

CITY COUNCIL OVERSIGHT COMMITTEE MINUTES

November 27, 2018

The City Council Oversight Committee of the City of Norman, Cleveland County, State of Oklahoma, met at 4:07 p.m. in the City Council Conference Room on the 27th day of November, 2018, and notice and agenda of the meeting were posted in the Municipal Building at 201 West Gray 48 hours prior to the beginning of the meeting.

PRESENT:	Councilmembers Bierman, Castleberry, Holman, Scott, and Chairman Clark
ABSENT:	Councilmember Carter and Hickman
OTHER STAFF PRESENT:	Mayor Lynne Miller Mr. Terry Floyd, Development Coordinator Ms. Shelby Jameson, Administrative Tech III Ms. Beth Muckala, Assistant City Attorney Ms. Mary Rupp, Interim City Manager Ms. Jeanne Snider, Assistant City Attorney Ms. Jane Hudson, Interim Planning and Community Development Director

Item 1, being:

DISCUSSION REGARDING SHORT TERM RENTALS (COMMERCIAL HOME SHARING SUCH AS AIRBNB, HOME AWAY, AND VRBO).

Ms. Jeanne Snider, Assistant City Attorney, said the Oversight Committee has been discussing short term rentals for several months now and Staff is looking for additional input and clarification to complete the final draft ordinance; whether or not short term rentals would be a permitted use or special use, how would the ordinance be applied in the Center City Form Based Code (CCFBC) area, and whether or not the City should utilize STR Helper Monitoring Service to assist with the regulation piece.

Chairman Clark asked if there were any questions regarding the permitted use and special use issue before moving on to CCFBC. She asked how they would get to the designations of permitted use and special use.

Ms. Jane Hudson, Interim Planning and Community Development Director, said in the packet information there is a list of residential districts. R-3, Multi-Family Dwelling District, does have some duplex/triplex development, but there are single family homes within R-2, Two Family Dwelling District, and R-3 districts. Staff is currently looking at the areas that have single family homes in them because with a special use application, the adjacent property owners would be noticed of the property owner's proposal.

Item 1, continued:

Ms. Snider said that the STR Helper Monitoring Service (STR) could assist Staff in locating the addresses of the short term rentals at a cost of \$7,500 per year for the Core Discovery Platform. Other components could be added for an additional cost, e.g., permitting system and registration portal, tax remittance, nuisance management, and a services module.

Councilmember Holman asked what the percentage would be for an apartment complex using short term rental before it becomes a hotel, which would require payment of hotel/motel tax. He asked if the STR Program could be used as a legal backup if the City went to court for any use related to the short term rental. For instance, the STR program indicated the property had leased out 12 nights and the property owner is only reporting 10. Ms. Snider said that she is not aware of a percentage, but the hotel/motel tax would be required per unit as a short term rental. She said the City could use any information provided in the service for legal back up, if needed. Councilmember Castleberry asked if that would be similar to a sales tax audit performed by the Oklahoma Tax Commission if there is a discrepancy on sales tax remittance. During the audit process their books/records would be subject to review.

Councilmember Bierman said that it seems STR tracks the nights rented and the rates, so she felt that is something that can be controlled.

Chairman Clark asked of all the options STR provides, what does Staff believe would be the primary option to best execute this program and what would be optional. Ms. Snider said the primary option would be the Core Discovery Program that drills down into all of the social platforms. She would like for the City to utilize all of the modules and felt the annual fee would most likely cover the cost.

Mayor Miller asked if Council adopts the ordinance and use a service like STR, would STR be notifying all of the properties that need to get a permit/license. Ms. Snider said that would most likely be the outcome.

