms are for rental)  
Hospice

Multifamily (apartments/condominiums – at least five units)  
Rental or occupancy for less than one month (see Sec. 5.17)  
Residential use in buildings with the following non-residential uses  
Townhouse (at least five lots)

**Non-residential uses:**

Accounting, auditing, bookkeeping, and tax preparations  
Adult day care (no overnight stay)  
Adult day care (with overnight stay)  
Aircraft support and related services  
Airport  
All terrain vehicle (ATV) dealer / sales  
Ambulance service (private)  
Amphitheater  
Amusement devices/arcade (4 or more devices)  
Amusement services or venues (indoors) (see Sec. 5.13)  
Amusement services or venues (outdoors)  
Animal grooming shop  
Answering and message services  
Antique shop  
Appliance repair  
Archery range  
Armed services recruiting center  
Art dealer / gallery  
Artist or artisan's studio  
Assembly/exhibition hall or areas  
Assisted living facility / retirement home  
Athletic fields  
Auction sales (non-vehicle)  
Auto body repair, garages (see Sec. 5.11)  
Auto glass repair/tinting (see Sec. 5.11)  
Auto interior shop / upholstery (see Sec. 5.11)  
Auto leasing  
Auto muffler shop (see Sec. 5.11)  
Auto or trailer sales rooms or yards (Sec. 5.12)  
Auto or truck sales rooms or yards - primarily new (see Sec. 5.12)

Auto paint shop  
Auto repair as an accessory use to retail sales  
Auto repair garage (general) (see Sec. 5.11)  
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 union  
Bar/Tavern  
Barber/beauty college (cosmetology school)  
Barber/beauty shop, haircutting (non-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  
Blacksmith or wagon shops  
Book binding  
Book store  
Bottling or distribution plants (milk)  
Bottling works  
Bowling alley/center (see Sec. 5.13)  
Broadcast station (with tower) (see Sec. 5.6)  
Bus barns or lots  
Bus passenger stations  
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  
Chemical laboratories (not producing noxious fumes or odors)  
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  
Cold storage plant  
Commercial amusement concessions and facilities  
Communication equipment - installation or repair  
Computer and electronic sales  
Computer repair  
Confectionery store (retail)  
Consignment shop  
Contractor's office/sales, with outside storage including vehicles  
Contractor's temporary on-site construction office (only with permit from Building Official; see Sec. 5.10)  
Convenience store with or without fuel sales  
Country club (private)  
Credit agency  
Curio shops  
Custom work shops  
Dance hall / dancing facility (see Sec. 5.13)  
Day camp  
Department store  
Drapery shop / blind shop  
Driving range  
Drug sales/pharmacy  
Electrical repair shop  
Electrical substation  
Electronic assembly/high tech manufacturing  
Electroplating works  
Engine repair, manufacturing/re-manufacturing  
Exterminator service  
Fair ground  
Farmers market (produce market - wholesale)  
Farms, general (crops) (see Chapter 6, Municipal Code and Sec. 5.9)  
Farms, general (livestock/ranch) (see Chapter 6, Municipal Code and Sec. 5.9)  
Feed and grain store  
Filling station (tanks must be below the ground)  
Florist  
Food or grocery store with or without fuel sales

Food processing (no outside public consumption)  
Forge (hand)  
Forge (power)  
Fraternal organization/civic club (private club)  
Freight terminal, rail/truck (when any storage of freight is outside an enclosed building)  
Freight terminal, truck (all storage of freight in an enclosed building)  
Frozen food storage for individual or family use  
Funeral home/mortuary  
Furniture manufacture  
Furniture sales (indoor)  
Galvanizing works  
Garden shops and greenhouses  
Golf course (public or private)  
Golf course (miniature)  
Governmental building or use with no outside storage  
Greenhouse (commercial)  
Handicraft shop  
Hardware store  
Health club (physical fitness; indoors only)  
Heating and air-conditioning sales / services  
Heavy load (farm) vehicle sales/repair (Sec. 5.14)  
Heliport  
Home repair and yard equipment retail and rental outlets  
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)  
Ice plants  
Industrial laundries  
Kiosk (providing a retail service)  
Laboratory equipment manufacturing  
Laundromat and laundry pickup stations  
Laundry, commercial (w/o self serve)  
Laundry/dry cleaning (drop off/pick up)  
Laundry/washateria (self serve)  
Lawnmower sales and/or repair  
Leather products manufacturing  
Light manufacturing  
Limousine / taxi service  
Locksmith  
Lumberyard (see Sec. 5.15)  
Lumberyard or building material sales (Sec. 5.15)  
Machine shop  
Maintenance/janitorial service  
Major appliance sales (indoor)  
Manufactured home sales  
Manufacturing and processes  
Market (public, flea)  
Martial arts school  
Medical supplies and equipment

Metal fabrication shop	Recreation buildings (public or private)
Micro brewery (onsite manufacturing and sales)	Recycling kiosk
Mini-warehouse/self storage units (with or without outside boat and RV storage)	Refreshment/beverage stand
Motion picture studio, commercial film	Research lab (non-hazardous)
Motion picture theater (indoors)	Restaurant with drive through
Motion picture theater (outdoors, drive-in)	Restaurant/prepared food sales
Motorcycle dealer (primarily new / repair)	Retail store and shopping center
Moving storage company	Retirement home/home for the aged
Moving, transfer, or storage plant	Rodeo grounds
Museum	RV park
Needlework shop	RV/travel trailer sales
Non-bulk storage of fuel, petroleum products and liquefied petroleum	School, K-12 (public or private)
Nursing/convalescent home/sanitarium	School, vocational (business/commercial trade)
Offices, brokerage services	Security monitoring company
Offices, business or professional	Security systems installation company
Offices, computer programming/ data processing	Sheet metal shop
Offices, consulting	Shoe repair shops
Offices, engineering, architecture, surveying or similar	Shooting gallery - indoor (see Sec. 5.13)
Offices, health services	Shopping center
Offices, insurance agency	Sign manufacturing/painting plant
Offices, legal services - including court reporting	Specialty shops in support of project guests and tourists
Offices, medical offices	Storage - exterior storage for boats and recreational vehicles
Offices, real estate	Storage in bulk
Offices, security/commodity brokers, dealers, exchanges and financial services	Studio for radio or television (with tower) (see Sec. 5.7)
Outside storage (as primary use)	Studios (art, dance, music, drama, reducing, photo, interior decorating, etc.)
Park and/or playground (private or public)	Tailor shop
Parking lots (for passenger car only) (not as incidental to the main use)	Tattoo or body piercing studio
Parking structure / public garage	Taxidermist
Pawn shop	Telemarketing agency
Personal watercraft sales (primarily new / repair)	Telephone exchange (office and other structures)
Pet shop / supplies (10,000 sq. ft. or less)	Tennis court (commercial)
Pet store (more than 10,000 sq. ft.)	Theater (non-motion picture; live drama)
Photo engraving plant	Tire sales (outdoors)
Photographic printing/duplicating/copy shop	Tool rental
Photographic studio (no sale of cameras or supplies)	Transfer station (refuse/pick-up)
Photographic supply	Travel agency
Plant nursery	Truck or transit terminal (with outside storage)
Plant nursery (growing for commercial purposes with retail sales on site)	Truck Stop
Plastic products molding/reshaping	University or college (public or private)
Plumbing shop	Upholstery shop (non-auto)
Portable building sales	Used or second hand merchandise/furniture store
Propane sales (retail)	Vacuum cleaner sales and repair
Public recreation/services building for public park/playground areas	Veterinary hospital with or without outside animal runs or kennels) with the exception that outdoor kennels may not be used between the hours of 9:00 p.m. and 7:00 a.m. and are prohibited adjacent to residential
Publishing/printing company (e.g., newspaper)	Video rental / sales
Quick lube/oil change/minor inspection	Warehouse/office and storage/distribution center
Radio/television shop, electronics, computer repair	Waterfront amusement facilities - berthing facilities sales and rentals
Rappelling facilities	

Waterfront amusement facilities - boat fuel storage / dispensing facilities  
 Waterfront amusement facilities - boat landing piers/launching ramps  
 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  
 Welding shop  
 Wholesale sales offices and sample rooms  
 Woodworking shop (ornamental)

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

- (2) *Conflict.* In the event of conflict between the uses listed in the Land Use Matrix and those listed in Subsection (1), the uses listed in this subsection shall be deemed those authorized in the district.

(b) *Maximum height, minimum area and setback requirements:*

(1) Non-residential uses.

- (i) *Height.* 120 feet.
- (ii) *Front building setback.* No front building setback required.
- (iii) *Side building setback.* No side building setback is required.
- (iv) *Rear building setback.* Five feet minimum with an additional two feet required for each story above 24 feet, up to a maximum setback of 25 feet; there shall be no encroachment or overhangs into this required rear building setback.
- (v) *Residential setback.* Where a non-residential building or a multifamily development of more than three units abuts a one or two family use or zoning district, the setback from the residential property line shall be at least 20 feet plus one foot for each foot of building height over 20 feet.
- (vi) *Minimum lot area.* The minimum internal lot area shall be 6,000 square feet or 7,000 square feet for a corner lot.
- (viii) *Minimum lot frontage:* 60 feet.
- (ix) *Lot depth.* 100 feet.
- (x) *Parking.* See Section 5.1 for other permitted uses' parking.

(2) Multifamily dwellings.

- (i) *Height.* 120 feet.
- (ii) *Front building setbacks.* 25 feet.
- (iii) *Rear building setback.* 25 feet.
- (iv) *Side building setback.* A side building setback of 20 feet shall be provided. Buildings on corner lots shall have 15-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the rear lot lines of the adjacent lots. Buildings on corner lots shall have 25-foot side building setbacks adjacent to the street where the rear lines of the corner lots coincide with the side lot lines of the adjacent lots.



- (v) *Garage setback.* Where a driveway is located in front of a garage, the garage shall be setback 20 feet from the right-of-way or the driveway to the garage shall be at least 20 feet long to provide enough space for a vehicle to park without overhanging into the right-of-way, if the garage door is closed. (See Illustration 8 in Sec. 5.1-1)
- (vi) *Parking and accessory uses.* Parking may encroach into the interior side and rear building setback as long as a solid screening fence or wall of six to eight feet in height is erected along the interior side and rear property lines. Accessory uses such as swimming pools, tennis courts and playgrounds will not be permitted within any required yard.
- (vii) *Width of lot.* The minimum width of an interior lot shall be 60 feet and the minimum width of a corner lot shall be 70 feet.
- (viii) *Density.* No maximum.
- (ix) *Lot area* 20,000 square feet.
- (x) *Lot coverage.* The combined area of all yards shall not be less than 50 percent of the total lot or tract; provided however, that in the event enclosed or covered parking is provided, the minimum total yard area requirement shall be 40 percent of the total lot or tract.
- (xi) *Distance between structures.* There shall be a minimum of 10 feet between structures side by side; a minimum of 20 feet between structures side by front or rear; a minimum of 40 feet between structures front to front; a minimum of 20 feet between structures backing rear to rear, and a minimum of 20' between structures front to rear. (See Illustration 1)
- (xii) *Access to an arterial roadway or state highway required.* Developments in this district must have direct access to either an arterial roadway or state highway.
- (xiii) *Lot depth.* 100 feet.
- (xiv) *Parking.*  
For apartments, apartment hotel units and other multifamily dwellings, off-street parking spaces shall be provided in accord with the following schedule:
  - 1. One-bedroom apartment or unit: 1 1/2 spaces
  - 2. Two-bedroom apartment or unit: 2 spaces
  - 3. Each Additional bedroom: 1/2 space
  - 4. Each dwelling unit provided exclusively for low income elderly occupancy: 3/4 space ("Low income elderly" is defined as any person 55 years of age or older with low or moderate income, according to HUD standards.)

See Section 5.1 for other permitted uses' parking.

(3) Townhouses.

- (i) *Height.* 35 feet.
- (ii) *Front building setback.* 10 feet. If front entry garages/carports are provided, a minimum front yard of 20 feet shall be provided to the garage/carport.

- (iii) *Side building setback.* No side building setbacks are required for interior lots except the minimum distance between two building groups shall be 20 feet and the minimum distance between a building group and any abutting subdivision boundary or zoning district boundary line shall be 20 feet. Buildings on corner lots shall have 15-foot side building setbacks adjacent to the street, except where the rear lot line of a corner lot coincides with a side lot line of an adjacent lot, then 25-foot minimum side yards adjacent to the street shall be provided.
- (iv) *Garage setback.* Where a driveway is located in front of a garage, the garage shall be setback 20 feet from the right-of-way or the driveway to the garage shall be at least 20 feet long to provide enough space for a vehicle to park without overhanging into the right-of-way, if the garage door is closed. (See Illustration 8 in Sec. 5.1-1)
- (v) *Rear building setback.* No building shall be constructed closer than ten feet from the rear property line. If the rear of the lots abut any other residential zoning district, the rear building setback shall have a minimum depth of 20 feet.
- (vi) *Width of lot.* Interior lots shall have a minimum width of 25 feet. Corner lots shall have a minimum width of 40 feet except where the rear lot line of a corner lot coincides with a side lot line of an adjacent lot, then the corner lot shall have a minimum width of 50 feet.
- (vii) *Lot depth.* 100 feet.
- (viii) *Lot area per family.* 2,500 square feet.
- (ix) *Common open space.* A minimum of 250 square feet of common open space per lot shall be provided within the townhouse project. In computing the required common open space, individually owned townhouse lots, required front, rear, or side setbacks, streets, alleys, or public rights-of-way of any kind, vehicular drives, parking areas, service drives, or utility easements containing or permitting overhead pole carried service shall not be included. Drainage easements and detention ponds may be used in computing common open space.
- (x) *Building group.* There shall be no less than five lots. There shall be no less than two nor more than eight individual dwelling units in each building or dwelling group. Each building group shall be at least 20 feet from any other building group, measured from the nearest points of their foundations. Each building or building group shall be at least 20 feet from any subdivision or zoning district boundary line.
- (xi) *Accessory buildings.* Any detached accessory buildings permitted, except carports open on at least two sides, shall be set at least three feet away from the side lot line unless their walls are equal in fire resistance to the common walls of the main structure. Detached carports, open on at least two sides, may be built to the property line with no common wall required. Rear building setback for an accessory building shall be three feet. Any accessory building permitted in district "R-1" shall be permitted in district "TH."
- (xii) *Parking.* There shall be at least two off-street parking spaces for each townhouse. See Section 5.1 for other permitted uses' parking.



Subject Property from Highway 46 South

**Draft Minutes for the July 2, 2019 Planning Commission Regular Meeting****Public hearing and recommendation to City Council regarding the proposed rezoning of 0.78 acres addressed at 947 State Highway 46 South, from "R-2" Single and Two-family District to "MU-B" High Intensity Mixed Use District.**

(Applicant: Howard and Kelli Guidry; Holly Mullins, Sr. Planner)

Mrs. Mullins summarized the request and stated Staff recommended approval.

Commissioner Sonier returned to the dais at 7:11 p.m.

Commissioner Meyer left the dais at 7:11 p.m.

Commissioner Meyer returned to the dais at 7:12 p.m.

Chair Edwards invited the applicant to speak.

Howard Guidry, 2014 Rockwell Parkway, stated he was the applicant. Mr. Rockwell explained the intent for his request and stated the Commission may ask him any questions they have.

Chair Edwards asked if anyone wished to speak in favor.

No one spoke.

Chair Edwards asked if anyone wished to speak in opposition.

No one spoke.

Motion by Commissioner Laskowski, seconded by Commission Gibson, to close the public hearing. Motion carried (9-0-0).

Motion by Commissioner Sonier, seconded by Commissioner Mathis, to recommend approval to City Council regarding the proposed rezoning of 0.78 acres addressed at 947 State Highway 46 South, from "R-2" Single and Two-family District to "MU-B" High Intensity Mixed Use District. Motion carried (9-0-0).

**ORDINANCE NO. 2019-**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS, TEXAS REZONING APPROXIMATELY 0.8 ACRES OUT OF THE A. M. ESNAURIZAR SURVEY NO. 1, ADDRESSED AT 947 STATE HIGHWAY 46 SOUTH, FROM “R-2” SINGLE AND TWO-FAMILY DISTRICT TO “MU-B” HIGH INTENSITY MIXED USE DISTRICT; 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 the “MU-B” High Intensity Mixed Use District, the City Council has given due consideration to all components of said district; and

**WHEREAS**, it is the intent of the City Council to provide harmony between existing zoning districts and proposed land uses; and

**WHEREAS**, the City Council desires to amend the Zoning Map by rezoning 0.808 acres out of the A. M. Esnaurizar Survey, addressed at 947 State Highway 46 South, from “R-2” Single and Two-family District to “MU-B” High Intensity Mixed Use District; **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 rezoning the following described tract of land from “R-2” to “MU-B” High Intensity Mixed Use District:

0.808 acres out of the A. M. Esnaurizar Survey No. 1, Abstract No. 98, addressed at 947 State Highway 46 South, as described in Exhibit “A” and delineated on Exhibit “B” attached.

**SECTION 2**

**THAT** all provisions of the Code of Ordinances of the City of New Braunfels not herein amended or repealed shall remain in full force and effect.



**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 22nd day of July, 2019.

**PASSED AND APPROVED:** Second reading this 12th day of August, 2019.

**CITY OF NEW BRAUNFELS**

\_\_\_\_\_  
**BARRON CASTEEL**, Mayor

**ATTEST:**

\_\_\_\_\_  
**PATRICK D. ATEN**, City Secretary

**APPROVED AS TO FORM:**

\_\_\_\_\_  
**VALERIA M. ACEVEDO**, City Attorney

# METES AND BOUNDS

Being 0.808 acres of land, more or less, out of the Antonio Maria Esnaurizar Survey No. 1, Abstract No. 98, Comal County, Texas, and being that same tract of land described in Deed recorded in Document No. 201806033943, Official Public Records of Comal County, Texas, said 0.808 acres being more particularly described by metes and bounds as follows:

**BEGINNING** at a 1/2 inch iron rod found for the South corner of this 0.808 acres, same being the West corner of Lot 1, Block 1, North Plaza Business Park (Volume 8, Page 395) and on the northeast Right-of-Way of State Highway 46, on a curve to the right with a radius of 5670.00 feet and the **POINT OF BEGINNING**;

**THENCE** along said State Highway 46 and said curve to the right, an arc length of 105.35 feet (called 105 feet), a chord length of 105.34 feet, a chord bearing of North 58 degrees 07 minutes 05 seconds West, and a delta angle of 1 degrees 03 minutes 52 seconds to a point for the West corner of this 0.808 acres, same being the south corner of the CZCNB, LLC 0.841 acre tract (Document No. 201806028869), from which a metal fence post bears, North 34 degrees 59 minutes 31 seconds West, 4.71 feet;

**THENCE** along the line common to this 0.808 acres and said CZCNB 0.841 acres, North 38 degrees 14 minutes 37 seconds East (called North 39 degrees 29 minutes East), a distance of 340.48 feet (called 341 feet) to a point for the North corner of this 0.808 acres, same being the East corner of said CZCNB 0.841 acres and on the southwest line of the TIFDOM, LLC 2.629 acre tract (Document No. 20160642168), from which a wood fence post bears, North 37 degrees 47 minutes 38 seconds West, 4.14 feet;

**THENCE** along the lines common to this 0.808 acres and said TIFDOM 2.629 acres the following courses and distances:

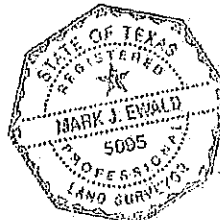
South 52 degrees 44 minutes 23 seconds East (called South 51 degrees 30 minutes East), a distance of 105.00 feet to a 3/8 inch iron rod found for the East corner of this 0.808 acres;

South 38 degrees 17 minutes 37 seconds West (called South 39 degrees 29 minutes West), a distance of 330.61 feet (called 331 feet) to the **POINT OF BEGINNING**, and containing 1.00 acres of land, more or less.

I hereby certify that these field notes were prepared from an actual survey made on the ground under my supervision and are true and correct to the best of my knowledge and belief. A survey plat of the above described tract prepared this day is hereby attached to and made a part hereof. Bearings shown herein are based on actual GPS observations, Texas State Plane Coordinate, South Central Zone, Grid.

*Mark J. Ewald*

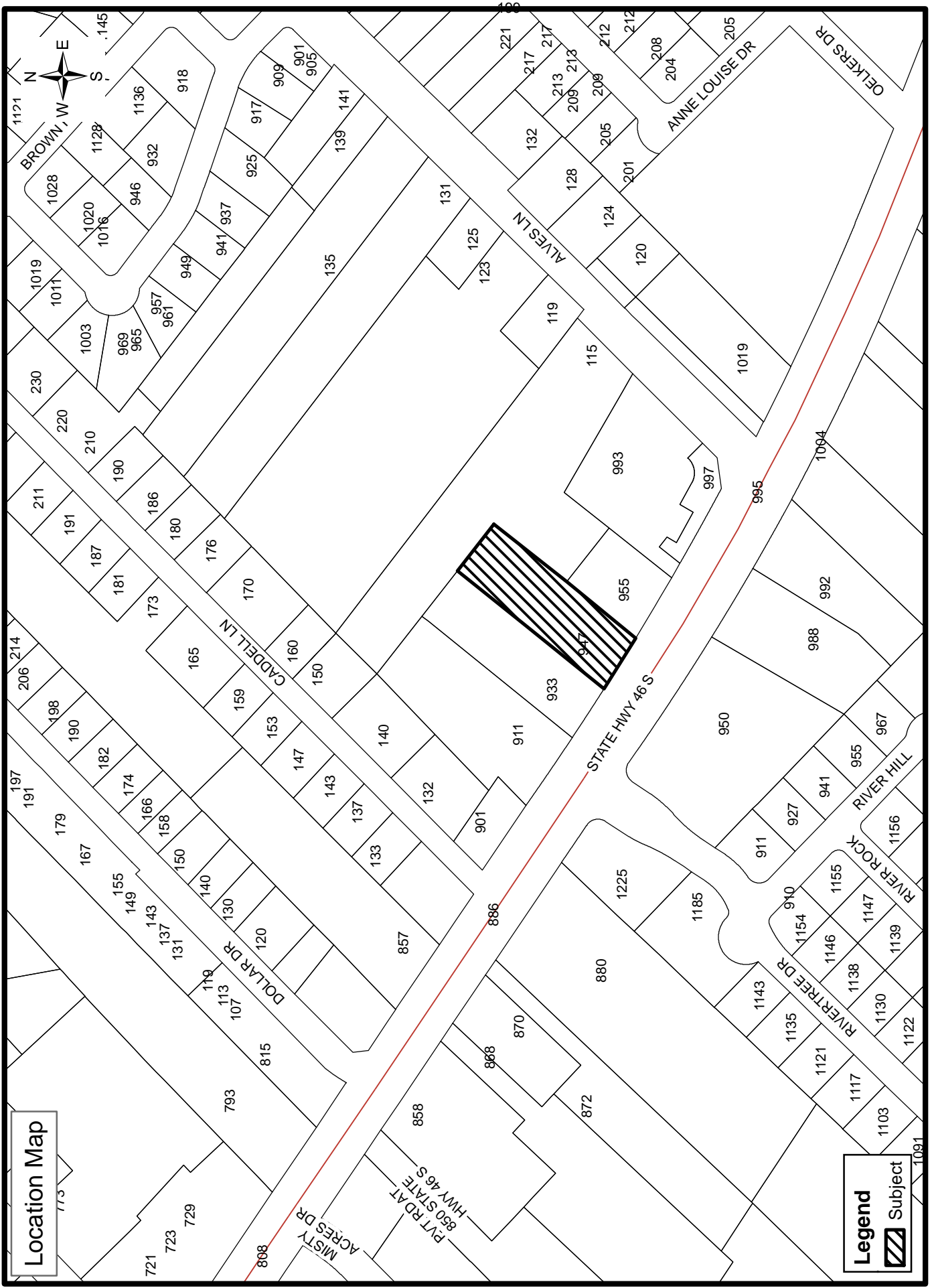
Mark J. Ewald  
Registered Professional Land Surveyor  
Texas Registration No. 5095  
May 17, 2019.



Filed and Recorded  
Official Public Records  
Bobbie Koepp, County Clerk  
Comal County, Texas  
05/31/2019 01:37:58 PM  
TERRI 4 Pages(s)  
201906018652



*Bobbie Koepp*



**PZ19-0155**  
**947 Hwy 46 South**  
**R-2 to MU-B**





**City Council Agenda Item Report****7/22/2019**

Agenda Item No. F)

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**Presenter**

*Stacy Snell, Assistant Planning and Community Development Director  
ssnell@nbtexas.org*

**SUBJECT:**

Public hearing and first reading of an ordinance regarding the proposed rezoning to amend an existing Special Use Permit to allow a commercial tuber entrance and takeout in the "C-4" Commercial Resort District on property presently addressed as 444 East San Antonio Street.

**BACKGROUND / RATIONALE:**

**Case No.:** SUP19-106

**Council District:** 5

**Owner/Applicant:** IAKOBO Four LP (Monique Weston)  
690 Laurel Lane  
New Braunfels, TX 78130  
(830) 609-9066  
moniquetweston@gmail.com

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

The subject property is located on the northeast corner of the intersection of East San Antonio Street and South Gilbert Avenue adjacent to the Comal River and San Antonio Street Bridge. It is zoned "C-4" Resort Commercial District, with a Special Use Permit (SUP) for a commercial tuber entrance and takeout. C-4 allows various recreational and resort uses, but an SUP is required for commercial tuber river access.

There is a 12,000 square-foot building on the property that the applicant indicates is currently vacant. It previously housed a restaurant and other uses at various times in the past. There is also a 921 square-foot outbuilding on the site that has been utilized for tube rental and shuttle base of operations.

In 2016, the property owner applied for an SUP to utilize existing stairs on the property for commercial tuber river access. The applicant stated "it would relieve congestion from the entrance to the Comal River in Prince Solms Park, and would provide tubers an opportunity to enter or exit the Comal River below the Tube Chute and Weir Dam (a.k.a. Stinky Falls); areas that tend to become congested and can be potentially unsafe".



On December 12, 2016, City Council approved the SUP request with the following conditions:

1. The SUP shall not become effective until the applicant completely resolves all outstanding City of New Braunfels Municipal Court cases.
2. The business must comply with Federal ADA (Americans with Disabilities Act) requirements for a public/commercial access point at 444 East San Antonio Street.
3. The subject use shall provide parking to accommodate a minimum of 200 offstreet parking spaces, based on utilizing 800 tubes; if more than 800 tubes are utilized by the subject business, an appropriate number of additional parking spaces will be required per existing City ordinances. Should the adjacent 12,000 square foot building and outdoor decks on the premises become commercially occupied, the 40 off-street parking spaces on the property will not be counted in the 200 off-street parking spaces required for this SUP.
4. The owner/operator of the subject use shall cooperate and comply with City requests, orders and/or ordinances related to crowd control management, including but not limited to queuing, staggered entry, cut-off times, and maximum entry limits.
5. Any vehicular/shuttle transport used by the owner/operator of the subject use from any off-site shared parking areas must be on streets classified as Collectors or higher in the City's Regional Transportation Plan or be part of an existing approved shuttle route.
6. Should ownership of the subject property change, Staff will initiate a new rezoning case to review the SUP.

Regarding requirement number 2 above, ADA compliance is required by Federal law and administered by the State. The owner intended to install a marine incline elevator to satisfy the accessibility requirement. Per the owner, the estimated cost of the equipment was approximately \$130,000 plus an additional \$120,000 in construction costs.

The owner applied to the Texas Department of Licensing and Regulation (TDLR) for a variance from the requirement to provide a compliant accessible route. TDLR did not approve the variance, **but granted a postponement of the installation of the ADA accessible route to the river until future alterations or renovations are initiated, or until a complaint is filed, whichever comes first.**

In 2017, the owner submitted a request to City Council for an amendment to the SUP condition number 2 (see above) to allow postponement of the city-imposed ADA compliance for river access for a period of two years. Considering TDLR's provision, City Council approved the amendment on September 11, 2017, with an expiration date of December 31, 2018, or until the postponement is revoked by TDLR, whichever occurs first (see Attachment 3).

No ADA improvements have been installed and the SUP condition's expiration date imposed by City Council has passed. The applicant is now seeking approval of a new amendment to the SUP to allow a commercial tuber entrance and takeout without a city-imposed condition to comply with ADA requirements for a commercial access point to the river. The business currently utilizes ADA accessible vans to transport physically challenged patrons to and from the City's public input and takeout locations. The applicant's explanation is attached to the application (see Attachment 2).

If City Council amends as requested by the applicant, the TDLR postponement and its conditions remain in place, meaning when future alterations or renovations are initiated, or a complaint is filed, the applicant will need to comply with Federal ADA law. If City Council denies the applicant's request and retains the City-imposed ADA requirement, the applicant will need to comply with ADA

(as well as all other conditions in the SUP) immediately in order to have an on-site commercial river access point.

**General Information:**

Size: SUP boundaries = 0.2289 acres  
Parent Parcel = 1.608

**Surrounding Zoning and Land Use:**

North - Across the Comal River, R-2 and C-4/Prince Solms Park and Schlitterbahn  
South - Across Gilbert Avenue, C-2/commercial office and single family residential  
East - Across Tolle Street, C-4/parking lot, condominiums and single family residential  
West - Across San Antonio Street, M-1/ADM Mill

**Floodplain:**

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

**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 is appropriate as the property is located on the Comal River in a highly used recreational river activity area.)*
- 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 or schools or streets in the area. The adequacy of public facilities and utilities to serve any 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 and would provide for increased marketplace competition.);*
- Any other factors that will substantially affect the public health, safety, morals, or general welfare *(Use of the existing river steps will allow an alternate location for recreational tubers to enter the water before the tube chute and falls, or to exit earlier, which will be beneficial for safety and crowd control. The SUP request has been reviewed by the River Operations Manager.)* and
- Whether the request is consistent with the Comprehensive Plan *(The subject property is Downtown and situated within a Recreational River 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 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 July 2, 2019 and recommended approval with staff recommendations (7-2-0) with Vice Chair Reaves and Commissioner Meyer in opposition.

**STAFF RECOMMENDATION:**

Staff recommends approval with the following conditions (essentially retaining original conditions minus the original 1 and 2, plus a new condition regarding accessibility of shuttle transport):

1. The property owner shall utilize ADA compliant shuttles to transport people with disabilities or special needs to and from the City's accessible river entrances/exits;
2. The owner/operator shall cooperate and comply with City requests, orders and/or ordinances related to crowd control management, including but not limited to queuing, staggered entry, cut-off times, and maximum entry/limits.
3. The subject use shall provide a minimum of 200 offstreet parking spaces, based on utilizing 800 tubes; if more than 800 tubes are utilized by the subject business, an appropriate number of additional parking spaces will be required per existing City ordinances. Should the adjacent 12,000 square foot building and outdoor decks on the premises become commercially occupied, the 40 off-street parking spaces on the property will not be counted in the 200 off-street parking spaces required for this SUP.
4. Any vehicular/shuttle transport used by the owner/operator of the subject use from any off-site shared parking areas must be on streets classified as Collectors or higher in the City's Regional Transportation Plan or be part of an existing approved shuttle route.
5. The subject business will not allow any personal tubes. Customers must rent a tube(s) from the business in order to use the entrance.
6. The business will not allow customers to unduly or excessively congregate in the river fronting the business. Customers may only use the entrance to commence their float.
7. Should ownership of the subject property change, the City will initiate a rezoning case to allow for a new review of the SUP.

As with all SUPs, failure to comply with these conditions will be reported to City Council who may consider revocation of the SUP.

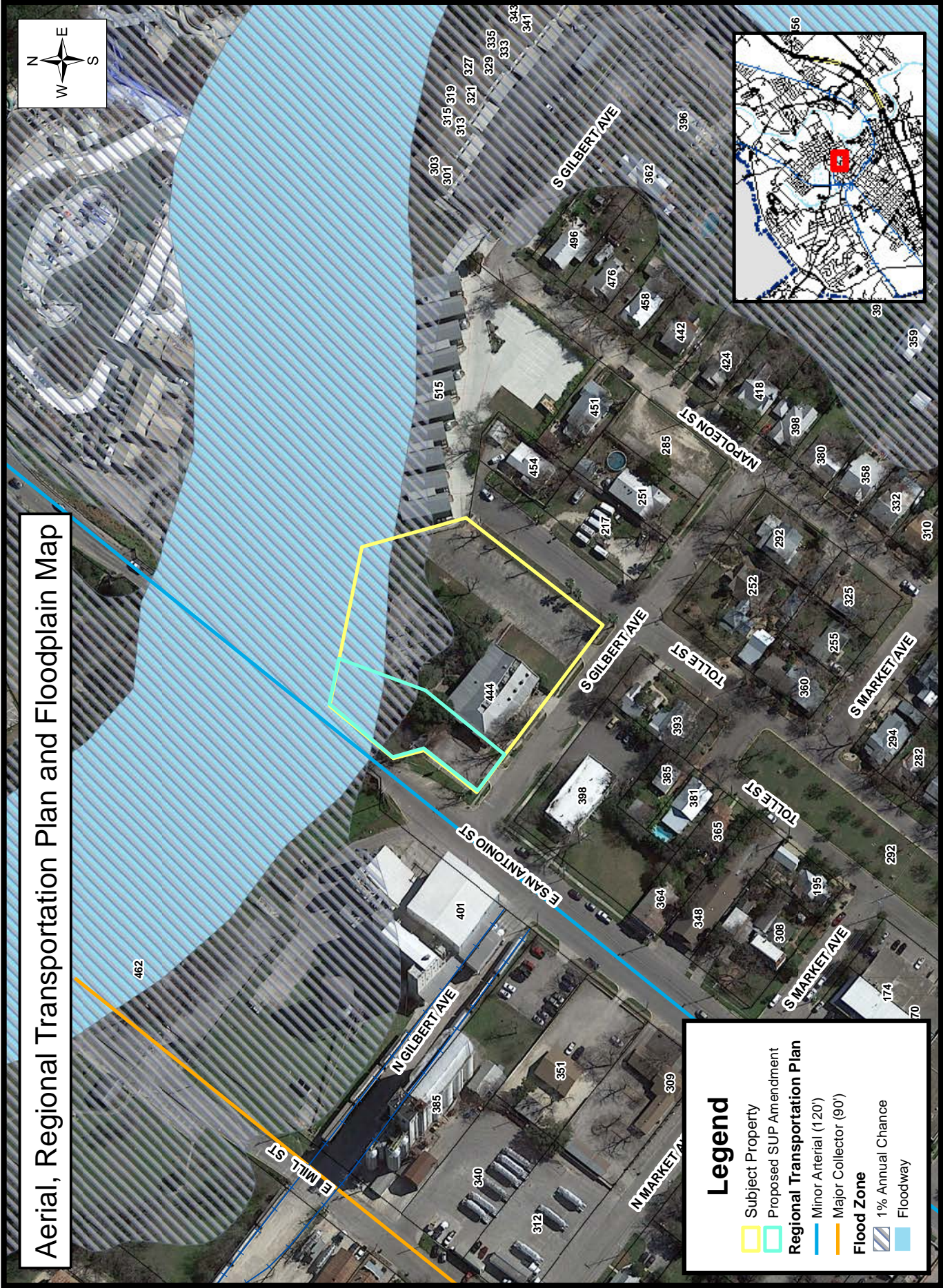
**Notification:**

Public hearing notices were sent to 10 owners of property within 200 feet; the City has received two responses in favor from numbers 2 and 8, and 1 opposed from number 4.

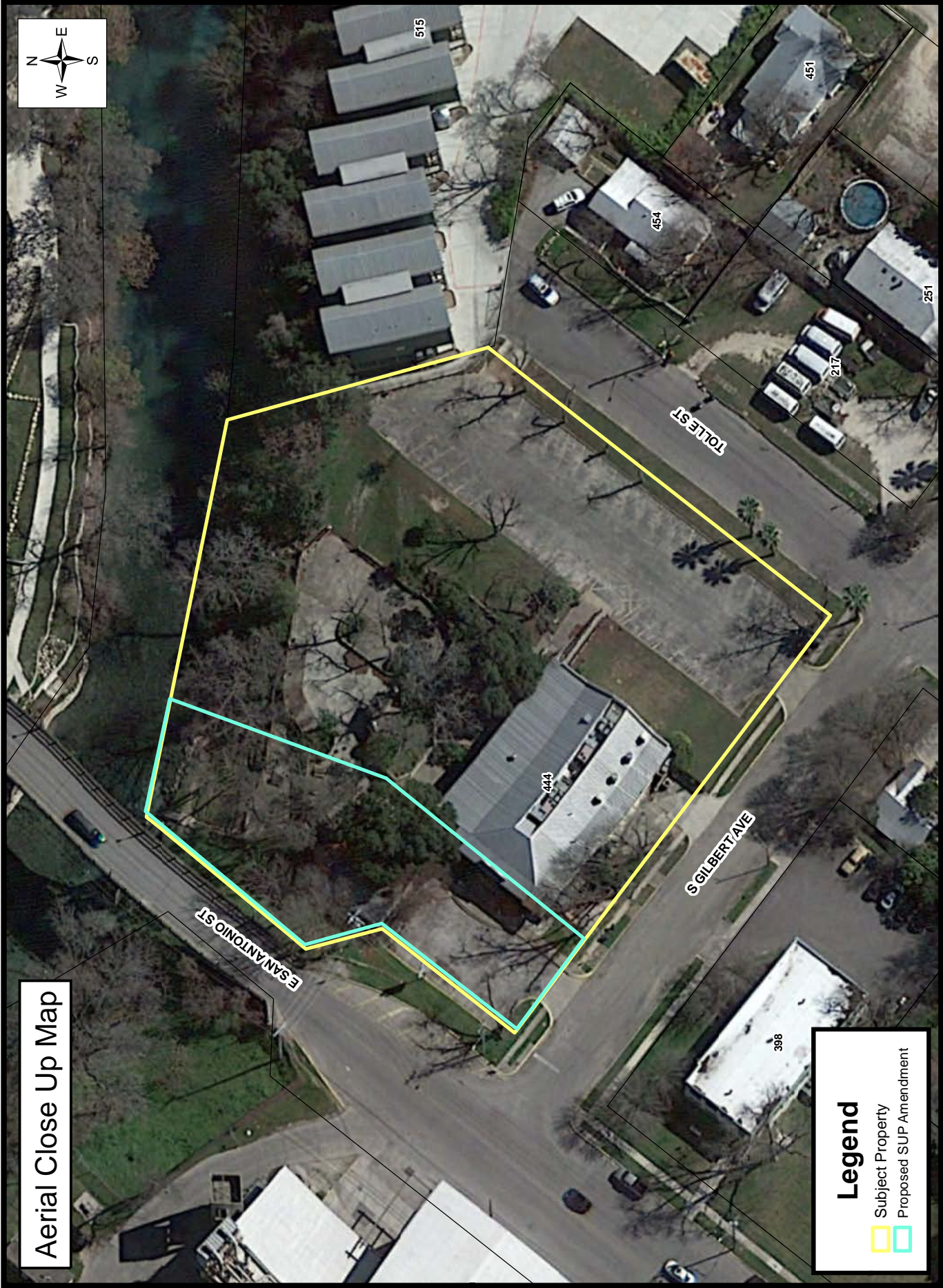
**Attachments:**

1. Aerial Maps
2. Application
3. Previously Approved SUP ordinance (No. 2017-65)
4. TDLR Variance Results
5. Land Use Maps (Zoning, Existing Land Use and Future Land Use Plan)
6. Notification List, Notification Map and Response
7. Photographs
8. Sec. 3.3-10 "C-4" Resort Commercial District
8. Draft Minutes from July 2, 2019 Regular Planning Commission Meeting
9. Ordinance









**SUP19-106**  
**444 E. San Antonio St.**  
**Proposed Special Use Permit**

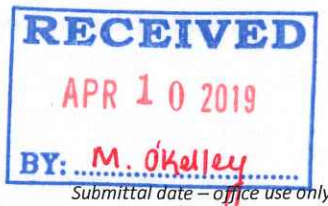




**Planning & Community Development Department  
Planning Division**

550 Landa St. New Braunfels, Tx 78130  
(830) 221-4050 www.nbtexas.org

CC/Cash/Check No.: #5422 Case No.: SUP19-106  
Amount Recd. \$ 1508.69  
Receipt No.: 1145



## Special Use Permit Application

**Any application that is missing information will be considered incomplete and will not be processed.**

1. Applicant - If owner(s), so state; If agent or other type of relationship, a letter of authorization must be furnished from owner(s) at the time submitted.

Name: Lakoba 4, L.P.  
Mailing Address: 690 Laurel Lane, New Braunfels, Tx., 78130  
Telephone: 830 609 9066 Fax: \_\_\_\_\_ Mobile: 830 237 3220  
Email: moniquehewston@gmail.com

2. Property Address/Location: 444 E. San Antonio St., New Braunfels, Tx., 78130

3. Legal Description:  
Name of Subdivision: City Block 1043, Lot A Block 1043  
Lot(s): \_\_\_\_\_ Block(s): \_\_\_\_\_ Acreage: \_\_\_\_\_

4. Existing Use of Property: Tube Rental

5. Current Zoning: C-4

6. Proposed Special Use Permit\*: Type 1 ☒ OR Type 2 \_\_\_\_\_

\*see page 4 for information regarding Type 1 and Type 2 Special Use Permits

7. Proposed Use of Property and/or Reason for Request (attach additional or supporting information if necessary): to allow a commercial tuber entrance and take out.



April 22, 2019

To whom it may concern,

Thank you so much for your consideration of amending the Special Use Permit for 444 Tubing Company. 444 Tubes has been run by Gregg and I and our children as a family business for the past two years, 2017 and 2018. We have owned the property for almost thirty years and have had access to the Comal River from the original property for this length of time. We strive to promote family friendly tubing in a safe environment, offering discounts for military, teachers and public servants. The stairs that provide Comal River access on our property were staffed in 2018 by a team member who monitored the access. We were able to assist our guests from 444 and other tubers that used the stairs for various safety and health reasons, which spanned from small children to families and the elderly.

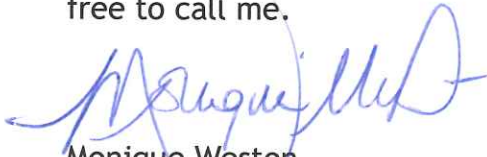
We would like to request to remove the ADA requirement from the 444 Tubing Company SUP due to several concerns. Firstly, our business was down due to the enforcement of the can ban and the negative media coverage that it brought to our area. Along with the reduction in income is the enormous cost of the ADA requirement entrance into the Comal River. Due to the slope of our property we have received cost estimates of approximately \$250,000 or more to add a handicapped entrance into the Comal River. It was a difficult summer with other negative media coverage due to the concern over the river level in New Braunfels and the oil spill in July. Our business was reduced to half of what we experienced just the season before.

Secondly, is our concern for the use of our property for handicapped guests. For the past two seasons, guests who need assistance due to various handicaps have contacted us ahead of time or made themselves aware to management. Their comfort and safety has been a group effort with our team managing their shuttle ride, entrance into the river at Prince Solms Park and a group awareness of their estimated time of exiting the river to enable the guest a safe exit with the help of our staff from the Comal River to the shuttle and back to our property. In 2017, we were able to help less than ten guests who needed one on one support of their river ride. I am grateful for that opportunity and the fact that we were aware of every step of their tubing experience. I believe each person felt honored and safe in the way that we were able to assist them. In 2018, we were able to assist diabetics, blind, and deaf guests and with each of these experiences we were able to put together a better plan to better accommodate our guests. In many cases our guests chose to begin their floats from our property with our awareness of their needs, keeping us informed. It has never been a simple event, we must be aware of their timing in the River and be in communication with them for the guests safety.

Lastly, at 444 Tubing Company we strive to promote safety and a family environment above volume. We stay available and in contact with the city staff, and have fostered a relationship of cooperation with the city to enable us to monitor river capacity, river flow and staging the river.

In 2018 when our stairs were open, we were able to assist many from the Comal River who had been hurt or traumatized from going through the tube chute. We were able to use the access as an exit during the oil spill. We felt blessed to be able to offer our private entrance as an alternative to the tube chute. We have taken care to provide handrails and staff assistance to make our guests and others feel safe.

Thank you so much for your time and consideration. If you have any questions regarding 444 Tubing Company or any of the information I have provided please feel free to call me.



Monique Weston  
830-237-3220



RECEIVED  
SEP 15 2016  
BY: \_\_\_\_\_

LINE	BEARING	DISTANCE
L1	S 71°01'08" E	5.64'
L2	S 64°27'38" E	14.36'

PLATTING NOTE:  
THIS IS EXHIBIT FOR ATTACHMENT TO A SPECIAL USE PERMIT APPLICATION.  
THE TRACT SHOWN HEREON IS SUBJECT TO THE PLATTING ORDINANCE OF THE  
CITY OF NEW BRAUNFELS, TEXAS.

**KŁODZIE  
SURVEYING  
COMPANY**

**EXHIBIT**

0.2289 ACRE

**N.C.B. 1043**

J. M. VERAMENDI TWO LEAGUE SURVEY NO. 1  
NEW BRAUNFELS, TEXAS

ISSUE DATE	10/20/2011	SCALE	1
JOB NO.: 127B-001-10-800			

(CALLED 217,08')

N 38°07'01" E - 214.74'

0.2289 ACRE

PROPOSED AREA FOR  
COMAL RIVER TUBES, ET AL

S 38°07'01" W - 129.67'

**SOUTH GILBERT AVENUE**

N 52°34'59" W - 214.68'  
(meters or less)

CALLED 1,508 ACRES  
 AUFERSTEHUNG, INC.  
 ID  
 LAJOBO 4, LP  
 DOCUMENT NO. 9805024551, O.F.R.C.C.T.

J. M. VERAMENDI TWO LEAGUE SURVEY NO. 1

COMAL RIVER

DEED LINE  
WATERS EDGE PER DEED  
DATED SEPTEMBER 17, 1998

MEANDERS OF WATERS EDGE  
(AS OF OCTOBER 20, 2010)

CALLED 1.865 ACRES  
 (LOT 17, SUMMER HOME ADDITION)  
 STEINREAL CORPORATION  
 TO  
 STEINREAL CONAL FAMILY LIMITED PARTNERSHIP  
 DOCUMENT NO. 200706090675, Q.P.R.C.T.

