



**ARLINGTON COUNTY, VIRGINIA**  
ARLINGTON COUNTY PLANNING COMMISSION

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CLERK

November 30, 2016

Arlington County Board  
2100 Clarendon Boulevard  
Suite 300  
Arlington, Virginia 22201

**SUBJECT:**           **2. ZOA-2016-11**, Amendments to the Arlington County Zoning Ordinance to define a short-term residential rental use (accessory homestay), allowed as a home occupation in residential dwelling units, and to establish use standards for this use.

**RECOMMENDATIONS:**

**The Planning Commission recommends the County Board:**

**Adopt the ordinance to amend, reenact and recodify the Arlington County Zoning Ordinance to define a short-term residential rental use (accessory homestay), allowed as a home occupation in residential dwelling units, and to establish use standards for this use, as shown in Attachment A and the staff report dated November 21, 2016 with the following amendments:**

- 1. Delete §12.9.12 A.7 and any reference to regulation of service of food in an accessory homestay.**
- 2. Eliminate the owner requirement to allow tenants, subject to the conditions of their lease, to apply for an accessory homestay permit.**
- 3. Place no limit on the number of contracts permitted for a dwelling used for accessory homestay purposes.**
- 4. Direct staff to create a coordinated inter-departmental application process to facilitate a single, seamless application that would meet both zoning and business licensing requirements.**

Dear County Board Members:

The Planning Commission heard this item at its November 30, 2016 public hearing. Deborah Albert, Department of Community Planning, Housing and Development (CPHD) Planning gave a presentation on the background of the proposed amendments.

### **PUBLIC SPEAKERS**

There were 16 public speakers for this item, many of them urging provisions that would in different ways expand the scope of the RTA. Planning Commissioners supported some of these suggestions, as summarized below. PC letters normally do not outline public speaker statements. However, due to the compressed time-frame for decision-making, a summary of these public comments may be useful to Board members.

James Waters, representing First Financial Holding Corporation, has renovated and rented units and has been paying the transient tax to the County. He feels the outreach should have included the people paying the transient tax. He has renovated properties for a number of years and believes investors should be included under the new rules.

Greg Holcomb, representing the Vacation Rentals Managers Association, objected to the current proposal, because there are small differences between short-term and longer term (over thirty days) rentals. Other jurisdictions do not ban short-term rentals, and out of state owners are banned under the current proposal from using their properties as they wish. On affordability, the use in question is only 4% of the housing stock, and if these all went on the market, there would be no difference in the market.

Jennifer From is a resident with a home with 5-6 bedrooms who rents through AirBnB to foreign students and has hosted several unrelated people at the same time. She objected to the idea of one contract per home. She said she failed to understand the difference between a few days or 30 days and prefers longer term stays. Allowing both long- and short-term stays are a good way to spread out housing availability.

Krista O'Connell is an AirBnB super host and objected to the regulations because it makes it almost impossible to make rent money. She started renting a year ago and has had a great experience meeting guests. She is worried about the regulations requiring a permit and inspection. She rents her apartment with the owner's permission. (The owner is her grandmother.) If government is willing to look out for the interests of large corporations such as Vornado, small business interests should also be protected.

Aaron Nisenson hosts AirBnB guests in a house in Clarendon and spoke on behalf of small owners who use this service. He has rented out his house as a long term rental with almost no restrictions, and is concerned about the future of employment, the County and the economy.

David Lippert has been an AirBnB host for the last year and a half and asserted that the single contract requirement is too restrictive. He also said that a two-year permit would be more reasonable.

Andy Greenwood is a new resident and pointed out that middle class people use homesharing to help afford their properties. He has hosted people from all over the world. He said it is important to preserve affordable, long-term housing in neighborhoods. Homesharing makes homeownership possible. He asks that Arlington should not make it any more difficult for owners.

Teresa Murphy said she makes muffins for their guests, and is concerned about the food rules, but otherwise supports the proposed regulations, thinks that it adds protections, and in addition would be happy to pay a tax.

Kalpana Ramiah said there had not been enough outreach. She runs a small business, which would be threatened by the new rules. She said her neighbors have no problem with their practice. Providing home cooked meals is a feature of their AirBnB, and the fees they garner are used to maintain the house. They donate to charity.

Alejandra Underwood said they have been hosting people, and have been paying federal and state taxes. They bought a second house because they knew they'd be able to rent it on AirBnB. If the large apartment buildings can do it, small owners should also.

Timothy Underwood supported his wife. He is a reservist working to end veteran homelessness. If the "sanction" (new rules) are imposed, he would have to move out of Arlington.

