



City of San Antonio

Agenda Memorandum

Agenda Date: September 9, 2024

In Control: Board of Adjustment Meeting

DEPARTMENT: Development Services Department

DEPARTMENT HEAD: Amin Tohmaz, Interim Department Head

CASE NUMBER: BOA-24-10300154

APPLICANT: Stephanie Kelly

OWNER: African Methodist Episcopal Church

COUNCIL DISTRICT IMPACTED: District 2

LOCATION: 111 Dunaff Street

LEGAL DESCRIPTION: Lot 5, 6, 7, P-100 and Portion of 3 and 4, Block 3, NCB 12630

ZONING: "R-5 MLOD-3 MLR-1" Residential Single-Family Martindale Army Airfield
Military Lighting Overlay Military Lighting Region 1 District

CASE MANAGER: Melanie Clark, Planner

A request for

An appeal of the Administrator's decision for a Nonconforming Use Denial.
Section 35-705

Executive Summary

The subject property is located just east of the intersection of IH-10 East and East Houston Street. The Non-Conforming application (ZONING-NCU-APP-2024-11200128) was denied on July 25, 2024. The applicant applied for the appeal on August 5, 2024, within 20 days, in accordance with State law. The Non-Conforming application was denied because a commercial daycare center was never lawfully established on the property. A Certificate of Occupancy for a church-affiliated day care center was issued in 1998, however this differs from the requested commercial child day care center. Additionally, the Certificate of Occupancy was granted to Lot 3, which was rezoned in 1997 to permit an Adult Day Care, which is also clearly annotated on the 1997 rezoning map. The

TABLE 311-1 RESIDENTIAL USE MATRIX																			
PERMITTED USE	RP	RE	R-20	NP-15	NP-10	NP-8	R-6	RM-6	R-5	RM-5	R-4	RM-4	R-3, R-2, R-1	MF-18	MF-25	MF-33	MF-40	MF-50 & MF-65	ERZD
Child Care Facility (1-6 Children)	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Child Care Facility (7-12 Children)	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S

TABLE 311-2 NONRESIDENTIAL USE MATRIX													
	PERMITTED USE	O-1 & O-1.5	O-2*	NC	C-1	C-2	C-3	D	L	I-1	I-2	ERZD	
Service	Day Care Center - Child And/Or Adult Care		S	P	P	P	P	P	S			P	

Code Enforcement History

No Code Enforcement history found.

Permit History

Certificate of Occupancy - Daycare – Church Affiliated (Lot 3) – May 21, 1998

COO-APP24-37601645 – Child Care Center – July 8, 2024 – pending results of BOA Appeal

Zoning History

The subject property was annexed into the City of San Antonio by Ordinance 18115, dated September 24, 1952, and zoned “A” Single-Family Residence District. A portion of the property was rezoned by Ordinance 86967, dated November 13, 1997, to “R-3 CC” Multiple-Family Residence District with City Council approval for an adult-day care facility. Under the 2001 Unified Development Code, established by Ordinance 93881, dated May 03, 2001, the property was converted to the current “R-5” Residential Single-Family District and “MF-33 S” Multiple-Family District with a Specific Use Authorization for an Adult Day Care. Staff found the use was never lawfully established in the current location.

Subject Property Zoning/Land Use

Existing Zoning

“R-5 MLOD-3 MLR-1” Residential Single-Family Martindale Army Airfield Military Lighting Overlay Military Lighting Region 1 District

Existing Use

Church/Day Care

Surrounding Property Zoning/ Land Use

North

Existing Zoning

“R-5 MLOD-3 MLR-1” Residential Single-Family Martindale Army Airfield Military Lighting Overlay Military Lighting Region 1 District

Existing Use

Single-Family Residence

South

Existing Zoning

“R-5 MLOD-3 MLR-1” Residential Single-Family Martindale Army Airfield Military Lighting Overlay Military Lighting Region 1 District

Existing Use

Single-Family Residence

East

Existing Zoning

“R-5 MLOD-3 MLR-1” Residential Single-Family Martindale Army Airfield Military Lighting Overlay Military Lighting Region 1 District and “C-2 MLOD-3 MLR-1” Commercial Martindale Army Airfield Military Lighting Overlay Military Lighting Region 1 District

Existing Use

Single-Family Residence and Vacant Lot

West

Existing Zoning

"C-2 MLOD-3 MLR-1" Commercial Martindale Army Airfield Military Lighting Overlay
Military Lighting Region 1 District

Existing Use

Vacant Lot/Billboard Sign

Comprehensive Plan Consistency/Neighborhood Association

The subject property is in the Eastern Triangle Community Plan and is designated as "Low Density Residential" in the future land use component of the plan. The subject property is located within the boundary of the Eastwood Village Neighborhood Association, and they have been notified of the appeal.

Street Classification

Dunaff Street is classified as a Local Road.

East Houston Street is classified as a Secondary Arterial Type B.

Board of Adjustment

The Board of Adjustment is asked to determine whether to uphold Staff's interpretation of Section 35-705(b)(1), Certificate of Nonconforming Use, as it relates to 111 Dunaff Street.

Conclusion

Staff concludes the use of Child Care Center will require a Change of Zoning approval based on Section 35-705(b)(1) based on the following findings of the fact:

The use was never lawfully established on the location of the childcare building.