

SPECIAL CALLED COUNCIL MEETING MINUTES

Wednesday, September 22, 2021

6pm at Damascus Town Hall

Council Members Present: Susan Coleman, Mitchel Greer, Tony Doss, Robert Van de Vuurst, and Tom Hayes

Absent: Beaty Jackson

Also Present:

Katie Lamb, Mayor	Gavin Blevins, Town Manager
Mike Hounshell, Police Chief	Tuesday Pope, Town Clerk
Paul Cassell, Town Attorney	Eva Meyer, Town Treasurer

Mayor Lamb Called the Meeting to Order and asked for approval of the agenda.

- Mr. Greer made a motion to approve the agenda as presented. Mr. Hayes 2nd the motion, which passed (5-0).
- i. Mayor's Opening Comments Addressing Validity of Moratorium – Mayor Lamb stated that the BZA does not have the authority to implement a moratorium, nor does the Council, so the May 3rd implementation of one is not valid. Mr. Cassell replied that the Council has the authority to modify zoning ordinances, and over issuing conditional use permits. He stated that he would like to review the Attorney General's opinion on the specific matter before determining whether it is appropriate or not. Mayor Lamb said that she does not want to move forward with the issue until we find out if the moratorium that has been in place since May is valid or not. Mr. Cassell stated that although the motion to implement the moratorium was inartfully worded, the Council does have the right to implement it as they see fit. Mr. Van de Vuurst stated that recommendations that have been prepared for the Council to consider, by the Transient Lodging Study Group, are just recommendations, and are not dependent on the moratorium.
- ii. Mayor Lamb stated that a Special Meeting of the Damascus Town Council is being called for discussion and consideration of Damascus Transient Lodging Study Group recommendations, whereas the Chair of the Damascus Board of Zoning Appeals formed a committee that has been researching the effects of issuing new Conditional Use Permits for transient/semi-transient lodging in residential districts, according to the current Zoning Code.

Mr. Van de Vuurst presented the following slideshow of information and recommendations from the Transient Lodging Study Committee:

**Town of Damascus
Transient Lodging Study Committee
Town Council Meeting for Presentation of Committee
Recommendations
September 22, 2021**



Mission

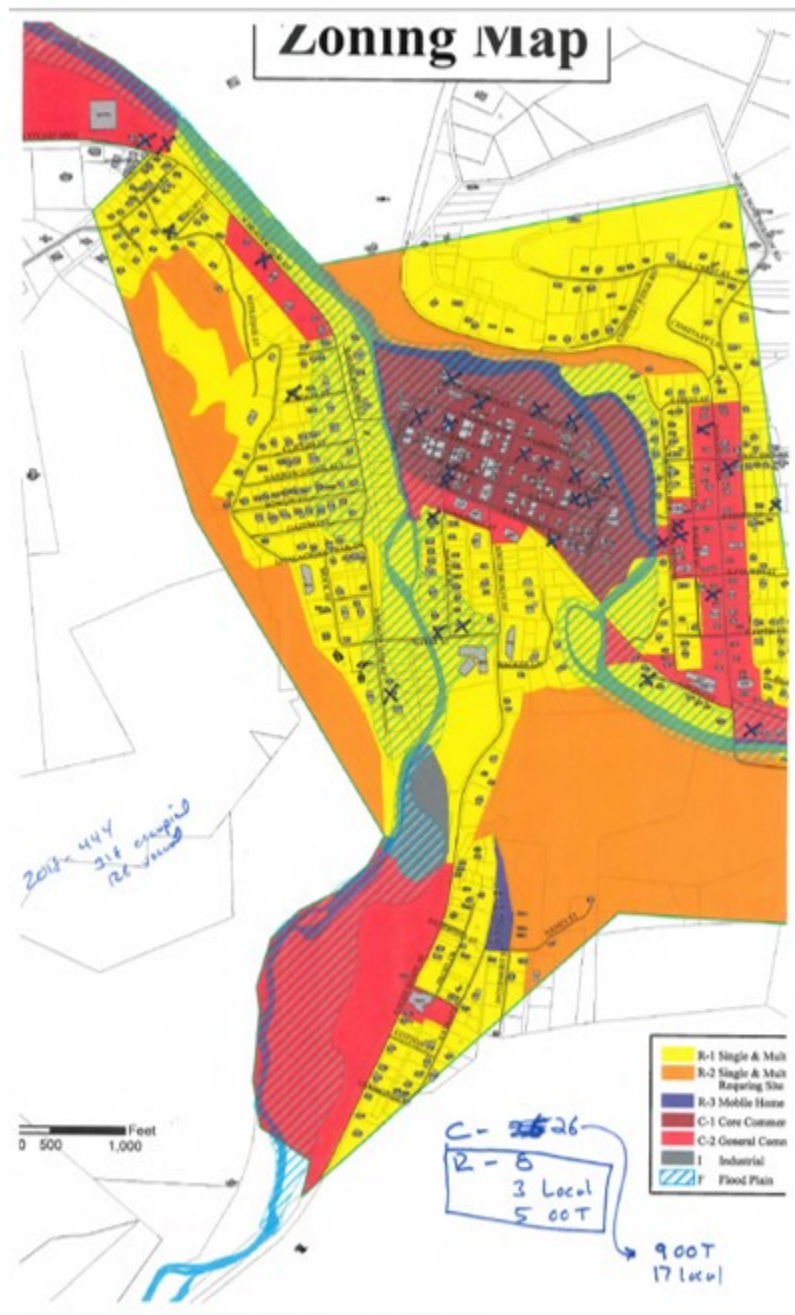
Study issues and make recommendations to the Damascus Town Council on whether current Zoning Ordinances on Transient and Semi-Transient lodging in Damascus need to be changed and, if so, to make recommendations on those changes

