

**MINUTES  
ZONING BOARD OF APPEALS  
SEPTEMBER 14, 2016**

**CALL TO ORDER:**

Acting Chairperson Nybo called the regular meeting of the Zoning Board of Appeals to order at 6:35 PM on Wednesday September 14, 2016 at City Hall, 101 Green Street, Galena, IL.

**ROLL CALL AND DECLARATION OF QUORUM:**

As Roll Call was:

Baranski	Present
Bochniak	Present
Cook	Present
Holman	Absent
Jansen	Present
Nybo	Present
Rosenthal	Absent

A quorum was declared.

Zoning Administrator Matt Oldenburg, City Attorney Joe Nack and Zoning Secretary Deb Price were also present.

**APPROVAL OF MINUTES**

Jansen moved, seconded by Cook to approve the August 10, 2016 minutes.

Motion carried on voice vote.

**OLD BUSINESS**

None.

**NEW BUSINESS**

City Attorney Nack swore all those persons in who wished to testify at any of tonight's public hearings.

Acting Chairperson Nybo recused himself from the first two agenda items as he is a guest house owner. He turned the meeting over to Zoning Board member Baranski and then left the table.

Concept Plan Review, Applicant: Todd & Candy Walburg, 614 S. Prospect Street, Galena, IL 61036. Request for concept plan review to provide non-binding feedback on proposal to operate 606 and 614 S. Prospect Street as a combined, Small Inn with 6 rooms.

Todd Walburg, 614 S Prospect Street explained that he and his wife Candy would live at 614 S Prospect Street and have a special use permit for a two guest rooms bed and breakfast. They are interested in purchasing 606 S Prospect, The Avery Guest House, and operating both properties as a 6 room Small Inn. Five of these rooms would be located in the Avery Guest House and one would be at 614 S Prospect Street where the applicants would live. This is allowed in the district with a special use permit and the detached units are within 150 feet of each other. There is an issue with off-street parking requirements. There is a two car garage and driveway at the Avery, but both lots are too small to allow any additional off-street parking. This hardship was recognized when the special use permits were approved allowing on-street guest parking directly in front of the guest homes. If they owned both properties, there would actually be an increase in the available off street parking.

Another issue is that the two properties are separated by a 50-foot-wide property owned by a third party. They don't want to invest a lot of time or money on the idea if the overall feeling is that it would not be approved.

Bochniak said the separation of the properties means you cannot consider them as adjoining.

Oldenburg said common ownership means that the properties must be contiguous or touching at some point. They could be considered common if they are separated by a right of way or navigable stream. Private property between the two is not recognized and would require a code change. If somehow that issue went away they still have the parking to deal with and would be looking for a variance.

Baranski asked about a right of way.

Oldenburg said he had consulted with Nack and it cannot be a public right of way.

Jansen asked if there was any way to make this work?

Oldenburg said purchasing that portion of the property and perhaps arranging for an irrevocable easement so the property owner could have access from Prospect Street would be needed.

Bochniak said it would be best if they were contiguous. It would be hard to hear a request if they were separated. The sidewalk is not considered an easement

Oldenburg said the sidewalk is a public right of way.

Baranski said he too feels uncomfortable allowing this if the properties are not connected. If allowed how far is close enough or too far away?

Cook said how far is allowed.

Oldenburg said they need to be within 150 feet; they would comply but the properties are not adjoining.

Baranski said if this was allowed we have very little or no control over what happens on that 50-foot-wide space.

Oldenburg asked about the parking variance. Is that something the Zoning Board might allow? There are limitations due to lot size similar to Jail Hill Inn.

Baranski said a variance was granted to Jail Hill Inn. The advantage of a variance is that each application is looked at on its own merit. Depending on the particulars he thought a variance could be granted.

Jansen asked about cars 5 and 6 which are over the sidewalk. Is that appropriate.

Oldenburg said not for new development. It would seem that should be addressed in a variance and it would be more appropriate to have the cars on the street.

Baranski said the parking really would not change; the effect on the neighbors is pretty much the same whether the properties are owned separately or by one owner. The property separation is what bothers him.

Walburg mentioned as a side note that another agenda item tonight is the discussion of vacation rentals. The owner of a vacation rental can live miles away; they are fifty feet away. In general, the Board felt that the separation of the two properties would make it difficult to approve 606 and 614 S Prospect Street as a combined Small Inn.

The Board in general could see the possibility of a variance for parking.

Cal. No. 16S-04, Applicant and Owner: Brian & Michelle Heurung – 113 S. Prospect Street, Galena, IL 61036. Location: Parcel: 22-100-567-00, Part of Lot 18 in Block 3 of the Original City of Galena, Jo Daviess County, Illinois. Common Address is 113 S. Prospect Street, Galena, IL 61036. Request for Special Use Permit to allow a 4-room Bed & Breakfast. The property currently has a permit for a 3-room Bed & Breakfast

**MOTION:** Bochniak moved, seconded by Cook to open the Public Hearing on Cal. No. 16S-04.

Motion carried on voice vote.

