

# May 2018

Click on the desired [View Agenda](#) for detailed information. Click on the application number on the agenda to access the staff report.

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
		1	2 <b>No PC Meeting</b>	3 <b>View Agenda</b>	4	5
6	7	8	9 <b>No PC Meeting</b> <i>Land Use Process Review Committee – zMOD Project</i>  <i>Time: 7:30 p.m.</i> <i>Location: Board Auditorium</i>	10 <b>View Agenda</b>  <b>Meeting Cancelled</b>	11	12
13	14	15	16 <b>No PC Meeting</b> <i>Land Use Process Review Committee</i> <i>7:30 p.m. – 2018 ZOA Work Program</i> <i>8:30 p.m. – SSPA Process</i> <i>Location: Board Conf. Room</i>	17 <b>View Agenda</b>	18	19
20	21	22	23 <b>No PC Meeting</b>	24 <b>View Agenda</b>	25	26
27	28	29	30 <b>No PC Meeting</b>	31 <b>No PC Meeting</b>		

Planning Commission Meetings are held in the Board Auditorium of the Government Center at:  
12000 Government Center Parkway, Fairfax, VA 22035  
All Planning Commission meetings begin at 7:30 p.m., unless otherwise noted.

**FAIRFAX COUNTY PLANNING COMMISSION**  
**DETAILED MEETING AGENDA**

**Thursday, May 3, 2018**  
**Meeting Starts at 7:30 p.m.**

Posted: 5/3/18  
Revised: 5/4/18

**KEY**  
P/H – Public Hearing  
D/O – Decision Only

**FEATURES SHOWN**

FSA-B01-12-2 – Sprint, 8996 Burke Lake Road, Burke, VA 22015 (Deadline: 6/14/18)

**ITEMS SCHEDULED FOR DECISION ONLY**

<b>Application</b>	<b>Applicant</b>	<b>Staff</b>	<b>PC Action</b>
<u>Z.O. Amendment</u> (Hart) (Countywide)	<u>Articles 8, 10, 18 and Appendix 2 - Minimum Required Rear Yard Coverage Limitations for Single Family Detached Dwellings</u> – An amendment to Chapter 112 (the Zoning Ordinance) of the 1976 Code of the County of Fairfax, as follows: <ul style="list-style-type: none"><li>(1) Amend Sect. 10-102, Permitted Accessory Uses, to remove the 100-square-foot size limitation on a child’s playhouse.</li><li>(2) Amend Par. 3 of Section 10-103 as follows:<ul style="list-style-type: none"><li>a. To increase, from 30% up to 50%, the maximum coverage allowed by right for accessory uses and structures within the minimum required rear yard of any lot containing a single-family detached dwelling in an R-District.</li><li>b. To increase, from 30% up to 60%, the maximum coverage allowed by right for accessory uses and structures within the minimum required rear yard of any lot containing a single-family detached dwelling in the P-Districts and to exempt from the maximum rear yard coverage restriction any such P-District lot that does not exceed 5,000 square feet of land area, and to allow an administrative exemption from the rear yard coverage restriction for any such P-District lot that measures up to 10% larger than 5,000 square feet.</li><li>c. To clarify which structures and uses are included in the rear yard coverage calculations, specifically freestanding accessory structures, projections from the principal dwelling that touch the ground, and driveways, parking spaces, sidewalks, and walkways that are greater than 5 feet in width.</li><li>d. To specify that any portion of the principal dwelling that receives approval to encroach into the minimum required rear yard is not included in the rear yard coverage calculation.</li><li>e. To specify that, for the purposes of this provision, for a lot within a P-District that is not subject to proffered rear yards, the required minimum rear yard is governed by the regulations of that conventional residential zoning district which most closely characterizes the given development.</li><li>f. To specify that an increase in the percentage of minimum rear yard coverage may be permitted with the approval of a special permit or, for lots located in a P-District, an amendment to the development plan.</li></ul></li><li>(3) Revise Article 8, Sect. 8-901 to add a new special permit use to increase the percentage coverage of the minimum required rear yard for single-family detached dwellings, and add a new Section 8-926, entitled “Provisions for Increase in the Percentage of Minimum Required Rear Yard Coverage,” to allow for the BZA to approve a special permit to increase the maximum coverage of minimum required rear yards. This section sets out additional</li></ul>	Casey Judge	<b>ADOPTION REC</b> (P/H from 4/18/18)

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standards and submission requirements that would have to be met for the approval of such a special permit, including that the approval will allow no more than 60 percent of the minimum required rear yard to be covered by any accessory structure and use and allows the BZA to impose conditions it deems necessary to satisfy these standards.

- (4) Amend Sect. 8-914 and 8-922 to revise the submission requirements to add a requirement to include the percentage that the minimum required rear yard is covered with accessory structures and uses.
- (5) Pursuant to authority granted by § 15.2-107 and §15.2-2286 (A) (6) of the Code of Virginia, amend Article 18, Par. 1, Sect. 106 to establish a \$910 fee for a Group 9, Special Permit to increase rear yard coverage on a lot with a single-family detached dwelling in an R-District. In addition, Par. 2 of Section 106 will be amended to establish a \$910 fee for a development plan amendment to increase rear yard coverage on a lot with a single-family detached dwelling in a P-District.
- (6) Amend Appendix 2, Illustrations, to add four plates clarifying coverage calculations as “Illustration 6.”

[PCA 79-C-090-02](#)  
(Hunter Mill)

[TH HOLDING COMPANY, LLC](#) – Appl. to permit deletion of land area from RZ 79-C-090. Located N. of Sunset Hills Rd. and W. of Business Center Dr. on approx. 3.58 ac. of land zoned I-4. Comp. Plan Rec: Office Use. Tax Map 18-3 ((8)) 10A1 (pt.). (Concurrent with PCA 91-H-001, RZ 2017-HM-019 and SE 2017-HM-016).

Angelica  
Gonzalez

**APPROVAL REC**  
(P/H from 4/19/18)

[PCA 91-H-001](#)  
(Hunter Mill)

[TH HOLDING COMPANY, LLC](#) – Appl. to permit deletion of land area from RZ 91-H-001. Located N. of Sunset Hills Rd. and W. of Business Center Dr. on approx. 1.24 ac. of land zoned I-4. Comp. Plan Rec: Office Use. Tax Map 18-3 ((8)) 10A1 (pt.). (Concurrent with PCA 79-C-090-02, RZ 2017-HM-019 and SE 2017-HM-016).

Angelica  
Gonzalez

**APPROVAL REC**  
(P/H from 4/19/18)

[RZ 2017-HM-019](#)  
(Hunter Mill)

[TH HOLDING COMPANY, LLC](#) – Appl. to rezone from I-4 to I-4 to permit a hotel and office development with an overall Floor Area Ratio (FAR) of 0.67. Located N. of Sunset Hills Rd. and W. of Business Center Dr. on approx. 4.82 ac. of land. Comp. Plan Rec: Office Use. Tax Map 18-3 ((8)) 10A1. (Concurrent with PCA 79-C-090-02, PCA 91-H-001 and SE 2017-HM-016).

