

PLANNING COMMISSION REPORT
Regular Agenda – Public Hearing Item

PC Staff Report
01/23/2019

ITEM NO. 11 SPECIAL USE PERMIT FOR SHORT TERM RENTAL; 888 New Hampshire Street Units #208, #209 & #216 (KEW)

SUP-18-00565: Consider a special use permit for a non-owner occupied short-term rentals located at 888 New Hampshire Street in the CD (Downtown Commercial) District. Submitted by First Management, Inc., on behalf of 100 East Ninth Street, LLC, property owner of record.

STAFF RECOMMENDATION: Planning Staff recommends approval of a special use permit for a non-owner occupied *Short Term Rental* use located at 888 New Hampshire Street and forwarding the request to the City Commission with a recommendation of approval, subject to the following conditions:

1. Per Section 20-554(3)(i) of the Land Development Code, all properties containing a *Short-Term Rental* Use shall comply with the occupancy limits of the zoning district in which the property is located. The subject property is zoned CD-UC (Downtown Commercial with Conservation Overlay) District. The approved site plan designated this structure for multi-dwelling apartments; therefore, a maximum of 4 unrelated occupants are permitted per dwelling unit.
2. Per Section 20-601 of the Land Development Code, the maximum number of available guest rooms associated with the *Non-owner Short-Term Rental* use may not exceed the number of off-street vehicle parking spaces available on the property. Off-street parking is not required in the CD district per Section 20-901(f); therefore, the maximum number of guest rooms that may be rented on a short-term basis is not limited by parking.
3. Per Section 20-554(3)(iii), the dwelling unit and site shall remain residential in appearance and characteristics. Internal or external changes that will make the dwelling unit and site appear less residential in character or function are prohibited. Examples of such prohibited alterations include, but are not limited to: construction of parking lots, paving of required setbacks, or the addition of commercial-like exterior lighting.
4. Per Section 6-13A04(a) of the City Code, a short-term rental license is required to be obtained annually from the Planning and Development Services Department. If the short-term rental license lapses for a period more than 12 consecutive months, the special use permit will be assumed to be abandoned. Reinstatement of the use will require review and approval of a new special use application.

Applicant's Reason for Request: *"To obtain a special use permit to apply for a short term rental license for 888 New Hampshire St. Apartments to be short term rentals are as follows: #208, #209, #216."*

ASSOCIATED CASES/OTHER ACTION REQUIRED

- No active cases

Other Action Required

- City Commission approval of special use permit and adoption of ordinance.
- Publication of special use permit ordinance.
- Submission and approval of the short-term rental license application.

KEY POINTS

- The maximum number of dwelling units permitted on a property (density) and the maximum number of occupants permitted in a dwelling is determined by the property's zoning. The subject property is located within the CD-UC (Downtown Commercial with Conservation Overlay) District. Per Section 20-601(d) of the Land Development Code housing types other than a detached dwelling in a commercial zoning district is permitted a maximum occupancy of 4 adults, if any one of the adults is unrelated to the others. The maximum occupancy of these short term rental units is 4 unrelated adults per unit.

BACKGROUND

- Section 20-1781 of the Land Development Code defines the *Short-Term Rental* use as "a use where all or part of a dwelling unit may, in exchange for consideration, accommodate transient guests for a period of time less than 30 consecutive days. The use may be considered an accessory use when the dwelling unit is concurrently owner-occupied. For the purpose of this definition, a dwelling unit shall include all legally established dwelling unit, but shall exclude *Dormitory, Fraternity or Sorority House, Group Home (General or Limited), Motel, Hotel, Extended Stay, and Bed and Breakfast uses.*"
- The two types of short-term residential rental property include owner occupied and non-owner occupied. A short-term rental property is classified as owner occupied when the dwelling unit being rented is occupied by the owner more than 182 days per calendar year. In cases where the owner resides in the dwelling unit less than 183 day per calendar year, the short-term residential rental property is classified as non-owner occupied.
- A non-owner occupied dwelling unit requires a special use permit (SUP) to be granted for the non-owner occupied *Short-Term Rental* use before the dwelling unit can be rented as short-term residential rental property.
- On October 2, 2018, the City Commission adopted Ordinance No. 9481, which amended the Land Development Code, by establishing text amendments to the Transient Accommodation use category to permit dwelling units to be used as a short-term residential rental property throughout the City of Lawrence. The text amendments included use specific standards (Section 20-554) that provide the criteria used to evaluate the appropriateness of a *Short-Term Rental* use. With the adoption of the *Short-Term Rental* use into the City Code, the transient nature of this use has been determined by the City Commission to be generally compatible with residential uses.