Brian Heurung, 113 S. Prospect Street stated that he and his wife purchased the property recently as a 3-room B&B. In the upstairs, two of the rooms share a bathroom and they wanted to remodel to give each room a bathroom for their guests. There is also room for a 4<sup>th</sup> room that would allow them to expand and there is enough parking adjacent to the property and in the carriage house to accommodate the extra room.

Bochniak asked if the parking on Washington Street was all on street.

Heurung said yes it is. Washington Street which runs along their property has no outlet here. Most people see the sign and don't drive there. Parking will be along their side of Washington Street which will keep guests away from the neighboring homes and the alley that runs between Green and Washington Streets.

Oldenburg said with the requested room increase an additional parking space needs to be provided. The parking requirement is partially satisfied with off street parking if the carriage house on High Street is utilized. There are five spots along Washington Street and two more on South High Street.

Baranski asked those in favor of the request to come forward and testify.

Susan Steffan, 334 Spring Street said the owners have done an amazing job so far with the property and she is in favor of their request.

Baranski asked those opposed to the request to come forward and testify.

James Wirth, 121 S. High Street said he had one concern for the request. He stated that he lives nearby and asked about the location of where the owners plan to occupy within the building? The owner stated that they will live on the main level. His only concern is an increase in parking, but if the owner is willing to use the coach house to alleviate the addition, then he has no issue with the request.

Heurung responded to the concern by saying one side of the coach house is vehicle ready and the other could be soon.

**MOTION:** Jansen moved, seconded by Cook to close the Public Hearing on Cal. No. 16S-04.

Motion carried on voice vote.

**MOTION:** Bochniak moved, seconded by Cook to approve the Special Use Permit request for Cal. No. 16S-04.

Discussion: Jansen reviewed the approval criteria:

Approval Criteria & Recommendation:

The application shall demonstrate that the proposed development will comply with the following:

- (1) *Site plan review standards.* All applicable site plan review criteria in § 154.914.
- (2) *District standards.* The underlying zoning district standards established in § 154.201 through § 154.209 including the defining characteristics of the district;
- (3) *Specific standards.* The land use regulations established in § 154.406;

(4) *Availability of complementary uses.* Other uses complementary to, and supportive of, the proposed project shall be available including, but not limited to: schools, parks, hospitals, business and commercial facilities, and transportation facilities.

(5) *Compatibility with adjoining properties.* Compatibility with and protection of neighboring properties through measures such as:

(a) *Protection of privacy.* The proposed plan shall provide reasonable visual and auditory privacy for all dwelling units located within and adjacent to the site. Fences, walls, barriers and/or vegetation shall be arranged to protect and enhance the property and to enhance the privacy of on-site and neighboring occupants;

(b) *Protection of use and enjoyment.* All elements of the proposed plan shall be designed and arranged to have a minimal negative impact on the use and enjoyment of adjoining property.

(c) *Compatible design and integration.* All elements of a plan shall coexist in a harmonious manner with nearby existing and anticipated development. Elements to consider include: buildings, outdoor storage areas and equipment, utility structures, building and paving coverage, landscaping, lighting, glare, dust, signage, views, noise, and odors. The plan must ensure that noxious emissions and conditions not typical of land uses in the same zoning district will be effectively confined so as not to be injurious or detrimental to nearby properties.

The Board agreed that the request met the criteria.

Baranski feels this is a good request and the carriage house parking will help alleviate the congestion.

Oldenburg said the property is surrounded by an existing wall so it is nice to meet the requirements without altering the site.

As Roll Call was:

Bochniak	Yes
Cook	Yes
Holman	Absent
Jansen	Yes
Nybo	Recused
Baranski	Yes
Rosenthal	Absent

Motion carried.

Nybo returned to the table and was again acting chairperson

Cal. No. 16A-03, Applicant: City of Galena – 101 Green Street Galena, IL 61036. Request for Text Amendment to §154.015 Definitions, Table 154.403.1 Permitted Land Uses Table, §154.406(D) Principal Commercial Land Uses, §154.406(H) Accessory Residential Land Uses, Table 154.601.3 Minimum Required Parking Spaces, to allow Guest Accommodations, Vacation Rentals.

**MOTION:** Bochniak moved, seconded by Baranski to open the Public Hearing on Cal. No. 16A-03.

Motion carried on voice vote.

Matt Oldenburg presented for the City. Earlier this spring the Council discussed vacation rentals as well as uber service. City staff indicated they had seen an increase in requests for vacation rentals and as such was directed by the City Council to investigate. Changes in mobile technology and how people travel and look for lodging showed that local property owners were renting properties in Galena without license from the City. This resulted in an increase in enforcing the regulations of our ordinance. Staff presented information to the Council and they in turn asked that a text amendment be applied for. A public meeting was held in July and two meetings with the local lodging owners to seek input for the possible amendment.

