



STAFF REPORT ON PETITION FOR ZONING ORDINANCE TEXT AMENDMENT

PLN-ZOTA-24-00007: AMENDMENT TO SHORT TERM RENTAL REGULATIONS

APPLICANT: URBAN COUNTY COUNCIL

PROPOSED TEXT: SEE ATTACHED (Note: **Red** text indicates an addition to the existing Zoning Ordinance; **Blue** text indicates staff alternative text; text ~~stricken through~~ indicates a deletion)

STAFF REVIEW:

On September 26th 2024, the Urban County Council passed a resolution initiating a text amendment to the Zoning Ordinance for Planning Commission review and recommendation regarding updating regulations regarding short term rentals (Resolution 479-2024). Within the resolution, the Council provided modified language that is designed to prevent their overconcentration, and provide a more consistent framework for the Board of Adjustment to utilize when evaluating the short term rental applications for conditional use permits. The following report reviews the proposed updated Zoning regulations for short term rentals in our community and makes recommendations to modify the proposed Zoning Ordinance text.

TEXT AMENDMENT PROPOSAL

The Urban County Council proposed numerous changes to the regulation of short term rentals, both in terms of the land use regulations and special fee license regulations after one year of implementation. The first change is the removal of the ability to utilize both the principal dwelling as well as an accessory dwelling unit (ADU) for short term rentals. This change will result in being able to use one or the other for the use, but not both.

Next, the proposed text addresses the ability to operate a short term rental within the lower intensity business and professional zones (B-1, P-1, MU-1, MU-2, and MU-3 zones). The current regulation allows for 25% of the units in a mixed use development to be used as STRs; however, in instances where there were three (3) or fewer units, none could be used as short term rentals. The proposed text provides that there be one (1) short term rental allowed for properties that do not have enough units to meet the 25% maximum requirement.

The council-initiated text also makes alterations to the maximum occupancy limit and calculations. The current requirement allows for an occupancy of two individuals per bedroom, plus an additional four individuals, or a total of twelve (12), whichever is less. The proposal reduces the occupancy to only allow for two additional individuals, and drops the overall cap from twelve (12) individuals to ten (10) individuals.

The fourth change to the current regulations deals with the framework in which the Board of Adjustment considers short term rental requests. The current regulations outline several items for the Board of Adjustment to consider as they weigh each request on a case-by-case basis. The proposed text adds a provision to consider whether the property is in an area that is vulnerable to



involuntary displacement due to socio-economic demographics. Another added provision directs the Board to consider whether the use is located in an area containing a mixture of land uses or zoning categories that would create a high demand for short term rentals. The updated text also takes an existing provision that directs the Board to consider the number of short term rentals within 1,000 feet of the property, and turns them into a 500-foot distance requirement, and a three percent (3%) concentration limit for dwelling units within 1,000 feet. The proposal does offer a pathway to seek relief from these two requirements by demonstrating that the property meets one of four specific criteria that relate to the context of the surrounding area; however, the applicant must also demonstrate that the proposal will not lead to an overconcentration in the area or adversely impact the affordable housing stock of the area.

EVALUATION

Staff is proposing several modifications to the Urban County Council's initial text. The first change proposed by Staff is a reduction in the recommended maximum concentration for short term rentals from three percent (3%) to two percent (2%). This proposed change is in response to an increase in the specificity of the data regarding short term rentals. Previously, the concentration calculation was based on the number of residential parcels within the buffer area; however, this metric did not accurately account for parcels with multiple dwelling units present. The updated data calculation can account for all addresses within the buffer area, and as a result, the concentration percentages for short term rental requests were significantly lowered when recalculated under the updated method. The Staff's proposed two percent (2%) concentration is aimed at providing a standard that accounts for that change while not allowing for adverse concentration of short term rentals in the area.

The council-initiated text proposes that the Board consider whether a property is located in an area that has a mix of zones or uses that may create high demand for short term rentals. Staff considered this language to be too vague, and instead proposes language that directs the board to consider the proximity to the downtown core, or other mixed-use or entertainment uses, which are one of the primary drivers of demand for short term rentals.

The next change proposed by Staff is the modification of the criteria that are evaluated by the Board of Adjustment when considering petitions for short term rentals that are either located within five hundred (500) feet of another existing short term rental, or would exceed the allowable concentration percentage. The Council-initiated text provides the ability to request relief of these provisions when a plan encourages and supports Short Term Rentals in a neighborhood. Staff recommends the removal of this exception, as the language is vague and the utilization of housing for STRs is in conflict with Comprehensive Plan Goals, Objectives, and Policies that speak to expanding housing stock and availability.

Finally, staff recommends the removal of the reference to "affordable" housing within the Board of Adjustment's required findings for individuals seeking exceptions to the concentration or spacing requirements. This provision states that the applicant shall demonstrate that the proposal will not adversely affect the "affordable housing stock" in the area. It is not clear if this section is intended to reference the technical definition of Affordable Housing, where the home is being rented at eighty percent (80%) Area Median Income (AMI), or if it is intended to address housing that is more affordable in the general sense. By deleting this reference, it provides the Board with the ability to



discuss the proposal's impact on the housing stock of the area more broadly, without being limited to the technical definition of "Affordable."

Staff is supportive of this effort to modernize the regulation of short term rentals in the Zoning Ordinance to reflect a relatively new and popular use that has both residential and commercial qualities and historically been difficult to categorize and regulate, not only in Lexington-Fayette County, but in cities across the country. The proposed regulations place tighter restrictions on how the uses must operate, reduce their concentrations, and place a greater responsibility on applicants to demonstrate that their proposed short term rental will not adversely affect the surrounding area.

The PROPOSED STAFF ALTERNATIVE TEXT is attached for further review and consideration.

The Staff Recommends: **Approval of the Staff Alternative Text** to the Zoning Ordinance, for the following reasons:

1. The proposed text amendment with staff alternative text provides for greater protections against overconcentration of short term rentals within neighborhood areas.
2. The proposed text amendment with staff alternative text provides enforceable limitations on hosted and un-hosted short term rentals in order to prevent adverse impacts on the health, safety, and welfare of the local community and visitors to the Urban County.

