Albemarle County Planning Commission
October 24, 2017

The Albemarle County Planning Commission held a public hearing on Tuesday, October 24, 2017, at 6:00 p.m., at the County Office Building, Room #241, Second Floor, 401 McIntire Road, Charlottesville, Virginia.

Members attending were Tim Keller, Chair; Karen Firehock, Vice-Chair; Daphne Spain; Pam Riley; Jennie More; Bruce Dotson; and Bill Palmer, University of Virginia Representative. Absent was Mac Lafferty.

Other officials present were Elaine Echols, Chief of Planning; Rebecca Ragsdale, Senior Planner; Andrew Gast-Bray, Deputy Director of Community Development/Director of Planning; Sharon Taylor, Clerk to Planning Commission; David Benish, Chief of Planning and John Blair, Deputy County Attorney.

Call to Order and Establish Quorum

Mr. Keller, Chair, called the regular meeting to order at 6:00 p.m. and established a quorum.

From the Public: Matters Not Listed for Public Hearing on the Agenda

Mr. Keller invited comment from the public on other matters not listed on the agenda. Hearing none, the meeting moved to the next agenda item.

Item Requesting Deferral.

ZMA-2016-00023 Brown Toyota
MAGISTERIAL DISTRICT: Rivanna
TAX MAP/PARCEL: 07800000001400, 078000000014E0
LOCATION: 1357 Richmond Dr. (Rt. 250), approximately .30 miles east of the Riverbend Drive.
PROPOSAL: Request to change the zoning designation of approximately 0.25 acres of steep slopes from a Preserved slope designation to a Managed slope designation, which would allow the preserved slopes to be disturbed. This area has been subject to prior grading activity.
PETITION: Request for 0.25 acres from Steep Slope Overlay District (Preserved) which allows uses under Section 30.7.4 (b) to Steep Slopes Overlay District (Managed) which allows uses under Section 30.7.4 (a). No dwellings proposed.
OVERLAY DISTRICT(S): Steep Slopes; Entrance Corridor
PROFFERS: Yes
COMPREHENSIVE PLAN: Commercial Mixed Use – retail, commercial services, office, hotel/motel/conference facilities, and wholesale uses; Urban Mixed Use – retail, commercial services, office, and a mix of residential types (6.01 – 34 units/acre); and, Greenspace – undeveloped areas in the Pantops Development Area.
POTENTIALLY IN MONTICELLO VIEWSHED: Yes
ADVERTISING ERROR - DEFER TO OCTOBER 31, 2017
(JT Newberry)

Mr. Keller noted there was a request for deferral of ZMA-2016-00023, Brown Toyota to October 31, 2017.

Mr. Dotson moved to defer ZMA-2016-000023 Brown Toyota to October 31, 2017.

Ms. More seconded the motion.

The motion passed unanimously by a vote of 6:0. (Lafferty absent)

Mr. Keller noted that ZMA-2017-000001, Brown Toyota had been deferred to October 31, 2017.

The meeting moved to the next item.

Work Session

ZTA-2017-00001 Residential Transient Lodging
The purpose of the work session is for the Commission to review public feedback received from September transient lodging meetings and to provide feedback to staff for the development of a draft ordinance. (Rebecca Ragsdale)

Rebecca Ragsdale presented a PowerPoint presentation entitled ZTA-2017-00001, Residential Transient Lodging (*aka Accessory Tourist Lodging/Bed and Breakfasts/"AirBnB"/ /Homestay/ Short term rentals)* October 24, 2107 Planning Commission Work Session.

Ms. Ragsdale said staff wanted to get started with our work session on this zoning text amendment and go over what we would like to accomplish this evening. Staff would like to do a recap of the background and the current zoning regulations. Ms. Ragsdale said since many of the Commissioners were at the September public meeting she would not spend too much time on that. However, what we would really like to do is review the feedback from all of those September meetings we had on transient lodging and then ask the Commission to provide us some feedback and direction in terms of developing the draft ordinance for public hearing.

Ms. Ragsdale explained the game plan and purpose of the work session in that she would go through the information and allow the Commission to ask questions and then we hope to settle on some direction and recommendations this evening. Just to recap we were asked to start looking at this issue in March when the Board was discussing our work program so they asked us to move this item further up in our to do list. There was a work session with the Board in May; we briefed the Commission on that in terms of letting you know this would be an item on your work program as well on your future agendas.

Ms. Ragsdale said the Board of Supervisors adopted a resolution of intent to initiate the zoning text amendment in May and they set some parameters that we will get into. The Board also had the public hearing for the tax code updates in June and they were effective in August to render all types of lodging subject to the same taxes and business licensing requirements. In July, we had another work session with the Board as a final check in before we embarked on our public process to make sure we understood what we wanted to accomplish in the study of these issues and the questions to ask the public as far as what changes we might want to make to the transient lodging regulations.

Ms. Ragsdale said as far as terminology, we recognize in the report there are sort of three or four different terms used and transient lodging is the ordinance definition for rentals of less than 30 days at a time; then we have what is called bed and breakfast; and accessory tourist lodging terms in our ordinance as well.

Ms. Ragsdale said at the September public input meetings on potential zoning changes that we had three for the rural areas and one at each community advisory committee and a special meeting at the beginning of the process for the "Airbnb" hosts or those that might be interested in having this use or coming into compliance. She said they might already be engaging in this activity and listing on line but not gotten a permit from us.
There is a strategy in our Comprehensive Plan, both our rural areas section and development area section that we study the nature and extent to which this use is occurring; it is becoming more and more popular and there were some State Code changes last year that have led to this being very timely. There is also the issue of compliance and staff mentioned that to the Commission before that we do not want the compliance gap to keep widening between people that are starting to be "Airbnb" hosts and not getting the permit from us. She said we wanted to study the zoning text amendment possible changes in the context of our goals for our development areas, protecting neighborhoods, protecting the rural areas resources but also allowing this as an economic activity and supportive of tourism.

Ms. Ragsdale noted just as a recap of what the current Zoning regulations:

What you can do:

- Rent up to five (5) guest rooms but only in association with a single-family detached structure. Someone must reside in the structure or in the Rural Areas must reside on the parcel; therefore, that means it needs to be someone's home.
- In the Development Area, owner/tenant must reside in single-family detached dwelling (SFD); and
- In the Rural Area, rental may be in accessory structures or single-family detached (SFD); owner or manager must reside on parcel, you may also have a second Bed and Breakfast (BNB) use; however, it has to be on the same tax map/parcel. The owner or manager can reside anywhere on the parcel if there are multiple dwellings. Staff has some examples of that we have reviewed.

What you cannot do:

- Rent without owner or manager present "whole house rental" or "vacation rental" where no one lives on the property. Ms. Ragsdale pointed out that was sort of the focus of our study, the cannot do list.
- Rent guest rooms for transient lodging in a townhouse or an apartment unit. These rules do not apply to people who rent their properties as rental property with long-term leases year by year even month to month as long as it is more than 30 days at a time.
- Rent a detached structure in the development area or residential zoning districts, which are primarily in the development areas, you cannot rent guest rooms in detached structures.
- Have weddings or other special events, which are still a separate use category and not permitted in the development area, and in the rural area you need to comply with a special use permit (SP) or the provisions for a special events that we have in the rural areas. Having this transient lodging does not bring with it any additional uses in terms of being able to have special events or weddings.

Ms. Ragsdale pointed out on a slide a diagram to show visually the sort of different scenarios that can happen in the rural areas already. She pointed out we added that flexibility in 2012 based on some input staff received from rural area property owners, particularly farm wineries. Therefore, in the development areas, again, all of the guest rooms have to be within the single-family detached dwelling that the owner or the manager lives in, but in the rural areas there is flexibility in terms of the location of the guest rooms but also the location of where the owner or

manager can live on the property. In the bottom example on the slide for the rural area is really a scenario where you can already do "whole house" rental because the owner or manager can live in one dwelling and then if you have a second dwelling on the property the five guest rooms can actually be in a dwelling that no one resides in.

