

**RECOMMENDATION
TO THE
PINE BLUFF BOARD OF ZONING ADJUSTMENT**

APPLICANT: LaJuan London Roaf

SUBJECT: Appeal of the Zoning Administrator's Decision concerning a request to establish an emergency shelter for children at 5516 W. 16th Avenue.

REVIEW COMMENTS

The applicant is appealing the Zoning Administrator's Decision to disallow her to use the subject site as the location for an emergency shelter for children. The site, 5516 W. 16th Avenue, is zoned R-1 Residential. The Zoning Administrator informed Ms. Roaf that the proposed use was not listed as a permitted use in the R-1 zone so it couldn't be administratively permitted by the staff, nor was it listed as a UPOR in the R-1 zone, so she could not apply to the Planning Commission to utilize the property as an emergency shelter for children. Following are the uses outlined in the Zoning Ordinance that are permitted and permitted as UPORs in the R-1 zone:

Permitted

- (1) Single-family dwellings.
- (2) Accessory uses and buildings.
- (3) Home occupations.

UPOR

- (1) Parks and playgrounds.
- (2) Public elementary schools and other educational institutions with curriculum equivalent to a public elementary school.
- (3) Cemetery.
- (4) Golf course.
- (5) Tennis courts.
- (6) Public and semipublic uses.
- (7) Churches (see section 29-37(b)(12)).
- (8) Garage apartment (occupied by relatives).
- (9) Other uses deemed appropriate in the opinion of the planning commission which conform to the basic intent of this district, and which can be demonstrated to be equal to or less intense than other permitted uses in this district.
- (10) Day care family home.

As is shown, an emergency shelter for children is not listed as either a permitted use or a UPOR. It also cannot be considered in (9) of the UPOR uses because an emergency residential child care facility is listed as a UPOR use in the B-3 and B-4 zones and a youth home is listed as a UPOR use in the R-4 zone. Because these uses have specifically been considered in the Zoning Ordinance by placing them in the B-3, B-4,

and R-4 zones, they cannot be considered as “other uses deemed appropriate”. This sentence is included so that uses not considered anywhere in the Zoning Ordinance and that are not similar to any uses listed in the Zoning Ordinance can be considered.

Board Members: please remember that we are not looking at the proposed use for its compatibility with the neighborhood in which it is located such as we would if this were a UPOR application. We are looking at this use to see if the Zoning Ordinance would allow the use to either be permitted in the zone or be allowed to be heard before the Planning Commission as a UPOR. You cannot allow a use to go into a zone in which it is not permitted or is not listed a UPOR.

RECOMMENDATION

The staff recommends that the Zoning Administrator’s decision be upheld.

Our staff does not profess to know all matters pertaining to land use law. We serve the City of Pine Bluff in an advisory capacity only, and any comments or recommendations contained herein are based on good planning principles and the Zoning Regulations as we interpret them. If you have questions on any legal issues that might occur due to this matter, please contact the Pine Bluff City Attorney.