ORDINANCE NO. 2017- 65

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS, TEXAS, GRANTING APPROVAL OF AN AMENDMENT TO ORDINANCE NUMBER 2016-77, A TYPE 1 SPECIAL USE PERMIT ALLOWING A COMMERCIAL TUBER ENTRANCE AND TAKEOUT IN THE "C-4" RESORT COMMERCIAL DISTRICT, TO ALLOW A POSTPONEMENT TO THE REQUIREMENT FOR THE BUSINESS TO COMPLY WITH FEDERAL LAW ADA REQUIREMENTS FOR A PUBLIC/COMMERCIAL RIVER ACCESS POINT ON 0.2289 ACRES ADDRESSED AT 444 EAST SAN ANTONIO STREET, UNTIL DECEMBER 31, 2018 OR UNTIL THE POSTPONEMENT IS REVOKED BY THE TEXAS DEPARTMENT OF LICENSING AND REGULATION (TDLR) BASED ON A FORMAL COMPLAINT BEING FILED, WHICHEVER OCCURS FIRST; 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 also 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 compatibility 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 the proposed uses; and

**WHEREAS**, the City Council desires to grant approval of an amendment to a Type 1 Special Use Permit for 444 East San Antonio Street to allow postponement to the requirement for the business to comply with Federal Law ADA requirements for a public/commercial river access point in the "C-4" Resort Commercial District until December 31, 2018 or until postponement is revoked by the Texas Department of Licensing and Regulation (TDLR) based on a formal complaint being filed, whichever occurs first; **now**



therefore,

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

### **SECTION 1**

**THAT** the Type 1 Special Use Permit adopted December 12, 2016, Ordinance number 2016-77, is hereby amended for the uses and conditions herein described:

"Being 0.2289 acres addressed at 444 East San Antonio Street and delineated in Exhibit "A", to allow a postponement to the requirement for the business to comply with Federal Law ADA requirements for a public/commercial river access point in the "C-4" Resort Commercial District until December 31, 2018 or until the postponement is revoked by the Texas Department of Licensing and Regulation (TDLR) based on a formal complaint, whichever occurs first."

### **SECTION 2**

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

1. *The Special Use Permit shall not become effective until the applicant completely resolves all outstanding City of New Braunfels Municipal Court cases.*
2. *The business must comply with Federal Law ADA requirements for public/commercial access point at 444 East San Antonio Street no later than December 31, 2018 or when the postponement is revoked by the Texas Department of Licensing and Regulation (TDLR) based on a formal complaint, whichever occurs first.*
3. *The subject use shall provide parking to accommodate a minimum of 200 off-street parking spaces, based on utilizing 800 tubes; if more than 800 tubes are utilized by the subject, an appropriate number of additional parking spaces will be required per existing City ordinances. Should the adjacent 12,000 square foot building and outdoor decks on the premises become commercially occupied, the 40 off-street parking spaces on the property will not be counted in the required 200 off-street parking spaces required for this Special Use Permit.*
4. *The owner/operator of the subject use shall cooperate and comply with the City*

*requests, orders and/or ordinances related to crowd control management, including but not limited to queuing, staggered entry, cut-off times, and maximum entry/limits.*

- 5. Any vehicular/shuttle transport used by owner/operator of the subject use from any off-site shared parking areas must be on streets classified as Collectors or higher in the City's Regional Transportation Plan, or be part of an existing approved shuttle route.*
- 6. Should ownership of the subject property change, Staff will initiate a new zoning case to review the Special Use Permit.*

### **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**

#### **EFFECTIVE DATE AND PUBLICATION:**

This Ordinance shall become adopted and effective upon its second reading, signature required by City Charter, and filing with the City Secretary's Office. This Ordinance must also be published in a newspaper of general circulation at least one time within ten (10) days after its final passage, as required by the City Charter of the City of New Braunfels.

### **SECTION 6**

**THIS** ordinance will take effect upon the second and final reading of same.

**PASSED AND APPROVED:** First Reading this the 28th day of August, 2017.

**PASSED AND APPROVED:** Second Reading this the 11th day of September, 2017.

CITY OF NEW BRAUNFELS

  
BARRON CASTEEL, Mayor

ATTEST:

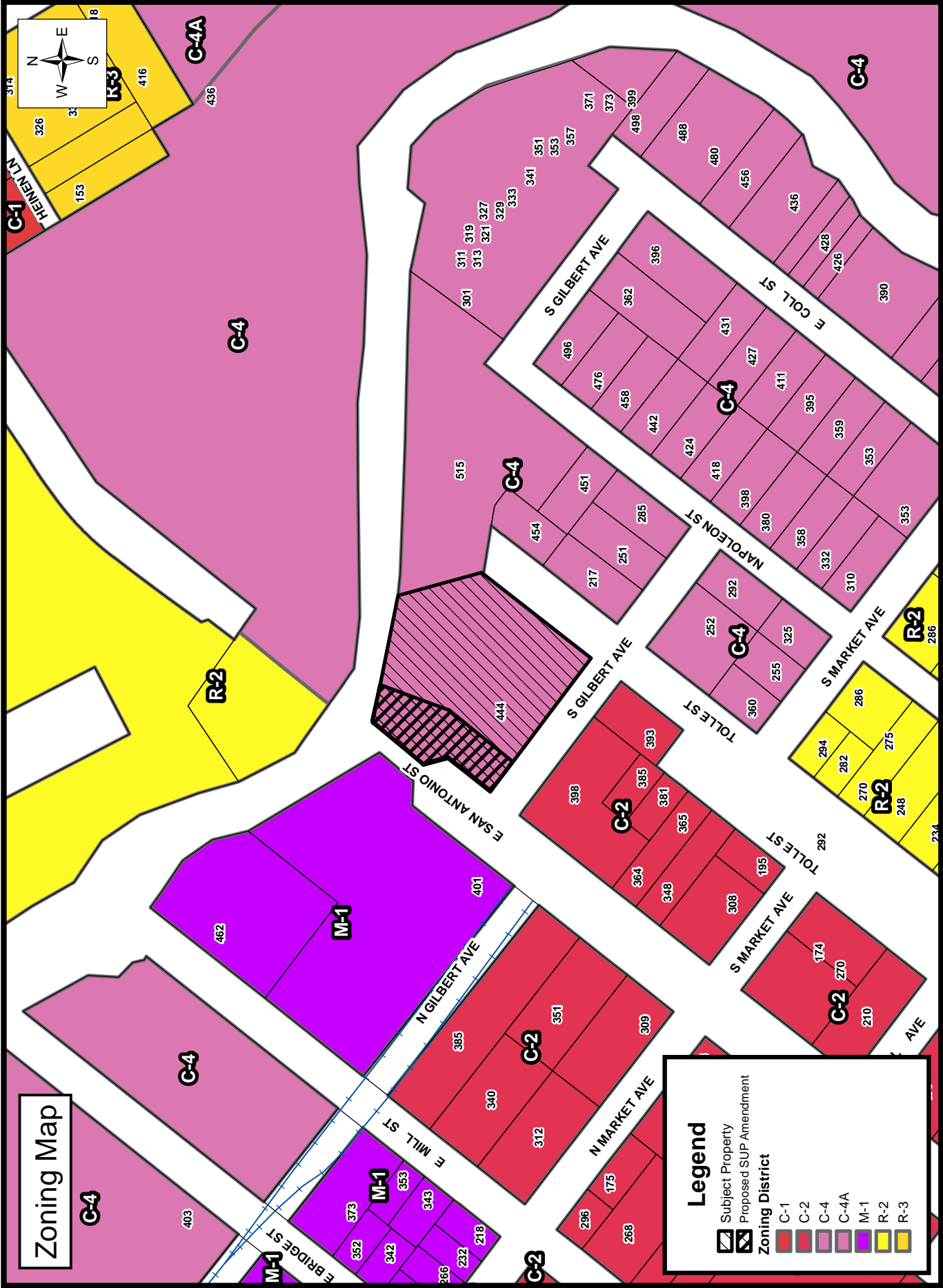
  
PATRICK D. ATEN, City Secretary



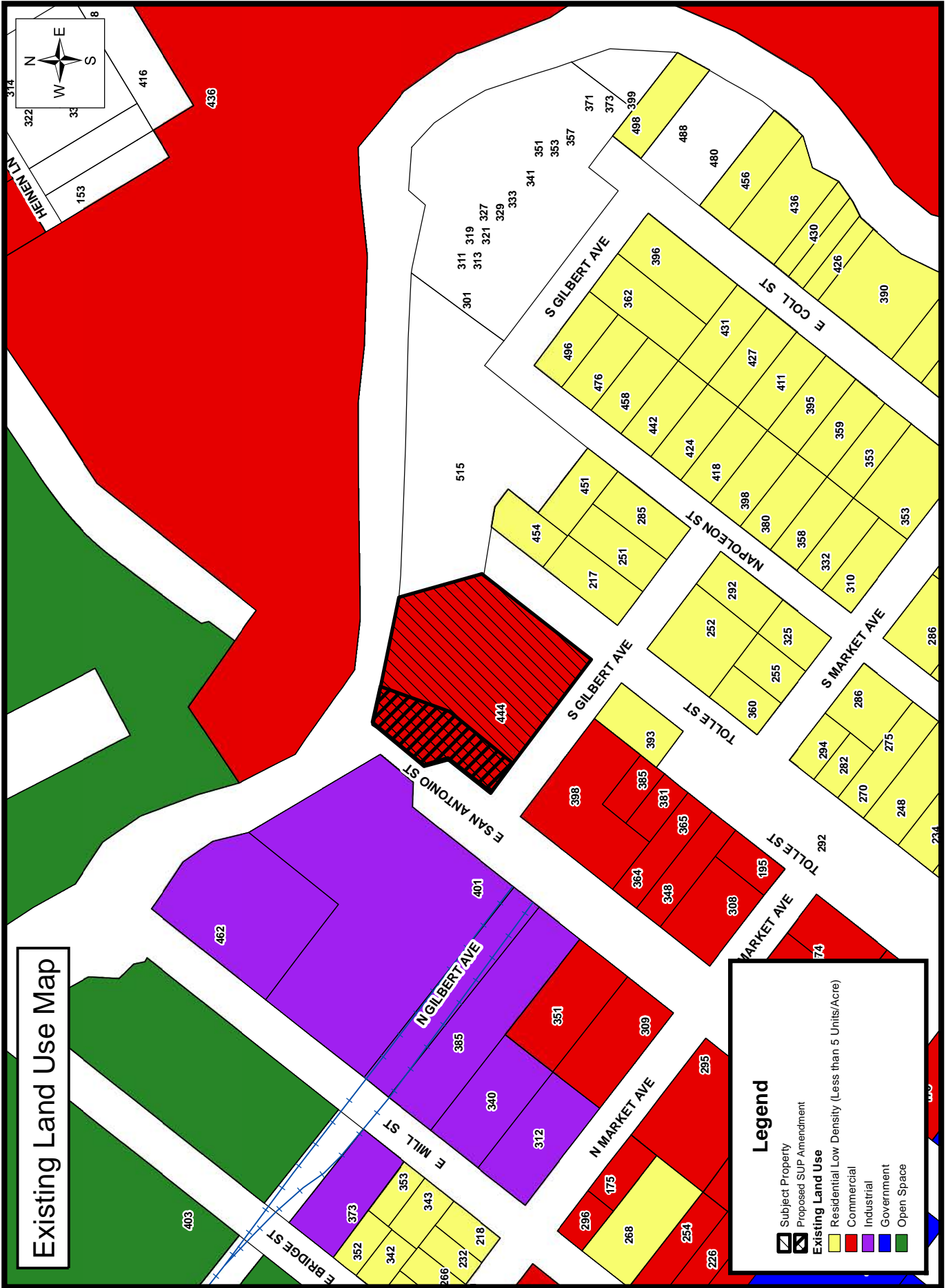
APPROVED AS TO FORM:

  
VALERIA M. ACEVEDO, City Attorney

ATTACHMENT "A"







**EXISTING CENTERS**

Centers are the middle, core or heart of an area. It is a point of activity and vitality. Centers come in many sizes and have different purposes or activities within. They may have endangered species habitat or aquifer recharge areas that require additional standards and consideration relating to future growth. It is envisioned that all centers be walkable, connected, and have a mix of uses. These centers must provide adequate infrastructure to support the commercial development present especially mobility and access for pedestrians, bicycles, vehicles and transit. Given the mixed-use nature of these centers, parking should be shared and not detract from the aesthetic of the area.

**EMPLOYMENT CENTER**

Employment Centers are mixed-use areas centered around office or industrial uses that can support significant employment.

**MARKET CENTER**

Market Centers are mixed-use areas anchored by a retail destination where surrounding residents go to get daily goods and services.

**MEDICAL CENTER**

Medical Centers are mixed-use areas centered around a medical destination such as a hospital or clinic.

**CIVIC CENTER**

Civic Centers are mixed-use areas centered around a civic destination such as City Hall, a library or a recreation center.

**OUTDOOR RECREATION CENTER**

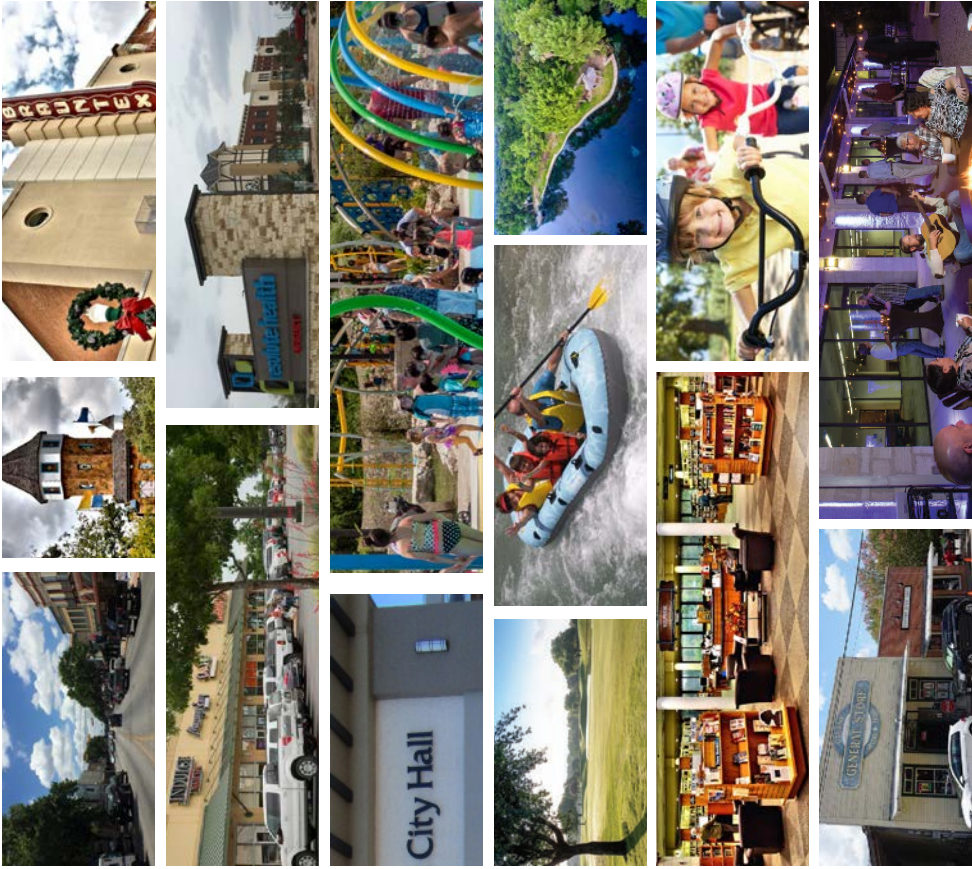
Outdoor Recreation Centers center around a public or private outdoor destination such as Landa Lake.

**EDUCATION CENTER**

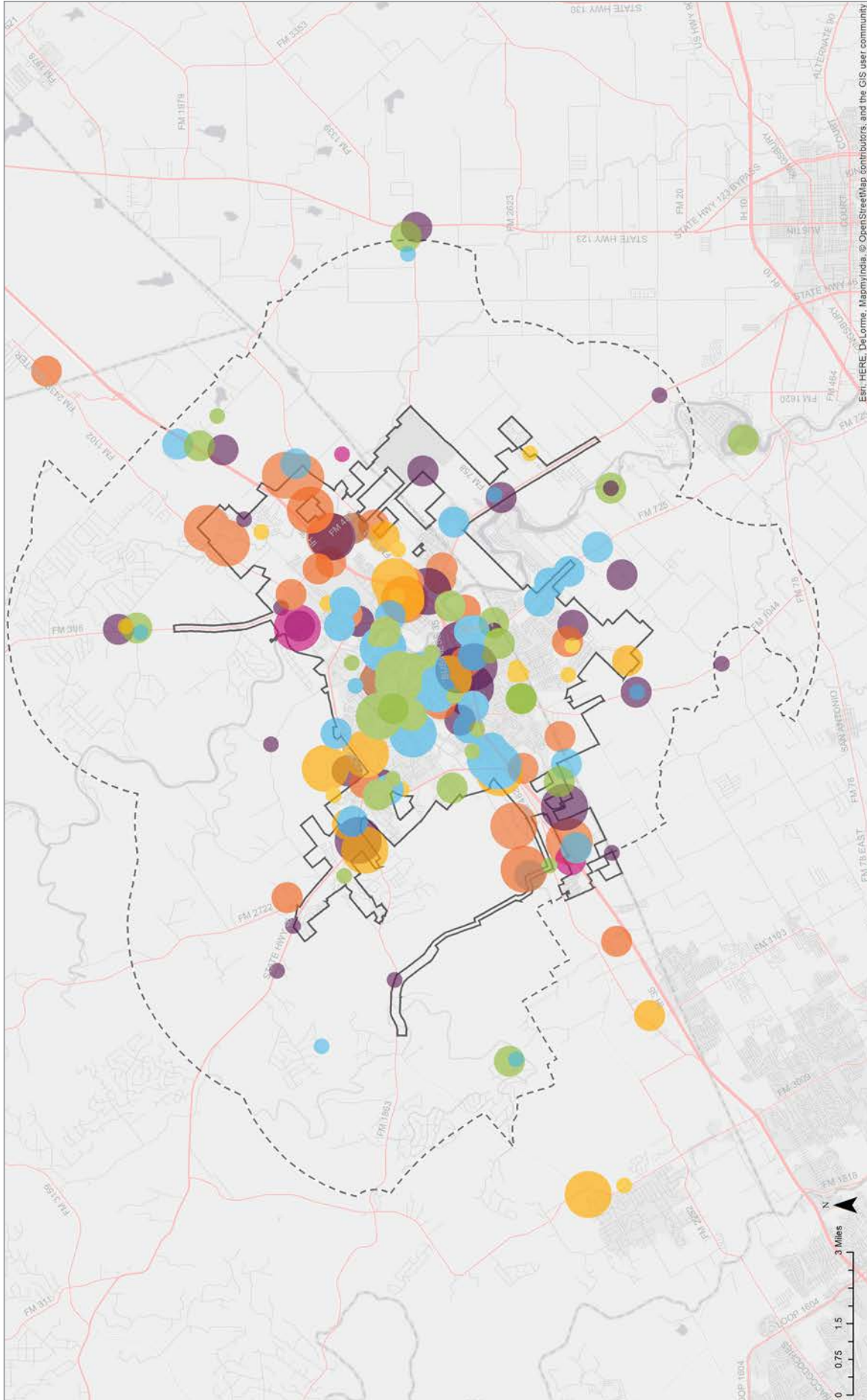
Education Centers are mixed-use areas centered around an educational destination such as a K-12 school or university/college.

**TOURIST/ENTERTAINMENT CENTER**

Tourist/Entertainment Centers are mixed-use areas around an entertainment venue such as Gruene Hall or a tourist destination such as the Tube Chute.







The location of existing centers was determined through the analysis of previous studies and background documents, windshield surveys, and reviewed by City staff, Steering Committee members, and Plan Element Advisory Group members during a public workshop.

# FUTURE LAND USE PLAN

A future land use plan is how land is envisioned to be. It establishes priorities for more detailed plans (sub area plans) and for detailed topical plans (such as parks and open spaces, trails and roads). It cannot be interpreted without the goals and actions of Envision New Braunfels.

## TRANSITIONAL MIXED-USE CORRIDOR

Transitional Mixed-Use Corridors express an aspiration to retrofit existing auto-dominated retail corridors with a mix of uses and a variety of travel modes over time.

## OUTDOOR RECREATION CENTER

Outdoor Recreation Centers are centered around a public or private outdoor destination like Fischer Park.

## EMPLOYMENT CENTER

Employment Centers are mixed-use areas centered around office or industrial uses that can support significant employment.

## MARKET CENTER

Market Centers are mixed-use areas anchored by a retail destination where surrounding residents go to get daily goods and services.

## CIVIC CENTER

Civic Centers are mixed-use areas centered around a civic destination such as City Hall, a library or a recreation center.

## SUB AREA 1

Sub Area 1 includes the Downtown, Gruene and the Mid-Century or older neighborhoods that surround them. It is home to the natural springs and headwaters of flowing rivers that have attracted New Braunfelsers to the town for centuries.

## SUB AREA 2

Sub Area 2 refers to the neighborhoods and residential enclaves that have grown alongside the Hill Country landscape.

## SUB AREA 3

Sub Area 3 includes a planned community offering a diversity of housing, distinct community centers and preserved Hill Country landscape features.

## SUB AREA 4

At the heart of Sub Area 4 is Fischer Park. Proximity to IH-35, downtown and neighboring communities like McQueeney makes this area highly desirable and accessible.

## SUB AREA 5

Sub Area 5 bridges together many communities east of IH-35. It includes the scenic landscape along both banks of the Guadalupe River between Highway 46 and FM 725.

## SUB AREA 6

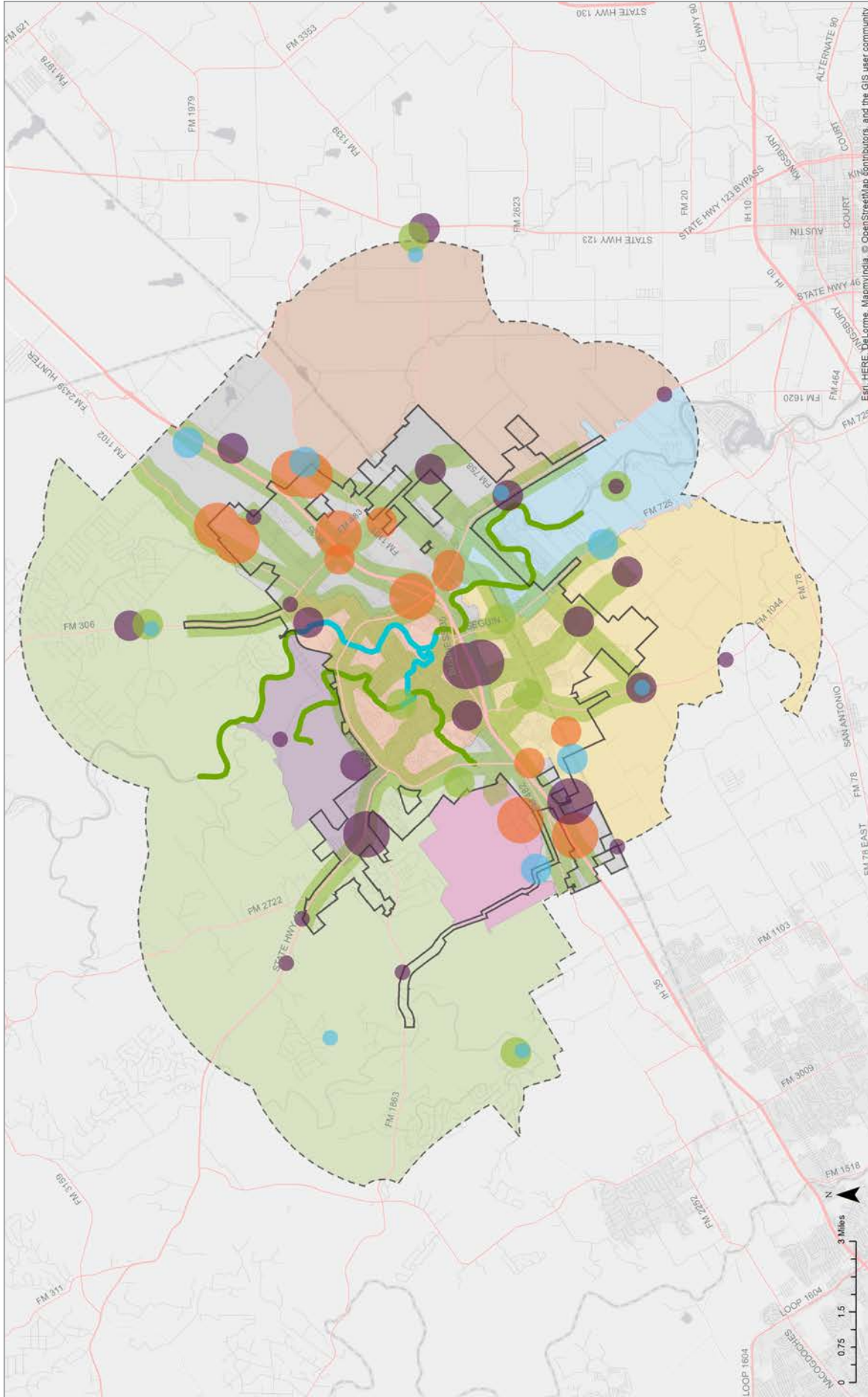
Sub Area 6 expresses an aspiration for conservation communities focused around maintaining and enhancing ecological integrity while allowing some level of development to occur.

## SUB AREA 7

Sub Area 7 includes parts of the city currently being mined for natural resources. These sites may become parks and open space, mixed-use communities or new commercial or entertainment areas in the future.

## SUB AREA 8

This fast-growing Sub Area includes many neighborhoods offering affordable places for young families to live.



A Comprehensive Plan shall not constitute zoning regulations or establish zoning district boundaries. Preferred future growth scenario combines Scenarios A and C per recommendations of the Envision New Braunfels Steering Committee (February 2018). Exact boundaries of sub areas, centers, and corridors may be [zoomed and viewed online](#).





# TEXAS DEPARTMENT OF LICENSING AND REGULATION

## Compliance Division/Architectural Barriers Program

P.O. Box 12157 • Austin, Texas 78711 • (512) 539-5669 • (877) 278-0999

Fax: (512) 539-5690 • Email: [techinfo.ab@tdlr.texas.gov](mailto:techinfo.ab@tdlr.texas.gov) • Web site: [www.tdlr.texas.gov](http://www.tdlr.texas.gov)

### VARIANCE RESULTS

This form is issued by the Texas Department of Licensing and Regulation (TDLR) to document the results of the formal application submitted to the Department for a waiver or modification to Texas Government Code, Chapter 469, the Texas Architectural Barriers Act; the Architectural Barriers Administrative Rules; or the Texas Accessibility Standards (TAS). The owner of the referenced building or facility and the person making the submission has been advised of this determination.

GREGG WESTON  
LAKABO 4 LP  
112 E PECAN ST 1212  
SAN ANTONIO TX 78205

LAKABO 4 LP  
ATTN GREGG WESTON  
112 E PECAN ST 1212  
SAN ANTONIO TX 78205

(1 of 1)

☐ New ☐ Addition  
☒ Alteration ☐ Historic  
☐ State Lease

(Person Making the Submission)

(Building / Facility Owner)

EABPRJ: B7000101

Project Information:	
Project Name:	444 BUILDING PROJECT 0012017
Facility:	444 BUILDING
Location:	444 E SAN ANTONIO ST
City:	NEW BRAUNFELS TX 78130
Item(s) Requested to Waive or Modify:	TAS Section #:
To waive the TAS requirement for an accessible route from the rental building to the water line of the river below based on disproportionate cost.	106.5.25 402

The following decision is based on the information and supporting documentation submitted to the department and has been issued in accordance with Chapter 469.151 and 469.152. It does not address compliance with the Americans with Disabilities Act (ADA) or any other local, state, or federal requirements. For information on the ADA, please contact the regional ADA Hotline at (800) 949-4232, or the United States Department of Justice at (202) 514-0301.

☐ Approved ☐ Disapproved ☒ Postponed ☐ Not Required ☐ Mixed

Comments:
<p>This variance application seeks relief from the TAS requirement to provide a compliant accessible route from the rental office to the edge of the river below. The nature of the terrain from the office to the river's edge is excessively steep and would not lend itself to a conventional accessible route such as a walking path or hiking trail.</p> <p>Based on Sec.469.152 (2), TAS 202.3, TAS 202.3.1 and TAS 402, it was not demonstrated that compliance with the applicable provisions of TAS could not have been achieved at the initial time of design and construction. Therefore, the request for a variance to waive compliance with TAS 402 is <u>disapproved</u>.</p> <p>However, based on Sec.469.151 (2), TAS 106.5.25, and information and documentation from the owner that compliance with TAS would be disproportionate to the cost of the overall alteration; this Department will allow compliance with TAS 404 to be <u>postponed</u>.</p> <p>The owner provided sufficient documentation detailing the cost to provide a Marine Incline Elevator as an accessible route to be \$130,544 based on a bid from Austin Dock &amp; Tram Company. The project cost was approximately \$10,000.</p> <p>This postponement is valid only until such time that future alterations or renovations are initiated or until a complaint is filed, whichever comes first.</p>

This variance is applicable only to the referenced project number unless noted otherwise and is not intended to imply that similar or future projects will be issued the same results nor does it alleviate compliance with any other codes or standards.

A denial of a Variance Application may be appealed in writing within thirty (30) calendar days from issuance of the decision, upon payment of the \$200 appeal fee. Supporting documentation such as plans of all affected areas, photos, cost analyses, and code references not previously reviewed may be submitted for consideration. An appeal form is not required.

A decision made by the Department will not be changed based on a telephone call, email, meeting, or any other means of communication that is not submitted in writing as an appeal.

Signature: <i>Michael Fleharty</i>	Date: <i>June 23, 2017</i>
Printed Name: Michael Fleharty	Title: Program Specialist

ATTACHMENT 7

**PLANNING COMMISSION – June 4, 2019 – 6:00PM**

New Braunfels Municipal Building, Council Chambers

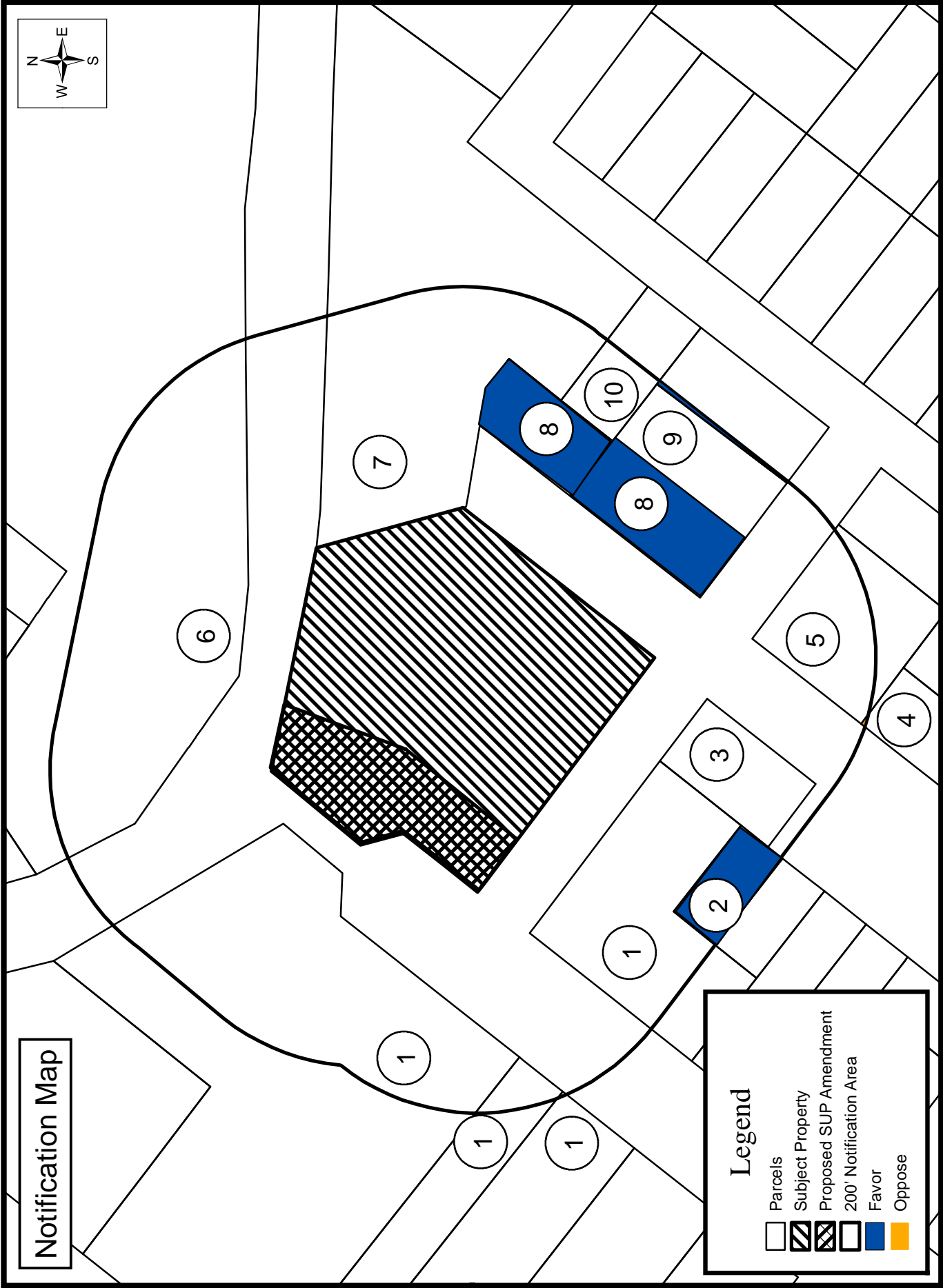
**Applicant/ Owner:** IAKOBO Four LP (Monique Weston)**Property:** 444 E. San Antonio Street (0.2289 acres)**REQUEST FOR A SPECIAL USE PERMIT – CASE #SUP19-106**

The circled numbers on the map correspond to the property owners listed below. All information is from the Comal Appraisal District Records. The property under consideration is marked as "SUBJECT".

1. ADM Milling Co.
2. Korman, Greg
3. Kneuper, David & Emily
4. Chiles, Gene T & Rosalie B RVCBL TRST
5. Davis, Larry & Cathryn
6. Liberty Partnership LTD
7. Steinreal Comal Family LTD Partnership
8. IAKOBO Four LP
9. Womble, Melissa & Bobby
10. Newell, Debbie

---

**SEE MAP**



**Matt Greene**

---

**From:** Gene Chiles <genechiles@gmail.com>  
**Sent:** Sunday, May 19, 2019 1:58 PM  
**To:** Matt Greene  
**Subject:** Special Use Permit

My wife and I own the property at 360 Tolle Street in New Braunfels, Texas and our number on the map is 4. The commercial traffic on Tolle Street is already high and loud during the summer months from IAKOBO Four's tube rental business at the old 444 Restaurant at San Antonio Street and Gilbert. To open their property up to a commercial tuber entrance will only increase traffic on Tolle - big time particularly next summer when the San Antonio Street bridge will be rebuilt and tubers will not be allowed under the construction.

IAKOB Four LP already has their access to the River due to their ownership and it should not be allowed to become a permanent river access point commercially. If the City decides to grant this Permit I for one think it should be limited to next summer only. Regardless the use of Tolle Street should be restricted against any commercial use including the buses and tube trailers.

I must therefore object.

Gene T. Chiles

Gene T. Chiles, Attorney at Law  
6207 Bend of the River Drive  
Austin, Texas 78746  
512-327-5988



Commercial Real Estate Law

This communication may be protected by attorney/client relationship and may be confidential information transmitted for the exclusive use of the person to whom it is addressed. If you receive this e-mail in error, please immediately notify me by return e-mail, telephone or mail. Thank you.

YOUR OPINION MATTERS - DETACH AND RETURN

Case: #SUP19-106 MG

Name: Iakobo Four LP

I favor: ✓

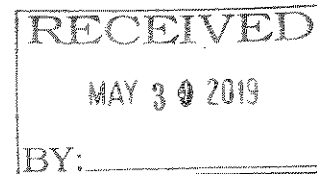
Address: 454 Tolle St., 217+285 Gilbert St., New Braunfels, Tx. 78130

Property number on map: 8

I object: \_\_\_\_\_

(State reason for objection)

Comments: (Use additional sheets if necessary)



Signature: [Handwritten Signature]

YOUR OPINION MATTERS - DETACH AND RETURN

Case: #SUP19-106 MG

Name: GREG KORMAN

I favor: ✓

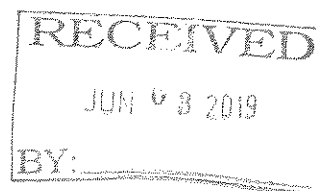
Address: 385 TOLL ST.

Property number on map: # 2

I object: \_\_\_\_\_

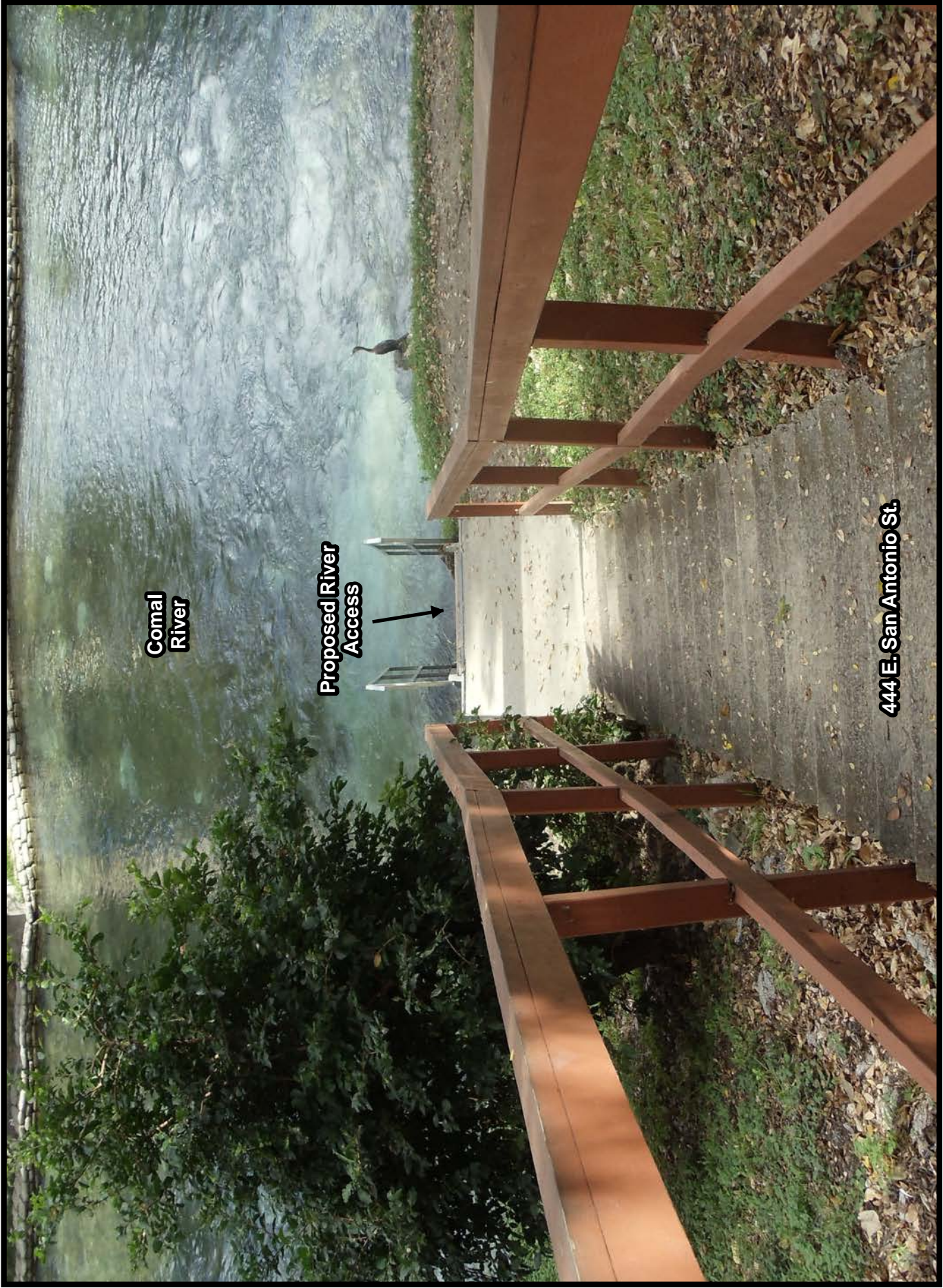
(State reason for objection)

Comments: (Use additional sheets if necessary)



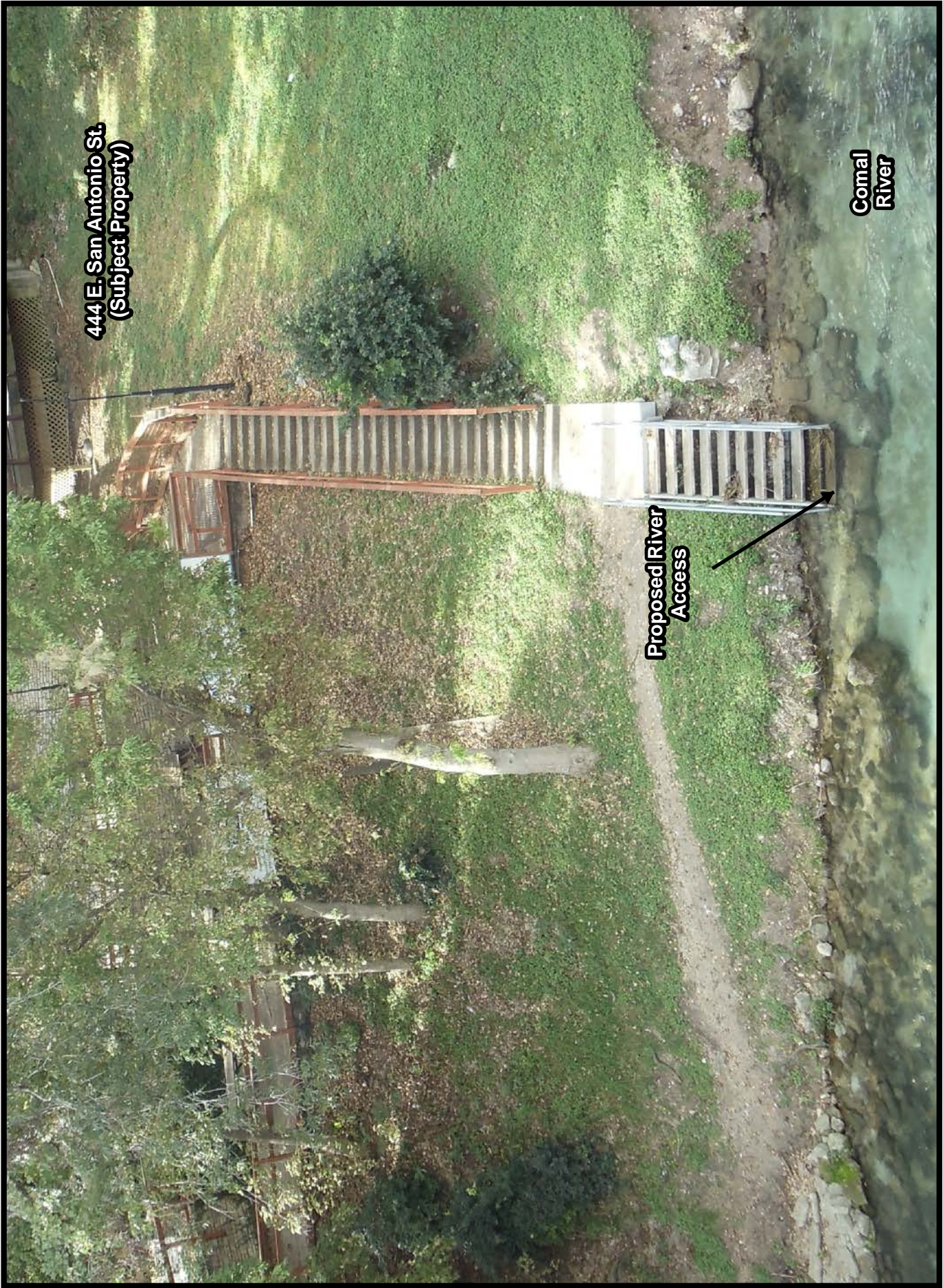
Signature: GREG KORMAN





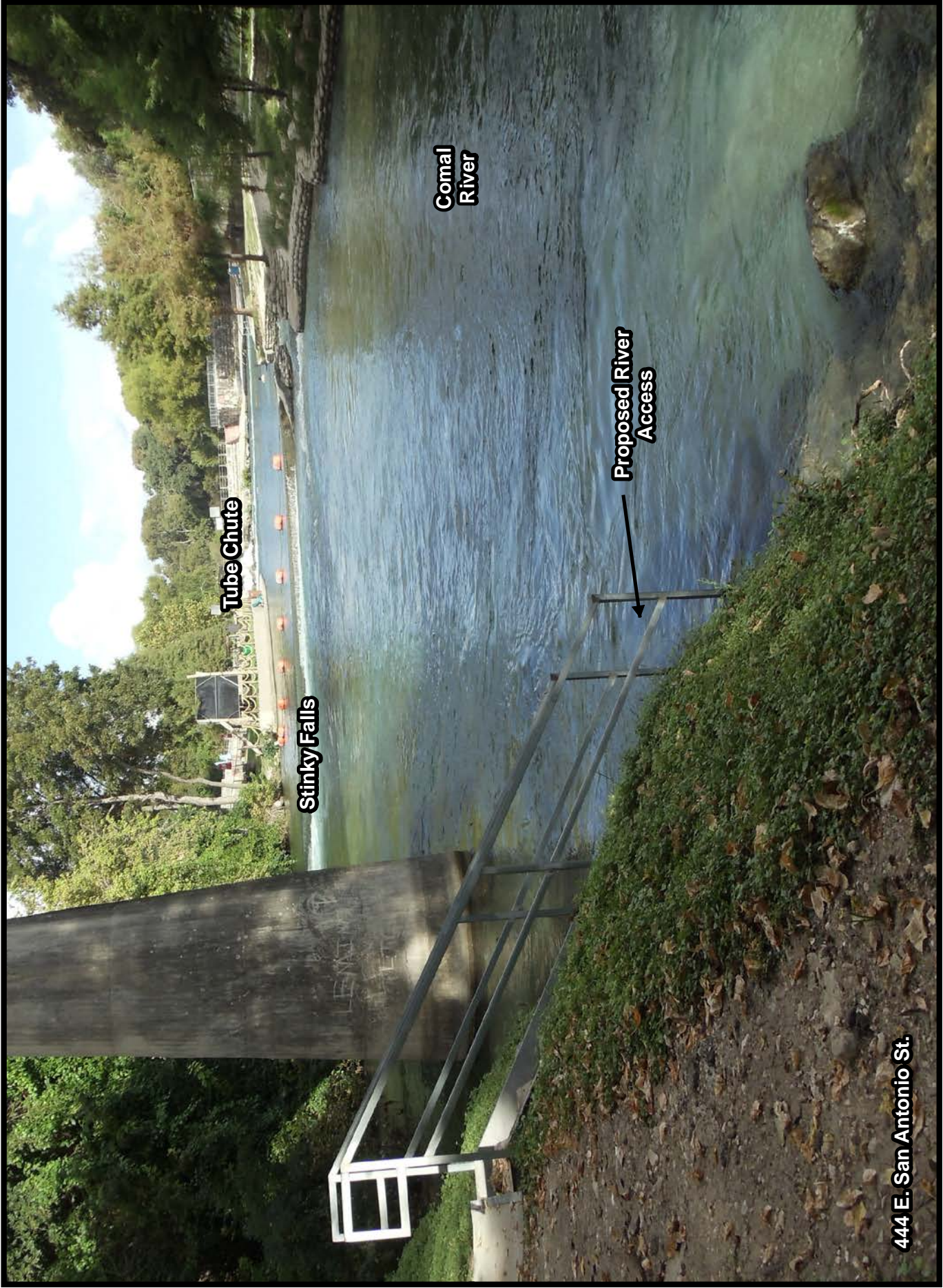
**SUP19-106**  
**444 E. San Antonio St.**  
**Proposed Special Use Permit**





