

Legislation Text

File #: 17-114, Version: 1

Presenter

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SUBJECT:

Approval of the second and final reading of an ordinance regarding a rezoning to apply a Special Use Permit to allow short term rental of two residences and up to eight residential cabins in the "C-2" Central Business District on approximately 0.72 acres out of Lots 32 - 35, New City Block 2016, addressed at 468, 476, and 486 N. Market Avenue.

BACKGROUND / RATIONALE:

Case No.: PZ-16-061

Council District: 5

Owner/Applicant: Travis and Veronica Batey
5645 SH 46 West
New Braunfels, TX 78132
(830) 708-1211

Staff Contact: Matthew Simmont, Planner
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City Council held a public hearing on January 23, 2017, and unanimously approved the first reading of this proposed rezoning ordinance.

The subject property consists of two tracts located on the northeast corner of the intersection of N. Market Avenue and Meusebach Street and is zoned "C-2" Central Business District. There are currently two single-family dwellings located on the front tract; a 1,560 square-foot single-family residential structure built in 1913 and addressed at 476 N. Market Ave., and an 800 square-foot single-family residential structure built in 1868 addressed at 486 N. Market Ave. There are also six residential cabins existing on the rear tract currently under renovation.

The "C-2" Central Business District zoning allows hotels, motels and other similar overnight rental units; however, the subject property is currently improved with single-family structures which require approval of a Special Use Permit (SUP) for said structures to be used for short term rental even in the "C-2" District. If the requested SUP is approved, an administrative Short Term Rental Permit must also be obtained.

The applicant is requesting approval of a Type 2 SUP that will allow for the property to be used for

the short term rental of all the residential structures. The cabins are spaced 10 feet apart with a connecting deck and must meet all fire and building code requirements. A site plan has been submitted that illustrates specific improvements to the property with a narrative that outlines restrictions on the requested use.

The floor plans of the larger house indicate three sleeping areas and the smaller dwelling has two sleeping areas. Each residential cabin has one sleeping area. The minimum required off-street parking for a short term rental is one space per sleeping area, and the maximum is the number of sleeping areas plus one per dwelling. This property will require a minimum of thirteen paved off street parking spaces with a maximum allowed of 23. The site plan shows 13 paved parking spaces will be provided on the subject property. To prevent demand for additional parking, the applicant has stated the maximum number of adults allowed to reside in each rental unit will be limited to 2 adults per sleeping area. While the zoning ordinance would allow more by right, as a condition of this SUP request the applicant is proposing to restrict the maximum number of adults allowed to reside on the property at full occupancy to 26.

In addition to the short term rental, as part of this SUP the applicant is also requesting a variance/waiver from the Zoning Ordinance requirement to provide a shade tree buffer along the access driveway on the subject property that is adjacent to a portion of the common property line with 454 North Market Avenue. Planting trees along the access driveway would reduce the driveway width to below the minimum required for a commercial drive due to the limited amount of space that is available between the existing structure and the property boundary. The reduced width and eventual tree canopy could also obstruct Fire Department access to the cabins at the rear of the property. The applicant's proposal to pave the existing gravel driveway will provide improved access to the existing cabins.

General Information:

Size:

Approximately 0.72 acre

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.

Comprehensive Plan / Future Land Use Designation:

Residential Low Density

Floodplain:

No portion of the property is within the 1% annual chance flood zone.

Regional Transportation Plan:

The property has frontage on N. Market Street, a local street. A traffic impact analysis form is required with the platting of the property and will identify any necessary mitigation measures.

Improvement(s):

Two, single-family dwellings and six residential cabins that are being renovated.

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 subject property location is within close proximity to Downtown and the Comal River; making this an appropriate area for short term rentals.*);
- 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 use 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 (*The proposed use will also be subject to the supplemental standards as required in Section 5.17 of the Zoning Ordinance. These standards help to ensure that proper measures are in place to protect public health and to encourage appropriate use of the property; additional standards and conditions can be recommended by the Planning Commission and added by the City Council to ameliorate negative impacts.*); and
- Whether the request is consistent with the Comprehensive Plan (*The existing single family structures will remain consistent with the Future Land Use designation of the property as "Residential Low Density".*)

Special Use Permits may be granted to allow compatible and orderly development which may be suitable only if developed in a specific way or only for a limited period of time. The request should be evaluated on the extent to which the proposed use:

- is consistent with policies of the Comprehensive Plan;
- is consistent with the purpose and intent of zoning district regulations;
- meets all supplemental standards (see below); and
- preserves the character and integrity of adjacent development and neighborhoods.

