

MINUTES
INDEPENDENCE CITY PLANNING COMMISSION
April 11, 2023

MEMBERS PRESENT

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

STAFF PRESENT

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

A meeting of the Independence City Planning Commission was held at 6:00 p.m. on April 11, 2023, in the Independence City Hall Council Chambers, 111 E. Maple Ave. The meeting was called to order.

CONSENT AGENDA

1. Planning Commission Minutes – March 28, 2023

Motion

Commissioner Nesbitt made a motion to approve the Consent Agenda. Commissioner Ferguson seconded the motion. The motion passed with six affirmative votes.

PUBLIC HEARINGS

Case 23-400-01 – Short-Term Rental – 217 S. Hunter 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 maximum occupancy of the premises shall be limited to six.
3. The noise monitoring system shall be installed and activated, the Good Neighbor Guidelines, evacuation plan and other notices must be properly posted, prior to approval of the business license.

Applicant Comments

Rob Scarborough, 603 Quincy Blvd, Smithville, stated this will be his third Short-Term Rental in Independence, if approved. He stated he's been using the Minut noise monitoring device for over two years now and spoke of its features. Mr. Scarborough said they've been making repairs and upgrades to the home and are now ready to rent it out.

In response to Commissioner Preston's question, Mr. Scarborough said the new Short-Term Rental application requirements were easy to understand and staff was available to help along the way.

In response to Commissioner L. Wiley's question, Mr. Scarborough confirmed this is a three-bedroom home with three queen sized beds. He said since this home only has one bathroom, they don't want to host more than six people.

Public Comments

No public comments.

Motion

Commissioner Preston made a motion to approve Case 23-400-01 – Short-Term Rental – 217 S. Hunter Street, with the conditions as outlined by staff. Commissioner H. Wiley seconded the motion. The motion passed with six affirmative votes.

Case 23-400-02 – Short-Term Rental – 1430 S. Maywood 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 Rental 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 Section 14-420 of the City Code.
3. The maximum occupancy of the premises shall be limited to six adults.
4. The noise monitoring system shall be installed and activated, the Good Neighbor Guidelines, evacuation plan and other notices must be properly posted, prior to approval of the business license.
5. Pave the street side pull-off area.

Mr. Harker noted the City did receive a Legal Protest Petition on this case, so any decision will become a recommendation to the City Council for consideration.

Commissioner Nesbitt asked if staff will be inspecting Short-Term Rentals to ensure they continue to use a noise monitoring device. Mr. Borders stated staff can request the Rental Ready inspectors look for the noise monitoring device each year, as they renew their business license.

Applicant Comments

April Preston, 10920 E Winner Road, stated as a correction to the staff report, they only plan to host six people maximum. She said they do plan to pave the pull-off area if approved. Ms. Preston stated she's also ordered the Minut noise monitoring devise.

In response to Commissioner Preston's question, Ms. Preston said she owns the Short-Term Rental at 1734 S Northern and has been live for two years. She stated she's become a Super Host on Airbnb. Ms. Preston said neighbors love having a Short-Term Rental in the neighborhood. She said at the Northern address, their average stay is one week and noted their minimum will be two days for this property.

In response to Commissioner H. Wiley's question, Ms. Preston stated she had an open house for neighbors where she told them about her plans for the property. She advised Councilmember Perkins also helped talk to neighbors about their concerns. Ms. Preston noted her long-term renter currently parks on the left side of the driveway.

In response to Commissioner Preston's question, Ms. Preston said the new Short-Term Rental application requirements were easy to understand and staff was available to help along the way. Ms. Preston stated she's willing to comply with all the staff recommendations outlined by Mr. Harker.

In response to Commissioner L. Wiley's question, Ms. Preston stated she handles everything pertaining to the Short-Term Rental, from bookings to cleanings. She said if someone is looking to rent a Short-Term Rental that is local to the area, they will ask additional questions to find out why, to prevent parties. Ms. Preston clarified the long-term renter does not have access to the Short-Term Rental unit.

