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**PLANNING COMMISSION
Work Session
September 13, 2021**

The Planning Commission of the Town of Herndon, Virginia, met in work session on Monday, September 13, 2021, at 7:00 p.m. in the Town of Herndon Police Department, Community Room, 397 Herndon Parkway, Herndon, Virginia. In attendance were: Chairman Romeo, Vice Chair George Burke and Commissioners: Jay Donahue, Paul LeReche Mike McFarlane, and Meron Yohannes. Commissioner Kevin Moses was absent. Commissioner Yohannes arrived at 7:04 p.m. Commissioner McFarlane arrived at 7:16 p.m.

Others present during the meeting: Lesa Yeatts, Town Attorney; Elizabeth Gilleran, Director of Community Development; David Stromberg, Zoning Administrator and Erika Orellana, Clerk of Boards & Commissions.

1. DETERMINATION OF QUORUM

Chairman Romeo stated that there were four members present, which constituted a quorum. Commissioner Yohannes arrived at 7:04 p.m. Commissioner McFarlane arrived at 7:16 p.m.

PUBLIC HEARING

- 2. ZONING ORDINANCE TEXT AMENDMENT, ZOTA #21-03**, to revise regulations governing accessory dwelling units. This zoning ordinance text amendment is being considered pursuant to Virginia Code §§ 15.2-2204, 15.2-2285, 15.2-2286, and an Initiating Resolution adopted by the Town Council on June 8, 2021. Notice is hereby given to consider zoning text amendments to establish new, and clarify, revise, and/or delete, existing regulations and definitions in order to amend the regulation of accessory dwelling units. The proposed amendments under consideration include, without limitation: Chapter 78 (ZONING), Article VII (Use Regulations), Article VIII (Accessory Uses) and other articles as deemed necessary to revise the regulations. ***(Continued from the August 23, 2021 Planning Commission Public Hearing.)***

[Note: This item was continued from the August 23, 2021, Planning Commission Public Hearing. Comments were received and entered into the record by the Clerk.]

Chairman Romeo opened the work session and called on David Stromberg, Zoning Administrator, for the staff memo.

David Stromberg, Zoning Administrator, presented staff memo dated September 8, 2021 for this item, ZOTA #21-03, to revise the regulations for accessory dwelling units.

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Mr. Stromberg provided a summary of the memo with comprehensive updates on the status of this zoning text amendment in preparation for a recommendation to the town council. The following main topics were discussed and are drafted in the proposed text:

1. Distinguishing between internal/attached accessory dwelling units and detached dwelling units.
 - a. The zoning ordinance does not currently distinguish between internal/attached accessory dwelling units and detached accessory dwelling units. This creates ambiguity and confusion.
 - b. The proposed amendment distinguishes between internal/attached and detached accessory dwelling units.
 - i. This change follows national best practices for accessory dwelling units. It also allows different standards for detached and internal/attached.
2. Special exception requirement.
 - a. The zoning ordinance currently requires a special exception for any proposed accessory dwelling unit.
 - b. The proposed amendment eliminates the special exception requirement for any accessory dwelling unit associated with a single family detached dwelling. The special exception requirement remains if an accessory dwelling unit is proposed in a townhouse.
3. Maximum size requirement.
 - a. The zoning ordinance currently limits the maximum size of an accessory dwelling unit to 1,200 square feet or 33 percent of the principal dwelling square footage, whichever is less. This limit is for both internal and detached accessory dwelling units. The size can be further limited through the special exception process.
 - b. The proposed amendment stipulates a maximum of 900 square feet for a detached accessory dwelling unit. The maximum for an internal/attached unit is proposed at 1,200 square feet or 40 percent of the principal dwelling, whichever is less.
4. Restrictions on location.
 - a. The zoning ordinance limits the location of an accessory dwelling unit the same as any other detached accessory structure, such as a garage or shed. The minimum setback is 2 feet from the rear or side property line. A greater setback could be imposed as a condition through the special exception process.
 - b. The proposed amendment requires a minimum 10 foot setback from the side and rear property lines as well as 10 feet from the principal dwelling for a detached accessory dwelling unit. A property owner may convert an existing accessory building that is less than 10 feet to a property line into an accessory dwelling unit if that building existed before the date of adoption of this text amendment.