**SUP19-106**  
**444 E. San Antonio St.**  
**Proposed Special Use Permit**

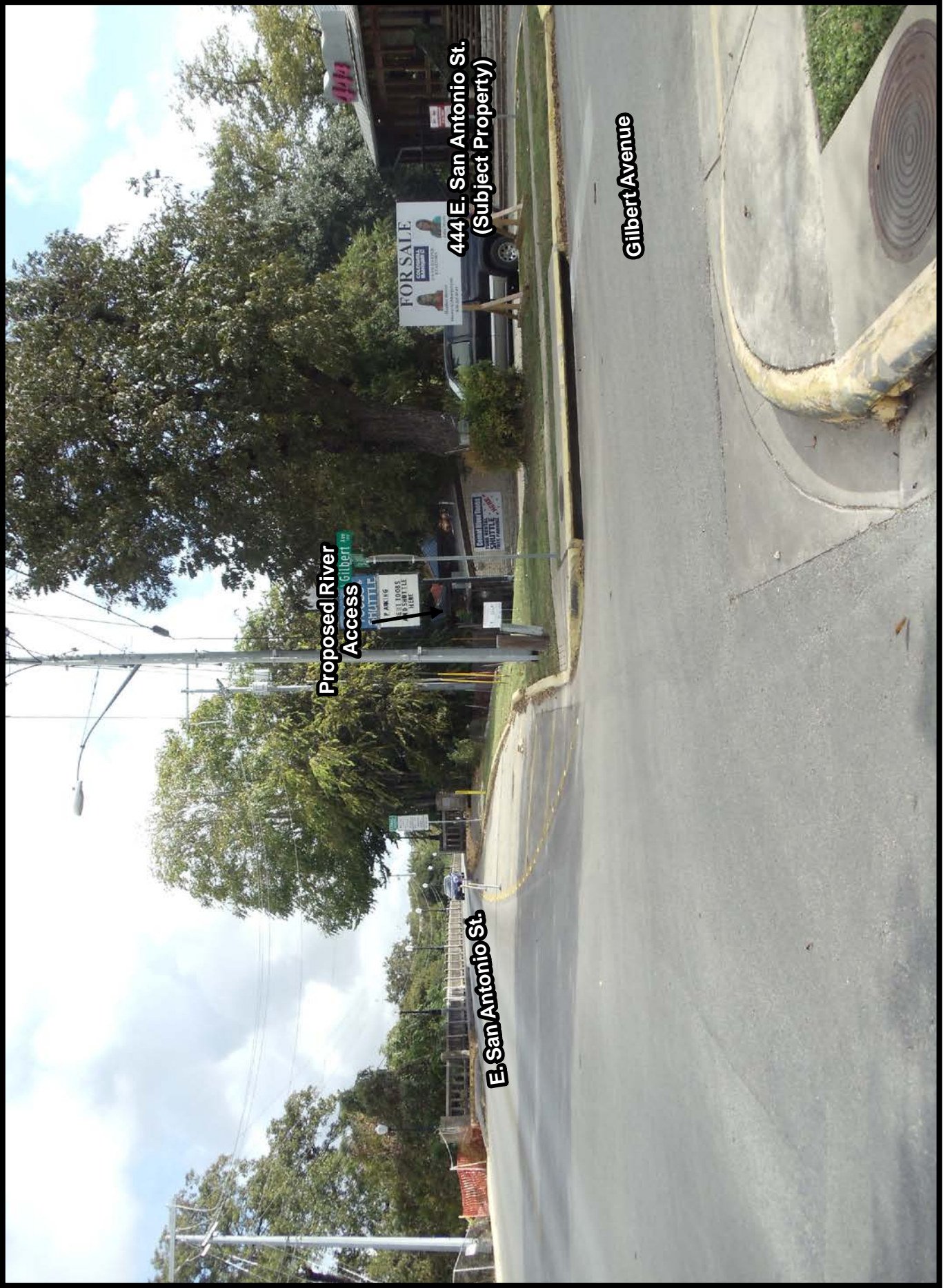




444 E. San Antonio St.

SUP19-106  
444 E. San Antonio St.  
Proposed Special Use Permit





SUP19-106  
444 E. San Antonio St.  
Proposed Special Use Permit

3.3-10. "C-4" resort commercial district. The following regulations shall apply in all "C-4" districts:

(a) *Authorized uses.* Uses permitted by right shall be those set forth in the Land Use Matrix in Section 4 of this Chapter. The allowed uses in the district, which are intended to be identical with those listed in the Land Use Matrix, are as follows:

(1) *Uses permitted by right:*

**Residential uses:**

Accessory building/structure  
 Accessory dwelling (one accessory dwelling per lot, no kitchen)  
 Bed and breakfast inn (see Sec. 5.6)  
 Boardinghouse/lodging house  
 Cabin or cottage – either separate or connected, for rental to tourists or vacationers, but shall not include mobile homes, or mobile home communities (parks).  
 Campgrounds  
 Community home (see definition)  
 Dormitory (in which individual rooms are for rental)

Duplex / two-family / duplex condominiums  
 Family home adult care  
 Family home child care  
 Home Occupation (See Sec. 5.5)  
 Multifamily (apartments/condominiums - for three or more families)  
 One family dwelling, detached  
 Rental or occupancy for less than one month (see Sec. 5.17)  
 Residential use in buildings with the following non-residential uses  
 Single family industrialized home (see Sec. 5.8)

**Non-residential uses:**

Accounting, auditing, bookkeeping, and tax preparations  
 Adult day care (no overnight stay)  
 Adult day care (with overnight stay)  
 Amphitheater  
 Amusement devices/arcade (four or more devices)  
 Amusement services or venues (indoors) (see Sec. 5.13)  
 Amusement services or venues (outdoors)  
 Answering and message services  
 Archery range  
 Armed services recruiting center  
 Art dealer / gallery  
 Artist or artisan's studio  
 Assembly/exhibition hall or areas  
 Bakery (retail)  
 Bank, savings and loan, or credit union  
 Bar/Tavern  
 Barns and farm equipment storage (related to agricultural uses)  
 Bicycle sales and/or repair  
 Billiard / pool facility  
 Bingo facility  
 Book store  
 Bowling alley/center (see Sec. 5.13)  
 Cafeteria / café / delicatessen  
 Campers' supplies  
 Car wash (self service; automated)  
 Car wash, full service (detail shop)  
 Caterer  
 Check cashing service

Child day care/children's nursery (business)  
 Church/place of religious assembly  
 Civic/conference center and facilities  
 Club (private)  
 Coffee shop  
 Commercial amusement concessions and facilities  
 Community building (associated with residential uses)  
 Confectionery store (retail)  
 Contractor's temporary on-site construction office (only with permit from Building Official; see Sec. 5.10)  
 Convenience store, with or without fuel sales  
 Country club (private)  
 Credit agency  
 Curio shops  
 Day camp  
 Driving range  
 Drug sales/pharmacy  
 Electrical substation  
 Farmers market (produce market - wholesale)  
 Farms, general (crops) (see Chapter 6, Municipal Code and Sec. 5.9)  
 Farms, general (livestock/ranch) (see Chapter 6, Municipal Code and Sec. 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)



Golf course (miniature)	Plant nursery (no retail sales on site)
Golf course, public or private	Public recreation/services building for public park/playground areas
Governmental building or use	Quick lube/oil change/minor inspection
Handicraft shop	Rappelling facilities
Health club (physical fitness; indoors only)	Recreation buildings (public and private)
Hospital, general (acute care/chronic care)	Refreshment/beverage stand
Hospital, rehabilitation	Restaurant with drive-through
Hotel/motel	Restaurant/prepared food sales
Hotels/motels - extended stay (residence hotels)	Retirement home/home for the aged - public
Kiosk (providing a retail service)	Rodeo grounds
Laundromat and laundry pickup stations	RV park
Limousine / taxi service	RV/travel trailer sales
Micro brewery (onsite manufacturing and/or sales)	School, K-12 (public or private)
Motion picture studio, commercial film	Security monitoring company (no outside storage or installation)
Motion picture theater (indoors)	Specialty shops in support of project guests and tourists
Motion picture theater (outdoors, drive-in)	Tattoo or body piercing studio
Museum	Telemarketing agency
Nursing/convalescent home/sanitarium	Telephone exchange buildings (office only)
Offices, brokerage services	Tennis court (commercial)
Offices, business or professional	Theater (non-motion picture; live drama)
Offices, computer programming and data processing	Travel agency
Offices, consulting	University or college (public or private)
Offices, engineering, architecture, surveying or similar	Video rental / sales
Offices, health services	Waterfront amusement facilities - berthing facilities sales and rentals
Offices, insurance agency	Waterfront amusement facilities - boat fuel storage / dispensing facilities
Offices, legal services - including court reporting	Waterfront amusement facilities - boat landing piers / launching ramps
Offices, medical offices	Waterfront amusement facilities - swimming / wading pools / bathhouses
Offices, real estate	Water storage (surface, underground or overhead), water wells and pumping stations that are part of a public or municipal system
Offices, security/commodity brokers, dealers, exchanges and financial services	Woodworking shop (ornamental)
Park and/or playground (public or private)	
Parking lots (for passenger car only) (not as incidental to the main use)	
Parking structure/public garage	
Photographic studio (no sale of cameras or supplies)	

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

(2) *Conflict.* In the event of conflict between the uses listed in the Land Use Matrix and those listed in Subsection (1), the uses listed in this subsection shall be deemed those authorized in the district.

(b) *Maximum height, minimum area and setback requirements.*

(1) Commercial rental living units (short term):

- (i) *Height.* 75 feet.
- (ii) *Front building setback.* 25 feet.
- (iii) *Rear building setback.* 20 feet.
- (iv) *Side building setbacks.* There shall be a side building setback on each side of a building not less than five feet in width. Buildings on corner lots shall have 15-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the rear lot lines of the adjacent lots. Buildings on corner lots shall have 25-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the side lot lines of the adjacent lots.

- (v) *Residential setback.* Effective November 8, 2006, where a multifamily dwelling abuts a one or two family use or zoning district, the setback from the one or two family property line shall be at least 20 feet plus one foot for each foot of building height over 20 feet.
- (vi) *Width of lot.* The minimum width of an interior lot shall be 60 feet and the minimum width of a corner lot shall be 70 feet, provided that where a lot has less width than herein required, and such lot was in separate ownership prior to September 25, 1967, this requirement will not prohibit the erection of a one-family dwelling.
- (vii) *Sanitary facilities.* Each rental unit shall be provided with an individual enclosed space for sanitation, accessible from within the living unit, in which shall be located a water closet furnished with cold water, and a lavatory and bathtub or shower furnished with hot and cold water.
- (viii) *Lot depth.* 100 feet.
- (ix) *Parking.* See Sec. 5.1 for permitted uses parking.

(2) Non-residential.

- (i) *Height.* 75 feet.
- (ii) *Front building setback.* 25 feet.
- (iii) *Rear building setback.* 20 feet.
- (iv) *Side building setback.* No side building setback is required except that where a side line of a lot in this district abuts upon the side line of a lot in a "R" or "B-1" zone, a side building setback of not less than five feet shall be provided.
- (v) *Residential setback.* Effective November 8, 2006, where a non-residential building abuts a one or two family use or zoning district, the setback from the one or two family property line shall be at least 20 feet plus one foot for each foot of building height over 20 feet.
- (vi) *Width of lot.* The minimum width of an interior lot shall be 60 feet and the minimum width of a corner lot shall be 70 feet.
- (vii) *Corner lots.* A minimum 25-foot front yard and side building setback adjacent to streets shall be required on all corner lots. A canopy at least six feet in height, attached to the main building, may be built within 15 feet of the street line so long as such construction is not supported by columns which will obstruct the vision of vehicles driving upon adjacent streets.
- (viii) *Lot depth.* 100 feet.
- (ix) *Parking.* See Section 5.1 for other permitted uses' parking

(3) Non-commercial rental living units (not short term). Buildings hereinafter erected, constructed, reconstructed or altered in district "C-4," that are not for commercial or commercial-residential use but are for private residences, duplexes, or apartments, or for any use also permitted in the "R" districts, shall be subject to the following:

(a) One family dwellings.

- (i) *Height.* 45 feet.
- (ii) *Front building setback.* 25 feet.
- (iii) *Rear building setback.* 20 feet.
- (iv) *Side building setback.* There shall be a side building setback on each side of a building not less than five feet in width. Buildings on corner lots shall have 15-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the rear lot lines of the adjacent lots. Buildings on corner lots shall have 25-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the side lot lines of the adjacent lots.
- (v) *Garage setback.* Where a driveway is located in front of a garage, the garage shall be setback 20 feet from the right-of-way or the driveway to the garage shall be at least 20 feet long to provide enough space for a vehicle to park without overhanging into the right-of-way, if the garage door is closed. (See Illustration 8 in Sec. 5.1-1)

- (vi) *Residential setback.* Effective November 8, 2006, where a multifamily dwelling abuts a one or two family use or zoning district, the setback from the one or two family property line shall be at least 20 feet plus one foot for each foot of building height over 20 feet.
- (vii) *Width of lot.* The minimum width of an interior lot shall be 60 feet and the minimum width of a corner lot shall be 70 feet, provided that where a lot has less width than herein required, and such lot was in separate ownership prior to September 25, 1967, this requirement will not prohibit the erection of a one-family dwelling.
- (viii) *Lot area.* Every one family dwelling hereafter erected or altered shall have a lot area of not less than 6,600 square feet per family for interior lots, and 7,000 square feet per family for corner lots. Where a lot was legally under separate ownership prior to September 25, 1967, but has an area less than the minimum required in this provision, this regulation shall not prohibit the erection of a one-family residence. Where a public or community sewer is not available and in use for the disposal of all sanitary sewage, each lot shall provide not less than one half acre and one acre on the Edwards Aquifer Recharge Zone.
- (ix) *Lot depth.* 100 feet.
- (x) *Parking.* Two off-street parking spaces shall be provided for each one-family detached dwelling. See Section 5.1 for other permitted uses' parking.

(b) Duplexes.

- (i) *Height.* 45 feet.
- (ii) *Front building setback.* 25 feet.
- (iii) *Rear building setback.* 20 feet.
- (iv) *Side building setbacks.* There shall be a side building setback on each side of a building not less than five feet in width. Buildings on corner lots shall have 15-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the rear lot lines of the adjacent lots. Buildings on corner lots shall have 25-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the side lot lines of the adjacent lots.
- (v) *Garage setback.* Where a driveway is located in front of a garage, the garage shall be setback 20 feet from the right-of-way or the driveway to the garage shall be at least 20 feet long to provide enough space for a vehicle to park without overhanging into the right-of-way, if the garage door is closed. (See Illustration 8 in Sec. 5.1-1)
- (vi) *Width of lot.* The minimum width of an interior lot shall be 60 feet and the minimum width of a corner lot shall be 70 feet
- (vii) *Lot area.* Duplexes hereafter erected or altered shall have a lot area of not less than 8,000 square feet for an interior lot and 8,500 square feet for a corner lot. Where a lot was legally under separate ownership prior to September 25, 1967, but has an area less than the minimum required in this provision, this regulation shall prohibit the erection of a two-family residence. Where a public or community sewer is not available and in use for the disposal of all sanitary sewage, each lot shall provide not less than one acre and approved by the City Sanitarian.
- (viii) *Lot depth.* 100 feet.
- (ix) *Parking.* Two off-street parking spaces shall be provided for each two-family dwelling unit. See Sec. 5.1 for other permitted uses' parking.

(c) Multifamily dwellings.

- (i) *Height.* 45 feet; 60 feet when a pitched roof is used (minimum 4:12 slope).
- (ii) *Front building setback.* 25 feet.
- (iii) *Rear building setback.* 25 feet.
- (iv) *Side building setback.* There shall be a side building setback on each side of a building not less than five feet in width. Buildings on corner lots shall have 15-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the rear lot lines of the adjacent lots. Buildings on corner lots shall have 25-foot side building

setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the side lot lines of the adjacent lots.

- (v) *Garage setback.* Where a driveway is located in front of a garage, the garage shall be setback 20 feet from the right-of-way or the driveway to the garage shall be at least 20 feet long to provide enough space for a vehicle to park without overhanging into the right-of-way, if the garage door is closed. (See Illustration 8 in Sec. 5.1-1)
- (vi) *Residential setback.* Effective November 8, 2006, where a multifamily dwelling abuts a one or two family use or zoning district, the setback from the one or two family property line shall be at least 20 feet plus one foot for each foot of building height over 20 feet.
- (vii) *Width of lot.* The minimum width of an interior lot shall be 60 feet and the minimum width of a corner lot shall be 70 feet, provided that where a lot has less width than herein required, and such lot was in separate ownership prior to September 25, 1967, this requirement will not prohibit the erection of a one-family dwelling.
- (viii) *Lot area.* The minimum lot area for a multifamily dwelling shall be 15,000 square feet; for each unit over ten an additional 1,500 square feet of lot area shall be required. Where public or community sewer is not available and in use, for the disposal of all sanitary sewage, multifamily developments shall be approved by the Planning Commission upon recommendation of the City Sanitarian.
- (ix) *Lot coverage.* For multifamily structures, the combined area of all yards shall be at least 55 percent of the total lot or tract; provided, however, that in the event enclosed parking is provided the minimum total yard area requirement shall be 40 percent of the total lot or tract.
- (x) *Distance between structures.* For multifamily structures, there shall be a minimum of ten feet between structures side by side; a minimum of 20 feet between structures side by front or rear; a minimum of 40 feet between structures front to front; and a minimum of ten feet between structures backing rear to rear, and a minimum of 20 feet front to rear. (See Illustration 1 in Sec. 3.3-3)
- (xi) *Lot depth.* 100 feet.
- (xii) *Parking.* For apartments, apartment hotel units and other multifamily dwellings, off-street parking spaces shall be provided in accord with the following schedule:
  1. One-bedroom apartment or unit . . . 1 1/2 spaces
  2. Two-bedroom apartment or unit . . . 2 spaces
  3. Each Additional bedroom . . . 1/2 space
  4. Each dwelling unit provided exclusively for low income elderly occupancy . . . 3/4 space ("Low income elderly" is defined as any person 55 years of age or older with low or moderate income, according to HUD standards.)

### 3.6. *Special Use Permits.*

- 3.6-1. *Compatible and orderly development.* A special use permit may be granted to allow compatible and orderly development which may be suitable only in certain locations and zoning districts if developed in a specific way or only for a limited period of time.
- 3.6-2. *Application processing.* Application for a Special Use Permit shall be processed in accordance with Section 2.1 of this Chapter and shall include the pertinent information as determined by the type of Special Use Permit and additional information as determined by the Planning Director, the Planning Commission or the City Council.

#### Types of Special Use Permit:

*Type 1.* Regulates land use only; does not require specific site plan or schedule. Construction within a Type 1 Special Use Permit will comply with all of the standard construction requirements for the approved use at the time of construction permit, including drainage plans, TIA, driveway location, and landscaping.

*Type 2.* Requires a site plan drawn to scale and shall show the arrangement of the project in detail, including parking facilities, locations of buildings, uses to be permitted, landscaping, and means of egress and ingress.

- 3.6-3. *Standards.* When considering applications for a special use permit, the Planning Commission in making its recommendation and the City Council in rendering its decision on the application shall, on the basis of the site plan, if a Type 2, and other information submitted, evaluate the impact of the special use on, and the compatibility of the use with, surrounding properties and neighborhoods to ensure the appropriateness of the use at a particular location. The Planning Commission and the City Council shall specifically consider the extent to which:
- (a) *Comprehensive plan consistency.* The proposed use at the specified location is consistent with the goals, objectives and policies contained in the adopted Comprehensive Plan;
  - (b) *Zoning district consistency.* The proposed use is consistent with the general purpose and intent of the applicable zoning district regulations;
  - (c) *Supplemental Standards.* The proposed use meets all supplemental standards specifically applicable to the use as set forth in this Chapter;
  - (d) *Character and integrity.* The proposed use is compatible with and preserves the character and integrity of adjacent development and neighborhoods and, as required by the particular circumstances.

A Type 2 Special Use Permit may include improvements or modifications either on-site or within the public rights-of-way to mitigate development-related adverse impacts, including but not limited to:

- (1) Adequate ingress and egress to property and proposed structures thereon with particular reference to vehicular and pedestrian safety and convenience, and access in case of fire;
- (2) Off-street parking and loading areas;
- (3) Refuse and service areas;
- (4) Utilities with reference to location, availability, and compatibility;



- (5) Screening and buffering, features to minimize visual impacts, and/or set-backs from adjacent uses;
  - (6) Control of signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect, and compatibility and harmony with properties in the district;
  - (7) Required yards and open space;
  - (8) Height and bulk of structures;
  - (9) Hours of operation;
  - (10) Paving of streets, alleys, and sidewalks,
  - (11) Provisions for drainage,
  - (12) Exterior construction material and building design; and
  - (13) Roadway adjustments, traffic control devices or mechanisms, and access restrictions to control traffic flow or divert traffic as may be needed to reduce or eliminate development-generated traffic on neighborhood streets.
- (e) *Public health, safety, convenience and welfare.* The proposed use is not materially detrimental to the public health, safety, convenience and welfare, or results in material damage or prejudice to other property in the vicinity.
- 3.6-4. *Procedures for special use permit (SUP).* Granting of an SUP is considered zoning and as such, all the procedures for changing a zoning district apply to an application for an SUP. After a public hearing and upon the recommendation of the Planning Commission, the City Council may approve, deny or modify the site plan and issue a special use permit containing such requirements and safeguards as necessary to protect adjoining property, including conditions addressing the standards in Section 3.6-3(d).
- 3.6-5. *Revocation.* The SUP for a Type 1 permit may be considered for revocation if a use other than the use approved in the SUP or in the underlying zoning district is developed or other stated requirements are not met. The SUP for a Type 2 permit may be considered for revocation for the following reasons:
- (a) Construction is not begun within five years of the date of approval of the permit.
  - (b) Progress toward completion is not being made. Progress toward completion includes the following:
    - (1) An application for a final plat is submitted;
    - (2) A good faith effort is made to file with a regulatory agency an application for a permit necessary to begin or continue completion of the project;
    - (3) Costs have been incurred for developing the project including, without limitation, costs associated with roadway, utility, and other infrastructure facilities designed to serve in whole or in part, the project (but exclusive of land acquisition) in the aggregate amount of 5% of the most recent appraised market value of the real property on which the project is located;
    - (4) Security is posted with the city to ensure performance of an obligation required by the city; or

- (5) Utility connection fees or impact fees for the project have been paid to the City or New Braunfels Utilities.
  - (c) *Abandonment of the project.* Abandonment includes development of the property in a way other than provided for by the SUP.
  - (d) Failure to satisfy the conditions of the SUP or follow the site plan made part of the SUP.
  - (e) *Code violations.* Revocation may be considered if there are three or more code violations in a 720 day period.
    - (1) *Notice to property owner.* If the Planning Director finds no less than three violations of any code of ordinances on the property within a 360 day period, he shall advise the applicant of a revocation hearing. The Planning Director shall notify the property owner in writing of the violations and that an administrative hearing will be held concerning the violations. Such notice shall be given at least 10 days prior to the hearing. The Planning Director shall take evidence and conduct an administrative hearing to determine if a revocation procedure should be initiated. Such a determination is not subject to appeal to the Zoning Board of Adjustment.
    - (2) If the Planning Director finds that there is credible evidence that the code of ordinances has been violated, or there have been convictions or guilty pleas in any court of competent jurisdiction, on at least three separate occasions within a 720 day period, and after the administrative hearing, he shall initiate a SUP revocation process.
    - (3) *Appeal to Municipal Court.* Any code violation may be appealed to, or considered by, the Municipal Court Judge. The parties at interest in this appeal may cross examine witnesses.
  - (f) *Revocation process.* The revocation process shall be the same as for a zoning district change, with notice to property owners within 200 feet, public hearing and recommendation by the Planning Commission, and public hearing and ordinance consideration by the City Council.
  - (g) The City Council may deny the SUP revocation, approve the revocation, deny the revocation and add additional restrictions to the SUP, suspend the SUP for a period the Council determines, or amend the SUP with probationary requirements and terms the Council determines.
  - (h) Upon revocation of a special use permit the property subject to the special use permit may be used for any permitted use within the applicable base zoning district.
- 3.6-6. *Compliance with conditions.* Conditions which may have been imposed by the City Council in granting such permit shall be complied with by the grantee before a Certificate of Occupancy may be issued by the Building Official for the use of the building on such property.
- 3.6-7. *Telecommunication towers and/or antennas.* See Sec. 5.7
- 3.6-8. *Deviation from Code.* The City Council may approve a special use permit with deviations to any provision of the Code of Ordinances. Such deviations shall be listed or shown in or as part of the Ordinance approving the special use permit.

## **Draft Minutes for the July 2, 2019 Planning Commission Regular Meeting**

**Public hearing and recommendation to City Council regarding a proposed rezoning to amend an existing Special Use Permit to allow a commercial tuber entrance and takeout in the "C-4" Commercial Resort District on property presently addressed as 444 East San Antonio Street.**  
(Applicant: IAKOBO Four LP; Case Manager: M. Greene)

Mr. Greene summarized the request and stated Staff recommended approval with the conditions outlined in the staff report.

Vice Chair Reaves inquired which conditions required with the original special use permit had been complied with.

Mr. Greene clarified each condition of the original special use permit had been resolved or will continue to be met.

Discussion followed regarding the provided off-street parking.

Commissioner Meyer expressed concerns regarding the stairway's ADA compliance. He stated he disagrees that alternate access through the shuttle is an appropriate accommodation.

Discussion followed.

Chair Edwards invited the applicant to speak.

Javier Gonzalez, GRG Architecture, stated he would speak on behalf of the applicant. Mr. Gonzalez explained the intent for the request and provided a summary of the applicant's granted postponement by TDLR. Mr. Gonzalez stated the stairway will act as secondary access for tubers and the provided shuttle acts as an ADA compliant primary access to the river. Mr. Gonzalez further described the circumstances under which the stairs were used as a means of emergency access for tubers. Mr. Gonzalez then stated the stairway is currently gated off.

Commissioner Tubb asked for the applicant to clarify that the intent of the stairway is to allow tubers to use it to access the river only if they would like to forgo the full floating route and the tube chute.

Mr. Gonzalez stated that was correct.

Commissioner Tubb asked Staff if the entrance at Prince Solms is ADA compliant.

Mrs. Snell stated the entrance at Prince Solms is managed by the Parks Department and the present Staff did not have that information.

Discussion followed regarding current accessibility standards for tubing the river.

Commissioner Laskowski asked if anyone was allowed to use the stairs to access the river.

Monique Weston, the applicant, answered she does not allow anyone to use the stairs to access the river. She provided an example in which the stairs were used as emergency access for tubers that were injured.

Discussion followed regarding the permitted postponement by TDLR.

Chair Edwards asked if anyone wished to speak in favor.

George Green, 238 Loma Vista, wished to speak in favor. Mr. Green stated he was a councilmember when the original special use permit was approved. He stated he believes ADA compliance is difficult for any tube outfitter and the applicant should be permitted to have a fair opportunity to operate. He then stated

the applicant has complied with the conditions of the original special use permit and should be able to continue to do so.

Chair Edwards asked if anyone wished to speak in opposition.

No one spoke.

Motion by Commissioner Laskowski, seconded by Vice Chair Reaves, to close the public hearing. Motion carried (9-0-0).

Vice Chair Reaves stated he found it troublesome the applicant is requesting to waive previously required conditions. He further expressed concerns regarding the granted postponement by TDLR.

Commissioner Gibson inquired if the Commission could potentially place a condition on the special use permit to require only outbound traffic from the river can use the stairway.

Discussion followed regarding the nature of secondary access to the river.

Commissioner Mathis stated he disagreed with restricting the stairs to only being used for outbound access as he believes if any tuber needed their accessibility needs to be met, they would coordinate with the applicant to safely access the primary entrance via shuttle.

Discussion followed.

Motion by Commissioner Gibson, seconded by Commissioner Tubb, to recommend approval to City Council regarding a proposed rezoning to amend an existing Special Use Permit to allow a commercial tuber entrance and takeout in the "C-4" Commercial Resort District on property presently addressed as 444 East San Antonio Street, with Staff recommendations. Motion carried, with Vice Chair Reaves and Commissioner Meyer in opposition (7-2-0).

**ORDINANCE NO. 2019-**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS, TEXAS, GRANTING APPROVAL OF AN AMENDMENT TO ORDINANCE NUMBER 2017.65, A TYPE 1 SPECIAL USE PERMIT ALLOWING A COMMERCIAL TUBER ENTRANCE AND TAKEOUT IN THE “C-4” RESORT COMMERCIAL DISTRICT ON 0.2289 ACRES OUT OF A 1.608 ACRE TRACT OF LAND ADDRESSED AT 444 EAST SAN ANTONIO STREET; REPEALING ALL ORDINANCES IN CONFLICT; CONTAINING A SAVINGS CLAUSE; AND DECLARING AN EFFECTIVE DATE.**

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**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 also 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 compatibility 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 the proposed uses; and

**WHEREAS**, the City Council desires to grant approval of an amendment to a Type 1 Special Use Permit for 444 East San Antonio Street to allow a commercial tuber entrance and takeout in the “C-4” Resort Commercial District.; **now therefore**,

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

**SECTION 1**

**THAT** Sections 3.6-2 and 3.6-3, Chapter 144 of the New Braunfels Code of Ordinances



and particularly the Zoning Map of the City of New Braunfels, are revised by adding the following described tract of land as a "Type 1 Special Use Permit" for the use and conditions herein described:

"Being 0.2289 acres out of a 1.608-acre tract of land described as being part of City Block 1043 J.M. Veramendi Two League Survey No. 1, Comal County, Texas, addressed at 444 East San Antonio Street and delineated in Exhibit 'A', to allow a commercial tuber entrance and takeout in the "C-4" Resort Commercial District.

## SECTION 2

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

1. *The property owner shall utilize ADA compliant shuttles to transport people with disabilities or special needs to and from the City's accessible river entrances/exits*
2. *The owner/operator shall cooperate and comply with City requests, orders and/or ordinances related to crowd control management, including but not limited to queuing, staggered entry, cut-off times, and maximum entry/limits.*
3. *The subject use shall provide a minimum of 200 offstreet parking spaces, based on utilizing 800 tubes; if more than 800 tubes are utilized by the subject business, an appropriate number of additional parking spaces will be required per existing City ordinances. Should the adjacent 12,000 square foot building and outdoor decks on the premises become commercially occupied, the 40 off-street parking spaces on the property will not be counted in the 200 off-street parking spaces required for this SUP.*
4. *Any vehicular/shuttle transport used by the owner/operator of the subject use from any off-site shared parking areas must be on streets classified as Collectors or higher in the City's Regional Transportation Plan or be part of an existing approved shuttle route.*
5. *The subject business will not allow any personal tubes. Customers must rent a tube(s) from the business in order to use the entrance.*
6. *The business will not allow customers to unduly or excessively congregate in the river fronting the business. Customers may only use the entrance to commence their float.*

7. *Should ownership of the subject property change, the City will initiate a rezoning case to allow for a new review of the SUP.*

### **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 6**

**THIS** ordinance will take effect upon the second and final reading of same.

**PASSED AND APPROVED:** First Reading this the 2nd day of July 22, 2019.

**PASSED AND APPROVED:** Second Reading this the 12th day of August, 2019.

**CITY OF NEW BRAUNFELS**

\_\_\_\_\_  
**BARRON CASTEEL**, Mayor

**ATTEST:**

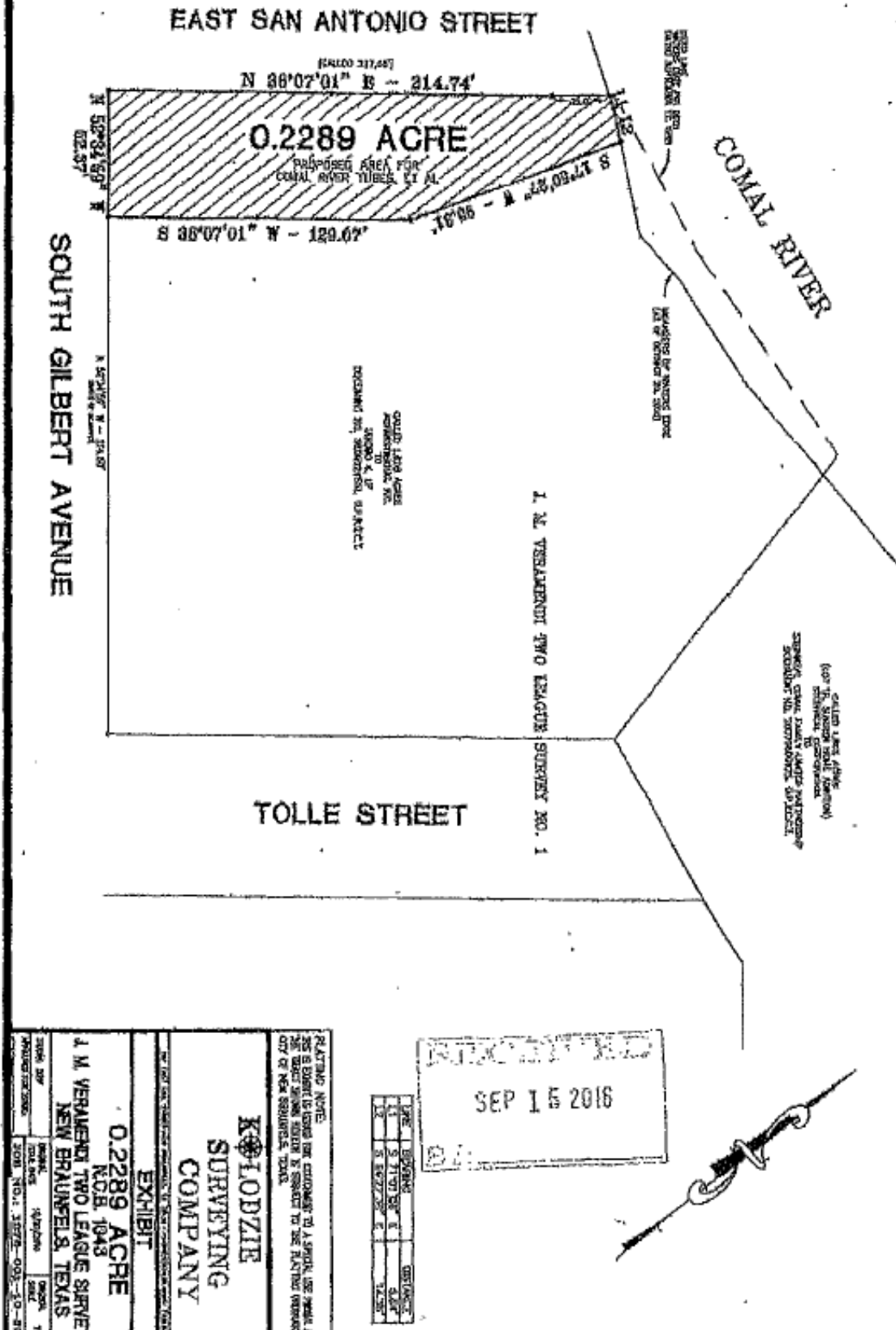
\_\_\_\_\_  
**PATRICK D. ATEN**, City Secretary

**APPROVED AS TO FORM:**

\_\_\_\_\_  
**VALERIA M. ACEVEDO**, City Attorney

# EXHIBIT 'A'

## SITE PLAN



**City Council Agenda Item Report****7/22/2019**

Agenda Item No. G)

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**Presenter**

*Stacy A.M. Snell, Planning and Community Development Assistant Director*  
*ssnell@nbtexas.org*

**SUBJECT:**

Public hearing and first reading of an ordinance regarding the proposed rezoning to amend a Special Use Permit to allow a mixed-use development in the "C-3" Commercial District and the "R-2" Single-Family and Two-Family District, addressed at 1260 S. Business 35.

**BACKGROUND / RATIONALE:**

**Case No.:** SUP19-157

**Council District:** 6

**Owner/Applicant:** Carolyn Lehmann  
P.O. Box 312100  
New Braunfels, TX 78130  
(830) 627-7744  
carolyn@direct-texas.com

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

The subject property is a through-lot, 0.66 of an acre in size. It has frontage on the north side of S. Business 35 and extends through to W. Coll Street. The base zoning is split with C-3, Commercial District adjacent to Business 35, and R-2 Single- and Two-Family Residential District adjacent to Coll Street, with an SUP (Special Use Permit) for a mixed-use development across the whole tract. The subject property was previously used by a plumbing company and then for auto repair and storage. In 2014, the applicant purchased the property to be used for a digital print shop.

The aforementioned SUP was requested by the current applicant and approved in February 2017. In addition to what is allowed in the base districts, the SUP overlay authorizes a music venue and one residence in addition to the office/digital print shop. A residence is under construction, and the applicant has applied for a commercial permit for the remodeling of structures that will become the music venue. Upon application for the commercial permit, it was discovered that the proposed commercial improvements were not in accordance with the approved 2017 SUP. In the applicant's current application, they state that "the 2017 SUP established restrictions on the specifics of the use that have caused unanticipated challenges in developing the property and prevents adjustments to the scope of the project during design". The applicant is seeking to amend the 2017 SUP to allow some flexibility on the additional restrictions and site plan.

The applicant is also requesting approval of an alternative site plan, Site Plan B, that would allow for increased development on the property if and when additional minimum off-street parking are provided and guaranteed through off-site parking agreements in compliance with city regulations. (see Attachment)

The proposed development is described below using “Building” numbers referenced on the site plan (see Attachment) based upon the applicant’s application.

**Building 1:**

The existing house facing Business 35 is proposed to be renovated and converted into a “music studio/rehearsal space/listening room, meeting space, with retail space.” This space is intended to be used by the applicant’s son for recording and to host music listening sessions with alcohol allowed (BYOB scenario or with a beer/wine license) and food catered. Public assembly within Building 1 (any type of music “event”) is proposed to take place in the evening after the print shop has closed.

**Building 2:**

The existing structure is intended to be renovated for storage use.

**Building 3:**

Continued use as a digital print shop.

**Building 4:**

Continued use as offices for the print shop.

**Building 5:**

“Hardy House.” A residence is under construction on the property adjacent to W. Coll Street and is to be used as a long-term residential rental (a minimum of 30 days) or a bed and breakfast with a resident manager.

Parking for the proposed development breaks down as follows:

<b>Building</b>	<b>Size</b>	<b>Parking Ratio</b>	<b>Min. Required</b>
Building 1	1,600 s.f.	Nightclub - 1/75	21
Building 2	1,480 s.f.	Storage - 1/1,000	2
Building 3	1,650 s.f.	Print Shop - 1/300	6
Building 4	1,536 s.f.	Office - 1/300	5
Building 5	2,334 s.f.	Residence/B&B	2 or 4

<b>Need:</b>	<b>Min.</b>		<b>With Shared:</b>
<b>Worst case (B&amp;B)</b>	<b>38</b>		<b>27</b>
<b>Best case (residence)</b>	<b>36</b>		<b>25</b>

The submitted site plan identifies 27 parking spaces. The applicant proposes to share the parking spaces on the site by restricting the hours of full/event operation of Building 1 to evenings and



restricting the hours of Buildings 3 and 4 to day time. Essentially, Buildings 1, 3 and 4 cannot be open and operating at the same time. In this shared parking scenario, the minimum number of parking spaces required by code would be available for all of the proposed uses during their allotted operating times.

As part of the proposed SUP amendment, the applicant is **seeking to maintain the previously approved deviations from the Zoning Ordinance requirements from the 2017 SUP** as follows:

**Setbacks:**

- **Building 4.** A minimum 2.5-foot setback adjacent to W. Coll Street that expands up to approximately 8 feet where the requirement is 25 feet. *The properties south of the subject property have minimal setbacks adjacent to W. Coll Street.*
- **Building 5.** A 20-foot setback adjacent to W. Coll Street where the requirement is 25 feet. *The property immediately adjacent to the north also has a similarly reduced setback.*

**Fencing:**

- **Height.** The applicant has constructed the 6-foot tall wooden privacy fence at the property line along the W. Coll Street property line that was approved with the 2017 SUP. The applicant considers this the “back entrance” and the fence provides security and shields the commercial activities from the residences across W. Coll Street. The privacy fence extends along the shared property line with Bill Hill Music to the west. The applicant wishes to maintain the location of the fencing.
- **Residential buffer.** The change in use necessitates residential buffer requirements of a masonry wall and 1 tree for every 25 linear feet. The 2017 SUP did not require additional trees to be planted along the shared property lines with the residences to the east. The property at 1255 W. Coll Street currently has a privacy fence and several mature trees along much of the common line.

**Landscaping:**

- **Business 35 parking lot.** Most of the subject property has been utilized historically for parking or vehicle storage; however, the existing chip sealed areas are experiencing overgrowth. The Zoning Ordinance requires 1 tree and 4 shrubs per 40 feet of parking lot frontage along roadways. The applicant is proposing to maintain the 2017 SUP requirement to plant 8 ornamental trees and construct a 3-foot tall corrugated metal fence for approximately 107 feet along Business 35 to serve as screening in lieu of planting the shrubs for the parking lot frontage. The yard in front of Building 1 may be improved with additional trees, shrubs and landscape features to enhance the curbside appeal.

As part of the proposed SUP amendment, the applicant is **seeking to include an additional deviation from the Zoning Ordinance requirements** as follows:

**Signage:**

- The applicant is requesting to use an existing sign pole to add a freestanding sign cabinet to the property. A new sign cabinet added to this pole would be restricted to a maximum of 20 feet in height and 50 square feet in area and is not intended to be an electronic message sign.

The existing pole does not meet the 5-foot setback requirement. Existing sign ordinance

standards would allow the subject property to have:

- One freestanding monument sign up to 10 feet in height and 60 square feet in area, or
- One low-profile pole sign up to 10 feet in height and 20 square feet in area.
- An electronic message sign is also allowed up to 28 feet in height and 100 square feet for the sign face.

It is important to note that it is unknown if the existing pole is subject to any easement or utility restrictions, is of sufficient construction, or has a sufficient footing to support a sign cabinet in compliance with building code standards. If the sign deviation is included with the approval of the amended SUP, construction must still comply with all relevant building and safety code standards.

### **General Information:**

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

North - Across W. Coll Street, R-2 / Residential - single-family residences

East - R-2 & C-3 / Residential - single-family residences

South - Across S. Business 35, C-3 / Commercial - Walnut Square Shopping Center and an auto repair business

West - C-3 / Commercial - music store

#### *Floodplain:*

No portion of the property is within the 1% annual chance flood zone.

#### *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 commercial uses are of lesser intensity than the previous auto use.*);
- 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 or proposed schools, streets, water supply, sanitary sewer and other utilities in the area.*);
- How other areas designated for similar development will be affected (*There should be no negative effect on other areas designated for similar commercial development. The proposed fence along W. Coll Street and Business 35 should mitigate negative impacts from automotive headlamps on adjacent property and roadways.*);
- Any other factors that will substantially affect the public health, safety, morals, or general welfare (*The redevelopment of the subject property with the proposed mixture of uses and small scale structures should improve the site at this neighborhood gateway, and the aesthetics of the Business 35 Corridor.*); and
- Whether the request is consistent with the Comprehensive Plan (*The property is located within the New Braunfels Sub-Area and a Transitional Mixed-Use Corridor. It is also near existing Employment and Civic 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. <b>Action 3.6:</b> Proactively provide a regulatory environment that remains business and resident friendly.
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### **FISCAL IMPACT:**

Rental use of the property as a Bed and Breakfast is subject to hotel occupancy tax (HOT). 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 July 2, 2019 and recommended approval with the condition that no outdoor music be allowed (8-1-0) with Commissioner Laskowski opposed. The applicant is no longer seeking an allowance for outdoor music, the report and draft ordinance have been updated accordingly.

### **STAFF RECOMMENDATION:**

Staff recommends approval. The proposed revisions to the SUP restrictions and site plan are minor modifications that will allow for the property owner to have more flexibility in achieving the originally approved development concept for the property in the 2017 SUP. The proposed use of the existing pole sign is in character with existing signage along the Business 35 corridor. And, the alternative site plan (Future Site Plan B) will allow increased use of the property while ensuring adequate parking is provided for said use(s).

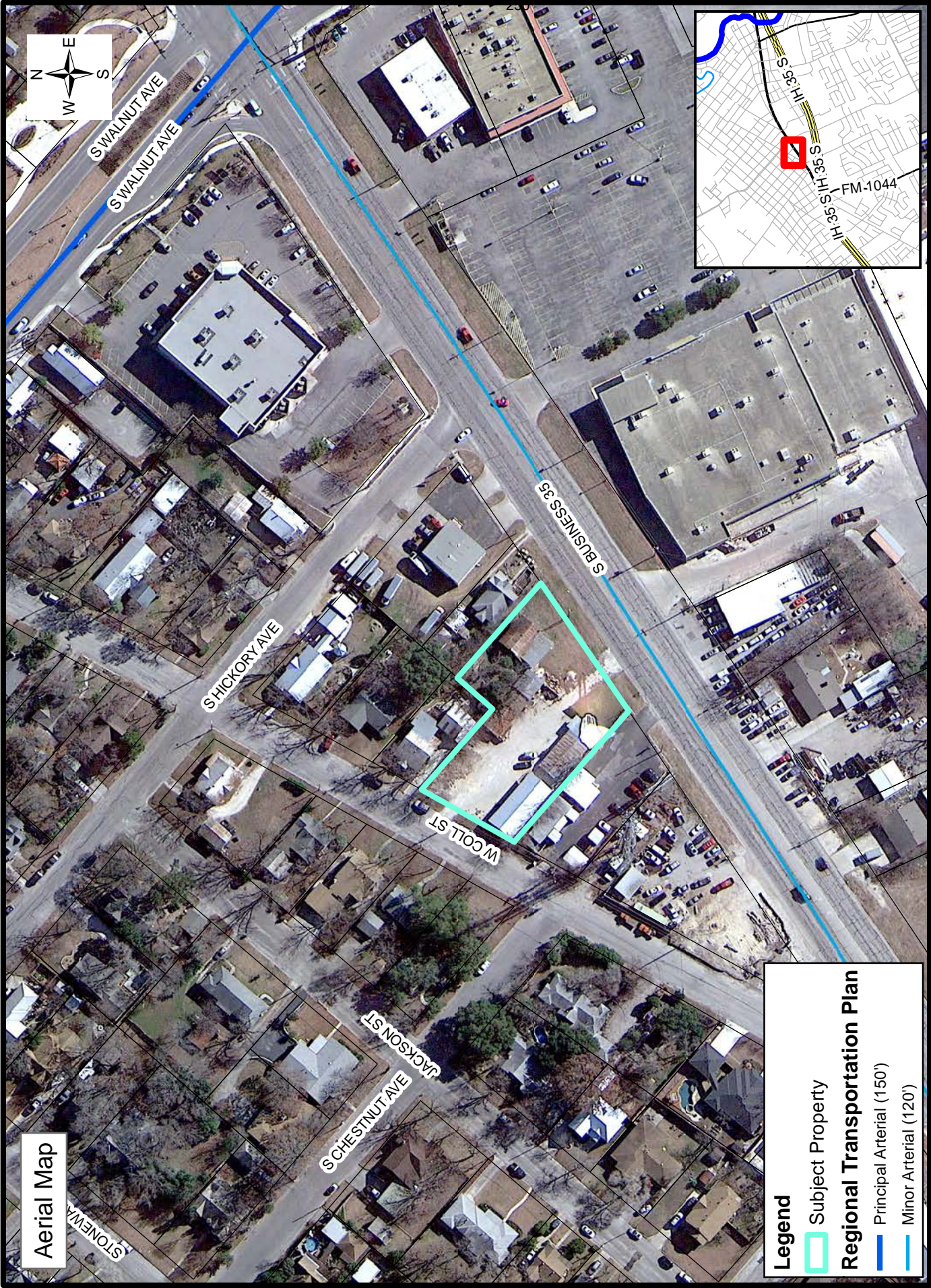
### **Notification:**

Public hearing notices were sent to 16 owners of property within 200 feet of the request. The City has received one response in favor (#14) and four responses in objection (#5, 7, 10 & 12).

