

ORDINANCE NO. 2016- 77

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS, TEXAS, GRANTING A TYPE 1 SPECIAL USE PERMIT TO ALLOW A COMMERCIAL TUBER ENTRANCE AND TAKEOUT IN THE, IN THE "C-4" RESORT COMMERCIAL DISTRICT 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 a commercial tuber entrance and takeout; and

**WHEREAS**, the City Council desires to grant a "Special Use Permit" to 444 East San Antonio Street to allow a commercial tuber entrance and exit 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, as delineated in Exhibit "A", to allow a commercial tuber entrance and exit in a "C-4" Resort Commercial District."

#### 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.*
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:**

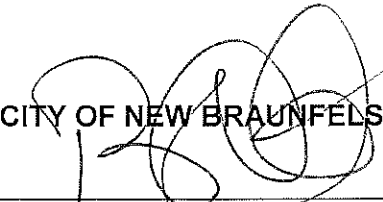
This Ordinance shall become adopted and effective upon its second reading, signature required by City Charter, and filing with the City Secretary's Office. This Ordinance must also be published in a newspaper of general circulation at least one time within ten (10) days after its final passage, as required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

### **SECTION 6**

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

**PASSED AND APPROVED:** First Reading this the 28<sup>th</sup> day of November, 2016.

**PASSED AND APPROVED:** Second Reading this the 12<sup>th</sup> day of December, 2016.

  
CITY OF NEW BRAUNFELS  
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BARRON CASTEEL, Mayor

ATTEST:

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

APPROVED AS TO FORM:

  
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VALERIA M. ACEVEDO, City Attorney

