

City of Red Bank
Municipal Planning Commission

WORK SESSION AGENDA
February 16, 2021
12:00 pm
Red Bank City Hall

I. CALL TO ORDER

II. ROLL CALL – Secretary – Billy Cannon

- | | |
|---|--|
| ☐ Commissioner Browder | ☐ Commissioner Millard |
| ☐ Commissioner Cannon | ☐ Commissioner Skonberg |
| ☐ Commissioner Luther | |

III. Agenda items for the February 18, 2021 regular planning commission meeting:

A. CONSIDERATION OF THE MINUTES

1. January 21, 2021

B. NEW BUSINESS

1. Final Plat for Downer Estates – 200 Strawberry Land and Lynda Circle
2. Final PUD Plan for Hartman Hills, formerly Five Thousand Acres, at 5005 Dayton Boulevard
3. Special Exceptions Permit request – Triplex at 4 Trenton Street
4. Backyard Chicken Ordinance
5. Land Use Plan Update – Review of Property Sale and Purchase requirements
6. Zoning Ordinance Amendments – Tree and landscaping requirements, Planned Unit Development application, flag lots, and clarification of side yard setbacks in the RZ-1 and R-T/Z Residential Zones
7. Steep Slope Ordinance Discussion
8. Any properly presented new business

C. UNFINISHED BUSINESS

1. Revised Plat for Freeman Family Subdivision, Lots 3 & 4 (1105 Coker Circle)
2. Update on short-term rental unit regulations
3. Any properly presented unfinished business

D. OTHER BUSINESS

IV. ADJOURNMENT

Ruth Jenó
Mayor

City of Red Bank
Municipal Planning Commission

Tim Thornbury
City Manager

REGULAR MEETING AGENDA

February 18, 2021

6:00 pm

Red Bank City Hall

I. CALL TO ORDER

II. ROLL CALL – Secretary – Billy Cannon

☐ Commissioner Browder

☐ Commissioner Millard

☐ Commissioner Cannon

☐ Commissioner Skonberg

☐ Commissioner Luther

III. INVOCATION – Commissioner Smith

IV. PLEDGE OF ALLEGIANCE – Commissioner Hafley

V. CONSIDERATION OF THE MINUTES

1. January 21, 2021

VI. NEW BUSINESS

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VII. UNFINISHED BUSINESS

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2. Update on short-term rental unit regulations
3. Any properly presented unfinished business

VIII. OTHER BUSINESS

IX. ADJOURNMENT



MEMORANDUM

To: Members of the Red Bank Planning Commission
Cc: Tim Thornbury, Public Works Director
From: Ashley Gates, Regional Planner
Date: February 11, 2021
Subject: Final Plat for Downer Estates

Overview

Address: 200 Strawberry Lane; Lynda Circle
Property Owner: Paul Downer
Zoning: R-1 Residential
Area Subdivided: 1.24 acres
Number of Lots: 3 into 5
Staff Recommendation: Approve

Summary of Plat

This plat re-subdivides three lots into a 5-lot subdivision. The plat reduces the width of the lot along Strawberry Lane and creates four lots along Lynda Circle. The lots are all 60-feet wide, meeting the minimum width requirement of the R-1 Zone.

