

## Legislation Details (With Text)

<b>File #:</b>	21-949	<b>Name:</b>	
<b>Type:</b>	Recommendation	<b>Status:</b>	Individual Item Ready
<b>File created:</b>	9/15/2021	<b>In control:</b>	Planning Commission
<b>On agenda:</b>	10/6/2021	<b>Final action:</b>	
<b>Title:</b>	SUP21-316 Public hearing and recommendation to City Council regarding a proposed zone change to apply a Special Use Permit to allow multifamily residential use in the "APD" Agricultural/Pre-Development District, on approximately 18 acres out of the John Thompson Survey No. 21, Abstract No. 608, Comal County, Texas, addressed at 441 Ron Road.		
<b>Sponsors:</b>			
<b>Indexes:</b>			
<b>Code sections:</b>			
<b>Attachments:</b>	1. Aerial Map, 2. Land Use maps (Zoning, Existing and Future Land Use), 3. Applicant's Request Summary, 4. Proposed Site Plan, 5. Proposed Drive Aisle Exhibit, 6. Proposed Sign Plan, 7. Proposed Perimeter Fencing Plan, 8. Code Comparison Table, 9. TIA Worksheet, 10. Notification List and Map, 11. Photographs		

Date	Ver.	Action By	Action	Result
------	------	-----------	--------	--------

**PRESENTER:**

Applicant: Aspen Heights Partners (T. C. Selman)

Owner: Crystal Kindred

**SUBJECT:**

SUP21-316 Public hearing and recommendation to City Council regarding a proposed zone change to apply a Special Use Permit to allow multifamily residential use in the "APD" Agricultural/Pre-Development District, on approximately 18 acres out of the John Thompson Survey No. 21, Abstract No. 608, Comal County, Texas, addressed at 441 Ron Road.

**DEPARTMENT:** Planning and Development Services**COUNCIL DISTRICTS IMPACTED:** Council District 1**BACKGROUND INFORMATION:**

Applicant: Aspen Heights Partners (T. C. Selman)  
1301 S. Capital of Texas Hwy  
Suite B-201  
Austin, TX 78746  
(512) 670-8577      tselman@ahpliving.com

Owner: Crystal Kindred  
6620 Harold Rd.

Waelder, TX 78959  
(8300 839-4332      ckindred0607@gmail.com

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

The subject property consists of approximately 18 acres located at the southeast corner of the intersection of Morningside Drive and Ron Road adjacent to the Humane Society of the New Braunfels Area and is zoned APD with a single-family residence and agricultural use.

The applicant is requesting approval of a Type 2 Special Use Permit (SUP) to allow development of a multifamily residential project with a general site plan with customized development standards mostly consistent with those of the “R-3L” Multifamily Low Density District, yet reflecting the overall style of a single family residential neighborhood. The Zoning Ordinance defines multifamily as “a building or portion thereof, arranged, intended, or designed for occupancy by three or more families, being separate quarters and living independently of each other. Multifamily also means three or more dwelling units on a single lot or parcel, whether attached or detached”. As the APD zoning would remain, APD uses would also continue to be allowed on the site.

The applicant’s “multifamily” project is proposed to be developed with individual detached residential dwelling units at a maximum density of 5.5 units per acre. The applicant is requesting an SUP in lieu of requesting a change in the base zoning district to allow them to create development standards that will result in a development whose style and density is intended to resemble a single-family residential neighborhood.

The proposed neighborhood will include amenities and look like private streets with sidewalks one side. There will be two points of access, one on Morningside Drive and one on Ron Road. Amenities will include an amenity center with a swimming pool, a playground, and internal trails. Parking will be provided in the garages, driveways and on one side of the drive aisles as well as in front of the amenity center. Six-foot wide public sidewalks will be constructed adjacent to Morningside Drive and Ron Road and a 5-foot wide private sidewalk will be constructed internal to the development along one side of each drive aisle, opposite the side with parking. Each residential unit will have a fenced in rear yard area. The development will be owned and maintained by a single entity.

The applicant is proposing the following additional restrictions for the development that are more stringent than the requirements of the R-3L District:

- Maximum Density
  - APD District: 2.9 units per acre
  - R-3L District: 12 units per acre
  - Proposed SUP: 5.5 units per acre.
  
- Non-Residential and Multifamily Design Standards

The section of the City’s Zoning Ordinance referencing building façade requirements is temporarily

suspended due to State Legislative actions regarding the regulation of building façade materials. The requirement in the Zoning Ordinance calls for a minimum of 80% of the vertical walls of all buildings to be finished in one or more of the approved primary materials listed in the ordinance. The applicant is proposing the façade of this development require 100% horizontally installed or board and batten cement-based siding on all units, with cedar being limited to accent features.

The applicant is also proposing additional requirements for garages including door treatments, orientation, and percentage of the building's front façade. The applicant proposes limiting repetitive building design and elements by providing 12 different building elevation designs which will be placed so that identical elevations are not adjacent to each other or directly across the drive aisle from one another. Additionally, each building will also be required to have a functional porch. The City can enforce the style and features of the residences, but the materials and method of application cannot be enforced currently even through the SUP process per the change in state code.

Perimeter fences and walls are not required to be constructed with multifamily development except where adjacent to properties zoned or used for single or two-family residential use. This project proposes fencing around the perimeter that will be constructed of wrought iron, steel or aluminum, cedar boards, treated wood or metal posts, treated rails with dry stacked stone columns.

