

MINUTES
JAMES CITY COUNTY POLICY COMMITTEE
REGULAR MEETING
Building A Large Conference Room
101 Mounts Bay Road, Williamsburg, VA 23185
July 13, 2017
4:00 PM

A. CALL TO ORDER

Mr. Rich Krapf called the meeting to order at approximately 4 p.m.

B. ROLL CALL

Present:

Mr. Rich Krapf, Acting Chair
Mr. Danny Schmidt
Mr. Heath Richardson
Mr. Jack Haldeman

Absent:

Ms. Robin Bledsoe

Staff:

Mr. Paul Holt, Planning Director
Ms. Tammy Rosario, Principal Planner
Ms. Lauren White, Planner
Ms. Roberta Sulouff, Planner
Mr. Tom Leining, Community Development Assistant
Mr. Maxwell Hlavin, Assistant County Attorney

C. MINUTES

1. Minutes Adoption - May 11, 2017 Regular Meeting

Mr. Jack Haldeman made a motion to Approve the May 11, 2017, meeting minutes.

The motion passed 3-0-1, with Mr. Rich Krapf abstaining, as he was not present at the meeting.

D. OLD BUSINESS

There was no old business.

E. NEW BUSINESS

1. Zoning Ordinance Revisions to Permit Short-Term Residential Vacation Rentals

Ms. Roberta Sulouff stated that during the course of two recent public hearing cases, members of both the Planning Commission (PC) and the Board of Supervisors (BOS)

expressed their desire to address the emerging issue of short-term residential vacation rentals, also known globally as home-sharing. She stated that since the last public hearing, staff have received several Conceptual Plan Applications for this use. She stated that the Ordinance currently addresses several uses such as transient occupancy ranging from more residential in nature to expressly commercial in character. She stated that members of the BOS stated that none of the existing uses directly address the emerging movement of home-sharing that has a residential footprint.

Ms. Sulouff stated that staff is recommending a two-pronged approach of multiple stages. She stated that first, staff is recommending the creation of a new use and definition to address the types of short-term residential rental applications that have been received by staff. She stated that staff recommends creating a new definition for the use homestay.

Ms. Sulouff also stated that staff is seeking the Policy Committee's direction in the pursuit of a new policy and permitting standards to address the new use. She stated that permitting standards, including, but not limited to the ones located in Attachment No. 3, could be used to build a framework or a supplemental policy under which future Special Use Permit (SUP) applications could be reviewed.

Ms. Sulouff stated that staff recommends creating a definition and permitting policy that addresses the residential character of the use while considering compliance and providing clarity to those wishing to pursue the use and those that review future applications for the use. She stated that staff is planning to take the Committee's feedback to further research any concerns and to begin drafting zoning ordinance language to be reviewed in stage two of this process.

Mr. Rich Krapf thanked Ms. Sulouff and asked if the Committee had any questions for staff.

Mr. Jack Haldeman asked how the new Ordinance would differ from the rental of rooms or tourist homes classifications. He stated that he read both of them and that they both apply to the Airbnb concept.

Ms. Sulouff stated that rental of rooms and tourist homes both apply to short-term rentals in different ways. She stated that rental of rooms is not defined in the definition section and it is more of an interpretation typically applied to a bed and breakfast or to situations in which people want to rent rooms above and beyond the family definitions. She stated that home-sharing would address the applications that are coming in, where people own homes and reside in them and want to rent out a room at a transient rate to people for a night. She stated that tourist home is traditionally interpreted as a vacation home rental where it wouldn't require anyone to be there at the time of the rental. She stated that the proposed definition would create a new class and would be clearly secondary to a residential use.

Mr. Haldeman asked if this would replace the current Ordinances or if it would be an addition.

Ms. Sulouff stated that staff is seeking the Committee's direction such as defining rental of rooms, but right now staff is proposing home-share in addition to the other uses.

Mr. Krapf asked how accessory homestay ties into the health, safety and welfare of the

surrounding neighborhood.

Ms. Lauren White stated that the two examples put the homestay use in the home occupation zoning code, then an additional layer is added to the homestay use. She stated that it may include limits such as the number of cars, noise and buffering to make sure the use is secondary to the primary residential use.

Ms. Sulouff stated that in both Charlottesville and Arlington County, with homestay being a home occupation, it becomes an administrative process rather than an SUP process. She stated that staff can explore ways to have the homestay fit in the SUP framework as well.

