

**MINUTES OF
FAIRFAX COUNTY PLANNING COMMISSION
WORKSHOP REGARDING SHORT-TERM LODGING (RENTALS)
WEDNESDAY, NOVEMBER 1, 2017**

PRESENT: Peter F. Murphy, Chairman, Springfield District
James R. Hart, Commissioner At-Large
Timothy J. Sargeant, Commission At-Large
Ellen J. Hurley, Braddock District
John C. Ulfelder, Dranesville District
James T. Migliaccio, Lee District
Julie M. Strandlie, Mason District
Phillip A. Niedzielski-Eichner, Providence District
Vacant, Sully District
Vacant, Commissioner At-Large

ABSENT: Frank A. de la Fe, Vice Chairman, Hunter Mill District
Earl L. Flanagan, Mount Vernon District

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The meeting was called to order at 7:05 p.m. by Chairman Peter F. Murphy in the Board Auditorium of the Fairfax County Government Center, 12000 Government Center Parkway, Fairfax, Virginia 22035.

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PLANNING COMMISSION WORKSHOP REGARDING SHORT TERM LODGING
(RENTALS)

(Start Verbatim Transcript)

Chairman Murphy: Good evening, ladies and gentlemen, and welcome to the Wednesday, November 1st – not a public hearing, but a workshop of the Planning Commission, dealing with – regarding short – short-term lodging rentals. So it's a little different format tonight. This is not a public hearing. We will have a public hearing when this is advertised and the action on this item will be Commissioner Hart's responsibility. I just want to ask a few things. We're going to have a staff report and then we'll have questions for the Commission. Hopefully, we will be through the questions from the Commission and the discussion at about 8:30. At 8:30, we're going to do something differently. We're going to open it up for public comment. You'll be limited to two minutes. Ask a question and would ask you – after you ask a question and you're recognized by the Chair that you would go over to my right, your left, to Jacob and sign in so we have a record of who spoke. And then we are going to accept no questions – no new questions after 9 o' clock. We hope to adjourn around 9 o'clock. But for those of you who still may have questions, when it comes to be nine o' clock, before we adjourn the meeting, on that big screen over your head, you will see our snail mail address and our email address. And if you would like to submit questions

that you did not have the opportunity to speak to tonight, then those questions will be answered by the staff or by the Planning Commission and distributed to the agency or of the people and the staff who are competent enough to answer the questions for you. So with that, I'll ask Mr. Hart if he has any introductory remarks.

Commissioner Hart: Thank you, Mr. Chairman. Just a couple a things. I think Chairman Murphy has covered, pretty much, what I would have said. It seems to me that we did have a consensus in the committee discussions we've had that this topic would benefit from some additional discussion. And once in a while, we've had the luxury of time to do a workshop before something gets authorized for advertising. I think that will help staff in establishing the parameters for the flexibility in the advertising – maybe some of the endpoints or some of the – make sure on some of the topics that we still have some questions or disagreement about. I don't want to take too much time because, I think, the more time that I take up that it's going to take away from the questions, either from the Commission or from the audience. So I think, with that, that's it.

Chairman Murphy: Okay, thank you very much. May we have a staff report, please? Or a staff report... whatever you're going to call it tonight. Ms. Pesto.

Donna Pesto, Deputy Zoning Administrator, Zoning Administration Division (ZAD), Department of Planning and Zoning (DPZ): Thanks. I'm Donna Pesto, Deputy Zoning Administrator. I just want to let you know who is here tonight because the questions may come from any number of topic areas. We have Charles Fitzhugh and Peggy Delean here from Department of Code Compliance. Jay Doshi is here from Department of Tax Administration. Of course, Sarah Hensley is here from the County Attorney's office. Leslie Johnson, the Zoning Administrator – and tonight, for the presentation – Lily Yegazu is here from our office. She will be championing this cause for this zoning ordinance amendment. Thank you very much.

Chairman Murphy: Thank you all for coming. We appreciate it.

Lily Yegazu, Planner III, ZAD, DPZ: Good evening – Lily Yegazu, department staff. Before you this evening is a presentation of draft strawman on the proposed zoning ordinance amendment related to short-term lodging or rentals. Before going through the presentation, however, staff would like to ask the Commission to consider the following items and provide feedback on these items for purposes of providing an adequate scope of advertising and options. The items that you see with the check-mark before them are those that would be advertised with range – with a range. It includes the number of adult guests per overnight stay, number of overnight rentals, whether the operator is present or not present, the number of rental contracts per night, duration of permit validity – whether it would be one year or two years – and the fee for a short-term rental application fee, as well as a bed and breakfast special exception application fee. The proposed amendment considers allowing short-term – short-term lodging uses in all zoning district that allows dwelling units or in mobile homes. It proposes to amend the existing dwelling and mobile home definitions to allow short-term – short-term lodging as the only transient occupancy that would be permitted. Minor amendments to existing definitions of a bed and breakfast will be made to keep transient occupancy consistent with that proposed for short-term lodging that is less than 30 days. Currently, it states less than – more than 30 days. The

amendment is also to introduce new definitions, such as operator, in relation to short-term lodging – short-term lodging, itself, and transient occupancy, which is not included in the current definition. The proposed amendment has looked at different standards that will relate to the operator, that will relate to the operation of short-term lodging, and the dwelling or mobile home itself. Those that are related to the operator include the requirement that a person qualified as an operator be identified on a permit that would be issued by the Zoning Administrator, the operator to be at least 18 years of age, and then a permanent residency requirement, which – to qualify as a permanent resident, the operator would need to live in a dwelling or a mobile home for 185 days or more. An operator may only have one primary residence to qualify as the operator. Standards that relate to the operator also include the responsibility for compliance with all applicable state and local laws, as well as federal laws, ordinances and regulations that are in place. Operator is required to remit a transient occupancy tax and must also obtain a business, professional, and occupation – occupational license, if required or applicable. And the operator should not be the – if the operator is not the owner of the dwelling, a written consent from the legal owner or authorized agent would be required. Standards that relate to the dwelling or mobile home, itself, include that the – excuse me – the operator has to get a permit and register so that registry number or permit number would need to be advertised on any platform that the operator is advertising the – the dwelling or mobile home. In addition, a listing should include information about the availability of one...at least one off-site parking space availability during the rental period. The dwelling or mobile home would need to provide working smoke and carbon monoxide detectors, fire extinguisher, and should also post an emergency exit plan on units or areas that are used for a short-term rental. The new ordinance would not nullify or replace any existing private regulations applicable to the dwelling or mobile home. And there is also a limitation proposed on the occupancy, which would be six adults total – the lesser – the larger of six adults or two adults per bedroom is proposed. As mentioned earlier, those with a checkmark would be advertised with a broad range of options. Standards that relate to the operation include short...short-term lodging to be allowed in the primary residence as an accessory to the primary principle permitted use, which is residential use. There would be a limit on the number of rentals when the operator is present, from 30 days to 180 days per year. If the operator is not present, their – the proposal is there be a limit that – maybe a range from 14 days to 60 calendar days, per year. There is also a proposal to limit the number of contracts per night to one and a requirement that a log of overnight guests must – adult guests must be maintained and be made available to County staff upon request. Standards also include that the short-term rental cannot be permitted in accessory dwelling units or a – temporary family health care structures. There is a – a proposal to limit any type of commercial activity, including weddings, parties, or any other gathering that – regardless of whether compensation is paid or not. All listings and advertisings are also proposed to include a short-lodging permit, as previously mentioned. The ordinance also looks at creating a new short-term lodging permit application. The application would be reviewed and approved by the Zoning Administrator. There is a fee proposed of \$100, but that, again, could range from \$60 to \$150 and that is to make it consistent with the state law, which requires a reasonable application fee. The permit may be renewable annually or every two years and it will be revocable upon multiple violations. There is a range, again, proposed between two or three violations for year. The permit would not be transferrable. It would be applicable only to the original applicant – one permanent resident per unit. And it would have the same address. It cannot be transferred to another address. A permit would satisfy as the registry to be consistent with the *Code of Virginia* and a consent, again, would need to be

– basically, signing the application form would provide consent for access for inspections by County staff. The proposal also includes – to adjust the existing Category 5 Special Exception fee for a bed and breakfast, which is currently at \$16,375 at this time. In addition to creating the application fee for the short-term lodging, staff is looking at, maybe, reducing or adjusting the existing fee by half and reducing it to \$8,180 and that, again, would be advertised with a range. No changes to other Category 5 fees are proposed at this time. In looking at enforcement strategies, staff is working with other departments, including Department of Code Compliance, Department of Tax Administration, and the County Attorney’s office and looking at, maybe, a third party that would help with data mining and providing information to County staff on existing short-term rentals, on how they operate, how many nights they operate, and what the collected fee is by contacting companies like Host Compliance and other third-party data mining companies. Staff is proposing that any ordinance that would be passed would have a delayed effective date so that we will be able to send out a warning letter once the ordinance is passed and, basically, introduce the new ordinance and allow people to come in and register. This one letter would be sent once before – within that four to six months delayed effective date that is being proposed. Additional needs for registration and addressing the number of applications that we may receive may have to be addressed by a limited-term position. At this time, we are tentatively scheduled to go before the Development Process Committee of the Board of Supervisors on December 12th with feedback that we will get from this meeting and...and present the draft strawman to the Development Process Committee. We will participate in the monthly jurisdictional work group that we have been holding since last summer and we hope to return to the full Board of Supervisors for authorization in early 2018. With that, staff is available for any questions you may have.

Chairman Murphy: Mr. Hart?

Commissioner Hart: Thank you, Mr. Chairman. A couple things...no matter what, if we allow these, the homeowners association can have more severe rules. I’m assuming they can adopt their own rules or they...they have the ability to do that. We’re not precluding, in any way, an HOA from saying “no.”

Ms. Yegazu: That is correct.

Commissioner Hart: I wanted to ask about whether there is any standard for parking associated with this and I’m thinking for other types of uses. Sometimes – particularly townhouses, but sometimes the houses at the end of a court – there’s not quite enough parking anyway and there can be conflicts with neighbors if there’s something happening that has a lot of cars coming and going. Will they have to demonstrate that there’s a parking space on-site or parking to satisfy the vehicles of the guests or something like that?

Ms. Yegazu: The proposal, at this point, is to have the operator advertise the availability of an extra – off-street parking for – per contract. We haven’t...we’re not requiring that off-street parking be required before issuance of a permit, basically. We’re saying that they should address the parking issue and notify their guests before their arrival by advertising it on the platforms.

