

**Albemarle County Planning Commission
April 24, 2018**

The Albemarle County Planning Commission held a public hearing on Tuesday, April 24, 2018, at 6:00 p.m., at the County Office Building, Lane Auditorium, Second Floor, 401 McIntire Road, Charlottesville, Virginia.

Members attending were Tim Keller, Chair; Pam Riley, Vice Chair; Julian Bivins, Daphne Spain; Bruce Dotson, Jennie More and Bill Palmer, UVA representative. Karen Firehock was absent.

Other officials present were J.T. Newberry, Senior Planner; Andrew Gast-Bray, Assistant Director of Community Development/Director of Planning; Rebecca Ragsdale, Senior Planner; Sharon Taylor, Clerk to Planning Commission 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.

ZTA-2017-01 Residential Tourist Lodging

The Planning Commission will hold a public hearing on April 24, 2018 at 6:00 p.m. in the County Office Building, 401 McIntire Road, Charlottesville, Virginia 22902, to receive comments on its intent to recommend adoption of the following ordinance changes to the Albemarle County Code: Amend Section 18-3.1 to remove the definitions of bed and breakfast and tourist lodging and add a definition for homestay; Remove and Retitle Section 18-5.1.17 to Homestays; Retitle Section 18-5.1.48 from Bed and Breakfast to Homestays; Amend Section 18-5.1.48 to clarify that residency on a parcel requires at least 180 days of residency within a calendar year, require homestay owners to provide the owners' contact information to abutting property owners, permit an entire residence in the Rural Areas Zoning District to be rented for a maximum of 45 days in a calendar year and a maximum of seven days in any one month during the calendar year, and to permit homestays in duplexes, townhouses, and single family attached units in residential zoning districts; Amend Section 18-10.2.1 to replace the term bed and breakfast with homestay; Amend Sections 18-12.2.1, 18-13.2.1, 18-14.2.1, 18-15.2.1, 18-16.2.1, 18-17.2.1, 18-18.2.1, and 18-20A.6 to replace the term tourist lodgings with the term homestays; Amend Sections 18-19.3.1 and 18-20.3.1 to add homestays as a by-right use; Amend Section 18-4.12.6 to replace the terms tourist lodging and bed and breakfast with homestay and require one off-street parking space per guest room in addition to the parking required for a single family dwelling; Add Section 7-600, et seq. to establish a registration process for homestays including penalties for failing to register as well as a prohibition for offering a specific property for homestays if the property is the subject of multiple violations of applicable state and local laws and ordinances. A copy of the full text of the proposed ordinance amendments is on file in the office of the Clerk of the Board of Supervisors and in the Department of Community Development, County Office Building, 401 McIntire Road, Charlottesville, Virginia. (Rebecca Ragsdale)

Ms. Ragsdale presented a PowerPoint presentation to summarize the staff report for ZTA-2017-01 Residential Lodging. She said that staff has been discussing ordinance changes with the Commission since October and the Board of Supervisors initiated this effort in March. She thanked the Planning Commission for all of the good work sessions and discussion as we worked through getting through this milestone in the process. The game plan is we will have the public hearing this evening, receive any comments from the Commission and the public and the Commission would

make a recommendation onto the Board of Supervisors. She said we have a work session with the Board of Supervisors scheduled for June 13 and then a public hearing on July 11 tentatively after the work session. This effort is borne out of our Comprehensive Plan with the last update to study the nature and extent to which transient lodging is occurring in the county and see if we need to update the ordinance. She said also as a phase 2 to the efforts work on compliance. There are concerns that there may be a number of operators out there that may not be compliant. Therefore, throughout this process we have tried to strike a balance between the economic aspects of this and then preserving rural character and development area neighborhoods.

Ms. Ragsdale said the direction from the Board was to consider allowing some more flexibility in the ordinance beyond what is currently in there. She said that was to deal with whole house rental to clarify and consider with the regulations what to allow in terms of rental when the owner or manager of a property is not present. Again, we are talking about the term the ordinance uses transient lodging, which is rentals of less than 30 days at a time and should not affect people that have long-term tenants beyond that. In addition, part of the process is to discuss whether we would allow this use in other dwelling unit types. Currently, it is only allowed in single-family detached dwelling units but also through this process we considered townhouses but also apartments which we did not ultimately recommend.