Mayor Miller asked how Council will approve all of the applications, i.e., if the City receives 40 applications, is Council going to approve all 40 applications at a City Council meeting or would they be grandfathered in. Ms. Hudson said Council would need to determine how it would be implemented. She said with special use, Staff notifies the surrounding property owners, the applications would go to Planning Commission, and then City Council. Ms. Hudson said at the last Oversight Committee meeting there was discussion about whether or not to require a special use permit if the property owner lived on site as their primary residence vs. rental property where the owner lived off site. Councilmember Bierman said she does not feel special use is necessary. She felt with 100+ properties going through notifications, Planning Commission, then City Council for approval every time would be difficult to administer. She said it is not required for other rental properties, which she believes probably have more noise violations/complaints than we would get from short term rentals. She said if Council is not going to regulate long term rentals, it does not seem justifiable to do it with short term rentals. However, she said they should still comply with safety/insurance/licensing. Chairman Clark said

Item 1, continued:

in theory, the administrative load would only come in to place with the initial application, but would not be as big a problem on an annual basis. Councilmember Castleberry said if it is a rental property, he did not feel it should require a special use permit. He felt there should not be a difference between short term and long term rental when deciding on special use. He is concerned that if all requests are not approved, it could lead to arbitrary and capricious issues. Chairman Clark said the purpose of the special use permits was to protect neighborhoods. Councilmember Castleberry said we have other ordinances in place that could address issues such as noise, parking, etc. He said he believes neighbors could be notified through the licensing process. Councilmember Bierman said if the issue is protecting neighborhoods, who gets to decide how many properties can be licensed or permitted.

Mayor Miller said that homes used as long term rentals are used for residential use; it is not the same thing as someone coming in town for a three day weekend, etc. She said it makes a neighborhood more transient in nature. She said she is okay with them being put in residential neighborhoods, but felt it needs to be maintained and have some protections for residential areas. Chairman Clark said that she agrees; short term rentals are more likened to bed and breakfasts versus long term rentals. Councilmember Bierman said she understands the concern, but she does not see the difference in general in individuals renting for three days, 31 days, six months, or a year; it does not make them any more integrated to a neighborhood. She said it depends on the individual who is renting and she does not believe Council can legislate neighborhood integration. Councilmember Holman said a rental property is a business in residential neighborhoods and felt there needed to be consistency with short term rentals and bed and breakfasts who have to abide by more restrictive rules.

Councilmember Castleberry said he is leaning more towards starting out with permitting/licensing and not requiring a special use permit and if there are issues, special use could be implemented later. Chairman Clark said she feels comfortable with that approach; maybe base it off of a complaint basis system. Councilmember Holman said agreed as well and asked if other cities are requiring special use permits or does it vary by city. He asked what a short term rental permit/license would look like in a commercial area. Ms. Snider said it varies; some cities came up with different types of special use. She said she cannot come up with an example of a short term rental being used in a commercial area, but said there are apartments in downtown Norman.

Mayor Miller said she is empathizes with the bed and breakfasts that have to go through the proper steps to establish their business. She is afraid that there could be repercussions for allowing some leniency in the beginning. She felt strongly Council needed to protect the neighborhoods and said special use could always be removed later if it was not needed.

Ms. Hudson said residential properties within the CCFBC area are required to have a three foot elevation. Existing homes that wish to become short term rentals are changing the use and would become a non-conforming use if they do not have the three foot elevation. We do have those areas that became legal non-conforming when we adopted the CCFBC.

Item 1, continued:

Councilmember Castleberry was concerned people will find a way around, e.g., signing six month leases with no early termination clause. Chairman Clark said that it becomes a property rights issue as well and she is fine with legal non-conforming use as long as they are in the system and paying taxes and fees.

Councilmember Castleberry said he would like to see the permitting/licensing for short term rentals be similar to bed and breakfasts. Ms. Snider said the short term rental ordinance draft does include the safety requirements and insurance guidelines in it.

Chairman Clark said that it sounds like there is an agreement on how to handle the short term rentals with the CCFBC issue as a legal non-conforming use. STR Helper pricing for our use would be good to use the Core Discovery Platform and the revenue derived from the fees would most likely cover the cost.

Chairman Clark said for other zoning districts Council is looking a special use versus permitted use. She said there seems to be come consensus on special use in all residential zoning districts other than RM-6. The majority seems to support licensing only at this time since there are other ordinances addressing issues such as noise, parking violations, etc. Licensing and code requirements would be the same as what is required for bed and breakfast establishments. If it is determined that special use is needed for every property, it could be addressed at a later date. Chairman Clark said she would like to hear community feedback on this issue, but is comfortable starting with the permitting and licensing.