### **Attachments:**

1. Aerial Map
2. Applicant Statement and Proposed Restrictions
3. Land Use Maps (Zoning, Existing Land Use, Existing Centers, Future Land Use Plan)
4. Photographs
5. Notification List, Map and responses
6. Sec. 3.6 Special Use Permits
7. Draft Planning Commission Minutes
8. Ordinance No. 2017-21
9. Ordinance





**SUP19-157**  
**1260 S. Business 35**  
**Amendment to Special Use Permit**



I am here seeking an amendment to the SUP approved in Feb 2017. The amendments are not to change my intended use of the property or its buildings, but to clarify and simplify the SUP and its Additional Restrictions as written in 2017.

I am already in the process of doing permitted improvements to the residential house that is approved for long-term residential or Bed and Breakfast with an on-site manager.

The need for an amendment came during the commercial permitting process for Building 1 (originally shown as Building 1 & 2 - as that's how they were listed on the CAD descriptions, but actually one building) which I initiated in November of 2018. After a pre-development meeting on Feb 5 with representatives of all departments, I wrote up and submitted a commercial permit application based upon the recommendations in the meeting. In late April, I received comments from P&Z reviewer that I could not put the stage in the 'Building 2' part of the structure, as the approved SUP designated that space's usage as 'storage.' And, though the suggestion was brought up in the pre-development meeting with several follow up clarifications answered by P&Z staff, I was informed that I could not have restrooms in a separate building in the backyard of Building 1 - as it was not shown on the SUP in 2017.

I appreciate the assistance of Matthew Simmont in helping me to prepare the application for the amendment, especially the advice on how to clarify and simplify the language, allowing for current City Ordinances to govern most aspects.

The two items mentioned above noted by P&Z reviewer have been addressed by simplifying the plat and showing Building 1, Building 2, and an adjacent existing concrete slab - as one structure now shown as Building 1. This allows the floor plan to be designed within this area as needed to meet permitting requirements.

Since we were required to amend the SUP for these reasons, at a cost of almost \$2000, I took the opportunity to add an ask for a deviation to the zoning ordinance to allow outside music -- on a limited basis: Saturday and Sunday afternoons.

The Planning Commission approved my amendment application and exhibits with the exception of removing the Additional Restriction #9 - Deviation to allow outside music.

I am willing to withdraw that request, and so am submitting an amended Additional Restrictions for approval without #9.

Thank you,

Carolyn Lehmann  
Direct Texas / VoterDirect Texas

Office - 830-627-7744 ext 101  
Fax # - 830-627-7748



### **Exhibit 'B' - ADDITIONAL RESTRICTIONS**

1. An amendment to the Special Use Permit will be required for the addition of any new structures or the expansion of any existing structures that are not identified:
  - a. on the approved Site Plan (Exhibit C)
  - b. on the approved Site Plan B – future expansion/use (Exhibit D); or
  - c. in the approved Ordinance.
2. Approved Uses:
  - Building 1 – nightclub, 1,600 square feet.
  - Building 2 – storage, 1,500 square feet.
  - Building 3 – office/print shop, 1,650 square feet.
  - Building 4 – office, 1,536 square feet.
  - Building 5 – residence, 2,234 square feet. Bed and breakfast use allowed with a resident manager. Short-term rental use is not allowed.
3. On the portion of the property that is zoned “C-3 Commercial District, any use within the “C-3” Commercial District is allowed if the minimum parking requirements for all cumulative uses located on the property are met or shared parking meets the minimum parking requirements (as in Exhibit B). City review and approval is required for any alternative shared parking agreement.
4. Deviations from Setback Requirements:
  - Building 4: The structure will have a 2.5-foot front setback adjacent W. Coll Street that expands up to approximately 8 feet.
  - Building 5: The house will have a 20-foot setback adjacent W. Coll Street.
5. Deviations from Fencing Requirements:
  - A maximum 6-foot tall fence is allowed on the property line along W. Coll Street.
  - A 3-foot tall corrugated metal fence will be constructed along Business 35, shrubs will not be required.
6. Deviations from Landscaping Requirements:
  - Business 35 parking lot: Eight ornamental trees will be planted along Business 35 as indicated on the approved Site Plan (Exhibit C).
  - Residential buffer trees are not required.
7. Deviations from Signage Requirements
  - One freestanding sign is allowed on the property. A new sign (Maximum height = 20 feet, Maximum area = 50 square feet) may be added to the existing sign pole located near the southern corner of the property, along Business 35 and shall not encroach into the right-of-way. The existing sign pole shall not be used for an electronic message sign. If the existing sign pole is not used, all new signage must comply with current code requirements.
8. Driveways and Parking Requirements:
  - The property will have a minimum of 27 parking spaces, with additional 2 available in the carport. Existing parking surface may be maintained. Any new parking areas are to be surfaced with materials approved by the City Engineer.
  - Shared parking will be allowed in accordance with the On-Site Shared Parking Agreement (Exhibit B).
  - The entrance from Business 35 and any internal drive gates must meet access requirements from the Fire Department and the Public Works Department. The entrance from W. Coll St must meet access requirements from the Public Works

Department.

9. ~~Deviation from Zoning — Outdoor music allowed on Saturday/Sunday between Noon and 30 minutes after sunset. Outdoor seating that increases the occupancy of the music venue is prohibited.~~

### Exhibit 'C' – On-Site Shared Parking Agreement

Building – USE	Required Parking	Days / Hours
Bldg 3. Office/print shop	6	M-F, 8:30 – 5pm
Bldg 4. Office	5	M-F, 8:30 – 5pm
Bldg 1. Music Concerts 1600 sq.ft. - parking	21	as scheduled, will be M-F, after 5 Saturday and Sunday
Bldg 5. Residence/B & B	4	When rented
Bldg 2. Storage	<u>2</u>	no hours
<b>Total Required Spaces</b>	<b>38</b>	
<b>Daytime use</b>	<b>- <u>11</u></b>	
<b>Required Total non-daytime</b>	<b>27</b>	<b>27 Available On-Site*</b>

#### Alternate Usage of Bldg 1

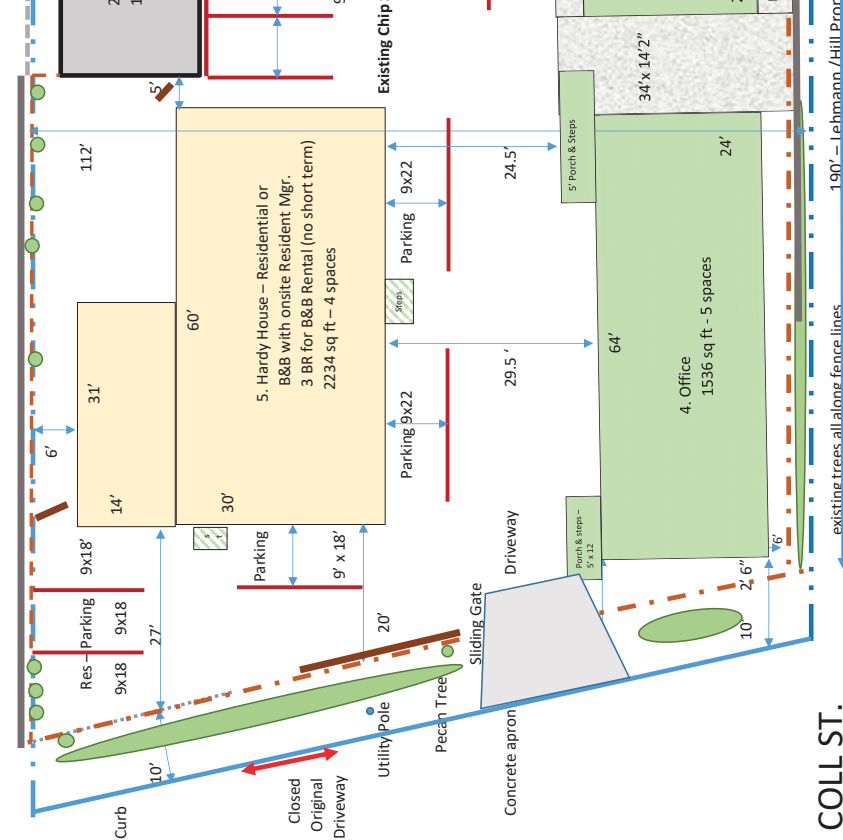
Bldg 1 – other uses (not concert) Rehearsal space/Recording Live Streaming/Office	6	M-F, daytime hours
Bldg 3. Office/print shop	6	M-F, 8:30 – 5pm
Bldg 4. Office	5	M-F, 8:30 – 5pm
Bldg 5. Residence/B & B	4	When rented
Bldg 2. Storage	<u>2</u>	no hours
<b>Total Required Spaces</b>	<b>23</b>	<b>27 Available On-Site</b>

**\*Stacked Parking Spaces** – 2 additional spaces are available in Building 2 under the carport that may be utilized for employee parking.

#### Future Growth Requiring Additional Parking

Site Plan B details future expansion or use of existing buildings or business use of outdoor space. If such expansion(s) triggers a need for additional parking spaces, Off-Site Parking agreements or Valet Parking (to off-site location) will be required. City review and approval is required before occupancy can take place. Owner is responsible for meeting all building permit requirements.

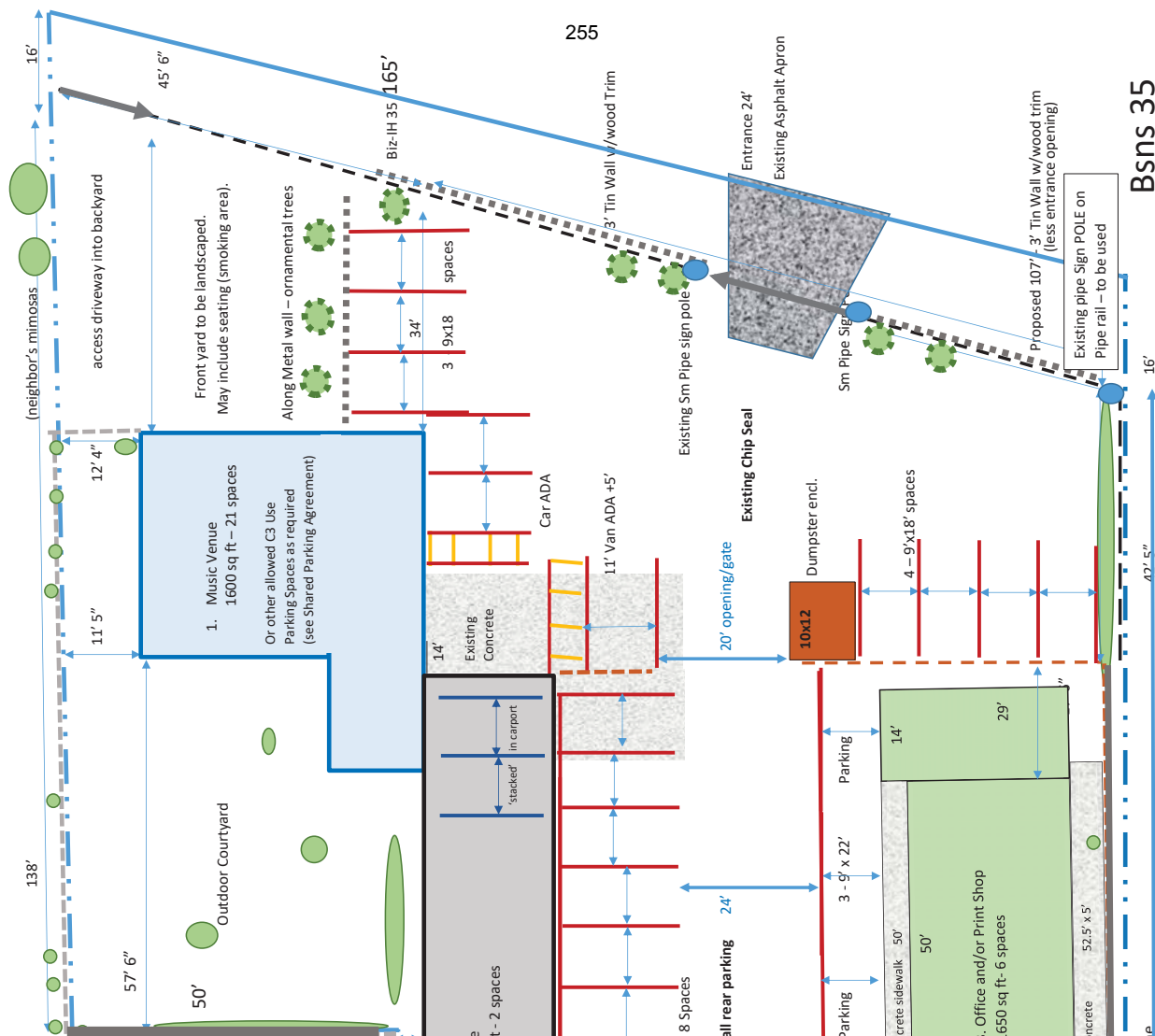
1260 Business 35 South, New Braunfels



190' – Lehmann /Hill Property Line

Bsns 35

42' 5"



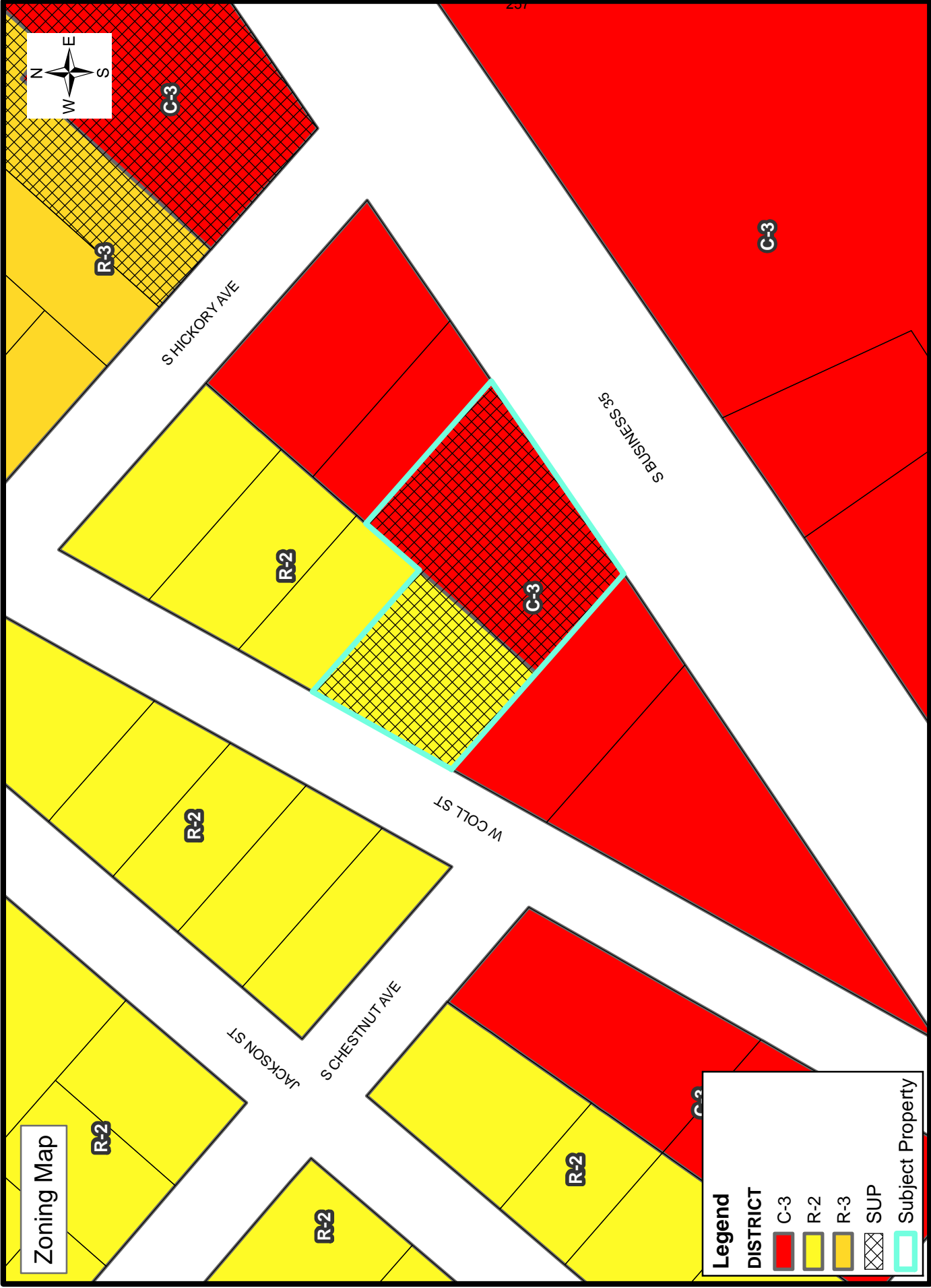
1260 Business 35 South, New Braunfels



190' – Lehmann / Hill Property Line

## Bsns 35





**SUP19-157**  
**1260 S. Business 35**  
**Amendment to Special Use Permit**



# Existing Land Use Map



S WALNUT AVE  
S WALNUT AVE

SHICKORY AVE

S BUSINESS 35

W COLL ST

JACKSON ST  
SCHESTNUT AVE

## Legend

Subject Property

## Existing Land Use

Residential Low Density (Less than 5 Units/Acre)

Commercial

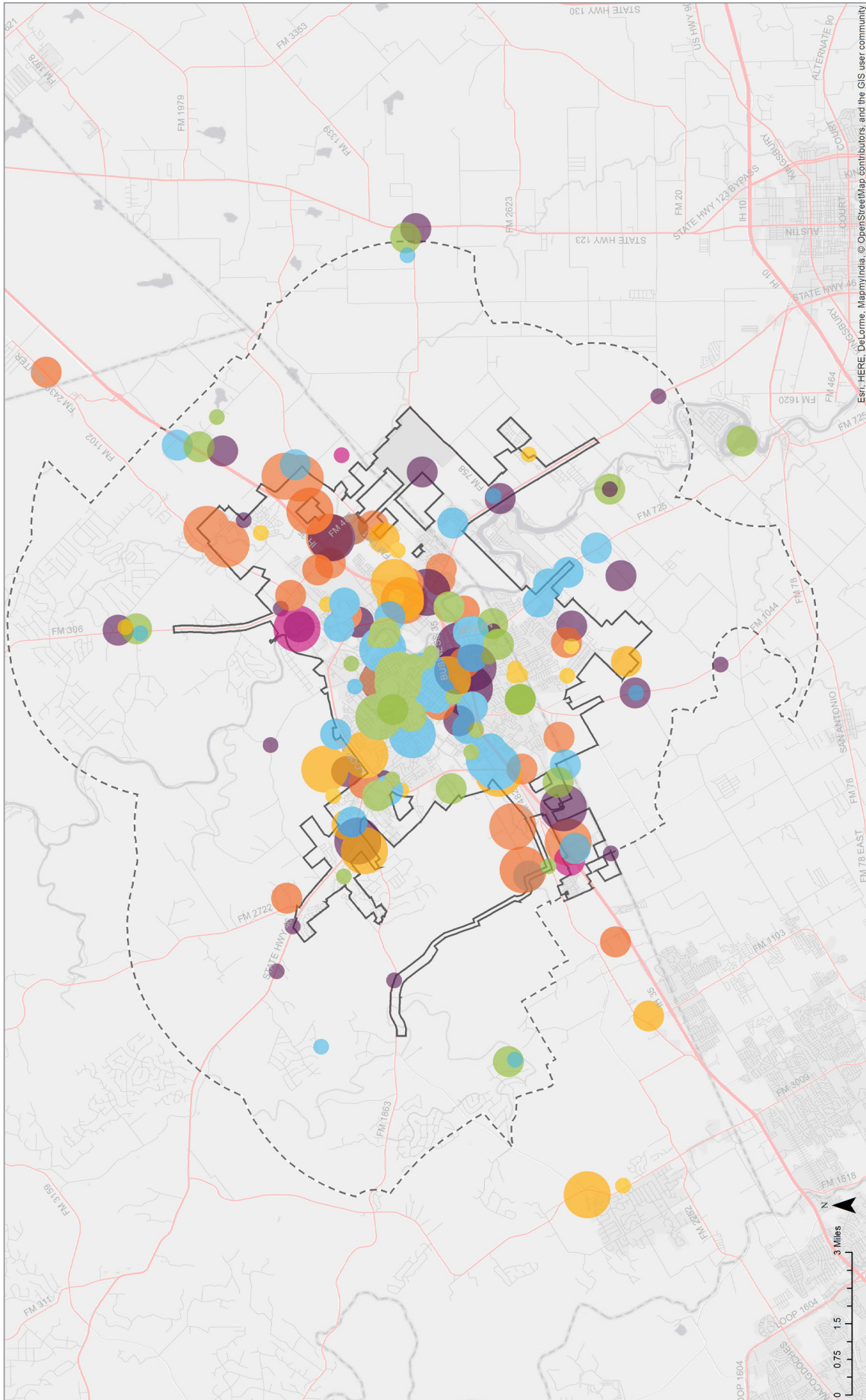
Open



**SUP19-157**  
**1260 S. Business 35**  
**Amendment to Special Use Permit**







The location of existing centers was determined through the analysis of previous studies and background documents, windshield surveys, and reviewed by City staff, Steering Committee members, and Plan Element Advisory Group members during a public workshop.

# FUTURE LAND USE PLAN

A future land use plan is how land is envisioned to be. It establishes priorities for more detailed plans (sub area plans) and for detailed topical plans (such as parks and open spaces, trails and roads). It cannot be interpreted without the goals and actions of Envision New Braunfels.

## TRANSITIONAL MIXED-USE CORRIDOR

Transitional Mixed-Use Corridors express an aspiration to retrofit existing auto-dominated retail corridors with a mix of uses and a variety of travel modes over time.

## OUTDOOR RECREATION CENTER

Outdoor Recreation Centers are centered around a public or private outdoor destination like Fischer Park.

## EMPLOYMENT CENTER

Employment Centers are mixed-use areas centered around office or industrial uses that can support significant employment.

## MARKET CENTER

Market Centers are mixed-use areas anchored by a retail destination where surrounding residents go to get daily goods and services.

## CIVIC CENTER

Civic Centers are mixed-use areas centered around a civic destination such as City Hall, a library or a recreation center.

## SUB AREA 1

Sub Area 1 includes the Downtown, Gruene and the Mid-Century or older neighborhoods that surround them. It is home to the natural springs and headwaters of flowing rivers that have attracted New Braunfelsers to the town for centuries.

## SUB AREA 2

Sub Area 2 refers to the neighborhoods and residential enclaves that have grown alongside the Hill Country landscape.

## SUB AREA 3

Sub Area 3 includes a planned community offering a diversity of housing, distinct community centers and preserved Hill Country landscape features.

## SUB AREA 4

At the heart of Sub Area 4 is Fischer Park. Proximity to IH-35, downtown and neighboring communities like McQueeney makes this area highly desirable and accessible.

## SUB AREA 5

Sub Area 5 bridges together many communities east of IH-35. It includes the scenic landscape along both banks of the Guadalupe River between Highway 46 and FM 725.

## SUB AREA 6

Sub Area 6 expresses an aspiration for conservation communities focused around maintaining and enhancing ecological integrity while allowing some level of development to occur.

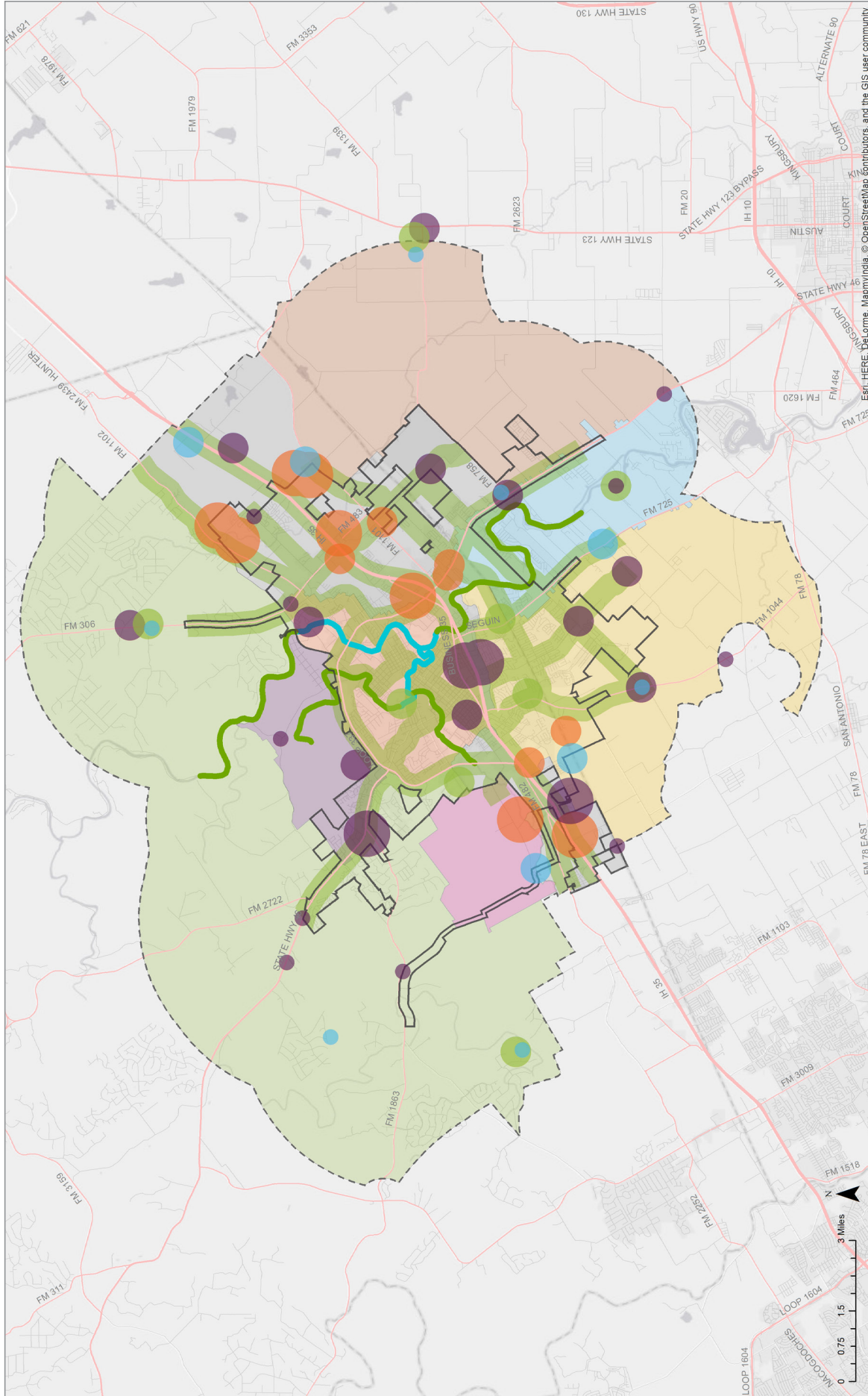
## SUB AREA 7

Sub Area 7 includes parts of the city currently being mined for natural resources. These sites may become parks and open space, mixed-use communities or new commercial or entertainment areas in the future.

## SUB AREA 8

This fast-growing Sub Area includes many neighborhoods offering affordable places for young families to live.





A Comprehensive Plan shall not constitute zoning regulations or establish zoning district boundaries. Preferred future growth scenario combines Scenarios A and C per recommendations of the Envision New Braunfels Steering Committee (February 2018). Exact boundaries of sub areas, centers, and corridors may be [zoomed and viewed online](#).





**Entrance drive from Business 35**



**Buildings 1 & 2—proposed music venue and storage**





**Building #3—Print Shop**



**Building #4—Office**





**Building #5—residence**



**Subject property from W. Coll St.**

**PLANNING COMMISSION – JULY 2, 2019 – 6:00 PM**  
**New Braunfels City Hall, Council Chambers, 550 Landa Street**

**Address/Location:** 1260 S. Business 35

**Applicant:** Carolyn Lehman

**Case #:** SUP19-157

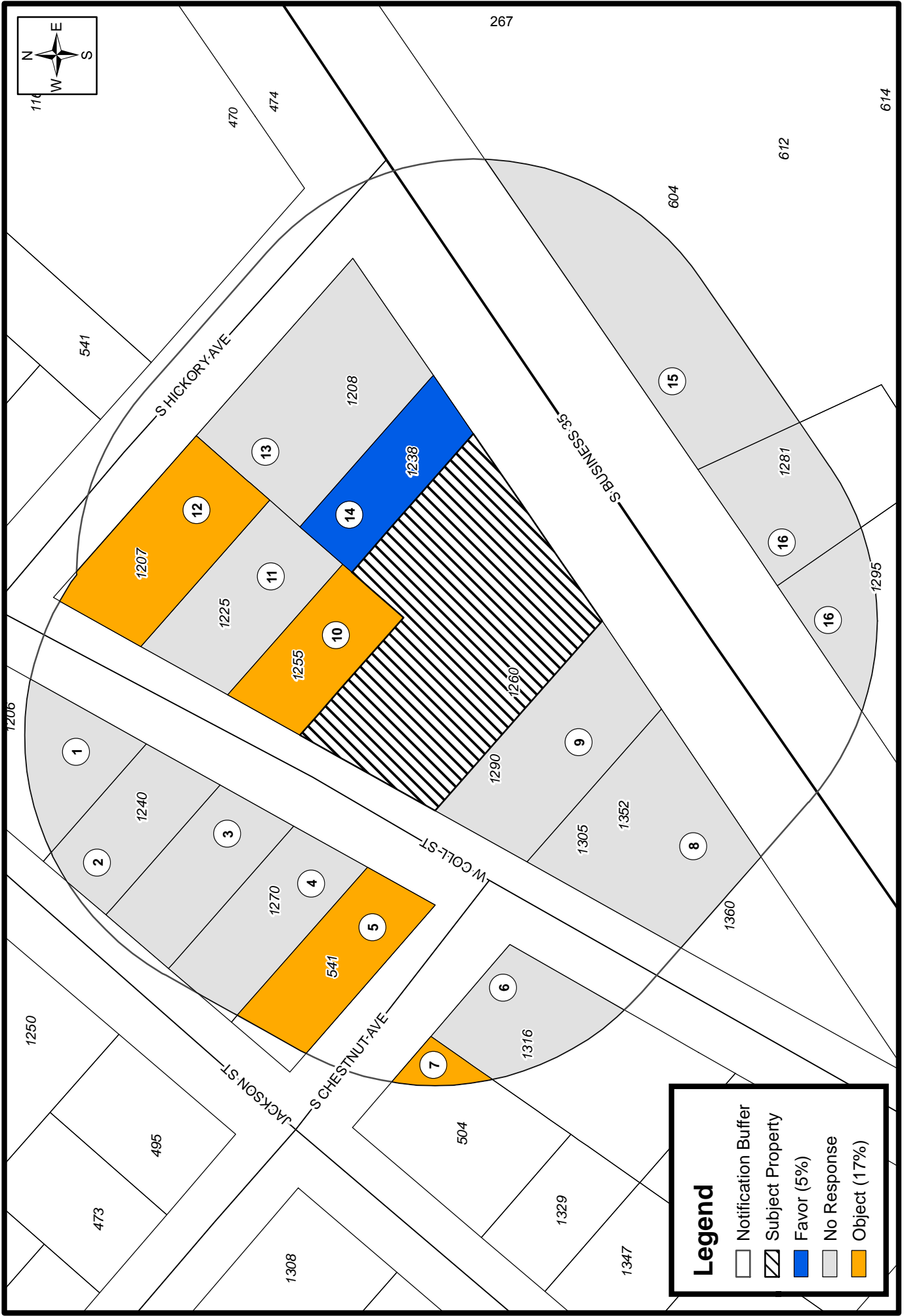
The circled numbers on the map correspond to the property owners listed below. All information is from the Comal Appraisal District Records. The property under consideration is marked "Subject Property."

- |                                     |                                   |
|-------------------------------------|-----------------------------------|
| 1. GONZALES JUAN J                  | 10. NEWBERRY PHILLIP L & BARBARA  |
| 2. BYRD RUD                         | 11. BUSTOS GILBERT S & DORELIA P  |
| 3. POSTON MICHAEL G                 | 12. MARTINEZ MAUREEN              |
| 4. ANCHORED REAL ESTATE INVESTMENTS | NEW BRAUNFELS MUFFLER AND HITCH   |
| 5. MOORE DANE R                     | 13. CENTER LLC                    |
| 6. FREDRICKSON LISA ANN             | 14. ACKER SCHLATHER CYNTHIA       |
| 7. KING MICHAEL W & DEBORAH         | 15. WALNUT KNOX LLC               |
| 8. ADAMS RANDAL H & SUSAN L         | 16. BLUEBONNET CHRYSLER DODGE LLC |
| 9. HILL WILLIAM E                   |                                   |

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**SEE NOTIFICATION MAP**





# **SUP19-157** **1260 S. Business 35** **Amendment to Special Use Permit**



**From:** [Maureen Martinez](#)  
**To:** [Matthew W. Simmont](#)  
**Subject:** #SUP19-157 feedback  
**Date:** Monday, July 1, 2019 12:52:26 PM

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Mr Simmont,

I had received the subject proposal and was planning on attending the hearings to find out more. My neighbor was kind enough to bring me the whole agenda item report.

**ABSOLUTELY NOT to the music venue!!** This property is adjacent to a residential area. I don't think the bed and breakfast is appropriate either. I thought there was some zoning requirement in the city that didn't allow overnight rentals in residential areas. I understand it's on the edge and the lot itself is partially zoned commercial. I'd rather not have a B&B in my neighborhood but I could live with that.

**Please don't allow a music venue in our neighborhood!** That's not an appropriate location (adjacent to a residential neighborhood). I get up at 4am - even 30 minutes after sunset is too late to be playing music- especially outdoors. This town already has enough music venues/night clubs. I just spent a significant amount of money cleaning up and making my backyard a beautiful outdoor area for me, my friends and family to enjoy. I don't want my weekend experience ruined by someone else's loud music.

The agenda item report for this change states on page 5 that public hearing notices were sent and no responses were received from the 16 nearby owners. That could be because that letter did not mention any music venue. Now that I know, I strenuously object!

Thank you for your time and consideration.

Maureen Martinez  
1207 W Coll St

**From:** [cmdas2](#)  
**To:** [Matthew W. Simmont](#)  
**Subject:** Case: #sup19-157 ms  
**Date:** Wednesday, June 26, 2019 1:33:19 PM

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I am in favor of the rezoning of Ms Carolyn H. Lehmann with the address at 1260 S. Business 35. My name is Cynthia Acker Schlather with address is 1238 S. Business 35. Property number is 14. This property has been in our family since 1955 when my parents purchased the property. The one question I have is that Ms. Lehmann said is that my property is considered residential since someone is living in the house. When I would want to sell it would go back to commercial status.

Cynthia Acker Schlather  
1107 West Coll  
New Braunfels, Texas 78130  
830-625-4376

Sent from my Verizon, Samsung Galaxy smartphone

**From:** [Barbara Newberry](#)  
**To:** [Matthew W. Simmont](#)  
**Subject:** Case: #SUP19-157 ms  
**Date:** Monday, July 1, 2019 11:23:19 AM

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Just to introduce myself. I am Barbara Newberry and I live at 1255 W. Coll Street, New Braunfels, TX 78130.

We received the letter notifying us of the hearing while we were on vacation. When we returned from vacation, it was too late for me to reschedule my business trip to attend the July 2, 2019 meeting. I am only aware of some of the requests so please forgive me ahead of time if I misquote anything. I still believe you will get the point I am trying to make; I object.

My husband and I have lived at this address for 38 years and raised our family in this home. About 11 years ago we chose to renovate our home and remain in our home for our retirement years. This is a quiet, friendly, older neighborhood with old, charming homes.

We attended the first meeting in 2017 and all requests were granted in favor of Ms. Lehman, except the music studio/hub. At that time the planning board allowed the music studio with restrictions. We weren't pleased with the decision but would live with the compromise. I am surprised that 2 years later Ms. Lehman is asking to have most of these restrictions revoked and using hedge words to give her an option to back out of some of the landscaping and other upgrades. She may live in this neighborhood, but not close enough to understand. We need to think about what it would mean now and in the future. I can only assume Ms. Lehman means well, but ownership of businesses change over the years which could lead to owners that push boundaries that could leave us in an even worse situation.

Shortly after the 2017 meeting, one of Ms. Lehman's family members accidentally hit our fence with a Bobcat-like machine. It took us over 4-5 months to receive money to fix the fence. Ms. Lehman's business officer called us to say they didn't feel like they should have to pay for the entire repair since we did not fill the cinder blocks on the lower part of our fence with cement. No we did not build the fence to withstand being hit with construction equipment. Who trusts a neighbor like this?

For years part of this lot was an auto shop with old vehicles that never moved. We didn't like looking at this, but we knew what we were getting into when we bought the house. Eventually we put up a privacy fence to solve the problem. The solution isn't that simple any more. In 2017, we were told the upgrades to this lot would be eclectic, like Huisache. I don't see the comparison. Our privacy fence no longer blocks our view of this oversized, crowded lot. Most employees that work at the print shop park on Coll Street, not on the lot. There are not many employees so no real issues, but with a bed and breakfast, a night club and other possible businesses, I don't see there being enough parking.

When my husband and I built a new garage, we were required to either pave, blacktop or cement our driveway. Why does a business only have to lay down rock (not the right name)? I don't mean to be rude but this property is an eye sore right now. How much do you need to cram onto such a limited piece of property?

In 2017 one of the restrictions was if a music studio was put in the house behind us, Ms. Lehman would need to put in a masonry wall between our properties. The plans sent to us for the meeting Tuesday showed there was a wood privacy fence already in place. The privacy fence only goes part way across the property line, the rest is a "living" fence. It is a wire fence with vines growing on it. This would not serve as a sound barrier. Isn't it a city ordinance for a masonry wall to be put in place?

How can Ms. Lehman who has already not met permitting restrictions when moving the first building onto the property still be considered for additional allowances? If she already pushes the boundaries, what will keep her from doing this again?

I would hope the Planning Commission works for both business and residential citizens. Why would you allow a very old New Braunfels neighborhood that has recently seen several homes renovated, have to now worry about the value of their homes and being able to sleep at night due to noise?

I want Ms. Lehman's business to be successful but why so many businesses on the same property? By allowing a night club with non-acoustical music, I believe this would begin a negative change for our neighborhood. We have older homes that weren't built to block loud sounds. With most music venues comes liquor, smoking and who knows what else; trash and possibly unwanted people into our yards. My husband and I have invested in a backyard designed to entertain our friends and family. How will we be able to do this without competing with the night club just a stones throw behind us?

Shouldn't Ms. Lehman at least have to live up to what she said she would do in 2017 before any changes are made to the current agreement? Think about how you would feel if this was your home and neighborhood.

Sincerely,  
Barbara Newberry  
Cell (210) 885-4869

Sent from [Mail](#) for Windows 10



JUL 1 2019

Case: #SUP19-157 ms

272

BY:

Name: DANE R. MOORE

I favor: \_\_\_\_\_

Address: 541 S. CHESTNUT AVEProperty number on map: 85I object: ☒

(State reason for objection)

Comments: (Use additional sheets if necessary)

THIS WAS ADDRESSED IN 2017. AT THAT TIME IT WAS PASSED WITH THE  
 stipulations → No Alcohol & No Amplified music. THIS VENUE HAS NO PLACE  
 IN A RESIDENTIAL AREA.

Signature: DANE R. MOORE

## YOUR OPINION MATTERS - DETACH AND RETURN

RECEIVED

JUL 1 2019

BY:

Case: #SUP19-157 ms

Name: Mike King + Deborah

I favor: \_\_\_\_\_

Address: 504 S. ChestnutProperty number on map: 7I object: DK-MK do not

(State reason for objection)

Comments: (Use additional sheets if necessary)

Signature: Mike King

We already have the Old Ice House  
 close enough, don't need any others  
 this is just too close to residential  
 homes. There is no concert space one  
 should have already been built.

### 3.6. *Special Use Permits.*

- 3.6-1. *Compatible and orderly development.* A special use permit may be granted to allow compatible and orderly development which may be suitable only in certain locations and zoning districts if developed in a specific way or only for a limited period of time.
- 3.6-2. *Application processing.* Application for a Special Use Permit shall be processed in accordance with Section 2.1 of this Chapter and shall include the pertinent information as determined by the type of Special Use Permit and additional information as determined by the Planning Director, the Planning Commission or the City Council.

#### Types of Special Use Permit:

*Type 1.* Regulates land use only; does not require specific site plan or schedule. Construction within a Type 1 Special Use Permit will comply with all of the standard construction requirements for the approved use at the time of construction permit, including drainage plans, TIA, driveway location, and landscaping.

*Type 2.* Requires a site plan drawn to scale and shall show the arrangement of the project in detail, including parking facilities, locations of buildings, uses to be permitted, landscaping, and means of egress and ingress.

- 3.6-3. *Standards.* When considering applications for a special use permit, the Planning Commission in making its recommendation and the City Council in rendering its decision on the application shall, on the basis of the site plan, if a Type 2, and other information submitted, evaluate the impact of the special use on, and the compatibility of the use with, surrounding properties and neighborhoods to ensure the appropriateness of the use at a particular location. The Planning Commission and the City Council shall specifically consider the extent to which:
- (a) *Comprehensive plan consistency.* The proposed use at the specified location is consistent with the goals, objectives and policies contained in the adopted Comprehensive Plan;
  - (b) *Zoning district consistency.* The proposed use is consistent with the general purpose and intent of the applicable zoning district regulations;
  - (c) *Supplemental Standards.* The proposed use meets all supplemental standards specifically applicable to the use as set forth in this Chapter;
  - (d) *Character and integrity.* The proposed use is compatible with and preserves the character and integrity of adjacent development and neighborhoods and, as required by the particular circumstances.

A Type 2 Special Use Permit may include improvements or modifications either on-site or within the public rights-of-way to mitigate development-related adverse impacts, including but not limited to:

- (1) Adequate ingress and egress to property and proposed structures thereon with particular reference to vehicular and pedestrian safety and convenience, and access in case of fire;
- (2) Off-street parking and loading areas;
- (3) Refuse and service areas;
- (4) Utilities with reference to location, availability, and compatibility;

- (5) Screening and buffering, features to minimize visual impacts, and/or set-backs from adjacent uses;
  - (6) Control of signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect, and compatibility and harmony with properties in the district;
  - (7) Required yards and open space;
  - (8) Height and bulk of structures;
  - (9) Hours of operation;
  - (10) Paving of streets, alleys, and sidewalks,
  - (11) Provisions for drainage,
  - (12) Exterior construction material and building design; and
  - (13) Roadway adjustments, traffic control devices or mechanisms, and access restrictions to control traffic flow or divert traffic as may be needed to reduce or eliminate development-generated traffic on neighborhood streets.
- (e) *Public health, safety, convenience and welfare.* The proposed use is not materially detrimental to the public health, safety, convenience and welfare, or results in material damage or prejudice to other property in the vicinity.
- 3.6-4. *Procedures for special use permit (SUP).* Granting of an SUP is considered zoning and as such, all the procedures for changing a zoning district apply to an application for an SUP. After a public hearing and upon the recommendation of the Planning Commission, the City Council may approve, deny or modify the site plan and issue a special use permit containing such requirements and safeguards as necessary to protect adjoining property, including conditions addressing the standards in Section 3.6-3(d).
- 3.6-5. *Revocation.* The SUP for a Type 1 permit may be considered for revocation if a use other than the use approved in the SUP or in the underlying zoning district is developed or other stated requirements are not met. The SUP for a Type 2 permit may be considered for revocation for the following reasons:
- (a) Construction is not begun within five years of the date of approval of the permit.
  - (b) Progress toward completion is not being made. Progress toward completion includes the following:
    - (1) An application for a final plat is submitted;
    - (2) A good faith effort is made to file with a regulatory agency an application for a permit necessary to begin or continue completion of the project;
    - (3) Costs have been incurred for developing the project including, without limitation, costs associated with roadway, utility, and other infrastructure facilities designed to serve in whole or in part, the project (but exclusive of land acquisition) in the aggregate amount of 5% of the most recent appraised market value of the real property on which the project is located;
    - (4) Security is posted with the city to ensure performance of an obligation required by the city; or

- (5) Utility connection fees or impact fees for the project have been paid to the City or New Braunfels Utilities.
  - (c) *Abandonment of the project.* Abandonment includes development of the property in a way other than provided for by the SUP.
  - (d) Failure to satisfy the conditions of the SUP or follow the site plan made part of the SUP.
  - (e) *Code violations.* Revocation may be considered if there are three or more code violations in a 720 day period.
    - (1) *Notice to property owner.* If the Planning Director finds no less than three violations of any code of ordinances on the property within a 360 day period, he shall advise the applicant of a revocation hearing. The Planning Director shall notify the property owner in writing of the violations and that an administrative hearing will be held concerning the violations. Such notice shall be given at least 10 days prior to the hearing. The Planning Director shall take evidence and conduct an administrative hearing to determine if a revocation procedure should be initiated. Such a determination is not subject to appeal to the Zoning Board of Adjustment.
    - (2) If the Planning Director finds that there is credible evidence that the code of ordinances has been violated, or there have been convictions or guilty pleas in any court of competent jurisdiction, on at least three separate occasions within a 720 day period, and after the administrative hearing, he shall initiate a SUP revocation process.
    - (3) *Appeal to Municipal Court.* Any code violation may be appealed to, or considered by, the Municipal Court Judge. The parties at interest in this appeal may cross examine witnesses.
  - (f) *Revocation process.* The revocation process shall be the same as for a zoning district change, with notice to property owners within 200 feet, public hearing and recommendation by the Planning Commission, and public hearing and ordinance consideration by the City Council.
  - (g) The City Council may deny the SUP revocation, approve the revocation, deny the revocation and add additional restrictions to the SUP, suspend the SUP for a period the Council determines, or amend the SUP with probationary requirements and terms the Council determines.
  - (h) Upon revocation of a special use permit the property subject to the special use permit may be used for any permitted use within the applicable base zoning district.
- 3.6-6. *Compliance with conditions.* Conditions which may have been imposed by the City Council in granting such permit shall be complied with by the grantee before a Certificate of Occupancy may be issued by the Building Official for the use of the building on such property.
- 3.6-7. *Telecommunication towers and/or antennas.* See Sec. 5.7
- 3.6-8. *Deviation from Code.* The City Council may approve a special use permit with deviations to any provision of the Code of Ordinances. Such deviations shall be listed or shown in or as part of the Ordinance approving the special use permit.

