



MEMORANDUM

To: Members of the Board of Adjustment

From: Jerry Rusthoven, AICP, Assistant Director
Planning and Zoning Department

Subject: 2311 Shoal Creek Blvd.

Date: July 8, 2019

This memorandum is intended to supersede and replace the letter issue on February 15, 2019, related to the use determination regarding the property located at 2311 Shoal Creek Boulevard.

The fundamental issue is which use defined by Section 25-2 of the Land Development Code should be applied to the use of a single-family residence by a fraternity as its official “fraternity house”, where it hosts frequent large-scale events. In the discussions that have occurred regarding this matter, it has generally been accepted that one of the following uses should apply: “Single-Family Residential”, “Group Residential”, or “Club or Lodge”.

On February 15, 2019, staff made a determination that the use of 2311 Shoal Creek Blvd constituted a “Single-Family Residential” use, based in part, on the fact our findings that (i) less than six unrelated adults reside on the property and (ii) nobody lives on the property that is an employee of the fraternity. However, based on additional information and evidence that was presented to the Board of Adjustment, staff has reconsidered our position and determined that the described use of the property constitutes “Club or Lodge”.

In making a use determination, staff must consider the totality of the circumstances. While no single factor may be determinative, the accumulation of factors may tip the scales from use to another.

In this case, the property located at 2311 Shoal Creek Blvd. is zoned “SF-3” (Single-Family Residence) and is used as residence by less than six unrelated adults. Under standard circumstances, our analysis would lead us to the conclusion that the use of the property is “Single-Family Residential”. However, there is a long list of evidence that has been acquired that indicate that the use of the property has exceeded traditional characteristics of single-family residential. This evidence includes:

- (i) advertisement of the property, on-line and with a large sign placed on the property, as the headquarters for the Omega Chapter of the Beta Theta Pi fraternity (ii) ownership of the property by the fraternity’s housing non-profit, which provides housing only to members of the fraternity;
- (iii) hosting of regular and frequent large-scale meetings and social events, which are available to all members of the fraternity and their guests; and
- (iv) availability of the property for regular use by all members of the fraternity, as desired, as the official chapter house for the fraternity.

Based on this additional information, we have determined that the activities described above are more similar to those that would be found with a “Club or Lodge” use, which is permitted under a conditional use permit in SF-3 zoning. Chapter 25-2-6 defines “Club or Lodge” as the “use of a site for provision of meeting, recreational, or social facilities by a private or nonprofit association, primarily for use by members and guests. This use includes private social clubs and fraternal organizations.”

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This letter does not imply that in every circumstance where two or more fraternity members live together, the use of the property should be automatically considered “Club or Lodge”. Rather, it is the additional, outward facing activities where other fraternity members are drawn into the property for regular and frequent large-scale use, that would indicate the use has been transformed.

Conclusion

In determining each case where a Greek organization’s use of a property might constitute “Club or Lodge” use, we will assess the totality of the circumstances. The relevant factors for consideration, include but are not limited to:

- (i) the use of the property as a residence for two (2) or more fraternity members;
- (ii) the advertisement of the property as the designated fraternity house for the fraternity, through signage and on-line;
- (iii) the hosting of frequent, large-scale meetings and social events by fraternity members and their guests; and
- (iv) the free availability of the property for use by fraternity members outside of those who are living on the property.

If you have any questions, please me at 512-974-3207 or via email at jerry.rusthoven@austintexas.gov

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