

# COUNTY OF YORK

## MEMORANDUM

**DATE:** May 10, 2024  
**TO:** York County Board of Supervisors  
**FROM:** Mark L. Bellamy, Jr., County Administrator  
**SUBJECT:** Short-Term Rental Board Policy



### ISSUE

Several years ago, in response to an increase in Special Use Permit applications for short-term rental homes (i.e., tourist homes and bed-and-breakfast establishments), the Planning Commission and the Board of Supervisors expressed a desire for additional Zoning Ordinance standards or guidelines to assist them in evaluating such applications. Following a series of public meetings in which the Planning Commission discussed additional guidelines, a series of zoning text amendments were brought before the Board for consideration in June 2023. These text amendments were deferred from consideration and Board deliberations of new short-term rental (STR) applications were subsequently put on hold. This past March, the Board conducted a work session at which Planning staff presented an overview of STRs and how they are currently regulated in York County, including a review of application data and the previously proposed zoning text amendments related to STRs. Staff then requested further guidance from the Board regarding additional STR guidelines. Following discussion, the Board expressed a desire to add additional criteria or considerations to guide applicants and decision-makers when evaluating proposals for short-term rentals. Board members suggested several criteria which were discussed at the next work session in April. At this meeting staff summarized additional guidelines suggested by the Board and various policy options. (Minutes of the March 5, 2024 and April 2, 2024 work sessions are attached.)

However, the passage of Senate Bill 544 and incorporation of its text into Section 15.2-983 of the Code of Virginia could hamper efforts to adopt new zoning text amendments relative to short-term rentals if the Board wishes to preserve its ability to require Special Use Permits for new STRs. Therefore, utilizing the Board's suggested guidelines, staff has drafted a Board Policy regarding STRs for consideration.

### PROPOSED POLICY

1. In addition to the requirements of Chapter 24.1-409 of Zoning Ordinance, the proposed Board Policy outlines additional guidance for applicants and decision-makers considering Special Use Permit applications for new short-term rentals. The guidelines contained therein are detailed below, reflecting the general consensus of the members of the Board.

- **Residency Requirements:** A major concern that typically arises with regard to STRs (tourist homes in particular) is that without any on-site monitoring of guests' behavior, tourist homes could be used for loud parties, cause safety issues, and generally degrade the residential character of the neighborhood. Requiring the tourist home operator to be in the home or in an adjacent premises is the best way to address the concerns about vacation "party houses" with unruly guests disturbing the neighbors. The policy document notes that the owner of a tourist home should reside in either the home itself or on adjacent premises within 3,000-feet of the subject tourist home, *unless* it is located within the Yorktown Village Activity (YVA) district. Given that the YVA district is the County's primary tourist destination and the village has several long-standing bed & breakfast establishments and tourist homes, it is appropriate that it should be exempted.
- **STR Location Requirements:** One suggestion was that the County should set a limit on the number or density of STRs in a given area. This would be accomplished by standardizing minimum distances between short-term rentals in different zoning districts based on density. The intent of this criteria would be to preserve the character of the County's residential neighborhoods and keep them from being dominated by tourist homes, which are a quasi-commercial use. The suggested distance guidelines vary, from a half mile between STRs in low-density residential districts to a minimum of 750-feet in high density residential districts. Due to the density and character of the YVA district, it is recommended that STRs in the village be exempt from these minimum location standards.
- **Special Use Permit Expiration:** In recent years, the Board has frequently limited Special Use Permits and YVA approvals for tourist homes to the current property owner, with said approvals expiring upon transfer of property ownership. While it is unusual to tie use permits to the property owner, an exception to the normal rule may be appropriate for tourist homes, which are different from other land use proposals. Since this has become standard procedure, it is reasonable to include this as a guideline for all STRs in the proposed policy.
- **Other Guidelines:** Additional guidelines in the policy include: limiting a bed & breakfast owner or proprietor to residing on the premises or on adjacent premises; consideration of the capacity, adequacy, and context of adjacent roadway networks to a proposed short-term rental; and the consideration of comments received from residents adjacent to a proposed STR.

