

**Work Session Minutes of VERMILION MUNICIPAL PLANNING COMMISSION
of August 25, 2021 @ 7:00 pm**

PRESENT: Heather Shirley, Jim Chapple, Joe Williams, Heidi Strickler, Jeff Hammerschmidt

In ATTENDANCE: Bill DiFucci, Building Inspector; Barb Brady, Council Representative; Jim Forthofer, Mayor; Monica Stark, Council At Large

Call to Order:

Joe Williams, Chairman called the Wednesday, August 25, 2021 work session to order. He explained they would not be accepting any input from the audience as they have a regular scheduled meeting on September 1, 2021 at 7:00 p.m. and at that time the audience is welcome to voice their opinions. He said Planning would take no action on the ordinance until the September 1 meeting. This work session is for the Planning Commission to get a better understanding of what this matter is all about.

Work Session:

Review of Ordinances 2021-28, 29 & 30 (Transient Rental)

J. Williams said the last time this matter was discussed the commission members had a lot of questions of the people who were responsible for writing the ordinance. He asked why every zone was considered as being allowed as a Transient Rental, especially when you think of the industrial zone where they have been trying to make sure they have no people living in these zones. B. DiFucci explained the reason why all zoning districts were included because there are non-conforming residential uses in those districts currently. H. Shirley said if there are residential uses, then are actual rentals in those areas as well? B. DiFucci said he did not know if there were current rentals as they do not have a process in place to track those. If the ordinance was passed, they are just saying that if you have a residential house (non-conforming use) in that district and you choose to rent it, then you must register with the building department so they can do inspections on it.

H. Strickler asked why this ordinance was brought forward. She said she read the minutes that Gwen sent the commission, and it was informative, but asked for a brief overview of why they think this is important and how it came to be. She understands council has been working on this for months and months. B. DiFucci explained in the building department they have the opportunity to get inside several structures in the city, whether they are owner-occupied or tenant-occupied – they are invited inside to view the inside. He said Vermilion is a tourist town and people come to the city for the lake and vacation reasons. The thought process is that they want to make sure when tourists come to Vermilion the places they are staying at are safe. He said he is not only talking about meeting current code requirements, but just that they are safe for occupancy. They have been in houses before where (inaudible) are not bolted down, holes in the walls, ceilings were leaking,

faucets were dripping, and there were no GFCI protections in the bathrooms. In addition, smoke, and carbon detector considerations. He said things along these lines they are looking at to make sure these structures are safe for occupancy.

B. Brady said council was receiving calls from neighborhoods (neighbors) on constant turnovers of people in a house and they were concerned. There are people who feel they have to regulate the transient rental. She said this is a business being run through the home and they expect home occupations to go before the BZA board for approval, so this is not different than running any business. She said some people want the city to have some control, but they have an opposite side where people feel that if you own a piece of property – you should be able to do with it, however you please because it is your property. She said there is a conflict on both sides that can be justified to some extent.

J. Hammerschmidt said his concern is the fact that he wants to make sure they maintain property values. He said Vermilion is a tourist town and everybody loves it, but they want to keep it that way – they do not want to take it down in value. They do not need a bunch of Section 8 people taking over their homes that are not necessarily capable and/or have rave parties going on.

H. Shirley asked if the city knows how many total rentals are in this program currently, and they do have any percentage of complaints – do they have any idea of the number complaints they have had since this has started. B. DiFucci said there is no registration process in place currently – it could be a hundred, thirty or forty – it is hard to say. P. Laurien said he had the answer to this. J. Williams said they will hold off on this right now just to keep to the ‘No Audience’ participation.

J. Williams asked if they could write the ordinance and grandfather in for those who are currently doing this – let’s say the city gives them the opportunity to come forward before this ordinance is passed and show proof, they have been doing this for some time. They could be grandfathered in, but they wouldn’t allow it in the future for certain districts. Is this a possibility? B. DiFucci said this is a good question because if you have houses in the RS and R4 that have been doing this... J. Williams said they have done this before for other ordinances – people get grandfathered in – drives and so forth that are non-conforming. He said which ones would they want to disallow it in. B. DiFucci said if you’re excluding a particular zoning district, are they going to allow prior transient rental use to continue that use.

