



# City of San Antonio

## Agenda Memorandum

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**Agenda Date:** February 10<sup>th</sup>, 2025

**In Control:** Board of Adjustment Meeting

**DEPARTMENT:** Development Services Department

**DEPARTMENT HEAD:** Michael Shannon

**CASE NUMBER:** BOA-25-10300003

**APPLICANT:** Westerleigh Properties LLC

**OWNER:** Westerleigh Properties LLC

**COUNCIL DISTRICT IMPACTED:** District 1

**LOCATION:** 203 Paschal Unit 106

**LEGAL DESCRIPTION:** Lot 34, Block 30, NCB 392

**ZONING:** " MF-33 HL AHOD" Multi-Family Historic Landmark Airport Hazard Overlay District

**CASE MANAGER:** Juan Alvarez, Planner

**A request for**

A Special Exception to allow one (1) additional Type 2 Short Term Rental permit on the block face (Section 35-374.01(c))

**Executive Summary**

The applicant is seeking a special exception to allow one (1) additional Type 2 Short Term Rental unit on the block face. There are currently two (2) active Type 2 Short Term Rental permits on the block, located at 203 Paschal Unit 101 and 103, both having been approved on May 20, 2022. 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 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 quadplex 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 block face.

In this case, the block face is defined as the west side of Paschal Street extending from 203 Paschal Unit 101 to 203 Paschal Unit 107. There are seven (7) lots along this block face, resulting in one (1) Type 2 Short Term Rental unit permitted by right. However, one (1) Type 2 Short Term Rental Permit has already been approved by right on the block face and the other unit was approved by staff error. Any other Type 2 Short Term Rentals on this block face must seek a Special Exception from the Board of Adjustment. If this special exception is approved, there will be a total of three (3) Type 2 Short Term Rentals on this block face, totaling 42% density of the current units.

**Code Enforcement History**

No code enforcement history

**Permit History**

Short Term Rental Permit Number: STR-24-13401416

Permit Request Type: Type 2

Application Submission Date: 12/30/2024

**Zoning History**

The subject property is legally zoned for a Short-Term Rental. Per the ordinance Shorter Term Rentals are prohibited only on properties zoned “C-3” General Commercial District, as well as all Industrial Districts.

**Subject Property Zoning/Land Use**

**Existing Zoning**

"MF-33 HL AHOD" Multi-Family Historic Landmark Airport Hazard Overlay District

**Existing Use**

Residential Multi Family

**Surrounding Property Zoning/ Land Use**

**North**

**Existing Zoning**

"RM-4 H HL HS AHOD" Multi-Family Historic Tobin Hill Historic Landmark Historic Significance Airport Hazard Overlay District

**Existing Use**

Residential Multi Family

**South**

**Existing Zoning**

"C-2 UC-5 AHOD" Commercial Main Avenue/McCullough Avenue Urban Corridor Airport Hazard Overlay District

**Existing Use**

Parking Garage

**East**

**Existing Zoning**

"R-6 H AHOD" Residential Historic Tobin Hill Airport Hazard Overlay District.

**Existing Use**

Residential Single Family

**West**

**Existing Zoning**

"IDZ H HS UC-5 AHOD" Infill Development Zone Historic Tobin Hill Historic Significance Main Avenue/McCullough Avenue Urban Corridor Airport Hazard Overlay District

**Existing Use**

Residential Single Family

**Comprehensive Plan Consistency/Neighborhood Association**

The subject property is in the Midtown Area Regional Center Plan and is not designated as a future land use component. The subject property is located within the notification area of Tobin Hill Community Neighborhood Association, and they have been notified of the request.

**Street Classification**

Paschal Street is classified as a local street.

**Criteria for Review –Special Exception**

According to Section 35-374.01(c) 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*

Staff finds that the request to operate an additional short term rental beyond the 12.5% density cap is likely to materially endanger the public health and/or safety as the density caps were established to ensure that neighborhoods remain, primarily, residential.

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

The density caps were established to prevent public nuisances. Allowing Type 2 STRs to exceed those caps will likely lead to increased cases of public nuisance.

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

The density caps were established to ensure that neighbors are not inundated by the presence of Type 2 STRs. Allowing additional STRs on this blockface may substantially injure neighboring properties.

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

The subject property provides off-street parking and appears 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 or owner does not have confirmed citations, or adjudicated offenses or convictions.

*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 density limits established by City Council exist to ensure that neighborhood remain, primarily, residential. Staff finds that exceeding the 12.5% blockface density is likely to alter the essential character of the district.

The board may also consider if any of the following apply, in accordance with UDC Section 35-399.03(h):

(1) Distressed Structure. The applicant must demonstrate, and the board of adjustment must find:

- (a) The restoration of a historic landmark or structure is a valuable addition to the quality and the character of the city; or
- (b) There is proof that a short term rental (type 2) is the only economically feasible way to finance the preservation of the structure; and
- (c) The granting of a board of adjustment approval will not adversely impact the residential quality of the neighborhood in which the structure is located.

(2) Non-Distressed Structure. The applicant must demonstrate, and the board of adjustment must find the public welfare and convenience will be served, as demonstrated by subsections (a) (b) and (c) below.

- (a) That nearby streets will not be substantially impacted by the proposed short term rental (type 2). To make this determination, the board of adjustment shall consider input from the city traffic engineer.
- (b) The residential character of the neighborhood will not be disrupted in a manner to prevent the adjacent owners from the quiet enjoyment of their property.
- (c) The neighboring property will not be substantially injured by such proposed use.

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

The Board of Adjustment may approve or deny the applicant's request.

### **Staff Recommendation – Special Exception**

Staff recommends Denial in BOA-25-10300003 based on the following findings of fact:

1. Per Section 16-1100 of the City Code, staff finds that the approval of an increase in the Type 2 Short Term Rental permit density would be detrimental to “the health and safety of [the] occupant(s) of [the] short term rental property” and to the “integrity of the neighborhood(s) in which [the] short term rental property operates”; and,

2. Staff is unable to identify any unique circumstance which warrants nearly doubling the density limitation for Type 2 STRs on this block face.