



Community Development Committee

MEETING AGENDA

Berryville-Clarke County Government Center

101 Chalmers Court, Second Floor

AB Meeting Room

Regular Session

April 25, 2023

4:00 PM

Item

Page

1. Call to Order

2. Approval of Agenda

3. Unfinished Business

Discussion: Short-Term Rentals 2

Discussion: Hogan's Alley 24

Discussion: Parade Route 26

Update: 225 Celebration 28

4. New Business

5. Other

6. Closed Session

7. Adjourn

Community Development Committee Meeting Item Report
25 April 2023

Item Title:

Short-term rentals

Prepared By:

Jean Petti

Background/History General Information

On 14 February 2023, Town Council tasked Community Development Committee and Public Safety Committee with drafting text amendments to define and direct the operation of Short-Term Rentals within the Town.

Public Safety Committee met on 23 February and made the following recommendations: limit STRs to dwelling units with an emergency contact who is available to be physically present to address concerns, consider burden of enforcement when drafting ordinance, restrict events, and establish parking and occupancy limits.

On February 28, Community Development Committee determined that a broad definition should be considered that includes the requirement for a business license, payment of Transient Occupancy Taxes, off-street parking, and the maximum number of rooms to rent. The committee also discussed prohibiting events and signage.

Planning Commission reviewed proposed text amendment below on 28 March and recommended returning item to Public Safety and Community Development Committees for further revision.

Findings/Current Activity

Proposed definition as presented at Planning Commission:

“Short-term rental” means 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 30 consecutive days, in exchange for a charge for the occupancy. Advertisement or operation of a short-term rental unit requires a business license, remittance of transient occupancy tax, and is limited to dwellings and accessory buildings which hold a Clarke County Certificate of Occupancy. Events are prohibited. No food preparation or service may be provided to primary renter or guests of short-term rental.

Planning Commission recommends evaluation of parking and occupancy regulation and review of Winchester’s ordinance and Loudoun County’s draft ordinance.

Attachments

Winchester, VA, accessed 17 April 2023

Bedford County, VA, accessed 17 April 2023

Loudoun County, VA, accessed 17 April 2023

T.O.B. *Transient Occupancy Tax Code Art. VIII. - TRANSIENT OCCUPANCY TAX, §16-101. – Definitions.*

Recommendation

Deputy Town Manager recommends that “short-term rentals” be considered for inclusion in *Transient Occupancy Tax Code Art. VIII. - TRANSIENT OCCUPANCY TAX, §16-101. – Definitions.*

Also, Hotels, Boarding Houses, Tourist Homes, etc., are categorized in current zoning ordinance as a *Use Permitted by Right* or *Use Permitted by Special Permit*, and it may be timely to discuss which zoning districts are appropriate for the operation of a short-term rental and whether it requires a special permit.

Staff has not reached consensus on a recommendation for parking and maximum occupancy. “Front-runner” suggestions include bedrooms and parking spaces be used to establish maximum occupancy, along the lines of:

“Each advertised short-term rental unit shall advertise and implement a maximum occupancy of no more than as permitted by the Virginia Uniform Statewide Building Code, (4) persons per bedroom, or (2) adults per off-street parking space, whichever is least.”

Additionally, review of neighboring municipalities’ code has indicated a preference for establishment of a Short-term rental registry as allowed under VA State Code Title 15.2, Ch. 9, § 15.2-983. Staff is (again) divergent on this recommendation. “Front-runner” suggestions include:

Registration application of short-term rentals is required to include:

- name and mailing address of property owner;*
- name and mailing address of operator, if different;*
- address of property;*
- number of bedrooms, bathrooms, and parking spaces;*
- copy of certificate of occupancy issued by Clarke County Building Department; and*
- filing fee of \$25.00*

Registration of short-term rentals may be waived under Code of Virginia Title 15.2, Ch. 9, § 15.2-983 if such person is (i) licensed by the Real Estate Board or is a property owner who is represented by a real estate licensee; (ii) registered pursuant to the Virginia Real Estate Time-Share Act (§ 55.1-2200 et seq.); (iii) licensed or registered with the Department of Health, related to the provision of room or space for lodging; or (iv) licensed or registered with the locality, related to the rental or management of real property, including licensed real estate professionals, hotels, motels, campgrounds, and bed and breakfast establishments.

Sec. 18-29. Homeshares and short term rentals.

18-29-1 A zoning use permit pursuant to Section 18-1 of this Article shall be required prior to the commencement of a homeshare or short term rental use. Any permit issued to a homeshare or short term rental operator is non-transferrable.

18-29-2 Homeshare use requirements:

- A. Shall only be operated as a home occupation pursuant to Section 18-19 of this Ordinance.
- B. The operator shall only be an owner who utilizes and resides at the dwelling as his/her primary residence. An owner must reside at the dwelling when being rented to guests.
- C. No more than two rooms shall be rented to guests at one time.
- D. Shall not be rented to more than four guests at one time.
- E. Shall comply with provisions A through O of Section 18-29-2 of this Ordinance.

