

Minutes

PLANNING COMMISSION REGULAR MEETING
June 8, 2021 – 5:30 P.M.
Virtual Meeting

I. COMMISSION PRE-MEETING (Agenda discussion(s))

Beginning: 5:00 PM

Location: Virtual/Electronic

Members Present: Commissioner Lahendro, Commissioner Stolzenberg, Commissioner Russell, Chairman Mitchell, Commissioner Solla-Yates, Commissioner Palmer

Members Absent: Commissioner Dowell

Staff Present: Patrick Cory, Alex Ikefuna, Lisa Robertson, Missy Creasy, Craig Fabio, Read Brodhead

Chair Mitchell called the meeting to order at 5:00pm and provided an overview of the agenda for the evening. It was noted that the Cville Plans process update will be provided by Ms. Creasy and Mr. Ikefuna. The short term rental conversation will be introduced by Chair Mitchell and Commissioner Russell and then Mr. Brodhead will provide a report. There is no deliverable for this item except the notes will be shared with the consultants working with the zoning ordinance revision. For the Comp Plan discussion, Chair Mitchell noted that he will ask about the discussion for timing of infrastructure improvement planning to support this effort to determine if that should be now or at the zoning revision phase.

Commissioner Stolzenberg noted that there is public confusion that needs to be clarified as noted by the comments received. He would like to get all the comments that are available. Two concerns may warrant experts. It may be helpful to have Weldon Cooper provide a presentation on how projections are developed and information from the University on their thoughts. There was a news presentation by a UVA ER doctor saying that increased density creates more health issues.

Commissioner Solla-Yates notes that there will be a discussion on the affordable housing ordinance status later this week with a smaller group.

Commissioner Russell asked Ms. Robertson for additional clarification on the tax information for transient lodging. Ms. Robertson noted that the state provides required guidelines for tax policy and there is not much leeway for what is allowable on the local level. The best way for change for this issue would be in the land use regulations where there is the ability to determine how it can look and where this type of use can go. There are some who argue that less than 30 day rental is not much different than residential but not everyone agrees. Short term rentals are pervasive as it is a lucrative commercial business. What people do in homes they live is very different than those that are under an LLC.

II. COMMISSION REGULAR MEETING – Meeting called to order at 5:30 PM by the Chairman

Beginning: 5:30 PM

Location: Virtual/Electronic

A. COMMISSIONER'S REPORT

Commissioner Russell – No Report

Commissioner Stolzenberg – I attended the MPO Tech meeting on May 18th. We made a recommendation for our unified planning work program. The Policy Board wanted to do a study of climate change and how to react to it with our transportation planning. There was also discussion of potential smart scale projects for the 2022 round. The ones under consideration are Avon Street, Fifth Street, a couple around Hydraulic, the Hillsdale Avenue Extension, and the Rivanna River Bike and Pedestrian Crossing on the east side of town. We will have to select four projects. It is possible some of those projects might need to be broken down into two or more to get to fundable size. The city's position was that we should prioritize the ones on the south side of town. Those are dangerous corridors. We saw a lot of fatalities on Fifth Street. We have done a lot of work on Hydraulic lately. We were funded for that last year. We also got a presentation from the UVA Research Center working on analyzing data on bicycle crashes across Virginia. It was a really interesting presentation. I recommended that they give it to other groups including the Policy Board. You can check out a live tweet on my Twitter page.

Commissioner Solla-Yates – The Housing Advisory Committee met on May 19th. They discussed tax policy. It was initiated by Jason Vandever, the City Treasurer. We have been doing tax credits for new construction on historic homes with the tax abatement program. We have been doing it for 20 years. Very few people take it up. Those few really get the money out of it. We're talking about high-income people and very high dollar homes. It is not the intent of the program. The intent of the program was to save historic homes that would otherwise be lost entirely. In terms of dollar value, most of those go to a small number of very wealthy people. We got wonderful data on that. The conversation was over what to do with this and how to use this to serve the public and use our dollars most effectively. We do want focus on preservation as well as affordability, affordable homeownership, and affordable rentals and really help to deliver on the goals of the comprehensive plan. The Cville Plans Together steering committee met on May 19th. We talked about many things. A lot of the material is familiar to us. There was a lot of discussion about medium-intensity residential. The neighborhood leaders group had a lot of constructive feedback about concerns that they had heard.

Commissioner Lahendro – The Board of Architectural Review met May 18th. I was not able to attend because of a conflict. The notes from that meeting indicate the Consent Agenda had two Certificate of Appropriateness Applications that were approved. During the regular agenda, there was only one COA application. This was for a new three story apartment building with underground parking that is

at 605 Preston Place, which is behind the Preston Court Apartments. After discussion by the Board, the applicant deferred the application. The Tree Commission met this past week. There was a really interesting presentation by a state forestry official. He told us about a proposal to Parks and Recreation to do a biological control release experiment at Ragged Mountain Nature Area. This is an experiment that will test the ability of selected parasites to control Emerald Ash Borer. It is going to be a 5 year study. It will be completely funded by the USDA. This is a study that has actually been going on since 2007. It has already been started in over 29 states. The Tree Commission did endorse the study. It is in the Parks and Recreation Department for approval. The Nature Conservancy has given a \$20,000 grant for a partnership of local non-profits to plant trees in a low canopy city neighborhood. The Tree Commission is supporting the effort and will participate. A plan is now being developed to select the neighborhood, find additional sponsors, and implement the planning that is going to happen. It is a wonderful public-private partnership. An RFP is now being written to perform a study of the mall trees. We discussed the importance of how the study needs to be dovetailed with the planned cultural landscape report that is also going to be advertised soon.

