

CITY OF CHARLOTTESVILLE
"A World Class City"

Department of Neighborhood Development Services

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March 17, 2015

**TO: Charlottesville Planning Commission, Neighborhood Associations &
News Media**

Please Take Notice

A Work Session of the Charlottesville Planning Commission will be held on **Tuesday March 24, 2015 at 5:00 p.m. in the NDS Conference Room in City Hall (610 East Market Street).**

AGENDA

1. **Transient Lodging**
2. **Application Procedures**
3. **Public Comment**

cc: City Council
Maurice Jones
Aubrey Watts
Jim Tolbert
Planners
Melissa Thackston, Kathy McHugh
Craig Brown, Lisa Robertson



**CITY OF CHARLOTTESVILLE
NEIGHBORHOOD DEVELOPMENT SERVICES
MEMO**

To: City of Charlottesville Planning Commission
From: Matthew Alfele, City Planner
CC: Missy Creasy, AICP
Date: March 16, 2014
Re: Transient Lodging Facilities Zoning Text Amendment Discussion

Background

July 21, 2014 – City Council initiated a study of Zoning Ordinance Provisions for Short Term Rentals (Transient Lodging Facilities)

December 9, 2014 – Planning Commission considered a study on Transient Lodging Facilities and a Zoning Text Amendment. After consideration, the Planning Commission referred the matter to City Council for additional study.

January 20, 2015 – The Transient Lodging Facilities Planning Commission Report was presented to City Council. No action was taken as a request for a resolution for a Zoning Text Amendment would be requested at a later date.

February 17, 2015 – City Council passed a resolution for Initiation of a Zoning Text Amendment for Transient Lodging Facilities. City Council directed that the minutes from this meeting be included in the Planning Commissions discussions.

February 24, 2015 – Planning Commission held a work session to address question raised by City Council. The public was offered an opportunity to speak. Several members of the public spoke in favor of allowing Transient Lodging Facilities.

February 26, 2015 – A public Open House on Transient Lodging Facilities was held at the Water Street Center. Twenty six (26) members of the public attended the event. The vast majority expressed favorable attitudes toward allowing Transient Lodging Facilities in the City.

Benefits of a Proposed ZTA Allowing TLF

- Citizens currently engaging in this practice would be regulated and brought to light.
- With proper regulations, low to middle-income home owners would have access to a new revenue stream.
- TLF would offer visitors and tourists a new way to experience Charlottesville.
- Currently lost City revenue, from lodging tax, would be easier to collect.

Possible Drawbacks of a Proposed ZTA Allowing TLF

- Unforeseen changes to the character and integrity of Charlottesville neighborhoods.
- Unintended loss of affordable homes and long term rental units.
- An increase in ancillary problems such as noise, parking, and trash.
- The possible loss of “community” in neighborhoods by encouraging an increase in transient turnover.

Questions for Discussion

1. Could modifications to the City’s Bed and breakfast (Homestay) definition and corresponding code address the majority of TLF types in the City?
2. Should the City allow TLFs that are not “residentially occupied” (i.e. the owner never resides at the property at any point during the year)?
3. Are there types of TLFs the City should not allow?

Attachments

- Minutes from City Council’s January 20, 2015 meeting
- Planning Commission Study sent to City Council dated December 30, 2014
- Synopsis from City Council’s February 17, 2015 meeting as minutes are not available at the time of this memo
- Synopsis from the February 26, 2015 Open House on TLFs
- Citizen’s responses to handout from the February 26, 2015 Open House on TLFs
- Posters from February 26, 2015 Open House on TLFs
- Planning Commission Discussion Draft Transient Occupancy Provisions (March 2015)
- PC Discussion Comparative Ordinances
- Discussion Draft: Facilities Not Occupied as a Residence
- PC Discussion Other Bed & Breakfast Definitions
- Minutes from Planning Commission’s Work Session February 24, 2015

Minutes from January 20, 2015 City Council

REPORT: TRANSIENT LODGING FACILITIES

Mr. Tolbert presented to Council on the history of NDS's work on transient lodging facilities and asked Council for direction.

Ms. Szakos said we need to balance the flexibility of allowing this kind of use. If it is too profitable and not regulated, it can cause neighborhood erosion and may deplete rental housing stock. She said we may want light regulation for single transient lodging facility owners, and then become more stringent for those running more than one facility.

Mr. Huja said he wants to ensure some regulation but keep the process simple and uncomplicated for users. We need to establish a local authority that users can report to, and we need to be sure we are collecting taxes.

Ms. Galvin said she does not feel comfortable supporting a resolution when we do not have answers to many questions, including those that the Planning Commission has posed.

Ms. Smith said neighborhood notification is important and would go a long way to make this palatable. The neighbors should know who to contact if there are issues. She said some models levy very heavy fines by the management companies for not taking care of the property during the rental period. Limiting the number of people according to zoning is also a big issue.

Ms. Galvin said she does not feel informed enough to edit the resolution as proposed.

Ms. Szakos said we are not informed enough to say what kind of a study we want

conducted. She asked Mr. Tolbert if he had enough information to draft a resolution that is more in line with what Council wants to study. Council supported moving forward with a resolution for study

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To: City of Charlottesville City Council

From: Matt Alfele, City Planner, Neighborhood Development Services
Read Brodhead, Zoning Administrator, Neighborhood Development Services

Date : December 30, 2014

Title: Report of the Planning Commission Discussing Possible **Zoning Text Amendment Tourist (Temporary) Lodging Offered Within Residential Dwellings**

Background:

Attached is a copy of a Resolution enacted by City Council in July 2014, asking the Planning Commission to study and make recommendations as to whether the City’s zoning regulations should be amended to allow the use of residential dwelling units, or portions thereof, as temporary lodging for tourists or other temporary stays. One of the implications of such uses is that they are subject to a City tax called the “transient occupancy tax.” Therefore, for purposes of this report, and for any city code amendments, we refer to the uses as “transient lodging”.

Transient Lodging, such as the accommodations offered through website clearinghouses such as “Airbnb” and “HomeAway,” are popping up in localities all over the country. This model of travel/ temporary lodging is creating more options for travelers and new moneymaking opportunities for individuals and small businesses, but has potential to be disruptive to some neighborhoods— particularly low-density residential neighborhoods. Many localities are under-prepared for such a rapid growth in the number of Transient Lodging within their communities. As of the date of this study, three (3) of the most popular short term rental websites; Stay Charlottesville, Airbnb, and HomeAway listed a combined (318) available units in the Charlottesville area. The shared economy is developing rapidly and an ordinance is needed to balance the needs of neighborhoods and foster economic innovation. The City of Charlottesville is not alone in facing this changing landscape as other cities grapple with keeping their regulations relevant to new concepts.

To date, the Zoning Administrator has received complaints about (4) different properties at which this type of lodging is currently being offered. The main complaints stem from noise, safety and excessive vehicles utilizing already limited on-street parking. Two properties located on University Circle were cited for exceeding the maximum occupancy of three (3) unrelated persons, but it was difficult to document and prove that there was in fact a violation, and the City Attorney’s office has

advised that “residential occupancy” is not the correct standard to be applied to this type of use (under our current zoning regulations, this use falls within the definition of a “Hotel”¹ which is prohibited entirely within residential zoning districts of the City). There is also a concern that the neighborhood dynamic will greatly change if Transient Lodging Facilities are permitted in residential zoning districts.

It is estimated that 100-150 property owners are currently operating Transient Lodging Facilities in the City and we are only aware of (4) properties which are causing problems in neighborhoods. A strong revocation clause, the requirement that a business license be obtained and an annual permit with a fee are all steps that staff believes are necessary to prevent abuses and ensure responsible operations of this type of use in the City.

Years ago, anticipating the trend, the City amended its zoning ordinance to allow for a category of use called “bed and breakfast (homestay)”. The Homestay B&B must be owner occupied and managed, and have no more than 3 guest rooms. More and more frequently, however, owners of residential dwelling units, including single-family residential dwellings (SFDs), wish to offer their entire dwelling unit for hire as a “vacation” type rental—typically for a weekend, or possibly for a week at a time—without being required to live within the premises themselves, and often with the lodging being managed by third parties. (Internet companies like “Airbnb” and “HomeAway” offer the convenience of managing the rental and fee-payment process, but may not typically offer property management or oversight)

Discussion:

In researching the impact Transient Lodging Facilities are having on communities staff examined municipalities in Virginia and similar cities in other states. Staff’s findings revealed that although Transient Lodging is prevalent in locations such as Virginia Beach and Williamsburg, the scale and regulatory measures in these places are not appropriate to the unique dynamics of Charlottesville. Cities such as Austin Texas and Madison Wisconsin more closely mirror the challenges Charlottesville faces and offered guidance on crafting this ordinance.

The Planning Commission considered a study on Transient Lodging Facilities and amending the City’s zoning text to allow Transient Lodging Facilities through Provisional Use Permits at their regular meeting on December 9, 2014. After reviewing materials and input by the public the Commission expressed concerns about the impact of Transient Lodging Facilities on the community. The Commission discussed the following issues:

- How would any regulations be enforced?
- Impact of homes being bought and built for the sole purposes of running Transient Lodging Facilities.
- Neighborhood integrity.
- Would regulation work more effectively through Provisional Use Permits or Special Use Permits?
- Do we have enough research to make a decision?

1 Zoning Ordinance Sec. 34-1200 defines “hotel/ motel” as a building or portion thereof ...containing [or] providing guest rooms used, rented or hired out to be occupied for sleeping purposes on a transient basis (i.e., by the day or week).....

- How would the size of Transient Lodging Facilities effect any decision on regulation (homes with one or two bedrooms compared to homes with ten bedrooms)?
- How are Transient Lodging Facilities affecting housing stock in the City of Charlottesville?
- Taxation issues.
- Where in the City of Charlottesville are Transient Lodging Facilities trending and are they affecting home prices over time?

The commission’s comments are included as part of the report requested by Council. As the Planning Commission decided not to initiate the ZTA, the report is coming to Council for review and Council has the opportunity to initiate the ZTA as well as provide any input on the materials provided.

The Planning Commission took the following action:

“Ms. Keller moved to recommend forwarding a study on Transient Lodging Facilities to City Council.”

Ms. Green seconded the motion. The Commission voted 7-0 to recommend forwarding a study on Transient Lodging Facilities to City Council.

Citizen Engagement:

In addition to looking at other cities, staff participated in (4) outreach meetings to receive feedback from the public. On September 5, 2014 staff met with citizens that run Transient Lodging Facilities; on October 14, 2014 staff met with additional citizens that run Transient Lodging Facilities and the Charlottesville Albemarle Convention and Visitor Bureau; and on October 24, 2014 staff met with members of the hotel industry. Out of all those meetings the main feedback staff received focused on creating a level playing field for all parties, a safe environment for guests, and a way for Transient Lodging Facilities to become compliant. Staff also participated in a meeting on November 12, 2014 with residences of University Circle. Concerns were voiced that allowing Transient Lodging Facilities would alter the character of their neighborhood. They believe that the neighborhoods abutting the university are constantly striving for balance and by allowing Transient Lodging Facilities it would create an unwelcome stressor.

The Planning Commission, at its meeting on December 9, 2014, discussed this matter and received feedback from the public. Many members of the public expressed concern about and opposition to amending the zoning text to allow Transient Lodging Facilities. Many other members of the public stated support for allowing Transient Lodging Facilities through a zoning text amendment. The comments in opposition cited the impacts to neighborhood stability, effect on housing stock, and an increase in noise, trash, and parking problems. Comments in support highlighted creating more lodging options, a desire to operate Transient Lodging Facilities legally, and balancing the community’s needs with property owner’s rights.

Alignment with City Council’s Vision and Priority Areas:

These proposed changes are in conformity with the Comprehensive Plan and City Council’s Vision:
Chapter One, Land Use

Goal 1.1: When considering changes to land use regulations, respect nearby residential areas. *Transient Lodging Facilities are mainly in single family homes and need to be regulated in a way that respects the neighborhoods they are in.*

Goal 2.2: Encourage small businesses that enhance existing neighborhoods and employment centers. *Transient Lodging Facilities are small businesses that generate secondary income for home owners.*

Goal 5.5: Revise the Future Land Use Map so that it represents the desired vision for the City's future. Pay special attention to increasing the supply of affordable housing, increasing employment opportunities for all citizens, and encourage the development of mixed income neighborhoods throughout the City. *Transient Lodging Facilities can have an effect on housing stocks and income levels in neighborhoods throughout the City.*

Goal 5.8: Be aware of and learn from applicable experiences, policies, procedures, ordinances and plans of other municipalities in Virginia and the United States. *Municipalities in Virginia and the United States have adopted regulations and ordinances pertaining to Transient Lodging Facilities.*

Chapter Three, Economic Sustainability

Goal 3.6: Align zoning ordinances to facilitate economic activity in new areas of commercial opportunity identified in the updated future land use map. *Transient Lodging Facilities represents a new and growing form of economic diversity in the City.*

Goal 3.7: Work to ensure that newly aligned City ordinances and regulations balance the need to promote development opportunities and competing interests. *Transient Lodging Facilities will not go away and needs to be addressed to the satisfaction of all.*

Budgetary Impact:

The ZTA will permit the owners of properties greater flexibility in renting out their dwelling units for periods shorter than (30) days. The City would receive increased tax revenue from the Transient Occupancy Tax.