Commissioner Hart: Is there any other jurisdiction that you've looked at that's...that's doing this, where they have a parking component to it?

Ms. Yegazu: The one...the one jurisdiction that has something that addresses parking was Montgomery and that ordinance has not passed. They're still considering the ordinance and the requirement is that off-street parking be available, not required.

Commissioner Hart: Okay. In terms of the enforcement, I...I don't have an objection to the thing about no...no parties. And I think that one of the...one of the comments that we, maybe, had heard is we don't want the house being rented out for the bachelor party for the...you know, outside dance party, whatever. But when we have, sort of, evening party music enforcement issues, it's very difficult to match that up with zoning enforcement capabilities. If this is a Friday night or a Saturday night and someone calls over to the Herrity building...I mean, the phone rings, but I don't know that it's feasible to expect that somebody is going to call and say, "Please send out a zoning inspector. They're having a party." And then, by the time someone gets out there, the party has been over for...for a few days. How is that going to...how would we handle that?

Leslie Johnson, Director, ZAD, DPZ: Commissioner Hart – Leslie Johnson, Zoning Administrator. The state code, as well as our code, does not – it requires them to still comply with all of our other ordinances, including the noise ordinance. So that scenario that you raised would be treated like any other complaint that comes in, in the evenings, and would go to the police. And the police would come out and usually – typically, they give a warning. If they have to come out...

Commissioner Hart: The police could do this?

Ms. Johnson: Yes. Yes.

Commissioner Hart: Okay.

Ms. Johnson: For – if it's based on noise and then they also have the, you know, disturbance of the peace, so under their auspices, they have other tools, besides just the Noise Ordinance.

Commissioner Hart: What if the noise level is fine, but they're having a graduation party and 100 people have shown up and we said in the ordinance, no...no parties, but they're having a party. How do we enforce that?

Ms. Pesto: Well, and I will defer to...to Charlie, but I would imagine that, you know, if...if we – you're right, if that's happening right then and there and, you know, there's no noise and it's just, you know, a lot of cars or what have you and it's on the weekend, you know, we're not going to be able to send anybody out to address that. But we do know that folks can complain and they can send in a complaint and then at least we have the ability to track what happens and we can also go out. And I would imagine that we could send out an inspector to just...we got the complaint, here it is, you know, "can you say what happened?" And then, if it's a continual process, then we can take action on that.

Commissioner Hart: I want to continue with the process for...maybe Mr. Fitzhugh, if you had something to add on that, I...

Charles Fitzhugh, Code Specialist III, Department of Code Compliance: No, I would agree with what Leslie is saying, primarily for something that happens...kind of an impromptu event that really isn't allowed, per this code. I would say that it would be something that the police would inherently need to be dealing with. We can also go at a later time and discuss it with the property owner and see what we can do to make sure it doesn't happen in the future.

Commissioner Hart: If the host of the Airbnb, or whatever, is the tenant, not the owner of the property – they lease the property, but then, in the course of that lease, they're going to rent out rooms or the house or whatever – would we get the owner to sign off on the application? And so the violation is going to the...to the landlord, as well as the tenant?

Ms. Pesto: Most definitely, yes. The...the application form that we would propose – if you are a tenant, not the legal owner of the property, we would propose that the owner of that property has to sign off, acknowledging that you are allowed to operate this short-term lodging from a house that they own.

Commissioner Hart: We talked about revocation, but I didn't understand exactly from the text...at what point do you revoke or why. And if somebody says...if somebody says, you – I guess it's Ms. Johnson – sends the letter or something happens. Somebody gets a letter and says you had one of these, but we're revoking it because you did something wrong. Do you get an opportunity to have a hearing? Or do it...you appeal the revocation somehow? What's the procedure? Have we decided that? Is it just the Zoning Administrator writes a letter or is there an opportunity to challenge it in some what? What happens?

Ms. Pesto: Well, we haven't decided it yet, but it is something that we've looked at. And we've looked at it in other jurisdictions. I think Lily found some that if there were, you know, two or three cases of reported violations against a property, that jurisdiction can revoke your permit and you wouldn't be able to have it for the rest of that year or the following year. So we've seen other...we've seen other jurisdictions address it in a number of ways. We haven't gotten that nuanced in what we think we would do, but the revocation would be for a violation. If you have a violation, we don't know at what point – if...if you have one party when we revoke it, we can't answer that yet. We are still...

Commissioner Hart: It's at the discretionary with the Zoning Administrator to revoke or not and then that would...that letter, I guess, is appealable.

Ms. Pesto: Yes. I would...I would say that, probably, would be the case. And I would imagine, again, we haven't kind of put the final touches on it yet. I would note that, under the state code provisions, it does allow a local jurisdiction to, you know, revoke the registry or a permit or what – however we're going to tie these two together if there are more than, you know, three violations. So...I mean, the state law has given the ability to do that. I would think we do need to provide some revocation process.

Commissioner Hart: Yeah.

Ms. Pesto: I would imagine it would be similar to what we do with home occupations and it would be appealable.

Commissioner Hart: Okay.

Ms. Pesto: I would imagine.

Commissioner Hart: The fire code issues...logistically, what I wondered is – somebody wants one of these and they go to the counter and they fill out their form and everything is correct...is there going to be an inspection? Does somebody go look at the property and say, “Yes, you do have a fire extinguisher and the smoke detector has a battery,” or is it – it’s just on the honor system? How are we going to logistically do that? And I guess if there is an inspection, is that – do we factor that into the fee somehow? Or is there a staffing implication for that? It seems like there would a lot of people running around with – making trips for that.

Ms. Yegazu: The proposal, currently, is not to have an inspection prior to issuance of the permit of all these units. Basically, the application itself will have a consent – I’m sorry, excuse me – will have a consent form or a – signing the application provides consent for staff to access the unit and they are signing off that they have these fire and health – fire safety requirements met. But if there is any violation and County staff does an inspection and finds out – they will be looking at these fire and carbon monoxide detectors and exit plan availability at that time. But they – the intent is...

Commissioner Hart: Do any of the other jurisdictions have an inspection up front? Like a fire code inspection?

Ms. Yegazu: Not a lot of – we haven’t seen a lot of jurisdictions that have up-front inspections. I believe I only found one that requires a third party to do the inspection and the host or applicant would submit an affidavit stating that they meet these requirements.

Ms. Pesto: And if I...oh sorry.

Commissioner Hart: One...I’m sorry. Just...

Ms. Pesto: I was just going to say, if I can add onto that, under – on page 2, paragraph 2C, we are still working with our code folks. We are working on putting together a meeting to try to get the right language in this...in this proposal that would put the onus on the operator to ensure that the rooms that they’re offering for sleeping are indeed rooms that are allowable as sleeping rooms. And, for example, one of the things that we’ve discussed is what happens when you take a basement? Well, the regulations for having a sleeping or a bedroom in your basement today require that stair thing.

Commissioner Hart: Yeah.

Ms. Pesto: You know, we used to have those little windows at the top that nobody could ever get out of and now, though, the code has change and now the regulations for how that, you know, sort of escape has to be constructed. So we are working towards something that we can put in as a placeholder for that provision. We are definitely looking at that – that the operator, when they've signed their permit and signed up for this, they know that that's the expectation and they've indicated that they do meet those standards. But there was not a plan for us to inspect these individually up front.

Commissioner Hart: I – the concern I have and – with the experience we've had with the home child cares, which is an analogous use in some ways, we do get an inspection. And some huge percentage of the homes have multiple issues and the very thing that you've mentioned about for sleeping in the basement – I don't know if it's half of the home child cares or more where they come in, they have rooms in the basement that are designated as their napping area – their sleeping area – where the fire exit doesn't meet the code requirement and then they have to flip the function of the rooms and put the cribs out where the sliding glass door is and then have the – what looks like the bedroom – be the storage room or something. I think a lot of people that would be renting out rooms would have rooms that are the same character as the rooms that are not working for the daycare to pass the fire inspection. That is, they have a basement bedroom and they would like to rent it out and make some money with it, but the basement bedroom – the fire exit window is going to be, you know, too small or too high or something. And there – many of these people are not doing it maliciously. They just have no idea. Or there are other issues that they're storing cardboard boxes on top of the furnace or that the – the exit is blocked or whatever the...the issue is. And if we're approving a registry of these that maybe there is some expectation in the public that somebody at some point has checked to make sure there's a working smoke detector and a fire exit that meets code and that everything – people – a 20-year-old house that somebody's nephew or son-in-law redid some wiring and didn't get a permit kind of stuff – and all those things come out and we get those, at least with the daycares, and they fix them. And a lot of times the house has been sold. The people had no idea. And they want the children to be safe. I hope that there's not a false sense of security by us approving a registry for these and say, "Well yes, you can sleep overnight here and the County has put you on the list." And then it – we don't know if there – if it's really a fire trap or not. And if there is something bad that happens, is there some concern that the County has approved this for the rentals, but nobody has ever really looked at the fire code? That's a mouthful, but...

Ms. Johnson: Commissioner Hart...

Commissioner Hart: Yeah.

Ms. Johnson: And I appreciate the concerns. I mean, you know, we've had a lot of conversations about the same thing. We've talked with the Fire Marshal's office and, quite frankly, it's a real big resource issue. And so...and what we've seen with other jurisdictions – Arlington, who – you know, the Board has kind of said, you know, "Look at what they're doing," they don't require inspections. I do – we have talked about, as part of our, like, outreach to have information – like on a website that would not just be for the people who are hosting the short-term rental, but people who are, you know, using that website and...and want to do it that we

could say, "You know, you should check." These are...you know, these are things that, you know, we require that they provide a statement, but we're not – you know, we're not subjecting these to any inspections. You know, the state code is kind of – this whole thing is kind of designed to be somewhat ministerial and...and so, you know, we would do something similar to what we're doing with the home occupations where there is a set of use limitations that, you know, no customers or clients – you know, you can't have an outside sign – you know, there's a host of them and when they come in and apply for that permit, they are acknowledging that they – they've read and understood those conditions and, therefore, will abide by them. I...I think, you know, at this point, that may be the best that we can do. And I do know that if there is a complaint that is filed, I mean, we will have the ability – and staff – County will have the ability to go in and inspect...and if there are issues or problems at that point. But it's going to be complaint-based.

