**Planning and Zoning Commission**
**Public Hearing**
**April 2, 2019**

The meeting was called to order by Chairwoman Rebecca Bush and the secretary called the roll.

Present: Nixon Adams, Ren Clark, Simmie Fairley, Michael Blache, Rebecca Bush, and Jeff Lahasky

Absent: Bill Sones

Also Present: Louisette Scott, Director, Planning Department; and Cara Bartholomew, Planner; Mayor Donald Villere; City Attorney deShea Richardson

The only cased discussed was P19-03-03 Recommendation to the City Council regarding Ordinance 19-03 amending the City of Mandeville's CLURO, Ordinance 15-11, to provide definitions and regulations regarding Short Term Rentals, to add Short Term Rental as a Permitted Use in the B-3, Old Mandeville Zoning District, and to provide for penalties and fines for violations and providing for other matters in connection therewith

Ms. Richardson announced following the last Planning and Zoning Commission meeting, she had gathered the initial comments and information providing a revised ordinance for the short term partial unit to abide by the bed and breakfast residence regulations. The remainder of the ordinance addressed the whole unit rentals regulations and violations.

Ms. Scott said as discussed bed and breakfast residences served breakfast and was thought of as a gracious stay and enforcing the nuances was not practical. A partial house unit was originally proposed as up to three units and the ordinance was revised to two units which will include the bed and breakfast residence criteria. The other distinction from the introduced ordinance was that it would only be allowed in the B-3 district, but the bed and breakfast criteria was allowed in the boundaries of the Historic District. The staff was requesting feedback on this proposed change.

Mr. Adams said this was a use that did not presently exist, but was seen in the City. He said there was danger if there was not a regulation then the use was allowed anywhere in the City.

Mr. Clark said there was an aggressive move for an uberization of beds coming into little towns and threatening legal actions. It seemed that any kind of hospitality would be in a primary dwelling of an owner and had a homestead exemption. He did not want investors purchasing property and outsourcing to uber places. Ms. Scott said it prohibited outdoor living quarters which was shown on some locations.

Mr. Lahasky clarified that a partial unit would be subject to a number of days and follow the same guidelines as a bed and breakfast residence. A whole unit rental would have an annual 90 day limit and must be owner occupied. This would prevent rental property as an investment and he asked if the existing property owners would have to sell their property or would they be grandfathered. Ms. Richardson said the grandfathering would have to be addressed. Mr. Blache asked to consider a possible loophole being a lease for 30 days, but backing out of it after 3 or 5 days.

*Whole House*

Mr. Adams said the whereas section in the ordinance affected health, safety, and tranquility of the neighborhood. Ms. Richardson said there was the possibility of having 50 people in a two bedroom house which could be the judgement of being unsafe.

*6.4.72 Definition*

Ms. Scott said the owner/occupied question was if the owner was present. This would be addressed under bed and breakfast as well. There was an owner/operator definition in the ordinance.

*Table of Permitted Uses*

Mr. Blache asked how to determine the 90 day limit. Ms. Richardson said that was a consistent time limit with other Parishes and cities. Mr. Blache asked how that would be gauged. Ms. Scott said it was important to be included so a house was not rented the entire year. Ms. Richardson said the violation could be reported and this section would need further investigation on tracking. Mr. Adams asked was there an enforcement authority. Ms. Scott said there must be an addendum to the homeowner's policy for a short term rental which required a list of the number of days that the house would be rented. Mr. Blache said it would be hard to calculate the number of days and the insurance would not know that.

*Article 8*

This article would add a new section for Short Term Rental defining the owner as a primary owner.

*Applicability*

There must be a Short Term Rental permit. There had been a discussion about restricting the use to the B-3 zoning district or expanding it to the Historic District which was the same boundary for bed and breakfast residences.

Mr. Blache was concerned about enforcement. Ms. Scott said if there were many people in a house or an event that triggered a complain, it would allow the City to check it. Ms. Richardson said the enforcement came if the noise was loud enough or the neighbors saw too many people. The complaint would allow the police to enter to determine a violation. There will always be a difficulty in enforcing some laws, but the City needed to be able to do it.

Mr. Adams said why have quiet time if you were not allowing disturbing noises to be investigated by the police. Ms. Scott said the idea was these were house policies and if they were posted it helped the owner. Mr. Lahasky agreed to have house policies. He asked on the limit of two people per room that any children under the age of five be allowed as additional occupants. Ms. Scott suggested amending the language to state two adults.

*Section 8.6.4, 8.6.5, 8.6.6, 8.6.7, 9.1.4*

These sections would be consistent with the bed and breakfast regulations.

