

MINUTES
INDEPENDENCE CITY PLANNING COMMISSION
November 15, 2022

MEMBERS PRESENT

Cindy McClain, Chair
Bill Preston, Vice-Chair
Virginia Ferguson
Paul Michell
Butch Nesbitt
Laurie Dean Wiley

STAFF PRESENT

Rick Arroyo – Assistant Director
Stuart Borders – Senior Planner
Brian Harker – Planner
John Mautino – Assistant City Attorney

A meeting of the Independence City Planning Commission was held at 6:00 p.m. on November 15, 2022, in the Independence City Hall Council Chambers, 111 E. Maple Ave. The meeting was called to order.

CONSENT AGENDA

- 1. Planning Commission Minutes – October 25, 2022**
- 2. Case 22-600-02 – Special Sign Permit – 11805 E. 23rd Street S.**

Commissioner Nesbitt requested Case 22-600-02 be pulled for separate consideration.

Motion

Commissioner Nesbitt made a motion to approve the Amended Consent Agenda, minus Case 22-600-02. Commissioner Ferguson seconded the motion. The motion passed with six affirmative votes.

Case 22-600-02 – Special Sign Permit – 11805 E. 23rd Street S.

Staff Presentation

Stuart Borders presented the case.

Motion

Commissioner Nesbitt made a motion to approve Case 22-600-02. Commissioner L. Wiley seconded the motion. The motion passed with six affirmative votes.

PUBLIC HEARINGS

Case 22-100-19 – Rezoning – 400 N. Osage Street

Chairwoman McClain advised she would recuse herself from this case, due to her son being the applicant. Vice-Chair Bill Preston presided over this case.

Staff Presentation

Brian Harker presented the case. Mr. Harker presented the Commission with a vicinity map, noting the area and surrounding zoning. He presented the Commission with an aerial map indicating the project area and explained the surrounding land uses.

In response to Commissioner Nesbitt's question, Mr. Borders explained 353 Tax Abatement areas. Commissioner Nesbitt asked if staff knows who owns the building to the north of that location. Mr. Harker stated he does not know who owns that building.

Applicant Comments

Colin McClain, 310 N. Main St, stated he had reached out to the owner of the building north of this location, but never received a response. He noted he doesn't know what type of business is run out of that building.

In response to Commissioner Preston's question, Mr. McClain stated the lot is currently used for storing salt in the winter. Mr. McClain said the salt will be stored elsewhere.

Commissioner L. Wiley stated she is on the board for the Chamber of Commerce. She advised they discussed this case and they're excited to see a beautiful home go into this location.

Public Comments

Anthony Robinson, 413 N. Spring Street, stated his family just moved to the area and they're excited for a single-family home in this location.

Mark McDonald, 420 W. Farmer Street, said he is also excited to see another single-family home being added to this neighborhood. He's also glad to know the salt will be moved elsewhere.

Marcie Gragg, 422 W. Farmer Street, stated she is also in support of this application.

Eric Smith, 417 W. Farmer Street, said he is also in support, mainly because it will force the salt to move from that location.

Jim Dougherty, stated he owns the property just north of this property at 408 N. Osage St. Mr. Dougherty said he is concerned about this property changing from commercial to residential. He expressed concern over the property value of his property with this change. Mr. Dougherty stated the property has been owned by his family for a long time and it's currently occupied by small businesses. He stated he is also concerned that moving this to single-family residential then opens this up to be considered for multi-family residential.

Mr. McClain stated he does have architectural plans for the house. He confirmed there is only space for a single-family house on this lot.

Commissioner Comments

In response to Commissioner Nesbitt's question, Mr. Harker explained where the buffers would be needed due to the residential abutting commercial properties.

In response to Commissioner L. Wiley's question, Mr. Harker stated there is already residential property abutting Mr. Dougherty's property.

Commissioner Nesbitt stated he believes this is a good application and will bring improvements to the neighborhood.

Motion

Commissioner L. Wiley made a motion to approve Case 22-100-19 – Rezoning – 400 N. Osage Street. Commissioner Michell seconded the motion. The motion passed with five affirmative votes.

