



TOWN OF WAYNESVILLE

Planning Board

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Planning Board Members
Susan Teas Smith (Chairman)
Ginger Hain (Vice Chair)
Stuart Bass
John Baus
R. Michael Blackburn
Jan Grossman
Peggy Hannah
Tommy Thomas

Regular Meeting of the Planning Board

Town Hall, 9 South Main Street, Waynesville, NC 28786
Monday, January 22, 2024, 5:30 PM

A. CALL TO ORDER

1. Welcome/Calendar/Announcements
 - Railroad Corridor Public Workshop will be February 29 at 5:00pm.
 - Joint Council-Planning Board Workgroup Framework (Attached)
2. Approval of Minutes as presented (or amended):
 - December 18, 2023, Meeting Minutes will be presented at the next meeting

B. BUSINESS

1. Discussion of Revisions to Definitions for Townhomes, and Child/Adult Day Care Home, and Residential Care Facilities.
2. Discussion of Short Term Rental Ordinance.

C. PUBLIC COMMENT/CALL ON THE AUDIENCE

D. ADJOURN



STEWART

Attachment 1

PROPOSED PROJECT SCHEDULE

The overall timeframe of this project is expected to take approximately six (6) months upon receipt of execution of this contract (Notice to Proceed). This schedule is subject to change based on coordination with staff.

MEETINGS

| Meeting | Description | Format | Timeframe |
|---------------------------------|--|--------------------|----------------------|
| Working Group Meeting #1 | Discuss outcomes of the joint Planning Board and Town Council meeting held on April 28 th and the technical memo that outlined issues, next steps and options. Working group to provide input on potential ordinance changes that need to be developed and analyzed. | Virtual Meeting | February |
| Working Group Meeting #2 | Staff and consultant to present draft amendments or new districts and potential housing capacity changes from GIS-based build-out model. Working group to review potential ordinance amendments and results of growth modeling. Direction needed to refine zoning recommendations from Working Group. | In-Person Meeting | March / April |
| Working Group Meeting #3 | Optional working group meeting to further refine zoning amendments. | To Be Determined | April / May |
| Public Meetings | Community outreach meetings to gather feedback on proposed ordinance changes | In-Person Meetings | May / June |

Town of Waynesville Planning Board Staff Report

Subject: Discussion of Updates to Definitions
 Ordinance Section: 17.3 Definitions
 Staff and Board Initiated Discussion
 Meeting Date: January 22, 2024

Two areas of definition update needs have recently been identified: Family Day Care Homes and Town Homes. Based on board direction, staff will a text amendment forward at a future meeting.

Family Day Care Homes

The Town's existing definition reads as follows:

Residential Care Facilities (More Than 6 Residents) A staffed premises (not a single-family dwelling) with paid or volunteer staff that provides full-time care to more than 6 individuals. Residential care facilities include group homes (NCGS § 131D), nursing homes (NCGS § 131E-101), residential child-care facilities (NCGS § 131D-10.2), assisted living residences (NCGS § 131D-2), adult care homes (NCGS § 131D-2), retirement housing, congregate living services, assisted living services, continuing care retirement centers, skilled nursing services and orphanages.

As part of the budget bill, NC General Statute 110-86(2) defining family child care homes (FCCH) and NC General Statute 110-91(7)(b) regarding FCCH capacity was revised. The new capacity options in statute are as follows:

A family childcare home is allowed to provide care for one of the following groups of children, including the operator's own preschool-age children and excluding the operator's own school-age children up to 13 years of age:

1. *A maximum of eight children, with no more than five children who are from birth to 5 years of age, plus three school-age children.*
2. *A maximum of three children from birth to 24 months of age, plus three children from 2 to 5 years of age and three school-age children up to 13 years of age, for a total of nine children.*
3. *A maximum of 10 children if all children are older than 24 months of age.*

This means that the town's current ordinance definition which allows up to 6 children within a home is out of date. According to the DHHS website: "a change in capacity **requires** a new permit be issued. FCCH Operators interested in an increase in their capacity will need to provide a written request with verification there are **no local zoning ordinances or homeowner association bylaws/covenants that prohibit** the increase."

Rather than wait until someone is trying to apply for increased capacity, the Town could go ahead and amend our definition to be in compliance with the State definition so that local in-home childcare providers can be issued zoning compliance letters from the Town. Additionally, the Town ordinance definition treats all "residential care facilities" the same and in previous discussion concern was expressed to distinguish halfway houses and shelters for victims of domestic violence from this definition.

Alternate definitions could be based on the NCGS 110-84 definitions as follows:

Family Child Care home, and any other child care arrangement not excluded by G.S. 110-86(2), that provides child care, regardless of the time of day, wherever operated, and whether or not operated for profit, and is located in a residence where, at any one time, more than two children, but less than eleven children, receive child care in accordance with NCDHHS standards and NC General Statute 110-91(7)(b).”

