

- a. Minutes of the Regular Meeting of the Lava Planning and Zoning Commission held Tuesday, January 27, 2009, 6:30 p.m. at Lava City Hall, 115 West Elm Street, Lava Hot Springs, Idaho

Present: Dave Sanders – Chair
Rita Anderson
Curtis Waisath
Fred Hinz
Nick Nelson

Trish Avery – Secretary
R.B. Scott – Code Enforcement Officer
Canda Dimick – City Clerk
Katie Smith – Council Member

Guests: Cathy Sher, Julie Hill, Karen Mendenhall, Nancy Turecek, Evelee Hill, Kathryn DeMott

The meeting was called to order at 6:30 p.m.

Oath Of Office: Canda Dimick, City Clerk, gave the Oath of Office to Commission Members: Dave Sanders, Rita Anderson, Nick Nelson & Curtis Waisath. After the Oath of Office Canda and Council Member Katie Smith congratulated and thanked the commission members for all the work they do for the city. The Commission members signed their Oath of Office. Canda and Katie then excused themselves from the meeting.

Minutes: A motion was made by Curtis Waisath and seconded by Rita Anderson to approve the minutes of December 16, 2008. All voted aye, unanimous.

Public Hearing Ord. 2009-1: David Sanders opened the public hearing for Ordinance No. 2009-1 and read the ordinance as follows:

ORDINANCE NO. 2009-1

AN ORDINANCE OF THE CITY OF LAVA HOT SPRINGS, IDAHO, AMENDING ORDINANCE NO. 1983-2 AS AMENDED BY ORDINANCE NO. 2006-5, THE ZONING ORDINANCE OF THE CITY, TO ELIMINATE BED AND BREAKFAST ESTABLISHMENTS AND BOARDING AND ROOMING HOUSES IN THE RESIDENTIAL R-2 ZONE OF THE CITY; INCREASING THE PENALTY FOR VIOLATION OF THE ZONING ORDINANCE; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT WITH THIS ORDINANCE; WAIVING THE RULE REQUIRING THE READING OF THIS ORDINANCE ON THREE SEPARATE OCCASIONS; AND ESTABLISHING AN EFFECTIVE DATE OF THIS ORDINANCE.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF LAVA HOT SPRINGS, IDAHO, AS FOLLOWS:

Section 1: Chapter 3, Section 3B of Ordinance 1983-2 as amended by Section 2, Ordinance No. 2006-5 is hereby amended to read as follows:

CHAPTER 3
GENERAL PROVISIONS

SECTION E: Regulations

B. Bed and Breakfast - Permitted use in the C-1 and C-2 Commercial and R-3 Residential zones ~~and a conditional use in a R-2 residential zone~~, the following restrictions and requirements shall apply:

Section 2: Chapter 4, Section 2g of Ordinance No. 1983-2, as amended by Section 4, Ordinance 2006-5, is hereby repealed.

Section 3: Chapter 4, Section 2e of Ordinance No. 1983-2 is hereby amended to read as follows:

CHAPTER 4
USE DISTRICTS

2. Conditional Uses Permitted:

e. ~~Boarding and rooming house~~, homes for ambulatory, aged, rest home, elderly housing and hospital.

Section 4: Chapter 6, Section 4-2 of Ordinance No. 1983-2 is hereby amended to read as follows:

SECTION 4: Violation and Penalty:

2. Upon conviction of any violation of any of the provisions of this Ordinance, such person shall be punished by a fine of not more than ~~one hundred (100)~~ one thousand (1,000) dollars, or by ~~imprisonment~~ confinement in the county jail for not more than thirty (30) days up to six (6) months, or both such fine and ~~imprisonment~~ confinement.

Section 5: All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

Section 6: The rule requiring that this ordinance be read on three separate occasions is hereby waived.

Section 7: This Ordinance shall be in full force and effect from and after its passage, approval, and publication according to law.