Recommendation:

Consider report provided by the Planning Commission and offer discussion on whether or not to initiate a specific ZTA.

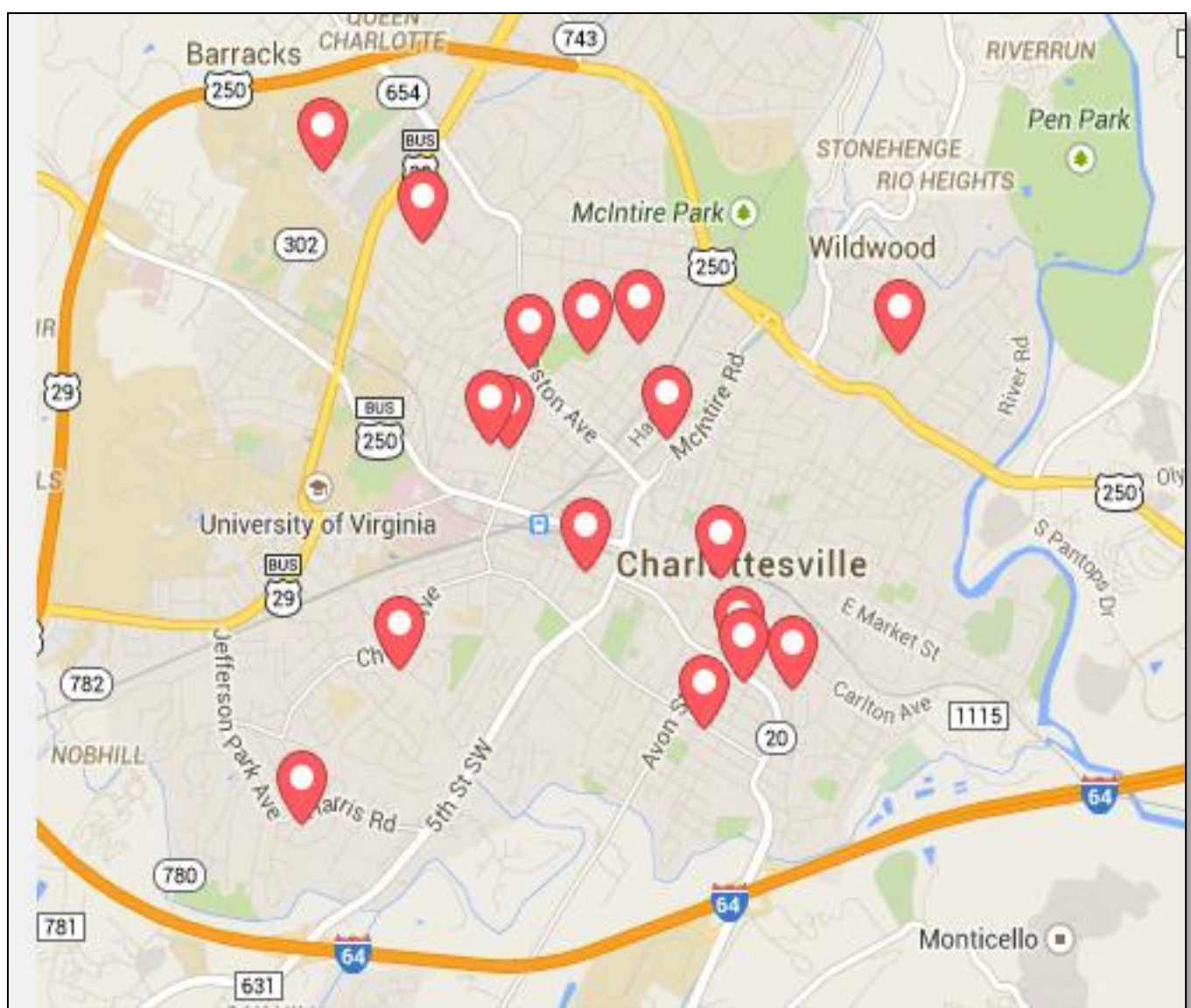
Alternatives:

1. Place this matter on an upcoming City Council agenda to vote on whether or not to initiate a specific ZTA.
2. Take this report under advisement and do nothing at this time.



Snapshot of
Transient
Lodging
Facilities

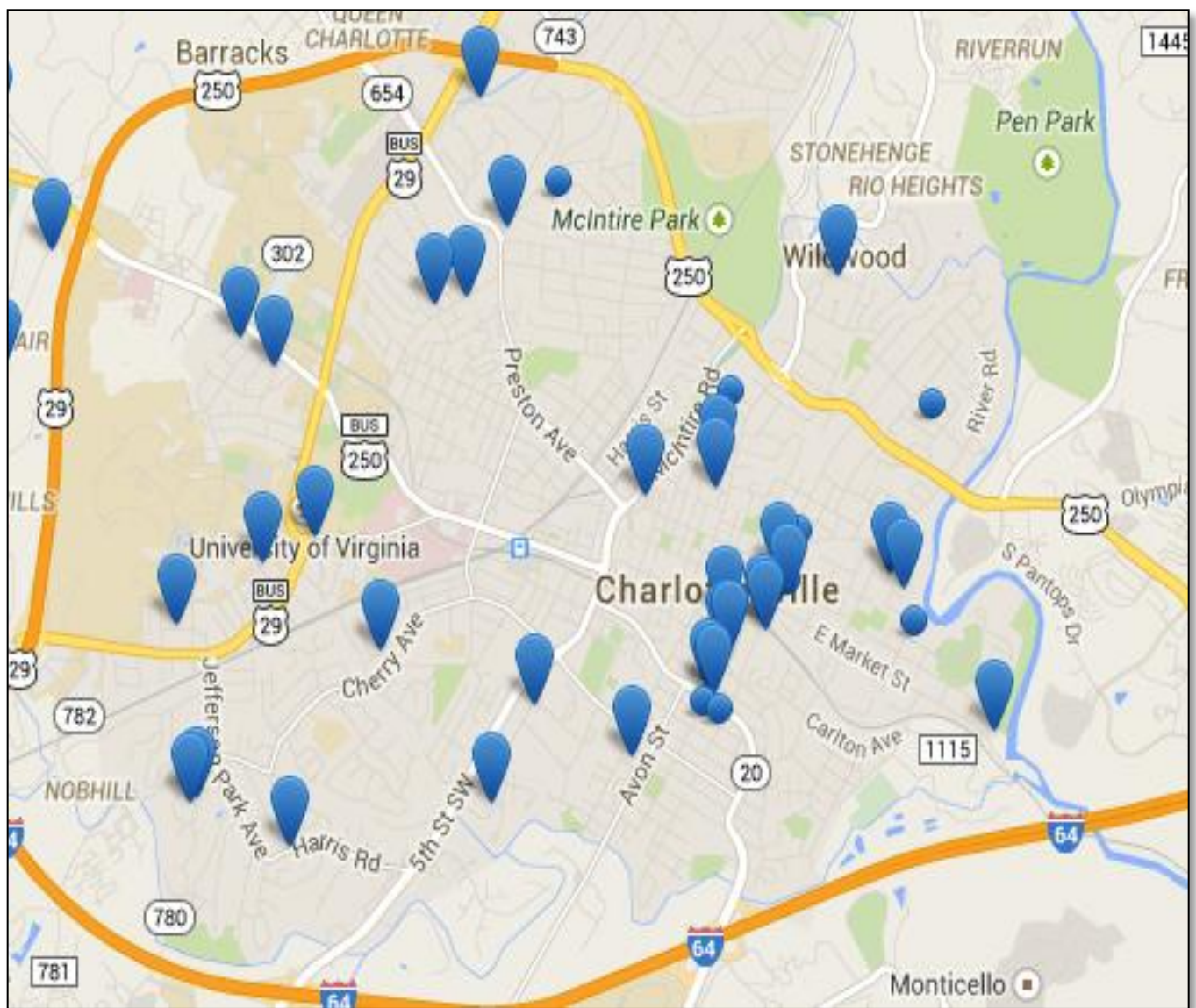
Prices range
from (\$20) a
night to
(\$2,000) a night



December 30, 2014
182 Rentals Available

Snapshot of
Transient
Lodging
Facilities

Prices range
from (\$200) a
night to
(\$1,650) a night

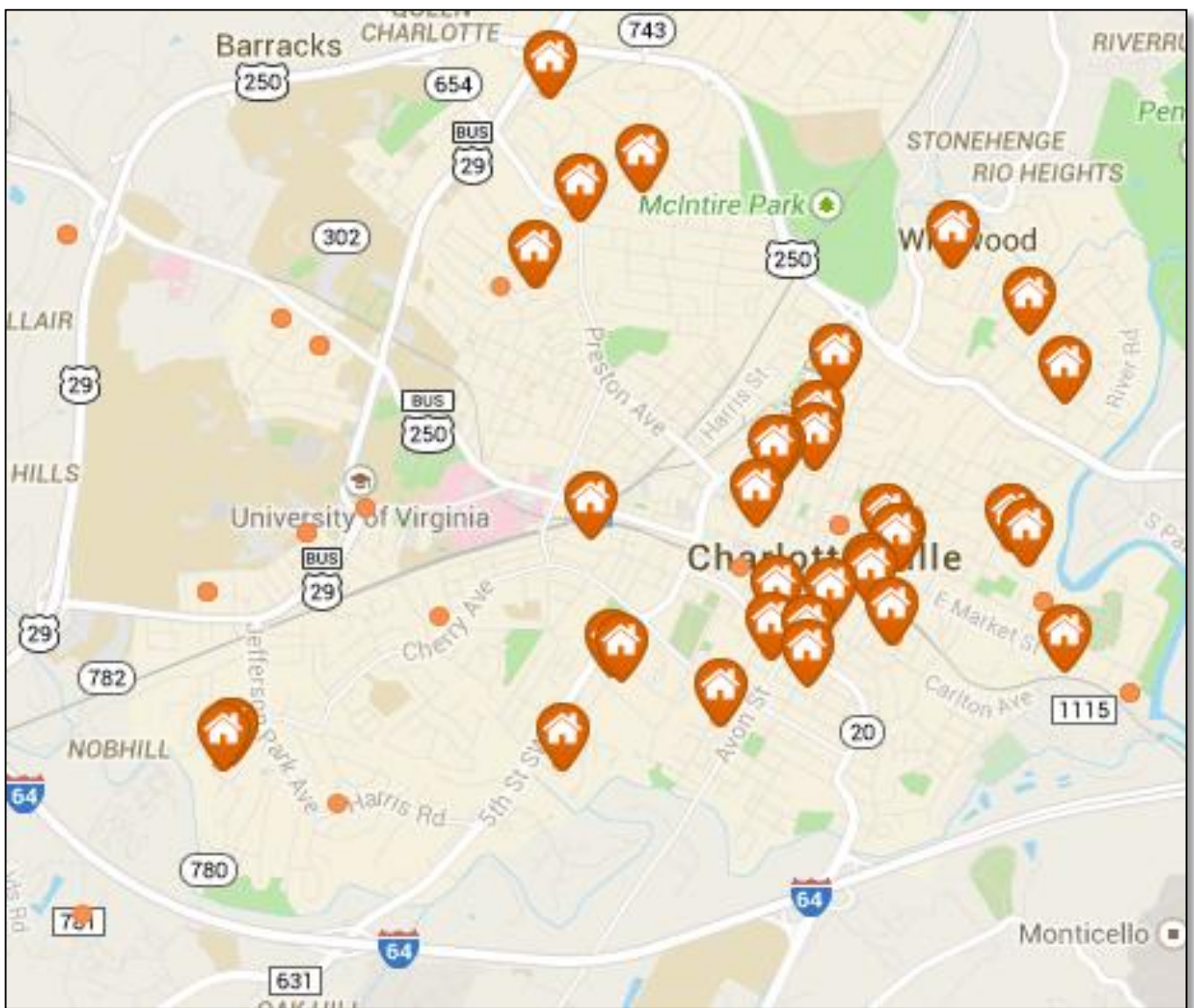


December 30, 2014
56 Rentals Available



Snapshot of
Transient
Lodging
Facilities

Prices range
from (\$80) a
night to
(\$1,150) a night



December 30, 2014
85 Rentals Available

**CITY OF CHARLOTTESVILLE, VIRGINIA
CITY COUNCIL AGENDA**



Agenda Date: July 21, 2014

Action Required: Approval of Resolution

Staff Contacts: Jim Tolbert, Neighborhood Development Services

Presenter: Jim Tolbert, Neighborhood Development Services

Title: **Initiation of Study of Zoning Ordinance Provisions for Short Term Rentals**

Background: Section 34-41 of the City of Charlottesville Code of Ordinances provides that a change to zoning may be initiated by resolution of the City Council.

