

June 9, 2017

## **MEMO**

From: Land Use Committee

To: Town Council

CC: Town Manager

RE: Land Use Committee Comments Regarding ZTA for Short Term Residential Rentals

At the Town Council's request, the Land Use Committee (LUC) has reviewed Montgomery County's proposed Zoning Text Amendment 16-03 regarding short term residential rentals (STRRs) and discussed possible actions the Town could take

### **What is a short-term residential rental?**

A short term residential rental (STRR) is the rental of all or part of a dwelling unit for periods of less than 30 consecutive days

### **Overview of the proposed zoning regulations pertaining to short term residential rentals**

The Planning Board considered the proposed Zoning Text Amendment (ZTA) 16-03 at its May 11, 2017 meeting. The staff report (available at: <http://www.montgomeryplanningboard.org/agenda/2017/documents/StaffReportSTRRs.pdf>) includes a description of conditions that other municipalities have placed on STRRs. The County Council will consider the ZTA (now numbered 17-03) at a public hearing on July 18, 2017.

The proposed ZTA represents planning staff's recommendation that STRRs be considered "accessory" to the primary residential use of a property and allowed as a limited use in the "Accessory Residential Uses" use group of Section 59-3.1.6, Use Table. (Note: A limited use is one that is permitted if it meets the limited use standards specified in the zoning code for that use. A conditional use is one that is permitted if it meets the conditional use standards specified in the zoning code and has been approved by the Hearing Examiner.)

Conditions can be placed on uses classified as limited uses. Planning staff recommends the following conditions be placed on STRRs:

- A property that will be used for STRRs must obtain a county license for the use (renewable annually).
- A property with an accessory apartment cannot be used for STRRs.
- The home must be the primary residence of the host.

- The applicant must provide proof that the abutting and confronting neighbors have been notified of the application for an STRR license.
- Limit the use of a property for STRRs to 90 days per year.
- Overnight guests are limited to a maximum of 6 guests 18 years and over (no limits on those under 18 years) and 2 overnight guests per bedroom.
- Require one off-street parking place per contract unless the listing states that vehicle parking is prohibited.
- Require that only the overnight guests are allowed on the property.
- Require the host to maintain a list of overnight guests.
- Require the host to provide guests with contact information for a designated representative who resides within 15 miles of the property and is available to deal with emergencies if the host is not present.
- Require the home to have working fire extinguishers, smoke detectors, and where appropriate, carbon monoxide detectors.

### **Testimony of Bethesda Chevy Chase municipalities**

The LUC reviewed the testimony presented to the Planning Board by Chevy Chase Section II, Somerset, and Chevy Chase Village.

- Chevy Chase Section II does not think that STRRs should be allowed in the R-60 zone as a limited use because of potential negative impacts on neighborhood character. They asked that STRRs be allowed as a conditional use with a limit placed on the number of STRRs in an area as is done for accessory apartments, and strong enforcement measures be put in place to ensure the limited use standards are complied with. They also commented that it was not possible to fully assess the ZTA because the enforcement and licensing regulations for STRRs (Bill16-02)) were not presented with it.
- Somerset also testified against the ZTA because of potential negative impacts on the character of the Town. They objected to having compliance with the limited use standards be self-regulating, to neighbors not being offered any opportunity to object to a STRR license, to re-licensing not being contingent on proof of compliance with the use standards, and to not having the enforcement regulations presented with the ZTA. They also thought it unfair that Home Owner's Associations could prohibit STRRs, but municipalities cannot. .
- Chevy Chase Village generally does not think that STRRs will be a problem and approved of STRR licensing but requested that municipalities be noticed of license applications and also noted that the enforcement appeared weak.

### **LUC Conclusions**

The LUC concluded that the County intends to legalize STRRs and that allowing them as a limited use, at least at this time, is unlikely to have negative impacts on the character of the Town and rentals that do occur are likely not to be problematic for the neighbors (with the possible exception of parking). STRRs are a reality at this point in time and it seems desirable for the County to license them for safety and revenue reasons. Thus, we concurred with the Village of Chevy Chase's views rather than the more negative views of Chevy Chase Section III and Somerset. We agreed with the other municipalities that one of the conditions should be that municipalities are notified of license applications and that enforcement of the limited use standards is important. We also agreed that the enforcement regulations should be presented concurrently with the ZTA so that their adequacy can be assessed.

The LUC notes that parking could pose a problem with STRRs. The proposed ZTA requires one off-street parking space per contract unless the listing states that parking is prohibited. If this condition is adhered to and only one car arrives per contract, parking should not be a problem for STRRs. However, renters may bring vehicles even if told they are prohibited figuring they will find parking somewhere. Also, it seems plausible that a group with more than 1 car could take a rental on a house (up to 6 adults and uncounted children are allowed). The Town's permit parking regulations would apply to STRR vehicles in permit areas, though we know there isn't much enforcement and visitor passes can be requested. On non-permit streets there are no restrictions on parking. On many Town streets, parking space is tight, so if the off-street parking conditions are not adhered to, STRRs could cause parking problems. If complaints begin coming in about parking problems on a street, the Town can check its STRR license list (see recommendation below) and follow-up to determine if it is due to the STRR. If the STRR parking is in violation of the County's license conditions, the Town could file a complaint with the property owner and the County.

## **LUC Recommendations**

### Prior to the July 18, 2017 County Council public hearing of ZTA 17-03:

- Consider publicizing the proposed ZTA and inviting residents to submit comments to the Town. Possible mechanisms include: the Forecast, The Town Crier, an agenda item at the Town Council meeting, or an informational meeting.

### Recommendations regarding Town testimony for the July 18, 2017 County Council hearing.

- Submit written testimony similar to the testimony the Village has already submitted.

- The limited use standard requiring that municipalities be noticed of license applications may be in ZTA 17-03, if not the Town should request it be added).
- Request that the following additional limited use standard be specified in the ZTA: Abutting and confronting neighbors must be provided with an emergency contact person if a short term rental is occurring and the resident is not going to be present.
- Request that the following be included in the bill containing the enforcement regulations::
  - Provisions for enforcing the requirement that property owners obtain a license,
  - Enforcement provisions that go beyond self-regulation.
  - One of the concerns expressed by municipalities was that the license and enforcement regulations bill was not presented along with the ZTA as was done previously, making it difficult to see how this all would work. The Town could support their request that both pieces be submitted simultaneously.

#### Recommendations if the ZTA is adopted

- Maintain a list of residents who have short term rental licenses (this assumes the Town is notified of license applications). This will enable the Town to monitor the number and location of STRR licenses in the Town to see how much the new regulations impact the Town. Additionally, knowing which properties are licensed for STRRs should help the Town respond appropriately to any complaints received from neighbors regarding activities at the property or about parking on their street.
- Maintain a record of any complaints made to the Town about short term rentals, licensed or not.
- At this time leave licensing and administration of STRRs to the County. The Town does not have zoning authority so cannot block STRRs if they are allowed in the County zoning code. The Town may be able to require a Town license; we would need to check with Ron to be sure. However, at this time, there does not seem to be any advantage in requiring a Town license. If problems are identified in the future, the Town can review to see what actions could provide relief.
- Publicize the regulations and encourage residents who are using their homes for STRRs to apply for licenses.