ATTACHMENTS

Attachment A: Site Plan/Aerial

PUBLIC COMMENT RECEIVED PRIOR TO PRINTING

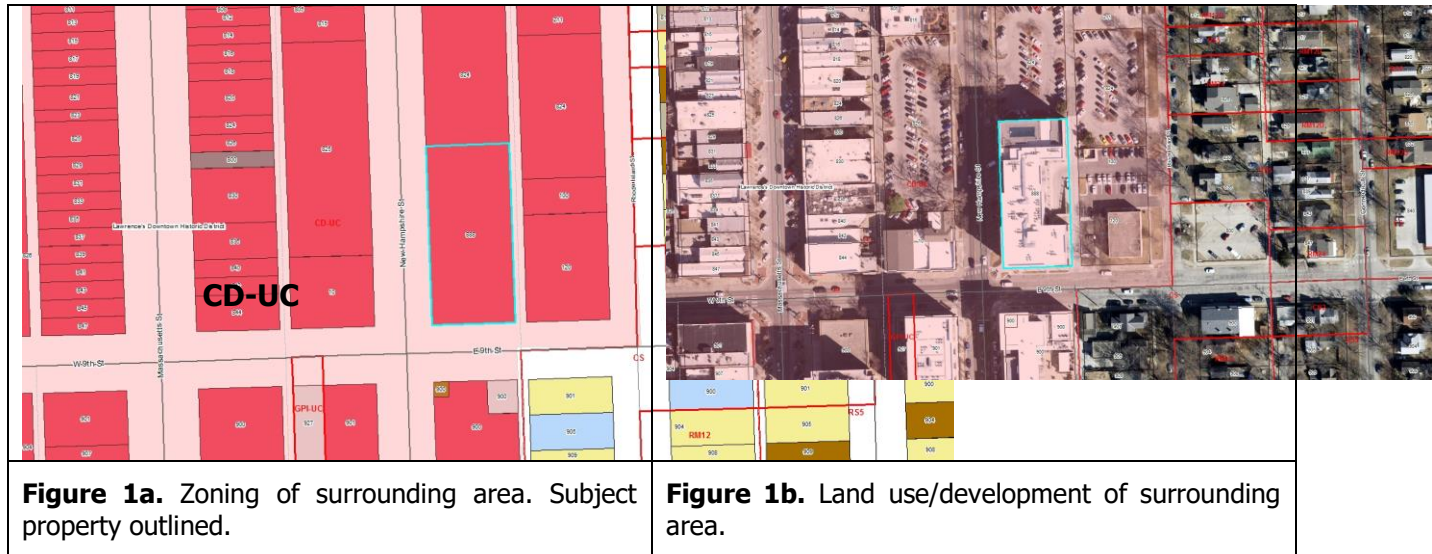
- No communication received.

GENERAL INFORMATION

Current Zoning and Land Use: CD-UC (Downtown Commercial with Conservation Overlay) District. Current land use: *Multi-Dwelling* apartments.

Surrounding Zoning and Land Use: To the north, east, west and south:

CD-UC (Downtown Commercial with Conservation Overlay) District; *Multi-Dwelling* apartment buildings and downtown businesses.
 (Figure 1)



SUMMARY OF SPECIAL USE

This special use permit application proposes using the three noted units at 888 New Hampshire Street as a *Short-Term Rental* use. The property will not be owner occupied, therefore, it requires approval of a special use permit. As the property is currently developed as a *Multi-Dwelling Structure* and no physical changes are being proposed to the site, an aerial photograph serves as the plan for the new use.

Characteristics of the property

- Legal use: Multi-Dwelling Structure
- Zoning: CD-UC (Downtown Commercial with Conservation Overlay) District
- Permitted occupancy limit: Maximum of 4 unrelated occupants per dwelling unit.
- Number of existing off-street parking spaces: Not required in the CD district.
- Number of existing guest rooms: #208 = 2, #209 = 1, #216 = 1. Total = 4
- Number of proposed guest rooms: #208 = 2, #209 = 1, #216 = 1. Total = 4

The amount of off-street parking required to be provided for the non-owner occupied *Short-Term Rental* use is 1 parking space per guest room. The CD zoning district, due to the unique nature of the district, has a parking exemption. Section 20-901(f) of the Land Development code (Exemption for CD District) exempts permitted uses from parking requirements in this district. The number of guest rooms is the same as was approved as part of the existing multi-dwelling structure. (888 Apartments SP-14-00395). No parking is required for these units. Parking is discussed in more detail in Section 1 below.

