

MINUTES
PLANNING COMMISSION WORK SESSION
Tuesday, February 24, 2015
5:00 – 7:00 p.m.

I. PLANNING COMMISSION WORK SESSION

Location: NDS Conference Room, Charlottesville City Hall, 2nd Floor

Members Present: Chair Rosensweig; Commissioners Taneaia Dowell, Kurt Keesecker, Genevieve Keller, Jody Lahendro, and John Santoski; UVA representative Bill Palmer

Call to Order: by Chairman Rosensweig at 5:00 p.m.

Matt Alfele, City Planner gave an update on the Transient Lodging Facilities zoning changes. Drafted January 21, the ordinance calls for allowing transient lodging facilities in all residential and mixed-use districts and some commercial districts through a provisional use permit.

Under the proposal, no one would be allowed to rent out a property or unit for more than 30 consecutive days, property owners would be required to have a business license, properties would be required to display a fire evacuation plan and owners would have to submit contact information for a property manager. The property manager also would be required to have an office in the city or county within 10 miles of the rental property.

The permits would be valid for one year and could be revoked by the Zoning Administrator if deemed necessary.

Mr. Alfele also announced that the Neighborhood Development Services staff would be holding an open house February 26, 2015 at the Water Street Center from 5:00pm – 6:30pm to gather comments and share information on the changing face of short term lodging facilities (such as Airbnb, Stay Charlottesville, and HomeAway) in the City.

Mr. Alfele said he feels the proposed ordinance can be a good thing, but if it gets taken to a certain level, it can be bad. He said that this is about finding a line between where it stops being a home with a secondary revenue stream or something commercial. He posed the following questions from the staff report:

1. Should transient lodging be allowed in the City?
Mr. Keesecker said yes it should be allowed. They exist now, and have been functioning for a number of years under the radar without any major mishaps.
Mr. Lahendro said yes with a lot of oversight.
Mr. Rosensweig said the general consensus among commissioners is yes with regulations.
2. At what point do TLF stop being residential dwellings and become commercial entities?

Ms. Green said when properties are purchased for the sole purpose of being used as transient lodging and not as a residence.

Ms. Keller said when they stop being someone's main permanent residence.

Mr. Alfele commented that this is how TLF effect neighborhoods, and when you have neighborhoods who have a lot of single family homes and multiple homes and something that looks like a home but is it really acting like a hotel. That is the main issue - how this affects neighborhoods.

Mr. Rosensweig was summarizing Ms. Green's comments, saying that a Transient Lodging Facility is when an owner does not occupy the residence as the primary use. He said short term rental is defined as thirty days or less for a single stay.

Definition of Hotel

A building containing or providing guest used or hired out for transient purposes by the day or by the week. Do not have full kitchen facilities.

Definition of Homestay

Temporary lodging facilities operating and managed with only three guest rooms. A bed and breakfast homestay shall be permitted only where the character of such use is such that it is clearly subordinate and incidental to the principal residential use of a dwelling. In addition to the resident of the dwelling, not more than one (1) other person may be engaged in the activities of a Bed and Breakfast homestay and two (2) other persons in all other bed and breakfast.

Lisa Robertson, Chief Deputy City Attorney said instead of trying to deal with all of these issues and the definition of what a transient lodging facility is that maybe the City should just add to the definition of a hotel a refinement of the types of things that fall within that definition that won't be allowed outside of a commercial district. Transient lodging offered in a residence is going to be among the things that still fall in the definition of a homestay. She said for the people who don't ever live in a residence that is being rented out on a short term basis - this technically falls in the definition of a hotel and technically should not be allowed anywhere other than the commercial district.

Mr. Rosensweig asked if there was a law that governs longer term leases.

Ms. Robertson said she recommended being careful distinguishing between residence and residing somewhere which suggest you are leasing an apartment or if you own a house. She said a lodging facility could be more than what you are paying for when you go to a B&B or hotel. It is a temporary lodging and you are not intending to live there whether a week or a month at a time.

Mr. Santoski asked should there be a special use permit, or if it is not owner occupied should there be a special use.

Ms. Green asked about a lease for a single family dwelling for a three year term. Do you want that person using this as their residence? If someone owns an apartment building, should they be able to rent their dwelling unit over the weekend? It is satisfying a need at the football weekend.

Mr. Keesecker asked the number of residential units in the city.

Mr. Haluska said the average household size is 2.2 so maybe 15,000 – 18,000 units.

Mr. Keesecker said about 100 residential units are purchased and operated this way today with relatively very little track record of impact or complaint. He said he doesn't see an impact right now that makes him worry. He also said he realized that people may have a half a dozen properties that they have invested in and don't want to see their investments dwindle.

Ms. Green said these operators may care about the physical structure but they do not care about the neighbors.

Ms. Dowell commented that the Commission cannot say they do not care about the neighbors, because the Commission is not personally making a connection with the owners. She stated that she is in this business and regardless of whether you are renting your house out or you bought a house strictly to rent it out; or you are living in the house and purchased it to rent a room for transient lodging; you don't have a three day conference period with your guest before they come. She commented that your friends might be abroad and renting their house out but they don't know what the guest will do while they are not there. Ms. Dowell said technically the owners are not residing there when they have guest and they have no control once they leave to what is going to happen.