Oldenburg explained the language of the request. At the zoning level we are looking at land use and objective criteria. Economics and financial reasoning are the purview of the City Council.

Section 154.015 – Definitions: **Accommodations, Vacation Rental:** Any building, or portion thereof, containing a single dwelling unit or multiple dwelling units which are available to the public for accommodating guests on a basis of less than 30 days for a charge, donation, or any other form of remuneration. Each dwelling unit constitutes a vacation rental unit. In residential districts, only one vacation rental unit may be owned; in commercial districts, multiple vacation rental units may be owned as defined by common ownership. In cases where a single guest room on a single family dwelling property is requested, it shall be considered an accessory residential land use. See section §154.406(D)(18) or §154.406(H)(9).

Oldenburg said websites like Air B and B, VRBO and Flip Key are advertising platforms or booking mechanism that a lodging facility can use to reach out to clientele and for reservations. We don't want to focus on these sites but on the land use that would allow the vacation rental or short term rental. The term 'vacation rental' was the language chosen and each land use has a varying degree of intensity.

Oldenburg said Accommodations, Vacation Rental for Principle Commercial Land Use would allow ownership of only one single dwelling unit – vacation rental - per common ownership in a residential district. It also allows ownership of multiple vacation rental units in one building such as a downtown building with three apartments - each apartment is a vacation rental unit. Accommodations, Vacation Rental – Single Room for Accessory Residential Land Use would allow a single room rental within a single family dwelling unit and it must be owner occupied. It can be detached from the main dwelling unit if appropriate.

Oldenburg then explained the changes that would be made to Table 154.403.1 Permitted Land Uses:

**Table 154.403.1. Permitted Land Uses**

LA	CS R	LDR	MD R	HDR	NO	PO	NC	PC	GC	DC	PI	LI	HI	Type of Land Use  Principal Commercial Land Uses (154.406 (D))
					P	P	P	P	P	P	P	P	P	(1) Office
					S	S	P	P	P	P	S			(2) Personal or Professional Service
S	S				S		P	P	P	P	P	P	P	(3) Artisan Studio
						S	P	P	P	P	S			(4) Sales and Service, Indoor
									P				P	(5) Sales and Service, Outdoor Display
									P					(6) Sales and Service, In-Vehicle
	S	S	S	S	S									(7) Accommodations, Bed & Breakfast
		S			S		S	S	S	S				(8) Accommodations, Small Inn
						S		S	P	S	S			(9) Accommodations, Hotel/Motel
						S	S	P	P	P	S			(10) Entertainment, Indoor Commercial
S									S			S		(11) Entertainment, Outdoor Commercial
												S	S	(12) Entertainment, Adult
								S	P	S	P	P	P	(13) Maintenance Service, Indoor
									S				P	(14) Maintenance Service, Outdoor
S									S				S	(15) Commercial Animal Boarding
									P			P	P	(16) Vehicle Repair and Maintenance
					P		P		P	P				(17) House Tour
<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>				<u>S</u>		<u>S</u>	<u>S</u>				<u>(18) Accommodations, Vacation Rental</u>

**P** = Permitted by Right (See section 154.402(A)) **S** = Permitted by a Special Use (See section 154.402 (B))

LA Limited Agricultural  
 LI Light Industrial  
 CSR Countryside Residential  
 HI Heavy Industrial  
 LDR Low Density Residential  
 MDR Medium Density Residential

HDR High Density Residential  
 NO Neighborhood Office  
 PO Planned Office  
 NC Neighborhood Commercial

PC Planned Commercial  
 GC General Commercial  
 DC Downtown Commercial  
 PI Planned Industrial

**Table 154.403.1. Permitted Land Uses**

<u>LA</u>	<u>CSR</u>	<u>LDR</u>	<u>MDR</u>	<u>HDR</u>	<u>NO</u>	<u>PO</u>	<u>NC</u>	<u>PC</u>	<u>GC</u>	<u>DC</u>	<u>PI</u>	<u>LI</u>	<u>HI</u>	Type of Land Use
P	P	P	P	P	P	P	P	P	P	P				(1) Day Care Home, Serving 3 to 12 Children
P	P	P	P	P	P	P	P	P	P	P				(2) Home Occupation, Minor
S	S	S	S	S	S	S	S	S	S	S				(3) Home Occupation, Major
P	P	P	P	P	P	P	P	P	P	P				(4) Private Kennel
P	P	P	P	P	P	P	P	P	P	P				(5) Outbuildings and Recreation Facilities
P	P	P	P	P	P	P	P	P	P	P				(6) Recreational Vehicle Storage
P	S													(7) Private Stable
S	S	S	S	S										(8) House Tour
<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>				<u>S</u>			<u>S</u>				(9) Accommodations, Vacation Rental – Single Room
														Accessory Agricultural Land Uses (See 154.406(I))
														Accessory Recreational & Institutional Land Uses (See 154.406(J))
														Accessory Commercial Land Uses (154.406(K))
						P		P	P	P	P	P	P	(1) Company-Provided Cafeteria
					S	S	S	S	S	S	S	S	S	(2) Company-Provided Day Care
						S		S	P		S	P	P	(3) Company-Provided On-Site Recreation
					P	S	P	S	S	P				(4) Dwelling Units Above Ground Floor
						S		S	P		P	P	P	(5) Fleet Vehicle Storage
								S	S	S				(6) Light Industrial Incident to Indoor Sales
							S	P	P	S	S			(7) Outdoor Dining

