DATE: May 22, 2015

MEMO TO: Law & Public Safety Committee

SUBJECT: Agenda Review

The following information is provided for items scheduled for consideration by the Law & Public Safety Committee at 4:00 PM on Tuesday, May 26, 2015. The Committee will meet in Conference Room 305, Raleigh Municipal Building, 222 West Hargett Street, Avery C. Upchurch Government Complex, Raleigh, North Carolina.

13-13 Property Development - Providence Baptist Church (10/21/14)
13-15 Home Rental Services (1/20/15)
13-17 Encroachment - 501 Devereux Street (4/7/15)

Attachments

cc: City Attorney Tom McCormick
City Clerk Gail Smith
Assistant City Manager Tansy Hayward
Police – Chief Cassandra Deck-Brown, Deputy Chief J. Perry
Planning Director Kenneth Bowers
Planning & Zoning Administrator Travis Crane
Sr. Planner Stacy Barbour
The Law and Public Safety Committee will meet on **Tuesday, May 26, 2015 at 4:00 P.M.**

Location: Room 305, Raleigh Municipal Building, 222 West Hargett Street, Avery C. Upchurch Government Complex, Raleigh, North Carolina. For information call 919-996-3040 (City Clerk’s office) or 919-996-3070 (City Manager’s Office).

---

All the following items are pending in Committee; however, only those items that are shown in bold print will be discussed during this meeting.

I. 13-13 Property Development – Providence Baptist Church (10/21/14)
II. 13-15 Home Rental Services (1/20/15)
III. 13-17 Encroachment – 501 Devereux Street (4/7/15)

The following items were referred from the May 5, 2015 City Council meeting:

NONE

*** Council Chamber is Assistive Listening System equipped. Deaf and hearing impaired individuals needing interpreter services should provide 48-hour notice by calling 919-996-3100 (voice) or 919-996-3107 (TDD). ***

---

**NOTE:** The agenda backup will be available after 4:00 p.m. on the Friday preceding the meeting. CTRL + Click on the link below to access the City Council Committees page on the City of Raleigh Web site.

[http://www.raleighnc.gov/government/content/BoardsCommissions/Articles/CityCouncil.html](http://www.raleighnc.gov/government/content/BoardsCommissions/Articles/CityCouncil.html)
AGENDA ITEM: Property Development – Providence Baptist Church (13-13)

COMMITTEE DATE: May 26, 2015

ORIGIN OF ITEM: Referred at the October 21, 2014 City Council meeting at the request of John Erwin and as follow-up to January 13, 2015 L&PS Committee Meeting.

DEPARTMENT CONTACT: W. Stacy Barbour, Sr. Planner, 919-996-2361

DESCRIPTION/SUMMARY:
John Erwin petitioned Council to refer a private property matter to the Law & Public Safety Committee. The matter regards the failure of a property owner to correct certain legal aspects associated with the property in order to allow the property to be sold. The Providence Baptist Church is interested in purchasing a portion of the property in question.

BUDGET IMPACT (FUNDING SOURCE/BUDGET ACTION):
None.

RECOMMENDATION: None. Staff will be present to respond to any questions.

ALTERNATIVES:
EXEMPLARY FROM LAW AND PUBLIC SAFETY COMMITTEE
Tuesday, January 13, 2015

Property Development – Providence Baptist Church (10/21/14) - Chairperson Baldwin asked
Staff to give the Committee some background on this item.

Senior Planner Barbour explained this has been an issue for some time. This item started with
John Ervin petitioning City Council to refer a private property matter to the Law and Public
Safety Committee. The matter regards the failure of a property owner to correct certain legal
aspects associated with the property to be sold. The Providence Baptist Church is interested in
purchasing a portion of the property in question. John Ervin submitted a recorded map relating
to the purchase of the adjacent 3.22 acre piece of property located at 10425 Glenwood Avenue.
The purchase is essential for the future development of Providence Baptist Church. The City has
no objection to the church’s purchase of this property and the quickest way to solve this in
conversation between himself, Deputy City Attorney Botvinick, and the Dunn’s representative it
appears the Dunn Family has not reached a resolution to this problem. They were working
internally they recognize the non-conformity and they want to make it right but they have not
yet. Mr. Barbour submitted a map with the location of the non-conformity.

Ms. Baldwin asked why this is a non-conformity and who does this fall on.

Mr. Barbour stated it does fall on the property owners. There is a need for a recombination on
the property which would make this building comply with the Code.

Ms. Baldwin confirmed this has been going on since the 1980s and it was never discovered.

Mr. Barbour stated it was not discovered until a few years ago when the church came to the City.
He concluded the Dunn’s are holding this up because of the non-conformity. The City is in
agreement to allow the Church to acquire the property. The City has also been working with the
Dunns’ to try and help them come to an agreement but they have not been able to clear up the
non-conformity.

Attorney Phillip Isley, 1117 Hillsborough Street stated he is here with Barry Mann who is
representing Providence Baptist Church. They have appeared before Council for the referral to
Committee and they do have a bit of a disagreement. He stated Mr. Mann has presented the City
with a packet of information regarding this item. They are asking the Committee to allow this
transaction to take place.

Ms. Baldwin questioned whether the sellers all together in wanting to sell this. She stated there
was some disagreement about even selling the property.

Attorney Barry Mann, 3605 Glenwood Avenue, 27612 briefly explained he has been involved
with this case a very long time. He explained the church wants to redevelop their whole site. He
submitted a binder of maps and locations of specific sections of the church’s property. He gave a
very brief presentation of the maps included in the binder as it relates to sections of church
property. He pointed out Providence Baptist Church is in the process with the City to try and redevelop this site. They obviously have to meet the Tree Save and Parking Ordinance. The binder included the tracts owned by the Dunn’s’. The Dunn’s were in agreement with the Church to buy a portion of the southern portion of property equaling 1.5 acres. The Church refrained from acquiring the land.

Mr. Maiorano questioned how the situation at hand ultimately put everyone here today.

Mr. Mann gave an overview of the following:

Re: Proposed recombinantion plat between Providence Baptist Church (the "Church") and Dunn Developers of Raleigh, Inc. ("DDR") - Our File 15620-T24854

Thank you for your recent response to my e-mail to Christine Darges. Please allow me to recap the facts surrounding the request by our client, Providence Baptist Church ("Providence"), of the City of Raleigh (the "City") to approve and effectuate a recombination of certain property owned by it and DDR, all as originally shared with you and others in a face-to-face meeting in August, 2011 and in prior and subsequent correspondence.

For many years now, Providence has been contemplating and planning a redevelopment of its church campus located on Glenwood Avenue near its intersection with Pleasant Valley Road. This redevelopment would involve many improvements, including the construction of a new sanctuary and the creation of new or revised parking and traffic lanes. This redevelopment would also bleed into adjoining, unimproved land already owned by Providence and in addition, would necessitate a recombination with the DDR Tract (hereinafter defined) whereby the southern 1.5 acres from the DDR Tract would be purchased from DDR and then added to Providence’s existing property, all as shown on the attached recombination plat prepared by Dave Brubaker at WSP Sells (the "Recombination Plat").

DDR, a North Carolina corporation which has Jimmy Dunn and Bobby Dunn (uncle and nephew, we believe) as its sole stockholders, owns a tract (the "DDR Tract") containing approximately 3.22 acres with a PIN of 0786.11-67-6281, with said DDR Tract having been conveyed to DDR by a commissioner's deed recorded in Book 14205, page 311, Wake County Registry (aerial tax map is attached). Jimmy Dunn and his sister (name unknown) (the "Dunns") own a tract (the "Dunn Tract") that adjoins the DDR Tract containing approximately 0.6 acre with a PIN of 0786.07.67-7550 on which the family's homeplace used to be located, with the source deed for the Dunn Tract being recorded in Book 1793, page 361, Wake County Registry (aerial tax map is attached). A building exists that straddles the common line of the two Tracts (the eastern line of the DDR Tract and the western line of the Dunn Tract). I have no idea why a building (in which a Walker Auto Parts store and Sherwin Williams paint store are located) straddles the common property line. In any event, the City has taken the position that as a condition of the approval of the Recombination Plat, the lines for the DDR Tract and the
Dunn Tract have to be redrawn so as to locate the straddling building entirely on one Tract or the other (and that would comply with appropriate setback and access requirements).