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5. Occupancy requirements and removal of physical improvements.
 - a. The zoning ordinance currently has two occupancy requirements in order for the property to be eligible for an accessory dwelling unit: 1) The property owner must live in the principal dwelling or the accessory dwelling unit, and; 2) At least one person in either the principal dwelling or the accessory dwelling must be over 62 years old or have a physical, mental, or cognitive disability.
 - i. If either of these conditions cease to exist, then the accessory dwelling unit is no longer legal, and the physical improvements must be removed.
 - b. The proposed amendment eliminates the requirement that one of the occupants is either over 62 years old or has a physical, mental, or cognitive disability. It is still a requirement for the owner to live in either the principal or accessory dwelling unit.
 - i. If the owner moves away and does not occupy the principal or accessory dwelling unit, then all people living on the property must meet the definition of a family (see #6 for details). The physical improvements are not required to be removed.
6. Maximum number of people.
 - a. The zoning ordinance limits the maximum number of people who can live in a principal dwelling to one family. Two additional, unrelated people can live in the accessory dwelling unit.
 - i. A family is defined as the following: any number of people related to the second degree of consanguinity; up to four unrelated people; two unrelated people and their respective children; or up to eight people in a residential facility (group home) as defined by the Code of Virginia.
 - b. The proposed ordinance will still limit the maximum number of people who can live in a principal dwelling to one family. Three additional, unrelated people would be allowed to live in the accessory dwelling unit.
 - i. If the owner no longer lives at the property, then the three, unrelated, additional people are not allowed to remain. Everyone, regardless of whether they live in the principle dwelling unit or accessory dwelling unit, must meet the definition of a family.
7. Parking.
 - a. The zoning ordinance requires one off-street parking space for an accessory dwelling unit. The space is in addition to the two off-street parking spaces required for a single family residence.
 - b. The proposed ordinance will still require one additional off-street parking space for an accessory dwelling unit.
 - i. The accessory dwelling parking requirement may be reevaluated in the future as multi-modal street improvements continue and additional trails connecting neighborhoods to the Metro station are installed.

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Commissioners provided their feedback and asked for clarification on building permit process, initiatives that could make accessory dwelling units more affordable, enforcement steps and setback requirements. Commissioner LeReche provided feedback on the comments received for this item. Mr. Stromberg and Ms. Gilleran provided responses to clarify the Commissioners questions and concerns.

DISCUSSION

3. ITEMS OF INTEREST

Ms. Gilleran stated that staff is working on a request for proposal for firms to come in and do a master plan for the Transit Related Growth (TRG) area plan. Ms. Gilleran provided the Commissioners options for their yearly photos for the 2022 calendar. The commissioners opted to use their existing photos.

4. COMMENTS FROM THE STAFF

There were no comments from the staff.

5. COMMENTS FROM THE COMMISSIONERS

Chairman Romeo asked what business was next to the Safeway and office building where trees are being cleared. Ms. Gilleran stated that it was an Outback Steakhouse restaurant being built.

ADJOURNMENT

On the motion of Vice Chair Burke seconded by Commissioner Donahue and carried by a vote of 6-0, the September 13, 2021, Planning Commission work session was adjourned. The vote was: Commissioners Donahue, LeReche, McFarlane, Yohannes, Vice Chair Burke and Chairman Romeo voting "Aye." Commissioner Moses was absent.

There being no further business, the meeting adjourned at 8:30 p.m.



**Michael Romeo, Chairman
Planning Commission**



**Erika Orellana
Clerk to Boards & Commissions**

Minutes approved by the Planning Commission: October 25, 2021