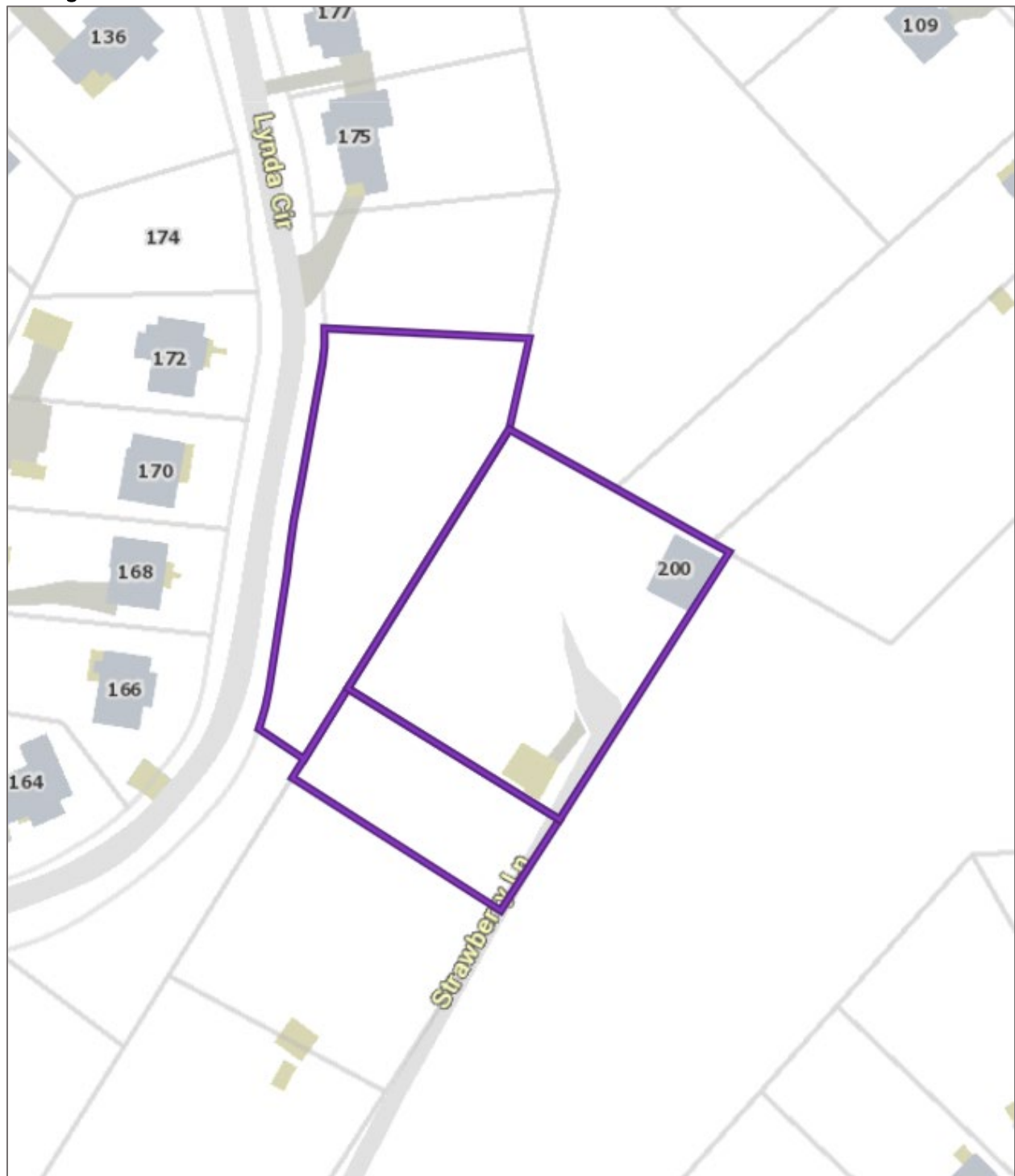
Strawberry Lane is a private drive with no defined width, having been in place for many decades. While the Subdivision Regulations require a width of 22 feet, the property owner is limited to setting the easement width only within their property.

The plat was submitted as a final plate because no infrastructure will be built.

Recommendation

Staff recommends approval with one change: Label a 22-foot wide access easement along the sanitary sewer easement to allow for future development of the adjacent lot.