18-29-3 Short term rental use requirements:

- A. A fire extinguisher shall be provided and visible in all kitchen and cooking areas; smoke detectors shall be installed in all locations as identified in the Uniform Statewide Building Code; and a carbon monoxide detector must be installed on each floor in every dwelling.
- B. No exterior signage for the use may be utilized.
- C. The short term rental operator shall comply with all registration, filing and taxation requirements with the Commissioner of Revenue's and Treasurer's offices.
- D. Off-street parking must be available at the dwelling unit in accordance with Section 18-6, subject to special exemptions or reductions for properties located within Parking Districts A and B as provided in Section 18-6-6.
- E. The use at all times must comply with applicable noise and maximum sound level regulations per Chapter 17 of Winchester City Code, as amended.
- F. By submitting an application for a short term rental, an applicant authorizes the Administrator or designee to enter the subject property, upon reasonable advance written notice to the applicant, at least one time during the calendar year to verify that the short term rental is being operated in accordance with the regulations set forth within this Section.
- G. A property management plan must be submitted to the Administrator, illustrating how the operator will handle neighborhood complaints, trash collection/removal, noise, and other neighborhood concerns.
- H. The short term rental shall not be marketed or used for weddings, receptions, or other events.
- I. No food shall be prepared for or served to guests by the owner or operator of the short term rental. Utilization of kitchen facilities within the short term rental by guests shall not be restricted.
- J. The owner of any property applying for a short term rental, or the owner of the controlling entity that owns a property applying for a short term rental, must sign the application for a short term rental.
- K. Sub leasing, defined as a lease of a property by a tenant to a subtenant, of short term rentals is strictly prohibited.
- L. The operator must identify a responsible party who will be immediately available to respond to and resolve issues and complaints that arise during use of the property as a short term rental.

- M. Emergency information must be conspicuously posted inside the property, including contact information for the party responsible for management of the facility.
- N. Multifamily and mixed-use structures are excluded from the ability to utilize the short term rental use whether owner occupied or not. Single family homes and townhouses are the only eligible structures types.
- O. All short term rental operators are responsible for keeping a ledger containing the dates and amount charged for any stay that occurs. That information will be provided to the Commissioner of the Revenue and the Zoning Administrator on an annual basis.
- P. The total number of sleeping rooms available for rental is limited to a maximum of five sleeping rooms. Structures that exceed five bedrooms are prohibited from operating a short term rental.
- Q. Short term rentals may exceed the occupancy regulations found under 1-2-36. The total number of adult renters allowed in a short-term rental shall be limited to two adults per available sleeping room, with a total maximum of ten total occupants including children. Double booking which consists of more than one booking transaction occurring at the same time is not allowed. Occupancy may be further limited under the Building Code.

(Ord. No. 2021-33 , 11-23-2021)

Ord. No. 2021-33 , adopted November 23-2021, amended § 18-29 in its entirety to read as herein set out. Former § 18-29, pertained to similar subject matter, and derived from 6/12/18, Case TA-18-151, Ord. No. 2018-16 .

Takeaways (this section added by TOB staff)

Registration

Maximum occupancy

Minimum parking

Onsite agent

Abide by taxation and zoning, limited categories

Sec. 30-100-18. Short-term rentals.

The following regulations shall apply to all short-term rentals on parcels for any period less than thirty (30) days of residential dwelling units in the AP, AR, AV, R-1, R-2, C1, C2, PCD, and PRD zoning districts:

- (1) The owner of a dwelling unit to be used for short-term rental shall apply for a zoning permit to be approved and issued in conformance with this section - prior to utilizing the dwelling unit for short-term rental.
- (2) For dwelling units served by a privately operated sewage disposal system within five hundred feet (500') of the seven-hundred and ninety-five foot (795') elevation contour of Smith Mountain Lake, all applicants for new permits shall provide a copy of the approved health department sewage disposal system permit serving the dwelling and evidence of the septic tank being pumped out or inspected within five (5) years shall be submitted with the zoning permit application. Upon the effective date of this ordinance, staff will notify affected property owners or their agents requesting proof that the septic system has been pumped out or inspected within five years from the said effective date, and every five years thereafter. Bedford County may revoke a permit for repeated noncompliance with the performance standards. A copy of the permit shall be supplied to the rental agency and rental agent. The property owner and rental agent shall be required to present this permit when requested. The property owner and rental agent shall, upon demand, be responsible to assure compliance with all requirements of this section. The maximum number of occupants in the dwelling unit for overnight accommodation shall be calculated as two (2) adults per bedroom. An adult, for the purpose of this regulation, is any person over the age of two (2). The number of bedrooms shall be determined by reference to health department permits specifying the number of bedrooms or the certificate of occupancy issued by the Bedford County Department of Building Inspections.
- (3) There shall be no change in the outside appearance of the dwelling unit or premises, or other visible evidence of the conduct of such short-term rentals. Signage is limited to one (1) nonilluminated sign, and signage is limited to a maximum of two (2) square feet in area, shall be permitted per dwelling in the R-1 and R-2 districts; and sixteen (16) square feet in area in the AP, AR, and AV zoning districts. Any sign must conform with the provisions of article V of the zoning ordinance.
- (4) All boats and trailers of tenants shall be parked on the lot on which the dwelling unit is located. In the case of multifamily dwellings, boats and trailers must be parked in areas specifically reserved for the dwelling unit being rented. No boats or trailers shall be parked in, along, or on the sides of roads at any time.
- (5) There shall be a working, two-pound minimum, ABC rated, fire extinguisher located in a visible and readily accessible area (i.e., kitchen or hallway) within each dwelling unit. Working smoke detectors shall be installed in each bedroom of the dwelling unit as well as one (1) on each floor (including the basement) outside of any bedrooms.
- (6) (a) An owner's failure to register a short-term rental property (including single and multiple rooms in a residential structure) with the County will result in a civil penalty of \$500 per violation. (b) Unless and until the subject property is registered, and any penalty imposed under subsection (a) is paid in full, the subject property may not be offered as a short-term rental. (c) Upon three or more violations of any applicable state or local laws, ordinances or regulations as relating to a specific property offered for short-term rental (including, but not limited to, the requirement to register any

Bedford County, VA, accessed 17 April 2023

such property), the County may prohibit such property from being registered and offered as a short-term rental.

- (7) No person shall be required to register a short-term rental pursuant to this section if such property is already licensed, permitted, or registered with the County as rental property.

Takeaways (this section added by TOB staff)

Registration

Maximum occupancy

Abide by taxation and zoning, limited categories

1 ARTICLE 5

2 ADDITIONAL REGULATIONS AND STANDARDS

3 5-101 Permitted Accessory Uses and Structures.