Case 22-100-20 – Rezoning – 701 N. Forest Avenue

Stuart Borders stated the applicant advised he is sick and wouldn't be in attendance.

Motion

Commissioner Nesbitt made a motion to continue Case 22-100-20 – Rezoning – 701 N. Forest Avenue, to the December 13, 2022, meeting. Commissioner Preston seconded the motion. The motion passed with six affirmative votes.

Case 22-400-12 – Short-Term Rental – 424 N. Spring Street**Staff Presentation**

Stuart Borders presented the case. Mr. Borders presented the Commission with a vicinity map, noting the area and surrounding zoning. He presented the Commission with an aerial map indicating the project area and explained the surrounding land uses. Mr. Borders outlined the following conditions:

1. The Short-Term Rentals shall obtain a business license in accordance with the City Code and comply with Article 3, Chapter 5 of the City Code. The occupation license number shall be listed on all advertisements and online platforms.
2. The business must comply with all safety and other standards established by the Short-Term Rental Section of the UDO.
3. The maximum occupancy of the premises shall be limited to eight.

In response to Commissioner L. Wiley's question, Mr. Borders stated the letters went out to surrounding property owners mentioning a maximum occupancy of six; however, after speaking more to Mr. de Lautour, it was discovered there were four bedrooms so that increase the occupancy to a maximum of eight. Commissioner Wiley questioned where parking is available. Mr. Borders stated there are two parking spots available behind the residence and enough street parking for the additional two required.

Applicant Comments

Mark de Lautour, 4238 Edmondson Court, Lee's Summit, stated he has received a lot of calls from surrounding property owners. He said he's been in communication with Kathy, who owns the properties to the south and west side. Mr. de Lautour stated SBD Housing will be a good neighbor. He said his company has over 700 homes under management and has 30 employees. Mr. de Lautour said this property has been sitting vacant and they've invested \$76,000 to make improvements. He stated a short-term rental in this location would increase economic development to the city. Mr. de Lautour noted he's aware of the new guidelines before the City Council and they're prepared and willing to abide by those new ordinances. He said they will have a noise monitoring device and will provide weekly cleanings and lawn maintenance. Mr. de Lautour noted the benefit of a short-term rental is that the property management company is constantly at the house, making sure it's maintained; whereas, with a long-term rental, it may be years before the house has a good cleaning and is checked for upkeep.

In response to Commissioner Michell's question, Mr. de Lautour tenants will have access to a 24/7 monitored company who will then contact Mr. de Lautour's company to respond.

In response to Commissioner Nesbitt's question, Mr. de Lautour said there are two parking spaces behind the building and additional street parking available. He noted it's common for those using a short-term rental to use ride sharing services, as many as 67% of tenants. Mr. de Lautour said while rehabbing the house, none of his workers had issues finding street parking.

Commissioner L. Wiley asked Mr. de Lautour how many people live around the residence. Mr. de Lautour said he would be guessing if he tried to provide a number. Commissioner L. Wiley then asked Mr. de Lautour what he loves most about Independence. Mr. de Lautour stated Independence is a forward-thinking community. He said he came and spoke in support of the large industrial park near Little Blue Parkway because it will bring jobs and business to the city.

Public Comments

Eric Smith, 417 W. Farmer Street, stated the two houses surrounding this property, owned by Kathy, have been a nuisance. Mr. Smith said he would like to see a single tenant occupy this residence and believes that will help keep the neighborhood safe.

Commissioner Preston confirmed with Mr. Borders that Short-Term Rental business licenses are good for one year and if it's been deemed a nuisance, they may lose their license and their ability to run a Short-Term Rental.

Mark McDonald, 420 W. Farmer Street, said a short-term rental does not fit in with this neighborhood, mainly because of the lack of parking in the area. He said residents currently have issues finding parking in the area. He stated he believes the applicant has good intentions but stated he doesn't believe guests staying there would be impressed with Independence because of the two adjoining long-term renters.

Kathy Brownfield, 6110 NE Upper Wood Road, Lee's Summit, stated she owns the two rental properties at 415 and 420. She stated she fixed her sidewalk, but the owner at 424 did not. She said she does everything she can to ensure she gets good renters at her properties. Ms. Brownfield stated she understands the neighbors want these houses to be single family-owned houses, but they did not purchase the properties and can't control if they are rentals.