For more than three (3) years, Providence has tried to work with DDR to try and address the problem with the encroaching building but to no avail. The problem, quite frankly, is with the Dunn sister, who has no incentive to correct this problem to enable DDR (of which she is not an owner) to sell the 1.5-acre tract to Providence. DDR cannot, and does not even want to, force the Dunn sister to do anything with respect to the problem. And while DDR is still willing to sell the 1.5 acres to Providence, it is ambivalent as whether this sale occurs or not and has shown no incentive to work out the problem in order to accomplish the sale.

Moreover, if the City does not allow the southern 1.5 acres to be severed from the DDR Tract, and no transaction between DDR and Providence is consummated, the problem of the building that straddles the two Tracts continues to exist. Conversely, if the City would allow the Recombination Plat to be recorded, the redevelopment of the church property could begin and the City could use whatever authority it has to force DDR and the Dunn individuals to correct their situation with the building that straddles the property line.

Providence has done all that it knows to do to encourage a solution to a problem that is acceptable to the City but over which it has absolutely no control. It is our client's hope and now its plea to the City that it no longer be held hostage in this situation simply because it has no means by which it can force a solution.

Accordingly, we (John Erwin, Dave Brubaker and I) would request another face-to-face meeting with the appropriate folks with the City to discuss this matter in light of the facts as outlined in this letter. We look forward to your response. Thank you in advance for your consideration of this matter.

Mr. Mann explained the City let this happen 30 years ago.

Mr. Maiorano asked if he is correct in saying the City of Raleigh had constraints on permitting even back when.

Mr. Mann answered in the affirmative.

Mr. Maiorano asked the City authorized a building permit based on what.

Mr. Mann stated based on the adequate map. He stated it is just not fair to hold the church property for a problem that involves a different family member. The City wants a problem corrected that they have no control over. The City let this happen thirty years ago. He pointed out if you don’t let this 1.5 acre be separate from the southern portion of this property there is still a problem.
Attorney Isley stated the City of Raleigh has total authority of what goes where. He feels with five votes from the Council they can allow this to happen as an exception. He does not know what it would be called.

Ms. Baldwin questioned whether it is a City Policy.

Mr. McCormick briefly explained the requirement of a recombination.

Mr. Maiorano questioned whether a recombination is really required.

Mr. McCormick stated the process would be to do a recombination. He then explained nothing that has been discussed in relation to settling the property issue can be done without the consent of all property owners.

Mr. Maiorano summarized the situation and questioned various scenarios that could possibly be permitted.

Mr. McCormick explained from a legal aspect and recommended that the law has to be compliant. He stated at some point there was a chance of working with John Phelps to set up a trust arrangement to solve this.

Mr. Isley pointed out his understanding is Mr. Dunn’s sister has no commitment to this.

**John Erwin, 4005 Balista Drive, Providence Baptist Church** stated she is open but in no hurry to commit to a plan. There is no commitment on her part. They have been pursuing this for several years. The duns do not want to cause any problem with their sister.

Mr. Isley stated they feel as though they have been hand strung through everything. The Church is trying to do a good thing.

Mr. McCormick stated 18 to 20 years ago the COR has actually changed the procedure where you can’t record a map without recording the deed.

Mr. Maiorano stated the City helped facilitate this problem so he sees this as a unique and distinct concern because of the role the City played. He questioned whether there is some legal constraint placed upon the City that would prohibit or prevent the Committee from trying to split this property.

The City Attorney stated this is simply an issue of a recombination with a non-conforming situation. This is a property rights issue and there is a property owner who does not want to participate.

Mr. Odom questioned whether the sister benefits from this at all. He confirmed that she does not
The group had extensive discussion on all legal aspects of this issue as it relates to the property, non-conformity, property rights, ownership, commitment, police power, issuance of notice of zoning violation, etc.

Mr. Maiorano feels they have an obligation to correct this. There is a reasonable argument to be made that they are creating a new property line and not impacting the subdivision. He asked would the court have any authority to compel action here on the part of the property owner.

Mr. McCormick stated a lot of these things happen but is the obligation of the City to correct this lawfully. He stated he would be happy to talk with the sister, Ms. Dunn.

Mr. Maiorano made a recommendation to issue a Zoning Notice of Violation.

Mr. McCormick stated they have to couch this in a way that the zoning inspectors look at this to see just in the way the Council/Manager government works. It is not appropriate for Council to direct the zoning inspector because he is a sworn official.

Ms. Baldwin stated Mr. McCormick has suggested meeting with Ms. Dunn.

Mr. McCormick stated he would be glad to go meet with Ms. Dunn. He stated Mr. Erwin is welcome to attend. The group went over legal concerns extensively.

Mr. Odom stated he would not support this and he is very nervous about this being handled legally.

Mr. Maiorano stated he does believe the City has an obligation because they did issue a permit, and allow recordation of the map, etc. for a building that is a non-conforming use.

Mr. Odom stated he does not support sending the Zoning Inspector out to the property owners.

Ms. Baldwin stated based on The City Attorney’s suggestions they will hold the item in Committee. They will have him meet with the Dunns.
COUNCIL MINUTES EXCERPT
Tuesday, October 21, 2014

DEVELOPMENT PROBLEMS – 6425 GLENWOOD AVENUE – REFERRED TO LAW AND PUBLIC SAFETY COMMITTEE

John Erwin, Providence Baptist Church pointed out in September 2012, they submitted a recorded map relating to purchase of a 1.5 acres of the adjacent 3.22 acre piece of property located at 10425 Glenwood Avenue. He stated the purchase of that property is essential for the future development of Providence Baptist Church. He stated they received information that on the northern part, there are some issues that would have to be addressed before any recombination map is approved. He stated for the past two years they have worked with an attorney, surveyor, seller trying to settle the issue but none of the parties involved have the actual right to do or to make the decisions that are needed. The seller can’t sell, Providence cannot purchase and recombine and they understand that they cannot achieve the request until the matter is settled. He asked that the item be referred to the Law and Public Safety Committee for consideration.

Mayor McFarlane questioned if this is something that the City should be involved in. City Attorney McCormick indicated the City has already been involved. He stated he does not see any problem referring the issue to the Law and Public Safety Committee and if the Council chooses to do that, he would ask Ms. Baldwin to not schedule it for the next meeting as he feels we are really close to a solution that will resolve the issue. He stated he thought it had been resolved but we need a little more time. Mr. Stephenson questioned if this is a matter that requires City Council intervention and whether the City Council has any authority to resolve the issue. It was agreed to refer that into Law and Public Safety Committee but not schedule it to allow staff to hopefully work to resolve the issue.
VIA E-MAIL

Mr. W. Stacy Barbour, A.I.C.P.
Senior Planner
City of Raleigh
Department of Planning
One Exchange Plaza
Raleigh, North Carolina 27602

Re: Proposed recombination plat between Providence Baptist Church (the “Church”) and Dunn Developers of Raleigh, Inc. (“DDR”) – Our File 15620-T24854

Dear Stacy:

Thank you for your recent response to my e-mail to Christine Darges. Please allow me to recap the facts surrounding the request by our client, Providence Baptist Church (“Providence”), of the City of Raleigh (the “City”) to approve and effectuate a recombination of certain property owned by it and DDR, all as originally shared with you and others in a face-to-face meeting in August, 2011 and in prior and subsequent correspondence.

For many years now, Providence has been contemplating and planning a redevelopment of its church campus located on Glenwood Avenue near its intersection with Pleasant Valley Road. This redevelopment would involve many improvements, including the construction of a new sanctuary and the creation of new or revised parking and traffic lanes. This redevelopment would also bleed into adjoining, unimproved land already owned by Providence and in addition, would necessitate a recombination with the DDR Tract (hereinafter defined) whereby the southern 1.5 acres from the DDR Tract would be purchased from DDR and then added to Providence’s existing property, all as shown on the attached recombination plat prepared by Dave Brubaker at WSP Sells (the “Recombination Plat”).