Existing Lot Lines



[illegible]

Attachment 1. Zoning Map Amendment Ordinance, 1103 Coker Circle

ORDINANCE NUMBER _____

AN ORDINANCE OF THE CITY OF RED BANK, TENNESSEE,
AMENDING THE ZONING MAP TO REZONE PROPERTY AT 1103 COKER CIRCLE
FROM R-1 RESIDENTIAL ZONE TO RZ-1 RESIDENTIAL
ZERO LOT LINE ZONE

WHEREAS *Tennessee Code Annotated* (TCA) § 13-7-201 allows municipal governments the authority to regulate land use through zoning of its jurisdictional territory; and

WHEREAS the Red Bank municipal planning commission has certified zoning districts as provided for in TCA § 13-7-202; and

WHEREAS TCA §13-7-204 authorizes amendments to the municipal zoning map and provides for that process; and

WHEREAS the applicant, Mr. Blake Garrison, has stated his intention of subdividing the subject property into three lots on which he plans to build detached single-family homes facing Coker Circle; and

WHEREAS the planning commission, at its meeting on May 19, 2016, determined the proposed development as presented by the applicant to be appropriate and consistent with the development and land uses surrounding Coker Circle, and therefore made a favorable recommendation for the rezoning by a vote of 2-1; and

WHEREAS the planning commission recommends that the city commission place the following conditions on the rezoning approval:

1. Stormwater Best Management Practices shall be installed on the property to mitigate the impact of stormwater flows on neighboring properties.
2. The alley abutting the rear lot line of the applicant's property shall not be used to access the property.
3. The boundary lines for any future plat recorded for the property (Tax Map # 126K C 004) shall utilize the existing pins identified by Ray McGuffee, the owner of the adjacent property located at 1101 Coker Circle (Tax Map # 126K C 005).

WHEREAS the planning commission provided an opportunity submit comments in favor of or against the proposed rezoning at an advertised public hearing held in conjunction with its regular meeting on May 19, 2016; and

WHEREAS the city commission provided an opportunity submit comments in favor of or against the proposed rezoning at an advertised public hearing prior to the final reading of this ordinance; and

WHEREAS the city commission finds that the proposed development afforded by the rezoning request would not have a negative impact on adjacent properties, provided that the rezoning and subsequent development is subject to the conditions as recommended by the planning commission.

BE IT ORDAINED by the City of Red Bank, Tennessee, as follows:

SECTION 1. The official zoning map is hereby amended by conditionally rezoning property located at 1103 Coker Circle, Hamilton County tax parcel no.126K C 004, from R-1 Residential Zone to RZ-1 Residential Zero Lot Line Zone. This property is the same as that described in Deed Book GI 10717 page 822 ROHC.

SECTION 2. Rezoning of the aforementioned property shall be subject to the following conditions:

1. Stormwater Best Management Practices shall be installed on the property to mitigate the impact of stormwater flows on neighboring properties.
2. The alley abutting the rear lot line of the property shall not be used to access the property.
3. The boundary lines for any future plat recorded for the property (Tax Map # 126K C 004) shall utilize the existing pins identified by Ray McGuffee, the owner of the adjacent property located at 1101 Coker Circle (Tax Map # 126K C 005).

Failure to comply with any of these conditions shall result in this ordinance becoming null and void.

SECTION 3. The zoning maps of this city shall be amended so as to conditionally reflect the RZ-1 zone with a specific reference to this ordinance and the conditions contained herein.

BE IT FURTHER ORDAINED that every section, sentence, clause, and phrase of this ordinance is separable and severable. Should any section, sentence, clause, or phrase be declared unconstitutional or invalid by a court of competent jurisdiction, said unconstitutionality or invalidity shall not effect or impair any other section, sentence, clause, or phrase.

FINALLY, BE IT ORDAINED that this ordinance shall take effect from and after the date of its final passage, the public welfare of the City of Red Bank, Tennessee requiring it.