Angelica  
Gonzalez

**APPROVAL REC**  
(P/H from 4/19/18)

[SE 2017-HM-016](#)  
(Hunter Mill)

[TH HOLDING COMPANY, LLC](#) – Appl. under Sects. 5-404, 9-512 and 9-618 of the Zoning Ordinance to permit a hotel and office development and increase Floor Area Ratio (FAR). Located at 1741 Business Center Dr., Reston, 20190 on approx. 4.82 ac. of land zoned I-4. Tax Map 18-3 ((8)) 10A1. (Concurrent with PCA 79-C-090-02, PCA 91-H-001 and RZ 2017-HM-019).

Angelica  
Gonzalez

**APPROVAL REC**  
(P/H from 4/19/18)

[RZ/FDP 2017-SP-029](#)  
(Springfield)

[CHRISTOPHER LAND, LLC](#) – Appls. to rezone from R-1 to PDH-3 to permit residential development with an overall density of 2.88 dwelling units per acre (du/ac) and approval of the conceptual and final development plan. Located on the N. side of Fairfax County Pkwy. approx. 350 ft. E. of its intersection with Seabrook Ln. on approx. 2.44 ac. of land. Comp. Plan Rec: Residential 2-3 du/ac. Tax Map 97-2 ((1)) 6.

Bill Mayland

**APPROVAL REC**  
(D/O from 4/26/18)  
(P/H from 4/19/18  
(rom 3/15/18)

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2232-M17-43  
(Mason)

**COUNTY BOARD OF ARLINGTON COUNTY, VIRGINIA** –

Kelly Atkinson

**APPROVED**  
(P/H from 4/26/18)  
(from 4/18/18)

Appl. under Sects. 15.2-2204 and 15.2-2232 of the *Code of Virginia* to permit bus maintenance and repair facility. Located at 6701 Electronic Dr., Springfield, 22151 on approx. 2.15 ac. of land zoned I-6. Tax Map 80-2 ((1)) 34 (pt.). (Concurrent with SE 2017-MA-032).

**ITEMS SCHEDULED FOR PUBLIC HEARING**

Application	Applicant	Staff	PC Action
<p><u>Zoning Ordinance Amendment</u> (Hart) (Countywide)</p>	<p><b><u>Articles 10, 18 and 20 of the Zoning Ordinance and Chapter 4 of the Code of Fairfax County Regarding Short-Term Lodging (Residential Owner/Renter Operated Dwellings Only)</u></b></p>	<p>Lily Yegazu</p>	<p><b>D/O TO 5/17/18</b></p>

**Proposed Zoning Ordinance Amendments**

The proposed regulations are intended to allow limited STL operations, balancing the interests of residents in protecting the character of their neighborhoods with the interest of residents who want to operate STLs in their residences. In crafting the restrictions on STL use, staff took into consideration the particular concerns citizens and stakeholders voiced during the outreach process. A summary of how the proposed amendments specifically address these concerns follows.

**Neighborhood character** Staff received multiple comments during the public outreach efforts from residents who had concerns related to the impacts of STLs on the existing neighborhood character and residential feel of their community. Residents indicated that a neighborhood made up of owners or long-term tenants has a very different character than a neighborhood frequented by short-term or transient occupants who may not have a vested interest in maintaining the quality of life of their neighbors. Residents consistently expressed that they did not want investors acquiring multiple properties to operate full-time, hotel-type commercial uses within residential neighborhoods. Staff believe the ordinance addresses preserving neighborhood character in a number of ways:

- **Accessory use:** The proposed amendment adds Short-Term Lodging as a permitted accessory use in any zoning district that permits residential uses, and in any type of dwelling or in a mobile home, except that STLs may not be conducted in workforce or affordable housing units, detached accessory structures, accessory dwelling units, or temporary family health care structures. These excluded structures are specifically intended for other purposes, such as an onsite unit for an aged parent or a unit equipped for providing medical care to a family member. In the case of a detached accessory structure, staff believes the use of such structures for lodging purposes could easily convert these structures into permanent second dwelling units, which is not generally permitted. Staff believes the operation of STLs within the main structure of the principal building on the property will help limit the impacts of the use on surrounding properties.

- **Permanent residents as STL Operators:** STL uses are proposed to be operated by a permanent resident of a dwelling or mobile home to dispel the concern that non-resident operators could negatively impact neighborhood character by having little or no interaction with the community and by not being consistently present to address issues of

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community concern. Two forms of verification—like a driver’s license, vehicle registration, passport, or utility bill—are required to demonstrate permanent residency. This information will be reviewed and noted by staff at the time of application, but sensitive information will not be retained in the public records for security reasons.

• **Operator Presence/Authorized Agent:** Having the operator on-site may decrease the likelihood of issues arising with the STL use. Research and community input indicate, however, that many STLs operate without the operator present, e.g., an owner may offer their home while away on vacation for a week. To address the absence concern, the proposed amendments require that the STL operator identify an Authorized Agent to be available and responsible to respond to issues or emergencies in the absence of the STL Operator. *(The amendment has been advertised to also allow consideration of requiring the STL Operator to be on-site. The requirement for the Authorized Agent is not contingent on operator presence.)*

• **Limitation on number of nights a STL use is permitted:** To keep the use truly accessory, staff proposes a maximum of 90 calendar days for STL use per year, or approximately 25% of a year. *(The amendment has been advertised to allow consideration of a maximum number of rental nights of up to 180 without an operator present or unlimited nights with an operator present.)*

• **Occupancy limitations:** The proposed amendment recommends not more than six adults per dwelling per night. This allows for families or groups of friends or colleagues to rent an STL and is consistent with other jurisdictions that have adopted provisions for an occupancy limit. Staff considered establishing a maximum number of persons per bedroom, but such a restriction would be virtually impossible to enforce, as it requires specific observation of the number of people in a bedroom. The Virginia Uniform Statewide Building Code further limits occupancy: as the proposed amendments reflect, it may impose stricter limits depending on the space being offered. *(The amendment is advertised to allow for any limit on occupancy, up to the maximums the Virginia Uniform Statewide Building Code imposes.)*

• **Limited contracts:** Staff propose restricting STL use to one contract; all persons lodging in the dwelling at one time must be associated with the same rental contract. This does not preclude a group of related/associated individuals from working out individual payment plans or having different durations of stay, but it will preclude the STL Operator from making the home available to multiple, unrelated/associated individuals, which would make the STL use more like a traditional hotel/motel. Additionally, parking, traffic on local streets, and the potential for negative interaction among lodgers are all issues that could be exacerbated by allowing multiple, unrelated groups or individuals to lodge at the same time. *(The amendment is advertised to allow flexibility to consider 1 to 5 contracts per night, with staff recommending one.)*

### **Safety**

Safety measures to protect lodgers are important, as they would not be particularly familiar with the layout or safety features of a dwelling/mobile home in the event of an emergency. The proposed amendments require that dwellings used for STLs meet all applicable requirements related to building code or manufactured home safety

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regulations. The age of the structure generally determines what provisions are applicable.

- **Sleeping rooms:** Converting basements or other non-traditional spaces to sleeping rooms requires compliance with the most current building code, which would require a second means of egress from the room, such as an emergency egress window in an existing basement.
- **Safety Equipment:** The amendment proposes that a working fire extinguisher, interconnected smoke detectors, and interconnected carbon monoxide detectors (if there is a fireplace and/or gas service is provided to the home) must be present in every dwelling offering STL use. If these features are not present in the home due to the age of the structure, they must be added before beginning an STL operation.
- **Exit plan:** Like hotels, STLs must have an exit plan posted on the door to each bedroom or sleeping space to outline a pathway out of the home in the event of an emergency.