Commissioner Hart: Is there any cross-checking at the counter contemplated? If somebody comes in and says I want one of this and I've got my form and my check. Please give me the thing. And they run it through the computer and they've already got, you know, a home daycare and a special permit for 12 dogs and, you know, a dentists' office and – whatever else is going on. Well, you – I mean, you can get all kinds of things in the house and...and is there some – I mean, do you – at some point, is it too much? You don't – you're not eligible for it. You got a zoning violation pending and – or a code compliance violations pending. Is...is everybody eligible or are there are some people that – it gets red flagged and that it's not just "pay your fee and gets your thing."

Ms. Johnson: You know, I...we've talked a little about that too and...you know, I think there is a...a diversity of opinions on that. And, you know, I think – we're hoping that, maybe, this is something that people could do online. We're trying to make it as smooth and easy on both sides as possible with the protections, you know, to protect the neighborhoods and, you know, protect the integrity of the neighborhoods in what we want to accomplish so...

Commissioner Hart: You would not even come to the counter. You would just click and...

Ms. Johnson: It's – I mean, that's kind of, ultimately, where we're headed with this new PLUS system. We're...we're going to be heading towards more online permits across the board – not just on this, but with all types of permits. So I...I do think that's kind of the future. I understand what you're saying and I...I am concerned about the, you know, the resources. This isn't like home child care where we know we have a – you know, we had the big push those first couple of years, but – you know, it's – we have, you know what, 400 – 500 state-licensed child care? I mean we could be talking two – three thousand of these so it is, you know, a resource issue that we have to look at. And, you know – and if...if that's something that, you know, the Planning Commission, you know, wants to recommend – I mean we can...we can put it out there for a further discussion, you know, by the Board. But, you know, we...we didn't hear a lot of that at the Board's Development Process Committee, but they didn't have the benefit of our...of our strawman.

Commissioner Hart: They may not see what – what comes in every day on Wednesdays and, you know, what some – what we're dealing with. But there are some homes where they're so – I

mean, they're so busy already. They are so many cars and people coming and going that we might not want one more thing with – you know, it's not a motel exactly, but at some point, there's too much going on in the house. It might be okay if this was the only thing.

Ms. Johnson: Right, and I don't know how you legislate that to say, "Well, if you have a home child care, you can't do it. But, you know, it...I think that might get problematic as to why are we, you know, singling that out. But I...I mean I do understand where you're coming from. We can look into it.

Commissioner Hart: Well, is it parking? Or it would affect the development conditions in the other and maybe we wouldn't approve the daycare if we had – if we knew about all the other – but okay.

Ms. Johnson: And maybe that's where the – maybe that's where the development conditions should come in as – when you approve the daycare that say you can't...

Commissioner Hart: Yeah, maybe that's something to think about. All right, I'll stop there and let...let somebody else have a go.

Chairman Murphy: Ms. Hurley?

Commissioner Hurley: Thank you, Mr. Chairman. Okay, I'm from the Midwest originally. I am driving here from the Midwest and you know, it's a big scary city downtown, but I want to go see the Smithsonian and all that so I'm going to find a short-term lodging somewhere near Metro. I need to drop my care off somewhere. Okay, you tell me that there's no parking on premises. Okay, that means I'm going to park on the street. I am going to compete with everybody else on the neighborhood already parking on the street. That would make a big burden on my neighbors. Is – can we put something in there that the owner – the...the – whoever is running this, excuse me, has to say that there is no parking available, period, or there is parking on-site or there is parking available over there, wherever it is.

Ms. Pesto: I think under 2A on page 2, right now, it says that the advertisements have to state whether a designated off-street parking space is available to the lodger. We can expand that to include – we're going to have to talk about this – I'm going to say we can expand it, but we'll definitely have to talk about this to make sure we can. But we might be able to expand that to say that you need to say where parking might be available if it's not available on-site – that there is public street parking – that there is a public parking garage available – there is a...whatever the story is, we may be able to expand that to say – have them specify what is the provision for parking.

Commissioner Hurley: And that really will depend. Commissioner Hart talked about the...the cul-de-sacs. There is already no parking there on the evening because so many of the people in the cul-de-sac have teenagers and cars. Okay, so you tell me out there in Iowa there is no parking on-site, but – okay, I can expect to park on the street unless you tell me, "No, you can't park on the street anyway because you're going to bother my neighbors." I'm just looking to protect the neighbors a little bit more and just not having everybody just take all the closest parking spaces.

Second, on the inspections – okay, I’m coming in from wherever and I see a permit on the wall that the County has said this place has a permit. I expect that to mean the County has given some minimal safety inspections. If I see a permit in an elevator, I assume that it has been inspected. If I see – I understand it will take manpower. Maybe if we make the permits two years, instead of one year and, at the beginning, have a permit, maybe, only inspected every four years or something. But expecting people to go online and read it and understand it, well – you know, of course, everybody in this room reads and understands every software update, right? Because you say, “I accept it.” You know, that doesn’t mean anything that – I read and understand it – doesn’t mean anything. We need a little bit – if we’re going to protect the public, we need a little bit of inspection somewhere along the way in my opinion. And you mentioned only one contract per night. I was just thinking my three sisters, who just had a nice trip to Ireland, everybody all together, but they don’t all come at the same time and, you know, make your separate hotel reservations. So we’re all going to stay at this B&B – my one sister might stay for two nights, another sister might stay for four nights – we would have separate contracts. So I’m not understanding why you’re proposing only one contract per night, per site.

Ms. Pesto: I...I don’t know that you would have separate contracts in a case like that. If somebody had a couple of bedrooms – three sisters, three bedrooms – if somebody had that to rent, you would rent the house for however many nights you needed the house. They aren’t rented by the bed – it wouldn’t be rented by the bedroom, per se.

Commissioner Hurley: I don’t want to rent three bedrooms when my sisters are only going to be here one night. I mean that...that...

Ms. Pesto: The...the...

Commissioner Hurley: I want two separate contracts.

Ms. Pesto: This would not allow that. This would not allow separate contracts...

Commissioner Hurley: That’s what I’m disagreeing...

Ms. Pesto: ...for separate payees, if you will – customers.

Commissioner Hurley: And I am not understanding why we – we can go back later, but I’m not understanding why you cannot have more than one contract per night.

Ms. Pesto: Well, if you have five bedrooms, then you have five different groups coming.

Commissioner Hurley: My thoughts – okay.

Ms. Johnson: Commissioner Hurley, we are – I mean, we’re willing to look at a range of advertisements. So I mean – we’re just kind of – that was our recommendation, but we could advertise one, two, up to three, and then...you know, flesh that out a little bit.

Commissioner Hurley: Up to three makes sense.

Ms. Johnson: Yeah.

Commissioner Hurley: Thank you.

Chairman Murphy: Okay, we have three over here – Mr. Niedzielski-Eichner, Ms. Strandlie, Mr. Sargeant....left to right.

Commissioner Niedzielski-Eichner: Thank you, Mr. Chairman. I thank staff for – this is a complex topic. It has a lot of pieces to it. The – going back to the question of enforcement – is there something in between having a – for every permit and if a review by an inspector to ensure that there's compliance – is there something in between where there is the website information – the permittee has to approve – has to sign that the operator – this would be the operator – a permittee has to sign an indication that they are in compliance with our requirements. Is it possible for us to – in a – an inspector – an inspector standpoint to put people on notice that they can be inspected at any point so that there is – you know, it's not every permit, but they are on notice that there is an inspection possible. And then build into our fee structure the cost for that additional person or two persons who would, you know, do that – either in that, it could be announced a day ahead of time. Because if they're out of compliance, we're not going to be able to get it fixed then – but something that something that puts people on notice that they are subject to inspection.

Ms. Pesto: The...the provisions, as they're written right now – well, actually, it'll be on the application form – but the idea is that any time you seek a permit approval from the County, we include on the application form that you grant the County the right of access to the property for the purpose of an inspection. Now that's typically once we've gotten a complaint because something is not happening the way it's supposed to. It doesn't – it hasn't been translated to be that we can go in and do some routine compliance inspections, like we've come to check your electrical or whatever. That's not typically the way that that works. It's typically more in response to a report that something is not going as it's supposed to. So I don't know that we can do that other option where we can just decide we're going to do an electrical inspection or we're going to do a basement inspection. I don't know that that's possible for us, but it's certainly something we'll...we'll take note of.

Commissioner Niedzielski-Eichner: Well, I'd like to...I'd like to know whether it's possible by – you know, can some kind of legal constraint or just a possible for cause purposes. But to me...

Ms. Pesto: Yeah, we'll look at that.

Commissioner Niedzielski-Eichner: Speaking to Ms. Hurley's observation about, you know, kind of a pro forma default sign-off on anything that says, "Yes, we agree," or, "Yes, we're in compliance," that that would be one incentive offer to the...to the operator to make sure that the operator is in compliance. So that if there was the potential for an inspection and there are consequences associated with the failed inspection – that that would keep people pretty honest toward what our needs are, which is safety and protection of the people they're renting too. That's a thought. And I just had a question – you know, two more questions – one is this idea of

two adults per bedroom or six maximum, is that the way it would be? So six people, maximum, or two adults per bedroom?

Ms. Pesto: Right.

Commissioner Niedzielski-Eichner: Okay, so how do we enforce that?

Ms. Pesto: Therein lies the rub. So that...that is – has been our greatest struggle. We do not want to create a number of regulations that are unenforceable. I mean we're not peeping in windows to find out how many people are in these dwellings in an overnight rental situation.

Commissioner Niedzielski-Eichner: But the...but I'm...so why do we have a two-bedroom requirement? Why not just simply put a limit on the number of people?

Ms. Pesto: The total to number of people? We actually got the two adults per bedroom from many of the other regulations that we looked at with the six cap meaning that's sort of the largest parting group you can have there or a family group or whatever your group was. That's something we will definitely look at. That's one of the provisions we're going to advertise with flexibility – whether or not that provision should even be in there and whether or not there should be numbers inserted in there. We could go either way, yeah.

Commissioner Niedzielski-Eichner: I understand the – the constraints we have on enforcement. Or...I understand why we have regulations. I know the regulations – we need to have some ability to demonstrate compliance with regulations, but I'm concerned about a regulation that – really, there's no way – even if we had a staff to do it, there's no way we could enforce that. So I just...that's my thought on that. But why are – another question is why are we reducing the B&B fee by half? Why are we proposing that?

Ms. Yegazu: We...we looked at existing bed and breakfast in the County and there aren't any at this time, currently. There was one that was approved back in the early 2000s, I believe, and we don't think it's in operation. And we feel like there maybe should be a...another permit for, maybe, operators that may not be able to meet this new standard, but can operate as a bed and breakfast. And we feel that the existing current fee may be a deterrent in applying for these applications, so we thought maybe that might encourage people that want to open up a bed and breakfast, but have not because of the fee to apply for it. And maybe those types of operations clearly would not be consistent with that proposed standards for a short-term lodging.