4 (A) Residential.

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6 (21) Short-Term Rental – Residential Accessory, pursuant to Section 5-669.

7 5-669 Short-Term Rental – Residential Accessory.

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9 (A) Modifications Not Permitted. Notwithstanding Section 5-600 of this
10 Ordinance, this Section 5-669(A) and Sections 5-669(B), 5-669(C)(1), 5-
11 669(C)(2), 5-669(C)(3), 5-669(C)(5), 5-669(C)(6), 5-669(D), 5-669(G),
12 and 5-669(H) below must not be modified by Minor Special Exception.

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14 (B) Registration. A Short-Term Rental – Residential Accessory use shall be
15 permitted only on a property that the Operator has registered in accordance
16 with Chapter 1470 of the Codified Ordinances of Loudoun County, unless
17 exempted from the registration requirement by Chapter 1470.03.

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19 (1) An “Operator” must meet the definition of “Operator” under
20 Chapter 1470 of the Codified Ordinance of Loudoun County.

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22 (2) The annual registration must be on display in a visible location upon
23 entry into the Short-Term Rental – Residential Accessory use and
24 included with all advertising materials.

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26 (C) Intensity and Character.

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28 (1) Residency Requirement. The Operator must be a permanent
29 resident of the parcel that contains the Short-Term Rental –
30 Residential Accessory use. For the purposes of this section, a
31 permanent resident is a person who occupies a dwelling for a
32 minimum of 185 days out of the calendar year as their primary
33 residence.

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35 (2) Management Requirements. The Operator, or a Manager
36 designated by the Operator, must be available at all times during all
37 rental periods to address issues that arise. During all rental periods,
38 the Operator or Manager must:

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- (a) Be available by phone or electronic means within 30 minutes and must be available to be onsite within 60 minutes.
- (b) Provide contact information of the Operator and/or Manager to guests of the Short-Term Rental – Residential Accessory use in writing prior to the beginning of the rental period. The contact information must also be posted in a visible location within the area available for rent.
- (3) **Rental Period.** A dwelling, or portion thereof, shall only be used as a Short-Term Rental – Residential Accessory use for a maximum of 180 days in a calendar year.
- (4) **Rental Capacity.** The following capacity limits apply to a Short-Term Rental – Residential Accessory use per night:
 - (a) **Guest Rooms.** The number of rooms and/or bedrooms used for overnight accommodations for guests must not exceed 4 per parcel.
 - (b) **Guest Capacity.** The total number of guests permitted per night must not exceed a maximum of 8 guests per parcel. This requirement is not intended to limit the number of guests that may sleep in a given bedroom nor the number of dwelling units per parcel used for the Short-Term Rental – Residential Accessory use.
 - (c) For parcels served by an individual sewage disposal system, the total number of guests permitted per night for a Short-Term Rental – Residential Accessory use must not exceed the maximum permitted capacity of the individual sewage disposal system, as approved by the Health Department.
- (5) **Food Service Not Permitted.** The Operator or Manager must not prepare, serve, or arrange for the catering of food, or alcoholic beverages for consumption by any guests of the Short-Term Rental – Residential Accessory use. The Short-Term Rental – Residential Accessory use must not contain restaurant facilities.
- (6) **Private Parties and/or Temporary Special Events Not Permitted.** Private parties and/or Special Events pursuant to Section 5-500(C) are not permitted in association with the Short-Term Rental – Residential Accessory use.

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(7) Dwelling Unit Types Permitted. A Short-Term Rental – Residential Accessory use is permitted to operate only in a principal dwelling unit and/or in any accessory dwelling unit approved pursuant to Section 5-613 provided that the capacity limits set forth in Section 5-669(C)(4) are met for the parcel as a whole.

(D) Zoning Permit Requirements. A Zoning Permit is required for all Short-Term Rental – Residential Accessory uses.

(1) In accordance with Section 6-1000, the Zoning Permit application must provide such information and documentation as necessary to demonstrate compliance with all applicable Zoning Ordinance requirements and authorize the Zoning Administrator to conduct an inspection prior to approval of the Zoning Permit to verify compliance with all applicable Zoning Ordinance requirements. At a minimum, the Zoning Permit application must provide the following:

- (a) Written consent from the property owner,
- (b) The name and contact information of the Operator and/or Manager (if applicable),
- (c) The type of dwelling unit(s) that will be rented,
- (d) The address of the dwelling unit(s) that will be rented,
- (e) The maximum rental capacity,
- (f) A sketch plan showing the location of the dwelling unit(s) being rented and the required parking.

(2) The approved Zoning Permit for the Short-Term Rental – Residential Accessory use must be displayed in a visible location upon entry into the Short-Term Rental- Residential Accessory use and included with all advertising materials.

(3) The Zoning Permit for a Short-Term Rental – Residential Accessory use is valid for only the original Operator and dwelling(s) listed on the Zoning Permit application and must not be transferable to any future Operator or other property. Changes to the information

125 pertaining to the Operator or dwelling(s) listed on the Zoning Permit
126 will require the issuance of a new Zoning Permit.

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128 (4) No more than one Zoning Permit for a Short-Term Rental –
129 Residential Accessory use shall be permitted per parcel.

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131 (5) A Zoning Permit for a Short-Term Rental – Residential Accessory
132 use must not be issued on a parcel that is subject to an approved
133 zoning permit for a Bed and Breakfast Homestay use, Bed and
134 Breakfast Inn use, Country Inn use, Rural Retreats and Resorts use,
135 or Short-Term Rental – Commercial Whole House use.