### **Commercial event use**

It is the Zoning Administrator's longstanding position that hosting events (e.g., parties, weddings, catered dinners) at a dwelling is prohibited except when the activity is directly hosted by the principal residents of the dwelling. For example, an owner could host a backyard wedding for their son or daughter, but could not make the property available as a wedding venue. The provisions prohibit all events and activities for persons other than authorized lodgers staying in the dwelling regardless of whether there is direct or indirect compensation for the event or activity.

### **Parking**

Citizens claimed STL users often park vehicles in reserved spaces, block access to driveways and mailboxes, or use all the available public parking. In evaluating whether the ordinance should therefore require STL operators to provide parking, staff considered that home child care, home offices, and a variety of other home occupations are currently permitted under the Zoning Ordinance without a requirement for an additional off-street parking space. Staff also recognized that many visitors may opt to use public transport, taxis or ride-sharing services and would not need a parking space. In addition, staff could not draft the ordinance to place a blanket limitation on otherwise publicly available parking. Accordingly, staff does not currently believe a designated parking space is warranted.

To ensure that parking is managed appropriately, however, the amendment proposes to require all advertisements for STLs to indicate if and where on-site parking is available for the dwelling offering STL. If there is no on-site parking available, the advertisements must so state. This information will help lodgers manage their expectations and plan for their transportation needs.

### **Impact on Property Owners Associations**

Staff understands the concerns of communities who, collectively, do not want STL operations in their development. However, Virginia Code § 15.2-110 prohibits the County from requiring consent from an HOA/COA prior to the issuance of any permit, certificate or license. HOA/COA covenants, bylaws and other regulations remain intact, even when a Zoning Ordinance has been amended, so if there is a current provision in an association's documents that would restrict the use of any homes for STL purposes, the proposed amendments will not negate



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those restrictions. The proposed amendments expressly state that they do not abrogate, nullify or invalidate any provisions applicable to the structure or use of the property. The STL operator is therefore on notice that his or her STL operation must comply with any restrictive covenants on his or her property.

### **Enforcement**

Because this is a use that operates within a home, enforcement will pose difficulties particularly regarding the 90-night limit and 6-lodger limitations. Staff believes the proposed regulations have been crafted in a way to minimize (but not eliminate) enforcement challenges. The following tools and requirements will assist compliance staff with complaint investigations:

- **Permit:** STL operations will require a permit issued by the Zoning Administrator and valid for a period of two years. Home occupation uses generally require only an initial permit; however, staff believes requiring permit renewal will ensure STLs are operating in conformance with the use limitations. To help the Code Compliance Inspectors determine which STLs may be illegally operating, STL Operators will be required to include their permit number in their online listings. The Zoning Administrator may revoke a permit for failure to comply with the STL regulations.

*(Advertised to allow a one- or two-year period of permit validity.)*

- **Guest Log:** STL Operators must maintain a record of lodgers and lodgers' contact information, and make available upon request to appropriate County staff. This will help staff ensure compliance with the limitations on number of nights of use and occupancy, as well as allow staff to contact lodgers if that becomes necessary during a complaint investigation.

- **Owner Consent:** The proposed amendment requires consent of the property owner if the STL Operator is a long-term tenant. Because property owners are ultimately responsible for any violations occurring on property they own and for any fines or penalties associated with those violations, staff considers this a critical requirement.

- **Outside Consultant:** To enhance enforcement efforts, staff proposes to use the services of an outside consultant. Other Virginia jurisdictions have contracted with Host Compliance LLC, which can track the exact address and rental activity of STLs across multiple online platforms, as well as provide screenshots of listings and contact information for operators. The County can enter into a purchase order based on the existing contract with the other Virginia jurisdictions for the next year or two.

- **Inspection:** Oftentimes, the biggest hurdle for DCC is the inability to gain access to a property to investigate a complaint of noncompliance. The proposed provisions are intended to eliminate that hurdle by requiring STL Operators to consent to inspection by County personnel during reasonable hours.

### **Changes and Additions to Ordinance Definitions**

As noted, the Zoning Ordinance currently does not define transient occupancy or STL. The proposed regulations will introduce these as new definitions and will modify the "Dwelling" and "Dwelling, Mobile Home" definitions in Chapter 20 to accommodate the STL use. In addition, the proposed amendments introduce and define the STL-use specific terms "Authorized Agent," "Permanent Resident," and "Short-Term Lodging Operator," which apply only to STL use

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provisions.

### **Proposed Fees**

Virginia Code § 15.2-2286(A)(6) provides that a Zoning Ordinance may include reasonable provisions for the collection of fees to cover the costs of making inspections, issuing permits, advertising notices, and other expenses incident to its administration. To keep fees in line with other permits/certifications staff proposes a \$200/2-year permit application fee for STLs.

As part of this amendment, staff also proposes to reduce the special exception application fee for Bed and Breakfast use by 50%, from \$16,375 to \$8,180, but will advertise a fee ranging from \$4,085 to the current fee of \$16,375. Staff believes the high application fee may account for the fact that there are no approved Bed and Breakfasts currently operating in the County. The only Bed and Breakfast approved in the last two decades ceased operating. Unlike the STLs, Bed and Breakfasts may be operated by non-permanent residents and may be operated year-round. Staff believes that the Bed and Breakfast provisions may offer an additional business opportunity for some of the County's lodging entrepreneurs. No other changes are proposed to the Bed and Breakfast provisions regarding their location and other use limitations.

### **Fiscal Impacts and Tax Provisions of the County Code**

The operation of STL in the County constitutes a transient occupancy use that is subject to a Transient Occupancy Tax or TOT. It is estimated that there are approximately 1,500 active listings in the County based on research and specific data provided by a third-party data collection company who provided information related to Airbnb listings. Airbnb representatives have confirmed this approximate number. The estimates obtained from the third-party data collection company also indicate that the average days of rental in the County are 64 days and the average income per night for the STL Operator is \$72. Using these average assumptions of 64 rentals per year per STL Operator and a \$72 per night, staff estimates collecting \$428,268 in annual Transient occupancy Tax (TOT) revenue. The total TOT in Fairfax County is calculated at the rate of 6 percent (2 percent for general transient occupancy tax + 2 percent for tourism + 2 percent for regional transportation) on the gross room rental charged for overnight stays related to transient occupancy. As required by state legislation, of the revenue generated by the 2 percent for tourism, one quarter is designated to the Fairfax County Convention and Visitors' Center, and the rest is used by the County to promote tourism. As a result, of the total projected \$428,268, \$142,756 will be allocated for regional transportation, \$35,689 to Fairfax County Convention and Visitors' Center, and \$249,823 to the County's General Fund. Additionally, based on the proposed \$200 STL permit fee, estimated revenue of approximately \$150,000 could be generated annually.