Marcie Gragg, 422 W. Farmer Street, stated this is a single-family home and provided a brief history on the home. Ms. Gragg spoke about the Midtown Truman Road Corridor and how it planned for this home to be a single-family, owner lived in home. She said some neighbors must park on the street and this use would cause more issues.

Anthony Robinson, 413 N. Spring Street, stated he agrees with other speakers and doesn't believe this is a good fit for the neighborhood.

Mr. de Lautour stated they will do their best to be a good neighbor. He said housing trends have changed and it's no longer the American dream for young people to own a house. They've seen an increase in build to rent communities all over Kansas City. Mr. de Lautour reiterated his maintenance staff had no issues finding parking while rehabbing the house and believes there is adequate parking. He also noted that they will help ensure quality tenants by having a higher price point.

Commissioner Comments

Commissioner Preston stated the Planning Commission has seen many Short-Term Rental applicants. He noted generally, they turn out to be good for the neighborhood. Commissioner Preston stated there are always opportunities for bad owners, but most want to keep up their houses, so they continue to get business. He noted if there are issues with a Short-Term Rental, the business license could be revoked.

Chairwoman McClain stated she generally agrees that Short-Term Rentals are good for neighborhoods. She said she is concerned that this location is between two long-term rentals that neighbors have had issues with.

Commissioner L. Wiley stated she struggles with approving Short-Term Rentals without the new regulations in place.

Commissioner Michell said he sees the value in Short-Term Rentals, but stated they're being diluted and may not be in as high of a demand. He stated by looking at the pictures in the application, he would not be interested in staying at this house. Commissioner Michell said the exterior of the residence doesn't look well maintained and noted the sidewalk is not in good condition.

Commissioner Nesbitt stated Short-Term Rentals are good because owners have an incentive to keep up with the maintenance, so it gets rented. He said he's sure this will turn into a long-term rental if this isn't approved, which will mean the owner will only come around each year to make sure the home is being maintained. Commissioner Nesbitt said he doesn't believe this has enough off-street parking.

Chairwoman McClain called for a break at 7:40 p.m. The meeting was called back to order at 7:50 p.m.

Motion

Commissioner Nesbitt made a motion to approve Case 22-400-12 – Short-Term Rental – 424 N. Spring Street, with conditions as outlined by staff. Commissioner Preston seconded the motion. The motion failed with one affirmative vote.

Case 22-400-13 – Short-Term Rental – 3421 S. Arlington Avenue

Staff Presentation

Stuart Borders presented the case. Mr. Borders presented the Commission with a vicinity map, noting the area and surrounding zoning. He presented the Commission with an aerial map indicating the project area and explained the surrounding land uses. Mr. Borders outlined the following conditions:

1. The Short-Term Rentals shall obtain a business license in accordance with the City Code and comply with Article 3, Chapter 5 of the City Code. The occupation license number shall be listed on all advertisements and online platforms.
2. The business must resolve any pending current safety issues noted in the attached Fire Inspection comply with all safety and other standards established by the Short-Term Rental Section of the UDO.
3. The maximum occupancy of the premises shall be limited to six.
4. The section of driveway between the street pavement and the concrete portion of the driveway must be also paved with an all-weather surface (concrete, asphalt). This must be completed before the approval of the business license.
5. The noise monitoring system shall be installed and activated prior to approval of their business license.

Applicant Comments

Lindsey Martin, 7994 NW Mace Road, Kansas City, stated this is her first investment property. She stated she wants to protect the integrity of this neighborhood and has spoken to neighbors about this becoming a short-term rental. Ms. Martin said there will be a noise monitoring device and cameras to ensure noise and occupancy is not an issue. She stated she did a lot of research before selecting a property management company to ensure they will take care of any issues that arise.

In response to Commissioner Nesbitt's question, Ms. Martin said four cars can fit in the driveway. She advised while working on the house, they had four vehicles and no issues with parking. Ms. Martin confirmed she will get the rest of the driveway paved.