Commissioner Niedzielski-Eichner: And...and so we're...we value B&Bs. We want more of them?

Ms. Pesto: Well, it's also an equity thing. The \$16,375 is the highest special exception fee we have. A bed and breakfast, by definition, can only have five rooms. So for \$16,375 you can have a five-room, you know, hotel if you will. Or, if you're in a district that permits a hotel, you can have a 400-room hotel for the same price. So there's there. There's the inequity that we looked at. We also looked at other things that we have along those lines – special permits, special exceptions that people can conduct, basically, out of the place that they live – like riding

boarding stables, we recently lowered that fee to \$8,180 from the \$16,035, so we're trying more to bring it in line. We do think it's a deterrent – the \$16,000 is probably a deterrent. I mean Fairfax County has some great properties and there's probably some that would make really good bed and breakfasts, but we don't have any. So that's probably a deterrent for an application that you're not sure not sure you're going to get approved. Because that's only our fee. There's some additional materials fees that probably add up to \$5,000 to \$10,000. So it's expensive to do with an uncertainty of – you know, 50/50. So we did think that that might be something we wanted to look at and, at least, suggest to have that lowered to something along the lines of where that riding and boarding stable came in – another commercial use, but operated from, you know, a place where people live oftentimes. And we also looked at it in the context of what a hotel fee was and it was – it's the same thing for as many rooms as you can ask for. So we looked at it from that perspective too.

Commissioner Niedzielski-Eichner: From a personal perspective, I think B&Bs are great and – if we have one in the County, there's a...there is the – fit the criteria, that's great. The core of my question, really, is to cost recovery. Fees, as I understand, are for – within our County structure – fees are – a key purpose is to fund the staff necessary to conduct a program. And I would...I – if we're going to go down this road of short-term leasing, and so on, I'm supportive of that. But I do want to make sure that we're not too constrained on staffing that program. I mean I am anticipating that this will be a disruptive – it's already been disruptive in the sense that it's changing the traditional way in which people board and feed themselves when they're visiting. We ought to have a capability – if we're going to have standards, expectations, regulations – we ought to have the ability to make sure that – without, you know, the day-to-day, you-go-look-in-the-window kind of stuff that we are – there's an enforcement mechanism and the fee ought to be able to – the cost – the fee should be at the level that allows us to staff to meet that need. And so a B&B – we only have one – well, you know – but if we have 100 B&Bs and they are probably a more rigorous standard for enforcement. We ought to have the staffing to...to do that the fee – it should reflect that. And I believe the fee should reflect the cost for managing a short-term program. Thank you.

Chairman Murphy: Ms. Strandlie, Mr. Sargeant, Mr. Migliaccio, Mr. Ulfelder.

Commissioner Strandlie: Thank you. I have a number of questions. I'll start with the exemption of HOAs – that the statute makes it clear that the ordinance would not supersede HOA or condo association regulations. Did you do a survey of HOA and condo language to see how this ordinance might impact HOAs and condo associations?

Ms. Pesto: No, we did not. We – oh, sorry – oh yeah, we didn't – we did not look at condo association language anywhere. The provisions that we have would not have any impact at all on that, whether they have something that says nothing less than 30 days or nothing less than 6 months or they don't say anything at all. It would not have an impact. These provisions will not have an impact on those so we did not look at association language.

Commissioner Strandlie: I disagree. I think it is imperative that we do a survey to find out what our communities' existing HOA language and condo language says. It will be next to impossible for condo associations and HOAs to amend documents if theirs do not already prohibit Airbnbs –

if that's what the community wants. It will be extremely expensive, divisive, and it will take quite a bit of time. So, I've just asked some people informally about this. I can tell you my association – the language says, "Units shall not be subject to short-term rentals for less than 30 days." So what is the definition of a unit? Is it a whole unit or part thereof? I would interpret that as the unit or part thereof because the intent would've been we don't want to turn this community into a boarding house. Other association documents that I've heard about actually do specifically mention – are drafted to prohibit Airbnbs and those were also drafted in the mid-80s when mine were. Someone else sent me their documents today and there's absolutely no mention of short-term rentals at all. So this ordinance is going to have a huge impact on communities that – you think they're not going to be impacted because the ordinance is not going to supersede it, but – for example, I will – I'll give you an example in my community. We have several illegal Airbnbs in my community, one right next to my house. They are renting out three rooms, a basement and two bedrooms. So on this street, there are some of the units – it's a townhouse – that street is townhouses. Some of the townhouses have garages and driveways. Some of them don't. So when that person rents out their Airbnb, they may give their reserved parking space to one of the three tenant guests. So when they give their reserve spot to one of them, they now are taking up the very scarce parking that the rest of the community needs and is paying for. That is a huge problem. So when you refer to off-street parking – when they take them off the main street and put them on our privately-owned street – that is taking community resources that someone else is paying. So then we have a parking problem. So I would agree with Commissioner Hurley that there needs to be some language regardless that says there is no parking here and you need to arrive by cab, by flying car, by Uber, however you want to do that. So that's a significant problem. We also have people advertising their units to take advantage of community resources and running a business off of the rest of the community and that is a significant problem. So if a community does not have documents that will prohibit this use, it is extremely time – it will take a long time and it will be expensive for them to amend it. Because one...one unit in an association should not be running a business at the expense of the rest of the community and I don't think that has been contemplated. So I would really like to have a survey of what HOA documents say to see if we need to come up with some definitions that might incorporate what might cover a lot of these circumstances that HOAs might have. My other concern is enforcement. So my computer was going off on a video and I circulated to my colleagues an article today about Paul Manafort, who apparently was laundering money through real estate in New York and running illegal Airbnbs. So my question is this: everyone knows that Airbnbs are illegal in New York City, yet he was able to do it. What is Airbnb doing to enforce – to recognize this. So when I did my research, Airbnb says online you have to comply with local ordinances, you have to comply with the HOA, and you're actually supposed to tell your neighbors about it. I don't think Paul Manafort did any of that. So I don't understand how this enforcement is going to work when he was able to run an illegal Airbnb in New York City when Airbnb should not have been taking the listing in the first place. Do you have any thoughts on that? Is there a possibility to have a memorandum of understanding with Airbnb? You have your list of – here's the list of operators who are licensed in Fairfax County. These are the ones who can be on your site. If these people are not on – if people are not on the list, they should not be on your site.

Ms. Pesto: We are proposing that any online platform, or whatever other platform you would use to advertise the availability of your...your unit or your house would have to include the permit

number on it. So somebody would know, in fact, that there was a permit issued for that jurisdiction – not that a renter would care what the number was, but that would be a specification that it be on the advertisements for the unit.

Commissioner Strandlie: No one in Nebraska is going to say, “Hey, Fairfax County requires a number to be posted.” So what is the responsibility of Airbnb and how can we work with these platforms to say, “Here’s the ones in Fairfax County who are licensed. Anyone else not on this list, you should not have on your website.”

Ms. Pesto: We do have a meeting with one of the platforms next week and we will definitely bring up that question to – that with them, “what would they be able to do – willing to do?”

Commissioner Strandlie: Because otherwise, there’s no teeth to this because – you know, look at it right now. Fairfax County, on the website, says Airbnbs are not allowed, yet we have – I don’t know, a lot of them operating right now. And Fairfax County does not have the resources to shut them down. Airbnb has a responsibility to actually do some double-checking. And someone said to me, “Well, that’s a lot of work.” Well, that’s what law firms are for and that’s what legal departments are for. It’s very easy to track jurisdictions on what the law is. That’s...companies do that all the time, so there’s no reason why a digital company can’t do that too. The other question that I had – let’s see, I am very concerned about the inspections. Having had a lot of experience with daycare inspection when my kids were in daycare, I definitely agree that there should be unannounced inspections to ensure that the facilities are actually safe and not in violation. So – and I’ll have some other questions, I’ll pass right now.

Chairman Murphy: Mr. Sargeant. Mr. Migliaccio.

Commissioner Strandlie: Oh wait, can I ask one more? I’m sorry.

Chairman Murphy: Go ahead.

Commissioner Strandlie: I’m sorry. Mobile homes – can you explain why mobile homes are on this list for Airbnbs – for short-term rentals, I’m sorry. It’s like Kleenex and tissue, right?

Ms. Pesto: That’s right – actually yes, that’s is a good explanation. They...they are a place where people live. And unless we have a defensible reason to say that somebody is allowed to live in a mobile home, but not allowed to have short-term rentals – and somebody is allowed to live at the townhouse, but they are allowed to have short-term rentals – there needs to be a distinction that is justifiable. We don’t have to allow these in every kind of dwelling, but we need a reason by we don’t. And we did not find the reason why we don’t. If somebody can live there full-time, you know, having an overnight guest – seems reasonable in any type of dwelling and that was the thinking.

Chairman Murphy: Mr. Sargeant.

Commissioner Sargeant: Thank you, Mr. Chairman. For my first 20 questions, to a little bit about HOAs first, if I could, we – I think you’ve referenced during the presentation that the HOAs can

adopt their own rules for addressing issues related to these units. But what enforcement or punishment or means of correcting situations would they have with short-term rentals, beyond the traditional – you don't get your pool pass or we're going to file a lien on your property? What other enforcement tools would they have?

Ms. Pesto: That...that's what they have. Whatever is built into their association and these – you've probably heard this before, I've used the example of the fence. You know, I mean the County lets you have a fence. You can have a fence on your residential property. We just tell you it can't be electric or barb wire. But your homeowners association might have a whole lot more to say about fences – what kind of fence and where it can go and what not. And they're allowed to do that. So while we may let you have that fence, if you build the wrong kind of fence for your homeowners association, they can be – come after you, in accordance with the – you know, the – whatever is laid out in the association documents for pursuing that to gain compliance – whether it's denial of the use of the common facilities, whether it's take you to court, whether it's put a lean on your property – anything that's available to them.

Commissioner Sargeant: I...I have one concern to express is the number of smaller HOAs that we have approved over many years now, which will not, probably, have the legal resources or funds to pursue such action, if necessary – just a thought. Another question related to HOAs – short-term rentals, if it's being used, specifically, to generate income, is that not a business? And that's another thing that many HOAs have rules about, in terms of not providing your home use as a business.

Ms. Pesto: I think there's probably starting to be some case law about that across the country from some of the things that we've seen where that...that has come up. But we are still looking at that.

