

**PLANNING COMMISSION – May 7, 2019 – 6:00PM**

New Braunfels City Hall Council Chambers

**Applicant/Owner:** Travis Batey

**Address/Location:** 468 N. Market Avenue

**PROPOSED SPECIAL USE PERMIT – CASE #SUP19-071**

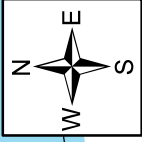
The circled numbers on the map correspond to the property owners listed below. All information is from the Appraisal District Records. The property under consideration is marked as “Subject Property”.

- |                                |                                  |
|--------------------------------|----------------------------------|
| 1. CELTIC ENTERPRISES LP       | 10. GUIDOS PLACE LLC             |
| 2. WE BE 2BIN LLC              | 11. SCHABACKER VICTOR & ELISA F  |
| 3. KRIEVALDT PROPERTIES LLC    | 12. RUIZ JAMES & MARIA           |
| 4. SEIBERT RICHARD L & JAYLENE | 13. LEAVERTON JULIANNE           |
| 5. GOMEZ IGNACIO G & LOUISA    | 14. WILSON MARK B & LISA W       |
| 6. BOWMAN CRAIG A & KRISTY D   | 15. BELL RUSSELL A & ELIZABETH K |
| 7. NORMAS LAGNIAPPE LLC        | 16. GLADDEN MICHAEL W            |
| 8. HURTA JASON E               | 17. OAKWOOD PROPERTIES           |
| 9. HAYES & RENO LLC            | 18.                              |

**SEE MAP**

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# Notification Map



## Legend

- Subject Property
- Notification Area
- Response
  - Favor
  - No Response
  - Object

YOUR OPINION MATTERS - DETACH AND RETURN

Case: #SUP19-071 ms

Name: JASON HURTA

Address: 329 E. ZINK ST

Property number on map: 8

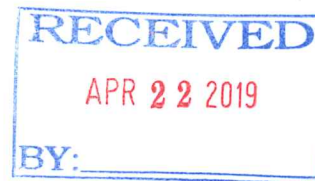
Comments: (Use additional sheets if necessary)

Signature: [Signature]

I favor: ☒

I object: \_\_\_\_\_

(State reason for objection)



YOUR OPINION MATTERS - DETACH AND RETURN

Case: #SUP19-071 ms

Name: Hayes & Reno, LLC

Address: 162, 163 & 165 Menzies

Property number on map: 9

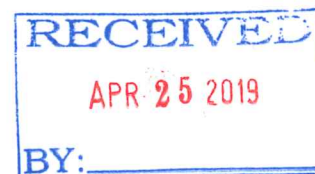
Comments: (Use additional sheets if necessary)

Signature: [Signature]

I favor: ☒

I object: \_\_\_\_\_

(State reason for objection)



YOUR OPINION MATTERS - DETACH AND RETURN

Case: #SUP19-071 ms

Name: WEB STUDDARD

Address: 640 HUNTERS WAY (405 E. Zink)

Property number on map: 17

Comments: (Use additional sheets if necessary)

Signature: [Signature]

I favor: ☒

I object: \_\_\_\_\_

(State reason for objection)



YOUR OPINION MATTERS - DETACH AND RETURN

Case: #SUP19-071 ms

Name: Matthew Pusateri

Address: 493 N. Market Ave.

Property number on map: 10

Comments: (Use additional sheets if necessary)

Signature: [Signature]

I favor: ✓

I object: \_\_\_\_\_

(State reason for objection)



YOUR OPINION MATTERS - DETACH AND RETURN

Case: #SUP19-071 ms

Name: Celtic Enterprises/Sharon O'Toole

Address: 454 N. Market

Property number on map: 1

Comments: (Use additional sheets if necessary)

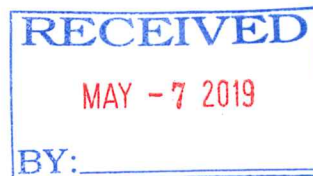
Signature: [Signature]

Letter to follow

I favor: \_\_\_\_\_

I object: X

(State reason for objection)



CITY OF NEW BRAUNFELS, TEXAS  
CITY COUNCIL MEETING  
TUESDAY, MAY 28, 2019-6:00 PM

May 24, 2019

Mayor, Mayor Pro Tem, and Councilmembers:

**Please vote “no” to Agenda Item 5 L)**

#### 5. INDIVIDUAL ITEMS FOR CONSIDERATION

L) Public hearing and first reading of an ordinance regarding the proposed rezoning to amend a Special Use Permit to include a utility shed in the “C-2” Central Business District on Lot 32R, New City Block 2016, addressed at 468, 476, and 486 N. Market Avenue.

Please do not allow the proposed rezoning to amend the SUP for the unpermitted utility shed at 468, 476, and 486 N. Market. This collective property has a history of disregarding City Codes and Ordinances, as well as State guidelines during the construction process.

I own the property at 454 N Market St. next door to this property. The rezone property surrounds mine along one side and across the entire back. My lot is 192 feet deep by 61-ish feet across, so this property shares approximately 253 feet of my property line. I lived at 454 N Market during the construction process, until Nov. 2017, so I am keenly aware of the “pushing of limits” during the process.

General construction was started without a permit. Overnight rentals occurred without a permit. On several occasions fires were set to burn tree limbs, brush, and construction debris. (Fire Dept came out a few times.) The number of buildings added was different than permitted, hence the current request for an amendment from Council. The fence “appears” taller than 8 feet. The lot level and storm drains along the railroad tracks “appear” filled in which could affect the drainage of Market Street, and therefore, the entire neighborhood. Several fences were attached to my 8 foot privacy fence without any discussion whatsoever, nor any permission from me. This is a State legal issue because an owner’s fence is their private property.