## **Draft Minutes for the July 2, 2019 Planning Commission Regular Meeting**

### **Public Hearing and recommendation to City Council regarding the proposed rezoning to amend a Special Use Permit to allow a mixed-use development in the “C-3” Commercial District and the “R-2” Single-Family and Two-Family District, addressed at 1260 S. Business 35.**

(Applicant: Carolyn E. Lehmann; Case Manager: Matthew Simmont)

Mr. Simmont summarized the request and stated Staff recommended approval.

Vice Chair Reaves stated outdoor music was a significant concern for City Council when the original special use permit was proposed. He then stated he held concerns regarding the proposed outdoor music venue being labeled as a “nightclub” in the parking calculation table provided within the staff report.

Mr. Simmont clarified the “nightclub” land use was the closest use related to what the applicant is proposing, and it was partially chosen because the use has a relatively high parking requirement that would accommodate the patronage for a music venue.

Commissioner Meyer asked for clarification on the uses of the adjacent properties.

Mr. Simmont provided clarification.

Commissioner Meyer expressed concerns regarding the proximity of an adjacent resident to the proposed outdoor music venue.

Discussion then followed regarding the initial request.

Chair Edwards invited the applicant to speak.

Carolyn Lehman, 1309 Stonewall, stated she was the applicant. Ms. Lehman explained the limitations of the original site plan tied to the existing special use permit and explained the plan, as approved, could not meet building code. She then stated the original special use permit showed the proposed outdoor music venue to be a storage use. She then stated the owner of the residence closest to the outdoor music venue is objecting the residential buffer wall and is in favor of the request.

Vice Chair Reaves asked the applicant to clarify that the original special use permit request indicated the music venue would be indoors and is now proposed as an outdoor venue.

Commissioner Mathis left the dais at 7:40 p.m.

Ms. Lehman stated that is correct. She explained she figured she would ask for the outdoor venue within her request and it will comply with the City’s noise ordinance. She then stated she is willing to forgo the outdoor music venue in order for the amendment to be approved.

Commissioner Mathis returned to the dais at 7:41 p.m.

Commissioner Sonier left the dais at 7:42 p.m.

Discussion followed regarding the residential buffer wall objection.

Dallas Burrow, 968 Schumanns Beach, stated he would be performing at the outdoor music venue, if permitted. He described the intent of the request and his commitment to performing acoustic music and mitigating any noise related disturbances.

Discussion followed regarding the residential buffer wall objection.

Commissioner Sonier returned to the dais at 7:45 p.m.



Discussion then followed regarding the scope of the request.

Commissioner Gibson asked the applicants if they intend to sell alcohol.

Mr. Burrow stated he would like to apply for a beer and wine license in the future.

Ms. Lehman made clarifications regarding the site plan for the Commission.

Discussion followed.

Chair Edwards asked if anyone wished to speak in favor.

No one spoke.

Chair Edwards asked if anyone wished to speak in opposition.

Phillip Newberry, 1255 W. Coll Street, wished to speak in opposition. Mr. Newberry expressed concerns regarding the allowance of outdoor music. He then stated that, although the applicant will be playing acoustic music, the next tenant of the property may have an outdoor venue with amplified sound.

Bill Crawley, 1250 W. Coll Street, wished to speak in opposition. Mr. Crawley expressed concerns regarding the noise produced by then entire use of the property and he would prefer a residential buffer wall to maintain as much sound as possible. He further expressed concerns regarding the proposed bed and breakfast.

Maureen Martinez, 1207 W. Coll Street, wished to speak in opposition. Ms. Martinez expressed concerns regarding noise and disturbances and stated she believes the residential buffer wall should be required.

Laurie McKelene, 1270 W. Coll Street, wished to speak in opposition and expressed concerns regarding traffic and on-street parking.

Motion by Commissioner Laskowski, seconded by Commissioner Sonier, to close the public hearing. Motion carried (9-0-0).

Discussion followed regarding the residential buffer wall exemption.

Commissioner Meyer expressed concerns regarding the buffer wall exemption and stated the noise disturbance will not only affect the properties immediately adjacent to the subject property.

Commissioner Laskowski asked if the request is to approve both the current and future site plan as submitted.

Mr. Simmont stated yes, both exhibits would be approved if the request is approved as submitted.

Motion by Vice Chair Reaves, seconded by Commissioner Nolte, to recommend approval to City Council regarding the proposed rezoning to amend a Special Use Permit to allow a mixed-use development in the "C-3" Commercial District and the "R-2" Single-Family and Two-Family District, addressed at 1260 S. Business 35, and prohibiting outdoor music.

Discussion followed regarding beer and wine sales.

Mr. Onion clarified the subject property is already permitted to allow "BYOB".

Mrs. Snell clarified the "C-3" base zoning already allows for beer and wine sales; however, the Commission can make a condition in which only "BYOB" is permitted.

Discussion followed.

Motion carried, with Commissioner Laskowski in opposition (8-1-0).

Chair Edwards adjourned for recess at 8:07 p.m.

Chair Edwards called the meeting to order at 8:15 p.m.

DRAFT

ORDINANCE NO. 2017- 21

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS GRANTING A TYPE 2 SPECIAL USE PERMIT TO ALLOW A MIXED-USE DEVELOPMENT IN THE "C-3" COMMERCIAL DISTRICT AND THE "R-2" SINGLE-FAMILY AND TWO-FAMILY DISTRICT ON 0.66 ACRES, CONSISTING OF LOTS 2, 3, 11, 12 AND 13, NEW CITY BLOCK 4048, ADDRESSED AT 1260 S. BUSINESS 35; 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 also 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 compatibility 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 mixed-use development; and

**WHEREAS**, the City Council desires to grant a Type 2 Special Use Permit on 0.66 acres consisting of Lots 2, 3, 11, 12 and 13, New City Block 4048, addressed at 1260 S. Business 35 to allow a mixed-use development in the "C-3" Commercial District and the "R-2" Single-Family and Two-Family District; **now therefore**,

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

**SECTION 1**

**THAT** Sections 3.6-2 and 3.6-3, Chapter 144 of the New Braunfels Code of Ordinances and particularly the Zoning Map of the City of New Braunfels, are revised by adding the following described tract of land as a "Special Use Permit" for the uses and conditions herein described:

"Being 0.66 acres consisting of Lots 2, 3, 11, 12 and 13, New City Block 4048, addressed at 1260 S. Business 35, as delineated in Exhibit 'A', to allow a mixed-use development that includes an office, a digital print shop, retail, a music studio and a residence/bed and breakfast in the "C-3" Commercial District" and the "R-2" Single-Family and Two-Family District."

**SECTION 2**

**THAT** the Special Use Permit be subject to the additional conditions and restrictions stipulated in Exhibit 'B' and as shown on the site plan in Exhibit 'C.'

**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 of same.

**PASSED AND APPROVED:** First Reading this the 23rd day of January, 2017.

**PASSED AND APPROVED:** Second Reading this the 13th day of February, 2017.

CITY OF NEW BRAUNFELS

  
BARRON CASTEEL, Mayor

ATTEST:

  
PATRICK D. ATEN, City Secretary

APPROVED AS TO FORM:

  
VALERIA M. ACEVEDO, City Attorney





PZ-16-062

**SUP to allow a mixed-use development that includes an office, a digital print shop, retail, a music studio and a residence/bed and breakfast in C-3 & R-2**



## ADDITIONAL RESTRICTIONS

1. The listening room, rehearsal room and recording studio (Building 1) will have appropriate sound-proofing. Music will be limited to acoustic music only, and all music will be kept within sound levels and hours so as to not disturb the neighbors.
2. Music is restricted to indoors only; no outside music is allowed.
3. The property will have a minimum of 24 parking spaces providing appropriate pavement surfaces and striping.
4. The hours of operation for the music studio and the private print office (Buildings 5, 6 and 7) shall not overlap in order to provide for shared parking.
5. The City Engineer will have final design approval over any proposed vehicular gates for the parking lots.
6. The expansion of any structures or changes in use not identified on the approved site plan, Exhibit 'C,' or in the ordinance will require an amendment to the Special Use Permit through the rezoning process.
7. Approved Uses:
  - *Buildings 1 and 2:*
    - Building 1, a house, can be used as a music studio that functions as a rehearsal space, a listening room, and a meeting space, with retail space. This space is intended to host acoustic music listening sessions with alcohol allowed (BYOB scenario) and food catered or "potluck style".
    - Building 2, if retained, will be renovated and utilized for storage or a shade structure.
    - The use of Building 1 will take place in the evening after the print shop has closed.
  - *Building 3:*  
The existing carport is to be renovated as an open covered area providing a covered walkway between Buildings 1 and 4.
  - *Building 4:*  
The existing storage building will be renovated with 600 square feet remaining as storage area for artisans and the remaining 400 square feet will be used as a studio.
  - *Building 5 and 7:*  
These will be used as a digital print shop. Building 7 is a new addition.
  - *Building 6:*  
This structure will be used as offices for the print shop.
  - *Building 8:*  
This house will be moved onto the property and be used as a long-term residential rental (minimum of 30 days); or as a bed and breakfast, with a resident manager required on site.

8. Deviations from Setback Requirements:

- *Building 6:*  
The structure will have a 2.5-foot front setback adjacent W. Coll Street that expands up to approximately 8 feet where the requirement is 25 feet.
- *Building 8:*  
The house will have a 20-foot setback adjacent W. Coll Street where the requirement is 25 feet.

9. Deviations from Building Design Standards:

- *Building 6:*  
The building will be clad in wood.

10. Deviations from Fencing Requirements:

- *Height:*  
The fence along W. Coll Street will be a 6-foot tall wooden fence.
- *Residential buffer:*  
The subject property will comply with the Zoning Ordinance requirements for a buffer wall along the neighboring residential properties. Residential buffer trees are not required.

11. Deviations from Landscaping Requirements:

- *Business 35 parking lot:*
  - Eight crepe myrtles will be planted and a 3-foot tall corrugated metal fence framed in cedar timbers will be constructed along Business 35.
  - The yard in front of Buildings 1 and 2 will be planted with additional trees, shrubs and landscape features as illustrated on the approved site plan.
- *W. Coll Street parking lot:*
  - There will be a 6-foot tall cedar fence constructed along the property line adjacent W. Coll Street.
  - Perennials may be planted within the right-of-way in front of the fence but may be removed or caused to be removed in the normal course of City responsibilities within the right-of-way.

12. The driveways onto the property from W. Coll St. and S. Business 35 shall be paved with concrete or asphalt from the street for 5 feet onto the property or to the right-of-way line.



**ORDINANCE NO. 2019-**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS GRANTING A TYPE 2 SPECIAL USE PERMIT TO ALLOW A MIXED-USE DEVELOPMENT IN THE "C-3" COMMERCIAL DISTRICT AND THE "R-2" SINGLE-FAMILY AND TWO-FAMILY DISTRICT, ON 0.66 ACRES, CONSISTING OF LOTS 2, 3, 11, 12 AND 13, NEW CITY BLOCK 4048, ADDRESSED AT 1260 S. BUSINESS 35; REPEALING ALL ORDINANCES IN CONFLICT; CONTAINING A SAVINGS CLAUSE; AND DECLARING AN EFFECTIVE DATE.**

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**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 also 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 compatibility 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 mixed-use development and Council previously approved a Type 2 Special Use Permit for a mixed-use development per Ordinance 2017-21 on the property; and

**WHEREAS**, the City Council desires to grant a Type 2 Special Use Permit on 0.66 acres consisting of Lots 2, 3, 11, 12 and 13, New City Block 4048, addressed at 1260 S. Business 35 to allow a mixed-use development in the "C-3" Commercial District and the "R-2" Single-Family and Two-Family District; **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 described tract of land as a "Special Use Permit" for the uses and conditions herein described:

"Being 0.66 acres consisting of Lots 2, 3, 11, 12 and 13, New City Block 4048, addressed at 1260 S. Business 35, as delineated in the attached Exhibit 'A', to allow a mixed-use development in the "C-3" Commercial District and the "R-2" Single-Family and Two-

Family District.”

**SECTION 2**

**THAT** the Special Use Permit be subject to the additional conditions and restrictions stipulated in Exhibits 'B' and 'C' and as shown on the site plans in Exhibits 'D' & 'E'.

**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 of same.

**PASSED AND APPROVED:** First Reading this the 22<sup>nd</sup> day of July, 2019.

**PASSED AND APPROVED:** Second Reading this the 12<sup>th</sup> day of August, 2019.

**CITY OF NEW BRAUNFELS**

\_\_\_\_\_  
**BARRON CASTEEL**, Mayor

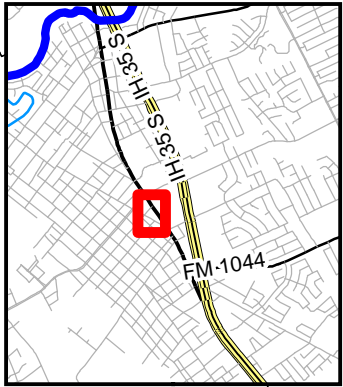
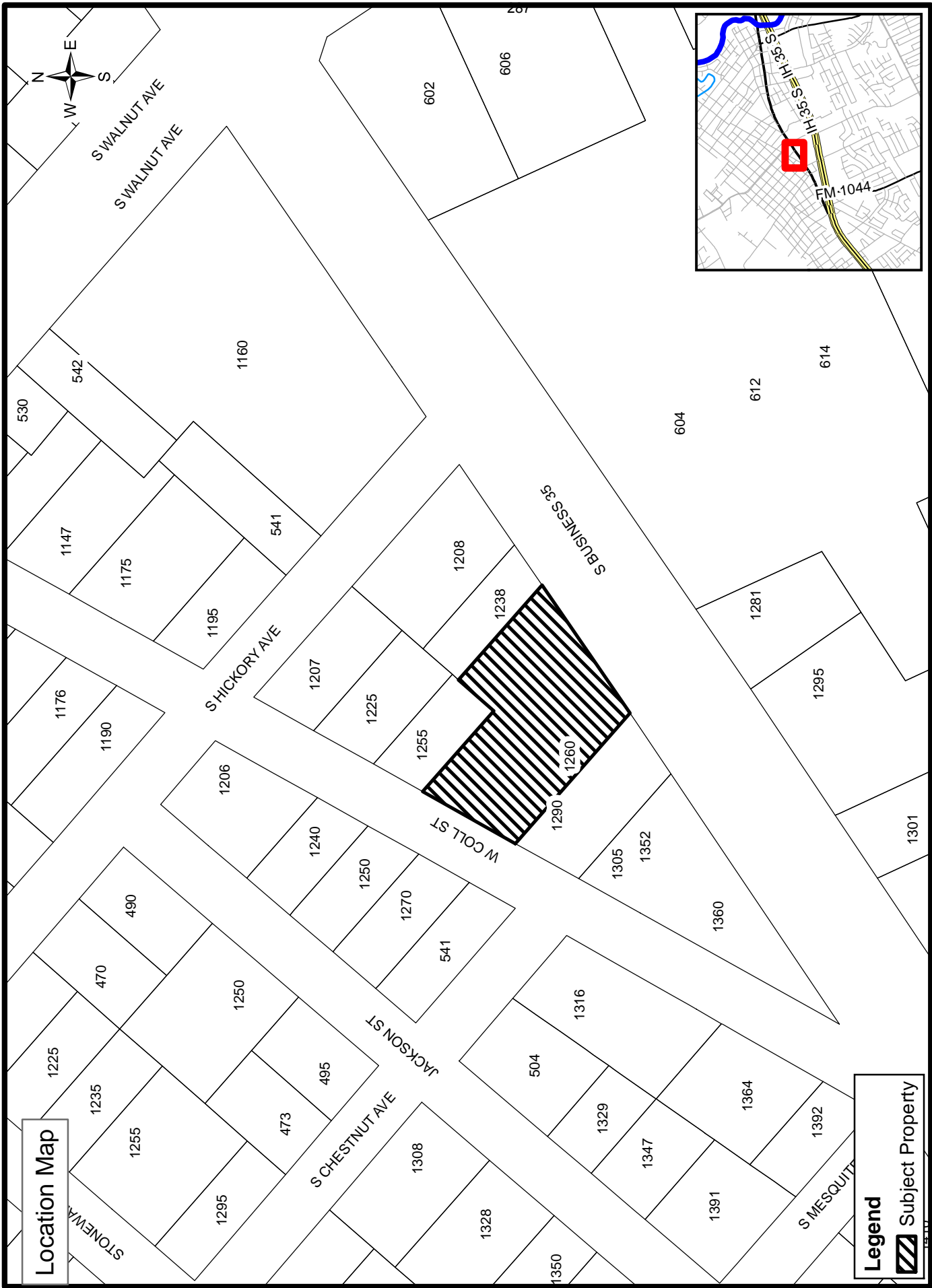
**ATTEST:**

\_\_\_\_\_  
**PATRICK D. ATEN**, City Secretary

**APPROVED AS TO FORM:**

\_\_\_\_\_  
**VALERIA M. ACEVEDO**, City Attorney





Location Map

**Legend**

 Subject Property



**SUP19-157**  
**1260 S. Business 35**  
**Amendment to Special Use Permit**

### **Exhibit 'B' - ADDITIONAL RESTRICTIONS**

1. An amendment to the Special Use Permit will be required for the addition of any new structures or the expansion of any existing structures that are not identified:
  - a. on the approved Site Plan (Exhibit D)
  - b. on the approved Site Plan B – future expansion/use (Exhibit E); or
  - c. in the approved Ordinance.
2. Approved Uses:
  - Building 1 – nightclub, 1,600 square feet.
  - Building 2 – storage, 1,500 square feet.
  - Building 3 – office/print shop, 1,650 square feet.
  - Building 4 – office, 1,536 square feet.
  - Building 5 – residence, 2,234 square feet. Bed and breakfast use allowed with a resident manager. Short-term rental use is not allowed.
3. On the portion of the property that is zoned “C-3 Commercial District, any use within the “C-3” Commercial District is allowed if the minimum parking requirements for all cumulative uses located on the property are met or shared parking meets the minimum parking requirements (as in Exhibit C). City review and approval is required for any alternative shared parking agreement.
4. Deviations from Setback Requirements:
  - Building 4: The structure will have a 2.5-foot front setback adjacent W. Coll Street that expands up to approximately 8 feet.
  - Building 5: The house will have a 20-foot setback adjacent W. Coll Street.
5. Deviations from Fencing Requirements:
  - A maximum 6-foot tall fence is allowed on the property line along W. Coll Street.
  - A 3-foot tall corrugated metal fence will be constructed along Business 35, shrubs will not be required.
6. Deviations from Landscaping Requirements:
  - Business 35 parking lot: Eight ornamental trees will be planted along Business 35 as indicated on the approved Site Plan (Exhibit D).
  - Residential buffer trees are not required.
7. Deviations from Signage Requirements
  - One freestanding sign is allowed on the property. A new sign (Maximum height = 20 feet, Maximum area = 50 square feet) may be added to the existing sign pole located near the southern corner of the property, along Business 35 and shall not encroach into the right-of-way. The existing sign pole shall not be used for an electronic message sign. If the existing sign pole is not used, all new signage must comply with current code requirements.
8. Driveways and Parking Requirements:
  - The property will have a minimum of 27 parking spaces, with additional 2 available in the carport. Existing parking surface may be maintained. Any new parking areas are to be surfaced with materials approved by the City Engineer.
  - Shared parking will be allowed in accordance with the On-Site Shared Parking Agreement (Exhibit C).
  - The entrance from Business 35 and any internal drive gates must meet access requirements from the Fire Department and the Public Works Department. The entrance from W. Coll St must meet access requirements from the Public Works Department.

### Exhibit 'C' – On-Site Shared Parking Agreement

Building – USE	Required Parking	Days / Hours
Bldg 3. Office/print shop	6	M-F, 8:30 – 5pm
Bldg 4. Office	5	M-F, 8:30 – 5pm
Bldg 1. Music Concerts 1600 sq.ft. - parking	21	as scheduled, will be M-F, after 5 Saturday and Sunday
Bldg 5. Residence/B & B	4	When rented
Bldg 2. Storage	<u>2</u>	no hours
<b>Total Required Spaces</b>	<b>38</b>	
<b>Daytime use</b>	<b>- <u>11</u></b>	
<b>Required Total non-daytime</b>	<b>27</b>	<b>27 Available On-Site*</b>

#### Alternate Usage of Bldg 1

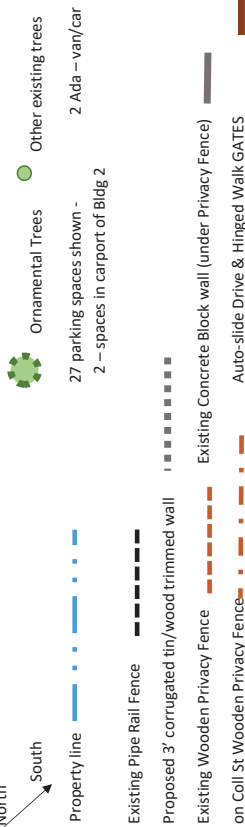
Bldg 1 – other uses (not concert) Rehearsal space/Recording Live Streaming/Office	6	M-F, daytime hours
Bldg 3. Office/print shop	6	M-F, 8:30 – 5pm
Bldg 4. Office	5	M-F, 8:30 – 5pm
Bldg 5. Residence/B & B	4	When rented
Bldg 2. Storage	<u>2</u>	no hours
<b>Total Required Spaces</b>	<b>23</b>	<b>27 Available On-Site</b>

**\*Stacked Parking Spaces** – 2 additional spaces are available in Building 2 under the carport that may be utilized for employee parking.

#### Future Growth Requiring Additional Parking

Site Plan B details future expansion or use of existing buildings or business use of outdoor space. If such expansion(s) triggers a need for additional parking spaces, Off-Site Parking agreements or Valet Parking (to off-site location) will be required. City review and approval is required before occupancy can take place. Owner is responsible for meeting all building permit requirements.

1260 Business 35 South, New Braunfels



190' – Lehmann / Hill Property Line

## Bsns 35

1260 Business 35 South, New Braunfels



190' – Lehmann /Hill Property Line

Bsns 35





**City Council Agenda Item Report**550 Landa Street  
New Braunfels, TX**7/22/2019**

Agenda Item No. H)

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**Presenter***Stacy Snell, Planning and Community Development Assistant Director  
ssnell@nbtexas.org***SUBJECT:**

Public hearing and first reading of an ordinance regarding the proposed rezoning to apply a Special Use Permit to allow the short-term rental of a single-family residence in the "C-3" Commercial District, addressed at 358 East Nacogdoches Street.

**BACKGROUND / RATIONALE:****Case No.:** SUP19-156**Council District:** 5**Applicant/Owner:** Triple T United, LLC (Garrett Taylor)  
2910 Longhorn Circle  
Manvel, TX 77578  
(713) 515-4142  
garretttaylor68@gmail.com**Staff Contact:** Matt Greene  
(830) 221-4053  
mgreene@nbtexas.org

The subject property is located on East Nacogdoches Street, across the street from the Union Pacific railroad tracks between Kuehler and Sanger Avenues. The whole neighborhood surrounding the subject property is zoned the cumulative C-3 District; therefore, the area is developed with a mix of commercial and residential uses. However, the subject block is 100% residential. The existing single-family residence was constructed in the 1950s and is approximately 650 square feet in area.

If the applicant's requested Special Use Permit (SUP) for a short-term rental is approved, an administrative Short-Term Rental Permit is required prior to the first rental, along with annual fire inspections and remittance of hotel occupancy tax.

The single-family residence has two bedrooms, a living area, kitchen and one bathroom. The two bedrooms and the living area are requested to be utilized as sleeping areas. Based upon current standards, the maximum occupancy for short term rental of the subject residence is ten adults (two per sleeping areas plus an additional four). However, staff is recommending occupancy be limited to six adults, utilizing only the two bedrooms for calculations, plus only two additional adults which is consistent with recent discussions at the City's Ad Hoc Committee regarding short term rental

standards and recent approvals of SUPs for short term rentals.

The minimum required off-street parking is one space per sleeping area (three), with a maximum provision of four spaces. The applicant intends to pave the two existing residential driveways currently surfaced with crushed rock, which will be able to accommodate the required parking of three to four vehicles.

There are no other properties in this block with SUPs for short-term rentals.

Supplemental standards for short term rentals are listed in Section 144-5.17-4, and include:

- an administrative Short-Term Rental Permit must be obtained, and annual inspections are required in addition to the SUP;
- a maximum of two adults per sleeping area plus an additional four adults per residence;
- display of a short-term rental decal;
- a minimum of one off-street parking space per sleeping area, not including a garage, and not to exceed the number of sleeping areas plus one;
- adherence to the City's adopted building codes regarding life safety issues;
- compliance with City codes related to conduct on premises;
- signage in compliance with the current Sign Ordinance (no monument or freestanding pole signs; attached signage is not regulated); and
- required tenant information posted indoors and attached to the rental agreement including quiet hours, parking limitations, and emergency information.

*Surrounding Zoning and Land Use:*

North - Across E. Nacogdoches St., C-3 / Union Pacific Rail Road

South - C-3 / Single-family residence

East - C-3 / Single-family residence

West - C-3 / Single-family residence

*Floodplain:*

No portion of the property is within the 1% annual chance (100-year) flood zone.

*Request Due to Notice of Violation:* No

*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 site is within a residential block in a larger mixed-use neighborhood with commercial and multi-family on the periphery. It is near a major gateway into Downtown and is in close proximity to river recreation.*);
- Whether the change is in accord with any existing or proposed public schools, streets, water supply, sanitary sewers, and other utilities to the area (*There do not appear to be any conflicts with these elements.*);
- How other areas designated for similar development will be affected (*The proposed use should not impact other areas designated for similar development.*);
- Any other factors that will substantially affect the public health, safety, morals, or general

welfare *(The use of this property as a short-term rental will be subject to the standards outlined in the Zoning Ordinance. These standards help to ensure that proper measures are in place to protect public health, nearby residential properties, and to encourage appropriate use of the property.); and*

- Whether the request is consistent with the Comprehensive Plan *(The property is situated within the New Braunfels Sub-Area and existing market and employment centers. It is also in close proximity to a Recreational River Corridor.)*

#### **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:**

Overnight lodging accommodations for less than 30 days are subject to hotel occupancy tax. If approved, the owner will be required to remit taxes to both the City and the State.

#### **COMMITTEE RECOMMENDATION:**

The Planning Commission held a public hearing on July 2, 2019 and recommended approval with staff recommendations (8-0-0).

#### **STAFF RECOMMENDATION:**

While this would be the first introduction of lodging facilities in the block, a short-term rental on this property, following all the standards of the Zoning Ordinance, would complement the overall mix of uses in this area. The location would allow easy access to main thoroughfares and visitor destinations without extensive vehicular traffic into the interior of the neighborhood. Therefore, staff recommends approval with the following conditions:

1. The residential character of the property must be maintained.
2. Occupancy shall be limited to six adults, utilizing only the two bedrooms for calculations, plus only two additional adults.
3. The property will remain in compliance with the approved site plan. Any significant changes to the site plan will require a revision to the SUP.
4. All Supplemental Standards of Section 144-5.17-4 will be met.
5. The driveway and parking area shall be paved in accordance with the Zoning Ordinance.

#### **Notification:**

Public hearing notices were sent to 17 owners of property within 200 feet of the request. The City has received 3 responses in favor from numbers 2, 3 and 14 and one opposed from number 12.

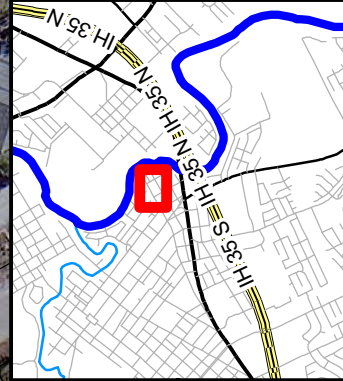
#### **Attachments:**

- Aerial Map
- Application
- Site Plan and Floor Plan

- Land Use Maps (Zoning, Existing Land Use, Existing Centers, Future Land Use Plan)
- Short-term Rental Map
- Photographs
- Notification Map and List
- Ordinances:
  - Sec. 3.6 Special Use Permits
  - Sec. 5.17 Short Term Rentals
- Draft Minutes from July 2, 2019 Regular Planning Commission Meeting
- Ordinance



Aerial Map



**Legend**

- Subject Property
- Floodplain - 100 Year
- Floodway

**Regional Transportation Plan**

- Minor Collector (60')

**SUP19-156**  
**358 E. Nacogdoches**  
**SUP for Short Term Rental**







**Planning & Community Development Department  
Planning Division**

550 Landa St. New Braunfels, Tx 78130  
(830) 221-4050 www.nbtexas.org

CC/Cash/Check No.: 1028  
Amount Recd. \$ 1,36.50  
Receipt No.: 2219/22186

Case No.: SUP19-156



Submittal date                      office use only

## Special Use Permit Application to Allow Short Term Rental

**Any application that is missing information will be considered incomplete and will not be processed.**

1. Applicant - If owner(s), so state; If agent or other type of relationship, a letter of authorization must be furnished from owner(s) at the time submitted.

Name: Triple T United, LLC

Mailing Address: 2910 Longhorn Cir

Telephone: 713 449 2588 Fax:                      Mobile:                     

Email: garrett.taylor@68@gmail.com

2. Property Address/Location: 358 E. Nacogdoches

3. Legal Description:

Name of Subdivision: Kuehler Addition

Lot(s): 4 Block(s): 1051 Acreage: .1915

4. Existing Use of Property: ~~R~~ - vacant/Residential

5. Current Zoning: C3

\*Please note Short Term Rentals are **prohibited** in the following residential districts, & a Special Use Permit could **not** be requested:

- R-1 • ZH • TH • R-1A-43.5 • R-1A-8 • R-2A • B-1B
- R-2 • ZH-A • B-1 • R-1A-12 • R-1A-6.6 • B-1A • TH-A

6. Proposed Special Use Permit\*: Type 1                      OR Type 2 X

\*see page 4 for information regarding Type 1 and Type 2 Special Use Permits

7. Explain how the proposed Short Term Rental use will be well suited for the neighborhood (attach additional or supporting information if necessary): This short term rental will bring more hotel/motel tax revenue to the City of New Braunfels, along with increasing economic growth and providing tourists an enjoyable experience during their stay. This property will be managed by My New Braunfels vacation, which has a lot of hands-on experience with their properties and will ensure guests' follow property policies and city ordinances.

## APPLICANT:



A survey and/or metes and bounds description of the property with an exhibit illustrating property boundaries (if property is not platted).



Letter of Authorization for appointed agent (if applicable).



Map of property in relation to City limits/major roadways or surrounding area.



Copy of deed showing current ownership.



Floor plan with the following information:



Layout of the building



Sleeping areas



Dimensions of each room



Doors and windows



Room Labels (kitchen, bathroom, dining room, garage, etc.)

Development/site plan with the following information:

(\*Please note: Additional information may be requested.)



Drawn to scale



Location of all buildings



North arrow



Number of parking spaces (parking calculation table required)



Property lines



Dimensions of parking space and maneuvering space



Adjacent street names



Driveways (means of ingress/egress)



Application Fee: \$ \_\_\_\_\_

\$1,500 + (\_\_\_\_\_ acres x \$100) = \$ \_\_\_\_\_ (max. \$4,000)



Technology Fee: \$ \_\_\_\_\_

3% of application fee → \$ \_\_\_\_\_ (application fee) x .03 = \$ \_\_\_\_\_



Public Hearing Newspaper Notice: \$236.90 (\$115 each for Planning Commission and City Council + \$6.90 (3% technology fee))



Public Hearing Mail Notifications and Signage.

(\*Please note: The total fee will be calculated by Staff after application submittal based on the quantity of mailed notices and signs and must be paid when sign(s) are picked up by the applicant when sign(s) are picked up by the applicant.

**Please note:** The signature indicates that the owner or an authorized agent has reviewed the requirements of this application and attached checklist, and all items on this checklist have been addressed and complied with. The owner/authorized agent understands that an incomplete application will **not** be accepted, and this application will **not** be accepted after the 4 p.m. deadline on an application deadline date, as outlined on the calendar attached to this application. The signature authorizes City of New Braunfels staff to visit and inspect the property for which this application is being submitted.

*Garret Taylor*  
The undersigned hereby requests rezoning of the above described property as indicated.

Owner's Name (Printed)

Phone Number

Email

Owner's Mailing Address

Signature of Owner

Date

2910 Longham Cir

Manuel, TX 77578

*Garret Taylor*

May 16, 2019

713 449 2588

garret.taylor68@gmail.com

Karahetta@gmail.com



Triple T United, LLC.  
2910 Longhorn Circle  
Manvel, Tx. 77578

3/07/2019

Planning & Community Development Department  
Planning Division  
550 Landa St.  
New Braunfels, TX 78130

RE: Authorization Letter

To whom it may concern:

This letter is to inform you that Jessica Fox and Kara Helta with My New Braunfels Vacation will be acting as property managers on behalf of Triple T United, LLC. for the property located at 358 E Nacogdoches

My New Braunfels Vacation  
120 Chickadee Cove  
Kyle, Tx 78640  
Mobile (512)665-3305 Office (830)515-4142

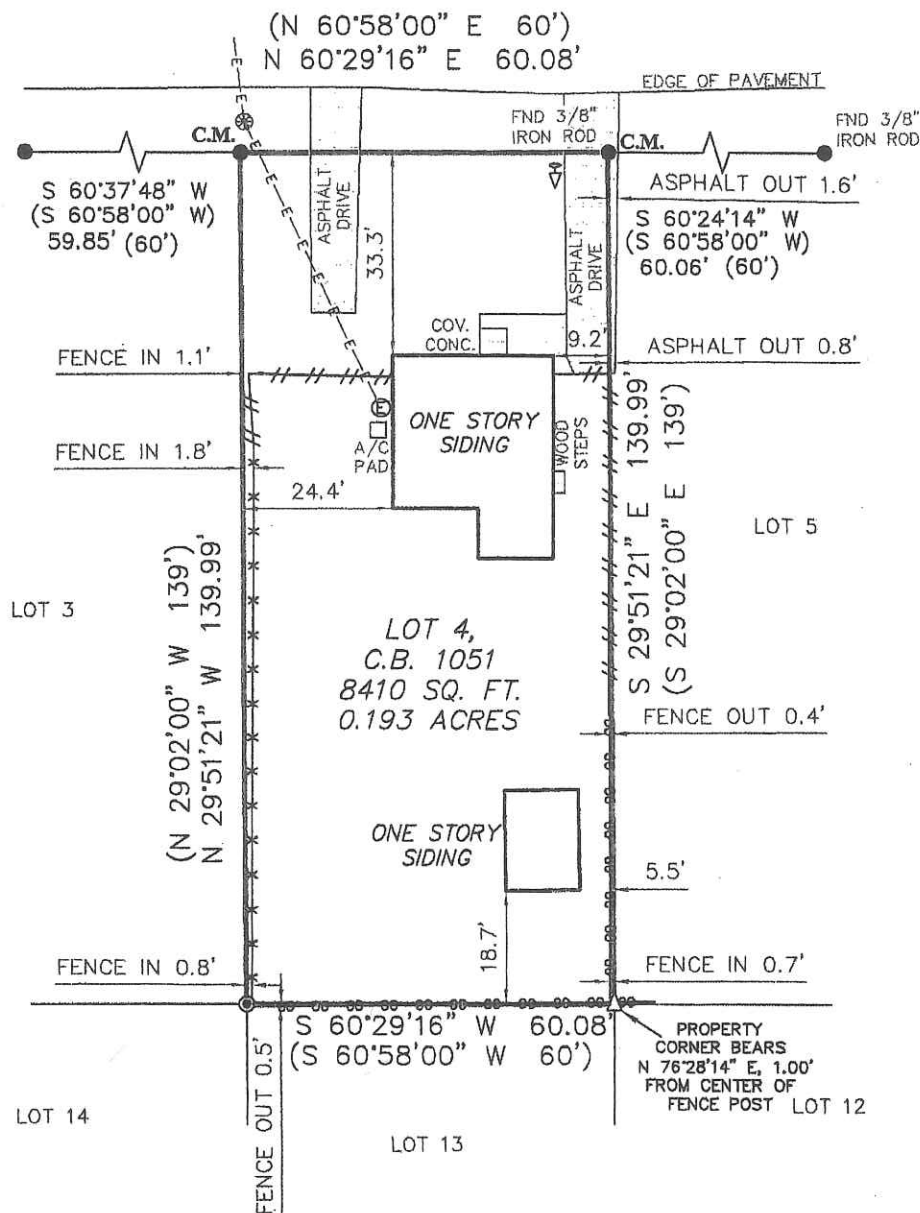
Sincerely,



Garret Taylor  
Manager, Triple T United, LLC.  
713.449.2588



SCALE: 1"=30'



FLOOD ZONE INTERPRETATION: IT IS THE RESPONSIBILITY OF ANY INTERESTED PERSONS TO VERIFY THE ACCURACY OF FEMA FLOOD ZONE DESIGNATION OF THIS PROPERTY WITH FEMA AND STATE AND LOCAL OFFICIALS, AND TO DETERMINE THE EFFECT THAT SUCH DESIGNATION MAY HAVE REGARDING THE INTENDED USE OF THE PROPERTY. The property made the subject of this survey appears to be included in a FEMA Flood Insurance Rate Map (FIRM), identified as Community No. 48091C, Panel No. 0455 F, which is Dated 9/2/2009. By scaling from that FIRM, it appears that all or a portion of the property may be in Flood Zone(s) SHD X. Because this is a boundary survey, the survey did not take any actions to determine the Flood Zone status of the surveyed property other than to interpret the information set out on FEMA's FIRM, as described above. THIS SURVEYOR DOES NOT CERTIFY THE ACCURACY OF THIS INTERPRETATION OF THE FLOOD ZONES, which may not agree with the Interpretations of FEMA or state or local officials, and which may not agree with the tract's actual conditions. More information concerning FEMA's Special Flood Hazard Areas and Zones may be found at <https://msc.fema.gov/portals>.

THIS SURVEY IS  
ACKNOWLEDGED AND  
IS ACCEPTED:

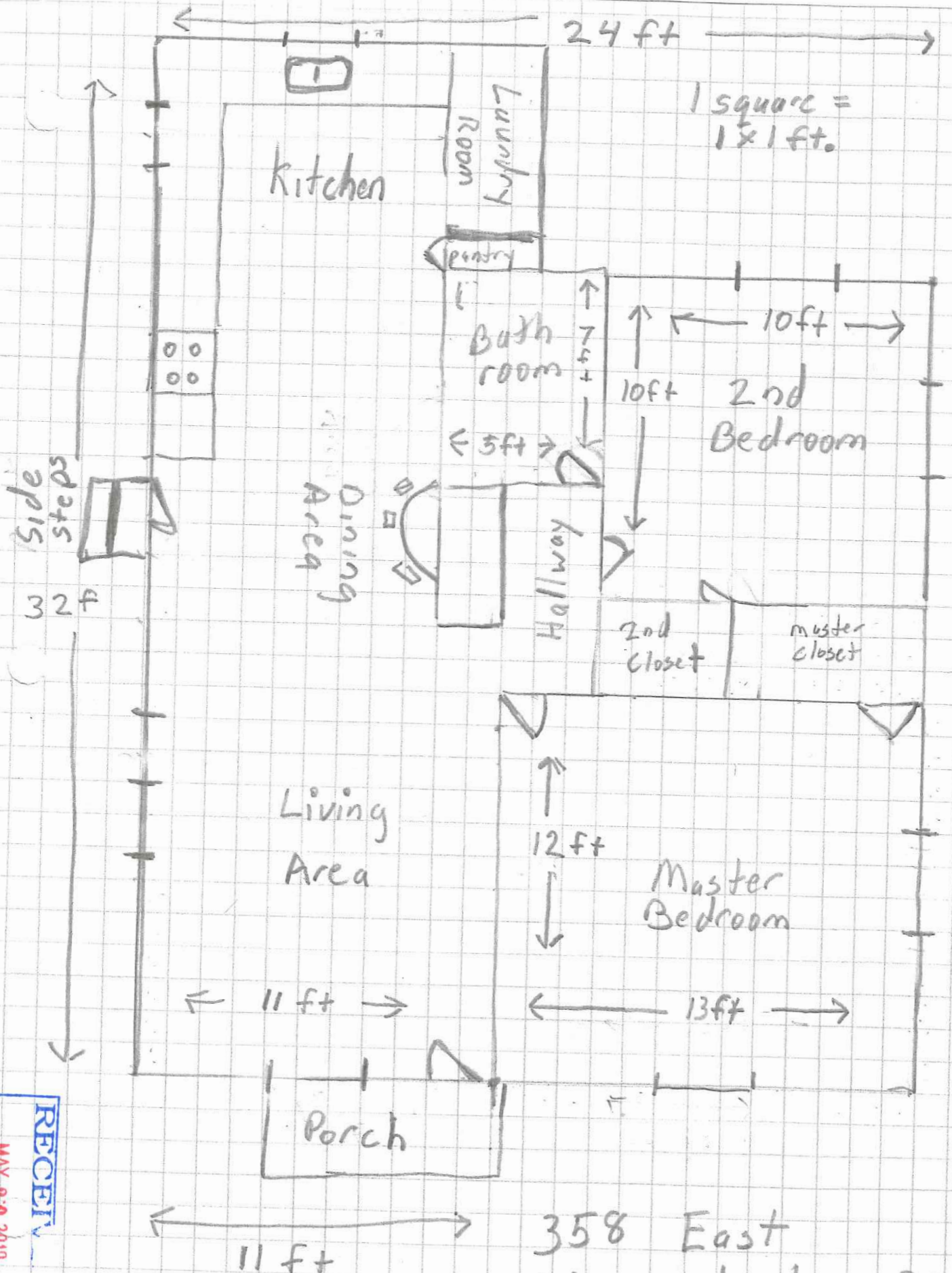
LOT 4, CITY BLOCK 1051, KUEHLER ADDITION, SITUATED IN  
THE CITY OF NEW BRAUNFELS, COMAL COUNTY, TEXAS,  
ACCORDING TO THE MAP OR PLAT THEREOF RECORDED IN





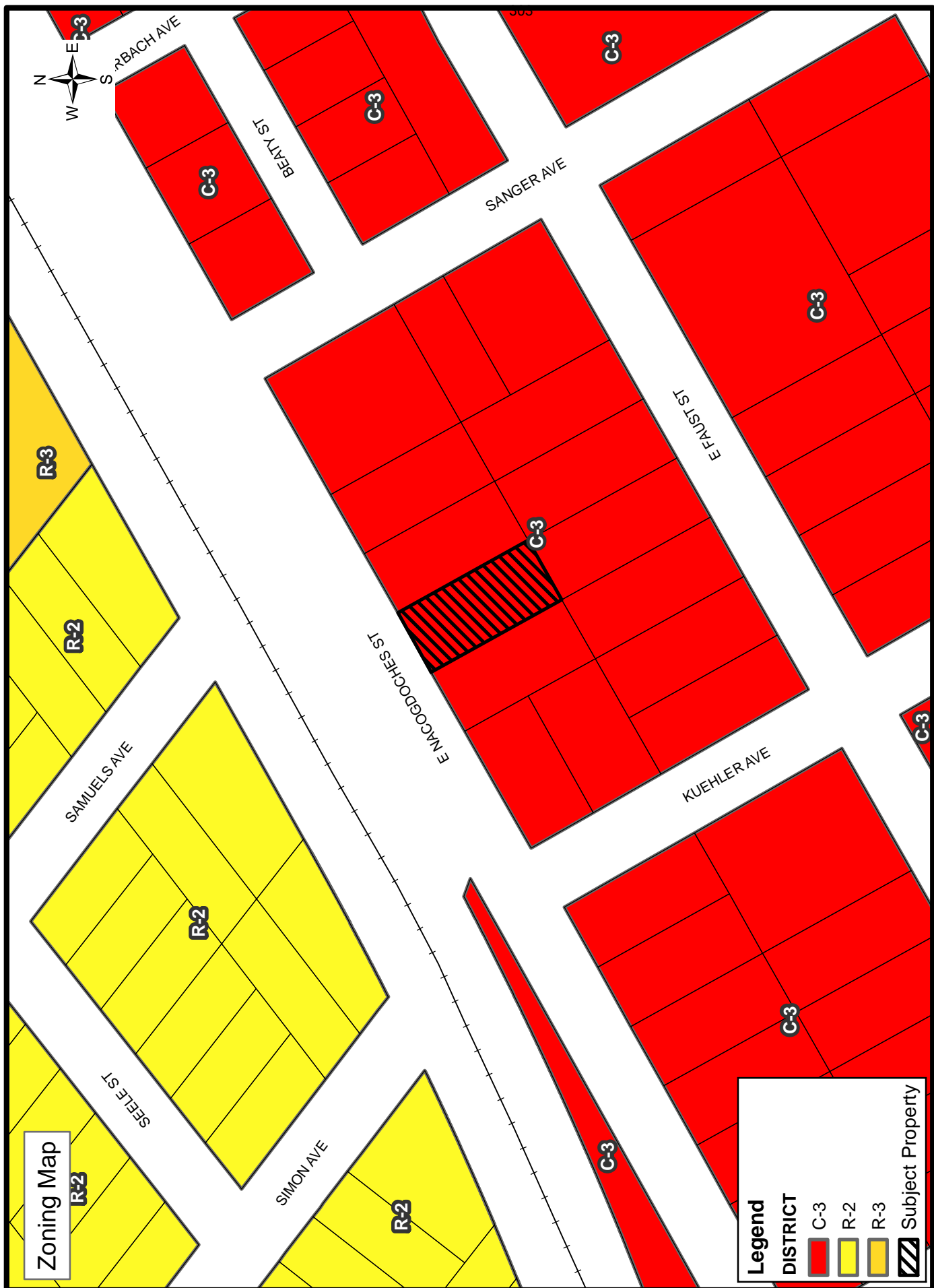
# FLOOR PLAN

302



RECEIVED  
MAY 20 2019  
BY:

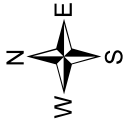
358 East  
Nacogdoches St.



**SUP19-156**  
**358 E. Nacogdoches**  
**SUP for Short Term Rental**



# Existing Land Use Map



KARBACH AVE

BEATY ST

SANGER AVE

KESLER ST

EFAUST ST

E NACOGDOCHES ST

KUEHLER AVE

SAMUELS AVE

SEELE ST

SIMON AVE

## Legend

Subject Property

## Existing Land Use

- Residential Low Density (Less than 5 Units/Acre)
- Residential High Density (12+ Units/Acre)
- Commercial
- Open



**SUP19-156**  
**358 E. Nacogdoches**  
**SUP for Short Term Rental**



## EXISTING CENTERS

Centers are the middle, core or heart of an area. It is a point of activity and vitality. Centers come in many sizes and have different purposes or activities within. They may have endangered species habitat or aquifer recharge areas that require additional standards and consideration relating to future growth. It is envisioned that all centers be walkable, connected, and have a mix of uses. These centers must provide adequate infrastructure to support the commercial development present especially mobility and access for pedestrians, bicycles, vehicles and transit. Given the mixed-use nature of these centers, parking should be shared and not detract from the aesthetic of the area.