Ms. Ragsdale said the review process is the same for either zoning district whether it is an accessory tourist lodging application or a bed and breakfast application. The ordinance requires building official, fire marshal and Health Department review and approval. The building official is primarily verifying the structure has a CO, Certificate of Occupancy, it has been permitted properly and that the smoke detectors meet the current Residential Code. The first step is to prevent contact zoning and staff goes over these requirements with the applicants and let them know what the steps are before they make that application to us. It is called a zoning clearance application with a $108 fee and currently it is a one-time application. Staff then walks the applicant through these steps and once they have completed the inspections, including the Fire Marshal's inspection verifying some additional safety requirements that are not required by the Building Code. Zoning is verifying parking and making sure they understand and are meeting the owner or manager requirements and that sort of thing. The Health Department approval depends whether applicants need a permit or not, it is not required for one guest room or one lodging unit. Staff needs something back from the Health Department that says we do not need to require an application or folks bring back their bed and breakfast application from the Health Department. Once that is all completed and the zoning staff person has verified everything on the checklist, other agency approvals, then we approve it and the applicant gets in touch with the Finance Department about paying their transient occupancy taxes and anything else that is required.

Ms. Ragsdale pointed out staff used to see just a few applications a year and the applications have increased and are up to 31 now. She said it does have a little bit of a staffing implications and staff is trying to be better about walking people through the application process and letting them know to call in for inspections. She said staff is seeing more applications in the rural areas then the development areas, and a great deal of them are just one guest room. However, it does vary the different scenarios.

Ms. Ragsdale said staff included in the packet and provided for the Board in one of their work sessions some localities research. She pointed out that some localities are just starting to regulate on the *"Airbnb"* model so we included some information from the City of Charlottesville, the Town of Blacksburg, Arlington and some other places. Therefore, a lot of them are keeping with the owner occupied requirement; some are regulating by number of guests versus number of rooms and then some are regulating based on unit type but they are including some level of verification of safety requirements. She pointed out some of the localities don't actually do the inspections like we do that she talked to, but they are including things on their checklist like insurance present or a local emergency contact if they allow whole house rental and then application fees range from no fee to $100.

Ms. Ragsdale said that brings us to the can't do list right now. She said what we have said are the parameters of this zoning text amendment effort to consider changes to the ordinance. She said they would consider the public feedback or the questions that we asked in our September series of meetings that were on this question of allowing whole house rental where an owner/manager is not present during the rentals and allowing in other dwelling unit types like apartments, condominiums, townhouses or other attached units.

Ms. Ragsdale said now we are ready to jump into what staff heard from the public in the series of meetings. Staff asked them some general questions which will touch on the themes in terms of general feedback and then we will go through the specific feedback on the whole house rental and other unit type questions that we did with the dot exercises. Therefore, the Board said they were very interested in learning and hearing from people on sides of the issues of both the benefits and the positives and any concerns that people had.

General Feedback (Benefits for the County)
- tax revenue,
- safety,
- income for homeowners,
- supporting tourism and desirable type of lodging for visitors,
- adding flexibility encouraging more compliance,
- opportunities for affordable housing,
- opportunities to keep family properties (RA), and
- greater flexibility in using their property as they wish (property rights).

General Feedback (Concerns)
- Taxes: Transient Occupancy Tax is a disincentive,
- Encourages commercialization of the Rural Areas (RA),
- Not enough parking in Residential/Development Area (DA) neighborhoods, especially Town Houses,
- Parking requirement too stringent in RA,
- Noise and trash,
- "Undesirable renters"/Change in character to neighborhoods,
- Not enough outreach to neighborhoods,
- Some neighborhoods do not have HOAs to protect/prohibit/manage this use,
- Increase in crime, and
- Enforcement comments.

Ms. Ragsdale pointed out last time we talked about this zoning had received about ten complaints for this type of use. Ms. Ragsdale said today she looked at the numbers again and we have had a few more come in. She said many people call our complaint line and they know the use is not allowed or they see it happening and someone does not have a permit, like in a townhouse or in the rural area. She said that sometimes there is sort of a noticeable impact to them in terms of noise or they are just noticing that the activity is occurring near them.

Ms. Ragsdale pointed out staff also asks people about how we could improve our process and anything we should be thinking about, and they offered the following.

General Feedback: Process Improvements and Other Information for Planning Commission and Board of Supervisors:
- Streamline process,
- Improve communication between County departments and other agencies, (Ms. Ragsdale said staff is working on this and trying to get our website "one stop shopping" improved and outline the steps in a logical and easy to understand way for people to follow.)
- Require documentation from HOA before County approves tourist lodging,
- Change terms, (Consider change from transient lodging to homestay.),
- Address concerns of neighbors through noise and parking rules, and
- Allow the market to decide. Right now, the traveling public wants whole house rentals.

Ms. Ragsdale explained staff did a Dot Activity or exercise **s**o we gave people a number of dots, and this is not a statically value survey, but we wanted to gauge the temperate of people for allowing whole house rental. So we asked them should be allow it on an unlimited basis, should we not allow it at all or should we have some sort of in between where we are allowing it on a limited number of days per year or no more than ½ the year. She noted the rural areas had the most support for allowing whole house rental; there were folks that said we should allow it unlimited or on a limited basis around 88 percent.

Ms. Ragsdale noted in the rural area you can have up to two bed and breakfast uses but they have to be on the same parcel. She said even if you own abutting properties and you are there to be the owner/manager if it is on a separate lot then that is not allowed right now. So we added the question as to whether or not people would support that or not if it was two parcels side by side with still the same number of guest rooms that the ordinance currently allows; and so there was a great deal of support for that scenario. She said staff has heard over the course of the past year working with applicants we had this come up on a number of farm winery properties or on other rural area properties where they just owned the properties side by side or very close to each and so it is just not allowed right now.

Ms. Ragsdale said in Development Areas that there is more concern for whole house rental and opening up options. She said there is still some concern in Rural Areas but not as much because the Development Area neighborhoods are denser. She said there was less than 76% support for whole house rental in Development Areas with 38% on a limited basis and 29% on an unlimited basis allowing this use. She said staff was trying to see where people were in terms of allowing it or not allowing it at all and most of the time it fell somewhere in the middle in allowing it, but on a limited basis.

Ms. Ragsdale said in allowing whole house rental in townhouses and multi-family units had less support with about 30% suggesting that it not be allowed and then around 36% saying if the owner were present. She noted that seemed to be very important based on some of the feedback that we got that the owner was present then allowing it on a limited basis would be okay in townhouses or attached dwelling units. She said the results were very similar for apartments and by allowing it in those neighborhoods is where staff got many concerns about parking. There are some townhouse or apartment neighborhoods where needing the parking alone may prevent them from ever being able to have transient lodging. She pointed out parking is a big issue that comes up a lot in Development Area neighborhoods.

Ms. Ragsdale said based on all this information staff reviewed, public input, our policies and what we have researched to date our recommendations were sort of trying to find a middle ground still allowing this use and increasing the opportunities in a way that were conservative. So for whole house rentals in the Rural Areas:

- Staff recommends no changes to the current requirements for homestay's in the Rural Areas, except that whole house rental without an owner or manager present be allowed and limited to no more than 90 days per year.
- Staff recommends that the provision be added for no more than one (1) Bed and Breakfast and if there is a lot line or you own property that is abutting then you could rent that out as long as you met all of the other current Bed and Breakfast requirements. This is in hopes of not increasing the scale and intensity of the use in the Rural Areas but adding a little bit more flexibility.