B. UNIVERSITY REPORT

Commissioner Palmer – There was a Board of Visitors meeting on Friday. They announced a major gift for a new Democracy Institute, the Karsh Family Democracy Institute. That is notable for us. That will probably lead to another building at the Ivy/Emmet Corridor.

C. CHAIR'S REPORT

Chairman Mitchell –Parks and Recreation has been very busy. The focus has been on getting things open again. The opening is based on what the CDC advises and what state and local officials allow us to do. The good news is that we are allowed to open a lot of things. The bad news is that we don't have the people to help us open them. We have lots of openings. If you are interested, go to the Parks and Recreation website. We would love to have you.

D. DEPARTMENT OF NDS

1. Cville Plans Together Process Discussion

Alex Ikefuna, NDS Director – There has been a lot of feedback. We can't complain that we're not getting any feedback on the Comprehensive Plan. We're getting a lot of feedback from the community. At this point, we have a draft of the chapters within the Comprehensive Plan and a draft future land use plan. Those have been made public to solicit public comment. Commissioners, City Council, and the website are a centralized location for feedback. We are getting a lot of comments from the public. With the process going forward, the comment period has been extended from May 31st to June 13th. We are still receiving comments. After June 13th, people will probably continue to send us comments. The consultant is working with staff to summarize the comments by categories. Those will be reviewed by the Planning Commission on June 29th. On June 29th, there will be a discussion of the comments. Staff will hear back from the Planning Commission in terms of your own comments and where we go from

that point. The Planning Commission and the public would like to know, after June 29th, what will happen next. At the June 29th work session, we will enable staff and the consultant to prepare an informed timeline on how the final draft document makes its way to the Planning Commission and City Council for a joint public hearing and to City Council for final consideration. There will be a lot of discussion at the June 29th meeting. The next steps, in terms of the final review process, will be Planning Commission action, and consideration by City Council. That's where we are going from this point to June 29th.

Chairman Mitchell – The meeting on June 29th focuses on the future land use map?

Mr. Ikefuna – That's correct. We can still discuss the draft chapters. At this point, everything is centered on the draft future land use map.

Chairman Mitchell – There seems to be some confusion between the future land use map and rezoning process.

Mr. Ikefuna – The future land use map is a vision of the future land use and how the developments in an area will pan out in the future. The zoning is actually a legal document. It dictates how development occurs and the conditions. The zoning ordinance will dictate what we do and how we will do it. There is a lot of legal consideration going into the zoning ordinance.

Chairman Mitchell – An actual endorsement of the vision does not necessarily dictate what the rezoning will look like?

Mr. Ikefuna – With the rezoning, we look at that in the Comprehensive Plan. It is more detailed.

Chairman Mitchell – A lot of the feedback we have gotten is whether we have the infrastructure in place to support the increased density that we may be considering. At what point do we work with the traffic engineer, city engineer, utilities department, and the public works department to figure out whether the infrastructure we have in place will support the new zoning?

Mr. Ikefuna – We touched base with public works and other infrastructure related departments. The public needs to know that the Comprehensive Plan has about seven chapters. Some of the chapters deal with the community facilities and infrastructure like transportation. If there is a problem in terms of infrastructure support, those city departments who are vested with the authority of providing infrastructure support with development, they will point that out. That's the reason why you have various elements in this comprehensive plan. You have the land use. We can touch base with public works and public utilities.

Commissioner Stolzenberg – When you say there is going to be a timeline laid out on June 29th to get to the final draft, that doesn't mean there is one more iteration. We will have a timeline for how many more iterations there will be before we get to that final comprehensive plan.

Mr. Ikefuna – Are you talking about in terms of engagement with the Planning Commission? The engagement with the Planning Commission is ongoing. The Planning Commission is the lead entity in terms of comprehensive planning, land use decisions, and transportation. The engagement with the Planning Commission doesn't end on the 29th. When it is necessary, we will touch base with the Planning Commission in the meetings. If we find it necessary, we can schedule a meeting to brief you. After the June 29th meeting, we will be looking at the next major steps and what we need to do to get to the point of a joint public hearing.

Commissioner Stolzenberg – Should we expect to see an increased tempo of work sessions on the topic as we prepare to get to that final state?

Mr. Ikefuna – Yes. That is something we have to discuss with the consultant. They have their own timeline. After June 29th, we have to discuss that. We have already started engagement in terms of that particular timeline. We are meeting with them every week right now. We have check-ins every week. After June 29th, how do we move forward to the next phase?

Chairman Mitchell – The next objective is to complete and get a 'nod' on the future land use map. We then seg way into the balance of the documents. At what point are you going to be asking for a 'nod' on the land use map?

Mr. Ikefuna – We haven't yet decided that. When we meet on June 29th and after the discussion, we will provide some kind of idea of what needs to get done before we get to the Planning Commission. We will be able to provide an educated feedback or guess to the Planning Commission.

Chairman Mitchell – The future land use map is a vision document. We are ways away from rezoning. This is a vision document versus an ordinance. An ordinance is where things become real and become concrete.

Commissioner Solla-Yates – Any luck on a new housing coordinator?

Mr. Ikefuna – I spoke with Brenda Kelley. We talked about that. There is a discussion right now in terms of when this would be advertised. There are some issues that are currently being considered. Once that is taken care of, we will advertise the position.