PASSED AND APPROVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF LAVA HOT SPRINGS, IDAHO, this ____ day of _____, 2009.
CITY OF LAVA HOT SPRINGS, IDAHO

Marshall M. Burgin, Mayor

ATTEST:

Canda Dimick, City Clerk

Input from public:

Cathy Sher: Stated that she supports the amendment of the zoning and vacation rental ordinances. Right now the community is stating their needs as for as residential areas preserved. It is very important.

Julie Hill: Stated that she has concerns as to why the city is considering changing the ordinance. She remembers the hearings that were done when the vacation rental ordinance was adopted. The concerns were largely due to noise and the impact on the residential neighborhood. The best way to handle it is to consider each individual case and have a public hearing to hear from the neighbors that are directly affected. We need to remember that Lava's economy is based on tourism. She doesn't think that it is beneficial to do things that create hostility towards tourists. There is nothing to indicate that the traffic problems are due to tourists. We have ordinances in place to take care of concerns, we need to use them.

Nancy Turecek: She stated that she fully supports the ordinance. She reviewed several replies to the Comprehensive Plan Questionnaire as follows:

Question 10: What is important to you in the life-style of Lava?

Reply: "Keep tourists downtown. That's why we live away from downtown."

Question 11: How could Lava better facilitate your life-style?

Reply: "Focus on locals not so much on tourists."

Question 12: If you could improve 3 things about Lava Hot Springs, what would they be?

Reply: "No more houses becoming vacation rentals ... Keep residential area residential"

"Compliance with the city ordinances"

Question 14: List 3 important concerns you have about Lava Hot Springs and you suggestion for resolving the concerns

Reply: "NO MORE house rentals/Too many rentals/Keep in commercial zone"

Question 15: Please us the space below for additional comments that you would like the Comprehensive Plan Committee to consider.

Reply: "Cut Back on vacation rentals"

"Do not Let this beautiful town turn commercial"

"Zoning remains important"

According to the Comprehensive Plan Questionnaire results there is no support for additional vacation rentals in R2 Residential Zone.

There is a reference to more lodging:

Question 11: How could Lava better facilitate your life style?

Reply: "Business owners to improve their lodging/more lodging"

This does not suggest such lodging be in R2 Zone.

She then requested that the commission refer to the Comprehensive Plan Questionnaire.

Evelee Hill: Stated that she fully supports the ordinance and her rationale will be brought out more fully when she speaks during the next public hearing on the conditional use permit.

Kathryn DeMott: She stated that she is interested more in getting answers to some questions. First she asked if there is a clear objective to what we are wanting by passing this ordinance.

Dave Sanders stated that the commission has had a lot of citizens objecting to rentals in the residential areas.

Kathryn DeMott: Stated the she is not in one position or the other but just wants some clarification. She asked if there are additional property owners that are

considering becoming a vacation rental. She asked if there is documentation as to the number that are imposing the threat. Has there been problem currently, are we facing problems with this. Has the ordinance been enforced as it exists.

Dave Sanders informed Ms. DeMott that this is a hearing and that she should state her concerns. The staff can get her the information on her questions.

Kathryn DeMott: Some of her concerns are, what are we doing with the people that come and there is no place to stay. She is in the lodging business. How do we handle it? She stated that the people come in and rape our village. That is the nature of our community and she appreciates the efforts going forward to try to manage this problem. There are residents that feel very threatened by overnight rentals in the residential areas, but she would like to know how big the problem is. She is not saying that we should open up the residential zone to lodging, but are there other manageable options. How many houses are being sold to families, are we getting families to moving into the community. We are a tourist community. We do have other businesses in the residential zone; our city office is in the residential zone. They are of a different nature, but they are still businesses. Are we going to keep targeting lodging? What are the facts on the table that are leading to this decision? Is there an opportunity to get some of these questions answered?

Dave Sanders suggested that she get with the city staff to get some of these facts and questions answered.

Dave Sanders closed the public hearing.

Recommend To Council: Dave Sanders called for a motion on the ordinance or changes.