In response to Commissioner Nesbitt's question, Ms. Preston stated she doesn't have exterior cameras at the home.

Public Comments

Leigh Phillips, 1423 S Maywood Avenue, stated she is against this Short-Term Rental/mini hotel being in her neighborhood. She advised she and her neighbors are against transient guests coming and going from their neighborhood. Ms. Phillips noted the first time this case went before the Planning Commission, they also submitted a Legal Protest Petition, and their concerns are still valid. She said allowing this Short-Term Rental/mini hotel would destroy her neighborhood. Ms. Phillips stated the Independence Housing Study states discretion should be used when approving Short-Term Rentals and requests the Commission to vote against this case. She said there are still supply issues when building new homes and the City should not allow out of town investors to purchase existing homes for commercial use. Ms. Phillips questioned how out-of-town investors can be considered more important than the surrounding neighbors.

Cynthia Green, 1508 S Maywood Avenue, stated she loves her neighborhood and believes it should remain a single-family neighborhood. Ms. Green said she's spoken to some of her elderly neighbors who are also against this application. She also expressed concern that this house is across the street from the neighborhood school bus stop and the owners will not have cameras outside their home. Ms. Green stated Short-Term Rentals have issues all over the state.

In response to Commissioner L. Wiley's question, Ms. Preston stated if the Short-Term Rental is not approved, they will seek an additional long-term renter for this property.

Ms. Preston stated she grew up in Independence and has property in Independence and is not an out-of-town investor. She said she's on the EBA and CID Board for Englewood and is very active in the community. Ms. Preston said she's in Independence every single day and lives in the country, just outside Independence. She explained where her business name came from and stated her investment group are all local people. Ms. Preston said Short-Term Rentals help bring people to Independence that may otherwise not stay here. She noted she provides guests with information on Independence and of local businesses they can visit. Ms. Preston said all of the neighbors have her cell phone number and she would respond if there were any issues.

In response to Chairwoman McClain's question, Ms. Preston provided information on some of the positive reviews she's received on her Stone House Short-Term Rental. Ms. Preston said she has a lot of visitors coming for sporting events.

In response to Commissioner L. Wiley's question, Mr. Harker reviewed the Short-Term Rental revocation part of the City Code. Ms. Preston noted the business license is only good for one year and if there were issues, the City could choose to not allow her to renew her business license.

In response to Commissioner Nesbitt's question, Mr. Harker provided the Commission with the protest petitions to review. Mr. Harker noted the validity of a protest petition is based on the square footage within 185 feet of the subject property. He stated since there is a Legal Protest Petition, this case will go to the City Council for a final decision.

In response to Chairwoman McClain's question, Assistant City Attorney John Mautino stated he could not find a legal definition of mini hotel in the City Code or the Missouri statutes referencing zoning.

In response to Chairwoman McClain's request, Mr. Scarborough (the applicant for a previous Short-Term Rental case) explained the Minut Noise Monitoring system. He said it's the size of a smoke detector and will monitor decibel levels of noise. He clarified it does not listen or record voices. Mr. Scarborough stated the homeowner can set the device to alert them when a certain decibel level has been met for a certain amount of time. He stated he has his set to alert when noise reaches 85 decibels for five minutes. Mr. Scarborough said at that time, he will contact the guests and let them know of the issue. He noted it also alerts to moisture or temperature changes. Mr. Scarborough said he loves the service and it's very affordable.

Commissioner Comments

Commissioner Preston said he's usually an advocate for Short-Term Rentals because they have a positive impact on neighborhoods. He stated he believes the neighbors have the right to oppose activities in their neighborhood and regretfully cannot support this application.

Commissioner Nesbitt and Commissioner H. Wiley stated they agree with Commissioner Preston.