Family Care Home (6 or fewer residents). A home with support and supervisory personnel that provides room and board, personal care and rehabilitation services in a family environment for not more than six resident handicapped persons, *or those in recovery*, and is certified by the State of North Carolina. (NCGS 168-21). *This term excludes shelters for victims of domestic violence.*

Residential Care Facilities (More Than 6 Residents) A staffed premises (not a single-family dwelling) with paid or volunteer staff that provides full-time care to more than 6 individuals. Residential care facilities include group homes (NCGS § 131D), nursing homes (NCGS § 131E-101), residential child-care facilities (NCGS § 131D-10.2), assisted living residences (NCGS § 131D-2), adult care homes (NCGS § 131D-2), retirement housing, congregate living services, assisted living services, continuing care retirement centers, skilled nursing services and orphanages. *This term excludes family care homes and shelters for victims of domestic violence.*

Townhomes

At the last meeting, a developer brought forward a Townhome project that included single units that were detached from others. The Town’s existing definition reads:

Dwelling-Townhome. Three or more attached dwelling units in which each unit has its own front and rear access to the outside, no unit is located over another unit, each unit is separated from any other unit by one (1) or more vertical common fire-resistant walls, and the land underneath each unit is titled to the unit.

Alternate Possible definitions suggested by Mr. Sneed for discussion are as follows:

1. Dwelling-Townhome. Single units or two or more attached units with the land underneath each unit titled to the unit, where no unit is located over another unit, and each of the attached units has its own front and rear access to the outside and is separated from any other unit by one (1) or more vertical common fire-resistant walls.
2. Dwelling-Townhome. Three or more attached dwelling units in which each unit has its own front and rear access to the outside, no unit is located over another unit, each unit is separated from any other unit by one (1) or more vertical common fire-resistant walls, and the land underneath each unit is titled to the unit; PROVIDED, HOWEVER, that up to 30% of the units in a townhome development may be single family buildings or buildings consisting of only two attached units meeting all the other applicable requirements of townhomes if necessary to make more efficient and effective use of the property being developed.

Town of Waynesville Planning Board Staff Report

Subject: Discussion of short-term rental Ordinance
 Ordinance Section: 2.5. Permitted Uses; 3.3 Supplemental Standards; 17.3 Definitions
 Staff and Board Re-initiated Discussion
 Meeting Date: January 22, 2024

Background

The Planning Board discussed Short Term Rentals ("STRs") at their October 21, 2019, and March 20, 2023, meetings. STRs are private homes, condos, townhomes, or apartments that are rented through online platforms such as Vacation Rental By Owner (VRBO), AirBandB, and others, for less than 30 days.

Each time the Board discussed a possible STR ordinance, the State Legislature was considering regulations to prevent or limit local government STR oversight and the determination was made to wait and see if any legislation was implemented. Additionally, discussion recognized that Waynesville had limited hotel/motel rooms and that short term rentals were important for both local property owners and tourism. In 2023, North Carolina courts took up the case of Schroeder vs. the City of Wilmington which created judicial parameters for how local governments could regulate "STRs."

Many property owners rely on short term rentals for income. However, STRs may not be desirable in some neighborhoods, and they may have negative impacts (parking, noise, trash) if not managed well. since many STRs are owned and operated by absentee owners or corporations, code enforcement, police or fire department personnel may not be able to make contact with a responsible party in a timely fashion. STRs may also contribute to the lack of affordability in housing, as local home-buyers compete with STR investment interests on the real estate market.

Waynesville's Land Development Standards mentions short-term rentals in Section 2.5 but provides no guidance for enforcement:

2.5 - Use Categories and Interpretation of Uses. modified

2.5.1 Use Categories.

All uses permitted in this Ordinance have been divided into nine general categories and are generally defined as follows:

- A. **Residential:** Premises available for long-term human habitation by means of ownership and rental, but excluding short-term leasing or rental of less than a month's duration.
- B. **Lodging:** Premises available for short-term human habitation, including daily and weekly rental.

The goal of the proposed ordinance is to:

1. Distinguish occupied properties in which a portion of the property is rented short-term as a Homestay, from properties in which there is no management presence on-site during rental;
2. Provide some regulatory parameters for management of STRs to minimize impacts on surrounding neighbors; and
3. Prohibit future STRS (not Homestays) in designated neighborhoods to be determined.

D R A F T
For Planning Board Discussion
January, 22, 2024

ORDINANCE NO.

AN ORDINANCE AMENDING THE TEXT OF THE
TOWN OF WAYNESVILLE LAND DEVELOPMENT STANDARDS
TO DEFINE AND REGULATE HOMESTARS AND SHORT TERM VACATION RENTALS

WHEREAS, the Town of Waynesville has the authority, pursuant to Article 7 of Chapter 160D of the North Carolina General Statutes, to adopt land development regulations, clarify such regulations, and amend such regulations from time to time in the interest of the public health, safety and welfare; and

WHEREAS, the Town of Waynesville Planning Board reviewed the proposed text amendments to the Land Development Standards (LDS) designed to define and regulate the use of residential properties as short term vacation rentals and recommends that the proposed ordinance and text amendments be found consistent with the 2035 Comprehensive Plan and that they are reasonable and in the public interest because they support the following goals as set out in the Comprehensive Plan:

Goal 1: Continue to promote smart growth principles in land use in planning, particularly to reinforce the unique character of Waynesville by preserving the character of neighborhoods.

