

## Legislation Text

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**File #:** 21-566, **Version:** 1

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**PRESENTER:**

Christopher J. Looney, AICP; Planning and Development Services Director

**SUBJECT:**

Approval of the second and final reading of an ordinance regarding a proposed rezoning to apply a Special Use Permit to allow residential use in the M-2 Heavy Industrial District and short term rental of a single-family residence on approximately 0.15 acres out of the AM Esnaurizar A-1 Survey No. 1, addressed at 747 Oasis Street.

**DEPARTMENT:** Planning and Development Services

**COUNCIL DISTRICTS IMPACTED:** Council District 5

**BACKGROUND INFORMATION:**

Applicant: Kathleen Lund  
256 Bristol Road  
Buda, TX 78610  
(512) 775-0152      freestylistkat@gmail.com

Owner: Holly Jaynes Gardner  
747 Oasis Street  
New Braunfels, TX 78130

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

**City Council held a public hearing on May 24, 2021 and unanimously approved the first reading of the applicant's requested rezoning ordinance (6-0-0 with Councilmember Hines absent).**

The subject property is located in the Old Mill neighborhood, just behind the Marketplace shopping center. The existing single-family residence was constructed in the late 1920s and the current zoning is M-2 Heavy Industrial. The applicant is requesting approval of a Special Use Permit (SUP) to allow short term rental (STR) of the property.

**Residential Use**

As a pre-1987 "cumulative" zoning district, residential uses were allowed in M-2 when this neighborhood was developed. In 2019, City Council approved amendments to the Zoning Ordinance removing residential as an allowed use in all industrial zoning districts. This action preserved land for industrial development and mitigated compatibility concerns for both residential and industrial property owners.

Existing residential uses in M-2 are now non-conforming, and City Council directed staff to facilitate the rezoning of such residential neighborhoods as appropriate. This will be accomplished on a large scale with

neighborhood-wide rezoning cases, potentially following sub-area, community or neighborhood plans adopted as part of implementing Envision New Braunfels our Comprehensive Plan. In the meantime, properties that want to pursue alterations, reconstruction, or expansion of use will be brought into compliance through the rezoning/SUP process at no application cost to the property owner.

### **Short Term Rental**

The house has three bedrooms and two bathrooms. Per the Zoning Ordinance, maximum occupancy of the STR is eight occupants and the minimum off-street parking requirement is three spaces. A site plan provided by the applicant indicates a driveway to accommodate at least three vehicles.

Historically, most homes in this neighborhood did not have actual driveways. The applicant will need to construct a new driveway to meet ordinance requirements, and those improvements will be reviewed and approved through the building permit process.

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

North - M-2/ Single-family residence

South - Across Oasis Street, M-2/ Commercial shopping center

East - M-2/ Single-family residence

West - M-2/ Single-family residence

### **ISSUE:**

With the addition of off-street parking, the proposed SUP meets all Zoning Ordinance requirements for a short-term rental, and is consistent with the following actions from Envision New Braunfels:

- Action 1.3: Encourage balanced and fiscally responsible land use patterns.
- Action 1.14: Ensure regulations do not unintentionally inhibit the provisions of a variety of flexible and innovative lodging options and attractions.
- Action 3.6: Pro-actively provide a regulatory environment that remains business and resident friendly.

The property is situated within the New Braunfels Sub-Area, in close proximity to Market and Employment Centers and the Recreational River Corridor.

The site is centrally located inside Loop 337, within a short drive to many visitor attractions, and in a transitional area around the Old Mill that contains a mix of residential and commercial uses. There are no other STR residences in the immediate area.

Short term rental standards in the Zoning Ordinance help to ensure proper measures are in place to protect public health, safety and neighboring properties, and preserve the neighborhood character and tranquility. If this SUP is approved, short-term rental registration and online payment of hotel occupancy taxes are also required.

### **FISCAL IMPACT:**

If approved, the property will be subject to local and state hotel occupancy tax (HOT).

### **RECOMMENDATION:**

#### **Commission Recommendation**

The Planning Commission held a public hearing on May 4, 2021 and voted to recommend approval (8-0-0) with Commissioner Gibson absent.

#### **Staff Recommendation**

Staff recommends approval with the following conditions:

1. Provide off-street parking for at least 3 vehicles in accordance with City standards.
2. The residential character of the property must be maintained.
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. Occupancy of the short term rental is limited to a maximum of 8 guests.
5. The applicant will register the short-term rental and create an account for online payment of hotel occupancy taxes.
6. All other standards of the Zoning Ordinance will also be met.

*Notification as required by state statute:*

Public hearing notices were sent to 14 owners of property within 200 feet of the request. To date, the City has received one response in favor (#13) and none in objection.

Resource Links:

- Chapter 144, Sec. 3.3-12 (M-2) of the City's Code of Ordinances:  
[https://library.municode.com/tx/new\\_braunfels/codes/code\\_of\\_ordinances?nodeId=PTIICOOR\\_C H144ZO\\_ARTIII\\_ZODI\\_S144-3.3\\_ZODIREPRZOPRJU221987](https://library.municode.com/tx/new_braunfels/codes/code_of_ordinances?nodeId=PTIICOOR_C H144ZO_ARTIII_ZODI_S144-3.3_ZODIREPRZOPRJU221987)
- Chapter 144, Sec. 3.6 (SUP) of the City's Code of Ordinances:  
[https://library.municode.com/tx/new\\_braunfels/codes/code\\_of\\_ordinances?nodeId=PTIICOOR\\_C H144ZO\\_ARTIII\\_ZODI\\_S144-3.6\\_SPUSPE](https://library.municode.com/tx/new_braunfels/codes/code_of_ordinances?nodeId=PTIICOOR_C H144ZO_ARTIII_ZODI_S144-3.6_SPUSPE)
- Chapter 144, Sec. 5.17 (Short-term Rental) of the City's Code of Ordinances:  
[https://library.municode.com/tx/new\\_braunfels/codes/code\\_of\\_ordinances?nodeId=PTIICOOR\\_C H144ZO\\_ARTVDEST\\_S144-5.17\\_SHTEREOC](https://library.municode.com/tx/new_braunfels/codes/code_of_ordinances?nodeId=PTIICOOR_C H144ZO_ARTVDEST_S144-5.17_SHTEREOC)

**Attachments:**

1. Aerial Map
2. Application, Site Plan and Floor Plan
3. Land Use Maps (Zoning, Existing, Future Land Use)
4. Notification & Response
5. Photograph
6. Ordinance