DDR, a North Carolina corporation which has Jimmy Dunn and Bobby Dunn (uncle and nephew, we believe) as its sole stockholders, owns a tract (the “DDR Tract”) containing approximately 3.22 acres with a PIN of 0786.11-67-6281, with said DDR Tract having been conveyed to DDR by a commissioner’s deed recorded in Book 14205, page 311, Wake County Registry (aerial tax map is attached). Jimmy Dunn and his sister (name unknown) (the “Dunns”) own a tract (the “Dunn Tract”) that adjoins the DDR Tract containing approximately 0.6 acre with a PIN of 0786.07.67-7550 on which the family’s homeplace used to be located, with the source deed for the Dunn Tract being recorded in Book 1793, page 361, Wake County Registry (aerial tax map is attached). A building exists that straddles the common line of the two Tracts (the eastern line of the DDR Tract and the western line of the Dunn Tract). I have no idea why a building (in which a Walker Auto Parts store and Sherwin Williams paint store are located) straddles the common property line. In any event, the City has taken the position that as a condition of the approval of the Recombination Plat, the lines for the DDR Tract and the...
Dunn Tract have to be redrawn so as to locate the straddling building entirely on one Tract or the other (and that would comply with appropriate setback and access requirements).

For more than three (3) years, Providence has tried to work with DDR to try and address the problem with the encroaching building but to no avail. The problem, quite frankly, is with the Dunn sister, who has no incentive to correct this problem to enable DDR (of which she is not an owner) to sell the 1.5-acre tract to Providence. DDR cannot, and does not even want to, force the Dunn sister to do anything with respect to the problem. And while DDR is still willing to sell the 1.5 acres to Providence, it is ambivalent as whether this sale occurs or not and has shown no incentive to work out the problem in order to accomplish the sale.

Moreover, if the City does not allow the southern 1.5 acres to be severed from the DDR Tract, and no transaction between DDR and Providence is consummated, the problem of the building that straddles the two Tracts continues to exist. Conversely, if the City would allow the Recombination Plat to be recorded, the redevelopment of the church property could begin and the City could use whatever authority it has to force DDR and the Dunn individuals to correct their situation with the building that straddles the property line.

Providence has done all that it knows to do to encourage a solution to a problem that is acceptable to the City but over which it has absolutely no control. It is our client’s hope and now its plea to the City that it no longer be held hostage in this situation simply because it has no means by which it can force a solution.

Accordingly, we (John Erwin, Dave Brubaker and I) would request another face-to-face meeting with the appropriate folks with the City to discuss this matter in light of the facts as outlined in this letter. We look forward to your response. Thank you in advance for your consideration of this matter.

Sincerely,

MANNING, FULTON & SKINNER, P.A.

Barry D. Mann

bdm

Enclosure

cc:  Ms. Christine Darges (via e-mail)
     Mr. Ira Botvinick (via e-mail)
     Mr. John Erwin (via e-mail)
     Mr. Dave Brubaker (via e-mail)
AGENDA ITEM: Home Rental Services (13-15)

COMMITTEE DATE: May 26, 2015

ORIGIN OF ITEM: Referred as a result of January 20, 2015 City Council Meeting and as follow-up to the February 24, 2015 and March 24, 2015 Law and Public Safety Committee meetings.

DEPARTMENT CONTACT: Marchell Adams David, Asst. City Manager, 919-996-3070
Travis R. Crane, Planning & Zoning Administrator, 919-996-2656

DESCRIPTION/SUMMARY: At the December 2, 2014 city council meeting staff was asked to explore the existing regulatory environment related to short-term online rentals of residential properties and identify best practices nation-wide. Staff updated the City Council on Jan. 20, 2015 and provided additional insight on Feb. 24 to the Law and Public Safety Committee. The item was held over to allow for further public comment from those who may not have been able to attend due to inclement weather.

BUDGET IMPACT (FUNDING SOURCE/BUDGET ACTION):
None at this time

RECOMMENDATION: Consider staff recommendations as presented with the Jan. 20, 2015 City Council Meeting Agenda Item, the February 24, 2015 and March 24, 2015 Law and Public Safety Committee Agenda Item: 1) Maintain Existing Regulations, 2) Authorize a Text Change to Amend the Unified Development Ordinance, or 3) Authorize a special use permit, or 4) Consider an alternate option.

ALTERNATIVES: At the March 24, 2015 Law and Public Safety Committee, staff presented additional information about regulations and best practices.
Item #13-15 – Home Rental Services. Planning and Zoning Administrator Travis Crane pointed out at Council’s request the staff presented an overview of their research related to short term residential rentals. He indicated they had provided the Committee with some options and would like to hear the Committee’s feedback. He stated in addition staff had provided the Committee with a blueprint for some regulations if the Committee decides it wanted to proceed with this issue.

Ms. Baldwin indicated the last time this issue was discussed was in the midst of an ice storm however most of the people in the audience today were present at that meeting. She stated however we have not heard any feedback from residents.

Mr. Odom indicated this is new technology, he is for technology but he is nervous about this proposal and he feels the Council should be very cautious entering into an area where we are already having some problems. He stated in his opinion this is a zoning issue and if we move forward with this type proposal, we would be moving away from the City’s scattered site policy. He stated he is for new technology he knows this type technology is coming but is concerned about the implementation.

Ms. Baldwin stated she would like to ask Staff to bring back a couple of options for the Committee to consider in looking at how to deal with this issue. She suggested that staff develop a text change that would take into consideration that the facility has to be owner occupied and, cap the number of occupants and/or rooms that could be rented. She questioned if parking is really an issue with Mr. Crane pointing out it becomes an issue if no parking is available. He indicated in residential areas people do not like other people parking on the street in front of their homes and it does become a problem or a perceived problem. Ms. Baldwin pointed out if the people who live in an area park on the streets you will have cars on the street anyway. Mr. Crane pointed out another consideration is the City policy saying you have to have so much parking on your property and regulations about how much of a front yard could be used for parking. Parking can be an issue if no parking is provided.

Ms. Baldwin stated Oakwood has no parking and everybody parks on the street. Mr. Crane pointed out there are some options that staff could study at. Ms. Baldwin indicated she feels the proposal should have some type annual registration and inspection. She asked that the staff develop a text change that incorporates those issues – owner occupied, cap on number of occupants/rooms, standards for parking, registration and annual inspections.

Ms. Baldwin asked that staff also develop another option that would require the issuance of a special use permit pointing out that is a stricter option and does bring up some concerns as many times the special use permit pits neighbor against neighbor plus it sets up for a quasi judicial
hearing and there are some problems with presenting testimony, presenting concerns and how that works.

Ms. Baldwin indicated another issue is taxes and she would like to develop some way to look at back taxes and how those could be collected. Mr. Odom questioned how much staff time it would require to develop that information or how it could be developed. Ms. Baldwin stated she thought that information was available. Mr. Odom questioned if we have a listing of all of the Airbnb locations, and when they went into business stating he is concerned about the staff time to develop that information. Ms. Baldwin pointed out San Francisco was able to figure that out and so she feels Raleigh could also develop the information.

Ms. Baldwin indicated the last time this item was discussed Denny Edwards of the Convention and Visitors Bureau mentioned tax collection and how that would work.

Convention and Visitors Bureau Director Denny Edwards pointed out currently there is a bill being considered on the state level to address this type issue. He talked about identifying who would manage the tax collection and whose responsibility it is to pay the tax, the quests or the property owners and talked about it being the responsibility of the homeowner or exactly how the tax collection would or should be handled.

Ms. Baldwin pointed out whatever we do she feels we should have a report after about six months. It might be however that we do not have enough information but a report should be forthcoming.

Jim Melo, 215 North East Street, Kevin Selva, 320 Northclift Drive, Glenn Christopher, 5224 Nautical Drive, Greg Stebben, 1803 White Oak Road and Brad Thompson, Barksdale Drive talked about their experience both as a host and a guest in an Airbnb. They talked about on-street parking which is allowed in many neighborhoods, being more comfortable in an Airbnb than some hotels, their positive interaction with their guests and/or as a host, how being a host provides security as there is always some one in and out of their homes, financial benefits they receive as a host and the positive experience and the economic advantages for a visitor and host. They talked about our sharing economy, how it is a technology driven business and how the City has worked hard to send the message that the City of Raleigh is a technology friendly city and their feeling the City should embrace this type usage. They talked about how as a host they provide information to their guests on restaurants, activities, etc, while they are in the city and called on the Committee to move forward and not let one issue such as number of cars or where the cars park hold back a positive decision. They talked about the tremendous opportunity for the city and how it helps open the doors for cultural on economic positive impacts. Each told how they have benefitted from being a host and/or guest.

Ms. Baldwin talked about having some type limits on the amount of space that can be rented in a house to try to avoid a situation where people buy houses just to rent through this type program. She feels the owner occupied requirement would help address that issue; however, she would ask if there is a way to allow a total house to be rented and not require the owner occupancy.
In response to questioning from Ms. Baldwin, Mr. Crane indicated hopefully staff could have a report back in about 30 days.