Ms. Ragsdale pointed out staff provided charts that sort of outlined that; staff suggests if we are allowing whole house rental that, we have folks provide an emergency contact if anything come up. She said it has come up that staff would need a way to track the number of days per year. Some localities that are doing this are having the host report when they are submitting their transient occupancy taxes they are reporting on the number of days per year that they are renting. Ms. Ragsdale said so that could be approach if we decide to go down this route in terms of whole house rental on a limited number of days. She said just summarizing the table that staff had a little illustration of the two properties side by side with sort of the invisible lot line with the owners feeling like it is their whole farm but technically having lot lines in between. She said this would allow the owners to have one Bed and Breakfast use on an abutting property if they can meet all of the other requirements, the property has a development right and they are lawful dwellings.

Ms. Ragsdale said in the Development Areas staff are suggesting something more conservative in whole house rental and limiting it to 60 days per calendar year in single-family detached dwellings. She said for attached and multi-family units (apartments, townhouses and condominiums) staff was suggesting no more than one guest room in an owner or tenant occupied structure with no limit on the number of times per year for rental.
Ms. Ragsdale said for whole house rental in the attached units and the townhouses staff was suggesting no more than 30 days per year. Again, based on the unit types more restrictive in the denser developments and then not allowing whole house rental at all in apartments or multi-family units. She pointed out staff provided the reference chart in the staff report for you, again, having a local contact for whole house rental and then if people are tenants or renters in apartments or townhouses and they are not the owner that owner approval be provided with their application.

Ms. Ragsdale said those were staff's recommendations and we would like your input and recommendations as far as development of a draft ordinance with changes for the use.

Mr. Keller invited questions for staff.

Ms. Spain said some of the language is confusing in the existing regulations. She said staff refers several times to the owner having to reside there, but then other times staff says the person has to be present. She noted you could have a legal residence but not be present when the guests are there. Therefore, she thinks it is not the jest of this that we want the owner to be there during the time the guest is staying.

Ms. Ragsdale replied yes, so when we use the term in the ordinance reside it has to be someone's home and then through this process we want to clarify the present or not present expectations during the rental. She pointed out right now we interpret it as they should be present during the rental; they don't go away to Europe for a week and then rent the house out. She noted staff knows they are not going to be there like 24 hours a day; they may have their own errands and that sort of thing, but they are present and available during rental.

Ms. Spain said then if that is the case, it seems like it would address the concerns of people with family property – they do not live there year round but they could be present during the time that the guests are there. She asked is that a way to resolve it.

Ms. Ragsdale replied that is not what staff has proposed. She said we have retained the reside part and so the reside part is still something that is required now and we think should be required except in those very specific rural area examples where they have more than one

house that they own. She said the owner or manager residing there requirement is important so that the primary use of the property is still a residence and the general idea is that tourist lodging is an accessory use so they are available for safety reasons, managing the guest purposes but then also from the conceptual accessory versus primary use scenario.

Ms. Echols pointed out one of the things we heard from some of the hosts in the rural area was that they wanted to be able to rent out a whole house actually pretty much full time except when they were visiting. She said what they have asked for has not been what we proposed.

Ms. Spain said when you say that you get complaints, look into it and it is a matter of enforcement, which was a concern of many of the people, what does enforcement mean; does it mean a fine or shutting down the operation.

Ms. Ragsdale replied our first goal is to have people come into compliance if they can. Therefore, if they need to apply for the permit then that would be a course of action. If the use were not allowed, then they would receive a notice of violation that says the use is not allowed and given a certain amount of time to come into compliance. If they do not come into compliance, then we have the court process, which through the court process we are able to seek fines and remedies to the violation. Ms. Ragsdale said when she mentions the compliance issue and our look at on line listings we see there are a number of listings that does not correlate to our applications that we are seeing. She said right now enforcement is on a complaint basic and we have not proactively tried to get a list of everybody that is hosting in the county. She pointed out it is as neighbors or people call in then we make contact with the property owner; we look at the on line information and investigate and decide whether there is enough evidence that we can find them in violation and then we work through that process. She said that could take several months to be resolved; however, the path may be that they have to discontinue the use if they are beyond what the ordinance allows.

Ms. Firehock said the challenge when somebody is reporting a zoning violation is that would be something that would be reported to the county and there is no way to report something on a weekend or after hours except by leaving a message. She suggested if you had a rowdy house party going on and you have to leave a message and then on Monday you can tell someone in the county. She pointed out having experiences with this because police do not enforce zoning violations and so you kind of do not have any recourse except after the fact. She noted that it is a little harder to enforce and just wanted to point that out.

Ms. Riley said she had a couple of questions about the number of applications on the chart between 2016 and 2017 where you see almost a doubling both in the rural and development areas. She asked if staff thinks that is a reflection of people becoming aware of the requirement to apply and coming into compliance review do you think that is numerically almost a doubling in both areas the number of applications.

Ms. Ragsdale replied that she thinks that word is out there and people want to come into compliance. She thinks that part of it is popularity in terms of more people want to do it and then word is out there that you need the permit and so they want to come into compliance.

Ms. Riley said she thinks it is a combination potentially. She asked when staff were looking at the ordinances and the number of rooms allowed versus the number of people what was your evaluation of which might be a better way to go in terms of limiting impact noise, parking and that kind of a thing.

Ms. Ragsdale replied that parking wise, we have the parking set up based on guest rooms and we can get floor plans that have the number of guest rooms. She thinks we are set up that way right now and she has not asked the other localities how they ensure that it is only a certain number of occupants because you can put more than one bed in a room and like hotels, you could have queen size beds with double occupancy.

Ms. Echols said the regulations that are in existence right now have been in existence for a long time and it started out as guest rooms so we were not looking at occupants to change that. She pointed out other localities do and some do not but we were not looking to change that.

Ms. Riley asked to echo some concerns in general about enforcement particularly if we went to whole house rentals without requiring an owner or manager to be present. She said you might have some renters who might do a number of things that if someone was present might be able to keep it in check. She said she had a general question about enforcement since she read in the report that staff does not know how to anticipate how many more applications or how much more revenue. She said therefore what will it cost to bring people into compliance and enforce this and are we looking at increase in staff or was there any sense of needing to have a more proactive approach.

Ms. Ragsdale replied that staff wanted to get through and get feedback from the Commission as to where you would like to head with the draft changes of the ordinance. She said we need to talk to the zoning administrator and the Code Enforcement Team, and, again if we want to be more proactive in monitoring, compliance, and that will have a staffing implication. Ms. Ragsdale said during this initial phase right now she thought we will see the peak number of people who are out there trying to come into compliance and then things will level off in terms of we will get back to an average number per year.

Ms. Echols said we are also going to be talking with other localities about how they are doing enforcement. She said we got some information from Blacksburg about what their requirements are and like our area they have a large university and they have opportunities for a lot of parties on weekends and that kind of thing and how they are actually making sure that their neighborhoods are protected. She said ironically she was in State Parks this past week and ran into a family who was from Blacksburg who had rented out their house for the weekend and they had four kids who were running around in the State Park. She said Blacksburg has some regulations that allows for that and so we are going to be looking into whether or not that is something that is going to be hard to enforce or where the people's experiences have been.

Ms. Ragsdale said she had tried to look at the complaint data and see are people just calling in because they know the use is not allowed and they do not want the neighbor doing it in general or what are the actual impacts to the neighbors. She pointed out it was not clear from the violation entry; however, it is not allowed in townhouses right now and the HOA does not allow it, so they don't want the use to continue. She pointed out that parking, noise and trash seem to be the things that people are concerned about and that is why staff suggested the local contact if we do go to whole house rental and things set up so there is more of an immediate response for people if a problem does arise.

Ms. Riley said she had one other question maybe along those lines in what would be proactive. She said there is an initial building inspection required fire marshal and potentially a health inspection. She asked are those to be renewed annually or is that just a one-time start up.

