

ITEM NO. 4 SHORT-TERM RENTAL

Discussion on short-term rental program.

STAFF PRESENTATION

Jeff Crick presented the item.

PUBLIC COMMENT

Tena Santaularia said short-term rental landlords are in the properties once or twice a week cleaning and checking property. She said with her long-term properties sometimes she doesn't have the opportunity to clean and fix them up for many years, when renters move out. She felt short-term rentals were somewhat self-regulated by guest reviews and having to meet high standards in order to stay in business. She said parking with short-term rentals was different because guests usually only have one vehicle.

Michael Davidson, Explore Lawrence, said he subscribes to a monthly report of data from Airbnb. He said year-to-date Airbnb revenue was up about 35% over the same period last year. He said one million dollars worth of revenue equated to about \$60,000 transient guest tax for Lawrence last year. He said hotels had additional pressure than Airbnb. He said Lawrence opened three new hotels which generated 100,000 more room nights in town. He said in 2018 only 270,000 rooms were sold. He said hotels were having issues of overbuilding and that year-to-date hotels decreased 6.4% in revenue. He said as of March 2019 there were 192 active Airbnb properties in Douglas County.

Jeremy Furse said if his property wasn't a short-term rental it would be vacant. He said he did not want someone living above his retail space on a permanent basis even though he could probably make more money doing so. He said he was in the unit at least three days a week cleaning and taking care of it. He felt short-term rentals should be allowed anywhere rentals were allowed. He said his guests were spending money downtown and felt it was a win-win for the city.

Paul Carttar disclosed he was the sibling of Planning Commissioner David Carttar. He said he was opposed to non-owner occupied short-term rentals in certain neighborhoods and how they could impact neighbors. He said most of his neighborhood was rental property and he was concerned about them all becoming short-term rentals. He felt short-term rentals would have a detrimental effect on the neighborhood.

Ken Easthouse said he had no issue with owner occupied short-term rentals. He said the non-owner occupied short-term rentals were the issue. He said they were primarily in areas of town where affordable housing was most needed.

Courtney Shipley, Lawrence Association of Neighborhoods (LAN), said LAN was happy with the policy that had been approved. She was surprised the brakes were put on the program so quickly because it seemed the process was working well. She said the most important issue LAN was concerned about was affordable housing. She said she was glad the people who had gone through the process already had been so responsive and responsible.

Leda Sedlock said her short-term rental guests, on average, stay about 8 days a month, mostly on weekends. She said guests typically stay 2-3 nights. She said a search on Airbnb for non-owner occupied homes in Lawrence will only have 5-star properties because those are the only ones that survive. She said Lawrence was not in a rental housing crisis and that there was a perception that non-owner-occupied short-term rentals deplete affordable housing stocks.

Tim Hamilton did not believe short-term rentals would impact affordable housing significantly because someone who would otherwise offer low-income housing would have to want to convert their property to a short-term rental. He said the poverty threshold in the United States for a single person was \$12,000 a year and \$25,000 for a family of four. He said that would be \$600 a month for a single person and \$750 a month for a family. He said those earnings were not in the same market as short-term rental. He said regarding possible increased property taxes, he pays about \$100 a month in property taxes on his 2-bedroom short-term rental. He said if the property tax increased to 25% it would raise his monthly property tax to \$250 a month. He said he would have to increase his rent cost to make up the difference.

Kathy Bruner felt short-term rentals were the best experience when traveling and she hoped to operate one someday. She said her long-term rentals were never looked at.

Aaron Geier spoke in favor of short-term rentals. He said his property would be empty if not for Airbnb. He said he checks the property regularly. He said his guests shop downtown when they stay at his property.

Kit Grove echoed comments in favor of short-term rental. He said his wife operated an Airbnb and he stayed in them frequently when traveling. He did not feel short-term rentals would drive the price of housing up.

COMMISSION DISCUSSION

Topic:

18. Revise the special use permit application to seek information regarding the platforms utilized by the applicant and the listing numbers to view info on user comments if the short-term rental is currently operating in violation of the code.

Commissioner Sands felt it was helpful to see reviews of those operating a short-term rental.

Commissioner Willey said the Special Use Permit would run with the property so reviews would only apply to the operator of the property.

Commissioner Carpenter said Airbnb was the only platform that had an agreement with the State of Kansas to collect taxes. He said a registration number would be helpful in determining how long in operation. He said reviews could also indicate how many people were staying at the house.

Commissioner Butler said taxes were not the purview of Planning Commission.

Commissioner Carpenter felt the information should still be included.

Commissioner Butler said she was not that concerned with reviews because guests look at properties and read reviews before deciding where to stay. She said the short-term rentals would not survive if they weren't well taken care of.