Ms. Creasy – We have definitely appreciated all of the comments that we have been receiving from the community. There has been a lot of interest and a lot of passion from the community in very different ways. We have been working with the consultants on getting comments categorized and getting it organized in such a way that the Commission is going to be able look at that and be able to circulate through and figure out areas that need additional discussion as we move forward. There was a lot of confusion based on the comments about a number of things. It will take us a while to communicate that. Some of these concepts, unless you do this every day, are not something you would know about. Any time somebody sees a map, they think it is happening immediately. That's one of the things with the future land use map that can be complicated. It is a visioning document that helps as you are getting into the things that become code, become the area, and the things you want to become as a community

in the future. Once you start seeing colors on paper and colors on top of things that you like and places that you go, it can be disjuncting. The future land use map is a visioning tool. It is not legally binding like the zoning ordinance is. The zoning is the step that comes after the land use map. As part of this project, we have professional consultants on board to assist us with recommendations on things that might work for our community and to implement the goals that our community wants to bring forward. The Commission has been working on this for a long time. There has been a lot of community members involved as well. This effort started in 2016/2017. One of the major principles that started from this was that the Charlottesville community is growing. With that growth, the Planning Commission did not want that growth to just happen without there being a way to be involved in how that growth occurs and where that growth comes. The Commission really came at this from “something is going to happen to our community. We know that we are seeing growth. We want to consciously to make decisions about how that happens and not allow something to happen to us.” That’s one we don’t want to get lost in the discussion here. I know a number of people have commented and provided feedback on some of the population projections that are out there. They show some numbers. We see a lot of applications that come through the community. We see a lot of increased infrastructure and industry that are moving forward in our community. We also see a number of people who are having to leave our community because they can’t find a place to live in our community. There are a lot of different factors that come into play with that. The main thing we want people to recognize is that we know that this is coming. We want the community to have a voice in how that comes to our community. There is a lot of interest in the Comprehensive Plan. We have had a lot of comments. The future land use map presented at this time shows an increase in the number of units in General Residential areas. It introduces a Medium Density residential category. It provides for some neighborhood nodes. These are things that are different. People in our community have different feelings and different thoughts about how these things that are not the same or may or may not affect them. The Commission recognizes that this is a factor for all in the community. One of those things is the “Telephone” game from back in the day. We hear a message. It goes around to different people. By the time it gets down the line, the message changes. We’re seeing a little bit of this with the discussion. We want to do the best we can to help get people as clear as possible as to what is going on with this process. We know we have some work to do on that. I want to encourage the public that we have this opportunity on June 29th. The public comment period is still open. We are taking any and all comments. Comments are coming in all different ways. They’re coming in via email, phone calls, and the Planning Commission listserv on our website. All of those that are coming in are getting routed to the commissioners and the consultants on the project. The volume is incredibly high. At this point, we don’t have the capacity to do individual answers. I do want to let you know that we are seeing them. There will be the opportunity to see that your comment is part of the discussions. I do apologize that we are not providing comments on the spot. Thank you for being so involved. It is very high. We can’t do it individually. We’re hopeful that once we get them combined, we will be able to help with that. We do have the work session on June 29th. Everyone is welcome to view that opportunity. It is going to be at 5:30 PM. It will be on Zoom. We will have the links available for people in advance of that. A week ahead of that meeting, we will have all of the materials that are available. People will have the opportunity to review those and might have some comments concerning that.

Commissioner Lahendro – This process of creating a new Comprehensive Plan started over five years ago. For over four years, the Planning Commission has been pleading and begging for public comment to

come in and help with this process. That has taken the form of over 30 meetings, presentations, and workshops throughout the community. It was the Planning Commission's objective from the very beginning that they wanted to hear from the public. They wanted to hear what people had to say about the Comprehensive Plan and what is going to happen to our city as a result of the continuing growth. This has been going on for quite some time. I just want to emphasize that. We have seen a number of comments where people are surprised that it has been brought to them for the first time within the last few weeks. That is just not the case.

E. CONSENT AGENDA

1. Minutes – February 8, 2021 – Pre-Meeting and Regular Meeting

**Motion to Approve – Commissioner Solla-Yates – Second by Commissioner Stolzenberg.
Motion passes 6-0.**

III. JOINT MEETING OF COMMISSION AND COUNCIL

No Public Hearings Scheduled

IV. COMMISSION ACTION ITEMS

1. Discussion – Short Term Rentals/Transient Lodging

Commissioner Russell – I know there has been discussion around short term rentals and homestays in the past few years. Broadly, I want to frame the topic around: Are our short term/homestay regulations serving our community as best as they can? I will start with a couple of data points. This is a study specific to Airbnb. When we are talking Airbnb, I am talking about short term rentals and homestay broadly. This is a report from the Economic Policy Institute. Evidence suggests that the presence of Airbnb raises local housing costs. Property owners do not benefit from Airbnb capacity to lower the transaction costs of operating short terms rentals. The beneficiaries are disproportionately white and high wealth households. The shift from traditional hotels to Airbnb lodging leads to less reliable tax payments to cities. City residents likely suffer when Airbnb operators circumvent zoning laws that ban lodging and violate our policies around short term rentals in residential neighborhoods. The first problem I am presenting to address: Do our short term rentals and homestay regulations go far enough? Whom do they benefit and at what cost to our neighborhoods and affordable housing picture? If they do, we can discuss whether the intent is acceptable. Can they be enforced adequately given our city staff resources to serve our community? The second topic of conversation is data from Forbes. It talks about the Airbnb affect. The Airbnb affect is similar to gentrification in that it slowly increases the maximum value of an area to the detriment of the indigenous or local residents. Many are pushed out due to financial constraints. In the future and looking ahead to possible increases in density, will that proposed soft density result in more rentable housing stock? I believe that is the intent behind that recommendation. Or will it result in more short term rentals used more as Airbnb type capacity? How would we prevent this from happening? I don't think that is what we would want. My anticipated outcome resulting from this discussion is not to introduce a new zoning or homestay regulation. I want to know if our current

homestay and short term rental policies are sound and staff are able to enforce them. I would also like to understand if we could potentially see more of the cons of Airbnb or short term rentals in the future if our zoning allows for more ADUs and soft density.