Ms. Ragsdale replied that right now it is one time. She said the State Code allows us to create a registry so we could have people reporting to us annually whether the use is still occurring or not. She pointed out some localities are getting data on the number of days it is rented per month. Therefore, we could require more reporting from the applicants or local registry and she thinks that reporting the rental days is an option.

Mr. Dotson said not so much a question as a comment is he found this very careful staff work since you obviously had a lot of input and it is hard work going through all of the details. Trying to step back a little bit he thinks it comes down to three principles that we are trying to balance and all three are important. He said the first is to allow owners options to use the property to make money if that is the goal or to help pay for the property, but that is subject to the other two principles. He said the second principle would be to avoid nuisance situations. He said ideally he would like it to be true that somebody could say well if you had not pointed it out he would not have known that was a home stay next door. He said that would be the goal and the more shoulder-to-shoulder properties are the more likely there is going to be a nuisance. So the general principle that staff seems to have reflected is being a little stricter on apartments, somewhat less on condos and townhouses, maybe least restrictive on single-family in the rural areas (although he had some detailed comments on that) seems like a good principle for avoiding nuisance sort of separation. He said the third is maintaining the character of areas whether it is a neighborhood or the rural area, which leads my thinking in the direction of a change of use for existing structures, particularly in the rural area, but not creating an incentive to add structures in order to have commercial kinds of uses. He said that maintaining character is important the more suburban and urban areas, too. He said he would just put those out there, as we get into not just the trees, but also the weeds as things to keep in mind on things we are trying to do.

Mr. Keller said he thinks it is extremely well organized, but there are so many other layers and ways one could organize it. He asked staff to go back to the slide on the approval process and walk us through the steps to explain as to whether this is administrative and would occur on the form or whether there would actually be an individual staff member from these various entities coming to the properties.

Ms. Ragsdale replied it is an administrative review process, but there is an inspection for each of these things. She said for some rural area properties where they are only doing one guest she had used her judgement. She said a lot of it is the paper work verification that they have read over the checklist, given us a floor plain of the guestrooms, indicated where the owner or manager resides and staff verified that. She said staff was talking about some applications today and the paperwork requirement with Leah Brumfield. She said there definitely would be the fire marshal and building official inspection, but she verifies parking as her primary purpose for the visit and just confirming on the floor plan the number of guestrooms and that the owner/manager resides there. She said the Health Department was separate and often times we just get an email back from them saying they do not need anything from us. She said the quickest review time has been one week, but it can take a little longer if they need a fire alarm or electrical permit.

Mr. Keller said to build on what Ms. Spain said he asked Mr. Blair if there would have to be a definition of resident.

Mr. Blair replied no, sir.

Mr. Keller asked if somebody from northern Virginia is going to be there five days a year and say that they are going to be the resident.

Mr. Blair replied that there are a couple of elements he thinks residency as we have heard recently over voting issues you look at aspects like domicile, but that is a separate comment. He said what he would advise is to write that into a regulation if that is what you are really after. He thinks if you go down the rabbit hole of who is or isn't a resident you will get hung up in these distinctions of where so you vote, where so you spend most nights and where do you go to school. Mr. Blair said he thinks it would be much better if you said that the person is physically present so many days a year on the property as part of a supplemental regulation than to get into the definition of resident.

Mr. Keller said that was where he was going and in lots of ways that is defining.

Mr. Blair pointed out he thought he meant do you want to try to go down defining resident, but he would prefer the supplemental regulation.

Mr. Keller asked is there going to be a need for us to define in the regulations what a residency is to be able to meet this or else we will have many different applicants saying that they are resident based on many different criterion.

Mr. Blair replied yes, we would probably just use a list of criteria to flush out what is a resident, but he did not think you really want to get into the terminology of a resident.

Ms. Ragsdale noted the resident requirement is in the ordinance already, but we might through this process clarify the resident versus the present question and really get at what we want in the ordinance and clarify that. She said we have our own administrative guidelines that we use – we get copies of driver's license or maybe a lease agreement if someone has a tenant to verify the resident requirement right now, but we do not have the definition.

Mr. Blair noted what we do right now he thinks is a better practice than simply again the term resident is so malleable depending on what you are talking about. He said right now we have an administrative process but if we want to tighten it up it is to go to the supplemental regulation for home stays so you have to be present on the parcel for X days.

Mr. Keller said there is a subset of people who will be doing this who will be running a chain of rentals. He said he liked the idea of a residency requirement but he was having trouble about thinking how you are going to require it.

Mr. Blair said traditionally many people look at where do you vote or domicile or where do you spend most nights. He said people look at what your driver's license says. He said there are many different ways that people will dance around that term so he thinks when you start to apply a definition it can get very difficult rather than having just strict regulations about a person's relationship to the property itself.

Ms. Firehock noted that she could think of some actual examples, which she would not name, where the owner is present because they are renting out something that is accessory like a business but they do not sleep on the property. She said they are there running their business, farm, cows or whatever for 10 hours and then they leave, and you could make the argument that if they were the opposite if they were sleeping there but leaving to go to work you would

consider them residents. She questioned are they less a resident because they were flipping it and they were there to work but they are not sleeping there.

Mr. Blair replied exactly, that he would prefer if the Commission's preference is to have somebody present on the property to start to look through the supplemental regulations as to what you want rather than to say here is our term resident you either are or aren't.

Ms. Firehock said right, that in terms of satisfying the spirit of a regulation if someone is there all day it is not as important to me if they are asleep there, they are there to see how the guests are doing. She pointed out she was not necessarily saying she is coming down in favor of the resident being there, but was just trying to think about the nuances of what we mean. However, she would like to hear from the public.

Mr. Keller opened for public comment and noted that Ms. Firehock would run this portion of the meeting.

Ms. Firehock explained the public comment guidelines and invited the first person signed up, Travis Pietila, to come forward and speak.

Travis Pietila, from the Southern Environmental Law Center, thanked the Commission for the chance to comment and he hoped they received the written comments we submitted earlier. He said he would briefly recap those comments tonight. We recognize this is a challenging issue. We understand homeowners want to be able to make a little extra money running their homes for a few times a year to supplement their income or help with house payments. He said the home stay allowances should be tailored to that purpose and they should not open the gate to the point of undercutting other key goals of the Comprehensive Plan. In that respect, it is important to consider the extent to which allowing "wholehouse" rentals in the rural area could spur more development in the very areas where the county discourages it. In other words, we need to make sure that the revenue to be gained from homestays does not lead to building new houses in the rural area that would not otherwise be built. It is critical that the limits put in place to keep that from happening are enforceable. Along those lines, staff has proposed to set a limit on the number of days per year that a "wholehouse" may be rented in the rural area. Initial concern is that we think the 90-day limit being proposed too high and would allow a house to be rented nearly every weekend of the year.

Mr. Pietila said the 30-day limit on "wholehouse" rentals that Blacksburg has adopted seems much more appropriate. He said a more fundamental concern is that the limits based on a number of days a property can be rented would prove unenforceable. Indeed the staff report acknowledges that this may be the case noting that such a limit could be problematic from a tracking and enforcement perspective and that staff may have no way to accurately verify the number of days a property is being rented as a home stay. If we cannot be certain the safe guards that the county comes up with can be effectively enforced and then we need to keep looking for a better solution. One possibility to address some of these concerns is to consider limiting "wholehouse" rentals in the rural area to existing houses. This would give existing homeowners the ability to earn some extra income and help defray housing costs or reducing the risk of encouraging new house construction.

Mr. Pietila said we also think that Blackburg's requirement that a single homeowner may only have one homestay in the county is worth considering. However, overall until the county is confident that the protections it puts in place will be effective and enforceable, we think expanding homestay allowances in the rural area should be postponed. Thank you.

