

# COUNTY OF ALBEMARLE PLANNING COMMISSION

## EXECUTIVE SUMMARY

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| <p><b>AGENDA TITLE:</b><br/>ZTA 2017-01 Residential Tourist Lodging Work Session</p> <p><b>PURPOSE OF WORK SESSION:</b><br/>Provide feedback to staff to be used in the development of a draft ordinance</p> <p><b>STAFF CONTACT(S):</b> Rebecca Ragsdale, Elaine Echols</p> | <p><b>AGENDA DATE:</b><br/>December 19, 2017</p> <p><b>ACTION:</b> X      <b>INFORMATION:</b></p> <p><b>CONSENT AGENDA:</b><br/><b>ACTION:</b>      <b>INFORMATION:</b></p> <p><b>ATTACHMENTS:</b> Yes</p> |
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**BACKGROUND:** The Planning Commission last reviewed this topic on [October 24](#) in a work session. After reviewing prior work of the Board of Supervisors on [May 3](#) and [July 5, 2017](#), staff recapped its briefing to the Commission on May 23, 2017. Staff also provided the Commission information from a series of community meetings held in September for input into potential future changes to allow for more opportunities for bed and breakfasts (BnBs) and tourist lodging in homes. The Commission considered proposals from staff to amend the zoning regulations for tourist lodging.

### DISCUSSION:

The purpose of this work session is to provide additional information to the Commission and receive feedback on potential amendments to broaden opportunities for BnBs and accessory tourist lodging, which are terms currently used in the Zoning Ordinance.

Planning Commission discussion and recommendations on the suggested changes included:

| STAFF RECOMMENDATION FROM OCTOBER 24, 2017                                                                                                                                                                                                                                       | PLANNING COMMISSION COMMENTS WITH STAFF UPDATES                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
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| <u>Update Terminology</u> - Replace "tourist" lodging and "BnBs" terms with "homestay"                                                                                                                                                                                           | Supports change                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| <u>Rural Area</u> - Whole House Rental (no resident manager present in the home) be allowed and limited to no more than 90 days per year.                                                                                                                                        | Supports change with fewer days per year and if the number days per year is the same as that allowed in the Development Area.<br><br><i>(Staff researched other communities in Virginia which regulate whole house rentals and found that the Town of Blacksburg is the only locality which limits the number of days for whole house rentals to a maximum of 30 days per year. Other localities have a limit of 180 days per year. The limit of 30 days per year may be too restrictive for Albemarle County. Staff suggests that consideration be given to restricting the number of days per year to 45 with a limit of no more than 7 days per month.)</i> |
| <u>Rural Area</u> - BnB/Whole house rental on Adjoining Properties with the Same Owner- Staff recommended that the current short-term rental opportunities in the Rural Areas be applicable to abutting properties under the same ownership if, by elimination of the shared lot | Supports change with limit of no more than one bed and breakfast on abutting property in the County.<br><br><i>(Staff believes this new provision could be tracked through updates to the existing zoning clearance</i>                                                                                                                                                                                                                                                                                                                                                                                                                                        |

| <b>STAFF RECOMMENDATION FROM OCTOBER 24, 2017</b>                                                                                                                                                                                                                          | <b>PLANNING COMMISSION COMMENTS WITH STAFF UPDATES</b>                                                                                                                                                                                                                                                                                                                                                                                                   |
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| line, the same number of guest rooms is possible.                                                                                                                                                                                                                          | <i>process and application. Implementation of the state code provisions for an annual short-term rental registry will aid in administering this provision if adopted and will provide a mechanism for tracking if properties are sold to new owners.)</i>                                                                                                                                                                                                |
| <u>Development Area (Residential Districts) - Single Family Detached Units</u> - Whole House Rental allowed for no more than 60 days total per calendar year. No changes recommended to the requirement that the single family dwelling be used as a primary residence.    | Supports change with fewer days per year and provided that the number days per year is the same as that allowed in the Rural Area.<br><br><i>(Staff suggests that consideration be given to restricting the number of days per year to 45 with a limit of no more than 7 days per month)</i>                                                                                                                                                             |
| <u>Development Area (Residential Districts) - Tourist lodging rental of up to 5 guest rooms be permitted in townhouses and attached houses with the owner/manager present and whole house rental (no owner or manager present) of up to 30 days per year be permitted.</u> | Supportive of limited guest room rentals in townhouses, such as no more than 2 guest rooms and if the owner/manager resides in the unit during the rental.<br><br>Does not support whole house rental.                                                                                                                                                                                                                                                   |
| <u>Development Area (Residential Districts) – Tourist lodging rental of up to 1 guest room be permitted in a multifamily unit with the owner/manager present. Whole unit rental should not be permitted.</u>                                                               | Does not support guest room or whole unit rental in multifamily units.                                                                                                                                                                                                                                                                                                                                                                                   |
| <u>Local Contact Information</u> - Requirement that hosts provide local contact information to neighbors in case of emergency                                                                                                                                              | Generally supports this requirement.<br><br><i>(Staff notes that the County recently made abutting owner notice a requirement for farm wineries, breweries, and distilleries hosting events. Staff believes a similar provision for tourist lodging should be added and that notice provide the name and telephone number of a contact person who will be available to guests and neighbors should there be an emergency during whole house rental.)</i> |