### **COUNTY ADMINISTRATOR RECOMMENDATION**

I should emphasize that the proposed policy would not alter the basic dynamics of our current Special Use Permit process whereby the Board is able to evaluate short-term rental homes in residential districts on a case-by-case basis, which ensures that neighborhood input will continue to be a key factor in the decision-making process. The adoption of this policy will create a more systematic application and review process by providing additional

York County Board of Supervisors

May 10, 2024

Page 3

clarity and guidance to prospective short-term rental operators and to those – the Board and the Planning Commission – who will be reviewing their proposals.

Therefore, I will be recommending that the Board enact the proposed Short-Term Rental Board Policy at its June 18, 2024 meeting.

Aubut/3495

#### Attachments

- Excerpts of the minutes from the March 5, 2024 Board of Supervisors regular meeting
- Excerpts of the minutes from the April 2, 2024 Board of Supervisors regular meeting
- Proposed Board Policy Number BP24-30

BOARD POLICY	
SUBJECT	Short-Term Rental Homes Policy (tourist homes and bed & breakfast inns)
POLICY NUMBER	BP-24-30
ORIGINAL EFFECTIVE DATE	June 18, 2024 (R24-XX)
REVISION DATE	
HISTORICAL REFERENCE	

The objective of this policy is to establish additional guidelines that the Board may consider when evaluating use permit requests for the establishment of short-term rental homes (tourist homes and bed & breakfast inns). This policy will benefit the Board, Planning Commission, staff, and prospective applicants by providing clarity as to the criteria by which these applications will be evaluated, in conjunction with the zoning regulations for short-term rental homes as detailed in Section 24.1-409 of the York County Zoning Ordinance.

**Procedure:**

1. Applicability:

In addition to the provisions of Chapter 24.1-409, *Standards for boarding houses and short-term rental homes (tourist home and bed and breakfast establishments)* of the York County Zoning Ordinance, the Board may consider the guidelines detailed herein when evaluating an application for a short-term rental home.

2. Definitions (as referenced in Section 24.1-104):

- a. **Tourist home** – An establishment, either in a private dwelling or in a structure accessory and subordinate to a private dwelling, in which temporary accommodations are provided to overnight transient guests for a fee.
- b. **Bed & Breakfast Inn** – A dwelling in which, for compensation, breakfast and overnight accommodations are provided for transient guests.

3. Short-Term Rental Guidelines:

- a. When located in single-family residential zoning districts, short-term rental homes must have the appearance of a single-family detached residence and typical residential accessory structures.
- b. The Board will receive and consider comments from nearby residents when considering applications for short-term rental homes.
- c. The owner of a tourist home should reside either in the home or in an adjacent premises. If residing in an adjacent premises, the owner of a tourist home should reside within 3,000-feet of the tourist home. Tourist homes located within the Yorktown Village Activity zoning district are not subject to the prior distance restriction.
- d. When a bed and breakfast establishment is located in a residential zoning district, the owner of the property or the proprietor will live on the premises or on adjacent premises.
- e. New short-term rental homes, other than those located within the Yorktown Village Activity zoning district, should adhere to the following distance standards:

- (1) Short-term rental homes located in the Resource Conservation (RC), Rural Residential (RR) and Single-Family Low-Density (R33) zoning districts should not be located within one-half (0.5) mile of another short-term rental home.
  - (2) Short-term rental homes located in the Medium-Density Single Family Residential (R20) and Planned Development (PD) zoning districts should not be located within a one-quarter (0.25) mile of another short-term rental home.
  - (3) Short-term rental homes located in the High-Density Single Family (R13) and Multi-Family Residential (RMF) zoning districts should not be located within 750-feet of another short-term rental home.
- f. The Board may, as a condition of approval, limit a Special Use Permit or Yorktown Village Activity permit to the applicant.
  - g. The Board will consider the adequacy and capacity of the adjacent roadway network to accommodate a proposed short-term rental home.
4. Nothing in this policy shall be deemed to prohibit the operation of an existing approved short-term rental home at the time of the original effective date.

