

Legislation Details (With Text)

File #: 17-103 **Name:**

Type: Ordinance **Status:** Passed

File created: 1/20/2017 **In control:** City Council

On agenda: 2/13/2017 **Final action:** 2/13/2017

Title: Approval of the second and final reading of an ordinance regarding a requested rezoning to apply a Special Use Permit to allow short term rental of residential structures in the "C-1" Local Business District, on Lot G City Block 5085, addressed at 160 W. North Street.

Sponsors:**Indexes:****Code sections:**

Attachments: 1. Aerial, 2. Application & Proposal, 3. Zoning Maps, 4. Photographs, 5. Notification & Responses.pdf, 6. Code Sections, 7. Draft Minutes, 8. Ordinance

Date	Ver.	Action By	Action	Result
2/13/2017	1	City Council	approved	Pass

Presenter

*Christopher J. Looney, Planning and Community Development Director
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SUBJECT:

Approval of the second and final reading of an ordinance regarding a requested rezoning to apply a Special Use Permit to allow short term rental of residential structures in the "C-1" Local Business District, on Lot G City Block 5085, addressed at 160 W. North Street.

BACKGROUND / RATIONALE:

Case No.: PZ-16-063

Council District: 5

Applicant: Amanda Ransom
652 Lakeside Pass
New Braunfels, TX 78130
(830) 832-6716
amanda_ransom@yahoo.com

Owner: Shirley Schriewer
9120 Huber Road
New Braunfels, TX 78130
(830) 491-1572

Staff Contact: Holly Mullins, Sr. Planner
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City Council held a public hearing on January 23, 2017 and unanimously approved the first reading of this requested rezoning ordinance. (7-0-0)

The subject property is located at the intersection of North Street and Nowotny Lane, near the entrance to the original Schlitterbahn Water Park on Liberty Avenue. The property is currently zoned C-1 Local Business District, and contains one 2-bedroom house.

The applicant has requested this Type 2 Special Use Permit (SUP) to allow short term rentals on the property. In addition to the short term rental use, the request includes several deviations from Zoning Ordinance requirements, and specific signage details, all of which may be approved through the SUP process:

- **Construction of a second residential structure.** The applicant is proposing to maintain the existing house and construct a second, two-story dwelling unit. Although allowed in C-1 zoning, the minimum size for a corner lot to accommodate two dwelling units is 8,500 square feet and the subject property is approximately 8,350 square feet in area. The new “cottage” unit will contain two sleeping areas, a kitchen and bathroom downstairs, plus one bedroom and bathroom upstairs.
- **Rear setback.** The proposed second dwelling unit does not meet the 20-foot rear setback requirement. As proposed, the new cottage will be 5.23 feet from the rear property line, and 12 feet from the side property line. The applicant would like to place the cottage on the “L” portion of the lot to maintain open space between buildings, and states that applying a 20-foot setback renders that area unbuildable as it is only 24 feet deep.

Rear building setbacks are intended to ensure enjoyable open space and adequate light and air between properties. A five-foot setback for a two-story structure may feel crowded in a neighborhood with predominantly single-story buildings. However, the cottage will not be immediately adjacent to the next door house, but adjacent to its rear yard. The common lot line is a side yard for the adjacent property and that property is subject to only a five-foot setback.

- **Paved parking.** Minimum required off-street parking for short term rentals is one space per sleeping area, and the maximum is the number of sleeping areas plus one. This property would require a minimum of six and maximum of seven paved parking spaces. There is an existing asphalt parking area from Nowotny Lane that accommodates four vehicles. The applicant notes the curbing and asphalt will be improved and striping added to delineate parking spaces.

Two new parking spaces on the North Street side will be added to meet the minimum parking requirement. The applicant is requesting approval of an asphalt approach, rather than concrete as required by Code, and the use of crushed granite rather than concrete or asphalt for the parking area. Staff recommends the driveway approach be constructed of concrete per City standards. Staff does not generally support crushed granite due to its tendency to wash out and be tracked into the right-of-way, but instead recommends concrete, asphalt, or an alternative material approved by the City Engineer (for example, permeable pavement or paverstone).

- **Signage.** Section 5.17-4 Standards for short term rentals includes a section on signage that indicates the signage must be in compliance with the City's current Sign Code. Property within the C-1 district is allowed an 8-foot tall, 32 square foot monument sign or a 6-foot tall, 20 square foot pole sign. The Sign Code does not currently regulate wall signage, but does limit signage associated with a home occupation: one non-illuminated sign, no larger than four square feet in area, attached to the structure. The applicant is proposing an attached wall sign approximately 20 square feet in area (42 inches x 68 inches), illuminated by one fixture hung on the wall above the sign. The proposed sign is pictured in Attachment 2. Although attached signage is unregulated, approval of the SUP could include limitations on such signage as deemed appropriate by the City Council.

The applicant plans to remodel the existing single-story house, converting the garage into a third bedroom. If the requested SUP is approved, this house will be utilized as a short term rental for the first year, and the two-story cottage will be constructed as Phase 2 in the future.

Ultimately, the applicant seeks flexibility to rent the house and cottage together, or as two separate units. The ordinance allows maximum occupancy for a short term rental as two adults per bedroom plus four additional adults per building, or 10 adults in the house and 10 in the cottage. However, staff believes 20 adults would overwhelm a property of this size.