A motion was made by Rita Anderson and seconded by Curtis Waisath to recommend that the city council approve Ordinance No. 2009-1 as written. All voted aye, unanimous.

Public Hearing Cond. Use B&B E & J Hill: Dave Sanders opened the Public Hearing for a Conditional Use Permit, Bed & Breakfast, at 96 East Booth, applicants Eric and Julie Hill.

Dave Sanders requested that Trish Avery go over the public hearing rules with the audience. Trish did so.

Dave Sanders read the staff report as follows:

STAFF REPORT

Conditional Use Permit - Bed and Breakfast - Eric & Julie Hill

| | |
|---|------------------|
| Prepared and mailed all notices (18 Lava addresses sent regular mail & 17 notices outside Lava sent certified mail) | January 7, 2009 |
| Notice was placed on Lava Post Office bulletin board and City Hall door | January 7, 2009 |
| Notice was published in the Idaho State Journal | January 7, 2009 |
| Payment received for certified mailings & legal notice | January 21, 2009 |
| Notice sign was placed on premises | January 23, 2009 |
| Checked Internet for tracking information on certified mail notices (16 certified notices have been delivered & 1 certified notice has been attempted) | January 23, 2009 |
| 3 written comments has been received to date (included in packet) | January 23, 2009 |

Trish Avery reported that the commission had received three (3) additional letters on Monday, January 26, 2009 before 2 p.m.

Dave Sanders allowed Julie Hill to present her request.

Julie Hill: She gave a bit of history of bed & breakfasts. She stated that traditionally bed & breakfasts have been located in residential homes as a way for the home owner to make additional income. A B&B provides a different option for families than a hotel. In her case, she and her three (3) children will be residing in the basement and will rent the upstairs. She is living in the home full time, therefore if there is any problem with noise, etc., she will be the first to hear it and take care of it.

She noted that there has not been anything of the written comments from her immediate neighbors sent in. One concern that was brought up in the written comments is the slope of the driveway. She has made arrangements with Kit Tillotson to do some work on the driveway to bring in some fill and level off the parking and driveway. There have been three (3) written comments received in favor of the B&B and three (3) against. Those people who sent in comments against the B&B are all present. Twenty-eight (28) of those who received a written notice sent no comments; she is going to assume that they have no problem with it.

If she were denied the opportunity under the current ordinance to have a B&B this severely impacts the potential income of her private property. People that rent by the night are currently renting for ninety (\$90) dollars a night and up. She would only have to rent four (4) nights a month to make the same as she does on a monthly rental. One of the problems she has encountered as the monthly rental is that once she gets someone in her rentals it is difficult to remove them if there are problems.

She also stated that the parking situation is sometimes worse as a monthly rental than it can be as a nightly. Once the weekend is over the nightly renter would be gone. She said her schedule as a school teacher allows her to be home Friday, Saturday and Sunday

and she is off during the summer. Her plan is to rent the units on Thursday, Friday, and Saturday nights during the school year and all week during the summer months.

Written comments were read as follows:

To: City of Lava Hot Springs, Planning and Zoning Commission meeting held January 27, 2009 regarding Bed & Breakfast Conditional use Permit for Julie Hill.

My name is Donna Godwin owner of 126 West Booth St. Lava. I am in favor of the Conditional Use Permit to be granted Julie Hill based on the Conditionals set forth by Planning Zoning Commission/City Council and requirements set forth by the Building Department.

To: City of Lava Hot Springs, Public Hearing, Planning and Zoning Commission/City Council regarding the change of Ordinance to eliminate Bed & Breakfast Conditional Use Permit in Residential Zone. My name is Donna Godwin owner of 136 W. Booth St. and I oppose any change to this ordinance. Property ownership rights in a residential zone includes the right to rent the property for the purpose of eating, sleeping and other residential purposes. This is a significant right of private property ownership. The actions or non-actions of a property owner may be remedied by the enforcement of existing ordinances for control of noise, trash, nuisances and other regulations of private property. These problems are not unique to just include "vacation rentals" and "Bed & Breakfast" and should pertain to all persons residing.

