

## Legislation Text

---

File #: 17-826, Version: 1

---

Presenter

*Christopher J. Looney, Planning & Community Development Director*  
*clooney@nbtexas.org*

**SUBJECT:**

Public hearing and first reading of an ordinance regarding the proposed rezoning request from "R-2" Single and Two-Family District to "C-1A" Neighborhood Business District with a Special Use Permit to allow a commercial contractor's office with outdoor storage on Lots 8 and 9, Seidels Subdivision, addressed at 1133 State Highway 46.

**BACKGROUND / RATIONALE:**

Case No.: PZ-17-039

Council District: 2

Owner/Applicant: Justin Alcorn  
3410 Rosetti Dr.  
San Antonio, TX 78247  
(210) 319-8205

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

This item was postponed from the City Council's December 11, 2017 meeting to provide the applicant an opportunity to resolve concerns raised by the neighbors. The applicant sent a letter to the two property owners on December 12, 2017 stating he would address their concerns through the construction of fences and walls as they requested, and that he would address storm drainage as well, in an effort to encourage the neighbors to rescind their official opposition (see Attachment 5). As of press time, the applicant indicated he had not yet received a response.

The subject property is comprised of 2.26 acres situated on the east side of State Highway 46 South, approximately 75 feet south of the intersection of Stone Gate Drive. The property is currently zoned "R-2" Single and Two-Family District, is platted as Lots 8 and 9, Seidels Subdivision and improved with a one-story single-family dwelling.

The applicant is a masonry contractor and recently purchased the property intending to convert the existing residential building into an office for his business and utilize a portion of the rear yard for outdoor storage of business equipment and supplies. Improvements proposed by the applicant also include the addition of office space added to the existing structure and two new covered storage/parking structures; one of which would include a small attached maintenance shop.

The applicant is requesting a zoning change of the base district from R-2 to C-1A. Contractor's offices with no outside storage are allowed in the following zoning districts: C-1, C-2, C-3, C-4, M-1, M-2, MU-A, MU-B, C-1A, C-1B, C-2A, C-4A,

C-4B, CO, M-1A and M-2A. Contractor's offices **with** outside storage are permitted by right only in the following districts: C-3, M-1, M-2, MU-B, C-2A, M-1A and M-2A; **or**, by approval of a Special Use Permit (SUP). The applicant is requesting an SUP in conjunction with C-1A in order to accommodate outside storage of equipment and materials.

New Braunfels has two types of SUPs: Type 1 regulates land use only and does not require a specific site plan or development schedule. Type 2 requires a site plan illustrating the arrangement of the project in detail, including parking facilities, locations of buildings, uses to be permitted, landscaping and means of egress and ingress. The applicant is requesting a Type 2 SUP illustrating the portion of the rear yard he is proposing to use for outdoor storage.

In addition to the proposed use of outside storage, the applicant's original SUP application included requests for deviations from the Zoning Ordinance to allow the existing 6-foot tall wooden privacy fences adjacent to the single and two-family residential lots to remain rather than construct a 6-foot to 8-foot tall masonry wall along the common property lines; and to allow base material to be utilized for the equipment and material storage area rather than paving it with concrete or asphalt. At the Planning Commission meeting on October 4, 2017, the applicant withdrew his requests for the code deviations and stated he would build the required masonry walls and pave the equipment and material storage area. He has also since submitted additional proposals that go beyond the code requirements in an effort to address his neighbors' concerns.

**General Information:**

*Size:* = 2.26 acres

*Surrounding Zoning and Land Use:*

North - R-2A / single family dwellings

South - Across S. Hwy 46, C-3 / undeveloped

East - R-3H / undeveloped

West - C-3 / dentist office, duplexes and undeveloped

*Comprehensive Plan/ Future Land Use Designation:*

Commercial

*Floodplain:*

No portion of the property is located within the 100-year floodplain.