Assistant City Attorney John Mautino stated the standards that apply at the time of approval would be judged when the business license is up for renewal.

Public Comments

No public comments.

Commissioner Comments

Commissioner Nesbitt stated he believes this Short-Term Rental is more reasonable for this area.

Chairwoman McClain said she agrees that this is a better fit for the neighborhood.

Motion

Commissioner Preston made a motion to approve Case 22-400-13 – Short-Term Rental – 3421 S. Arlington Avenue, with conditions as outlined by staff. Commissioner Michell seconded the motion. The motion passed with five affirmative votes.

Case 22-400-14 – Short-Term Rental – 20013 E. 24th Terrace Court S.

Staff Presentation

Brian Harker presented the case. Mr. Harker presented the Commission with a vicinity map, noting the area and surrounding zoning. He presented the Commission with an aerial map indicating the project area and explained the surrounding land uses. Mr. Harker outlined the following conditions:

1. The Short-Term Rentals shall obtain a business license in accordance with the City Code and comply with Article 3, Chapter 5 of the City Code. The occupation license number shall be listed on all advertisements and online platforms.
2. The business must comply with all safety and other standards established by the Short-Term Rental Section of the UDO.
3. The maximum occupancy of the premises shall be limited to 8-adults (10-total).

Applicant Comments

Misty Kearney, 25550 E. Bundschu Road, stated she bought this property as an investment property. She said by managing it herself, she will ensure the property and lawn stays in good condition. Ms. Kearney stated she understands there are neighbors concerned but believes this is a better option than a long-term rental. She said in an effort to vet each guest, possible tenants have to request to rent the home and cannot book without her approving the stay. Ms. Kearney stated in her other rentals, she sees a lot of baseball and softball families that come to Kansas City for tournaments. She said she's given neighbors her phone number and they can contact her if they have any issues.

In response to Commissioner Nesbitt's question, Ms. Kearney stated the house is brand new.

In response to Commissioner Michell's question, Ms. Kearney said they plan to add a noise monitoring device and cameras to the property, if approved. Commissioner Michell requested this requirement be added to the conditions required.

Clinton Kearney, 25550 E. Bundschu Road, stated his wife, Ms. Kearney, does a good job at vetting any possible tenants. He stated she looks them up on all social media accounts and she won't approve their booking if it looks like they won't be a good tenant.

Public Comments

Billie Brooks, 20004 E. 24th Terrace Court S, stated she and other neighbors signed protest petitions. She said it was her understanding they could be turned in before the meeting and requested they be taken into consideration.

Assistant City Attorney John Mautino advised the City Code stipulates that they must be turned in 24-hours in advance of the meeting.

Ms. Brooks stated she opposes this short-term rental application. She advised she purchased her property 13-years ago because the area was safe, quiet, and secluded. Ms. Brooks said she does not want strangers coming into the neighborhood and the extra noise and traffic. She noted only the person renting the property would be vetted, not all the occupants planning to stay at the home. Ms. Brooks stated Prairie Landing is in a Community Improvement District (CID) and provided the Planning Commission with a handout. The document provided is a First Amended and Restated Declarations of Covenants, Conditions and Restrictions for the Prairie Landing CID. Ms. Brooks stated short-term rentals are prohibited in Prairie Landing according to this document. She outlined several sections of this document where it states that this type of activity should not be allowed.

Commissioner Michell asked if the Planning Commission should consider this document when making their decision. Mr. Mautino advised this document has no bearing on this application because it's a private document and unrelated to the present use application before the Planning Commission. He further clarified if there is a document deals with real property, and it's still enforced, all of which we don't know with respect to this particular document, then it could give rise to others interested, but don't relate to land use applications such as the one before the Planning Commission.

Commissioner Michell stated this document is not relative to the decision tonight but doesn't mean that the neighbors cannot lean on the enforcement if the document is in effect. Commissioner Michell then asked if it's relevant information to know how many people signed the protest petition, even if it's not valid. Mr. Mautino advised if someone went around to get signatures, they could testify before the commission, although hearsay, that they spoke to however many neighbors and that could be taken into consideration.