Review and Decision-Making Criteria (Land Development Code Section 20-1306(i))

1. WHETHER THE PROPOSED USE COMPLIES WITH ALL APPLICABLE PROVISIONS OF THIS DEVELOPMENT CODE

Applicant's Response: "Yes."

A. Occupancy Compliance

Per Section 20-554(3)(i) of the Land Development Code, all properties containing a *Short-Term Rental* use shall comply with the occupancy limits established in Section 20-601(d). The subject property is zoned CD-UC (Downtown Commercial with Conservation Overlay) District. A maximum of 4 unrelated occupants are permitted per dwelling unit for housing types other than detached dwellings in the commercial districts. The applicant indicated that the dwelling units contain a total of 4 guest rooms. This request complies with the occupancy limit requirements.

B. Access and Parking

On-site Parking:

Per Section 20-902 Schedule A of the Land Development Code, the parking requirement for the non-owner occupied *Short-Term Rental* use is 1 vehicle space per guest room. The applicant indicated that the maximum number of guest rooms available to rent is 4. Unit #208 is a two guest room unit, Unit #209 is a one guest room unit, and Unit #216 is a one guest room unit. Permitted uses in the CD district are exempted from parking requirements. The demand for parking in the short-term units is not changing from the approved multi-dwelling structure that has been approved. The availability of off-street parking and the intensity of use or demand for parking remains the same.

Access: The structure is located on the northeast corner of New Hampshire Street and East 9th Street. There are no changes to the existing access proposed with this request.

C. Lighting

Per Section 20-554(3)(iii), the addition of commercial-like exterior lighting is not permitted. Section 20-1103(b)(2) also prohibits spot lights and flood lights that create a glare on neighboring properties. Lighting for this property was approved with the site plan for the multi-dwelling structure. There are no proposed changes to existing lighting.

D. Floodplain

The property is not located within the regulatory floodplain and is not subject to a local floodplain development permit.

E. Historic Resources Review

The property is located within the environs of two historic properties (Turnhalle and Social Services League of Lawrence) and is located in the conservation overlay district for the Downtown Historic District. The proposal is not altering any exterior features of the structure or the site; therefore it is not subject to review by the Historic Resources Commission. The historic review as part of the special use permit process has been administratively approved.

Staff Finding – The proposed *Short-Term Rental* use, as conditioned, is compliant with all applicable provisions of the Land Development Code as an allowed use in the CD-UC (Downtown Commercial with Conservation Overlay) District subject to a special use permit.

2. WHETHER THE PROPOSED USE IS COMPATIBLE WITH ADJACENT USES IN TERMS OF SCALE, SITE DESIGN, AND OPERATING CHARACTERISTICS, INCLUDING HOURS OF OPERATION, TRAFFIC GENERATION, LIGHTING, NOISE, ODOR, DUST AND OTHER EXTERNAL IMPACTS

Applicant's Response: "Yes."

Section 20-554 of the Land Development Code provides the site-related standards to ensure compatibility with the surrounding area. An evaluation of these standards as they apply to the proposal is provided below.

Occupancy Limits

All properties containing a *Short-Term Rental* use shall comply with the occupancy limits of the zoning district in which the property resides. The subject property is zoned CD-UC (Downtown Commercial with Conservation Overlay) District, which permits a maximum number of 4 unrelated occupants per dwelling unit for housing types other than detached dwellings.

Residential Appearance

The dwelling units and the site are required to remain residential in appearance and characteristics. Internal and external changes that would make the dwelling units and the site appear less residential in character or function are prohibited. Examples of such prohibited alterations include, but are not limited to: construction of parking lots, paving of required setbacks, or the addition of commercial-like exterior lighting.

The units are located in an existing multi-dwelling structure that was approved as a development through the site planning process. There are no proposed changes to the building or the property proposed with the special use permit. The property contains an existing multi-dwelling use and the request does not alter character or use of the property.

Legally Established Dwelling Unit

Any dwelling unit used for a *Short-term Rental* use shall be a legally established dwelling unit or shall obtain registration of nonconforming use. The short-term rental will be located in three of the units in the multi-dwelling structure. A multi-dwelling structure is a permitted use in the CD-UC zoning district.