Ms. Firehock invited further public comment. Hearing no one, Ms. Firehock said the public hearing was closed.

Mr. Keller noted the matter was back for discussion before the Commission.

Ms. Echols asked Mr. Keller if it would be helpful for staff to go through these one by one.

Mr. Keller replied yes, that would useful.

Ms. Ragsdale noted that we would tackle the rural areas first.

Mr. Keller pointed out there were two questions that a supervisor had asked and he wanted staff to hear them now so that they could think about them for next time. The first one was about valuable antiques that may have been purchased for some of the units in how something like that, for instance, would be handled. Again, he did not know that these were relevant to us, but just since, they have come up. The other one was that for some of the entities that manage the full suite of rentals from a number of individuals he asked if that management company is out of Alexandria or Charlottesville if the tax revenue is going to those jurisdictions as opposed to Albemarle County.

Ms. Ragsdale replied that staff would have to follow up with Mr. Lamb in the Finance Department on the second one.

Mr. Keller said we know that there is one large entity in the area that manages the rentals for a number of units and they are not out of Albemarle County.

Ms. Ragsdale noted that we do know that the transient lodging tax is supposed to be collected by the host and remitted so the transient occupancy tax itself is on the guestroom rental rate so that gets paid to the locality. She said staff would find out as far as the management company what the tax implications are about how that works.

Ms. Ragsdale said first was Rural Areas – Whole House Rental. She said staff needs to know the Commission's general idea as far as this continuing to have an owner occupied structure, which many places call them homestay for a reason, and we use the term vacation rental that it is not someone's home and the sole use is just this tourist lodging. She said whole house rental is for 90 days in the rural areas and then the other recommendation for the rural areas was allowing someone to have a Bed & Breakfast use on a property that abuts the property where they live.

Mr. Dotson said he has a mixture of kinds of comments or questions. He said in thinking about the rural areas district there are homes that are on 2- acre lots. He noted his daughter lives on a 2.25 acre lot and it is zoned RA but it is a subdivision. He thinks a lot of those exist in different parts of the county so he is a little concerned about thinking of RA as being farms and large parcels because we have a lot of suburban neighborhoods that are zoned RA. Therefore, he was wondering if there is another way to get at that, which might be to include those suburban lots rurally located and consider them in the same way that we consider the more urban. He noted it is a questions and he does not have an answer for it.

Ms. Firehock noted that she was also thinking about that in the context similarly of unincorporated little villages and so she would just take Samuel Miller District so we have

Batesville, Esmont, Howardsville and at least Howardsville and Esmont have "wholehouse" and apartment rentals that are "AirBnB" type places and in that setting so you have some of the conflicts. She said you are in a tight village space even though they are no longer the urban area they once were, they are tightly clustered together. Ms. Firehock said in a village environment where the resident/owner cannot really be on the property because the property is a quarter acre, but their house is like three doors down, they really are quite able to walk down the street or monitor it without having their lot physically touch. Therefore, she was echoing that but just throwing in that notion of these smaller village areas that kind of function like a subdivision or the urban area.

Ms. Echols suggested they might be able to come up with something based on a minimum acreage that helps to do that, but that is a very good point. She noted that Ms. Firehock was making a distinction that staff is not right now recommending and that may be something we want to circle back to and that is whether or not the residents that "whole house" rentals need to be a residence of someone. Ms. Echols said what she thinks Ms. Firehock is saying is you don't believe that should be the case and that is something we probably need to sort through because if the whole Commission is recommending we go down a different path than what staff has set up we need to get that covered.

Ms. Firehock pointed out that her point was being that in a rural area, you could imagine since she sees many cottages for rent on people's farms, that provides extra income from them, and the owner is present. However, if you had a 1,000-acre farm you could be present and have no idea what is going on in a cottage over there. She asked how do we define present and was actually saying that perhaps there could be some more flexibility in the more thickly settled areas or the villages.

Mr. Keller said what he thinks Ms. Echols is suggesting let us hold to residential because that is a whole other set of questions.

Mr. Dotson said just another point in thinking it through he thought of RPD's, do we treat those as urban or rural because it is a clustered development. Again, he is just raising a question. He said on the topic of limiting the number of days per year he could see how if we had when people come in monthly or submit their monthly taxes he could see how they could also report the number of days and he thinks that might work. He thinks to certify on a form that we have rented for this number of days would make a violation in error of commission as opposed to nobody is going to ask me so I am not going to tell. We would be asking them and then he thinks they are probably going to be honest. However, he has another concern with that is there are 365 days in a year what do I do with the place the rest of the time. He said in my mind it is almost like if somebody rented it for the whole year they are going to be there and are going to keep it up. Mr. Dotson said if we get great gaps in when it is occupied things run down quickly and he just wonders about the wisdom of limiting the number of days that a place can be occupied and the practicality of it.

Ms. Ragsdale pointed out you are supposed to live there.

Mr. Dotson said okay, unless we change that. However, if we changed that then my question would be relevant.

Ms. Echols replied that was right and thinks that is what Ms. Firehock was saying. She noted that right now, you are supposed to live there, but the example of the family at the state park they rent out their house on football weekends and the rest of the time, they live there. So that

is kind of what we were getting at with this is that you live there but you can rent your house and make several hundred dollars on a weekend if you are willing to do that.

Mr. Dotson said it was hard to keep the details straight and had two more comments. He mentioned before the possibility and the Southern Environmental Law Center mentioned it of focusing on existing structures or existing uses. He pointed out we have done that in some other instances where we have said this is allowed in historic structures. He said the question to the attorney is if it is legally possible to focus on things that are allowed in existing structures but would not be allowed in new structures. Mr. Dotson said he thinks that would address a lot of the public's desire and if somebody is looking to invest money and make a large profit then he is not particularly interested in seeing them do that by essentially going commercial. However, people who have existing buildings, farms, land or whatever he does have some empathy and asked is that a possibility.

Mr. Blair replied that it is a possibility to limit it to existing structures as of the date of the ordinance that it is enacted.

Mr. Dotson said the last comment is that earlier it was made reference to the supplemental regulations and those are a bear if we want people to clearly understand what they can do in this very complex arena. He noted an experience where he was trying to answer some questions for myself about a property and he knew what its zoning was so he looked to the zoning and could not find an answer; since it involved lighting, he went to the supplemental regulations and he kept finding sign lighting and other kinds of lighting. He suggested that in this complicated area he thinks we really need to find a way to improve that situation.

Ms. More noted she had heard some of the things she was going to say said already, but my main feeling about the rural areas she almost thinks they are looking at it the wrong way. She said the idea that because things are not as dense as they are in the development area we should have less restrictions when she is very sensitive to the possibility that by doing that they could create a situation where we are incentivizing more development in the rural area. She said that is not what we are trying to do at all in our Comprehensive Plan and was concerned about that. She questioned allowing 90 days in the rural area and making a distinction with the number of days in the development areas due to enforcement. She asked in Attachment E she wanted to clarify the existing regulations that the proposed owner could only have one second dwelling so they could not have parcel a, have an adjacent parcel, and add another dwelling.

Ms. Ragsdale replied no for Attachment C, D, E, F or G.

Ms. More said there was just that one extra and the property line does not prevent them from doing that. Therefore, she does not have an issue with that idea and it seems legitimate.

Mr. Keller said there could be on the first parcel as few as one bedroom and on the second parcel if there is a development right as many as nine separate structures that would have one bedroom in each one.

Ms. Ragsdale noted you do not need a development right to do the one-bedroom guest room since there is a definition of guest room in the ordinance and you are not allowed to have all of the features of a dwelling. She said staff was thinking that you would not have more than five guest rooms on that other parcel, parcel B. She pointed out in the rural area there is flexibility in how the guest rooms can be configured in the house or in what are supposed to be accessory structures.

