

PLANNING COMMISSION REPORT
Regular Agenda – Public Hearing Item

PC Staff Report
02/27/2019

ITEM NO. 5 SPECIAL USE PERMIT FOR SHORT TERM RENTAL; 630 Indiana Street (LRM)

SUP-18-00625: Consider a special use permit for a non-owner occupied short-term rental located at 630 Indiana Street in the RS5 (Single-Dwelling Residential) District. Submitted by Leda Sedlock, on behalf of Charles M. Sedlock and Leda C. Sedlock, property owners of record.

STAFF RECOMMENDATION: Planning Staff recommends approval of a special use permit for a non-owner occupied *Short Term Rental* use located at 630 Indiana 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~~ zero spaces; therefore, the maximum number of guest rooms that may be rented on a short-term basis is limited to two.
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: *"We wish to create a Non-Owner-Occupied Short-Term Rental for the purpose of generating income. We wish to rent it on a short-term basis because we also use the property about 3-4 days a week."*

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

- No public comment received prior to printing.

GENERAL INFORMATION

Current Zoning and Land Use:

RS5 (Single-Dwelling Residential) District. Current land use: *Detached Dwelling Residential* use.

Surrounding Zoning and Land Use:

RS5 (Single-Dwelling Residential) District to the north, south, east, and west. *Detached Dwelling Residential* use to the north, south, east, and west.

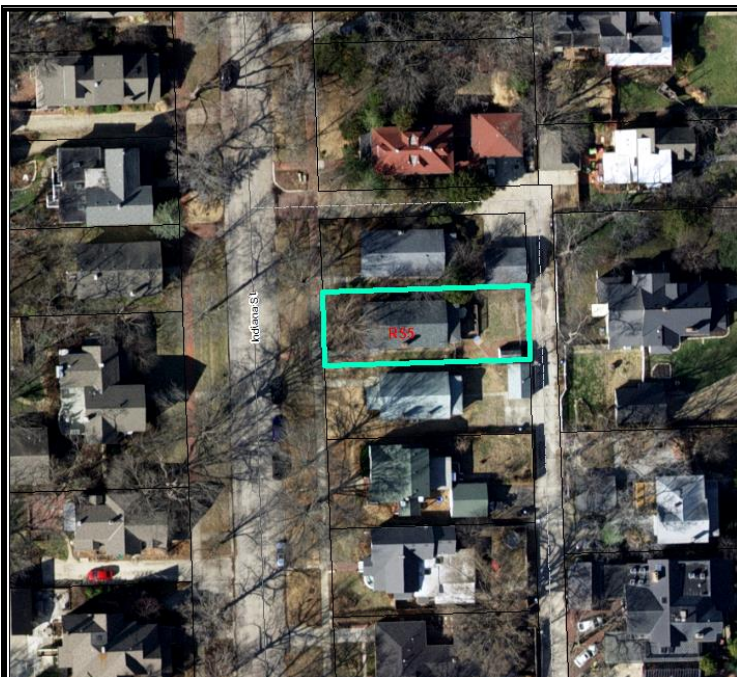


Figure 1a. Zoning of surrounding area. Subject property outlined. Subject property surrounded by RS5 (Single-Dwelling Residential) District.



Figure 1b. Land use/development of surrounding area. Subject property outlined. Subject property surrounded by *Detached Dwelling Residential* use.

SUMMARY OF SPECIAL USE

This special use permit application proposes the using the residence at 630 Indiana 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: 0
- Number of existing guest rooms: 2
- Number of proposed guest rooms: 2

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 less greater than 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: *"Operating a Non-Owner-Occupied Short-Term rental complies with the applicable provisions of the Development Code because for the past 12 months, it has placed no more burden on the surrounding area than it did as a Long-Term Rental (1996-2017)".*

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 2 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 applicants have indicated that the maximum number of guest rooms available to rent is 2. The subject property has no off-street parking spaces and historical aerial imagery indicate no off-street parking has ever existed on the subject property.

The amount of available off-street parking does not meet the off-street parking requirement; however, the subject property came into existence (1922 per Douglas County Appraiser's Office) prior to the establishment of off-street parking requirements via the 1927 Zoning Code. As the lack of off-street parking is an existing non-conformity, the subject property shall be granted an allowance of two parking spaces. Two parking spaces is the required amount for the *Detached Dwelling Residential* use. The applicant has indicated the subject property has two guestrooms; therefore, the parking requirement is satisfied.

If the applicants wish to amend the special use permit for additional guestrooms, she will need to provide one off-street parking space per proposed guestroom or obtain a variance from the Board of Zoning Appeals from the parking requirements associated with the *Short-Term Rental* use.



There are no off-street parking spaces on the subject property. Subject property has alley access.

Access: Access to this site is provided via the alley at the rear of the structure. 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. The applicant has indicated there are no proposed lighting improvements.

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 a historic property (Wilder-Clark House) and within the Old West Lawrence Historic District (National Register) but 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 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: *"Operating as a Non-Owner-Occupied short-Term Rental is compatible with adjacent uses in terms of scale, site design, operating characteristics, including hours of operation, traffic generation, lighting, noise, odor, dust, and other external impacts. It is used for up to 5 people from no more than three families, typically travelling in up to two automobiles. Smoking is not allowed on the premises. Guests are asked to arrive after 3:00 pm and typically arriving at 6:00 pm or earlier. Guests are required to depart by 11:00 am and typically depart 9:00 am- 11:00 am. We impose quiet hours form 9:00 PM – 9:00 AM.*

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 detached-dwelling 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. The applicant has indicated there are no proposed signage improvements.

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. An allowance of two parking spaces has been provided due the site's existing nonconformity based on construction prior to city zoning regulations; therefore, the parking is considered adequate for the legal *detached dwelling* and *Short-Term Rental* uses. 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: *"In the City of Lawrence, it has not been an established trend that Rentals negatively affect property values in the area. There has been no study by the Appraisers Office of the impact of Short-term rentals".*

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 within the Indiana Street right-of-way and the rear alley. 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. The burden on sewer, gas, electricity and water and the volume of traffic would remain consistent with past use, perhaps less due to the intermittent occupancy. It is*

used for up to 5 people from no more than three families, typically travelling in up to two automobiles. Smoking is not allowed on the premises.

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 2. The existing nonconformity of no on-site parking is a condition of the subject property's age and construction prior to city zoning. Section 20-901(b)(2)(ii) of the Land Development Code notes that there is no requirement to address lawfully created existing nonconforming parking deficits; therefore, an allowance of two parking spaces is granted. The Code requires additional off-street parking spaces at rate of one space per guestroom be added if the non-owner occupied *Short-Term Rental* use is expanded.

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.