

**Town of Round Hill  
Planning Commission Meeting  
April 4, 2017  
7:00 p.m.**

A regular meeting of the Town of Round Hill Planning Commission was held Tuesday, April 4, 2017, at 7:00 p.m. at the Town Office – 23 Main Street, Round Hill, Virginia.

**PLANNING COMMISSION MEMBERS PRESENT**

Manuel Mirabal, Chairman  
Jean Daly  
Stephan Evers (arrived at 7:20 p.m.)  
Michael Hummel  
Lori Minshall

**STAFF MEMBERS PRESENT**

Melissa Hynes, Town Planner/Zoning Administrator

**MEMBERS OF THE PUBLIC PRESENT**

Joe Cascio  
Maureen Gilmore  
David Hornbaker

**IN RE: CALL TO ORDER**

Chairman Mirabal called the meeting to order at 7:05 p.m. Roll call was held; it was determined that there was a quorum.

**IN RE: PLEDGE OF ALLEGIANCE**

Commission Member Daly led those present in the Pledge of Allegiance.

**IN RE: PUBLIC COMMENT**

There was no Public Comment.

**IN RE: DISCLOSURES AND COMMISSIONERS' COMMENTS**

There were no Disclosures and Commissioners' Comments.

**IN RE: APPROVAL OF AGENDA**

Commission Member Hummel requested that a Town Council Update be added to the Agenda, for future meetings. Commission Member Hummel then made a motion **to approve the Agenda as presented**; Commission Member Daly seconded the motion. A vote was held; the motion was approved 4-0, with Commission Member Evers absent. The vote is recorded as follows:

<u>MEMBER</u>	<u>VOTE</u>
Manuel Mirabal	Aye
Jean Daly	Aye
Stephan Evers	Absent
Michael Hummel	Aye
Lori Minshall	Aye

## IN RE: APPROVAL OF MINUTES

### **a. March 7, 2017**

Commission Member Hummel referenced page three, line fifteen, which reads, *It was also noted that the State just enacted legislation...* Mr. Hummel stated that that reference is misleading, as the Governor has not yet signed the legislation. It was decided to correct the phrase, so that it reads as follows: *It was also noted that the State legislature approved legislation...* Commission Member Hummel then referenced page six, paragraph one, line ten, where it is stated that Commission Member Minshall is working to become a *certified BZA Member*; it was noted that the phrase should read *a certified Planning Commission Member*. Commission Member Hummel noted that page seven, under item #3, the first sentence reads, *Consideration is being given to rezoning the Town Park to commercial, concurrent with the rezoning of 8 East Loudoun Street...*; it was requested that the phrase *concurrent with the rezoning of 8 East Loudoun Street* be removed. Also on page seven, under item #7, in line four, the phrase *...three of these lots, which, he believes, are in the floodplain...* should read, *three of these lots, which, he believes, are partially in the floodplain*. Finally, on page eight, in paragraph two, line ten, Commission Member Hummel noted that the phrase reads, *...does not have a CIP program...*; it should read, *...does not have a General Fund CIP*. There were no further corrections. Chairman Mirabal suggested that a vote on the minutes be tabled until Commission Member Evers arrives.

## IN RE: BUSINESS ITEMS

### **a. Short-Term Rentals Amendment**

Town Planner/Zoning Administrator Hynes noted that Town Attorney Gilmore is present at this evening's meeting to provide an update on this legislation. Ms. Gilmore encouraged Commission Members to pose any questions they may have to Town Planner/Zoning Administrator Hynes, who can then pass them on to her. Town Attorney Gilmore reported that Governor McAuliffe signed this Short-Term Rentals Legislation; Ms. Gilmore then provided an overview of the legislation. In 2016, the General Assembly introduced legislation which would have prohibited localities from instituting any type of regulation on short-term rentals. Short-term rentals were defined as those rentals for less than thirty consecutive days, that are usually arranged through a website-hosting platform. There was a huge disagreement among localities with the draft legislation; the General Assembly decided to defer action on the legislation, and set up a committee which was to meet and provide a report in December 2016. The committee did provide the report, which stated that this area presents a challenge for localities which currently have regulations for bed and breakfast or country inn establishments. There was concern that the proposed legislation would provide benefits to short-term rental establishments, to the detriment of other types of rentals, such as bed and breakfasts, country inns, and hotels/motels –