Committee Members

- Robert Van de Vuurst (Chair, former BZA Chair, Town Council)
- Brian Schmidt (Chair, Planning Commission)
- Anne Maio (Planning Commission)
- Mitchell Greer (Town Council)
- David Atwood (BZA)
- Gavin Blevins (Town Manager)

Where Are We Now?

- **Transient Lodging** is defined as: A building or a group of buildings in which sleeping accommodations are offered to the public and intended primarily for rental to transients with a daily charge. Need a C/O issued by County building inspector. This has traditionally been viewed as rentals of an entire structure.
- **Semi-Transient Lodging** is defined as: An establishment where lodging is provided for compensation partly on a monthly or longer basis and partly for a shorter time period, but with less than 30 percent of the living units under the same ownership or management on the same lot being occupied on a less-than-monthly basis. This has traditionally applied to B&B's, AirBnB, etc.
 - CUP needed in (R) districts, not for (C) districts
 - Town Business license needed for all operations



Current Damascus Transient/Semi-Transient Businesses

Business Name	Owner	Business Address	Mailing Address
830 Beaver Dam Ave Airbnb	Logan & Alison McCabe	830 Beaver Dam Ave.	355 Monroe Dr. Bristol, TN 37620
Along for the Ride	Jennifer Walker	415 Douglas Dr.	327 Elliot Hollow Rd. Creston, NC 28615
Alpha Realty & Auction - Appalachian Trail Town Inn	Scott Paterson	100 S. Railroad Ave.	210 Trestle St.
A Step Away LLC	Amanda M. Buhby	208 E. Laurel Ave	P.O. Box 1667 Knoxville, TN 37901
A River's Edge Lodging (ForEver Properties, LLC)	Tom & Susan Hopson	223 E. Laurel Ave.	1025 Rose Creek Dr. Ste. 620-316 Woodstock, GA 30189
Barrett House Riverside Lodging	Melissa & Shannon Barrett	133 Imboden St.	P.O. Box 252
Bikes and Boots Cottages	Thomas Woller	206 E. Creeper Way	216 Jones Circle Thomasville, NC 27360
Brinkwaters	Wesley Waters III	201 W. Laurel	P.O. Box 305
Crazy Larry's	Larry Riddle	209 Douglas Dr.	209 Douglas Dr.
Creeper Trail Bungalow	Melissa Morrison	204 S. Railroad Ave.	1781 White Hall Rd. Crozet, VA 22932
Creeper Trail Cottages	Ward Albro	539 Adkins St.	P.O. Box 610
Creeper Trail Lodge	Creeper Trail Lodge, LLC	702 N. Beaver Dam Ave.	P.O. Box 549
Damascus Creekside RV Park, LLC	Cindy F. Hartsfield	111 S. Railroad Ave.	111 S. Railroad Ave.
Damascus Cabins	Stuart Wright	127 Imboden St.	P.O. Box 369
Damascus Inn, Inc.	Frederic Leonard	215 W. Imboden St.	P.O. Box 1257 Marion, VA 28752
Do-Si-Do Farmhouse	Rita Dolinger	533 Docie St.	533 Docie St.
Dragonfly Inn	Ralph Wilson	125 E. Laurel Ave.	P.O. Box 156
Experience Damascus	Hanna & Hunter Faust	209 S. Reynolds St.	P.O. Box 220
Hikers Inn	Paul Dhoore & Lee Lewis	216 E. Laurel Ave.	P.O. Box 396
Lady Di's B&B	Dianne Seger	217 Damascus Dr.	217 Damascus Dr.
Laurel Ave Apartments	Trey Waters	225 N. Laurel Ave.	P.O. Box 305
Laurel River Inn	Stuart Wright	369 Beaver Dam Ave.	P.O. Box 369
