

**SHORT TERM RESIDENTIAL USE COMMITTEE
SPECIAL MEETING
TUESDAY, NOVEMBER 9, 2010, 3:30 P.M.
CITY HALL, 100 NORTH ANDREWS AVENUE
8TH FLOOR CONFERENCE ROOM, FORT LAUDERDALE, FL**

<u>Board Member</u>	<u>Attendance</u>
Marilyn Mammano, Chair	P
H. Collins Forman, Vice Chair	P
Larry Isakowitz (arr. 3:42)	P
Dwight Ledbetter	P
Ronald Mastriana	P
Lula Myers	P
D.J. Parker	P
Annette Ross	P

At this time there are 8 appointed members to the Board, which means 5 would constitute a quorum.

Staff

Adrienne Ehle, Liaison, Planner III, Planning and Zoning Department
Cheryl Felder, Service Clerk, Planning and Zoning Department
Deborah Rutkowski, Assistant Planner, Planning and Zoning Department
Greg Brewton, Director, Planning and Zoning Department
Sharon Miller, Assistant City Attorney
D'Wayne Spence, Assistant City Attorney
Mohammed Malik, Chief Zoning Inspector
Terry Burgess, Zoning Administrator
J. Opperlee, Recording Secretary, Prototype, Inc.

Communications to the City Commission

None.

I. Call to Order

Chair Mammano called the meeting to order at 3:38 p.m.

II. Roll Call

Roll was taken and it was noted a quorum was present. Ms. Ehle introduced the City Staff members.

III. New Business

a. Upcoming Meeting Date Reminder: November 23, 2010

Ms. Ehle clarified that this will be the date for the regular Committee meeting in November.

b. Chair / Vice Chair Update

Chair Mammano advised she had submitted her comments on the draft outline via email on Sunday, November 7.

Vice Chair Forman said he had spoken with a colleague from Walton County, who reported they have formed a similar Committee in that County to deal with short-term residential issues.

c. Staff Presentation:

- **Greg Brewton, Director / Planning and Zoning Department**

Mr. Isakowitz joined the meeting at 3:42 p.m.

Ms. Ehle introduced Director Brewton of the Planning and Zoning Department. She recalled that at the last meeting, there was a good deal of discussion on how to proceed in terms of writing the interim and final reports in order to reflect the differing perspectives on the Committee. She explained that Director Brewton will assist with these decisions and Staff direction, which will also help determine what must be done at the Planning and Zoning level.

Director Brewton said the Committee was appointed to address a unique situation. When they arrive at their recommendation, it will go to the City Commission at a Conference Agenda meeting so the Commissioners may review the document and determine whether the Committee or Staff should proceed to develop an Ordinance. If this is the case, there will be a public hearing at the Planning and Zoning Board level, and the proposed Ordinance would then go back before the City Commission for final adoption.

Mr. Mastriana said the Committee had discussed holding a workshop session, at which members of the public could provide input. He asked Director Brewton for his opinion on this option, as there would be public comment forthcoming at the Planning and Zoning Board and City Commission levels. Director Brewton said while this is ultimately up to the Committee to determine what information they need in order to make a recommendation, the City Commission wants to "have as much community involvement as it possibly can" on any issues affecting citizens of Fort Lauderdale. If the Committee felt it was not getting enough

information and would benefit from the input of those affected by the issue, he felt they should take this step.

Ms. Parker asked if Director Brewton was aware of the issues discussed and positions taken. Director Brewton said he has not “studied in detail” what the Committee has done, but he is “very close to the issue” and is aware of its history. Ms. Ehle has provided him with some information regarding what the Committee has discussed. He stated he did not wish to impose his will on any of their suggestions.

Mr. Mastriana asked if a public workshop could be completed in one session or two. Director Brewton said he felt one session could be sufficient.

Vice Chair Forman asked how they might conduct a public forum. Director Brewton said Staff generally wishes to “hear every comment,” and then determine whether or not each comment is valid to the subject matter or if it has already been stated. The Committee will have to decide what is pertinent to the subject matter once the information has been gathered. Director Brewton emphasized that the Committee must make sure each individual who speaks states his or her comment as clearly as possible so it is not misunderstood.

Chair Mammano added that members of the public could also submit written recommendations if they wished. Director Brewton said the Planning and Zoning Department used a form through which written comments could be submitted for Neighborhood Development Criteria Revisions (NDCR).