Read Brodhead, Zoning Administrator – I am providing facts. I am trying to keep my opinions separate from the content of the meeting. I am glad that we can revisit this. It has been about five years. It is a good time to come back and see what problems or successes might exist from the homestay ordinance. The Virginia code that applies to short term rentals is providing space intended for occupancy for lodging purposes for a period fewer than 30 consecutive days in exchange for a charge for that occupancy. This Planning Commission wanted us to review the ordinance. City Council enacted resolutions to the Planning Commission in 2015 to study it. We rolled out an ordinance on September 8, 2015. It took a long time. There was a lot of collaboration with business owners and people who had been doing short terms rentals in the city. It was a very detailed process. The city authorizes short term rentals in two ways: through the homestay program, which is only for residential zones where a homeowner resides in the property. Those are the only people who apply for homestay permits. Right now, we have about 125 that have been signed off on. That is more than last year. A hotel or other districts that allow hotels as a by right use can also have short term rentals. Apartment buildings can offer short term rentals as long as it is a by right use for a hotel. Prior to this ordinance, there was the ability to have short term rentals. We did have a homestay regulation where we allowed people to rent up to 3 guest rooms in their house. They had to be on the premises when those rooms were let out. That was in the single family/two family zoning districts. We also had bed and breakfast, which allowed 8 guest rooms and an inn which allowed up to 15 guest rooms. Those were more in the higher density residential zoning districts. There was a special use process. Bed and breakfast and inn are still in our zoning code. Going farther back, we have allowed boarding houses for many years. That was a major use. There are still a couple of boarding houses in the city. When staff initially looked at the homestay regulations, we discussed different things such as whether we should have a lottery to cap the number of homestays. That would have holes in it. That was not pursued as an option. At some point, there would be a saturation point. Once the saturation point was reached, there would be no more need for homestays and they would self-regulate. I am not seeing that. I am not seeing any top of that bubble. The bubble keeps getting bigger and bigger. It's amazing to me how many more homestays there are than I would ever imagine. When we did create the ordinance, we focused on three main things: Safety, impact, and enforcement. With safety, we have something in our ordinance that says you have to have a fire detector and a carbon monoxide detector. It also states that staff can come into the property at least one time each year to inspect these. That clause is in the ordinance. With impact, how is it going to effect the neighborhood? Who can apply for these? The code says you have to be a property owner and reside in the home for 180 days of each calendar year. That is not half a year. Maybe it should be 183 days of each calendar year. A lot of things can impact a property and a neighborhood. It allows up to 6 adults with any number of children to occupy a home as a short term rental. The number of people doesn't really affect an impact on the neighborhood. It is the number of cars, the amount of noise produced, and the amount of trash impact. That is what you see. There are a lot of different factors. There are a lot of different environments. The program impacts some neighborhoods more intensely than other neighborhoods. In the beginning, I got about 2 or 3 complaints a year. I am now getting many more complaints. It is really about impact,

noise, and vehicles. I am also getting complaints from other homestay operators, who are running their homestay legally and abiding by the law. They are looking across town and seeing other homestay operators not abiding by the law. We're getting a lot more complaints. We do have something in the code that if we get more than 3 substantiated complaints, we can revoke a permit for the remainder of that year and subsequent year. If someone hasn't gotten a homestay permit and is operating illegally because they don't reside in the property, that doesn't come into play. We enforce the ordinances through the violation process. It is an annual permit with a \$100 fee. I have heard from some people that is expensive. My opinion is that they are operating a business from their home, they should have to pay a fee. One hundred dollars versus what they make is very minimal. This is an annual permit. As a staff of two people, it takes a while to send out all of the permits. Each year not everyone gets a permit even though they are operating their homestay in compliance; people who are getting the permit and following the rules. You have other people who aren't renewing their permits but they are still going to comply. The third category and the smallest category is the people who either rent to more than 8 adults or they don't reside in the property. The people I am more concerned about are the people that are breaking the law and they don't reside there. Those are the people that I am going after. Our ordinance was one of the first in the state. A lot of other localities in Virginia were on "autopilot" watching what other people wanted to do. They didn't want to take drastic steps too quickly. Blacksburg just rolled out an ordinance that mirrors ours but it is more restrictive. A property owner can rent rooms for a maximum of 90 days each year. They can rent out the entire property for just 30 days of the year. The city of Alexandria doesn't have any limitations. There is no limitation except that you have to register with the Department of Finance. There is no permit. Blacksburg is like Charlottesville and the impact from the student population of the universities.

Chairman Mitchell – Your report does not recommend a lot of amendments to the ordinance. The 183 day piece is the only thing that I noticed. What would you like to see amended? What would make this ordinance better?