I agree with Dave Sanders that the City may be opening themselves up for a class action law suit. (Dave Sanders stated at this point that he is not an attorney.)

With regard to the consideration to impose "fines" on individuals found to "not" be in compliance with the Ordinance(s) I feel this should include Commercial Operators of Vacation Rentals as well. The "Residents" living in this zone should be afforded the same consideration. Quiet Hours, Privacy Fences, Number of Guests allowed should be a consideration and requirement in the Commercial Zone for the "Safety" and Well Being" of everyone who lives within the neighborhood.

Thank you,
Donna Godwin

City of Lava Hot Springs
Planning and Zoning Commission
Lava Hot Springs, Idaho

RE: 1) Ordinance No. 2009-1

2) Conditional Use Permit ... Eric & Julie Hill Bed and Breakfast

Dear Planning and Zoning:

May I, a resident and property owner in Lava Hot Springs, request the Planning and Zoning Commission uphold the existing zoning restrictions regarding commercial development in R2 Residential Zone.

For the following reasons:

1. Granting a Conditional Use Permit for this Bed and Breakfast in R2 Residential Zone sets a precedent for all future requests.

2. The results of the Lava Hot Springs Comprehensive Plan Questionnaire have just been published. Reviewing the results, there are many replies addressing vacation rentals. The following list reflects community's concern regarding the issue.

Question 10: What is important to you in the life-style of Lava?

Reply: "Keep tourists downtown. That's why we live away from downtown."

Question 11: How could Lava better facilitate your life-style?

Reply: "Focus on locals not so much on tourists."

Question 12: If you could improve 3 things about Lava Hot Springs, what would they be?

Reply: "No more houses becoming vacation rentals ... Keep residential area residential"

"Compliance with the city ordinances"

Question 14: List 3 important concerns you have about Lava Hot Springs and your suggestion for resolving the concerns

Reply: "NO MORE house rentals/Too many rentals/Keep in commercial zone"

Question 15: Please use the space below for additional comments that you would like the Comprehensive Plan Committee to consider.

Reply: "Cut Back on vacation rentals"

"Do not Let this beautiful town turn commercial"

"Zoning remains important"

According to the Comprehensive Plan Questionnaire results there is no support for additional vacation rentals in R2 Residential Zone.

There is a reference to more lodging:

Question 11: How could Lava better facilitate your life style?

Reply: "Business owners to improve their lodging/more lodging"

This does not suggest such lodging be in R2 Zone.

The above documentation makes a clear statement the community of Lava Hot Springs wants R2 zoning upheld.

Please refer to the attached Lava Hot Springs Comprehensive Plan Questionnaire/Results.

Eric and Julie Hill's Bed and Breakfast would certainly have been well done, but unfortunately their property is not in the right location for vacation rentals.

Most respectfully,

Nancy Turecek
88 S. 2nd E
Lava Hot Springs, Idaho

To The City Leadership of Lava Hot Springs;
Mayor, Council Members, and Planning and Zoning Commission,

Regarding: Letter form Eric and Julie Hill, dated December 30, 20098, postmarked January 7, 2009, requesting Conditional Use Permit for operation of a Bed and Breakfast at the home of Eric and Julie Hill, located at 96 East Booth, Lava Hot Springs, Idaho.

The Hill Family is an asset to our community. As we work together to build stability of the Lava Elementary and District Schools, they are a family with young children, an asset to our local educational system. The business district has, for years, identified the need to develop winter activities to augment year-round visitor attractions thus helping sustain viable businesses in the business district. Julie Hill has stepped into an active roll to further develop the mid winter festival, Fire & Ice. She is doing a great job and all involved appreciate her volunteer energy. The Hill Family, as observed, is a welcomed addition to this community.

At this point I wish to clarify my voice. I am speaking and writing as an individual, a resident and property owner, residing in the impact zone of the Hill's requested permit. Also, as a volunteer member of The 10 year Planning Committee, I do not pretend to represent The 10 Year Planning Committee as a whole. However, I do respond to this hearing with my own individual experience gained though the 10 Year Planning Committee's work to date.