Chair Mammano asked if the Interim Report could be published on the City’s web page and advise members of the public to read it before attending the workshop. Director Brewton said this could be a good idea, and advised that the report could also be sent to various civic associations for dissemination at meetings.

Vice Chair Forman asked if the Committee should rely solely on public input and opinion. Director Brewton said he felt the Committee’s “only responsibility is to listen and gather that information,” and then determine what they feel is relevant to their task.

Vice Chair Forman asked if Staff or the Committee will write the Interim Report. Director Brewton replied that Staff does not have the resources to commit to a report, and it should come from the Committee itself.

Chair Mammano noted that one difficulty in this case is the Sunshine Law, as the Committee members cannot communicate with one another on Committee issues outside meetings. Director Brewton advised the report should be compiled

at a meeting. Chair Mammano pointed out that “someone has to go back and physically [compile the report] and bring it back to the [Committee].”

Chair Mammano concluded that the Committee would work on the report at today’s meeting and see how far they could progress.

d. Working Session: Interim Report DRAFT Outline

• Members’ Presentation of Comments and Revisions

Ms. Ehle explained that she had provided the draft outline, as well as two sets of members’ responses, for today’s meeting.

Mr. Mastriana said he had used the report recently submitted by the Citizens Sustainability “Green” Committee as a template for the interim report. Vice Chair Forman had “fleshed out” the outline provided by Ms. Ehle, and noted that he had included some of the same comments made by Mr. Mastriana.

Chair Mammano said she felt the members “can agree on some things,” such as that the beginning of the report should present the purpose of the Committee and the Resolution that created it. She suggested adding a brief explanation of the Committee’s purpose in preparing the Interim Report: to share the information they have compiled with the public, frame the issues that have already been identified, and invite people to comment and contribute to the discussion.

Mr. Mastriana said the purpose of the Committee was “to define the parameters for use of residentially zoned property in light of protecting neighborhood tranquility and peaceful enjoyment,” as stated in the Resolution. Chair Mammano pointed out that as further details have been recognized, additional purposes have arisen, such as “balancing the interests of disparate stakeholders,” as Vice Chair Forman had proposed.

Mr. Mastriana said there was no mention of “other interests” in the Resolution. Mr. Ledbetter noted that the Resolution also does not specifically refer to short-term use. Mr. Mastriana said he felt the Resolution “dictates what we should be dealing with.” Chair Mammano said a solution might be to state the Resolution and then further explain what it means to the Committee.

Vice Chair Forman said there is the possibility that people may perceive the Resolution as taking some of their rights away from them. Chair Mammano stated an owner is only granted the rights on his or her property that are allowed by law. She did not feel they are afforded “all the rights,” such as the right to place a business in a residential zone. Vice Chair Forman said this is a restriction “that comes after,” and he felt the Committee is discussing “writing a law to

circumscribe rights.” Chair Mammano characterized the discussion as “modifying current law, which currently circumscribes rights.”

Mr. Mastriana said the City Attorney’s Office should more rightfully deal with the issue of rights. He did not feel the Committee could achieve its purpose if its actions were limited by the issue of property rights. Vice Chair Forman said he intended to arrive at a compromise with the Committee to “come up with something that everybody can live with.”

Chair Mammano said they should recognize the property rights of individual owners as “an issue, not a purpose.” Vice Chair Forman agreed with this assessment.

Chair Mammano said after the purpose has been stated, the report should recognize “factors to be considered when carrying out this charge.” Mr. Mastriana read from his comments, stating these factors include property rights of landowners and landlords; problem areas to preserve the tranquility; commercial use of homes; parking in streets; upkeep of renter homes; multi-family occupancy in single-family neighborhoods;... [and] violation of the character of the neighborhood with transient users.” He felt neighborhood tranquility and peaceful enjoyment should be included in these factors as well as in the Resolution.

Chair Mammano said she felt the introductory portion of the report should be “more general,” and specific issues could be cited when the “pros and cons” are addressed. The introduction should address larger issues, such as “the commercialization of the residential neighborhoods,” supporting the marine industry by recognizing the need for crew quarters, and considering private property rights.

Ms. Myers emphasized the need to include a discussion of multi-family use in a single-family neighborhood. Mr. Mastriana asked if there is a “clear prohibition” against this use. Attorney Miller said there are “minimum house standards,” such as square footage per person, included in building Code; however, she noted that due to case law, the City has avoided “defining what a family is.” If evidence shows that rooms are being rented, however, this use could be cited under the ULDR in a single-family residential district.