Meadows and Matney Enterprises, LLC	Steve Matney & David Meadows	130 Damascus Dr.	25538 Cornelius Dr. Abingdon, VA 24211
Oakleaf Bungalow	Pat Dietch	533 Ruby St.	21161 LaHore Rd. Orange, VA 22960
River Trail Cabins	David Counts	726 N. Beaver Dam Ave.	843 W. Main St. Abingdon, VA 24210
Rosa Lee's Cottage	Tony & Carolyn Doss	711 E. Third St.	P.O. Box 304
Starry Night Vacations	Angie & Bill Wood	123 Water St.	437 Hillcrest Dr. Harrisburg, NC 28075
Tangent House	Susan Wallace & Stephen Arambasic	401 Brook St.	57 W. Como Ave. Columbus, OH 43202
The Dancing Bear Inn	Elizabeth McCartin	203 E. Laurel Ave.	P.O. Box 1082
The Duck House	David Atwood	210 N. Reynolds St.	P.O. Box 991
The Duck Nest	David Atwood	203 N. Legion St.	P.O. Box 991
The Inn on Creeper Way	Mark Sossoman	126 W. Creepers Way	8 Simpson Hollow Rd. Asheville, NC 28803
The Laurel House	Charles Jacob	103 E. Laurel Dr.	103 E. Laurel Dr.
Trail Town Rentals	Russell Johnson	102 Water St.	P.O. Box 5 Loudon, TN 37774

Revenue

- Business License Fees – 3 year average approximately \$2900.00, trending downward
- Lodging Tax – 3 year average approximately \$61,000.00 although FY 2021 was significantly in excess of that, at \$84,000.00
- Meal Tax – 3 year average approximately \$185,000.00, although FY 2021 was short of that, at \$180,000.00.
- % of Town Budget – 23% of \$1.15MM operating budget (FY 20-21) if one assumes 100% of revenues attributable to transient lodging. 75% = 17.6%, 50% = 13.6%

Study of Other Communities

- NC – Lake Lure, Boone, Asheville, Banner Elk, Blowing Rock, West Jefferson, Burnsville, Hot Springs, Spruce Pine
- TN – Mountain City, Jonesborough
- VA – Radford, Wytheville, Farmville, Floyd, Blacksburg, Chilhowie, Ft. Chiswell, Lynchburg, Marion, Saltville
- Also researched Leesburg, VA, Shepherdstown, WV, Cumberland, MD, Rockwood, PA, Connellsville, PA, West Newton, PA, Sedalia, MO, Rhineland, MO, Defiance, MO, Clinton, MO, Hermann, MO, St. Charles, MO, Clinton, MO.

Results

- Some regulate based on type of rental, i.e. rooms v. the whole structure and limit the total number of room nights per year.
- Some require the homeowner to be present at all times or have a representative that can respond to problems within certain time periods.
- Some differentiate between rentals in business v. residential districts.
- Contrary to the research presented previously, we did pick up trends in the towns set forth in the last bullet of the previous slide. Although not uniform, there was a trend towards either not allowing transient lodging in R-1 districts at all, or requiring that the owner of the facility be present at least 180 days a year, some required all year.

Summary

While most regulate transient and semi-transient lodging to some degree, there was no clear consistency in their approach, at least with the towns originally surveyed. Later research on towns more similar to Damascus did show trends towards more restrictive uses of transient lodging in residential districts. All required permitting and taxation.

