

## Legislation Details (With Text)

<b>File #:</b>	17-847	<b>Name:</b>	
<b>Type:</b>	Ordinance	<b>Status:</b>	Consent Item Ready
<b>File created:</b>	12/28/2017	<b>In control:</b>	City Council
<b>On agenda:</b>	1/22/2018	<b>Final action:</b>	
<b>Title:</b>	Approval of the second and final reading of an ordinance regarding the proposed rezoning request from "R-2" Single and Two-Family District to "C-1A" Neighborhood Business District with a Special Use Permit to allow a commercial contractor's office with outdoor storage on Lots 8 and 9, Seidels Subdivision, addressed at 1133 State Highway 46.		
<b>Sponsors:</b>			
<b>Indexes:</b>			
<b>Code sections:</b>			
<b>Attachments:</b>	1. Aerial, Regional Transportation Plan and Floodplain Map, 2. Application, 3. Zoning and Land Use Maps, 4. Notification list, map and response correspondence, 5. Photographs, 6. Sec. 3.4-12 "C-1A" Neighborhood Business District, 7. Sec. 3.6 Special Use Permits, 8. Draft Oct 4 Planning Commission minutes, 9. pz-17-039 ordinance final SUP		
Date	Ver.	Action By	Action
			Result

Presenter

*Christopher J. Looney, Planning & Community Development Director*  
*clooney@nbtexas.org*

**SUBJECT:**

Approval of the second and final reading of an ordinance regarding the proposed rezoning request from "R-2" Single and Two-Family District to "C-1A" Neighborhood Business District with a Special Use Permit to allow a commercial contractor's office with outdoor storage on Lots 8 and 9, Seidels Subdivision, addressed at 1133 State Highway 46.

**BACKGROUND / RATIONALE:**

**Case No.:** PZ-17-039

**Council District:** 2

**Owner/Applicant:** Justin Alcorn  
3410 Rosetti Dr.  
San Antonio, TX 78247  
(210) 319-8205

**Staff Contact:** Matt Greene, Planner  
(830) 221-4053  
mgreene@nbtexas.org

City Council held a public hearing on January 8, 2018 and unanimously approved the first reading of the ordinance with staff and Planning Commission recommendations including the paved storage and drive aisles, 8

-ft tall masonry buffer wall along 3 sides and associated site improvements; plus, the covered storage is to be enclosed on three sides with the open side facing SH 46; the fence between Ms. Freed and dentist will be repaired; the drainage easements shall be properly maintained or violations shall subject the SUP to revocation procedures; and, in accordance with the revised site plan presented at the January 8, 2018 City Council meeting (7-0-0).

The subject property is comprised of 2.26 acres situated on the east side of State Highway 46 South, approximately 75 feet south of the intersection of Stone Gate Drive. The property is currently zoned "R-2" Single and Two-Family District, is platted as Lots 8 and 9, Seidels Subdivision and improved with a one-story single-family dwelling.

The applicant is a masonry contractor and recently purchased the property intending to convert the existing residential building into an office for his business and utilize a portion of the rear yard for outdoor storage of business equipment and supplies. Improvements proposed by the applicant also include the addition of office space added to the existing structure and two new covered storage/parking structures; one of which would include a small attached maintenance shop.

The applicant is requesting a zoning change of the base district from R-2 to C-1A. Contractor's offices with **no** outside storage are allowed in the following zoning districts: C-1, C-2, C-3, C-4, M-1, M-2, MU-A, MU-B, C-1A, C-1B, C-2A, C-4A, C-4B, CO, M-1A and M-2A. Contractor's offices **with** outside storage are permitted by right only in the following districts: C-3, M-1, M-2, MU-B, C-2A, M-1A and M-2A; **or**, by approval of a Special Use Permit (SUP). The applicant is requesting an SUP in conjunction with C-1A in order to accommodate outside storage of equipment and materials.

New Braunfels has two types of SUPs: Type 1 regulates land use only and does not require a specific site plan or development schedule. Type 2 requires a site plan illustrating the arrangement of the project in detail, including parking facilities, locations of buildings, uses to be permitted, landscaping and means of egress and ingress. The applicant is requesting a Type 2 SUP illustrating the portion of the rear yard he is proposing to use for outdoor storage.