Mr. Heath Richardson stated that when he looked at the examples, he liked the Blacksburg example where there is a definition of homestay which provides two types of rentals. He stated that Type A defines the number of rooms and Type B has a caveat where the homeowners do not need to be at the residence. Mr. Richardson stated that the Blacksburg example provides more flexibility.

Mr. Danny Schmidt stated that the Blacksburg example also stood out to him. He stated that he initially voted against the two SUPs regarding homestays when he first started on the Planning Commission. Mr. Schmidt stated that the County already has a tourist home definition. He stated that his family has taken advantage of similar situations in other areas across the country. Mr. Schmidt stated that there haven't been many issues with Vacation Rental by Owner (VRBO).

Ms. Sulouff stated that VRBO would still come to the staff as an SUP application in most districts as they are a tourist home. She stated that the complaints received are anonymous.

Ms. Christy Parrish stated that there have been calls stating that houses have been seen on Airbnb websites. She stated that there are places in Kingsmill where these homes are permitted by-right. She stated that there will be times that the homes will show up in the R-2, Residential Zoning District and a letter would be sent out, stating that they are in violation with the Zoning Ordinance without an SUP approval.

Mr. Richardson stated that he noticed during previous BOS meetings that there are some citizens running businesses without an SUP approval and that depending on how homestay is defined, citizens would be able to legally run their business.

Mr. Krapf asked if having someone come in and clean their home or provide housekeeping duties violates the definition under the Arlington County example.

Ms. White stated that it would be allowed because it would be considered typical home maintenance.

Ms. Sulouff stated that Arlington County is trying to prevent someone living out of state, but has an inn-keeper function to allow an agent to act for them.

Mr. Schmidt asked if staff looks at the Airbnb websites.

Ms. Parrish stated that staff would only look up houses in violation if they were brought to staff's attention.

Mr. Schmidt stated he wants to prevent a lot of SUP applications coming in at once.

Mr. Richardson stated that the regulation for the Blacksburg example requires a floorplan.

Ms. White confirmed and stated that some localities require a floorplan and a site plan.

Mr. Richardson asked why staff thought that Blacksburg has that regulation. He asked if it could be that they are a university town or was it in place before or after the popularity of Airbnb.

Ms. White confirmed and stated that it was after the wave of popularity of Airbnb.

Mr. Schmidt asked if that applied to the other examples.

Ms. White confirmed.

Ms. Sulouff stated that there are other localities that have not made changes to their ordinance and there are cities like Williamsburg and Virginia Beach that are still in the developmental process.

Mr. Krapf asked what staff thought about the use of accessory structures for a home-share category.

Ms. Parrish stated that it would be a larger issue because there are limits on a secondary structure.

Mr. Krapf asked if this would only apply to the primary residential structure.

Ms. Parrish confirmed.

Mr. Paul Holt stated that it would complicate things more and put two homes on one property. He stated that it was up to the direction of the Policy Committee, but previous SUP conditions have attempted to ensure a single-family house continues to look like a single-family home.

Ms. Tammy Rosario stated that it is important to consider the additional impacts such as traffic.

Mr. Schmidt stated that he has heard from citizens that the number of cars at a home has a negative impact on the neighborhood.

Ms. Sulouff asked if parking would be an important permitting standard.

Mr. Schmidt confirmed.

Mr. Krapf stated that the A-1 and R-8 Districts are larger properties and the parking limitations could potentially be different. He asked if there should be a distinction in the Ordinance.

Mr. Richardson confirmed.

Mr. Schmidt confirmed. He stated that the tourism economy is important and keeping up with the times is important.

Mr. Haldeman asked if the County would limit the number of rooms, meals, owner presence and number of days.

Ms. Sulouff stated that staff is looking for feedback on those regulations.

Mr. Richardson stated that it is possible to be too restrictive. He stated that if there are two types, the property owner would announce which direction they are going. He stated that one type could be less restrictive. He stated there would be a burden on staff.

Ms. Parrish stated that it would depend on the number of people wanting to do a homestay and the number of complaints that would come in. She stated that she does not anticipate there being an issue, but a policy can be created that is straightforward.

Mr. Holt stated that staff would let the Policy Committee know what can and cannot be enforced. He stated that proper documentation could be provided ahead of time.

Mr. Krapf asked about the possibilities including limiting the number of residences on a street.

Ms. Sulouff stated that it was just an example from another locality. She stated that there was a concern from other localities regarding blocks where there are a lot of homes in one neighborhood renting out their houses. She stated that staff can look further into the other localities if need be.

