



STAFF CONTACT: Lea Brumfield, Senior Planner II

PLANNING COMMISSION: February 1, 2022

BOARD OF SUPERVISORS: April 6, 2022

ZTA: 2021-04 – Homestay Updates

ORIGIN: The Board of Supervisors adopted a Resolution of Intent to amend the Zoning Ordinance on October 6th, 2021. (Attachment 1)

PROPOSAL: Amend the Zoning Ordinance to create consistency in setback regulations between districts, require buffer/screening requirements to homestays in the Rural Areas, allow owners of Rural Areas parcels of five acres or greater to request a waiver to allow a tenant resident manager in lieu of owner occupancy, and make structural and organization updates for clarity.

PUBLIC PURPOSE TO BE SERVED: This amendment is expected to provide consistency in the application of setback requirements and the availability of special exceptions for homestay resident managers, and reduce the resources required for processing special exceptions where regulations can otherwise mitigate the impacts of homestay uses. It is also expected to clarify the application of regulations through reorganization and rewording of the ordinance.

BACKGROUND:

In 2017, the Board directed staff to identify and implement any necessary changes to the County's regulations to address homestays, previously known in the zoning ordinance as "bed and breakfasts" or "accessory tourist lodging." Homestays are an accessory use permitted only in association with a single-family residence, allowing rental of guest rooms for less than 30 days at a time. Study of the issue led to a series of amendments to the County's taxation, health and safety, fire protection, and zoning regulations between 2017 and 2019, culminating with adoption of homestay regulations on August 7, 2019.

On June 3, 2020, staff provided the Board with updates on the application of the new regulations, including information on the progress of bringing new and existing homestays into compliance, proposed amendments to the ordinance, and a request for a process improvement to reduce staff and Board time required for special exceptions to reduce minimum yards. The proposed amendments were not pursued at that time, but the Board did agree to the proposed process improvement for special exceptions. This permitted special exception requests for required yards for homestays to appear on the Board's consent agenda, provided that staff, Board members, and abutting parcel owners had no objections to the proposal. At this time, the Board directed staff to return again the following year with additional updates.

On August 18, 2021, staff again provided the Board with updates to the homestay program. In this work session, staff gave updates to the compliance program, suggested initiation of an

amendment to revisit the requirement for 125-foot setbacks for homestay uses on Rural Areas district parcels, and suggested additional potential amendments to the regulations governing homestays, including clarification updates and the allowance of special exceptions to permit a resident manager on Rural Areas district parcels of five acres or greater. At this meeting, the Board directed staff to initiate a zoning text amendment for the recommended homestay ordinance changes.

On October 6, 2021, the Board approved a resolution of intent (Attachment 1) to:

- a. Provide structural/organizational updates, including re-ordering and re-grouping how the zoning regulations are listed and updating for clarity any terms that are not consistent throughout § 18-5.1.48.
- b. Replace the required 125' setback applicable to homestay structures and parking in the Rural Areas (RA) district, with primary structure setbacks of 75' Front, 35' Rear, and 25' Side.
- c. Add buffer/screening requirements consistent with special exception setback approvals.
- d. Allow owners of parcels five acres or greater to request a waiver of the owner occupancy requirement, to instead allow a tenant resident/manager. Currently, only parcels less than five acres or those zoned residential may seek such a special exception.

DISCUSSION:

Current regulations permit property owners of Residential or Planned Development districts, or parcels less than five acres in the Rural Areas district to request special exceptions to:

- Increase the permitted number of guest rooms from two to five on parcels
- Use an accessory structure for homestay uses
- Reduce required minimum yards
- Permit a resident manager to live full-time on the parcel in place of an owner

These regulations permit property owners of parcels of five acres or greater to request special exceptions to:

- Use an accessory structure built after August 7, 2019
- Reduce required minimum yards

Minimum Yards and Screening

The most commonly requested and approved homestay special exception has been to reduce the minimum yards required for homestays per County Code § 18-5.1.48(j)(1)(v) and § 18-5.1.48(j)(2)(v). As of January 26, 2022, the County has received 47 applications for reductions in required yards, 38 of which were approved. One was deferred, two were denied, one was withdrawn, and the remaining five were under review.

Approvals of reduced minimum yards have consistently included a condition of approval for screening consistent with that applicable to Commercial uses adjacent to RA properties, referencing the minimum requirements of section 32.7.9.7(b)-(e). Staff estimates that the special exception review process takes an average of 20-30 hours to complete, from preapplication meetings with applicants through Board action.

To ensure appropriate use of County resources while minimizing the potential impacts to neighbors, staff recommends the reduction of Rural Areas district homestays minimum yards and the addition of a screening requirement for homestay uses located less than 125 feet from

parcel boundaries. This would reduce the minimum yards from 125 feet from the front, sides, and rear, to primary structure setbacks of 75 feet from the front, 25 feet from the sides, and 35 feet from the rear.