In addition to the proposed use of outside storage, the applicant's original SUP application included requests for deviations from the Zoning Ordinance to allow the existing 6-foot tall wooden privacy fences adjacent to the single and two-family residential lots to remain rather than construct a 6-foot to 8-foot tall masonry wall along the common property lines; and to allow base material to be utilized for the equipment and material storage area rather than paving it with concrete or asphalt. At the Planning Commission meeting on October 4, 2017, the applicant withdrew his requests for the code deviations and stated he would build the required masonry walls and pave the equipment and material storage area. He has also since submitted additional proposals that go beyond the code requirements, and has continued to be willing to comply with additional "conditions" requested by the Commission, City Council and adjacent residents in an effort to address his neighbor's concerns.

**General Information:**

Size: = 2.26 acres

**Surrounding Zoning and Land Use:**

North - R-2A / single family dwellings

South - Across S. Hwy 46, C-3 / undeveloped

East - R-3H / undeveloped

West - C-3 / dentist office, duplexes and undeveloped

**Comprehensive Plan/ Future Land Use Designation:**

Commercial

**Floodplain:**

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

**Regional Transportation Plan:**

The subject property is in compliance with the City's Regional Transportation Plan as State Highway 46 is identified as a 120-foot wide Principal Arterial and the current right-of-way width of State Highway 46 at the subject property location is 120 feet.

**Improvement(s):**

The subject property is improved with a one story single family home.

**Determination Factors:**

In making a decision on rezoning, 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 located along State Highway 46, a Principal Arterial, characterized by a mix of zoning districts; C-3, R-3H and R-2A. The applicant's proposed uses would be allowed by right on the adjacent C-3 properties. The proposed office use is compatible; the storage of equipment and materials could also be considered compatible but only **with the materials and equipment properly screened** and with the storage/parking area paved per adopted Code.)*
- 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 areas designated for similar development.)*
- Any other factors that will substantially affect the public health, safety, morals, or general welfare *(None so long as all development code requirements are met.)*
- Whether the request is consistent with the Comprehensive Plan. *(The proposed use is consistent with the Future Land Use Plan designation of the subject site as Commercial.)*

SUPs 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.

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

✓	No	<b>City Plan/Council Priority:</b> 2006 Comprehensive Plan <i>Pros and Cons Based on Policies Plan</i>	<b>Pros:</b> The proposed use is compatible with the Future Land Use Plan designation of the property as Commercial. <b>Goal 1C:</b> <i>Consider rezoning, as necessary, to ensure existing and future land use compatibility.</i> Rezoning of the property to C-1A will bring the property into conformance with the Future Land Use Plan. <b>Goal 1I:</b> <i>Industrial and commercial development should be planned and designed to avoid truck access through residential neighborhoods.</i> This property has direct access to State Highway 46 and will not require or have access through the residential neighborhood. <b>Cons:</b> Without proper screening, the proposed outside storage would have negative impacts on adjacent residences.
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**FISCAL IMPACT:**

N/A

**COMMITTEE RECOMMENDATION:**

At their October 4, 2017 meeting, the Planning Commission recommended approval of the applicant's request with staff recommendations plus a requirement that the residential buffer masonry

wall be 8 feet in height adjacent to the one- and two-family properties in order to protect the adjacent residential uses that may be at a higher grade. (4-1-0).

**STAFF RECOMMENDATION:**

Staff recommends approval of the base district rezoning as C-1A at this location is consistent with the Future Land Use Plan. Staff's recommendation of approval includes the most recently proposed SUP site plan, with:

- conditions originally recommended by staff related to paving and the masonry wall;
- recommendations made by the Planning Commission related to masonry wall height;
- additional revisions made by the applicant pursuant to requests by the adjacent residents and illustrated on the revised site plan related to extended masonry wall locations and site improvements; and
- additional conditions stipulated by the City Council at the first reading on January 8, 2018 related to covered storage walls, site improvements, drainage easement maintenance and revocation procedures triggers.

*Notification:*

Public hearing notices were sent to 17 owners of property within 200 feet of the request. The Planning and Community Development Department has received 1 response in favor and 1 response in opposition from number 6. Number 17 was originally in opposition, however with changes to the site plan proposed by the applicant, that neighbor reversed their opposition.

**ATTACHMENTS:**

1. Aerial, Regional Transportation Plan and Floodplain Map
2. Application
3. Zoning and Land Use Maps
4. Notification List, Map and Response Correspondence
5. Photographs
6. Sec. 3.4-12 "C-1A" Neighborhood Business District
7. Sec. 3.6 Special Use Permits
8. Draft Minutes for the October 4, 2017 Planning Commission Meeting
9. Ordinance