

## Legislation Text

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**File #:** 21-83, **Version:** 1

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**Presenter**

*Christopher J. Looney, AICP, Planning and Development Services Director*  
*clooney@nbtexas.org*

**SUBJECT:**

Approval of the second and final reading of an ordinance regarding a proposed rezoning to apply a Special Use Permit to allow short term rental of a single-family residence in the C-3 Commercial District, addressed at 262 East Nacogdoches Street.

**BACKGROUND / RATIONALE:**

**Case No.:** SUP20-299

**Council District:** 5

**Applicant/Owner:** Aurora Hayes  
11030 Endicott Lane  
Houston, TX 77035  
(713) 416-6640 hayesa73@sbcglobal.net

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

**City Council held a public hearing on January 25, 2021 and unanimously approved the first reading of the applicant's requested rezoning ordinance, with staff recommended conditions. (7-0-0)**

The subject property is located two blocks east of Seguin Avenue, between Business 35 and the railroad tracks, and is zoned C-3 Commercial District. The property contains an 830 square foot residence with detached garage.

The applicant is requesting a Special Use Permit (SUP) to allow short term rental (STR) of the property. The house has 2 bedrooms and 1 bath. Per the Zoning Ordinance, maximum occupancy of an STR with one bathroom is limited to 5 occupants.

The minimum off-street parking requirement for this proposed STR is 2 spaces, or one per sleeping room. The existing 90-foot long driveway can accommodate at least three cars. The Zoning Ordinance requires all parking areas to be paved. The driveway may have been paved at one time, but there is little asphalt remaining today. The applicant states the driveway is so compacted that it is "essentially paved" and there is no present tracking of material into the right-of-way. She is requesting a code deviation as part of the SUP to not be required to repave the existing drive and increase impervious cover so close to the river.

Section 144-5.1 of the Zoning Ordinance requires all off-street parking areas to be properly graded for drainage; surfaced with concrete, asphaltic concrete, or asphalt; and maintained in good condition, free of weeds, dust, trash and debris. To address varying development, geologic and geographic situations, the City Engineer, at his or her discretion, may allow the use of substitute materials, such as pavestone or permeable pavement.

Recently, City Council has approved two short-term rental SUPs with deviations to the paving requirement. One (534 Cross River Street) was required to construct a concrete approach from the street pavement to the property line; the other (436 N. Union Avenue) was allowed to maintain an existing rock area adjacent to the concrete driveway for overflow parking and maneuvering.

If the SUP zoning is approved, a separate short-term rental permit is also required.

*Surrounding Zoning and Land Use:*

North - Across Nacogdoches Street, C-3/ Single-family residence

South - C-3/ Single-family residence

East - C-3/ Single-family residence

West - C-3/ Single-family residence

*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 site is centrally located within a short drive to many visitor attractions, and in an area containing a mix of residential and commercial uses, including two existing STRs.*);
- 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 (*The proposed use should not impact other areas designated for similar development.*);
- Any other factors that will substantially affect the public health, safety, morals, or general welfare (*Short term rental standards help to ensure proper measures are in place to protect public health, safety and neighboring properties.*); and
- Whether the request is consistent with the Comprehensive Plan.

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

<b>City Plan/Council Priority:</b> Envisions New Braunfels Comprehensive Plan	<b>Action 1.3</b> Encourage balanced and fiscally responsible land use patterns. <b>Action 1.14</b> Ensure regulations do not unintentionally inhibit the provision of a variety of flexible and innovative lodging options and attractions. <b>Future Land Use:</b> The property is situated within the New Braunfels Sub-Area, in close proximity to a Recreational River Corridor and Existing Tourist/Entertainment, and Outdoor Recreation Centers.
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**FISCAL IMPACT:**

If approved, the property will be subject to local and state hotel occupancy tax (HOT).

**COMMITTEE RECOMMENDATION:**

The Planning Commission held a public hearing on January 5, 2021 and voted unanimously to recommend approval with staff recommended conditions. (9-0-0)

**STAFF RECOMMENDATION:**

Approval in accordance with the ordinance requirements, including the following conditions:

1. The residential character of the property must be maintained.
2. Off-street parking for at least two cars (9' x 36') will be paved with asphalt, concrete, or other material approved by the City Engineer, and the driveway approach paved with concrete per City standards.
3. The property will remain in compliance with the approved site plan. Any significant changes to the site plan will require a revision to the SUP.
4. Occupancy is limited to a maximum of 5 guests.
5. All other standards of the Zoning Ordinance will also be met.

**Notification:**

Public hearing notices were sent to 15 owners of property within 200 feet of the request. The City received one response in favor (#12) and two in objection (#1, 9).

**RESOURCE LINKS:**

- Chapter 144, Sec. 3.3-7 (C-1) of the City's Code of Ordinances:  
[https://library.municode.com/tx/new\\_braunfels/codes/code\\_of\\_ordinances?nodeId=PTIICOOR\\_C H144ZO\\_ARTIIIZODI\\_S144-3.3ZODIREPRZOPRJU221987](https://library.municode.com/tx/new_braunfels/codes/code_of_ordinances?nodeId=PTIICOOR_C H144ZO_ARTIIIZODI_S144-3.3ZODIREPRZOPRJU221987)
- Chapter 144, Sec. 3.6 (SUP) of the City's Code of Ordinances:  
[https://library.municode.com/tx/new\\_braunfels/codes/code\\_of\\_ordinances?nodeId=PTIICOOR\\_C H144ZO\\_ARTIIIZODI\\_S144-3.6SPUSPE](https://library.municode.com/tx/new_braunfels/codes/code_of_ordinances?nodeId=PTIICOOR_C H144ZO_ARTIIIZODI_S144-3.6SPUSPE)
- Chapter 144, Sec. 5.17 (Short-term Rental) of the City's Code of Ordinances:  
[https://library.municode.com/tx/new\\_braunfels/codes/code\\_of\\_ordinances?nodeId=PTIICOOR\\_C H144ZO\\_ARTVDEST\\_S144-5.17SHTEREOC](https://library.municode.com/tx/new_braunfels/codes/code_of_ordinances?nodeId=PTIICOOR_C H144ZO_ARTVDEST_S144-5.17SHTEREOC)

**ATTACHMENTS:**

1. Aerial Map
2. Application, Site Plan and Floor Plan
3. Land Use Maps (Zoning, Existing, Future Land Use, Short Term Rental)
4. Notification Map
5. Photograph
6. Planning Commission Minutes
7. Ordinance