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137 (6) The County approval of a Short-Term Residential Accessory use
138 through the issuance of a Zoning Permit is not intended to abrogate,
139 annul, or otherwise interfere with any easement, covenant or other
140 private agreement or legal relationship, such as those of a
141 Homeowners' Association. However, where the regulations of this
142 Ordinance are more restrictive or impose higher standards or
143 requirements than such easements, covenants or other private
144 agreements or legal relationships, the regulations of this Ordinance
145 must govern.

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147 (7) A Zoning Permit for a Short-Term Rental – Residential Accessory
148 use cannot receive approval until the use receives any required
149 building code approval(s) from the department of Building and
150 Development, fire code approval(s) from the Fire Marshal, and
151 Health Department approval(s).

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153 (E) **Simultaneous Rental Contracts Not Permitted.** All guests staying within
154 an individual and separate dwelling unit during a rental period for a Short-
155 Term Rental – Residential Accessory use must be covered under the same
156 rental agreement.

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158 (F) **Parking Requirements.**

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160 (1) In addition to the off-street parking spaces required for the existing
161 dwelling units on the parcel, pursuant to Section 5-1100, the
162 following parking requirements apply, and such parking spaces
163 must be shown on the sketch plan required in Section 5-669(D):

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165 (a) For a rental capacity of 4 or less guests, one (1) off-street
166 parking space shall be required.

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(b) For a rental capacity of 5-8 guests, two (2) off-street parking spaces shall be required.

(2) The Zoning Administrator may modify the parking requirements of this Section if the Operator can demonstrate that the requirements of this Section cannot be met because of (a) the exceptional size and/or shape of the lot; (b) environmental or engineering constraints on the lot; (c) special accessibility needs; or (d) other extraordinary situations or conditions of the lot. The Zoning Administrator may attach conditions to any modification to ensure that the results of the modification will be in accordance with the purpose and intent of this Section.

(3) On-street parking is not permitted to count towards the required parking unless requested pursuant to Section 5-669(F)(2).

(G) **Safety Requirements.** To the extent permissible under state law, dwellings used for the Short-Term Rental – Residential Accessory use must meet the following requirements:

(1) Each bedroom and floor must have an operational smoke detector that is interconnected with the smoke detectors in the rest of the structure.

(2) Each floor must have at least one operational fire extinguisher that is clearly marked and accessible to guests.

(3) Each floor must have at least one operational carbon monoxide detector.

(4) All rooms used for sleeping must have at least two means of egress.

(5) A fire safety plan and emergency contact information, including the contact information for the Operator or Manager, local law enforcement, and fire and rescue, must be posted in a visible location.

(H) **Use of Affordable Dwelling Units (ADUs) Not Permitted.** ADUs provided in accordance with Article 7 of this Ordinance cannot be used for Short-Term Rental – Residential Accessory uses.

210 **Proposed Article 8 Definition(s):**

211 **S**

212 **Short-Term Rental – Residential Accessory:** The renting of a portion or the entirety of a
213 dwelling as an accessory use to a principal dwelling that is the primary residence of the Operator,
214 for a period of fewer than 30 consecutive days, and no more than 180 days per calendar year, in
215 exchange for compensation.

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1 **5-670** **Short-Term Rental – Commercial Whole-House**

2 (A) **Modifications Not Permitted.** Notwithstanding Section 5-600 of this
3 Ordinance, this Section 5-670(A) and Sections 5-670(B), 5-670(C)(1), 5-
4 670(C)(4), 5-670(C)(5), 5-670(D), 5-670(I), and 5-670(K) must not be
5 modified by Minor Special Exception.

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7 (B) **Registration.** A Short-Term Rental – Commercial Whole-House use shall
8 be permitted only on a property that the Operator has registered in
9 accordance with Chapter 1470 of the Codified Ordinances of Loudoun
10 County, unless exempted from the registration requirement by Chapter
11 1470.03.

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13 (1) An “Operator” must meet the definition of “Operator” found in
14 Chapter 1470 of the Codified Ordinance of Loudoun County.

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16 (2) The annual registration must be on display in a visible location upon
17 entry into the Short-Term Rental – Commercial Whole-House use
18 and included with all advertising materials.

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20 (C) **Intensity and Character.**

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22 (1) **Management.**

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24 (a) **Management Requirements.** The Operator, or a Manager
25 designated by the Operator, must be available at all times
26 during all rental periods to address issues that arise. During
27 all rental periods, the Operator or Manager must:

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29 (i) Be available by phone or electronic means within 30
30 minutes and must be available to be onsite within 60
31 minutes.

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33 (ii) Provide contact information for the Operator and/or
34 Manager to guests of the Short-Term Rental –
35 Commercial Whole House use in writing prior to the
36 beginning of the rental period. The contact
37 information must also be posted in a visible location
38 within the area available for rent.

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40 (2) **Rental Capacity.** The following capacity limits apply to a Short-
41 Term Rental – Commercial Whole-House use per night:

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- (a) Guest Rooms. The number of rooms and/or bedrooms used for overnight accommodations for guests must not exceed 5 per parcel.
- (b) Guest Capacity. Unless otherwise specified in this Section, the number of guests permitted per night must not exceed a maximum of 10 guests per parcel. This requirement is not intended to limit the number of guests that may sleep in a given bedroom nor the number of dwelling units per parcel used for the Short-Term Rental – Commercial Whole House use.
- (c) For parcels served by an individual sewage disposal system, the total number of guests permitted per night for a Short-Term Rental – Commercial Whole-House use must not exceed the maximum permitted capacity of the individual sewage disposal system approved by the Health Department.

(3) Lot Area:

- (a) The minimum lot area for a Short-Term Rental – Commercial Whole-House use with a guest capacity of greater than 8 guests per night, as defined by Section 5-670(C)(2), is 5 acres.

(4) Food Service Not Permitted. The Operator or Manager must not prepare, serve, or arrange for the catering of food or alcoholic beverages for consumption by any guests of the Short-Term Rental – Commercial Whole-House use. The Short-Term Rental – Commercial Whole-House use must not contain restaurant facilities.