Discussion: There has been growing concern in our community, as well as others across the country, about short-term rentals in single-family neighborhoods. The most well-known operator is Air B&B, but there are others operating in Charlottesville and other communities. While we do not know for sure, we believe there are around 100 properties operating as short-term rentals in Charlottesville. Some of these operate as “homestay” businesses which are legal if done consistent with the code.

Homestay – 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 categories. There must be one off-street parking space available for each staff person in addition to bed and breakfast off-street parking requirements.

The others present challenges in a number of ways. Some clearly rent to many more than the allowable three or four unrelated persons per unit and this constant

transient occupancy does impact neighborhood character. On the positive side the opportunity to rent rooms or an apartment in many cases provides needed income, making housing more affordable. This is clearly not a simple issue.

The other significant side to this issue is taxation. If short-term rentals are going to be allowed in any way we need to be concurrently addressing the appropriate way to collect tax revenue. This is a fairness issue for the hotels/motels and the legitimate bed and breakfast establishments. Many have raised concerns with Kurt Burkhart and the Convention and Visitors Bureau and with Todd Divers. Todd thinks that it is clear that the short-term rentals must pay taxes but until we have a clear enforcement path he is reluctant to pursue them in case they are not legal. He does not want to make them seem legal.

If Council desires to step back and take a look at this issue we suggest that they initiate study of the zoning questions and ask the Commissioner of Revenue to study the tax issues. This will give staff a chance to work with the short-term rental operators, the CACVB, the hotel/motel owners and our neighborhoods to review our codes to determine if there are changes we might want to consider to make sure that our regulations are the best that we can have.

Alignment with City Council Vision and Strategic Plan: There is no direct alignment with the City Council Vision or Strategic Plan. However, this effort is not in conflict with any vision or plan item.

Citizen Engagement: There have not yet been any citizen engagement efforts. There will be meetings with neighborhoods, short-term rental operators, local hotel/motel representatives and the CACVB and Office of Economic Development.

Budgetary Impact: The study will not impact the budget.

Recommendation Staff recommends approval of the resolution to initiate the zoning study.

Alternatives: The alternative is to not institute study of the ordinance and to continue to operate under existing codes.

Attachments: Resolution

RESOLUTION
REQUESTING THE PLANNING COMMISSION TO STUDY ZONING
ORDINANCE PROVISIONS REGULATING TEMPORARY LODGING
FACILITIES OFFERED WITHIN THE CITY’S SINGLE-FAMILY
DWELLINGS

WHEREAS, like other communities throughout the nation, the City is experiencing a proliferation of temporary lodging facilities offered by property owners to tourists and other guests, for compensation, within buildings designed and constructed as single-family residences or other dwelling units; and

WHEREAS, non-traditional lodging facilities, advertised as being available through sources such as “Airbnb.com”, “Craig’s list”, individual websites, or other media, have become a popular source of overnight accommodations desired by tourists and other visitors to Charlottesville, and an attractive way for property owners to realize income from their property; and

WHEREAS, the use or operation of residential dwelling units as lodging for tourists or other temporary stays, within neighborhoods zoned for low-intensity residential uses, can potentially create impacts not anticipated by the City’s current zoning regulations; and

WHEREAS, City Council has been requested to study whether or not its current zoning regulations should be amended to expressly allow these uses, in various forms, within the City’s residential neighborhoods, and, if so, what, if any, suitable regulations should be established for such uses;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Charlottesville that the Planning Commission is hereby requested to study this issue and report its findings to the City Council within **150 days** from the date of this Resolution. At the option of the Planning Commission, its report may take the form of:

- (a) a motion initiating specific zoning ordinance text amendments recommended by the Commission, and/or

- (b) a report listing specific findings and recommendations, for Council’s decision as to whether any specific text amendments should be initiated.

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Appendix A

Additional Comments from Planning Commission

Comments from Commissioner Green and echoed by Commissioner Santoski:

- I too am very concerned with people purchasing property just for the purpose of using for short term rental. This is a concern for many reasons and these were discussed at the last planning commission meeting (loss of housing stock, possible loss of units that could be affordable, etc...). I also the number of units purchased and being used as just temporary housing would be larger than you think already.
- I think there are ways of regulating this use and I think other localities are working on regulations as well. As an example - we could add this use as an "accessory use to the primary residence". We could then limit the days (if that were desirable) and also that would mean that the owner would have to reside in the primary residence. Not at the same time but this would have to be the owner's primary residence. This way is also very enforceable which is always good to have when writing an ordinance.
- I do think if we create an ordinance that it should be applicable in all residential districts. It is much easier to track and enforce with an ordinance in place. Omitting certain districts will not keep people from renting out for short term they will just find another way to do it.
- I think this is a prime example of an ordinance that should be looked at in conjunction with the county. These places being rented and the businesses managing the temporary rentals do not see city county lines. The regulations being the same would also make it less confusing on the part of the public as a whole.

Comments from Commissioner Lahendro:

- In reviewing the maps, I am struck by how the entire city is experiencing Airbnb-type rentals. Cville is too small to think that targeting certain districts with transient lodging regulations will limit the problem.
- I'm most worried about absentee owners buying multiple properties for transient lodging, creating holes in our neighborhoods.
- This business is too new and fluid to think we can take the time to create a perfect set of regulations and enforcement. From my perspective, Airbnb-type rentals are increasing exponentially. I advocate doing the best we can now, knowing that refinements will be necessary as the city gets a handle on this issue.
- Link to BBC story on the detrimental impact transient lodging is having on Paris: <http://www.bbc.com/news/world-europe-30580295>

Appendix A

Additional Comments from Planning Commission

OBSERVATIONS OF PLANNING COMMISSIONER KELLER:

COMPARISONS WITH EXISTING B&B USES/ ISSUES

Smaller B&Bs(Homestays) ¹ are Allowed By-right in all Residential Districts

Transient Occupancy Facilities: Do **not** allow transient occupancy facilities in R-2 or R-3 zones as a way to protect housing affordability in the city—cite the Fry’s Spring rejected rezoning proposal—We have figures provided in report that this type of temporary use can bring in 3x as much to a property owner as a long-term residential lease to full-time tenants.

Transient Occupancy Facilities: Require owner residency of the transient occupancy facilities—residency does not mean the owner is present 24/7 but it does mean that it is a place where the owner is resident generally.

Transient Occupancy Facilities: Allow any homeowner to rent without a zoning permit for <14 days annually; leave enforcement to violators—neighbors will report as they do other nuisances; note that revenue is liable for city lodging tax

LARGER B&B FACILITIES

(B&BS² AND B&B INNS³) ARE NOT ALLOWED IN ANY R-1 AND R-2 DISTRICTS

Transient Occupancy Facilities: Do **not** allow transient occupancy facilities in R-2 or R-3 zones as a way to protect housing affordability in the city—cite the Fry’s Spring rejected rezoning proposal—We have figures provided in report that this type of temporary use can bring in 3x as much to a property owner as a long-term residential lease to full-time tenants.

¹ *Bed and breakfast (Homestay)* means a temporary lodging facility operated within a single family residence which is **OWNER OCCUPIED AND MANAGED**; having no more than **THREE (3) GUEST ROOMS**; and wherein food service shall be limited to breakfast and light fare for guests only.

² *Bed and breakfast ("B & B")* means a temporary lodging facility operated within a residential dwelling, which is **OWNER OCCUPIED AND MANAGED** or having a resident manager; having no more than eight (8) guest rooms; and wherein food service shall be limited to breakfast and light fare.

³ *Bed and breakfast (Inn)* means temporary lodging facility operated within a residential dwelling; **WHICH IS OWNER OCCUPIED AND MANAGED OR HAVING A RESIDENT MANAGER, HAVING NO MORE THAN (15) GUEST ROOMS**; and wherein food service may be provided.

Appendix A

Additional Comments from Planning Commission

Transient Occupancy Facilities: Require owner residency of the transient occupancy facilities—residency does not mean the owner is present 24/7 but it does mean that it is a place where the owner is resident generally

Transient Occupancy Facilities: Require an SUP for more than 3 bedrooms (assume this to be generally 6 people, 3 cars, the noise of 6 people plus their noise, etc.) which is the Homestay capped number for all residential categories; *Currently, the Bed and Breakfast can operate in R-3 zones and up with up-to-8 rooms; the Inn is capped at 15 rooms by SUP*

OTHER COMMENTS OF COMMISSIONER KELLER: ON POSSIBLE ZONING REGULATIONS FOR TRANSIENT OCCUPANCY FACILITIES

- Eliminate neighbor notification—how do you keep up with that when owners change, etc.—not required for home occupation, auxiliary dwelling units, etc.; let the business permit and zoning permit be the public acknowledgment
- If >4 calls for police service—Revocation of a zoning permit should be not just for service calls to the specific property but for the responsible property owner or manager to 4 calls for any one of their properties
- Cap the number of these uses in a **SINGLE OWNERSHIP** to 2 properties.
- Should this [regulation of transient occupancy facilities] address the number of employees as in the bed and breakfast categories?
- Is there a need to address deliveries and cleaning hours?
- Should this address meals served or delivered by an owner or manager?
- Should this address a minimum or maximum stay? Should it require a minimum # of 2 nights to distinguish this from hotels and the homestay?
- Should it restrict activities that can occur to overnight lodging?—ie so no gatherings/events such as weddings, parties, etc. of > 25 people—and possibly limit that to 4 a year for paying guests; notify city of the dates of these events

OTHER OBSERVATIONS OF COMMISSIONER KELLER

- There have been focus groups for bnb constituencies—what about for the hotel industry and what about for residents? We have at least 15 hotels in city limits to say nothing of in the urban ring of Albemarle County—if using the NDS figures, there are >323 facilities
- I still think that there is a missing category of hostel and without that, that there needs to be a requirement limiting people and not bedrooms.

NO ACTION IS REQUIRED BY COUNCIL AT THIS TIME. HOWEVER, IF CITY COUNCIL SHOULD DECIDE THAT IT WANTS TO TAKE ACTION TO ELECT TO INITIATE A ZONING TEXT AMENDMENT, A RESOLUTION SPECIFYING SPECIFIC PROPOSED AMENDMENT(S) IS REQUIRED.

THE FOLLOWING RESOLUTION IS OFFERED AS A SAMPLE OF AN APPROPRIATE INITIATING RESOLUTION (Of course, Council may edit the Resolution to include or delete any provisions, based on Council's own opinions and/or based on the information presented in the Planning Commission's Report)

**RESOLUTION
TO INITIATE A ZONING TEXT AMENDMENT
TO PERMIT TRANSIENT LODGING USE OF RESIDENTIAL DWELLING UNITS**

WHEREAS, upon consideration of the matters set forth within a Report received from the City's Planning Commission on the proliferation of the use of residential dwelling units as for-hire transient occupancy/ accommodations, the Charlottesville City Council does hereby find and determine that the public necessity, convenience, general welfare or good zoning practice requires amendment of the City's zoning regulations to allow "transient lodging" uses within residential dwelling units, under certain conditions and limitations; and

WHEREAS, taking into account the various options, regulations and impacts referenced within the Planning Commission Report on this matter, this City Council hereby initiates the following zoning text amendment and we hereby refer the following proposed zoning text amendment to the planning commission for its recommendations, and for presentation at a joint public hearing of the planning commission and city council:

PROPOSED ZONING TEXT AMENDMENT

City Code Sec. 34-1200 Definitions:

Add the following definition: "*Transient Lodging Facility*" refers to any dwelling unit offering guest rooms or other lodging rented out for continuous occupancy for fewer than 30 days, excluding any bed and breakfast.

City Code Sec. 34-420 (Residential Zoning Districts): allow "*Transient Lodging Facility*" in every residential zoning district (Provisional Use Permit)

City Code Sec. 34-480 (Commercial Zoning Districts): allow "*Transient Lodging Facility*" in the B-1, B-2, B-3 and IC zoning districts (Provisional Use Permit), but NOT in the Emmet Street Corridor (ES) district, because residential dwelling units are not allowed within ES.

