

## Legislation Details (With Text)

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<b>File #:</b>	19-448	<b>Name:</b>	
<b>Type:</b>	Ordinance	<b>Status:</b>	Individual Item Ready
<b>File created:</b>	6/14/2019	<b>In control:</b>	City Council
<b>On agenda:</b>	6/24/2019	<b>Final action:</b>	
<b>Title:</b>	Discuss and reconsider approval of the second and final reading of an ordinance regarding a proposed rezoning to amend a Special Use Permit to include a utility shed in the "C-2" Central Business District on Lot 32R, New City Block 2016, addressed at 468, 476, and 486 N. Market Avenue.		

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

**Attachments:** 1. Aerial Map, 2. Applicant Request Letter and Proposed Site Plan, 3. Land Use Maps, 4. Photographs, 5. Notification List, Map and Responses, 6. Section 3.6 Special Use Permits, 7. Planning Commission Meeting Draft Minutes, 8. Ordinance 2017-19, 9. Letter to neighbor and photos, 10. Ordinance

Date	Ver.	Action By	Action	Result
6/24/2019	1	City Council		

Presenter

*Wayne Peters, Mayor Pro Tem*  
*wpeters@nbtexas.org*

**SUBJECT:**

Discuss and reconsider approval of the second and final reading of an ordinance regarding a proposed rezoning to amend a Special Use Permit to include a utility shed in the "C-2" Central Business District on Lot 32R, New City Block 2016, addressed at 468, 476, and 486 N. Market Avenue.

**BACKGROUND / RATIONALE:**

This item has been placed on the agenda for reconsideration at the request of Mayor Pro Tem Peters.

**Reconsideration Procedure:**

At their regular meeting on June 10, 2019, City Council approved the second and final reading of this request with the condition that the fence issue be resolved between the neighbor and the applicant.

According to the Code of Ordinances, in order to reconsider the item:

1. Only a Councilmember who originally voted on the prevailing side of this item may make a motion to reconsider. The motion must have a second and be approved by a majority vote.

**2. After a motion to reconsider is passed, the City Council may reconsider the original item.**

**Section 2-38(d) of the Code of Ordinances states: “The motion to reconsider shall be used to reopen discussion for a vote on an item already acted upon. Reconsideration may only occur at the same meeting, or at the next meeting after the one at which the original action occurred. A motion to reconsider may only be made by a member who voted on the prevailing side of the original action. It requires a second, is not amendable, is debatable and requires a majority vote for adoption. The effect of the adoption of the motion to reconsider is immediately to place before the members again the item on which the vote was originally taken. Reconsideration of an item at a subsequent meeting requires the item to be placed on the agenda for that meeting.”**

**Case No.:** SUP19-071

**Council District:** 5

**Applicant/Owner:** Travis and Veronica Batey  
5645 SH 46 West  
New Braunfels, TX 78132  
(830) 708-1211  
tebatey@gvtc.com

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

**City Council held a public hearing on May 28, 2019 and approved the first reading of this requested rezoning with the recommended conditions, plus a stipulation that the applicant resolve the fence issue with the neighboring property and have the resolution in writing in the City Council Packet with the second reading.**

**A copy of the applicant’s letter to the adjacent property owner and related photographs are attached. The applicant states he has returned the fence back to its original condition.**

The 0.7 acre subject property is located on the northeast corner of the intersection of N. Market Avenue and Meusebach Street. A Special Use Permit (SUP) was granted by City Council in 2017 to allow for 10 residential structures to be used for short term rental on the subject site (see Attachment 8). Improvements have been made to the property in compliance with the site plan and conditions of the approved SUP except for the addition of a 140 square-foot utility structure.

The applicant is requesting approval of an amended SUP, as shown on the proposed site plan (see Attachment 3), to replace the site plan in the current SUP. The updated site plan adds a 140 square-foot utility structure to house plumbing equipment and a laundry room for the property. The 11-foot tall utility shed is setback approximately 6 feet from the property boundary to the southwest and approximately 9 feet from the property boundary to the southeast. A building permit for the structure was not applied for and is required to be approved to complete the proper inspections. No additional changes are proposed.