Chairwoman McClain stated the Commission does take Short-Term Rentals seriously and the City has had good success with them. She said Short-Term Rentals can help the City and is a good way for people to see and experience our historic city. Chairwoman McClain said she has a couple Short-Term Rentals in her neighborhood, and she's never had any issues with the guests staying there.

Motion

Commissioner Preston made a motion to approve Case 23-400-02 – Short-Term Rental – 1430 S. Maywood Avenue, with the conditions as outlined by staff. Commissioner H. Wiley seconded the motion. The motion failed with zero affirmative votes.

Case 23-400-04 – Short-Term Rental – 1011 S. Main Street

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 Rental 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 Section 14-420 of the City Code.
3. The maximum occupancy of the premises shall be limited to eight persons.
4. The maximum number of bedrooms shall be 4.
5. The noise monitoring system shall be installed and activated, the Good Neighbor Guidelines, evacuation plan and other notices must be properly posted, prior to approval of the business license.

Applicant Comments

Hillarie Wright, 1509 S Osage Street, and Rachel Bailey, 24621 E Truman Road, reviewed their history with the house and the updates they've done. Ms. Wright said they've done a lot of updates to the inside and outside of the house and pool house.

In response to Commission Nesbitt's question, Ms. Wright said the pool house has security cameras inside and outside with monitoring. She noted the lock on the outside of the pool house will have a different code than the front door, to ensure that children can't get in the pool house, even if they know the front door code. The monitoring system will also say "pool door open" inside the house, any time the pool door is open. Ms. Wright stated they have spoken to others in the community that run Short-Term Rentals with pools to get their advice on how to keep it a safe space. She said they'll also have liability insurance.

Ms. Bailey stated the house has five bedrooms, but they will make one of the upstairs bedrooms into an office to abide by City Code.

In response to Commissioner Preston's question, Ms. Bailey said the new Short-Term Rental application requirements were easy to understand and staff was available to help along the way.

In response to Commissioner Preston's question, Ms. Wright said they ordered a Minut device and they plan to put a device in the house, as well as in the pool area. She also noted that she lives a minute away and would be reachable at any time to take a care of situations.

Ms. Bailey stated the pool has been there for over 20 years, and they reached out to the company who had installed it to get prior history on it. Ms. Baily said that other families have lived in it prior with kids, and it has been utilized a lot over the year.

Public Comments

Devin Carol, 521 Ralston Ave, stated the property would be a great addition to the neighborhood and would stimulate local business growth. Mr. Carol said he would love to see more people get involved in the local businesses, and more growth on the square.

Amy and Charles Kistler, 1114 S Noland Rd, stated they are owners of the Silver Heart Inn Bed and Breakfast. Ms. Kistler said as owners they want to ensure the success of their Bed and Breakfast and have concerns of a new business starting so close to theirs. Ms. Kistler stated she has concerns about the noise level and number of bedrooms.

In response to Commissioner Nesbitt's question, Mr. Scarborough stated the purpose of the Minut noise monitoring system is to help detect noise before it gets too loud. Mr. Scarborough said that

he mounts his in the living room, or kitchen areas, that would have the most noise or gathering of people.

Marilyn May, 29001 E Beth Ct, Grain Valley, said this property would enhance the ability of tourists to visit downtown Independence, and will help those to see the beauty of our city.

Motion

Commissioner Preston made a motion to approve Case 23-400-04 – Short-Term Rental – 1011 S. Main Street, with the conditions as outlined by staff. Commissioner H. Wiley seconded the motion. The motion passed with six affirmative votes.

Case 23-400-05 – Short-Term Rental – 509 E. Rankin Road

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. No more than two guests, excluding children five years old and under, per bedroom is permitted per guest stay. The total maximum occupancy is 10 occupants, which includes both adults and children.
3. All sleeping areas not meeting the building code for emergency escape and rescue openings or proper ventilation shall cease as sleeping areas.
4. Per the UDO, the second kitchen in the basement does not meet the definition of a single dwelling unit and must be removed or modified to not be considered a multifamily unit.
5. The noise monitoring system shall be installed and activated, the Good Neighbor Guidelines, evacuation plan and other notices must be properly posted, prior to approval of the business license.