Mr. Odom asked about rules and regulations pointing out Airbnb has a good reputation but there are other vendors out there who may not be as good or reliable. He stated to him it still gets back to a zoning issue and questioned how other cities are allowing in this type facility and use in a single family neighborhood. He questioned how and what would happen if there were code violations with Associate City Attorney Leapley pointing out if there is a code violation the zoning administrator could cite the location. How other cities are dealing with this was also talked about with Mr. Odom pointing out he likes the use of technology but he still has concerns of opening up the City for rentals and openings any where again pointing out it is a zoning issue. He questioned how to protect the people who do not know about this concept and again pointed out he is for the concept but wants up to be very cautious and provide protection to the surrounding neighborhood. Mr. Silva pointed out one can drive down the street in his neighborhood and can point out the houses that are Airbnb as they are better kept, nicer yards, etc.

How to move forward with this concept but protect the integrity of our neighborhoods was talked about. Mr. Thompson indicated he has a real estate background and pointed out many times the problems with Airbnb or this type housing are in very, very dense neighborhoods with Ms. Baldwin pointing out that is correct. In large cities you see people buying units in a large facility and offering them for rent. Mr. Thompson talked about some type radius requirement that would allow people to buy houses and become Airbnb customers. There was conversation about comparing Raleigh to cities such as San Francisco and New York where most people live in co-ops and that is not a good analogy for Raleigh.

It was agreed that the staff will bring back a report or suggestions as outlined by Ms. Baldwin and the Committee will take up the issue in approximately 30 days.
Item #13-15 – Home Rental Services. Ms. Baldwin indicated she would have canceled the meeting due to the inclement weather; however the representative from AirBNB had flown in to attend the meeting and was present.

The following Staff report was included in the agenda packet:

At the request of City Council, staff has performed research related to short-term residential rentals. Staff produced a memorandum for the January 20th City Council meeting, which is attached for reference. The memorandum provides a summary of existing regulations for short term rentals, identifies impacts related to the use, and offers some best practices for regulating the use.

Staff identified a number of potential options to accommodate short term residential rentals in the City. If the City Council wishes to explore the use further, appropriate zoning districts would need to be identified. Staff has explored the following options, which can be included in the Unified Development Ordinance:

- Create standards to cap number of occupants or rooms rented
- Require property owner to reside on the property
- Create standards for parking
- Require the owner to register as a short-term rental
- Require annual registration and inspection

Through discussion at the City Council level, additional regulations may be identified. A change to the Unified Development Ordinance would be required, which would include review of the regulations by the Planning Commission and a public hearing before the City Council. Staff would need to create a business process for application, registry and inspection of short-term rentals. Staff would suggest that the permits and inspection include a fee to partially recover cost of service.

Staff will provide a presentation on the materials and answer questions raised by the Committee.

Assistant Planning Director Travis Crane used a PowerPoint presentation to give an overview of the item as well as comparing how other municipalities are handling the issue. The PowerPoint was outlined as follows:
Short Term Residential Rentals

- Rental of a room or property for a short period of time
- Can rent portion or entire house
- Can have separate entrance and private rented space or shared space with rest of occupants
- Common in resort communities, vacation spots
- Becoming more popular in larger cities

How did we get here?

- Staff received zoning complaint in November 2014
- At December 2nd meeting, Council asked for additional information regarding use, best practices
- Staff provided memorandum at January 20th meeting

History of Use in Raleigh

- Both codes contain “Bed & Breakfast” use
- Originally inserted in code in 1984; regulations amended in 1992 to expand allowance
- Part 10 code included “Room rental in a dwelling unit (lodger)”
- Bed & Breakfast carried into UDO;lodger use was not

<table>
<thead>
<tr>
<th>Standard</th>
<th>Part 10</th>
<th>UDO</th>
</tr>
</thead>
<tbody>
<tr>
<td>Located in historic district, landmark, National Register</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Must be in single family structure</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Must meet density</td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>400-foot separation from another B&amp;B</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Must provide parking</td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>Special use permit required</td>
<td>X</td>
<td></td>
</tr>
</tbody>
</table>

Impacts identified with short term rentals:

- Presence of business in neighborhood
- Increased activity on property
- Parking to accommodate renters
- Potential conflict with other regulations (density, other long-term rental arrangements)
- Increase in traffic

Opportunities identified with short term rentals:

- Increase in available lodging for travelers
- Additional income generation for property owner
• Additional revenue for local government
  − 6% room occupancy tax (Wake County)
  − Potential future fees/licensing

Cities that allow short term rentals:

<table>
<thead>
<tr>
<th>Portland, OR</th>
<th>Austin, TX</th>
</tr>
</thead>
<tbody>
<tr>
<td>Seattle, WA</td>
<td>Madison, WI</td>
</tr>
<tr>
<td>San Diego, CA</td>
<td>Chicago, IL</td>
</tr>
<tr>
<td>San Francisco, CA</td>
<td>Miami, FL</td>
</tr>
<tr>
<td>Palm Springs, CA</td>
<td>Charleston, SC</td>
</tr>
<tr>
<td>Phoenix, AZ</td>
<td>Washington, DC</td>
</tr>
<tr>
<td>Las Vegas, NV</td>
<td></td>
</tr>
</tbody>
</table>

Some cities have regulations to address vacation rentals

• Resort communities
• Rentals occur in week blocks
• Cities concerned with accountability of guests’ actions; life/safety concerns
• Allowed in certain areas of city

Other cities have regulations to address internet based rentals

Regulations address:

• Occupancy by owner
• Amount of area rented
• Permitting (initial and annual)
• Inspection

Best practices identified through research:

• Only permitted in certain zoning districts
  − Few cities allow everywhere (Portland, Austin)
• Create regulations to mitigate impacts
  − Size, parking, maximum number of guests, signage
• Require registration/permit
• Require owner to reside in structure

Options for consideration:

1. Maintain Status Quo
   − Limited allowance for use
2. Change Zoning Code
   − Allow in more zoning districts
   − Create use standards
Identify appropriate business practice

Modifying the UDO:

1. Review by Planning Commission, public hearing by Council
2. Identification of standards
   - Appropriate zoning districts
   - Special Use Permit?
   - Maximum number of rooms/area
   - Parking
   - Owner occupancy
3. Creation of business practices
   - Rental registration
   - Permit/submittal fee required
   - Property inspection

Clerk’s note: the PowerPoint presentation also included a listing of zones that allow bed and breakfast inns for both Part 10 and the Unified Development Ordinance (UDO).

Mr. Maiorano questioned why the parking and special use permit requirements did not carry over from Part 10 to the UDO with Assistant Planning Director Crane responding this type of use is not a typical traffic generator as it is more destination-oriented.

Mr. Maiorano questioned which cities do not allow short term rentals with Mr. Crane responding he was not able to quantify specifics. Mr. Odom questioned whether there were cities that looked at short term rentals and decide to not allow them with Mr. Crane he could not find any.

Ms. Baldwin questioned whether there were other cities that permitted renting out the entire dwelling with Mr. Crane responding in the affirmative; however, owners were permitted a maximum amount of time the residences could be rented, but this is difficult to enforce. Ms. Baldwin questioned whether AirBNB could regulate the number of times a residence may be rented over the course of a year with Mr. Crane responding enforcement would be difficult as there are a number of websites that offer short-term rentals including Craig’s List, etc.

Steven Mange, Director of Government Affairs, North Carolina Restaurant and Lodging Association, indicated he was present to speak on behalf of the traditional lodging establishments that include hotels and bed and breakfast (B&B) inns. He talked about occupancy tax revenues generated through tourism promotions, and indicated the Association has no interest in shutting down AirBNB as it acknowledges how state of the art technology has changed the landscape of vacation rentals; however the Association wants a level playing field. He expressed concern regarding the collection of occupancy taxes and fees, fire and public safety, parking, etc., and talked about attending a recent public form in Asheville where members of the public talked about willingness to pay the occupancy tax and address the safety issues if those regulations were made clearer to the follow and enforce.
Mr. Mange went on to talk about proposing regulations at the state level to address occupancy and use tax regulations, as well as instituting a state-wide registry for those engaged in short term rental listings.

Mr. Maiorano questioned whether there was an established model for a state-wide registry with Mr. Mange responding the traditional lodging industry has a similar registry through the State’s Division of Public Health. In response to questions, Mr. Mange acknowledged some cities have a registry, but there are no state-wide registries.