Ms. Keller said it is outside of the Planning Commission's purview to comment on the behavior of the guest because there are other mechanisms to deal with behavior. She said sometimes it's successful and sometimes it is not so successful. She said that the high end rentals are probably better maintained than the average home. She said Charlottesville wants to be a city that is inhabited by its residents whether they own a house or not but are committed to the community in ways that the long term in the community are. She said it might be a three month rental, because it could be someone taking a course at the University for the summer, but they are moving in a housekeeping mode and invested in more than just taking a trip here. This is why she is having a problem with a large number of these uses and why anything that is not owner occupied should have a Special Use Permit.

Mr. Keesecker questioned why the Commission would want to make this difficult.

Mr. Lahendro said that even in mixed use neighborhoods, apartments, and condominiums, there is still a neighborhood.

Missy Creasy, interim Director of NDS, said that these uses operate at different scales, different frequency, and that the enforcement gets tricky.

Mr. Keesecker said that if it required an SUP what the impact would be if the owners did not live in the residence and how would you mediate that.

Ms. Keller said that she was thinking about the impact more than size. She said she tried to figure out a point where you can destroy the street.

Mr. Palmer mentioned that with supply and demand, certain areas have more transient lodging facilities than others. He agrees that neighborhoods need to remain intact.

Mr. Rosensweig said he sees consensus among four of the Commissioners to support and protect the neighborhood and would like to see this special use in residential neighborhood.

Mr. Keesecker suggested making it so the City requires an SUP if you have 4 or more bedrooms, but if you don't have those many bedrooms you can get a provisional use permit and we will watch to see if you are an abuser.

Ms. Creasy stated that Council pointed out to make sure the Commission looked at the Portland, Oregon ordinance and that staff will get a copy of that ordinance to the Commission for further discussion.

Mr. Alfele said in Portland they have two types of Accessory Short-Term Rentals. Type A - Accessory Short Term Rental is where the resident rents no more than 2 bedrooms to overnight guests. A Type A - Accessory Short-Term Rental Permit is required, which includes a safety inspection as part of the permit approval and neighborhood notification. Type B - Accessory Short Term Rental is one where the resident rents between 3 and 5 bedrooms to overnight guests. A Land Use Conditional Use Review application is required along with a site inspection or self-certification for the same safety features as the Type A rental.

Ms. Robertson said using the definition of owner occupied allows this type of use. She said that the City needs to have a public hearing in May 2015 at the latest.

Ms. Green stated that the Commission is trying to make an ordinance for Charlottesville, and that there is no requirement to make an ordinance.

Open for Public Comment

Bill Chapman an owner of a B&B in the city said that no one told him they were operating illegally. He said investors buy properties to do this. He said he has never met anyone doing it as a business. He asked about changing the zoning and grandfathering in the R-1U neighborhoods. He said there are people entrenched way before AirBnB or Stay Charlottesville was starting.

Brian Haluska, Senior Planner stated that anytime you are operating a permitted use in a zone and the regulations are changed to prohibit that use, you are classified as a non-conforming use. Non-conforming uses can change to a conforming use, and they may also become less non-conforming. The determination on whether a use is less non-conforming is decided based on is how much and how long.

Ms. Robertson stated that illegal use was not the proper term, but non-conforming use. She said that how the use came to be established determines whether it is a permitted non-conforming use or illegal.

Kevin Davis said a lot of people do like using transient lodging facilities. He said there is a false assumption about why people use them, and that a lot of people rent these facilities so they can attend weddings, visit wineries, come for personal reasons, to see if they want to live in Charlottesville. One renter came to help daughter during her first year college and wanted to have their own personal residence. He said if the main issue is bad actors in the system, then let's do something to control the bad actor and the concern about the neighborhood focus around concentration. He said that they have neighbors who like it and that there are 4 or 5 properties being used like this in his neighborhood.

He urged embracing the use as a means to increase tourism.

Debra Weiss is a homeowner who rents her detached city property which she calls The Recycled House, because it's made entirely from refurbished materials. She said she doesn't think Charlottesville is at risk of being overrun by real estate moguls who just want to rent entire streets of houses out to short-term travelers. She commented that nobody is getting rich off Airbnb. She said this short-term rental thing is fantastic for so many reasons.

She also made it known that she has a business license for her rental property, and she happily pays the 6 percent lodging tax to the city. She said so far it seems to be working and believes once the City figures out exactly how they want to tax it and make money that everybody should be made to comply.

David Vanderveer said that before AirBnB clients come to stay, owners check their reviews. If someone trashes a house, you leave them a bad review, and they will have difficulty ever using the services again. He said it is a very safe system, the renters review you, and you review the renter. He said he can't imagine Charlottesville becoming full with BNBS.

Unified Development Ordinance

Lisa Robertson City Attorney gave a brief description of the Unified Development Ordinance.

Mr. Rosensweig said he thought we would see is that the next step to see what unified submission is going to be.

Mr. Haluska answered, saying the goal was to have all developments be submitted under the regulations of Chapter 34. He stated that the City has a lot more internal reviewers than previously, including reviewers doing climate and environmental reviews. He said that staff was interested in moving forward, and would bring a list of the submission requirements back to the Commission.

Mr. Lahendro said not to make the ordinance description difficult to understand. Just make it simple for everyone to understand. This was supposed to be housekeeping to reconcile where we are at this time. Are there precedents in Fredericksburg? He said he thinks that things are working reasonably well. We need one big ordinance that deals with uses and the entire code unified development.

The Work Session adjourned at 7:05.