Ms. Parker noted that there can also be long-term rentals that are “full of people.” Attorney Miller clarified that this use is subject to the minimum housing Code, which allows a specific number of people per square foot. She added that “this isn’t about renting your house” but is about the “the parameters and maintaining tranquility.”

Vice Chair Forman said another issue is “what you can rent your house for,” and noted that the Committee has agreed that it is inappropriate to rent a single-family home, for example, as a wedding venue or on “a one-night stand basis.”

He added that another consideration is Code Enforcement’s inability to deal with some of these issues because of the way the Code is written. Chair Mammano disagreed, stating that “Code Enforcement is doing an excellent job,” and the issue is that there is a legal challenge to the way it is operating, which will be resolved by the courts.

Vice Chair Forman recalled a specific instance previously cited by Mr. Mastriana, which involved a short-term rental use to which Code Enforcement could not respond adequately. Mr. Mastriana said his neighborhood’s response to this was to follow “ads as an understanding of what you’re holding your house out to be.” If ads for a short-term rental use are found, they are communicated to Code Enforcement, which then tries to contact the owner. Mr. Mastriana observed that “trying to find somebody” is a very difficult aspect of Code Enforcement.

Ms. Ehle recalled that as mentioned by the Committee in the past, another factor for consideration is “the concept of the economic development of the City as a whole.” She recalled that members of the public had also raised the issue of short-term rentals as a way to help avoid foreclosure and pay their mortgages. She recommended reading previous sets of meeting minutes to ensure no previously identified issues are excluded.

Ms. Parker asked if the economy should be listed as a consideration, and said the Committee has an opportunity to “have an impact on this.” Mr. Mastriana said while the economy in Florida is troubled, avoidance of foreclosure is not recognized as a reason to allow short-term rentals. He felt it was more important for the Committee to have “a positive impact on the City of Fort Lauderdale and single-family housing,” regardless of the economy.

Ms. Parker said her point was that the economy is getting worse and she did not want the Committee to contribute to that worsening. Mr. Mastriana said he agreed “except for the violations that would take place to compensate for that.” Ms. Ross agreed as well, stating that they would be “changing the way people’s lives are lived permanently for a temporary economic situation.”

Mr. Mastriana referred to an individual who felt short-term rental of houses is “destroying... hotel business.” Chair Mammano said she had had a similar conversation with a representative of the hotel industry, who characterized short-term rentals as “unfair competition.” He had noted that the tax rate is different for a commercial property as compared to a residential property.

Vice Chair Forman cautioned that decisions cannot be made on this basis, stating that a house that is not a homestead “is going to be taxed and it’s going to flow with the market, just like a commercial property.” Chair Mammano disagreed, pointing out that this would not occur if an appraiser is not aware the house is used for commercial purposes. Vice Chair Forman noted that the homeowner must state the house is his or her homestead, and if it is not a homestead this statement would be considered fraud. He said the question is “what can you do with a single-family home in a single-family neighborhood.”

Chair Mammano added that other factors to consider include “what is the current law and how is it being enforced;” legal challenges to enforcement; difficulty of enforcement; and identification of the types of short-term rentals being discussed, including crew quarters, boardinghouses, vacation rentals, and rented rooms.

Chair Mammano asked if there are good qualities to short-term rentals, noting that they generate income for property owners. Vice Chair Forman added that they allow people the opportunity to visit Fort Lauderdale and see the character of the City’s neighborhoods.

Chair Mammano then moved on to negative qualities of short-term rentals, referring to the list Mr. Mastriana had provided earlier. Ms. Ross added that they devalue the properties of surrounding homes. Other negative factors included additional noise, parking, and traffic. Ms. Ehle noted, however, that these problems are not solely restricted only to “short”-term residential uses. As an example, she noted that a Neighborhood Development Criteria Revisions (NDCR) project is currently underway to address concerns in residential zoning districts. It is also addressing these issues, among others. This project identifies similar problems identified during these meetings as existing also among “long”-term residential. She recommended that perhaps a statement be included to recognize that these problems are reported to exist, regardless of duration of stay.

Chair Mammano said the issue addressed by NDCR is, for example, that “regulations that are currently in place for the residential areas may not have enough parking,” while the issue with short-term use is that “you don’t know how many parking people are going to be there” and cannot adequately regulate the impact.

Ms. Ehle said the public comments received through NDCR also identified “not enough parking and too much traffic” in areas of residential use that people consider to be “long”-term. She proposed that if the Committee wishes to clarify the differences between short and long-term effects, to identify whether or not

certain factors such as length-of-stay, i.e. *duration* of short-term rentals, may or may not increase the problem. .