MINUTES  
BOARD OF SUPERVISORS  
COUNTY OF YORK

Work Session  
March 5, 2024

6:00 p.m.

Meeting Convened. A Regular Meeting of the York County Board of Supervisors was called to order at 6:01 p.m., Tuesday, March 5, 2024, in the East Room, York Hall, by Chairman G. Stephen Roane, Jr.

Attendance. The following members of the Board of Supervisors were present: Douglas R. Holroyd, Sheila S. Noll, M. Wayne Drewry, G. Stephen Roane, Jr., and Thomas G. Shepperd, Jr.

Also in attendance were Mark L. Bellamy, Jr., County Administrator; Brian Fuller, Deputy County Administrator; Richard Hill, County Attorney; Heather L. Schott, Assistant to the County Administrator/Deputy Clerk; and Diane C. Ingram, Senior Administrative Coordinator/Assistant Deputy Clerk.

**WORK SESSION**

**SHORT TERM RENTALS (STR)**

Mr. Bellamy called forward Ms. Caitlin Aubut, Planner II, and Earl Anderson, Chief of Development Services, to provide a presentation on Short Term Rentals.

Ms. Aubut prefaced briefly Senate Bill SB 544, which was recently proposed, already passed by the House, and is currently awaiting the Governor's decision. She highlighted the key language in this bill, which states that any ordinance enacted after December 31, 2023, cannot require a Use Permit for residential dwellings to be used as an STR if the legal dwelling unit is occupied by the property owner as their primary residence.

Chairman Roane asked what "legally occupied" means in the context of SB 544.

Mr. Anderson stated that should this bill be signed by the Governor, the County may want, for clarification purposes, to create a definition of primary residence.

Mrs. Noll then noted that she has a summer residence in Virginia Beach; however, her primary residence is in York County. As such, she inquired if she could rent out her home in York County pursuant to this bill and if it would be approved.

Mr. Anderson stated under this bill she could indeed rent out her primary residence in York County.

Mr. Holroyd then questioned the County Attorney if there were any changes to the Home Owners Association (HOA) codes.

Mr. Hill answered that he would defer to the Planning staff on this matter as they have carefully scrutinized the bill. However, he stated that the bill if approved would not override HOA requirements.

Ms. Aubut continued her presentation by stating that the County's Zoning Ordinance definition of an STR includes both Bed and Breakfast (B&B) establishments as well as Tourist Homes. She then pointed out that a B&B is where the owner lives on site, rents out rooms and provides meals, while a Tourist Home involves whole house or rental of rooms where you live on site. The presentation continued highlighting the following information:

- The STR was codified in the Zoning Ordinance in 1995 with only sparse use of it through the 2010, noting that in 2022 we saw the highest number of applications for STRs at nine.
- Using a map of the County, she illustrated that there has been a lot of applications for STRs and B&Bs in Williamsburg, mainly in middle income subdivisions.

March 5, 2024

- Yorktown Village has a concentration of these uses, primarily because it is the County's primary tourist area.

Chairman Roane asked for those Special Use Permits that applicants successfully obtained but have ceased operating if they are still in effect.

Ms. Aubut responded that the Use Permit becomes void after two years when the applicant does not renew his/her business license. She also pointed out that there are instances when a permit has been approved by the Board, but the applicant never purchased a business license, and in such cases, this permit will become void after two years of no use.

Mr. Shepperd referenced that the County more recently tied the use permit to the property owner as opposed to the residence, and he also asked what would constitute not in use.

Ms. Aubut concurred with his statement and confirmed that if one is being run illegally staff uses the Zoning Ordinance regulations to ensure compliance. Also, she noted that not having a business license constitutes not being in operation.

Chairman Roane questioned if they have a business license, can we confirm they are actually operating.