Mr. Adams asked about a long term house lease continuing on a month to month basis being considered a short term rental. Mr. Blache said a renewal for a lease would be 30 days.

Mr. Clark suggested that someone could sign a long term lease and rent out the individual rooms per night. Evolve Vacation Rentals property had a sign on the property located at Claiborne Street/Marigny Avenue. This agency required there be approval from the homeowners association and also provided information on their business model. The legal justification would be since the City had no rules there was no prohibition. He suggested investigating the site. His question as a community what was the benefit to the City. Ms. Scott

said taxes and fees. Mr. Clark said it would require more police and exposure so what was the benefit. Mr. Blache said the benefit was sales tax and whatever the people spent in the area. Mr. Clark asked where was the hotel tax collected. Mr. Greene stated there was a 3% tourism tax. If the site rented over six rooms there would be a state tax of 4.45%. If it was under six rooms then only the 3% tax was applicable.

Mr. Lahasky asked if there would an annual permit fee. The requirement would be clarified since the ordinance was updated to a one-time fee. He asked how to police the units over 90 days rental or 10 people instead of four people. Also, how would it be handled if the house was seen on a site and did not have a permit? Ms. Scott said it would be the same City enforcement of a Notice of Violation and then a citation would be issued. The violation would be listed as advertising without a permit.

Mr. Lahasky said there was a discussion about money and economics, but he was less concerned about an investor leasing a unit than a partial home rental with a homeowner renting to random people. It made him nervous from a safety purpose.

Mr. Blache asked in the violation regulation, what would be the daily fine. Ms. Scott said it would be in accordance with Section 1.9 which could be up to $500 per day. The fine would be determined by the judge in Mayor's Court.

Edward Greene, 434 Girod Street, asked about the one-time fee permit fee, and additionally if an occupational license would be required annually. The occupational license would still be required annually. He said in answer to Mr. Lahasky, if you could not be comfortable renting to someone, how could your neighbor be comfortable. It should not be awkward in this business to share your house since there would be locks on doors and it would be like sharing a wall in a hotel. The owner was in the house to keep quiet and control. The whole house unit would need to be restricted by the number of people.

Mr. Clark asked how long Mr. Greene had been in business and if he had ever had a police visit. Mr. Greene said the business began around 2010 and the police had only been called to his house once when someone wandered onto his porch that was not a guest. Approximately 98% of the guests were perfect, but he had a guest drag his sofa onto the lawn. The neighbors did not hear his guests in the B-3 zoning district because of neighboring events. He thought if this was a residential district, the noise would be noticeable. Most visitors come to the City to attend family events and have fun on the weekends. There will always be a little noise. Mr. Lahasky said in a primary residence house there might not be locked doors. Ms. Scott said everyone was set up differently. A lot of people were comfortable with the situation. Mr. Lahasky asked if there was a background check. Mr. Clark said many sites state the clientele was vetted. Mr. Greene said 70% or more of the business owners had a private interest and not trying to make a few extra dollars.

Cindy Touchstone, 124 Lafitte Street, de la Blu Bed and Breakfast, said she ran her bed and breakfast like a business. Her kitchen and living area was open to everyone with a separate locked area for themselves. There were locks on all of the patron doors. She never locked the five main doors to her house and the visitors were provided the elevator code. She never felt threatened. She said it was less than 1% of any patronage problem. There were wedding parties renting all the rooms and she still lived there. It was the under 30 crowd that want to bring friends, but her rules were set especially for weddings. The only people that could stay were those renting the bed. Ms. Scott asked about the house rules in the ordinance. Ms. Touchstone said she did not see a problem. She had been told when she opened that she had access to street parking as well as the on premise spaces. In the B-3 zoning district, street parking was taken into consideration in the total required parking space. Ms. Touchstone said

last year she had a renter for two months, and this year someone stayed three months in the rear building. The two rear units were connected to the primary structure, but they also contained a kitchen and a kitchenette. She said the state park had a campground limitation of a two week stay; they you must leave for a day and then come back.

Barry Brupbacher, 1925 Livingston Street, commented it was an assumption there was an appeal process for a denied permit. The regulations should include that the units could not be sublet. Ms. Scott would clarify that the permit would not be transferrable. Mr. Brupbacher said his experience was that he was required to have commercial insurance. The homeowner liability did not want the responsibility of a tenant in the house. Ms. Richardson spoke to an insurance agent who stated in most policies there was an exclusion of renting the house on a short term. The owner could purchase a rider or a commercial policy. Mr. Clark said the City must be careful that the inferring company would take care of the insurance policy and the licensed homeowner must also be named on the policy. The application would require a copy of the insurance declaration page.