Referendum?

Committee Recommendations broken
down into
Commercial and Residential Districts

Guidelines

At all times, the Committee was guided by the general principles that :

- 1) The economy of Damascus is driven by tourism, and that the availability of Transient Lodging is crucial to the Town's short and long term well-being; and
- 2) That any Town needs a vibrant set of full-time permanent residents to engage in business support, community engagement and projects, and Town governance. Permanent residents may not be inclined to stay, or participate, if there is no sense of "community" or a perceived or actual noise/security issue. In other words, people need neighborhoods and they need neighbors that they know and hopefully consider as friends.
- 3) The Damascus Planning Commission Comprehensive Plan (2013) lists, among other things, goals for residential development in Damascus to "maintain the best possible living conditions for all citizens," and to "protect the investment of current property owners."

Commercial Districts

No Change Recommended, other than allowing Town Manager to prepare a robust informational package that must be submitted by all Transient Lodging facilities in “C” districts on a yearly basis with their business license renewal. Things like ownership, emergency contact information, recognition of parking, noise, and habitability requirements, etc.

Residential Districts

More complicated – there are 9 facilities with current business licenses located in “R-1” districts, one of which received a business license just last week. 6 are owned by persons not full-time residents of Damascus. This does not include facilities for which CUP’s were previously granted but for which there is no current business license, for whatever reason.

Although opinions varied, there was an overall consensus reached.

Varying Opinions

- One committee member recommended maintaining the status quo with regard to Transient Lodging in “R” districts. In other words, no changes to current practice.
- Two committee members recommended that the moratorium be made permanent and that the Zoning Ordinance be amended to provide that no Transient Lodging of any kind be permitted in “R-1” districts under any circumstances. Current facilities would be grandfathered in until the facility was sold.
- 3 remaining committee members were of similar opinions, that is, that Damascus needs growth, and the availability of Transient Lodging facilities in “R” districts will have to be an integral part of that growth plan. However, current Zoning Ordinances do not allow for structured growth by unnecessarily restricting the ability of a homeowner in an “R” district to use ancillary and accessory buildings (such as garages or outbuildings, whether existing or new) for Transient Lodging. If allowed, this should provide for additional Transient Lodging availability subject to the “occupied homeowner” requirement also recommended.

Owner - Occupied for “R” Districts

- With the exception of the two Committee members that advocated for a complete ban, the remaining members of the Committee do not recommend that any limits be placed on the number of facilities that can be used for Transient Lodging in “R” districts provided, however, that the owner of the Transient Lodging facility must actually reside in the facility for at least 180 days per year, and at all times while renters are present. No occupancy requirement would apply to Accessory Structures on the same lot, provided that the owner of the facility was resident in the main facility during rental periods and again for at least 180 aggregate days in any calendar year.
- Conditional Use Permits should still be required, and still be subject to revocation based on current standards and guidelines. Current facilities in “R” districts, to the extent not already in compliance, will be grandfathered in with no restrictions on current rental practices until the facility is sold.

Basis for “R” recommendations

It is the Committee’s opinion that the approach recommended for “R” districts would satisfy the needs of the Town for Transient Lodging facilities, while also meeting the requirements of the permanent residents of the neighborhood for, basically, having neighbors and somebody to go to if problems arise.

What Happens From Here?

As noted previously, these are recommendations only, as only the Town Council can make ordinance changes. The Council can accept the recommendations and implement them, change them, or do nothing. Any proposed Zoning Ordinance changes must be submitted to the Damascus Planning Commission for its recommendations, per Va. Code Section 15.2-2285.

The Council should also extend the current moratorium until the process is complete.

How to Implement

Recommend that Section 16.5.3 of the current Damascus Zoning Code be amended as follows:

Add subsection (e) which provides as follows:

“Notwithstanding anything to the contrary in this Section 16.5.3 or any other provision of the Damascus Zoning Ordinance, the issuance of a Conditional Use Permit for Transient or Semi-Transient lodging shall only be permitted upon the receipt of a certification from the owner of the facility that he/she will reside in the facility for no less than 180 aggregate calendar days in each calendar year, and in any event at all times while renters are present. Violation of this subsection (e) shall be grounds for revocation of the Conditional Use Permit by the Zoning Administrator. “Owner” of the facility means an individual owner, the individual owner(s) of any corporate entity that owns the facility, or the beneficial owners of any Trust that owns the facility, and the Zoning Administrator may request such information from the applicant as is required to satisfy the Zoning Administrator that the occupant of the facility in question is in fact the bona fide owner thereof. This occupancy requirement shall not apply to accessory use structures, on the same lot, that are themselves permitted for Transient or Semi-Transient lodging, so long as the owner of the facility meets the occupancy requirements for the main structure on the lot.”

