

## Legislation Details (With Text)

<b>File #:</b>	21-231	<b>Name:</b>	
<b>Type:</b>	Ordinance	<b>Status:</b>	Individual Item Ready
<b>File created:</b>	2/26/2021	<b>In control:</b>	City Council
<b>On agenda:</b>	3/8/2021	<b>Final action:</b>	
<b>Title:</b>	Discuss and consider the reconsideration of a proposed ordinance to rezone approximately 68.05 acres out of the O. Russell Survey No. 2, Abstract No. 485, located at the northern corner of the intersection of Goodwin Lane and Orion Drive, from "APD" Agricultural/Pre-Development District to "R-1A-4" Single-Family Small Lot Residential and "R3-H" Multifamily High Density District.		

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

**Attachments:** 1. Aerial, 2. Land Use Maps, 3. 8 - Zoning Exhibit, 4. Notification List, Map and Responses, 5. Draft Minutes for Planning Commission, 6. Ordinance draft

Date	Ver.	Action By	Action	Result
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Presenter

*Jason Hurta, Councilmember*  
*[jhurta@nbtexas.org](mailto:jhurta@nbtexas.org)*

**SUBJECT:**

Discuss and consider the reconsideration of a proposed ordinance to rezone approximately 68.05 acres out of the O. Russell Survey No. 2, Abstract No. 485, located at the northern corner of the intersection of Goodwin Lane and Orion Drive, from "APD" Agricultural/Pre-Development District to "R-1A-4" Single-Family Small Lot Residential and "R3-H" Multifamily High Density District.

**BACKGROUND / RATIONALE:**

This item has been placed on the agenda for reconsideration at the request of Councilmember Hurta.

**Reconsideration Procedure:**

At their regular meeting on February 22, 2021, City Council denied the first reading of this requested rezoning (motion to approve failed 2-5).

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. If 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."

Chapter 211 of the Texas Local Government Code, § 211.006 requires notification of rezoning requests appear in a newspaper of general circulation, and §211.007 requires notification of rezoning requests be mailed to owners of property within 200 feet. This statute requires these notifications 16 days and 11 days respectively before the public hearing. If City Council votes to reconsider, the reconsideration of this rezoning request cannot occur until state-mandated notification requirements are met.

Therefore, if City Council votes to reconsider this rezoning request, the case will need to be postponed/continue to a future meeting to allow adequate time to meet the state-mandated notification requirements.

Case No.: PZ20-0329

Council District: 4

Applicant: James Ingalls, P.E.  
Moeller & Associates  
2021 SH 46W, Ste. 105  
New Braunfels, TX 78132  
(830) 358-7127  
plats@ma-tx.com

Owner: EB Industries  
Richard Byrd  
(251) 510-1118  
rbyrd@aspengroverrealty.com

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

The approximately 68-acre tract is located north of the intersection of Goodwin Lane and Orion Drive. It is up to approximately 1,200 feet wide and 3,000 feet deep, extending northwest with Orion Drive frontage to Nebel Street and Alster. The unimproved property is in agricultural production, a portion of which lies within the Alligator Creek floodplain. The applicant has indicated they are making this request to allow for a 520-unit residential development.

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

North - Alster, Wasser Ranch PD / Local street and railroad  
South - Across Goodwin Ln., Oak Creek Estates PD and ZH-A / Single family residences (Creekside Farms and Oak Creek Estates) and Alligator Creek  
East - Wasser Ranch PD / Single family residences and Alligator Creek  
West - Across Orion Drive, M-1A, MU-B and APD / Duplex residences and a planned manufactured home community.

***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 (*R-3H adjacent to this key intersection creates opportunities for encouraged housing variety and density which is generally compatible with the expanding neighborhood of residential use.*)
- Whether the change is in accord with any existing or proposed public schools, streets, water supply, sanitary sewers, and other utilities to the area (*CISD was sent notice of this*

request. The adequacy of public facilities and utilities to serve the property is evaluated by each provider at the platting and permitting stages.);

- How other areas designated for similar development will be affected (*The proposed zoning change should not impact other areas designated for similar development.*);
- Any other factors that will substantially affect the public health, safety, morals, or general welfare (*None identified. Drainage, utility and traffic impact issues will be reviewed and addressed through the platting process.*); and
- Whether the request is consistent with the Comprehensive Plan: *see below*

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

<b>City Plan/Council Priority:</b> Envision New Braunfels Comprehensive Plan	<b>Action 1.3:</b> Encourage balanced and fiscally responsible land use patterns. <b>Action 3.13:</b> Cultivate an environment where a healthy mix of different housing products at a range of sizes, affordability, densities, amenities and price points can be provided across the community as well as within individual developments. <b>Future Land Use Plan:</b> The property is situated in the Oak Creek Sub-Area near Existing Employment, Market and Education Centers.
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#### **FISCAL IMPACT:**

N/A

#### **COMMITTEE RECOMMENDATION:**

The Planning Commission held a public hearing on February 2, 2021 and recommended approval (9-0-0).

#### **STAFF RECOMMENDATION:**

Approval. The applicant's proposal to create a residential development with a variety of housing types is consistent with ongoing development in the area, which is transitioning from available industrial opportunities to residential. It is, therefore, supported by the Comprehensive Plan as noted above, as well as the Workforce Housing Study.

#### **Notification:**

Public hearing notices were sent to 26 owners of property within 200 feet. The City has received one response (# 16) in objection.

#### **RESOURCE LINKS:**

- Chapter 144, Section 3.4-1. "APD" Agricultural / Pre-Development District of the City's Code of Ordinances:

[https://library.municode.com/tx/new\\_braunfels/codes/code\\_of\\_ordinances?](https://library.municode.com/tx/new_braunfels/codes/code_of_ordinances?)

- Chapter 144, Section 3.4-2. "R-1A-4" Single-Family Small Lot Residential District of the City's Code of Ordinances:

[https://library.municode.com/tx/new\\_braunfels/codes/code\\_of\\_ordinances?](https://library.municode.com/tx/new_braunfels/codes/code_of_ordinances?)

Chapter 144, Section 3.4-5. "R-3H" Multifamily High Density District of the City's Code of Ordinances:

[https://library.municode.com/tx/new\\_braunfels/codes/code\\_of\\_ordinances?](https://library.municode.com/tx/new_braunfels/codes/code_of_ordinances?)

**ATTACHMENTS:**

1. Aerial Map
2. Land Use Maps (Zoning, Existing Land Use, Future Land Use Plan)
3. Proposed Zoning Exhibit
4. Notification List, Map and Responses
5. Excerpt of Minutes from the February 2, 2021 Planning Commission Meeting
6. Draft of Ordinance