Commissioner Sargeant: Okay.

Ms. Pesto: It...it might be an avenue worth pursuing for some of them, if the language is appropriate so...

Commissioner Sargeant: When...when we talk about enforcement now, which County department, specifically, will be responsible for investigating violations? And what authority will they have with that?

Ms. Pesto: Code Compliance – it would be Code Compliance and it would be in the enforcement of the Zoning Ordinance, as with all the other provisions of the Zoning Ordinance that would be under that authority.

Commissioner Sargeant: Looking at some of the other samples – going onto my next questions – of some of the other municipalities that have these...these short-term rentals – and in inspections that are granted – usually, it talks about – you know, you have to notify them first and do it at a reasonable time or, you know, make – before you gain access. How would we...how would we identify which County officials are allowed to use that access to enter a home? I mean, would it

be strictly Code Enforcement or somebody else related to inspections or things like that – be amended to – for that process?

Ms. Pesto: From...from a zoning perspective, anybody who is charged with the enforcement of the Zoning Ordinance, under the auspices of the Zoning Administrator, would be able to go in there and do an inspection. We do have some inspections that are done by done by our Zoning Inspections Branch, which is a branch of the Zoning Administration Division, separate from DCC, the Department of Code Compliance. So there...there are other agents of the Zoning Administrator that would be able to go and then do an inspection.

Commissioner Sargeant: So they may get a letter from one unit, but it could – you know, another part – part of this is protocol, too. If they get a letter from one unit responsible, overall, for the – for code enforcement, but somebody from a different – department comes to their home, they would still be required to grant access, correct?

Ms. Johnson: Commissioner Sargeant, I...I would think that – and Charlie, step in if...if I'm not speaking correctly – I would think if...if...if it's a complaint-based, it goes to DCC. DCC can then reach out to the – and they have on-staff people who are property maintenance certified – you know, building certified – Fire Marshal certification – so they can then determine what the appropriate staff will go out to make that inspection and then they can make the proper complaint. I mean they do – it starts with a zoning violation and then they go out and find unpermitted work. And so they may issue a separate notice of violation, not under the Zoning Ordinance, but under the building code for unpermitted work and that – they have the ability to do that. They're the enforcement arm for those – for...for that – for unpermitted work under the building code.

Commissioner Sargeant: Suggestion for enforcements, actions and inspections, is to make sure the language is written as...as broadly as possible so that, when you have people from different units of the County government, that inspection access will apply to any and all who need it. Just a thought, there. This is another protocol question and how it works. And I'm thinking after-hours. If the police respond to a noise complaint, some other kind of disturbance or...or a basic – a violation of the short-rental requirements – and they file a complaint, police take care of this as official report – how is that...how is that or how would that be conveyed to the appropriate code enforcement personnel? Do you have that already in place? Is that not a problem?

Mr. Fitzhugh: Yes. Yes, sir. We have that already in place. And, quite often, we work very closely with the local sheriff's department and police departments and we utilize their police reports for our various needs to follow up with the clean-up of some type of a violation.

Commissioner Sargeant: Is there a delay of any kind? You get them pretty quickly?

Mr. Fitzhugh: We get them fairly quickly, just as soon as the police are out there and dealing with the issue, it comes to the Department of Code Compliance for – also, for resolution, at that time, yes.

Commissioner Sargeant: Okay, I have two more.

Ms. Johnson: I would...I would also note that they – that DCC has on-staff a police liaison officer...

Commissioner Sargeant: Okay.

Ms. Johnson: ...who is – who serves DCC from the Police Department.

Commissioner Sargeant: Okay. Two more questions and then I'm done. In a disturbance or a violation, if it occurs during the property owner's 14 to 60-day allowed absence, can the owner claim that he or she is not liable for the violation because they weren't there?

Ms. Pesto: No, I mean I – I guess it depends on what the violation is. I mean noise is usually to the person who is conducting the noise and they might get a ticket or something if it's in the middle of the night because they've had a noise violation. But the violation, from our perspective, would be of the requirements for a short-term rental and they are, indeed, the operator of that business. So we – there could be a violation that would go back to the owner of the property, even if somebody else got a ticket for some bad behavior. But that could also go back to the owner of the property – the operator of the use.

Commissioner Sargeant: Sixty days is a long time for absence from the property with somebody occupying your home that you really don't know. It would be good to tighten up those requirements that, even if you're absent, you're liable. The – and one clarification on the violations you mentioned on more – on more than three occasions – is that in one calendar year? Over what time period is the three violations?

Ms. Johnson: Well I...

Ms. Pesto: It's actually language – actually, from the code and it doesn't say in any specific period of time.

Commissioner Sargeant: That...that should be clarified. I think it's a – it needs a timeframe so it's, you know, you have four years to get three violations – that doesn't work. It should be, at the very minimum, a calendar year. Is there any – speaking of the short-term rental owner – is there any potential for liability if a guest in this place becomes ill or is injured through no direct fault of the...of the property owner? Can they be sued? Can an insurance company file a claim against them because they didn't take care of their – their guest?

Ms. Johnson: I would imagine they could, but that's beyond the scope of what we're trying to do here with our zoning perspective.

Commissioner Sargeant: Just, once again, associated with...with such a proposal, I think some clarifications and protocols and laws and regulations are absolutely essential, not only for the next-door neighbors, not only for how people can enter their home, but also the liability that...that comes – potential liability that comes with such an occupation and a business use. Thank you.

Chairman Murphy: Mr. Migliaccio.

Commissioner Migliaccio: Thank you, Mr. Chairman. Most of my questions have been asked, but I just want to get to the part that I think is most important for the community and that's the revocation process and the enforcement that we have because – with what we have with group housing and other issues – and overcrowding in parts of the County – the enforcement is what we are struggling with and continuing down that path with this I don't think would work. And I would like to see a more draconian tactic that we take for when you have a violation. I would like to see what a list of violations are. Noise is one thing, but most of the noise violations will occur in the evening when there's no one there to go look at it, except for the local sheriff's office. Mr. Sargeant picked up on the point with the...the – we have, in here, more than three occasions of violations – I mean, we need to firm that up, I guess, to find out what the violations are, what can consist – do they have to go out there three separate times? Because once we have a problem house and we can't get rid of it, that becomes a cancer on the community and we need to do something about it. And if we have to wait for three large parties – I mean, the Supervisor and all elected are going to hear about this every day until we get something done. Just going through the whole list over here – everybody talked about the parking and everything else. I guess I'm fine with what we're doing with the Airbnb overall. I think the owner not being there – the 14 to 60 days is too long. I think it's too much. If you're doing a home swap, maybe – like 10 to 14 or 15 days or 20 days – but when you get to 60 days, in addition to what you're doing with the on-site – I think that's too much. And I know we have some speakers here tonight and Mr. Ulfelder – Ulfelder would like to speak. And I hope there's something left that we haven't touched on. All right. Thank you, Mr. Chairman.

Chairman Murphy: Mr. Ulfelder.

Commissioner Ulfelder: Thank you, Mr. Chairman. I would note that in the survey, in response to the question about awareness of short-term rentals, fully 80 percent of the people surveyed either didn't know or said no. In other words, I think that there are – a lot of these are flying under the radar. In other words, they're not holding wild parties. They're not bringing in 50 people a night and so on. So I – but there are outliers, no question, and we have to deal with that. But I – technically, they're illegal right now. Obviously, we're forbearanced while we address the issue, as part of the Zoning Ordinance, and that's appropriate. In connection with the permits and the registry, I assume they're public documents. If I called up and said I want to find out if my neighbor has registered his or her home as – for short-term lodging, will they give me an answer over the phone?

Ms. Pesto: Absolutely.

Commissioner Ulfelder: Okay. So...so that it's easy for somebody to find out. And if somebody thinks that somebody is engaging in this practice and then they find out that there is – there isn't – they aren't listed, I assume, then, it would be treated as a complaint.

Ms. Pesto: Absolutely.

Commissioner Ulfelder: Okay. So if – somebody would be prepared to go out and check and find out. One of the unfortunate things is that, you know, people see people coming and going, whether they're relatives, friends, or just people from out of town that they know who are coming to visit. They're not – they're not paying as short-term lodgers. They're just coming, but they get suspicious and they think, "Oh my God, this, you know, the door is opening and we're going to have all sorts of people draping in and out of the neighborhood constantly." And that's a hard one to pursue – I mean, to...to follow up on. I guess you can go talk to the people and try to find out what's going on. On the issue of when the operator is not present, the – I...say I choose to go off somewhere where I am out of touch with the rest of the world. And I have made arrangements for short-term lodging – need a one or a series of short-term lodgers, I hope – not to exceed 30 days each while I'm on my 60-day trek through Patagonia – and I think it's important to have someone who has been designated as a person that they can contact if the water heater breaks and there's a leak in the basement – or if the HVAC dies, whatever – or a tree falls on the house. I think that when somebody is not there and is away, there ought to be – and I don't know whether they'd do that in connection with the permit of how they would do that, but they need to provide the name and contact information for a designated person and that's supposed to be given to the lodgers as well, I think. I think that's important. Are you going to request that they include the number of bedrooms in the lodging, as part of the permit?

Ms. Pesto: We've had some preliminary discussions about what we might want in terms of application materials. We haven't settled on anything. A lot of it depends on how the regulations come out if...if we're not concerned about having two people per bedroom and we – maybe we don't need to know how many bedrooms you have. If we're – I mean, there may be things that come out of the provisions once we finally boil it down to what might get adopted – that we'll definitely inform what our permit needs to look like so we are still looking at...at that.

Commissioner Ulfelder: Well, one area where it might make a difference is areas where this is not public sewer or if there were a home that's on septic. And the septic system is sized based on the number of bedrooms. And I know a number of people who – I don't know a number of people – I know there are people who have added bedrooms to their homes that exceed the number that would be permitted by the Health Department, based on the size and operation of their particular private septic system. So I...I mean that's...that's an issue. I mean, Fairfax County has over – and then we have private wells, as well, so – but the septic system, I think, and the number of people who would be in the house and the number of bedrooms may be an important factor to look at in some of those cases. So that's information you may want to ask about in connection with a permit application. The other question I had – oh, the other one is, in a development which include – the parking issue came up. While we have areas where we have private streets, which clearly are owned by that homeowners group and maintained by them, but then we have public streets. I think it's harder to say we're – how deep – how far you – how deep you dig down on a question of public streets. But in cases where the local streets are private streets, I think – I think there's – some good questions have been asked about that. So that's a distinction that I think has a difference, in connection with people choosing the short-term lodging. And the one other things is, we have some parts of this that talk about, you know, the length of the permit for – and then per calendar year. So if I get my permit on June 1st for a one-year – two years – I just want to make sure we're all calculating the right way the number of days that I don't have to be present because that's per calendar year. And I just want to make

sure that the timing of the permit is consistent with the other language in here that talks about per-calendar year. And it may be that if something – if I apply on June 1, I get a permit for seven months and maybe you – the fee is – you know, revised appropriately for that year or if – whatever. But I think there’s some trickiness there between those two terms that you need to work out a little bit. That’s it. Thank you.