establishments which are heavily regulated by the ABC Board and the Health Department. The Virginia Association for Counties, and the Virginia Municipal League, along with various legislative assistants and liaisons from localities across the State, were successful with getting some legislators on-board to curtail the trajectory of this bill. As a result, Ms. Gilmore noted, the Senate and the House passed a bill which has more language regarding ABC licensing and exempting short-term rentals from ABC licensing, so that those renting out a property through, for example, Airbnb, could leave wine for the guests, without the requirement that an ABC license be obtained. The crux of the legislation, as it relates to a locality, is that it allows a locality to adopt a registry for short-term rentals, and provides that certain provisions would need to be complied with by the owner; the owner would have to show that they are in compliance with zoning laws, and would have to have a certificate. Complaints from neighbors would be collected, and if there were more than three complaints, that short-term rental owner would be unable to continue to rent his/her property. The legislation did not contain any restrictions on localities being able to regulate short-term rentals from a zoning standpoint, which was a huge win for localities. Town Attorney Gilmore explained that the Virginia Municipal League has encouraged localities, if they intend to adopt ordinances regulating short-term rentals, do so prior to the next session of the General Assembly; it is expected that entities, such as Airbnb, will lobby hard to prohibit regulation, from a land use standpoint. Town Attorney Gilmore stated that Town Planner/Zoning Administrator Hynes has worked on text amendments, which define a short-term rental as an accessory home-stay; that this is going to be an accessory use to the principal use of the dwelling, was the reason for naming it an accessory home-stay. The legislation which was passed by the General Assembly and signed by the Governor will go into effect on July 1, 2017, and does contain a definition for a short-term rental; this definition includes exactly the same wording as that used in the draft text amendment, except that the distinction has been made that this is a short-term use. Town Attorney Gilmore read the short-term rental definition from State Code, which is stated thus: *A short-term rental meets the provision of a room or space that is suitable or intended for occupancy for dwelling, sleeping, or lodging purposes, for a period of fewer than thirty consecutive days, in exchange for a charge for the occupancy.* Ms. Gilmore noted that the draft text amendment mirrors that language, with the added suggestion that Round Hill's ordinance make it clear that this is an accessory use; this is to avoid issues with an absentee landlord continually renting out his/her house, throughout the year.

Town Planner/Zoning Administrator Hynes raised the issue of the house at 7 Main Street; Town Attorney Gilmore stated that that would be a separate issue. Town Planner/Zoning Administrator Hynes then stated that the house at 7 Main Street currently falls under town provisions for renting a house, and would not fall under the provision being discussed this evening, as the owner does not live in that property and provide rentals as an accessory use.

Town Attorney Gilmore explained that this provides a good opportunity to enact an ordinance regulating these rentals, noting that the window to act is small.

There was discussion of the differences between the proposed short-term rentals regulations, and the current provision for rental of a residence allowed in Round Hill, with Town Planner/Zoning Administrator Hynes explaining her rationale for her decision

regarding 7 Main Street, under the current ordinance. There was also discussion of short-term rentals, listed as being in Round Hill, currently found on these platforms. Town Attorney Gilmore reiterated that any proposed regulations must be adopted by the Town Council, and must be in place, prior to July 1, 2017. Town Planner/Zoning Administrator Hynes also noted that, unless adopted prior to July 1<sup>st</sup>, a localities' regulations may not be more restrictive than State law. Town Attorney Gilmore also noted that it is possible this legislation may not go forward; if that happens, municipalities which do not have regulations in place by July 1, 2018 will not be allowed to adopt regulations. Chairman Mirabal asked if State law will apply, if the Town does not adopt regulations prior to July 1, 2017; Town Attorney Gilmore stated that it would not, as all the proposed legislation does is allow localities to regulate these rentals. Chairman Mirabal asked if the three-complaint limit, which, if exceeded, would trigger the loss of the ability to provide these short-term rentals, comes from State law; Town Attorney Gilmore stated that that limit is contained in State Code. Discussion ensued regarding how determinations will be made regarding challenges brought forth relating to the loss of a permit; Town Planner/Zoning Administrator Hynes stated that she will provide an example of a method for handling these issues. Chairman Mirabal asked that these "rules" for handling complaints be written in a manner which makes them clear, and requested that the general term *nuisance* be included in the regulations. There was discussion of the penalty which may be assessed for violations, with Town Attorney Gilmore stating that the penalty would be \$500.00 per violation, assessed from the person providing the rental. Chairman Mirabal asked how the thirty-day limit on a rental would be determined; it was noted that complaints of this nature are usually generated by a resident/neighbor, although the Zoning Administrator would be allowed to check on these rentals. Chairman Mirabal asked if subsequent rentals will be allowed; it was noted that they will, if the owner lives in the property at least half of the year. Discussion ensued regarding ensuring compliance for various types of rentals, with Town Planner/Zoning Administrator Hynes stating that the determination of zoning violations is complaint-driven. Commission Member Minshall asked about any possible liabilities to the Town, if a property owner does not comply with the regulations. Town Planner/Zoning Administrator Hynes stated that inspections conducted by outside entities are relied upon, with Town Attorney Gilmore explaining that the Town would be protected, as this would fall under the category of "governmental acts." Chairman Mirabal asked if the State will require any type of rental insurance; it was noted that it will not, but that Round Hill may add that requirement to its regulations. Town Planner/Zoning Administrator Hynes stated that she recommends licensing for all rentals. Commission Member Minshall asked if the responsibility for deficiencies would fall on the Town, if the Town provides the inspections; Town Attorney Gilmore noted that she and Town Planner/Zoning Administrator Hynes will work together to provide answers to Commissioners' questions, and to incorporate their suggestions.