Jim Londergan spoke against the idea of allowing only one contract, and the proposed rules for providing food. He has a professionally kept property and is worried about putting a lot of government into homes. It's already difficult to live in Arlington and this makes it more difficult and it is a slippery slope. Only a minimal fee should be required for a permit, which should be required for a longer term.

Raj Ratwani stressed the need for short-term rentals for families. Daycare costs are \$24,000 a year and despite good jobs, it is a struggle to make ends meet. Supplementary income is a way to remain in Arlington.

James Gaites said he has a three-bedroom townhouse. He said the idea that the new rules are meant to protect the character of the neighborhood, and health and safety is malarkey. He said owns a rental property in Maryland, and he lives in Arlington. His only option is to rent out one or more of the rooms. He said he believes he is an unpaid member of the Arlington County department of tourism, rewarded with more regulation and taxes. He urged the Board to vote against this unnecessary intrusion into the lives of taxpaying citizens.

Will Fagg is a superhost in another jurisdiction and spoke on behalf of the AirBnB community. He said he has been a host over 4.5 years and has had the honor of seeing the business model grow. He expressed concern about overreaching regulation. There are positive effects on the community including the benefit of hosting D.C. guests and giving them a familiarity with the local area, which helps the economy. He expressed concern about the food rules. There is a cottage law to allow creation of food at home, and so he does not understand how food provision for accessory homestay would be different.

Jim Presswood said he is an aspiring AirBnB host and believes the proposed restrictions are overly onerous.

### **REVIEW PROCESS**

Commissioner Siegel reported that ZOCO held two meetings on October 19 and November 15. During the first meeting, staff introduced a matrix that contained the RTA and scope of the proposed amendments, which had been previously defined by the Board. During the November meeting, staff presented data from an online survey, which allowed the committee to get an initial look at community concerns. Commissioner Siegel thanked staff for the vigorous outreach they had conducted. She suggested that the Commission focus its discussion on Attachment D of the staff report. She noted that the matrix cells colored light pink were those for which the RTA allowed some flexibility. She added that she thought it would be appropriate for Commissioners to also focus on other issues, where they felt comments would assist the Board.

Commissioner Iacomini reported on behalf of Commissioner Schroll that the Transportation Commission advised that the ordinance should not require parking, nor allow property owners to create additional parking spaces to accommodate accessory homestay activity.

### **PLANNING COMMISSION DISCUSSION**

The Planning Commission discussed the proposed changes.

#### *Zoning Districts*

The planning commission agreed with the staff proposal, and that no additional districts need be added to the proposed amendments.

#### *Owner occupancy and primary residence*

Commissioner Gutshall raised doubts about discouraging the purchase of properties for investment purposes. He also questioned whether there really should be a distinction between owner and renter occupied properties, since a renter could be allowed to engage in accessory homestay through lease provisions with an owner. Ms. Albert responded that discouraging the purchase of residential properties for commercial investment purposes is consistent with the Comprehensive Plan. Also, Ms. Albert clarified that as currently written, the proposed changes would prevent apartment renters from the new use, but might not prevent a condominium owner renting out his apartment, because the proposed amendment imposes no limits or other provisions on home owner associations.

Commissioner Hughes asked if there is a definition of “owner” in the zoning ordinance. Ms. Albert responded that commonly understood terms are not defined.

Commissioner Siegel asked whether allowing renters to undertake accessory homestays as suggested by Mr. Gutshall, was outside the scope of the RTA. Ms. Albert responded that it was. The scope of the RTA included owner-occupied homes and units only. Rentors would be outside of and enlarge the scope. Under the rules, the RTA would have to be readvertized. However, this does not preclude the PC from making recommendations that are outside of the scope of advertising. Those changes would then need to be advertised

*Maximum number of lodgers and number of simultaneous contracts.*

Commissioner Siegel asked whether expanding the number of contracts would be outside the scope of the RTA. Ms. Albert responded that it would be outside the scope. She added that staff had included a limit on the number of simultaneous contracts as a way to reduce the number of comings and goings, making an accessory homestay use less like that of the more commercially intense use, such as a hotel. Commissioner Iacomini suggested that limiting the number of contracts doesn't necessarily limit the comings and goings.

*Family Caregiver Suites*

Commissioner Siegel asked whether owners could convert caregiver suites into units for short-term rental. Ms. Albert responded the units could be converted under other County rules.

*Food Service*

Commissioner Sockwell asked if staff had had additional thoughts on refining the prohibitions of food service. Commissioner Hughes asked for clarification on related health code regulations. Ms. Albert responded that the County Board has some flexibility, and that staff had evaluated the range of currently allowed uses. She noted that the food service provisions were based on land use, and not public health concerns.