							S	S	P	S				(8) Outdoor Display, Removable
									P					(9) Outdoor Display and Storage, Permanent
								S	P					(10) Outdoor Entertainment

**P** = Permitted by Right (See section 154.402(A)) **S** = Permitted by a Special Use (See section 154.402 (B))

LA Limited Agricultural	HDR High Density Residential	PC Planned Commercial
LI Light Industrial		
CSR Countryside Residential	NO Neighborhood Office	GC General Commercial
HI Heavy Industrial		
LDR Low Density Residential	PO Planned Office	DC Downtown Commercial
MDR Medium Density Residential	NC Neighborhood Commercial	PI Planned Industrial

Oldenburg said a Special Use Permit would be necessary to operate any of the vacation rentals. High Density Residential districts were not included. The reasoning here is that nationally there is a concern that the short term rental will cause a shortage of apartments for those seeking long term rentals. If we do not allow vacation rentals in HDR the majority of our large apartment complexes would be off limits. There are a few apartment buildings in downtown commercial where multiple units would be allowed. Single room vacation rental units as an accessory land use have to be in single family homes.

Oldenburg next reviewed the changes to detailed land use regulations. A comprehensive code was developed to alleviate negative impact concerns discussed during input meetings. This gives the City control but still allows for good land use.

**SECTION III: Section §154.406 (D) – Principal Commercial Land Uses of the City of Galena Zoning Code,** is hereby amended as follows:

- *(Additions are shown as underlined)*

**(D) Principal Commercial Land Uses.**

**(18) Accommodations, Vacation Rental.** Any building, or portion thereof, containing a single dwelling unit or multiple dwelling units which are available to the public for accommodating guests on a basis of less than 30 days for a charge, donation, or any other form of remuneration. Each dwelling unit constitutes a vacation rental unit. It is the intention of the City to restrict the number of vacation rentals and to encourage the use of single-family dwellings for residential purposes in order to maintain the integrity of residential neighborhoods. Therefore, no one owner, under the rules of common ownership, may own more than one vacation rental unit in residential districts; however, owners may own more than one vacation rental unit within commercially zoned districts. Vacation rentals are limited to properties within the Historic District, those deemed as Historic Landmark properties outside of the district or anomalous properties immediately adjacent to the Historic District that are non-contributing.

(a) Regulations:

1. Number of guests. In the case of structures originally constructed as a residence or to provide public accommodations, the number of original bedrooms indigenous to a particular structure will be considered. In the case of other nonresidential structures, the number of allowed guests will be

determined by the size of the building and the regulations for such use found in the city's adopted Building Codes, Life Safety and Fire Codes, Electrical Code, the Americans with Disabilities Act and any other codes of the city. Off-street parking capacity, in required districts, will also be considered for the number of allowed guests.

2. *Lot capacity.* The capacity of a particular lot to absorb the impact of a vacation rental use shall be considered and consideration shall be given to usable lot size, topography, existing vegetation, parking requirements, the location of the rental unit(s) on the lot and the proximity of the rental unit(s) to neighboring properties in determining the number of guests to be permitted.

3. *Availability and impact of parking.* Parking off-street shall be required in all districts, except Downtown Commercial, and based on the capacity of allowed guests. The physical and aesthetic impact of off-street parking located on the lot shall not be detrimental to the existing character of the lot and the surrounding neighborhood. It shall be a priority to preserve green space. Generally, the capacity of a lot to accommodate off-street parking shall be related to the size and nature of the lot, as stated in (D)(18)(a)(2) above. Rental of parking spaces on property other than the lot of the vacation rental shall not be allowed.