Chairman Murphy: Okay, thank you. That does our first round and we have about 10 minutes left before we ask for public comment. Are there any lightning round questions that are more pitch and less wind-up? Ms. Hurley.

Commissioner Hurley: Okay, quick – hopefully quick – Commissioner Strandlie talked about how difficult it is to change the HOA regulations. I don’t belong to an HOA, so I don’t know why or how it would be that difficult. Perhaps there could be some standard language that the County could put out to – rather than doing a long survey of all the HOAs in the whole County, just say this is what, you know, this is acceptable language. A unit means – just like we do in here – you know, a dwelling unit is a “this” and say if you’re looking to prohibit them, this is the kind of language. Just tell them. They have to make a one-time change and if they can’t get everybody to vote on it, that’s an internal issue, I guess.

Chairman Murphy: Let me just make one comment. And there are some homeowners associations – already have bylaws that...that require a certain percentage of the homeowners to change the bylaws. And I would suggest that that might be different in – in some are 60 percent. Some are 10 percent. And this may be something – I don’t know how we’d get into that or resolve that. It would – we’d have to really get down to the nitty gritty and talk about the number of votes and bylaws to change the rules and regulations to accommodate this kind of thing. Ms. Hurley...or Mr. Ulfelder, please.

Commissioner Hurley: No, just...just one other thing is that – it’s not just going to Patagonia. I mean, there’s a lot of military in this County that go on temporary duty for 60 days. I mean there’s a lot of reasons that people, you know, still have to pay a mortgage. And they would like to – I can see lots of reasons why there would be an absentee owner.

Chairman Murphy: Mr. Ulfelder and then Mr. Migliaccio and Ms. Strandlie and then...quickly.

Commissioner Ulfelder: We have studiously stayed away from issues involving covenants and HOA documents and condominium documents and I think we should continue that. The – I realize – and also, the – in this case, it’s going to be leases. A landlord can make a decision that they don’t want anybody who is leasing a unit from them or is a sublessee doing this and they just have to make sure that they’re rental documents – their leases make it clear what they can and can’t do in regard to this. But the – I understand the difficulty. Very often, it requires at least two-thirds of the members of the HOA, both to change the bylaws or to – if it’s covenants, it’s even harder sometimes. There are people who, at the time you’re having the – first of all, not everybody comes to the meeting. And it’s...it’s very, very, very hard, often, to put – to get that kind of consent – to change your existing documents. And I understand that, but our...our job here is to try to come up with something that is realistic and can be applied realistically in a situation where this practice is not going to go away. And trying to say, “Well our Zoning

Ordinance makes it clear you can't do it so don't do it," isn't going to work. But I don't want us to get into going down the road of trying to say, "Well, bring us your covenants. Bring us your HOA documents. Bring us your condo association documents and we'll make a decision based on that." I think that would be a huge mistake.

Ms. Johnson: Mr. Chair...Mr. Chairman, Sarah Hensley with the County Attorney's office would like to comment on the discussion on covenants and HOA documents.

Ms. Pesto: We have some relevant language on your screen.

Sarah Hensley, Office of the County Attorney: If I could just point out, which Donna has pointed out in this vein, we are – our hands are a bit tied by the General Assembly here, which does not allow us to require HOA consent. So we have drafted what we believe to be fairly strong language. The other issue that has come up with proposing language for people, it could be construed as giving legal advice, which the County isn't in the business of doing. And we certainly want to – wouldn't want to be held liable if someone adopted language we proposed and said, "Well, the County said this is good enough, legally," that sort of the thing. And just one other legal point, with respect to the registry, I'm not 100 percent confident sitting here that it wouldn't be protected under some privacy rules in FOIA, so we'd just want someone else from my office who specializes in FOIA to look at that and make sure that it's not an issue.

Chairman Murphy: Ms. Strandlie? I'm...go ahead.

Commissioner Strandlie: Okay, I just wanted to make clear what I'm looking for. I'm not looking to provide legal advice. I am looking to make sure that we are not overlooking the fact, because there is language in there saying that HOA rules and regulations are not superseded, that we are not recognizing that a good number of HOA documents and condo documents were drafted 30 years ago when they – when the only one using the internet was DARPA and universities. I have talked to someone whose documents in the 80s were – actually cover this. It is unclear. So if we are going to draft a regulation, assuming that HOAs are all taken care of and we don't have to worry about HOAs and condos, we are mistaken. And I think it's a huge disservice to our community to not recognize that. I am asking, and anyone who's listening, send me your documents so I can look at them – is to see what is actually in the documents. There are a lot of – there are several law firms that have represented homeowners associations who drafted those – those documents. So if we could talk to them to see what language they used – if there is a way that, in the Ordinance, we can put a definition that provides some coverage. But as Commissioner Ulfelder said, it's usually two-thirds. I was a condo president and on the HOA board for seven years. It is impossible to get people just to come to quorum. And to – we have wanted to revise our bylaws for years because our fees are capped at five percent. Doing that is going to cost us thousands of dollars in legal fees. And small HOAs and condos are not going to be able to handle that. It will also take a long time. We may want to consider a moratorium on this going into effect in HOAs and condos until those entities can take a look at their documents, poll their community, and find out exactly where they want to go. But I'm not looking for the County to give anyone legal advice. I think we have to recognize that this language does not take care of our HOAs and our condos in Fairfax County.

Chairman Murphy: Mr. Migliaccio.

Commissioner Migliaccio: Thank you. Back to the revocation permit process...when we revoke a permit – it's for the name on that permit, it's not for the address? Or can we revoke it for that address because – I'm just – I just worry about the bad apples out there with an LLC and a shell game about the owners. One owner can't do it anymore. Guess what? I have a brand new owner. He wants to do it and they go through the process. And it's a large house. It's a venue for weddings or parties or something else. And that's what I worry about. Are we – do we have the legal capability or ability, rather, to revoke for that address in addition to the permit holder? Because – so I...

Ms. Pesto: I just asked if we had an immediate answer because I don't have one. That's – I think that's one we're going to have to look at.

Commissioner Migliaccio: That's what the workshop is for, so you can find out.

Ms. Pesto: I would – I would hope that the revocation could be for the applicant, which would be on the operator at that address and that that would be the revocation that...

Commissioner Migliaccio: But...but I worry that a corporation, or somebody that's playing the shell game of LLCs, is just going to sell it to somebody else – a brand new LLC with a brand new list of names or one name and then they'll apply for the permit. And I know I'm getting into the weeds.

Ms. Pesto: We definitely need to look at that.

Commissioner Migliaccio: That would probably be the worst case scenario, but those tend to be the ones that rile up the community.

Ms. Pesto: Yeah, we will definitely look at that.

Ms. Hensley: I do have two comments. One, the statute that we're regulating under the code contemplates the penalty to be against the operator, but certainly – if we put this into the Zoning Ordinance and you're violating the Zoning Ordinance, then that goes against the owner of the property and not the operator of this...this Airbnb. So they would still be subject to sanctions. We can get...

Commissioner Migliaccio: But...

Ms. Hensley: We routinely get injunctions in circuit court to stop this kind of behavior and the benefit of an injunction, of course, is if you keep doing it, your penalties get steeper and steeper and steeper. So there are – there are going to be multiple means, legally, to enforce once we get there.

Commissioner Migliaccio: Okay. As long as we have a path – well, I think what you are describing – slightly different than what I'm describing of – just giving it – I'm an LLC, I'm

there – say, I’m on site and I do three violations and then Commissioner Hurley – I sell it to her for a buck and then she starts and has the wedding venue and everything else there. And then we just go down the line until when? That’s just my point. Thank you.

Ms. Pesto: We’ll look into it.

Chairman Murphy: Okay. Let me start off with this – do you have one quickie? All right, one quickie and then we’ll start with the speakers. And then no new question after one o’clock and then we’ll refer you to the screen to write your questions on there. This is not testimony. We ask your question be direct – as I said before, more pitch, less wind-up. And as soon as we have a few more signatures, I’ll ask Jacob to give me the list of the people who have signed up and then will continue signing up. Before you speak, please identify yourself fully for the record with your full name and address.

Commissioner Niedzielski-Eichner: Mr. Chairman...

Chairman Murphy: Go ahead.

Commissioner Niedzielski-Eichner: Ask my question? I wanted to just ask you to elaborate a little bit more on Ms. Strandlie’s concern about HOA and their bylaws. Are there other regulations that we promulgate, or changes in the Zoning Ordinance that we promulgate, that would have a flow-down impact on HOAs? And, therefore, if they are concerned about them, they are in a position to be more stringent or more – and change their bylaws to reflect that? In other words, how...how – there must be a plethora of regulations in the County that the HOAs are in a position to either augment or clarify in their own bylaws. Or am I wrong about that? Is this unique in that regard?

Ms. Johnson: Well, to be honest with you, I think, typically, a lot of the HOAs look to the County to enforce issues in their communities versus using their bylaws for some of the reasons that were expressed this evening. You know, sometimes it – they are vague. But there’s language in our ordinance in Article 1, Constitution of the Ordinance, that basically says these are – you know, we’re not regulating these private agreements. We are not involved. And that if – and we’re not trying to interfere with those private contracts. So if they do have provisions that are more strict than what the Zoning Ordinance would allow, then they have every right to enforce them. So it – I do appreciate Commissioner Strandlie’s issues. I just don’t know that we’re going to be able to address those concerns.

Commissioner Niedzielski-Eichner: So here’s my final observation. We apparently have these types of short-term lodging happening throughout the County now. Apparently, they’re not legal, but they’re – they operate. So they’re flying under the radar. And what I would envision that when we finalize this Ordinance is that – there’s a...there’s a baseline understanding of everybody of what the ground rules are. And if the HOAs then want to be more restrictive, then that will give them the ability to be more restrictive. But what we’re creating now is something that doesn’t exist. And so can people – surely, in all their HOAs, there must be a number of houses that are already operating in this short-term lodging venue, either under HOA radar or

under – certainly under the County radar. So that’s why I think this – there’s a middle ground here and I’m – that’s why I’m somewhat supportive.