WHEREAS, the Planning Board has reviewed and recommends the proposed text amendments for enactment by the Board of Aldermen; and

WHEREAS, the Waynesville Town Council find this Ordinance is consistent with the Town's 2035 Comprehensive Plan as stated above and that it is reasonable and in the public interest to "make decisions about resources and land use in accordance with the North Carolina General Statutes" that will help achieve such goals; and

WHEREAS, after notice duly given, a public hearing was held on _____, 2024, at the regularly scheduled meeting of the Waynesville Planning Board, and on _____, 2024, at the regularly scheduled meeting of the Town Council;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE TOWN OF WAYNESVILLE, MEETING IN REGULAR SESSION ON _____, 2024, AND WITH A MAJORITY OF THE BOARD MEMBERS VOTING IN THE AFFIRMATIVE, THE FOLLOWING:

That the Land Development Standards be amended as follows:

Section 17.4 Definitions, General, is hereby amended to add the following definitions:

Homestay: Homestay means a lodging use that occurs within a resident-occupied single-family dwelling wherein up to two guest rooms in the home is rented to transients for compensation for a period of less than one month, and where the use is incidental and subordinate to the primary residential use of the property and no meals or other services are provided by the owner or host. A homestay may or may not have a separate kitchen, bathroom and/or entrance.

Short Term Vacation Rental: Short-term vacation rental means a dwelling unit with up to four guest rooms that is used for transient occupancy for a period of less than thirty days. A short-term vacation rental is considered a "Lodging." This term encompasses Short Term Rentals or "STRs," VRBO, or AirBandB, or other terms associated with this type of use.

Section 2-5-3 Table of Permitted Uses is amended as follows:

Homestay is hereby added as a use with supplemental standards, and the table is amended to show that homestays are allowed as (PS) in all districts where Residential Dwelling Uses are allowed, or within RL, RM, NR, UR, NC, BD, and RC Districts on the Table of Permitted Uses.

Short term vacation rental is hereby added as a use, and the table is amended to show that short term vacation rentals are allowed in the (Need Board Input) . . . districts, and to show that short term vacation rentals are allowed as a special use in the (Need Board Input) . . . districts.

Section 3.3.4 is added to the Land Development Standards, to read as follows:

3.3.4 Supplemental Use Standards for Homestays

A. There must be adequate off street parking for homestay guests in addition to the spaces required for the property's use as a residence, unless such homestay is in a neighborhood or on a street where the primary parking is streetside or if shared or rented parking on private property or at a public or private parking deck or lot is available and used.

B. The permanent and primary resident in the home used as a homestay must reside in the home and be present or readily available at all times the residence is in use as a homestay.

Section 3.3.5 is added to the Land Development Standards, to read as follows:

3.3.5 Supplemental Use Standards for Short Term Vacation Rentals

A. Parking

1. A minimum of one off-street parking space per bedroom shall be required.

2. If off-street parking is not available on-site, shared parking or rented parking spaces in a private or public parking deck or lot may be used to satisfy the parking requirement with documentation of a shared parking agreement.

B. Property owner responsibilities: Any property owner operating a STR lodging, as well as any host, shall:

1. Ensure compliance with all federal, state, and local laws, including but not limited to, tax code, North Carolina State Building Code, fire code and environmental health regulations for the level of occupancy of the lodging.
2. Not allow any party, event, classes, weddings, receptions or other large gatherings on the premises.
3. Keep in full force and effect during all times the unit is used as a lodging commercial general liability insurance with a total limit of not less than \$500,000.00 for each occurrence for bodily injury and property damage.
4. Prohibit and ensure that owners or hosts do not prepare and serve food for the guests and do not allow cooking in any individual bedrooms.
5. Ensure that all refuse is stored in appropriate containers and set out for collection on the proper collection day(s) and the carts or cans are removed from the street or alley on the scheduled collection day, or that arrangements are made for a private service to solid waste collection from the site.
6. Post in a conspicuous location inside each lodging unit a notice setting forth the following information:
 - a. The name and telephone number of the operator.
 - b. The address of the lodging, the maximum number of overnight occupants, and the day(s) established for garbage collection.
 - c. Phone number of the Town of Waynesville Police Department
 - d. That parties, events, classes, weddings, receptions, and other large gatherings are not permitted.

ADOPTED this _____ Day of _____, 2024.

TOWN OF WAYNESVILLE

J. Gary Caldwell, Mayor

ATTEST:

Candace Poolton, Town Clerk

APPROVED AS TO FORM:

Martha Bradley, Town Attorney