### ● EMPLOYMENT CENTER

Employment Centers are mixed-use areas centered around office or industrial uses that can support significant employment.

### ● MARKET CENTER

Market Centers are mixed-use areas anchored by a retail destination where surrounding residents go to get daily goods and services.

### ● MEDICAL CENTER

Medical Centers are mixed-use areas centered around a medical destination such as a hospital or clinic.

### ● CIVIC CENTER

Civic Centers are mixed-use areas centered around a civic destination such as City Hall, a library or a recreation center.

### ● OUTDOOR RECREATION CENTER

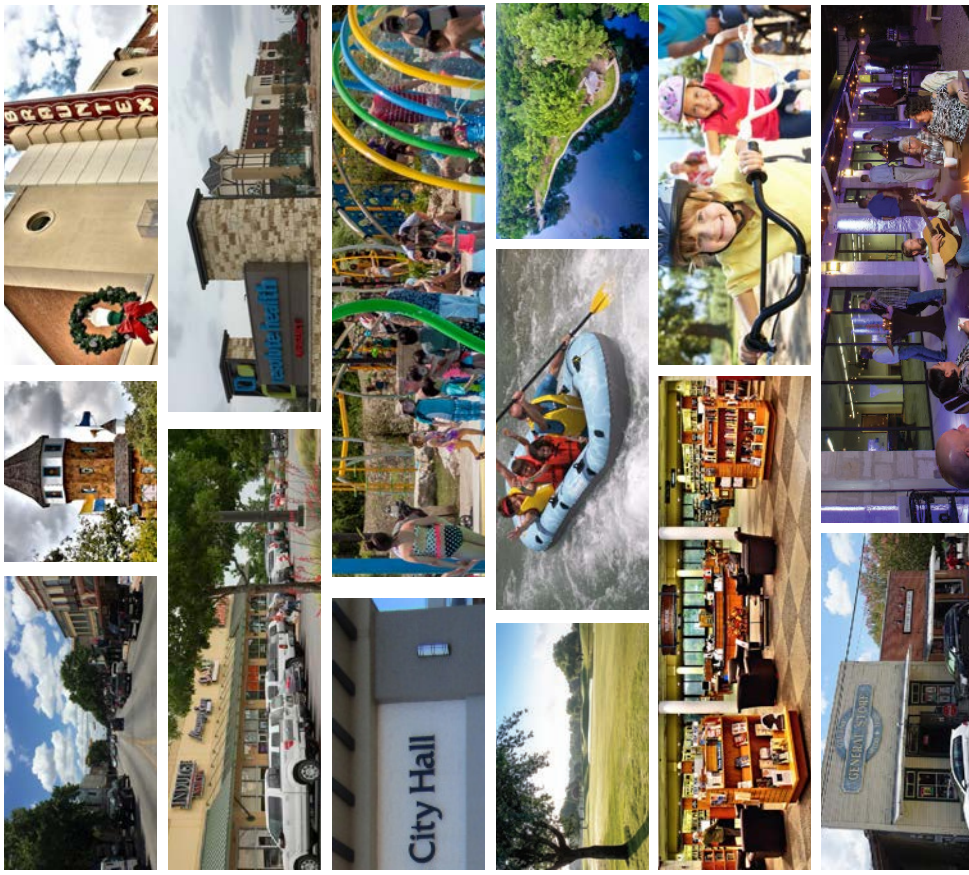
Outdoor Recreation Centers center around a public or private outdoor destination such as Landa Lake.

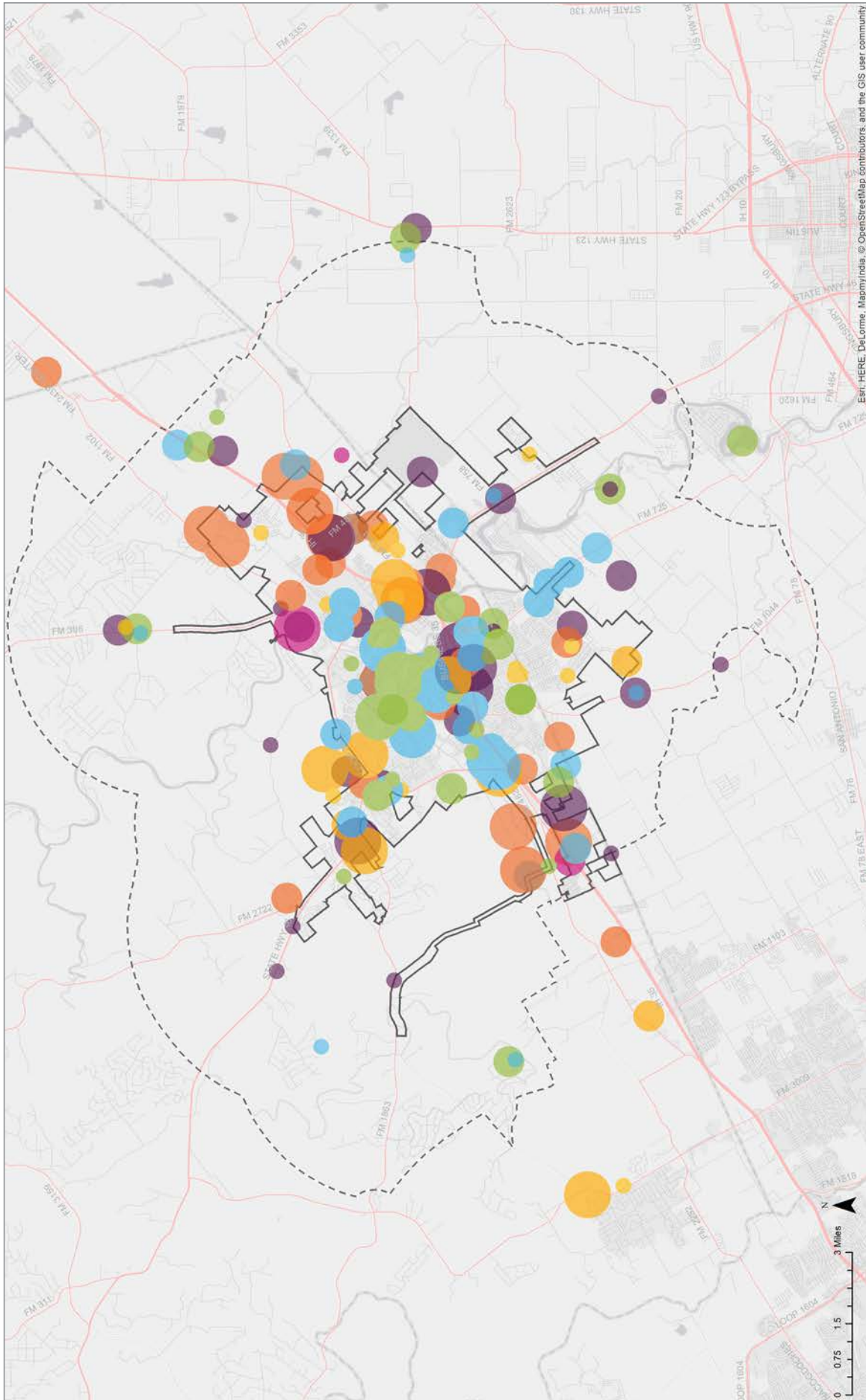
### ● EDUCATION CENTER

Education Centers are mixed-use areas centered around an educational destination such as a K-12 school or university/college.

### ● TOURIST/ENTERTAINMENT CENTER

Tourist/Entertainment Centers are mixed-use areas around an entertainment venue such as Gruene Hall or a tourist destination such as the Tube Chute.





The location of existing centers was determined through the analysis of previous studies and background documents, windshield surveys, and reviewed by City staff, Steering Committee members, and Plan Element Advisory Group members during a public workshop.



# FUTURE LAND USE PLAN

A future land use plan is how land is envisioned to be. It establishes priorities for more detailed plans (sub area plans) and for detailed topical plans (such as parks and open spaces, trails and roads). It cannot be interpreted without the goals and actions of Envision New Braunfels.

## TRANSITIONAL MIXED-USE CORRIDOR

Transitional Mixed-Use Corridors express an aspiration to retrofit existing auto-dominated retail corridors with a mix of uses and a variety of travel modes over time.

## OUTDOOR RECREATION CENTER

Outdoor Recreation Centers are centered around a public or private outdoor destination like Fischer Park.

## EMPLOYMENT CENTER

Employment Centers are mixed-use areas centered around office or industrial uses that can support significant employment.

## MARKET CENTER

Market Centers are mixed-use areas anchored by a retail destination where surrounding residents go to get daily goods and services.

## CIVIC CENTER

Civic Centers are mixed-use areas centered around a civic destination such as City Hall, a library or a recreation center.

## SUB AREA 1

Sub Area 1 includes the Downtown, Gruene and the Mid-Century or older neighborhoods that surround them. It is home to the natural springs and headwaters of flowing rivers that have attracted New Braunfelsers to the town for centuries.

## SUB AREA 2

Sub Area 2 refers to the neighborhoods and residential enclaves that have grown alongside the Hill Country landscape.

## SUB AREA 3

Sub Area 3 includes a planned community offering a diversity of housing, distinct community centers and preserved Hill Country landscape features.

## SUB AREA 4

At the heart of Sub Area 4 is Fischer Park. Proximity to IH-35, downtown and neighboring communities like McQueeney makes this area highly desirable and accessible.

## SUB AREA 5

Sub Area 5 bridges together many communities east of IH-35. It includes the scenic landscape along both banks of the Guadalupe River between Highway 46 and FM 725.

## SUB AREA 6

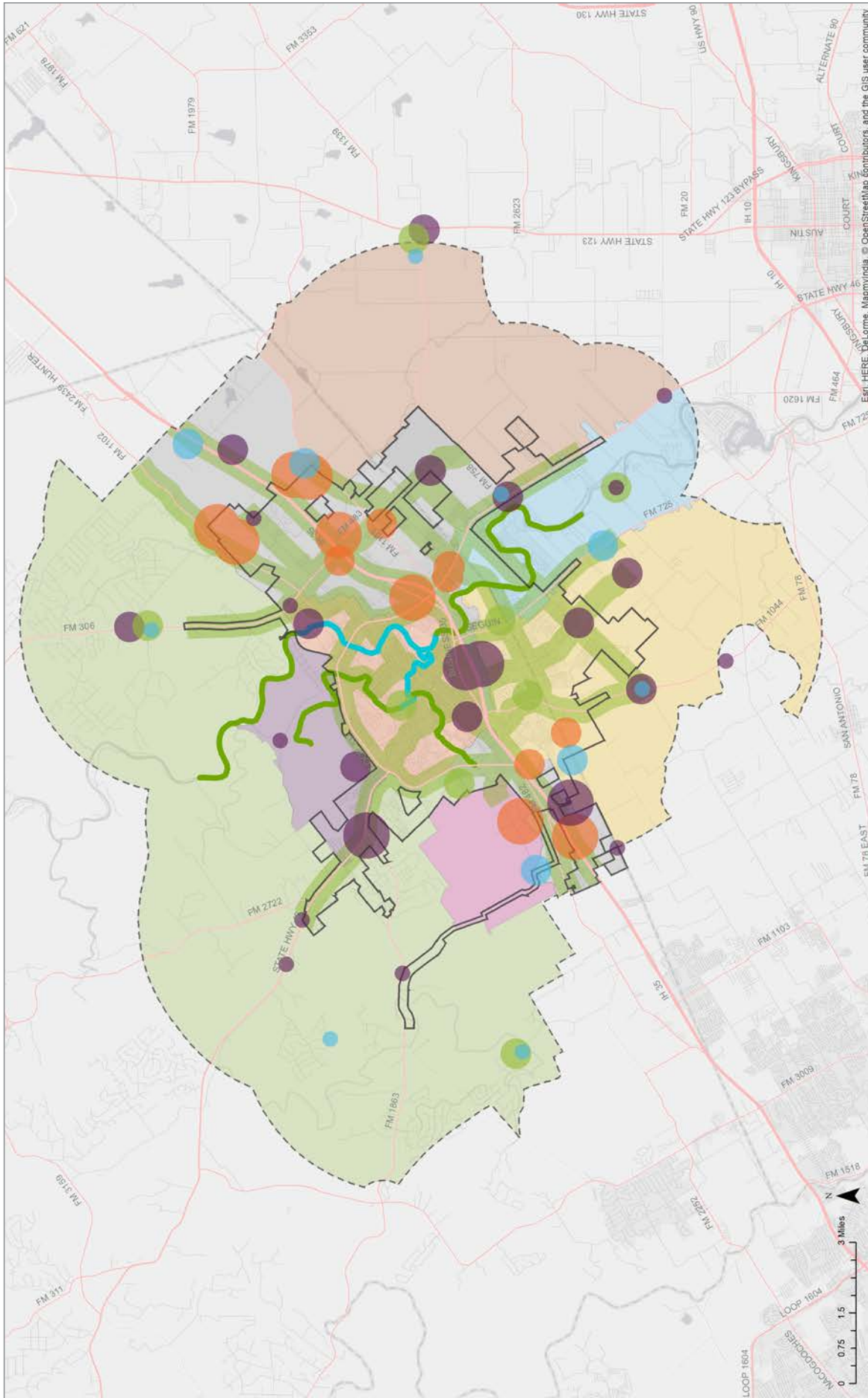
Sub Area 6 expresses an aspiration for conservation communities focused around maintaining and enhancing ecological integrity while allowing some level of development to occur.

## SUB AREA 7

Sub Area 7 includes parts of the city currently being mined for natural resources. These sites may become parks and open space, mixed-use communities or new commercial or entertainment areas in the future.

## SUB AREA 8

This fast-growing Sub Area includes many neighborhoods offering affordable places for young families to live.




A Comprehensive Plan shall not constitute zoning regulations or establish zoning district boundaries. Preferred future growth scenario combines Scenarios A and C per recommendations of the Envision New Braunfels Steering Committee (February 2018). Exact boundaries of sub areas, centers, and corridors may be [zoomed and viewed online](#).




Short Term Rental Map

**Legend**

 Subject Property

**Short Term Rental**



**SUP19-156**  
**358 E. Nacogdoches**  
**SUP for Short Term Rental**

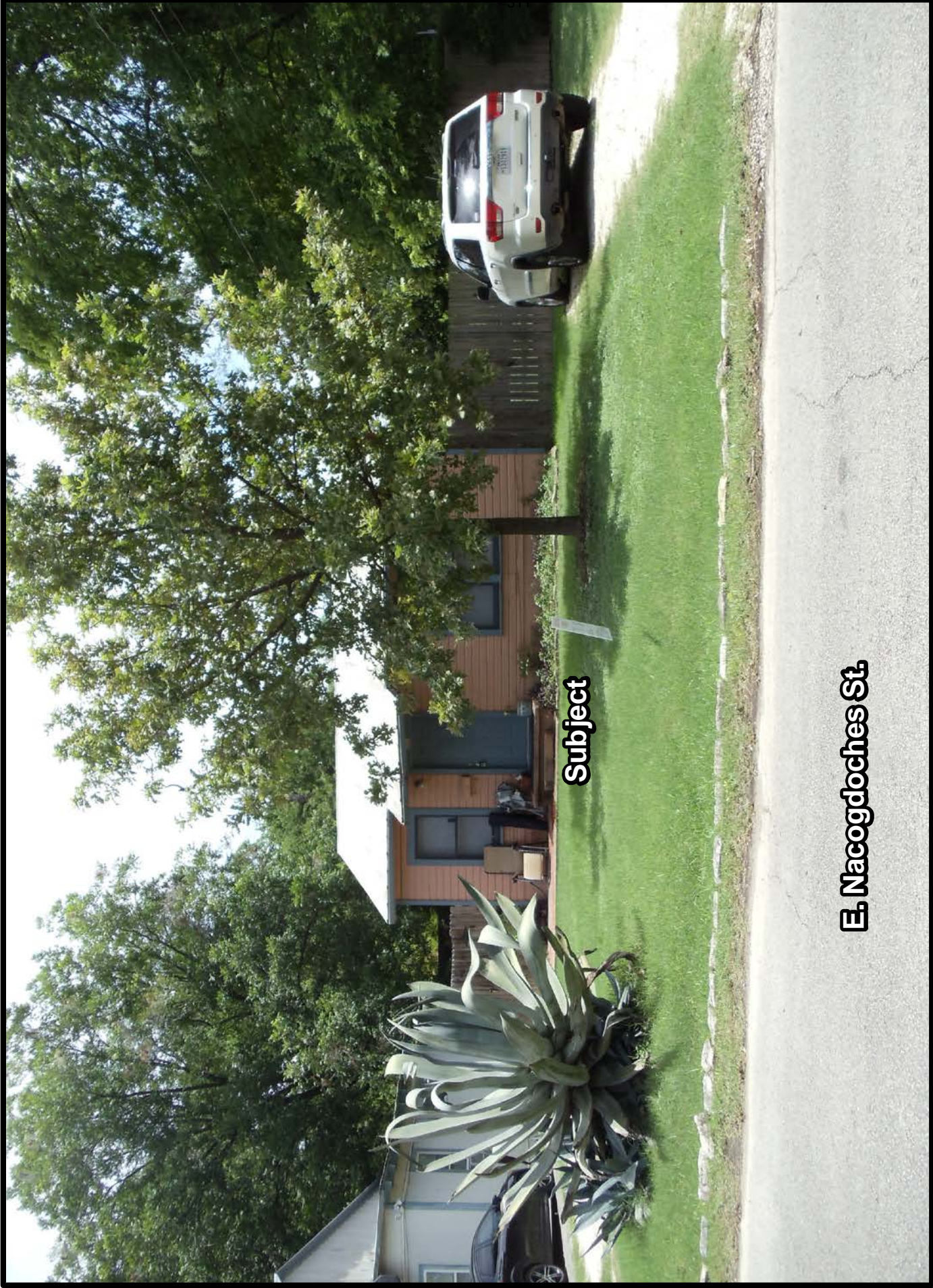




**Subject**

**E. Nacogdoches St.**





**E. Nacogdoches St.**





**Subject**

***E. Nacogdoches St.***

**PLANNING COMMISSION – JULY 2, 2019 – 6:00 PM**  
**New Braunfels City Hall, Council Chambers, 550 Landa Street**

**Address/Location:** 358 E. Nacogdoches Street

**Applicant:** Triple T United, LLC (Garret Taylor)

**Case #:** SUP19-156

The circled numbers on the map correspond to the property owners listed below. All information is from the Comal Appraisal District Records. The property under consideration is marked "Subject Property."

- |                                |                                    |
|--------------------------------|------------------------------------|
| 1. MEZA CLARA                  | BAKER WAYNE & GWENDOLYN RVCBL LVNG |
| 2. CASTILLO OSCAR & MARTHA O   | 10. TRST                           |
| 3. DERKACZ PROPERTIES LLC      | 11. GARRISON CLYDE A & KAREN S     |
| 4. DOLLE ARTHUR                | 12. NOWAK JUDY                     |
| 5. ORTIZ PAULETTE              | 13. WUNDERLICH PROPERTIES LLC      |
| 6. GOMEZ JOSE R & MARIA L      | 14. GRIMM DORIS M                  |
| 7. KOEPP DAVID H               | 15. TOMERLIN DAVID                 |
| 8. NANCE BARBARA J ET AL       | 16. GONZALES JAIME P SR            |
| 9. CASTILLO O DANIEL & KAREN M | 17. CAMP YELLOW WOLF LLC           |

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**SEE NOTIFICATION MAP**



**SUP19-156**  
**358 E. Nacogdoches Street**  
**SUP for Short Term Rental**



YOUR OPINION MATTERS - DETACH AND RETURN

315

Case: #SUP19-156 (MG)

Name: DERKACZ Properties

Address: 951 Koehler

Property number on map: # 3

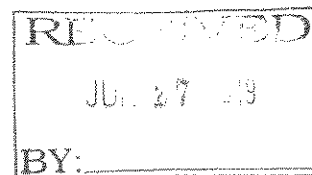
Comments: (Use additional sheets if necessary)

I favor: YES

I object: \_\_\_\_\_

(State reason for objection)

Signature: Susan Derkacz



YOUR OPINION MATTERS - DETACH AND RETURN

Case: #SUP19-156 (MG)

Name: Doris Grimm

Address: 985 Kuehler Ave

Property number on map: 985 + 301 #14

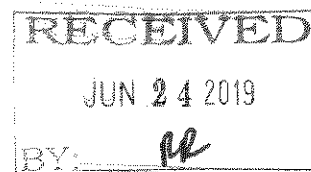
Comments: (Use additional sheets if necessary)

I favor: yes

I object: \_\_\_\_\_

(State reason for objection)

Signature: Doris M. Grimm



YOUR OPINION MATTERS - DETACH AND RETURN

Case: #SUP19-156 (MG)

Name: Osceola MARTIN CASTILLO

Address: 917 Kuehler Ave

Property number on map: 2

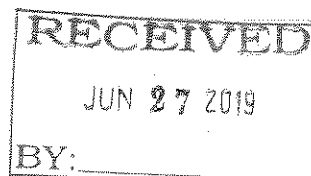
Comments: (Use additional sheets if necessary)

I favor: OK

I object: \_\_\_\_\_

(State reason for objection)

Signature: [Signature]



RE: Special Use Permit - 358 E. Nacogdoches St.

Many houses in this neighborhood are rentals. These are families, couples, and singles. We interact with them on a daily basis; we visit with and even develop lasting friendships. Seeing familiar faces gives us a sense of security as we all look out for one another.

Many strange people come into our neighborhood due to easy access to the river, especially on Friday, Saturday and Sunday. We don't need more people that are not here to join our neighborhood. Therefore we are against this Special Use Permit. We will be out of town July 2nd.

Judy Nowak  
Judy Nowak  
357 E. Faust St  
New Braunfels TX 78130  
Property Number 12

**YOUR OPINION MATTERS - DETACH AND RETURN**

Case: #SUP19-156 (MG)

Name: Judy Nowak

Address: 357 E. Faust St.

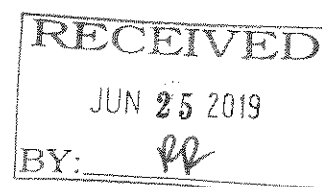
Property number on map: 12

Comments: (Use additional sheets if necessary)

I favor: No!

I object: see attached  
(State reason for objection)

Signature: Judy Nowak





3.3-9. "C-3" commercial district. The following regulations shall apply in all "C-3" districts:

- (a) *Authorized uses.* Uses permitted by right shall be those set forth in the Land Use Matrix in Section 4 of this Appendix. The allowed uses in the district, which are intended to be identical with those listed in the Land Use Matrix, are as follows:

(1) *Uses permitted by right:*

Residential uses:

- Accessory building/structure
- Accessory dwelling (one accessory dwelling per lot, no kitchen)
- Bed and breakfast inn (see Sec. 5.6)
- Boardinghouse/lodging house
- Community home (see definition)
- Duplex / two-family / duplex condominiums
- Family home adult care
- Family home child care
- Home Occupation (See Sec. 5.5)
- Multifamily (apartments/condominiums)
- One family dwelling, detached
- Rental or occupancy for less than one month (see Sec. 5.17)
- Residential use in buildings with the following non-residential uses
- Single family industrialized home (see Sec. 5.8)

Non-residential uses:

- Accounting, auditing, bookkeeping, and tax preparations
- Adult day care (no overnight stay)
- Adult day care (with overnight stay)
- Aircraft support and related services
- All terrain vehicle (ATV) dealer / sales
- Ambulance service (private)
- Amphitheater
- Amusement devices/arcade (four or more devices)
- Amusement services or venues (indoors) (see Sec. 5.13)
- 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
- Athletic fields
- Auction sales (non-vehicle)
- Auto body repair, garages (see Sec. 5.11)
- Auto glass repair/tinting (see Sec. 5.11)
- Auto interior shop / upholstery (see Sec. 5.11)
- Auto leasing
- Auto muffler shop (see Sec. 5.11)
- Auto or trailer sales rooms or yards (see Sec. 5.12)
- Auto or truck sales rooms or yards - primarily new (see Sec. 5.12)
- Auto paint shop
- Auto repair as an accessory use to retail sales (see Sec. 5.11)
- Auto repair garage (general) (see Sec. 5.11)
- 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)  
 Barber/beauty shop, haircutting (non-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  
 Bottling or distribution plants (milk)  
 Bottling works  
 Bowling alley/center (see Sec. 5.13)  
 Broadcast station (with tower) (see Sec. 5.7)  
 Bus barns or lots  
 Bus passenger stations  
 Cafeteria / café / delicatessen  
 Campers' supplies  
 Car wash (self service; automated)  
 Car wash, full service (detail shop)  
 Carpet cleaning establishments  
 Caterer  
 Cemetery and/or mausoleum  
 Check cashing service  
 Chemical laboratories (not producing noxious fumes or odors)  
 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  
 Commercial amusement concessions and facilities  
 Communication equipment installation and/or repair  
 Community building (associated with residential uses)  
 Computer and electronic sales  
 Computer repair  
 Confectionery store (retail)  
 Consignment shop  
 Contractor's office/sales, with outside storage including vehicles  
 Contractor's temporary on-site construction office (only with permit from Building Official; see Sec. 5.10)  
 Convenience store with or without fuel sales  
 Country club (private)  
 Credit agency  
 Curio shops  
 Custom work shops  
 Dance hall / dancing facility (see Sec. 5.13)  
 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, Municipal Code and Sec. 5.9)  
 Farms, general (livestock/ranch) (see Chapter 6, Municipal Code and Sec. 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)  
 Freight terminal, truck (all storage of freight in an enclosed building)  
 Frozen food storage for individual or family use  
 Funeral home/mortuary  
 Furniture manufacture  
 Furniture sales (indoor)  
 Garden shops and greenhouses  
 Golf course (miniature)  
 Golf course, public or private  
 Governmental building or use  
 Greenhouse (commercial)  
 Handicraft shop  
 Hardware store  
 Health club (physical fitness; indoors only)  
 Heating and air-conditioning sales / services  
 Heavy load (farm) vehicle sales/repair (see Sec. 5.14)  
 Home repair and yard equipment retail and rental outlets (no outside storage)  
 Hospice  
 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 (w/o self serve)  
 Laundry/dry cleaning (drop off/pick up)  
 Laundry/washateria (self serve)  
 Lawnmower sales and/or repair  
 Limousine / taxi service  
 Locksmith  
 Lumberyard (see Sec. 5.15)  
 Lumberyard or building material sales (see Sec. 5.15)  
 Maintenance/janitorial service  
 Major appliance sales (indoor)  
 Market (public, flea)  
 Martial arts school  
 Medical supplies and equipment  
 Metal fabrication shop  
 Micro brewery (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)  
 Motorcycle dealer (primarily new / repair)  
 Moving storage company  
 Moving, transfer, or storage plant  
 Museum  
 Needlework shop  
 Non-bulk storage of fuel, petroleum products and liquefied petroleum  
 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 (private or public)  
 Parking lots (for passenger car only) (not as incidental to the main use)  
 Parking structure/public garage  
 Pawn shop  
 Personal watercraft sales (primarily new / repair)  
 Pet shop / supplies (10,000 sq. ft. or less)  
 Pet store (more than 10,000 sq. ft.)  
 Photo engraving plant  
 Photographic printing/duplicating/copy shop or printing shop  
 Photographic studio (no sale of cameras or supplies)  
 Photographic supply  
 Plant nursery  
 Plant nursery, with retail sales  
 Plumbing shop  
 Portable building sales  
 Propane sales (retail)  
 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 or public)  
 Recycling kiosk  
 Refreshment/beverage stand  
 Research lab (non-hazardous)  
 Restaurant with drive-through  
 Restaurant/prepared food sales  
 Retail store and shopping center  
 Retirement home/home for the aged (public)  
 RV park  
 RV/travel trailer sales  
 School, K-12 (public or private)  
 School, vocational (business/commercial trade)  
 Security monitoring company  
 Security systems installation company  
 Shoe repair shops  
 Sign manufacturing/painting plant

Storage - exterior storage for boats and recreational vehicles  
 Storage in bulk  
 Studio for radio or television (without tower)  
 Studios (art, dance, music, drama, reducing, photo, interior decorating, etc.)  
 Tailor shop  
 Tattoo and body piercing studio  
 Taxidermist  
 Telemarketing agency  
 Telephone exchange buildings (office only)  
 Tennis court (commercial)  
 Theater (non-motion picture; live drama)  
 Tire sales (outdoors)  
 Tool rental  
 Transfer station (refuse/pick-up)  
 Travel agency  
 Truck Stop  
 University or college (public or private)  
 Upholstery shop (non-auto)  
 Used or second hand merchandise/furniture store  
 Vacuum cleaner sales and repair  
 Veterinary hospital (with or without outside animal runs or kennels) with the exception that outdoor kennels may not be used between the hours of 9:00 p.m. and 7:00 a.m. and are prohibited adjacent to residential  
 Video rental / sales  
 Warehouse / office and storage / distribution center  
 Waterfront amusement facilities - berthing facilities sales and rentals  
 Waterfront amusement facilities - boat fuel storage / dispensing facilities  
 Waterfront amusement facilities - boat landing piers / launching ramps  
 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  
 Welding shop  
 Wholesale sales offices and sample rooms  
 Woodworking shop (ornamental)

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

- (2) *Conflict.* In the event of conflict between the uses listed in the Land Use Matrix and those listed in Subsection (1), the uses listed in this subsection shall be deemed those authorized in the district.

(b) *Maximum height, minimum area and setback requirements:*

(1) Non-residential uses.

- (i) *Height.* 120 feet.
- (ii) *Front building setback.* No building setback required.
- (iii) *Side building setback.* No side building setback is required except that where a side line of a lot in this district abuts upon the side line of a lot in a "R" or "B-1" zone, a side building setback of not less than five feet shall be provided.
- (iv) *Rear building setback.* 20 feet.



- (v) *Residential setback.* Effective November 8, 2006, where a non-residential building abuts a one or two family use or zoning district, the setback from the one or two family property line shall be at least 20 feet plus one foot for each foot of building height over 20 feet.
  - (vi) *Width of lot.* The minimum width of a lot shall be 60 feet, provided that where a lot has less width than required and such lot was in separate ownership prior to February 4, 1984, this requirements will not prohibit the construction of a use enumerated in this district.
  - (vii) *Lot depth.* 100 feet.
  - (viii) *Parking.* See Section 5.1 for permitted uses' parking.
- (2) One family dwellings.
- (i) *Height.* 45 feet.
  - (ii) *Front building setback.* 25 feet.
  - (iii) *Rear building setback.* 20 feet.
  - (iv) *Side building setback.* There shall be a side building setback on each side of a building not less than five feet in width. Buildings on corner lots shall have 15-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the rear lot lines of the adjacent lots. Buildings on corner lots shall have 25-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the side lot lines of the adjacent lots.
  - (v) *Garage setback.* Where a driveway is located in front of a garage, the garage shall be setback 20 feet from the right-of-way or the driveway to the garage shall be at least 20 feet long to provide enough space for a vehicle to park without overhanging into the right-of-way, if the garage door is closed. (See Illustration 8 in Sec. 5.1-1)
  - (vi) *Width of lot.* The minimum width of an interior lot shall be 60 feet and the minimum width of a corner lot shall be 70 feet, provided that where a lot has less width than herein required, and such lot was in separate ownership prior to September 25, 1967, this requirement will not prohibit the erection of a one-family dwelling.
  - (vii) *Lot area.* Every single-family dwelling hereafter erected or altered shall have a lot area of not less than 6,600 square feet per family for interior lots, and 7,000 square feet per family for corner lots. Where a lot was legally under separate ownership prior to September 25, 1967, but has an area less than the minimum required in this provision, this regulation shall not prohibit the erection of a one-family residence. Where a public or community sewer is not available and in use for the disposal of all sanitary sewage, each lot shall provide not less than one half acre and one acre on the Edwards Aquifer Recharge Zone.
  - (viii) *Lot depth.* 100 feet.
  - (ix) *Parking.* Two off-street parking spaces shall be provided for each one-family detached dwelling. See Section 5.1 for other permitted uses' parking.
- (3) Duplexes.
- (i) *Height.* 45 feet.
  - (ii) *Front building setback.* 25 feet.
  - (iii) *Rear building setback.* 20 feet.

- (i) *Side building setbacks.* There shall be a side building setback on each side of a building not less than five feet in width. Buildings on corner lots shall have 15-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the rear lot lines of the adjacent lots. Buildings on corner lots shall have 25-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the side lot lines of the adjacent lots.
  - (v) *Garage setback.* Where a driveway is located in front of a garage, the garage shall be setback 20 feet from the right-of-way or the driveway to the garage shall be at least 20 feet long to provide enough space for a vehicle to park without overhanging into the right-of-way, if the garage door is closed. (See Illustration 8 in Sec. 5.1-1)
  - (vi) *Width of lot.* The minimum width of an interior lot shall be 60 feet and the minimum width of a corner lot shall be 70 feet
  - (vii) *Lot area.* Duplexes hereafter erected or altered shall have a lot area of not less than 8,000 square feet for an interior lot and 8,500 square feet for a corner lot. Where a lot was legally under separate ownership prior to September 25, 1967, but has an area less than the minimum required in this provision, this regulation shall prohibit the erection of a two-family residence. Where a public or community sewer is not available and in use for the disposal of all sanitary sewage, each lot shall provide not less than one acre and approved by the City Sanitarian.
  - (viii) *Lot depth.* 100 feet.
  - (ix) *Parking.* Two off-street parking spaces shall be provided for each two-family dwelling unit. See Sec. 5.1 for other permitted uses' parking.
- (4) Multifamily dwellings.
- (i) *Height.* 45 feet; 60 feet when a pitched roof is used (minimum 4:12 slope).
  - (ii) *Front building setback.* 25 feet.
  - (iii) *Rear building setback.* 25 feet.
  - (iv) *Side building setback.* There shall be a side building setback on each side of a building not less than five feet in width. Buildings on corner lots shall have 15-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the rear lot lines of the adjacent lots. Buildings on corner lots shall have 25-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the side lot lines of the adjacent lots.
  - (v) *Garage setback.* Where a driveway is located in front of a garage, the garage shall be setback 20 feet from the right-of-way or the driveway to the garage shall be at least 20 feet long to provide enough space for a vehicle to park without overhanging into the right-of-way, if the garage door is closed. (See Illustration 8 in Sec. 5.1-1)
  - (vi) *Residential setback.* Effective November 8, 2006, where a multifamily dwelling abuts a one or two family use or zoning district, the setback from the one or two family property line shall be at least 20 feet plus one foot for each foot of building height over 20 feet.
  - (vii) *Width of lot.* The minimum width of an interior lot shall be 60 feet and the minimum width of a corner lot shall be 70 feet, provided that where a lot has less width than herein required, and such lot was in separate ownership prior to September 25, 1967, this requirement will not prohibit the erection of a one-family dwelling.

- (viii) *Lot area.* The minimum lot area for a multifamily dwelling shall be 15,000 square feet; for each unit over ten an additional 1,500 square feet of lot area shall be required. Where public or community sewer is not available and in use, for the disposal of all sanitary sewage, multifamily developments shall be approved by the City Sanitarian.
- (ix) *Lot coverage.* For multifamily structures, the combined area of all yards shall be at least 55 percent of the total lot or tract; provided, however, that in the event enclosed parking is provided the minimum total yard area requirement shall be 40 percent of the total lot or tract.
- (x) *Distance between structures.* For multifamily structures, there shall be a minimum of ten feet between structures side by side; a minimum of 20 feet between structures side by front or rear; a minimum of 40 feet between structures front to front; and a minimum of ten feet between structures backing rear to rear, and a minimum of 20 feet front to rear. (See Illustration 1 in Sec. 3.3-3)
- (xi) *Lot depth.* 100 feet.
- (xii) *Parking.* For apartments, apartment hotel units and other multifamily dwellings, off-street parking spaces shall be provided in accord with the following schedule:
  1. One-bedroom apartment or unit . . . 1 1/2 spaces
  2. Two-bedroom apartment or unit . . . 2 spaces
  3. Each Additional bedroom . . . 1/2 space
  4. Each dwelling unit provided exclusively for low income elderly occupancy . . . 3/4 space ("Low income elderly" is defined as any person 55 years of age or older with low or moderate income, according to HUD standards.)

### 3.6. *Special Use Permits.*

- 3.6-1. *Compatible and orderly development.* A special use permit may be granted to allow compatible and orderly development which may be suitable only in certain locations and zoning districts if developed in a specific way or only for a limited period of time.
- 3.6-2. *Application processing.* Application for a Special Use Permit shall be processed in accordance with Section 2.1 of this Chapter and shall include the pertinent information as determined by the type of Special Use Permit and additional information as determined by the Planning Director, the Planning Commission or the City Council.

#### Types of Special Use Permit:

*Type 1.* Regulates land use only; does not require specific site plan or schedule. Construction within a Type 1 Special Use Permit will comply with all of the standard construction requirements for the approved use at the time of construction permit, including drainage plans, TIA, driveway location, and landscaping.

*Type 2.* Requires a site plan drawn to scale and shall show the arrangement of the project in detail, including parking facilities, locations of buildings, uses to be permitted, landscaping, and means of egress and ingress.

- 3.6-3. *Standards.* When considering applications for a special use permit, the Planning Commission in making its recommendation and the City Council in rendering its decision on the application shall, on the basis of the site plan, if a Type 2, and other information submitted, evaluate the impact of the special use on, and the compatibility of the use with, surrounding properties and neighborhoods to ensure the appropriateness of the use at a particular location. The Planning Commission and the City Council shall specifically consider the extent to which:
- (a) *Comprehensive plan consistency.* The proposed use at the specified location is consistent with the goals, objectives and policies contained in the adopted Comprehensive Plan;
  - (b) *Zoning district consistency.* The proposed use is consistent with the general purpose and intent of the applicable zoning district regulations;
  - (c) *Supplemental Standards.* The proposed use meets all supplemental standards specifically applicable to the use as set forth in this Chapter;
  - (d) *Character and integrity.* The proposed use is compatible with and preserves the character and integrity of adjacent development and neighborhoods and, as required by the particular circumstances.

A Type 2 Special Use Permit may include improvements or modifications either on-site or within the public rights-of-way to mitigate development-related adverse impacts, including but not limited to:

- (1) Adequate ingress and egress to property and proposed structures thereon with particular reference to vehicular and pedestrian safety and convenience, and access in case of fire;
- (2) Off-street parking and loading areas;
- (3) Refuse and service areas;
- (4) Utilities with reference to location, availability, and compatibility;

- (5) Screening and buffering, features to minimize visual impacts, and/or set-backs from adjacent uses;
  - (6) Control of signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect, and compatibility and harmony with properties in the district;
  - (7) Required yards and open space;
  - (8) Height and bulk of structures;
  - (9) Hours of operation;
  - (10) Paving of streets, alleys, and sidewalks,
  - (11) Provisions for drainage,
  - (12) Exterior construction material and building design; and
  - (13) Roadway adjustments, traffic control devices or mechanisms, and access restrictions to control traffic flow or divert traffic as may be needed to reduce or eliminate development-generated traffic on neighborhood streets.
- (e) *Public health, safety, convenience and welfare.* The proposed use is not materially detrimental to the public health, safety, convenience and welfare, or results in material damage or prejudice to other property in the vicinity.
- 3.6-4. *Procedures for special use permit (SUP).* Granting of an SUP is considered zoning and as such, all the procedures for changing a zoning district apply to an application for an SUP. After a public hearing and upon the recommendation of the Planning Commission, the City Council may approve, deny or modify the site plan and issue a special use permit containing such requirements and safeguards as necessary to protect adjoining property, including conditions addressing the standards in Section 3.6-3(d).
- 3.6-5. *Revocation.* The SUP for a Type 1 permit may be considered for revocation if a use other than the use approved in the SUP or in the underlying zoning district is developed or other stated requirements are not met. The SUP for a Type 2 permit may be considered for revocation for the following reasons:
- (a) Construction is not begun within five years of the date of approval of the permit.
  - (b) Progress toward completion is not being made. Progress toward completion includes the following:
    - (1) An application for a final plat is submitted;
    - (2) A good faith effort is made to file with a regulatory agency an application for a permit necessary to begin or continue completion of the project;
    - (3) Costs have been incurred for developing the project including, without limitation, costs associated with roadway, utility, and other infrastructure facilities designed to serve in whole or in part, the project (but exclusive of land acquisition) in the aggregate amount of 5% of the most recent appraised market value of the real property on which the project is located;
    - (4) Security is posted with the city to ensure performance of an obligation required by the city; or



- (5) Utility connection fees or impact fees for the project have been paid to the City or New Braunfels Utilities.
  - (c) *Abandonment of the project.* Abandonment includes development of the property in a way other than provided for by the SUP.
  - (d) Failure to satisfy the conditions of the SUP or follow the site plan made part of the SUP.
  - (e) *Code violations.* Revocation may be considered if there are three or more code violations in a 720 day period.
    - (1) *Notice to property owner.* If the Planning Director finds no less than three violations of any code of ordinances on the property within a 360 day period, he shall advise the applicant of a revocation hearing. The Planning Director shall notify the property owner in writing of the violations and that an administrative hearing will be held concerning the violations. Such notice shall be given at least 10 days prior to the hearing. The Planning Director shall take evidence and conduct an administrative hearing to determine if a revocation procedure should be initiated. Such a determination is not subject to appeal to the Zoning Board of Adjustment.
    - (2) If the Planning Director finds that there is credible evidence that the code of ordinances has been violated, or there have been convictions or guilty pleas in any court of competent jurisdiction, on at least three separate occasions within a 720 day period, and after the administrative hearing, he shall initiate a SUP revocation process.
    - (3) *Appeal to Municipal Court.* Any code violation may be appealed to, or considered by, the Municipal Court Judge. The parties at interest in this appeal may cross examine witnesses.
  - (f) *Revocation process.* The revocation process shall be the same as for a zoning district change, with notice to property owners within 200 feet, public hearing and recommendation by the Planning Commission, and public hearing and ordinance consideration by the City Council.
  - (g) The City Council may deny the SUP revocation, approve the revocation, deny the revocation and add additional restrictions to the SUP, suspend the SUP for a period the Council determines, or amend the SUP with probationary requirements and terms the Council determines.
  - (h) Upon revocation of a special use permit the property subject to the special use permit may be used for any permitted use within the applicable base zoning district.
- 3.6-6. *Compliance with conditions.* Conditions which may have been imposed by the City Council in granting such permit shall be complied with by the grantee before a Certificate of Occupancy may be issued by the Building Official for the use of the building on such property.
- 3.6-7. *Telecommunication towers and/or antennas.* See Sec. 5.7
- 3.6-8. *Deviation from Code.* The City Council may approve a special use permit with deviations to any provision of the Code of Ordinances. Such deviations shall be listed or shown in or as part of the Ordinance approving the special use permit.

5.17. *Short term rental or occupancy.*

5.17-1 Purpose This section is intended to provide a procedure to allow the rental of private residences to visitors on a short-term basis, while ensuring that such rental use does not create adverse impacts to residential neighborhoods due to excessive traffic, noise, and density. Additionally, this section is intended to ensure that the number of occupants within such rental units does not exceed the design capacity of the structure to cause health and safety concerns, and that minimum health and safety standards are maintained in such units to protect visitors from unsafe or unsanitary conditions.

5.17-2 *Definitions:*

**“Adult”** means an individual 17 years of age or older.

**“Bedroom”** means a room designated and used primarily for sleeping and rest on a bed.

**“Floodway”** means the channel for a river or other water course and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

**“Non-Residential District”** means the following zoning districts: R-3, R-3L, R-3H, MU-A, MU-B, C-1, C-1A, C-1B, C-2, C-2A, C-3, C-4, C-4A, C-4B, C-O, M-1, M-1A, and M-2A. This includes all subsequently approved Special Districts identified as Non-Residential unless otherwise specified within the Special District.

**“Occupant”** means the person or persons who have rented the Short Term Rental and their guest(s).

**“Operator”** means every natural person, firm, partnership, association, social or fraternal organization, corporation, estate, trust, receiver, syndicate, branch of government or any other group or combination acting as a unit who is the proprietor of a Short Term Rental, whether in the capacity of owner, lessee, sub-lessee, mortgagee in possession, license or any capacity. Where the operator performs his or her functions through a managing agent of any type of character, other than an employee, or where the operator performs his or her functions through a rental agent, the managing agent or the rental agent shall have the same duties as his or her principal.

**“Owner”** means the person or entity that holds legal and/or equitable title to the private property.

**“Residential District”** means the following zoning districts: R-1, R-1A-43.5, R-1A-12, R-1A-8, R-1A-6.6, R-2, R-2A, B-1, B-1A, B-1B, TH, TH-A, ZH, ZH-A and SND-1. This includes all Special and Planned Development Districts identified as Residential unless otherwise specified within the Special District.

**“Resort Condominiums”** means a form of housing tenure and other real property where a specified part of a piece of real estate (usually of an apartment house) is individually owned and rented out for use of persons for less than 30 days while use of and access to common facilities in the piece such as hallways, heating system, elevators, exterior areas is executed under legal rights associated with the individual ownership and controlled by the association of owners that jointly represent ownership of the whole piece.

**“Resort Property”** means a compound of buildings and facilities located together that provides lodging, entertainment and a relaxing environment to people on vacation. This includes 24 hour security and 24 hour front desk personnel. These units comply with all commercial building code standards.

**“Short Term Rental”** means the rental for compensation of one- or two -family dwellings, as defined in the IRC (International Residential Code), for the purpose of overnight lodging for a period of not less than one (1) night and not more than thirty (30) days other than ongoing month-to-month tenancy granted to the same renter for the same unit. This is not applicable to hotels, motels, bed and breakfasts, resort properties as defined in this ordinance or resort condominiums.

**“Short Term Rental Decal”** means the decal issued by the City as part of a Short Term Rental permit that identifies the subject property as a Short Term Rental, the Short Term Rental permit number, the owner or rental agent's name and 24-hour emergency contact phone number of either the owner or the rental agent.

**“Sleeping Area”** means a room or other space within a Dwelling designed or used for sleeping, including a Bedroom. Tents and Recreational Vehicles shall not be considered a Sleeping Area.

**5.17-3 Applicability.**

- (a) Short Term Rental within Residential Districts is prohibited.
- (b) Short Term Rental is prohibited in any floodway located within the city limits, regardless of zoning district.
- (c) A Short Term Rental Permit is required prior to the use of a one family or two family dwelling as a Short Term Rental located within a Non-Residential District. Subject to Subsection (d), Standards, of this Section, an Owner shall obtain and maintain a current permit whenever a dwelling is used as a Short Term Rental. Annual inspection is required as specified in Subsection (f), Inspections, of this Chapter. A Special Use Permit is required in all zoning districts except C-4, C-4A and C-4B.
- (d) Within one hundred and eighty (180) days of the effective date of this Ordinance, the Owner or Operator of each existing legally established short term rental shall apply for and pay the permit fee for a Short Term Rental Permit. Within forty-five (45) days of receipt of a completed application, the permit fee and compliance with Subsection (e), Short Term Rental Permit, of this Section, a permit shall be issued to the Owner or Operator that will be good for one (1) year from the date issued and subject to the annual renewal inspection by the Fire Marshal. Ability to approve said permit is predicated on verification that the short term rental is in compliance with Section 2.3(b, c, d), Nonconforming Use.