M. Stark said one of the reasons council started looking at this is because the city had a fire call, and it was discovered above a downtown building that it was being used as an Air BNB being run with different rooms. She received a call from one of the fireman asking her to come take a look at it because they felt they needed to do something because the egress to get out of the building was totally blocked to the back staircase, which was a huge fire hazard. They had extension cords and things that were unsafe and if the lights were to go out in a fire situation, there was no way to get out, so the safety hazard was one of the major points that got council here. They would hate to see something terrible like

this happen in the community, so when they are talking about grandfathering some of these in that have been already operating and you can prove they have been operating – she would be concerned with them being grandfathered and not being able to do safety checks. She said they are opening the door to possible dangerous situations for the people that are coming to visit. J. Williams said he was suggesting they still had to apply for the permit and go through the inspections no matter what zone they are in – that they have a suitable living space. He was only talking about the zoning of districts. He is not for permitting someone to put something in the industrial areas because he thinks it will eventually become a problem. If somebody is going to start complaining that the industry next door is making too much noise, this, or that, and somehow, they allowed this to go forward and happen.

H. Shirley said once the ordinance is passed what will the process look like – how do you find out who actually has rentals. She knows they talked about a software system for tracking, and they have to apply for a permit every year, and then there will be inspections. She asked the building inspector to discuss what this process will look like. B. DiFucci said the deadline to register would be based off the start of the ordinance. Once the ordinances pass, then they will give a certain amount of time to when they have to be registered with the city. They will need to fill out a registration form and then an inspection would need to be scheduled, and then they would do the inspection to see if there are any violations. If anything is missing or is needed, they can address it and then they can be issued a transient rental occupancy. He said the software will track if it is compliant or non-compliant. J. Chapple asked if the building department is big enough to handle this workload. B. DiFucci said there are two clerks in the department, and he is the full-time inspector, and they have a part-time property maintenance inspector that has his building certification that can issue the permit and inspections. J. Chapple asked how they would monitor the ones that are non-compliant. Mayor Forthofer said there is software they can buy to help monitor it, plus Erie County provides help to other cities in helping to identify and track who is in the rental business.

H. Shirley asked if the city has concern that somebody will continue to operate without coming forward to get a permit – how do they manage this? B. DiFucci addressed the requirements of the building department, but his clear statements were inaudible. He said the software will absolutely help. Mayor Forthofer addressed an earlier comment on what caused this and noted there are proliferations of Air BNB's, which started an industry in Vermilion and in many other communities that really had not been an issue before. He said there are existing regulations for established bricks and mortar, bed and breakfast, and hotels – where does this new group fit? So, they are trying to see how they should regulate this to be fair to everyone. He said the police department did not know there was an Air BNB until they had a call for broken beer bottles and a fight in a parking lot, so this is how unregulated it is right now.

J. Chapple asked if the building department will determine residency and the number of occupants. B. DiFucci said when the owner fills out the application there is an inspection overview as they are looking for passive egress, people putting in bunkbeds and covering

windows and how they would get out if a fire broke out in the hallway, so they would go in and look at the spaces they have so they are not cramming 12-16 people in a space.

H. Shirley said for those that are non-compliant will there be a process in place for fines. Have they determined what this fine would be? B. DiFucci said it is defined in the ordinance. B. Brady said it is \$100. H. Shirley asked if it is \$100 per day. H. Strickler said from what she read it is \$100 per day.

J. Williams asked if one permit is required no matter how many units you have – or is it one for every unit. B. DiFucci said there will be building inspections on each unit, so it is documented.