(5) Private Parties and/or Special Events Not Permitted. Private parties and/or Special events pursuant to Section 5-500(C) are not permitted in association with the Short-Term Rental – Commercial Whole-House use.

(6) Dwelling Unit Types Permitted. A Short-Term Rental – Commercial Whole-House use is permitted to operate only in a non-owner-occupied principal dwelling unit and/or in any non-owner-occupied accessory dwelling unit approved pursuant to Section 5-613 provided that the capacity limits set forth in Section 5-670(C)(2) are met for the parcel as a whole.

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(D) Zoning Permit Requirements. A Zoning Permit is required for all Short-Term Rental – Commercial Whole-House uses.

- (1) In accordance with Section 6-1000 the Zoning Permit application must provide such information and documentation as necessary to demonstrate compliance with all applicable Zoning Ordinance requirements and authorize the Zoning Administrator to conduct an inspection prior to approval of the Zoning Permit to verify compliance with all applicable Zoning Ordinance requirements. At a minimum, the Zoning Permit application must provide the following:
 - (a) Written consent from the property owner,
 - (b) The name and contact information of the Operator and/or Manager (if applicable),
 - (c) The type of dwelling unit(s) that will be rented,
 - (d) The address of the dwelling unit(s) that will be rented,
 - (e) The maximum rental capacity,
 - (f) A sketch plan showing the location of the dwelling unit(s) being rented, the required parking, and any wells and/or drainfields on the parcel that is subject to the permit application.
- (2) The approved Zoning Permit for the Short-Term Rental – Commercial Whole-House use must be displayed in a visible location upon entry into the Short-Term Rental – Commercial Whole-House use and included with all advertising materials.
- (3) The Zoning Permit for a Short-Term Rental – Commercial Whole-House use is valid for only the original Operator and dwelling(s) listed on the Zoning Permit application and must not be transferable to any future Operator or other property. Changes to the information pertaining to the Operator or dwelling(s) listed on the Zoning Permit will require the issuance of a new Zoning Permit.
- (4) No more than one Zoning Permit for a Short-Term Rental – Commercial Whole-House use shall be permitted per parcel.

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- (5) A Zoning Permit for a Short-Term Rental – Commercial Whole-House use must not be issued on a parcel that is subject to an approved Zoning Permit for a Bed and Breakfast Homestay use, Bed and Breakfast Inn use, Country Inn use, Rural Retreats and Resorts use, or for a Short-Term Rental – Residential Accessory use.

- (6) The County approval of a Short-Term Rental – Commercial Whole House use through the issuance of a Zoning Permit is not intended to abrogate, annul, or otherwise interfere with any easement, covenant or other private agreement or legal relationship, such as those of a Homeowners’ Association. However, where the regulations of this Ordinance are more restrictive or impose higher standards or requirements than such easements, covenants or other private agreements or legal relationships, the regulations of this Ordinance must govern.

- (7) A Zoning Permit for a Short-Term Rental – Commercial Whole-House use cannot receive approval until the use receives any required building code approval(s) from the department of Building and Development, fire code approval(s) from the Fire Marshal, and Health Department approval(s).

- (E) **Simultaneous Rental Contracts Not Permitted.** All guests staying within an individual and separate dwelling unit during a rental period for a Short-Term Rental – Commercial Whole-House use must be covered under the same rental agreement.

- (F) **Parking Requirement.** The required off-street parking spaces for a Short-Term Rental – Commercial Whole-House Rental use are 2.5 per dwelling unit and 1 per room and/or bedroom used for overnight accommodations for guests. On-street parking is not permitted to count towards required parking.

- (G) **Exterior Lighting.** Exterior lighting for a Short-Term Rental – Commercial Whole-House use is subject to Sections 5-652(A)(1), 5-652(A)(2), and 5-652(A)(3) (Exterior Lighting Standards). In addition to the requirements of Section 5-652, the maximum height of pole-mounted exterior lighting shall be 12 feet.

- (H) **Roads/Access.** For any Short-Term Rental – Commercial Whole-House use that is located on a lot or parcel which does not have frontage on a publicly maintained road, documentation shall be provided to the Zoning Administrator, at the time of Zoning Permit application, demonstrating that

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the private access easement serving such lot may be used to provide access to the use.

(I) Safety Requirements. To the extent permissible under state law, dwellings used for the Short-Term Rental – Commercial Whole-House use must meet the following requirements:

(1) The fire and building code requirements as defined in 13VAC5-51-91, Section A, 109.1 Inspection and Section 310.2 of the USBC or inspecting under § 27-98.2 of the Code of Virginia.

(2) Each bedroom and floor must have an operational smoke detector that is interconnected with the smoke detectors in the rest of the structure.

(3) Each floor must have at least one operational fire extinguisher that is clearly marked and accessible to guests.

(4) Each floor must have at least one operational carbon monoxide detector.

(5) All rooms used for sleeping must have at least two means of egress.

(6) A fire safety plan and emergency contact information, including the contact information for the Operator or Manager, local law enforcement, and fire and rescue, must be posted in a visible location.

(J) A structure existing prior to January 7, 2003, located within an Historic Site District or Historic and Cultural Conservation District may be used as a Short-Term Rental – Commercial Whole-House and shall be exempt from the minimum lot area requirements specific above, provided that any expansion or enlargement of such structure shall not exceed 15% of the total floor area existing prior to January 7, 2003, unless a greater expansion is approved by Minor Special Exception, pursuant to Section 6-1300.

(K) Use of Affordable Dwelling Units (ADUs) Not Permitted. ADUs provided in accordance with Article 7 of this Ordinance cannot be used for Short-Term Rental – Commercial Whole House Rental uses.

