

Rockville Planning Commission
Work Meeting
Rockville Community Center, Town Hall
April 10, 2018 – 6:00 p.m.

1. **CALL TO ORDER AND ROLL CALL** – Chair Jane Brennan called the meeting to order at 6:00 p.m. The following members of the Rockville Planning Commission were present: Cheryl McGovern, Joyce Hartless, and Linda Brinkley. Also in attendance was Mayor Pam Leach. Robert Ford was excused. Town Clerk, Vicki S. Bell, recorded the meeting.
2. **DISCUSSION OF A SHORT TERM RENTAL OVERLAY ZONE FOR THE PROPOSED ROCKVILLE CONNECTOR CORRIDOR** – Chair Brennan opened the discussion with a brief explanation of the different drafts of Chapter 24A that each member received. She explained that for tonight’s work that everyone should be working from Draft No. 4 that included the suggestions made by Mr. Jenkins, Attorney.

The discussion began with addressing a few questions that the Attorney had asked in Draft No. 3 along with his suggestions. Beginning on page 2, section B the Attorney added “nightly rentals along the Rockville Corridor and limited properties identified below in section B.1”. Chair Brennan explained that it was important that the parcel numbers be specified in order to make this exclusive for these particular parcels.

Moving on to page 3, Chair Brennan explained that most of the changes were “legal-eze” with a few clarifications. Linda questioned the deletion of the mention of the agreement with Zion Red Rock Retreat, LLC in section 3.A. Mayor Leach explained that the agreement was not necessary for this Chapter.

Cheryl asked rather than jumping around that they begin on Page 1 and work through the document. Cheryl voiced concerns about a request for change in zone, addition of other properties, terms of zone, agreement of businesses other than short term shall not be allowed at any time in the future, and if there should be any litigation in trying to make changes to the overlay zone, it should go back to residential and would null and void the entire contract. Chair Brennan explained that the Attorney has made an effort to avoid others trying to be included in the overlay zone and that is why it is very specific that the overlay zone is only available for the parcels listed. Cheryl questioned what would happen if the owner of the short term rental home decides to change it to a residential care facility. Does it take the homes out of this overlay zone? If they decide to change, will they be allowed to go back to a short term rental home? Mayor Leach explained that the agreement is that the overlay would only allow for a maximum of four (4) short term rentals. Cheryl reiterated that the owners could change the short term rental home into a residential care facility. Chair Brennan agreed that they could. Cheryl asked if there could be wording added that would prohibit them changing it back to a short term rental home. Mayor Leach suggested that this question be brought up the Attorney as this would be a change to the agreement. Chair Brennan added that as for other businesses, that is covered in the rest of the General Plan. The General Plan is strong to cover zoning. Mayor Leach clarified that the question being asked of the attorney if they should want to stop using it as a short term rental and apply for an ADA facility does that have any bearing or have to meet [inaudible]. Cheryl added or does it void the contract on that particular residence.

- Section 24A.1 (D) – It was suggested adding a section D under the Purpose that reads “It may not be used for any other business endeavor other than the agreed upon overlay zone approved business.” As for retail sales, Mayor Leach expressed that B&B’s are able to sell retail items as they have an on-site manager. The short term rentals will not have a manager on-site to promote retail sales.

Linda questioned the definition of “owner” if it was meant only for this chapter. Mayor Leach explained that homes can be owned by any kind of legal entity. Chair Brennan added that the definition is all inclusive. Cheryl added that she was of the opinion that it should read “owner/operator” anywhere that there is “owner”. Chair Brennan explained that we began with “owner/operator” and then changed it to “owner” and “property manager.” Mayor Leach clarified that we are not worried so much about the property manager. The owner is the one that is ultimately responsible for violations, keeping the license in order and everything else. They can hire whoever they want for their property manager/operator; they just have to inform us who that entity is.

- Section 24A.2 – It was suggested that the definition for “Property Manager” read, “Management agent, or operator other than the owner.”

Chair Brennan took the discussion back to Cheryl’s first question regarding if they change the short term rental to something else. What happens if they do not renew their short term license within a one year, as with our B&B’s. With B&B’s, which there is a limited number, they lose the opportunity to operate if they let their license lapse for one year. There are a limited number of short term rentals; if the property is sold and it’s not being used and it hasn’t been licensed, can it be removed from the list? Mayor Leach stated that the short term rental license is non-transferrable and the new owner will be required to apply for a new license if they wish to continue the short term rental. The agreement is for a maximum of four (4) short term rentals in that zone. But it is Mayor Leach’s belief that just because they do not use it for a period of one year, that we can take that away because we are allowing for a maximum of four. If he chooses to use one as his residence, he could build another short term rental either on an existing parcel or by subdividing a parcel that are located within the zone. There is also nothing stopping him from just building another home on one of his parcels. Mayor Leach will consult with the Attorney as there is nothing that specifically states that if they stop using it, it’s gone.