Given these average rental night and rate figures, the revenue from the Business, Professional, and Occupations License tax (BPOL) is not likely to result in meaningful revenue, since gross receipts under \$100,000 per year are subject to a license/tax of \$50 or less and in instances of revenue of less than \$10,000 the BPOL is zero. The average annual income for an STL host is estimated at less than \$5,000 per year, and BPOL is not applicable at this level. As such, staff does not believe that a significant amount of income will be derived



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*Posted: 5/3/18*  
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from the BPOL.

This amendment includes a companion amendment to Chapter 4 of the County Code. Those changes are set forth and described in an attachment to the Board Item.

**Implementation of Proposed Changes**

Staff is developing an implementation plan to assist with the smooth initiation of the STL permit process. While not part of the Zoning Ordinance text, a new permit application form and STL permit will be developed in conjunction with this amendment. If the proposed amendment is adopted, staff is considering sending notification letters to the owners of addresses identified by the third-party data collection company as currently advertising the availability of an STL in the County. Such notice would provide the new regulations and advise of the permit requirement and process. Staff also believes that the volume of potential STL applications that could be received warrants a delayed implementation to allow operators to obtain approval. This is similar to the grace period that was granted when the home child care amendment was adopted, in which existing operators were given a period of time to come into compliance by obtaining the require approval. Delayed implementation is also warranted because of the change in TOT remittance from a quarterly option to a monthly requirement. This change will impact current hotel operators as well as the new STLs and a delayed implementation will allow those hotels that currently remit the tax on a quarterly basis time to prepare for a monthly remittance process. Staff is recommending an effective date of October 1, 2018, which is the first day after the July quarter.

The proposed regulations are intended to achieve a balance between allowing STLs while maintaining the overall character of residential neighborhoods. As such, staff recommends approval of the proposed amendments with an effective date of 12:01 a.m. on the day following adoption, provided, however that STL Operators will have a grace period of between 90 and 120 days from the date of adoption to obtain approval of an STL permit.

**Conclusion**

The changes staff propose are intended to facilitate a limited STL use for the County's entrepreneurs, while preserving the character of the County's communities and safety of its residents. Because STL regulation is relatively new, not only in Fairfax County but nationwide, staff believe it appropriate to revisit these regulations in eighteen months and make any necessary regulatory changes. This, of course, does not limit the Board's ability to revisit this amendment sooner, should it see fit to do so.

**FAIRFAX COUNTY PLANNING COMMISSION**

**MEETING AGENDA**

**Thursday, May 10, 2018**

*Posted: 4/5/18*  
*Revised: 4/30/18*

**KEY**  
**P/H – Public Hearing**  
**D/O – Decision Only**

Listed below are items scheduled for public hearing and/or decision by the Planning Commission on this date. For more information on an application, including the staff report, return to this page approximately two weeks prior to the meeting date and click on the application number. You can also contact the Department of Planning and Zoning staff at 703-324-1290.

**MEETING CANCELLED**

**FAIRFAX COUNTY PLANNING COMMISSION  
DETAILED MEETING AGENDA**

**Thursday, May 17, 2018  
Meeting Starts at 7:30 p.m.**

Posted: 5/17/18  
Revised: 5/18/18

**KEY**  
P/H – Public Hearing  
D/O – Decision Only

**FEATURES SHOWN**

**FSA-B01-12-2** – Sprint, 8996 Burke Lake Road, Burke, VA 22015 (Deadline: 6/14/18) - **CONCUR**  
**2232-Y17-42** – Fairfax County Park Authority, Ellanor C. Lawrence Park, 5040 Walney Road, Chantilly, VA 20151  
(Deadline: 6/16/18)

**ITEMS SCHEDULED FOR DECISION ONLY**

<b>Application</b>	<b>Applicant</b>	<b>Staff</b>	<b>PC Action</b>
<a href="#"><u>PCA 82-L-030-13 Addendum</u></a> (Lee)	<a href="#"><u>WHITE HORSE FOUR, LLC</u></a> – Appl. to amend the proffers for RZ 82-L-030, previously approved for commercial development, to permit a car wash and associated modifications to proffers and site design with an overall Floor Area Ratio (FAR) of 0.23. Located on the S. side of Charles Arrington Dr., E. of its intersection with Beulah St., on approx. 16.13 ac. of land zoned C-8. Comp. Plan Rec: Retail and Other Commercial Uses. Tax Maps 91-1 ((12)) N. (Concurrent with PCA 87-L-031-03 and SE 2015-LE-031).	Casey Judge	<b>D/O TO 6/14/18</b> (P/H from 4/26/18) (from 2/15/18) (from indef.)
PCA 87-L-031-03 <a href="#"><u>Addendum</u></a> (Lee)	<a href="#"><u>WHITE HORSE FOUR, LLC</u></a> – Appl. to amend the proffers for RZ 87-L-031, previously approved for commercial development, to permit a car wash and associated modifications to proffers and site design with an overall Floor Area Ratio (FAR) of 0.23. Located on the S. side of Charles Arrington Dr., E. of its intersection with Beulah St., on approx. 17.14 ac. of land zoned C-8. Comp. Plan Rec: Retail and Other Commercial Uses. Tax Maps 91-1 ((1)) 67 and 67E; and 91-1 ((12)) N. (Concurrent with PCA 82-L-030-13 and SE 2015-LE-031).	Casey Judge	<b>D/O TO 6/14/18</b> (P/H from 4/26/18) (from 2/15/18) (from indef.)
<a href="#"><u>SE 2015-LE-031 Addendum</u></a> (Lee)	<a href="#"><u>WHITE HORSE FOUR, LLC</u></a> – Appl. under Sect(s). 4-804 and 9-501 of the Zoning Ordinance to permit a car wash. Located at 6912 Manchester Blvd., Alexandria, 22310, on approx. 17.14 ac. of land zoned C-8. Tax Map 91-1 ((1)) 67 and 67E; and 91-1 ((12)) N. (Concurrent with PCA 82-L-030-13 and PCA 87-L-031-03).	Casey Judge	<b>D/O TO 6/14/18</b> (P/H from 4/26/18) (from 2/15/18) (from indef.)
<a href="#"><u>Zoning Ordinance Amendment</u></a> (Hart) (Countywide)	<a href="#"><u>Articles 10, 18 and 20 of the Zoning Ordinance and Chapter 4 of the Code of Fairfax County Regarding Short-Term Lodging (Residential Owner/Renter Operated Dwellings Only)</u></a>	Lily Yegazu	<b>D/O TO 5/24/18</b> (P/H from 5/3/18))

**Proposed Zoning Ordinance Amendments**

The proposed regulations are intended to allow limited STL operations, balancing the interests of residents in protecting the character of their neighborhoods with the interest of residents who want to operate STLs in their residences. In crafting the restrictions on STL use, staff took into consideration the particular concerns citizens and stakeholders voiced during the outreach process. A summary of how the proposed amendments specifically address these concerns follows.