Questions?

Mr. Van de Vuurst encouraged everyone present to personally thank each of the study group members for sacrificing many personal hours which were dedicated to this research project.

iii. Citizens Comments

1. Diana Goodwin, property owner at 523 Docie St., spoke in opposition of the proposed recommendations, and questioned why there was not a notice sent out about the moratorium.
2. Larry Ginn, 541 Clifton St., stated that he has served on the Planning Commission for the past 6 years and the BZA for the past 4 years, and a lot of work has gone into the

ordinances which govern the decisions for issuing conditional use permits very effectively. He also stated that he doesn't think the moratorium was necessary, and that according to the local police, almost no problems have been reported in recent years about people staying at transient lodging facilities.

3. Jeff Buckley, 719 E. Second St., spoke in opposition of the proposed recommendations, questioned the validity of the moratorium, and suggested the Town Attorney be present at every meeting to help maintain transparency.
4. Logan McCabe, property owner at 830 S. Beaverdam Ave., stated that he wishes he would have known that this process was going on, and thanked those who worked on the study.
5. Buddy Albro, 539 Adkins St., spoke in opposition of the proposed recommendations.
6. Ann Marie Schmidt, 605 Appalachian Trail Dr., spoke in favor of the proposed recommendations.
7. Tom Foltz, 560 Bowlin St., spoke in favor of the proposed recommendations.
8. Donna Foltz, 560 Bowlin St., spoke in favor of the proposed recommendations.
9. Wesley Graham, 438 Douglas Dr., spoke in opposition of the proposed recommendations.
10. Stuart Wright, 171 Backer Ln., spoke in opposition of the proposed recommendations.
11. Tom Davenport, 416 Brook St., spoke in favor of the proposed recommendations.
12. Michael Wright, 167 Backer Ln., spoke in opposition of the proposed recommendations.
13. Pat McCartin, 203 E. Laurel Ave., spoke in favor of the proposed recommendations.
14. Pat Pritchett, 609 Orchard Hill Rd., spoke in opposition of the proposed recommendations.
15. Nicky Buckley, 719 E. Second St., stated that she can understand both sides because there are valid concerns being expressed.
16. David Atwood, 203 N. Legion St., spoke in opposition of the proposed recommendations.
17. Melissa Barrett, 133 Imboden St., spoke in favor of the proposed recommendations.
18. Richard Smith, not a resident but spoke on behalf of his daughter who is, spoke in favor of the proposed recommendations.
19. Shannon Barrett, 133 Imboden St., spoke in favor of the proposed recommendations.

iv. Council Member Comments and Mayor's Closing Comments:

Mr. Greer recommended sending the recommendations to the Planning Commission for them to review and make a recommendation back to Council.

Mr. Van de Vuurst stated that he would like to make a motion to that affect, and get the process of Planning Commission review of the recommendations underway.

Mayor Lamb stated that she does not want a motion to be on the table for a vote, or to send anything to the Planning Commission at his time. She requested the specific motion be sent to her and the rest of the Council for review before bringing it to the table at the next meeting.

Mr. Cassell stated that taking action was not on this meeting's agenda.

Ms. Coleman thanked the study group for their many hours of research.

Mayor Lamb made a closing statement thanking the study group members and Mr. Van de Vuurst for their research and time, as well as everyone who attended the meeting to express their concerns. She stated that as the Town's elected officials they need to do, as best they can, what the majority of the citizens need and want, and she thinks a solution can be reached and agreed upon that will not be detrimental to residents or business owners. Mayor Lamb stated that she thinks everyone should be able to collaborate, communicate, and work together to put something in place that is agreeable to all parties.

- Mr. Hayes made a motion to adjourn. Ms. Coleman 2nd the motion, which passed (5-0).

Katie Lamb, Mayor

Tuesday Pope, Clerk