MAYOR OF RED BANK

CITY RECORDER

PASSED ON FIRST READING

PASSED ON SECOND READING

APPROVED AS TO FORM: _____
CITY ATTORNEY



MEMORANDUM

To: Members of the Red Bank Planning Commission
Cc: Tim Thornbury, Public Works Director
From: Ashley Gates, Regional Planner
Date: February 11, 2021
Subject: Final PUD Plan for 5005 Dayton Boulevard

SUMMARY

Property Address: 5005 Dayton Blvd.
Tax ID: 0990 B 001.01
Deed Book: DB 5158 Pg. 510
Property Owner: RP Dayton Blvd LLC
Applicant: Chris Anderson, GreenTech Homes
Staff Recommendation: Approval

ANALYSIS

Existing and Proposed Use

The 26.3-acre lot currently has one home, which sits more than 1,000 feet from Dayton Blvd. The applicant proposes a development of 57 single-family homes and 13 townhouses. Two roads will be built, with one extending perpendicular to Dayton Blvd., and the other creating a loop providing access to the remaining lots.

At the entrance off Dayton Boulevard, there will be a small community lot to the right, 29 feet deep. To the left is a large retention pond, on a community lot that will be more than 100 feet deep. This creates a buffer between the busy Dayton Boulevard and the residential lots.

Density

The proposed density is 2.7 units per acre, which is within the allowed density for a PUD in the R-3 Zone and does not exceed the condition of a maximum of 5 units per acre that was placed on this property when rezoned. The density without the large rear lots is 5.1 acres units per acre. Note that the density condition is assigned to the overall development and the topography dictates that the front half of the development will have more lots.

Zoning Ordinance

The property was rezoned to R-3 in July 2020 with the condition that the density be no higher

than 5 units per acre, and that only townhomes and single-family residences be built. The developer proposes 13 townhouses and 57 single-family homes, meeting these conditions.

The Special Exceptions Permit requires that the developer provide open recreational space for the residents of the PUD. The developer provides 3.39 acres of open space in two community lots.

Variances

The Preliminary PUD and plat were approved with two variances:

1. Decrease of the road width requirement to only 22 feet wide due to steep slopes and desire to preserve trees.
2. Variance to allow a road grade above 4% at the internal intersections

Final Plat

The submitted site plan does not meet final plat standards, requiring the appropriate notes, surveyor's certificate, and signature block.

Conformity with Preliminary PUD Plan

Changes from the Preliminary PUD plan include:

- The development has shifted slightly towards Dayton Boulevard, with Hardwick Loop now being parallel to Dayton Boulevard.
- The number of lots has increased by two, increasing the density of the development. Lot widths were decreased to accommodate this increase.
- Addition of a retaining wall along Lots 34 through 36
- Addition of landscaped medians on Hardwick Loop

The increase in density constitutes a "major change," and therefore the Final PUD plan will need to go before the Board of Commissioners for approval.

RECOMMENDATION

Approval.

MEMORANDUM

To: Members of the Red Bank Planning Commission
Cc: Tim Thornbury, Public Works Director
From: Ashley Gates, Regional Planner
Date: February 12, 2021
Subject: Special Exception Permit for a triplex at 4 Trenton Street

SUMMARY

Tax Map #: Map 109I Group E Parcel 007	Address: 4 Trenton St.	
Deed Book & Page: 11764-0015	Owner: Jacob Becker	
Moratorium Status: Under Sewer Moratorium	Area: 0.25 acres	Zoning: R-3
Request: Special Exception Permit for a triplex at 4 Trenton Street		
Recommendation: Approve special exception permit		

Background: The property owner of 4 Trenton Street has requested a Special Exception Permit to build a triplex on the lot as required by the Zoning Ordinance.

Staff Recommendation: Approval with conditions

ANALYSIS

Existing and Proposed Use

The lot at 4 Trenton Street is a vacant lot behind an existing commercial building. The lot is approximately 11,000 square feet with about 60 feet of frontage on Trenton Street. A 10-foot right-of-way along the side yard provides access to 6 Trenton Street and 8 Trenton Street. The paved area appears to encroach on the subject property. The developer proposes a triplex development with a condominium ownership arrangement.