Mr. Brodhead – I think the code is pretty sound. It is manpower. There is two of us. We have been asking for a zoning inspector for over 12 years. It can't find its way into the budget. With the staff time that we have and all of the other duties and responsibilities, we have to prioritize our time. We really focus more on complaints that we get. We're not proactively going out and enforcing these things. This ordinance takes up way more time than what I would ever imagine. You would think that you would create this tool for whoever has the opportunity to make money off their property. In turn, there are a lot of people who see this as an investment. That's what they want to do. I didn't predict that back at the beginning. This wasn't the business model 6 years ago. The emphasis on making this only permitted for owner-occupied properties is because the planning commissioners prior to you didn't want Charlottesville to turn into the Outer Banks where it turns into a bunch of rental units and it drives out a bunch of people. Most of the people are doing it responsibly. The same people apply every year. It's a very small number of people comparatively. It's really not the owner-occupied. It is the renting out to more than 6 people. It is hard to figure out.

Todd Divers, Commissioner of Revenue – I don't think you can make the ordinance any more restrictive than it is without giving Read some help. That would be negligent in my opinion. We have

about 250 of these things in our tax system. Read has about 125 in the homestay system. He is not hearing about a lot of them because they're not misbehaving. That doesn't mean they are not doing what they are supposed to do. The annual \$100 fee is onerous. That is the home occupation permit that requires a fee every single year. Every other home occupation permit is a one time fee. It is disincentive for compliance. I think it ties Read and Craig up chasing people for \$100. They could be going out and doing something else. If you did anything, I wouldn't make people pay that \$100 every single year. I would get them some help.

PUBLIC COMMENT ON SHORT TERM RENTALS

Miranda Watson – I have a small business where I manage short term rentals for homeowners when they are away. From my perspective, there is a very positive impact I have seen this have for local homeowners. On a more serious level, we know this is a difficult town for a lot of people to afford to live in. I have seen people be able to stay in their homes and pay for things like graduate school and family vacations. It is being managed well. I have seen it be hugely beneficial for a lot of people in town. I am also able to employ a number of cleaners. I went to the IRC and trained refugee women who came in. This is a well-paid job I can train them. I can steer visitors to my favorite restaurants and shops. From my perspective it has been an awesome thing. It has benefited me as well.

Laura Santiago – This is a subject that I have been following. It does sound like staff does have a good grasp on this. As a short term rental owner, I am happy to pay a significant down payment, one-time fee for the city to pay to enforce their regulations. It is written very solidly compared to other places in the country. There was a mention of the two type of rentals: an investor who is buying a property they have never lived in and don't plan to live in versus a retired couple renting their basement. Enforce what we have.

Peter Carlson – I was aware of a homestay ordinance five years ago before I purchased my house. I purchased a duplex with the intent of operating a homestay to supplement my income. Part of my retirement plan is the income that I can earn off of this property. I don't consider the \$100 annual fee punitive or a disincentive. It is a part of doing business in the city. I was fine with signing a waiver to have the property inspected so that it was compliant with the fire code. I was very diligent in making the place safe. This business is a hospitality business. Charlottesville is a big hospitality town. I have been in business for over 3 years. Last year was an exception to the norm. Roughly 20% of my business involves wedding-related things. Football is very big for me. If I was unable to continue doing business, I would convert the place into an apartment that would be rented to University students. It is not going to have an impact on affordable housing because of the neighborhood I am in. It is a very good location. If you are going to make modifications to zoning regarding short-stay, you need to consider the mixture of use within a neighborhood.

Shawn Lyons – I am a homestay operator and I have been an operator for about three years. As a short-term rental operator, I would like to be respectful of my neighbors. What I have seen in my neighborhood is the introduction of short-term rentals, which are not in compliance. They exceed the maximum number of guests. They cause disturbances to our neighbors. Staff is aware of owners, who are not compliant. I am glad that staff acknowledges that. It is important that the

owner/operator be in the residence to monitor, respond to the concerns of neighbors in the area. That is not always the case. There are many devices that allow owners to monitor the activity of their guests. I live adjacent to one of those short-term rentals that has all of these features. There is still a blindness that comes with owners who aren't there. Some of the owners are unknown. I hope that the owners having to be in the residence can be enforced in a consistent and fair manner. That will increase the quality of the experience and minimize the disruption that non-owner/operators experience.

Scott Wiley – I was instrumental and involved in the original regulations. Over that period, my family has contributed several thousand dollars in taxes to Charlottesville based on the percent we pay in income. The main problem is people buying places and renting them out when they are not there all the time. There are ten nurses in my unit. I am the only one who can afford to live in Charlottesville. Everyone else lives in Fluvanna, Nelson, Greene, and Buckingham. This property has two bedrooms and it helps us to be able to live in Charlottesville. I hope you will not “throw out the good with the bad.” The fact there are people who aren't following the regulations doesn't mean those of us who are and contribute to the tax base are responsible. In my neighborhood, the thing that effects affordability is the fact there are houses getting torn down and more expensive houses being constructed. We're pretty close to Preston Avenue with all of the developments in terms of restaurants and pubs. People who stay here can walk to those. They contribute to the tax base. Taxes and income drive a lot of the things in the city.

Craig Griffin – I moved to Charlottesville in 1991. I have seen a lot of change over the years. I have been a short-term host for about five years. People coming to stay in Charlottesville are people coming for the experience. We spent a lot of our time in our interactions with our clients recommending restaurants. We tell people to explore the neighborhood. That has a significant economic impact. People coming here do want to learn what Charlottesville is all about. By providing those opportunities, it is really important. If you require the owner to stay in the house, that breaks down that paradigm. People want to unpack and settle in. There is nothing wrong with having rules around size of groups, paying the fees. It is important that people can settle into a home. When people come to Charlottesville, they are coming here for an event of some kind. It is really important they have a place where they can gather and together during that time.