Town Planner/Zoning Administrator Hynes explained that the next step in this process is to review the final draft of the text amendment at the Planning Commission's May meeting, following which a Joint Public Hearing with the Town Council will be held in June.

Town Attorney Gilmore summarized the issues to be investigated further, and the suggestions to be included in the text amendment. Town Planner/Zoning Administrator Hynes explained that this is being undertaken as a "trial run" by the State, but providing

for this type of regulation will make it easier for a homeowner to open this type of business. Commission Member Hummel asked if a fee will be charged for a permit; Town Planner/Zoning Administrator Hynes stated that a fee, possibly \$100.00, will be charged.

**IN RE: APPROVAL OF MINUTES (Continued)**

The Planning Commission returned to the approval of the minutes, with Chairman Mirabal summarizing changes which were made. Commission Member Hummel then made a motion **to adopt the minutes of the March 7, 2017 meeting of the Planning Commission, with the changes noted**; Commission Member Daly seconded the motion. A vote was held; the motion was approved 5-0. The vote is recorded as follows:

<b><u>MEMBER</u></b>	<b><u>VOTE</u></b>
Manuel Mirabal	Aye
Jean Daly	Aye
Stephan Evers	Aye
Michael Hummel	Aye
Lori Minshall	Aye

**IN RE: BUSINESS ITEMS (Continued)**

**b. Temporary Family Health Structures Amendment**

Town Planner/Zoning Administrator Hynes presented this item, explaining that she used language included in the memorandum in the update of these regulations, which deal with Temporary Family Health Structures, or "granny pods." Ms. Hynes and Town Attorney Gilmore provided a brief review of the amendment, and stated that they believe the proposed amendment is in compliance with State law. Town Planner/Zoning Administrator Hynes explained that these regulations allow for the structure to be temporarily connected to the main residence's tap. Chairman Mirabal asked if there is a time limit imposed upon the use of these structures. Town Attorney Gilmore explained that there is not a time limit for a person to live in the structure; however, upon the structure being vacated, it and the attendant utility service lines must be removed within sixty days. The Town Attorney also noted that, for a person to live in this type of structure, the need must be certified by a doctor. Chairman Mirabal asked if a care-giver may be someone other than a family member; it was noted that a care-giver may be someone who is not related. Discussion ensued regarding parking issues which may arise as a result of this use, as well as of possible abuses of the provision which could occur. Discussion returned to the subject of a care-giver, with the definition provided by the State reviewed; the use of the term "family," as contained in the title and the document, were also reviewed. Town Attorney Gilmore noted that, upon further investigation, she found that the care-giver for a resident in a Temporary Family Health Structure must be a family member. Ms. Gilmore stated that the State has mandated this use; therefore, Round Hill must amend its ordinance. There was additional discussion of who may serve as a care-giver, with it being noted that there is language included in the Use Regulations which allows for a care-giver to be a professional who is hired to provide assistance. Commission Member Hummel asked how this may apply to non-conforming properties; Town Attorney Gilmore stated that this use may not be allowed on properties which are non-conforming. Commission Member Daly noted that the requirement that the structure be no more than 300 square feet is missing from the text amendment; Town Planner/Zoning Administrator Hynes stated that she will

correct that error. Chairman Mirabal asked for the process to be followed in moving forward with this amendment; Town Planner/Zoning Administrator Hynes stated that it will follow the same process as the "Short-Term Rentals Amendment," with review of the final draft at the May Planning Commission Meeting, and a Joint Public Hearing with the Town Council, to be held on June 1<sup>st</sup>.