Mr. Anderson stated that it can be determined if a STR or B&B is active as they have to pay taxes on a monthly basis. In addition, he noted that County inspectors visit each site annually and check the guest books. He also explained that those Special Use Permits that are tied to the land also cease to exist if they do not operate for a consecutive 24-month period.

Mr. Holroyd questioned how a timeshare works, because that is also a STR.

Mr. Anderson replied that timeshares go through the Special Use process also, and once approved, operate more like hotels. They are considered a timeshare in the County Ordinance and not an STR and are allowed to do short-term rentals because they do so on a weekly basis.

Mr. Drewry thanked staff for the clarification and reiterated that SUPs go with the property and not short term rentals.

Mr. Anderson explained that it is both because the Special Use Permit (SUP) is the process and the STR is the use. He added that there are different uses in the Zoning Ordinance, and some of them require a SUP and some of them are by-right. Tourist homes, he explained, are labeled a STR and require a Special Use Permit per the Zoning Ordinance, except when located in the commercial districts, General Business (GB) or Limited Business (LB).

Mr. Drewry then asked if it carries with the property and not the owner.

Mr. Anderson agreed, unless the condition of approval has been applied through the STR approval process by the Board that says it terminates upon ownership.

Chairman Roane reiterated that they have been doing so with recent STRs tied to the ownership, so the SUP dissolves when the owner goes away.

Ms. Aubut continued with her presentation regarding the breakdown of STR applications between what has been submitted for a Tourist Home and what has been specified as a B&B. She pointed out that of the 24 tourist homes, 17 are currently operating, and three B&Bs are also operating. She also pointed out that for the 12 legally operated tourist homes in the County, we have not received any zoning complaints or taken any zoning actions. She then provided the following performance standards for STRs:

**Current Performance Standards §24.1-409**

- STRs are permitted as a matter of right in commercial zoning districts and require a Special Use Permit in residential districts.
- STRs in residential districts must have the appearance of a single-family detached home.
- For tourist homes, the owner/proprietor shall reside in the home/adjacent premises or designate a responsible party.

- The maximum number of guests will be determined by the Board of Supervisors based on the density and character of the area and the size and characteristics of the proposed site.
- When evaluating a Special Use Permit application for an STR, the Commission and Board shall consider the adequacy and capacity of the adjacent roadway network to accommodate the proposed use without adversely affecting neighboring properties.

Ms. Aubut then highlighted a section of the language in the Comprehensive Plan that stated: "In most cases, it is recommended that such uses be reviewed and approved by the Board of Supervisors on a case-by-case basis rather than allowed as a matter of right. Such a review ensures that affected neighbors will have an opportunity to make their positions known to the decision-makers while allowing those decision-makers to take into account the unique circumstances and site characteristics associated with each development proposal." She then reviewed how other localities regulate STRs and noted that York County's regulations are basically a combination of how the surrounding localities handle STRs. Then Ms. Aubut recapped the STR discussions and engagements that involved citizens throughout the past three years within the Planning Commission and Board of Supervisor purview.

Mr. Holroyd asked if any of the communities have a density limit on STRs. He expressed concern that affordable housing is the category of homes most sought for this special use.

Ms. Aubut responded that she is unaware of any currently; however, she added that Hampton is currently exploring this possibility. She then provided a brief history of what occurred following the STR amendments passed by the Board in 2020, with the latest development being the Planning Commission forwarded an approval recommendation for zoning text amendments at the end of 2022 which were forwarded to the Board for consideration with action being deferred.

Mr. Holroyd stated that revenue from such uses needs to be discussed. Specifically he noted that the County should be acquiring taxes associated with STRs, timeshares, and hotels. He also wanted information relative to how we are ensuring that we are collecting those revenues and if it is sufficient revenue to offset the disturbance to our neighborhoods. He then requested more data in the future on this matter.

Mrs. Noll responded that the information would come from the Commissioner of Revenue, not the staff.

Mr. Shepperd commented that this is personal property, not our property, and the real issue is whether it will be a problem in the neighborhoods.

Chairman Roane agreed that revenue needs to be part of the conversation but it is also about property rights, people being able to enjoy their property.

