

PLANNING COMMISSION REPORT
Regular Agenda – Public Hearing Item

PC Staff Report
02/27/2019

ITEM NO. 10 SPECIAL USE PERMIT FOR SHORT TERM RENTAL; 1321 New Hampshire Street (KEW)

SUP-18-00611: Consider a special use permit for a non-owner occupied short-term rental located at 1321 New Hampshire Street in the RS5 (Single-Dwelling Residential) District. Submitted by Kern, Inc., on behalf of Rayna M. Burkhart, 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 1321 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 RS5 (Single-Dwelling Residential) District. The zoning district in this area is single-family residential; therefore, a maximum of 3 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 occupied *Short-Term Rental* use may not exceed the number of off-street vehicle parking spaces available on the property. The off-street parking available for the subject property is four spaces; therefore, the maximum number of guest rooms that may be rented on a short-term basis is limited to four.
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 6-1304(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 "Non-residing Airb&b." Request:

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.

PLANS AND STUDIES REQUIRED

- Traffic Study – Not required.
- Downstream Sanitary Sewer Analysis – Not required.
- Drainage Study – Not required.

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 RS5 (Single-Dwelling Residential) District. Per Section 20-601(d) of the Land Development Code a detached dwelling in a RS5 (Single-Dwelling Residential) District is permitted a maximum occupancy of 3 adults, if any one of the adults is unrelated to the others. The maximum occupancy of this short term rental unit would be 3 unrelated adults.

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 *Short-Term Rental* use before the dwelling unit can be rented as a 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

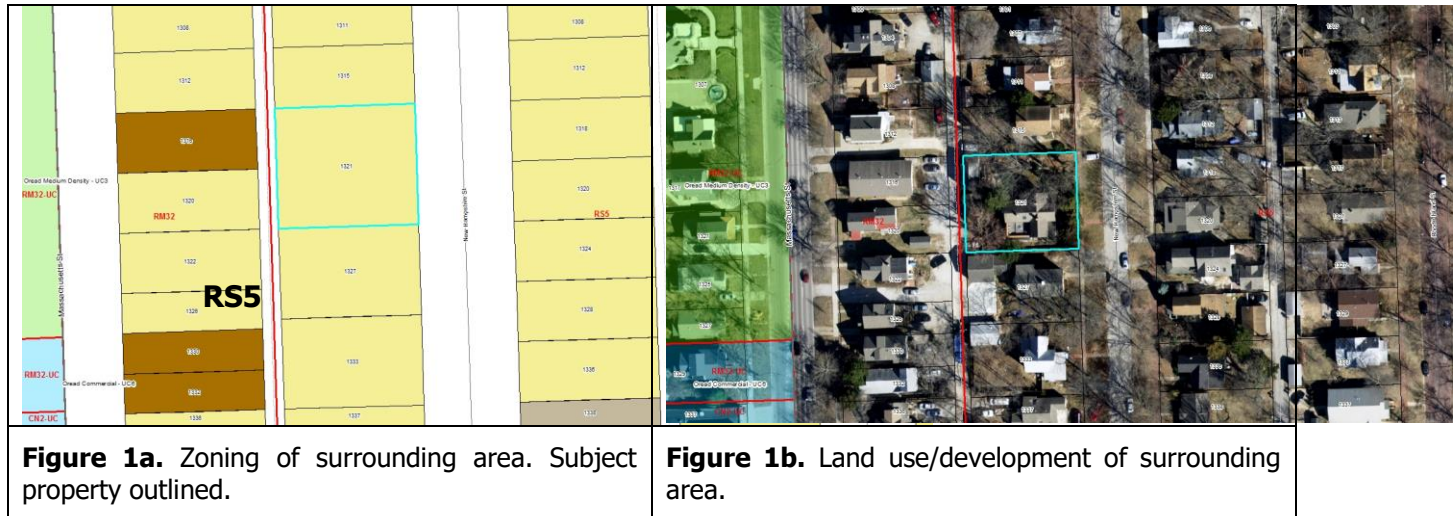
- N/A

GENERAL INFORMATION

Current Zoning and Land Use: RS5 (Single-Dwelling Residential) District. Current land use: *Detached Dwelling*.

Surrounding Zoning and Land Use: To the north, east, and south: RS5 (Single-Dwelling Residential) District; *Detached Dwellings*.

Use: To the west:
 RM32 (Multi-Dwelling Residential) District; *Detached Dwellings*.
 (Figure 1)



SUMMARY OF SPECIAL USE

This special use permit application proposes the using the residence at 1321 New Hampshire Street as a *Short-Term Rental* use. The property will not be owner occupied and, therefore, requires approval of a special use permit. As the property is currently developed as a *Detached Dwelling* 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: Detached Dwelling
- Zoning: RS5 (Single-Dwelling Residential Dwelling) District
- Permitted occupancy limit: Maximum of 3 unrelated occupants per dwelling unit.
- Number of existing off-street parking spaces: 4 (3 surface + 1 garage)
- Number of existing guest rooms: 4
- Number of proposed guest rooms: 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 number of guest rooms is equal to the number of available off-street parking spaces. 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 RS5 (Single-Dwelling Residential) District. A maximum of 3 unrelated occupants are permitted per detached dwelling in the RS5 Districts. The applicant indicates that the dwelling unit contains 4 guest rooms. This rentals will comply 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 owner indicated that the maximum number of guest rooms available to rent is 4. The number of off-street parking is 4 spaces, 3 surface and 1 garage space. The amount of available off-street parking meets the off-street parking requirement.



4 parking spaces accessed off the alley.

Access: Access to this site is provided via the alley at the rear of the structure. Parking is also located off the alley. 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.

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 South Rhode Island Historic District but is not altering any exterior features of the structure or the site. The Historic Resources Commission has the opportunity to comment on the special use permit application but has not provided any comments. 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 RS5 (Single-Dwelling Residential) 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 RS5 (Single-Dwelling Residential) District, which permits a maximum number of 3 unrelated occupants per dwelling unit.

Residential Appearance

The dwelling unit and the site are required to remain residential in appearance and characteristics. Internal and external changes that would make the dwelling unit 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.

There are no proposed changes to the building and the property proposed with this special use permit. The property contains an existing residential use and the request does not alter the residential nature 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. This short-term rental will be located in the primary residential structure. A residential structure is a permitted use in the RS5 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.

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 limited to the number of off-street parking spaces available. The occupancy limit of 3 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 is sufficient to accommodate the number of guest rooms available. 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.

Also, as discussed above, the level of intensity will be restricted by the occupancy limits permitted in the applicable zoning district and the amount of off-street parking provided.

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

4. 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

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

Applicant's Response: "No."

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 RS5 (Single-Dwelling Residential) District and contains a detached dwelling. The RS5 District permits a maximum number of 3 unrelated occupants per detached dwelling. The applicant indicated that the maximum number of guest rooms available to rent is 4 and the number of off-street parking provided is 4 parking spaces. 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 requirement.

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