Supplemental standards for short term rentals are attached, and include:

- a Short Term Rental Permit and annual inspections are required, in addition to the Special Use Permit;
- a maximum of two (2) adults per sleeping area plus an additional four (4) adults per residence (**The applicant is proposing to restrict the maximum number of adults allowed to reside on the property to two (2) adults per sleeping area for a maximum total of 26 adults.**);
- display of a short term rental decal;
- a minimum of one (1) off-street parking space per sleeping area, not including a garage, and not to exceed the number of sleeping areas plus one (1) (**minimum of thirteen (13) spaces are required and the applicant is proposing to provide 13 paved, on-site parking spaces.**);
- adherence to the City's adopted building code regarding life safety issues;
- compliance with City codes related to conduct on premises;

- signage in compliance with the current Sign Ordinance (classified as non-residential use, a pole or monument sign would be allowed; attached wall signage is not regulated); and
- required tenant information posted indoors and attached to the rental agreement.

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

	Yes	City Plan/Council Priority: 2006 Comprehensive Plan <i>Pros and Cons Based on Policies Plan</i>	Pros: <i>Goal 1 Promote manageable growth to achieve a proper balance of economic expansion and environmental quality while maintaining the community's unique qualities.</i> Authorized short term rentals contribute to economic expansion through the collection of occupancy tax and visitor dollars spent within the community. Impacts are managed through the SUP and Short Term Rental Permit process. Objective 20D <i>Respond to changing market trends, consumer preferences, economic realities, and design technology relating to housing types and densities.</i> The approval of this SUP would be consistent with allowance of short term rentals near the Downtown area and market trends in the area. Cons: Objective 20G: <i>Discourage incompatible land uses from abutting residential areas.</i> Overnight rentals have the potential to negatively impact neighboring residential properties. The ordinance standards for short term rentals attempt to mitigate these impacts.
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FISCAL IMPACT:

Short Term Rentals are subject to the Hotel Occupancy Tax, currently at 13%.

COMMITTEE RECOMMENDATION:

The Planning Commission held a public hearing on January 3, 2017 and recommended approval of the requested zoning change to apply an SUP with the staff recommended conditions (9-0-0).

STAFF RECOMMENDATION:

Staff recommends approval of the requested Type 2 SUP to allow the short term rental of the structures as the proposed use will complement the mixture of uses in the area while maintaining a residential appearance in this uniquely situated neighborhood. Staff's recommendation includes the following conditions:

1. The property will be replatted, combining the two tracts of land into one platted lot prior to the issuance of a certificate of occupancy.
2. The property will be developed in accordance with the approved site plan prior to the issuance of a certificate of occupancy.
3. Residential buffer trees are not required to be planted along the property boundary only where the access driveway is adjacent to the property boundary. Otherwise, the remainder of the

property will comply with all residential buffer requirements for shade trees (Section 5.3-7) and fences/walls standards (Section 5.3-2).

4. 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.
5. Signage on the property is limited to a freestanding monument sign or a low profile pole sign as regulated in Chapter 106, Sign Ordinance.
6. *Occupancy*. The maximum number of persons allowed to reside in the Short Term Rental is two (2) adults per Sleeping Area: **Maximum of 26 adults**.
7. *Parking*. Provide a minimum/maximum of thirteen (13) paved off-street parking spaces.
8. 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.

Notification:

Public hearing notices were sent to 18 owners of property within 200 feet of the subject property. The Planning and Community Development Department has received six responses in favor (#'s 2, 5, 9, 14, 15 & 17) and none in objection.

Attachments:

1. Aerial and Floodplain Map
2. Application
3. Site Plan and Floor Plans
4. Maps (Zoning, Existing Land Use, Future Land Use Plan and Notification List & Map)
5. Notification Responses
6. Photographs
7. Draft Planning Commission Meeting Minutes from January 3, 2017
8. Zoning Code Sections (5.17 Short Term Rentals, 3.3-8 "C-2" Central Business District and 3.6 Special Use Permits)
9. Ordinance