Ms. Aubut recapped the following conclusions that came out of the Planning Commission meetings on this matter:

#### **Planning Commission Conclusions**

- Regulations should provide clarity and guidance to both applicants and decision-makers.
- Maintain Special Use requirements for proposed STRs in residential districts—one size does not fit all.
- Public hearings are critical to decision making
- Ensure compatibility with the intent of the zoning district where proposed

She explained that this led to staff proposing the following previously noted zoning text amendments:

#### **Previously Proposed Criteria**

- STR approvals automatically expire when property ownership is transferred.
- Specify that onsite residency is preferred but not required if the applicants can adequately demonstrate that they have satisfactory provisions in place to monitor guest behavior.

March 5, 2024

- STR owners must be required to maintain a guest log book.
- Set no limit on the number of rental nights a year.
- The Planning Commission and Board of Supervisors may consider the presence of other legally operating STRs within the same general area when evaluating STR applications.
- Remove language requiring the owner of a Bed and Breakfast to be the onsite operator/provider.
- Exterior cooking appliances used by guests must have a fuel source of either propane or natural gas, and the use of charcoal is prohibited.

Ms. Aubut noted that the Board can establish limits they deem necessary when approving a STR application. She reminded the Board that a legally existing STR would be grandfathered under previous provisions should the Board approve any new zoning text amendments, which would only apply to new applications.

Mr. Shepperd expressed concern that should SB 544 be adopted, if the Board changes anything in our ordinance, everything in the County Code relative to this matter could be voided.

Mr. Anderson explained that it would simply eliminate the Board's ability to make regulations for residents' primary residence. He stated that if someone wanted to do a whole house rental, they could still come to the Board, and you could establish recommendations for that use. However, he added if someone wants to rent a room, the new law states that if you own your primary residence, you may rent it as a short term rental if you like while living in another home. He then gave an example of the new law stating that if you own your primary residence and wanted to rent it out for the summer months, you could do so as a short-term rental.

Mr. Hill further explained that under this new law, if a home is your primary residence and you use it as a short-term rental, any ordinance adopted after January 1<sup>st</sup> could not prohibit this use. This is due to the fact that we have a pre-existing requirement for this use that was passed before December 31<sup>st</sup> so as of now it is grandfathered. He added his concern is if we adopt a new ordinance, our ability to apply for a Special Use Permit in this one narrow instance would be voided. He explained that after the law goes into effect, if the Board makes no changes to the Zoning Ordinance in reference to STRs, we continue as we have been doing. He continued by stating that the new law states that any ordinance adopted by the Board after December 31, 2023, would effectively void the grandfathered status of any existing STR that is not a by-right use.

Mr. Shepperd sought further clarification on this matter.

Mr. Hill stated that the purpose of the new law is to provide homeowners the by-right ability to rent the whole house or individual rooms of their primary dwelling.

Mr. Anderson explained that when a secondary or investment property is rented out a SUP is required. He noted that even for the by-right uses, a business license would still be required and the use would have to meet the current performance standards contained in the Zoning Ordinance.

Ms. Aubut informed the Board there are two STRs currently on hold that were heard by the Planning Commission, one on May 10, 2023, and the other on August 9, 2023. Under state law, the governing body has 12 months after the date of the Planning Commission hearing to hear the case and make a decision. As such, she stated that staff is seeking the Board's guidance in this matter.

Mr. Anderson then stated that the Planning staff is seeking direction on how to move forward with the criteria that was already presented to the Board as a Zoning Ordinance Amendment which was deferred. He then proceeded to answer some questions that Mr. Holroyd had posed earlier. Referring to the revenue, Mr. Anderson stated per Sarah Webb, the Commissioner of the Revenue, Airbnb and VRBOs are submitting payments every month. The process is a little different, and it is tied to the gross receipts, but each short-term rental owner has to file a report with the County. In addition to the revenue they provide to the County, the property owner who has the short term rental is also liable for submitting documentation monthly with the Planning office. He also stated they must file their gross receipts monthly, the amount of tax remitted on behalf of either Airbnb or VRBO and the number of rooms that were occupied that month.