Mr. Odom expressed concern regarding giving such control to the State and would much prefer more local control.

Max Pomeranc, Public Policy Director for AirBNB, indicated his company is concerned with keeping things simple. He indicated most AirBNB listers do it on the side: a few times a year, a weekend, for a sabbatical, etc. He expressed concern regarding establishing a public registry as it may discourage most users who list only on occasion; however, he acknowledged a registry would be easier for those who list their properties on a regular basis, such as properties that are rented for more than 180 days per year. He questioned the definition of “primary residence” indicating most cities define those as owner-occupied more than 180 days per year.

Mr. Odom talked about how such an application as AirBNB competes with commercial B&B’s and soul would want a more level playing field.

Ms. Baldwin expressed concern regarding owners who purchase properties in order to rent out the entire residence on a short term basis with Mr. Pomeranc pointing out most beach communities are okay with that and went on to talk about how some cities regulate such rentals. Ms. Baldwin pointed out the City of Raleigh requires the owner occupy the residence in a B&B.

Mr. Pomeranc talked about how his company handles customer and lister complaints and how it is a challenge to regulate its lister noting AirBNB is “learning as it goes” and went on to refer to the City of San Jose’s example of initiating an 18-month pilot program for short term rentals.

Ms. Baldwin questioned the number of local “amateurs” listing on AirBNB including those who rent out rooms or entire residences with Mr. Pomeranc responding he will research those numbers and bring a response back to the Committee.

Mr. Pomeranc talked about how AirBNB is addressing collecting and paying occupancy taxes and indicated his company is open to working with the State on voluntary collection and paying the tax.

Ms. Baldwin questioned how AirBNB addresses safety issues with Mr. Pomeranc responding his company requires its listers provide emergency exit maps, smoke alarms, etc. He compared his company’s safety regulations to that of the automobile industry in that it has general safety standards; however, each State as its own, more detailed and stringent measures, and stated his company is eager to work with local municipalities to address safety issues. In response to questions, Mr. Pomeranc stated his company has a $1 million policy which covers damage by
renters as well as a $1 million homeowner policy which covers hosts in areas not covered by the hosts’ own homeowners policy.

Discussion took place regarding AirBNB’s application process with Mr. Odom questioning why Raleigh shouldn’t have its own registry with Mr. Pomeranc expressing concern for the privacy of those hosts who list their properties on occasion.

Brief discussion took place regarding how the City of Austin, Texas regulates its short-term rentals.

Brad Thompson, indicated he is a host on AirBNB and talked about his experience in residential and commercial real estate. He talked about the shortage of hotel space in the area and how local listers on AirBNB have experienced success. He asserted there is no parking issue and expressed concern regarding the rush to regulate the industry. In response to questions, Mr. Thompson expressed his opinion a commercial registry would deter some people from listing their residences; however, he supports purchasing multiple residences for use as short-term rentals as he believes the market supports it, and asserted the owner-occupancy rule would be difficult to enforce.

Mr. Odom talked about the number of rental residences in his district and how those residences are registered with the City. He expressed concern regarding how short-term rentals may cause difficulty in the neighborhood with Mr. Thompson pointing out he does not split-rent his premises.

Mr. Thompson went on to talk about his positive experience with AirBNB with Mr. Pomeranc adding how hosts and guests rate each other on the AirBNB website and talked about how those ratings help keep the quality of hosts and facilities up. In response to questions, Mr. Thompson stated he rents 3 bedrooms in his home and talked about difficulty maintaining non-owner-occupied residences. He reiterated he had a very good experience with AirBNB and asserted there is not real competition with hotels as most users of AirBNB are executives who are on a work-vacation and may have certain dietary restrictions and requirements, and he could better accommodate them.

Doris Jurkiewicz, 414 North Bloodworth Street, stated she is the owner of the Oakwood Inn Bed and Breakfast and expressed concern the playing field is not level. She asserted AirBNB is taking away her customers and talked about all the rules and regulations she must follow to run her business. She talked about how a potential customer told her she chose to stay at an AirBNB because it was cheaper and she didn’t need breakfast. She talked further about how AirBNB affected her business and pointed out another B&B in Raleigh closed because they were not able to compete with AirBNB. She indicated she could list which of her neighbors are renting rooms through AirBNB and how they are not regulated whereas she is required to meet all state and local fire and health regulations. She talked about how her business is treated as a hotel and point out AirBNB is a multi-billion dollar industry whereas she is a mom-and-pop operation.

Greg Stebben, 1803 White Oak Road, talked about his experience with AirBNB pointing out people stay in his house almost every day. He stated he has been promoting AirBNB every day
on the radio as he is a technology journalist, and asserted Raleigh needs to work things out with AirBNB since Raleigh is known as a technology hub and there is potential for becoming a prime example of the kind of partnership other cities can emulate.

Mr. Pomeranc noted in his travels he found each city has a unique housing situation and expressed his company’s desire to establish such a partnership with Raleigh and use it as an example as a partnership “done right”.

Mr. Odom expressed concern regarding enforcement and maintaining control over the short-term rental situation with Ms. Baldwin indicating once the Committee receives the data from AirBNB the City can get a better picture.

Mr. Maiorano questioned whether a uniform code of enforcement was not yet formed and expressed concern regarding how businesses struggle with regulations, and also expressed concern regarding neighbors not wanting commercial businesses in their neighborhoods with Mr. Pomeranc pointing out the San Jose program was only recently established in February of this year. Mr. Maiorano pointed out the City currently deals with boarding houses embedded in certain neighborhoods and the problems surrounding that situation.

Jeff Murison talked about his neighbors being AirBNB hosts and how he happened to be present at his neighbors’ home when their guests arrived and he was able to meet and talk with them. He indicated he had such a good experience with the meeting he himself began listing with AirBNB. He expressed concern he would not want to register his listing with the City and talked about how every 4 years in the Washington DC area almost every residence is rented out for the inauguration festivities.

Billy Edwards, Greater Raleigh Convention and Visitors Bureau, expressed concern conventioneers using AirBNB facilities as a result of Convention and Visitors Bureau-funded promotion and advertising on the behalf of area hotels.

Discussion took place regarding how AirBNB collects and pays occupancy taxes.

Mr. Stebben asserted all the regulations could be handled by AirBNB at the corporate level with Ms. Baldwin questioning if the City limited the number of times a person can rent rooms over the course of a year could AirBNB handle that requirement. Mr. Pomeranc responded in the negative pointing out the host could list on other sites as well and went on to reiterate concern regarding self-regulation and privacy issues.

Discussion took place regarding the number of listing sites available on the internet besides AirBNB as well as the regions served by those sites with Mr. Thompson asserting many of those listings are owner-occupied and talking about how each AirBNB host serves a certain niche clientele. He talked about how one guest flew his entire family from Hawaii so the father could attend a meeting at the Convention Center, and wanted to use the time for a family vacation.

Ms. Baldwin summarized the discussion noting the Committee won’t take action at this time as the inclement weather prevented some people from attending the meeting. She indicated this
item will be held over to March and will invite additional public comment at that time. She questioned whether there was a local AirBNB representative with Mr. Pomeranc responding his company’s San Francisco representative is from the Raleigh area and that her mother is also an AirBNB host. He indicated it would be better if the City hears from local hosts.
At the request of City Council, staff has performed research related to short-term residential rentals. Staff produced a memorandum for the January 20th City Council meeting, which is attached for reference. The memorandum provides a summary of existing regulations for short term rentals, identifies impacts related to the use and offers some best practices for regulating the use.

Staff identified a number of potential options to accommodate short term residential rentals in the City. If the City Council wishes to explore the use further, appropriate zoning districts would need to be identified. Staff has explored the following options, which can be included in the Unified Development Ordinance:

- Create standards to cap number of occupants or rooms rented
- Require property owner to reside on the property
- Create standards for parking
- Require the owner to register as a short-term rental
- Require annual registration and inspection

Through discussion at the City Council level, additional regulations may be identified. A change to the Unified Development Ordinance would be required, which would include review of the regulations by the Planning Commission and a public hearing before the City Council. Staff would need to create a business process for application, registry and inspection of short-term rentals. Staff would suggest that the permits and inspection include a fee to partially recover cost of service.

