

Legislation Details (With Text)

File #:	21-460	Name:	
Type:	Ordinance	Status:	Consent Item Ready
File created:	4/27/2021	In control:	City Council
On agenda:	5/10/2021	Final action:	
Title:	Approval of the second and final reading of an ordinance regarding a proposed rezoning to apply a Special Use Permit to allow multifamily residential use - up to 24 units per acre - in the "C-1A" Neighborhood Business District on approximately 10 acres out of the A. P. Fuquay Survey No. 35, Abstract No. 155, Comal County, Texas, located at the northwest corner of the intersection of E. Common Street and Old FM 306.		

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

Attachments: 1. Aerial Map, 2. Land Use Maps (Zoning Existing and Future Land Use), 3. TIA Worksheet, 4. R-3H District and Proposed SUP Development Standards Comparison Table, 5. Notification List, Map and Responses_4-7-21, 6. Ordinance

Date	Ver.	Action By	Action	Result
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PRESENTER:

Christopher J. Looney, AICP, Planning and Development Services Director

SUBJECT:

Approval of the second and final reading of an ordinance regarding a proposed rezoning to apply a Special Use Permit to allow multifamily residential use - up to 24 units per acre - in the "C-1A" Neighborhood Business District on approximately 10 acres out of the A. P. Fuquay Survey No. 35, Abstract No. 155, Comal County, Texas, located at the northwest corner of the intersection of E. Common Street and Old FM 306.

DEPARTMENT: Planning and Development Services

COUNCIL DISTRICTS IMPACTED: Council District 4

BACKGROUND INFORMATION:

Applicant: MNO Partners (David Morin)
2028 E. Ben White Blvd., 240-4700
Austin, TX 78741
(210) 3030-7858 david@mnoinvestments.com

Owner: Noland and Vera Koepp, Ltd. Partnership
2755 Hunter Rd.
New Braunfels, TX 78132
(830) 608-4658 debbie@fapcollc.com

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

City Council held a public hearing on April 26, 2021 and unanimously approved the first reading of the applicant's requested rezoning to add an SUP overlay (7-0-0) with the following conditions as presented:

1. Minimum 100-foot setback for 3 story buildings
2. 3 story buildings max height of 45 feet; 2 story buildings max height of 35 feet
3. 10-foot tall masonry residential buffer fence required
4. Clearwater Drive will not be extended to Common Street
5. Dumpsters will be at least 50 feet from adjacent single-family residential properties
6. Will provide 105% of the required storm water storage capacity
7. Will follow the Zoning Ordinance's requirements for lighting

The subject approximate 10-acre ag tract is situated on the northwest corner of the intersection of East Common Street and Old FM 306, bordering two single-family detached residential neighborhoods. The applicant is requesting approval of a Type 2 Special Use Permit (SUP) to allow development of multifamily residential at up to 24 units per acre with a general site plan and development standards of the "R-3H" Multifamily High Density Residential District. As the base C-1A zoning would remain, non-residential uses would also continue to be allowed on the site.

The applicant indicated they have held multiple meetings and had door-to-door contact with neighbors to discuss their proposal in an effort to alleviate many concerns and opposition. The applicant has made modifications to the SUP request in an attempt to satisfy neighborhood concerns and requests as described below:

- Increased setback for 3-story buildings: The SUP proposes a minimum setback of 100 feet from any adjacent property used or zoned for single or two-family use for portions of buildings within the multifamily development that are 3 stories in height, whereas the R-3H District only requires a minimum 20-foot setback plus an additional foot for each foot of building height over 20 feet.
- Additional height restrictions: Three-story units will not exceed 45 feet in height and two-story units will not exceed 35 feet in height, including the roof lines. The R-3H District permits a maximum building height of 45 feet or 60 feet when a pitched roof is used (minimum 4:12).
- A taller masonry residential buffer wall: The SUP proposes a 10-foot tall CMU buffer wall between the multifamily property and adjacent single and two-family residential properties, whereas the Zoning Ordinance requires only a 6-foot to 8-foot tall masonry wall. The buffer wall will be constructed before framing of any buildings commence and will be required to be designed to comply with sight distance and visibility standards at the intersection of East Common Street and Gruene Vineyard Crossing.
- No extension of Clearwater Drive to East Common Street: The SUP proposes an easement for emergency vehicular and pedestrian access only from the terminus of Clearwater Drive, whereas the Subdivision Platting Ordinance would require the extension of Clearwater Drive, whether it be a cul-de-sac or through street, if the property were to be subdivided into more than one lot. Some of the neighbors have voiced their concern about through-traffic going to or coming from Gruene should there be a public right-of-way extension of Clearwater Drive to East Common Street.
- Dumpster locations: Dumpsters will be required to be placed a minimum of 50 feet away from any

single-family residential properties.

- Storm water/drainage: Storm water mitigation will be provided on the site in accordance to the City of New Braunfels Drainage and Erosion Control Design Manual. The site will provide 105% of the required storm water storage capacity for any required storm water detention. Storm water detention will be provided above ground, below ground, or in any other acceptable form as required by the City of New Braunfels.

