City of Langley
Planning Advisory Board
AGENDA
November 7, 2018 – 3:00 PM
LANGLEY CITY HALL
112 2nd Street, Langley WA

1. Call to Order

2. Approve agenda

3. Review minutes of October 3, 2018 meeting

4. Short Term Rentals
   a. Tom Felvey tourist accommodation presentation
   b. Draft framework and questions (attachment)
   c. Moratorium extension

5. Fees – Utility (pending)

6. New Business

7. Citizen comments

8. Announcements

9. Adjourn

Next Regular Meeting: December 5, 2018
MINUTES  
CITY OF LANGLEY  
PLANNING ADVISORY BOARD REGULAR MEETING  
October 3, 2018

The meeting was called to order at 3:15 PM.

ATTENDANCE  
PAB: Maralie Johnson, Burt Beusch, JR Fulton  
Staff: Brigid Reynolds, Planner  
Council: Christie Korrow, Chair  
Regrets: Thomas Gill, Rhonda Salerno

1. Approval of the Agenda  
The agenda was approved with the presentation of the East Langley Infrastructure project being moved to follow the Comprehensive Plan amendment item.

2. Minutes  
Minutes of September 5 were reviewed and approved.

3. Comprehensive Plan Amendment  
Brigid reviewed the staff report. There were two requests to amend the Comprehensive Plan:  
1. To amend policies LU-7.1 and UCF-1.3 in order that ADUs may continue to be permitted to be created and constructed on a property with a permitted septic system.  
2. To amend the land use designation for a property on Woodsong Lane from Public to Residential.

The request to amend the land use designation has been withdrawn so that was not discussed. Although an attendee said that the City could potentially use the lot to build some affordable housing units. There was no further discussion on this item.

Three options for the PAB to consider:  
1. Continue to implement the Comp Plan policies and proceed with the Zoning Code amendment as proposed.  
2. Amend the Comp Plan policies and do not proceed with the Zoning Code amendments.  
3. Don’t amend the Comp Plan policies and do not proceed with the Zoning code amendments.

Amending the policies in order to allow ADUs to continue to be built on properties with a permitted septic system was discussed as follows:  
- The current package of Zoning Code changes, in particular Ch. 13.50.110 and Ch. 18.22.155 are intended to implement the Comp Plan policies identified above.
• Disallowing ADUs anywhere in the City is contrary to the overall goal to increase housing options and is punitive given that approximately 30 percent of the City is unable to connect to sewer and the timing of extending sewer is unknown in spite of the current efforts with the East Langley Infrastructure Improvement Project.
• Disallowing ADUs on septic increases the pressure to expand sewer across the City.
• Disallowing ADUs on septic could result in people installing them anyway without meeting building and health requirements.
• Two applications to establish ADUs on lots with septic have been received and are going through the process. These applications were made due to the pending Code changes.
• What is the minimum lot size to add an ADU in the County?
• Even if the Infrastructure Improvement Plan is to proceed it would be a number of years before it's implemented and approximately 140 lots would still not be served by sewer.
• Any proposed ADU is required to provide confirmation from Island County that the septic system can accommodate the additional load.
• The Growth Management Act states that local governments ‘may’ implement their Comp Plan by adopting development regulations. The Infrastructure Project is another example of implementing the Comprehensive Plan.

Maralie Johnson made the motion, seconded by JR Fulton that the PAB recommends to Council
1. that ADUs continue to be allowed to be added on lots with septic systems provided they have confirmation from Island County;
2. the relevant chapters in the Code be amended to add the requirement to connect to sewer when it becomes available; and
3. that the request to amend the Comprehensive Plan not proceed.

All in favor.

