

PLANNING COMMISSION REPORT
Regular Agenda – Public Hearing Item:

PC Staff Report
04/21/2014

ITEM NO. 4 SPECIAL USE PERMIT FOR BED AND BREAKFAST; 603 TENNESSEE STREET (JSC)

SUP-14-00049: Consider renewal of a Special Use Permit for an adaptive reuse of a Designated Historic Property located at 603 Tennessee Street for a Bed and Breakfast. Submitted by Serina Hearn for Rainbow Works L.L.C., property owner of record.

STAFF RECOMMENDATION: Staff recommends approval of SUP-14-00049, a renewal of a Special Use Permit for 603 Tennessee Street for use as a Bed and Breakfast, based upon the findings presented in the body of the staff report, and subject to the following conditions:

1. A Special Use Permit renewal is granted for up to three guest rooms. Use of additional guest rooms shall require a new public hearing.
2. A Special Use Permit renewal is granted approval for 5 years. A new Special Use Permit shall be required to continue the Bed and Breakfast use.

Applicant's Reason for Request: *Special Use Permit Renewal for a Bed and Breakfast*

KEY POINTS

- The existing structure is currently utilized for an existing bed and breakfast.
- No exterior alterations or site modifications are proposed at this time.

FACTORS TO CONSIDER

- Procedural requirements of Section 20-1306; Special Use Permits.

ASSOCIATED CASES/OTHER ACTION REQUIRED

- Publication of a Special Use Permit ordinance per Section 20-1306(j).

PUBLIC COMMENT RECEIVED PRIOR TO PRINTING

- No written comments were received prior to the publishing of this staff report.

GENERAL INFORMATION

Current Zoning and Land Use:

RS5 (Single-Dwelling Residential) District; existing residence.

Surrounding Zoning and Land Use:

To the north, south, and west RS5 (Single-Dwelling) Residential District: existing single family residences.

To the east OS (Open Space) Buford M. Watson Jr. Park.

Summary of Special Use

The property is located on the southwest corner of Tennessee Street and 6th Street. The property is developed with a two and a half story house with two detached garage structures. The proposed use is for the operation of a Bed and Breakfast with an on-site manager and three guest rooms. The proposed use is defined in section 20-1763 of the Development Code as:

20-1763 BED AND BREAKFAST. An establishment located within a Detached Dwelling that is the principal residence of the operator, where short-term lodging is offered for compensation and that includes the service of one or more meals to guests.



In addition to the findings required of Section 20-1306 of the Land Development Code, additional standards of review are required for an adaptive reuse listed in section 20-501 of the Development Code. These combined findings are listed below.

Site Plan Review:

The applicant does not propose any physical changes to the site or the approved site plan.

Parking

Parking for this use will be accommodated by an existing driveway parking area from 6th Street and alley access in the rear of the property.

Required Parking: 1 per guest room plus 1 per 1.5 employees
Parking Proposed: Four total spaces.

Review and Decision-Making Criteria (20-1306(i))

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

Staff Finding – The proposed use complies with the provisions of the Bed and Breakfast use in Section 20-504 and the Special Uses requirements in Section 20-1306. The use is allowed in the RS5 with approval of a Special Use Permit. In correspondence dated 26 March 2014, the applicant wrote to indicate the owner occupies living quarters within the structure as required in Section 20-504: "Bed and Breakfast Establishment," which requires, "A Bed and Breakfast with 3 or fewer guest bedrooms shall be operated as an incidental use to the Principal Use of an Owner-occupied Structure."

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

The applicant has indicated that the maximum rooms available at this time will be three. There will be a full-time resident manager on the property. There are no proposed changes to the site. Because of the limited use as a bed and breakfast, there will be minimal impact in terms of scale and operating characteristics. The lighting proposed for the structure is residential in scale, and has not adversely impacted the area. A traffic impact study has been completed by the applicant. The study indicates that the impact of this new use will be negligible. Sixth Street is a principal arterial, and Tennessee Street is a major collector street. There is parking on-site for the proposed use.

Staff Finding – The proposed use is compatible with the single-family residential use and public park that exists in the neighborhood.

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

The information available to staff indicates that the introduction of a bed and breakfast use into a historic district does not diminish the property values of the district. In addition, there is no evidence that the existing bed and breakfast on the same block has had any negative impact on the value of property in the area.

Staff Finding – The proposed use will not cause substantial diminution in the values of other property in the neighborhood.

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

Review of this project by planning staff indicates no additional modifications or alterations are required for this site. If, in the future, additional rooms are to be included in this use, new means of egress may be required for the expansion. The increase of use from a single-family residential to a resident manager and three rooms is negligible; therefore, it does not impact transportation or utility services.

Staff Finding – The proposed use does not preclude the ability to service the existing uses in respect to public safety, transportation, and utilities.

5. WHETHER ADEQUATE ASSURANCES OF CONTINUING MAINTENANCE HAVE BEEN PROVIDED

The applicant was required to sign a site plan performance agreement before the release of the site plan.

