

Legislation Details (With Text)

File #:	19-094	Name:	
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File created:	1/17/2019	In control:	City Council
On agenda:	1/28/2019	Final action:	
Title:	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-1" Local Business District and the "R-3" Multifamily District on Lot 2, Block 4, Broadway Estates Unit 2, addressed at 842 Wall Street.		

Sponsors:

Indexes:

Code sections:

Attachments: 1. Aerial, Regional Transportation Plan and Floodplain Map, 2. Application, 3. Land Use Maps, 4. Survey and Floor Plan, 5. Existing Short Term Rental Vicinity Map, 6. Notification List, Map and Responses, 7. Photograph, 8. Zoning Ordinance Sections, 9. Planning Commission Meeting Draft Minutes, 10. Ordinance

Date	Ver.	Action By	Action	Result
1/28/2019	1	City Council		

Presenter

*Christopher J. Looney, Planning and Community Development Director
clooney@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-1" Local Business District and the "R-3" Multifamily District on Lot 2, Block 4, Broadway Estates Unit 2, addressed at 842 Wall Street.

BACKGROUND / RATIONALE:

Case No.: PZ-18-046

Council District: 4

Owner/Applicant: Gerald Dean Roberts
842 Wall Street
New Braunfels, TX 78130

Staff Contact: Matthew Simmont
(830) 221-4058
msimmont@nbtexas.org

Background/rationale:

The subject property is located approximately 130 feet southwest of the intersection of Manhattan

and Wall Street. The property is approximately 7,800 square feet in area and is occupied by a 1,958 square foot residential structure built in 2014.

The property is split-zoned “C-1” Local Business District and “R-3” Multifamily District which allows rental or occupancy for less than one month. However, the structure is a single-family dwelling which requires approval of a Special Use Permit (SUP) before it can be used as a short-term rental. If the SUP is approved, an administrative Short Term Rental Permit, annual fire inspections and remittance of hotel occupancy tax are also required.

On May 31, 2018, the Code Enforcement Division of the Planning and Community Development Department was notified that the subject property was likely operating a short term rental. Further investigation revealed that the property was being used as an out of compliance short term rental. The applicant is pursuing the SUP to legitimize the short term rental.

The applicant’s submitted floor plan indicates the existing structure is a three-bedroom dwelling, making it eligible for a maximum of 10 adult occupants. A minimum of 3 and a maximum of 4 parking spaces are required; the applicant is proposing to utilize the existing paved driveway to provide **only 2 off-street parking spaces**.

There are no other short-term rental properties in the neighborhood.

Standards for short term rentals are attached, and include:

- an administrative Short Term Rental Permit and annual inspections are required, in addition to the SUP;
- a maximum of two (2) adults per sleeping area plus an additional four (4) adults per residence **(three (3) sleeping areas plus four (4) additional adults allows for a maximum total of 10 adults occupying this property)**;
- display of a short term rental decal;
- a minimum of one (1) off-street parking space per sleeping area, not including a garage, and not to exceed the number of sleeping areas plus one (1) **(minimum of three (3) spaces and a maximum of four (4) spaces)**;
- 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.

General Information:

Lot Size: Approximately 0.18 acres (7840 square feet)

House Size: 1,958 square feet

Surrounding Zoning and Land Use:

North - C-1/ Single-family residence

South - R-3 / Single-family residence

East - Broadway Estates PD (single-family residential) / Single-family residence

West - Across Wall St., R-2 / Single-family residence

Request Due to Notice of Violation: Yes

Floodplain:

No portion of the property is located within the 1% chance (100-year) floodplain.

Improvement(s):

Single-family residence

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 subject property is zoned R-3 and C-1 which are remnants of historic zoning patterns that designated the majority of land adjacent to major corridors for commercial and multifamily use. A bridge embankment presents a significant physical barrier between the neighborhood and Loop 337. This neighborhood was developed within the last decade and consists exclusively of single-family residences. While the subject property is within close proximity to Loop 337 and IH-35, the predominance of single-family residential use through which tenants would have to navigate makes the property less than ideal for lodging 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 (*There do not appear to be any conflicts with these elements.*);
- How other areas designated for similar development will be affected (*There should be no negative effects on 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 supplemental standards as required in Section 5.17 of the Zoning Ordinance. These standards help to ensure that proper measures are in place to protect public health and to encourage appropriate use of the property.*); and
- Whether the request is consistent with the Comprehensive Plan. (*The subject property lies within the New Braunfels Sub Area, is adjacent to a Transitional Mixed-Use Corridor, and is in close proximity to existing Outdoor Recreation and Medical Centers.*)

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

<p>City Plan/Council Priority: Envision New Braunfels</p>	<p>Action 1.14 <i>Ensure regulations do not unintentionally inhibit the provision of a variety of flexible and innovative lodging options and attractions.</i> While short term rental at the subject location would provide a lodging option, its location is not easily accessible to thoroughfares or attractions and, therefore, would negatively impact surrounding properties. Action 3.3 <i>Balance commercial centers with stable neighborhoods.</i> The subject property is in a single-family residential neighborhood. Even with the supplemental standards, short term rental could have negative impacts at this location in the neighborhood. Action 3.17 <i>Enact policies that dis-incentivize commercial encroachment into neighborhoods that whittle away at the edges, while still allowing for neighborhood scale commercial within walking distance of homes.</i> Short term rental of the subject property will introduce commercial activity into the center of the neighborhood.</p>
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FISCAL IMPACT:

If approved, the property will be subject to local and state hotel occupancy tax (HOT). The property owner will be responsible for remitting the local portion to the City.

COMMITTEE RECOMMENDATION:

The Planning Commission held a public hearing on January 8, 2019 and recommended denial (8-0-0).

STAFF RECOMMENDATION:

Staff recommends denial. The subject property has limited parking for its number of sleeping areas, and is embedded in the middle of a neighborhood requiring commercial traffic (guests) to travel into the heart of a neighborhood to access the site creating negative impacts to neighbors.

Notification:

Public hearing notices were sent to 34 owners of property within 200 feet of the request. The Planning Division has received 13 responses (#2, 3, 6, 9-13, 15-17, 20 & 31) in opposition and zero in favor. **More than 20% of the property within 200 feet is represented by opposition, therefore, pursuant to state statute, a supermajority vote of City Council is required to approve the request.**

Attachments:

1. Aerial, Regional Transportation Plan Map
2. Application
3. Land Use Maps (Zoning, Existing Land Use, Existing Centers, Future Land Use Plan)
4. Survey and Floor Plan
5. Existing Short-term Rental Vicinity Map
6. Notification List, Map and Responses
7. Photograph
8. Zoning Ordinance Sections:
 - a. Sec. 3.3-3 "R-3" Multifamily District

- b. Sec. 3.3-7 "C-1" Local Business District
 - c. Sec. 3.6 Special Use Permits
 - d. Sec. 5.17 Short Term Rentals
- 9. Planning Commission Meeting Draft Minutes
 - 10. Ordinance