Summary of Recommended Changes

1. Replace the terms and definitions for “tourist lodging” and “bed and breakfast” with “homestay”
2. Allow whole house homestays in the RA zoning district subject to the following:
 - a) No more than 7 days in a given month but no more than 45 overnight stays per year;
 - b) Require a log of whole house rental days and available upon request by Zoning Administrator
3. Require that homestays provide neighboring residents local contact emergency information on the host doing the rental;
4. Allow up to 2 guestrooms for homestays in townhouses and attached units with owner or manager present during rental (No whole house rental)
5. Require parking to be located off-street for both Residential and Rural Area homestays
6. Adopt the Short Term Rental provisions of the Code of Virginia into Chapter 7 of the County Code

Accessory Tourist Lodging (Residential districts)

Existing:

- Rent up to 5 rooms inside a single family detached (SFD) structure
- Owner/tenant must reside in SFD

Proposed:

- Rentals required to provide neighbor notice
- Up to 2 guest rooms in TH/SFA with owner present

Bed and Breakfast (Rural Area)

Existing:

- Rent up to 5 rooms inside a single family detached (SFD) structure
- Or guest rooms may be located in accessory structures
- Second BNB allowed if there is a second dwelling with a development right and density met

for each dwelling

Proposed:

- Whole house rental up to 7 days/month, no more than 45/year; log required
- Whole house rentals required to provide neighbor notice

Home Stay Registration

- Provides definitions of operator and homestay
- Requires annual registration
- Penalty of \$500 fine per violation for not registering per day offered for homestay rental
- Prohibited from offering a property for a homestay upon conviction of three or more violations of any state or local regulation related to the homestay.

Ms. Ragsdale noted the next slide, Steps to Approval is what staff calls our three strikes you are out tool for enforcement if there is a repeated violation that someone is convicted of any state or local law related to home stays then they are prohibited from offering the property from rental. The way the application works is there is the application with Community Development with a \$107 fee. The process is primarily inspection driven for a number of safety requirements that need to be met for the Building Code such as smoke detectors and then the Fire Marshall inspection requiring fire extinguishers and no electrical hazards. She said we make sure there is access for emergency vehicles to a property; that addresses are displayed and things along those lines. She said if necessary for properties that are on wells and septic or for properties that are providing any food the Health Department also reviews those. For those that are not providing food and that are on well and septic they are usually doing a review to make sure that the septic and drainfield are functioning properly and someone is not proposing more rooms for rent than they have number of bedrooms approved. Once that process is completed during the application process we would also confirm that the neighborhood has provided notice to their neighbors. This is something that we do now for our farm winery clearances. We have only processed a few of those but it is the applicant's responsibility to send the notice and then they provide the county a copy of it. Once that process is complete there are the monthly transient occupancy tax payments that would be due to Finance, then the log would need to be kept and available upon request for the whole house reporting, and then there would be the annual registry requirements. So everyone when they initially make their application to us would somewhat automatically be added to the registry and then we would have to implement the yearly verification of that.

Ms. Ragsdale said we had a lot of discussion about compliance and enforcement and we feel that we have taken a conservative approach to the ordinance and added a few things that would help with that.

Initial Outreach and Compliance Gap

- Publicize information
- Work shop for applicants
- Interactive on-line tool or video
- Explore whether inspections or process can be streamlined
- Proactively contact those who do not have permits based on on-line listings
- Reach out to hosting platforms

Enforcement

- Adopt short term rental registry provisions

- Annual registration
- 3 strikes you're out provision
- Report on # days whole house rental
- Provide neighbors emergency contact information

Ms. Ragsdale said as outlined in the report we would like to proactively reach out to people that are not currently licensed or having gone through the application process and do that in a number of ways as far as publishing the information and having work shops where we could bring in other people that are part of the process for sort of a one-stop shop. She said we did that after we updated the rural areas regulations in 2012. She said we did that back when applications were like a handful a year and now we have seen increases every year. She said so providing more interactive tools and reaching out to the hosts and the host platforms as we have talked about before would be something that we do after we get through the zoning text amendment process and as we said we will have to talk to the Board about any sort of resource allocation or funding that may need to be involved with this initially. We think after we do the compliance effort that the applications may level off a little bit. Then we have already talked about the registry and what enforcement tools that brings to us and she thinks that the things that we thought would help with enforcement are already covered in what she has summarized. We have recommended an ordinance that we think tries to strike a balance and get at some of the concerns that we heard from the public and the Commission during the work session but also adding that flexibility that we heard strongly from some folks in those September community meetings would like to see added.

Ms. Ragsdale said that brings us to the summary of changes that staff has recommended for the Commission this evening. She said the Commission would be moving to adopt the ordinance as provided in attachment D which includes the definitions, updates, the parking terminology updates and everything involved with making these changes that is sort of laid out nitty gritty in the ordinance for you that she did not go through in the presentation. She said the Section 5 and Chapter 7 text amendment was to add the registry.