**c. Family Day Homes & Residential Care Homes Amendment**

Town Planner/Zoning Administrator Hynes noted that the Town's current Zoning Ordinance treats these as the same type of use, and that a special exception is required for this use; however, State Code requires that these uses be by-right, within a prescribed limitation on the number of users. Ms. Hynes explained that a "Residential Care Home" provides care for eight or fewer special needs adults, with support staff on-site. Chairman Mirabal asked to clarify that, currently, this type of facility does not exist in Round Hill; it was noted that that is correct. Town Planner/Zoning Administrator Hynes further explained that State Code does not allow for localities to place more restrictions on these uses than would be placed on a family. The Town Planner/Zoning Administrator and the Planning Commission reviewed the proposed language for this amendment, with Ms. Hynes explaining that the Town's Zoning Ordinance will contain a new chapter, titled "Use Standards," which will contain all required standards. The definitions and the Use Standards, which now are combined, will be separate under this new format. Discussion ensued regarding the fact that, for a "Family Day Home," a specific number of children allowed to receive care is listed, however, a similar listing is not included for a "Residential Care Home;" it was decided that the language would be corrected to ensure that this is consistent. There was also discussion of the limitations placed upon the hours of operation which are allowed; Town Planner/Zoning Administrator Hynes stated that she will correct this, so it, too, is consistent. Town Planner/Zoning Administrator Hynes also noted that she will include information to address size requirements for a "Residential Care Home," and will reference the proper licensing authority from the State in the document. It was noted that, at present, a Family Day Home requires a special exception, and that these updated regulations will provide information "up front" to anyone wishing to open this type of business. There was also discussion of the amount of square footage of the property required to operate this type of business; Town Planner/Zoning Administrator Hynes stated that the figure referenced was taken from the Town of Leesburg's regulations, and that she will ensure that the number used is in keeping with Round Hill's ordinance. Town Planner/Zoning Administrator Hynes explained that the goal is to have these in correct form prior to the Planning Commission's May meeting; Chairman Mirabal asked that they be provided to Commission Members two weeks prior to the meeting, to allow time for review.

**d. Guest Houses & Accessory Dwellings Discussion**

Town Planner/Zoning Administrator Hynes noted that the goal for this evening is to begin a discussion on these uses, with Town Attorney Gilmore requesting that Planning Commission Members provide input on standards they believe should be required for a Guest House to operate. Discussion ensued regarding various aspects of these potential uses, including if a short-term rental may be allowed in a Guest House, the impact such uses may have on the Town, and potential use of an Accessory Dwelling as a Guest House for three months and then as a short-term rental for the remainder of the year. Town

Attorney Gilmore also pointed out some conflicts in the definitions. Town Planner/Zoning Administrator Hynes recommended that the Planning Commission allow these uses, with Commission Member Minshall suggesting that these regulations be in-line with other regulations discussed by the Planning Commission, and proposed for adoption. The consensus of the Planning Commission was that these uses may be beneficial, but must be governed correctly.

In regard to Accessory Dwellings, Town Planner/Zoning Administrator Hynes explained that there is no requirement that only family may reside in this type of structure. Commission Member Hummel noted that this may not be a possible use for non-compliant properties in the Town. Discussed ensued regarding the size of the footprint allowed for this use.

Town Planner/Zoning Administrator Hynes stated that she will provide draft language for discussion throughout the summer by the Planning Commission, and asked that any comments regarding these uses be forwarded to her. Ms. Hynes also noted that she will provide standards for operating a Guest House at the May meeting.

#### **IN RE: ACTION ITEMS**

There were no Action Items.

#### **IN RE: TOWN PLANNER REPORT**

Town Planner/Zoning Administrator Hynes provided information on the following items:

- 1) Sleeter Lake Park – Work will progress on Sleeter Lake Park, with a contractor selected to build Phase I of the project. It is hoped the ground breaking can be held on Arbor Day, with Phase I of the Park to open this summer. There was brief discussion of the items included in Phase I construction. There was also brief discussion of the grant funding previously sought for this project, with it being noted that the funding was not accepted by the Town.
- 2) Construction of the south water tank was discussed; it is hoped that construction of this tank will be complete prior to construction beginning on the Upper Lakes subdivision.
- 3) The Town Council is currently conducting its yearly budget review/discussions.
- 4) Boundary line adjustments are on the radar for next year, with the initial goal being to provide information to residents and receive their input. Discussion ensued regarding how the process for instituting boundary line adjustments would proceed, as well as possible consequences if the Town's population exceeds 3,500. Commission Member Minshall asked if a plan is in place to examine the costs of conducting these boundary line adjustments; Town Planner/Zoning Administrator Hynes stated that she hopes to work on a Financial Impact Statement, if given the "go-ahead" by the Town Council. It was noted that the biggest concern is the impact this action may have on the Town's utility system, with Ms. Hynes noting that a cap on the number of homes allowed in the Town's limits

may have to be capped at 750. Ms. Hynes stated that a better understanding of the numbers related to a boundary line adjustment will be available in July.

Chairman Mirabal thanked Town Attorney Gilmore for attending this evening's meeting.

**IN RE: NEXT PLANNING COMMISSION MEETING**

**a. Regular Meeting – to be held Tuesday, May 2, 2017**

**b. Joint Planning Commission/Town Council Public Hearing – to be held Thursday, June 1, 2017**

**IN RE: ADJOURNMENT**

The meeting was adjourned by Chairman Mirabal at 9:20 p.m.

Respectfully submitted,

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Manuel Mirabal, Chairman

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Debra McDonald, Recording Secretary