Signs

Signs shall comply with the provisions outlined in Chapter 5, Article 18 of the City Code. Approval of a special use permit does not constitute approval of any associated signs on the property. An application for a sign permit must be approved prior to installation of signs.

Parking

Parking for non-owner occupied *Short-Term Rental* use must be provided at a rate of 1 parking space per guest room; however, this property falls under the parking exemption in Section 20-901(f) for the CD zoning district and does not require parking.

Staff Finding – The subject property contains an existing residential use. The project does not include exterior modifications or changes to the site that would alter the residential nature of the property. The *Short-Term Rental* use is restricted to the same occupancy limits of the zoning district in which the property is located. Also, the number of guest rooms available for rent is the same as available currently as long-term rental. The occupancy limit of 4 unrelated adults will ensure that the use is similar in nature to the surrounding uses, with the exception of the rental

term. The parking provided complies with what is required for the use in the zoning district. The use should be compatible with surrounding land uses as it is a residential use.

3. WHETHER THE PROPOSED USE WILL CAUSE SUBSTANTIAL DIMINUTION IN VALUE OF OTHER PROPERTY IN THE NEIGHBORHOOD IN WHICH IT IS TO BE LOCATED

Applicant's Response: "No."

The subject property contains a residential use. The use standards for the *Short-Term Rental* use regulate the appearance and characteristics of the site. Specifically, Section 20-545(3)(iii) of the Land Development Code dictates that internal or external changes to the dwelling unit or the site which reduce the residential character or function are prohibited. Examples of prohibited alterations include construction of parking lots, paving of required setbacks, and the addition or commercial-like exterior lighting.

Staff Finding – Substantial diminution of other property values in the area is not anticipated.

5. WHETHER PUBLIC SAFETY, TRANSPORTATION AND UTILITY FACILITIES AND SERVICES WILL BE AVAILABLE TO SERVE THE SUBJECT PROPERTY WHILE MAINTAINING SUFFICIENT LEVELS OF SERVICE FOR EXISTING DEVELOPMENT

Applicant's Response: "No."

As an existing legal use, the property already has safety, transportation, and utility infrastructure in place and no the *Short-Term Rental* use will not trigger a need for additional services or infrastructure.

Staff Finding – The subject property contains an existing residential use. Adequate public facilities and transportation access is provided for the proposed *Short-Term Rental* use.

5. WHETHER ADEQUATE ASSURANCES OF CONTINUING MAINTENANCE HAVE BEEN PROVIDED

Staff Finding – The proposed request provides an enforceable tool to address the use and continued maintenance of the property with regard to occupancy limits and off-street parking. Adequate assurances of continued maintenance are inherent in the use and the special use permit approval process.

6. WHETHER THE USE WILL CAUSE SIGNIFICANT ADVERSE IMPACTS ON THE NATURAL ENVIRONMENT

Staff Finding – The proposed use is subject to regulatory controls to protect the significant natural features. This property is free from regulatory floodplain encumbrances. The subject property is developed and the project does not propose changes to the site. There are no significant adverse impacts on the natural environment associated with the proposed *Short-Term Rental* use.

7. WHETHER IT IS APPROPRIATE TO PLACE A TIME LIMIT ON THE PERIOD OF TIME THE PROPOSED USE IS TO BE ALLOWED BY SPECIAL USE PERMIT AND, IF SO, WHAT THAT TIME PERIOD SHOULD BE

The special use permit associated with the *Short-Term Rental* use is tied with the subject property. If the applicant relocates to a different property, the special use permit will not transfer to the new property; however, any future owners of the subject property may maintain the *Short-Term Rental* use approved with the special use permit, if desired.

A short-term rental license is required to be obtained annually from the Planning and Development Services Department. If the short-term rental license lapses for a period more than 12 consecutive months, the special use permit will be assumed to be abandoned. Reinstatement of the use will require review and approval of a new special use permit application.

Staff Finding –Staff does not recommend a time limit on the special use permit.

CONCLUSION

The subject property is zoned CD-UC (Downtown Commercial with Conservation Overlay) District and contains a units in a multi-dwelling structure that will be used for short-term rental. The CD-UC District permits a maximum number of 4 unrelated occupants per housing type other than detached dwellings. The applicant indicated that the maximum number of guest rooms available to rent is 4 for all three of the units and additional parking is not required in the district. The proposed special use permit for the *Short-Term Rental* use aligns with the occupancy limits of the zoning district and meets the off-street parking requirements.

Based on the findings in this report, and as conditioned, staff recommends approval of the special use permit.