If the requested SUP is approved, an administrative Short Term Rental Permit must also be obtained, and new construction will be subject to applicable Building and Fire Code standards through the building permit process.

General Information:

Size: 8,359 square feet

Surrounding Zoning and Land Use:

North - C-1/ Single-family residence

South - Across North Street, C-4/ Commercial parking lot

East - C-1/ Commercial parking lot; Professional office

West - Across Nowotny Lane, C-4/ Commercial parking lot

Comprehensive Plan/ Future Land Use Designation: Commercial

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 property is located between Schlitterbahn and Christus Santa Rosa Hospital. This area has been transitioning from residential to resort commercial and office professional uses, making it an appropriate location for short term rentals. There is a single-family residence immediately adjacent to the subject property, owned by Liberty Partnership/Schlitterbahn.*);
- 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 impact 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 the 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 transition of this area from residential to commercial uses is consistent with the Future Land Use Plan designation of Commercial.*)

Special Use Permits may be granted to allow compatible and orderly development which may be suitable only if developed in a specific way or only for a limited period of time. The request should be evaluated on the extent to which the proposed use:

- is consistent with policies of the Comprehensive Plan;
- is consistent with the purpose and intent of zoning district regulations;
- meets all supplemental standards; and
- preserves the character and integrity of adjacent development and neighborhoods.

Supplemental standards for short term rentals are attached, and include:

- a Short Term Rental Permit and annual inspections are required, in addition to the Special Use Permit;
- a maximum of two (2) adults per sleeping area plus an additional four (4) adults per residence **(Existing house: three (3) sleeping areas plus four (4) additional adults = 10 adults; Cottage: three (3) sleeping areas plus four (4) additional adults = 10 adults; Maximum total of 20 adults, 17 years of age and over, on the 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 six (6) spaces with a maximum of seven (7) spaces provided)**;
- adherence to the City's adopted building code regarding life safety issues;
- compliance with City codes related to conduct on premises;
- signage in compliance with the current Sign Ordinance (unless approved through the SUP process); and
- required tenant information posted indoors and attached to the rental agreement.

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

Yes	City Plan/Council Priority: 2006 Comprehensive Plan <i>Pros and Cons Based on Policies Plan</i>	Pros: <i>Goal 1 Promote manageable growth to achieve a proper balance of economic expansion and environmental quality while maintaining the community's unique qualities.</i> Authorized short term rentals contribute to economic expansion through the collection of occupancy tax and visitor dollars spent within the community. Impacts are managed through the SUP and Short Term Rental Permit process. Objective 20D <i>Respond to changing market trends, consumer preferences, economic realities, and design technology relating to housing types and densities.</i> The approval of this SUP would be in keeping with the redevelopment trends and the resort commercial nature of the immediate area.
		Cons: Objective 20G: <i>Discourage incompatible land uses from abutting residential areas.</i> Overnight rentals have the potential to negatively impact neighboring residential properties. The ordinance standards for short term rentals attempt to mitigate these impacts.

FISCAL IMPACT:

Short Term Rentals are subject to the Hotel Occupancy Tax, currently at 13%.

COMMITTEE RECOMMENDATION:

The Planning Commission held a public hearing on January 3, 2017, and recommended approval of the requested SUP as presented with staff recommendations including paved parking along North Street. (9-0-0)

STAFF RECOMMENDATION:

Staff does not oppose the use of a residential structure for short term rentals at this location; however, we believe the potential for up to 20 adults at one time would overwhelm the small property. Therefore, Staff's recommendation for approval of the Type 2 SUP includes the following conditions:

1. **Occupancy.** Occupancy of the house is limited to ten (10) adults as allowed by ordinance. Occupancy of the cottage will be limited to four (4) adults for a total of 14 adults on the property.
2. **Units.** The cottage may be rented in conjunction with the existing house, or as a separate unit.
3. **Parking.** Provide a minimum of six (6) and maximum of seven (7) off-street parking spaces. The two new parking spaces on North Street must be paved in accordance with the Zoning Ordinance, with a concrete approach. If crushed granite is approved, the driveway approach must be constructed of concrete per City standards for residential driveways.
4. **Signage.** Total signage for the property will be limited to one attached sign as depicted in Attachment 2.
5. All exterior lighting, including the sign lighting, will conform to Section 5.3-3 of the Zoning Ordinance and meet the definition of "fully shielded."
6. No building additions, other than those shown on the approved site plan, and no changes to the approved site plan unless the SUP is amended through the rezoning process.
7. All supplemental standards for short term rentals in Section 5.17 that were not specifically

altered by the SUP will be observed, including obtaining a Short Term Rental Permit prior to operation.

Notification:

Public hearing notices were sent to 12 owners of property within 200 feet of the request. One response in favor (#11) and one in objection (#4) have been received.

ATTACHMENTS:

1. Aerial Map
2. Application & Proposal
3. Zoning & Land Use Maps
4. Notification & Responses
5. Photographs
6. Code Sections (3.3-7 C-1; 3.6 Special Use Permits; 5.17 Short Term Rental)
7. Draft Minutes
8. Ordinance