

## Legislation Text

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**File #:** 19-127, **Version:** 1

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Presenter

*Christopher J. Looney, Planning and Community Development Director*  
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**SUBJECT:**

Public hearing and first reading of an ordinance rezoning Lots A & B City Block 5023, addressed at 415 and 435 S. Union Avenue, from "R-2" Single and Two-family District to "C-O" Commercial Office District.

**BACKGROUND / RATIONALE:**

**Case No.:** PZ-18-047

**Council District:** 5

**Applicant/Owner:** Enrico Marfil  
435 S. Union Avenue  
New Braunfels, TX 78130

Rafael Marfil  
19693 Bat Cave Road  
Garden Ridge, TX 78266

**Staff Contact:** Holly Mullins  
(830) 221-4054  
hmullins@nbtexas.org

**Background/rationale:**

The subject two abutting properties comprise 0.241 of an acre each and are located at the intersection of S. Union Avenue and E. Basel Street. They are close to the Comal River, Schlitterbahn, Downtown, and other popular destinations, and the general area contains a mix of residential types and commercial uses. However, the zoning on the east side of Union Avenue from Heinen Lane to Lincoln Street has historically remained R-1 and R-2 at the request of the neighborhood.

The applicants are interested in pursuing a short-term rental on the properties. Because short-term rental is prohibited in residential zoning districts, they are requesting to change the base zoning district from R-2 to C-O Commercial-Office District first, and if successful, pursue a Special Use Permit (SUP) afterwards.

C-O zoning is the least intense commercial district allowing neighborhood scale commercial uses as well as residential uses; therefore, the existing single-family homes on the lots would remain in conformance with (allowed by right in) the requested zoning.

**General Information:**

**Surrounding Zoning and Land Use:**

North - Across Basel Street, R-2/ Single-family residential

South - R-2/ Single-family residential

East - R-2/ Single-family residential

West - Across Union Avenue, R-3 and C-4A/ Multifamily; waterpark

**Floodplain:**

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

**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 (*C-O zoning is intended to create mixed-use neighborhoods to include professional offices and residential uses. While there is intense seasonal commercial use across the street, if approved, the request would introduce commercial zoning in a block of R-2 zoning within an established residential neighborhood.*);
- 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 zoning should not conflict with existing and proposed schools. The adequacy of public facilities and utilities to serve the property is evaluated by each provider at the permitting stage.*);
- How other areas designated for similar development will be affected (*The proposed zoning should not impact other areas designated for similar (C-O type) development.*);
- Any other factors that will substantially affect the public health, safety, morals, or general welfare (*There should be no other factors that will substantially affect the public health, safety, morals, or general welfare. Drainage, utilities and traffic impact will be reviewed and addressed through the platting (if necessary) and permitting processes.*); and
- Whether the request is consistent with the Comprehensive Plan (*The subject properties are located within the New Braunfels Sub Area and near existing Tourist/Entertainment and Outdoor Recreation Centers.*)

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

<b>City Plan/Council Priority:</b> <b>Envision New Braunfels</b>	<b>Action 3.3:</b> Balance commercial centers with stable neighborhoods. <b>Action 3.17:</b> Enact policies that disincentivize incompatible commercial encroachment into neighborhoods that whittle away at the edges, while still allowing for neighborhood scale commercial within walking distance of homes.
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**FISCAL IMPACT:**

N/A

**COMMITTEE RECOMMENDATION:**

The Planning Commission held a public hearing on February 5, 2019 and recommended denial (6-2 with Commissioners Sonier and Lee voting “no” and Commissioner Gibson absent).

**STAFF RECOMMENDATION:**

While Commercial-Office zoning is the least intense commercial district, introducing commercial into

the subject block could negatively impact the established, stable residential neighborhood a couple of blocks removed from the nearest commercial node. Therefore, staff recommends denial, but also recommends the area be studied in conjunction with all property owners to determine whether R-1 and R-2 zoning are still the appropriate and desired districts along Union Avenue.

**Notification:**

Public hearing notices were sent to 18 owners of property within 200 feet of the request. The City has received two responses in favor (#3, 12) and three in objection (#2, 10, 15), plus several objections from outside the notification area.

**Attachments:**

1. Aerial Map
2. Land Use Maps (Zoning, Existing and Future Land Use Plan, Short Term Rentals)
3. Notification Map and Responses
4. Sec. 3.4-17 C-O
5. Photograph
6. Ordinance