A few years ago, after construction was in progress, the City stopped it because there was no permit. At some point, a complete house was moved onto the front property (I believe that was permitted) and the City discovered there were overnight rentals occurring in the original house, so the City required an SUP application. (Overnight rentals occurred during the construction process, too, including last summer and this weekend. But maybe there was a waiver/approval somewhere along the way, I’m not sure.)

On several occasions over a couple of years, there were open fires between the front houses and the back houses, (inside the City limits, in the middle of the day), burning tree limbs, brush, construction debris, etc. The fire dept. came out some of those times, and at least 2 of those times I directly witnessed the flames. The time

that I called the fire dept., the smoke alarms INSIDE of my home alerted me to a fire, even with all of my double-paned windows and doors closed.

The 2nd time that I witnessed the fire was when the Front Office at River Run Condos called the fire dept. I was working at the condo office at that time, (but not during that call), so the Office alerted me to come to the condos and view the fire from there. The fire dept came, helped put out the fire, then left. (See photos 1 & 2.) The following day, the fire was burning again, except this time someone put up tall panels and parked a truck between the fire and Meusebach Street, so that it wasn't quite as visible from the street. (See photos 3 & 4. Sorry they are blurry.)

Back when the SUP application was filed, I signed a Planning and Zoning waiver to not require a masonry fence be built between our 2 properties. The owner and I discussed this, as we have discussed things several times since then. I was trying to be a good neighbor and thought it was unnecessary, so I signed the waiver. It seems a couple of years later, they decided to thank me for signing that waiver using my private property as their own. Unbeknownst to me, several fences were then attached to my back and my side privacy fence without any discussion with me whatsoever, nor any permission from me.

A masonry fence, for the neighbors who didn't sign a waiver, was perpendicularly connected to my older, back privacy fence without permission. It is both taller than my 8 foot fence, and has caused my back fence to separate from my side fence. There is now a gap/hole in my fence the entire 8 foot height from the ground to the top of my fence. Unfortunately, my 100% paid for private property fence no longer completely borders my own yard. Now, I have to pay to get it fixed because the owners next door no longer acknowledge my communications. (See photos 5-7.)

In addition to this masonry fence, rusty corrugated tin sheets were nailed to the back side of my fence across the entire back and side fence, which is roughly 228 feet of fence. I discovered this when they contacted me wanting to cut down a tree trunk that is a part of my side fence. I had just gotten back into the country, and had no idea what they were talking about. (No, they had not attempted to contact me while I was gone.) I reminded them that they did not have permission to use any of my private property fence, until we discussed their plan, but that they had always had the right to put up, and pay, for their own fence on their own property. But when I got to my property, it was too late. The rusty corrugated tin panels, and boards and pipes, were all nailed across my entire back fence and more than  $\frac{3}{4}$  of my side fence. (See photos 8-9.)

The owners got angry with me for even questioning them about using my private property without discussion. Since then, they have not responded to any communication with me, at all. However, since then, the side fence has been pulled down. Unfortunately, it has left my fence wavy along the driveway. (See photo 10.) With the removal of the fence that shows from Meusebach St, I guess maybe there was hope that no one would notice that all of the other fences are still attached to my back fence?

To add insult to injury, another fence related specifically to this agenda item, the "unpermitted utility shed," is ALSO perpendicularly attached to my back fence, again without my permission. (See photos 11 and 6.)

At the time I installed the privacy fence around my entire yard, it was not required for a rental. To be neighborly, I chose to pay for 100% of my fence, and to put in an 8 foot fence on my own property to help block my rental property from my residential neighbors. This agenda item property was a residential neighbor at that time.



According to the State of Texas, a fence is personal property and anyone else wanting to do anything with that personal property has to ask permission to use that private property. So effectively, my privacy fence has been vandalized and some of my property has been confiscated. My fence line was placed where there was still room for neighbors to put up their own fence, and neither fence would cross the other person's property line. So now, I have to hire, and pay, for a lawyer because my private property was used without permission for a project inside the City limits.

In the bigger picture while working on all of this, I have been in contact with the City Planning Dept. quite often. They addressed most of the issues with other City departments. But when I questioned the last set of issues, I was given phone numbers for the separate departments to track down. For example, asking about the fence height being taller than my 8 foot fence, (see photo 7), and the possible storm drain issues, (see photo 12), that could affect the City's Market Street drainage, I was given phone numbers to various City departments track down answers on these things.

Unfortunately, my 87 year old Mother has been in the hospital in Austin for a month, so in addition to my work, I have been going to Austin daily or every other day. I have not had the chance to continue acting as a code enforcer (or whichever dept. is responsible for tracking property and construction issues) to track down these items. This is onerous for one Citizen to do.

Isn't there a City contact person monitoring the property and construction? Why wouldn't they pay attention to these types of things?

In my opinion, since the property owner is a City contractor, it seems that the property owner would be even more aware of City Codes and Ordinances and try to work closely with the City to follow them. Given the history of disregarding City and State guidelines, please vote "NO" to allow the rezone for the utility shed.

I hope to be at the City Council Meeting on Tuesday in person, but depending on how my Mother is, I may not be able to make it.

Thank you in advance for your consideration.

Sharon O'Toole  
Celtic Enterprises, LP  
830-609-7454  
[Celtic.otoole@gmail.com](mailto:Celtic.otoole@gmail.com)

Photos attached