The creation of applicable standards is necessary because the development, which will occur on one legal lot, is styled to appear as a standard single family development typically situated on individual legal lots. The applicant's request is to follow the R-3L standards in these areas:

- The distance between structures

The Zoning Ordinance requires a minimum setback of 30 feet between multifamily structures oriented side by front or rear. The applicant is proposing a minimum setback of 15 feet since the development is being constructed with detached dwelling units to resemble a single-family residential neighborhood where the minimum setback between structures is only 10 feet.

The proposed separation would be more consistent with development in single-family residential zoned neighborhoods and would meet Fire Code separation requirements.

- Parking

Parking spaces for multifamily development are to be delineated by painted stripes. The applicant is proposing parking spaces more characteristic with single family dwellings located in garages and driveways with additional parking on one side of the drive aisles, similar to "on street parking" in typical neighborhoods. Parking spaces in front of the amenity center will be striped according to code for parking lots.

The proposed parking is consistent with the appearance and functionality of a single-family residential neighborhood. The two travel lanes within the drive aisles will function as fire lanes and provide appropriate access for solid waste to provide service.

- Residential Buffer Wall

The City's Zoning Ordinance requires multifamily development to construct a solid masonry wall 6' to 8' in height along the common property line shared with any adjacent property zoned or utilized for single or two-family residential use. Although the adjacent property to the south is zoned APD, with a Special Use Permit allowing operation of a kennel facility, there is a single-family residence on the property which requires the masonry wall be constructed along the common property line of the proposed multifamily development. The applicant intends to submit a Residential Buffer Wall Objection Application for administrative approval with consent of the adjacent property owner for the use of a cedar plank fence rather than a masonry wall, to provide consistency with the remainder of the perimeter fencing.

The applicant is requesting the following deviation from the Sign Ordinance to allow a larger sign than is permitted in the APD District:

- Signage

In the APD District, the City's Sign Ordinance allows one 8-foot tall, 32 square foot monument sign or one 6-foot tall, 20 square foot pole sign per 300 linear feet of street frontage. The subject property is eligible for 2 free-standing signs adjacent to Morningside Drive and 3 free-standing signs adjacent to Ron Road. The applicant is proposing the installation of 1 sign at the entrance on Morningside Drive that is an 8-foot tall arbor style structure with an 48 square foot sign hanging from it (16 square feet; or, 66% larger than permitted by code). Since the sign face is suspended from two poles it is considered a pole sign.

Staff is not opposed to the proposed sign as the sign is appropriately scaled with the proposed development, the permissible number of signs is reduced from 5 to 1 and the permissible sign area is reduced by a total of 112 square feet..

## ISSUE:

The proposed SUP for multifamily residential use consisting of free-standing dwelling units with a maximum density of up to 5.5 units per acre (maximum of 99 dwelling units) 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.

Action 3.13: 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.

Action 3.15: Incentivize home development that is affordable and close to schools, jobs and transportation.

Action 3.18: Encourage multifamily to disperse throughout the community rather than to congregate en masse.  
Action 4.1: Ensure parks and green spaces are within a one mile walk or bicycle ride for every household in New Braunfels.

The subject property lies within the Walnut Springs Sub Area near existing Employment, Civic and Outdoor Recreation Centers and in close proximity to future Employment, Market and Civic Centers.

**FISCAL IMPACT:**

N/A

**RECOMMENDATION:**

Staff recommends approval of the SUP request with the conditions outlined below. The proposed development resembles a single-family residential neighborhood that is consistent with the residential development in the area and has access to a Major Collector (Morningside Drive). The proposed development standards and deviations from the buffer wall and sign standards are consistent with development standards and appearance of this style of a single-family residential neighborhood.

1. Recommended conditions:
2. An automatic exemption from the residential masonry wall buffer requirement is not granted with this Special Use Permit. The applicant and adjacent property owner must submit the residential Buffer Wall Objection Application for administrative approval if an alternative fence or wall is desired to be constructed adjacent to the residential property line to the south.
3. Development of the site is in compliance with the attached site plan development standards, drive aisle exhibit, perimeter fencing plan and sign plan. Any significant alterations to the attached documents will require an amendment to the SUP with a recommendation from the Planning Commission and approval by the City Council.

*Notification:*

Public hearing notices were sent to 18 owners of property within 200 feet of the request. Staff has received no responses at this time.

*Resource Links:*

- Chapter 144, Sec. 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?_ga=2.182111111.162111111.162111111-162111111.162111111)

- Chapter 144, Sec. 3.4-4 “R-3L” Multifamily Low 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?_ga=2.182111111.162111111.162111111-162111111.162111111)

- 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?](https://library.municode.com/tx/new_braunfels/codes/code_of_ordinances?_ga=2.182111111.162111111.162111111-162111111.162111111)

- Chapter 106-14(a) Permanent On-Premises Sign Regulations 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?_ga=2.182111111.162111111.162111111-162111111.162111111)

*Attachments:*

- Aerial Map
- Land Use Maps (Zoning, Existing and Future Land Use)
- Applicant's Request Summary
- Proposed Site Plan
- Proposed Drive Aisle Plan
- Proposed Sign Plan
- Proposed Perimeter Fencing Plan
- Proposed Code Modification Table
- TIA Worksheet
- Notification List and Map
- Photographs