Mr. Blair said he was wondering if staff has the capability to bring up 5.1.4.8 in the Zoning Ordinance, which is the supplemental regulation.

Ms. Ragsdale pointed out it was an attachment to the May Board Work Session packet and she would try to pull it up on the screen.

Mr. Blair said when he looked at subsection b in Section 5.1.4.8 it says number of bed and breakfast uses; any parcel may have up to two bed and breakfast uses.

Ms. Echols pointed out that means ten rooms, and Mr. Blair replied that was right, but only two uses, and so this idea of you could have one house and nine separate cottages in the rear.

Mr. Keller replied that he was going to the extreme because he wanted to see how many structures unless we were to do the limit that Mr. Dotson is talking about, which would preclude all of this. He said if we did not do an existing structures in the future does that mean that the number of bedroom units could be developed kind of like the highway motels in the 1920's and 1930's.

Ms. Ragsdale noted staff has had one applicant that wants to build dwellings for the sole purpose of having tourist lodging on the property since we changed the regulations in 2012, and she preferred limiting the number of homestays or tourist lodging the owner can have in the county versus existing or non-existing structures. She pointed out in the rural areas it can be a building that is already there or they could build a new little cabin, which are the rules right now. She said we have one applicant that applied to do that, but they have not built it yet because they have not complied with all the requirements of the ordinance to have two dwellings on one property. She said from what staff has seen since 2012 people are using existing structures, but some of them are new homes that were built since 2012.

Ms. Echols said that right now you could have nine cottages and a house that has a guest room in it on a parcel that has the extra development right.

Mr. Keller said that is the point he was trying to get at and so therefore the diagram that we have any configuration of those ten bedrooms could be divided between those two parcels or we could take the specific wording that you have that says not more than five would be on the second parcel. He said that would be an advantage for the folks who have one parcel that is large enough for them to be able to put all of those units on as opposed to the ones that have the two. He said it was trying to think through the ramifications beyond the way and what effect they might have.

Mr. Gast-Bray said that he would like to make sure that we keep in mind what we are trying to do to regulate things in a context of a homestay. If somebody is going to try to gain the system to be something commercial, they really need to be treated under the country inn or that type of arrangement. He said thinking back to the 1920's where you had those lodging houses, we really need to make a distinction between somebody trying to just do supplementary income in a home type environment, and something that is more a backdoor hotel or industry type thing in which they need to be regulated more in the hotel industry kind of thing. He said he used to own a bed and breakfast and there were certain standards that were in place trying to ensure that particular distinction and it was done based on number of rooms, etc. and that was how they did it. He said it really limited you because the tipping point for it becoming a commercial venture is typically above that limit and that is an important distinction.

Mr. Keller agreed with Mr. Gast-Bray, however, your backdoor definition is interesting because we have just seen that could happen and depending on the size of the parcel and the neighborhood it could have a significant impact.

Ms. More said that she did not know that she wants to look at those two that differently; the rural area and the development area, and she did not know how much she would be supportive of saying that no new buildings could use this. She said if we are successful in coming up with something that makes sense and can actually support, then she thinks it is a little punitive to say that no one could build a new home and go away for a weekend and rent it out if they are doing that responsibly. Ms. More said she did not know that she was supportive of saying that, but she certainly feels like she is not comfortable making any changes until we know that we could be sure that we can enforce it. She said the biggest trick is how we would enforce that.

Ms. Echols noted staff would be remiss if we did not bring that to you so everybody understood how the enforcement would take place; however, part of the next step is once we know what direction you think the ordinance should go, then we will bring to you how it would be enforced.

Ms. Riley asked to respond to that comment in particular that she has a lot of discomfort in moving forward with expansion of types of units in whole house rentals without a much better enforcement mechanism. She said they are trying to balance many things here, but we know the closer people are in proximity the greater the nuisance issues are going to be. Ms. Riley said that others had covered this topic very well. She said if we are trying to balance local and existing owner property rights versus commercialization not just in the rural areas; this is a concern for everywhere. She said if you really start researching the Airbnb and its impacts in other cities there is a lot of concerns that are being raised and she would put this out on the table now and they will talk about it more in the development area, but the impact on the local housing is very big concern. She said the more you remove housing units really at any price range from the long-term rental you are increasing your affordability problem.

Ms. Riley said she wants to put that out there because she thinks this question of do you limit it for 90 days or 30 days from what she read in articles and regulations from other cities is they are trying to determine what the tipping point was for whether it was more economic to do a long term or short term rental. Ms. Riley said she did not think it was nuisance driven in particular and she thinks we need to be mindful of that, not that we should not be thinking about the nuisance impacts but what are the impact on the housing stock being available year round or 12 months at a set rate is really a big issue. She thinks it is probably an issue in the rural areas as well, but certainly in the development areas as we start talking about condominiums, apartment complexes and townhomes. Ms. Riley said back to one more point about how might you limit the commercialization of these short term rentals in rural or development area would be limiting it to one unit per owner is an interesting concept.

Ms. Firehock said she would be supportive of the notion if the owner had an abutting parcel that would be okay and would like if staff could figure out a way to look differently at some of the villages/subdivisions that are in the rural areas perhaps by density and lot size. She suggested that staff look at these situations and perhaps come up with a way to treat them a little differently and she was in support that they not differentiate the rural area from the urban area in terms of days per year. She said most of her other comments are related to the urban area, but she would say that one idea that was brought up by Travis was whether we limit this to existing structures and she thinks a notion of that was trying to get away from building lots of little cottages all over the place. She said as Mr. Keller said we are starting into what are we running

here – are we running a rural lodge or a retreat hotel type of thing. She suggested something to look at would be to limit the number of additional accessory structures.

Ms. Spain said she was fine with the adjacent parcel issue or the second one; was leaning away from 90 days because that is such a large proportion of the year; and she agreed with Ms. More and Ms. Firehock that the regulations for the number of days should be the same for the rural area and development area. She noticed that many of the comments had to do with private property and we should be able to do what we want in our own homes to generate income, and she does not give much credence to that. She said if they wanted to open a brewery to earn money that would not be allowed so there are limits for the public good on what a person can do in their home and these are all residential areas whether rural or urban development. Finally, she thinks the enforcement issue might be handled on a spot basis in the same way HUD tried to get information about enforcement of fair housing laws and somebody from your office can pose as a renter. Ms. Spain said there are ways to check on those things so if the word gets out that there are spot checks then that might also be more convincing to people to come into compliance.

Mr. Bill Palmer said as a representative of the University of Virginia (UVA) which is probably driving some of the demand for these home stays he finds the conversations really interesting and he tends to agree he was a little bit unsure why there was a distinction between the development area versus the rural area. He suggested it might tighten things up and make things a little simpler if we can get to one magic number of days that might work. He said Ms. Riley brought up some interesting thoughts on what that number might be and how the economics of this are really tricky and interesting. He said he was generally in agreement with everybody here, but he just wanted to make those comments. He noted that he actually sat on the City Planning Commission when they went through these discussions and it was equally interesting and there was actually a lot more people who came to the meetings and maybe that will happen at the next level with a lot of public comment as well. He pointed out one thing that was talked about a lot in that conversation was what is the impact on a neighborhood of this use and if you are just talking about one here or there it is not much of an impact; but if it is two or three on a street then it becomes an impact. He noted honestly there was an agreement on whether that was a good or bad impact because some people like that mixture and churn of people coming into a neighborhood and other people do not. He said that was discussed at great length when he was going through this with the city.

Mr. Keller asked if there were questions about the two parcels as if the line was not there and if anyone was concerned with that.

Mr. Riley said she was not concerned with that as long as on the adjacent parcel you do have an owner manager present.

Mr. Keller said that will be a discussion and we will register your concern that we have to talk about when we do that. He said he concurred and noted staff has the Commission's answer in support of that.