4. *Requirements For Emergencies.*

a. Emergency Lighting: All vacation rentals shall provide adequate emergency lighting, as determined by the Fire Inspector, of the interior of the facility so as to provide any guest with sufficient light to find an appropriate exit during a fire or other emergency.

b. Exit Requirements: All interior and exterior exits shall open from the inside without the use of a key or special knowledge. All such exits shall be of a width of thirty inches (30") or greater and shall not be blocked or obstructed at any time.

c. Floor Plan: A floor plan of the building shall be maintained and displayed in prominent location in each vacation rental unit. The plan shall show the location of each guestroom and the exit locations to be used for such guestrooms in the event of fire. The licensee shall furnish a copy of the floor plan to the Zoning Department.

d. Emergency Telephone: Each guest house or home shall provide a landline telephone for emergency purposes. Such phone shall be available twenty-four (24) hours a day. A list of all emergency numbers shall be posted next to the telephone.

5. *Additional information or requirements to be designated in special use permit. (Refer to §154.924 - Special Uses.)*

a. No vacation rental shall commence doing business until a guest accommodation license has been issued by the city;

b. Proof of registration with the Illinois Department of Revenue and the City of Galena for hotel/motel taxes shall be given to the Zoning Administrator within 90 days after issuance of the guest accommodation license;

c. No signs advertising the vacation rental shall be displayed on the site.

d. Each vacation rental owner shall maintain a guest register; and

e. Single-room vacation rentals shall be considered an accessory residential land use. See §154.406 (H)(9).

6. Application: contents. An application for a vacation rental special use permit shall include such information as the Zoning Administrator or the Zoning Board of Appeals may require, but, at a minimum, shall include the following:

- a. A site plan depicting all existing conditions of and proposed modifications to buildings, walks, drives, parking, berming, planting, fencing and lighting. Pertinent elevations or perspective drawings may be requested for more accurate review of various details;
- b. Photographs of the proposed vacation rental, accessory buildings and zoning lot;
- c. Floor plan of the proposed vacation rental showing all rooms and designation of room usage.

Oldenburg noted some key points of the Principal Commercial Land Use requirements. Off street parking is required except in the downtown commercial district. If there are special circumstances someone could apply for a variance along with the special use permit. The number of guests allowed has been limited by looking at the number of original bedrooms in a historic home or the square footage and life safety codes for nonresidential buildings. Lot capacity can be used as a further control measure in relation with the neighboring properties. Parking and its impact to greenspace and the parcel will be looked at when determining the number of allowed guests. Requirements for emergencies have been included and much of this was based on what is required by Jo Daviess County for their rental program which has worked well for many years. Approval of a Special Use Permit doesn't mean they can start renting. There is an inspection process, proof of insurance as a business, registration with State and City for hotel motel tax, an annual fee – everything a guest home is required to do. No signage would be allowed on the vacation rental property and a guest register must be maintained. Approval must submit an application for a Special Use Permit with all applicable documents just like other guest homes.

**SECTION IV:** Section §154.406 (H) – Accessory Residential Land Uses of the City of Galena Zoning Code, is hereby amended as follows:

- *(Additions are shown as underlined)*

**(H) Accessory Residential Land Uses.**

**(9) Accommodations, Vacation Rental – Single Room.** A single guest room which is available to the public for accommodating guests on a basis of less than 30 days for a charge, donation, or any other form of remuneration. A single-room vacation rental may have no more than two sleeping guests and may be within or detached from the main dwelling unit. Vacation rentals are limited to only properties with Single Family Dwellings and are within the Historic District, those deemed as Historic Landmark properties outside of the district or anomalous properties immediately adjacent to the Historic District that are non-contributing.

(a) Regulations:

- 1. Number of guests. Single-room vacation rentals are limited to two sleeping guests.
- 2. Lot capacity. The capacity of a particular lot to absorb the impact of a single-room vacation rental use shall be considered and consideration shall be given to usable lot size, topography, existing

vegetation, parking requirements, the location of the rental unit on the lot and the proximity of the rental unit to neighboring properties.

3. Availability and impact of parking. One off-street parking space for the guest room and one additional off-street parking space for the owner shall be required in all districts. The physical and aesthetic impact of off-street parking located on the lot shall not be detrimental to the existing character of the lot and the surrounding neighborhood. It shall be a priority to preserve green space. Generally, the capacity of a lot to accommodate off-street parking shall be related to the size and nature of the lot, as stated in (H)(9)(a)(2) above. Rental of parking spaces on property other than the lot of the vacation rental shall not be allowed.

4. Owner occupancy. The property shall be owner-occupied when guests are present.

5. Additional information or requirements to be designated in special use permit. (Refer to §154.924 - Special Uses.)

a. No vacation rental shall commence doing business until a guest accommodation license has been issued by the city;

b. Proof of registration with the Illinois Department of Revenue and the City of Galena for hotel/motel taxes shall be given to the Zoning Administrator within 90 days after issuance of the guest accommodation license;

c. No signs advertising the vacation rental shall be displayed on the site.

d. Each vacation rental owner shall maintain a guest register; and

e. A floor plan of the building shall be maintained and displayed in prominent location in the guest room. The plan shall show the location of each room and the exit locations to be used for the guest room in the event of fire. The licensee shall furnish a copy of the floor plan to the Zoning Department.

