Legislation Text

File #: 21-105, **Version:** 1

Presenter
Christopher J. Looney, AICP, Planning and Development Services Director
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SUBJECT:
Approval of the second and final reading of an ordinance regarding a proposed rezoning of approximately 5.996 acres out of the Orilla Russell Survey No. 2, Abstract No. 485, Comal County, Texas, addressed at 689 Orion Drive, from "M-1A" Light Industrial District to "R-1A-6.6" Single-Family District.

BACKGROUND / RATIONALE:
Case No.: PZ20-0292

Council District: 4

Owner/Applicant: Robert Whipkey
689 Orion Drive
New Braunfels, TX 78130
(210) 844-6608 - rnpkey@gmail.com

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

City Council held a public hearing on January 25, 2021 and unanimously approved the first reading of the applicant's request (7-0-0).

The subject property is comprised of approximately 5.996 acres on the south side of Orion Drive between the Union Pacific Railroad tracks and Goodwin Lane. A single-family dwelling and outbuildings, constructed in 1975, are on the site.

The property was annexed into the City in 2001 and zoned "M-1A" Light Industrial District with the annexation. Single-family residential was an allowed use in the M-1A District until adoption of the updated Zoning Ordinance in 2006. M-1A allows non-residential uses such as light manufacturing, offices, personal and professional services, medical offices and clinics, mini-warehousing and studios. The current single-family residence is considered nonconforming.

Nonconforming Uses and Structures
The Zoning Ordinance states a nonconforming building shall not be permitted to be restored or used for such purpose if the building is damaged or destroyed and the expense of restoration exceeds 75% of the replacement cost of the building at the time the damage occurred. The building shall be

treated as a new building and conform to all the regulations of the district in which it is located should the reconstruction cost exceed 75% of the replacement cost. The Zoning Ordinance also states nonconforming use of land may be continued, provided no such nonconforming use shall be expanded or extended, and that if such nonconforming use of land or any portion thereof is discontinued or changed, any future use of land shall be in conformity with the provisions of the Zoning Ordinance. These rules, standard across most cities, are intended to result in conformity across the community over time.

The applicant purchased the property in 1999 and is currently in the process of refinancing. The applicant indicated their lender won't approve the refinancing until there is a guarantee the home would be allowed to be reconstructed on the property should it be destroyed. Therefore, the applicant submitted a request to rezone the subject property to R-1A-6.6 to allow the current residence to become a conforming use and structure, which the lender is requiring for the applicant to obtain approval of the refinancing application.

With R-1-A-6.6, should the property owner or a future property owner decide to pursue subdividing the property, it is large enough to allow for the subdivision and development of up to approximately 20 single-family residential lots.

Surrounding Zoning and Land Use:
North - Across Orion Dr., APD and Wasser Ranch PD / Single-family residential and undeveloped
South - APD / Single-family residences and undeveloped
East - APD and MU-B with an SUP to allow single or two-family dwellings within the first 150 of depth of the property / single-family residence and duplexes
West - M-1A with an SUP to allow a manufactured home community / Undeveloped

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 *(With recent rezoning activity in the area, the proposed zoning is compatible with zoning and uses in the immediate area which consists of a mixture of single-family residential development with varying lot sizes, duplexes and a future manufactured home community. The duplex subdivision to the east received approval of a zoning change in 2013 to MU-B with an SUP to allow single or two-family dwellings within the first 150 feet of depth of the property adjacent to Orion Drive. The 45-acre tract immediately adjacent the west boundary of the subject property received approval of an SUP earlier this year for up to 280 manufactured homes with specific development standards.)*
- 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 adequacy of public facilities and utilities to serve any additional demand is evaluated by each provider. CISD and utility providers have been notified of the proposed rezoning)*.
- How other areas designated for similar development will be affected *(The proposed zoning change should not negatively affect other areas designated for similar 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, utility and traffic impact issues will be reviewed and*

addressed through the platting process).

- Whether the request is consistent with the Comprehensive Plan: See below

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

City Plan/Council Priority: Envision New Braunfels	**Consistent Actions Action 1.3:** Encourage balanced and fiscally responsible land use patterns. **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. **Future Land Use Plan:** The property lies within the Oak Creek Sub Area near existing Employment, Market and Education Centers and between two future Transitional Mixed-Use Corridors and Market and Employment Centers.

FISCAL IMPACT:
N/A

COMMITTEE RECOMMENDATION:
The Planning Commission held a public hearing on January 5, 2021 and unanimously recommended approval (9-0-0).

STAFF RECOMMENDATION:
Approval. Recent rezonings in the general vicinity are transitioning this area from industrial to residential, accommodating the rapid population growth of our community. Additionally, this request will simply allow the property owner to meet the requirements of their lending institution.

Notification:
Public hearing notices were sent to 8 owners of property within 200 feet of the request. The City has received no responses at this time.

RESOURCE LINKS:

- Chapter 144, Sec. 3.4-2 “R-1A-6.6” Single-Family District, of the City’s Code of Ordinances: <https://library.municode.com/tx/new_braunfels/codes/code_of_ordinances?

- Chapter 144, Secs. 3.4-18 “M1-A” Light Industrial District, of the City’s Code of Ordinances: <https://library.municode.com/tx/new_braunfels/codes/code_of_ordinances?

ATTACHMENTS;

1. Aerial Map
2. Land Use Maps (Zoning, Existing and Future Land Use)
3. Notification List and Map
4. Excerpt of Minutes from the January 5, 2021 Planning Commission Regular Meeting
5. Ordinance