Commissioner Carttar asked for clarification on what Planning Commission's objective was.

McCullough said the program began in November, 2018. He said many operators were operating not in compliance with the Code so a program was built to give them a path for compliance. He said the non-owner occupied short-term rental Special Use Permit process required a hearing at Planning Commission and a final determination at City Commission. He said as the Special Use Permit applications started to be reviewed some issues revealed themselves, mostly neighborhood issues. He stated three applications had been approved, one

denied, and three deferred. He said City Commissioner Boley had specific questions at the time of the three deferrals.

McCullough said Planning Commission was grappling with how to review these unique land uses. He said Planning Commission could discuss revisions they would suggest to City Commission. He said some topics may not be in the purview of Planning Commission but the intent was to place all the questions in the memo for their comment. He said the hope was to gain framework on whether the program should change and what that should look like, and if there should be better parameters to judge short-term rentals.

Commissioner Willey said she agreed with Commissioner Butler that the reviews were not helpful.

Commissioner Carttar said his primary issue was the enforceability of the short-term rentals. He felt it made sense for every single platform to be listed, however there needed to be a mechanism to be amended.

Commissioner Carpenter said reviews were helpful.

Struckhoff said a link to reviews and platforms would be sufficient.

McCullough said technically there should be no information to review since operators should not be operating short-term rentals without a license.

Commissioner Weaver expressed concern about looking at reviews and denying a Special Use Permit based on a negative review and approving another with two negative reviews, for example.

Commissioner Sands felt negative reviews could give a sense of how a property was being taken care of.

Commissioner Carttar felt Special Use Permit applications should include the platforms advertised on.

Answer:

The Planning Commission believes that the City should seek this information and the Planning Commission can determine how to evaluate this information as part of the application packet. They also believe the City of Lawrence should be made aware of the platforms and links applicants are operating under and provided by the applicants.

Topic:

19. Include rental map snapshot in every packet – long and short-term.

McCullough asked Planning Commission if they would like to see a static map or an updated link.

Commissioner Paden said she would like to see how non-owner occupied versus owner occupied was impacting neighborhoods.

Commissioner Sands asked Michael Davidson to speak to the data he receives from Airbnb. He felt it could be helpful for the City to subscribe.

Davidson said the data changes daily.

McCullough said the City had methods of finding short-term rentals. He said staff appreciates Explore Lawrence sharing the Airbnb data.

Commissioner Willey said she was comfortable with the City map and the City obtaining the data in whatever means they want. She said she would like to see the map included in the packet.

Commissioner Struckhoff said he would like to see a static map with a link.

Commissioner Ashworth said she was not comfortable capping the number of short-term rentals in a neighborhood for no other reason than too many in a block.

McCullough said those element examples would rise to a program level recommendation.

Answer:

The Planning Commission would like to strive to differentiate between owner-occupied and non-owner occupied short-term rental properties on the residential rental license map. The Commission would also like the link to the online map and a static version of that map included as part of their packet materials.

Topic:

20. Explore requiring the city's occupancy limit to be included in offerings on software platforms as a condition of any approved special use permit.

Commissioner Willey wondered if all platforms included occupancy.

McCullough said he was not sure.

Commissioner Carpenter said one of the applicants had it on their site. He said it could be part of the licensing process.

McCullough said staff could figure out what method was best to require that.

Answer:

The Planning Commission would recommend that occupancy limits, number of permitted guest rooms, and the number of parking spaces should be provided on the online listing for the properties.

Topic:

21. Require contact info to be shared with neighbors.

Commissioner Willey wondered if property owners could post their contact information on-site and the number for enforcement.

Commissioner Sands suggested possibly a sticker or plaque on-site with a contact number.

Commissioner Sinclair felt it was a good idea to provide contact information and that it made more sense to include it in mailed notice to the neighbors.

McCullough said in practice the City typically gets the enforcement call and has the contact information.

Commissioner Carpenter said the mailed notice provided contact information.

Commissioner Willey asked applicants to provide thoughts.

Sedlock said she had no issue posting her contact information on her property.

Santaularia said all of her contact information was transparent and available. She said she had no issue with posting her contact information. She said it was already on the listing for the guest to call.

Furse said a plaque on the exterior may invite theft by advertising the property was vacant.

Commissioner Carttar felt neighbors should be notified with renewal of the annual license.

McCullough said owner information was included on the map.

Commissioner Carpenter said the renewal of license should include a letter with contact information.

Answer:

The Planning Commission recommended requiring notice to neighboring property owners with each license renewal, if not already required by ordinance that includes a contact for the operator. They also believe it is the purview of the operator to display any additional contact information on the premises as they believe is reasonable.