Chairman Murphy: Okay, thank you very much. We’ll begin the speakers. Michael Bernam, Margen Remmes – I hope I’m pronouncing these names – I’m sorry?

Margery Remmers, 6201 Fanconia Forest Court, Alexandria: I said “not even close.” But that’s okay.

Chairman Murphy: Well, you’re the second speaker, so why don’t you come down. If I called your name, come on down to the front. We’ll save some time. Some people write worse than I do, if that’s possible, so I’m going to struggle as best I can. Don Henman? Ma’am, you’re first. Come on, please. Mr. Bernam? Okay. And Vail Horn? Okay, you are – okay, go ahead.

Ms. Remmers: My name is Margery Remmers. I’m a resident of Lee District. My question is two-fold. One – well, two separate questions – one is the current strawman says that short-term lodging is limited to overnight rentals of not more than 30 to 180 calendar days per year. I’m just wondering where that number came from – why we need to have some kind of a limit for that particular – when the...when the owner is on the property. My second question is the document doesn’t seem to address collecting the transient occupancy tax. And I’m just wondering where that goes and why that is.

Chairman Murphy: Ms. Pesto? Quickly, please.

Ms. Pesto: On the transit occupancy tax, that’s a law, whether it’s in the Zoning Ordinance or not. It’s not related to the Zoning Ordinance. But the requirement to pay taxes is, in fact, in Chapter 4 of the County Code, so it exists already. The requirement – the proposal to have it limited to something less than about half of the number of days is to acknowledge that this is the accessory use of this property. The primary use is somebody’s principle domicile and that, as part of that, there are certain lesser accessory uses that can go along with that. And that was where those numbers came from. And we did take that range, sort of, from other jurisdictions that had ranges so...

Chairman Murphy: Okay, thank you. Don?

Don Henman, 5904 Mount Eagle Drive, Alexandria: Yes, good evening. Don Henman, 5904 Mount Eagle Drive, Alexandria, Virginia – former...former Lee District, now Mount Vernon District. I wanted to actually make a statement on behalf of the Fairfax County Federation of Citizens Association. So – we actually lobbied for the law that went into effect that caused this Ordinance to be created. So we were pleased that that law passed. We’re also happy that the zoning staff did a good job of doing outreach with summer readings and surveys. Thank you for that. The...as far as the actual provisions in this – in the draft, itself, we are concerned that there is nothing – liability insurance was mentioned, it’s not – it’s silent in the current draft. That should be addressed. Of many of the other provisions that are in there do – are consistent with the principles that we took – when we took a resolution relating – and you have a copy of this in front of you, here – when we took a resolution last year favoring a law. And...and the provisions

that we like in the strawman, basically, are that they must – they must be registered and they should be fined for not being registered. We support that. There are provisions that specifically deal with the home-sharing concept that – you must be a permanent resident. And there is a statement about the number of stays without an operator present – 14 to 60. It should be at the low end of that and we actually would prefer that that be zero. You know, home sharing means the operator is there, in our view. You mentioned HOAs. This draft says that it will not nullify any private regulations so it will be neutral on HOAs. We think that's appropriate. And then, as far as prohibitions, we strongly support the prohibition that there be no commercial group events and that – requiring a statement about parking. The – for the payment of the transit occupancy tax and any other tax, as may be appropriate – the reference to dwelling safety requirements is requirements, but maybe there should more of that. And...and you said the – the operator – have a log identify all available guests. We think that is appropriate, as well. So we think many of the provisions are appropriate and we thank you.

Chairman Murphy: Okay, thank you very much. Vail...Henry.

Vail Henry, 3022 Regents Towers Street, Apartment 447, Fairfax: You asked me to identify myself fully – Vail Henry, 3022 Regents Towers Street – I'm in apartment 447 in Fairfax. I just had two comments, please. One is – I had the same question as the first public speaker about the 30 to 100-day accessory use. And I understand that's an accessory use, but it does seem to be a fairly arbitrary thing, given that other accessory uses of residences, such as child care centers, are not limited to 180 days a year and could not function in 180 days a year. But perhaps, one thing that concerns me on an even deeper level is a certain lens that I have sensed underneath many of the comments that have been here tonight. Some of you, I have sensed a fairly even neutral thing, but there does definitely seem to be a sense that the short-term lodging is a negative in communities. And I urge you to think that there is a positive to it as well. I imagine there is many positives. I can certainly imagine benefits to people who have lost jobs or become widowers or holding onto property that they would not otherwise have – continuity of, you know, owning the residence – more consistency in the ownership of the neighborhoods. People who are living alone – having other people in the house, less depression, cultural awareness – especially in this area. We have so many people coming to the area from all parts of the world. There's an opportunity for us to grow culturally through things like short-term rentals. And I urge you to not see this as simply a matter of, you know, they're coming to take our privileges in our elite neighborhoods. There's a lot of benefits to be gained by sharing home and sharing space. Thank you for hearing me.

Chairman Murphy: Well, I can assure you, and I think I speak for the entire Commission, no one on the Commission right now is calling balls and strikes. We're just asking questions to how to formulate the proper thing to present at the public hearing. Laurie – somebody from Mason District? Thank you.

Laurie Arrants, 6365 Cavalier Corridor, Falls Church: Thank you Commissioners for the work you're doing on this. There has been a long-standing acceptance of zoning laws...

Chairman Murphy: Can we have your name, please? And...

Ms. Arrants: I'm sorry. Laurie Arrants, I'm in the Mason District, 6365 Cavalier Corridor. There has been a long-standing acceptance of zoning laws that keep the market and the commercial activities separated from residential communities. So adding the risk associated with lodging into the residential communities is a huge paradigm shift. We appreciate what you're trying to address of those. There has been a legal path forward for residents who have wanted to do short-term lodging, but not a single one person has ever – has applied for the legal approach. I think that says something that we need to address. STR is not a by-right process and, therefore, I feel that the regulations and policy must not become simply an administrative approval stamp, but to keep the Board and the Planning Commissioners engaged to attend an in-depth, first-hand review of this example of the impact of these web platform brokered activities. When such platforms attempt to integrate and market in commercial activity and they're accompanying risks into a residential community, the Board of Supervisors must remain aware and vigilant on the near-term and far-term impacts of these disruptive technologies on the community, both the residential and the commercial aspects. Policy must address concerns of all parties impacted. That includes the neighbors and they have been impacted. And so the approval process must assure for a dwelling to offer STR under approved regulations – also gives notifications to neighbors to have input and voice. The registry information should be web-accessible throughout a County site for easy look-up of properties. They must be limited to primary residencies and the density of properties that are allowed to do STR within a community should not be overlooked. The compliance and enforcement issues is huge for us and we've – we have experienced this first-hand. It must be funded in a way to improve, not only the processes, but to utilize more technology-based techniques and processes to reduce the human resource intensive procedures that they presently utilize. And lastly, to me there are major issues which have been overlooked. We had just mentioned insurance. That is major...absolutely major. And in the General Assembly meetings, that was not addressed, as to whether the insurance offered by these are even legal. So please do not let that go by.

Chairman Murphy: Thank...thank you very much. We have to end – if you would like to submit any of the comments you made tonight to the Planning Commission, please use those addresses that are going to appear later on. We appreciate receiving the comments, if you have them, in writing. Najla Drooby? Please. Followed by Nick Pappas...Donna Jacobson. Donna are you here? Come on down, please. You'll save time. Yes ma'am, go ahead.

Najla Drooby, 7009 Tynsdale Street, McLean: Hi, I'm Najla Drooby from McLean. I am a retired IT professional who was forced, basically, out of work by a layoff. And at my age, it's difficult to find work and, therefore, for me, it's important that I be able to rent part of my house to be able to keep the house. I'm also rendering a service to the neighbors, who do come and stay with me when their houses are being renovated and for families who come from everywhere to meet here within this area. We offer affordable housing. I do it mainly long-term so I am concerned, also, about the 180-days limit. If you are – you are here to help us start businesses by putting a limit on 180 days, you are really limiting our abilities to grow that business. You are limiting our sources of income. Is this the role of the zoning commission or not? I also would like to...to point out that some people come for 30 days, but end up staying 45 days because the house isn't finished or whatever. So I recommend that we have some continuity in the rules of the long-term occupancy versus short-term occupancy. For example, now you're saying – for short-term, I have – I am allowed to have up six – up to six people or six adults if I have three

rooms. But, according to the long-term occupancy, I cannot have that many renters. So how do we deal with the laws at that point? In terms of the owner present, I do recommend that the owner be present. Yes, for the safety of everyone in the neighborhood, and also to prevent people from buying apartments and then using them strictly for this business. Because then you will have what's happening in Paris – there's...the small apartments are no longer available for the local people because everyone is renting them out for visitors. But I – we also have to take into account the military who go overseas and use and rent their homes on a short-term basis. That's it.

Chairman Murphy: Okay, thank you very much. And please – you can submit your comments onto the addresses shown on the screen. Nick Pappas. Donna Jacobson.

Nick Pappas, 8016 Parklane Court, Springfield: Hi, I'm Nick Pappas. I live at 8016 Parklane Court in Springfield, Virginia. I'm married with four children. I'm in the painting business. The economy has been really rough on us painting companies and the business is not the same. So it has been difficult for me to pay my bills. I have a rental home in Alexandria, Virginia. It's a four-bedroom house and I've been doing Airbnb as a host for the last year. And it has saved me and my family because of the income that I've made from the Airbnb has helped me to pay my bills. If you restrict Airbnb on the – on the nights or to the people that are allowed to stay at the house, it won't be – it won't work for us that do the Airbnb. It won't be worth it. I would have to go back to just, you know, renting the house, which – I would probably lose the house because I won't be able to pay my bills. So I have no problems paying extra taxes. I have no problems having a special insurance policy for my home. I have no problems in...in no special events, no parties. It's totally understandable. I have no problems, you know, for the homeowner to rent the house out for a short-term rental. I think the homeowners should be local, but for me, I don't live in the house so it would be a problem for me in that aspect. But the...the...the pros outweigh the negatives. The only negatives that I've heard tonight is parking and noise. I have rules. You know, I don't allow parties. The last thing I want is my home to be damaged. That would be pretty dumb on my part, to allow parties or special events. As far as the – the people that stay at my house are better than my renters. The people that stay at my house that are Airbnb guests take care of my house better than my renters do.

Chairman Murphy: Okay, thank you very much. We have to...

Mr. Pappas: All right. Thanks.