Mr Blair asked to add one thing to Rebecca's presentation that he knows the Commission addressed and citizens commented on last time that we did add in the residency requirement specifically stated that you must reside at the parcel for a minimum of 180 days in a calendar year. He noted that was a concern of the Commission.

Mr. Keller invited other questions for staff.

Ms. More said since Karen is not here she would bring up one of her points in the last work session when we talked about in the rural areas for new homes that are built having a waiting period. She thinks that is something Ms. Firehock had suggested as a possibility to stop people from building a home just to use it for a home stay. She asked Rebecca what her thoughts were on that.

Ms. Ragsdale replied that it was something that staff did not recommend or feel that was necessary. She said it might be one of those other items that we can summarize for the Board. She said we feel like adding the 180-day requirement and the fact that this is intended to be an accessory use to a home that cannot otherwise be built because it has to meet all the development rights and density requirements so we did not feel that it was necessary.

Ms. More said with the other limitations in place as far as 7 days and those 45 overnight stays that

it just might not be feasible as a moneymaking possibility and that she just wanted to bring it up because it was an interesting point that she made that addressed a concern that she thinks we all had.

Hearing no other questions, Mr. Keller opened the public hearing and said Vice Chair Riley would take it from here.

Ms. Riley invited public comment. She said we have four individuals signed up right now, but certainly, anyone would be able to come up after that. She invited the first person to come forward to speak.

Jim Donohue, President of the Canterbury Hills Neighborhood Association, said he was here tonight to speak in objection to five of the proposed changes to the Bed and Breakfast/Homestay ordinances. He said he would address each point on page 2 of the executive summary with the corresponding number found in that summary. Number one, we have no objections to replacing the various terms and definitions with the word homestay. Number two, as we discovered at the last Planning Commission meeting the off-street parking requirements that is 4.12.6 are meaningless under the current ordinances because under 4.12.8 on-street parking is allowed to meet those requirements. Specifically, 4.12.8 allows the parking requirements of this section to be satisfied in whole or in part by street parking, shared parking and off-site stand alone parking. He would like to go now to point six although this does not directly affect our neighborhood. We understand that parking is currently at a premium in many townhouse developments so the provisions of 4.12.8 would severely impact those residents. Point three, we have no opposition on whole house rentals in the rural area and appreciate the Planning Commission in deleting this from residential areas. We do not believe whole house rental in residential areas is in keeping with the Board of Supervisors strategic plan objectives of protecting the quality of our neighborhoods. Point four, we think it is naïve to expect home stays to rent without the owner present to maintain a log of the number of days rented each week and report monthly to the zoning administrator particularly when they would be reporting violations. Point five, providing local emergency contact information appears to be a reasonable requirement but who will enforce it. He asked does the county have sufficient staff to enforce these provisions. Finally point seven, we have not been able to study the Code of Virginia provisions for short-term rentals and currently have no position on this. He said his colleague, Bob Garland the secretary of the Canterbury Hills Neighborhood Association will address other concerns that our association has. Thank you and he would be happy to answer any questions.

Bob Garland, secretary of the Canterbury Hills Association, said he was here tonight to speak in opposition to the proposed changes to the residential tourist lodging or home stay ordinances. He said we believe that allowing up to five guest rooms to be rented in a single-family residence with no limit on the number of guests has the potential to adversely affect the quality of life for other residents. He believed that all of us purchased our homes with the understanding we would be living in a single-family residential area. At the very least, we think that the city's limit of renting to no more than six guests is more reasonable particularly for residential area. The change in requirement for the owner or manager to reside on the parcel only 180 days absolutely changes the character of the property. We strongly encourage the Planning Commission to leave the current requirement for permanent residency in place. Additionally, we believe the owner should be required to live on the parcel rather than a manager. Without this requirement, businesses or individuals will be able to buy up multiple homes for short-term rental, which will decrease the

number of homes for sale for long-term rental. He said he would remind you that the ordinances for both accessory apartments and home occupations require that the owner reside in the home.

Mr. Garland said as noted previously, the off-street parking requirements is meaningless and in some situations, other residents will lose existing on street parking. It is my understanding that the parking requirements for both accessory apartments and home occupations do not allow on street parking to meet the minimum requirements. Additionally, the home occupation ordinance specifies, "the traffic generated by home occupation shall not exceed the volume that would normally be expected by a dwelling unit in a residential neighborhood." Interestingly, the current ordinance under 5.2 still lists tourist lodging as a prohibited home occupation. Certainly, a Bed and Breakfast or home stay lodging is a home occupation and we believe the proposed changes are contradictory to the Board of Supervisors strategic plan objective of "protecting the quality of neighborhoods." We also support a requirement for periodic, for example, annual safety inspections paid for by the owner to ensure the property remains safe for guests after the initial inspection. In closing, this is yet another example of the county relying on residents to spy on their neighbors and report violations because there are simply insufficient staff to monitor these violations. Thanks so much for the opportunity to speak to you.