Zoning Ordinance

The R-3 Zone allows for multi-family dwellings with a Special Exception Permit. The existing vegetation on the lot at 4001 Dayton Boulevard provides adequate screening. The proposed site plan conforms to the dimensional requirements of the R-3 zone.

Site Plan

The site plan conforms to the requirements of the Zoning Ordinance, but additional consideration should be given to the parking configuration. It is not clear how the rear spaces will be reached. Additionally, concerns regarding stormwater have been expressed during prior meetings and may warrant additional consideration.

Compatibility with Surrounding Uses

The lot abuts a commercial building, and an apartment complex. The lot was originally part of the apartment complex. On the other side of the 10-foot shared driveway is a single-family home. The lot is about 100 feet from Dayton Boulevard. On the opposite side of Trenton Street is a parking lot and commercial building.

Due to the close proximity to the main corridor and to existing high density housing, a triplex is a compatible use. The triplex will offer additional housing options that are close to the main retail district of Red Bank.

Land Use Plan

The development of patio homes at this location would increase the variety of the housing stock in Red Bank and address Goal C of the Red Bank Land Use Plan:

C-GOAL: Attract residential developers back to Red Bank for new development and redevelopment.

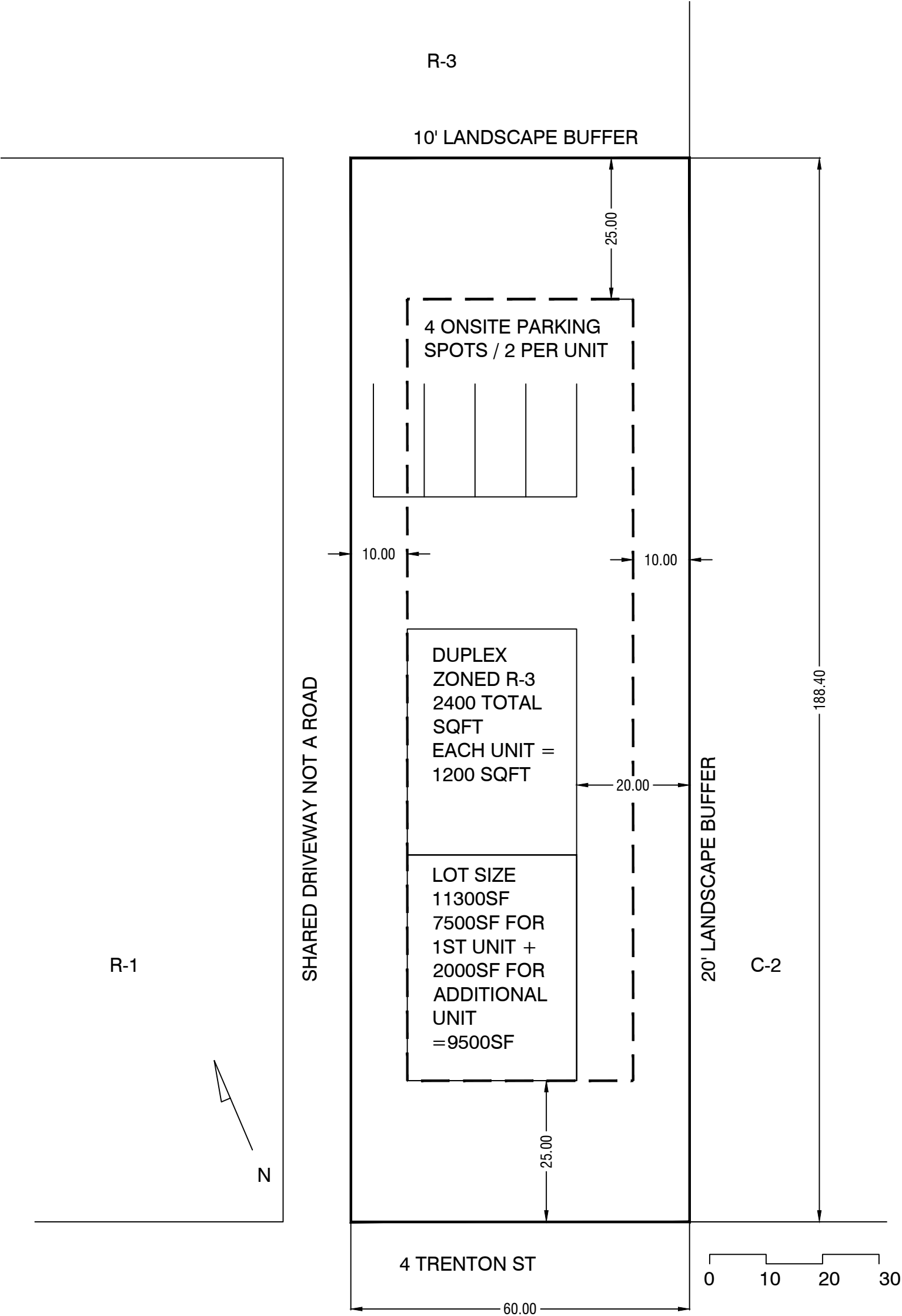
ACTION: New residential zones that provide more options and diversity of development while still protecting single-family neighborhoods.