**Neighborhood character** Staff received multiple comments during the public outreach efforts from residents who had concerns related to the impacts of STLs on the existing neighborhood character and residential feel of their community. Residents indicated that a neighborhood made up of owners or long-term tenants has a very different character than a neighborhood frequented by short-term or transient occupants who may not have a vested interest in maintaining the quality of life of their neighbors. Residents consistently expressed that they did not want

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investors acquiring multiple properties to operate full-time, hotel-type commercial uses within residential neighborhoods. Staff believe the ordinance addresses preserving neighborhood character in a number of ways:

- **Accessory use:** The proposed amendment adds Short-Term Lodging as a permitted accessory use in any zoning district that permits residential uses, and in any type of dwelling or in a mobile home, except that STLs may not be conducted in workforce or affordable housing units, detached accessory structures, accessory dwelling units, or temporary family health care structures. These excluded structures are specifically intended for other purposes, such as an onsite unit for an aged parent or a unit equipped for providing medical care to a family member. In the case of a detached accessory structure, staff believes the use of such structures for lodging purposes could easily convert these structures into permanent second dwelling units, which is not generally permitted. Staff believes the operation of STLs within the main structure of the principal building on the property will help limit the impacts of the use on surrounding properties.

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*(The amendment has been advertised to allow consideration of a maximum number of rental nights of up to 180 without an operator present or unlimited nights with an operator present.)*

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*(The amendment is advertised to allow for any limit on occupancy, up to the maximums the Virginia Uniform Statewide Building Code imposes.)*

- **Limited contracts:** Staff propose restricting STL use to one contract; all persons lodging in the dwelling at one time must be associated with the same rental contract. This does not preclude a group of related/associated individuals from working out individual payment plans or having different durations of stay, but it will preclude the STL Operator from making the home available to multiple, unrelated/associated individuals, which would make the STL use more like a traditional hotel/motel. Additionally, parking, traffic on local streets, and the potential for negative interaction among lodgers are all issues that could be exacerbated by allowing multiple, unrelated groups or individuals to lodge at the same time. *(The amendment is advertised to allow flexibility to consider 1 to 5 contracts per night, with staff recommending one.)*

### **Safety**

Safety measures to protect lodgers are important, as they would not be particularly familiar with the layout or safety features of a dwelling/mobile home in the event of an emergency. The proposed amendments require that dwellings used for STLs meet all applicable requirements related to building code or manufactured home safety regulations. The age of the structure generally determines what provisions are applicable.

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- **Exit plan:** Like hotels, STLs must have an exit plan posted on the door to each bedroom or sleeping space to outline a pathway out of the home in the event of an emergency.

### **Commercial event use**

It is the Zoning Administrator's longstanding position that hosting events (e.g., parties, weddings, catered dinners) at a dwelling is prohibited except when the activity is directly hosted by the principal residents of the dwelling. For example, an owner could host a backyard wedding for their son or daughter, but could not make the property available as a wedding venue. The provisions prohibit all events and activities for persons other than authorized lodgers staying in the dwelling regardless of whether there is direct or indirect compensation for the event or activity.

### **Parking**

Citizens claimed STL users often park vehicles in reserved spaces, block access to driveways and mailboxes, or use all the available public parking. In evaluating whether the ordinance should therefore require STL operators to provide parking, staff considered that home child

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care, home offices, and a variety of other home occupations are currently permitted under the Zoning Ordinance without a requirement for an additional off-street parking space. Staff also recognized that many visitors may opt to use public transport, taxis or ride-sharing services and would not need a parking space. In addition, staff could not draft the ordinance to place a blanket limitation on otherwise publicly available parking. Accordingly, staff does not currently believe a designated parking space is warranted.

To ensure that parking is managed appropriately, however, the amendment proposes to require all advertisements for STLs to indicate if and where on-site parking is available for the dwelling offering STL. If there is no on-site parking available, the advertisements must so state. This information will help lodgers manage their expectations and plan for their transportation needs.

### **Impact on Property Owners Associations**

Staff understands the concerns of communities who, collectively, do not want STL operations in their development. However, Virginia Code § 15.2-110 prohibits the County from requiring consent from an HOA/COA prior to the issuance of any permit, certificate or license. HOA/COA covenants, bylaws and other regulations remain intact, even when a Zoning Ordinance has been amended, so if there is a current provision in an association's documents that would restrict the use of any homes for STL purposes, the proposed amendments will not negate those restrictions. The proposed amendments expressly state that they do not abrogate, nullify or invalidate any provisions applicable to the structure or use of the property. The STL operator is therefore on notice that his or her STL operation must comply with any restrictive covenants on his or her property.

### **Enforcement**

Because this is a use that operates within a home, enforcement will pose difficulties particularly regarding the 90-night limit and 6-lodger limitations. Staff believes the proposed regulations have been crafted in a way to minimize (but not eliminate) enforcement challenges. The following tools and requirements will assist compliance staff with complaint investigations:

- **Permit:** STL operations will require a permit issued by the Zoning Administrator and valid for a period of two years. Home occupation uses generally require only an initial permit; however, staff believes requiring permit renewal will ensure STLs are operating in conformance with the use limitations. To help the Code Compliance Inspectors determine which STLs may be illegally operating, STL Operators will be required to include their permit number in their online listings. The Zoning Administrator may revoke a permit for failure to comply with the STL regulations.  
*(Advertised to allow a one- or two-year period of permit validity.)*
- **Guest Log:** STL Operators must maintain a record of lodgers and lodgers' contact information, and make available upon request to appropriate County staff. This will help staff ensure compliance with the limitations on number of nights of use and occupancy, as well as allow staff to contact lodgers if that becomes necessary during a complaint investigation.
- **Owner Consent:** The proposed amendment requires consent of the property owner if the STL Operator is a long-term tenant. Because property owners are ultimately responsible for any violations occurring



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on property they own and for any fines or penalties associated with those violations, staff considers this a critical requirement.

- **Outside Consultant:** To enhance enforcement efforts, staff proposes to use the services of an outside consultant. Other Virginia jurisdictions have contracted with Host Compliance LLC, which can track the exact address and rental activity of STLs across multiple online platforms, as well as provide screenshots of listings and contact information for operators. The County can enter into a purchase order based on the existing contract with the other Virginia jurisdictions for the next year or two.

- **Inspection:** Oftentimes, the biggest hurdle for DCC is the inability to gain access to a property to investigate a complaint of noncompliance. The proposed provisions are intended to eliminate that hurdle by requiring STL Operators to consent to inspection by County personnel during reasonable hours.

### **Changes and Additions to Ordinance Definitions**

As noted, the Zoning Ordinance currently does not define transient occupancy or STL. The proposed regulations will introduce these as new definitions and will modify the “Dwelling” and “Dwelling, Mobile Home” definitions in Chapter 20 to accommodate the STL use. In addition, the proposed amendments introduce and define the STL-use specific terms “Authorized Agent,” “Permanent Resident,” and “Short-Term Lodging Operator,” which apply only to STL use provisions.

### **Proposed Fees**

Virginia Code § 15.2-2286(A)(6) provides that a Zoning Ordinance may include reasonable provisions for the collection of fees to cover the costs of making inspections, issuing permits, advertising notices, and other expenses incident to its administration. To keep fees in line with other permits/certifications staff proposes a \$200/2-year permit application fee for STLs.

As part of this amendment, staff also proposes to reduce the special exception application fee for Bed and Breakfast use by 50%, from \$16,375 to \$8,180, but will advertise a fee ranging from \$4,085 to the current fee of \$16,375. Staff believes the high application fee may account for the fact that there are no approved Bed and Breakfasts currently operating in the County. The only Bed and Breakfast approved in the last two decades ceased operating. Unlike the STLs, Bed and Breakfasts may be operated by non-permanent residents and may be operated year-round. Staff believes that the Bed and Breakfast provisions may offer an additional business opportunity for some of the County’s lodging entrepreneurs. No other changes are proposed to the Bed and Breakfast provisions regarding their location and other use limitations.