Supervisor Diantha McKeel said she lived in the Jack Jouett District and was here to make some very general comments most all of you have heard me say over the last four years. With that, Ms. McKeel said she is a 40-year plus resident of the urban ring in a development area neighborhood that predates homeowner associations and asks that you in general please protect the quality of our older existing development area urban neighborhoods that do not have the protection of a homeowner's association. She asked that you preserve the quality of life for those urban ring neighborhoods and folks that live there where Albemarle County wants people to choose to live. Please remember that these neighborhoods offer affordable housing and there is a concern in changing their character because we are already seeing as homes become available that they are turning into permanent whole house and short term rentals absent of owners who often live out of the area. Please remember as hard as our staff work in Albemarle County violations by complaint are not currently working. She said they are not working for current ordinance infractions. She said our staff lacks the enforcement tools to make them stick; staff has challenges in the number of staff that are enforcing them and there is retaliation in some of the neighborhoods for those neighbors who are considered the tattletales and she can tell you personally that she has experienced that retaliation. With that she thanked every single one of you for your service and appreciates you listening to me once again tonight about our older urban ring neighborhoods.

Travis Petrielo, with the Southern Environmental Law Center, thanked the Commission for the chance to comment again on this issue and hoped you received the email he sent yesterday. He said he would be recapping those comments here tonight. He said like many of you who are familiar of the advantages home stays can provide for both tourists and home owners but as you consider expanding these uses it is also critical that it is done in a way that is consistent with the other goals and the overall vision of the Comprehensive Plan. We think that can be done successfully here so long as the county is cautious in opening the door to these uses. He said reasonable checks and balances needs to be put in place to make sure home stays do not proliferate in a way that would undermine the community's vision for the county. He said our chief concern remains of potential effects on the centerpiece of the Comprehensive Plan the growth management policy that directs new residential construction to the development areas to help preserve the county's rural heritage and natural resources. This ordinance has to ensure that we

are not making home stays so lucrative that we are encouraging construction of new houses in the rural area that would not otherwise be built. He said we think it is safe to assume that the county does not want to create a rush to convert existing homes to mainly serve these uses either. One key protection staff is proposing is to place a reasonable limit on the number of days that whole house rentals can occur in the rural area. We strongly caution against going further than the staff's proposed limit of 45 days per year and 7 days per month. That would still enable a house to be rented nearly every other weekend of the year including every major travel weekend. Beyond that, we think there is a real risk that the commercial interest will overtake the residential on many of these properties. Second, we continue to recommend a waiting period before a newly constructed house in the rural area can be offered for whole house rental. We have seen an important distinction between the rental of an existing home and the rental of a newly constructed house in the rural area, which the growth management policy aims to avoid. He said a waiting period such as the five years Commissioner Firehock suggested at the last work session would remove much of the financial incentive to build new houses in the rural area yet it would not place any burden on those renting an existing home to help with their house payments. With so many unknowns about how expanding these home stay allowances will play out in the county this is exactly the type of issue the Comprehensive Plan is talking about when it advises that the changes to rural area uses should take place slowly with enough time to evaluate the potential impacts. He said it warrants a thoughtful and careful approach and we think the protections we have noted tonight are a good place to start. Thank you.

Ms. Riley invited further public comment on this topic.

Hearing none, Mr. Keller closed the public hearing to bring the matter back for discussion and action.

Mr. Bivins said that he had been trying to reconcile particularly in the residential area in why we would have two guestrooms in a townhouse. He noted a townhouse community could be right next to an existing single-family community or part of the residential area. He was struggling why just a street or block over you could have two guestrooms and over here you would have five. He asked the Commission to consider that we be consistent particularly in the residential there only be two guestrooms. He said that he thinks it is a function of parking in the way the report reads. He is concerned not just by our experience in Albemarle County but just with the Airbnb model in general that it is very difficult to enforce people who are bad actors. He asked how we establish a way of doing that.

