



# City of San Antonio

## Agenda Memorandum

**File Number:**20-2291

**Agenda Item Number:** 3.

**Agenda Date:** 3/2/2020

**In Control:** Board of Adjustment

Case Number:	BOA-20-10300014
Applicant:	Steve Markham
Owner:	Blue Penguin Properties, LLC
Council District:	1
Location:	326 Lexington Avenue, Unit 101
Legal Description:	Lot N 54.64 FT of Lot 1 & W 28.33 FT of N 54.64 FT of Lot 2, Block 23, NCB 806
Zoning:	"FBZ T5-1 HS RIO-2 AHOD" Form Base Zone Transect T5 Calibrated T5-1 Historic Significance River Improvement Overlay Airport Hazard Overlay District
Case Manager:	Kayla Leal, Senior Planner

### **Request**

A request for a special exception to allow one (1) additional Type 2 short term rental unit per the UDC Section 35-482(i).

### **Executive Summary**

The subject property is located downtown at the corner of Lexington Avenue and Dallas Street. The zoning of the property is "FBZ T5-1" Form Base Zone Transect 5 District and currently has a duplex constructed on the property. The subject property is surrounded by a mixture of commercial, residential, and recreational uses, including Madison Square Park, many office uses, a pet store, and residential uses. The applicant currently holds one Type 2 STR Permit for the subject property.

The applicant is seeking a special exception to allow for one (1) additional Type 2 STR for a total of two (2) at the property. A unit is defined as having its own distinct sleeping area, kitchen, and bathroom. Type-2 indicates that the owner/operator of the property does not occupy the site as their permanent legal residence.

Per the recently adopted code, Type 2 Short Term Rentals shall be limited to no more than one-eighth (12.5

percent) of the total number of single-family, duplex, triplex, or quadruplex units on the block face. At least one (1) Type 2 Short Term Rental shall be permitted per block face, regardless of the total number of units on the blockface.

In this case, the blockface is defined as the northeast side of Lexington Avenue between Dallas Street and Augusta Street. This lot is the only residential property on the blockface and is developed as a duplex, resulting in one (1) Type 2 Short Term Rental permitted by right. One (1) Type 2 Short Term Rental Permit has already been approved at this address. Any other Type 2 Short Term Rentals on this blockface must seek a Special Exception from the Board of Adjustment.

There are a total of 2 units within this two family dwelling. The applicant is requesting both of these units as Type 2 Short Term Rentals. If this special exception is approved, there will be a total of two (2) Type 2 Short Term Rentals on this block face, resulting in 100% of the blockface. There are no other registered Short Term Rentals on either side of the block along Lexington Avenue.

### **Code Enforcement History**

There are no pending code violations for the subject property.

### **Zoning History**

The subject property is within the original city limits of San Antonio and was zoned “I” Business District. Upon adoption of the 1965 zoning code, the zoning converted to “I-1” Light Industry District. In 2010, the zoning changed to the current “FBZ (T5-1)” Form Base Zone Transect T5 Calibrated T5-1 base zoning district established by Ordinance 2010-04-01-0279, dated April 1, 2010.

### **Permit History**

An application was submitted for a Type 2 STR Permit in November of 2019. The permit was approved and active on November 25, 2019 and is due to expire on November 25, 2022.

### **Subject Property Zoning/Land Use**

Existing Zoning	Existing Use
“FBZ T5-1 HS RIO-2 AHOD” Form Base Zone Transect T5 Calibrated T5-1 Historic Significance River Improvement Overlay Airport Hazard Overlay District	Duplex

### **Surrounding Zoning/Land Use**

Orientation	Existing Zoning District(s)	Existing Use
North	“FBZ T5-1 HS RIO-2 AHOD” Form Base Zone Transect T5 Calibrated T5-1 Historic Significance River Improvement Overlay Airport Hazard Overlay District	Madison Square Park

South	“FBZ T5-1 HS RIO-2 AHOD” Form Base Zone Transect T5 Calibrated T5-1 Historic Significance River Improvement Overlay Airport Hazard Overlay District	Law Office
East	“FBZ T5-1 HS RIO-2 AHOD” Form Base Zone Transect T5 Calibrated T5-1 Historic Significance River Improvement Overlay Airport Hazard Overlay District	Residential uses
West	“Downtown HE RIO-3 AHOD” Downtown Historic River Improvement Overlay Airport Hazard Overlay District	Mixed Use development with residential, office, and commercial

### **Comprehensive Plan Consistency/Neighborhood Association**

The property is within the boundaries of the Downtown Regional Center Plan and currently designated as “Regional Mixed Use” in the future land use component of the plan. The subject property is located within the boundaries of the Downtown Residents’ Association.

### **Street Classification**

Lexington Avenue is classified as a Minor Arterial.

### **Criteria for Review**

According to Section 35-374.01 of the UDC, in order for a special exception to be granted, the applicant must demonstrate all of the following:

A. The special exception will not materially endanger the public health or safety.

The applicant is requesting the special exception to obtain one (1) Type 2 STR Permit in addition to one (1) active Type 2 STR Permit. The subject property appears to be well-kept and recently renovated. Surrounding uses include a public park to the north and a mixture of uses such as residential, commercial, and office.

B. The special exception does not create a public nuisance.

Approval of the special exception would permit a total of two (2) Type 2 STRs operating in a duplex on the subject property. The granting of a special exception allows one (1) additional Type 2 STR, which may have the effect of saturating the development which may create a public nuisance. The applicant could provide data showing that occupancy rates for long-term rentals in the neighborhood will not be impacted which could mitigate this finding.

C. The neighboring property will not be substantially injured by such proposed use.

The applicant could provide data showing that occupancy rates for long-term rentals in the neighborhood and property valuations for the neighborhood will not be negatively impacted by the request, which could mitigate this finding.

D. Adequate utilities, access roads, storm drainage, recreation, open space, and other necessary faculties have been or are being provided.

There are about four (4) parking spaces provided at the subject property which is the maximum parking

allowed for a duplex. The subject property appeared to have adequate utilities, access, and open space.

- E. The applicant or owner for the special exception does not have any previously revoked short term rental licenses, confirmed citations, or adjudicated offenses convictions for violations of Chapter 16, Article XXII of the City Code within one year prior to the date of the application.

The applicant currently has one Short Term Rental Permit and does not have any history of revocation, citations, or convictions for violations of Chapter 16.

- F. The special exception will not alter the essential character of the district and location in which the property for which the special exception is sought.

The duplex is a historic structure and has been improved through renovation and property maintenance, displayed through Google Street View. While there are a couple single-family residential units in the vicinity, there are not any occupied single-family structures directly abutting the property. With access being located off of Lexington Avenue and Dallas Street, the special exception does not appear to alter the essential character of the district and location in which the property is seeking the special exception. However, essential character of the neighborhood may include potential impacts to occupancy rates and property valuations. The applicant could provide data showing that occupancy rates for long-term rentals in the neighborhood and property valuations for the neighborhood will not be negatively impacted by the request, which could mitigate this finding.

### **Alternative to Applicant's Request**

Denial of the request would result in the applicant operating his current Type 2 Short Term Rental, which is the only one permitted by right, per the UDC.

### **Staff Recommendation**

Staff recommends **DENIAL of BOA-20-10300014** based on the following findings of fact:

1. The applicant currently holds one (1) active STR Permit, granted November 25, 2019.