### **Fiscal Impacts and Tax Provisions of the County Code**

The operation of STL in the County constitutes a transient occupancy use that is subject to a Transient Occupancy Tax or TOT. It is estimated that there are approximately 1,500 active listings in the County based on research and specific data provided by a third-party data collection company who provided information related to Airbnb listings. Airbnb representatives have confirmed this approximate number. The estimates obtained from the third-party data collection company also indicate that the average days of rental in the County are 64 days and the average income per night for the STL Operator is \$72. Using these average

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assumptions of 64 rentals per year per STL Operator and a \$72 per night, staff estimates collecting \$428,268 in annual Transient occupancy Tax (TOT) revenue. The total TOT in Fairfax County is calculated at the rate of 6 percent (2 percent for general transient occupancy tax + 2 percent for tourism + 2 percent for regional transportation) on the gross room rental charged for overnight stays related to transient occupancy. As required by state legislation, of the revenue generated by the 2 percent for tourism, one quarter is designated to the Fairfax County Convention and Visitors' Center, and the rest is used by the County to promote tourism. As a result, of the total projected \$428,268, \$142,756 will be allocated for regional transportation, \$35,689 to Fairfax County Convention and Visitors' Center, and \$249,823 to the County's General Fund. Additionally, based on the proposed \$200 STL permit fee, estimated revenue of approximately \$150,000 could be generated annually.

Given these average rental night and rate figures, the revenue from the Business, Professional, and Occupations License tax (BPOL) is not likely to result in meaningful revenue, since gross receipts under \$100,000 per year are subject to a license/tax of \$50 or less and in instances of revenue of less than \$10,000 the BPOL is zero. The average annual income for an STL host is estimated at less than \$5,000 per year, and BPOL is not applicable at this level. As such, staff does not believe that a significant amount of income will be derived from the BPOL.

This amendment includes a companion amendment to Chapter 4 of the County Code. Those changes are set forth and described in an attachment to the Board Item.

### **Implementation of Proposed Changes**

Staff is developing an implementation plan to assist with the smooth initiation of the STL permit process. While not part of the Zoning Ordinance text, a new permit application form and STL permit will be developed in conjunction with this amendment. If the proposed amendment is adopted, staff is considering sending notification letters to the owners of addresses identified by the third-party data collection company as currently advertising the availability of an STL in the County. Such notice would provide the new regulations and advise of the permit requirement and process. Staff also believes that the volume of potential STL applications that could be received warrants a delayed implementation to allow operators to obtain approval. This is similar to the grace period that was granted when the home child care amendment was adopted, in which existing operators were given a period of time to come into compliance by obtaining the require approval. Delayed implementation is also warranted because of the change in TOT remittance from a quarterly option to a monthly requirement. This change will impact current hotel operators as well as the new STLs and a delayed implementation will allow those hotels that currently remit the tax on a quarterly basis time to prepare for a monthly remittance process. Staff is recommending an effective date of October 1, 2018, which is the first day after the July quarter.

The proposed regulations are intended to achieve a balance between allowing STLs while maintaining the overall character of residential neighborhoods. As such, staff recommends approval of the proposed amendments with an effective date of 12:01 a.m. on the day following adoption, provided, however that STL Operators will have a grace

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period of between 90 and 120 days from the date of adoption to obtain approval of an STL permit.

### Conclusion

The changes staff propose are intended to facilitate a limited STL use for the County's entrepreneurs, while preserving the character of the County's communities and safety of its residents. Because STL regulation is relatively new, not only in Fairfax County but nationwide, staff believe it appropriate to revisit these regulations in eighteen months and make any necessary regulatory changes. This, of course, does not limit the Board's ability to revisit this amendment sooner, should it see fit to do so.

### ITEMS SCHEDULED FOR PUBLIC HEARING

Application	Applicant	Staff	PC Action
<a href="#">PCA 82-L-071</a> (Lee)	<a href="#">BELL GROUP, LLC</a> – Appl. to amend the proffers for RZ 82-L-071 previously approved for contractor's offices and shops to permit additional uses and associated modifications to proffers and site design with an overall Floor Area Ratio (FAR) of up to 0.25. Located on the N. side of Oakwood Rd., E. of South Van Dorn St. on approx. 36,689 sq. ft. of land zoned I-4. Comp. Plan Rec: Alternative Uses. Tax Map 81-2 ((3)) 30.	Daniel Creed	<b>P/H TO 6/28/14</b>
<a href="#">SEA 99-P-046-02 Addendum</a> (Providence)	<a href="#">FLINT HILL SCHOOL</a> – Appl. under Sect. 3-104 of the Zoning Ordinance to amend SE 99-P-046 previously approved for a private school of general education to permit the construction of a middle school resulting in an increase in enrollment from 700 to 800 and associated modifications to site design and development conditions. Located at 10900, 10910, 10824, 10816 Oakton Rd. and 3400, 3320, 3310, 3300, 3308 and 3408 Jermantown Rd., Oakton, 22124 on approx. 35.16 ac. of land zoned R-1. Tax Map 47-3 ((1)) 16B, 17A, 18, 19, 19A, 20, 20A, 20B, 21A, 22, 22A, 23, 24, 34A, 34B, 34C. (Associated with SEA 84-P-105-04).	Kelly Posusney	<b>P/H TO 6/28/14</b> (from 4/26/18)
<a href="#">SEA 84-P-105-4</a> (Providence)	<a href="#">FLINT HILL SCHOOL</a> – Appl. under Sect. 3-304 of the Zoning Ordinance to amend SE 84-P-105 previously approved for a private school of general education to permit a decrease in enrollment from 700 to 500. Located at 3012 Chain Bridge Rd., 10429 & 10431 Miller Rd. and 3044 Jermantown Rd., Oakton, 22124 and portions of Academic Dr. Public right-of-way to be vacated and/or abandoned on approx. 14.7 ac. of land zoned R-3. Tax Map 47-2 ((1)) 36A, 37, 38 and 52A. (Associated with SEA 99-P-046-02). (Approval of this application may enable the vacation and/or abandonment of portions of the public rights-of-way for Academic Dr. to proceed under Section 15.2-2272 (2) of the Code of Virginia).	Kelly Posusney	<b>P/H TO 6/28/14</b> (from 4/26/18)
<a href="#">RZ/FDP 2018-SP-001</a> (Springfield)	<a href="#">JAG DEVELOPMENT COMPANY, LLC</a> – Appls. to rezone from C-3 and HC to PDH-20 and HC to permit Multi-Family Residential Development with an overall density of 23.46 dwelling units per acre (du/ac) including affordable and workforce dwelling units and approval of the conceptual and final development plan. Located in the S.W. intersection of Legato Rd. (RTE. 7967) and Legato Rd. (RTR. 656) on approx. 3.93 ac. of land. Comp. Plan Rec: Public	Kelly Atkinson	<b>APPROVAL REC</b>

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Facilities, Government and Institutional with option for Residential Use up to 1.25 (FAR). Tax Map 46-3 ((1)) 45, 46, 47, 48, 49 and 50.