6. Application: contents. An application for a vacation rental special use permit shall include such information as the Zoning Administrator or the Zoning Board of Appeals may require, but, at a minimum, shall include the following:

a. A site plan depicting all existing conditions of and proposed modifications to buildings, walks, drives, parking, berming, planting, fencing and lighting. Pertinent elevations or perspective drawings may be requested for more accurate review of various details;

b. Photographs of the proposed vacation rental, accessory buildings and zoning lot;

c. Floor plan of the proposed vacation rental showing all rooms and designation of room usage.

Oldenburg said Accessory Residential Land Uses will allow the single room vacation rental. A limit of two sleeping guests, owner occupied and an off street parking space for both the owner and the guest is required. Consideration for lot capacity, application contents and licensing requirements if approved are similar to Principal Commercial Land Use.

Oldenburg said Table 154.601.3 Minimum Required Parking Spaces would be adjusted. Single room rental would require one space for the guest and one for the homeowner. For Principal use it would be one space per four guests.

Oldenburg said there have been questions about how many vacation rentals would be allowed. It seems the market would somewhat determine this but you could place limits how many to allow in a district, or a block or an acre. Looking at this there could be areas where it will not be appropriate at all and others where there could be two next to each other. Oldenburg wanted to mention that these would only be allowed in the historic district or directly adjacent to that district or in a nationally landmarked property. Jansen asked about enforcement.

Oldenburg said there is a process in place for violators. A warning is issued, then a final warning, then a citation and then a court date with a fine. Many of those currently violating the ordinance may not know it is not allowed, although by now they should. We have been finding these rentals on the marketing sites and have contacted the owners to let them know they are in violation. Many have stopped taking reservations but for those who have not citations have been written so enforcement is already taking place.

Jansen asked if someone could lose their license if the new proposal were accepted.

Oldenburg said if the property is a nuisance the license can be pulled and the special use permit could be revoked. Citations and fines could also be part of the process.

Bochniak asked about those that are operating under the radar. How do we find and deal with them? That's his concern.

Oldenburg said there are a lot of people watching and reporting when things are not running as they should.

Bochniak asked if there are other communities our size with an ordinance.

Oldenburg said a few, but a lot of them don't have any mechanism in place to deal with this type of rental and many don't even know what the marketing mechanisms are.

Nybo asked if Oldenburg contacted the consultant who advised the City when the ordinance was reworked. Would the enforcement hold up in court as it is?

Oldenburg said he did research extensively the work that was done then with Suzanne Hollingworth and later with Nate Kieffer and he feels he did capture the spirit of the ordinance. A lot has changed with technology and communications in the ten years since the rewrite. It would seem the consultant would have written code that would hold up. Everything that has been proposed here is within the powers that we have to non-administratively change the ordinance.

Nybo asked all those in favor of the request to come forward and testify.

Robert Mahan, 900 Third Street is one of the owners of Aldrich Guest House. He said the proposed amendment does a good job addressing the public's concerns. The language is mindful of the neighbors, parking and overall impact on Galena.

Bochniak asked if he was worried about competition for the vacation rentals.

Mahan said the demographic that is interested in that type of rental is different than those seeking lodging in bed and breakfasts or small inns and the level of service they provide. They do receive a lot of inquiries from people interested in renting the entire guest house including the kitchen facilities. They are not interested in having meals cooked for them or really any kind of service. They want a large home that will accommodate families or groups and they want to pretty much take care of themselves. This type of traveler needs to be accommodated and Galena should be able to offer them a place to stay so they can have a good time. Those looking for short term rentals like this generally are looking for a less expensive option and if they can't find it they may not come to Galena or they may stay overnight elsewhere. We may find that many of these visitors want to return to Galena and will choose to stay in a different type of lodging on their next visit. It is a free market and lodging operators like all other business owners need to make sure they are doing their best to keep Galena as attractive as possible.

Baranski asked if Mayhan was losing business to the vacation rentals in the Territory. Does he think some would prefer to stay in town rather than there.

Mayhan said he had not personally heard this but it may be true.

Jansen asked Mayhan if he would consider changing to this type of rental.

Mayhan said they were not and he had not heard of any one that was. Most innkeepers do not feel fulfilled just by providing a sleeping room. They are interested in providing a full service stay while getting to know the guests and possibly creating a relationship where they make many return visits.

Susan Steffen, 334 Spring Street said she and her husband own Farmers Guest House and Breakfast Diva Cooking School. They attended the public input meetings with numerous concerns and they are very happy that the proposal addressed many of the concerns of the community as a whole. Often times customers at Cooking Diva ask about vacation rentals where groups could stay in one space and be closer to downtown. Farmer's is not necessarily concerned about the competition – those seeking whole house vacation rentals are not the same customers that are seeking bed and breakfast lodging. What they are concerned about is the face of Galena – these lodging options need to be a positive addition to Galena and the ordinance changes will make that possible.