H. Strickler said she read through all the ordinances, and she can tell council has done their job. It is thorough and it strikes a good balance. She said having this all go before the BZA as an in-home business would cause the BZA to be out of control with the business. The concern she has is whether the fees are high enough and is there enough manpower. Will the building department need to grow? If they can handle it then that is great, but it is \$200 for the initial permit and then \$100 for yearly renewal. Mayor Forthofer said the \$200 is a compromise by council over what the administration put forward as the cost of the inspection and clerk hours. The amount was double from what Council agreed upon, but they set the rates. He said whether they have enough manpower will be determined by how they discover how many there are – they do not know right now on how many they have to deal with until they continue to advertise and do some research.

M. Stark said some council members wanted to bring the number down to \$200 and some wanted it higher because they are allowing people to run a business out of their home. They are making money to rent their place and there is a cost in doing business – but they have to consider how much the city is putting into this. She said if they agree to the \$200, council can always go back to the administration to see if they need additional personnel, so this is something they can adjust in the future.

H. Shirley asked if there was any discussion about limiting the maximum number of rentals that would be allowed in the city. She saw reference to another city's document that apparently was five percent of the residential district, so she did not know if there was discussion regarding this. Mayor Forthofer said he did not recall this being discussed.

J. Williams said if you rent your home by the month is this considered not transient. H. Strickler said in comparing Linwood if somebody were to rent it for the entire summer it would not apply. H. Shirley said it would a long-term rental.

J. Williams said as part of the permit – what about the impact if it is somebody's home and they wanted to turn it into this and they got four units of parking on residential streets that currently do not have anything like this. How do they deal with this situation? B. DiFucci said off-street parking is enforced by the police department whether you're a

full-time resident or you're visiting or shopping. J. Williams said if the renter wants to park close and the person doing the renting will not be responsible for providing parking for their transient rental area... B. DiFucci said most residential houses have off-street parking – not all do. J. Chapple asked if there was a limit to the number of cars you can have on your property. B. DiFucci said whatever you can get in your driveway, side, or rear yard.

G. Fisher said there has been a concern addressed to council many times with regards to (e) (5) of Ordinance 2021-28 where it states: The registered owner or local contact for the transient rental shall be within a one-hour vehicular travel time of the transient rental whenever the transient rental is being occupied by a transient guest. She thought the building inspector came up with a good suggestion to her on this, but she could not remember it. J. Williams asked if the owner could designate a representative in the permit. B. DiFucci said absolutely the owner or a local contact. H. Shirley asked if the owner designates who this person is specifically in the permit. B. DiFucci said yes. H. Shirley asked what local contact is defined as. B. DiFucci said within an hour drive – the owner or their contact has to be within an hour drive to get back to address any issues that would happen on this property. G. Fisher asked what happens if their local contact is on vacation for two weeks during that stay – should they have a couple people designated, so there is somebody always available. B. DiFucci said it probably would not hurt and they can put more than one contact on the agreement with the city if their emergency contact is out of town. H. Shirley said with the normal rental properties in town the city knows who the homeowner is if there is a problem with the tenant, so it is not like it has not been handled before. B. DiFucci said even long-term rental properties will hire out leasing companies to address maintenance, etc.

J. Williams asked if anyone wanting a permit needs to come before Zoning or Planning, provided they meet the requirements. B. DiFucci said as long as they meet the requirements then they can make this approval from an administrative standpoint and not overload the board.

H. Shirley asked if they are prepared to start this process immediately once it is approved. B. DiFucci said yes and noted he still gets calls from long-term rental owners that request an inspection between tenants for their protection – the house is clean; smoke and carbon is needed – general eyes on them in case they ever get pulled into court. J. Chapple asked if he gives them a permit, or will he just write down that he has inspected the property. B. DiFucci said yes, it is noted they inspect the property.

