

# COUNTY OF ALBEMARLE PLANNING COMMISSION

## EXECUTIVE SUMMARY

<b>AGENDA TITLE:</b> ZTA 2017-01 Residential Transient Lodging Work Session	<b>AGENDA DATE:</b> October 24, 2017
<b>PURPOSE OF WORK SESSION:</b> <ol style="list-style-type: none"><li>1) Review public feedback received from September transient lodging meetings</li><li>2) Provide feedback to staff to be used in the development of a draft ordinance</li></ol>	<b>ACTION:</b> X <b>INFORMATION:</b>
<b>STAFF CONTACT(S):</b> Rebecca Ragsdale, Elaine Echols	<b>CONSENT AGENDA:</b> <b>ACTION:</b> <b>INFORMATION:</b>
	<b>ATTACHMENTS:</b> Yes

**BACKGROUND:** At their March 8, 2017 meeting and discussion on the Community Development work program, the Board directed staff to draft amendments to the County's tax code for residential transient lodging ("Airbnb") and accelerate study of possible changes to the zoning ordinance. These requests were due, in part, to recent proposed changes to State Law (Senate Bill 1278) for residential transient lodging, changes to the Charlottesville zoning ordinance, and to the rise in popularity of hosting platform such as Airbnb/VRBO/Stay Charlottesville.

The Board recognized the need for work in this area with Comprehensive Plan strategies in both the Rural Area (Strategy 4c) and the Development Areas Chapter (Strategy 5e):

*Study the nature and extent to which transient lodging is currently taking place and consider whether policy or regulatory changes should occur to accommodate this use. If such changes are determined to not be needed or appropriate, develop and implement a plan to bring errant operators of transient lodging into conformity with the County's regulations in a timely fashion.*

The County's Strategic Plan also sets out the following objectives:

Thriving Development Areas: Attract quality employment, commercial, and high density residential uses into development areas by providing services and infrastructure that encourage redevelopment and private investment while protecting the quality of neighborhoods.

Rural Areas: Preserve the character of rural life with thriving farms and forests, traditional crossroad communities, and protected scenic areas, historic sites, and biodiversity.

Economic Prosperity: Foster an environment that stimulates diversified job creation, capital investments, and tax revenues that support community goals.

The Board had two work sessions (May 3, 2017 and July 5, 2017), for which the Planning Commission was briefed on May 23, 2017.

The [May 3, 2017](#) work session (Attachment A) included a review of current Zoning Ordinance allowances for residential transient lodging, update on compliance issues, taxation issues, and review of the Virginia Code provision for a short-term rental registry. Following their work session, the Board adopted a Resolution of Intent directing staff to work on a zoning text amendment for transient lodging.

At a [July 5, 2017](#) work session with the Board, staff presented additional zoning information, including research on how other localities are regulating this land use, a proposed public input process, and asked the Board to define the parameters of the zoning text amendment. (Attachment B)

The scope of the zoning text amendment is focused on two areas identified by the Board:

- 1) Consider amendments to deal with periodic whole house (owner not present)/apartment rentals
- 2) Consider expanding zoning regulations to include allowance of transient lodging in attached dwellings such as townhomes and apartments/condominiums.

**RESEARCH FROM REGULATIONS OF OTHER LOCALITIES:** Staff has researched regulations from other localities since March of this year. Results of this research are found in Attachment C. Because of the recent popularity of short-term home rentals, many localities are just beginning to set parameters around the use. Of the localities that staff was able to find, a great deal of variety in regulation exists. Some common themes were regulation on the number of rooms or the number of guests allowed; limitations on frequency of stays; safety requirements; and types of units allowed.

**PUBLIC INPUT:** Staff began a series of public input sessions in September. The first session was a roundtable specifically for tourist lodging hosts or those interested in pursuing the use. After the roundtable, the County hosted a series of Rural Areas and Development Areas input meetings in conjunction with Community Advisory Committees. At those meetings, staff presented information on the current zoning ordinance provisions for transient lodging and asked for feedback, using a dot exercise, on proposed changes to allow whole house rental and possibly allow rental in other dwelling unit types (attached units and apartments). The same information was provided on the County's website along with an opportunity for input. Public comments received on comment forms and the website along with a summary of the dot exercise/on-line survey are provided in Attachment D. The purpose of the questions was to ascertain whether there is support for possible changes to the regulations. Staff acknowledges that the results may not be representative of County opinion because no statistically valid survey was performed. The results are discussed in the section below.