4. East Langley Infrastructure Project
Councillor Dominque Emerson gave a power point presentation summarizing the Infrastructure Project and next steps.
• An ad-hoc committee has been established by Council to guide the process.
• A bundle of infrastructure improvements is under consideration that includes projects for the three utilities – stormwater, water and sewer as well as sidewalk improvements.
• The proposed projects have been identified in the individual utilities Comprehensive Plans for a number of years and some of these projects are necessary as the infrastructure is at the end of its life.
• These are 12 discreet projects scattered around the City. However, there are economies of scale for some of these projects to be bundled.
• One community meeting has been held so far.
• PACE Engineers have prepared a cost estimate for these projects.
• An expert on municipal bonds has been hired to review the different methods/scenarios by which these projects could be funded.
• Focus groups with representatives from different neighborhoods are being formed to review the plans and scenarios. This is intended to further refine the funding options and to better understand potential community concerns.
• Once further information has been gathered and reviewed a community meeting will be held to present the project and funding scenarios.
• The committee’s goal is to present the package to the community by August 2019.

5. **Zoning Code Amendments**
Brigid reviewed the changes that resulted from the lawyer’s review – to improve clarity and ensure that language is lawful.
The zoning map amendments require a separate ordinance which Brigid is working on.

Moved by Burt Buesch and seconded by JR Fulton that the PAB recommends to Council that
*The Zoning Code amendments to increase housing options proceed to the adoption process.*

All in favor.

6. **Short Term Rental (STR) Code Amendments**
Brigid prepared a draft vision which was reviewed. There were no comments from the PAB.
The issues discussed:
• Alarm and concern with the number of short term rentals in Langley and South Whidbey
• The City may change the code but it will be different in the County and that could still impact city residents
• Brigid has spoken with the County Planning Department about this issue but it is not high on their radar.
• Some attendees stressed the importance of owner/resident occupation of the STR and provided examples of how its impacting their neighborhood
• The increase in STRs is reducing the numbers of long term rentals which is impacting employers ability to keep staff
• Providing a STR allows residents the ability to pay their mortgage
• Enforcement is critical. Brigid has spoken with one of the compliance companies and they provide the following four areas of service: data collection on a regular and ongoing basis; license management; complaint management; and tax remittance. The estimated cost is $11,000 and does not include the tax remittance given Langley’s size and the number of operators. It does not appear to be possible to use the lodging tax funds to fund this service. Brigid will confirm.
• There is no consensus on the PAB as to whether whole home STRs should be permitted.
• There is consensus that STRs where the owner/resident manager is or site should be permitted.
• Concern was expressed about meeting the mid-December deadline. Brigid confirmed that this deadline can be extended.
• Brigid suggested three possible tiers for this use. This is high level and many details have to be worked out:
  o Rooms in a home and possibly ADUs where the owner/resident manager lives there
  o Whole home STR for a limited time to allow residents to rent out their homes
  o Whole home STR for a limited number of operators for a limited time period and new operators are selected on a rolling or lottery basis.
• PAB members will review the current code and bring back their comments to the next meeting.

7. **New Business**
No new business
The meeting was adjourned at 5:15 p.m.
Short Term Rentals
November 7, 2018

The draft vision and objectives were reviewed by PAB at its meeting on October 3, 2018

DRAFT Vision

- Tourism continues to play an important role in Langley’s economy
- Fulltime residents outnumber seasonal residents and tourists
- Tourism and service workers live in Langley
- Long-term rentals outnumber short-term rentals
- The majority of short-term rentals are bedrooms or accessory dwelling units where the owner/manager lives there.
- A small percentage of whole homes are used as short-term rentals and the owner/manager lives in close proximity.
- The use of any one home as used as a short-term rental shall be of limited duration.
- All short-term rental operators and operations comply with the City and State Codes.
- The operation of unauthorized short-term rentals is enforced.

DRAFT Objectives:

Establish and manage a short-term rental regulation and program that

- Prevents residential neighborhoods from being turned into tourist areas to the detriment of full-time residents
- Does not negatively affect property values (and property tax revenue)
- Does not create pseudo hotels or “party houses”
- Minimizes public safety risks and nuisances such as noise, trash and parking problems
- Gives permanent residents the option to occasionally use their properties to generate extra income from short-term rentals.
- Maximizes the availability of potentially more affordable housing options by minimizing the numbers of long-term rental properties being converted into short-term rentals
- Ensures that short-term rentals are taxed in the same way as traditional lodging providers to create a level playing field and maintain local service jobs
- Ensures that the city does not lose out on lodging tax revenue that is invested in tourism related activities consistent with State code
- Is managed and enforced equitably across the City.
- Does not create an undue burden on City staff and resources.
- Builds in cost recovery.
Current Regulations

See Attachment No. 1 for LMC excerpts.