Applicant Comments

Jacob Jensen, 509 E Rankin Rd, stated he frequents the area for work and decided to purchase a home for when he's in Kansas City. For those times he's in Utah, he thought using it as a Short-Term Rental would be a good use. Mr. Jensen said he didn't realize he needed a permit to operate a Short-Term Rental and received a letter from the City and since ceased operation. He stated before he knew there were regulations, they set up the Short-Term Rental as a five bedroom with a maximum of 14 people staying. Mr. Jensen said they were unaware they could not have a kitchen in the basement, and if approved would remove the stove, and sink to make it a single-family dwelling.

Mr. Jensen said the City received several complaints about his property. He stated there were concerns that the property was being utilized as a drug house, there were too many cars parked on property, and that at one time, there was a party bus coming and going from the property. Mr. Jensen stated with each event he reviewed camera footage from the front of the house and believes these complaints are invalid. He said the coming and going was food delivery and the party bus was only at his property for a short time to drop off guests. Mr. Jensen said he could provide the video evidence to the Commission.

Public Comments

Norma Higbee, 512 Rankin Rd, stated she feels the Jensen's are good neighbors and they have made the house look beautiful. Ms. Higbee said she feels having the Short-Term Rental in the area is a good thing, because they will keep the house looking nice.

David Ross, 808 E Manor Rd, stated he is the President of Golden Acres Community Association. Mr. Ross said that in January he started getting complaints from neighbors about the property being utilized as an Air BnB, but he did not have a contact at the time for the owner of the house. He stated that once he did get a hold of the owner, Mr. Jensen, he started working with him to try to resolve the concerns of the neighbors.

Sheryl Rohrman, 605 E Rankin Rd, stated she's concerned because the homeowners live out of state. She has seen multiple vehicles come and go from the property at all hours of the day. Ms. Rohrman stated there have been large parties at the residence and quicky deliveries that look suspicious.

Mike Talcott, 1901 S Lake Dr, stated he doesn't believe this is a good neighborhood for a Short-Term Rental. He is also concerned with the NFL draft and World Cup coming soon, it will bring crowds or parties that would not be welcome.

Jeffrey Mitchell, 601 Rankin Rd, stated he's concerned because of the large parties that have taken place at the residence. He said there has been a large party bus that delivered a big crowd and it's created a lot of noise issues.

Mr. Jensen stated he's aware there was a large party and was apologetic that he didn't know the rules and regulations of operating a Short-Term Rental.

In response to Chairwoman McClain's question, Mr. Jensen said when he received the letter from the City to cease operations, he did so and spoke to staff about the violation.

In response to Commissioner Nesbitt's question, Mr. Jensen stated he would have a Responsible Agent that could respond to the property if there was an issue. This Responsible Agent would be less than an hour away and able to act on his behalf.

Commissioner Comments

Commissioner Preston stated neighbors have the right to the quiet and enjoyment of their homes and neighborhood. He said that the applicant had a chance to make a good first impression on his neighbors and failed to do so. He said that if the applicant would want to take the time to build relationships with the neighbors and come back later, he would revisit a new case for a Short-Term Rental.

Commissioner L. Wiley stated she is all for admitting a mistake was made and giving them a second chance. However, she thinks there needs to be time to heal the community and revisit the Short-Term Rental option later.

Motion

Commissioner H. Wiley made a motion to approve Case 23-400-05 – Short-Term Rental – 509 E. Rankin Road, with the conditions as outlined by staff. Commissioner Preston seconded the motion. The motion failed with zero affirmative votes.

ADJOURNMENT

The meeting was adjourned at 9:20 p.m.