This work, has involved gathering information and public opinion from the people in the Greater Lava Area, through public surveys and public meetings. This has been an enlightening experience. Approximately 83 people (survey), and about 45 people (public meeting), both residents and business owners, spent earnest time and thought giving their input through these public processes. I personally set great value in the public process implemented by the planning

committee because it gives a voice to the people of this community, and helps city leadership make informed decisions.

Interestingly, surveys and meetings divulged many priority issues and concerns from area residents. Never once, was there a communicated statement of need or desire to have more bed and breakfasts, or overnight facilities within the R 2 Zone. Infact, the finding of these public processes express repeatedly, the majority community values as quoted in the following sample of survey questions (listing the 3 highest numbers of common responses):

#10. “What is important to you in the life style of Lava?”

- * Small community/peaceful family town.
- * Friendship/caring people.
- * Quiet/solitude/lack of congestion.

#12. “If you could improve 3 things about LHS, what would they be?”

- * More employment/higher wages and benefits.
- * More recreation for families (skate park, bowling, etc.)
- * No more houses becoming vacation rentals/don’t want another Jackson Hole/Keep residential area residential.

#14. “List 3 important concerns about LHS.”

#1 response: No more house rental/too many rentals/Keep in Commercial Zone.

Granted, there are businesses (such as: Clinic, Dental Clinic, Day Care) established within the R-2 Zone. These business provide services directly to the residential constituents of this area. Historically, an abandoned LDS church, which sat empty and deteriorating, was granted a conditional use permit as a wedding chapel with overnight accommodations. This decision saved an historical building that was in a dangerous state of disintegration. Also, it was formerly a church, and accepted as a point of frequent traffic. As an historical building, it was in the public interest to make a compromise and sell this building to buyers who guaranteed its repair. Thus began the history of conditional use requests/overnight rentals in the residential zone.

The Hill’s request for the above conditional use permit in a residential neighborhood comes at a time when the community is working together diligently to identify priorities for “The 10 Year Comprehensive Plan”. This plan, already postponed by several years, is important in order to assure for planned growth and development in our community.

My request to the Lava City Council and Lava Planning and Zoning Commission is to work in concert with the efforts of the 10 Year Comprehensive Planning Committee as they compile data gathered through the public process. I ask the City Leaders and appointed Planning and Zoning Commission to respect the volunteer time devoted to the development of the 10 Year Comprehensive Plan. Trust the expertise of professional consultants brought in to facilitate the 10 Year Comprehensive Plan, as well as show confidence in the city, corporate, and county dollars that have been dedicated to pay for this planning process.

Mostly, I urge you to respect the voices of the citizens of Greater Lava Area by calling for a

moratorium on any and all conditional use permit requests for overnight rentals in the residential district within the City of Lava Hot Springs. Great things are happening in our community. Give the 10 Year Comprehensive Plan the time it needs to be completed before you single-handedly make further changes to the R-2 Zone of Lava Hot Springs. Please do not prove the public process to be a futile waste of time for all involved.

Sincerely,
Cathy Sher

Yes on the B & B
Lava is A Tourist Town
Lets keep it That Way.

Greg Williams

I have no problem with this request. Eric & Julie Hill have my permission and OK to have their conditional use permit.

Thank you
Don Zenner

To the city zoning meeting
The Eric & Julie Hill

1) With Eric living in Ca., and Julie working a full time job, it is questionable who would be running the bed & breakfast.

I'm sure this is just a rent be the night out of the zone.

2) Questioning the parking area, to get to the parking area people would be going down a closed street. So my question is who will maintain this area, and is the city opening there selfs up for a lawsuit if someone gets hurt on this street that has been closed off for year.

Anonymous

Input from the public:

Cathy Sher: She stated that she had a question for Julie Hill. How many rental spaces does she have? How many people will they accommodate? She said that she is a resident of the immediate area. She is concerned about the steep terrain to the parking which is off a very narrow street with a lot of kid traffic.