Possible Options for Short Term

Short term rental I, II, III, IV on residentially zoned property (RS500, RS7200, RS15000 and Mixed Residential)

<table>
<thead>
<tr>
<th></th>
<th>STR - Type I</th>
<th>STR - Type II</th>
<th>STR - Type III</th>
<th>STR - Type IV</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Type of use</strong></td>
<td>Accessory or Secondary</td>
<td>Principal</td>
<td>Principal</td>
<td>Principal</td>
</tr>
<tr>
<td><strong>Number of bedrooms</strong></td>
<td>2 bedrooms max in DU or ADU</td>
<td>Whole home</td>
<td>Whole home and ADU – max 6 bdrms</td>
<td>Whole home and ADU – max 6 bdrms</td>
</tr>
<tr>
<td><strong>Number of guests</strong></td>
<td>Two adults and child &lt; 6 years per legally established bedroom</td>
<td>Two adults and child &lt; 6 years per legally established bedroom</td>
<td>Two adults and child &lt; 6 years per legally established bedroom</td>
<td>Two adults and child &lt; 6 years per legally established bedroom</td>
</tr>
<tr>
<td><strong>Duration</strong></td>
<td>No limit</td>
<td>Max 30 days/ year</td>
<td>No limit</td>
<td>Max 90 days/ year</td>
</tr>
<tr>
<td><strong>Management structure</strong></td>
<td>Owner/resident manager</td>
<td>Manager within X minutes drive</td>
<td>Owner/resident manager</td>
<td>Manager within X minutes drive</td>
</tr>
<tr>
<td><strong>Approval process</strong></td>
<td>Administrative/notice</td>
<td>Administrative/notice</td>
<td>Hearing Examiner/notice</td>
<td>Hearing Examiner/notice</td>
</tr>
<tr>
<td><strong>Inspections</strong></td>
<td>Self-reporting, i.e. signed affidavit for fire, insurance, building</td>
<td>Self-reporting, i.e. signed affidavit for fire, insurance, building</td>
<td>Self-reporting, i.e. signed affidavit for fire, insurance, building</td>
<td>Self-reporting, i.e. signed affidavit for fire, insurance, building</td>
</tr>
<tr>
<td><strong>Utilities (monthly)</strong></td>
<td>Residential</td>
<td>Residential</td>
<td>Commercial</td>
<td>Commercial</td>
</tr>
<tr>
<td><strong>Septic</strong></td>
<td>Confirmation of IC septic permit and # of permitted bedrooms</td>
<td>Confirmation of IC septic permit and # of permitted bedrooms</td>
<td>Confirmation of IC septic permit and # of permitted bedrooms</td>
<td>Confirmation of IC septic permit and # of permitted bedrooms</td>
</tr>
<tr>
<td><strong>Fee Structure</strong></td>
<td>$500</td>
<td>$500</td>
<td>$800 + HE costs</td>
<td>$1200 + HE costs</td>
</tr>
<tr>
<td><strong>Maximum period</strong></td>
<td>None</td>
<td>None</td>
<td>None</td>
<td>Five years</td>
</tr>
<tr>
<td><strong>Number of permits</strong></td>
<td>Unlimited</td>
<td></td>
<td></td>
<td>Max 50 permits/year</td>
</tr>
</tbody>
</table>

STR Type I – most similar to existing Bed and Breakfast Room

STR Type III – most similar to existing Bed and Breakfast Inn

Current Fees:
Bed and Breakfast room - $300
Bed and Breakfast Inn - $700 plus Hearing Examiner Fee approximately $2000
Business license - $125 full year & $60 seasonal business (valid for 90 days max)

Proposed General Regulations
Current code is identified by an *.  