City Code Sec. 34-796 (Mixed Use Corridor Districts): allow "*Transient Lodging Facility*" in ALL of the zoning districts (Provisional Use Permit)

Add: New City Code Sec. 34-1176. Transient Lodging Facilities

(a) A transient lodging facility authorized by a provisional use permit shall be subject to the following regulations:

(1) No person other than a property owner shall be eligible for a provisional use permit authorizing the use of a dwelling unit as a transient lodging facility.

(2) A property owner who submits an application seeking a provisional use permit for a transient lodging facility shall provide the following:

(i) Evidence of a city business license, as may be required, and proof of payment of the transient occupancy taxes required by City Code 30-251 et seq.

(ii) The name, phone number, e-mail address and other contact information of a local person who will serve as the property manager. The property manager must have an office within the City of Charlottesville, or outside the City limits and within 10 miles of the property.

(iii) A written fire evacuation plan for the transient lodging facility, in a format suitable for posting at each exit from the facility, and a written certification that the fire evacuation plan will be and remain posted at each exit inside the transient lodging facility for the duration of the provisional use permit.

(iv) Evidence that all adjacent property owners have been given written notice by the applicant that the property will be utilized as a transient lodging facility.

(b) A provisional use permit authorizing a transient lodging facility will be valid for one (1) year from the date of issuance.

(c) A provisional use permit authorizing a transient lodging facility may be revoked by the zoning administrator:

(i) in the event that four (4) or more calls for police service are received by the city within any two (2) month period, or

(ii) for failure to maintain compliance with the requirements of paragraph (a) (2), above.

Following revocation of a provisional use permit for a transient lodging facility, no provisional use permit will subsequently be issued for the subject property for a period of one year (365 days).

Synopsis of City Council's February 17, 2015 meeting on Transient Lodging Facilities

During City Council's February 17, 2015 meeting a resolution was passed authorizing a ZTA regulating Transient Lodging Facilities. The following is information that City Council would like the Planning Commission to consider during the February 24th work session.

- Any home or dwelling unit acting as a TLF should be up to current building and fire code.
- Consideration needs to be given to condominiums and management of each unit. Condominiums have a management system for the whole complex, but not each unit. It needs to be clear that responsibility for managing a TLF is the responsibility of the unit owner and not the management entity.
- Consideration needs to be given to having any TLF regulation not be in conflict with HOA or other community association.
- Consideration needs to be given to the number of days a month a dwelling unit can be used as a TLF.
- Ensure that any ZTA is jointly developed and enforced with our adjacent county.
- Prevent an owner from continually and consecutively letting our rooms with each stay being less than 30 days. In that case, how is this different than a boarding house?
- Think about how TLF could reduce the stock of affordable housing in the city
- Could TLF reduce the number of owner occupied dwelling units in the city?
- Any change to the ZT needs to be in agreement with any other codes or ordinances in the City.
- Give consideration to scaling TLF and how it can be looked at in different levels. Portland Oregon's ordinance talks about this.
- Consideration needs to be given to multifamily housing.
- Think about stepping the regulations on TLF. Someone with one owner occupied home would be at one level of regulations and fees. The next home they did as a TLF would be notched up to the next level with more regulations and a higher fee, and so on.
- Consider providing a policy statement attached to any ZTA that would state the City is concerned with a loss in housing stock and to commence a study (2) years after a ZTA is adopted to see if TLF are having any detrimental effect on housing.
Review and analysis
- Consideration needs to be given to enforcement of any ZTA.
- How would TLF be different than a home business?

- Consideration needs to be given to the importance of owner occupied and the notification of adjoining or neighboring properties.

Synopsis from the February 26, 2015 Open House on Transient Lodging Facilities (TLF)

Staff Present:

- **Matt Alfele – City Planner**
- **Brian Haluska, AICP - Senior Planner**
- **Read Brodhead, Zoning Administrator**
- **Kathy McHugh - Housing Development Specialist**
- **Todd Divers - Charlottesville Commissioner of the Revenue**

Number of Signed-in Attendees:

- **26**
-

On February 26, 2015, NDS held an Open House at the Water Street Center. The primary focus of the Open House was to engage the public on how the shared economy is evolving as it relates to Transient Lodging Facilities (TLF). NDS gave the public an opportunity to speak one-on-one with staff and capture comments, concerns, and suggestions related to residential housing used for short-term rentals (e.g. airbnb, HomeAway, and Stay Charlottesville). The public reviewed current codes and definitions related to this topic on large posters throughout the meeting space. The public was also offered the opportunity to express their opinions on large posters labeled “Positives” and “Challenges.” Individuals had the option to capture their more detailed comments on handouts. .

Staff was able to collect valuable information and felt the overall experience was a positive one. A vast majority of the interactions and comments were supportive of allowing some level of TLF in the City. Many of the participants have used services like airbnb to rent out their own property or to stay at when they travel. Of the participants at the Open House, the vast percentage running TLFs are doing so out of their primary residence. Staff came away from the event with the impression that a majority of people running TLFs in the City could be brought into compliance through minor changes to the Bed & Breakfast Homestay definition within City Code. Homes being operated exclusively as TLFs and are not “residentially occupied” would still need to be addressed.



Charlottesville and the Sharing Economy

Short term Stays in Residential dwellings (Transient Lodging Facilities)

With the rise of airbnb, HomeAway, and other services that facilitate residential short term lodging, Charlottesville is working to balance the benefits of the sharing economy with the needs of the neighborhoods they are located in. Current City regulations only address short term rentals in residential dwellings through Sec. 34-935 (Bed and Breakfast Establishments).

On February 17, 2015 City Council passed a resolution authorizing a change to the Zoning Ordinance to address the Transient Lodging Facility economic model. Over the next few months City officials and staff will be working on crafting language for the new ordinance.

Please take a moment to answer the following questions and provide feedback on this important topic.

1. Describe your experience hosting or staying in a Transient Lodging Facility?

Both have been overwhelmingly positive. As a host, I have never returned to find my house in anything less than pristine condition. We have hosted a variety of guests - bridal parties, wedding guests, international travelers who wanted a deeper sense of our community, & a patient receiving gamma knife surgery at UVA.

2. Describe your experience living near a Transient Lodging Facilities?

I don't have that experience. But, our primary house rule concerns parking - to be considerate of our neighbors. Our neighbors brought this issue to our attention, but have registered no other concerns.

3. What would you like City officials and staff to be cognizant of as this process moves forward?

My husband organized a Charlottesville Host group. We meet regularly to compare notes & to improve our efforts. To reiterate, these are responsible, law abiding people. None of us are wealthy, but we are entrepreneurial. Our guests review us, which holds us to a

Please use the back of this paper to provide any additional comments, concerns, or suggestions

high standard of service.



Thank you for coming out tonight

1. As a host, my husband & I benefit from the extra income. We've largely reinvested that in our home, for example, installing solar panels. Our guests spend money at local restaurants & wineries. They tend to be people who prefer a local restaurant over a chain restaurant.

We rent out our residence & vacate the property. We have a strong desire to operate in compliance with the law & feel good about paying for a business license & transient occupancy tax to support the city ~~we~~ we love.

2. My understanding from Reid Broadhead's presentation to the planning commission is that there have been very few complaints. I don't imagine the city wants to increase its responsibilities to police & arbitrate, but providing guidelines re: Airbnb could reassure non-participants of hosts' efforts to be compliant. I would not be in favor of a limit on the number of nights I can rent my house, but think it's reasonable that a property manager be local or the property be sold.

I'm not aware of anyone in the host group renting out multiple units. If there is a concern about that & decreased housing stock, perhaps the ordinance could address that - if I own 3 properties, maybe one of them needs to be a long term rental.

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Please take a moment to answer the following questions and provide feedback on this important topic.

1. Describe your experience hosting or staying in a Transient Lodging Facility?

I love meeting new people and telling them where to spend their money

2. Describe your experience living near a Transient Lodging Facilities?

My across the street neighbor has home away. There has never been a problem

3. What would you like City officials and staff to be cognizant of as this process moves forward?

Don't let a few screechers cause city council to over react. Let market forces cull out the few bad actors.

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Charlottesville and the Sharing Economy

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I have stayed in Airbnbs in other states & had wonderful experiences. They are what inspired me to turn my finished basement into an airbnb. I only recently listed it so am very new to it and have only hosted people one time @ this writing.

2. Describe your experience living near a Transient Lodging Facilities?

I only learned that a neighbor of mine has her house listed also (on airbnb) so clearly I have not been impacted @ all as I wasn't ever aware that guests were coming & going from their home (and it's a very compact little neighborhood).

3. What would you like City officials and staff to be cognizant of as this process moves forward?

- ①. That airbnb is not a threat to the hotel lodging industry (it's a different experience completely).
- ②. That most people aren't making a ton of money from renting out their homes so we should not be required to pay the same taxes as chain/big conglomerate hotels do (tho' I'm happy to →

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Thank you for coming out tonight

pay the 6% or other tax).

- ③. please be very public about any new rules/regs so that we're not caught in violation of something we didn't know about.
- ④. please keep separate the airbnb type of renting vs. the corporation management company type (non/never owner occupied) separate.

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As a single person home owner I rent out a bedroom in my 2 br house or the entire house (then I leave the premises) to guests & it supplements my income. I have also rented from airbnb & enjoyed the affordable housing & paying \$ directly to the home owner (who also lived on premises)

2. Describe your experience living near a Transient Lodging Facilities?

3. What would you like City officials and staff to be cognizant of as this process moves forward?

Many of the people who list their homes on these sites are using it to supplement their income to make their lives more affordable. AirbnB is very encouraging & supportive of keeping owners & renters highly accountable through their review & response system.

Please use the back of this paper to provide any additional comments, concerns, or suggestions

I don't mind paying taxes on earnings & a certain →

Thank you for coming out tonight

degree of regulation helps to keep healthy boundaries
on ~~both~~ housing practices w/in the city. I would
have a problem w/ treating the type of rental I
am providing as a hotel when it is more like
a BNB or a hostel. (owner occupied, affordable
rental :))

Chris Hall

Gwendolyn A Hall

AIRBNB HOST for 2 1/4
yrs.

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1. Describe your experience hosting or staying in a Transient Lodging Facility?

I am a host through Stay Charlottesville renting my whole home.

2. Describe your experience living near a Transient Lodging Facilities?

No problems at all.

3. What would you like City officials and staff to be cognizant of as this process moves forward?

The benefit which the STR can provide to homeowners, the city economy, tourists.

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1. Describe your experience hosting or staying in a Transient Lodging Facility?

I am past president of the Bed & Breakfast Association of Virginia - we love Transient Lodging (obviously!) but support any & all efforts to regulate in at least a basic manner taxation, fire safety & insurance for neighborhood overnight lodging facilities.

2. Describe your experience living near a Transient Lodging Facilities?

3. What would you like City officials and staff to be cognizant of as this process moves forward?

Mostly that there are many small, independent licensed, inspected, tax-paying B&B's that are sorely affected.

The Bed & Breakfast Association of Virginia is always available for input & consultation - please feel free to contact the director Amy Hager at her mobile (434) 270-4791. email her

Please use the back of this paper to provide any additional comments, concerns, or suggestions

through the contact form on www.innvirginia.com. I can be contacted at information@highmeadows.com

Thank you for coming out tonight!

Charlottesville and the Sharing Economy

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1. Describe your experience hosting or staying in a Transient Lodging Facility?

As A Host and a Guest in Airbnb Transient Lodging I have Had All Positive Experiences.

2. Describe your experience living near a Transient Lodging Facilities?

3. What would you like City officials and staff to be cognizant of as this process moves forward?

We live in a Changing Economy Many City Residents Are Benefiting from the Attractiveness of our city as A TOURIST Destination. We Need Good Thoughtful Regulation to Preserve the Attractive Nature of our city to be Balanced with Appropriate Personal Property Rights to Allow Residents to Take Advantage of Opportunities within the Regulations.

~~It is~~

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Joyce Kaswandi

1. Describe your experience hosting or staying in a Transient Lodging Facility?

I own Guesthouses — we make reservations for home owners including 2nd homes (vacant)

I rent homes when I go on vacation — Hilton Head SC; Steamboat Spgs CO, OBX, and in Europe.

2. Describe your experience living near a Transient Lodging Facilities?

When I lived on Hilton Head, and on Maui HI, and in Snowmass CO — some neighbors had transient lodging.

I remember once asking the neighboring guests to be less noisy.

It was not necessary to call the management company or the owner.

3. What would you like City officials and staff to be cognizant of as this process moves forward?

Guests WANT to stay in neighborhoods — they do not want to ruin the appeal of neighborhoods.

Charlottesville keeps adding hotels = more tourism = more desire for vacation rentals (transient lodging)

Please use the back of this paper to provide any additional comments, concerns, or suggestions

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Please take a moment to answer the following questions and provide feedback on this important topic.