Staff Finding – Adequate assurances of continuing maintenance will be address with the site plan performance agreement.

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

The property is developed with an existing residence, with two single-story garages. No physical changes to the site are proposed.

Staff Finding – The proposed use will not cause significant adverse impacts on the natural environment.

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 introduction of new uses into a residential neighborhood should be done with careful consideration to the unique aspects and character defining elements of the neighborhood. This is particularly important in a designated historic district. The continued use of this bed and breakfast should be monitored for impacts on the historic district as well as the neighborhood. Because of the uniqueness of this area, the bed and breakfast special use should be reviewed at five year intervals.

In addition, any alterations to the approved special use plan, including the use of additional bed rooms over three, should be reviewed and approved by the Historic Resources Commission, Planning Commission, and the Lawrence City Commission at public hearings to determine the overall impact of the change on this historic neighborhood.

Staff Finding – The proposed use should be reviewed by the Planning Commission and the City Commission every five years to evaluate the impact of the special use on the character-defining and neighborhood quality of this important historic neighborhood.

Conclusion

The adaptive reuse of historic structures is often vital to the continued use of these structures. The National Park Service recommends the adaptive reuse of structures if the original use is no longer viable. The continued use of the structure so that it does not fall into disrepair is the key to the preservation of architectural heritage. The National Park Service also recommends that the adaptive reuse is one that will require minimal changes and that can be easily reversed.

The adaptive reuse of a single-family residence to a bed and breakfast meets these criteria and is a recommended reuse by the National Park Service, and the National Trust for Historic Preservation, for single-family structures.

The bed and breakfast use is recognized by the Land Development Code as a use that can be compatible with the RS5 District, with a Special Use Permit. Due to the corner location and size of this structure, a bed and breakfast use is appropriate.



April 16, 2014

RE: SUP-14-00049, Runaway Pony Bed & Breakfast located at 603 Tennessee

Dear Planning Commissioners,

My father, David Clark, owns the property at 411 W 6th Street, which is the adjoining property to the west of 603 Tennessee. He is quite elderly and is hearing impaired and has asked that I help him draft comments in regards to the SUP for the Runaway Pony Bed and Breakfast.


Above all, we would like to clarify the misrepresentation of his support when this Special Use Permit was first considered and granted in 2009. Unbeknown to him, it was stated that Serina Hearn had discussed the option of a Bed and Breakfast with Mr. Clark and that he was in full support. He has stated that Serina did not request his support and that he was never in agreement that this property should be allowed to operate as a Bed and Breakfast.

The following are concerns related to the operation of the Bed & Breakfast, some of which appear to be in conflict with the conditions of the permit. If this permit is granted, we would appreciate confirmation by the City of Lawrence that all conditions of the permit are being met. We have also attached photos, all taken within the past year.

1. Adequate parking. The permit requires 4 designated parking spaces. Although 2 garages exist on the property, it appears they are used for storage, not parking. Two paved parking spaces do exist with access off 6th St. Access off the alley, although used to park one vehicle or trailer at times, consists of a dirt and gravel path into the yard. During large gatherings/parties, adequate parking is not available.
2. Owner occupied structure. The business now has a live-in manager and does not appear to be the owner's primary residence.
3. Limit of 3 guest rooms. Various references to this property state it contains 5-7 bedrooms. The original site plan shows 3 guest rooms with separate bedrooms and sitting rooms. In reading online reviews submitted for the Bed and Breakfast, it appears some of the sitting rooms are actually available as bedrooms.
4. A large brush/debris pile is located on the east side of the alley garage. The brush pile is a concern as it is very unsightly and an overall indication of the lack of maintenance of this property. The landscaping contains large dead plants. Planting containers and trash are strewn behind the 6th St garage, which is out of view for the Bed and Breakfast but in full view from the front yard of our property.
5. Trash containers, which according to the site plan, were to be stored on the east side of the alley garage, are kept along the alley and have not always been adequate for the amount of trash generated.
6. Reference was made to an existing Bed and Breakfast at 7th and Tennessee as justification for the one at 603 Tennessee. We do not believe a Bed and Breakfast has existed at that location since 1998.

Again, we would like to communicate our objection to this property being used as a Bed and Breakfast, as it seems more a commercial business rather than a homeowner/resident sharing their home. On behalf of my father and myself, thank you for your time and consideration.

Sincerely,


David Clark


Patty Clark Ogle



Brush and debris off alley by garage



View from 6th Street



Dead plants in landscape



View from front yard of 411 W. 6th Street



Overflowing trash containers



Parking off alley

TO: The Lawrence/Douglas County Planning Commission
FROM: Jim O'Malley
RE: SUP renewal for 603 Tennessee
DATE: April 21, 2014

I live at 626 Ohio Street, within 200 feet of 603 Tennessee.

The SUP approved by the Planning Commission and City Commission in 2009 was for an owner-occupied Bed and Breakfast Establishment with 3 guest bedrooms, in compliance with section 20-504 of the Development Code. This reflected the understanding of the neighbors and OWLA that Ms. Hearn would live in the house and run it as a B & B with 3 guest bedrooms.