Ms. More said she was somewhat open to the idea of number of rooms versus looking at number of guests as a possibility or something that we could even push forward to the Board of consideration along with Ms. Firehock's suggestion of the waiting period. However, she thinks there is something to explore there when you have these large homes with large rooms and how many people that brings. However, the parking might limit that because that might not make it conducive to bring that many guests to a home. However, she does think that the comment that was made by a member of the public about the way the city approaches that might be worth exploring.

Ms. Riley said at the very first work session she asked the question why were we setting the number of people versus the number of rooms since she thinks that could potentially be a better approach. The answer at the time was it is the way we have been doing it, but since we are making

changes Ms. Riley said she thinks it is possible to make the recommendation of limiting the number of people. She is rather intrigued by your suggestion that may be we limit it uniformly to two rooms. She has consistently expressed concern about the impacts in all of the residential areas so she would be open to that. However, she thinks that ultimately a very strong concern she has seen throughout this process and mentioned by Supervisor McKeel this evening is not having a proactive approach to enforcement and relying on neighbors and complaint basis to determine the problems and therefore require neighbors to go through all kinds of difficulties before those problems can be resolved. She said if people do not report people then they just live with the problems. Therefore, she is not sure what the solution is since we have consistently asked about what kind of enforcement recommendations we could make that would make this stronger but it is still a big concern for me. She said she understands the Board of Supervisors determines the work plan for Community Development and they are open again to determine what kind of enforcement there is. However, she thinks that we have to make it very clear from the Planning Commission that from my perspective she is not comfortable with it being complaint driven.

Mr. Dotson said he had a question for the staff in he is thinking of the Supervisors and there are three sets of minutes that are quite long. He said staff has worked really hard on this and there has been a lot of discussion. He asked is there a way in advance of the staff giving an oral presentation on the night of the hearing on June 13 to acquaint the Board without them having to go through all the minutes and kind of lose some key points is there a way to highlight a few points.

Ms. Ragsdale replied yes, we planned to do something like that.

Mr. Dotson asked how that would be done.

Mr. Ragsdale replied we would summarize your key points just as we did for the public input meetings summarize the themes for them.

Ms. More asked if it could be in staff's report to them so they can have that before they go through all of the minutes.

Ms. Ragsdale replied yes, we could do that it is a good suggestion. She pointed out that was a challenge for you and we tried to keep it simple since it is fresh on your minds as far as the report but we can work on that for the Board.

Mr. Dotson said with that answer and he thinks this is already part of your intent but he would state it, "the concern that three of the Commissioners expressed in our last meeting about preserving front yards and not having front yards become just parking lots and that might be a maximum percentage of the front yard 50%, 25% and he would not recommend at this point a particular number. He thinks that staff has indicated that you felt that was outside the scope of what the Board had asked for but he thinks it is a possible unintended consequence of part of what is being proposed here. Therefore, he would like to have that included in the points that you are going to call out.

Ms. Ragsdale agreed.

Mr. Keller asked, as a follow up on that is there any way that the Commission can see the summary draft report before it goes to the Supervisors.

Ms. Ragsdale reiterated that it was to make that the sort of other items that you want to emphasize for the Board that we are accurately representing that for them.

Mr. Keller replied yes.

Mr. Ragsdale said she would talk with Andrew and John the best way to do that and we can prepare something before the June 13 and asked if needed to be an agenda item or could we email that you to respond. She said staff could work that out.

Mr. Keller said he wondered if it could be a consent agenda item.

Mr. Dotson said if it was part of the report to the Board it will be on the internet a certain number of days ahead of time and we would have advance notice just as the Board would. However, he was sort of a little reluctant to put us in sort of an editorial role.

Ms. More asked staff to email the list of items that the Commission would like to have for the Board's consideration that we could push this through and that you have captured these comments like the Board's consideration for a waiting period for our new construction in the rural area. Then that we would not reply all but just to you that we have those or not so, that if that is the way to be comfortable that all of that was captured that would go into your report.

Ms. Ragsdale asked if a consent agenda item might be more appropriate.

Mr. Blair said right and that there were a couple consideration. Number one there will be Planning Commission meetings obviously before June 13 and he did want to add that is work session, correct, for the Board of Supervisors.

Ms. Ragsdale replied that was correct.

Mr. Blair said that staff reports are usually due two weeks before the actually Board meeting, and Ms. Ragsdale replied it was two to three weeks and we would have to look at the Board reporting system and work backwards from that to get that to you.

Mr. Blair pointed out when you consider those deadlines he believed there was a Commission scheduled for May 22 and what might be one option is for Rebecca to have just the list of the topics she would plan to put into the staff report, he was not sure it will be done, that the Commission addressed and then let you see the list at the May 22 meeting. He said he would doubt you would have the analysis and all of that with it, but just the list of topics to make sure nothing that you would like presented to the Board that everything is in that list that she will put.