**DISCUSSION:** Taking into consideration public comments, along with comprehensive plan and strategic plan objectives, staff has prepared recommendations for discussion and direction from the Commission. Recommendations are summarized below and also shown in a quick reference chart provided as Attachment E.

- 1) **Update Terminology- Replace "transient" lodging "bed and breakfast" terms with "homestay"**- One of the first items requested by the public was clarity in use of terms. The Zoning Ordinance uses the terms "transient lodging", "tourist lodging" and "bed and breakfast" to describe what is known as residential transient lodging. Much of the public, however, uses terms such as BnB, homestays, vacation rentals, tourist lodging, and short-term rentals. For clarity in this discussion, staff believes that the term, "homestay" should be used.

*Bed and breakfast:* A use composed of transient lodging provided within a single family dwelling and/or one or more structures that are accessory to the single family dwelling, having not more than five (5) guest rooms in the aggregate, and which also may include rooms for dining and for meetings for use by transient lodging guests of the bed and breakfast provided that the dining and meeting rooms are accessory to the bed and breakfast use. (Added 6-6-12)

*Tourist lodging:* A use composed of transient lodging provided within a single family dwelling having not more than five (5) guest rooms, where the single family dwelling is actually used as such and the guest rooms are secondary to the single-family use, whether or not the guest rooms are used in conjunction with other portions of the dwelling. (Amended 6-6-12)

*Transient lodging:* Lodging in which guest rooms are occupied for less than thirty (30) consecutive days. (Added 6-6-12)

Staff recommends a single term, "homestay," for this use with supplementary regulations for the

particular provisions in the Rural Areas and residential zoning districts for rental of guest rooms with the owner present or “whole house rental” where the owner is not present during rental.

- 2) **RURAL AREA-Whole House Rental (no resident manager present in the home)** - During the roundtable meeting at the start of the September series of public meetings, participants noted that public input questions on the topic of whole house rental should be separated between the RA and residential zoning districts, which is primarily the Development area. These distinctions are mainly due to the difference in property sizes and development patterns in the two areas. There are already separate provisions in the ordinance for the residential districts and RA district. The ordinance was amended in 2012 to add additional flexibility to the RA district.

As seen on the charts in Attachment D, over 85% of respondents to the questions indicated support for whole house rentals in the Rural Areas. Staff also heard concerns about potential commercialization of the Rural Area or investors buying properties solely for vacation rental purposes. These uses are not recommended for the Rural Area in the Comprehensive Plan. Trying to find the middle ground between these two ends of the spectrum is not easy; however, staff believes that a starting point for the discussion would be to limit whole house rentals in the Rural Areas to no more than 90 days of short-term rentals per year. This would equate to approximately 13 full weeks per year or 30 3-day weekends per year. Rural Area properties with more than one dwelling on a property can already rent out an entire house without limitations on the number of times per year provided that the owner/manager reside in one of the dwellings on the property. Staff recommends no changes to the requirement that at least one of the houses be used as a permanent residence.

Staff has heard from several out-of-town property owners that they would like to be able to rent their properties most of the year while having them available for periodic family use. Similarly, staff has heard from in-county property owners who do not live on the family property but would like to have whole house rentals available all year. Some of these in-county owners have multiple dwellings on a single parcel and would like to have whole house rentals for more than one house on the property without the need to have a resident manager on-site. While staff is sympathetic to the desire of family members to retain family properties, it is difficult to distinguish this scenario from an investor wishing to purchase rural area properties with multiple dwellings for the purpose of short-term whole house rentals as a business. The Commission may wish to discuss the “family property” scenario and provide additional guidance.

*Staff recommends no changes to the current requirements for homestay's in the Rural Areas, except that whole house rental without an owner or manager present be allowed and limited to no more than 90 days per year.*

- 3) **RURAL AREA-Homestays/Whole house rental on Adjoining Properties with the Same Owner-** Over the last year, staff has received a number of inquiries from property owners, especially farms/vineyards, who would like to have short-term rentals on a property that abuts the property where they reside. They believe the intent and purpose of the regulations can still be met regardless of whether a lot line exists. The homestay provisions in the RA already allow flexibility in where the owner or manager resides on a property. The owner or manager can reside in one dwelling and if there is another dwelling, up to five guest rooms may be in the second dwelling where no one resides. RA properties are also allowed up to two bed and breakfast uses so there can be potentially 10 guest rooms on a RA property. Based on the number of inquiries about this issue, staff added it to the public input meeting dot exercise. Based on the 61 responses received, 2/3 were in favor of allowing this increased flexibility in the RA zoning district. At the same time, there were also concerns expressed about commercialization of the RA or investors buying up properties solely for

vacation rental purposes. Staff believes that homestays on lots abutting where the owner or manager resides should be allowed provided the homestay would meet all other requirements and the same number of guests were possible if the property line were eliminated.

