

Legislation Text

File #: 21-149, **Version:** 1

Presenter

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SUBJECT:

Public hearing and first reading of an ordinance regarding the proposed rezoning of approximately 19.963 acres out of the Sarah DeWitt Survey No. 48, Abstract No. 103, in Guadalupe County, Texas, located at the northeast corner of the intersection of FM 725 and East Klein Road, from "R-1" Single-Family District and "APD" Agricultural/Pre-Development District to "REAPD" River's Edge Apartments Planned Development District.

BACKGROUND / RATIONALE:

Case No.: DCP20-0327

Council District: 2

Applicant: Herman Kittle Properties, Inc. (Elena Sanders, Director of Development)
500 East 96th Street, Ste 300
Indianapolis, IN 46240
(925) 586-7619 - esanders@hermankittle.com

Owner: Margaret Denise Kosko
2655 FM 725
New Braunfels, TX 78130
(830) 624-6330

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

The subject property is comprised of 19.963 acres on the northeast corner of the intersection of FM 725 and East Klein Road abutting FM 725 and Lake Dunlap and is developed with a single-family residence and some accessory buildings. The front 300 feet of depth of the subject property adjacent to FM 725 is zoned "R-1" Single-Family District and the remainder of the property is zoned "APD" Agricultural-Pre/Development District.

The area around the subject property includes a mix of residential and non-residential uses including single-family residential neighborhoods, four churches, two self-storage facilities, two convenience stores with fuel sales, a bingo hall, a restaurant, and the site of a future IDEA Public School. Properties to the east, across Lake Dunlap, as well as most properties to the south, across East Klein Road, are outside the city limits.

The applicant is requesting a zoning change from R-1 and APD to a Planned Development District (PD) for multifamily with a maximum density of 20 units per acre. If approved, the PD will be known as "River's Edge Apartments". PD is a customizable zoning district with which the property owner can craft their own set of development standards to accommodate innovative development options, and address unique issues such as access, terrain, lot shape, mixed use, etc. The PD process includes two steps:

1. *Concept plan.* This first step in the planned development process establishes the most general guidelines for the district by identifying the land use types, development standards, approximate road locations and project boundaries, and illustrates the integration of these elements into a master plan for the whole district.
2. *Detail plan.* This final step includes the details of development in a site plan drawing.

If this rezoning request (Concept Plan) is approved, a follow-up Detail Plan will be required to be submitted to the City and approved by the Planning Commission prior to issuing a building permit for the construction of the multifamily development. The property will also need to be platted prior to obtaining a building permit.

The applicant is proposing the base zoning to be "R-3H" Multifamily High Density District, which is intended for development of multiple-family residences at not more than 24 units per acre, located on arterials and state roads and not to be accessed through single-family and duplex areas. In general, the applicant proposes more restrictive development standards than the R-3H district pertaining to permitted uses, maximum density, minimum lot area, minimum setbacks, maximum building height and maximum lot coverage (see the attached Comparison Table). However, the proposed residential setback development standard could potentially allow a less restrictive setback as it proposes an alternate method of measuring building height at the eave of a building rather than at the highest point of a structure.

TXDOT has indicated access from FM 725 would be restricted due to its location near the intersection with Klein Road and the traffic signal. The applicant proposes access from Klein Road, a Minor Arterial roadway, but will need to negotiate with the adjacent property owner for access.

Surrounding Zoning and Land Use:

North - R-1 & APD / Single-family residence and agricultural use

South - APD & R-1, Across E. Klein Rd, C-3 & outside City Limits / Undeveloped parcels, across E. Klein Rd., single-family residences, a church and undeveloped parcels

East - Across Lake Dunlap, outside City Limits / Undeveloped parcels

West - Across FM 725, R-2A / A church

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 proposed zoning would be appropriate and compatible with the mixture of existing residential and commercial development in the area. High density multifamily use is intended along arterials and state roads where it will not be accessed through single-family or two-family areas. The subject property is located on FM 725, a state roadway with a Principal Arterial classification that will soon be widened. Access is proposed from Klein*

Road, a Minor Arterial).

