

## Legislation Details (With Text)

<b>File #:</b>	18-378	<b>Name:</b>	
<b>Type:</b>	Ordinance	<b>Status:</b>	Individual Item Ready
<b>File created:</b>	7/5/2018	<b>In control:</b>	City Council
<b>On agenda:</b>	7/23/2018	<b>Final action:</b>	
<b>Title:</b>	Public hearing and first reading of an ordinance regarding the proposed rezoning to apply a Special Use Permit to allow a dance hall with outdoor music in the "C-1" Local Business District on 4.43 acres, Lot 1D-R, Block 1, Walnut Heights Subdivision, Unit 1, which surrounds but does not include the property addressed as 731 N. Walnut Avenue.		

Sponsors:

Indexes:

Code sections:

**Attachments:** 1. Aerial and Regional Transportation Plan Map, 2. Application, 3. Predesign report with conceptual site plan, 4. Land Use Maps, 5. Notification List, Map and Responses, 6. Photos, 7. Zoning Ordinance Sections 3.3-7 and 3.6, 8. Planning Commission Meeting Draft Minutes, 9. Ordinance

Date	Ver.	Action By	Action	Result
7/23/2018	1	City Council		

Presenter

*Stacy Snell, Planning and Community Development Assistant Director*  
*ssnell@nbtexas.org*

**SUBJECT:**

Public hearing and first reading of an ordinance regarding the proposed rezoning to apply a Special Use Permit to allow a dance hall with outdoor music in the "C-1" Local Business District on 4.43 acres, Lot 1D-R, Block 1, Walnut Heights Subdivision, Unit 1, which surrounds but does not include the property addressed as 731 N. Walnut Avenue.

**BACKGROUND / RATIONALE:**

**Case No.:** PZ-18-017

**Council District:** 1

**Owner:** Henry-Walnut, Ltd.  
381 East Austin St.  
New Braunfels, TX 78130

**Applicant:** Gerald M. Boyd  
2400 E. Cesar Chaves, #302  
Austin TX, 78702

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

The subject property is located on the west side of N. Walnut Avenue, between Landa Street and Bavarian Drive, adjacent and south of the Missouri-Pacific Railroad right-of-way. The 4.43-acre property is zoned "C-1" Local Business District and is undeveloped.

The applicant is requesting approval of a Type 1 Special Use Permit (use only, a site plan is not tied to the SUP) that would allow for the property to be used as a dance hall/music venue with outdoor music. A predesign report (see Attachment 3) has been submitted that includes a conceptual layout with proposed improvements to the property. All improvements will be required to comply with City code requirements including, but not limited to: minimum number of parking spaces, building design standards, landscaping, tree preservation, setbacks and buffering.

The conceptual site plan indicates two proposed structures that contain flexible entertainment space with bars and restrooms. In addition, outdoor entertainment space consists of a stage area for music performances with space for yard games and a food court. A preliminary review of the conceptual site plan indicates the proposed number of parking spaces is insufficient and does not appear to account for the parking requirements for the outdoor entertainment space. Significant revision to the conceptual site plan is necessary to comply with minimum parking requirements. Additionally, the the predesign report does not address how the proposed project would address potential negative impacts from noise or lighting associated with the outdoor music venue.

### **General Information:**

*Size:* = 4.43 acres

### *Surrounding Zoning and Land Use:*

North - Across railroad right-of-way, R-3 / Laurel Plaza Multifamily housing and Comal Senior Center

South - C-1 & R-3 / Single-family residence, Bavarian Manor Apartments

East - Across Walnut Ave., M-1 / Brauntex Storage

West - M-1 / Liberty Partnership Ltd. (Industrial)

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

Commercial & Commercial/Industrial

### *Floodplain:*

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

### *Regional Transportation Plan:*

N. Walnut Avenue is designated as a Principal Arterial and has approximately 80 feet of right-of-way along the property frontage. No additional right-of-way dedication will be required with the proposed use of the property.

### *Traffic Analysis:*

A Traffic Impact Analysis (TIA) worksheet was not submitted with the Special Use Permit application. Information utilized in the review of a zone change request typically includes details on potential traffic generation, impact and the potential need for off-site roadway improvements. Traffic mitigation measures may be required with the review of any required traffic impact analysis (TIA) of the proposed use.