Ms. Echols pointed out when staff brings the next version to the Commission she thinks it will be important for us to be very clear as to what can happen now and what is being proposed with some visuals so that everybody is clear on what this would mean. She said if there are things that the Commission would want to change about that at that time you could look at it.

Mr. Keller pointed out having spent a number of years in the Big 12 Conference and knowing the aspirations that the ACC and the University of Virginia have he has seen the impact of whole house rentals on football weekends and it is something that people cannot even begin to imagine. He noted eight cars pulled up into the front yard of a house, parties going non-stop for 48 hours, etc. even though we realize there is a noise ordinance and parking requirements. He said Karen made a good point about the number of police that we have and what their ability is if this was to mushroom. He said as with Pam he is going to be interested in the manager/occupancy question when we circle back around for this one.

Ms. Echols asked if the Commission preferred the number of days; she heard 30 days from several people but we have put 90 days up there. She noted what staff has heard from a number of Commissioners is that the development areas and rural area days should be the same and if there is general agreement on that we know what that is. She asked is 30 days the right number to start with.

Mr. Keller said he had concerns with the whole house rentals based on my experience. He asked if a whole house happens to have a small basement apartment and the owner elected to be there for whole house rental that technically would not be a whole house rental.

Ms. Echols replied that would be allowed.

Mr. Keller said he would go along in support with everyone in supporting whole house rental if that is the desire, but he thinks that there are some real questions raised and the ramifications of them and the number of days is not so much the issue as the concept of the whole house rental. He noted that is not where we began with all of this when we talked about Airbnb we were talking about numbers of rooms that were going to be available in a unit. He said all of a sudden this whole house thing jumps in in a major way; and he has to express my concerns about those impacts on neighborhoods. He supported what Ms. Riley was saying about its effect on affordable housing because it affects the overall housing stock.

Ms. Echols said backing up she asked if there were members of the group that have reservations about whole house rentals at all.

Ms. Riley replied yes.

Ms. More noted that we have to have some reservations because in so many situations like your example she knows of people who have rented out and have been approached by neighbors and asked would they be willing to leave their property and rent it to their neighbors because they were having a big wedding. She said if common sense prevails, some of these situations would be fine; but unfortunately, we have these situations where we have to consider all these nuances to our rules. She said some of her neighbors have appreciated being able to rent a room from others, but she thought they need a hotel in Crozet. She pointed out she was unsure what the answer was of the number of days and had some concerns.

Ms. Firehock said she was less concerned with the whole house rental but would like to limit the number of days per year because, again, are you trying to run a hotel or should you just rent the cottage for a year to somebody who needs a place to live.

Ms. Echols said that is not about what we are talking.

Ms. Firehock agreed, but noted it was a financial decision for the property owner and that the economics should come into it in terms of what are we trying to foster. She pointed out when traveling for business that she rents whole houses all the time because of taking staff and it was much more economical. She said that people hire management companies, which are run very professionally, that come in and make sure you are there to check in with you. She asked if there was a way to have a permit for a certain number of weekends per year unless you get many complaints and then the county could take back your permit.

Ms. Ragsdale pointed out that part of the short-term rental registry is the three complaints and then your permit is revoked if we incorporate that as part in taking advantage of the short-term rental provisions of the State Code. She noted the enforcement side of that was appealing to us to have more tools and the three strikes provision was mentioned in May to that State Code section.

Ms. More asked if Blacksburg was an example that, too.

Ms. Ragsdale replied yes and the City as well, but there are other localities starting to implement that.

Ms. More pointed out that would help a lot with my concerns. Also, she liked Ms. Riley's suggestions if we could come up with a number is there a tipping point in why 30 days or 90 days and by providing some analysis why other localities have that specific number would be helpful to the Commission to be more comfortable with the idea of the whole house rental.

Ms. Riley added that she did not know how much analysis you really could do economically and it may differ for certain areas of the county in terms of what that tipping point is. She said in reading an article last night about Seattle, and Seattle is a case where they have had incredible loss of housing units just in the recent 7 or 8 years and they have had a much liberal use of short-term rentals. She said now they are really trying to set some new regulations in place to reduce it to a level where they are going to be able to get some more units back on for long-term rental, and she thinks they were trying to reduce it to 30 days. She said it is a lot harder to go back and change it later if my first point and my second point is we really should take our time to analyze. She asked what are we incentivilizing here, who and where are the benefits really going. She thinks it is going to have a significant impact on an already extremely stressed housing market.

Mr. Dotson asked staff to put Attachment E up. He said for rural areas it says whole house rental allowed – yes; and should that also be (but with owner/manager on the same parcel). He said he did not see where this addresses the owner/manager/staff.

Ms. Ragsdale replied staff was trying to highlight what we were proposing to expand. She said we are retaining a number of the things we have already and are retaining the owner/manager resides on the parcel. Therefore, you cannot have the use at all unless there is an owner/manager that resides on the parcel and so staff did not have that in the table.

Mr. Dotson suggested that needs to be put on the chart. He said when you go to the development area portion of it, again, what we are saying regarding the owner/manager here in this proposal.

Ms. Ragsdale replied we are saying that it is required so the owner/manager residing is required right now so we did not indicate that in the single-family detached house because that is allowed

already. She said what the additional option would be is that you could do whole house rental for 60 days at a time or whatever number we land on at that house and then townhouses and apartments we are creating whole new provisions for those because they don't have any provisions in the ordinance right now for this use. She said therefore, we were saying that in a townhouse or an apartment, that is someone's residence and they are present during rental that they could have one guest room.

Mr. Dotson said sticking with a single-family detached there – yes, you could rent the whole unit and it has to do with the owner.

Ms. Ragsdale said in order to have tourist lodging the structure needs to be used primarily as someone's home so there is the owner/manager requirement and right now we said it is not explicit in the ordinance but the expectation is the owner/manager is present. She said however, the whole concept of whole-house rental is like Elaine's example where the family goes on their vacation and football weekend another family is there renting it.

Mr. Dotson said so the owner/manager does not have to be present, and Ms. Ragsdale replied yes, that is why we added the local contact for emergency in the chart.

Ms. Riley noted that it was limited to 60 days of the year.

Mr. Dotson said we have the local contact for emergency in the rural area on the chart, too.

Ms. Ragsdale agreed for whole house rental.

Ms. Echols said the whole house rental is only available a certain number of times per year if you live in that house the rest of the year and you can't do it for more than 30 days continuously to be part of the transient lodging regulations.

Mr. Dotson said that he understands it now.

Ms. Echols reiterated that the Commission are not sure what the right number is and would like for staff to bring back some additional information on the number of days; most of you right now are believing that the current owner needs to reside there most of the year, that is not universal; and there are some that don't believe this should be available at all and others who believe there should be no requirement for the owner to live there. Ms. Echols said she thinks most of the Commission are thinking as it is now just opening it up for the periodic rentals for a certain number of days per years and staff will bring back information on what those days mean acknowledging that there could be an impact on the affordable housing supply and housing that is available for the residents in the community.

Ms. Spain asked could we agree among us that 90 days is too long. Since other Commissioners agreed, Ms. Spain pointed out that the Commission was interested in 30 and 60 days.

Mr. Keller asked to go back to the point that the Southern Environmental Law Center made and their question about how you are going to enforce that. He said Mr. Dotson brought that up and since we are questioning the number of days, he would like staff to respond.

Ms. Echols replied that staff would make sure that we have some reasonable mechanisms for what we bring back to you and we are checking with other communities on how they are doing

enforcement. Ms. Echols said she thinks about Blacksburg because it has those opportunities for football weekends, the party and all the cars on the lot. Ms. Echols said from our initial review of it they have a pretty strong enforcement activity where it appears that if there is a problem she is not sure who from the locality goes but they knock on the door and say who is the emergency contact person and there has to be a specified person who is in charge of the unit for the weekend who is their responsible person. She said the more we look into it the more encouraged she is that they will be able to find some good methods of enforcement.