- Section 24A.2 – It was asked if a definition for kitchen/cooking facilities should be included. Does it need to state that no microwaves and no refrigerators are allowed in the sleeping areas? Mayor Leach added to the list - no hot plates, and no stove tops or ovens. She suggested adding a new definition as to explain what kitchen/cooking facilities are so that it will not be necessary to spell it out everywhere else.

Cheryl asked about the definition of “sleeping rooms” where is listed all types of sleeping furniture and pointed out that Murphy beds were not included. Mayor Leach pointed out that it will still come down to the number of people that can sleep in a room as dictated by the Fire Code. Cheryl questioned the required room size being 100 sq. ft. This was taken from Hurricane’s short term rental code.

Cheryl asked what was meant by “legislative body” at the bottom of page 1. Mayor Leach explained that the Town Council is Rockville’s legislative body. This state law gives the Town Council the authority to spot zone. Chair Brennan explained that this is the law that allows for a zoning change regardless of the number of parcels or the number of property owners involved. There was additional discussion to clarify concerns about the state law.

Linda asked about 24A.4 – Development Standards where it talks are the transient population; is there a minimum number of nights rental on this? Cheryl answered that they can be rented for one night. Mayor Leach explained that anything less than 30 days is considered short term or transient rentals similar to a hotel.

On section B.3, it doesn’t say anywhere that there cannot be more than one per property. Mayor Leach explained that this is an overlay zone and the regulations of the underlying zone are still applies to the property. That is the purpose of the overlay zone; it allows for a specific use within the existing underlying zone. Perhaps we can add something to make it

clear that the underlying zone for each parcel remains. The overlay zones does not effect that. Mayor Leach will discuss the wording and placement of this with the Attorney.

Cheryl wondered if the words hotels, motels and Bed and Breakfasts is not specifically stated that this property cannot be used for that. Chair Brennan stated that the rest of our Land Use Code states that it can't and there is no need to repeat it. Joyce agreed that because it was included in the contract, it should be included here.

Mayor Leach interjected and stated that at the top of page 3, Section 24A.4 states "Regulations and requirements for short term rentals shall be the same as required by the underlying zone with the following exceptions:"

Linda had a question on Section 24A.4(A)(3) stating that he can build an accessory building on an additional parcel but it lists three parcels at the end of the sentence. Chair Brennan explained that we do not know which parcel he will choose to build that accessory building on, but it can only be built on one of those three parcels listed. Linda asked if the accessory building will fall under our guidelines as they are now. Chair Brennan stated that they will be the same as the guidelines for the underlying zone.

Cheryl understood that on the Dias property that it was agreed that they would only be allowed one bedroom and one bathroom in the accessory building. Mayor Leach reminded Cheryl that was only a discussion and was not the final decision. The final decision was made following the public hearing.

Cheryl thought that this would be a good place to make a decision on the size of accessory building that we are going to allow them to have people sleep in and whether or not it needs to be attached to the main structure. Mayor Leach stated that we cannot do that. It was not part of the agreement that we agreed to. We cannot put stipulations in here that are different from the agreement. Chair Brennan clarified that the Dias accessory buildings are detached. Linda stated that when they get ready to build the accessory building; they come to us we go back to our plan. Cheryl stated that we will be allowing them to build a 12,000 sq. ft. accessory building with a second floor and basement. They can build a second house. Mayor Leach stated that they can have two sleeping areas and a bathroom; they cannot have a kitchen facility in the accessory building. Chair Brennan agreed that there is a need for this, but this is not the place because this is specific to these parcels.

Cheryl mentioned that it should be stated somewhere that the accessory building cannot be rented separately. Mayor Leach indicated that it is mentioned that the whole property must be rented not individual rooms. Cheryl stated that if they are able to build a 4000 sq. ft. accessory building... Mayor Leach clarified that it is still part of the main dwelling and it is one renter. Clerk Bell read section "The entire rental home must be rented to one primary renter, not individual rooms." Cheryl stated that a "home" is not an accessory building. Chair Brennan suggested adding "property" rather than "home." The Attorney had suggested that we change the word "residence" to "home." Chair Brennan suggested it be changed to "home/property." That would prevent the owner from renting the accessory building for a "barn dance" and renting the home to someone else for a family reunion. Mayor Leach clarified that it is in the agreement that they can only rent to one person.