**5.17-4 Standards.** All Short Term Rentals permitted pursuant to this Chapter are subject to the following standard requirements:

- (a) *Occupancy.* The maximum number of persons allowed to reside in a Short Term Rental is two (2) adults per Sleeping Area plus an additional four (4) adults per residence.
- (b) *Short Term Rental Decal Display.* As part of a Short Term Rental Permit, the City issued Short Term Rental Decal shall be posted on the front of each Short Term Rental in a location that is accessible and legible to an individual at the entry of the Short Term Rental.
- (c) *Parking.* A minimum of one (1) off-street parking space, not including the garage, per Sleeping Area shall be provided with a minimum of two (2) and a maximum not to exceed the number of Sleeping Areas plus one (1). No required parking shall be permitted within public right-of-way or access easements as defined by City and State regulations regarding parking.
- (d) *Life Safety.*
  - (1) All building and fire related construction shall conform to the City's adopted IRC (International Residential Code) building code.
  - (2) A 2A:10B:C type fire extinguisher (a standard 5 lb. extinguisher) shall be properly mounted within 75 feet of all portions of the structure on each floor.
  - (3) Every sleeping room shall have at least one operable emergency escape and rescue opening.
  - (4) An evacuation plan posted conspicuously in each Sleeping Area.
  - (5) Every bedroom / sleeping area in a Short Term Rental that does not comply with Subsection (d)(4), Life Safety, of this Section shall not be used as a Sleeping Area and where equipped with a door, shall remain locked at all times when the Dwelling is being

used as a Short Term Rental. Such a non-compliant sleeping area shall not be included in the maximum occupancy calculation for the Short Term Rental. The owner / operator shall notify every Occupant, in writing, that the non-compliant Sleeping Area may not be used for sleeping.

(e) *Conduct on premises.*

- (1) Each occupant and visitor to a Short Term Rental shall comply with all applicable provisions of the City's Code, including, without limitation: noise and disorderly conduct restrictions from Chapter 82, Offenses and Miscellaneous Provisions; litter prohibition from Chapter 50, Environment; and others such as parking, and trespassing provisions. No occupant of or visitor to a Short Term Rental shall cause or permit a public nuisance to be maintained on such property. This information shall be included in the rental agreement and inside the Short Term Rental as specified in Subsection (7), Tenant Indoor Notification, below.
- (2) All Occupants shall be informed in writing of relevant City ordinance including, but not limited to, the City's nuisance and water conservation ordinances by the Owner/Operator of the Short Term Rental.
- (3) Excessive noise or other disturbance outside the Short Term Rental is prohibited between the hours of 10:00 p.m. and 8:00 a.m. This includes, but is not limited to, decks, portals, porches, balconies, patios, hot tubs, pools, saunas or spas.
- (4) No sleeping outdoors.

(f) *Signage.* Signage shall be in compliance with the City's current Sign Code.

(g) *Tenant Indoor Notification.* The Operator shall post in a conspicuous location of the Dwelling the following minimum information:

- (1) Maximum number of occupants.
- (2) Location of required off-street parking, other available parking and prohibition of parking on landscaped areas.
- (3) Quiet hours and noise restrictions.
- (4) Restrictions of outdoor facilities.
- (5) 24 hour contact person and phone number.
- (6) Property cleanliness requirements.
- (7) Trash pick-up requirements, including location of trash cans.
- (8) Flooding hazards and evacuation routes. Including information on the emergency siren system.
- (9) Emergency numbers.
- (10) Notice that failure to conform to the occupancy and parking requirements is a violation of the City's Municipal Code and occupant or visitor can be cited.
- (11) Other useful information about the community.

(h) *Rental Agreement Notification.* The rental agreement between the owner/operator of the Short Term Rental and the occupant shall include by attachment, all of the information provided on the Tenant Indoor Notification signage.

**5.17-5 Short Term Rental Permit.**

(a) *Application.* Application for a Short Term Rental Permit shall be in writing on an application form available in the Planning Director's office, shall be accompanied by a one-time payment of the fee of \$50 and shall include the following information, at a minimum:

- (1) A list of all Owners of the short term rental including names, address and telephone numbers.
- (2) A sketch or narrative describing the location of the available parking spaces as required by Subsection d(3), Parking, of this Section.
- (3) A sketch of the floor plan.
- (4) The name, address and 24 hour telephone numbers of a contact person who shall be responsible and authorized to respond to complaints concerning the use of the Short Term Rental.
- (5) Proof of Hotel Occupancy Tax compliance with Chapter 351 of the Tax Code, before permit is granted.

- (6) A statement that the Owner of the Short Term Rental has met and will continue to comply with the standards and other requirements of this Ordinance.
- (7) Provide current email address of Owner/Operator, if applicable.
- (8) If Owner/Operator has a property management or agent, Owner/Operator shall provide property management or agent phone number, mailing address and email address.
- (b) *Completeness of Application.* If the application is incomplete or the full fee has not been paid, the Planning Director shall notify the applicant in writing, within 10 business days of the date of the application, that the application is incomplete and will not be considered by the City until the application is complete and/or the full fee is paid. If the full fee is not paid or the application is not complete within 45 days of the date of the application, the application shall expire.
- (c) *Annual Renewal.* A Short Term Rental Permit will be renewed annually through an inspection conducted by the Fire Marshal to verify continued compliance with Subsection 17-4, Standards, of this Section.
- (d) *Transferability.* A Short Term Rental Permit is transferable to a new property owner, if the new property owner submits a Short Term Rental Permit application and agrees in writing to comply with the requirements of this Ordinance. A new Owner must apply for a Short Term Rental Permit within ninety (90) days from the closing date of the purchase. The new Owner must provide a copy of the closing statement with the Short Term Rental Permit application form. Failure of the new property owner to apply for permit within ninety (90) days from the closing date will revoke the Short Term Rental Permit. Short Term Rentals existing prior to the effective date of this ordinance that are non-conforming to the zoning for which property is located, but obtained a permit in compliance with Subsection 17-3(d), Applicability, shall become null and void if the new Owner fails to apply for the Short Term Rental Permit within ninety (90) days from the date of the deed of the new Owner's purchase.
- (e) *Appeal.* If an application for a Short Term Rental Permit or renewal is denied, the Owner or Operator may appeal to the Planning and Zoning Commission by written notice delivered within thirty (30) days of denial or revocation.

5.17-6 *Inspections.* To ensure continued compliance with the requirements of this Section a Short Term Rental shall be inspected in the following methods:

- (a) *Transfer Inspection.* As part of the transfer of a Short Term Rental Permit to a new Owner, in accordance with Subsection (e)(4), Transferability, and the issuance of a new Short Term Rental Permit the City's Fire Marshal shall conduct an inspection to verify compliance with this Ordinance.
- (b) *Fire Extinguishers.* The Owner/Operator is responsible for obtaining annual independent inspections of the fire extinguishers in compliance with the City's current Fire Code.
- (c) *Immediate Inspection.* The City will perform inspections immediately when a violation is suspected.
- (d) *Annual Fire Inspection.* The City's Fire Marshal's Office will perform annual inspections for compliance with this Ordinance.

5.17-7 *Enforcement/Penalty.*

- (a) *Emergency Contact.* The Owner/Operator of the Short Term Rental shall provide the City with a twenty-four (24) hour contact number. Should a law enforcement officer respond to the Short Term Rental and issue a citation for any violation of City Ordinances, the Owner/Operator shall be called by the officer. The Owner/Operator shall attempt to contact the occupants within one hour of the call to address the occupants about the complaints. Should a second complaint be filed and citation issued to any part of the occupants or guests, the Owner/Operator must take appropriate step, in accordance with the individual rental agreement, to assure future complaints do not occur. Should three (3) separate citations be issued to an occupant or their guest(s), involving separate occupants under separate rental agreements within a six (6) month period, the Short Term Rental Permit may be revoked in accordance with the revocation process specified in Subsection (h), Revocation.
- (b) Violations of any Subsection of this Section may revoke the Short Term Rental Permit in accordance with Subsection (h), Revocation.



- (c) Failure to pay Hotel Occupancy Tax timely is considered a violation of this Section and may result in revocation of the Short Term Rental Permit in accordance with Subsection (h), Revocation. Owner shall have 30 days from the date the City or State issue a notice of delinquency to submit delinquent Hotel Occupancy Tax to City and State before revocation of the Short Term Rental Permit begins.
- (d) Failure to successfully complete the renewal process of a Short Term Rental Permit is considered a violation of this Section. Owner shall have 45 days from the date City issues notice of denial to gain compliance of noncompliant items before the revocation of the Short Term Rental Permit begins.
- (e) The provisions of this Subsection are in addition to and not in lieu of any criminal prosecution or penalties as provided by City Ordinances or County or State Law.
- (f) *Proof.* Prima facie proof of occupancy of a Dwelling is established in any prosecution for violation of this Section if it is shown that vehicles with registrations to persons having different surnames and addresses were parked overnight at the Dwelling. Establishment of a prima facie level of proof in this Subsection does not preclude a showing of illegal "occupancy" of a Dwelling by a person in any other manner.
- (g) *Offense.* It is an offense for the property owner, any agent of the property owner, or the occupant(s) to directly occupy or indirectly allow, permit, cause, or fail to prohibit an occupancy in violation of this Ordinance 144-5.17. Each day that a unit is occupied in violation of this ordinance shall be considered a separate offense, and, upon conviction, shall be subject to a minimum fine of \$500.00 to a maximum fine of \$2,000.00 per violation.
- (h) Each day of violation of said Standards and provisions of this Section constitutes a separate offense and is separately punishable, but may be joined in a single prosecution.

5.17-8 *Revocation.* If any violations stated in Subsection (g), Enforcement/Penalty, of this Section have been committed and not corrected within the time specified the Planning Director shall begin the procedures to revoke the Short Term Rental Permit in accordance with the following:

- (a) The City shall give thirty (30) day written notice to the Owner/Operator regarding the public hearing date and recommendation by the Planning Commission, and public hearing and decision by the City Council.
- (b) The City shall provide written notice to property owners within 200 feet of the subject property at least 15 days prior to the hearing.
- (c) If a Short Term Rental Permit is revoked, the Owner/Operator may not reapply for the same property for a period of twelve (12) months.

5.17-9 *Abrogation and Greater Restrictions.* This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

### **Draft Minutes for the July 2, 2019 Planning Commission Regular Meeting**

#### **Public hearing and recommendation to City council regarding the proposed rezoning to apply a Special Use Permit to allow the short-term rental of a single-family residence in the "C-3" Commercial District, addressed at 358 East Nacogdoches Street.**

(Applicant: Triple T United, LLC; Case Manager, Matt Greene)

Mr. Greene summarized the request and stated Staff recommended approval with the conditions outlined in the staff report.

Commissioner Sonier left the dais at 7:08 p.m.

Vice Chair Reaves inquired if a hotel would be permitted in the "C-3" district.

Mr. Greene stated yes, if the lot is large enough.

Commissioner Meyer asked for clarification that the occupancy is limited to 6 adults.

Mr. Greene answered yes.

Chair Edwards invited the applicant to speak.

Garrett Taylor, 2910 Longhorn Circle, stated he was the applicant and explained the intent for his request.

Chair Edwards asked if anyone wished to speak in favor.

No one spoke.

Chair Edwards asked if anyone wished to speak in opposition.

No one spoke.

Motion by Commissioner Laskowski, seconded by Commissioner Mathis, to close the public hearing. Motion carried (8-0-0).

Motion by Commissioner Laskowski, seconded by Commissioner Mathis, to recommend approval to City council regarding the proposed rezoning to apply a Special Use Permit to allow the short-term rental of a single-family residence in the "C-3" Commercial District, addressed at 358 East Nacogdoches Street, with Staff recommendations. Motion carried (8-0-0).

**ORDINANCE NO. 2019-**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS GRANTING A TYPE 2 SPECIAL USE PERMIT TO ALLOW SHORT-TERM RENTAL OF A SINGLE-FAMILY DWELLING IN THE "C-3" COMMERCIAL DISTRICT, ON LOT 4, NEW CITY BLOCK 1051, ADDRESSED AT 358 EAST NACOGDOCHES STREET; REPEALING ALL ORDINANCES IN CONFLICT; CONTAINING A SAVINGS CLAUSE; AND DECLARING AN EFFECTIVE DATE.**

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**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 also 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 compatibility 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 short-term rentals; and

**WHEREAS**, the City Council desires to grant a Type 2 Special Use Permit for Lot 4 New City Block 1051, addressed at 358 East Nacogdoches Street, to allow the short-term rental of a single family dwelling in the "C-3" Commercial District; **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 described tract of land as a "Special Use Permit" for the uses and conditions herein described:

"Being Lot 4, New City Block 1051, addressed at 358 East Nacogdoches Street, as described in the attached Exhibit 'A' and delineated in the attached Exhibit 'B', to allow the short-term rental of a single family dwelling in the "C-3" Central Commercial District."

## **SECTION 2**

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

1. The residential character of the property must be maintained.
2. Occupancy shall be limited to six adults, utilizing only the two bedrooms for calculations, plus only two additional adults.
3. The property will remain in compliance with the approved site plan. Any significant changes to the site plan will require a revision to the SUP.
4. All Supplemental Standards of Section 144-5.17-4 will be met.
5. The driveway and parking area shall be paved in accordance with the Zoning Ordinance.

## **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 of same.

**PASSED AND APPROVED:** First Reading this the 22<sup>nd</sup> day of July, 2019.

**PASSED AND APPROVED:** Second Reading this the 12<sup>th</sup> day of August, 2019.

**CITY OF NEW BRAUNFELS**

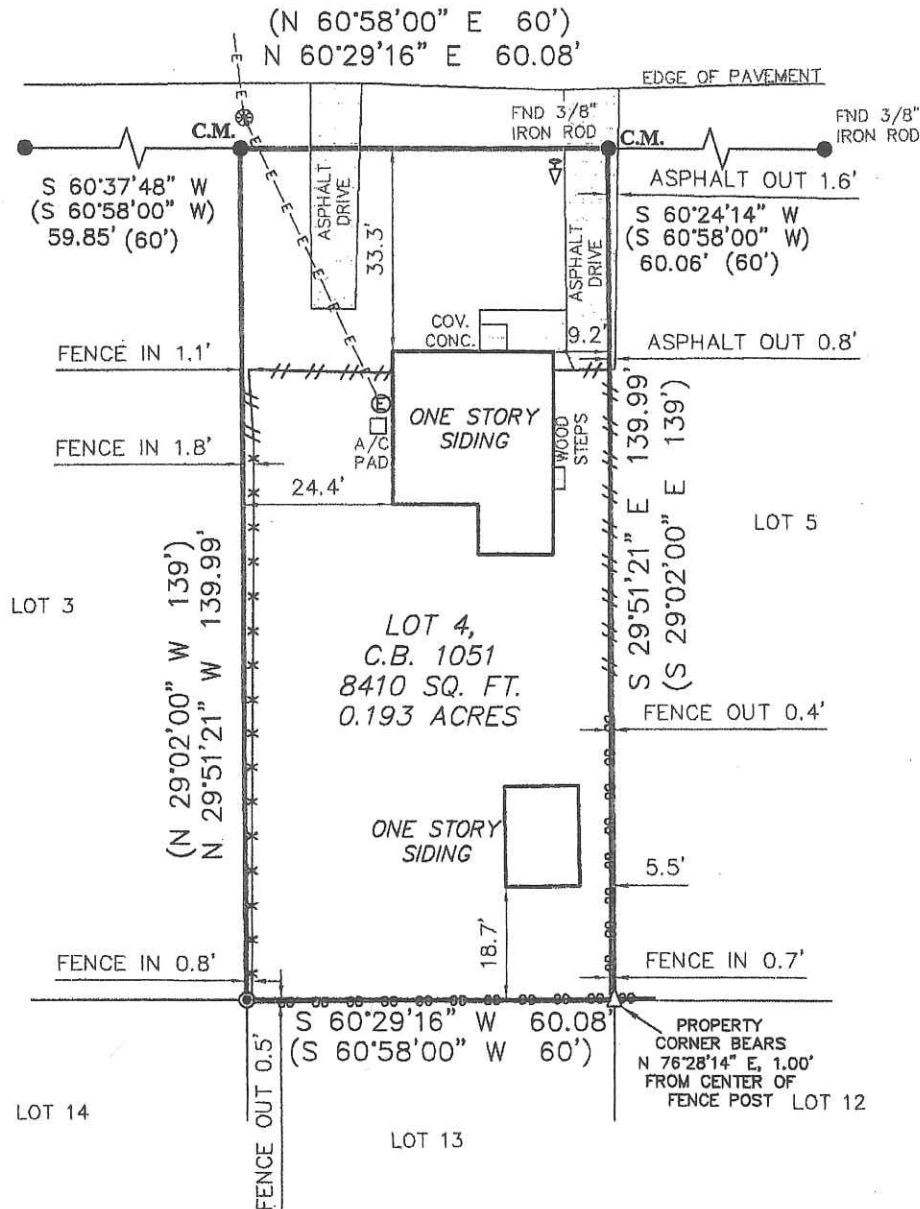
\_\_\_\_\_  
**BARRON CASTEEL**, Mayor

**ATTEST:**

\_\_\_\_\_  
**PATRICK D. ATEN**, City Secretary

**APPROVED AS TO FORM:**

\_\_\_\_\_  
**VALERIA M. ACEVEDO**, City Attorney

**EXHIBIT 'A'****SITE PLAN****EAST NACOGDOCHES**  
(50' R.O.W.)(NACHOGDOCHES STREET PER PLAT)

NOTE:  
NO RESTRICTIVE COVENANTS OF RECORD WERE FOUND.

NOTE:  
Bearings shown hereon are based on actual GPS Observations, Texas State Plane Coordinates, South Central Zone, Grid.

FLOOD ZONE INTERPRETATION: IT IS THE RESPONSIBILITY OF ANY INTERESTED PERSONS TO VERIFY THE ACCURACY OF FEMA FLOOD ZONE DESIGNATION OF THIS PROPERTY WITH FEMA AND STATE AND LOCAL OFFICIALS, AND TO DETERMINE THE EFFECT THAT SUCH DESIGNATION MAY HAVE REGARDING THE INTENDED USE OF THE PROPERTY. The property made the subject of this survey appears to be included in a FEMA Flood Insurance Rate Map (FIRM), identified as Community No. 48091C, Panel No. 0455 E, which is Dated 9/2/2009. By scaling from that FIRM, it appears that all or a portion of the property may be in Flood Zone(s) SHD X. Because this is a boundary survey, the survey did not take any actions to determine the Flood Zone status of the surveyed property other than to interpret the information set out on FEMA's FIRM, as described above. THIS SURVEYOR DOES NOT CERTIFY THE ACCURACY OF THIS INTERPRETATION OF THE FLOOD ZONES, which may not agree with the interpretations of FEMA or state or local officials, and which may not agree with the tract's actual conditions. More information concerning FEMA's Special Flood Hazard Areas and Zones may be found at <https://msc.fema.gov/portal>.

**Property Address:**

358 EAST NACOGDOCHES (NACOGDOCHES STREET PER PLAT)

**Property Description:**

LOT 4, CITY BLOCK 1051, KUEHLER ADDITION, SITUATED IN THE CITY OF NEW BRAUNFELS, COMAL COUNTY, TEXAS, ACCORDING TO THE MAP OR PLAT THEREOF RECORDED IN

THIS SURVEY IS  
ACKNOWLEDGED AND  
IS ACCEPTED:

(X)

(X)





**City Council Agenda Item Report****7/22/2019**

Agenda Item No. I)

---

**Presenter**

*Stacy A.M. Snell, Planning and Community Development Assistant Director  
ssnell@nbtexas.org*

**SUBJECT:**

Public hearing and first reading of an ordinance regarding the proposed rezoning of a 0.25 acre tract out of the J Noyes Survey 259, Abstract 430, addressed at 471 Engel Road and a 2.0 acre tract out of the J Noyes Survey 259, Abstract 430 and a 3.0 acre tract out of the J Thompson Survey 21, Abstract 608, addressed at 491 Engel Road, from "APD" Agricultural/Pre-Development District to "C-1B" General Business District.

**BACKGROUND / RATIONALE:**

**Case No.:** PZ19-0114

**Council District:** 1

**Applicant:** Rene De La Cruz  
1413 Shannon Circle  
New Braunfels, TX 78130  
(830) 609-8985

**Owner:** Melvin and Helen Voigt Revocable Living Trust (Helen Voigt)  
491 Engel Road  
New Braunfels, TX 78130  
(830) 708-5241

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

**This item was postponed at the June 24, 2019 City Council meeting to allow the applicant an opportunity to meet with the neighbor to the south regarding their concerns. The applicant has indicated a meeting with the concerned neighbor took place on July 8<sup>th</sup> and believes all the neighbor's concerns have been addressed. The applicant intends to meet with the neighbor again prior to the City Council meeting to obtain neighbor's withdrawal of their objection in writing.**

The subject property is 5.25 acres near Engel Road Industrial Park, approximately one-third of a mile south of IH-35. The subject property is narrow with 193 feet of frontage on Engle Road (Major Collector) and extends 1,530 feet deep. It is zoned APD with one single-family residence near the front at Engel Road.

The applicant is requesting a rezoning from APD to C-1B to facilitate future unspecified development. The C-1B District allows a broad range of office, service and retail uses. Current access from Engel Road and the subject property's proximity to IH 35 does not require travel through any residential areas.

*Surrounding Zoning and Land Use:*

North - APD / Undeveloped

South - APD/ Undeveloped

East - R-1A-6.6 / Briar Meadows Subdivision (single family homes)

West - Across Engel Rd., Outside City Limits / Single family home and undeveloped

*Floodplain:*

No portion of the property is within the 1% annual chance flood zone.

*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 a Major Collector, Engel Road currently provides residential, commercial and industrial traffic access to IH 35. With installation of the required buffer between the subject property and the residential lots adjacent to the rear, C-1B uses could be appropriate.*).
- 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 requested zoning should not conflict with existing and proposed schools. 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 would add to the inventory of commercial zoning in the vicinity and the City overall.*);
- Any other factors that will substantially affect the public health, safety, morals, or general welfare (*There should be no other factors that will substantially affect the public health, safety, morals, or general welfare. Drainage, utilities and traffic impact will be reviewed and addressed through the platting and site development processes.*); and
- Whether the request is consistent with the Comprehensive Plan (*The subject property is located in the Oak Creek Sub Area in close proximity to Future Employment and Market Centers and a Transitional Mixed-Use Corridor. It also lies near an existing Employment Center.*)

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

<b>City Plan/Council Priority:</b> Envision New Braunfels Comprehensive Plan	<b>Action 1.3:</b> Encourage balanced and fiscally responsible land use patterns. <b>Action 1.8:</b> Concentrate future investment in industrial and employment centers near existing and emerging hubs, such as the airport; and along existing high capacity transportation networks, such as IH-35. <b>Action 3.3:</b> Balance commercial centers with stable neighborhoods
--	---

**FISCAL IMPACT:**

N/A

**COMMITTEE RECOMMENDATION:**

The Planning Commission held a public hearing on June 4, 2019 and unanimously recommended approval (9-0-0).

**STAFF RECOMMENDATION:**

Staff recommends approval based upon several factors.

- The subject property's location: close proximity to IH-35 (1,900 feet) and the entrance to the Engel Road Industrial Park (1,100 feet).
- There are several non-residential uses on nearby properties.
- The proximity of many large under developed tracts.
- New commercial development at this location would utilize existing infrastructure and without access through residential areas.
- The existing residential neighborhood adjacent to the rear of the subject property would be protected through residential buffer requirements.
- The C-1B District would provide transitional zoning between the industrial development along IH 35 and the undeveloped properties further to the south.

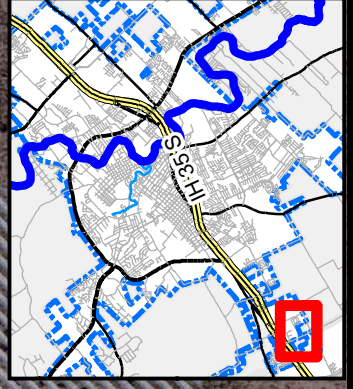
**Notification:**

Public hearing notices were sent to 18 owners of property within 200 feet of the request. The City has received no responses in favor and two opposed (#7 and #15). Opposition represents more than 20% of the notification area, which requires a  $\frac{3}{4}$  majority of City Council (6 votes) to approve per state statute.

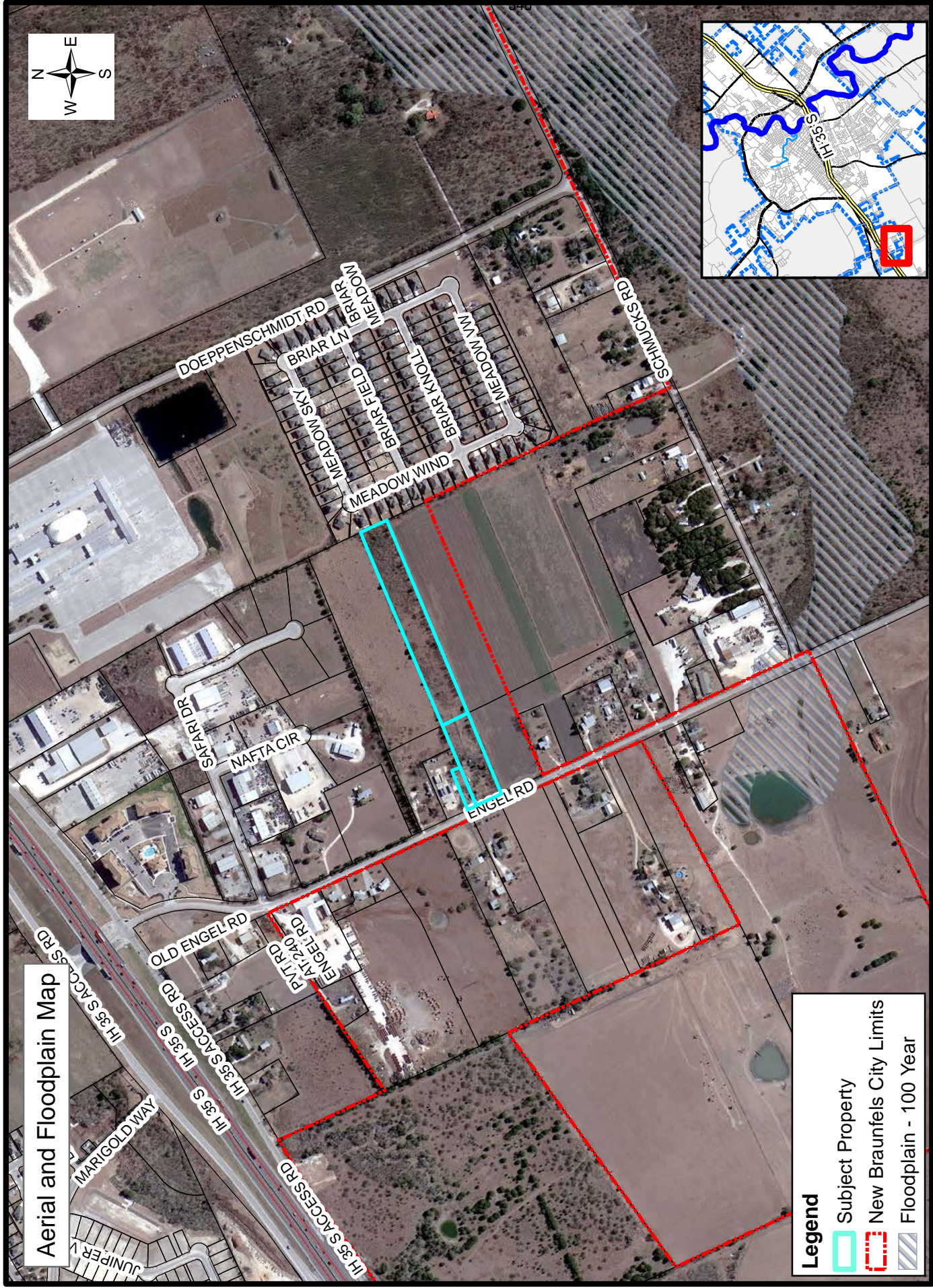
**Attachments:**

- Aerial Maps
- Survey of Subject Property
- Land Use Maps (Zoning, Existing Land Use, Future Land Use Plan)
- Notification List, Map and Response
- Photograph of Subject Property
- Ordinances:
  - Sec. 3.4-1 APD
  - Sec. 3.4-13 C-1B
- Excerpt of Minutes from the June 4, 2019 Regular Planning Commission
- Ordinance





# Aerial and Floodplain Map



**Legend**

- Subject Property
- New Braunfels City Limits
- Floodplain - 100 Year

**PZ-19-0114**  
**471 & 491 Engel Road**  
**Zone Change from APD to C-1B**

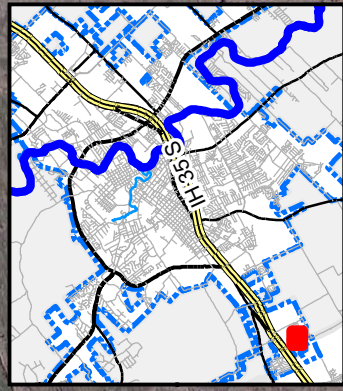




Aerial and Close-Up Map






MEADOW WIND  
MEADOW WIND



ENGEL RD

**Legend**

-  Subject Property
-  New Braunfels City Limits
-  Floodplain - 100 Year



**PZ-19-0114**  
**471 & 491 Engel Road**  
**Zone Change from APD to C-1B**



# SURVEY OF SUBJECT PROPERTY

RECEIVED  
APR 18 2019  
BY: .....

## 471 & 491 Engel Road

Being a tract of land situated in the John Thompson one league and labor Survey, Abstract No. 608 and the John Noyes 640 Acre Survey, Abstract No. 430, Comal County, Texas, some being that tract of land conveyed to The Malvin G. Volgi and Helen F. Volgi Revocable Living Trust, by deeds recorded in Document Nos. 9006030193 and 9006030190, Real Property Records of Comal County, Texas, and some being more particularly described by metes and bounds as follows:

BEGINNING at a 1/2 inch iron rod found for corner, said corner being the South corner of that tract of land conveyed to Randal Adams and Susan L. Adams, by deed recorded in County Clerk File No. 20170603814, Real Property Records of Comal County, Texas, and lying along the Northeast line of Engel Road (public right-of-way);

THENCE North 67 degrees 25 minutes 00 seconds East, along a Southeast line of said Adams tract, a distance of 218.48 feet to a 60d nail found for corner;

THENCE South 24 degrees 14 minutes 42 seconds East, along a Southwest line of said Adams tract, a distance of 49.37 feet to a 60d nail found for corner;

THENCE North 67 degrees 15 minutes 13 seconds East, along a Southeast line of said Adams tract, a distance of 1317.27 feet to a fence post found for corner, said corner being the West corner of that tract of land conveyed to Vincent Schwab, by deed recorded in County Clerk File No. 200406023981, Real Property Records of Comal County, Texas;

THENCE South 24 degrees 47 minutes 35 seconds East, a distance of 142.13 feet to a point for corner, said corner being the North corner of that tract of land conveyed to Eilon Schwab and Leora M. Schwab, as Trustees of Eilon Schwab and Leora M. Schwab Revocable Living Trust, by deed recorded in County Clerk File No. 200306015102, Real Property Records of Comal County, Texas, from which a fence post bears North 45 degrees 21 minutes 51 seconds West, a distance of 0.82 feet for witness;

THENCE South 67 degrees 15 minutes 40 seconds West, along the Northwest line of said Schwab tract (200306015102), a distance of 1535.16 feet to a point for corner, said corner being the West corner of that tract of land conveyed to Vincent Schwab, by deed recorded in Volume 493, Page 688, Deed Records of Comal County, Texas and lying along the Northeast line of aforementioned Engel Road from which a 1/2 inch iron rod found online in a Northwestern direction at a distance of 2.50 feet for reference;

THENCE North 24 degrees 49 minutes 17 seconds West, along the Northeast line of said Engel Road, a distance of 191.95 feet to the POINT OF BEGINNING and containing 228,744 square feet or 5.25 acres of land.

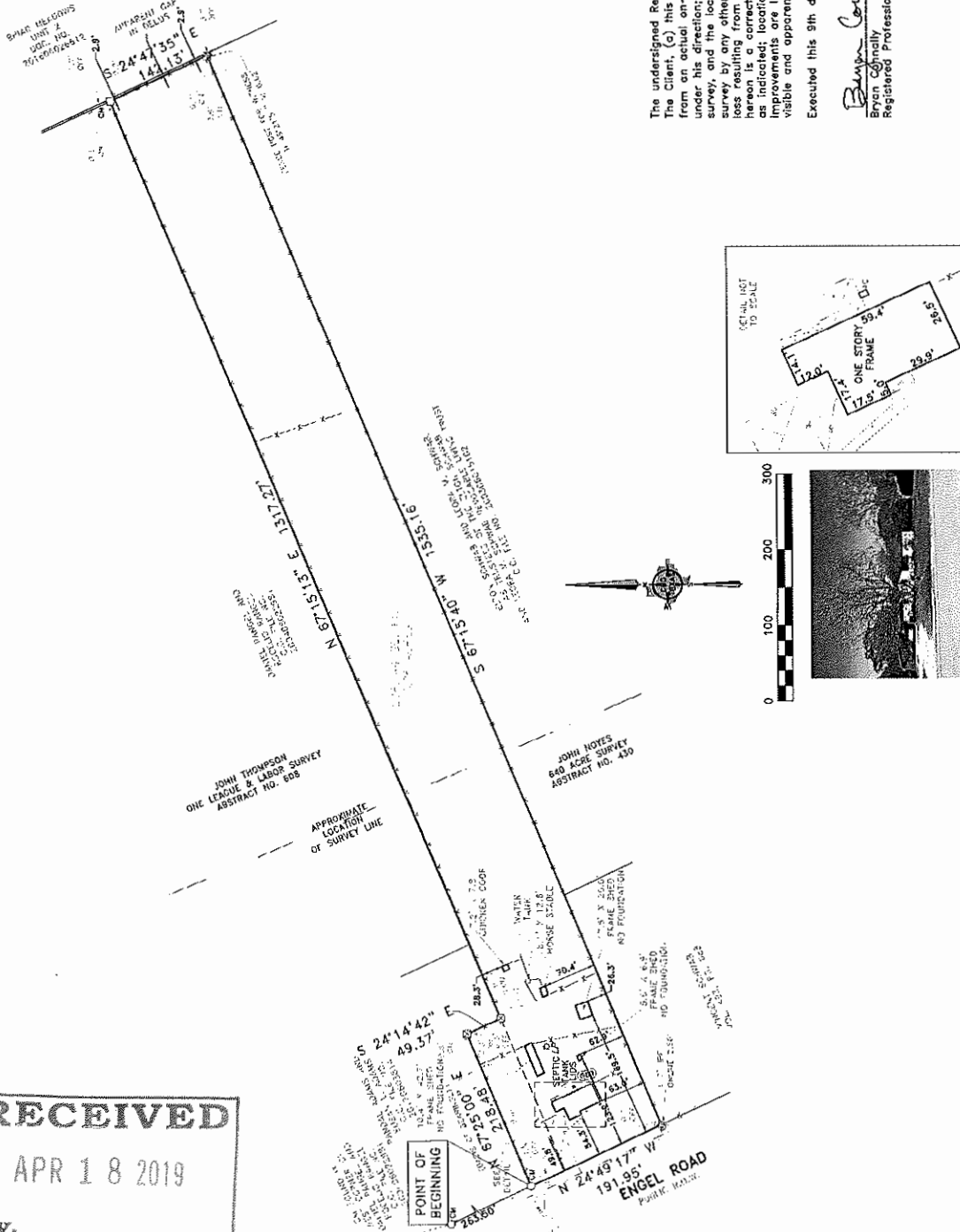
### SURVEYOR'S CERTIFICATE

The undersigned Registered Professional Land Surveyor (Bryan Connolly) hereby certifies to The Client, (c) this survey and the property description set forth herein were prepared from an actual on-the-ground survey; (b) such survey was conducted by the Surveyor, or under his direction; (c) all monuments shown hereon actually existed on the date of this survey, and the location, size and type of material thereof are correctly shown; Use of this survey by any other parties and/or for other purposes shall be at User's own risk and any loss resulting from other use shall not be the responsibility of the undersigned. The plat hereon is a correct and accurate representation of the property lines and dimensions as indicated; location and type of buildings are as shown; and EXCEPT AS SHOWN, all improvements are located within the boundaries hereon indicated and there are no visible and apparent encroachments or protrusions on the ground.



Executed this 9th day of April, 2019

*Bryan Connolly*  
Bryan Connolly  
Registered Professional Land Surveyor No. 5513



NOTE: According to the F.I.R.M. in Map No. 48051C045E, this property does lie in Zone 1 and is located within the 100 year flood zone.

LEGEND

CONTOUR	BOUNDARY	1" IRON PIPE FOUND	1" IRON PIPE FOUND
1" IRON PIPE FOUND	1" IRON PIPE FOUND	1" IRON PIPE FOUND	1" IRON PIPE FOUND
1" IRON PIPE FOUND	1" IRON PIPE FOUND	1" IRON PIPE FOUND	1" IRON PIPE FOUND
1" IRON PIPE FOUND	1" IRON PIPE FOUND	1" IRON PIPE FOUND	1" IRON PIPE FOUND

REVISIONS

DATE	BY	NOTES

NOTE: This survey is made in conjunction with the information provided by the client. CBS Surveying, Inc. does not warrant the accuracy of the information provided by the client. The existence of easements, restrictive covenants or other encumbrances is not guaranteed.

NOTES:  
BEARINGS ARE BASED ON DEED RECORDED IN DOC. NO. 9866030190.  
CASEMENTS AND BUILDING UNITS ARE BY RECORDED PLAT UNLESS OTHERWISE NOTED.

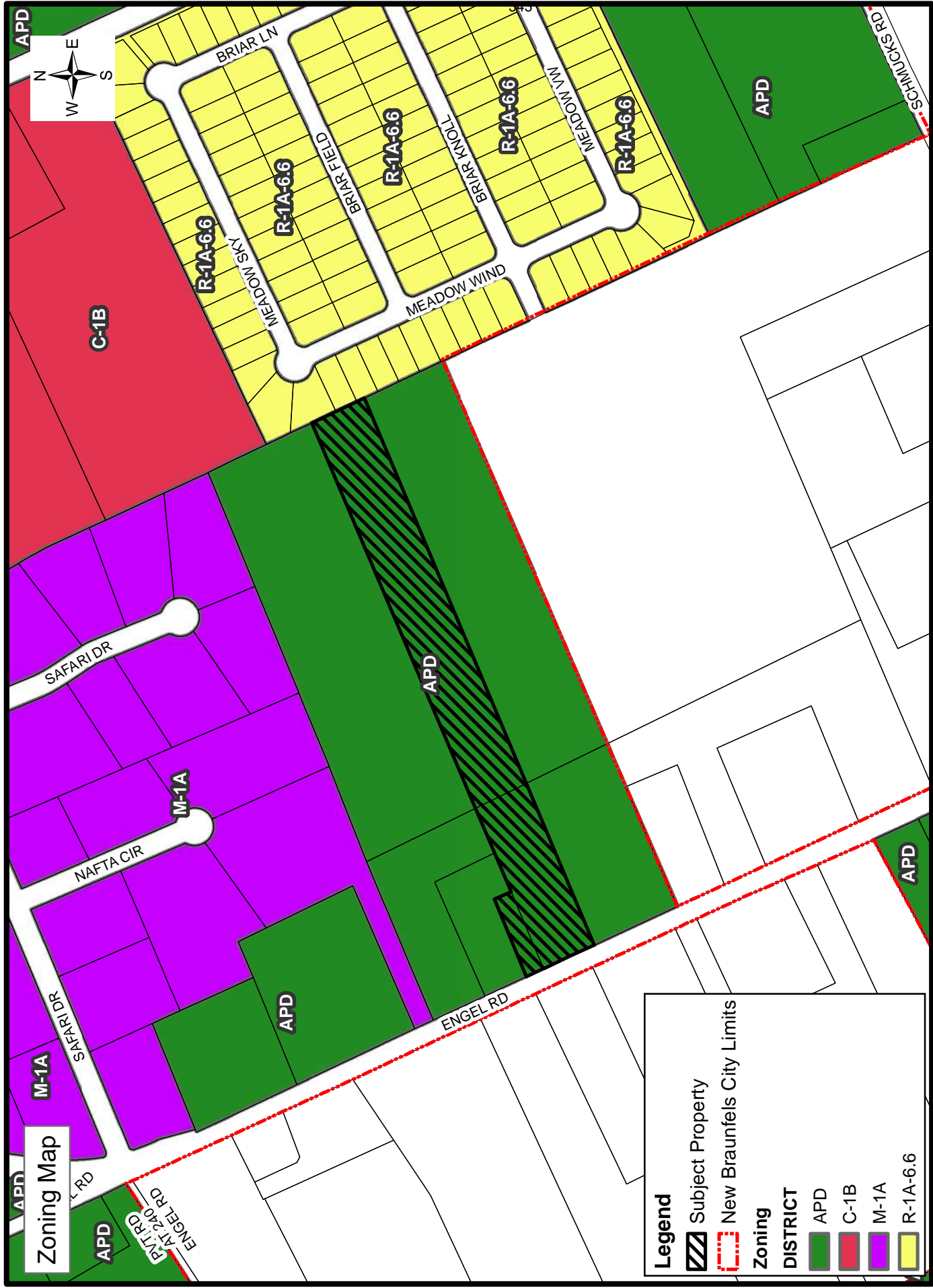
**CBC**  
SURVEYING & CONSULTING  
12025 Shiloh Road, Ste. 240  
Buda, TX 78610  
P 512-344-9226  
F 512-344-2216  
www.cbc-tx.com

SCALE	DATE	JOB NO.	G.F. NO.	DRAWN
1" = 100'	04/09/19	1806233	N/A	MARIA

ACCEPTED BY:		DATE:	SCALE:

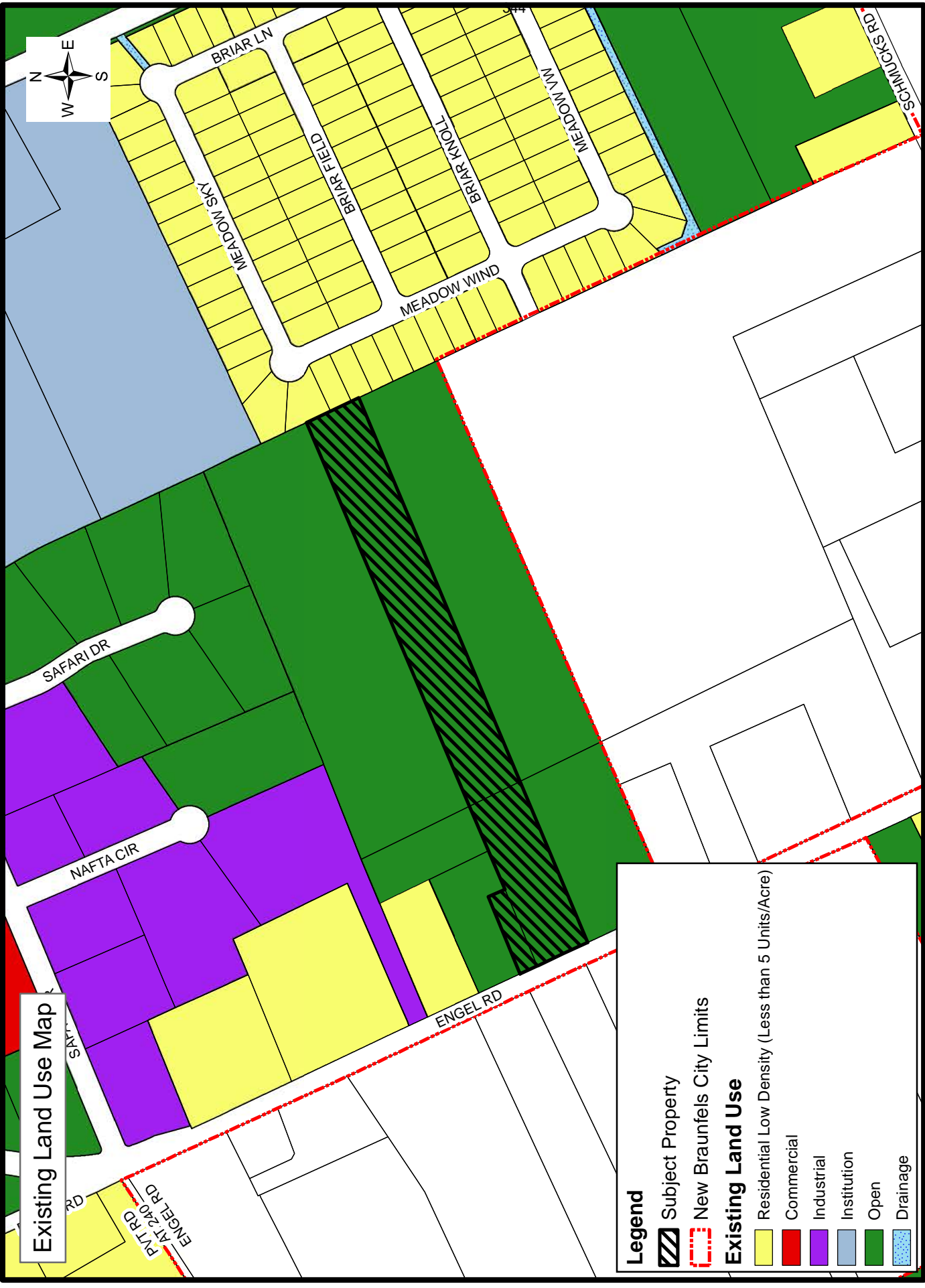
ACCEPTED BY:		DATE:	SCALE:

**METES AND BOUNDS**  
JOHN THOMPSON ONE LEAGUE & LABOR SURVEY, ABSTRACT NO. 608  
AND THE JOHN NOYES 640 ACRE SURVEY, ABSTRACT NO. 430  
COMAL COUNTY, TEXAS  
471 & 491 ENGEL ROAD



**PZ-19-0114**  
**471 & 491 Engel Road**  
**Zone Change from APD to C-1B**

Existing Land Use Map



**Legend**

- Subject Property
- New Braunfels City Limits

**Existing Land Use**

- Residential Low Density (Less than 5 Units/Acre)
- Commercial
- Industrial
- Institution
- Open
- Drainage

**PZ-19-0114**  
**471 & 491 Engel Road**  
**Zone Change from APD to C-1B**





## EXISTING CENTERS

Centers are the middle, core or heart of an area. It is a point of activity and vitality. Centers come in many sizes and have different purposes or activities within. They may have endangered species habitat or aquifer recharge areas that require additional standards and consideration relating to future growth. It is envisioned that all centers be walkable, connected, and have a mix of uses. These centers must provide adequate infrastructure to support the commercial development present especially mobility and access for pedestrians, bicycles, vehicles and transit. Given the mixed-use nature of these centers, parking should be shared and not detract from the aesthetic of the area.