- 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 impact on existing streets will be reviewed through the platting process. A traffic impact analysis (TIA) will be required at that time, which will determine if any improvements are required to be made by the developer to accommodate traffic associated with the proposed multifamily development. The adequacy of public facilities and utilities to serve any additional demand is evaluated by each provider. NBISD 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 as the proposed PD development standards are generally more restrictive than the standard R-3H zoning district with the exception of the residential setback buffer previously mentioned in this report*).
- Any other factors that will substantially affect the public health, safety, morals, or general welfare (*Drainage, utility and traffic impact will be reviewed and addressed through the platting process. A masonry buffer wall (unless objected to by abutting property owner(s)) and landscaping will be required along the common property line shared with the 25-acre parcel to the north with a single family-residence, as well a minimum setback of 25 feet. Depending on the pitch of the roof of the buildings near the adjacent residential property line, the proposed residential setback requirement allowing height of the building to be measured at the eave rather than the highest point of the building could potentially result in a lesser setback than required by the R-3H District*).
- Whether the request is consistent with the Comprehensive Plan: See below

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

<p>City Plan/Council Priority: Envision New Braunfels</p>	<p>Consistent Actions Action 1.3: Encourage balanced and fiscally responsible land use patterns. Action 3.1: Plan for healthy jobs/housing balance. Action 3.18: Encourage multifamily to disperse throughout the community rather than to congregate in masse. 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 Dunlap Sub Area on a Transitional Mixed-Use Corridor (FM 725) and is in close proximity to existing and proposed Outdoor Recreation and Civic Centers.</p>
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FISCAL IMPACT:

N/A

COMMITTEE RECOMMENDATION:

The Planning Commission held a public hearing on February 2, 2021. A motion to approve with staff recommendations failed (3-6-0).

STAFF RECOMMENDATION:

Approval. To help alleviate any concerns from nearby single-family homes who often prefer increased buffering from multi-story residential structures, staff recommends the following condition:

- Incorporate an incremental or stair-step setback requirement so that the height at any point on a building must have at least an equal distant setback from an adjacent property used or zoned for single or two-family residential.

For example, if the eave of a building is 30 feet above grade and the peak of the roof is 45 feet above grade, the eave must be setback at least 30 feet from the property line and the location of the roof pitch on the building must be setback at least 45 feet from the property line.

For a stricter setback, an alternative could be to require the proposed residential setback development standard meet the minimum requirement of the R-3H District (no part of any building could be closer to the property line than 20 feet, plus one foot for each foot of building height over 20 feet, measured at the peak of the roof).

Notification:

Public hearing notices were sent to 7 owners of property within 200 feet of the request and inside the City Limits of New Braunfels. The City has received one response in favor from property owner number 2 and three opposed from property owners of numbers 4, 5 and 7 on the notification map as well as 9 additional objections from outside the 200-foot notification area and/or outside of city limits. Four of these responses come from four different residents occupying the same address.

Opposition currently represents more than 20% of the land within the notification area. Pursuant to state statute, a $\frac{3}{4}$ majority of City Council (6 votes) will be required for approval of the applicant's request.

Staff received 4 additional responses in opposition representing 3 properties outside of the notification buffer and City Limits on East Klein Road.

RESOURCE LINKS:

- Chapter 144, Sec. 3.3-1 "R-1" Single Family District, of the City's Code of Ordinances:
[https://library.municode.com/tx/new_braunfels/codes/code_of_ordinances?](https://library.municode.com/tx/new_braunfels/codes/code_of_ordinances?_ga=2.151111111.151111111.151111111-151111111.151111111)
- Chapter 144, Secs. 3.4-1 "APD" Agricultural/Pre-Development District, of the City's Code of Ordinances:
[https://library.municode.com/tx/new_braunfels/codes/code_of_ordinances?](https://library.municode.com/tx/new_braunfels/codes/code_of_ordinances?_ga=2.151111111.151111111.151111111-151111111.151111111)
- Chapter 144, Secs. 3.5 Planned Development Districts, of the City's Code of Ordinances:
[https://library.municode.com/tx/new_braunfels/codes/code_of_ordinances?](https://library.municode.com/tx/new_braunfels/codes/code_of_ordinances?_ga=2.151111111.151111111.151111111-151111111.151111111)

ATTACHMENTS:

1. Aerial Map
2. Land Use Maps (Zoning, Existing and Future Land Use)
3. "R-3H" Multifamily High Density District and "River's Edge Apartments" Planned Development District Development Standards Comparison Table
4. Notification List, Map and Responses
5. Excerpt of minutes from the February 2, 2021 Planning Commission Regular Meeting

6. Ordinance