COMMISSION DISCUSSION

Commissioner Russell – It would be good to hear what others on the Commission think. I have some commentary. We actually do have good regulations. I am concerned about the ability to enforce.

Commissioner Stolzenberg – I heard this rumor/idea that the owner occupancy requirement does not apply to LLCs because they aren't people. They don't have the ability to reside at a place. I know there are some companies in town that run many Airbnbs. Many seem to think that they are full time Airbnbs where nobody resides at that place. Is that true? Or do you have to reside at a place? If there are these companies running many Airbnbs, are they in violation?

Lisa Robertson, City Attorney – It can't be said that it is a hard and fast rule. As a general rule, an LLC is a type of business entity. If you go to find out what state laws apply to how an LLC is set up and how they are supposed to be operated, it is in a section of the state code called Corporations. It is a business type entity. A number of LLCs only have one member. They conduct business activities through that corporation. They get some protection from liability. In terms of how the IRS regards it, it is an extension of that individual's income. A lot depends in an LLC situation on whether or not there is one member or multiple members. Anecdotally, particularly in the area of the University, it seems as if quite a few of the single family dwellings that are used for these types of short-term rentals are actually purchased by an LLC. In those situations, there is some intention by whoever owns it to sometimes use that building as a place to stay themselves but to also use it for a commercial operation when they are not staying there themselves. The beach rental is a great analogy. You don't want to base your regulations specifically on who owns it. It is a fairly easy place to draw distinction. If somebody is living there, it seems like a home occupation. The impacts are likely to be more similar to a home occupation versus if someone is not living there or not living there most of the time. It seems more like a business. Like any other business and if it is managed well, it presents few problems in a mixed use district or commercial district. If it is not managed well, it is going to cause problems wherever it is. An LLC is an indicator. It is not a bright line test.

Mr. Brodhead – In the past with LLCs, we actually require them to show the LLC documents showing that they are part of the LLC. An LLC might be owned by many people. They have to show that they are on the deed. We can grant them an application that way. There are LLCs. Some of the LLCs that you see snapping up properties are tapping into a long term rental market. They're renting for 30 days or more. They appear to look like the traditional Airbnb because it is this nice, renovated space. Since the pandemic where you are having people work remotely, they can stretch their dollar. If they have a New York or San Francisco job, they can come to Charlottesville and pay Charlottesville prices. I have done some complaints about some of these and looked into it deeply. They are more than 30 day rentals. There is some of that going on. Where Todd said that he had about 250 people registered with him, some of those are by right. You have all of the other zoning districts that allow for a hotel. All of those are by right and the homestay doesn't apply. I don't believe there is a huge 125 applicant difference between what I have for numbers and what he has. I think it is a lot smaller when you factor in all of those by right uses. I like what people had to say. I have permits for all of those people. That is something that people have to put on their application to a property manager.

Commissioner Stolzenberg – I am not trying to vilify LLCs here. I understand you can have single owner LLCs or multi owner LLCs. I am trying to make sure there is no exemption where you can have a company owning a house and get out of the owner occupancy rule. It might make sense to make that owner occupancy rule more of a permanent occupancy rule. If you have rented a place for five years that has an extra room, I don't see any particular reason why you renting that out as an Airbnb is different from you owning that house and renting out your spare room. It is in our ordinance now.

Ms. Robertson – You are absolutely right. You can have a single family dwelling in an R-1 neighborhood. That dwelling could be owned by an LLC. What Read has to figure out if he receives a report about that is if that LLC is a single owner. Read should ask that single owner of the LLC for a driver's license or something that shows what their normal place of residence is. If that driver's

license or voter registration card has a Florida address, then he would know. It is the same process of information gathering as it would be if it wasn't owned by an LLC. Getting all of that information requires the zoning staff to rely on cooperation. If they don't have cooperation, how do you get the needed information to bring some sort of prosecution of a zoning violation in a courtroom? You still have to have evidence when you go. They have a difficult job when it comes to these. We just have to figure out how to deal with ongoing "scoff laws" and figure out if there is a different way to get at that particular problem.

Commissioner Stolzenberg – If I have non-conforming, multi-family use in an R-1 zone that does not give me any rights to run a homestay without adhering to the homestay rules?

Mr. Brodhead – If the homeowner resides there in one of those units, arguably they can rent out one of the other units. If they don't reside there, they have no right to rent it out.

Commissioner Dowell – As a planning commissioner, who has been side by side with Mr. Lahendro working on the Comprehensive Plan update and fighting vigorously for the last five years for affordable housing, I feel us taking the time to address Airbnbs is a waste of our time. We could have used this time to actually move the needle to do something helpful for the citizens of our community.

There are more people who are operating correctly or not causing problems. Taking a whole segment today to talk about something that is not really helping our community as far as providing more affordable housing seems like we are moving backwards.

I would like to know how many complaints Read has received. I would also like to know what area of the city those complaints are coming from. I think I have a general idea of where they're coming from. We talked about this about five years ago. We were under the impression that most of the complaints were coming from the University area. I would like to know what you do when you receive those complaints.

Mr. Brodhead – I can't give you an exact number of complaints. I get complaints from all over the city in every zoning district. It is everywhere. I can get back to you with a tally of complaints that I have gotten. Once I do get a complaint, I go online. The hardest thing is to figure where these illegal uses are. If you use Airbnb, it doesn't tell you what the address is. If I do get a complaint, it is helpful. Normally, I get an address. I start gathering evidence. I don't want to say what I publicly do. I don't want to have people hide how they are operating illegally. I generate a notice of violation. I give the person 30 days. If they don't comply, we have to go to court. We are probably going to be going to court this summer. Most people comply. A lot of people don't know and they want to get into compliance. It is really the extremes that will get to court. Our ultimate goal is compliance. We're not making lots of money from going to court. We're just trying to get something back the way it is intended to be used.