Mr. Keller said that staff has done an outstanding job in paring this down through time and that we get closer and closer and it is just several of these items that because of that desire to make it as clear as you have, and he thinks it is much clearer than it was in the beginning, that some of these little items that have been interesting discussion points so that the Supervisors don't have to reinvent the wheel and it is like people have thought about these and talked about them before they not be lost. He said that is the only reason it is not to try to effect the staff recommendation any more than we have taken into account to this point.

Ms. Ragsdale said that you just want to help summarize your discussion to the Board of Supervisors pulling from the minutes and we can work on getting something to you before the May 22 meeting.

Mr. Keller noted the tables that staff did before that made it clear what was happening in the growth area versus the rural area was a clearer way to go. He suggested taking what you have and putting it in that format.

Mr. Bivins asked for two things, one he would like to wrestle on the five-year prohibition issue. He said he would be reluctant to join in a motion that suggested that the full Commission was suggesting a five-year prohibition on applications for a homestay. There are a lot of things that he could not stand comfortably with that new construction does not necessarily mean that a person has changed circumstances five or fifteen days later that would put them in a similar situation as someone who happened to purchase an existing house or who had been in a house for a long time. There are some things there that he is uncomfortable assuming that new construction means that you start from ground zero in your life. He asked Rebecca to walk through c. where it says parking – and in addition to the parking required for a single family dwelling the number of off-street parking spaces required by County Code Section 18.4.12.6 shall be provided. If we go to that, it is the place that speaks to we should have two spaces per unit except when the Virginia Department of Transportation required three spaces. He said later on in that section of the Code if we go to the alternative methods, those mean that we could use on street parking to satisfy that. So if he is understanding that correctly as the owner he would have to say he has a space for my vehicle off street and if he had a guest he also had a space off street for them, but if my spouse or teenage child could put their car on the street, too. So really all we are saying is that the owner of the house and the guest has to be able to park off street and we in fact still have not limited the impact of this function on our neighborhood.

Ms. Ragsdale said Section 4 we have included the off-street language specifically for the homestay. She said in section 4 it specifically is for the homestay parking calculation. She said that may leave that possibility open still for the residential parking but she thinks the intent was that all required parking if you have a homestay use would be met off street. In townhouse developments that would be parking lots of street and just not using off street parking for this use. She noted we had some of those concerns before so that may be something we need to clarify in the ordinance.

Ms. More said that was a very good point because she thinks that was what some people were getting at that there was a way around that that the meaning is there but how it might play out in real life would be but there is still on street parking occurring. She said to the other comment she was a little hesitant about the five-year waiting period and my impression of what we were going to send to the Board were not something that we all unanimously agreed on but they were talking points and different ideas that came up that we thought were worthy of some consideration and she did not intend to go forward as this was something we all agreed on. She said if we did then the Commission should put it in here formally, since it was maybe a year or maybe they do not like it at all but that it was something that came and we have heard from the public, too, that was something they wanted to have. She said that the way she interpreted that it was none of the points that you might put forward to the Board or something that we all necessarily agree on but thought were worthy for their consideration and would be more concise than trying to pull it out of pages of minutes.

Mr. Keller agreed, and again what Bruce started with regarding the front yards is a case in point and we understand why you need to have your silos for these things. He thinks as we have heard from two representatives from an older subdivision in the county that there are several older subdivisions that could be if they don't have HOA requirements the very nature of the requirement that we are putting in could in effect force individuals who are determined to do the homestay or Airbnb to consider paving more of their yards for on-site parking. He said there is a linkage that he believes needs to be very clearly called out to the Supervisors to understand that potential ramification. He said we realize that in the newer units with the HOA's that is not going to be a possibility, but it would be interesting to actually know how many subdivisions in the county would be the potential for that as city lots have had that happen. Mr. Keller noted that no one had addressed the five-year moratorium or whatever we want to call it.

Mr. Dotson said he was satisfied since he thinks Commissioner More addressed it that it would not be put forward as the consensus of the Commission but rather this was an idea like others that we would like to bring to the fore for the Board to consider. However, they might kick it back to us and ask us to delve into it at that point.

Mr. Keller noted that was why he asked to see the summary of the points because there are so much that you have to synthesize down that he could see how something was not omitted on purpose but just forgotten in the complexities of this.