Mr. Holt stated that there are issues regulating the number of homestays. He stated that Zoning Ordinances could potentially have separation distances between homes. He stated that it would limit the number of homes and it would be easier for staff to regulate.

Mr. Haldeman asked if Homeowners Associations (HOA) play a role.

Mr. Holt confirmed and stated that Zoning Ordinances can't trump covenants and declarations, as in the example of chicken keeping.

Mr. Schmidt stated that the HOA can be the more restrictive process. He stated that Airbnbs are going to keep happening and it is best to work with the homeowners.

Mr. Krapf asked if there would be a registration fee or keep just the business license component.

Mr. Schmidt stated that it is similar to the food truck situation.

Ms. Sulouff stated that creation of a registry would be outside of the Zoning Ordinance; however, the Policy Committee can get the process going. She stated that the homeowners could potentially register with the Commissioner of Revenue (COR), pay the transient occupancy tax, a potential application fee and possibly a registration fee.

Mr. Richardson stated that given the nature of the area, this would give the COR a tool for taxation.

Ms. Sulouff asked if there would be compliance with a registry.

Mr. Richardson confirmed.

Mr. Krapf asked if there wasn't a registry how the homestays would be tracked.

Ms. Sulouff stated that staff would keep track similar to the home occupations and the COR would keep track similar to other business licenses.

Mr. Krapf asked if there were any pros and cons for a registry on homestays.

Mr. Maxwell Hlavin stated that most localities are in the same spot in terms of the developmental process. He stated that it could be best to run the process through the COR.

Mr. Krapf asked if there would be a downside.

Mr. Hlavin stated that he does not see one. He stated that it is required to register with the COR to obtain a business license. He stated that this would give staff a mechanism to establish a fine.

Mr. Holt stated that the fine encourages homeowners to comply.

Mr. Schmidt stated that the COR would be a separate track from the process handled by planning staff.

Ms. Sulouff stated that it would be part of the planning process. She stated that staff can say that they can't approve their application without the business license.

Mr. Krapf asked Committee members if they would want a penalty associated with the failure to register their homestay.

Mr. Richardson confirmed.

Mr. Hlavin stated that the fee would not come through the policy process.

Mr. Richardson stated that there can be a reference to the need to register in the Zoning Ordinance.

Mr. Schmidt stated that it would help with the citizens in the County to see a penalty.

Mr. Richardson asked other Committee members if they preferred the Blacksburg example where the number of rooms is defined.

Mr. Haldeman stated that he wouldn't want a lot of rooms to be available to be rented out in a single home. He stated that he would have a concern with the competition with the hotels and the quality of neighborhoods together with the traffic generated. He stated that three to four rooms available to rent would be sufficient.

Ms. Rosario asked if the four-bedroom maximum would exclude rental of an entire home.

Mr. Haldeman stated that he would not want to allow rental of the entire home.

Ms. Parrish stated that many Airbnbs are full home rentals.

Mr. Richardson stated that staff could come up with some options where the host is present with limited rooms and then other options with no host present.

Ms. Sulouff asked if there were two types, would there be a difference in the applications.

Mr. Krapf asked the purpose of establishing two types. He asked what the end goal would be for establishing two types.

Mr. Richardson stated that Type A would be a resident that has a couple of rooms to rent out and Type B could be more of a hostel scenario.

Mr. Holt stated that there could be a number of different directions. He stated that there could be a locational pairing going with each type. He stated that the smaller homes with one to two bedrooms for rent are located in R-1 and R-2 Residential Districts. He stated the larger homes, where the homeowner rents out the entire house, could be located in the A-1 Zoning District or possibly located on major roads instead of internal to a subdivision. He stated that the smaller and easier homestays could be handled administratively and that the larger ones could have an SUP.

Ms. White stated that in the case of Blacksburg, the reason they break it down could be because the two different types may have different impacts on a neighborhood. She stated that it is possible to limit the number of days for Type A rentals and the number of days for Type B rentals. She stated that when the applicant fills out an application they state their intent.

Mr. Krapf stated that he liked the idea of having an Ordinance focused around Zoning Districts. He stated that it could be the easiest way to put a matrix together. He stated that it is important to keep in mind the number of vehicles generated.

Ms. Sulouff stated that staff can do some research into other localities and how they handle parking. She stated that some conditions on previous SUPs were limiting the types of vehicles such as campers and RVs.