Shelley Lee, 2400 S. Glenview Avenue, stated the CID is active and the document provided by Ms. Brooks is valid. She stated she does not want businesses run in their neighborhood.

Tom Carlson, 20000 E. 24th Terrace Court S, said he doesn't understand why this document wouldn't be taken into consideration when he pays into the CID. He said he's against this application and agrees with Ms. Brooks. Mr. Carlson stated this subdivision was supposed to be owner occupied single-family houses and now many are buying the properties as investments.

Linda Finger, 2323 S. Hanover Avenue, stated they just bought their house last year and are long-time Independence residents. Ms. Finger said they bought this house because it was in a safe, quiet neighborhood and she doesn't believe this is a good location for a short-term rental.

Williams Hoots, 19805 E. 24th Terrace Court S, stated he was given the covenants for his house from the developer. He said he believes the Planning Commission should take the covenants into account before making their decision.

William L. Hoots, 2318 S. Hartland Court, stated he moved to Prairie Landing because it was going to be a single-family residential area. He was promised that no short-term rentals would be allowed in the neighborhood. He stated he's also concerned that if these are approved, investors will purchase other properties in their subdivision that have been vacant for some time and try to turn them into short-term rentals as well.

Ms. Kearney stated this home will be a rental, whether it be short-term rental or long-term rental. She said she prefers it to be a short-term rental because it gives them more control over who stays at the home. Ms. Kearney said when she purchased this home, she was advised that the HOA is not active.

In response to Commissioner Nesbitt's question, Ms. Lee stated there is an active CID for the properties in the neighborhood and clarified that the HOA is not currently active. She said the HOA would be under the CID document.

Mr. Kearney said if the CID has an issue with having a Short-Term Rental in the neighborhood, the CID would need to bring their complaint to the Planning Commission.

Commissioner Comments

Commissioner Preston stated the Assistant City Attorney has advised that the Commission should only look at the issue in front of them, and that the legitimacy or legality of the documents provided by neighbors is not something they can take into consideration. Commissioner Preston said he's typically in favor Short-Term Rentals; however, due to the number of neighbors that would be negatively affected, he doesn't feel this is a good fit for the neighborhood.

Commissioner Michell said he agrees with Commissioner Preston.

Commissioner L. Wiley stated until there are better regulations in place, she will be against this Short-Term Rental.

Commissioner Nesbitt said the neighbors have spoken and they want this to remain a single-family residential neighborhood.

Motion

Commissioner Preston made a motion to approve Case 22-400-14 – Short-Term Rental – 20013 E. 24th Terrace Court S., with conditions as outlined by staff, with the additional requirement of having a noise monitoring device. Commissioner Nesbitt seconded the motion. The motion failed with zero affirmative votes.

Commissioner Michell asked if there's a way to streamline the next case since it's very similar to the case that was just heard. Chairwoman McClain stated each case needs to be heard on its own merit.

Case 22-400-15 – Short-Term Rental – 2316 S. Hanover Avenue **Staff Presentation**

Brian Harker presented the case. Mr. Harker presented the Commission with a vicinity map, noting the area and surrounding zoning. He presented the Commission with an aerial map

indicating the project area and explained the surrounding land uses. Mr. Harker outlined the following conditions:

1. The Short-Term Rentals shall obtain a business license in accordance with the City Code and comply with Article 3, Chapter 5 of the City Code. The occupation license number shall be listed on all advertisements and online platforms.
2. The business must comply with all safety and other standards established by the Short-Term Rental Section of the UDO.
3. The maximum occupancy of the premises shall be limited to 8-adults (10-total).

Applicant Comments

Misty Kearney, 25550 E. Bundschu Road, stated she's abiding by every requirement and City Code that the City is requesting. She noted if the neighbors feel their documents are enforceable, they are able to contact an attorney to take them to civil court. Ms. Kearney said when they purchased the home, they were not given any information that a short-term rental would not be allowed. She said she understands they don't want rentals, but even if it doesn't become a short-term rental, it will become a long-term rental. Ms. Kearney said if it was so important to the neighbors, to keep the CID/HOA documents valid, then they should have kept paying their dues so they could protect what can go into their community. She stated she's done everything that has been asked of her, but the neighbors are still laughing at her in the courtroom. Ms. Kearney said she's already furnished this home in preparation for it to become a short-term rental. She noted she is also a life-long Independence resident and believes she should also have rights as a property owner.