Joyce clarified that the Cooper property is not one of the properties on which an accessory building could be built.

In regards to Section 24A.4(B) Cheryl mentioned that the Attorney had a question about yearly inspections by the Fire Marshal and/or Planning Commissioner. Mayor Leach believes this is covered in the licensing ordinance. This Attorney suggested that the ordinance be separated to have all the licensing regulations within the ordinance. Annual renewals will fall under the licensing ordinance which at this point is still a work in progress.

Cheryl's next concern was about not allowing temporary structures which brings up our temporary use permits. Why can't they use our special use permits if everyone else in town can use them? Chair Brennan stated that they cannot apply for a temporary use permit which would allow for 20 RV's in your yard for a family reunion; because this is special. People are coming to use this house and if there are not enough rooms; they need to find another house. In comparison, you cannot rent a room at the Holiday Inn and have the remainder of your family in RV's in their parking lot. Mayor Leach clarified that the renters of the short term rentals do not get to use the temporary/special event permit because this is not someone's home. Cheryl stated that the wording is not clear.

- Section 24A.4(E) - It was suggested changing the wording to "unless specifically permitted for temporary use" taking out "as in." Mayor Leach will run that by the Attorney to get his opinion.
- Section 24A.5(1)(a) – It was thought that the first line "owner should apply for a short term rental license" should include "yearly." Chair Brennan suggested "to be renewed annually."

Again Cheryl suggested that rather than "owner" that it be changed to "owner/operator" because this is just referring to the owner. Mayor Leach reiterated that the owner is the responsible party; the property manager does not need to apply for a business license.

- Section 24A(2)(a) – It was suggested putting a period after "one primary renter." And add "At no time can rooms be rented individually." It can't be repeated too often. Mayor Leach stated it should actually be "individual rooms or buildings."

Cheryl stated that she did not understand Justin's resistance to list the names of everyone staying in the home. That should be a red flag. Mayor Leach stated that he shouldn't have to list; the Attorney stated he does not have to list. He has a rental agreement with one person. That's the only name we must have. Cheryl asked if the number in the party could separate out the number of minors. The primary renter has to be 21 or over and they will be held responsible for the actions of their guests. Cheryl's concern leaned more towards sexual exploitation. Chair Brennan stated that she didn't know how we could protect them; other than to witnessing what is going on.

- Section 24A(2)(c) – It was suggested that the "will" in the second sentence be changed to "are" and remove "be". "Signs advertising or announcing short term rentals are not allowed."

Section 24A(2)(d) – Cheryl suggested adding the words "Rockville's" and "international" as it does not specify whose rules. Joyce stated that she felt that everything was covered. Chair Brennan clarified that "safety codes" are building and fire codes, "laws" are State laws, "rules" maybe be a repeat with "laws", "ordinances" are county and Rockville ordinances and "regulations" are the Land Use Code regulations.

Joyce asked for an explanation of how the draft chapter was created. Clerk Bell stated that she found codes from other municipalities and used applicable parts to create a draft for a starting point. The advantage being that other municipalities have already had their codes reviewed by their legal counsel. Mayor Leach stated that our attorney has also reviewed the draft and made his suggestions.

Section 24A(2)(e) was questioned by the Attorney as to why 21 and not 18. Mayor Leach explained that it was agreeable with Mr. Maybe to keep the renters' age at 21.

- Section 24A(2)(f) – It was suggested the sentence be changed to read, "A special event, such as a wedding, family reunion, corporate retreat cannot be open to the public and will only be allowed in conjunction with a nightly rental."

Section 24A(2)(g) – Cheryl asked what is meant by “regulations sign.” Mayor Leach explained that this will be addressed in the ordinance as to what the owner will be required to post for the benefit of his renters. This can include but not be limited to owner and manager’s contact information, a list of rules and each one of the bedrooms will need to be posted showing the maximum number of people allowed.

Linda asked about Section 24A(2)(h) and what was eliminated. Chair Brennan explained that it was changed to read “their contact information” and chose to use “adjacent” rather than “surrounding”. We also decided to list those property owners that will need to be contacted and given the contact information.

- Section 24A(2)(j) – It was suggested that in the first sentence that “to” be replaced with “and”. “The owner/property manager shall respond within forty-five (45) minutes of notification and take the needed action to resolve complaints and concerns.”

Cheryl in referring to Section 24A(2)(k) stated that it does not mention the property manager. Mayor Leach clarified that the property manager could be assumed to be a non-paying guest of the owner.