Ms. Rosario stated that the number of vehicles may correlate with the number of bedrooms available.

Ms. Sulouff stated that previous cases limited the number of cars per rented bedroom.

Ms. Rosario stated that based upon the conversation, the most relevant characteristics to put into the matrix are ownership, number of rooms, parking and the consideration by Zoning District and if there would be an administrative process.

Mr. Holt asked if by ownership she meant whether the owner did or did not live on the

property.

Ms. Rosario confirmed and asked if there were any other items.

Mr. Haldeman asked if guest rooms were secondary to single-family use.

Ms. Sulouff confirmed. She stated that the definition for homestay being proposed would be secondary to the single-family residence, which is the same requirement as the current home occupation application.

Mr. Haldeman asked if the owner had to reside at the time of rental.

Ms. Sulouff stated that it is not necessary for the owner to reside at the time of rental. Ms. Sulouff stated that whether or not the owner is present at the time of the rental could fall in the matrix. She stated that it would be someone's home that they reside in.

Mr. Schmidt stated that owners could rent out their home while they are gone for the weekend.

Mr. Krapf stated that if it were a VRBO, the owner could rent the home during the peak tourist season such as May through October and the owner would not have to live there.

Mr. Haldeman asked if that would be considered a tourist home.

Ms. Sulouff stated that currently that would fall under a tourist home.

Ms. Rosario stated that as the definition becomes finalized, there could be some overlap between the other definitions, necessitating additional definition amendments.

Mr. Krapf asked if there should be a requirement on residency.

Mr. Richardson stated that he would prefer that the definition stay flexible for now. He stated that a couple could rent out their rooms while they were away and it gives the homeowners some flexibility to not be present.

Mr. Krapf stated that there are some general provisions outside of the matrix that would be incorporated. He stated that the registry is an example.

Mr. Schmidt stated that one of the concerns from the previous SUP was that people wanted to know who their neighbors are. He stated that he preferred having the homeowner present during the time of the rental.

Mr. Holt stated if someone wanted to operate a tourist home they still could, but for the Airbnb example, there should be someone living there.

Mr. Schmidt agreed and stated that he felt there would be more changeover from tenant to tenant.

Ms. Sulouff stated that the definitions may overlap with each other and that the tourist home and rental of rooms' uses need not go away. She stated that requiring the homeowner to be present does not take away from the ability to rent out their home

under another definition.

Mr. Schmidt stated that there will be times where we have VRBO and Airbnb cases.

Ms. Rosario stated that Airbnb rents by room and whole houses as well.

Mr. Holt asked if there was a consensus from the Committee that when staff puts the matrix together, the homeowner needs to be living there.

Mr. Schmidt confirmed.

Mr. Richardson stated that if the homeowner rents out their whole home, they would fall under the tourist home definition.

Mr. Krapf stated that looking under the definition of home-share, the owner is there sharing the home along with the tenants.

Ms. Sulouff stated that the home would be the primary residence and the homeowner would occupy the home at the time of the rental.

Mr. Krapf asked if there were any questions from anyone.

Mr. Hlavin stated that, from a legal standpoint, enforceability is tough because there would need to be proof that the homeowner is there during the time of the rental. He stated that it is a good start to the discussion.

Mr. Holt stated that the homeowner doesn't have to be present at all times, just that the home must be their primary residence.

Ms. Sulouff stated that the homeowner being present is not confirmed.

Mr. Krapf asked what it would be considered if he had a secondary residence to rent out.

Ms. Rosario stated that it would fall under the tourist home definition. She stated that there could be separate processes for homestay and for tourist home.

Ms. Sulouff stated that across the country, localities are dealing with the same conflicts. She stated that people want to know who their neighbors are.

Ms. Parrish stated that it is important to define a primary residence to avoid a home being used for a transient use.

Ms. Sulouff stated that staff is hoping to use the regulations under home occupation to follow for homestay.

Mr. Krapf asked if there were any other topics needed for staff to discuss.

Ms. Sulouff stated that she felt there is enough information for staff to begin.

Ms. Rosario stated that this is the beginning stage where staff can come back to get more clarification and then begin drafting an Ordinance.

Mr. Holt stated that it is important to keep it simple, protecting the neighborhood and to begin small by making sure someone lives there. He additionally stated that parking and the Zoning District can be factored in as well.

Ms. Rosario asked if some applications can be handled administratively and some by SUP.