Ms. Spain asked to return the point of number of people versus number of rooms and she was one of those who also thought that to being similar to the city's or having identical language to the city's guidelines would be to our advantage since so much of the city looks like of much of the county now. She said she liked Mr. Bivins suggestion for only two guest rooms per unit regardless of the unit size. So she would say that one of the things to highlight in this summary would be that we have not yet resolved the issue of number of rooms versus number of people and whether we should try to replicate the city's guidelines or not. She thinks this would address one of the issues brought up by members of the public who are concerned about this being one of the key issues.

Ms. Riley said she would bring up one more issue regarding the inspections. She said it was still a concern for me that there is just an initial inspection even if it is just for the Fire Department and then there is no requirement of an owner of a property to have it inspected again. So something as simple as a smoke alarm can go out of compliance very easily and she thinks for the safety of owners, renters and adjacent properties this is something that we should be, again, more proactive on. She does not have a recommendation for how often; she just thinks that there needs to be some follow-up inspections for public safety.

Mr. Dotson said he had a question in the recommendation it says going for approval at the work session, and would that be when the Board would conceivably act on this or would this just a receipt and discussion of our information going forward to them.

Ms. Ragsdale replied since we already have the ordinance language developed it would be primarily informational and it would be for the Board to decide whether they want to move forward to their public hearing or not. She said if the Board is comfortable, they could do that as we have advertised or based on any changes or anything that comes up at the Board that could change the course of the schedule. Therefore, we will have to get to the Board and see where we are. However, that first work session she thinks is to bring them up to speed on all of this with the

Commission's help and the public meeting summary. It is what we have been working on the past year and why we have landed where we have with what we have advertised with the ordinance.

Ms. Spain asked as a point of information if homeowner insurance policies have anything to say about what happens when houses are rented like this who is responsible.

Ms. Ragsdale replied that she had not done a great deal of research, she just asked her insurance agent when meeting about her policy, and she thinks that they have a way of dealing with that. She pointed out that you just add the additional riders.

Ms. Spain said she wondered how many people who rent their homes understand that and whether there might be some benefit in making that part of the information packet that goes out to owners if they are applying for this or is there anything in the language of insurance companies that we could adopt for guidance.

Ms. Ragsdale replied that we had thought about that as far as more educational than regulatory as far as the application process.

Ms. Spain noted that it was just a to do list.

Mr. Keller suggested it would be like some of the national entities like Airbnb provided insurance component. He said he had several just specific little things that maybe have already been caught or maybe he was just misunderstanding but under 5.1.4.8 where Bed and Breakfast is changed to homestays going down to where it says each homestay located in the rural areas zoning district shall be subject to the following. He noted that Bed and Breakfast shows up again and he asked if it was supposed to be struck there or is that making a distinction that a Bed and Breakfast is different from a homestay. He pointed out that was in Attachment D.

Ms. Ragsdale replied that might have been a reference we just did not catch.

Mr. Keller noted that was under c and d, required development rights . . . and bed and breakfast is auxiliary and then in the next one minimum yards . . . and auxiliary structure used for a bed and breakfast.

Ms. Ragsdale replied yes, staff just needs to make that substitution.

Mr. Keller asked staff to back up and he knows she has explained it in the presentation, but in k. above that dwelling types that clause that is in there about the resident manager of a duplex townhouse or single family attached unit. He noted he could read that one of two ways – he could read it that it is about the owner of the individual unit or the manager of a complex. He said that lots are known for instance in elder care that there is often a room saved in an elder care facility that is rented to family members who come and visit. He asked is that the intent of that clause because that seems to be what it is referring to as opposed to an individual ownership. In other words, it is saying there are 50 townhouses here and two rooms have been reserved. He asked if everyone sees where he is going with this.

Ms. Ragsdale asked if your concern is that it is not clear enough that a resident manager means a tenant of the townhouse and they have to live within that unit not generally in the complex.

Mr. Keller replied that was correct, that it was not a concern it is for you to think about because you have had so many nuisances to deal with in all of this that staff and the Commission has caught some of them. He said he was sure there will be others and there will have to be zoning text amendments in the future because of things that have not been thought caught. He said it could be either the individual unit or an additional set that is available within a complex. He asked Mr. Blair under registration it says registration is not required if the Code of Virginia exempts the operator or short-term rental from registration and asked who gets the exception for that

Mr. Blair replied that is a good question and it is a certain type of real estate manager, Realtor's Code in 983 it is for – if the person is licensed by the Real Estate Board or is a property owner who is represented by a Real Estate licensee someone who is registered pursuant to the Virginia Real Estate Timeshare Act licensed or registered with the Department of Health related to the provision of room or space for lodging or licensed to register with the locality related to the rental management of real property including licensed real estate professionals, hotels, motels, campgrounds and bed and breakfast establishments. He said that is how the State Code exempts those categories from the Register.