Ginger Fortson, 2036 Monroe Street, asked for in the case of a whole unit that it was a primary residence with a homestead exemption. The ordinance stated that someone must be living in Mandeville. Ms. Scott said someone must be available on site within three hours and be available by phone 24/7. Mr. Clark asked if he chose to live in Nice and still retained the home ownership as the primary residence with the homestead exemption with a renter, could the renter turn their house into a whole house unit. The answer was no because they were not the owner. Ms. Fortson said the ordinance referenced "to be served". Ms. Richardson said there must be a Mandeville address if a violation was to be served. Mr. Clark said this was an old model in Mandeville where widows ran boarding houses.

Ms. Fortson said the ordinance did not allow outdoor sleeping or in a recreational vehicle. In this week's newspaper, people could rent a vintage trailer that was just a structure in the yard with no wheels. Also, there was no verbiage in the ordinance referencing babies. It was decided to change the language from two people to two adults.

Mr. Blache asked about partial year residents with a homestead exemption. Ms. Scott said then they would be limited to 90 days with some absentee owners leasing the house for six months. Ms. Richardson said it then becomes more of a long term lease. Mr. Lahasky suggested they may make more money on nightly rentals than a long term lease.

Ms. Fortson asked how to handle the situation if the owner had a deed or homestead exemption in some other location. Mr. Blache said the owner would still need to live there. Ms. Richardson said she would research juridical people and homestead exemptions for the next meeting. The one sentence could be removed to become more consistent. Mr. Lahasky asked how to handle the primary residence being in Florida for tax purposes, but was living in Louisiana 90% of the year. In that case, they could not operate a bed or breakfast or short term rental. He asked what if someone fit the intent but did not meet the criteria, could they present a hardship to the commission. Mr. Clark said this was not about a hardship, but a permit. Ms. Scott said there was the right to an appeal with a process to appear before the commission. Mr. Lahasky asked how would it be handled if someone lived here 90% of year but had a homestead exemption in Florida. It was answered that they were not domiciled in Louisiana so they would not qualify.

Ms. Fortson said most of her experiences were not that most people coming to party, but it would be giving business to the Old Mandeville area.

Peggy Boettner, 2001 Red Oak Lane, and Susan Cazaux, 225 East Street, said they had whole house short term rentals. One of the units was a 1 bedroom/1bath unit with a sofa bed to accommodate four people that was previously used as short term rental for a man living in Arizona part of the year. He sold her the unit when he decided to move back to New Orleans. There was a misconception of the type of people staying in the units. They rented to a lady convalescing from breast surgery and needed to be near her doctors. They had renters from one day to one month coming to visit family. People want to be where it was quiet and not necessarily in the B-3 district area which could be considered commercial. The visitors were spending money in the community. The websites would have the owner criteria and the address but it was required to stay anonymous until the room was booked. Mr. Clark said what was described was why there was no enforcement and oversight. There would be an issue of people doing it and do we deprive them of continuing their business. Ms. Richardson said the City Council member proposing the ordinance could explain some of the reasons for the request.

Mr. Clark said owning three units put the sisters in the investor category. Ms. Cazaux said it was her retirement plan. She did not rent to anyone under 25 years old and she had met the nicest people. Mr. Clark said from a regulatory standpoint, the owners could not be found. Ms. Boettner said it was a lot of work and people would not do it without enjoying it. She would like a regulation for registration so if the neighbor had a problem she could be directly contacted. Mr. Adams said this was an existing use and the commission needed to define the use especially for enforcement. Ms. Boettner said the 90 days per year limitation would not pay the note for the year. Ms. Cazaux said people loved coming to Mandeville. Their units were booked all of the time. This month there were only four days this month that were not rented. Mr. Blache said they would like a recommendation to allow whole house leasing as long as the owner was domiciled in the geographical area. The ordinance stated there could be only one permit per person so having two separate units would be a problem.

Mr. Clark asked how they felt with owners buying 7 or 8 units. He asked what that would do to their business model and how many more units could the community absorb. The Boettner sisters said they did not want a large corporation coming into the area, but was favorable to local owners. They were personally running their business having purchased a commercial insurance policy. Ms. Cazaux owned the property under her name and Ms. Boettner owned the property under her name but operated it under an LLC. There had been no neighbor complaints. They agreed there should licensure and taxes, but it must be for everyone.

Rhonda Alleman, 1413 Rue Bayonne, said there was an expectation for the R-1 zoning district that this was a business with a service provided. Ms. Bush said the subdivision covenants set the restrictions. Ms. Scott said there was a criteria for home occupations.

Mayor Villere said the City should address the differences between a short term and a corporate rental. There were locations in the R-1 zoning district as well as in the Historic District that were corporate rentals. The rentals were longer than 30 days so they would be allowed.