Definition
Short term rental means a commercial accessory use located in a dwelling unit and/or ADU which provide accommodation for a period of less than 30 days to the travelling public. (this needs work)
**Business license**
*Required for both operator and manager. Annual renewal. All permits, operating rules and relevant City codes shall be displayed and available for inspection.*

**Parking**
*Two stalls are required per home + one stall for each bedroom being rented. All parking shall be on the subject property.*

**Sign**
*One non-illuminated sign ≤ 4 SF.*

**Food service**
*Any owner/operator must self-report and provide confirmation that they have obtained necessary health permits/inspections. Food service to registered guests only.*

**General**
*STR permits are non-transferable. i.e. the permits run with the owner/operator and not the property. A property owner (includes part owner, joint owner, tenant in common, can operate a maximum of one STR in the City of Langley.*

**Enforcement**
*More than two incidents, i.e. operating without a business license, a STR permit, renting out more bedrooms than permitted and you will not be able to get another permit.*

Nuisance complaints such as noise, garbage, parking. More than three incidents – you will not be able to get another permit.

Ch. 18.42 Enforcement: details Mayor is responsible for enforcement; no licenses or permits will be issued until issue is resolved.

Ch. 18.46 Penalties: violation of any provisions in Ch. 18 subject to penalties outlined in Ch. 1.14.

Ch. 1.14 Process
1. Seek voluntary compliance
2. Issue notice of civil violation
3. Can appeal to Municipal Court

Maximum monetary penalty for each separate violation per day or portion thereof:
First day - $100
Second day - $200
Third day - $300
Fourth day - $400
Each day beyond four days - $500 per day

Can record a lien on the property for non-payment of penalties.
Legal non-conforming
To be legal non-conforming you must have received prior approval and have obtained a business license in 2018. A business license alone does not make the use legal non-conforming. You must have received prior approval.
Grace period to register under new rules – 60 days after effective date or prior to expiration of a current business license for the STR, whichever occurs last.

Building Code
Requires additional safety features for short term rentals, i.e. CO2 alarm and fire extinguishers

OTHER SECTIONS OF LMC
Ch. 3.20 Transient Occupation Tax
3.20.010 Imposed.
There is hereby levied an excise tax of four percent on the sale of, or charge made for, the furnishing of lodging that is subject to tax under Chapter 82.08RCW, as authorized by RCW 67.28.180 and SSB 5867, enacted as Chapter 452, Laws of 1997, codified as RCW 67.28.181. The tax is made for the furnishing of lodging by a hotel, rooming house, tourist court, motel, or trailer camp, and the granting of any similar license to use real property, as distinguished from the renting or leasing of real property. It shall be presumed that the occupancy of real property for a continuous period of one month or more constitutes a rental or lease of real property and not a mere license to use or enjoy the same. (Ord. 791 § 2, 2000; Ord. 783, 1999; Ord. 753 § 1, 1997; Ord. 750, 1997; Ord. 425, 1984)

Questions
I’m compiling these questions as I review other codes
Should STR be permitted in residentially zoned multi-family units?
Should a home occupation use be permitted as well as STR on a single property?
Should large group events or meetings be permitted? For example, wedding parties.
Should we establish a separate enforcement and fine structure for STR or rely on existing code?
Current LMC
Regulations for Transient Accommodation

Definitions

“Bed and breakfast inn” means a building or group of buildings on a lot which is designed or used for rental for transient lodging, where:

1. Not more than six rooms are available for such rental;

2. Breakfast is the only meal served to persons renting such rooms, and no meals are served to members of the general public; and

3. In the residential zone no other business, service or commercial activity is conducted or provided on the premises, except as expressly permitted by this title; and

4. No room is rented to more than an occupancy level not to exceed the number of persons accommodated by the beds present, based on their intended maximum usage.