214 **Article 8 – Definitions**

215 S

216 Short-Term Rental – Commercial Whole House: The renting of a non-owner-occupied single
217 family detached dwelling or a non-owner-occupied accessory dwelling that is accessory to a
218 principal single family detached dwelling in which the entire dwelling is used for providing
219 overnight accommodations for a period of fewer than 30 consecutive days in exchange for
220 compensation.

Short Term Rental – Commercial Whole-House Zoning District Use List (Draft)

Permitted in the following zoning districts:

AR-1 (Section 2-100), pursuant to Section 5-670

AR-2 (Section 2-200), pursuant to Section 5-670

A-10 (Section 2-300), pursuant to Section 5-670

A-3 (Section 2-400), pursuant to Section 5-670

RC (Section 2-900), pursuant to Section 5-670

JLMA-20 (Section 2-1300), pursuant to Section 5-670

TR-10 (Section 2-1400), pursuant to Section 5-670

TR-3 (Section 2-1500), pursuant to Section 5-670

PD-CV (permitted in “Village Core” and “Village Conservancy and Village Satellite Conservancy”) (Section 4-900), pursuant to Section 5-670

PD-RV (permitted in “Village Center – Residential Area” and “Village Center – Commercial and Workplace Areas”) (Section 4-1200), pursuant to Section 5-670

Permitted by Minor SPEX in the following districts:

CR-1 (Minor) (Section 2-500), pursuant to Section 5-670, by Minor Special Exception

CR-2 (Minor) (Section 2-600), pursuant to Section 5-670, by Minor Special Exception

CR-3 (Minor) (Section 2-700), pursuant to Section 5-670, by Minor Special Exception

JLMA-1 (Minor) (Section 2-1000), pursuant to Section 5-670, by Minor Special Exception

JLMA-2 (Minor) (Section 2-1100), pursuant to Section 5-670, by Minor Special Exception

JLMA-3 (Minor) (Section 2-1200), pursuant to Section 5-670, by Minor Special Exception

TR-2 (Minor) (Section 2-1600), pursuant to Section 5-670, by Minor Special Exception

TR-1 (Minor) (Section 2-1700), pursuant to Section 5-670, by Minor Special Exception

R-1 (Minor) (Section 3-100), pursuant to Section 5-670, by Minor Special Exception

R-2 (Minor) (Section 3-200), pursuant to Section 5-670, by Minor Special Exception

Permitted by SPEX in the following districts:

CR-4 (Section 2-800), pursuant to Section 5-670

R-3 (Section 3-300), pursuant to Section 5-670

R-4 (Section 3-400), pursuant to Section 5-670

R-8 (Section 3-500), pursuant to Section 5-670

PD-TC (Section 4-800), pursuant to Section 5-670

PD-MUB (Section 4-1350), pursuant to Section 5-670

Sec. 16-105. - Delegation of administration.

The town treasurer is hereby delegated the authority to administer all provisions of this article.

(Ord. of 4-21-15)

Sec. 16-106. - Reports and remittances.

The person collecting any tax levied under this article shall make out a report upon forms, setting forth information as the town treasurer may prescribe and require, showing the amount of room or space rental charges collected and the tax required to be collected, and shall sign and deliver the same, along with a remittance of such tax, to the town treasurer. Such reports and remittances shall be made to the town treasurer on or before the twentieth day of the calendar month following the month being reported.

(Ord. of 4-21-15)

Sec. 16-107. - Reserved.

Sec. 16-108. - Advertising payment or absorption of tax.

No person shall advertise or hold out to the public in any manner, directly or indirectly, that all or any part of a tax imposed under this article will be paid or absorbed by him or by anyone else, or that he or anyone else will relieve any purchaser of the payment of all or any part of such tax.

(Ord. of 4-21-15)

Sec. 16-109. - Penalty and interest for failure to remit taxes when due.

If any person whose duty it is to do so shall fail or refuse to remit to the town treasurer the tax required to be collected under this article, within the time and in the amount specified in this article, there shall be added to such tax by the town treasurer a penalty as set from time to time by the town council. In addition, there shall be added to such unpaid tax interest at a rate as set from time to time by the town council on the amount of tax delinquent, such interest to commence on the first day of the month following the month in which such taxes are due. For the second and subsequent years of delinquency, interest shall be imposed at the rate established pursuant to section 6621 of the Internal Revenue Code of 1954, as amended, or at a rate as set from time to time by the town council, whichever is greater.

(Ord. of 4-21-15)

Sec. 16-110. - Procedure upon failure or refusal to collect taxes or make remittances and reports.

If any person whose duty it is to do so shall fail or refuse to collect the tax imposed under this article or to make within the time provided in this article the reports and remittances required by this article, the town treasurer shall proceed in such a manner as he may deem best to obtain the facts and information as he is able to obtain upon which to base the assessment of any tax payable by any person who has failed or refused to collect such tax or to make such report and remittance. The town treasurer shall proceed to determine and assess against such person such tax and penalty by registered mail at his last known place of address of the amount of such tax and interest and penalty and the total amount thereof shall be payable within ten (10) days from the date of such notice.

(Ord. of 4-21-15)

Sec. 16-111. - Preservation of records.

It shall be the duty of every person required by this article to pay to the town the taxes imposed by the article to keep and to preserve for a period of two (2) years records showing all purchases taxable under this article, the amount charged the purchaser for each purchase, the date thereof, the taxes collected thereon and the amount of tax required to be collected by this article. The town treasurer or duly authorized agents shall have the power to examine such records at reasonable times and without unreasonable interference with the business of such person, for the purpose of administering and enforcing the provisions of this article and to make transcripts of all or any parts thereof.

(Ord. of 4-21-15)

Sec. 16-112. - Cessation of business; report and tax due immediately.

Whenever any person required to collect and pay to the town a tax under this article shall cease to operate and shall otherwise dispose of his business, any tax payable under the provisions of this article shall become immediately due and payable. Such person shall immediately make a report and pay the tax due.