Staff will provide a presentation on the materials and answer questions raised by the Committee.
To: Ruffin Hall, City Manager  
   Jim Greene, Assistant City Manager  
   Ken Bowers, Planning Director

From: Travis R. Crane, Planning and Zoning Administrator

Date: 9 January 2015

Re: Short-Term Online Rentals

At the December 2, 2014 City Council meeting, staff was directed to explore the existing regulatory environment related to short-term online rentals of residential properties. Staff was also asked to identify best practices nation-wide for this use.

Use Defined
A short-term online rental is the practice of renting a room for a short period of time, usually to a traveler. The traveler can reserve the room through a website, which provides rental opportunities throughout the world. While the method for reservation has evolved with advancing technology, the end use has remained fairly static. A consolidated website makes the use available and accessible to a wider range of customers, broadening the use to a large number of property owners. The previous Part 10 zoning code and Unified Development Ordinance contain a use category known as "Bed and Breakfast." The standards in the respective codes differ; however, the basic function is the same.

Existing Regulations
The term "Bed and Breakfast" was introduced in the Part 10 zoning code in 1984. At the time, a Bed and Breakfast could only be established within a local historic district. The regulations were amended in 1992 as a result of a petition of citizens for a property located on Hillsborough Street. The intent of the text change was to broaden the allowance to other historic structures and non-residential zoning districts within a historic district or structure. With either iteration of the Part 10 Code, a special use permit was required.

The Part 10 code also included a use known as “Room Rental in a Dwelling Unit (Lodger).” This was a conditional use in most zoning districts. The conditions associated with the use required that the use occur in a single-family dwelling; the property owner must live in the dwelling; the room to be rented was a maximum of 25% of the floor area of the dwelling; a maximum of two persons can occupy the rental room; and that the maximum density in the district was not exceeded.
The “Room Rental in a Dwelling Unit” use was not included in the UDO. The Unified Development Ordinance largely replicated the requirements from the Part 10 Code related to Bed and Breakfast uses. The only real change to the regulations was in the permitted zoning districts, as a new set of mixed use districts was introduced in the UDO. The attached matrix provides a comparison between the two zoning codes (Attachment 1).

The Bed and Breakfast use has never been permitted in the Residential-1, Residential-2, Residential-4 or Residential-6 districts. The Bed and Breakfast must be located within a historic district, historic landmark, or on a property listed in the National Register of Historic Places, which represents the largest restriction on the use. The City has 6 local historic districts, 3 historic landmarks and 93 National Register listings.

Operating a Bed and Breakfast or offering a short-term rental of a room is different from a homeowner taking on a long-term renter. Both the Part 10 code and the UDO specify that up to 4 unrelated persons may occupy a dwelling unit. There is no limit from a zoning context on the number of persons related by blood, marriage or adoption occupying a dwelling unit. The distinction between a roommate and a short-term renter is difficult to quantify in either code. Simply: when does a renter cease to occupy space on a short-term basis and become a roommate? The issue of occupancy in rental situations has been a struggle from an enforcement position; density violations are difficult to prove.

Request for Research
City Council asked staff to research best practices related to short term residential rentals. As noted above, the idea of renting space in a residential dwelling is not new. What has changed in the past few years is advancing technology that connects traveler and host directly. The ease at which a traveler can research and reserve a room online has increased the viability of these rentals. Over the course of the past few years, the popularity of a few websites makes listing, rental and occupancy of single-family homes extremely simple. With a little to no investment, a property owner can list a bedroom on a world-wide website.

A number of cities have adopted regulations for short-term residential rentals. A few cities have adopted regulations in direct response to the increase in popularity of online short-term rentals (Austin TX, Portland OR). Many other cities have regulations that address vacation rentals. These are mostly present in resort communities or vacation destination cities. None of the surveyed cities refer specifically to the internet providers “AirBnB” or “VRBO;” rather, the terminology most commonly used is short term rentals or vacation rentals. While this distinction may seem minor, it is important to remember that the use would be regulated, not the portal used to conduct the use.

While the issues are likely similar, the regulations vary based on location. Staff surveyed a number of cities and found commonality among the collective regulations. Most cities require registration, a permit and fee and some type of inspection of the short-term rental. Requirements for the property owner to reside on the property were not very common. In fact, the resort communities permit the property owner to designate a local agent to address any concerns raised by neighbors. Attachment 2 provides an overview of regulations by city.

Impacts Identified with Short-term Rentals
Impacts associated with short-term rentals vary by the person or entity identifying the impacts. Neighbors will identify a set of impacts while the City may identify another set of impacts. The property owner likely desires minimal regulations and a process that is not cumbersome.

When conducted in a single-family neighborhood, here are some common impacts that may be identified when a short-term rental is present:
1. **Increase in traffic in the neighborhood.**
The short-term duration may add traffic to the neighborhood streets. Unless the property is located within walking distance of a transit facility or stop, it is highly likely that at least a few trips will be generated per stay. It should be noted that because the short-term rentals are usually reserved in advance of the stay, the impact of “pass-by” traffic is mostly non-existent. Simply, this use is not an impulse activity that would cause additional trips to the property by drivers looking for an available room for rent.

2. **Additional cars parked on the street or in front of the property.**
Most travelers will come to a location by car. If the traveler brings a car to the site for the duration of the stay, the car may be parked on the property or on the street. An additional car parked on the property may be seen as an issue of aesthetics. An additional car parked on the street would represent one less available overflow parking spot for the neighborhood.

3. **Presence of a business in a district that does not permit commercial activity.**
Many short-term rentals occur in residential zoning districts. These districts have limitation on commercial activity. A property owner can establish a home occupation, which is usually little more than an office inside the residence. Customers are not permitted; neither are employees who do not reside at the property. A live-work use can be granted by the Board of Adjustment with the approval of a special use permit. The live-work would allow up to 2 employees and would permit customer activity at the property, albeit at a limited rate.

4. **Increased activity at the property.**
With the potential for travelers every few days, a common complaint is that the neighborhood will experience an influx of “new” people. If the property owner does not reside on the property, the perception is that the appearance and upkeep of the property will wane and the activity at the property will increase. There may be a fear that late night activity will increase which could be disruptive to the neighborhood.

5. **Potential conflict with or circumvention of other regulations.**
Residential zoning contains density maximums, expressed as units per acre. A dwelling unit may be comprised of a family related by blood, marriage or adoption, or by four unrelated persons. If a dwelling unit that contains four unrelated persons allows a traveler as a short-term rental, a density violation would exist. In the current zoning context, it would be difficult to navigate between the use as a short-term rental, a roommate or a boardinghouse. Raleigh has experienced difficulty in regulating rental conversions in which the property is classified as a “vacation rental;” normalizing short-term rentals may result in unforeseen impacts if loopholes through other regulations are created.

**Opportunities**
The impacts identified above may be real or perceived, and may be more or less severe than noted. The allowance for short-term residential rentals does pose a few opportunities to the city as a whole:

1. **Increase to number of lodging units available for travelers.**
The City Council recently received a report that noted additional hotel rooms would be beneficial to accommodate tourists and convention goers. While the City of Raleigh is not a resort community, significant interest has generated attention to the region. This increase in attention can translate to more prospective residents and travelers.
2. *Potential influx of income to property hosts.*
   A property owner can convert an unused room to be available to a short-term renter with little or no investment. Advancing technology allows for advertisement and exposure that go beyond what an individual property owner could accomplish. The additional individual income could be reinvested in the property or community.

3. *Potential for additional tax revenue to the City.*
   If short-term residential rentals are permitted, the City could see an increase in permit fees and taxes generated by the property. The County collects a lodger’s tax that could be applied in this situation.

**Best Practices for Regulating Short-term Rentals**

Most of the surveyed cities require some level of accounting for short-term rentals, either in the form of an initial permit or an annual registration and inspection. Many of the cities quantify a short-term rental as one that is rented for not more than 30 days at a time. While the surveyed cities regulate differently based on their specific community values and concerns, many similar themes emerge. Below is list of common regulations found in many cities:

1. **Establish a defined area or range of zoning districts where short-term residential rentals would be permitted.**
   Most cities define appropriate zoning districts where the activity may occur. Some design overlay districts where the activity would be deemed appropriate. This does communicate clear expectations to persons who reside or own property within the zoning districts. It can also create inequity, and to a lesser extent, encourage rezonings in an effort to allow or legalize the use. Few cities (like Portland OR, by example) permit the use in every zoning district.

