

Legislation Details (With Text)

File #:	22-776	Name:	
Type:	Ordinance	Status:	Passed
File created:	6/24/2022	In control:	City Council
On agenda:	7/11/2022	Final action:	7/11/2022
Title:	Approval of the second and final reading of an ordinance regarding the proposed rezoning from "R-2" Single and Two-Family District to "M-2A" Heavy Industrial District with a Special Use to allow outdoor music adjacent to residential zoning and land uses on approximately 7.74 acres out of the J M Veramendi Survey No. 1, Abstract No. 2, addressed at 624 Krueger Canyon.		

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

Attachments: 1. City Maps, 2. District Comparison Table, 3. TIA Form & Determination Letter, 4. Subject Property Photo, 5. Notification Map, List, and Responses, 6. PC Draft Minutes, 7. Draft Ordinance

Date	Ver.	Action By	Action	Result
7/11/2022	1	City Council	approved	Pass

PRESENTER:

Jean Drew, AICP, CNU-A, Planning and Development Services Assistant Director

SUBJECT:

Approval of the second and final reading of an ordinance regarding the proposed rezoning from "R-2" Single and Two-Family District to "M-2A" Heavy Industrial District with a Special Use to allow outdoor music adjacent to residential zoning and land uses on approximately 7.74 acres out of the J M Veramendi Survey No. 1, Abstract No. 2, addressed at 624 Krueger Canyon.

DEPARTMENT: Planning and Development Services

COUNCIL DISTRICTS IMPACTED: Council District 1

BACKGROUND INFORMATION:

Case No.: SUP22-0172

Applicant/Owner: Walter and Robin Golden
5713 Comal Vista
New Braunfels, TX 78130
(863) 370-1587 | robinegolden@aol.com

Staff Contact: Maddison O'Kelley
(830) 221-4056 | mokedley@nbtexas.org

City Council held a public hearing on June 27, 2022 and unanimously approved with conditions the first reading of the ordinance for the applicant's requested rezoning (7-0-0).

The subject property is located on Krueger Canyon, approximately 0.25 of a mile southwest of the Cemex

cement plant and 0.65 of a mile north of Interstate 35. The property is partially within the city limits with a zoning of “R-2” Single-Family and Two-Family District. The portion of the property within the city limits is vacant and there are multiple agriculture buildings in the portion of the property situated outside the city limits.

The applicant intends to develop the property for outdoor recreation/amusement use with athletic courts and an outdoor stage. The applicant is requesting to rezone approximately 7.74 acres of the property from R-2 to M-2A (Heavy Industrial District) with an SUP to allow outdoor music. Although “Amusement services or venues (outdoors)” is an allowed land use in M-2A, section 5.3-4 of the zoning ordinance states “where a non-residential building or a multifamily development is adjacent to residential uses or residential zoning outside music is prohibited.” The subject property is adjacent to 2 properties zoned R-2, and the property to the north has a house approximately 400 feet north of the property line.

If the SUP is approved:

1. The City’s Code Compliance Division may be called to address compliance with the conditions of the SUP, and
2. The City’s Police Department may be called to address any noise complaints associated with violations of Section 82-9 (Noise Ordinance) of the City’s Code of Ordinances.

Surrounding Zoning and Land Use:

North - R-2 / Single-Family Dwelling
South - R-2 / Undeveloped, sheds and carport
East - ETJ / Undeveloped
West - Across Krueger Canyon ETJ / Construction Supply and Services (Angel Brothers)

ISSUE:

The proposed rezoning and SUP for outdoor music adjacent to residential zoning/land use meets all Zoning Ordinance requirements, and are consistent with the following actions from Envision New Braunfels:

- Action 1.3: Encourage balanced and fiscally responsible land use patterns.
- Action 1.8 Concentrate future investment in industrial and employment centers near existing and emerging hubs, such as the airport; and along existing high-capacity transportation networks, such as Interstate Highway 35.
- Action 3.21 Enhance local recreational venues.

Future Land Use: The property is situated within the Oak Creek Sub-Area, a transitional mixed-use corridor, and is in close proximity to Future Civic and Employment Centers.

Most of the properties on Krueger Canyon are outside the city limits within the ETJ where there are no land use regulations, zoning, or development standards. Most of the 5-acre plus tracts are not developed, in an area of heavy industrial use (quarry) and near the UPRR tracks. Additionally, the tracts in the immediate vicinity of the subject property are situated within the floodway or 100-year floodplain. Based upon these conditions, it is unlikely the area will be redeveloped for residential use.

FISCAL IMPACT:

None.

RECOMMENDATION:

Approval. M-2A at this location would be in accordance with Envision New Braunfels and is compatible with the development and redevelopment occurring in the immediate area. Staff’s recommendation of approval of the SUP includes the following conditions based upon existing development standards:

1. The maximum permissible decibel level for the projections of music is 85 decibels between the hours of 10:00 AM and 10:00 PM and a maximum of 75 decibels at all other times outdoor music is permitted to be played.
2. The residential buffer including one 1-1/2" caliper tree planted for every 25 linear feet and a minimum 6-foot to 8-foot tall masonry wall must be constructed the length of the common property line to both of the residentially zoned lots to the north and south. The applicant may pursue wall exemption authorization from the adjacent property owners pursuant to allowances in the Zoning Ordinance.

The Planning Commission held a public hearing on June 7, 2022, and unanimously recommended approval. (9-0-0)

Mailed notification pursuant to state statute:

Public hearing notices were sent to 3 owners of property within 200 feet of the request. To date, the city has received two responses in opposition (#2 and 3) and none in favor. **Opposition represents more than 20% of the notification area. Pursuant to state statute, a ¾ majority of City Council (6 votes) will be required to approve the applicant's request unless that opposition changes.**

Resource Links:

- Chapter 144, Sec. 3.3-2 (R-2) of the City's Code of Ordinances:
https://library.municode.com/tx/new_braunfels/codes/code_of_ordinances?
- Chapter 144, Sec. 3.4-19 (M-2A) of the City's Code of Ordinances:
https://library.municode.com/tx/new_braunfels/codes/code_of_ordinances?
- Chapter 144, Sec. 3.6 (SUP) of the City's Code of Ordinances:
https://library.municode.com/tx/new_braunfels/codes/code_of_ordinances?
- Chapter 144, Sec. 5.3-4 (Outdoor Music) of the City's Code of Ordinances:
https://library.municode.com/tx/new_braunfels/codes/code_of_ordinances?