(Ord. of 4-21-15)

Sec. 16-101. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Hotel shall mean any public or private hotel, inn, apartment hotel, bed and breakfast, hostelry, tourist home or house, motel, rooming house or other lodging place within the town offering lodging for two (2) or more persons at any one (1) time, and the owner and operator thereof, who, for compensation, furnishes lodging to any transients.

Room or space rental shall mean the total charge made by any hotel or travel campground for lodging or space furnished any transient. If the charges made by such hotel or travel campground to transients includes any charge for services or accommodations, in addition to that of lodging, and the use of space, then such portion of the total charge as represents only room and space rental shall be distinctly set out and billed to such transient by such hotel or travel campground as a separate item.

INSERT SHORT-TERM RENTAL DEFINITION HERE

Town shall mean Town of Berryville, Virginia.

Transient shall mean any natural person who, for any period of not more than thirty (30) consecutive days, either at his own expense or at the expense of another, obtains lodging or the use of any space in any hotel or travel campground for which lodging or use of space a charge is made.

Travel campground means any area or tract of land used to accommodate two (2) or more camping parties, including tents, travel trailers or other camping outfits.

(Ord. of 4-21-15)

Sec. 16-102. - Penalty for violation.

Any person violating or failing to comply with any of the provisions of this article shall be guilty of a class 3 misdemeanor. Each such violation or failure and each day's continuance thereof shall constitute a separate offense. Such conviction shall not relieve any such person from the payment, collection or remittance of the tax as provided in this article.

(Ord. of 4-21-15)

Sec. 16-103. - Amount and levy.

There is hereby imposed and levied by the town, in addition to all other taxes, fees, and charges of every kind, now or hereafter imposed by law, a tax in the amount of two (2) percent of the total amount paid for room or space rental to any hotel or travel campground.

(Ord. of 4-21-15)

Sec. 16-104. - Collection.

Every person receiving any payment of room or space rental with respect to which a tax is levied under this article, shall collect the amount of tax hereby imposed from the transient on whom the same is levied or from the person paying for such room or space rental, at the time payment for such rooms or space is made, and the tax shall be paid to the town.

(Ord. of 4-21-15)

Community Development Committee
25 April 2023

Item Title:

Hogan's Alley Improvement Project Update

Prepared By:

Jean Petti

Background/History General Information

7 October 2022, a MOU between Department of Housing and Community Development (DHCD) and Berryville Main Street was entered into for the revitalization of "Hogan's Alley" with a Community Vitality Grant (CVG) in the amount of \$7000.00. Berryville Main Street pledged \$3500.00 in matching funds. This funding has encouraged a cooperative action between BMS and TOB to refurbish Hogan's Alley.

Findings/Current Activity

- BMS' sales tax exemption request has been submitted. Once approved, benches and planters will be ordered. These benches conform to parameters set by council and ARB.
- The planters are not concrete, so decorative removable bollards that are purchased, installed, and maintained by TOB are consistent with BMS' vision. Estimate for two bollards is \$1190 plus \$400 freight shipping.
- One adjacent property owner is fine with the mural project. They request that it be mounted on a backing. BMS does not believe this poses a problem for the artist. There are two interested artists already and a further 'call for artists' may be made. BMS requests that the backing for the mural be constructed and mounted by TOB Public Works Department. Size TBD upon acceptance of a mural concept submission. Aluminum mural backing specs provided to BMS to share with artist.
- The other adjacent property owner has expressed concerns about current trespassing. PD is working to address this concern. BMS suggested options for closing the alley overnights- this option requires more investigation .
- TOB is requested to provide trash cans at the head and foot of alley, or at another location reasonably evident to alley users.
- BMS endorses the idea of a sidewalk renovation that alerts pedestrians to the alley's entrance, but does not have funds dedicated to that project so it remains under the purview of TOB. A conversation with VDOT has been initiated (19 April).
- REC has scheduled a site visit Wednesday 26 April to discuss lighting options. Primary request is still string bulb lights criss-cross, but alternatives will be discussed.

-Plaque and mounting base purchase and installation should be undertaken by TOB. Estimates range from \$300 for an 8x10 to \$1600 for a 14x20. Direction as to size/wording suggestions requested.

-Research re colored stamped asphalt resurfacing for the alley garnered one response and the estimate was \$12,500-\$15,000. This is fifty percent above the total budget established by council. Colored asphalt sealer was considered, but the product has been discontinued. Pickleball court resurfacing primer and dark green paint is estimated at \$1000 plus equipment and labor. No special skill set is required, potentially allowing BMS volunteers (under the direction of TOB staff) to provide in-kind labor to satisfy grant-match requirements.

-Drainage at the Main St end of the Alley is a concern. TOB is exploring the ability of PW staff to install a grate at the mouth of the alley to capture the downspout discharge. Footers for any freestanding signage will be established at same time.

-VinTin Welding, a local metal artist, is creating an estimate for a freestanding arch sign. This is not integral to the success of the alley, but has been mentioned several times so I will follow up to establish whether it is feasible. Additional suppliers have been identified.

-A fresh idea was the installation of a community messaging board. Estimate pending.

Financial Considerations

All project expenses aside from planters, benches, and mural are anticipated to be borne by Town.

Schedule/Deadlines

Per BMS, grant deadline has been extended indefinitely, though DHCD requests expediency and open communication.

April 25, 2023
Discussion

Parade Route

Background

Last year, after consulting with the Town Council, the Town Manager amended what would be considered the standard parade route to be approved by staff as a part of special event review. This route was used for the 2022 CCHS Homecoming and 2022 BMS Christmas Parades.

While there remain areas where the newly minted plan needs to be fine-tuned, it is staff's assessment that the route worked well and should be used for future events.