2. **Create standards in the zoning code that address occupancy or size; establish parking standards; occupancy by property owner; signage.**
   Clear zoning standards can address impacts generated by the use. Some cities cap the maximum number of persons that may rent a room, while others place a maximum square footage on the amount of area that can be devoted to the use. Parking and traffic are generally cited as impacts. A few cities (Portland OR and Austin TX) require that the property owner reside on the property. Austin does permit another type of rental where the property owner does not need to live onsite; however the development standards are more stringent.

3. **Require an initial registration or permit for purposes of enforcing regulations.**
   A permit to establish the use will allow the City to check for compliance with the regulations. Some cities require an annual registration, which can trigger an inspection to ensure compliance with regulations.

4. **Require the owner or agent to reside on the property.**
   Many of the impacts or fears related to impacts can be lessened by having a designated person responsible for complaints and compliance with the regulations.
Recommendations
The City Council can consider a range of options related to short term residential rentals. The Unified Development Ordinance currently permits this use in certain zoning districts. If the Council is satisfied with the existing law, there is no further action needed. If the City Council would like to amend the regulations to broaden the applicability of the use, a text change to the Unified Development Ordinance would be required. Staff offers three potential options for the City Council to consider:

1. **Maintain the existing regulations.**
   Short term residential rentals are permitted in certain zoning districts, and that allowance would remain.

2. **Authorize a text change to amend the Unified Development Ordinance.**
   The text change would explore additional zoning districts to allow the use and introduce development standards associated with the use. This could include a definition of the use, appropriate zoning districts for the use, standards related to occupancy, size and parking, and a business process for licensing, permitting, registration and inspection.

   Staff can also explore a requirement for the property owner to obtain a special use permit in certain zoning districts. This would require a public hearing before the Board of Adjustment, where adjacent neighbors could testify on the matter.

3. **Consider an alternative option identified by City Council.**
   Through discussion of the issues, the City Council may choose to pursue an option not identified by staff.
### Part 10 Code

<table>
<thead>
<tr>
<th>Permitted Districts</th>
<th>Regulations</th>
</tr>
</thead>
<tbody>
<tr>
<td>R-10</td>
<td>1. Special use permit required</td>
</tr>
<tr>
<td></td>
<td>2. Located within historic district, designated as historic landmark, National register of historic places, contributing structure un National register District</td>
</tr>
<tr>
<td>R-15</td>
<td>3. Originally constructed as single-family dwelling</td>
</tr>
<tr>
<td>R-20</td>
<td>4. Cannot exceed density regulations</td>
</tr>
<tr>
<td>SpR-30</td>
<td>5. Small sign permitted (2 square feet)</td>
</tr>
<tr>
<td>R-30</td>
<td>6. Located 400 feet from another B&amp;B, rooming house, or boardinghouse</td>
</tr>
<tr>
<td>Residential Business</td>
<td>7. Owner lives on the property</td>
</tr>
<tr>
<td>O&amp;I-1</td>
<td>8. Breakfast provided only to guests</td>
</tr>
<tr>
<td></td>
<td>9. Parking must be provided (1.5 spaces for every room greater than 70 square feet; 1 space for every room less than 70 square feet)</td>
</tr>
<tr>
<td></td>
<td>10. Interior renovations shall not be injurious to the historic character</td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>

### Unified Development Ordinance

<table>
<thead>
<tr>
<th>Permitted Districts</th>
<th>Regulations</th>
</tr>
</thead>
<tbody>
<tr>
<td>R-10</td>
<td>1. Located within historic district, designated as historic landmark, National register of historic places, contributing structure un National register District</td>
</tr>
<tr>
<td>RX</td>
<td>2. Originally constructed as single-family dwelling</td>
</tr>
<tr>
<td>OX</td>
<td>3. No signage or wedding events permitted in R-10</td>
</tr>
<tr>
<td>NX</td>
<td>4. One parking space per bedroom</td>
</tr>
<tr>
<td>CX</td>
<td></td>
</tr>
<tr>
<td>DX</td>
<td></td>
</tr>
<tr>
<td>Campus</td>
<td></td>
</tr>
<tr>
<td>-----------------</td>
<td>------------</td>
</tr>
<tr>
<td>Portland OR</td>
<td>•</td>
</tr>
<tr>
<td>Seattle</td>
<td>•</td>
</tr>
<tr>
<td>San Francisco</td>
<td>•</td>
</tr>
<tr>
<td>San Diego</td>
<td>•</td>
</tr>
<tr>
<td>Palm Springs</td>
<td>•</td>
</tr>
<tr>
<td>Phoenix</td>
<td>•</td>
</tr>
<tr>
<td>Las Vegas</td>
<td>•</td>
</tr>
<tr>
<td>Austin</td>
<td>•</td>
</tr>
<tr>
<td>Madison</td>
<td>•</td>
</tr>
<tr>
<td>Chicago</td>
<td>•</td>
</tr>
<tr>
<td>Miami</td>
<td>•</td>
</tr>
<tr>
<td>Charleston SC</td>
<td>•</td>
</tr>
<tr>
<td>Washington DC</td>
<td>•</td>
</tr>
</tbody>
</table>
HOME RENTAL SERVICES – REFERRED TO LAW AND PUBLIC SAFETY COMMITTEE; DIRECTION GIVEN ON CITATIONS ISSUED

During the December 2, 2014 Council meeting, staff reported the City had received a zoning complaint related to residential property being used as a Bed and Breakfast. Staff sought guidance from the City Council regarding regulations and direction. Council directed the zoning administrator to contact the property owner relative to the alleged complaint to request the cessation of property rentals until the end of January to allow the Council time to take a look at best practices across the country and directed that the matter be placed on this agenda to receive a report from staff. A memorandum was included with the agenda packet.

The memo was as follows:

At the December 2, 2014 City Council meeting, staff was directed to explore the existing regulatory environment related to short-term online rentals of residential properties. Staff was also asked to identify best practices nation-wide for this use.

Use Defined
A short-term online rental is the practice of renting a room for a short period of time, usually to a traveler. The traveler can reserve the room through a website, which provides rental opportunities throughout the world. While the method for reservation has evolved with advancing technology, the end use has remained fairly static. A consolidated website makes the use available and accessible to a wider range of customers, broadening the use to a large number of property owners. The previous Part 10 zoning code and Unified Development Ordinance contain a use category known as “Bed and Breakfast.” The standards in the respective codes differ; however, the basic function is the same.

Existing Regulations
The term “Bed and Breakfast” was introduced in the Part 10 zoning code in 1984. At the time, a Bed and Breakfast could only be established within a local historic district. The regulations were amended in 1992 as a result of a petition of citizens for a property located on Hillsborough Street. The intent of the text change was to broaden the allowance to other historic structures and non-residential zoning districts within a historic district or structure. With either iteration of the Part 10 Code, a special use permit was required.

The Part 10 code also included a use known as “Room Rental in a Dwelling Unit (Lodger).” This was a conditional use in most zoning districts. The conditions associated with the use required that the use occur in a single-family dwelling; the property owner must live in the dwelling; the room to be rented was a maximum of 25% of the floor area of the dwelling; a maximum of two persons can occupy the rental room; and that the maximum density in the district was not exceeded.
The “Room Rental in a Dwelling Unit” use was not included in the UDO. The Unified Development Ordinance largely replicated the requirements from the Part 10 Code related to Bed and Breakfast uses. The only real change to the regulations was in the permitted zoning districts, as a new set of mixed use districts was introduced in the UDO. Council member received a matrix showing comparison between the two zoning codes.

The Bed and Breakfast use has never been permitted in the Residential-1, Residential-2, Residential-4 or Residential-6 districts. The Bed and Breakfast must be located within a historic district, historic landmark, or on a property listed in the National Register of Historic Places, which represents the largest restriction on the use. The City has 6 local historic districts, 3 historic landmarks and 93 National Register listings.

Operating a Bed and Breakfast or offering a short-term rental of a room is different from a homeowner taking on a long-term renter. Both the Part 10 code and the UDO specify that up to 4 unrelated persons may occupy a dwelling unit. There is no limit from a zoning context on the number of persons related by blood, marriage or adoption occupying a dwelling unit. The distinction between a roommate and a short-term renter is difficult to quantify in either code. Simply: when does a renter cease to occupy space on a short-term basis and become a roommate? The issue of occupancy in rental situations has been a struggle from an enforcement position; density violations are difficult to prove.