### **General Information:**

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

North - Across the railroad right-of-way and Meusebach Street, C-4 / Texas Tubes and River Run Condominiums

East - C-2 / Single-family residences, short term rental

South - Across N. Market Ave., C-2 / Chuck's Tubes and General Store

West - Intersection of N. Market Ave. and Meusebach St.

#### ***Floodplain:***

No portion of the property is located within the 1% chance (100-year) floodplain.

#### ***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 located in a C-2 District in a mixed use area of commercial and residential with short term rental use immediately adjacent (454 N. Market Ave.). The addition of the proposed utility shed should not impact the extent or intensity of the approved use on the property. The subject location is within close proximity to Downtown and the Comal River.*);
- 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 utility structure 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 (*No additional factors should cause negative impact with the proposed utility structure.*); and
- Whether the request is consistent with the Comprehensive Plan. (*The property is located within the New Braunfels Sub-Area and is near a Recreational River Corridor and Downtown.*)

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

<b>City Plan/Council Priority:</b> Envision New Braunfels Comprehensive Plan	<b>Action 1.14</b> Ensure regulations do not unintentionally inhibit the provision of a variety of flexible and innovative lodging options and attractions. <b>Action 3.3</b> Balance commercial centers with stable neighborhoods. <b>Action 3.6:</b> Proactively provide a regulatory environment that remains business and resident friendly.
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### **FISCAL IMPACT:**

Short term rental use of the property is subject to hotel occupancy tax (HOT). The property owner will be responsible for remitting these taxes to the City and the State. The addition of the 140 square foot utility structure does not impact the revenue.

### **COMMITTEE RECOMMENDATION:**

The Planning Commission held a public hearing on May 7, 2019 and recommended approval (7-1-0) with Chair Edwards absent and Commissioner Meyer opposed.

### **STAFF RECOMMENDATION:**

Staff recommends approval. The proposed revision to the site plan is a minor modification that will allow for suitable utility and laundry services on the property. Staff's recommendation includes maintaining the following conditions that were adopted in 2017 with the current SUP, plus one additional condition:

1. The property will be developed in accordance with the approved site plan prior to the issuance of a certificate of occupancy.
2. Residential buffer trees are not required to be planted along the access driveway property boundary. Otherwise, all residential buffer requirements for shade trees (Section 5.3-7) and fences and walls (Section 5.3-2) must be met.
3. All supplemental standards for short term rentals in Section 5.17 will be observed, including obtaining the administrative Short Term Rental Permit prior to operation.
4. Signage on the property is limited to a freestanding monument sign or a low profile sign as regulated in Chapter 106, Sign Ordinance.
5. *Occupancy*. The maximum number of persons allowed to reside in the Short Term Rentals is two (2) adults per Sleeping Area: **Maximum of 26 adults**.
6. *Parking*. Provide Thirteen (13) paved off-street parking spaces.
7. No building additions may be constructed, other than those shown on the approved site plan, and no changes may be made to the approved site plan unless the Special Use Permit is amended through the rezoning process.
8. A building permit will be obtained and completed for the accessory utility shed.

### **Notification:**

Public hearing notices were sent to 18 owners of property within 200 feet of the request. The City has received four responses (#8, 9, 10 & 17) in favor and one (#1) in objection of this proposed zoning change.

### **Attachments:**

1. Aerial Map
2. Applicant Request Letter and Proposed Site Plan
3. Land Use Maps (Zoning, Existing Land Use, Existing Centers, Future Land Use Plan)
4. Photographs
5. Notification List, Map and responses
6. Sec. 3.6 Special Use Permits
7. Planning Commission Meeting Draft Minutes
8. Ordinance No. 2017-19
9. Ordinance