Ms. Richardson said the Parish had introduced as a definition for Short Term Rental as a dwelling unit rented for less than 30 days. Mr. Clark said the City ordinance stated a limitation of 90 days over a year, but that did not seem to work and it should be reviewed. Mayor Villere said Mandeville was the most visited city outside of New Orleans. One of the reasons was people liked to escape to a quiet location using a variety of stay opportunities. The length of stay and the opportunity to come back varied. The key issue was not having a policing problem.

He hoped the commission would broaden the use to the Historic District and look at whole house short term rental as an additional layer of regulation rather than omitting from that.

Mr. Adams said the citizens often said they felt the use would bring in crime but there was no proof of that statement. This was already regulated by the nuisance laws. Mayor Villere said it appeared to be a front and center problem in other communities that Mandeville did not have. The use had co-existed in Mandeville without enough problems to raise an outcry.

Mr. Clark said if it became a hot issue then the housing inventory would become short term rental. A young couple who had moved here and fixed it up the house had certain expectations. His fear was that Mandeville would suddenly become a hot place and the investor class would start buying units and marketing them. There was a difference of a boarding house and someone from California buying 15 units with a corporation to run it. Mayor Villere said he did not know how to distinguish between the two excluding people from outside of the community. The challenge was to regulate what currently existed. The benefit would be to know where the units were located. When it became a problem he suggested grandfathering the existing uses and increase the regulations.

Ms. Richardson said the discussion was to consider the limit number of days for the whole house rental; 90 days appeared to be onerous. There was a discussion not to require it be a primary residence but the owner must be domiciled within a certain distance, limiting the number of permits to an owner of 2-3 units, expanding the area from B-3 zoning district to the Historic District, and addressing the distinction of short term rental versus corporate rental of more than 30 days. She would research grandfathering and the juridical person. The ordinance could address limiting the occupancy to adults rather than persons since there could be children with the family.

Mr. Clark asked how New Orleans handled the issue. Ms. Richardson said the ordinance was taken from the New Orleans and Jefferson ordinances.

Chad Bordelon, 916 Rue Chartres, said he used the AirBnB on a road trip and they provide locations within a one mile radius. He asked how to monitor it. Ms. Scott said there were often agreements with the municipalities to share the information and if they advertise they must show the permit number.

Mayor Villere said AirBnB and short term rentals were rated by guests and there were also ratings given about the guests. These ratings were verifiable.

Ms. Fortson said her observation in Old Mandeville was there were more flippers. Mr. Clark said in New Orleans the bed and breakfast community had to follow the rules and they were being competed with unfairly.

Stephen Federer, 510 Girod Street, said a 90 day annual limitation for a whole house rental was restrictive. Living on site was hurting them and he asked if it could be removed from the bed and breakfast requirement. That way he could have own another bed and breakfast without being on the site. Mr. Lahasky asked if Mr. Federer could speak at the beginning of the meeting to provide educate the commission on being a bed and breakfast. Mr. Federer said the goal was not penalizing him.

Ms. Scott said with partial house rental and bed and breakfast uses there was not much distinction. The whole house rental was to be domiciled. Mr. Federer said they had a concern having a 2 and 4 year old. He suggested establishing a cap on the number of short term rental not to flood the market. Mr. Lahasky said this was a valid point and the commission wanted to

be fair to everyone. Mr. Federer said they could be considered a short term rental. Bed and breakfast residences could rent rooms individually and make more money. He wanted to discuss the idea of what everyone could sustain without flooding the market. Mr. Lahasky said he was more interested instead of requiring the building to be a primary residence to restricting the use of 40 units in the Historic District. The commission was in disagreement since it was a free market. Ms. Boettner said the Historic District was expensive which could naturally cap the number of units.

Mr. Clark said this was the issue that needed to be resolved with businesses giving of their time. In the end, both people were selling space to the tourist. He asked where did all of the hotels go in Mandeville. Mr. Federer said the City needed to know what the need was.

Mr. Lahasky asked what was the problem with limits. Ms. Bush said it was a taking. New Orleans had limited the Marigny area to one unit per block. Mr. Lahasky said if the use was limited to primary residences there could be many or none. Ms. Richardson said she would do research. Mr. Lahasky said there could have 300 primary residences rather than 100 with 50 primary residences and 50 as a second home. The question was what was good for the people.

Several dates would be forwarded to the commission to set up the next meeting.

Mr. Blache moved to adjourn the meeting, seconded by Mr. Lahasky and was unanimously approved.

Lori Spranley, Secretary

Rebecca Bush, Chairwoman
Planning Commission