Mr. Mastriana said in his neighborhood “we found that long-term rental people... tend to be family-oriented people,” while shorter-term renters “normally come in with two or three families” or several friends. Ms. Ehle said it is important to make the distinction if it is that “the duration made it a different or greater impact.” She noted that another finding of the NDCR project was that even permanent residents hosting parties or a lot of guests can increase the number of cars in a neighborhood, although no rental use is even a factor. .

Chair Mammano said when this is an issue in a neighborhood, “you know your neighbor” and can address the problem with him or her, while this cannot be done in the case of “an absentee owner.” Ms. Ehle said this is a good example that helps to identify the perceived differences between short or long-term. Accountability has been mentioned a previous meetings and is perhaps something that can address the length-of-stay factor. .

Ms. Myers pointed out that this issue is “close to” some members of the Committee, as they have experienced problems related to short-term uses in their neighborhoods. She felt this has brought the Committee to a “standstill,” and suggested that the personal side of the issue could be holding back progress.

Mr. Mastriana said he is asked for updates on the Committee’s progress by his homeowners’ association, and is also informed of “all the problems that are in the neighborhood” at those same meetings. Ms. Myers said it could be important to consider the issue as if “you didn’t live in the area,” and said an answer could be for each member to write “what they think” and send it to the other members.

Vice Chair Forman said he did not agree it can be “automatically [said] that somebody who rents on a short-term basis is not considerate of the neighborhood.” He suggested that another factor in favor of short-term residential use is that it promotes tourism. Mr. Mastriana said he disagreed, and that this was harmful to hotels. Chair Mammano said could be framed as “an alternative to hotels.”

Mr. Ledbetter said as a captain, he has to justify costs, including the cost of accommodations. He said if the only alternative for crew accommodations was to use a hotel, captains would be forced to enter into leases and possibly break them. Chair Mammano included this as a positive factor, stating that short-term residential use “supports the marine industry, which needs this type of facility.”

Ms. Parker referred to the issue of the economy once more, pointing out that two major segments of Fort Lauderdale’s economy are tourism and the marine

industry, and both industries are involved with short-term rentals. She advised against taking a stance to “tamper” with the impact of either industry on the City. She also noted that among both the negative and positive aspects discussed thus far, she did not see anything that distinguished short-term rentals from long-term rentals.

Chair Mammano asked if Ms. Parker felt short-term rentals did not have an impact on the value of surrounding homes. Ms. Parker said this depends upon the neighborhood. Vice Chair Forman said it is also dependent upon the renter. Chair Mammano suggested that short-term rentals could be said to affect “the value of homes in single-family neighborhoods.”

Ms. Parker continued that the Committee may be “missing something” that has caused short-term rentals to multiply in recent years. She cited the marine industry as a possible cause of this, noting that marine industry schools “handle thousands of international students,” who have had to pay a high cost for tuition and cannot afford to stay in hotels.

Vice Chair Forman asked how it can be known that short-term rentals affect the value of homes in single-family neighborhoods. Chair Mammano said she would not purchase a house if she knew it was next door to a property used as a short-term rental.

Vice Chair Forman asked Mr. Isakowitz if he had noticed this use affecting the value of single-family neighborhoods. Mr. Isakowitz said he had not experienced this. Chair Mammano said there were members of the public who would say that “the impact is greater” in single-family neighborhoods. Vice Chair Forman asked how this could be known, and whether there was proof of greater impact. He pointed out that the Committee has gained information through testimony and submittals, as well as through anecdotal evidence. He asked how someone could know that the impact of short-term rentals on single-family homes is negative. Chair Mammano said they would have to conduct a study of appraised values and sales, which could not be done.

Mr. Mastriana asked if “five people... [who] signed a letter” stating they would not purchase a home beside a short-term rental property would be considered sufficient. Vice Chair Forman said they may not be aware of the use, and noted that a letter could also be produced from an individual who did not feel a short-term rental next door affected their property value. He noted that Mr. Ledbetter “has been asking for months” to see police reports to determine whether there is a correlation with short-term rentals, and said evidence would be required in order to state that short-term rentals affect property values.

Ms. Parker said that she felt an impact on property values depends on the neighborhood. Ms. Ross added that the impacts should be defined.

Chair Mammano suggested that perhaps the use of “pro” and “con” factors was “too value-laden,” and proposed simply identifying “issues that have been discussed.” Vice Chair Forman said when laypersons read the report and see “impacts in value to single-family homes” listed, they could reasonably ask “how do you know that?” of the Committee.