Cheryl suggested adding regulations about hot tubs, swimming pools and open fire pits. Cheryl stated that there are specific codes for rentals that are much stricter than residential codes. Chair Brennan stated that if fencing is required for a swimming pool that will be addressed by the Building Inspector. Mayor Leach suggested that the Building Inspector be contacted to find out who is responsible for regulating rules about pools and hot tubs. The owner will be required to carry hazard and liability insurance.

Mayor Leach in response to Linda’s question about Section 24A(2)(l) and the attorney’s comment to separate the renewal process from the overlay chapter, stated that the Ordinance for Short Term Rental Business Licenses is in the process of being developed and that the Planning Commission will receive a copy once the draft has been completed. The ordinance will address the short term business license and all the requirements and the renewal process. This will allow for consistency in how we address business licenses.

Section 24A(4)(c) Linda asked about the number of parking spaces that would be allowed. Chair Brennan explained that the whole sentence was deleted as every property will be different. Mayor Leach explained that all the parking must be contained on site. Cheryl questioned how the owner will be stopped from turning one of his parcels into a parking lot. Mayor Leach explained that the Town does not allow parking lots. And the overlay zone does not allow for parking lots. Cheryl suggested that in Section 24A(4)(a) that the “shall” be changed to “must”. Clerk Bell explained that the original draft did have “must” but the Attorney changed it to “shall.” The license application does ask for a diagram or photograph of the parking facilities. Cheryl asked what stops them from using the Diaz property for an event on another property. Linda suggested making changes to Section 24A(4)(b) “parking to be contained on the site specifically rented for the event.” Mayor Leach pointed out that the introductory sentence is very specific “..shall provide off street parking for primary renters and their guests in accordance with the following:” Cheryl moved on and suggested that there should be a ceiling on the number of parking spaces but should be dependent on the number of occupants. Mayor Leach explained that our main concern is that we do not want them parking on the street. Chair Brennan stated that we cannot limit the number of parking spaces without being super invasive. If they have an event that brings in more cars than parking spaces, they will have to decide which lawn they want to park on. Cheryl asked if we should be concerned if they are using one of the other facilities to park cars. Mayor Leach responded that she didn’t know why we should care. We have decided not to specify a number of parking spaces.

In Section 24A(4)(d) Cheryl suggested that it should say specifically that there will be no on street parking in the case of a special event. Clerk Bell explained that what we are trying to

say here is that we would like the owner to notify the Town when such events are taking place. Cheryl stated that the Attorney asked if on street parking will be allowed. Mayor Leach responded that we are saying “no” to on street parking. Chair Brennan explained that the reason this sentence was added so that we can divert calls of concern.

- Section 24A(4)(d) – It was suggested that “operator” be changed to “property manager.”

In moving on to Section 24A.5, Linda asked about excessive lighting. Mayor Leach explained that they will be subject to all the Town ordinances and Land Use Code. Clerk Bell added that the lighting rules could be one of those things we include on their “regulations sign.”

Cheryl stated that there are four properties could be hold potentially four special events going everyday of the week for 365 days a year. Live bands... Mayor Leach stated that would fall under the noise regulation. Cheryl clarified after 10 p.m. Chair Brennan stated that there is a nuisance ordinance that does not specify a time. If there is a disturbance, you can call the police the same as anyone can and report it.

Cheryl asked what was decided on Section 24A(5)(b) surroundings properties within so many feet. Joyce stated it was decided on just having surrounding properties. Chair Brennan stated that we did not include a distance on purpose so that we can gauge the annoyance level.

Cheryl suggested that Section 24A(5)(d) about pets should be included on the “regulations sign” about dogs being leashed at all times. There are bad dog owners that will only leash their dogs when they are told. Chair Brennan asked if it would be okay to say that dogs must be on a leash. If the owner puts up a fence, dogs can run around on the property. If the dog is on the rental property, it is not the Town’s business. If the dog is off the rental property, it is the police’s business.

- Section 24A(5)(d) - It was suggested to add “Pets or animals must be on a 6 foot (6’) leash when off the rental property.”
- Section 24A(6)(d) – It was suggested to add “and as required by Short Term Rental Licensing Ordinance” to the end of the sentence.
- Section 24A(6)(e) – It was suggested to add “all accessory buildings” to the end of the sentence.

Cheryl asked that when the licensing section is moved to the ordinance, will it be stated that the renewal of the license be annually. Clerk Bell pointed out that the application for a short term rental will only be completed once. Mayor Leach indicated that the ordinance addressed both the procedure for a new license and for a renewal license.