### ● EMPLOYMENT CENTER

Employment Centers are mixed-use areas centered around office or industrial uses that can support significant employment.

### ● MARKET CENTER

Market Centers are mixed-use areas anchored by a retail destination where surrounding residents go to get daily goods and services.

### ● MEDICAL CENTER

Medical Centers are mixed-use areas centered around a medical destination such as a hospital or clinic.

### ● CIVIC CENTER

Civic Centers are mixed-use areas centered around a civic destination such as City Hall, a library or a recreation center.

### ● OUTDOOR RECREATION CENTER

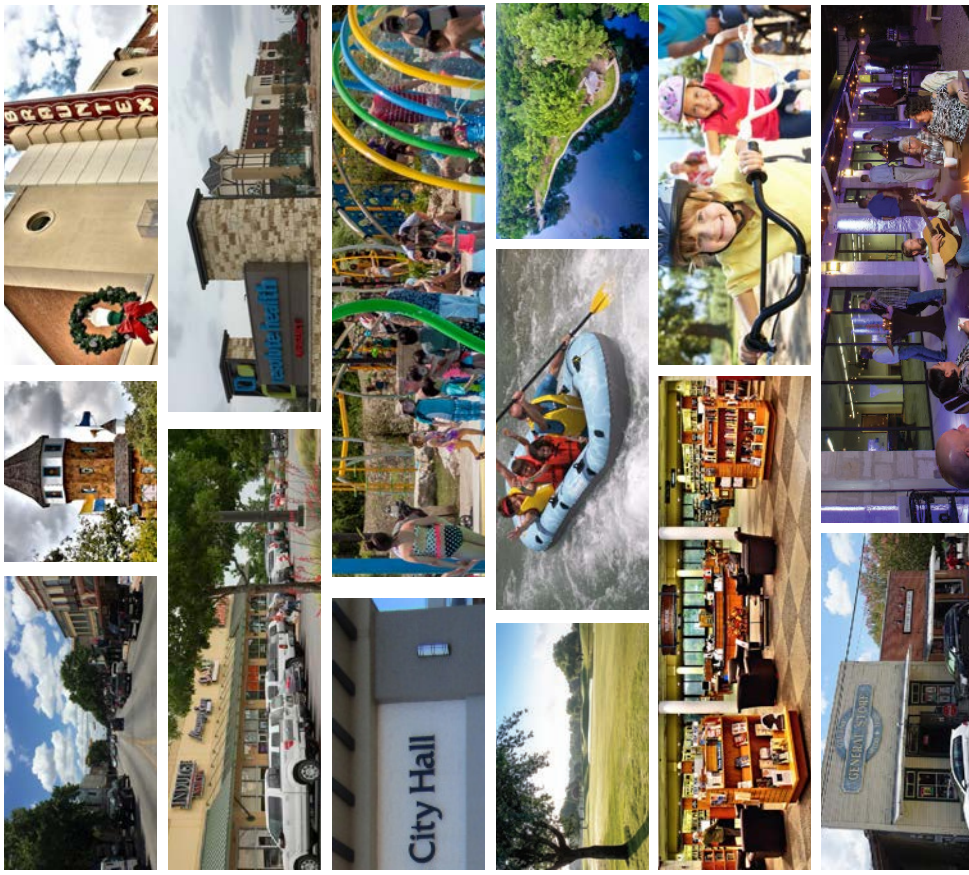
Outdoor Recreation Centers center around a public or private outdoor destination such as Landa Lake.

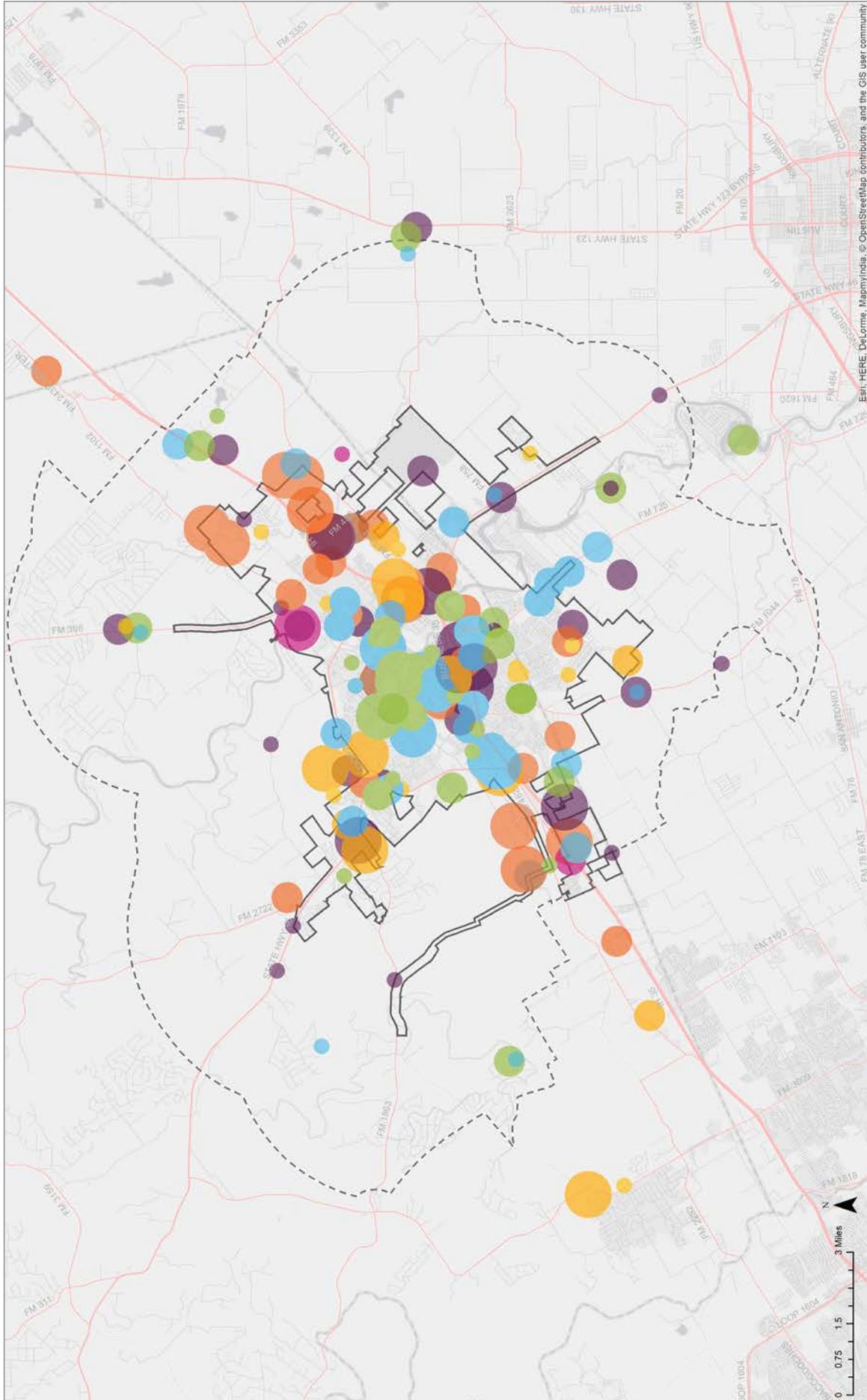
### ● EDUCATION CENTER

Education Centers are mixed-use areas centered around an educational destination such as a K-12 school or university/college.

### ● TOURIST/ENTERTAINMENT CENTER

Tourist/Entertainment Centers are mixed-use areas around an entertainment venue such as Gruene Hall or a tourist destination such as the Tube Chute.





The location of existing centers was determined through the analysis of previous studies and background documents, windshield surveys, and reviewed by City staff, Steering Committee members, and Plan Element Advisory Group members during a public workshop.



# FUTURE LAND USE PLAN

A future land use plan is how land is envisioned to be. It establishes priorities for more detailed plans (sub area plans) and for detailed topical plans (such as parks and open spaces, trails and roads). It cannot be interpreted without the goals and actions of Envision New Braunfels.

## TRANSITIONAL MIXED-USE CORRIDOR

Transitional Mixed-Use Corridors express an aspiration to retrofit existing auto-dominated retail corridors with a mix of uses and a variety of travel modes over time.

## OUTDOOR RECREATION CENTER

Outdoor Recreation Centers are centered around a public or private outdoor destination like Fischer Park.

## EMPLOYMENT CENTER

Employment Centers are mixed-use areas centered around office or industrial uses that can support significant employment.

## MARKET CENTER

Market Centers are mixed-use areas anchored by a retail destination where surrounding residents go to get daily goods and services.

## CIVIC CENTER

Civic Centers are mixed-use areas centered around a civic destination such as City Hall, a library or a recreation center.

## SUB AREA 1

Sub Area 1 includes the Downtown, Gruene and the Mid-Century or older neighborhoods that surround them. It is home to the natural springs and headwaters of flowing rivers that have attracted New Braunfelsers to the town for centuries.

## SUB AREA 2

Sub Area 2 refers to the neighborhoods and residential enclaves that have grown alongside the Hill Country landscape.

## SUB AREA 3

Sub Area 3 includes a planned community offering a diversity of housing, distinct community centers and preserved Hill Country landscape features.

## SUB AREA 4

At the heart of Sub Area 4 is Fischer Park. Proximity to IH-35, downtown and neighboring communities like McQueeney makes this area highly desirable and accessible.

## SUB AREA 5

Sub Area 5 bridges together many communities east of IH-35. It includes the scenic landscape along both banks of the Guadalupe River between Highway 46 and FM 725.

## SUB AREA 6

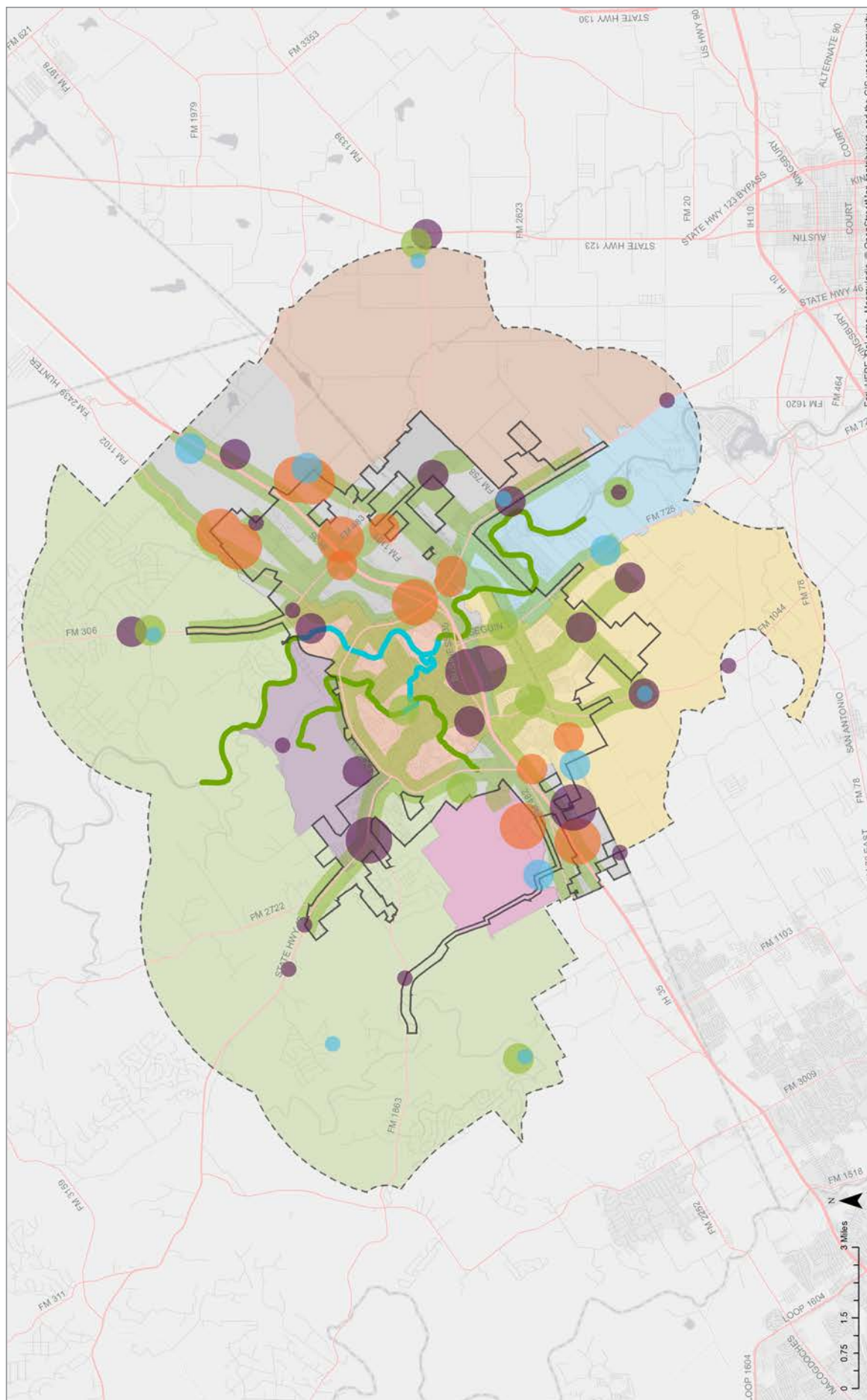
Sub Area 6 expresses an aspiration for conservation communities focused around maintaining and enhancing ecological integrity while allowing some level of development to occur.

## SUB AREA 7

Sub Area 7 includes parts of the city currently being mined for natural resources. These sites may become parks and open space, mixed-use communities or new commercial or entertainment areas in the future.

## SUB AREA 8

This fast-growing Sub Area includes many neighborhoods offering affordable places for young families to live.



A Comprehensive Plan shall not constitute zoning regulations or establish zoning district boundaries. Preferred future growth scenario combines Scenarios A and C per recommendations of the Envision New Braunfels Steering Committee (February 2018). Exact boundaries of sub areas, centers, and corridors may be [zoomed and viewed online](#).

**PLANNING COMMISSION – JUNE 4, 2019 – 6:00PM**

New Braunfels City Hall Council Chambers

**Applicant/Owner:** Rene De La Cruz/Melvin & Helen Voigt Revocable Living Trust (Helen Voigt)

**Address/Location:** 471 Engel Road and 491 Engel Road

**PROPOSED SPECIAL USE PERMIT – CASE #PZ19-0114**

The circled numbers on the map correspond to the property owners listed below. All information is from the Appraisal District Records. The property under consideration is marked as “Subject Property”.

- |   |                                       |    |                              |
|---|---------------------------------------|----|------------------------------|
| 1 | DIETZ BETTY                           | 10 | NULL                         |
| 2 | ENGEL RV & BOAT STORAGE LLC           | 11 | ANGELICO JUSTINE M           |
| 3 | WILLIAMS BRYAN K & NANCY J            | 12 | HUTH CHRISTINE J & CLINTON H |
| 4 | WILLIAMS ROY A                        | 13 | RAMOS JOHN E JR              |
| 5 | ADAMS RANDAL & SUSAN L                | 14 | AINO SAN ANTONIO LLC         |
| 6 | RANGEL DANIEL & ROGELIO               | 15 | GARCIA MARGARITA             |
| 7 | SCHWAB REVOCABLE LIVING TRUST         | 16 | BALES JOEL P & JULIE A       |
| 8 | NEW BRAUNFELS TREE OF LIFE CHURCH INC | 17 | MELCHER RICHARD A & JANET A  |
| 9 | FIERRO MATTHEW & SHELBY               | 18 | HERNANDEZ JESSICA M & EDDIE  |

**SEE MAP**

---





## YOUR OPINION MATTERS - DETACH AND RETURN

Case: #PZ19-0114 MG

Name: ELTON SCHWAB

I favor: \_\_\_\_\_

Address: 675 ENGEL RDProperty number on map: 7I object: ✓

(State reason for objection)

Comments: (Use additional sheets if necessary)

The property in consideration is located on the watershed of a pond that provides water used for irrigating crops grown for human consumption and drinking water for livestock. Contaminants in runoff water exiting the property is a major concern.

Signature: Elton Schwab

## YOUR OPINION MATTERS - DETACH AND RETURN

Case: #PZ19-0114 MG

Name: Margarita GarciaAddress: 470 Meadow WindProperty number on map: 15

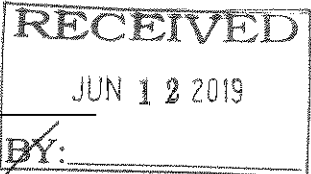
I favor: \_\_\_\_\_

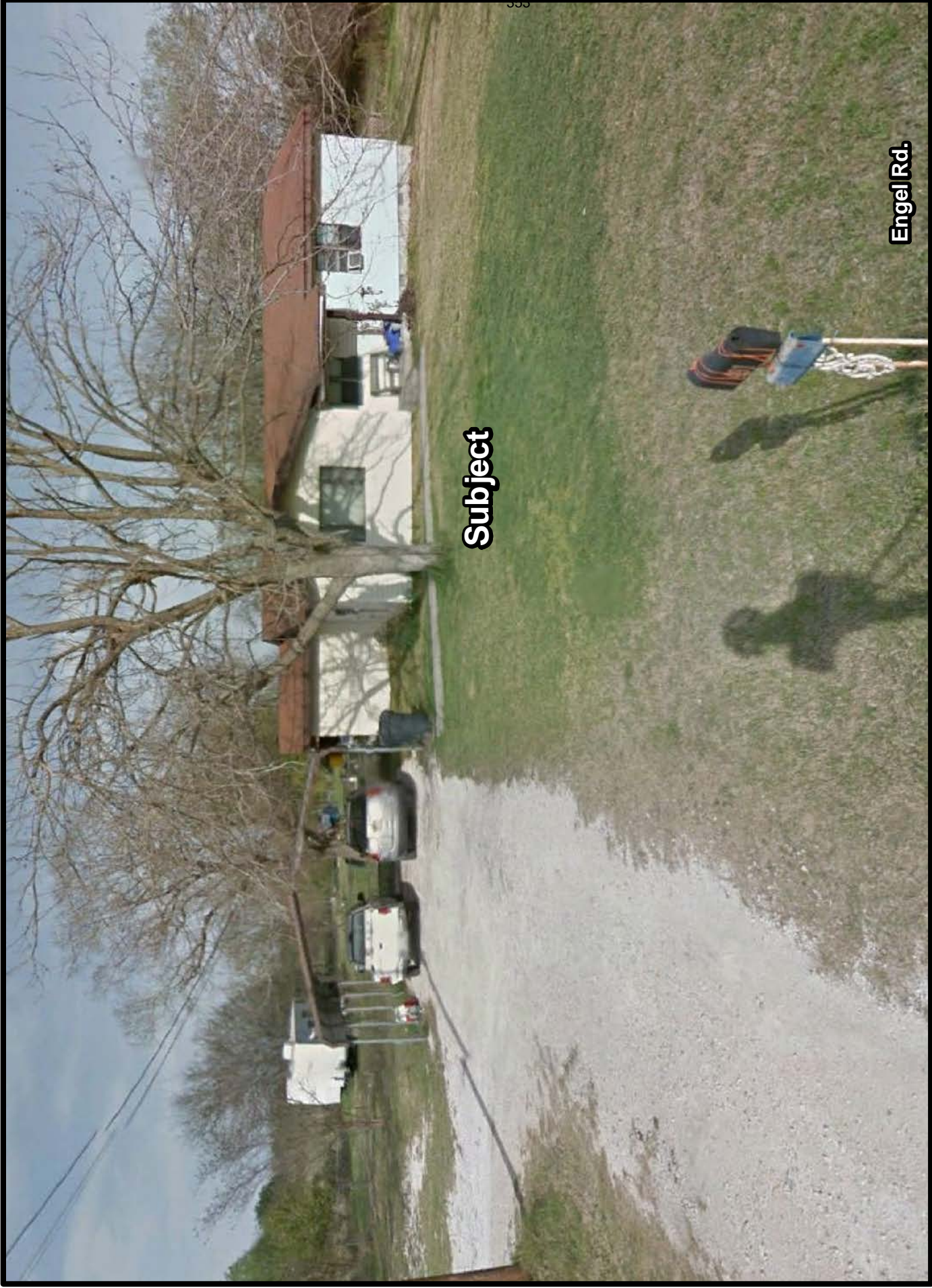
I object: ☒ \_\_\_\_\_

(State reason for objection)

Comments: (Use additional sheets if necessary)

I vote to preserve the natural beauty  
and peace surrounding my property. It is  
the reason I moved here.

Signature: Margarita Garcia



Engel Rd.

### 3.4. Zoning Districts and Regulations for Property Zoned Subsequent to June 22, 1987.

#### 3.4-1. "APD" agricultural/pre-development district.

*Purpose.* This district is designed for newly annexed areas, agricultural uses, and for areas where development is premature because of a lack of utilities, capacity, or service, or where the ultimate use has not been determined. The following regulations shall apply in all "APD" districts:

(a) *Authorized uses.* Uses permitted by right shall be those set forth in the Land Use Matrix in Section 4 of this Chapter. The allowed uses in the district, which are intended to be identical with those listed in the Land Use Matrix, are as follows

#### (1) *Uses permitted by right:*

##### Residential uses:

- Accessory building/structure
- Accessory dwelling (one accessory dwelling per lot, no kitchen)
- Community home (see definition)
- Family home adult care
- Family home child care
- Home Occupation (See Sec. 5.5)
- One family, dwelling, detached
- Single family industrialized home (see Sec. 5.8)

##### Non-residential uses:

- Barns and farm equipment storage (related to agricultural uses)
- Cemetery and/or mausoleum
- Church/place of religious assembly
- Contractor's temporary on-site construction office (only with permit from Building Official; see Sec. 5.10)
- Country club (private)
- Farmers market (produce market - wholesale)
- Farms, general (crops) (see Chapter 6, Municipal Code) (Sec. 5.9 is not applicable)
- Farms, general (livestock/ranch) (see Chapter 6, Municipal Code) (Sec. 5.9 is not applicable)
- Flour mills, feed mills, and grain processing
- Golf course, public or private
- Governmental building or use with no outside storage Grain elevator
- Hay, grain, and/or feed sales (wholesale)
- Livestock sales/auction
- Park and/or playground (public)
- Plant nursery (growing for commercial purposes but no retail sales on site)
- Recreation buildings (public)
- Rodeo grounds
- School, K-12 (public or private)
- Stables (as a business) (see Chapter 6, Municipal Code)
- Stables (private, accessory use) (see Chapter 6, Municipal Code)
- Water storage (surface, underground or overhead), water wells and pumping stations that are part of a public or municipal system



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

(2) *Conflict.* In the event of conflict between the uses listed in the Land Use Matrix and those listed in Subsection (1), the uses listed in this subsection shall be deemed those authorized in the district.

(b) *Maximum height, minimum area and setback requirements:*

(1) *Height.* 35 feet.

(2) *Front yards.* 25 feet.

(3) *Side building setbacks.* There shall be a side building setback on each side of a building not less than ten feet in width. Buildings on corner lots shall have 15-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the rear lot lines of the adjacent lots. Buildings on corner lots shall have 25-foot side building setbacks adjacent to the street where the rear lines of the corner lots coincide with the side lot lines of the adjacent lots.

(4) *Garage setback.* Where a driveway is located in front of a garage, the garage shall be setback 20 feet from the right-of-way or the driveway to the garage shall be at least 20 feet long to provide enough space for a vehicle to park without overhanging into the right-of-way, if the garage door is closed. (See Illustration 8 in Sec. 5.1-1)

(5) *Rear building setbacks.* 30 feet.

(6) *Width of lot.* 100 feet.

(7) *Lot area per family.* Every single-family dwelling hereafter erected or altered shall provide a lot area of not less than 15,000 square feet per dwelling, provided that where a lot has less area than herein required and such lot was in separate ownership prior to September 25, 1967, this requirement will not prohibit the erection of a one-family dwelling. Where public or community sewer is not available and in use, for the disposal of all sanitary sewage, each lot shall provide not less than one half acre and one acre on the Edwards Aquifer Recharge Zone.

(8) *Lot depth.* 100 feet.

(9) *Parking.* See Section 5.1 for other permitted uses' parking.

### 3.4-13. "C-1B" general business district.

*Purpose.* The general business district is established to provide areas for a broad range of office and retail uses. This district should generally consist of retail nodes located along or at the intersection of major collectors or thoroughfares to accommodate high traffic volumes generated by general retail uses. The following regulations shall apply in all "C-1B" districts:

- (a) *Authorized uses.* Uses permitted by right shall be those set forth in the Land Use Matrix in Section 4 of this Chapter. The allowed uses in the district, which are intended to be identical with those listed in the Land Use Matrix, are as follows

(1) *Uses permitted by right:*

Residential uses:

- Accessory building/structure
- Assisted living facility/retirement home
- Bed and breakfast inn (see Sec. 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)
- All terrain vehicle (ATV) dealer / sales
- Ambulance service (private)
- Amphitheater
- 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
- Athletic fields
- Auction sales (non-vehicle)
- Auto body repair, garages (see Sec. 5.11)
- Auto glass repair/tinting (see Sec. 5.11)
- Auto interior shop / upholstery (see Sec. 5.11)
- Auto leasing
- Auto muffler shop (see Sec. 5.11)
- Auto or trailer sales rooms or yards ((see Sec. 5.11)
- Auto or truck sales rooms or yards - primarily New (see Sec. 5.12)
- Auto paint shop (see Sec. 5.11)
- Auto repair as an accessory use to retail sales (see Sec. 5.11)
- Auto repair garage (general) (see Sec. 5.11)
- 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)  
 Barber/beauty shop, haircutting (non-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  
 Bowling alley/center (see Sec. 5.13)  
 Broadcast station (with tower) (see Sec. 5.7)  
 Bus barns or lots  
 Bus passenger stations  
 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  
 Commercial amusement concessions and facilities  
 Communication equipment - installation and/or repair  
 Computer and electronic sales  
 Computer repair  
 Confectionery store (retail)  
 Consignment shop  
 Contractor's temporary on-site construction office (only with permit from Building Official; see Sec. 5.10)  
 Convenience store with or without fuel sales  
 Country club (private)  
 Credit agency  
 Curio shops  
 Custom work shops  
 Dance hall / dancing facility (see Sec. 5.13)  
 Day camp  
 Department store  
 Drapery shop / blind shop  
 Driving range  
 Drug sales/pharmacy  
 Electrical repair shop  
 Electrical substation  
 Exterminator service  
 Farmers market (produce market - wholesale)  
 Farms, general (crops) (see Chapter 6, Municipal Code and Sec. 5.9)

Farms, general (livestock/ranch) (see Chapter 6, Municipal Code and Sec. 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)  
 Heavy load (farm) vehicle sales/repair (see Sec. 5.14)  
 Home repair and yard equipment retail and rental outlets  
 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 (w/o 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)  
 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)  
 Motorcycle dealer (primarily new / repair)  
 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 watercraft sales (primarily new / repair)  
 Pet shop / supplies (10,000 sq. ft. or less)  
 Pet store (more than 10,000 sq. ft.)  
 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  
 RV park  
 RV/travel trailer sales  
 School, K-12 (public or private)  
 School, vocational (business/commercial trade)  
 Security monitoring company  
 Security systems installation company (with outside storage)  
 Shoe repair shops  
 Shooting gallery - indoor (see Sec. 5.13)  
 Shopping center  
 Sign manufacturing/painting plant  
 Specialty shops in support of project guests and tourists  
 Storage – exterior storage for boats and recreational vehicles  
 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)  
 Tire sales (outdoors)  
 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  
 Wholesale sales offices and sample rooms  
 Woodworking shop (ornamental)

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

- (2) *Conflict.* In the event of conflict between the uses listed in the Land Use Matrix and those listed in Subsection (1), the uses listed in this subsection shall be deemed those authorized in the district.

(b) *Maximum height, minimum area and setback requirements:*

- (1) *Height.* 75 feet.
- (2) *Front building setback.* 25 feet.
- (3) *Side building setback.* No side building setback is required except that where a side line of a lot in this district abuts upon the side line of a lot in any residential zone, a side building setback of not less than six feet shall be provided.
- (4) *Corner lots.* Buildings on corner lots shall have 15-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the rear lot lines of the adjacent lots. Buildings on corner lots shall have 25-foot side building setbacks adjacent to the street where the rear lines of the corner lots coincide with the side lot lines of the adjacent lots. Where a minimum 25-foot setback is required, a canopy at least eight feet in height, attached to the main building, may be built within 15 feet of the property line so long as such construction will not obstruct the vision of vehicular or pedestrian traffic.
- (5) *Garage setback.* Where a driveway is located in front of a garage, the garage shall be setback 20 feet from the right-of-way or the driveway to the garage shall be at least 20 feet long to provide enough space for a vehicle to park without overhanging into the right-of-way, if the garage door is closed. (See Illustration 8 in Sec. 5.1-1)
- (6) *Residential setback.* Effective November 8, 2006, where any building abuts a one or two family use or zoning district, the setback from the one or two family property line shall be at least 20 feet plus one foot for each foot of building height over 20 feet.
- (7) *Rear building setback.* 20 feet.
- (8) *Width of lot.* 60 feet.
- (9) *Lot depth.* 100 feet.
- (10) *Parking.* See Section 5.1 for permitted uses' parking.

### **Draft Minutes for the June 4, 2019 Planning Commission Regular Meeting**

**PZ19-0114 Public hearing and recommendation to City Council regarding a proposed rezoning of a 0.25 acre tract out of the J Noyes Survey 259, Abstract 430, addressed at 471 Engel Road and a 2.0 acre tract out of the J Noyes Survey 259, Abstract 430 and a 3.0 acre tract out of the J Thompson Survey 21, Abstract 608, addressed at 491 Engel Road, from “APD” Agricultural/Pre-Development District to “C-1B” General Business District.**

(Applicant: Rene De La Cruz; Case Manager: M. Greene)

Mr. Greene summarized the request and stated Staff recommended approval with the conditions outlined in the staff report.

Commissioner Meyer inquired if the reasoning to change the zoning was monetary based, and if there was intention to develop.

Mr. Greene stated the applicant was present and could answer those questions.

Discussion followed regarding adjacent zoning districts and pedestrian connection issues.

Commissioner Meyer stated a name had been null on the public hearing notice list.

Mr. Greene clarified.

Vice Chair Reaves inquired about the minimum buffering requirements for non-residential developments adjacent to residential.

Mr. Greene clarified.

Chair Edwards asked if anyone wished to speak in favor.

Helen Voigt, 491 Engel Road, stated she was the property owner. She provided her history of the property and stated she was requesting the zone change to assist with the sale of the land.

Rene De La Cruz, 1413 Shannon Circle, stated he was working with Ms. Voigt with the sale of the land. He described a history of the property.

Brandon Voigt, 306 McKinley Road, wished to speak in favor. He stated commercial was the best use of the land and commercial development would benefit the city. He expressed his belief that it was the property owner's right to pursue the highest and best use.

Chair Edwards asked if anyone wished to speak in opposition.

No one spoke.

Motion by Commissioner Laskowski, seconded by Commissioner Gibson, to close the public hearing. Motion carried (9-0-0).

Motion by Commissioner Sonier, seconded by Commissioner Nolte, to recommend approval to City Council regarding a proposed rezoning of a 0.25 acre tract out of the J Noyes Survey 259, Abstract 430, addressed at 471 Engel Road and a 2.0 acre tract out of the J Noyes Survey 259, Abstract 430 and a 3.0 acre tract out of the J Thompson Survey 21, Abstract 608, addressed at 491 Engel Road, from “APD” Agricultural/Pre-Development District to “C-1B” General Business District with Staff recommendations. Motion carried (9-0-0).

Commissioner Meyer clarified his vote of approval was based on the well being of the city.

**ORDINANCE NO. 2018-**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS, TEXAS REZONING A 0.25 ACRE TRACT OF LAND OUT OF THE J. NOYES SURVEY 259, ABSTRACT 430, ADDRESSED AT 471 ENGEL ROAD AND A 2.0 ACRE TRACT OF LAND OUT OF THE J. NOYES SURVEY 259, ABSTRACT 430 AND A 3.0 ACRE TRACT OF LAND OUT OF THE J. THOMPSON SURVEY 21, ABSTRACT 608, ADDRESSED AT 491 ENGEL ROAD, FROM “APD” AGRICULTURAL/PRE-DEVELOPMENT DISTRICT TO “C-1B” GENERAL BUSINESS DISTRICT; REPEALING ALL ORDINANCES IN CONFLICT; CONTAINING A SAVINGS CLAUSE; AND DECLARING AN EFFECTIVE DATE.**

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**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 the “C-1B” General Business District, the City Council has given due consideration to all components of said district; and

**WHEREAS**, it is the intent of the City Council to provide harmony between existing zoning districts and proposed land uses; and

**WHEREAS**, the City Council desires to amend the Zoning Map by changing the zoning of a 0.25 acre tract out of the J Noyes Survey 259, Abstract 430, addressed at 471 Engel Road and a 2.0 acre tract out of the J Noyes Survey 259, Abstract 430 and a 3.0 acre tract out of the J Thompson Survey 21, Abstract 608, addressed at 491 Engel Road, from “APD” Agricultural/Pre-Development District to “C-1B” General Business District; **now, therefore;**

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

**SECTION 1**

**THAT** Sections 1.2-1 and 1.2-2, Chapter 144, of the New Braunfels Code of Ordinances and particularly the Zoning Map of the City of New Braunfels, are amended by changing the following described tract of land from “APD” Agricultural/Pre-Development District to “C-1B” General Business District:

“A 0.25 acre tract out of the J Noyes Survey 259, Abstract 430, addressed at 471 Engel Road and a 2.0 acre tract out of the J Noyes Survey 259, Abstract 430 and a 3.0 acre tract out of the J Thompson Survey 21, Abstract 608, addressed at 491 Engel Road, as described on Exhibit “A” and delineated on Exhibit “B” attached.”

## **SECTION 2**

**THAT** all provisions of the Code of Ordinances of the City of New Braunfels not herein amended or repealed shall remain in full force and effect.

## **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 22<sup>nd</sup> day of July, 2019.

**PASSED AND APPROVED:** Second reading this 12<sup>th</sup> day of August, 2019.

**CITY OF NEW BRAUNFELS**

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**BARRON CASTEEL, Mayor**



**ATTEST:**

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**PATRICK D. ATEN**, City Secretary

**APPROVED AS TO FORM:**

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**VALERIA M. ACEVEDO**, City Attorney

Being a tract of land situated in the John Thompson one league and labor Survey, Abstract No. 608 and the John Noyes 640 Acre Survey, Abstract No. 430, Comal County, Texas, same being that tract of land conveyed to The Melvin G. Voigt and Helen F. Voigt Revocable Living Trust, by deeds recorded in Document Nos: 9806030189 and 9806030190, Real Property Records of Comal County, Texas, and being more particularly described by metes and bounds as follows:

BEGINNING at a 1/2 inch iron rod found for corner, said corner being the South corner of that tract of land conveyed to Randal Adams and Susan L. Adams, by deed recorded in County Clerk File No. 20170603814, Real Property Records of Comal County, Texas and lying along the Northeast line of Engel Road (public right-of-way);

THENCE North 67 degrees 25 minutes 00 seconds East, along a Southeast line of said Adams tract, a distance of 218.48 feet to a 60d nail found for corner;

THENCE South 24 degrees 14 minutes 42 seconds East, along a Southwest line of said Adams tract, a distance of 49.37 feet to a 60d nail found for corner;

THENCE North 67 degrees 15 minutes 13 seconds East, along a Southeast line of said Adams tract, a distance of 1317.27 feet to a fence post found for corner, said corner being the East corner of that tract of land conveyed to Daniel Rangel and Rogelio Rangel, by deed recorded in County Clerk File No. 200406022981, Real Property Records of Comal County, Texas;

THENCE South 24 degrees 47 minutes 35 seconds East, a distance of 142.13 feet to a point for corner, said corner being the North corner of that tract of land conveyed to Elton Schwab and Leora M. Schwab, as Trustees of Elton Schwab and Leora M. Schwab Revocable Living Trust, by deed recorded in County Clerk File No. 200306015102, Real Property Records of Comal County, Texas, from which a fence post found bears North 49 degrees 21 minutes 51 seconds West, a distance of 0.62 feet for witness;

THENCE South 67 degrees 15 minutes 40 seconds West, along the Northwest line of said Schwab tract (200306015102), a distance of 1535.16 feet to a point for corner, said corner being the West corner of that tract of land conveyed to Vincent Schwab, by deed recorded in Volume 493, Page 688, Deed Records of Comal County, Texas and lying along the Northeast line of aforementioned Engel Road, from which a 1/2 inch iron rod found online in a Northwesterly direction at a distance of 2.50 feet for reference;

THENCE North 24 degrees 49 minutes 17 seconds West, along the Northeast line of said Engel Road, a distance of 191.95 feet to the POINT OF BEGINNING and containing 228,744 square feet or 5.25 acres of land.

# 471 & 491 Engel Road

Being a tract of land situated in the John Thompson one league and labor Survey, Abstract No. 608 and the John Noyes 640 Acre Survey, Abstract No. 430, Comal County, Texas, same being that tract of land conveyed to the Malvin G. Volgi and Helen F. Volgi Revocable Living Trust, by deeds recorded in Document Nos: 9806030189 and 9806030190, Real Property Records of Comal County, Texas, and being more particularly described by metes and bounds as follows:

BEGINNING at a 1/2 inch iron rod found for corner, said corner being the South corner of that tract of land conveyed to Randal Adams and Susan L. Adams, by deed recorded in County Clerk File No. 20170603814, Real Property Records of Comal County, Texas and lying along the Northeast line of Engel Road (public right-of-way);

THENCE North 67 degrees 25 minutes 00 seconds East, along a Southeast line of said Adams tract, a distance of 218.48 feet to a 60d nail found for corner;

THENCE South 24 degrees 14 minutes 42 seconds East, along a Southeast line of said Adams tract, a distance of 48.37 feet to a 60d nail found for corner;

THENCE North 67 degrees 15 minutes 13 seconds East, along a Southeast line of said Adams tract, a distance of 1317.27 feet to a fence post found for corner, said corner being the East corner of that tract of land conveyed to Daniel Rangel and Rogelio Rangel, by deed recorded in County Clerk File No. 200406022981, Real Property Records of Comal County, Texas;

THENCE South 24 degrees 47 minutes 35 seconds East, a distance of 142.13 feet to a point for corner, said corner being the North corner of that tract of land conveyed to Elton Schwab and Leora M. Schwab, as Trustees of Elton Schwab and Leora M. Schwab Revocable Living Trust, by deed recorded in County Clerk File No. 200306015102, Real Property Records of Comal County, Texas, from which a fence post found for corner North 18 degrees 21 minutes 51 seconds West, a distance of 0.82 feet for witness;

THENCE South 67 degrees 15 minutes 40 seconds West, along the Northwest line of said Schwab tract (200306015102), a distance of 1535.16 feet to a point for corner, said corner being the West corner of that tract of land conveyed to Vincent Schwab, by deed recorded in Volume 493, Page 688, Deed Records of Comal County, Texas and lying along the Northeast line of aforementioned Engel Road, from which a 1/2 inch iron rod found online in a Northwesterly direction at a distance of 2.50 feet for reference;

THENCE North 24 degrees 49 minutes 17 seconds West, along the Northeast line of said Engel Road, a distance of 191.95 feet to the POINT OF BEGINNING and containing 228,744 square feet or 5.25 acres of land.

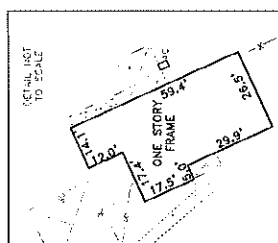
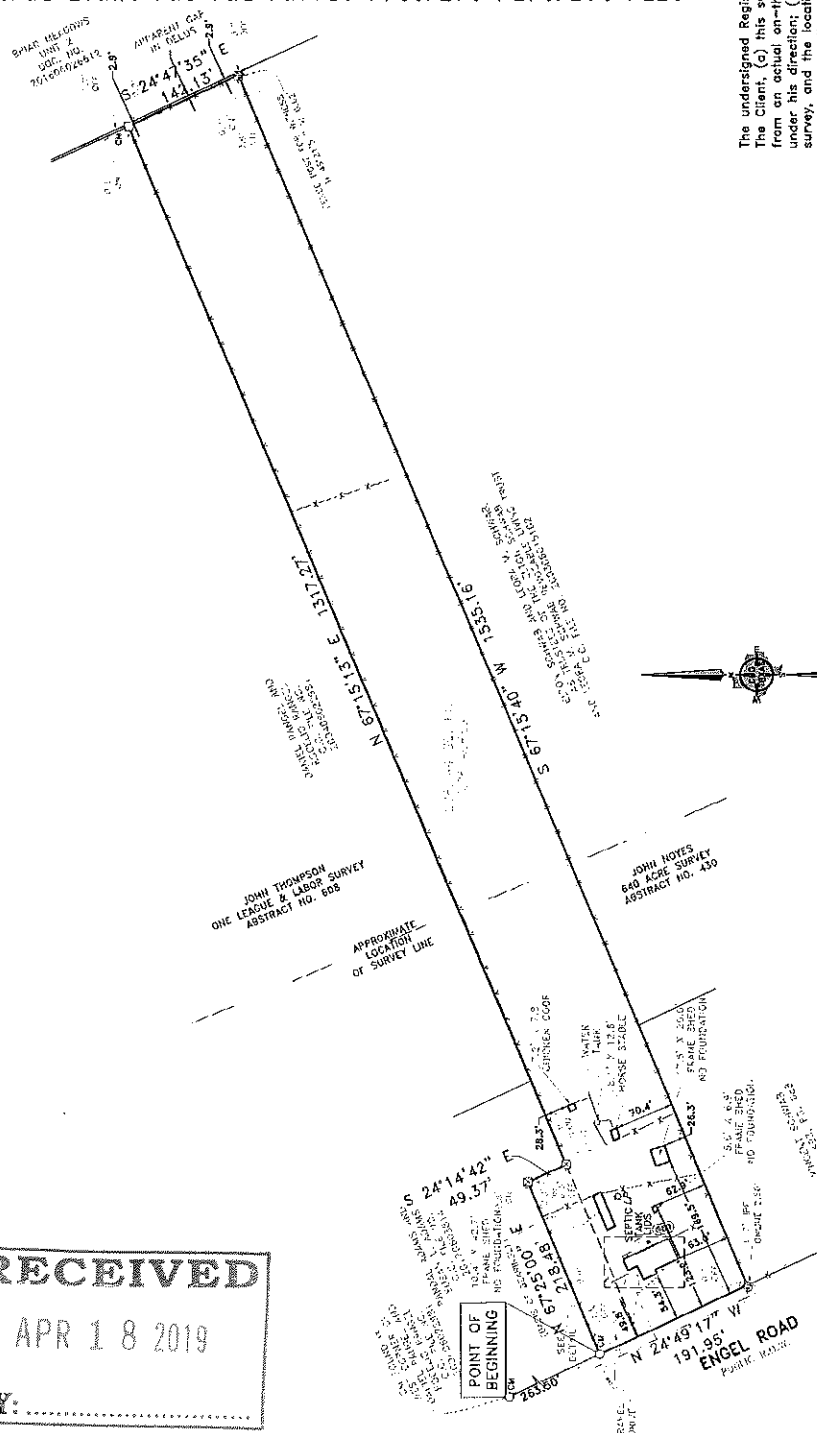
## SURVEYOR'S CERTIFICATE

The undersigned Registered Professional Land Surveyor (Bryan Connolly) hereby certifies to The Client, (c) this survey and the property description set forth hereon were prepared from an actual on-the-ground survey; (b) such survey was conducted by the Surveyor, or under his direction; (c) all monuments shown hereon actually existed on the date of the survey, and the location, size and type of material thereof are correctly shown; Use of this survey by any other parties and/or for other purposes shall be at User's own risk and any loss resulting from other use shall not be the responsibility of the undersigned. The plat hereon is a correct and accurate representation of the property lines and dimensions, as indicated; location and type of buildings are as shown; and EXCEPT AS SHOWN, all improvements are located within the boundaries the distances indicated and there are no visible and apparent encroachments or protrusions on the ground.



Executed this 9th day of April, 2019

*Bryan Connolly*  
Bryan Connolly  
Registered Professional Land Surveyor No. 5513



NOTE: According to the F.R.M. in Map No. 489100445, this property does lie in Zone 1, and does not lie within the 100 year flood zone.

LEGEND

CONCRETE MONUMENT	CONCRETE MONUMENT	CONCRETE MONUMENT
1/2" IRON ROD SET	1/2" IRON ROD SET	1/2" IRON ROD SET
1" IRON PIPE FOUND	1" IRON PIPE FOUND	1" IRON PIPE FOUND
WOOD POST FOUND	WOOD POST FOUND	WOOD POST FOUND
60d NAIL FOUND	60d NAIL FOUND	60d NAIL FOUND
60d NAIL FOUND	60d NAIL FOUND	60d NAIL FOUND
OVERHEAD ELECTRIC	OVERHEAD ELECTRIC	OVERHEAD ELECTRIC
UNDERGROUND ELECTRIC	UNDERGROUND ELECTRIC	UNDERGROUND ELECTRIC
POWER POLE	POWER POLE	POWER POLE
CONCRETE DRIVE	CONCRETE DRIVE	CONCRETE DRIVE
CONCRETE DRIVE	CONCRETE DRIVE	CONCRETE DRIVE
CONCRETE DRIVE	CONCRETE DRIVE	CONCRETE DRIVE

REVISIONS

DATE	BY	NOTES

NOTE: This survey is made in conjunction with the plat of the John Thompson one league and labor Survey, Abstract No. 608, and the John Noyes 640 Acre Survey, Abstract No. 430, Comal County, Texas, and being more particularly described by metes and bounds as follows:

NOTES: BEARINGS ARE BASED ON DEED RECORDED IN DOC. NO. 88046090A. CALCULATIONS AND BUILDING UNITS ARE BY RECORDED PLAT UNITS OTHERWISE NOTED.

**METES AND BOUNDS**

JOHN THOMPSON ONE LEAGUE & LABOR SURVEY, ABSTRACT NO. 608  
AND THE JOHN NOYES 640 ACRE SURVEY, ABSTRACT NO. 430

COMAL COUNTY, TEXAS

471 & 491 ENGEL ROAD

**CBG**

12025 Shiloh Road, Ste. 240  
Pulaski, TX 78275  
F 214-340-2216  
F 214-340-2216  
www.cbgsurvey.com

SCALE	DATE	JOB NO.	G.F. NO.	DRAWN
1" = 100'	04/09/19	1906233	N/A	MABEL

**RECEIVED**

APR 18 2019

BY: \_\_\_\_\_

EXHIBIT "B"







## City Council Agenda Item Report

550 Landa Street  
New Braunfels, TX

**7/22/2019**

Agenda Item No. A)

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Deliberate issues regarding economic development negotiations in accordance with Section 551.087, of the Texas Government Code, including but not limited to:

- Project Nautilus
- Project Maintenance





## City Council Agenda Item Report

550 Landa Street  
New Braunfels, TX

**7/22/2019**

Agenda Item No. B)

---

Deliberate the purchase, exchange, lease or value of real estate in accordance with Section 551.072 of the Texas Government Code

- Property for city facilities