A couple of weeks ago the garbage truck couldn't get up the Booth Street because of the snow and the steepness of the street in that area. Her experience when Karma's Cottage was located in the neighborhood is that there was

increased traffic and it was not patrolled. What costs will the city have to go to, to have a bed & breakfast in any neighborhood patrolled. Does heavier traffic jeopardize the safety of the neighborhood?

The noise is an issue. Weekend guests are not considerate of the residential atmosphere. This concern has been voiced repeatedly to Comprehensive Plan Committee. She is concerned because of the value of the quiet neighborhood. It may diminish the value of the neighborhood properties. Are the needs of a very few effecting the needs of the majority residential community?

She said that when we deal with overnight rentals we compromise our sense of security. This has been stated in the comprehensive plan surveys as well as in other hearings. This is a value that we have in a residential neighborhood that is really treasured. We know our neighbors and we look out for each other.

Nancy Turecek: She said that when she filled out her survey, she hadn't even thought of vacation rentals, so none of the statements that she had included in her written statement were hers. She was very careful when she looked through the surveys to be fairly representing the survey. She said that she was objective when she did that work.

She said that she also owns rental property in other areas and it is the owner's responsibility to be very careful in the tenants they rent to. So to say that monthly tenants might not be as good as nightly renters; this is the owner's responsibility.

The other property that she owns is in a vacation resort area where there are no ordinances about it. It does get very noisy. When you rent to a couple often there are other family members that come and it becomes very noisy. This certainly makes an impact on the residents.

Evelee Hill read a prepared statement as follows:

City of Lava Hot Springs Planning and Zoning Commission
P.O. Box 187
Lava Hot Springs, ID 83246

RE: Eric and Julie Hill conditional use permit for bed and breakfast

Dear Commission Members,

Julie and her family are a wonderful addition to our city and it is very difficult to oppose their request for a bed and breakfast conditional use permit for 96 E. Booth Street in Lava. I have previewed the said property from the exterior and wish to give the following talking points for it to remain a multifamily, long term rental:

1. The city is short of affordable housing units for residents and working staff for businesses. Future growth will increase the need. New construction costs prohibit affordable rentals.
2. On and off street parking is difficult due to the steep lot topography. Nightly rentals increase parking needs as guests often understate numbers invited.
3. Maintaining the integrity of neighborhoods is an important facet. Integrity means associating day to day and month to month with the same folks, deterring commercial traffic, noise, abatement, garbage pile up, and allowing spot zoning-mixed uses throughout the city, not just this location in particular.
4. The Idaho State Foundation has done a fantastic job of improving their amenities, though that does not increase the tax base for real property tax income to the city. They are exempt deleting property taxes from all improved properties on the north side of the Portneuf River. Integral to future growth and financial stability of Lava Hot Springs is adding new lodging choices either by remodel such as the Alpaca Inn, updating current rooms for increased revenue both in Lot tax and property tax or new construction in the commercial zones where there remains today ample space for new developments.
5. Spreading lodging choices into residential neighborhoods diminishes the probability of new construction or remodels in commercial zones as it diminishes the financial feasibility of projects.
6. There remains an adequate supply of homes available in the current commercial zones for additional lodging needs.

Respectfully submitted,
Evelee Hill, Home Hotel, Aura Soma Lava

Julie Hill was allowed to respond to the concerns from the public input.

Julie Hill stated that several of the statements that have been made were to bed & breakfasts in general and not to her request. Considering the ordinance that the commission has just recommended go to city council, it is safe to say that her request is probably the last request to be allowed to come before the commission and city council.

She stated that she has two (2) units each has one bedroom. She anticipates having no more than four (4) people per unit.

In regards to the steep terrain Julie stated that she has been driving it all summer and this winter. She said that when it was closed originally it was because of the lower half of the street not the upper half. When they regrade the driveway in the spring, it will take care of that problem.