Linda voiced concern about “Enforcement Provisions”. Linda asked how do we know what the violations are and who tells us. Chair Brennan explained that hopefully it will be the neighbors, or the ones affected, that will complain. The neighbors will have the contact information and they will first contact the owner and/or the property manager. The complaint is taken care of, but never reported. The neighbor who made the report is happy that the complaint was solved but still these violations are adding up. Do we ask the neighbors to call us too when you call the contact person?

Cheryl stated that it should say somewhere, maybe number 11, that the property owner is the one that is ultimately responsible for what happens regardless of who they have running their business. Chair Brennan stated that the violation goes with the property no matter who is running it.

Still under “Enforcement Provisions”, section E, she suggested changing “any combination of the two” to “any combination, thereof”.

Chair Brennan asked them to pull out the Short Term Rental License Application. Cheryl stated that she thought that the cost of the license fee should be dependent on the number of people that can occupy the residence. Cheryl doesn't feel that it should be a set amount. This is different now, we are talking about a business. Chair Brennan stated that she could see where Cheryl is going with this. The licensing fee is relative to how much work it takes. Mayor Leach stated that the fees have to substantiate what work we do and what it costs us to do it. Chair Brennan stated that the Town's fee schedule across the board is pretty generous. In comparison a B&B can have four (4) rooms; these short term rentals can have 10 to 30 rooms. A B&B has a manager on site; short term rentals do not. Perhaps this might justify a sliding scale fee according to the occupants. Chair Brennan stated that the other municipal codes she looked at ranged anywhere from \$200 to \$1200 for the application fee. Joyce reminded everyone that the Town will also be receiving taxes from the short term rentals. Chair Brennan stated that the tax rate for this is either 11.32 or 12 percent depending on which chart you read. However, our cut in that is substantially less than that.

Joyce stated that her only concern was that we need to keep the same terms when mentioning the “Owner” and the “Property Manager” throughout the chapter and on the application. She pointed out the line where it asks about the type of rental management that it should read – Owner Manages Only; Property Manager and Owner Manages or Property Manager Only. Another place is in the second box “property maintenance contact”; perhaps that should be “Property Manager Contact”.

Cheryl suggested that the form have a place where they can indicate that they also have an accessory building on the property. They should also indicate the number of beds in the accessory building. It was reiterated that the Fire Marshal will establish the number of occupants per residence.

On the second sentence of the first paragraph on the Emergency Contact Responsibility, Chair Brennan stated that it was discussed that the responsible person shall be available 24 hours per day to respond to tenant and neighbor questions and concerns. The wording that was used in the chapter should be the same on the application form. It was suggested to change the sentence to read, “The responsible person shall be available 24 hours a day to respond and take the needed action to renters and neighborhood questions or concerns within forty-five (45) minutes.”

Joyce pointed out that we need to be consistent on the term renters or tenants. It was agreed to use the term renters. And on the very last line, renters should not be possessive.

Chair Brennan stated that this would be the form where we indicate the neighbors that need to be given the contact information.

Chair Brennan stated that the date of the public hearing will be Tuesday, April 24, 2018. Cheryl reported that she will not be able to attend on the 24th as she will be out of the country. Chair Brennan explained the process for the approval of the proposed new chapter and the Ordinance for short term rental and the applicable business license.

Chair Brennan explained that she would like to see the ordinances included in the Land Use Code either following the applicable chapter or as an appendix to allow easier accessibility.

Cheryl reported that she has had a slew of residents tell her that they are waiting in line to be able to rent out their residences. Chair Brennan asked her if she told them that this will only apply to the parcels in the overlay zone. Cheryl remarked that she has and Chair Brennan told her to keep repeating it. Mayor Leach stated that this needs to be kept in mind as the Planning Commission prepares for the next Town survey. Joyce pointed out that those who got up and spoke stated they did not want it (short term rentals) but they would

allow it because the Town needed a connector corridor. Linda pointed out that the response to multi-housing has increased with each of the last two surveys. Mayor Leach pointed out that was multi-housing not short term rentals. They are two different things. Discussion continued on ideas in preparing for the next survey.

ADJOURNMENT – Joyce made a **MOTION** to adjourn. Linda **SECONDED** the motion.

The meeting adjourned at 8:24 p.m.

Minutes Prepared by:
Vicki S. Bell, Town Clerk

APPROVED:

Planning Commission Chair/Vice Chair

The foregoing minutes were posted in the cabinet of the Rockville Town office by _____
at approximately _____ AM/PM on _____ and on the Rockville Website.