Ms. Ehle noted that “concerns” might be a more appropriate term for the list of factors the Committee has considered. Chair Mammano agreed that this term would be used, and reviewed the list for the members. Ms. Parker offered the suggestion that the value of some neighborhoods is enhanced or improved by short-term rentals.

Mr. Isakowitz added “impact on economic development,” noting that individuals coming into the City and seeking accommodation are contributing to the City’s economy. Mr. Mastriana said there was a “trade-off,” as hotels lose money that goes to short-term rentals. Mr. Isakowitz asked if the Committee is charged with “protecting” the hotel industry.

Ms. Ross said one issue is that individuals who are not part of the marine industry don’t understand why short-term rentals are needed by members of that industry. She characterized the crews coming into town as “professional people.”

Vice Chair Forman asked if individuals with single-family homes “rent their houses out on a crew basis,” allowing the crew of a vessel to live at a single-family residence while their vessel is docked there. Ms. Parker noted that in many cases “the owner [of the vessel] owns the house, or he’s not here.”

She agreed with Ms. Ross that members of the marine industry “are, for the most part, professionals,” but said most crew members are aware that if they “step out of line,” their position as a crew member may be compromised. She added, however, that there is a “marginal, rowdy” population among crew members, and said in this case, accountability, such as placing a sign in front of a rented property with the owner’s contact information, could be very important.

Mr. Mastriana asked if there has been an Ordinance prohibiting single-family homes from renting their slips to boats. Attorney Miller said this is “on the books today.” Chair Mammano noted it is “entirely unenforced.”

Vice Chair Forman suggested inclusion of “commercial uses in residential areas,” such as renting homes for weddings or other commercial events. Ms. Parker also

included “promotes family travel,” particularly for larger families, as a concern. Chair Mammano added “house-swapping” to the list as well.

Chair Mammano suggested they move on to discuss how other cities deal with the issue of short-term rentals. Ms. Ehle proposed that a list of ordinances from these cities could be attached to the report as an appendix. Chair Mammano asked if they should single out ideas that are of particular interest to the Committee, such as posting signage with contact information.

Attorney Miller advised that this form of registration could be included under “implementation,” and noted that the topic of Legal, Enforcement, and Accountability Issues could include evidence of violation of the law.

Mr. Mastriana asked if it is necessary to know the status of current litigation for the Interim Report. Vice Chair Forman noted there are multiple cases and three appeals at present. Chair Mammano suggested they acknowledge there are both active cases and pending appeals.

She continued that the report will include a list of the types of short-term rentals with which the Committee is dealing, including crew quarters, vacation rentals, and boardinghouses. It was noted that neither boardinghouses nor crew quarters are defined uses within Code. Attorney Miller pointed out that there is some degree of disagreement on what these terms may mean.

Ms. Ehle added that for the list shown in the draft outline, it is important to revise it to separate out two different grouping categories: the reason for a short term use, such as for vacation or for students; and the type of facility and the regulations that accompany it, such as a hotel, motel, or bed & breakfast. Attorney Miller noted that the term “commercial” is not defined in the ULDR: its terms are “residential” and “non-residential.” Ms. Ehle provided the Committee members with a previous handout listing definitions included in the current Code.

Mr. Mastriana suggested attaching a “rundown of... various Ordinances” from the ULDR as an appendix to the report.

Mr. Mastriana asked Mr. Ledbetter to clarify the geographic areas of the City in which most crew quarters are located. Mr. Ledbetter said “95% of crew accommodations... are located between the boundaries of 595, I-95, Davie Boulevard, and the Intracoastal Waterway.”

e. **Public Comment (approx. 4:30 p.m.)

None at this time.

f. Set Agenda for Next Meeting (5:00 p.m.)

Ms. Ehle said she would include a “continuance” of the discussion of the Interim Report to the November 23, 2010 Agenda. She noted that when the document is sent to each member, he or she can respond once, and only to her. Correspondence back and forth is prohibited by the Sunshine Law.

g. Other New Business

None at this time.

IV. For the Good of the Committee

None at this time.

V. Communication to the City Commission

None.

VI. Announcements

Ms. Ehle reiterated that the next Committee meeting would be held on November 23, 2010.

VII. Adjournment

There being no further business to come before the Committee at this time, the meeting was adjourned at 5:31 p.m.

[Minutes prepared by K. McGuire, Prototype, Inc.]