RZ/FDP 2017-LE-022  
(Lee)

**SPRINGFIELD GATEWAY, LLC** – Appls. to rezone from C-5, C-8, CRD, SC and HC to PDC, CRD, SC and HC to permit a hotel with an overall Floor Area Ratio (FAR) of 1.50 and approval of the conceptual and final development plan. Located on the S. side of Franconia Rd. at its intersection with Backlick Rd. on approx. 1.54 ac. of land. Comp. Plan Rec: Retail and other Commercial Uses. Tax Map 80-4 ((1)) 17, 18 and 19.

Heath Eddy

**P/H TO 7/12/18**  
*(from 3/15/18)*  
*(from 1/25/18)*

RZ 2017-DR-023  
(Dranesville)

**TRADITION HOMES, LLC** – Appl. to rezone from R-1 to R-3 to permit residential development with a total density of 2.26 dwelling units per acre (du/ac). Location on the E. side of Dranesville Rd. approx. 960 ft. S. of its intersection with Wiehle Ave. on approx. 5.76 ac. of land. Comp. Plan Rec: Residential 2-3 du/ac. Tax Map 10-2 ((1)) 5.

Catherine Lewis

**P/H TO 6/28/18**  
*(from 4/18/18)*  
*(from 3/22/18)*  
*(from 2/22/18)*

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**FEATURES SHOWN**

**2232-Y17-42** – Fairfax County Park Authority, Ellanor C. Lawrence Park, 5040 Walney Road, Chantilly, VA 20151  
(Deadline: 6/16/18)

**APPLICATIONS FOR ADMINISTRATIVE APPROVAL**

ADMINISTRATIVE REVIEW OF URBAN PLAZA FOR FDPA 2012-MV-007 – CRP BELVOIR, LLC - **APPROVED**

Proposed 2018 Zoning Ordinance Amendment Work Program  
As modified by the Planning Commission Land Use Process Review Committee - **APPROVED**

**ITEMS SCHEDULED FOR DECISION ONLY**

<b>Application</b>	<b>Applicant</b>	<b>Staff</b>	<b>PC Action</b>
<a href="#"><u>Zoning Ordinance Amendment</u></a> (Hart) (Countywide)	<a href="#"><u>Articles 10, 18 and 20 of the Zoning Ordinance and Chapter 4 of the Code of Fairfax County Regarding Short-Term Lodging (Residential Owner/Renter Operated Dwellings Only)</u></a>	Lily Yegazu	<b>D/O TO 6/14/18</b> (D/O from 5/17/18) (P/H from 5/3/18))

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- **Exit plan:** Like hotels, STLs must have an exit plan posted on the door to each bedroom or sleeping space to outline a pathway out of the home in the event of an emergency.

### **Commercial event use**

It is the Zoning Administrator's longstanding position that hosting events (e.g., parties, weddings, catered dinners) at a dwelling is prohibited except when the activity is directly hosted by the principal residents of the dwelling. For example, an owner could host a backyard wedding for their son or daughter, but could not make the property available as a wedding venue. The provisions prohibit all events and activities for persons other than authorized lodgers staying in the dwelling regardless of whether there is direct or indirect compensation for the event or activity.

### **Parking**

Citizens claimed STL users often park vehicles in reserved spaces, block access to driveways and mailboxes, or use all the available public parking. In evaluating whether the ordinance should therefore require STL operators to provide parking, staff considered that home child care, home offices, and a variety of other home occupations are currently permitted under the Zoning Ordinance without a requirement for an additional off-street parking space. Staff also recognized that many visitors may opt to use public transport, taxis or ride-sharing services and would not need a parking space. In addition, staff could not draft the ordinance to place a blanket limitation on otherwise publicly available parking. Accordingly, staff does not currently believe a designated parking space is warranted.

To ensure that parking is managed appropriately, however, the amendment proposes to require all advertisements for STLs to indicate if and where on-site parking is available for the dwelling offering STL. If there is no on-site parking available, the advertisements must so state. This information will help lodgers manage their expectations and plan for their transportation needs.

### **Impact on Property Owners Associations**

Staff understands the concerns of communities who, collectively, do

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not want STL operations in their development. However, Virginia Code § 15.2-110 prohibits the County from requiring consent from an HOA/COA prior to the issuance of any permit, certificate or license. HOA/COA covenants, bylaws and other regulations remain intact, even when a Zoning Ordinance has been amended, so if there is a current provision in an association's documents that would restrict the use of any homes for STL purposes, the proposed amendments will not negate those restrictions. The proposed amendments expressly state that they do not abrogate, nullify or invalidate any provisions applicable to the structure or use of the property. The STL operator is therefore on notice that his or her STL operation must comply with any restrictive covenants on his or her property.

### **Enforcement**

Because this is a use that operates within a home, enforcement will pose difficulties particularly regarding the 90-night limit and 6-lodger limitations. Staff believes the proposed regulations have been crafted in a way to minimize (but not eliminate) enforcement challenges. The following tools and requirements will assist compliance staff with complaint investigations:

- **Permit:** STL operations will require a permit issued by the Zoning Administrator and valid for a period of two years. Home occupation uses generally require only an initial permit; however, staff believes requiring permit renewal will ensure STLs are operating in conformance with the use limitations. To help the Code Compliance Inspectors determine which STLs may be illegally operating, STL Operators will be required to include their permit number in their online listings. The Zoning Administrator may revoke a permit for failure to comply with the STL regulations.  
*(Advertised to allow a one- or two-year period of permit validity.)*
- **Guest Log:** STL Operators must maintain a record of lodgers and lodgers' contact information, and make available upon request to appropriate County staff. This will help staff ensure compliance with the limitations on number of nights of use and occupancy, as well as allow staff to contact lodgers if that becomes necessary during a complaint investigation.
- **Owner Consent:** The proposed amendment requires consent of the property owner if the STL Operator is a long-term tenant. Because property owners are ultimately responsible for any violations occurring on property they own and for any fines or penalties associated with those violations, staff considers this a critical requirement.
- **Outside Consultant:** To enhance enforcement efforts, staff proposes to use the services of an outside consultant. Other Virginia jurisdictions have contracted with Host Compliance LLC, which can track the exact address and rental activity of STLs across multiple online platforms, as well as provide screenshots of listings and contact information for operators. The County can enter into a purchase order based on the existing contract with the other Virginia jurisdictions for the next year or two.
- **Inspection:** Oftentimes, the biggest hurdle for DCC is the inability to gain access to a property to investigate a complaint of noncompliance. The proposed provisions are intended to eliminate that hurdle by requiring STL Operators to consent to inspection by County personnel during reasonable hours.

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### **Changes and Additions to Ordinance Definitions**

As noted, the Zoning Ordinance currently does not define transient occupancy or STL. The proposed regulations will introduce these as new definitions and will modify the “Dwelling” and “Dwelling, Mobile Home” definitions in Chapter 20 to accommodate the STL use. In addition, the proposed amendments introduce and define the STL-use specific terms “Authorized Agent,” “Permanent Resident,” and “Short-Term Lodging Operator,” which apply only to STL use provisions.