Mr. Keller pointed out in Albemarle the rural development area does become a different enforcement situation than a Blacksburg. He said that was just for staff when they are working on it.

Ms. Echols reiterated that she heard whatever that number is 30 or 60 days should be the same for the rural and the development areas, which means that most Commissioners think we should be considering whole house rental on a limited number of days per year. She noted that puts us in the other types of housing.

Mr. Keller said that he was not convinced that there should be a day limit at all that there could be other ways to address this other than days.

Ms. Riley asked is the question of expanding it to other types of units the issue we are now going to discussion.

Ms. Ragsdale replied yes, so that leaves us with the townhouses, as the next point of discussion and it is not allowed now at all. She said we are suggesting whole house rental limited number of days but then also throughout the year unlimited with the owner or manger present with one guest room provided they can comply with all of our requirements, parking and have the owner's approval along with all the other things mentioned.

Ms. Spain said she was sympathetic and agreed with Ms. Riley's comments about the effect on the affordable housing stock. She said she had heard the argument that if a renter could rent out some rooms on a regular basis that person would then be able to generate enough income to be able to afford the market rate rent. So there is that side, but if seems that the noise and the nuisance would be so much greater with multi-family housing that it would be that part is a different situation and she would have to think more about whether she would be in favor of that. She said right now based on the comments she has read and the letters we have gotten she is leaning against it. She pointed out we have received letters from several communities that are townhouse communities.

Ms. Firehock asked if that was for townhouse, multi-family or both.

Ms. Spain replied it was for both.

Ms. Firehock said she thinks that up to five guestrooms is too many for a townhouse if you are going to have that. She pointed out that townhouses are tight spaces and there is not a lot of parking; therefore, she suggested limiting it to possibly two would be a lot more reasonable. She agreed that it should not be allowed for multi-family.

Ms. Riley said she did not think this should apply to rental apartments. She said it is an issue that she read about where very entrepreneur individuals will go and rent an apartment with a long-term lease and then use it as a short-term rental; and, in an apartment, she does not think

it is an appropriate use. Ms. Riley said she was concerned with the nuisance impacts on townhomes and condominiums, and she would feel a little less concerned about that if the owner is there. She said she does not think whole house rentals of condominiums and townhomes are probably a good idea.

Ms. More said she agrees with what everyone else has said and she thinks it lends itself to create a lot more problems with parking, noise and those sort of things. Ms. More said she was surprised to see from the dot exercise she thought she would see something a little bit different than there seemed to be maybe what she thinks was a willingness if the owner was present. She said it was suggested that could limit potentially this party type of house or the noise thing, but she was still concerned about the parking because sometimes if the owner is present they have the one or two parking places. Therefore, she said she was not convinced that would be a good use for those type of units across the board.

Mr. Keller said he has those concerns asked if staff had a chance to speak to the police department.

Ms. Echols replied no, not yet.

Ms. Ragsdale noted staff did talk to the fire marshal but not the police department.

Mr. Keller encouraged staff to speak to the police department since he thinks that there are always these issues of policing where there are townhouses. He said that is an interesting socially economic mix or ownership mix that has a safety component. He said again, there is a side of me on all of these that could eradicate all the time requirements and there is a side that could go for stringent controls. He thinks that we have experts working for the county that deal with safety and he would like to hear them weigh in on some of these areas with really high density and the impacts of adding transient lodging to those zones. He thinks it is particular relevant because one of those is even right next to or in the Hydraulic Study Area. Mr. Keller said it was interesting when we put the real market into the equation on this because a lot of these concerns that are being expressed he tends to think will not materialize because they are not going to be good locations for rentals and the owners are going to find that. He questioned their assumptions about crime in the higher density areas such as rental apartments and felt the police could help answer those questions.

Ms. Spain said she was not bringing any assumptions about crime; she thought the issue was more parking and lack thereof, nuisance and the general inability to have the eyes on the street just for the well-being of the community not necessarily in response to crime.

Mr. Keller agreed with Ms. Spain.

Ms. Echols noted after listening to some of the community meetings that staff went to with the host she thinks that our numbers really are low and what we were able to find at the time. However, Ms. Echols said she thinks there are considerably more people who are doing this who admitted it at these meetings that they are underground because they cannot comply right now and they are hoping that the regulations will change.

Ms. Firehock suggested that we bring the police back and maybe just talk more about enforcement next time. She pointed out having stayed in B&B's all the time in different states and cities that sometimes she will be asking an owner about a property and they will say if you stay with me though be sure to tell the neighbors you are my cousin and these are some facts

about me so you can pretend you are related; and so she really does not want to stay there because she does not want to be kicked out in the middle of the night, but this goes on is all she is saying. She said that she did not want to drive people underground unnecessarily, but would like to have a real clear way that people understand how these things are enforced. She pointed out the police response time in her rural area is 50 minutes and probably have more things to do than going to look at this. She said it is difficult to enforce because our county does not have the amount of coverage per capita recommended by most police forces.

Mr. Keller asked if there were other points.

Ms. Echols said she thinks staff has what they need to bring back to the Commission and does not think we are ready for an ordinance. She asked if the Commission would want another work session so then staff could bring back some additional information.

Mr. Keller asked if the Supervisors would be happy with that due to the period.

Ms. Echols replied she thinks so because when the Board initially started talking about the subject they found they did not agree and realized it is a little more complex. She said staff will look at November 14 and if not will bring it back to you the first part of December.

Mr. Keller said the Commission agrees and asked if there were other thoughts or comments. Hearing none, Mr. Keller thanked staff for their work. He said the meeting would move to the next item.

Committee Reports

Mr. Keller invited committee reports.

Commissioner Spain reported:

- The Pantops CAC met last night to decide priorities for the NIFI monies with first priority to improve the Free Bridge Trails and access to Old Mill Trail and second to try to find another point of access to the river possibly through some State Farm property.

Commissioner Riley reported:

- Fifth and Avon Street CAC met last week with discussion on NIFI options with support of the Cale crosswalks and towards a Corridor Study on Avon Street Extended.

Commissioner More reported:

- Crozet CAC met last week with discussion on the master plan designed in 2008 for a western park in Old Trail for the community, which is part of the Crozet Master Plan for community feedback in making possible changes. In addition, the owner of Barnes Lumber in Crozet gave a presentation of the history.

Commissioner Dotson reported:

- Rio 29 CAC will meet on Thursday evening in conflict with the School Board meeting that he will not attend.

There being no further committee reports the meeting moved to the next item.

Old Business

Mr. Keller invited old business.

- Andrew Gast-Bray reviewed the actions from the October 11, 2017 Board of Supervisors meeting.
- The School Board will meet on Thursday night with Mr. Keller planning to attend.

There being no further old business, the meeting moved to new business.

New Business

Mr. Keller invited new business.

- Ms. More will be absent next week.
- The next meeting will be held on Tuesday, October 31, 2017 at 6:00 p.m.

There being no further new business, Mr. Keller asked for a motion to adjourn.

Adjournment

Ms. Riley moved to adjourn the meeting to October 31, 2017; Ms. Firehock seconded the motion, which passed unanimously by a vote of 6-0 (Lafferty absent).

With no further items, the meeting adjourned at 8:12 p.m. to the October 31, 2017 Planning Commission meeting at 6:00 p.m., Auditorium, Second Floor, County Office Building, 401 McIntire Road, Charlottesville, Virginia.

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Andrew Gast-Bray, Secretary

(Recorded and transcribed by Sharon C. Taylor, Clerk to Planning Commission & Planning Boards)

Approved by Planning Commission
Date: 02-06-2018
Initials: sct