
File No.: Z-9827-A
Owner: Mindful Properties, LLC
Applicant: Thomas H. Wyatt
Address: 5131 Cantrell Road
Legal Description: Lot 11, Block 3, McGehee
Current Zoning: R-2
Variance(s) Requested: An appeal of staff decision.
Justification: The applicant's appeal is presented in the attached letter dated June 10, 2024.

STAFF REPORT:

In July 2023 the applicant filed a rezoning application for the property at 5131 Cantrell Road. The proposal was to rezone the property from R-2 to PD-C to allow the existing single family residence to be used as a Short-Term Rental-2.

The Planning Commission approved the PD-C rezoning request at its December 14, 2023 meeting. The City's Board of Directors denied the application on May 6, 2024.

On June 4, 2024, the applicant attempted to file another application to rezone the property from R-2 to PD-C to use the existing single family residence as a Short-Term Rental-2. Staff rejected the filing of the application, as Staff determined that the application was substantially identical to the first application.

Staff issued a letter to the applicant on June 4, 2024 which contained the following information:

“The Planning & Development staff has reviewed your application for the above-referenced property. We have determined this application is identical or substantially identical to the previously submitted application which was denied by the Little Rock Board of Directors at their May 06, 2024, meeting.

The proposal to change the zoning and use the property as a Short-Term Rental (STR-2) is not a substantial change in the original application which was denied. Therefore, your application for the STR-2 at 5131 Cantrell Road has been denied based on the following provisions in the City of Little Rock Code of Ordinances:

Sec. 36-83. - Guidelines for decision.

In determining whether to grant a requested amendment, the board of directors may consider, among other things, the recommendations from the planning commission and the designated department of the city having planning responsibility and authority and use the provisions of the comprehensive plan, master street plan, master parks plan, and community facilities plan, as well as any other appropriately approved document created to provide the required public facilities necessary to protect the public interest. The planning commission shall consider, but shall not be bound by, the lawful provisions of a valid bill of assurance for the subdivision within which the subject property is located when determining the appropriateness of the proposed special use. No identical or substantially identical application for the redistricting of a specific parcel or parcels of land which has been denied by the board of directors may be made for a period of one (1) year.”

On June 12, 2024 the applicant filed an appeal of staff’s determination in not accepting the application. The letter of appeal from Thomas H. Wyatt is attached. In his letter, Mr. Wyatt outlines several changes made from the first application to the second application.

In staff’s opinion the vast majority of the changes outlined in Mr. Wyatt’s letter are not issues that staff considers nor are they required in reviewing an STR-2 application. Staff contends that the second application that the applicant tried to file was for an STR-2 use, which is identical to the use proposed in the first application which was denied by the Board of Directors.

The Board of Adjustment is asked to determine if staff’s administrative decision that the PD-C application cannot be filed is appropriate based on the zoning code.

Board of Adjustment (MAY 16, 2024)

Staff recommends that the application be deferred to the June 20, 2024, agenda, as the applicant failed to send notices to surrounding property owners as required. There was no further discussion. The item remained on the consent agenda for deferral. The vote was 5 ayes, 0 nays and 0 absent.

Board of Adjustment (JUNE 20, 2024)

The applicant was not present. Staff informed the Board that the applicant failed to send notifications to surrounding property owners as required. Staff recommended the application be deferred to the July 18, 2024 agenda. The item remained on the consent agenda for deferral. The vote was 4 ayes, 0 nays, 1 absent.

Board of Adjustment

(JULY 18, 2024)

The applicant was not present. Staff recommended the application be withdrawn at the request of the property owner. The item was withdrawn by staff.

Board of Adjustment

(AUGUST 15, 2024)

Attorney Thomas Wyatt addressed the commission representing the application. He described the background information and why the appeal was filed along with his clients attempts to adjust their application to adhere to their neighbors' issues. He discussed the differences to the original application and the second filing which was which was rejected by staff.

Property owners Michelle and Marcus Arnold addressed the commission stating their repeated attempts to engage the neighbors and make concessions so they may continue to operate.

Melanie Fox addressed the commission in opposition stating that parking, noise issues, and that an STR-2 type property was disrupting the neighborhood.

There was a discussion by the commission with Mr. Wyatt regarding the differences in the original application and staff's decision regarding the second one under appeal. Additionally, they discussed how the similarity between the applications and how parking was addressed on the property, and that if denied by the commission the process to rezoning would start over.

Melanie Fox addressed the commission in opposition stating that the neighbors were opposed to the use of structure as rental property.

There was a motion to approve the appeal to staffs' decision as stated. The motion failed by a vote of 2 ayes, 1 nays, 2 absent. The motion was approved.

The commission discussed the staff's decision to deny the application and the deferring it back to the Planning Commission.

There was a motion to expunge the previous vote and to reopen the item for discussion. The motion passed by a vote of 3 ayes, 0 nays, 2 absent. The motion was approved.

The commission discussed the application merits and how the area was popular for short term rental along with their belief that the application should be returned to the planning commission.

Attorney Thomas Wyatt addressed the commission representing the application. He stated that his client wished to request that the item be deferred to the September hearing agenda.

There was a motion to defer the item to the September hearing at the cost of the applicant. The motion passed by a vote of 3 ayes, 0 nays, 2 absent. The motion was approved.