Mr. Shepperd questioned if that was basically what hotels have to do.

Mr. Anderson agreed and added that Ms. Webb also told him that short-term rentals, including timeshares, are required to pay the lodging tax and the transient occupancy tax to York County.

Mr. Holroyd asked if the process was working and if they were satisfied with the revenues paid.

Mr. Anderson responded that Ms. Webb, said it is working and they are monitoring them as they have 16 active STRs and three B&Bs.

Mr. Holroyd asked how many timeshares are being monitored.

In response, Mr. Anderson stated that he had not received that number but would inquire and relay that information to him.

Mr. Shepperd asked what happens if we do not hear the STR application by May 10. Does it die or does it automatically become a by-right use?

In response, Mr. Anderson stated no, it requires action by the governing body, as it is a violation of State law not to take action on the application.

Mr. Hill interjected they have a right for a decision and they could theoretically go to court and the court could order us to take action.

Chairman Roane added that the Board would just make the decision based on the ordinance as it exists today in the same decision-making process that has been used in the recent past.

In conclusion, Mr. Anderson asked the Board for direction on whether they wanted staff to bring back the proposed Zoning Ordinance amendment for a public hearing and consideration. In addition, he asked if the Board had any changes they would like to see in the amendments.

Chairman Roane stated that it might make more sense for the Board members to individually share their thoughts on this matter with the Planning staff. Then he stated that staff could combine all of the suggestions and bring them to the Board in a work session to be considered. Also he noted by that time, the Governor will have likely approved or vetoed the proposed STR legislation that is before the General Assembly this year. As such, he asked each Board member to share their thoughts on this matter based on the ordinance as it currently exists with either Ms. Aubut or Mr. Anderson before the next work session so it can be discussed at the April work session. He then asked the Board if they had any comments or questions for staff on this matter.

Mrs. Noll thanked the staff for the excellent presentation.

The other Board members concurred with Mrs. Noll's comment.

Chairman Roane stated that his focus is on citizens being able to enjoy their property and for the neighbors of STRs to be able to enjoy theirs as well.

#### SOLID WASTE FEES

Mr. Bellamy explained that the following presentation will include a discussion of solid waste fees that are a precursor to the budget so that the Board will have the opportunity to see the current fiscal state of the Waste Management Division.

Mr. Robert Krieger, Director of Public Works and Ms. Laurie Halperin, Waste Services Manager, began their presentation by explaining that an Enterprise Fund is a self-supporting fund that charges fees and supplies services using no General Fund tax dollars. In addition, they noted that these fees are included in the utility bills for solid waste and recycling and should not be confused with the sewer utility billing, which is a separate fund. He stated that the primary services of the Waste Management Program include transfer station operations, curbside garbage and recycling collection, and the Virginia Peninsula Public Service Authority (VPPSA) composting operations.

March 5, 2024

**Additional Services funded by the Waste Management Enterprise Fund**

- o Solid Waste Convenience Center
- o Drop off Recycling
- o Metal Recycling
- o Computer Recycling
- o Hazardous Waste Collections
- o Large Yard Debris
- o Leaf Collections
- o Paper Shredding Events
- o Debris Management/Storm Events

Chairman Roane questioned if all the leaves have to go to VPPSA or if the consumer can take them to another facility, stating that VPPSA gets the benefit of the County's compost materials and reselling operations.

Mr. Krieger replied that VPPSA is free, but a person could drop off their materials somewhere else, for which they may be charged a drop-off fee.

Discussion continued on how VPPSA gets free compost materials and how other contractors have to pay for their supplies.

In response, Ms. Halperin stated that VPPSA is a quasi-governmental body that is made up of member communities which includes York County. The money that VPPSA makes pays for its operation.

Mr. Shepperd then asked how many tons of debris are recycled each month.

Ms. Halperin stated in 2023 it was 3,186 tons of recycling.