In addition to discussion around the proposed text amendment changes, the Planning Commission discussed other comments and concerns, which are summarized with staff comment below.

| <b>PLANNING COMMISSION COMMENT/CONCERN</b>                                                                                                                                                 | <b>STAFF RESPONSE</b>                                                                                                                                                                                                           |
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| Concern that expanding tourist lodging opportunities in the RA does not incentivize the use over agricultural/conservation use of properties                                               | Tourist lodging is only permitted as an accessory use to a single family dwelling. Staff believes not allowing tourist lodging as a primary use (vacation rentals) helps limit investment/commercial type rentals.              |
| Consider whether RA residential subdivisions (parcels 2 acres or less) should be subject to the same regulations as the DA residential districts because they may be similar in character. | If the ordinance treats whole house rentals the same in both the RA and DA, no other changes would be needed. Parcels of less than 2 acres are not eligible for a second unit because they have no development rights.          |
| Consider whether tourist lodging should be limited to existing structures only in the RA                                                                                                   | Staff believes that making this change might not make a big difference. Very few requests for new buildings in the RA for BnBs have been made over the years. While limiting BnB use to existing structures would likely result |

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|                                                                                                                                                                                                                                 | in fewer BnBs in the RA, it would not eliminate the opportunity for a property owner to build a second home on an RA property if development rights were available and the property was subdividable.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| <b>PLANNING COMMISSION COMMENT/CONCERN</b>                                                                                                                                                                                      | <b>STAFF RESPONSE</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| Concern regarding the number of accessory structures that may be used for tourist lodging in the RA                                                                                                                             | Based on a review of RA applications to-date, only one property owner has requested to utilize up to 5 accessory structures for tourist lodging. All other applicants have utilized only one guest room, with bonus rooms above detached garages being the most common. Also, this limitation is beyond the scope of the resolution of intent the Board adopted                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| Consider whether property owner should be limited to one BnB/tourist lodging facility per owner in the County to limit the potential for commercial/investment.                                                                 | Staff agrees that such a limitation would help BnB and tourist lodging uses remain secondary to the primary home use. In the RA, this restriction would include the 2 <sup>nd</sup> house/set of rooms allowed if development rights are available.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| Consider whether expanding short-term rental opportunities will have a negative impact on affordable housing availability.                                                                                                      | Tourist lodging is only permitted as an accessory use to a single family dwelling. Allowing for vacation rentals (unlimited short-term whole house rentals) could potentially remove affordable units from the County's housing stock.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| What are the requirements for a resident owner/manager to confirm they reside on the parcel?                                                                                                                                    | At present, applicants for tourist lodging and BnBs must demonstrate that they reside in the unit at least half of the year. If there is any question as to whether a house is used as a primary residence, staff requires documentation such as a driver's license or voter registration from the applicant. In the cases of a tenant manager, staff requests a copy of the lease agreement for the tenant.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| Concern that expanding the allowances for tourist lodging may also increase the potential for nuisances on neighbors and there is no immediate Code Compliance Officer response to a complaint when it happens on the weekends. | <p>At present, complaints about noise and rowdiness after County business hours are typically made to the police. Staff believes that some complaints could be mitigated without involving the police if neighbors have a contact person to call during whole house rentals. Follow-up with the County's Code Compliance Officers on a weekday could then take place. Three substantiated violations could result in the BnB or tourist lodging permit being revoked.</p> <p>Staff currently investigates potential zoning violations on a complaint only basis. Complaint data since 2012 is provided as Attachment A. There have been 18 complaints total since 2012, with 12 of them reported in 2017. Of the total number of complaints received, 6 of those have been related to rentals in townhouses. Staff believes that there is an increase in complaints in 2017 because residents are becoming more aware of tourist lodging application requirements and the complaint line system. The County believes there will be more complaints initially than in the past but not continue as high as they are now.</p> |

