

## ORDINANCE NO. 2023-05

**AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF BOERNE UNIFIED DEVELOPMENT CODE, BY AMENDING CHAPTER 3. ZONING, SECTION 3.2, ZONING MAP, GRANTING A SPECIAL USE PERMIT FOR A DAYCARE FACILITY ON APPROXIMATELY +/- 1 ACRE OF THE SITE, LOCATED AT 12 HERFF ROAD (A10441 - SURVEY 183 J SMALL, KAD NO. 15815) IN A C2-HC, TRANSITIONAL COMMERCIAL HERITAGE CORRIDOR OVERLAY DISTRICT; REPEALING ALL ORDINANCES IN CONFLICT; CONTAINING A SEVERANCE CLAUSE; AND DECLARING AN EFFECTIVE DATE**

**WHEREAS**, under the authority of Chapter 211 of the Texas Local Government Code, the City of Boerne adopts regulations and establishes zoning to control the use of land within the corporate limits of the City; and

**WHEREAS**, it is the intent of the City Council of the City of Boerne to provide harmony between existing zoning districts and proposed land uses; and

**WHEREAS**, the subject property located at 12 Herff Road is currently zoned a, C2-HC, Transitional Commercial Heritage Corridor Overlay District; and

**WHEREAS**, the City has received an application for a special use permit, to allow for a daycare facility; and

**WHEREAS**, the Unified Development Code requires a Special Use Permit for a daycare facility in an C2 District; and

**WHEREAS**, the Planning and Zoning Commission recommended approval of the Special Use Permit by a vote of 6-1 with the following conditions: all buses of other vehicles used to serve the daycare facility be required to have designated parking located at the rear, behind the building line; screening that is drought tolerant, City approved, mature (at maturity be no less than 5 ft tall) and continuous perimeter coverage surrounding each of the playgrounds; dumpster to be located behind the building line; Hackberry tree on southern property line be preserved; comply with all current Unified Development Code requirements for tree remediation; and denied the request for a variance for parking spaces in the 40 ft. Heritage Corridor setback; and

**WHEREAS**, the City Council of the City of Boerne has complied with all requirements of notice of public hearing and such hearing was held on February 28, 2023, at which time interested parties and citizens were given an opportunity to be heard; and

**WHEREAS**, the City Council finds the proposed special use complies with all applicable requirements and criteria of the Unified Development Code and with adopted plans and policies of the City and the application provides for mitigation of potential impact; and

**WHEREAS**, the City Council finds that this zoning amendment is designed to and does promote health and the general welfare of the citizens.

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BOERNE, TEXAS:**

Section 1.

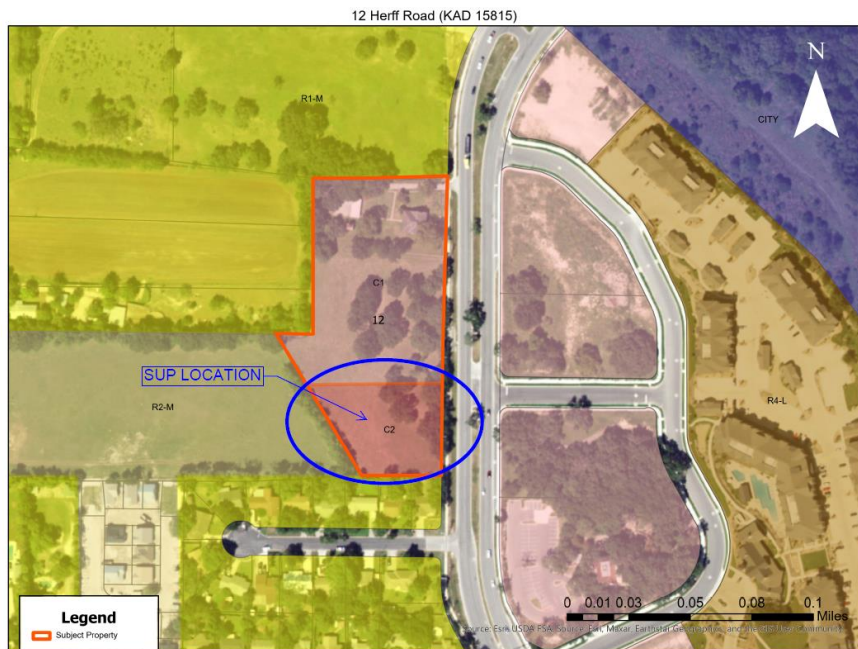
The foregoing recitals are hereby made a part for all purposes as findings of fact.

Section 2.

That Chapter 3. Zoning, Section 3.2, Zoning Map, of the City of Boerne Unified Development Code is hereby amended by granting a special use permit for a daycare facility on approximately +/- 1 acre of the site, located at 12 Herff Road (A10441 - Survey 183 J Small, KAD No. 15815) in a C2-HC, Transitional Commercial Heritage Corridor Overlay District with the following conditions: all buses of other vehicles used to serve the daycare facility be required to have designated parking located at the rear, behind the building line; screening that is drought tolerant, City approved, mature (at maturity be no less than 5 ft tall) and continuous perimeter coverage surrounding each of the playgrounds; dumpster to be located behind the building line; hackberry tree on southern property line be preserved; comply with all current Unified Development Code requirements for tree remediation; and denied the request for a variance for parking spaces in the 40 ft. Heritage Corridor setback.

Section 3.

That the Zoning Maps of the City of Boerne be amended to indicate the previously described change.



Section 4.

That all provisions of the Unified Development Code of the City of Boerne not herein amended or repealed shall remain in full force and effect.

Section 5.

That all other ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent that they are in conflict.

Section 6.

That if any provisions of this ordinance shall be held void or unconstitutional, it is hereby provided that all other parts of the same which are not held void or unconstitutional shall remain in full force and effect.

Section 7.

This ordinance will take effect upon the second and final reading of same.

PASSED AND APPROVED on this the first reading the 28<sup>th</sup> day of February, 2023.

PASSED, APPROVED AND ADOPTED on this the second reading the \_\_\_\_ day of March, 2023.

APPROVED:

ATTEST:

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Secretary

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney