I. DECLARATION OF QUORUM
A quorum being present, Chair Fiske called the meeting to order at 7:18 p.m.

II. APPROVAL OF REGULAR MEETING MINUTES OF MARCH 2, 2013
APPROVAL OF REGULAR MEETING MINUTES OF MARCH 11, 2013

Ald. Rainey moved approval of the minutes of the March 2nd and March 11th, 2013 meetings seconded by Ald. Wynne.

The minutes of the March 2, 2013 and the March 11, 2013 P&D meetings were approved unanimously 5-0.

III. ITEMS FOR CONSIDERATION

(P1) Ordinance 41-O-13 Granting a Special Use for a Type 2 Restaurant at 1629 Orrington Avenue (Naf Naf Grill)
The Zoning Board of Appeals and City staff recommend the adoption of Ordinance 41-O-13 granting a special use permit for the operation of a Type 2 Restaurant Naf Naf Grill at 1629 Orrington Avenue.

For Introduction

Ald. Rainey moved to recommend introduction, seconded by Ald. Wynne.

Dennis Marino, Manager of the Planning & Zoning Division, introduced Justin Holpe, Partner and Rob Farrar, Project Manager of Naf Naf. Chair Fiske welcomed them to Evanston and wished them success. Ald. Rainey mentioned that their landlord in Evanston had recommended their business to her as a great asset to Evanston. Ald. Wilson agreed and said he likes their food.

The Committee voted unanimously 5-0 to recommend introduction of Ordinance 41-O-13.
(P2) **Ordinance 4-O-13 Amending the Zoning Ordinance to Allow the Expansion of Legal Nonconforming 1-4 Family Residential Uses by Major Variation**

Following a recommendation of the Planning and Development Committee, City staff recommends the adoption of proposed Ordinance 4-O-13 to amend the Zoning Ordinance to allow properties with one to four-family legal nonconforming residential uses to apply for zoning relief through the Major Variation process to increase the structures’ bulk.

**For Introduction**


Mr. Marino explained that the revised Ordinance reflects the discussion of the Committee to process applications to expand legal nonconforming 1-4 family residential buildings as major variations with notice sent to neighbors within a 500’ radius and a formal public hearing before the Zoning Board of Appeals (ZBA).

The Committee voted unanimously 5-0 to recommend introduction of Ordinance 4-O-13.

(P3 and P4) **Staff requests consideration of Ordinances 35-O-13 and 1-O-13 which provide, respectively, for the licensing or prohibition of vacation rentals. At the March 2, 2013 meeting, the Committee heard extensive testimony on banning or licensing of vacation units. Staff has attempted to insert the proposed exemptions into both Ordinances that were most practical to consider and enforce.**

(P3) **Ordinance 35-O-13, Enacting a New Title 5, Chapter 9 of the City Code to Require the Licensing of Vacation Rentals**

Ordinance 35-O-13 enacts a new Title 5, Chapter 9 of the City Code to require the licensing of vacation rentals.

**For Introduction**

(P4) **Ordinance 1-O-13, Enacting a New Title 5, Chapter 9 of the City Code to Prohibit Vacation Rentals**

Ordinance 1-O-13 enacts a new Title 5, Chapter 9 of the City Code which bans vacation rentals.

**For Introduction**

Chair Fiske called the public who wished to speak to the podium.

Timothy Shell of 1246 Hinman said he signed up with Air B&B (Bed & Breakfast) last year and it allows him to be informal and relaxed about renting rooms in his home and he is impressed with the organization’s professionalism. He said Air B&B is a $2million company for a reason and that they are part of the world’s shared market providing him guests from India, South America, Europe and Asia, all of whom eat at local restaurants, don’t rent cars and often rent bicycles to travel all over Chicago. He said it has turned out to be a positive experience of which he was skeptical at the beginning. Mr. Shell said two issues are being uncovered in the discussion:
neighborhood safety and property values. He said he and his wife have a vested interest in who stays at their home and laws should be complied with adding that everyone needs to be smart because everyone is free to walk around and visitors enrich the community. He believes a license makes sense. He concluded that he feels comfortable with Air B&B’s vetting process combined with his wife’s method of researching potential guests on Facebook, Google, etc. He said there must be rules but “let’s not overdo it.”

Susan Shell added that Air B&B is a great company, committed to quality. She said they offer home owners a $1 million guarantee against damages caused by guests. She said she gets a fresh look at Evanston seeing it through her guests’ eyes.

Howard Handler of the North Shore Barrington Realtors Association said he empathizes with the residents who oppose quasi hotels in their residential districts. He said Ordinance 35-O-13 ironically creates an environment where frequent renters are allowed quasi hotels but regular Evanston property owners cannot rent for 30 days, meaning the less one rents, the burden increases. Mr. Handler said Ordinance 1-O-13 allows a professor on sabbatical rent, but not, for instance a rabbi or priest. In a 4 unit building, it is prohibited to rent without a license. He asked the Committee to concentrate on the quasi hotels so that others renting less frequently won’t be burdened.

Olufemi Davies of 1325 Dobson said people rent rooms in their homes for various reasons but she is doing it because in order to pay her mortgage. She said she has tried to find a tenant for months but since she was singled out, the moment her address is “Googled,” information about the City of Evanston controversy pops up and she now has trouble renting. She said she has had great quality guests such as teachers, girl scouts and directors coming to Evanston for weddings, graduations and to visit NWU, who have all left her home in impeccable condition. She said Vacation Rentals and Air B&B screen guests. She said she prefers to be in a home situation when she travels because it is more comfortable. She said her guests can cook and have access to the supermarket, and she gives them transportation schedules. She concluded that if there is a complaint about a particular house, it should be addressed and that the City cannot forbid people from renting, instead it should be regulated.

Kim Novi of 2507 Ashland said she and her neighbors have asked the City’s Legal Dept. and Ald. Grover to have the law enforced and forbid people from renting rooms of their homes without a license. The proposed ordinances make exactly what they are trying to stop, legal. She asked the City again to enforce the existing laws per the following statutes of the City Code: Title 5, Chapter 2 prohibits lodging establishments in R1 Districts and defines someone renting a home for shelter as lodging; Title 8, Chapter 19 states that a B&B establishment is one that serves breakfast, which cannot be done without a license; Title 6, Chapter 5 states that a home occupation in an R1 District can be run between 9 p.m. and 7 a.m. Ms. Novi asked why the City would not enforce these rules saying, “If it walks like a duck and quacks like a duck, it’s a duck.”
Maureen O’Donnell of 2505 Ashland said she lives next door to the home that is renting rooms for $15 a night and that there were 12 rentals on the weekend of the Cornhuskers game. They advertised that there would be “plenty of coolers” and requested “Please, no hair-pulling.” She said the owner advised guests not to talk to the neighbors. She said that Ald. Rainey likened it to a one night stand. Ms. O’Donnell said to exempt single family and 2-3 flats from this Ordinance is protecting the places that are the problem and making the solution legalizing the problem. She said Mr. Farrar wrote that overnight rentals are not a commercial use. She said Evanston should be re-named “Because I Feel Like It” quoting one of the home owners who is renting rooms who said, “If hotels don’t like it, they should step up their game.” She said there are only 5 homes on their block and 40% of them are advertised on Craigslist. She said the Ashland St. neighbors are not afraid of strangers. She concluded that she would not have bought her home if she knew Evanston was going to give in to greed.

Mark Rosati of 2509 Ashland noted that this is his 6th hearing and all he and his neighbors asked was for the City to write citations for illegal activity. He said people with single family homes or 2-3 flats are renting to transients across the street from an elementary school. He noted that not one neighbor has said this illegal activity has been an asset to their community. He said the problem is that single family and 2-3 flat owners are renting in an R1 District and he is baffled that the Law Dept. says it is not a commercial activity. He said you expect to know your neighbors in an R1 District. He said if either of the proposed Ordinances passes, R1 zoning becomes meaningless and he does not understand why the City would purposely erode its property values and tax base. As someone who bought his home in an R1 District in good faith, he would feel the victim of a bait and switch if the proposed Ordinances passed.

David Berg of 2510 Jackson said he moved to Evanston 37 years ago from Decatur, Illinois. He told of the mansions in small towns like Normal, Bloomington and Decatur that have rented their rooms but asked what the City does about the bad ones that cause disturbances. He said Air B&B might be great but it is not right for this community. He said if the proposed Ordinances pass, there will be no way to manage the issue and the neighbors will have to manage it by calling in complaints. He said an ordinance should not be changed or made just because the economy is bad and asked that the City enforce the current ordinances.

Howard Gartzman said he and his wife Sue have been on Air B&B since 2008 and they have a 12 year old son. They said there is a screening process and Sue has a dialogue with prospective guests and if she does not feel comfortable, they do not rent to them. He said they have had parents of students, MBA candidates, executives, professors, Koreans, Australians and Europeans and people from all over the United States, as guests, as well as staying in Air B&B homes in their travels. Through their rentals, people have loved Evanston and spread the word. He said it is a sharing economy and encouraged the Committee to look at what other communities are doing and not over react.
Ald. Rainey asked Mr. Gartzman if he is present in his home when the guests are there, to which he answered yes, his wife works at home so she is there and the guests are very sociable with her.

Sue Gartzman said they do not know about the Ashland situation and she is sorry for it and said the guests like to sit and talk with her.

Greg Richards of 2529 Ashland said some of the exceptions in the proposed Ordinances do not make sense. He said treating professors like a privileged class and exempting 2-3 flat owners from licensure should be struck from the Ordinances. He said the activity is not in keeping with R1 neighborhoods. R1 residents are entitled to a quality of life and property values and renting may bring economic benefits but it is inconsistent with R1 zoning. He said the precedent for a rooming house should be followed: permit only as a special use or as of right in commercial zones.

Jenny Richards of 2529 Ashland said she is a mother of 3 sons and she did not expect commercial activity and vacation rentals to be going on in her R1 District. Where a rental property is registering guests and changing linens it will change the character and property values of the neighborhood. If the City is not willing to enforce the law, she suggested looking at the issues case by case. She said the Wilmette Planning Department told her they take action when they find out a home owner is operating a rooming house.

Jeff Smith of 2724 Harrison said he bought a single family home in an R1 District which he believed entitled him to benefits such as the right to live there and the right to rent his property, which is the right of every property owner. He said church rummage sales, selling one’s car, hobbies and renting out someone’s home are not commercial. He said he sent a draft ordinance to the City using the number of times as a trigger instead of applying something to the ones that are not causing a problem. From the testimony of those who have rented their homes with no problems, there must have been thousands and he has never heard of an arrest. He said he is hearing a fear of what might happen and that renting of individual rooms is different than renting one’s whole house. He said when he travels he would rather rent his house to someone than pay someone to watch it. He concluded that the proposed Ordinances have major inconsistencies making 6-35 day rentals exempt but one person who does it once is subject to the Code.

Scott Gross of 2507 Ashland thanked the Committee for the opportunity to speak and said he has been on several village boards throughout the Chicago area and it has been consistent that transient rooming arrangements have not been allowed in R1 districts. The reason is to protect the children as well as property values. He has children in his home and children next door and a school with hundreds of children across the street and the neighbors do not know who is coming into the neighborhood. He respects those who make this arrangement and though nothing has happened yet, the purpose of the law is to prevent something from happening. He said the neighbors want businesses to do well, but in an R1 district we must be careful to not allow this to continue. He said in Ald. Rainey’s example where the
owners do not live in the house they are renting, no one is checking on who is there except the neighbors, who have to keep an eye out for suspicious activity. He asked that the law be enforced in the R1 district.