### **Proposed Fees**

Virginia Code § 15.2-2286(A)(6) provides that a Zoning Ordinance may include reasonable provisions for the collection of fees to cover the costs of making inspections, issuing permits, advertising notices, and other expenses incident to its administration. To keep fees in line with other permits/certifications staff proposes a \$200/2-year permit application fee for STLs.

As part of this amendment, staff also proposes to reduce the special exception application fee for Bed and Breakfast use by 50%, from \$16,375 to \$8,180, but will advertise a fee ranging from \$4,085 to the current fee of \$16,375. Staff believes the high application fee may account for the fact that there are no approved Bed and Breakfasts currently operating in the County. The only Bed and Breakfast approved in the last two decades ceased operating. Unlike the STLs, Bed and Breakfasts may be operated by non-permanent residents and may be operated year-round. Staff believes that the Bed and Breakfast provisions may offer an additional business opportunity for some of the County’s lodging entrepreneurs. No other changes are proposed to the Bed and Breakfast provisions regarding their location and other use limitations.

### **Fiscal Impacts and Tax Provisions of the County Code**

The operation of STL in the County constitutes a transient occupancy use that is subject to a Transient Occupancy Tax or TOT. It is estimated that there are approximately 1,500 active listings in the County based on research and specific data provided by a third-party data collection company who provided information related to Airbnb listings. Airbnb representatives have confirmed this approximate number. The estimates obtained from the third-party data collection company also indicate that the average days of rental in the County are 64 days and the average income per night for the STL Operator is \$72. Using these average assumptions of 64 rentals per year per STL Operator and a \$72 per night, staff estimates collecting \$428,268 in annual Transient occupancy Tax (TOT) revenue. The total TOT in Fairfax County is calculated at the rate of 6 percent (2 percent for general transient occupancy tax + 2 percent for tourism + 2 percent for regional transportation) on the gross room rental charged for overnight stays related to transient occupancy. As required by state legislation, of the revenue generated by the 2 percent for tourism, one quarter is designated to the Fairfax County Convention and Visitors’ Center, and the rest is used by the County to promote tourism. As a result, of the total projected \$428,268, \$142,756 will be allocated for regional transportation, \$35,689 to Fairfax County Convention and Visitors’ Center, and \$249,823 to the County’s General Fund. Additionally, based on the proposed \$200 STL permit fee, estimated revenue of

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approximately \$150,000 could be generated annually. Given these average rental night and rate figures, the revenue from the Business, Professional, and Occupations License tax (BPOL) is not likely to result in meaningful revenue, since gross receipts under \$100,000 per year are subject to a license/tax of \$50 or less and in instances of revenue of less than \$10,000 the BPOL is zero. The average annual income for an STL host is estimated at less than \$5,000 per year, and BPOL is not applicable at this level. As such, staff does not believe that a significant amount of income will be derived from the BPOL.

This amendment includes a companion amendment to Chapter 4 of the County Code. Those changes are set forth and described in an attachment to the Board Item.

**Implementation of Proposed Changes**

Staff is developing an implementation plan to assist with the smooth initiation of the STL permit process. While not part of the Zoning Ordinance text, a new permit application form and STL permit will be developed in conjunction with this amendment. If the proposed amendment is adopted, staff is considering sending notification letters to the owners of addresses identified by the third-party data collection company as currently advertising the availability of an STL in the County. Such notice would provide the new regulations and advise of the permit requirement and process. Staff also believes that the volume of potential STL applications that could be received warrants a delayed implementation to allow operators to obtain approval. This is similar to the grace period that was granted when the home child care amendment was adopted, in which existing operators were given a period of time to come into compliance by obtaining the require approval. Delayed implementation is also warranted because of the change in TOT remittance from a quarterly option to a monthly requirement. This change will impact current hotel operators as well as the new STLs and a delayed implementation will allow those hotels that currently remit the tax on a quarterly basis time to prepare for a monthly remittance process. Staff is recommending an effective date of October 1, 2018, which is the first day after the July quarter.

The proposed regulations are intended to achieve a balance between allowing STLs while maintaining the overall character of residential neighborhoods. As such, staff recommends approval of the proposed amendments with an effective date of 12:01 a.m. on the day following adoption, provided, however that STL Operators will have a grace period of between 90 and 120 days from the date of adoption to obtain approval of an STL permit.

**Conclusion**

The changes staff propose are intended to facilitate a limited STL use for the County's entrepreneurs, while preserving the character of the County's communities and safety of its residents. Because STL regulation is relatively new, not only in Fairfax County but nationwide, staff believe it appropriate to revisit these regulations in eighteen months and make any necessary regulatory changes. This, of course, does not limit the Board's ability to revisit this amendment sooner, should it see fit to do so.

**ITEMS SCHEDULED FOR PUBLIC HEARING**

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<b>Application</b>	<b>Applicant</b>	<b>Staff</b>	<b>PC Action</b>
<a href="#"><u>PCA 2010-PR-022-02/CDPA 2010-PR-022/FDPA 2010-PR-022-02-01</u></a> (Providence)	<b><u>THE BORO II-C DEVELOPER, L.P.</u></b> – Appls. to amend the proffers, conceptual development plan, and second final development plan for RZ 2010-PR-022, previously approved for hotel/residential options, to permit an option for office with accessory retail uses in building C-1 and associated modifications to proffers and at an overall density of 5.33 Floor Area Ratio (FAR). Located in the S.E. quadrant of the intersection of Greensboro Dr. and Silver Hill Dr., on approx. 28,089 sq. ft. of land zoned PTC, SC and HC. Comp. Plan Rec: Transit Station Mixed Use. Tax Map 29-3 ((15)) 7C4 (pt.), 7C5, 7C6, 7K2 (pt.) and 29-3 ((36)) 4A (pt.). (Concurrent with SE 2017-PR-029).	Bob Katai Katelyn Antonucci	<b>APPROVAL REC</b>
<a href="#"><u>SE 2017-PR-029</u></a> (Providence)	<b><u>THE BORO II-C DEVELOPER, L.P.</u></b> – Appl. under Sects. 6-504, 6-507 and 9-629 of the Zoning Ordinance to permit an increase in Floor Area Ratio (FAR) for office use from 2.50 up to a maximum of 2.93. Located on the southern corner of Greensboro Dr. and Silver Hill Dr. on approx. 28,089 sq. ft. of land zoned PTC, SC and HC. Tax Map 29-3 ((15)) 7C4 (pt.), 7C5, 7C6, 7K2 (pt.) and 29-3 ((36)) 4A (pt.). (Concurrent with PCA 2010-PR-022-02, CDPA 2010-PR-022 and FDPA 2010-PR-022-02-01).	Bob Katai Katelyn Antonucci	<b>APPROVAL REC</b>
<a href="#"><u>PCA 1999-PR-060</u></a> (Providence)	<b><u>ROCKS TYSONS TWO, LLC</u></b> – Appl. to amend the proffers for RZ 1999-PR-060 previously approved for mixed-use development with an FAR of 1.20 to permit modifications to proffers with no change to FAR. Located on the S. side of Leesburg Pike, 200 ft. W. of Old Gallows Rd. on approx. 3.77 ac. of land zoned PDC, SC and HC. Comp. Plan Rec: Office. Tax Map 39-2 ((15)) 9, 11 and 30 and 39-2 ((1)) 7.	Daniel Creed	<b>APPROVAL REC</b>