Chairman Murphy: Donna...Donna Jacobson. Debbie Smith. Is Debbie Smith here? Let's see how many...

Donna Jacobson, 7865 Newport Glen Pass, Annandale: Hi, I'm Donna Jacobson, 7865 Newport Glen Pass, Annandale, Virginia, Mason District. I'm concerned about STR operators carrying an adequate amount of liability insurance for any type of tragedies that could happen that would affect the neighbors. I live in a townhouse development, which – we're all living very close. And if there was any type of tragedy, it would – it could be disastrous for both the neighbors, residents, or for the homeowners association. And I think that should be a requirement. If one is going to be an STR operator – and I think the County should verify that they do have an

adequate amount of liability insurance whenever they get their permit and on an annual basis. Thank you.

Chairman Murphy: Thank you very much. David Fenimore...after Leslie Smith [sic].

Debbie Smith: I'm Debbie Smith. First question is – is there a demonstrated need – community need for these? No large numbers of people have shown up at any of the community – County meetings or even here tonight. Our supervisor has indicated that she has not received much demand from constituents for STRs and the County survey is flawed and can't be relied on for statistical soundness. Two, is a sweeping change of the Zoning Ordinance really warranted? There are avenues right now for homeowners of the County to rent rooms of their homes month-to-month or long-term, unless they bought into an HOA or a condo association. They can have roommates – up to four unrelated or, if they're a family, two additional one. Three, would this zoning change justify the costs? Arlington has initial revenue reports. They've just recently adopt their STRs in December 2016 and through July, just under \$18,000 had been assessed – just 67 business accounts opened. And the \$18,000 was assessed on the 7.25 percent transient occupancy tax. So would this be worth it? Huge concerns – reiterating the concerns regarding HOAs and changing the – the legal documents – and that would put a significant burden on thousands of County residents. In closing, even though there might be an interest for STRs by a small minority of homeowners looking to cash in on this use, that doesn't justify the many problems STRs cause for the larger community – community, including our corporate hospitality citizens of the County. Thank you.

Chairman Murphy: Thank you very much. David Fenimore and Lensi – come on down, please.

David Fenimore, 9320 Ludgate Drive, Alexandria: Hi, I'm Dave Fenimore, 9320 Ludgate Drive, 22309 zip code. I'm in the Mount Vernon District. Just some quick background – I'm in an R-2 zoning, which required – the purpose of that is low-density residential neighborhood. There's no commercial business within two-and-a-half miles of where I am. My question – one of my questions is has the staff or the planning committee considered the possibility of variations by zoning district in order to preserve the characteristics of the neighborhoods more precisely? My second question – has the staff or the Planning Commission considered the effect of Airbnbs on home values? I'm pretty well convinced, as a homeowner, of what the activities that are going on in my neighborhood. When I go to sell my house, if that's continuing, I'm not going to get nearly what I was – would get without it. And I think that ought to be part of the aspect. The third question is has the staff – Planning Commission considered the studies showing the effect of Airbnbs? I'm aware of at least a recent UCLA/USC study that suggests that too many or a number of Airbnbs drive out low-income residents by raising the rents. And I think that ought to be a consideration when you're determining how – how tight restrictions ought to be. And there's also a recent study by the New Orleans paper and a private interest group on the effects of Airbnb in New Orleans where they had – what I would call fairly unrestricted registration requirements. And, at least according to that study, it had not worked out very well. And so I would urge you to look at those. I think those present guidance that suggest – at least initially, tighter restrictions. And I'd like to endorse the HOA concerns that you've raised. That's a...

Chairman Murphy: Thank you very much. Lensi, followed by – I’m going to spell, I think there’s D-A-T-G-H-M-O-N-Y? Anybody? Did anybody sign up after Lensi? Is that your name? Well, okay. Jacob, can I have another sheet of paper, please? Go ahead. Lensi, please.

Lensi Goshu, 5905 Kingsford Road, Suite L, Springfield: Yes, thank you all for letting us share our experiences. I learned a lot just sitting here, hearing the experiences of other residents. My own experience has been positive and I’d thought I’d share it with you all. I have been in business for about two years. This year, business was slow and you just need to be creative about income generation. That’s why I sought out the Airbnb. Actually, I didn’t realize it was illegal in Fairfax until just tonight. I’ve learned that. What it – Airbnb really, as a short-term lodging facilitator, has been great – a great help during this time. It’s helped me during slow periods or periods when I’m traveling – generate the – generate enough funds to cover my mortgage costs. In this sense, it has been a godsent. I’m sure there are other people, many like me, who are either trying something new – entrepreneurship or folks who just have – need extra cash for life, for the economy, or job prospects become tough. I specifically would ask you to reconsider two of the proposed changes of the limitations section of the memo – mainly, Provision B that sets limits to the number of days a Fairfax resident may rent their residence out in a given year and Provision C, that requires the County residents to be present while it is being occupied under a short-term lodging agreement. The first provision would prevent many people like myself – and I think folks have spoken to that this evening – to take advantage of the compelling opportunity that Airbnb represents. But the second position would do the same. For example, I own just a one-bedroom condo. It would be feasible for me to live in the unit while a guest is staying, but I think it would be rather uncomfortable for both me and the guest, so that would eliminate that opportunity for folks like myself, who are local – would still be able to be responsive to guests, but just don’t have the space issue. So I’d ask that you reconsider the language in these two supervisions for alternative language that doesn’t severely limit the opportunities organizations like Airbnb offer to residents like me, but still also provide protections to other Fairfax residents as well. Thank you.

Chairman Murphy: Thank you very much. Lensi was very polite. She wrote on her testimony “testimony only.” I thought it was somebody’s name. That’s what I was struggling with. So “testimony only” is not here so we’ll go to the next speaker. Jon Clark and Keven Holly. And we’ll do the last speaker, Andy Cooper, and that should just about get us till nine o’clock.

Jon Clark, 7227 Auburn Street, Annandale: Jon Clark, 7227 Auburn Street in Annandale, Virginia. I am the Code Compliance Committee Chair of the Mason District Council. First of all, in the poll, 80 percent – the one the Commissioners – respected that poll as suggesting that 80 percent of the respondents had not experienced Airbnbs in their neighborhood. I’m one of the people that made several responses to this survey and I...I did make sure that staff was of that. And I don’t really have that much of a dog in this fight, but you got to imagine several networks like – several platforms would have a lot of money at stake – have a network that they can broadcast, “Please get out there and fill out as many as these – can – many of these poll survey copies as you can,” could very well end up in many thousands. I just – I had – took the first three devices I had. I had another 10 or 15 devices, probably, that I – and many other people do – so please take this – the poll – of the poll – the survey with a grain of salt. The DCC Code Compliance in this County is hideous. It’s...it’s a joke. The description that they give you about

their efficacy is absolutely ridiculous. If any of you would like to talk to me about what I see, as a code compliance chair in the Mason District – one of the worst – I would be happy talk to your staff any time, but it is very different from what they tell you. I won't say that they're lying, but they are definitely coming up with a different reality than what I see. Studies on the HOAs – yeah, that's a good idea and I think, very clearly, the – it's been portrayed that the HOAs won't be affected. They will and big time. Let's also do studies on the CAs.

Chairman Murphy: Thank you. Thank you very much. Kevin Holley.

Mr. Clark: They're here too. We can't also...

Chairman Murphy: We have a level playing field here, Jon.

Mr. Clark: Thank you.

Chairman Murphy: Kevin Holley. Andy Cooper – the last speaker. Yes, sir.

Kevin Holley, 1561 Trails Edge Lane, Reston: Hi, I'm Kevin Holley from Reston, Virginia. I just want to make a comment regarding the "one contract" rule. I don't think it's practical. For example, if you had two bedrooms and someone has rented it out from, say, Monday through Friday and another person wants to come in on another bedroom on Saturday. But what often happens is that the guest will say, "Look, I got to change my plans. I have to stay a little bit longer. Something came up." And now you have an overlap of contracts. A similar argument can be made about the limit on the number of days. Same kind of problem. I would recommend multiple contracts, different people – not necessarily sisters – a limited number of days per year, but put occupancy limitations on it. Eliminate the possibility of parking and limit the number of guests that can show up. That would take care of your noise problem right away. My place – I have only contractors who work in the area, typically one person per room. And they're contributing to the economy. I think that ought to be recognized. Thank you.

Chairman Murphy: Thank you very much. Last speaker is Andy Cooper.

Andy Cooper, 4009 David Lane, Alexandria: Hello. My name is Andy Cooper. I'm from the Mason District, Alexandria, Virginia. I just, in general, some comments – I have taken measures to make sure I had the proper insurance. And so I actually support that kind of a provision, putting it in there to get adequate coverage for short-term rentals. It's a lot of trouble to get. And maybe if we get that provision in there, we would get a little bit more commercial services that would provide that. Shoot, I forgot some of the things. HOAs – the concerns there was with the crowd. I have the – an opposite view, even being members of the COA a few years back. I don't think it's as big a concern, but listening to the crowd, it sounds like it is so it's certainly worth looking into. But as a person who is looking on the other side of the COA perspective, it was something that they decided to pass. And it's hard to get quorum, but that was one thing we had to just get through so – I forgot my other things, but I appreciate your time.

Chairman Murphy: Okay. If you – again, if you have any other comments that you would like to send to the Planning Commission, just – is that slide up there? You can put it on the side that

shows you how to do that. I'm going to ask Mr. Hart to conclude the meeting. I just – want to have a little straw poll. How many people here tonight have taken that survey? Okay, so that's quite a few. Mr. Hart?

Commissioner Hart: Yes, thank you, Mr. Chairman. I don't have much to add. I think this has been helpful. And we probably – if we'd made this twice as long, we probably would've gone twice and long. I want to thank everyone for coming. If this does go forward...if this does get authorized, we're going to have additional opportunities for public comment and a public hearing. And I think, as Commissioner Murphy has said, if you have additional questions or comments, please go ahead and sent them in and staff will be considering them. Thank you all for coming.

Chairman Murphy: Thank you very much. We are adjourned as of 9:03. Thank you.

(End Verbatim Transcript)


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The meeting was adjourned at 09:03 p.m.
Peter F. Murphy, Chairman
James R. Hart, Secretary

Audio and video recordings of this meeting are available at the Planning Commission Office,
12000 Government Center Parkway, Suite 330, Fairfax, Virginia 22035.

Minutes by: Jacob Caporaletti

Approved on: March 7, 2018



John W. Cooper, Clerk
Fairfax County Planning Commission