Surrounding Zoning and Land Use:

North - R-1 & R-2 / Single-family residential neighborhood and duplexes

South - Across E. Common St., C-1 & M-1 with an SUP for multifamily
development up to 24 units per acre / Agricultural

East - Across Old FM 306, C-1 & C-1B / Church

West - ZH-A and across Gruene Vineyard Crossing, "Vineyard at Gruene"
Planned Development District / Single-family neighborhood

ISSUE:

The proposed SUP for multifamily residential use up to 24 units per acre is consistent with the following actions in Envision New Braunfels:

Action 1.3: Encourage balanced and fiscally responsible land use patterns.

Action 3.1: Plan for healthy jobs/housing balance.

The proposed SUP is inconsistent with the following actions in Envision New Braunfels:

Action 3.18: Encourage multifamily to disperse throughout the community rather than to congregate in masse.

Action 7.10: Require more street connectivity/adopt connectivity ratios.

The property lies within the New Braunfels Sub Area near Existing Employment, Market, Tourist/Entertainment and Education Centers and in the vicinity of proposed Future Market Centers along a Transitional Mixed-Use Corridor.

FISCAL IMPACT:

N/A

RECOMMENDATION:

The Planning Commission held a public hearing on April 6, 2021 and unanimously recommended approval with the applicant's proposed standards, staff recommended conditions, plus a condition that the applicant provide proposed low lighting metrics prior to City Council consideration. (Commissioners Sonier, Tubb and Mathis were absent). The applicant has indicated they will meet current lighting restrictions of the Zoning Ordinance and will provide a photometric plan with the building permit application.

The proposed multifamily use is consistent with the mixture of zoning districts and residential and commercial uses in the area and has direct access to Common Street, a Principal Arterial, which is the type of roadway classification where multifamily use is intended to be located. The applicant's SUP request also includes more restrictive development standards than the City's multifamily zoning districts that will add additional buffering between the adjacent neighborhoods. Therefore, staff recommends approval with the following conditions:

1. Development of the site for multifamily use must comply with the development standards of the "R-3H" Multifamily High-Density District, if a particular development standard is not specifically addressed in the development standards of the Special Use Permit.

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.

Staff notes the driveway locations on the proposed Special Use Permit site plan are approximate. Final driveway locations will comply with Chapter 114 of the City of New Braunfels Code of Ordinances.

In addition, the applicant is proposing storm water mitigation be designed at 105% of the required storm water storage capacity for any required storm water detention. Staff supports this proposed development standard for the Special Use Permit as this condition was negotiated between the developer and neighbors and is a standard that can easily be reviewed and enforced by city staff. This proposed element of the Special Use Permit has been incorporated into Section 2 of the attached draft of the ordinance.

Notification:

Public hearing notices were sent to 46 owners of property within 200 feet of the request. Staff has received 11 responses in favor from numbers 3, 9, 12, 14, 16, 18, 19, 20, 26, 39 and 43 (some of which responded with conditions of approval) and 2 additional responses in favor from outside the notification area; 17 responses have been submitted in opposition from numbers 4, 6, 21, 22, 23, 25, 27, 28, 32, 33, 35, 36, 37, 38, 40, 42 and 44, with an additional 47 objections received from outside the 200-foot notification area, and two neutral responses from #7 and #34.

Resource Links:

Chapter 144, Sec. 3.4-12 “C-1A” Neighborhood Business District of the City’s Code of Ordinances:

[<https://library.municode.com/tx/new_braunfels/codes/code_of_ordinances?nodeId=PTIICOOR_CH144ZO_ARTIIIZODI_S144-3.3ZODIREPRZOPRJU221987>](https://library.municode.com/tx/new_braunfels/codes/code_of_ordinances?nodeId=PTIICOOR_CH144ZO_ARTIIIZODI_S144-3.3ZODIREPRZOPRJU221987)

Chapter 144, Sec. 3.6 Special Use Permits of the City’s Code of Ordinances:

[<https://library.municode.com/tx/new_braunfels/codes/code_of_ordinances?nodeId=PTIICOOR_CH144ZO_ARTIIIZODI_S144-3.3ZODIREPRZOPRJU221987>](https://library.municode.com/tx/new_braunfels/codes/code_of_ordinances?nodeId=PTIICOOR_CH144ZO_ARTIIIZODI_S144-3.3ZODIREPRZOPRJU221987)

Chapter 144, Secs. 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?nodeId=PTIICOOR_CH144ZO_ARTIIIZODI_S144-3.4ZODIREPRZOSUJU221987>](https://library.municode.com/tx/new_braunfels/codes/code_of_ordinances?nodeId=PTIICOOR_CH144ZO_ARTIIIZODI_S144-3.4ZODIREPRZOSUJU221987)

Attachments:

1. Aerial Map
2. Land Use Maps (Zoning, Existing and Future Land Use)
3. TIA Worksheet
4. R-3H District and Proposed SUP Development Standards Comparison Table
5. Notification List, Map and Responses
6. Excerpt of minutes from the April 6, 2021 Planning Commission Regular Meeting
7. Ordinance