It was noted at the meeting that an applicant's contact information is provided on the notice letter for the owner-occupied short-term rental. Such a letter is not required for non-owner occupied short-term rentals given the special use permit public hearing process.

Topic:

22. Should there be time limits on special use permits, or does license present an opportunity to revoke, or can a special use permit expire when owner changes?

Commissioner Paden felt a property was more likely to continue as a short-term rental when sold if the license goes with the property. She wondered if the license could be renewed if the property sold.

Randy Larkin said a Special Use Permit, just like zoning, runs with the land. He said if the program is changed it could be a license of some sort.

Commissioner Carpenter said one option could be to set time limits for review.

McCullough said they would want to be consistent through the program and not case by case. He said the Special Use Permits have a condition that if left vacant for 12 months the Special Use Permit expires.

Commissioner Carttar asked about the terms of license renewal.

McCullough said there were some violations of the license. He said big items for revoking a Special Use Permit would revolve around renting out more guest rooms than allowed, using more parking, and allowing more unrelated occupants. He said there was a lot of due process to get a Special Use Permit and quite a bit of due process to revoke a Special Use Permit.

Commissioner Carttar asked if complaints to the City were considered when a license was renewed.

McCullough said not necessarily. He said complaints were investigated to see if there was a legitimate violation of the Code. He said staff inspects short-term rentals annually for life safety issues, which was more frequently than long-term rentals.

Commissioner Sands did not feel it was inappropriate to ask for a 3 year Special Use Permit. He said in other communities short-term rentals get gobbled up by property maintenance companies. He referenced several articles regarding affordable housing being impacted by short-term rentals.

Commissioner Paden wanted to prevent corporate takeover. She said if Special Use Permits required a 3 year renewal the applicant would have to pay the fee again.

McCullough said that was correct.

Commissioner Willey felt that was a burden on the property owner.

McCullough said the fees were adopted by City Commission and could be a program change.

Commissioner Willey expressed concerns with corporate takeover.

Commissioner Sands referenced the following article about the City of Nashville phasing out non-owner occupied short-term rentals: <https://www.avalara.com/mylodgetax/en/blog/2018/02/nashville-votes-to-phase-out-non-owner-occupied-short-term-rentals.html>

Answer:

Planning Commission noted concern for license renewal if code violations were found during any one year. They also noted a concern for large-scale operators to become dominant in the market forcing out smaller, local operators. The Planning Commission also noted that additional application fees were a concern when setting expiration dates for special use permits. The Planning Commission does not recommend changes to the program in this regard at this time.

Topic:

23. Should there be a limit on guestrooms permitted and should that limit be tied to occupancy limits?

Answer:

The Planning Commission believes that the parking standards and the occupancy limits in the Land Development Code presently helps regulate the number of guestrooms.

Topic:

24. What are the minimum infrastructure requirements to be present for a short-term rental use?

Commissioner Willey felt if it was appropriate for neighborhoods it was appropriate for short-term rentals and long-term rentals.

Answer:

The Planning Commission believes that if the infrastructure is sufficient in providing for the needs of owners and long-term rental occupancy then it is also sufficient for short-term rentals.

Topic:

25. How does the short-term rental use affect traffic in a neighborhood?

Answer:

The Planning Commission is of the opinion that beyond an extenuating circumstance, a short-term rental would generate less traffic than an owner-occupied/long-term rental; therefore, the presence of a short-term rental does not present traffic issues.

Topic:

26. Should neighborhood support be required to gain approval of a special use permit?

Commissioner Carttar felt it may be difficult to try and impose that kind of requirement. He felt having the City Commission require a super-majority vote with a protest petition was about as close as a requirement that could be imposed. He said most neighbors were not aware a protest petition was a possibility.

McCullough said staff are not shy about talking to neighbors about the process.

Commissioner Willey said Planning Commission typically does not operate by having neighborhood support required. She said Planning Commission weighs the opinions of the neighborhood, among other factors.

Commissioner Carpenter felt it could be problematic for one type of Special Use Permit to require neighborhood support.

Commissioner Struckhoff strongly encouraged community involvement.

Answer:

Planning Commission finds that the protest petition provides weight to neighbors on an application. Gaining support of a neighborhood is always factored in to a special use permit application analysis, but would not automatically compel a denial recommendation by the Planning Commission. Opposition must be weighed against all of the Golden Factors as with any special use permit application.

Topic:

27. How does the short-term rental use impact affordable housing?

Commissioner Carttar suggested the topic be revisited by Planning on a regular basis since it was new.

Commissioner Ashworth wondered how many current short-term rentals in progress would qualify as affordable housing.

McCullough said that analysis had not been looked at.