Mr. Krapf confirmed. He also stated that it can be based on the number of rooms.

Mr. Holt stated that the Zoning District will factor in as well.

Mr. Richardson stated that homestays can be considered by-right in certain Zoning Districts.

Mr. Krapf asked if by-right requires administrative approval.

Ms. Sulouff confirmed. She stated that the by-right can have an administrative process attached to the definition similar to chicken keeping.

Mr. Krapf stated that it is important to keep the process simple. He stated that the next step would be to get something back, such as a matrix, from staff to help move the Policy Committee forward.

2. Review and Discussion of the Planning Commission Bylaws as it pertains to Article IV. Outside Meetings with Applicants

Mr. Holt stated to the Policy Committee that staff wanted to explore any concerns and possibly change anything with respect to the current bylaw.

Mr. Richardson stated that the PC members do a good job of acknowledging when they have conversations with developers. He stated that it is best to avoid times when multiple members meet with a single applicant where minutes are required from the meeting.

Mr. Haldeman stated that he attended a seminar regarding high growth communities where this topic arose.

Mr. Hlavin asked if the seminar was regarding the new proffer legislation.

Mr. Haldeman confirmed.

Mr. Hlavin stated that the Planning Commission and Board is saved from the proffer legislation because BOS members are not taking proffers for residential applications. He stated that proffers are still accepted for commercial applications. He stated that members do not have to worry about having conversations regarding proffers from residential development because the County is not taking them.

Mr. Richardson asked if a developer could offer another benefit for the County.

Mr. Hlavin stated that they could; however, there would be no binding effect with regard

to the rezoning. He stated that a developer could improve a road and then want an area rezoned and the BOS could take that into consideration.

Mr. Krapf stated that two years ago the Outside Meeting with Applicant item was added to the bylaws. He explained that the bylaw stated the purpose of meetings is limited to fact finding and clarifications for all parties. He stated that PC members are encouraged to go with a colleague. He stated that it is also encouraged to include a staff member and possibly have the meeting in Building A. He stated that it is helpful to meet with an applicant and get a better understanding before the public hearing. He stated that the General Assembly legislation only pertains to residential rezoning. He asked what happens if it is a mixed-use rezoning.

Mr. Hlavin stated that he is not worried about members meeting with applicants because proffers are not accepted. He stated that proffers could be accepted on the commercial component of a mixed use rezoning so legal staff would treat any such application with heightened caution.

Mr. Holt stated that if proffers were accepted for residential rezoning, he would advise PC members not to meet with applicants. He stated that there is not a lot of concern right now.

Mr. Hlavin agreed.

Mr. Richardson stated that there are times that applicants will contact him before a public hearing. He stated that the bylaw requires a summary to be provided to all members. He stated that he interpreted the bylaw as requiring him to state during the public meeting that he has met with an applicant.

Mr. Krapf stated that he will always ask for disclosures from members before getting into a public hearing. He stated that guidelines in Article IV are helpful. He stated that it is good to rely on the integrity of individuals and knowing what is appropriate. He stated that if he felt it was helpful to meet with an applicant, he would ask other members to join him.

Mr. Schmidt stated that it has been helpful to him when members send an email out to other members after going on a site visit.

Mr. Krapf stated that he does not see a need to revise the bylaws regarding meeting with applicants.

Mr. Richardson agreed and stated that they were revised in March.

Mr. Hlavin stated that there are also other issues such as conflict of interest issues. He stated that members can't have an interest in a transaction. He stated that members can't receive money for voting a certain way. He stated that there are exceptions. He stated that, in certain circumstances, if there is a personal interest in a transaction, the members can disclose it as long as their impartiality remains.

Mr. Krapf stated that there wasn't any other new business.

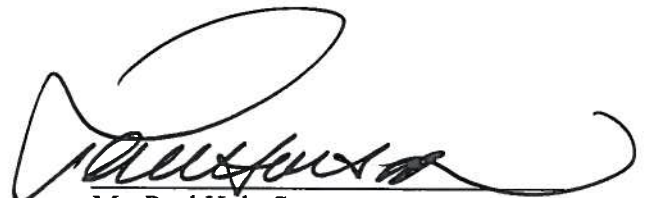
F. ADJOURNMENT

Mr. Schmidt made a motion to Adjourn. By verbal vote, the motion passed.

Mr. Krapf adjourned the meeting at approximately 5:15 p.m.



Mr. Rich Krapf, Acting Chair



Mr. Paul Holt, Secretary