

06-16-2021 Town Council Meeting Responses to Council Questions

ITEM #9: Continued Public Hearing: Land Use Management Ordinance Text Amendments - Proposed Changes to Articles 3, 4, 6, and Appendix A Related to Short-Term Rentals

Council Question:

Assuming the passage of the changes from item 7 on our agenda, will the multi-family dedicated STR limits proposed in the new regulations also apply to Blue Hill?

Staff Response:

Yes, our intent is that the STR ordinance's multi-family provisions will also address STRs in Blue Hill.

Council Question:

Who will have responsibility for administering and enforcing the new STR regulations? Planning; Permitting and Inspections; or some combination?

Staff Response:

Planning and Development Services staff are working together to determine how best to manage administering STR permits. Code Enforcement will work with these teams to enforce the new STR regulations.

Council Question:

Will compliance be proactive or complaint driven?

Staff Response:

Code Enforcement is currently complaint based. There are not sufficient staff or software resources at this time for the Town to be proactive on enforcing the STR ordinance.

Council Question:

What additional resources, if any, will be required for administration and enforcement? Are they budgeted?

Staff Response:

Staff will bring an amendment to the adopted FY 2022 fee schedule to Council at the time of Council's action on the STR ordinance. This annual permit fee would fund the additional staff time of reviewing the permits and any necessary enforcement. While the Town does not currently own STR enforcement software, any future decision to purchase this software will aid

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staff in enforcement. We do not have the staff capacity to create a STR hotline or conduct other proactive enforcement, which would be possible with the STR software.

Council Question:

I understood majority of Council did not feel requiring a Designated Responsible Party to be available to respond on-site within two (2) hours was needed and that we were going with availability by phone.

Staff Response:

Yes, we heard from Council that the designated responsible party should not be required to respond on-site. We have modified the language to require that the designated responsible party be available to respond within two hours to address any STR issue. They may respond via email or phone, rather than in-person, if necessary.

Council Question:

No more than three (3) vehicles parked on- or off-street associated with STR use seems overly restrictive. Don't our current parking regulations address parking for STRs too?

Staff Response:

The LUMO does not currently provide parking requirements for STRs. As proposed, the STR ordinance's parking requirements mirror the requirements for a home occupation. The home occupation use limits parking to "no more than three vehicles parked at any time on- or off-street for non-residential purposes..." Additionally, staff has required that the existing underlying use, such as a duplex, meet the current parking requirements outlined in LUMO 5.9.

Council Question:

What is the reasoning behind the proposed minimum rental age of 21 years of age?

Staff Response:

Staff had heard from STR operators that 18 years of age was appropriate; however, there was consensus at the last Council meeting of modifying this age to 21 years. Many STR ordinances propose 21 years of age as a minimum rental age.

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Council Question:

I understood the mayor and some Council members were interested in how we could collect data and existing STRs before determining what happens if they are out of compliance. I am unclear about how non-conforming use comes into play here - could you explain?

Staff Response:

The Council has expressed interest in creating a pilot program to regulate STRs. Zoning regulation of STRs is done by way of enacted ordinances. Once enacted, these ordinances are in place until formally amended through the same legislative process. Any existing STRs that meet the new STR regulations will be in compliance and issued a STR permit. Those existing STRs that do not meet the new ordinance requirements are not legal uses and shall cease operations 18 months after the ordinance is adopted. Should the Council choose to make future adjustments to the STR ordinance as more information is made available, the process may create legal nonconformities--uses that no longer meet the code requirements, but were established legally and may continue to operate.

Council Question:

Which historic districts have nonresidential zoning districts?

Staff Response:

The Franklin-Rosemary Historic District includes some commercial uses along Franklin and Henderson Streets as well as a few non-residential uses further east on Franklin Street that include the Chapel of the Cross at 304 E. Franklin Street, UNC Chapel Hill Arts & Sciences Foundation at 523 E. Franklin Street, and Brooks Hall at 200 S. Boundary Street. The Cameron-McCauley Historic District includes far more non-residential uses clustered along S. Columbia Street and E. Cameron Avenue.

Council Question:

The technical term is not “grandfathering” but for those homes in residential zoning districts that were used as dedicated STRs prior to Council consideration of this proposed ordinance, was an option explored for creating an exception for homes used as dedicated STRs prior to a certain year, such as 2019? Would such an exception be legally sound?

Staff Response:

Yes, staff has considered adding a provision that existing dedicated STRs in residential districts established by a specific date could remain in operation; however, staff found that this is not legally sound. Currently, STRs are only permitted as Home Occupations, Tourist Homes, or (Blue Hill only) Overnight Lodging. Staff found that the Town would be showing preferential treatment for an illegal use by allowing existing dedicated STRs to remain in operation in

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defiance of the new ordinance. Because these are not legally established uses, we do not use the term “grandfathering”.

Current, legal-operating Tourist Homes and Overnight Lodgings may continue to operate under those use categories following adoption of this ordinance. Those STRs unable to meet the STR ordinance provisions may be able to come into compliance with the LUMO should they be able to meet the existing requirements of a Tourist Home or Overnight Lodging.

Council Question:

In the draft text amendment under 6.27.4 under “permitting,” it indicates the Manager may consider a grace period. Is the grace period something that would be determined at the Town Manager’s discretion on a case-by-case basis or would there be a standard grace period that would be published somehow?

Staff Response:

Yes, the Town Manager may consider establishing a grace period for accepting annual STR permit renewals. Staff would work on developing a policy to define the grace period so that all applicants are treated fairly.

Council Question:

For the sake of consistency, I would recommend inserting the word “Town” in-between “The” and “Manager” under 6.27.4(b) of the draft text amendment, because there are other places in the draft text amendment, where “Town Manager” is specified.

Staff Response:

Staff can update the draft ordinance to reflect this before the June 23, 2021 meeting.

Council Question:

Has the Board of Adjustment been made aware of its proposed role with respect to short-term rental permits and potential appeals of the denials of said permits since the public hearing in May?

Staff Response:

Staff has not spoken to the BOA about serving as an appeal body for denied STR permits; however, the BOA is the appeal body for all staff decisions.

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Council Question:

Can we include the WX and WR zoning districts in the list of places where dedicated STRs are permitted (TC-1, OI-1, etc.), so that any dedicated rentals in Blue Hill will fall under the same regulations as other dedicated STRs, including limits on number of units per building?

Staff Response:

Because Blue Hill is a separate part of the code and Section 3.8 doesn't apply to Blue Hill, adding Blue Hill uses to 3.8 is potentially challenged for enforcement and amendments. If the goal is to restrict the number of dedicated STRs in Blue Hill, it would be better to add that to the Blue Hill portion of the code.