Commissioner Ashworth referenced an article about an increase in rental rates due to short-term rentals.

McCullough said there were much bigger forces impacting affordable housing.

Answer:

The Planning Commission does have a concern with the saturation of neighborhoods by short-term rentals and the possible displacement of families and those effects on neighborhood schools. However, it is too early to determine the full effects of this particular use due to the use being of a small scale at this time. More time is needed to see how many short-term rentals will be licensed to fully and adequately gauge these effects.

Topic:

28. What is the date of construction for the properties licensed as short-term rentals?

Answer:

This information was provided in the staff memo as part of the agenda packet. The Planning Commission did not comment on this topic.

City Commissioner Boley Questions:

1. What is the tax assessment for this property, by taxing jurisdiction and the total?

2. What would the tax assessment for this property be, by taxing jurisdiction and the total, if the property were taxed at the commercial rate applied to hotels?

3. Please compute the difference between the figures, by taxing jurisdiction and the total.

Crick said taxes were a function handled by the County Appraisers Office. He said the Planning office and Planning Commission did not really have a role in taxation.

McCullough said City Commission was asking the question for their analysis. He said the typical short-term rental was being taxed at a residential rate.

Answer:

The Planning Commission determined this to be outside of their review purview.

City Commissioner Boley Question:

4. Is it possible to add a condition to the special use permit that would require the owner to remit the difference to the city annually?

Answer:

The Planning Commission determined this to be outside of their review purview.

City Commissioner Boley Question:

5. Is it possible that a future property valuation will be done on the basis of an income generating property rather than a residence?

Answer:

The Planning Commission determined this to be outside of their review purview.

City Commissioner Boley Question:

6. If so, is it possible that a higher valuation will be imposed upon adjacent properties?

Answer:

The Planning Commission determined this to be outside of their review purview.

City Commissioner Boley Question:

7. What is the length of the street frontage for each of the properties?

Answer:

Complete audio & video from this meeting can be found online:

<https://lawrenceks.org/boards/lawrence-douglas-county-metropolitan-planning-commission/>

The Planning Commission reviewed this as being related to Topic 24 and responded with that topic.

City Commissioner Boley Question:

8. What is the length of the street frontage for the Hampton Inn and how many guest rooms is that property authorized?

Answer:

The Planning Commission reviewed this as being related to Topic 24 and responded with that topic.

City Commissioner Boley Question:

9. What is the category of the street in front of each of the properties?

Answer:

The Planning Commission reviewed this as being related to Topic 24 and responded with that topic.

City Commissioner Boley Question:

10. What is the category of the street in front of the Hampton Inn?

Answer:

The Planning Commission reviewed this as being related to Topic 24 and responded with that topic.

City Commissioner Boley Question:

11. Is it possible to add a condition that would limit the term of the special use permit to 3 years, as we did with the DARE Center?

Answer:

The Planning Commission addressed this topic with Topic 22 above.

City Commissioner Boley Question:

12. Once an SUP is approved is there any restriction upon the transfer of the special use permit along with the property?

Answer:

The Planning Commission addressed this topic with Topic 22 above.

City Commissioner Boley Question:

13. If there are no restrictions [on transferring the special use permit to another operator], why should any consideration be given to the history of prior use as a short-term rental by the Planning Commission or City Commission when deciding whether to grant a special use permit?

Answer:

The Planning Commission believed the history might be helpful in providing context to an application, but also believed that such information would be evaluated on a case-by-case basis with each application.

City Commissioner Boley Question:

14. Please provide the pictures the commission was shown of the mobile home placed upon the lot across the street from Dr. Venida Chenault's house, as we considered the non-compliant use of that property.

Answer:

The Planning Commission was not sure of the intent of this question, but did have concern for renewing a short-term rental license that had a history of violations.

City Commissioner Boley Question:

15. When was the mobile home placed upon the property?

Answer:

The Planning Commission was not sure of the intent of this question, but did have concern for renewing a short-term rental license that had a history of violations.

City Commissioner Boley Question:

16. When was the first complaint received about the mobile home?

Answer:

The Planning Commission was not sure of the intent of this question, but did have concern for renewing a short-term rental license that had a history of violations.

City Commissioner Boley Question:

17. How many days later was the mobile home removed from the property?

Answer:

The Planning Commission was not sure of the intent of this question, but did have concern for renewing a short-term rental license that had a history of violations.

Commissioner Ashworth talked about articles she has read about other cities capping the number of short-term rentals that individuals/companies own. She said some communities take a percentage of the fees and taxes and apply it toward affordable housing trust funds. She said another mechanism for limiting corporate ownership was to limit the number of nights a unit could be rented.

NO ACTION TAKEN