The SUP specifically required removal of the phrase "with On-Site Manager" from the Proposed Occupancy line of the site plan. It also required replacement of the phrase "Caretaker's suite" with "Owner's Suite." (The minutes from the 2009 Planning Commission are attached.)

The staff report on the renewal request may reintroduce a resident manager who may not be the owner.

The staff report states that "There will be a full-time resident manager on the property."

Will that manager be the owner?

The report does say that on March 26, Ms. Hearn "wrote to indicate the owner occupies living quarters within the structure." That's in the present tense. What about the future and the "full-time resident manager"?

Owner-occupancy is crucial for maintaining the single-family residential character of the district.

Allowing evasion of the owner-occupancy requirements will allow purely commercial uses in single family neighborhoods. That would be a bad precedent. There is a real difference between a small B & B run by the owners in their own residence and a B & B owned by a business and run purely as a business. The clear intent of the Code is to allow the former, but not the latter.

I would object to any changes in the conditions of the SUP that would allow a resident manager who is not the owner. However, I have no issue with renewal of the SUP with the original conditions unchanged.

James J. O'Malley

PLANNING COMMISSION MEETING

August 24 & 26, 2009

Meeting Minutes

August 24, 2009 – 6:30 p.m.

Commissioners present: Blaser, Carter, Chaney, Finkeldei, Harris, Hird, Moore, Rasmussen, and Student Commissioner Shelton

Staff present: McCullough, Stogsdill, Day, Finger, J. Miller, Zollner, and Ewert

MINUTES

Receive and amend or approve the minutes from the Planning Commission meeting of July 20 & 22, 2009.

Motioned by Commissioner Harris, seconded by Commissioner Carter, to approve the July 20 & 22, 2009 Planning Commission minutes.

Motion carried 6-2, with Commissioners Blaser and Rasmussen abstaining. Student Commissioner Shelton voted in favor.

COMMITTEE REPORTS

Receive reports from any committees that met over the past month.

There were no committee reports.

COMMUNICATIONS

Mr. Scott McCullough reviewed new attachments/communications that were posted to the online Planning Commission agenda after the initial posting date.

No written action of any waiver requests/determinations made to the City Engineer.

EX PARTE / ABSTENTIONS / DEFERRAL REQUEST

- No ex parte.
- No abstentions.

ITEM NO. 1 SPECIAL USE PERMIT FOR A BED & BREAKFAST; 603 TENNESSEE ST (LBZ)

SUP-4-3-09: Consider an amended Special Use Permit application, repealing the Adaptive Reuse of a Historic Property element of the application, for property located at 603 Tennessee Street for a Bed & Breakfast. Submitted by Rainbow Works LLC, property owner of record. *Deferred from the 7/20/09 Planning Commission meeting.*

STAFF PRESENTATION

Ms. Lynne Braddock Zollner presented the item.

Commissioner Harris inquired about ownership and asked who is considered the owner occupant with a corporation.

Ms. Zollner said the chief executive officer or someone the corporation designates.

APPLICANT PRESENTATION

Mr. Tony Backus, said the house has been for sale for a long time and they have had people request that they turn it into a bed and breakfast. He said there has been lots of positive response for a bed and breakfast in the community.

No ex parte communications by the Commissioners

PUBLIC HEARING

No public comment.

COMMISSION DISCUSSION

Commissioner Harris asked if this Special Use Permit would need to be revisited if it changed ownership.

Mr. McCullough said that has not been recommended as a condition for this permit.

ACTION TAKEN

Motioned by Commissioner Finkeldei, seconded by Commissioner Chaney, to approve SUP-4-3-09, a Special Use Permit for a Bed and Breakfast located at 603 Tennessee Street based upon the findings presented in the body of the staff report and subject to the following conditions:

1. Execution of a Site Plan Performance Agreement.
2. Publication of an ordinance per Section 20-1306(j).
3. Final Inspection and approval by the Fire Department before occupancy as a Bed and Breakfast.
4. Applicant shall provide a revised site plan to show the following changes:
 - a. existing fencing
 - b. site summary table
 - c. existing building elevations
 - d. correct the following text on the face of the site plan:
 1. remove "with On-Site Manager" from Occupancy – Proposed
 2. remove Employees – (1)
 3. add DR-7-88-09 under Historic Resources Commission
 4. removed "Caretaker's Suite" under Floor Areas and Uses. Identify as 'Owners Suite'
5. Applicant shall provide a revised site plan to include the following notes:
 - a. "SUP is granted approval for 5 years. A new SUP shall be required before July 2014 to continue the Bed and Breakfast use."

b. "SUP is granted for up to three guest rooms. Use of additional guest rooms shall require a new public hearing."

6. Any signage associated with the bed and breakfast must be reviewed and approved by the Historic Resources Administrator prior to installation.

Unanimously approved 8-0, with Student Commissioner Shelton voting in favor.