Mr. Krieger then explained that there had been a rate increase in 2019 primarily due to the Green Sword Policy introduced by China to reduce the volume and contamination levels of recyclable materials that it imports for processing. Ten years ago, he stated the County did not pay any processing fee; however, we are currently paying \$95 a ton to process it and have been told it is increasing to \$105 a ton. He noted also that the County in 2019 offered a discounted rate for seniors and last year had approximately 2,300 sign up for this discount, which translates to approximately \$125,000 a year in revenue that the County does not collect.

Mr. Shepperd then spoke about the loss of revenue from recycling due to the processing fees compared to just throwing it away with the garbage. As such, he noted the Board will need to make an informed decision on whether to continue recycling or not.

Mrs. Noll asked if we stop recycling, where will all of the additional trash be deposited.

Discussion continued on the elimination of recycling compared to limiting the types of acceptable materials that may be recycled.

Chairman Roane stated that since paper appears to be the best product to recycle, perhaps the discussion should be whether we want to eliminate recycling or just limit it to specific paper, cardboard, steel, and aluminum.

Ms. Halperin explained that the biggest problem with recycling is educating the public so that the right, clean items are placed in the recycling bins.

Mr. Drewry, having recently visited the recycling center, stated that even if York County residents recycled properly, because it is combined with the other participating localities, the County would still not receive a discount.

Ms. Halperin noted that currently, citizens have the option not to recycle and are not charged the accompanying fee.

Mr. Bellamy interjected that the Board needs to keep in mind that if some of the big localities, such as Norfolk and Virginia Beach, eliminate their recycling program, the cost for the County will escalate.

April 2, 2024

in the County's recycling and trash program. Also they should provide a recommendation as to what we should do moving forward as this program will be set for only one-year.

### SHORT TERM RENTALS (STR)

Ms. Caitlin Aubut, AICP, Planner II, and Mr. Earl Anderson, AICP, Chief of Development Services, touched on previous discussions on short-term rentals and Senate Bill 544 in Virginia. Regarding short-term rentals, they stated that there is a pending bill that could affect

the County, and everyone is awaiting the Governor's action on it. They also remarked on considering nearby residents' comments when reviewing applications for tourist homes and short-term rentals. Although this is already part of the Special Use Permit process, there is a suggestion to add it as text in the Zoning Ordinance for clarity and emphasis. The Board, they explained, may consider adding this text to prioritize community input in the decision-making process. They also noted how the new law might negatively affect any changes to the Zoning Ordinance regarding short-term rentals. Moreover, they pointed out that there is uncertainty about potential conflicts between the new law and any changes made after December 31<sup>st</sup> of the previous year. If the law passes, they stated it could impact the Board's ability to amend the Zoning Ordinance.

The Board then discussed the possibility of creating a separate policy document outlining the Board's preferences regarding short-term rentals instead of directly amending the Zoning Ordinance. This document would guide decision-making until the legal implications of the new law become clearer. The Board also discussed various suggestions related to the Zoning Ordinance for short-term rentals.

The Board debated about whether to use the term "citizens" or "neighbors" to specify whose input should be considered. Additionally, there is a proposal to make Special Use Permits for tourist homes expire upon property transfer, which has been a practice since 2021. Another suggestion is to prohibit signage for tourist homes, but there are legal concerns about enforcing this. Instead, the Board proposed that signage prohibition be included as a condition in Special Use Permits, as most applicants voluntarily agree not to have signage.

The Board's discussion continued regarding suggestions on the appearance and use of short-term rental properties. One suggestion was that these properties should maintain a residential appearance and fit into the surrounding neighborhood, which is already a criterion in the Zoning Ordinance. Another recommendation proposed that short-term rental properties be primarily used for lodging and prohibit activities such as parties, large gatherings, and filming. However, staff pointed out there are concerns about enforcing such restrictions, as they may be challenging to enforce effectively. Additionally, noise ordinances enforced by the Sheriff's Office already address issues related to noise disturbances.