-
1. Describe your experience hosting or staying in a Transient Lodging Facility? As a B+B owner who rents 2-3 nights a week, I feel it is unfair that I am required to live in the residence required to pay taxes, required to have permission to rent and required to have a business license. I will remove B+B from my business name, close the doors and rent through Air "BNB".
 2. Describe your experience living near a Transient Lodging Facilities? transient property in my area is not monitored - trash uncollected, parking taken in front of my property (it's not permit parking)
 3. What would you like City officials and staff to be cognizant of as this process moves forward? make this fair to all businesses like Bed and Breakfasts by either - changing current laws to allow them more freedom to rent as other transients OR require the same taxes, rules, payments, parking, residency -

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1. Describe your experience hosting or staying in a Transient Lodging Facility?

We host in a 4 BR house in c'ville. We are an entrepreneur & a PhD student, both homeowners, and this is the way we make ends meet while pursuing careers. Our guests have all been very happy and leave glowing reviews. We LOVE to recommend our favorite local eateries & shops, vineyards & events. We feel we are contributing to the local economy, even during personally more difficult times!

2. Describe your experience living near a Transient Lodging Facilities?

N/A

3. What would you like City officials and staff to be cognizant of as this process moves forward?

We would love consistency and a symbiotic relationship with the city. We don't mind paying (a reasonable fee) for a permit & taxes. But don't apply solutions where there are no problems. Sharing economy is good for the city, good for citizens, good for small business, and good for our guests.

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2. Describe your experience living near a Transient Lodging Facilities?
3. What would you like City officials and staff to be cognizant of as this process moves forward?

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Thank you for coming out tonight

1. Safety inspections should be required (e.g. fire) above threshold (e.g. # nights / yr rented)
2. Evidence of insurance for using home this way (some standard home owner's (fire) policies don't cover transient occupancy).
Should have at least \$1M coverage liability

Charlottesville and the Sharing Economy

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1. Describe your experience hosting or staying in a Transient Lodging Facility?

I operate Collegewweekends.com. We were founded in Charlottesville and now operate in 9 different states. I have been doing this for 10 years without incident. I feel strongly it is a great service to the community.

2. Describe your experience living near a Transient Lodging Facilities? I have lived next to several and never had any problems.

3. What would you like City officials and staff to be cognizant of as this process moves forward?

- The fear that out of town investors will start gobbling up properties is totally unfounded. I tried for years to encourage this and it is simply not profitable enough. All of our out of town owners use ~~the~~ the property as a second home.
- These regulations will kill the folks that only want to rent their house 4-5 times per year for big weekends. This will force visitors to neighboring communities which will damage the local economy.

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1. Describe your experience hosting or staying in a Transient Lodging Facility?

I have stayed with Stay Charlottesville for the last two years. It allows me to stay in the city near my family.

2. Describe your experience living near a Transient Lodging Facilities?

I just purchased 625 Evergreen. We plan to stay here in the winter months and use Stay Charlottesville to rent our home for special events to defray the expenses of having a second home near our grandchildren.

3. What would you like City officials and staff to be cognizant of as this process moves forward?

Minimize the amount of regulation. We have been a direct beneficiary of Stay Charlottesville and feel the model works well as it is. This is also an excellent service to the families of UVA students.

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1. Describe your experience hosting or staying in a Transient Lodging Facility?

My husband and I learned of AirbnB through friends. We also have stayed at a few airbnB's in other cities and enjoyed the experience so much we decided to become hosts ourselves. We rented out our home 6 times last year, each experience being a good one. We built a tiny home in our backyard that is primarily an office space for my business and a studio space to teach music lessons to kids. Family stays in the cottage when they visit & we also plan to rent it on a short term basis to help earn income to cover childcare expenses.

2. Describe your experience living near a Transient Lodging Facilities?

I wouldn't know they were even there without seeing them being rented online.

3. What would you like City officials and staff to be cognizant of as this process moves forward?

That most of the people who are hosts, are using their resources as best they can to pay their bills - most of us want to be in compliance and have nothing to hide. For us, renting out our house and tiny home out back make it possible to afford quality childcare, in the city, and still be able to work full time. We are not renting to raucous groups of students throwing parties. The people we primarily host are small families & professionals who visitville for weddings, graduation, etc.

Please use the back of this paper to provide any additional comments, concerns, or suggestions

Thank you for coming out tonight



Why allowing homeowners to rent out their homes transiently is good forville:

- properties are cared for - you can't rent out if it's gross
- It allows folks who don't want a hotel experience to have another option in accommodations
- City can make tax revenue off of the rentals, although I think it should be based on gross volume of rentals. Homeowners cannot rent as much as a hotel can, so the rate should be commiserate with the amount of revenue being earned.
- cville is a huge tourist destination. allowing us to host provides the city the ability to make more money when visitors go out to eat, see shows, etc.

The Value of Short Stay Housing in Charlottesville

The attempt to regulate the use of online services like AirBnB is being driven by a few reported problems and the fear of homeowners. No one has talked to any of the hosts in the area – why? Because it is not possible find out who is hosting thru the websites.

So let me tell you who is hosting and who they are hosting.

We rent out a room using Craigslist and host with airbnb when it is empty. For one reason – lack of affordable housing. It has made it possible for us to live here after I lost the job we moved here for.

Our guests have never bothered anyone because my house rules are clear and reasonable – for my protection and for my neighbors' protection. I specify no partying in particular. The guests have included post docs, researchers from Europe, newly minted doctors on rotation, visiting nurses and other temp hires at UVA Med, new hires moving here, tech temporary contractors, speakers at the book festival, participants in the look festival, wedding guests, race participants, tourists, and occasionally football spectators. Nearly everyone was a college graduate, many with graduate degrees. In general, I have had a much higher class of guest with Airbnb than the tenants on a long term lease who have lived with us.

The length of stay ranges from 1 day to a month – though I could rent for longer and choose not to. Three people, a post doc, a graduate student losing her lease and an exchange student from India, have asked to stay for longer than a month since December. Why?

Well, here's the reason why something like airbnb exists. If it's hard to find permanent affordable housing, can you imagine how hard it is to find temporary affordable housing? There is a need for something other than hotels and even extended stay hotels. I ran into this while in Maryland on a temporary contract. If it wasn't for airbnb, I would not have been able to do it. And I did try to find someone to rent to me for a month.

Finally, let's talk enforcement.

First, the city will be limited in ability to find out who is hosting because not only is it not public but sites like airbnb protect that information so that folks cannot book outside the site. I am sure airbnb will refuse to provide any information about the guests, length of stays, etc.

Secondly, if I'm renting with both craigslist (and roommate search is major there) and airbnb, how is the city going to know what folks are booked at which location? Are they going to be tracking the coming and going at my house? If the stay length is going to be restricted, how can they know what person in my house is staying over 30 days? How is the city going to pay for such investigation and enforcement?

The problem is clear – irresponsible landlords and guests – not airbnb. How do you deal with problem tenants in your neighborhood? The first house we lived in had drug pushers living there before us – a nightmare that the neighborhood just had to put with. Our present house was dang near derelict being rented to inappropriate tenants by the real estate company. We have restored the house and our neighbors are truly appreciative.

Because as normal there are no rules who a landlord can rent to. I say again, the problem is irresponsible landlords and tenants – no matter how that landlord advertises the property.

I am fully prepared to pay a short stay tax if required but a new overlay zoning district with unenforceable rules is definitely not the answer.

One thing I have thought for a long time is that the noise ordinance here is not enough - look at Athens, Ga ordinance. They did something right there. Look to other ordinances for curtailing unwanted activity in a neighborhood.

Another alternative is to bring these short stays under a local organization. I realized I would gladly give up airbnb if there was alternative and I have taken action. I bought shortstaycville.com and am looking to create something that works for both hosts and guests and is a great advertisement for this wonderful city. This is solution that can work for hosts who need the additional income and guests who either can't afford what's available or prefer a more personal stay than a hotel.

C'mon Charlottesville let's work together for solution!

I have created a meetup group for organizing: <http://www.meetup.com/Short-Stay-Cville/> Contact me if you are interested!

Short term rentals are NOT hotels. They are primarily offered by individuals.

Using a property as a short-term rental does not change its status from residential to commercial.

The type of tenant doesn't change the structure, and shouldn't change the zoning. There is no difference between a visitor sleeping in a bedroom or a resident sleeping in a bedroom.

Existing regulations that apply to being a good neighbor, like noise, parking, trash, etc. apply to residents and their guests. There is no need for additional regulations. For example, if my neighbors up the street are having a loud obnoxious party at 3am on a weeknight, I will call the police. It doesn't matter if their guests are invited ones or paying ones.

I feel that I'm not competing with hotels and B&Bs. If someone wants to stay in a hotel, they will. I offer an experience that a hotel does not.

Short term rentals bring visitors to the area who might not normally come. We offer a place for groups to stay together, who might want to cook, bring their pets, or stay with locals.

We send our visitors to our local restaurants, shops and attractions. The money we earn goes back into the community, unlike corporate hotel chains.

It's in our best interest to keep our properties really nice, and our neighborhoods as well. We live and die by our reviews, and a bad experience can kill our businesses.

Do not be swayed by fear-mongers who worry that someone is going to buy 10 houses on a street and make them all into short term rentals. Nobody wants to create trouble or unpleasantness with their short-term rental business.

My place is surrounded by neighbors on all sides, and the vast majority of the time, they are unaware that I have guests.

Short term rentals are a way for residents to stay in their homes and their neighborhoods.

We want to comply with regulations and we will gladly charge our visitors the transient occupancy tax. However, regulations must be simple, clear, and easy to follow, enforceable and apply to everyone.

Citizen created responses to TLF Open House Posters Titles:

Poster titled "Positive"

- increased revenue for City
- level playing field across all host situations
- This is the single best contributor to affordability.
- opportunity for personalized experience
- promote local businesses through recommendations
- Reward homestay owners. They bring in revenue that stays in the community.
- The feedback/recommendation heavy nature of the "sharing economy" reduces the need for heavy regulations. Bad rentals/hosts will not last with bad reviews. "Self-governing"
- Show off Charlottesville to potential new residents. (Guests)
- Reduce the need for new hotel development – more beds with less building!
- New hotels take away space for low income housing.

Poster titled "Challenges"

- What does owner-occupied mean? Physically on site with guests or home is primary residence?
- Enforcement – let's make this simple to comply & enforce.
- Complicated levels of host situations
- Variety of host environments
- Too many rules will stifle people's rights to earn a living.
- Potential parking issues
- Home safety needs to be addressed
- Don't let a few screeches cause the city to over react.
- Accountability should apply equally to long term landlords also.

AMEND City Code 34-1200 Definitions, as follows:

AMEND definition of **homestay**, to read as follows:

Homestay means a home occupation in which an individual who resides within a single-family detached dwelling (SFD) rents or hires out no more than three (3) guest rooms within the dwelling, or an accessory building, as transient lodging. Breakfast and light fare may be provided by the resident for guests only, as part of the home occupation.¹

Comment [RL1]: Use of the term "guest rooms" would preclude use of an accessory apartment for transient occupancy—because "guest room" has been defined to refer to rooms that don't have kitchen facilities.