The 225 Birthday Celebration Committee determined that a parade would be held as a part of the birthday festivities. The parade organizers requested approval of a route that differed from the standard parade route.

The Council discussed this matter at their April 11, 2023 meeting. It was the consensus of the Council that the 225 Birthday Parade should follow the route adopted last year.

Current Review

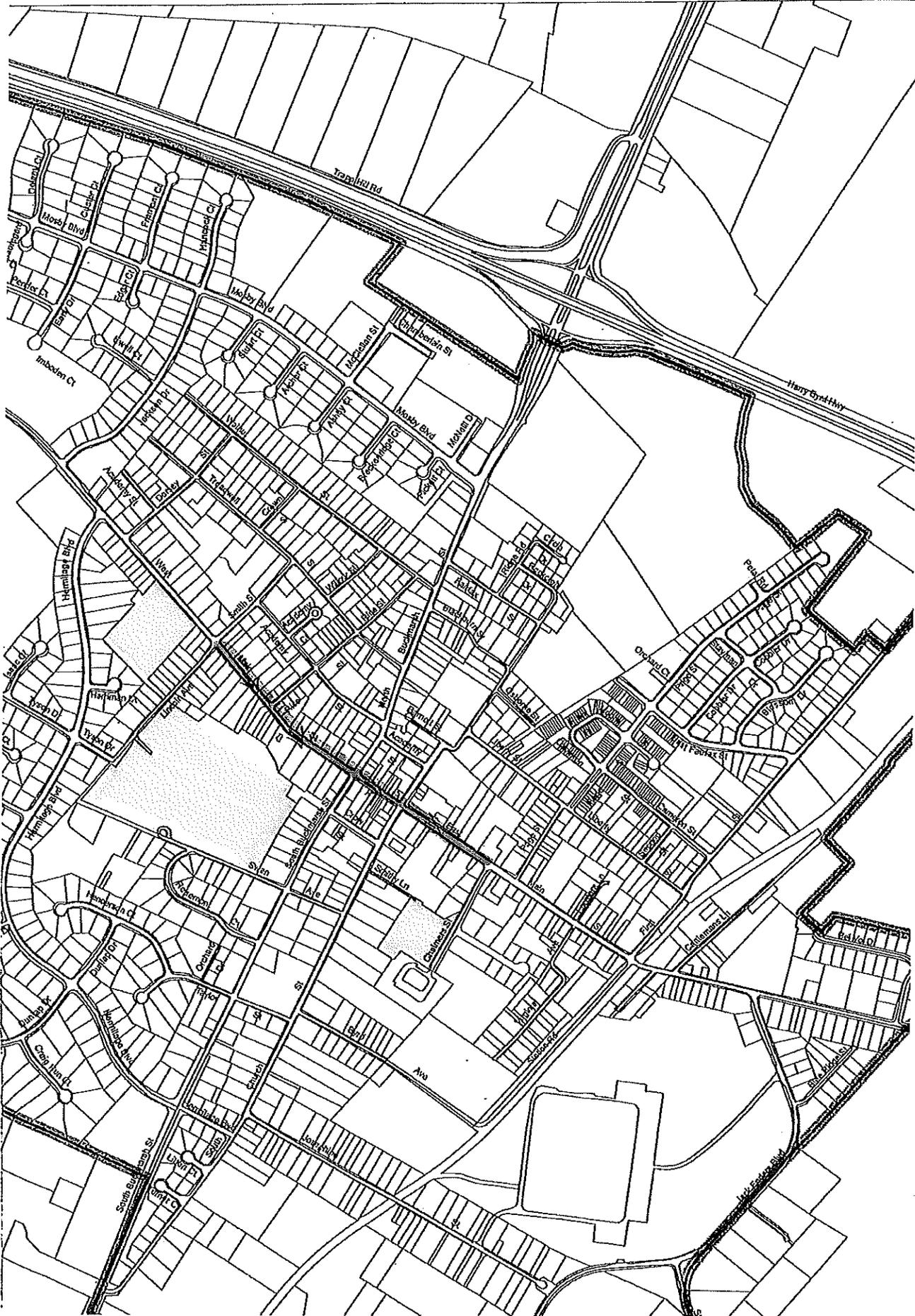
Chair Tibbens wants the committee to review the established parade route to determine what fine-tuning needs to be made to the route, detour plans, line up areas, and the like.

Attachment

- Map showing current parade route

Currently used
Route

PARADE ROUTE
LINE UP
DESEMBARK



Community Development Committee Meeting Item Report
25 April 2023

Item Title:

225 Parade and Picnic

Prepared By:

Jean Petti

Background/History General Information

The Parade Committee (a subsidiary of the 225 Committee) submitted a Special event Permit Application on 30 March 2023

Findings/Current Activity

Town staff met with the parade planners 13 April 2023 to discuss particulars of the event. These are:

The parade will line up at 1pm, move off at 2pm, conclude by 3:30 pm, and follow the route established by Town Council for parades.

Chief White's department will provide traffic control and direction. 225 Committee volunteers will assist with lineup and management of the disembarking area. Trucks and other vehicles that do not have to unload passengers or remove decorations will be encouraged to continue east on Main St instead of turning into Chalmers Ct.

Immediately following the parade, a picnic will take place at Rose Hill Park. This event will not require additional manpower/materials/equipment from the Town and is expected to conclude by 5pm. A musical performance in the Gazebo will augment the picnic. Two additional toilets will be provided by 225 Committee and staged near basketball courts.

Potential schedule and traffic conflicts with the Farmer's Market, Barns of Rose Hill Gala, and impacted property owners were discussed and will be addressed by 225 Committee members.

Financial Considerations

None.

Other Considerations

VDOT permit application has been made for the closing of streets. A request to borrow electronic signage from local LE partners has been made. If these signs are made available, they will be used to forewarn motorists.

Attachments

None.