“Bed and breakfast room (commercial)” means a room used for rental for transient lodging, situated in a building which is used primarily as a commercial establishment, where:

1. The persons renting such room are only served breakfast, and no meals are served to members of the general public; and

2. The room(s) are located above the first or street level or behind the street front side of the building.

“Bed and breakfast room (residential)” means a room used for rental for transient lodging situated in a building which is used primarily as the dwelling for a nontransient family, or, in the case where there is an approved accessory dwelling unit on the same property, the principal dwelling is owner-occupied, and where:

1. The persons renting such room are only served breakfast, and no meals are served to members of the general public;

2. No other business, service or commercial activity is conducted or provided on the premises, except as expressly permitted by this title; and

3. If the principal dwelling ceases to be owner-occupied, the bed and breakfast use shall be terminated.

“Hotel” means any building containing six or more guest rooms where lodging, with or without meals, is provided for compensation, where no provisions are made for cooking in any individual room or suite.

“Motel” means a building containing units which are used as individual sleeping units having their own private toilet facilities and sometimes their own kitchen facilities, designed primarily for the accommodation of transient automobile travelers. Accommodations for trailers are not included.

“Tourist accommodations – commercial” means a dwelling unit serving as a single rental for periods not exceeding 29 consecutive days and containing sleeping and cooking facilities.
18.22.070 Bed and breakfast rooms.

The following provisions apply to bed and breakfast rooms:

A. Not more than two rooms on the premises are utilized for bed and breakfast rooms;

B. Parking spaces for all guest vehicles shall be provided on the premises except in the central business zone pursuant to Section 18.22.130(M);

C. Only one business sign, having an area not more than four square feet, shall be located on the premises (except in the commercial zones);

D. No bed and breakfast room shall be rented to more than two persons;

E. The construction of the building in which the bed and breakfast room is situated and the operation of the bed and breakfast room shall comply with all applicable rules, regulations, ordinances, statutes and orders of the federal, state and municipal governments, or other duly constituted public authority, including, without limitation, local and state health and fire regulations, local business license, and building code requirements;

F. No other business, service or commercial activity is conducted or provided on the premises, except in one of the business-commercial zones;

G. Bed and breakfast room(s) are subject to administrative review by the city planning official. Notice shall be given to the owners of the property adjacent to the property that is the subject of the application. The notification shall be given in a manner designed to give the property owners notice of the application and sufficient time to comment on the application. The city planning official’s review shall include but not be limited to:

   1. A determination that city regulations applicable to bed and breakfast rooms have been satisfied;
   2. A determination that the bed and breakfast proposal contained in the application is compatible with the permitted uses in the residential zone.

The city planning official may attach such conditions to his/her recommendation that are reasonably required to ensure that the use of the rooms as bed and breakfast rooms will not be significantly detrimental to the public health, safety and welfare, will not diminish the value of nearby property, or will not disturb persons in the use of their property. (Ord. 1004 § 4 (Exh. E), 2014; Ord. 583, 1990; Ord. 527, 1989)

18.22.080 Bed and breakfast inns.

The following conditions apply to bed and breakfast inns:

A. A full-time manager shall be domiciled on the premises (except in the business-commercial zones);

B. Parking spaces for all guest vehicles shall be provided on the premises, except in the central business zone pursuant to Section 18.22.130(E)(12);

C. Only one business sign, having an area not more than eight square feet, shall be located on the premises;
D. The bed and breakfast inn shall be compatible with the character of the surrounding residential area (if applicable);

E. The construction and operation of the bed and breakfast inn shall comply with all applicable rules, regulations, ordinances, statutes and orders of the federal, state and municipal governments, or other duly constituted public authority including, without limitation, local and state health and fire regulations, local business license and building code requirements; and

F. No other business, service or commercial activity is conducted or provided on the premises (not applicable in business-commercial zones). Accessory dwelling units are excluded from being located on the same property with a bed and breakfast inn. (Ord. 798, 2001; Ord. 527, 1989)

18.22.085 Tourist accommodations – Commercial.

The following conditions apply to such accommodations:

A. Compliance with city business license regulations.

B. Limited to a single sign of not more than eight square feet and on premises.

C. Parking. Same requirement as for multiple residential as set forth in Section 18.22.130(D)(2).

D. Signed certification that the residence shall be maintained in a habitable condition and be subject to inspection by the city building official.

E. Cannot be both a B&B and single-family tourist accommodation.

F. Subject to administrative review. (Ord. 733, 1997)