Jody Lee Mesirow of 1310 Rosalie St., a 1 block street, is upset with the proposed Ordinances and said it is her understanding that someone could have their primary residence in Evanston, buy the house next to hers, list it on the internet for 1 night rentals of either one room, several rooms or the whole house and as long as the owner is on the premises while the customers are staying there, it would be legal and they can do it without a license, which means virtually no oversight. She said it sounds strangely similar to what she is hearing about on Ashland and that is not okay because it would negatively impact the character of her street as well as the value of her property. Most importantly, there is a huge difference between someone renting a room in their home to make ends meet, or renting their coach house and the scenario in the house on Ashland and perhaps the one next door to it. She asked that the Committee think about how they would feel if the house next door to them was functioning as an investment business without a license or oversight, as she bought her house 23 years ago under the assumption that this would not happen in an R1 District. She said the Ordinance does not address the issue and she doesn't understand why the drafters of the Ordinance think it is okay.

Ald. Rainey said she will not support anything that excludes other districts. She said she supports the regulation for vacation rentals but she finds it offensive that R1 is singled out. The children in R5 Districts are just as important as the children in R1 districts. She finds the attitudes of R1 elitist and she said there is a perception in the City of Evanston that homeowners and tenants are 2 different classes. She said the people who are renting their homes are not bad people; there are incidents that need to be stopped and she wants to help any way she can but will not support a law that discriminates between R districts.

Ald. Wynne said she understands Ald. Rainey's view. She said the proposed Ordinances do not solve the problem and they contain some terrible inconsistencies. She wondered why the existing ordinances are not able to deal with the problem on Ashland. She asked for an answer as to why the neighbors have not been able to have a meeting with the Law Dept. She said this problem needs to be solved because it will not be the last.

**Ald. Wynne moved to hold items P3 and P4 because of all the flaws described by the audience, seconded by Ald. Holmes.**

Ald. Rainey agreed that it needs to be held, but said the Committee must have a plan. Ald. Holmes agreed saying the Committee needs to work out the plan and give staff clear instructions. She suggested having a meeting with the neighbors to work out a plan.

Ald. Wilson said the City has an existing B&B ordinance and the proposed Ordinances’ purpose was to fill in the gaps. He wondered why there is difficulty enforcing the existing laws. He said the proposed Ordinances represent a ban with
unfair exceptions and he would like to see something that takes the problem and goes back to the existing ordinance. Ald. Wynne said the problems could be addressed by one of the ordinances regarding rooming houses or B&Bs and wants to know why the City is not enforcing the laws.

Ald. Wynne said she read Judge Shadur’s opinion and she does not believe it prohibits the City from enforcing existing laws. People buy homes in their districts because of their intended purpose. Mr. Fell bought his home in R2 so he could rent it. People buy their homes in R1 so they know that there will not be a hotel next to them. She suggested we take an example from what Wilmette does.

The Committee discussed how to address only the problem activities.

Ald. Holmes said it appears that the problem on Ashland is caused by the owners not being present.

Wally Bobkiewicz, City Manager, explained that staff has been trying to accommodate the requests of the Committee. He said, per Ald. Holmes' comment, if the owner/operator is required to be there, the Ordinance can reflect that but asked what to do with facilities not manned by the owner/operator, adding that the law must meet federal requirements. He suggested having a special meeting or scheduling this discussion on the next regular meeting. He said he senses that the owner-occupied issue is less critical and perhaps an amendment could further define a B&B or a Rooming House. He explained that the Law Dept. is concerned that the law is insufficient.