Commissioner Dowell – We're talking about whether it takes away from affordability. Have we ever asked ourselves why so many people in the City of Charlottesville felt like they need to operate an

Airbnb to be able to afford live in the city. That strikes a bigger iron. Why do people feel that to be able live in the City of Charlottesville that they have to operate an Airbnb to have an additional income? We are sitting here debating “apples and oranges” when we have neighborhoods that are somewhat affordable. You have these developers who come in and build these \$400,000 to \$500,000 homes. That seems more of an issue on price and forcing affordable housing out versus Airbnb where people are making money to be able to afford to stay in Charlottesville. When you make it so that home has to be owner occupied at all times in order to have guests, you do take away from that Airbnb experience that people are looking for.

Commissioner Solla-Yates – Why the number 6?

Mr. Brodhead – I don’t know why. The old Planning Commission decided that.

Commissioner Solla-Yates – Would it be bad if the number was higher?

Mr. Brodhead – It depends on the house. With every neighborhood, the impact is going to be felt differently. A lot of the complaints that we get are with parties where 8 different cars show up because they drove from different locations. It really depends. There is no “cookie cutter” answer in the city.

Ms. Robertson – Under the building code and depending on the height of a particular dwelling and how many bedrooms, there could be a different number based on the characteristics of a particular structure. In considering the presumed reasonable occupancy of a particular residential structure, it is generally presumed that two people per bedroom is a reasonable rate of occupancy. If you look at a lot of single family dwellings, there are very few that are going to have more than three bedrooms. Six seemed like applying that “2 person per bedroom” rule. Six seems like the upper limit that most houses, other than some big Victorian structure, have. A lot of those larger structures might fall under the building code requirements. There are some parameters out there.

Commissioner Solla-Yates – With the residential homestay versus commercial/mixed use, is the 6 number applied differently? Are the regulations different based on the zoning?

Mr. Brodhead – The homestay with 6 only applies where a homestay permit is required. Once you get to the commercial or mixed use, it is a hotel. It is not regulated by me. The ability to do it is regulated by the zoning ordinance.

Ms. Robertson – That’s an area you could regulate if you wanted to.

Commissioner Solla-Yates – Two uses jumped out to me: residential and an event. Is there a way to regulate or to distinguish between those two uses?

Mr. Brodhead – No. There is probably a precedent somewhere. People have asked about having weddings. It is hard to regulate how people use their house. How can I prevent someone, who

resides at a house as their permanent residence, from having a dinner party every single weekend? There's no way to regulate that. It would be really hard to do.

Commissioner Solla-Yates – I hear a lot about parking. Can we regulate parking?

Mr. Brodhead – It would be hard to enforce. It would partly be on the owner. Some owners really try to restrict how many vehicles their guests bring. If you look on some of the Airbnb websites, it says how many cars you can bring. Unless it is a restrictive parking zone, it's hard to prevent. Anyone can park on a public street. It would be really hard to enforce. That would be calling on the neighborhood to help enforce it. I think it would be hard to investigate.

Ms. Robertson – In your zoning ordinance, you establish minimum onsite parking requirements for different uses. If you called out the type of use in the mixed use districts as something that warranted its own set of parking standards, you could probably do it that way. I think there is already components of parking regulations that go with home occupations. You're not supposed to use a lot of those spaces on the street for regular parking. If you could figure out what would make an impact, you could do it. In most areas, that is going to require increased onsite parking, which may or may not, solve your problem.

Commissioner Solla-Yates – Do you collect demographics and income info for people using this program?

Craig Fabio, Asst. Zoning Administrator – No. Theoretically, it could be. That would be the honor system situation.

Commissioner Lahendro – The main concern that Ms. Russell had is the negative impact the short term rental (STR) business is having on affordable housing. I don't think we have heard anything that addresses that.

Mr. Fabio – It was pointed out by one of the respondents that provided them affordability. This is something we hear from people is the ability to do this. This is the only means they have to stay in Charlottesville. There is that piece of it. I think it is a very difficult to state there is an absolute impact on affordable housing when our current market is something that anyone outside might call insane. I don't know where the top is. I don't know what the answer to affordable is. It is middle income people who have been able to get a foothold. A good amount of them are using this as a means to maintain their homes. There is some affordability. Any evidence that this program or short term rentals were illegal; we don't have anything concrete.

Commissioner Lahendro – I am wandering what information we need to be able to make that assessment. If that is even possible with the number of legal STR rentals going on. I don't think this has helped the conversation, the concerns of why we're discussing it.

Chairman Mitchell – If it isn't broke, don't fix it. It looks like it isn't broke. There are two things that might be broken. That is moving to 183 days. The other thing that Mr. Divers mentioned is chasing

down the \$100 every year. It may be more onerous and more work than Craig and Read need to do. The \$100 initiation fee may be the way to go. It has been an interesting discussion. I wouldn't mess with it.

Commissioner Russell – I did raise the issue because of anecdotes that I see on my street. It does have a number of duplexes providing affordable housing or some kind of subsidized housing. I will make the link to the affordable housing plan why this raises an issue we should discuss. We have approved an affordable housing plan that includes protections for lower income or marginalized communities, supporting tenant rights, implementing and increasing subsidy programs, tax relief, and rental assistance. That is all in our affordable housing program. These programs require more staff. What I am hearing from staff is they need help to implement the policies that are great. We have to support our staff and make sure programs are running and working. It is working when people follow them.