Councilmember Bierman said she would like to see the Homeowners Association and designated neighborhood areas reaching a threshold of signatures have the ability to restrict short term rentals in their neighborhoods. Councilmember Scott agreed, but said some neighborhoods do not have homeowner associations and asked how that could be addressed. She said previously the Committee had discussed trying to find a solution to address businesses/corporations from buying homes for a commercial enterprise. The discussion included requiring a property owner to live on site or on call within a certain time frame to address issues. Ms. Snider said the draft ordinance includes language to have a natural person be the owner with a local contact within an hour from the property. She said there may need to be exceptions for apartment complexes. Councilmember Castleberry said most rental properties are owned by an L.L.C. You can be a single person L.L.C. also, and if L.L.C. properties would be prohibited from doing short term rentals, he would not support that. Ms. Snider said the natural person language is consistent across the states, but she would do more research to see if there have been any lawsuits, etc., related to L.L.C. owned properties being prohibited from operating short term rentals.

Audience Comments

Ms. Jayne Crumply said she has many concerns short term rentals related to noise, parking, etc., and said Code Compliance is too short handed, in her opinion, to be dealing with more of these

Item 1, continued:

issues and are not available in the evenings. She would like to see a special use permit required and asked if neighbors will be notified in R-1 zoning if a short term rental is licensed. Ms. Snider said the STR Helper has the ability to have a hotline and some cities post signs on the property but that becomes a problem in neighborhoods as well.

Ms. Lee Hall said that the discussion has made a turn since the first discussion. She believes short term rentals are lodging as well and that is what makes it complicated. We already have the distinction between the two. She said it gets more complicated when you look at it from the regulations for R-1 zoning because when you operate as a lodging bed and breakfast, you have to get a special use permit. She felt some type of special use should be established in R-1 zoning since that is already going on. She felt short term rentals would have an advantage over bed and breakfasts if there is not a type of special use implemented. She asked for the Committee's consideration regarding short term rentals and what neighborhoods would be impacted the most.

Ms. Sylvia Bone said she has a short term rental across from her residence and short term rentals are very different from a long term rentals.

Chairman Clark said she likes the idea of requiring a neighborhood notice provision as part of the licensing process. She said another consideration could be a special use permit for properties renting out four or more rooms.

Mayor Miller said she is still concerned about protecting the neighborhoods and would prefer special use permits for all short term rentals in residential neighborhoods, but that does not seem to be the consensus.

Councilmember Holman said he would like to move forward with the licensing part of this issue to include notification to the surrounding properties and is open to requiring special use for R-1 only. He is unsure whether it would be beneficial because property owners will find a way around the rental portion and it is really more of a feel good step.

Chairman Clark said it comes down to is whether it is lodging or a residence and in reality, it is actually lodging. She said moving forward begins with licensing with notification to neighbors to be revocable if short term rental becomes a nuisance.

Ms. Snider said they have enough now to put more into the draft ordinance and will have a final draft ordinance for further review.

Chairman Clark thanked Ms. Snider and Ms. Hudson for their work and she thanked everyone else for their comments.

Item 1, continued:

Items submitted for the record

1. Memorandum dated November 21, 2018, from Jane Hudson, Interim Planning and Community Development Director, and Jeanne Snider, Assistant City Attorney, to City Council Oversight Committee with attachments, CCFBC Regulating Plan and quote from STR Helper

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Item 2, being:

CONTINUED DISCUSSION REGARDING POSSIBLE REGULATIONS FOR THE USE OF PLASTIC BAGS.

Chairman Clark said there is not enough time to have the discussion, but there is information in the packet to give a better insight on the plastic bag issue. This will be included the December Oversight agenda.

Items submitted for the record

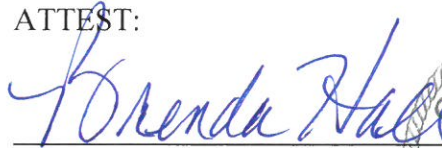
1. Memo dated November 21, 2018, from Terry Floyd, Development Coordinator, and Beth Muckala, Assistant City Attorney, to City Council Oversight Committee with Attachment A, Preliminary Draft Single-Use Bag Fee Ordinance; Attachment B, city by city comparison; and Attachment C, potential single use revenue

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ADJOURNMENT:

The meeting adjourned at 5:05 p.m.

ATTEST:



City Clerk


Mayor