Not picking up the garbage. Her fence is on the property line but if you look at her neighbors, theirs are not. When you have people parking on both sides of the

street it becomes a bottle neck effect. It is not because of her property because she actually has a wider place on her side of the street than her adjoining neighbors.

She said that she doesn't see how a bed & breakfast will create any more traffic than a monthly rental. She is not asking to take a single family residential unit and allowing multiple people to stay there. She still has multiple families using the property.

She stated that she lives just a block away from the Blue Moon Bar and the Alpaca Inn. She can not see how there will be more noise with her living down stairs.

The concern that it may diminish property value; she has to keep it up and looking nice. What she is doing to remodel and upgrade will add to the property value.

She is inviting people into her home, if anyone should be concerned about security it should be her. She has three (3) small children that will be around when she has guests there.

Julie stated that as far as the comprehensive plan survey results, there were about 128 people that completed surveys and/or attended the public meeting. She said that the tally marks are not there to indicate that this is a great concern. There are a lot of other concerns. Unfortunately we focus on those few that are speaking out against things instead of assuming that those people that aren't being vocal are fine with it.

You have tenants that you get recommendation on and then can become a problem. Because of how the laws are set up it is very difficult to get them out if you do have a problem with them.

A bed & breakfast is a different situation because you have an owner that is living on site taking care of the problems when there are guests.

Why is it her problem that there is a shortage of available housing units in town? This should be a community problem. We need to address this issue as a city.

The commercial zone has a mix of residential and commercial. We are a tourist town. One of the ways that we bring in more jobs is by bringing more tourists. She said that she gets the feeling that a lot of residents are anti-tourist although that is how the city gets most of its money. As a monthly rental she does not contribute to the local lodging tax, as a bed & breakfast she would.

Garbage is a residential issue not a bed & breakfast issue.

She stated that Evelee had said that there are adequate houses in the commercial zone to meet the need for additional lodging; however that is not what they are being used for.

She pointed out that this request does falls under the current zoning ordinance and she hoped that the commission would give it consideration.

Dave Sanders closed the public hearing.

Recommend To Council: The commission discussed the application and input from the hearing.

Curtis Waisath asked for clarification of the number of units and where Julie Hill will be living. Julie said that there are two (2) units upstairs. She is currently finishing the basement, when it is completed she will be living in the basement and renting the two (2) units upstairs. The commission reviewed Julie's building permit plans for the basement apartment.

Curtis Waisath brought out that this will be considered a tri-plex because it including three (3) dwelling units. Curtis read the definition of a dwelling unit from Ordinance No. 1982-2as follows:
DWELLING UNIT. One or more rooms in a dwelling, apartment complex, hotel, or motel, designed for and/or occupied by one (1) family for living or sleeping purposes and having, one (1) but not more than one (1), kitchen or set of fixed cooking facilities, other than hot plates or other portable cooking units.

Curtis Waisath then read the definition of Bed & Breakfast from Ordinance No. 2006-5 as follows:

BED AND BREAKFAST. A dwelling where, for compensation, meals are provided on site for no more the fifteen (15) persons who are not immediate members of the household family residing in the dwelling, and is owner or manager occupied.

Curtis Waisath then stated that Mrs. Hill will have three (3) dwellings therefore she will need to have three (3) managers, one in each dwelling unit.

Julie questioned how that works in other Bed & Breakfasts such as Donna Godwin. She has two (2) dwelling units. Curtis Waisath said that Ms. Godwin's bed & breakfast is a home, Ms. Hill's is a tri-plex. Trish Avery said that Donna Godwin's bed & breakfast has a connection between the upstairs and basement therefore it is one (1) dwelling. Rita Anderson asked if Julie's had a connection between units. Julie stated that the heating connects all the units. Rita asked if you can walk from one unit to the other. Julie said that you cannot walk from one to another. Curtis Waisath said that Julie would need to knock out some walls if

she wants to have one (1) dwelling unit because that is what her description falls under. Julie Hill asked for a copy of the definitions in the ordinance so that she can read it herself. A copy was given to her.