Alana Turner, 402 S Main Street owns Poopsies and Main Street Inn. She wants everyone who comes to Galena to have a positive experience. Technology has changed and regardless of what we want these booking options are out there for people to use. She knows that Galena loses rentals to the Territory because they have vacation rentals where large groups can stay. It would be great if people could stay in the downtown – shopping, dining, drinking, entertainment, overnight lodging all in walking distance would be great. Enforcement is important as we want everyone to have a good Galena experience. Changes with the parking regulations in downtown would help visitors and overnight guests too.

Carl Johnson, 202 ½ S Main Street said they have had one rental unit, Gallery Guest Suite, for years; this is considered a Bed and Breakfast. He asked where vacation rentals could be located.

Oldenburg said the proposal is for the historic district or directly adjacent to that or in historically landmarked properties.

Angela Stodden, 809 Spring Street is owner of United Country Real Estate. She said potential buyers are always asking about these types of properties. What would the time frame for approval be? Would this be a contingency say for a 45-day closing?

Oldenburg said the application needs a 15 to 30-day notice for the public hearing, then the Board would here the request the second Wednesday of the month, and then, if approved, a month or so later the Board would ratify the Findings. There is a \$400.00 Special Use Permit zoning application fee and then all the other applications/fees/inspections etc. that would need to be completed before actual rentals could take place which would seemingly take another two weeks or so. At a minimum say three months or so for the process. There is an annual license fee of \$130.00. The Special Use Permit needs to be applied for once.

Shelly McCoy, 412 S Main Street is a realtor and small business owner. She said an ordinance change would have a fabulous effect on property values and sales in the downtown commercial district and consequently the condition of the properties. Buyers are always looking for properties on Main, Bench and Franklin Streets and they would seek out those that would be appropriate for vacation rentals. This would increase the use for Main Street space. Many buildings have retail on the main floor but the upper floors are virtually empty so this could be an appropriate use. There would need to be decisions on how many would be allowed. Parking could actually decrease in intensity in some situations. In this area some single family homes do not have off street parking and are not sellable as full time residences, but this change could make them more valuable to a buyer and for the community.

Nybo asked all those opposed to the request to come forward and testify.

James Wirth, 121 S High Street said he was very concerned that an absentee property owner could rent their property and have very little idea about what was happening in Galena. This use could put further stress on neighborhoods where guest homes currently operate. The enforcement process may not affectively deal with problem or nuisance properties. Wirth recommended that if this was approved the addition of an annual review be included. At one point this was part of the guest house license renewal. Before the yearly license was issued the Zoning Board held a public hearing so the neighbors could voice their concerns toward nuisance properties.

Oldenburg said the enforcement process is in place. We can pull the permit as well as the SUP. Just because the special use permit goes with the land does not mean we can't stop the vacation rental.

Baranski said the Zoning Board would have the power to pull the special use permit. City staff as well as the City Council have the power to pull the license. There are mechanisms in place to deal with problem properties. The annual review of the guest house license was probably dropped when the enforcement process began.

**MOTION:** Baranski moved, seconded by Jansen to close the Public Hearing on Cal. No. 16A-03.

Motion carried on voice vote.

**MOTION:** Baranski moved, seconded by Jansen to draft a positive Finding of Fact to approve the text amendment language as presented for Cal. No. 16A-03.

Discussion: Baranski asked about the annual renewal process.

Oldenburg said there is an application, \$130.00 payment, proof of registration and payment of hotel motel taxes and proof of business liability insurance as well as an inspection by City and County officials. If there are nuisance issues during the year, the City would deal with them as they occur – they would not wait until the renewal period which is in March and April. If necessary, the City Council would be involved and the license and or special use permit could be revoked.

Nybo asked about parking for additional cars. The shoppers and merchants already have parking issues. What about the three-hour parking?

Oldenburg said this would be something that would be looked at with each application. All other land uses in the DC district are exempt from parking requirements.

Nybo said we have a labor force that is under the radar and many occupy Main and Bench Street units. Will this put them out of a home.

Oldenburg said they could potentially be looking for new rentals.

Baranski said this would be another development opportunity for someone.

Nybo asked if this has been considered.

Oldenburg said it had, but it is up to each individual property owner to determine what the best use is for their building.

Baranski said about ten years ago there was discussion concerning the upper floors of the downtown buildings. The Board was very much in favor of finding new life for these spaces.

Nybo said there was a concern for off - street parking.

Baranski said he remembered the stumbling block had more to do with competition. The long term health of the downtown and the city needs more than just occupied ground floors on Main Street. The upper floors are vacant - these are empty spaces that a building owner would need to decide if converting to a vacation rental made sense financially. We can't decide to not allow uses just because we aren't sure if parking will be available.