Request for Research
City Council asked staff to research best practices related to short term residential rentals. As noted above, the idea of renting space in a residential dwelling is not new. What has changed in the past few years is advancing technology that connects traveler and host directly. The ease at which a traveler can research and reserve a room online has increased the viability of these rentals. Over the course of the past few years, the popularity of a few websites makes listing, rental and occupancy of single-family homes extremely simple. With a little to no investment, a property owner can list a bedroom on a world-wide website.

A number of cities have adopted regulations for short-term residential rentals. A few cities have adopted regulations in direct response to the increase in popularity of online short-term rentals (Austin TX, Portland OR). Many other cities have regulations that address vacation rentals. These are mostly present in resort communities or vacation destination cities. None of the surveyed cities refer specifically to the internet providers “AirBnB” or “VRBO;” rather, the terminology most commonly used is short term rentals or vacation rentals. While this distinction may seem minor, it is important to remember that the use would be regulated, not the portal used to conduct the use.

While the issues are likely similar, the regulations vary based on location. Staff surveyed a number of cities and found commonality among the collective regulations. Most cities require registration, a permit and fee and some type of inspection of the short-term rental. Requirements for the property owner to reside on the property were not very common. In fact, the resort communities permit the property owner to designate a local agent to
address any concerns raised by neighbors. An overview of regulations by city was provided to Council.

Impacts Identified with Short-term Rentals
Impacts associated with short-term rentals vary by the person or entity identifying the impacts. Neighbors will identify a set of impacts while the City may identify another set of impacts. The property owner likely desires minimal regulations and a process that is not cumbersome.

When conducted in a single-family neighborhood, here are some common impacts that may be identified when a short-term rental is present:

1. *Increase in traffic in the neighborhood.*
The short-term duration may add traffic to the neighborhood streets. Unless the property is located within walking distance of a transit facility or stop, it is highly likely that at least a few trips will be generated per stay. It should be noted that because the short-term rentals are usually reserved in advance of the stay, the impact of “pass-by” traffic is mostly non-existent. Simply, this use is not an impulse activity that would cause additional trips to the property by drivers looking for an available room for rent.

2. *Additional cars parked on the street or in front of the property.*
Most travelers will come to a location by car. If the traveler brings a car to the site for the duration of the stay, the car may be parked on the property or on the street. An additional car parked on the property may be seen as an issue of aesthetics. An additional car parked on the street would represent one less available overflow parking spot for the neighborhood.

3. *Presence of a business in a district that does not permit commercial activity.*
Many short-term rentals occur in residential zoning districts. These districts have limitation on commercial activity. A property owner can establish a home occupation, which is usually little more than an office inside the residence. Customers are not permitted; neither are employees who do not reside at the property. A live-work use can be granted by the Board of Adjustment with the approval of a special use permit. The live-work would allow up to 2 employees and would permit customer activity at the property, albeit at a limited rate.

4. *Increased activity at the property.*
With the potential for travelers every few days, a common complaint is that the neighborhood will experience an influx of “new” people. If the property owner does not reside on the property, the perception is that the appearance and upkeep of the property will wane and the activity at the property will increase. There may be a fear that late night activity will increase which could be disruptive to the neighborhood.

5. *Potential conflict with or circumvention of other regulations.*
Residential zoning contains density maximums, expressed as units per acre. A dwelling unit may be comprised of a family related by blood, marriage or adoption, or by four unrelated persons. If a dwelling unit that contains four unrelated persons allows a traveler as a short-term rental, a density violation would exist. In the current zoning context, it would be difficult to navigate between the use as a short-term rental, a roommate or a boardinghouse. Raleigh has experienced difficulty in regulating rental conversions in which the property is classified as a “vacation rental;” normalizing short-term rentals may result in unforeseen impacts if loopholes through other regulations are created.

**Opportunities**

The impacts identified above may be real or perceived, and may be more or less severe than noted. The allowance for short-term residential rentals does pose a few opportunities to the city as a whole:

1. *Increase to number of lodging units available for travelers.*
   The City Council recently received a report that noted additional hotel rooms would be beneficial to accommodate tourists and convention goers. While the City of Raleigh is not a resort community, significant interest has generated attention to the region. This increase in attention can translate to more prospective residents and travelers.

2. *Potential influx of income to property hosts.*
   A property owner can convert an unused room to be available to a short-term renter with little or no investment. Advancing technology allows for advertisement and exposure that go beyond what an individual property owner could accomplish. The additional individual income could be reinvested in the property or community.

3. *Potential for additional tax revenue to the City.*
   If short-term residential rentals are permitted, the City could see an increase in permit fees and taxes generated by the property. The County collects a lodger’s tax that could be applied in this situation.

**Best Practices for Regulating Short-term Rentals**

Most of the surveyed cities require some level of accounting for short-term rentals, either in the form of an initial permit or an annual registration and inspection. Many of the cities quantify a short-term rental as one that is rented for not more than 30 days at a time. While the surveyed cities regulate differently based on their specific community values and concerns, many similar themes emerge. Below is list of common regulations found in many cities:

1. *Establish a defined area or range of zoning districts where short-term residential rentals would be permitted.*
   Most cities define appropriate zoning districts where the activity may occur. Some design overlay districts where the activity would be deemed appropriate. This
does communicate clear expectations to persons who reside or own property within the zoning districts. It can also create inequity, and to a lesser extent, encourage rezonings in an effort to allow or legalize the use. Few cities (like Portland OR, by example) permit the use in every zoning district.

2. **Create standards in the zoning code that address occupancy or size; establish parking standards; occupancy by property owner; signage.**
   Clear zoning standards can address impacts generated by the use. Some cities cap the maximum number of persons that may rent a room, while others place a maximum square footage on the amount of area that can be devoted to the use. Parking and traffic are generally cited as impacts. A few cities (Portland OR and Austin TX) require that the property owner reside on the property. Austin does permit another type of rental where the property owner does not need to live onsite; however the development standards are more stringent.

3. **Require an initial registration or permit for purposes of enforcing regulations.**
   1. A permit to establish the use will allow the City to check for compliance with the regulations. Some cities require an annual registration, which can trigger an inspection to ensure compliance with regulations.

4. **Require the owner or agent to reside on the property.**
   Many of the impacts or fears related to impacts can be lessened by having a designated person responsible for complaints and compliance with the regulations.

**Recommendations**

The City Council can consider a range of options related to short term residential rentals. The Unified Development Ordinance currently permits this use in certain zoning districts. If the Council is satisfied with the existing law, there is no further action needed. If the City Council would like to amend the regulations to broaden the applicability of the use, a text change to the Unified Development Ordinance would be required. Staff offers three potential options for the City Council to consider:

1. **Maintain the existing regulations.**
   Short term residential rentals are permitted in certain zoning districts, and that allowance would remain.

2. **Authorize a text change to amend the Unified Development Ordinance.**
   The text change would explore additional zoning districts to allow the use and introduce development standards associated with the use. This could include a definition of the use, appropriate zoning districts for the use, standards related to occupancy, size and parking, and a business process for licensing, permitting, registration and inspection.

   Staff can also explore a requirement for the property owner to obtain a special use permit in certain zoning districts. This would require a public hearing before the Board of Adjustment, where adjacent neighbors could testify on the matter.
3. **Consider an alternative option identified by City Council.**

Through discussion of the issues, the City Council may choose to pursue an option not identified by staff.

Ms. Baldwin moved the item be referred to Law and Public Safety Committee. Her motion was seconded by Mr. Maiorano and put to a vote which resulted in all members voting in the affirmative. The Mayor ruled the motion adopted on an 8-0 vote.

Ms. Baldwin pointed out there is a second part to this issue and that relates to the extension of the enforcement date for the zoning citations which have been issued. She suggested that the Council continue the stay on those citations until the Council has an opportunity to review and act on this issue and so moved. Her motion was seconded by Ms. Crowder and put to a vote which passed unanimously. The Mayor ruled the motion adopted on an 8-0 vote.

In response to questioning, City Attorney McCormick indicated Planner Crane had issued a notice of violation relating to the complaint received. Ms. Baldwin was talking about a stay of enforcement on that citation. He stated the ordinance is still in effect and if there are complaints and other violations they are subject to citation and the same direction would apply.

Mr. Stephenson talked about what other cities have done and what he felt could be done to maintain accountability. He stated a number of cities have short term rentals in designated areas and he would like to know how they do that, the mechanics, what type areas are utilized, etc. In response to questioning, Ms. Baldwin pointed out the issue will not be on the next Law and Public Safety agenda she wants the staff to have time to prepare and the committee could have a discussion and she feels this issue can be resolved.