AMEND definition of **home occupation**, to read as follows:

Home occupation means any occupation or activity which is clearly incidental and secondary to the lawful residential use of property and which is carried on by an individual who resides on such property. The activities of a home occupation may be conducted within the dwelling in which the individual resides, or within another building located on the same property.²

AMEND definition of **guest room**, to read as follows:

Guest room means a room used for transient lodging in which no kitchen is provided. A guest room does not include dormitory rooms located on a college or university campus or owned or operated by a college or university.³

ADD NEW DEFINITION: **Transient lodging means lodging offered for occupancy by any individual(s) for a period of not more than 30 consecutive days, in return for a fee or charge.**

ADD NEW DEFINITION: **Lodging means a building or portion thereof (such as a guest room) which is used or occupied by any individual as a temporary overnight accommodation, and not as such individual's residence.**

AMEND the Use Matrices, City Code 34-420 and 34-480, as follows:

¹ ~~*Bed and breakfast (Homestay)* means a **home occupation in which an individual who resides within a single-family detached dwelling (SFD) rents or hires out** temporary lodging facility operated within a single family residence which is owner-occupied and managed; having no more than three (3) guest rooms **within the dwelling, or an accessory building, as transient lodging**; and wherein food service shall be limited to **Breakfast and light fare may be provided by the resident for guests only, as part of the home occupation.**~~

² ~~*Home occupation* means any occupation or activity which is clearly incidental and secondary to **the lawful residential use of property** the premises as a dwelling and which is carried on **by an individual who resides on such property. The activities of a home occupation may be conducted within the dwelling in which the individual resides, or within another building located on the same property** wholly or in part within a main building or accessory building ~~by a member of the family who resides on the premises.~~~~

³ ~~*Guest room* means a room **used for transient lodging** which is designed or intended for occupancy by one (1) or more persons, but in which no **kitchen is provided** provision is made for cooking. A guest room does not include dormitory rooms located on a college or university campus or owned or operated by a college or university.~~

City Code Sec. 34-420 (Residential Zoning Districts): allow “*Homestay*” in every residential zoning district (by Provisional Use Permit). Also **City Code 34-480 (Commercial and M/I Zoning Districts).**

AMEND Sec. 34-1172. Home occupations

A home occupation authorized by a provisional use permit shall be subject to the following regulations:

- (1) A home occupation 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.
- (2) In addition to the resident of the dwelling ~~unit~~, not more than one (1) other ~~individual person~~ may be engaged in the activities of the home ~~occupation business~~ on the ~~property premises~~ at any given time. There must be off-street parking available for this ~~other individual staff person~~.
- (3) No more than three (3) customers or clients of the home occupation shall be present on the ~~property premises~~ at the same time. No customers, clients or employees shall be allowed to visit the ~~property premises~~ earlier than 8:00 a.m. or later than 9:00 p.m.
- (4) Deliveries of supplies associated with the home ~~occupation business~~ shall occur only between the hours of 8:00 a.m. and 9:00 p.m.
- (5) No mechanical or electrical equipment shall be employed within or on the ~~property premises~~, other than machinery or equipment customarily found in a home.
- (6) No outside display of goods, and no outside storage of any equipment or materials used in the home occupation shall be permitted.
- (7) There shall be no audible noise, or any detectable vibration or odor from activities or equipment of the home occupation beyond the confines of the dwelling, or an accessory building, including transmittal through vertical or horizontal party walls.
- (8) The storage of hazardous waste or materials not otherwise and customarily associated with ~~residential use of a dwelling home use~~ is prohibited.
- (9) There shall be no sales of any goods, other than goods that are accessory to a service delivered on-premises to a customer or client of the business.
- (10) The home ~~occupation business~~ must be conducted entirely within the dwelling or an accessory ~~building structure~~, or both; however, not more than twenty-five (25) percent of the total floor area of the dwelling shall be used in the conduct of the home ~~occupation business~~, including storage of stock-in-trade or supplies.
- (11) For pet grooming services, all animals must be kept inside during the provision of services and no animals may be boarded or kept overnight.

Comment [RL2]: Would this mean that a home owner could not go away for the weekend while someone stays at his or her house?

Comment [RL3]: What about: not more than the number of “unrelated persons” that are specified for the district? 3 in some districts, 4 in others

PLANNING COMMISSION DISCUSSION DRAFT TRANSIENT OCCUPANCY PROVISIONS

(March 2015)

(12) All parking in connection with the home occupation business (including, without limitation, parking of vehicles marked with advertising or signage for the home business) must be in driveway and garage areas on the property premises, or in available on-street parking areas.

(13) One (1) exterior sign, of dimensions no greater than two (2) square feet, may be placed on the exterior of the dwelling or an accessory structure to indicate the presence or conduct of the home occupation business. This sign may not be lighted. In all other respects the property from which the home occupation is to be conducted must be in compliance with the sign regulations set forth within Division 4, sections [34-1020](#), et seq.

(14) Except for the sign authorized by subparagraph (13) above, there shall be no evidence or indication visible from the exterior of the dwelling that the dwelling or any accessory building is being utilized in whole or in part for any purpose other than as part of a residential use dwelling.

(15) Applicants for a provisional use permit authorizing a home occupation shall provide evidence of a city business license (or a statement from the commissioner of revenue that no city business license is required) and a certificate of occupancy or other written indication from the city's building code official that use of the dwelling or accessory building structure for the home occupation business is in compliance with all applicable building code regulations.

(16) The following are specifically prohibited, and shall not be deemed or construed as activities constituting a home occupation:

- a. Auto detailing, where more than two (2) vehicles being serviced are present on the property at any given time.
- b. Barber shops or beauty salons having more than two (2) chairs.
- c. Funeral home with or without chapel.
- d. Medical or dental clinic (other than psychiatric or psychological counseling services).
- e. Motor vehicle sales, repair, equipment installation, and similar activities.
- f. Nursing homes and adult care facilities.
- g. Offices or staging facilities for any non-professional service-oriented businesses (for example, maid services, landscaping and lawn maintenance services, construction services, etc.), except where the sole activity on the premises would be telephone order/dispatching functions and there would be no vehicles, equipment, workers, or customers on the premises at any time.
- h. Repair or testing of machinery, including internal combustion engines.
- i. Restaurants.
- j. Retail or wholesale sales, where any goods or merchandise are (i) displayed or otherwise offered or available on-site for sale or purchase, or (ii) delivered to or picked-up by purchasers on-site, including, without limitation: antique shops, sales of firearms, computer sales, and similar activities.
- k. Schools, nursery schools, and day care facilities.
- l. Veterinary clinics and animal kennels.

Reference Materials	Current City Code Provisions Terms need to be precisely defined and used: “Occupancy” can be residential or non-residential; an “owner” might be an individual or a business entity
<p style="text-align: center;"><u>“Transient Use”</u></p> <p>San Francisco: “Tourist or transient use” means use of [an apartment unit] for less than a 30 day term of tenancy, or occupancy for less than 30 days of an apartment unit leased by a business entity, whether [leased] on a short-term or long-term basis, including occupancy by employees or guests for less than 30 days, where payment of the rent is contracted for or paid by the business entity.</p> <p>Portland: “accessory short term rental” is where an individual or family resides in a dwelling unit and rents bedrooms to overnight guests for fewer than 30 consecutive days. The “resident” can be the owner or a long-term renter.</p>	<p><i>City Code § 30-252 (Tax Code):</i> “Transient” means any person who, for a period of not more than 30 consecutive days, either at his own expense or at the expense of another, obtains lodging. “Lodging” means the rental of a room or space to a transient for compensation.</p> <p><i>City Code § 34-1200:</i> “Guest room” means a room which is designed or intended for occupancy by one (1) or more persons, but in which no provision is made for cooking. “Hotel” means a building, or portion thereof, containing [or] providing guest rooms used, rented or hired out to be occupied for sleeping purposes on a transient basis.</p>
<p style="text-align: center;"><u>Residential Use/ Occupancy</u></p> <p>Portland: “accessory short term rental”: Type A is where no more than 2 bedrooms are rented to overnight guests. <i>(Total number of residents and guests may not exceed the number allowed for a “household”—i.e., (1) or more related persons, plus up to (5) additional persons, who live together in one dwelling unit).</i> Nonresident employees are prohibited. The term “accessory short term rental” <u>includes</u> “bed and breakfast” facilities. “Home occupation” means a business activity carried out on the same site as a dwelling unit, and which is accessory to Household Living Use of the dwelling.</p> <p style="padding-left: 40px;">Household Living is a Use Category (like “residential use”), described as follows: “characterized by residential occupancy of a dwelling unit by a household. Tenancy is arranged on a month-to-month basis, or for a longer period. Uses where tenancy may be arranged for a shorter period are considered to be a form of transient lodging. Home occupations and accessory short-term rentals are “accessory uses” subject to additional regulations.”</p> <p>San Francisco: “residential use” means any use for occupancy as a dwelling unit by a permanent resident. “Permanent resident” means a person who occupies an apartment unit for at least 60 consecutive days with intent to establish the unit as his or her principal place of residence.</p> <p>IRS Guidelines—Individual Taxpayers: focus on use of a dwelling unit by an individual for “personal purposes”, and/or as a “home”. If a dwelling unit is used as a “home,” and is rented to others less than 15 days per year, the income received is not treated as rental activity. If a dwelling unit is not used as a home, or is used as a home but is also rented for 15 or more days per year, then all rental income must be reported as individual income, and expenses must be divided between rental and personal use. <i>(IRS determines whether a place of residence is an individual’s “main home” using a facts-and-circumstances test, including: where does the individual spend the most time, and what address is used on mail, voter registration, drivers’ license and tax returns).</i></p>	<p><i>City Code §34-1200:</i> “<i>bed and breakfast (homestay)</i>” means a temporary lodging facility operated within a single family residence which is owner occupied and managed; having no more than (3) guest rooms; and wherein food service shall be limited to breakfast and light fare for guests only.</p> <p style="padding-left: 40px;"><i>[Note: there are no definitions of “residence” or “single family residence”—only “dwelling”, “dwelling unit”, “single-family detached dwelling”, etc. <u>Also note</u>, it is possible for the “owner” of a property to be a business entity (LLC), so “owner-occupied” is not necessarily the same as an “individual’s residence”].</i></p> <p>“Dwelling” means a building, or portion thereof, serving as a residence for any persons. “Dwelling unit” means a building, or any portion thereof, containing a complete set of living accommodations suitable for occupancy by (1) or more persons, consisting of sleeping, bathroom and complete kitchen facilities for the exclusive use of such occupants, and direct access from the outside or through a common hall.</p> <p>“Single-family detached dwelling means a freestanding building containing a single dwelling unit.</p> <p><i>City Code §34-1200 “residential occupancy”</i> refers, for purposes of the zoning ordinance, to the number of persons who may reside together within (1) dwelling unit as a single housekeeping unit. (The term, as defined, does not refer <i>per se</i> to a use).</p> <p><i>Also note:</i> there are numerous places within the City’s zoning ordinance where the word “occupancy” or “occupied” is used to refer to a non-residential use. (E.g. “<i>At least twenty-five (25) percent of the gross floor area of a mixed-use building or development must be designed and occupied for non-residential use.</i>”)</p>
<p style="text-align: center;"><u>Apartments</u></p> <p>San Francisco: prohibits the use of an apartment unit for tourist or transient use</p> <p>Portland: restricts the number of “accessory short term rentals” within a multi-dwelling structure, or a “triplex” to (1), or to 25% of the total number of dwelling units, whichever is greater</p>	<p><i>Charlottesville City Code:</i> the term “multifamily dwelling” means a building, or portion thereof, arranged or designed to contain (3) or more dwelling units. (I.e., an apartment building is a “multifamily dwelling” and each individual apartment is a “dwelling unit”).</p> <p>“<i>Single room occupancy facility</i>” means a residential building which contains multiple single-room dwelling units.</p>

DISCUSSION DRAFT: FACILITIES NOT OCCUPIED AS A RESIDENCE

Current Definition	For Discussion
<p><i>Bed and breakfast (B&B)</i> means a temporary lodging facility operated within a residential dwelling, which is owner occupied and managed or having a resident manager; having no more than eight (8) guest rooms; and wherein food service shall be limited to breakfast and light fare.</p> <p>By right: (R-3, R-UMD, R-UHD, MR); (B1, B2, B3); (all Mixed Use Districts)</p> <p><i>Dwelling</i> means a building, or portion thereof, serving as a residence for any persons.</p>	<p><i>Transient Occupancy Rental</i> means a single family detached dwelling (SFD) used to provide transient lodging, where such SFD (i) has no more than eight bedrooms, (ii) is not occupied by any individual as a permanent residence, and (iii) oversight of the use of the SFD is provided by a local property manager.</p> <p><i>Permanent residence</i> means a dwelling where the residential occupancy is for a period of more than 30 days, by an individual who has the intent to occupy the dwelling as his or her primary place of residence.</p>

