



Jeffrey Z. Slavin
Mayor

TOWN OF SOMERSET

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Rich Charnovich
Town Manager/Clerk-Treasurer

September 11, 2017

Montgomery County Council
Council Office Building
100 Maryland Avenue 4th floor
Rockville, MD 20850

Sent via email

Dear President Berliner and County Council Members:

The Town of Somerset offers the following comments regarding proposed ZTA 17-03 (formerly 16-03). A copy of the Town's prior letter to the Planning Board is enclosed. For the reasons set forth in the enclosed letter and below, the Town opposes the ZTA.

Although short-term leasing is currently lawful, the County Council enacted Expedited Bill 14-15 to require short-term renters to pay the same tax required of hotel guests. This was done before an adequate study could be undertaken on the appropriateness of the land use. We understand the County has subsequently received significant revenue from such taxation (\$374,490.05 for the period of July 2016 through May 2017, or approximately \$34,000 per month and growing, from Airbnb alone).

Short-term leasing is currently unlawful because it has historically been deemed in the zoning context as operating a hotel, and therefore allowed only where hotel uses have been found appropriate. From a public policy standpoint, it appears nothing has materially changed to now justify allowing such hotel uses in single-family residential areas. Instead, it appears the initiative is being driven primarily to achieve tax revenue. This incautious legislation will be enacted at the detriment to residential character.

To limit the impact of the proposed legislation, Planning Staff initially recommended that rentals be restricted to a maximum of 14 days per month and 90 days per year (Preliminary

"Where People and Trees Have Deep Roots and Grow Strong"

Recommendations for Regulating Short-Term Residential Rentals, Nov. 28, 2016).

Subsequently, the Planning Board recommended to the County Council that a 90-day limit apply only to days the owner is not present. This is seemingly impracticable to enforce and drastically eliminates the very minimum protection to residential character recommended by staff. As proposed, the ZTA would allow single-family units to become hotels, every day of the year, with up to 6 renters per night.

Planning Staff recommended that 1 off-street parking space be provided per 2 bedrooms. The Planning Board subsequently recommended 1 off-street parking space be provided per rental contract. Thus, as proposed, up to 6 cars could be brought to the residence on a single contract, with only 1 mandated parking space.

The protections to residential character initially recommended by Planning Staff should be strengthened and implemented. Also, as described in more detail in the attached letter, it appears the proposed self-regulating restrictions and self-reporting requirements cannot be adequately enforced. Before the zoning regulations are altered in such a drastic way, the administrative and enforcement mechanisms should be properly planned and vetted.

If the ZTA is adopted, the Town of Somerset strongly requests that Somerset be excluded from the expanded zoning.

Thank you for considering our testimony.

Respectfully submitted,



Rich Charnovich, Town Manager, on behalf of Jeffrey Slavin, Mayor

cc: Town of Somerset Council, action taken on September 5, 2017



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Felix Charnovich
Town Manager/Clerk-Treasurer

May 9, 2017

Mr. Casey Anderson, Chair
Montgomery County Planning Board
8787 Georgia Avenue
Silver Spring, MD 20910
(Sent via email and U.S. Mail)

Dear Chair Anderson:

The Town of Somerset has reviewed the proposed Zoning Text Amendment (ZTA) concerning short-term leasing. The Somerset Town Council has voted unanimously to oppose the proposed ZTA.

The Council opposes this proposal because short-term residential rentals would damage our municipality. Such short-term leasing is currently prohibited by County zoning in the Town because of the detrimental impacts that are commonly associated with transient leasing, or operating a hotel, in a small community. The Town of Somerset requests that the current prohibition be maintained. The character of the Town has not changed such that the current zoning should be relaxed. Much to the contrary, it appears the primary basis for the proposal is simply that the County is not enforcing the current prohibition with respect to numerous unlawful listings throughout the County, and thus, the short-term leasing should be allowed (see, e.g., Councilmember Riemer's FAQ About Proposal to Regulate Airbnb, noting that the "prohibition is weakly enforced, and there are hundreds of Montgomery County listings on sites like Airbnb and HomeAway", <http://councilmemberriemer.com/2016/02/airbnb.html>, visited May 3, 2017).

We offer the following additional comments on the specific text of the draft ZTA.

Somerset residents rely upon our Town's shared commitment to our local character, rules, and regulations. Although the proposed ZTA would require compliance with HOA or condominium rules (by which such communities can prevent transient leasing by covenant or bylaw), the ZTA would not similarly require short-term tenants to comply with local laws, and a municipality lacks the same ability to prohibit such leasing by code. That places the Town of Somerset at an unfair disadvantage with respect to the orderly management of our neighborhood and preservation of character.

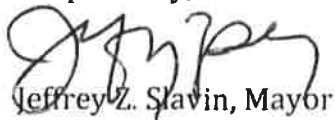
The Council reviewed the restrictions on short-term residential rentals that were outlined in the proposed ZTA and found that they lack important and necessary mechanisms for compliance and enforcement. The ZTA relies largely on self-regulation and reporting by applicants/landlords. The Town of Somerset is a small municipality and we do not have extra administrative staff available to monitor compliance. The County has not provided any assurance that short-term residential rental licensing will be funded and staffed properly for oversight, compliance, and enforcement.

The conditions that must be met in order for an applicant to obtain a license for short-term rental are minimal and insufficient. Although the applicant must notify neighbors, there are no requirements for a hearing on the application or standards set forth for a neighbor's objections to prevail. Although licenses would be valid for a term of one year, there are no meaningful standards set for renewal or requirements for proof of compliance. Although the proposal sets out a limit on the total number of adult guests, there are no limits set out for the total number of rental contracts that may be permitted. It is unrealistic to expect that all landlords will consistently comply with these proposed regulations.

As noted above, the County Council has indicated that the current short-term leasing prohibition is not enforced (and, thus, it would be better to regulate and allow the short-term leasing). However, little faith is thereby instilled by the proposal. If the current prohibition is not enforced, it does not appear that the proposed self-regulating restrictions and self-reporting requirements will be adequately enforced. Given the lack of clarity in the prospective enforcement procedures, the ZTA appears premature. The companion licensing bill and enforcement procedures should be clearly outlined along with the ZTA.

In conclusion, the Town of Somerset opposes the proposed change to the Montgomery County Zoning Ordinance because of our significant concerns about the negative effect of short-term residential rentals on our residents' quality of life, and about the insufficient enforcement regulations contained in the proposed ZTA.

Respectfully,


Jeffrey Z. Slavin, Mayor

cc: **Montgomery County Council Members (sent via email)**
Planning Board Members (sent via email)
Town Council, Town of Somerset (sent via email and hard copy)