In response to Commissioner Nesbitt's question, Ms. Kearney said she does request the name of everyone that would be staying at the short-term rental, so she can vet them all. She noted with a long-term rental, she would only vet those signing the lease, but they can have visitors and she would have no control over that. Once a long-term renter is in the house, she doesn't have rights to enter the home or control over what they do at the property. Ms. Kearney said with a short-term rental she can enter that property at any time with no notice and can terminate their stay immediately if there are issues.

Commissioner Preston told Ms. Kearney that he sympathizes with her and noted that every case is evaluated on its own merit. He said the CID/HOA issue is not why the first case was denied. He said it's about preserving the integrity of the neighborhood that so many of the neighbors came out to talk about. Commissioner Preston advised Ms. Kearney that she can appeal the decision to the City Council. Mr. Harker noted the applicant has five days to appeal a decision, so it can go to the City Council for review. Mr. Borders reviewed the appeal process and noted the City Council does not hear new testimony.

Chairwoman McClain said it's obvious that Ms. Kearney has put her heart and soul into this and sympathizes with her. She said she frequently stays at VRBOs and that on some, hosts do require the name of every person that will be staying on the property.

Public Comments

William L. Hoots, 2318 S. Hartland Court, stated he's about a block away from this property and believes some long-term renters do take care of their properties. He noted he's also against this application for the same reasons he stated in the previous case's public hearing. Mr. Hoots also expressed concern over parking.

Mr. Harker stated there would be two spaces available in the garage and two spaces available in the driveway.

Shelley Lee, 2400 S. Glenview Avenue, stated this is not a personal vendetta. She said Ms. Kearney is a member of the CID because she pays dues. Ms. Lee stated she doesn't believe the developer did their due diligence if they did not tell Ms. Kearney that a Short-Term Rental would not be allowed in this neighborhood.

Commissioner Preston stated he wanted to make it clear that the Planning Commission has nothing to do with the CID or the HOA.

Tamara Atkinson, 2320 S. Hanover Avenue, said she's a live-long Independence residence. She said she's had good discussions with Ms. Kearney about the differences between short-term rentals and long-term rentals. Ms. Atkinson said her main concern is that she wants to know her neighbor and doesn't want different people coming into the property each week/month. She stated she was told when she purchased her home that there would not be rentals allowed.

Sonia Barnhard, 2317 S. Heartland Court, stated she's lived in her house for 14 years. She said the developer made a lot of promises about this neighborhood and she knows a lot about disappointment. Ms. Barnhard said she's always felt safe in their neighborhood, but recently her son's vehicle was broken into. She stated she concerned about the safety of the neighbors with a short-term rental going into this location.

Linda Finger, 2323 S. Hanover Avenue, stated her home is her dream home and she hopes to retire in this home. She said she doesn't want to see a short-term rental in her neighborhood. Ms. Finger said she's concerned about property values with rentals going in.

Motion

Commissioner Nesbitt made a motion to approve Case 22-400-15 – Short-Term Rental – 2316 S. Hanover Avenue, with conditions as outlined by staff, and adding a condition that requires a noise monitoring device. Commissioner Preston seconded the motion. The motion failed with zero affirmative votes.

Chairwoman McClain stated she lives in an area with four Short-Term Rentals and has never had one issue. She noted she also lives in a historic district where people want to visit for the historic sites. Chairwoman McClain said at first, she had the same reservations that neighbors have expressed tonight. She stated that the Prairie Landing neighborhood is surrounded with residential, and she understands that neighbors want to protect that. Chairwoman McClain stated she sympathizes with Ms. Kearney because she also understands her desire to run a successful business and to bring visitors to Independence.

ROUNDTABLE

Commissioner Michell stated he appreciates the applicants and public coming out to speak on these cases.

ADJOURNMENT

The meeting was adjourned at 9:39 p.m.