Existing Defined Terms Z.O. 34-1200	Terms/ Definitions Suggested For Discussion	Other, Related Terms Suggested for Discussion
<p><i>Bed and breakfast (B&B)</i> means a temporary lodging facility operated within a residential dwelling, which is owner occupied and managed or having a resident manager; having no more than eight (8) guest rooms; and wherein food service shall be limited to breakfast and light fare.</p> <p>By right: (R-3, R-UMD, R-UHD, MR); (B1, B2, B3); (all Mixed Use Districts)</p>	<p>For Discussion: <i>Bed and breakfast (B&B)</i> means transient lodging provided within a single family detached residential dwelling (SFD), in accordance with the following: (i) the SFD is used as the personal residence of either an individual who is the owner of the dwelling or a resident manager, (ii) the SFD contains no more than 8 guest rooms, and (iii) breakfast and light fare is provided to lodgers within the dwelling as part of such lodging.</p>	<p>Add: <i>Transient lodging</i> means lodging used, rented or hired out for a period of not more than 30 consecutive days, in return for a fee or charge</p> <p>Add: <i>Lodging</i> means a building, or portion thereof (such as a guest room), which is rented or hired out as a temporary accommodation, and not as a dwelling</p>
<p><i>Bed and breakfast (Inn)</i> means a temporary lodging facility operated within a residential dwelling; which is owner occupied and managed or having a resident manager, having no more than (15) guest rooms; and wherein food service may be provided.</p> <p>By right: (B1, B2, B3); (all Mixed Use Districts) By SUP: (R-3, R-UMD, R-UHD, MR)</p> <p><i>Hotel/ motel</i> means a building, or portion thereof, or any group of buildings, containing [or] providing guest rooms used, rented or hired out to be occupied for sleeping purposes on a transient basis (i.e., by the day or week). This definition includes facilities commonly known as motor lodges, motor courts and convention centers. The following are excluded from this definition: bed-and-breakfasts, rooming/ boarding houses.</p> <p>By right (< 100 rooms): (B2, B3) and (all Mixed Use, except DN, NCC).</p> <p>SUP (< 100 rooms): (B1, M/I)</p>	<p>For discussion: <i>Bed and breakfast (Inn)</i> means transient lodging provided within a single family detached residential dwelling (SFD), in accordance with the following: (i) the SFD is used as the personal residence of an individual who is the owner of the dwelling or a resident manager; (ii) the SFD contains more than 8, but not more than 15 guest rooms, and (iii) meals are provided to lodgers within the dwelling, as part of such lodging.</p> <p>For discussion: <i>Hotel</i> means a non-residential building, or group of non-residential buildings, designed, arranged and used as transient lodging offered to the public for compensation. This use includes facilities commonly known as inns, motels, motor lodges, motor courts and convention centers. The term <i>hotel</i> excludes homestays, bed-and-breakfasts, bed-and-breakfast inns, rooming houses and boarding houses.</p>	<p><i>Dwelling</i> means a building, or portion thereof, serving as a residence for any individual persons</p> <p><i>Dwelling unit</i> means a building, or any portion thereof, containing a complete set of living accommodations suitable for occupancy use as a residence by any one or more individual(s) persons, consisting of sleeping, bathroom and complete kitchen facilities for the exclusive use of such residents occupants and having either direct access from the outside of the building or through a common hall to the outside of the building</p> <p><i>Dwelling, single family detached (SFD)</i> means a freestanding building containing a single dwelling unit, i.e., a building that has no attachment or connection by a common party wall to another similar building</p>

Matt Alfele, City Planner gave an Update of Transient Lodging Facilities. 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 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 the Neighborhood Development Services staff will 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 this gets taken to a certain level, it can be bad. He said this is about finding a line between where it stops being your home that you're using as 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, 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 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 what 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 you cannot say they do not care about the neighbors, because you are 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 homeowner. She said Charlottesville wants to be a city that is inhabited by its residents whether they own it 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 we 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.

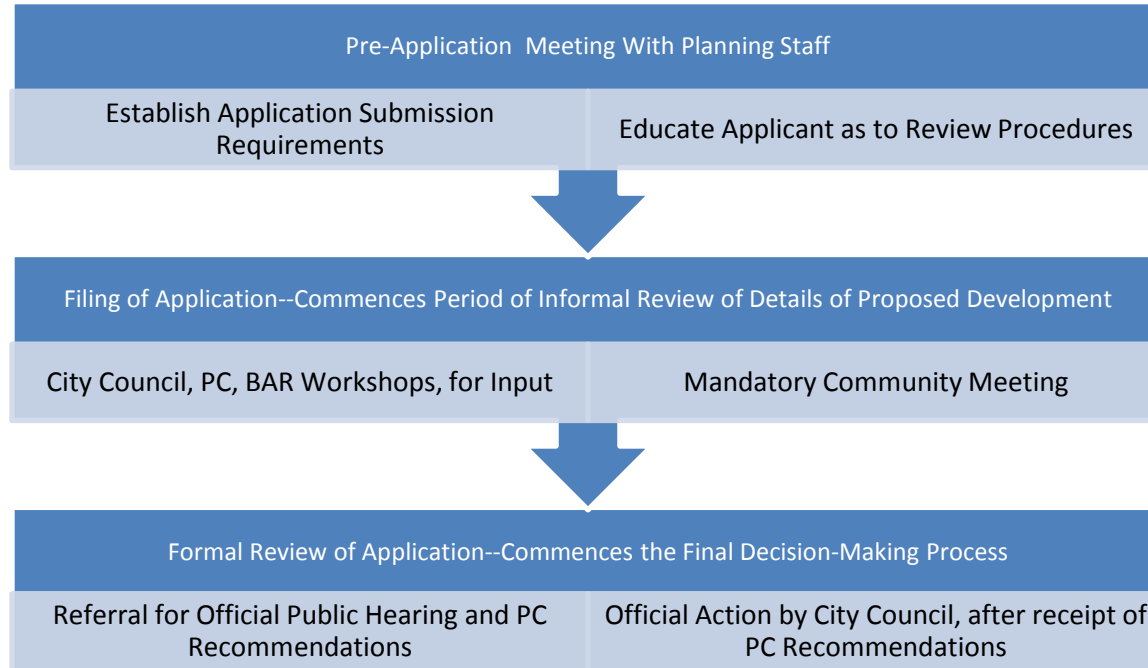
He urged embracing the use as a means to increase tourism.

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 renter review you, and you review the renter. He said he can't imagine Charlottesville becoming full with BNBS.

**SUMMARY OF PROPOSED PUBLIC INPUT PROCESS:
ZONING APPLICATIONS (REZONINGS, PUDs, SUPs)**



CITY OF CHARLOTTESVILLE, VIRGINIA
CITY COUNCIL AGENDA



Agenda Date:	February 2, 2015
Action Required:	Approval of Resolution to Initiate Text Amendments to the Zoning and Subdivision Ordinances
Presenter(s):	Lisa Robertson; Missy Creasy
Staff Contacts:	Lisa Robertson; Missy Creasy
Title:	INITIATION OF CHANGES TO THE PROCEDURES BY WHICH CERTAIN APPLICATIONS REZONING, SPECIAL USE PERMITS AND DEVELOPMENT PLANS ARE SUBMITTED AND PUBLICLY REVIEWED

Background:

The City Manager and Director of Neighborhood Development Services have requested us to prepare zoning and subdivision text amendments, to provide for community meetings at which the public would have an opportunity to receive information, and to comment on development projects, before applications seeking approval of the projects move forward for formal approval by the planning commission and city council. The purpose of this community meeting would be to enhance and promote public information and participation in the review process.

Discussion:

Attached is a Resolution that would initiate the planning commission's consideration of ordinance amendments to accomplish the requested community meeting procedures. The changes set forth within the Resolution are modeled on procedures found within Section 33 of the Albemarle County Zoning Ordinance. They are lengthy; however, we strongly recommend that consideration of zoning and

subdivision text amendments should be commenced at a broad scope, and then, following a public hearing and receipt of recommendations from the planning commission, City Council could narrow the scope of amendments.

In our opinion, the elements of the Albemarle County ordinance which contribute to a flexible, meaningful public review process are:

(A) Timing—in Albemarle, community meetings take place after application materials are submitted, but before an application is officially referred to the planning commission for public hearing and recommendations. *(By law, a zoning ordinance amendment cannot be adopted by city council unless and until the proposed amendment has been referred to the planning commission for its recommendations. Currently, in sec. 34-41(d) of the City’s zoning ordinance, every application is automatically “deemed” to be referred by council to the planning commission. In Albemarle, the referral is not automatic, but occurs only after the application has been presented at a community meeting and the application is otherwise deemed ready by County officials for consideration in the formal public hearing process).*

(B) Flexibility to allow Council, the Commission and the BAR an opportunity to review the application materials in detail, in advance of being required to act on it-- the County’s ordinance allows its Planning Director to recommend public work sessions for council, the planning commission, BAR, etc., as might be beneficial—again, before an application is ever referred to the Commission for commencement of a formal public hearing process;

(C) Detailed requirements as to application materials—a list of supplemental information requirements that can be required of applicants, as deemed beneficial for adequate consideration and understanding of a particular project *(this list of supplemental requirements provides a selection of items that can be required, or not, depending on the complexity or extent of a proposed development)*, and

(D) Mandatory pre-application staff meetings—the requirement for a pre-application meeting at which, among other things, the required application submission materials will be established and the community meeting requirement will be explained by the Director.

Given the structure of our own City Ordinances, we do not believe that simply adding a pre-application requirement for a community meeting will achieve the desired additional level of public notice and information. Establishing specific details as to information that must be contained within an application is necessary to ensure a meaningful level of information and review by citizens at the community meetings. Additionally, reserving to the Director and City Council the ability to determine when an application is ready for formal consideration within the structure of a public hearing process (instead of the current practice of automatically referring it upon receipt) would add significant flexibility for a better-informed public vetting of proposed developments.

Alignment with Council Vision Areas and Strategic Plan:

This item aligns with the City Council Vision to be a smart citizen-focused government.

Community Engagement:

There has been no community engagement prior to preparation of this Resolution for your consideration; however, the purpose of the proposed text amendments is specifically to provide for enhanced community engagement on an ongoing basis. If you initiate the planning commission's consideration of the Discussion Draft Ordinance, the Discussion Draft will be studied within a public process and then the Planning Commission will return its recommendations for additions or revisions to you, within the next 100 days.

Budgetary Impact:

Not known at this time. The procedures suggested within the text amendment will potentially require a substantial additional amount of staff time to contribute information and support to the scheduling and conduct of community meetings.

Recommendation:

Approved the attached Resolution, to initiate a public hearing process for zoning and subdivision text amendments that would establish enhanced procedures for public review and citizen engagement, in relation to proposed development projects within the City.

Alternatives:

Take no action.

Attachments:

- (1) Resolution to Initiate Public Consideration of Amendments of the Zoning and Subdivision Ordinances, to Provide for Enhanced Citizen Engagement in the Review of Proposed Developments.
- (2) Discussion Draft Ordinance, dated February 2, 2015

FEBRUARY 2, 2015

DISCUSSION DRAFT AMENDMENTS

TO CITY ZONING AND SUBDIVISION ORDINANCES

I. CHANGES TO THE APPLICATION REQUIREMENTS FOR SPECIAL USE PERMITS AND REZONINGS (INCLUDING PUD AND PUD AMENDMENT)

Sec. 34-8. Disclosure of real parties in interest.

- (a) An applicant for a special exception, a special use permit, an amendment to the zoning ordinance or a variance shall make complete disclosure of the equitable ownership (i.e., the real parties in interest) of the real estate to be affected. The applicant shall provide the names and addresses of all of the real parties in interest, including, without limitation: each of the stockholders, officers and directors of a corporate entity (corporations, professional corporations, limited liability companies, professional limited liability companies, etc.). However, the requirement of listing names of stockholders shall not apply to a corporation whose stock is traded on a national or local stock exchange and which corporation has more than five hundred (500) shareholders.
- (b) All petitions initiated by property owners or the agents thereof, shall be sworn to under oath before a notary public, stating: (i) whether or not any member of the planning commission, or his immediate family member, has any personal interest in the property or transaction that is the subject of the application; and (ii) whether or not any member of the city council, or his immediate family member, has any such interest. A personal interest arises when a financial benefit or liability may accrue to a member of the planning commission or city council, or his immediate family member, as a result of an individual or business interest in the subject application. For the purposes of this section, the term "personal interest" shall have the meaning set forth within the State and Local Government Conflicts of Interests Act, Code of Virginia, § 2.2-3101, and may refer to an interest accruing to a person individually, as a result of business or professional relationships.¹

Sec. 34-41. Amendments to the zoning ordinance.

- (a) Whenever the public necessity, convenience, general welfare or good zoning practice require, the city council may, by ordinance, amend, supplement or change the city's zoning district regulations, district boundaries or zoning district classifications of property. Any such amendments may be initiated by:
- (1) Resolution of the city council;
 - (2) Motion of the planning commission; or
 - (3) Petition of any person who is the owner, owner's agent, or contract purchaser (with the owner's written consent) of property, where such petition proposes a change of the zoning district classification of such property ("zoning map amendments"). For purposes of this

¹ [Moved from 34-41(c)]

section, the term zoning map amendment includes, without limitation: petitions seeking to establish or to amend a planned unit development; petitions to amend established proffers; and petitions for approval of a special use permit.

(b) Petitions for zoning map amendments shall be made in writing, shall be addressed to the city council, and shall be filed in the department of neighborhood development services, and shall be submitted to the city's department of neighborhood development services at least forty nine (49) days prior to a regular meeting of the planning commission. Each application shall be accompanied by the required application fee, as set forth within the most recent fee schedule adopted by city council. Each application shall be composed of a completed city-provided application form and supplemental information required in order for the city to review and act on the application. At a minimum, a complete application shall include:

(1) Verification of the applicant's attendance at a pre-application meeting with a City planner, at which the applicant was provided a list of the application materials, including required supplemental information, required for an application;

(2) A city-provided application form, signed by the owner of the property. Alternatively, the application form may be signed by the owner's authorized representative, if the application form is accompanied by the owner's written authorization;

(3) Written certification of compliance with sec. 34-10(b);

(4) The required application fee, as set forth within the most recent fee schedule adopted by city council;

(5) All information required by any provision of this zoning ordinance (including, without limitation: sec. 34-158 and 34-other applicable city ordinances, or state law;

(6) All required supplemental information.