Curtis Waisath also read the definition of an apartment house or multi-family use from Ordinance No. 1982-2 as follows:

APARTMENT HOUSE OR MULTI-FAMILY USE. Any building or portion thereof which is designed, built, rented, leased, let or hired out to the occupied, or which is occupied as a home or residence of three or more families living independently of each other and doing their own cooking in the said building, and which shall include flats and apartments.

Julie Hill asked if she knocks out a wall and connects the two (2) upstairs units can that be called one (1) dwelling unit and then has the bed & breakfast. Rita Anderson said that would be accepted is she lives in the upstairs unit. Nick Nelson said that there would need to be a stairway between the upstairs and the basement in order for the whole building to be considered one (1) dwelling unit.

The commission discussed the application. Curtis Waisath said that based on the dwelling units we can't recommend approval of this conditional use permit.

Rita Anderson said that it is really hard when you like someone, and that Julie Hill is really doing a lot for the community, to deny something that she wants to do. But, in the history of all the meetings we have had in the past, what we had heard tonight and being on the comprehensive plan committee, she would feel like the commission is being irresponsible to the community by having more checker board type residents in the community as being nightly rentals.

Nick Nelson said that there is a concern with not knowing who is staying across the street from you at night. He said that he lives across from one and he hates not knowing who is over there, there is suppose to be a manager on site and it never happens. He said that he is sure that if Julie Hill is going to live there, hers will be different. He said that it is awesome that she is trying to improve her property and that the town needs to be improved, but we don't need the improvement in this property becoming a bed & breakfast.

Rita Anderson said that in talking to some of the city officials, they have commented that these should have been stopped earlier because we have gotten ourselves into a situation that is not conducive to why people choose to live here or to the old timers that live here. We also have situations where conditional uses have been granted and the conditions are not being followed.

Julie Hill quested where in the ordinance it states that a bed & breakfast is a dwelling. It only talks about being allowed in the R-2 zone.

Curtis Waisath said that in the definition of a bed & breakfast it calls it a dwelling and a dwelling is defined as stated above.

Rita Anderson said that traditionally a bed & breakfast is a home where people invite other people into their home and where everyone is living in the unit with the owner, not three separate units. Trish pointed out to Julie Hill where in the ordinance Curtis was reading.

Rita Anderson said that another point that has been brought out is that we still have quite a bit of commercial property available to expand the needed tourist housing. When a person goes into a community it is their responsibility to check out what is allowed before investing in property.

Discussion ended.

Trish Avery reminded the commission that the city attorney had instructed the commission that their recommendations need to be based on current ordinances. The commission has sited one (1) item from the ordinance but they may want to have more before making a decision.

Dave Sanders said that he did not feel prepared to make a recommendation. He felt that the commission needs more information.

A motion was made by Dave Sanders and seconded by Fred Hinz to withhold the recommendation until more information is gathered. All voted aye, unanimous.

A recommendation will be made at the next commission meeting.

Comp. Plan Report: Rita Anderson reported on the surveys gathered by the Comprehensive Plan Committee. Many things have to enter into the comprehensive plan. The committee is working on predicting the future conditions in Lava, analyzing demographic data and coming up with section headings from the community feedback. The committee is also trying to get other people to come in and talk to the committee about which direction other cities have gone and how best to decide where we need to go in the future. It is very difficult because there are two sides, we have the residents and tourists and it is not always a win-win situation. Also the topography has to come into play. All these things have to enter into the comprehensive plan.

Other Business: None

Schedule Next Mtg.: The next regular meeting of the commission will be held on Tuesday, February 24, 2009 at 6:30 p.m.

The commission recommended that the DVD training from Association of

Idaho Cities which will be held with the council be held on Thursday, February 19, 2009 at 6 p.m.

Adjournment: A motion was made by Rita Anderson and seconded by Nick Nelson to adjourn. All voted aye, unanimous.

The meeting adjourned at 7:50 p.m.

Trish Avery – secretary

Dave Sanders - Chair