ACTION: Reduced minimum lot size standards and setback requirements to make Red Bank competitive with surrounding communities.

RECOMMENDATION

Approval with the following conditions:

- Adequate turnaround space is provided so that vehicles will not need to back out onto Trenton Street.
- A stormwater drainage plan is submitted when the applicant obtains a building permit



MEMORANDUM

To: Members of the Red Bank Planning Commission

Cc: Tim Thornbury, Public Works Director

From: Ashley Gates, Regional Planner

Date: February 11, 2021

Subject: Backyard Chicken Ordinance

Summary of Proposal

Permitted Use: Chicken coops housing female chickens

Zones: Single-family residential

Setbacks: 25 feet from property lines, 50 feet from streams

Lot size requirements: Minimum ½ acre for up to 4 hens; Minimum 2 acres for up to 8 hens

Coop size requirements: Minimum 2 square feet per hen

Run size requirement: Maximum of 10 square feet

Analysis

Regulations in Nearby Communities

Many Hamilton County communities allow backyard chickens with restrictions, including:

- Chattanooga, limited to lots that are 5 acres or larger or agriculturally zoned
- Signal Mountain, no lot size requirement
- Walden, limited to 2 small livestock per acre

Residential Lot Sizes in Red Bank

	# Lots	% of Lots
Total Lots	4,657	100.0%
Less than 1/4 Acres	281	6.0%
1/4 to less than 1/2 Acres	1,848	39.7%
1/2 to less than 3/4 acres	1,271	27.3%
3/4 to less than 1 acre	521	11.2%
1 acre to less than 2 acres	501	10.8%
2 acres to less than 5 acres	179	3.8%
5 acres or more	56	1.2%
Percent greater than 1/2 acre		54.3%

Health and Safety Considerations

Backyard chickens can be kept in a safe manner that does not pose public health concerns. However, if not kept in sanitary conditions, fowl are known to spread illness, specifically salmonella and histoplasmosis. Strict enforcement of the adopted codes will be necessary to prevent the spread of illness. The city may consider other precautions such as:

- Requiring vaccinations against Marek's disease, Tenosynovitis, and other vaccines as recommended for backyard chickens
- Require applicants to complete a chicken care certification course to ensure proper care and handling of chickens. Many are available online.
- Require a "deep litter system" or other appropriate waste management system to prevent the spread of bacteria

Staff Recommendation

The decision to permit chickens has the potential to provide many positives to the City of Red Bank, including fresh, healthy food and independence for chicken owners. The possible negative impacts could include health concerns, noise, odors and neighbor disputes. If restrictions are well-written and fully enforced, these negative impacts can be at least partially mitigated.