### *Improvement(s):*

None

**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-1 in an area of mixed uses along an arterial corridor - residential, multifamily, commercial and industrial uses are nearby. Allowing a dance hall with outdoor music would likely introduce an incompatible land use to the adjacent residential uses.);*
- 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 *(Allowing a dance hall with outdoor music would likely introduce an incompatible land use to adjacent uses and/or residents.);*
- Any other factors that will substantially affect the public health, safety, morals, or general welfare. *(The peak time traffic generation for a dance hall/live music venue could have a significant effect on surrounding residents and properties due to the vehicular capacity of Walnut Avenue. In addition, the use of live outdoor music could negatively impact the health and general welfare of the public in neighboring residential communities.);* and
- Whether the request is consistent with the Comprehensive Plan. *(The proposed use of the property is consistent with the Future Land Use designation of the subject site as Commercial & Commercial/Industrial. However, the proposed SUP to allow for a dance hall with outdoor music would not maintain land use compatibility with the adjacent residential properties and nearby neighborhoods.)*

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

✓	Yes	<b>City Plan/Council Priority:</b> <b>2006 Comprehensive Plan</b> <b>Pros and Cons Based on Policies Plan</b>	<b>Pros:</b> Objective 1A: <i>Evaluate proposed zone changes to maintain land use compatibility, as well as the integration of mixed land uses as a component of achieving better places to live.</i> The proposed SUP would provide an additional option for entertainment along a major corridor within the City. <b>Cons:</b> Objective 1A <i>Evaluate proposed zone changes to maintain land use compatibility, as well as the integration of mixed land uses as a component of achieving better places to live.</i> The proposed use has the potential to generate an amount of traffic and noise into a single-family and multifamily neighborhood that could disrupt the quality of life for residents. <b>Objective 20G:</b> <i>Discourage incompatible land uses from abutting residential areas.</i> The proposed use may negatively impact the use and enjoyment of surrounding residential properties. <b>C-1 Zoning District:</b> The proposed use is not consistent with the scale and intensity of other uses permitted by right in the zoning district.
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**FISCAL IMPACT:**

N/A

**COMMITTEE RECOMMENDATION:**

The Planning Commission held a public hearing on July 3, 2018 and unanimously recommended denial of the proposed rezoning (8-0-0), with Commissioner Tubb absent.

**STAFF RECOMMENDATION:**

Staff recommends denial of the proposed Type 1 Special Use Permit to allow a dance hall with outdoor music for this location due to the potential incompatibility of the proposed entertainment venue with surrounding residents and properties. Staff is unable to fully review all potential impacts of the proposed use without the benefit of traffic analysis and a clear understanding of the scale of the project in compliance with code requirements.

Should City Council be inclined to approve the request, Staff recommends the following conditions:

1. In accordance with Section 2.1 of the Zoning Ordinance, a traffic impact analysis worksheet be submitted prior to the second reading of the rezoning ordinance. If a full traffic impact analysis is required, it should be submitted and reviewed before an SUP proceeds to final approval.
2. A residential buffer with a masonry wall and shade trees in compliance with Section 5.3-2(h) be required along the entire northern and southern property boundaries.
3. Outdoor music must comply with the City's Noise Ordinance.
4. All required landscaping must be irrigated with an automatic underground system.

***Notification:***

Public hearing notices were sent to 11 owners of property within 200 feet of the request. The Planning Division has received one response in favor (#8) and five in opposition (#'s 1, 2, 5, 9 & 11) representing 34% of the notification area.

***Attachments:***

1. Aerial and Regional Transportation Plan Map
2. Application
3. Predesign report with conceptual site plan
4. Land Use Maps (Zoning, Existing and Future Land Use)
5. Notification List, Notification Map and Notification Responses
6. Photographs
7. Ordinances
  - Sec. 3.3-7 "C-1" Local Business District
  - Sec. 3.6 Special Use Permits
8. Planning Commission Meeting Draft Minutes
9. Ordinance