

## Legislation Text

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File #: 18-315, Version: 1

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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 the proposed rezoning to apply a Special Use Permit to allow the short-term rental of a single-family residence in the "C-3" Commercial District addressed at 481 East Torrey Street.

**BACKGROUND / RATIONALE:**

**Case No.:** PZ-18-009

**Council District:** 4

**Owner/Applicant:** Christina Booe  
1124 Brookwood Avenue  
Austin, TX 78721  
(512) 466-0362  
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**Staff Contact:** Holly Mullins, Sr. Planner  
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**City Council held a public hearing on May 29, 2018 and unanimously approved the first reading of the ordinance with staff recommendations. (6-0-0)**

The subject property is located on East Torrey Street near its intersection of Lakeview Boulevard. The property is approximately 7,250 square feet in area and contains a 1,285 square foot single-family residence built in 2004.

The "C-3" Commercial District zoning allows rental or occupancy for less than one month. However, the structure on the subject property is a single-family dwelling requiring approval of a Special Use Permit (SUP) to allow a Short-Term Rental. If the SUP is approved, an administrative Short-Term Rental Permit will also be required along with annual fire inspections.

The applicant indicates the dwelling has two sleeping areas (2 bedrooms) allowing for a maximum of 8 adults to occupy the residence per the adopted standards in the Zoning Ordinance. Minimum required off-street parking is one space per sleeping area (2), and the maximum parking is the number of sleeping areas plus one (3). The applicant's site plan indicates a single-vehicle carport and parking for two vehicles in the driveway, meeting the parking requirements.

Section 144-5.17(e) *Conduct on Premises* prohibits excessive noise or other disturbances between the hours of 10 p.m. and 8 a.m. The applicant is responsible for conveying this information, along with other standards, in the rental agreement and on a Tenant Notification sheet inside the dwelling unit. The New Braunfels Police Department recently responded to a noise complaint at the subject property, but no citation was issued. If the SUP is granted, violation of any standard in Section 144-5.7 is subject to a fine of \$500 to \$2,000 and possible initiation of procedures to revoke the SUP.

**General Information:**

Size: = 1,285 square feet (0.165 acre)

*Surrounding Zoning and Land Use:*

North - C-3 / Single-family residence

South - Across Torrey Street, C-3 / Agricultural (pasture)

East - C-3 / Office building

West - C-3 / Single-family residence

*Comprehensive Plan / Future Land Use Designation:* Commercial

*Floodplain:*

No portion of the property is located within the floodway or 100-year floodplain.

*Regional Transportation Plan:*

The subject property has frontage on Torrey Street, which is classified as a Minor Collector. Adequate right-of-way exists to meet the 60-foot width standard.

*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 C-3 in an area of mixed commercial and residential uses. The property is close to several attractions: 100 feet from a bar, one-half mile from Schlitterbahn, approximately 1,000 feet from the NBU Headwaters at the Comal project, and 1,500 feet from Christus Santa Rosa Hospital.*);
- 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 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 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. (*Short-term rental of the property is consistent with the Future Land Use designation of the subject site as Commercial.*)

Supplemental 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 **(two (2) sleeping areas plus four (4) additional adults allows for a maximum total of 8 adults)**;
- 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 two (2) spaces and a maximum of three (3) 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 quite hours, parking limitations and emergency information.

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

Yes	<p><b>City Plan/Council Priority:</b> 2006 Comprehensive Plan  <i>Pros and Cons Based on Policies Plan</i></p>	<p><b>Pros:</b> <b>Goal 1</b> <i>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 to neighbors are managed through the SUP and Short-Term Rental Permit process. Short-term rental can be viewed as a transition use between commercial uses and residences and can facilitate the upkeep of existing housing stock. <b>Goal 63: Objective B.</b> <i>Special zoning regulations and incentives should be created to promote retail, eating and drinking establishments, bed and breakfast, lodging and entertainment.</i> Approval of the SUP would provide lodging in close proximity to the hospital and several visitor attractions.</p>
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**FISCAL IMPACT:**

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

**COMMITTEE RECOMMENDATION:**

The Planning Commission held a public hearing on May 1, 2018 and recommended approval of the request with staff recommendations (6-1-0) with Commissioner Hoyt voting “No” and Commissioner Bearden absent.

**STAFF RECOMMENDATION:**

Staff recommends approval. The proposed use of the property will complement the mixed uses in the area and provide lodging in close proximity to destinations, while maintaining a residential appearance. The proposal also meets Objectives of the City's Comprehensive Plan. Staff's recommendation includes the following requirements:

1. The existing residential character and appearance of the building must be maintained.
2. 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.
3. Signage must be posted on the premises instructing guests to observe quiet time beginning at 10:00 p.m.

***Notification:***

Public hearing notices were sent to 10 owners of property within 200 feet of the request. The Planning Division received one response of no opposition, indicated as in favor (#10) and two in objection (#6, 7) representing 12% of the notification area.

**ATTACHMENTS:**

1. Aerial, Regional Transportation Plan Map
2. Application
3. Site Plan and Floor Plan
4. Land Use Maps (Zoning, Existing and Future Land Use)
5. Short Term Rental Vicinity Map
6. Notification Map and Responses
7. Photograph
8. Zoning Ordinance Excerpts:
  - Sec. 3.3-9 "C-3" Commercial District
  - Sec. 3.6 Special Use Permits
  - Sec. 5.17 Short Term Rentals
9. Draft Planning Commission Minutes
10. Ordinance