Grant Farrar, Corporate Counsel, said as the issue has evolved, Law Dept. staff has, in consultation with Mr. Griffin’s staff, tried to devise a regulatory scheme that would be as clear and comprehensive as possible. The issues in Ald. Rainey’s ward were considered by the federal court but also by the ZBA and the Law Dept. and the C&ED Dept. filed local ordinance violations that were heard by the ZBA, charging it as a lodging establishment. Those never gained purchase because the ZBA disagreed with the Law Dept.’s interpretation. The federal court matter has given staff further guidance. They looked at other jurisdictions that use vacation rental as a term of art because it gives the enforcement scheme some clarity. So as it has evolved, this pattern has been followed as it has been in other cities. In terms of the definition of a B&B, it says there is going to be a meal cooked on site, provided by the operator, and vacation rental operations may or may not serve breakfast, making the B&B ordinance difficult to apply/enforce. He said Home Occupation was discussed and the issue continues to evolve. He concluded that this is a very difficult issue to parse out and get a clear scheme in place for. There will be serious interpretation issues no matter how it is decided it will be enforced.

Mr. Bobkiewicz said staff will need to do better at providing a solution. Staff will review the existing ordinances and tighten them up and if it means an owner/operator must be there, they will add that in.
Ald. Wilson said he does not believe the problem is whether people are renting and occupying their spaces but the primary problem is when someone’s activity is disrupting the neighborhood. He suggested a $500 fine to the owner if a tenant makes too much noise and put a rule in place for disruptive behavior because the Ordinances do not address the issue of behavior. He said everyone deserves to live in a community that provides protection from disruptions.

Mr. Bobkiewicz said they will be happy to come back with language about disruption but he said he is hearing of a different type of disruption; a disruption of the community in the minds of some of the neighbors and it is more difficult to regulate. The issue is the mere fact that the house is being rented to transients, whether they are disturbing the peace or not and staff is trying to sort through how to address the fact that people believe their property values are being affected. He said the public policy question before you is whether or not it is appropriate in any R zone.

Ald. Wynne said that is precisely what her concern is. She agrees that bad behavior should not be allowed but the fundamental issue is the zoning ordinance. She noted that Evanston is the first community in Illinois to have a zoning ordinance, which is why Evanston is an interesting community with commercial near residential, but there are still boundaries. If they bleed into each other too much it will become intolerable. She gave the example of Houston, which is not well-zoned. She said it is great that people are coming to Evanston and contributing to our community but the question is whether we going to dissolve part of the zoning ordinance. That is the fundamental issue because people are feeling that the value of their property is being diminished because no matter how well behaved the people are, these are still commercial establishments next to single family homes in residential districts. Meanwhile, the problem on Ashland is an acute problem and needs to be addressed, so items P3 and P4 should be held until the next P&D meeting.

Steve Griffin, Director, Community & Economic Development Dept., suggested bringing back the definitions of a B&B and a Rooming House to explore where the gaps are.

Ald. Rainey asked that by the next P&D meeting staff has met with the owner of the property on Ashland to determine exactly what is happening there and perhaps a few other members of C&ED staff to find out if it is overcrowded and whether there are sufficient toilet facilities and how they are conducting their business. We may find out, as the neighbors are saying, that there are serious violations of the law that the authorities are not aware of. She said she would like a report from staff on the status of the property.

Ald. Fiske said zoning districts are important to people and what they can expect in their neighborhoods. She does not want to put a band aid on the problem but she wants to fix the zoning ordinance. Ald. Rainey noted that there are many high quality people renting as well as owning and she does not want them to be discriminated against.
The Committee voted unanimously 5-0 to hold Ordinance 35-O-13 and 1-O-13 until the next P&D meeting.

IV. ITEMS FOR DISCUSSION

There were no items for discussion.

V. COMMUNICATIONS

There were no communications.

VI. ADJOURNMENT

Ald. Rainey moved to adjourn, seconded by Ald. Holmes.

The meeting was adjourned at 8:44 p.m.

Respectfully submitted,
Bobbie Newman