A suggestion to regulate the usage of properties for events like weddings to prevent disruptions in residential neighborhoods was discussed by the Board. This discussion also included such items as requiring separate permits for STRs where special events are held, particularly for bed and breakfast establishments. Overall, the discussion focused on establishing clear guidelines and expectations for short-term rental properties to ensure they align with the residential nature of their neighborhoods. The Board's consideration also included discussions about the management of short-term rentals. In addition, the conversation touched on the challenges of enforcing standards and tax collection if rentals are not managed through recognized platforms. Ultimately, it was recognized that while there may be benefits to using such platforms, mandating their use could pose logistical and legal challenges for the County.

Staff then provided information on the taxation process for short-term rentals, highlighting how platforms like Airbnb and VRBO pay taxes to the County based on the number of nights rented. In contrast, other platforms, like the one Yorktown Cottages uses, report their nights and pay lodging taxes through their business license. It was noted that this distinction underscores the importance of tax collection methods amid discussions on short-term rental management.

The conversation then shifted to examining the Zoning Ordinance for short-term rentals. Staff stated that currently, short-term rentals are permitted with a Special Use Permit in residential districts and are permitted by right in Limited Business (LB) and General Business (GB) zoning districts. They also noted that there are few properties in commercial districts suitable for short-term rentals and that no short-term rentals currently operate in commercial districts by right. Staff recommended eliminating short-term rentals by right in commercial districts, as there hasn't been a significant presence there. The Board agreed and supported staff's suggestion to eliminate this provision altogether, simplifying the zoning regulations.

The discussion then focused around owner-operator residency requirements for tourist homes. Staff noted that currently, the Zoning Ordinance allows either the owner to live on-site or adjacent to the rental property, or to designate a responsible party. Staff proposed tightening this language to require the owner-operator to live on-site or adjacent, with the possibility of the Board waiving this requirement in certain circumstances.

Concerns were raised about the definition of "adjacent" and suggestions were offered to clarify it, such as specifying a certain distance or within a one-mile radius. Additionally, there was a discussion about the feasibility of requiring the owner or manager to be present nearby during rentals and the need for flexibility in such situations, considering temporary absences or emergencies. Overall, the focus was on balancing the desire for owner-operator presence with practical considerations and flexibility in managing short-term rental properties.

The Board's discussion then revolved around setting a standard distance or guideline for short-term rental properties. Suggestions included a half-mile radius as a starting point, with the option for applicants to provide compelling reasons for exceptions. The aim is to ensure that rental properties are within the neighborhood and have local oversight. Various scenarios and concerns were raised regarding the practicality and effectiveness of the proposed distance requirement. The discussion involved considerations for implementing locational standards and density limits for short-term rental properties. The Board settled on a distance of 3,000 feet.

Staff suggested that while living within a half-mile radius of the rental property is preferable, exceptions may be made based on individual circumstances. Factors such as whether the rental is for special use or the nature of the applicant's role in the property should be taken into account. Staff's presentation included data from Hampton's proposed short-term rental zones, which aim to regulate density and location. Staff explored options such as setting fixed density limits based on housing units or establishing geographic areas for regulation. Considerations include the need to exempt Yorktown and the practicality of using census blocks for zoning purposes. Their presentation also outlined potential challenges and implications of implementing density caps in different neighborhoods. Staff highlighted challenges in defining zones due to varied neighborhood densities and irregular census blocks. One proposed solution they offered involved creating buffer radii around existing short-term rentals to regulate density. Considerations include the need for exemptions for certain tourist areas and addressing overlapping applications. The Board settled on a half-mile radius around existing and proposed STRs.

In conclusion, staff stated that they would draft a policy document for further consideration, pending legal clarification.

During and after the presentation, the Board offered the following comments:

Mr. Shepperd and Mrs. Noll emphasized the importance of input on STRs from the neighbors of the subject property.

Mr. Roane asked that the number of people to use a short-term rental should be added to the Code as a mechanism to cover any overcrowding at a STR.

#### CONSENT CALENDAR