These setbacks are consistent with the setbacks for Major Home Occupations in the Rural Areas district, which permits home occupations with up to two employees and up to 30 vehicle trips per week in structures meeting primary structure setbacks. However, the addition of the screening requirement addresses potential neighbor concerns and codifies existing approval patterns.

Resident Manager Special Exception

The application of the homestay ordinance as written excludes Rural Areas district parcels of five acres or greater from requesting special exception to permit a resident manager to occupy the parcel in lieu of the property owner. However, many larger Rural Areas district parcels, including generational family estates and family farms, are held by business entities for tax or liability reasons.

Large, commercial transient lodging operations are contrary to the Comprehensive Plan goals for the Rural Area, and hotel or resort-style lodging is not permitted in the Rural Areas zoning district. Avoidance of these uses has guided previous discussions on the topic of permitting resident manager special exceptions on large Rural Areas parcels. However, staff recommends the allowance of special exception requests for Rural Areas district parcels of five acres or greater to avoid excluding family farms from homestay uses and to encourage the continued preservation of large Rural Areas parcels.

All special exception requests must be acted upon by the Board of Supervisors, allowing scrutiny of all resident manager requests to ensure any potential resident manager special exception would be consistent with the goals of the Comprehensive Plan and consistent in size and scale with the surrounding neighborhood. Additionally, the Board may impose conditions of approval on special exceptions to further ensure compliance with the goals of the Comprehensive Plan and the intended uses of the parcel's zoning district.

Review of factors to be considered

Zoning Ordinance section 33.6(B) establishes factors to be reasonably considered by the Planning Commission and Board of Supervisors in the review of ZTAs. The factors applicable are reviewed below:

i. the existing use and character of the property

This ZTA encourages continued existing residential uses of parcels, and does not permit changes to the character of the property, explicitly restricting homestay uses and special exceptions for homestay uses to be "be consistent in size and scale with the surrounding neighborhood."

ii. the Comprehensive Plan

This ZTA supports the Comprehensive Plan recommendations for "supportive uses for agriculture, tourism, and crossroads communities," in the Rural Area, including Strategy 2b of Objective 7 of the Rural Area Chapter, which suggests: "Provide information to property owners in the Rural Area on alternatives to subdividing their land, including donating conservation easements and use value taxation." Allowance of a special

exception resident manager on large Rural Area parcels may permit parcels to become income-producing, avoiding the need for subdivision.

iii. the suitability of property for various uses

This ZTA does not permit any additional uses, and only clarifies or modifies the regulation of existing permitted uses.

iv. the trends of growth or change

Albemarle County has consistently experienced growth in demand for transient lodging, partly in support of agricultural tourism. This ZTA would permit some alleviation of that demand.

v. the current and future requirements of the community as to land for various purposes as determined by population and economic studies and other studies

This ZTA does not address future requirements of the community as to land for various purposes, only addressing existing permitted uses.

vi. the community's transportation requirements

This ZTA does not impact the community's transportation requirements.

vii. the requirements for airports, housing, schools, parks, playgrounds, recreation areas, and other public services

This ZTA does not impact requirements for public services.

viii. the conservation of natural resources

This ZTA does not impact the conservation of natural resources.

ix. preserving flood plains

This ZTA does not impact the preservation of flood plains.

x. protecting life and property from impounding structure failures

This ZTA does not impact impounding structures.

xi. preserving agricultural and forestal land

This ZTA facilitates the preservation of agricultural and forestal land by permitting large, Rural Areas parcels to apply for a special exception for a resident manager, potentially increasing the income-producing capabilities of parcels and avoiding subdivision.

xii. conserving properties and their values

This ZTA facilitates conservation of properties and their values by permitting large, Rural

Areas parcels to apply for a special exception for a resident manager, potentially increasing the income-producing capabilities of parcels and avoiding subdivision.

- xiii. encouraging the most appropriate use of land throughout the County

This ZTA does not impact appropriate use of land, as all uses addressed therein are accessory uses to existing primary uses.

STRATEGIC PLAN:

This ZTA supports the County's Values of Stewardship by clarifying regulations and reducing County resources for special exceptions to reduce minimum yards for homestays.

BUDGET IMPACTS:

The adoption of this Zoning Text Amendment is anticipated to decrease staff time required for special exceptions to reduce minimum yards for homestays.

RECOMMENDED ACTION:

Staff recommends adoption of the Zoning Text Amendment as outlined in Attachment 3.

ATTACHMENTS:

Attachment 1 – [Resolution of Intent](#)

Attachment 2 – [Summary of Changes](#)

Attachment 3 – [Proposed Ordinance Changes](#)

Attachment 4 – [Clean Proposed Ordinance Language](#)