J. Hammerschmidt asked what type of parking is allowed. B. DiFucci said the only way they would regulate parking from a building department standpoint is in the driveway and not parking in the front yard, or over a sidewalk. These are continual enforcement procedures. J. Hammerschmidt asked what would happen if somebody came in to rent a place and brought their motorhome that does not fit, and they are squeezing a 40' motorhome in a 30' driveway. B. DiFucci said motorhomes are not allowed to park in a driveway. They already have this on the books. Some of what they are dealing with on a transient standpoint are addressed by other sections of the code and they would assess

this property whether it is transient or not. J. Hammerschmidt asked if trailers were included and B. DiFucci said yes, they are included and there are provisions in the code where they are allowed to be there during preparation of travel to load and unload.

H. Shirley asked if there is anything on the permit that speaks to a residential area that would have a homeowner's association because sometimes HOA's do not allow rental within that association, but people do things without getting approval, so she did not know if there was anything like this to flag that issue – maybe a question on the permit application. B. DiFucci said they get this often at the Board of Zoning Appeals - the zoning district says they have to be 3' from the property line – it doesn't matter because the code says you cannot be that close, so the Homeowners Association may be able to prohibit it in districts that the city has approved it in, but the city is in no position to regulate or monitor HOA's. If city code says you can do it, then you can do it. If it is in the HOA's regulations, then it would become a civil situation.

J. Hammerschmidt said he did not understand why they have heavy industrial and light industrial districts included. B. DiFucci said there is not many industrial zoned areas with residential houses in them. J. Williams said if somebody was going to put up a building that was new in an industrial area and turn it into four or six units – they would not be permitted by how? B. DiFucci said by the zoning code. J. Williams asked if this legislation amends that. B. DiFucci addressed the permitted use section and if it would change by defining rentals. He said you could not build a new house in an industrial zoned area. If somebody wanted to come before the city to build a house in an industrial zoned area, the Board of Zoning Appeals cannot hear that – they would have to go before the Planning Commission for hardship legislation which would then be recommended to Council, and then Council would have to decide whether they were going to allow this. J. Williams said even if there is an existing building and they wanted to use it for a transient rental, then they would have to go the Planning Commission to get that occupancy.

H. Shirley asked what happens if a permit is denied. Say they are a current rental operating, and they have people booked for months and they come forward to do the process and it is denied – can they continue to rent during this timeframe? B. DiFucci said in his opinion it would be determined by the severity of the hazard. J. Williams thought the ordinance says that until they have a bona fide permit they are not allowed to rent. B. DiFucci explained the process in that they should have time to get the structure to code. J. Chapple asked if a permit could be revoked and if so, is it for a lifetime or a period of time. B. DiFucci did not remember the process. H. Strickler said she did not see this addressed in the ordinance, but she may have missed it. Attorney Chojnacki said it is not articulated within this chapter as the Charter and Codified Ordinances provide every property owner with a right to appeal the decision of the building department to the Board of Zoning Appeals. It is already in the code. H. Strickler said it then does not need to be reiterated in this section. Attorney Chojnacki said this is correct because it is standard due process.

H. Strickler clarified the recommendations needed by the Planning Commission on these three ordinances. G. Fisher believed the only recommendation needed by Planning is on

Ordinance 2021-28. Attorney Chojnacki said they can do it however they want, but a recommendation would need to be made on Ordinance 2021-28 for certain. Conceptually, what they are doing is approving the use in Ordinance 2021-28, and in Ordinance 2021-29 they are articulating whether the use is going to be permitted, and then Ordinance 2021-30 is housekeeping to make sure that the definition of what the use is, is articulated in the definition portion of the Codified Ordinances.

H. Strickler felt the fee should be higher, but she is just one person and if council has decided then she is okay with this. She did not want to see the building department hamstrung because they have an increased workload. She said they will hear from the public next week to see how they think. She said the commission also received some letters.

J. Williams said they will discuss this again under 'New Business' at the next scheduled meeting on September 1. He adjourned the meeting upon no further discussion.

Next Meeting:

The next meeting has been scheduled for September 1, 2021 at 7:00 p.m. – Vermilion Municipal Complex, 687 Decatur Street.

Transcribed by Gwen Fisher, Certified Municipal Clerk.