The director of neighborhood development services shall establish and maintain appropriate uniform application forms for zoning map amendments, documents and informational requirements for making such petition, as well as a list identifying all materials required to be submitted along with the petition, which shall include any information the director deems necessary for the planning commission and city council to adequately evaluate the request which is the subject of the petition. Upon receipt of an application, the director shall within ten (10) business days review the application for completeness. Incomplete applications shall be rejected and shall not proceed for review or decision, and the applicant shall be notified in writing of the rejection and the reasons therefor.

(c) All petitions initiated by property owners, contract purchasers, or the agents thereof, shall be sworn to under oath before a notary public, stating: (i) whether or not any member of the planning commission, or his immediate family member, has any personal interest in the property or transaction that is the subject of the application; and (ii) whether or not any member of the city council, or his immediate family member, has any such interest. A personal interest arises when a financial benefit or liability may accrue to a member of the planning commission or city council, or

~~his immediate family member, as a result of an individual or business interest in the subject application. For the purposes of this section, the term "personal interest" shall have the meaning set forth within the State and Local Government Conflicts of Interests Act, Code of Virginia, § 2.2-3101, and may refer to an interest accruing to a person individually, as a result of business or professional relationships. Following receipt of a complete application for a zoning map amendment:~~

- (1) Either the city council or the director may request work sessions or other public presentations to be scheduled before the city council, the planning commission, the board of architectural review (if property is within an historic district), or other public bodies, as the director determines to be appropriate, taking into consideration the nature of the approval requested, the acreage affected, potential impacts of an approved application, applicable legal requirements, and any other factors consistent with good zoning practices. The purpose of a work session or other public presentation is to allow an applicant to present a proposed project, to allow the department of neighborhood development services to present a preliminary scoping of major issues, to seek directions as to the board's or commission's expectations in addressing those issues, and to allow the board or commission to receive public comments. The applicant's consent to a work session is required, if the work session would extend the time for action by the board or commission beyond applicable deadlines established by law.

- (2) The applicant shall hold a community meeting for the application. The purposes of a community meeting are to provide citizens an opportunity to receive information about a proposed project, about applicable zoning processes and procedures, about applicable policies of the comprehensive plan and city ordinances or regulations that may apply to the project, and to give citizens an opportunity to ask questions about the project. The director of neighborhood development services is authorized to establish written guidelines pertaining to which applications should have community meetings, when in the process such meetings should be conducted, the manner in which the meeting should be conducted, and how (and to whom) notice of the community meeting should be given. The applicant's consent to a community meeting is required, if the community meeting cannot, due to no fault of the applicant, be scheduled in sufficient time to allow action by the board or planning commission within applicable deadlines established by law. **The director may waive the requirement for a public meeting, upon a determination that the meeting is not likely to achieve the public purposes intended to be served, after consideration of the following: (i) the nature of the approval requested, the acreage affected, the proposed density, the proposed scale, and potential impacts, (ii) any other factors deemed relevant upon applying sound zoning principles, (iii) whether other public work sessions or meetings have already been held regarding the application, so as to make a community meeting unreasonably duplicative.**

- (3) Unless otherwise directed by city council, upon the director's receipt of proof by the applicant that a community meeting has been held in accordance with applicable policies and procedures, the director is authorized to refer the matter to the planning commission's for review in accordance with sec. 34-42(c), by written notice given to the planning commission chair.

- (d) ~~Once a proposed amendment has been initiated as set forth within this section, it shall be deemed referred by the city council to the planning commission for study and recommendation reviewed by the director of neighborhood development for completeness. Incomplete applications shall be rejected and shall not proceed for review or decision. For each application for a zoning map amendment, the director may require supplemental information to be submitted along with the~~

application. In determining what supplemental information must be submitted, the director shall consider the proposed use, the proposed density, the proposed zoning district classification, and other considerations the director determines to be relevant according to sound zoning practices. Required supplemental information may consist of any or all of the following:

- (1) Project Proposal Narrative, consisting of a detailed written statement of the proposal, its public need or benefit, and of how the project satisfies the purpose, intent or objectives of the applicable zoning district classification.
- (2) Comprehensive Plan Analysis, consisting of a detailed written statement of the project's consistency with the comprehensive plan, including the land use map and any small area, strategic investment area or other plan for the applicable development area.
- (3) Impacts on Public Facilities and Infrastructure. A detailed narrative statement detailing the project's impacts on public facilities and infrastructure, including, without limitation: sidewalks and other pedestrian facilities; bicycle, public transit and motor vehicle transportation facilities; storm sewers; existing platted rights-of-way which have not previously been improved or accepted by the city for maintenance, etc.
- (4) Maps. One or more maps showing the proposed project's neighborhood context, existing natural and man-made conditions, and existing topography. If the proposal is to amend an existing planned unit development district, and the proposed amendment would affect less area than the entire district, the applicant shall submit a map showing the entire existing PUD and identifying any area to be added to or deleted from the district, or identifying the area to which the amended PUD plan or any amended proffers, would apply. If the proposal is for a special use permit, and the area proposed to be subject to the special use permit is less than an entire lot (or less than an entire PUD, if applicable) a map shall be provided showing the area proposed to be subject to the special use permit.
- (5) Impacts on Environmental Features. A narrative of environmental features of the property that would be affected by the project, including, without limitation: trees, existing pervious surfaces, steep slopes, streams, etc. Photographs shall be provided of features described in the narrative.
- (6) Project Concept Plan. For any zoning map amendment to establish a conventional zoning district (i.e., a district other than a PUD) or seeking approval of a special use permit, a conceptual plan shall be provided showing, as applicable: (i) street network, including circulation within the project and connections to existing and planned streets within and outside the project; (ii) general location of pedestrian and bicycle facilities; (iii) building envelopes; (iv) parking envelopes; (v) public spaces and amenities; (vi) conceptual stormwater management facility locations and types; (vii) conceptual grading; (viii) conceptual landscape plan, (ix) topography, and identification of the source of the topographical information, supplemented where necessary by spot elevations, and identification of areas of the site containing slopes in excess of 25%; (x) general location of central features or major elements within the project that are essential to the design of the project, such as parking areas and structures, civic areas, open spaces, green spaces, recreation areas and other amenities.

- (7) PUD Concept Plan. In addition to any information required by city code sec. 34-517, a PUD concept plan shall include: (i) typical cross-sections to show proportions, scale, and streetscape/cross-sections/ circulation; (ii) conceptual stormwater management facility locations and types; (iii) conceptual grading; (iv) a use table listing the specific uses to be included by right, and the number of dwelling units, by type; (v) building envelopes; (vi) topography, and identification of the source of the topographical information, supplemented where necessary by spot elevations, and identification of areas of the site containing slopes in excess of 25%; (vii) general layout for water and sewer systems; (viii) the general location of central features or major elements within the project that are essential to the design of the project, such as parking areas and structures, civic areas, open spaces, green spaces, recreation areas and other amenities; (viii) a code of development identifying standards for proposed yards, open space characteristics, and any landscape or architectural characteristics relating to scale, proportions, and massing; and (ix) a conceptual lot layout.
- (8) Proposed Proffers to Address Impacts, consisting of a written statement of conditions, limitations, restrictions or amenities that the property owner offers as a means of mitigating impacts of a project or enhancing the public benefits of a project.
- (9) Other Information, including, without limitation, special studies or documentation, identified by the director as being necessary for a full and complete review of the proposed zoning map amendment consistent with good zoning practices.

Sec. 34-42. Commission study and action.

- (a)....[NO CHANGE PROPOSED]
- (b)....[NO CHANGE PROPOSED]
- (c) The planning commission shall review the proposed amendment and shall report its findings and recommendations to the city council, along with any appropriate explanatory materials, within one hundred (100) days after the proposed amendment was referred to the commission for review. Owner-initiated petitions for zoning map amendments shall be deemed referred to the commission as of the date on which: (i) city council, by motion or by resolution, refers an amendment to the commission for review, or (ii) the first planning commission meeting following the referral acceptance of the petition by the director of neighborhood development services pursuant to sec. 31-41(c)(3). Failure of the commission to report to city council within the 100 one hundred-day period shall be deemed a recommendation of approval, unless the petition is withdrawn. In the event of and upon such withdrawal, processing of the proposed amendment shall cease without further action.

II. CHANGES TO SPECIAL USE PERMIT APPLICATION REQUIREMENTS

Sec. 34-158. Application generally.

- (a) The procedure for filing and consideration of an application for a special use permit is the same as that required by sec. 34-41 for an owner-initiated rezoning petition for a zoning map amendment, except that each a complete application for a special use permit shall also include:
- (b)[NO CHANGE PROPOSED]

Sec. 34-160. Review and action on application.

(a)...[NO CHANGE PROPOSED]

(b) The planning commission shall review and make recommendations to city council in the same manner as provided within sec. 34-41 for an owner-initiated petition for a zoning map amendment ~~rezoning application~~. The planning commission may concurrently approve a preliminary site plan, subject to city council's approval of a special use permit, and subject to any necessary amendments to the site plan as a result of the city council's action. Alternatively, the planning commission may choose to defer consideration of a site plan until after council has rendered a final decision on the application for a special use permit.

III. CHANGES TO PUD APPLICATION REQUIREMENTS

Sec. 34-515. Pre-application review process.

(a)...

(b) Upon confirmation by the director that all materials and information submitted by the applicant satisfy the requirements referenced within paragraph (c), below, in this section, the pre-application will be scheduled for a preliminary discussion to be held at a regular planning commission meeting application will be reviewed and acted upon in the manner prescribed within sec. 34-41.

(c) Each application shall ~~be accompanied by the required fee, as set forth within the most recent fee schedule adopted by city council~~ satisfy the requirements of sec. 34-41 as well as all of the requirements of this article.

IV. CHANGES TO SITE PLAN APPLICATION REQUIREMENTS

Sec. 34-804. Pre-application conference requirements

(a) No application seeking approval of a site plan, preliminary or final, for property that will be used for any commercial or industrial purpose, or that will contain six (6) or more residential dwelling units, shall be accepted for review, unless and until the applicant has participated in a pre-application conference and has held a community meeting in accordance with guidelines established by the director of neighborhood development services in accordance with sec. 34-41(c)(2). Any application that fails to demonstrate compliance with these requirements shall be rejected as incomplete. The director may waive the requirement for a community meeting, if a community meeting was previously held for the same development at the time of city council's consideration of an application for approval of a special use permit or petition for a zoning map amendment. The purpose of a pre-application conference is to discuss the required site plan, its contents, and the various city requirements pertaining to zoning, erosion and sedimentation control, building code regulations, and to consider preliminary features of a proposed site. Prior to submission of a preliminary site plan, an applicant for site plan review should meet with the

~~director to verify determine whether a site plan will be required and if so, what information and application materials must be provided in either case.~~

- (b) The purpose of a pre-application conference is to discuss the required site plan, its contents, and the various city requirements pertaining to zoning, erosion and sedimentation control, building code regulations, and to consider preliminary features of a proposed site. At a pre-application conference, the director will verify whether a site plan will be required for a proposed development and if so, what information and application materials must be provided. As part of the pre-application conference the developer shall confer with the director to determine if the site plan should include provision for the reservation and/or dedication of suitable areas for parks, open space and other public facilities, utilities and uses as recommended in the comprehensive plan. The developer shall also confer with the director and/or other appropriate public officials of the city, to ascertain if, and when, and in what manner, any such areas should be reserved for acquisition by the city. Nothing in this provision shall be construed to preclude the dedication of any property for public use which is not included in the comprehensive plan, provided such property is acceptable to the city for dedication and maintenance.

V. CHANGES TO SUBDIVISION APPLICATION REQUIREMENTS

Sec. 29-59. Review and approval.

- (a) No application seeking approval of a subdivision, preliminary or final, that would divide any parcel(s) of land into six (6) or more lots, or involving a new street, shall be accepted for review, unless and until the applicant has participated in a pre-application conference and has held a community meeting in accordance with guidelines established by the director of neighborhood development services in accordance with sec. 34-41(c)(2). Any application that fails to demonstrate compliance with these requirements shall be rejected as incomplete. The director may waive the requirement for a community meeting, if a community meeting was previously held for the same development as part of city council's consideration of an application for approval of a special use permit or a petition for approval of a zoning map amendment. Within fourteen (14) days of receipt of such an applicant's official submission of a complete application for approval of a subdivision, ~~plus~~ the agent shall forward copies to the affected city departments for their review and comments.
- (b)[NO CHANGE PROPOSED]
- (c)[NO CHANGE PROPOSED]