*Staff recommends that the current short-term rental opportunities in the Rural Areas be applicable to owners of abutting properties if, by elimination of the shared lot line, the same number of guest rooms is possible.*

- 4) **DEVELOPMENT AREA (RESIDENTIAL DISTRICTS)-Whole House Rental-** Whole house rentals in the Development Areas was supported by 75% of respondents. At the same time, need for more caution in allowing this use was expressed because of potential impacts to neighbors. Approximately 60% of those who supported whole house rentals in the Development Areas believed it should be allowed for a limited number of times per year. Concerns expressed for whole house rentals without a resident manager present were for parking, noise, and potential loss of affordable housing if investors were to buy up houses in neighborhoods for this use. Based on these concerns, staff believes that one approach to balance the concerns but still allow whole house rental in the Development Area would be to allow the use on a limited basis and only within a property owners primary residence. *While allowing homestays ("whole house rental") for a limited number of days per year is an option, it could be problematic from a tracking and enforcement perspective.* Some localities have required that homestays report the number of days per month the rooms or whole house were rented as they remit their transient occupancy tax each month. While reporting on the number of days per month a property is rented can be required, staff may have no way of accurately verifying that the property was not rented more than those days as a homestay. Also, tracking the number of days will have a staff workload implication.

*Staff recommends that whole house rental be allowed for no more than 60 days total per calendar year. No changes are recommended to the requirement that the single family dwelling be used as a primary residence.*

- 5) **DEVELOPMENT AREA-Homestay Rental of Guest rooms in attached housing types and Multifamily Units-** There was less consensus on allowing tourist lodging in other dwelling unit types. Approximately 35% of those participating in the study believed it should not be allowed at all in multifamily units (apartments/condos) while approximately 36% supported allowing it with an owner present during rental. Similar results were received for rental of townhouses or attached unit types with 30% not supporting the use and 31% supporting the use with an owner or manager present. Concerns with this use were raised about personal safety (unknown persons coming and going within a complex) and parking. Based on research on other localities' regulations, it is less common to allow short-term rentals in apartments/condos. Staff believes that based on the public's input, concerns for safety of permanent residents, and potential parking problems, that whole unit rentals in apartments or condominium complexes not be allowed. If a resident manager is present, one room could be rented for short-term rentals unlimited times per year. For townhouses or other attached dwellings, staff can support rental of one guest room an unlimited number of times per year. However, whole unit rentals should be limited to no more than 30 days per year. This would translate into approximately 7 weeks or 10 3-day weekends over the course of a year. No changes are recommended to the requirement that the unit be used as a primary residence.

*Staff recommends that residents of apartments, condominiums, townhouses, and attached houses be allowed to have one homestay guestroom in their unit with no restriction on the number of times this could occur per year, if the resident of the unit is present during the*

*rental.*

*Staff recommends that whole unit rentals of townhouses and attached houses (up to 5 guest rooms) be allowed without the presence of a resident manager for a maximum of 30 days per year.*

*Staff does not recommend that whole unit rentals of apartments or condominiums be allowed without the presence of a resident manager.*

**PROCESS IMPROVEMENTS:** While no Planning Commission input and action is required on process improvements, staff wanted to acknowledge the feedback and concerns received about application processing. Staff is working to update the County website, handouts, and improve communication among County departments to make the application process as seamless as possible for applicants.

**BUDGET IMPACTS:** Staff is unable to project at this time the amount of increased revenue and what resources would be required to collect the additional transient occupancy tax revenue and bring operators into conformity. Staff anticipates being able to accommodate an increase in tourist lodging applications with existing Zoning staff in Community Development.

**RECOMMENDATION:** Staff recommends that the Commission provide feedback to staff to be used in the development of a draft ordinance for a November 14 public hearing. If the Commission believes a November public hearing is premature, it could review the draft ordinance in a work session in November.

**ATTACHMENTS:**

- A. [May 3, 2017 Board of Supervisors Work Session Report and Resolution of Intent](#)
- B. [July 5, 2017 Board of Supervisors Work Session Report](#)
- C. [Other Localities Tourist Lodging Provisions](#)
- D. [Summary of September 2017 Tourist Lodging Public Input Meetings](#)
- E. [Summary of Recommended Zoning Changes](#)