Mr. Keller said so there might be something else that ends up coming through here as a mechanism to create something to get around these rules in the future. He said those were my little specific things.

Mr. Dotson said something Mr. Keller mentioned and maybe he was or was not referring to this but he recently learned that the University Village, which is a condominium development, has perhaps two units set aside for visiting families.

Mr. Keller replied that was what he was referring.

Mr. Dotson said he did not know how this would impact, if at all, that kind of situation but it is something to think through as we are trying to get down into the small details.

Mr. Keller said that goes back to what we just read.

Mr. Blair said it could be one of those but if one of those exemptions did not apply he thinks the analysis then goes back to is it transient lodging meaning less than 30 days rental and if so then it would either have to be a hotel/motel/inn or homestay regulations would apply.

Mr. Keller said that he thinks just about every one of these builder facilities has several rooms that fit that category. Again, in this whole question of enforcement and finding these over time it will be interesting.

Mr. Blair asked are those rooms for rent and Mr. Keller replied yes.

Mr. Blair said that he had heard of apartment complexes sometimes having one first come first that are free that would have like a spare unit on weekends.

Mr. Keller said that was my question about that other wording was about whether that was what it was referring to because the resident managers would be the ones who would have that power of

assigning those. Then the question is as you have brought up if there is not a fee is there then a physical tax liability because just like anything else there is an in kind value. He said we don't need to get into the weeds that way because those are just things that start showing up. He asked do we have wording for an action.

Ms. Ragsdale pointed out that was to move to recommend the attached ordinance to the Board that is provided as Attachment D with us honoring your request to bring your Commission input summary back to you on May 22.

Mr. Keller asked if the Commission was globally for the most part comfortable with the rural growth area divide in what we are seeing even if there are specifics that the Supervisors are going to have to deal with, for instance, the two versus the five or whether to put a time restriction on rural areas. He noted those seem to be the ones that have been hanging out now.

Mr. Bivins suggested adding parking.

Mr. Keller agreed that parking was in all of it. He pointed out in the rural area the setback has been addressed adequately, which was a discussion early on. He said he was trying to think of anything that was a major discussion early on that we might not have recently revisited. He said staff has done a good job of catching all of those.

Mr. Bivins asked if there is a way for us to stand with staff as they go before the Board of Supervisors and say because there are a number of things so Supervisors please figure out a way to put some enforcement in this. He said that puts staff and us in an uncomfortable position promulgating suggestions that there is not a way to back it up, and so he is uncomfortable doing that. He said regarding the parking issue, he just learned that the Governor provided Albemarle County with the ability to regulate its secondary streets. Therefore, he feels as if the Board of Supervisors need to take a position on that which could in fact eliminate a lot of the issues that many of our citizens are dealing with in regards to over parked streets or abandoned cars or things, which get in their way that might have an impact on this. He said there are some pieces here that if possible he would like us to set aside and help with the enforcement because he thinks it does not help anybody just to put an amendment there but somebody has to figure out are we going deal with this.

Mr. Keller asked if someone was ready to make a motion.

Ms. Ragsdale pointed out it was ZTA-2017-01 and the recommendation was the Commission would act to recommend the ordinance to the Board of Supervisors that is provided as Attachment D that they will consider at their June 13 work session.

Mr. Keller asked if they want to put something with the additional comments.

Mr. Blair suggested the motion be approved as presented with additional comments to be agreed upon by the Commission at their May 22 meeting.

Mr. Dotson noted it seems like it is getting into the details of how we are going to do it and suggested it be with the list of companion issues identified by the Commission.

Mr. Keller asked if staff is comfortable with that since they were trying to give staff more latitude not to have to go into the details so much as presenting those. He said if they are on that list then the Supervisors when they come to that point then you are in a position as staff to be able to say yes, the Planning Commission did discuss this and have thoughts on it.

Ms. Ragsdale replied yes, that would be very helpful.

Mr. Keller noted that would be without staff having to write pages and pages about it.

Mr. Bivins moved that the Commission recommend approval of ZTA-2017-01 Residential Tourist Lodging and include the companion issues that were discussed by the Planning Commission on April 24, 2018.

Mr. Dotson second the motion.

Mr. Keller asked for a roll call vote.

The motion was approved by a vote of 6:0. (Firehock absent)

Mr. Keller thanked staff for their hard work and time put into the request. He said ZTA-2017-01 Residential Tourist Lodging would be forwarded to the Board of Supervisors with a recommendation for approval.