*Accessory Dwellings*

Commissioner Iacomini said there is a potential for accessory homestay use to reduce the housing stock of affordable accessory dwelling units in the County. Commissioner Brown pointed out there are very few accessory units in the County. Staff added there are 17 permitted accessory dwelling units in the County currently. Commissioner Iacomini pointed out that the workplan for affordable housing includes a way to recommend different criteria to make accessory dwelling units more prevalent in the County.

*Accessory homestay permit*

Commissioner Gutshall asked if there was a specific fine for violation of the proposed changes, and why the permit is valid for one year. Ms. Albert said there are generally set fines that are not distinguished by use, and that the strategy for enforcement works toward obtaining compliance prior to levying fines. She added that the on-year recommendation was designed to be consistent with the business license requirement, which is also permitted for one year.

*Taxes*

Commissioner Gutshall asked about the taxes. Ms. Albert responded that the staff focus was on land-use, and the proposal does not call for taxes. It would be up to the County Manager if there were to be future follow-up. However, the County Manager has been clear that this initial look at the issue should be on land-use issues, and not revenue generation.

*Affordability*

Commissioner Gearin suggested that it would be important to keep an eye on the impact of the new rules with respect to housing availability—will the new rules diminish the stock of affordable housing? She also asserted that if homeowners can take advantage of the opportunity, then renters should be able to do the same.

### **PLANNING COMMISSION MOTIONS**

Commissioner Siegel moved that the Planning Commission recommend the County Board adopt the attached ordinance to amend, reenact and recodify the Arlington County Zoning Ordinance to define a short-term residential rental use (accessory homestay), allowed as a home occupation in residential dwelling units, and to establish use standards for this use, as shown in Attachment A and the staff report dated November 21, 2016. Commissioner Gutshall seconded the motion.

1. Commissioner Gutshall moved that the Planning Commission recommend the County Board delete §12.9.12 A.7 and any reference to the regulation of food service in the rules for accessory homestay.

The Planning Commission voted unanimously to support the motion with Commissioners Iacomini, Gutshall, Sockwell, Siegel, Brown, Hughes, McSweeney, and Gearin in support.

2. Commissioner Gutshall moved that the Planning Commission recommend the County Board eliminate the owner residency requirement to allow non-resident owners or tenants, subject to condition of their lease, to apply for accessory homestay permits. Commissioner Siegel seconded the motion.

Commissioner Gutshall argued that his motion would be out of scope, but that staff could work through that issue. He further argued that while it is important to protect neighborhood character, but he would be willing to see how things go. The more reasonable modification does open it up to tenants, and also strikes the residency requirement.

Commissioner Hughes disagreed, and asserted that including non-resident owners opens the new use up as a capital investment tool. Commissioners Sockwell, Siegel, Brown, and Iacomini agreed with Commissioner Hughes, some adding that opening up the use to investors could change the character of a neighborhood.

Commissioner Gutshall withdrew the motion with unanimous consent.

3. Commissioner Gutshall moved that the Planning Commissioner recommend the County Board eliminate the owner requirement to allow tenants, subject to the conditions of their lease, to apply for an accessory homestay permit. Commissioner Iacomini seconded the motion.

Commissioner Gearin asked whether Commissioner Gutshall's intent was to maintain the residency requirement; Commissioner Gutshall said that yes, that was his intent.

The Planning Commission voted unanimously 8-0 to support the motion with Commissioners Iacomini, Gutshall, Sockwell, Siegel, Brown, Hughes, McSweeney, and Gearin in support.

4. Commissioner Siegel made a motion that there be no limit to the number of contracts permitted in the dwelling used for homestay purposes. Commissioner Gutshall seconded the motion.

Commissioner Gearin asked whether the intent of the motion included dwellings resided in by owners or primary tenants; Commissioner Siegel responded yes.

The Planning Commission voted 6-2 to support the motion with Commissioners Iacomini, Gutshall, Siegel, Hughes, Brown, and Gearin in support and Commissioners McSweeney and Sockwell opposed.

5. Commissioner Gutshall moved that the Planning Commission recommend the County Board direct staff to create a coordinated inter-departmental application process that would facilitate a single seamless application to meet both zoning and business licensing requirements. Commissioner Hughes seconded the motion.

The Planning Commission voted unanimously 8-0 to support the amendment with Commissioners Iacomini, Gutshall, Brown, Sockwell, Siegel, Hughes, Gearin and McSweeney in support.

**MAIN MOTION**

The Planning Commission voted unanimously 8-0 to support the main motion as amended with Commissioners Iacomini, Gutshall, Brown, Sockwell, Siegel, Hughes, Gearin and McSweeney in support.

Respectfully Submitted,  
Arlington County Planning Commission

*Nancy J. Iacomini*