| PLANNING COMMISSION COMMENT/CONCERN                                                               | STAFF RESPONSE                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
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| Consult with other localities on their tourist lodging regulations and enforcement experience.    | <p>Following the October 24 Commission work session, staff reached out to peer localities to discuss their experiences specifically with tracking, monitoring, compliance efforts and any enforcement experience. Due to the relative newness of this use, many localities are currently working to put standards in place and aren't yet able to provide much information on experience with new regulations. Staff continues to contact other localities to learn how they are handling the increase in popularity of this use along with gaps in compliance. Some places, such as New Orleans, are making proactive efforts to</p> <ul style="list-style-type: none"> <li>• Ensure that residential hosts have only a single listing, their own home.</li> <li>• Make platforms like Airbnb participate in enforcement by removing listings that do not have licenses,</li> <li>• Improve the data required from the platforms to make enforcement easier for the city, and</li> <li>• Ban commercial short-term rentals.</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| Plan for bringing noncompliant facilities into compliance. Tourist ("the current compliance gap") | <p>Staff believes that initially a proactive compliance effort will be needed to close the compliance gap. The effort would begin with publicizing information on the requirements for obtaining a zoning clearance and taxation requirements. Staff intends to host workshops(s), create interactive/video tools on regulations, and provide streamlined processes with on-line help.</p> <p>Having a proactive process for compliance will also require further discussion with the Board of Supervisors, who sets the Community Development work program priorities and allocates funding. A proactive program would involve the need for more staff resources initially to obtain contact information for hosts, advise them of permit requirements, and to handle the increase in applications or enforcement efforts, if needed. Additional funding would also be needed should the County decide to seek the services of companies that specialize in locating properties advertised for lodging. Staff believes that after the initial compliance efforts, applications and complaints may level off.</p> <p>Staff will work to streamline application activities and coordination with the Finance Department to make compliance easier. Staff will also be seeking ways to contact Airbnb and other hosting platforms directly to work cooperatively on compliance issues. Airbnb has a page where information on your localities regulations can be listed.</p> |
| Enforcement of new regulations for whole house rentals and townhouse guest rooms                  | Staff believes that several items will need to be in place to limit the number of violations and future complaints                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |

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|  | related to tourist lodging. The first item is to require that owners provide proof that they have contacted their neighbors to let them know about the proposed BnB or tourist lodging use and provide contact information in case of emergency. Secondly, the County should take advantage of the new state code provisions (Attachment D) and adopt a short term rental registry requirement so that a “three strikes and you’re out” regulation is in place. Third hosts need to report the number of days that whole house rentals take place. If the regulations limit the number of days per month as well as per year for whole house rentals, hosts could potentially report their whole house rental days with their monthly TOT tax. |
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In summary, staff is recommending the following changes for tourist lodging:

1. Replace the terms and definitions for “tourist lodging” and BnB with “homestay”.
2. Allow whole house homestays in the RA zoning district and all residential zones for no more than 7 days in a given month but no more than 45 overnight stays per year;
3. Require that homestays with whole house rentals provide neighboring residents local contact emergency information on the host doing the rental;
4. Allow up to 2 guestrooms for homestays in townhouses and attached units with the permission of the unit owner;
5. Allow no more than one homestay business per property owner (in the RA zoning district, this would continue the current practice of allowing a second homestay of up to 5 guest rooms, provided that development rights exist);
6. Allow for a homestay business in the RA zoning district to have a homestay on an adjoining lot if owned by the same person (as if the lot line separating the two parcels was not there)

These recommended changes for tourist lodging are provided in Attachment B.

**BUDGET IMPACTS:** Staff is unable to project budget impacts at this time; however, after the Planning Commission makes a decision on their recommendation for ordinance changes, staff will provide an estimate of additional staff resources needed.

**RECOMMENDATION:** Staff recommends that the Commission provide feedback to staff to be used in the development of a draft ordinance for public hearing.

#### **ATTACHMENTS:**

- A. [Zoning Complaint Data on Tourist Lodging/BnBs](#)
- B. [Summary of Recommended Zoning Changes](#)
- C. [Minutes from October 24, 2017 Planning Commission Work Session](#)
- D. [§ 15.2-983. Creation of registry for short-term rental of property](#)