Mr. Ikefuna – Thank you for bringing the additional staff up. I am the one that submits the budget. I intend to request for that position again. In the past, we have requested that. It hasn't been funded. Due to COVID, all new position proposals were suspended unless it was critical. Based on the discussion tonight, during the next budget cycle, we are going to resubmit that request for an additional zoning inspector.

Commissioner Stolzenberg – I used to be pretty skeptical of the idea that certain rentals have a significant impact on the supply of overall rentals. The last year has given us a very significant, natural experiment to see the impact that they have. One thing I noticed is that there have been a lot of fully furnished apartments on the market for long term rentals lately. One thing we could look at is the list of permanent locations that we had pre-COVID and see how many of them were put on the market as long term rentals post-COVID. That will maybe tell us how many entire homes are being rented out long term that are not on the market as short term rentals. I am sympathetic to the argument that it is helping people afford their places. Changing the home occupancy rule to a pure permanent residency rule makes sense. It does not exclude renters who are also having trouble affording their homes from being able to rent out their bedroom or their place for a whole weekend. The vast majority of the problems are the results of people who aren't complying with the rules at all and aren't registered. What I am hearing from people in the community is that they are aware of Airbnbs that are not in compliance. Nobody has any idea how to report it. If we can say how that is supposed to be reported here in this meeting that would be great. Maybe we need a web form on the city website to report Airbnb violations.

Commissioner Dowell – I had a question. I heard you say that we should change it so that people who are renting can have the ability to do so. Wouldn't that be like re-releasing their lease? Would they need some kind of OK from the actual homeowner?

Commissioner Stolzenberg – Typically, yes. I think it depends on your lease. Typically is specified in your lease. My lease has a whole short term rental section for that. That would be between the landlord and the renter.

Commissioner Dowell – If a tenant is running an Airbnb and you have not approved or OK'd that, when they go to look up who owns that property, the tenant's name isn't going to show up. The landowner or the homeowner is going to be the one who has to deal with the backlash of that. If we're going to extend that, I think it definitely needs to come from the homeowner. A tenant can't supersede the homeowner. When they have a violation, they're not coming after the tenant, they're going to come after the property owner. If we're going to allow that, the actual homeowner needs to sign off on that.

Mr. Fabio – From an enforcement standpoint, that would be difficult. From a staff standpoint, the concern is that we would need to have the documents to state the owner is allowing for this. Any enforcement we go after goes back to the property owner. We would have to go after the owner. Bad things happen. The owner may not be aware. All of the other home uses are available to a tenant. You can operate a business as a tenant with property owner permission. It does get a little different in a residential situation. We would be concerned about a much greater deal. We would certainly want to go through legal to make sure there is an opportunity there.

Commissioner Stolzenberg – I believe the county has a concept in their homestay ordinance of a resident manager where the owner is the one signing off on the whole deal. There is a resident, who is not the owner, is the one running the homestay. It might be useful to speak with county enforcement staff.

Mr. Fabio – That is the same situation as the bed and breakfast. The owner applies for that here in our non-homestay. Some of the areas where it is allowable you can rent as a hotel. Some of the areas you are required to have an onsite live-in manager. You can have a small room the manager lives in. Some of them have a separate apartment. It is not an area where there is a requirement. There is an onsite person required. The onsite person does not apply for that permit. It is the property owner that is applying for that. It is being run in that manner.

Mr. Divers – This is the only use I am aware of that a tenant can't engage in. It does happen. I have spoken to many landlords who are not aware of it. I have spoken to landlords who are perfectly fine with it and would have blessed it had they known about it. If you did it without the landlord permission, you were violating the lease.

Commissioner Russell – I would like to know our policies are sound. Staff is able to enforce them. I don't think we got to the question of what more ADUs would look like. Would an increased density exacerbate people taking advantage or not following the policy? It sounds like some minor tweaks might be worth considering. I don't feel very strongly about that. I feel the most strongly about making sure we are supporting our staff in this and all progressive policies that have good and worthy intent in making sure we can support our staff in implementing them.

F. MATTERS TO BE PRESENTED BY THE PUBLIC NOT ON THE FORMAL AGENDA

Rebecca Deeds – I am here for Preservation Piedmont. Preservation Piedmont wants a livable and progressive city for all residents. Housing is too expensive in Charlottesville. We support plans that

will ensure permanently affordable housing. Our organization has been providing input into the Comprehensive Plan since 2017. We have met with several city councilors and the consultants. We have some feedback to share. We're concerned the current plan will create displacement of historically marginalized communities and vulnerable neighborhoods due to the proximity to the University. We seek clarity from the consultants regarding strategies to protect those neighborhoods. We worry about widespread demolition of smaller and more affordable existing housing in favor of larger and newer units to benefit upper income earners. We want to see a plan that will incentivize and promote reuse of existing structures. The proposed land use map does not reflect how these changes would interact with architectural design control and conservation districts. The plan should address the potential effects of upzoning on cultural and environmental resources. Such impacts will contribute to heat islands. According to consultant estimates, the proposed changes will produce a small number of affordable housing units. According to the housing plan, 4,000 units are needed. We hope that the Planning Commission, Council, and Consultants will look at more details related to the land use map, taking into account city topography, watersheds, and locations of resources that could be walkable to new proposed housing. The future land use map is one of many tools.

The meeting was adjourned at 7:30 PM.