*Regional Transportation Plan:*

The subject property is in compliance with the City's Regional Transportation Plan as State Highway 46 is identified as a 120-foot wide Principal Arterial and the current right-of-way width of State Highway 46 at the subject property location is 120 feet.

*Improvement(s):*

The subject property is improved with a one story single family home.

*Determination Factors:*

In making a decision on rezoning, 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 along State Highway 46, a Principal Arterial, characterized by a mix of zoning districts; C-3, R-3H and R-2A. The proposed uses would be allowed by right on the adjacent C-3 properties. The proposed office use is compatible; the storage of equipment and materials could also be considered compatible but only **with the materials and equipment properly screened** with a solid masonry wall and with the storage/parking area paved per adopted Code.*)
- Whether the change is in accord with any existing or proposed public schools, streets, water supply, sanitary

sewers, and other utilities to the area *(There do not appear to be any conflicts with these elements.)*

- How other areas designated for similar development will be affected *(There should be no negative effects on areas designated for similar development.)*
- Any other factors that will substantially affect the public health, safety, morals, or general welfare *(None so long as all development code requirements are met.)*
- Whether the request is consistent with the Comprehensive Plan. *(The proposed use is consistent with the Future Land Use Plan designation of the subject site as Commercial.)*

SUPs 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; and
- preserves the character and integrity of adjacent development and neighborhoods.

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

✓	No	City Plan/Council Priority: 2006 Comprehensive Plan Pros and Cons Based on Policies Plan	<b>Pros:</b> The proposed use is compatible with the Future Land Use Plan designation of the property as Commercial. <b>Goal 1C:</b> Consider rezoning, as necessary, to ensure existing and future land use compatibility. Rezoning of the property to C-1A is in accordance with the Future Land Use Plan. <b>Goal 1I:</b> Industrial and commercial development should be planned and designed to avoid truck access through residential neighborhoods. This property has direct access onto State Highway 46. <b>Cons:</b> Without proper screening as recommended, the proposed outside storage would have negative impacts on adjacent residences.
---	----	--	--

**FISCAL IMPACT:**

N/A

**COMMITTEE RECOMMENDATION:**

At their October 4, 2017 meeting, the Planning Commission recommended approval of the applicant's request with Staff recommendations plus a requirement that the residential buffer masonry wall be 8 feet in height adjacent to the one- and two-family properties in order to protect the adjacent residential uses that may be at a higher grade. (4-1-0).

**STAFF RECOMMENDATION:**

Staff recommends approval of the base rezoning as C-1A at this location is consistent with the Future Land Use Plan. Staff's recommendation of approval includes the proposed SUP site plan as submitted by the applicant in their negotiations with the neighbors (Attachment 5). This includes:

1. The amendments by the applicant at the October 4<sup>th</sup> Planning Commission meeting which includes the buffer wall and paving of the storage and drive aisles;
2. The Planning Commission's additional recommendation regarding the buffer wall height; and
3. The applicant's extensions of the 8-foot tall masonry buffer wall along all 3 sides, and associated site improvements.

**Notification:**

Public hearing notices were sent to 17 owners of property within 200 feet of the request. The Planning and Community Development Department has received no responses in favor and 2

responses opposed from numbers 6 and 17. Opposition represents 33.28% of the notification area. Pursuant to state law, with objection in excess of 20% of the property within 200 feet, a  $\frac{3}{4}$  majority of City Council (6 votes) is required for approval of this rezoning request.

**ATTACHMENTS:**

1. Aerial, Regional Transportation Plan and Floodplain Map
2. Application
3. Existing Site Plan and Proposed Site Plan
4. Zoning and Land Use Maps
5. Notification List, Map and Response and Applicant Letter to Opposing Neighbors
6. Photographs
7. Sec. 3.4-12 "C-1A" Neighborhood Business District
8. Sec. 3.6 Special Use Permits
9. Draft Minutes for the October 4, 2017 Planning Commission Meeting
10. Ordinance