Oldenburg said it was mentioned previously that there could be some reduction in vehicles depending on what is allowed.

Nybo thought the city might experience some unforeseen consequences if the proposal was approved. Are there some things we are overlooking?

Baranski said we are losing rentals to the territory and other areas of the county where this type of accommodation is available, but the type of rental being sought is not available per our land use regulations.

The economics of this are not for the zoning board to decide, but determining if this would be an appropriate land use is.

Nybo said the city has an obligation to the residents in these areas.

Baranski said it is the city's responsibility to protect their quality of life. It is a good time for this. For much of the population this is the way things are done. We need to get ahead of this and set guidelines and regulations; be proactive and move forward rather than being blindsided. Approving it does not mean it can't evolve.

Nybo said it will change the face of Galena. Isn't there a way to just start with the downtown area to see how it progresses.

Nack said currently there is nothing in place to address these rentals that are here. The idea was to get in front of this and address the entire town. It can always be modified; changes can be made.

Nybo said we do have something in place – we just need to enforce the ordinance that does not allow these rentals.

Nack suggested that this was not adequate.

Baranski reviewed the approval criteria.

### **Approval Criteria & Recommendation:**

In order to maintain internal consistency within this code and on the zoning map, proposed amendments to the text and zoning map must be consistent with the purposes stated herein.

In determining whether the proposed amendment shall be approved, the following factors shall be considered: *Comments are italicized.*

- (1) Whether the existing text or zoning designation was in error at the time of adoption; *No text or designations were in error at time of adoption. The advent of technology and the travel / tourism needs of the market are creating need for change in allowable uses for their accommodations.*
- (2) Whether there has been a change of character in the area or throughout the city due to installation of public facilities, other zone changes, new growth trends, deterioration, development transitions, etc.; *New trends in travelers' wants combined with technology and the shared economy have generated the need for a proactive approach to controlling and providing for vacation rental land uses.*
- (3) Whether the proposed rezoning is compatible with the surrounding area and defining characteristics of the proposed zoning district or whether there may be adverse impacts on the capacity or safety of the portion of street network influenced by the rezoning, parking problems, or environmental impacts that the new zone may generate such as excessive storm water runoff, water, air or noise pollution, excessive nighttime lighting, or other nuisances; *Each zoning district indicated has*

*properties that may be suitable for the proposed uses. The detailed regulations will reduce the potential for nuisances and provide for a compatible use. Additional control measures, already within the code, will further ensure that nuisance properties can be dealt with and permissions revoked.*

(4) Whether the proposal is in conformance with and in furtherance of the implementation of the goals and policies of the Comprehensive Plan, other adopted plans, and the policies, intents and requirements of this code, and other city regulations and guidelines; *The proposed amendment supports the Comprehensive Plan and tourism, identified as the community's main industry.*

(5) Whether adequate public facilities and services are available or will be made available concurrent with the projected impacts of development in the proposed zone; *Not applicable*

(6) Whether there is an adequate supply of land available in the subject area and the surrounding community to accommodate the zoning and community needs; or *There is an adequate supply of land as the dwellings are already in existence.*

(7) Whether there is a need in the community for the proposal and whether there will be benefits derived by the community or area by the proposed rezoning. *The growth of tourism and visitors to Galena, combined with the interest of vacation rental properties has indicated a need for the land use. If a provision is made, then it can be controlled. The benefits to the community is allowing a demographic that wishes to stay in vacation rentals to stay within the City and spend more time and money here, supporting the local economy.*

The proposed text amendment does comply with the approval criteria.

Nybo does not believe that the request complies with #7.

Jansen said for twenty-four years he dealt with guest house accommodations at the Galena Territory where enforcement was an issue. Enforcement and punishment need to be dealt with as soon as an incident occurs. You don't wait until renewal time - you have to make it clear that regulations and rules will be enforced and punishment will be immediate. Those enforcement measures are in place. Downtown parking will always be an issue – there just isn't enough. The City Council needs to address this. We need to be preemptive; we can change the language as needed in the future. We will be light years ahead of others if we get this going. He is very comfortable with the proposal and encourages other Board members to support the text amendment.

As Roll Call was:

Cook	Yes
Holman	Absent
Jansen	Yes
Nybo	Abstain
Baranski	Yes
Bochniak	No
Rosenthal	Absent

Motion failed.

Oldenburg said approval needed four concurring votes. Another motion could be presented.

Bochniak said he would vote for approval if this was limited to the downtown commercial district. This is just too big and there are too many unknowns.

Nack said this could come back to the Zoning Board.

### **COUNTY ZONING**

None

### **WORKSESSION/OTHER**

None

### **PUBLIC COMMENTS**

None.

**MOTION:** Cook moved, seconded by Bochniak to adjourn the meeting at 8:45pm.

Motion carried on voice vote.

Respectfully submitted by

Deb Price  
Zoning Board Secretary