The City's decision to permit backyard chickens should reflect the values and preferences of the residents. Having more expertise on the values and preferences of Red Bank residents and property owners, staff defers to Planning Commission and Board of Commissioners in this matter.

The proposed ordinance appears to allow backyard chickens for a trial period, which may offer Commissioners a means of assessing the feasibility of the proposal in Red Bank. Should the Commission decide that backyard chickens are desired in Red Bank, staff recommends the following:

1. Increase the chicken run requirement to a minimum 8 square feet per chicken. The recommended size ranges by type of chicken. The current draft ordinance states a maximum of 10 square feet. However, staff defers to those more experienced with raising chickens.
Source: Vermont Agriculture Extension: <https://www.pubs.ext.vt.edu/2902/2902-1092/2902-1092.html>
2. Require annual renewal and fee to assist in covering the additional costs to Codes Enforcement. Signal Mountain, for example, charges an annual fee of \$15.
3. After one year, re-evaluate the program to ensure no additional safety regulations are needed.

CITY OF RED BANK
APPLICATION FOR CHICKEN(S) PERMIT

The undersigned does hereby apply for a License to keep not more than 4 female chickens on the premises and address set out herein.

Name: _____

Address: _____

Phone: _____ **Email:** _____

Cell: _____

I do hereby affirm that the lot size is not less than 1/2 acres, 21,780 square feet and that if granted, that I will abide by all terms and conditions of City, governing ordinances, rules and regulations.

This application shall be accompanied by:

- Application fee of \$50.00
- A site plan location of structure
- A copy of the deeds to the property
- A copy of any Covenants and/or Restrictions applicable to the Property

Permit may be issued for any person to keep female chickens within the City only and if all of the required standards, as set forth in the attached Ordinance are met and complied with by the applicant during any period that a permit is issued by the City Manager.

Licensee, by accepting this license consents to the inspection of the premises upon which the required enclosure is located, during daylight hours, at any time and whether with or without notice for the purpose of reasonable inspection for Ordinance compliance.

Final approval will not be granted until a site inspection of the enclosure is complete.

This License, if approved, is not transferable to any other person and is specific to the property address herein and cannot be transferred to or used in connection with any other property/address.

I have received a copy of and read, understand and agree to the Ordinance governing the keeping of female chickens, the limitations and requirement associated therewith and the rules and regulations governing same.

Applicant Signature _____ Date _____

Approval:	Approved	Denied	Date
Code Official	_____	_____	_____
City Manager	_____	_____	_____

Keeping Chickens and other fowl within the City.

(1) It shall be unlawful for any person to keep ducks, geese, or other fowl in the City of Red Bank with the exception of female chickens by permit issued by the City Manager as provided in this section.

(2) The purpose of this section is to provide standards for the keeping of domesticated chickens within the City only where an appropriate permit has been obtained from the City Manager. This section is intended to enable City residents to keep a small number of female chickens on a non-commercial basis and to limit potential adverse impacts on surrounding property owners and neighborhood. It is understood that potential adverse impacts may result to adjoining property owners and the neighborhood from the keeping of domesticated chickens due to noise, odor, unsanitary animal living conditions, unsanitary waste storage and/or removal, attraction of predators, rodents, insects, or parasites, and other animals leaving the owner's property. This section is intended to create licensing standards and requirements within the City on a trial basis to protect property values of adjoining properties and the neighborhood surrounding the property on which any chickens are kept within the City.

(3) No permit shall be issued for any person to keep female chickens within the City unless all of the following required standards are met and complied with by the permittee during any period that a permit is issued by the City manager:

(a) Property of less than ½ acre.

(b) No more than four (4) hens shall be allowed in any residential zone property except eight (8) hens will be allowed for those zoned residential properties of two or more acres. No birds shall be allowed in any commercial, office, or multi-family residential district, including duplexes.

(c) No roosters shall be allowed within the City.

(d) There shall be no outside slaughtering of birds in the City.

(e) Any chickens must be kept in a secure enclosure at all times (not visible from the street) that has been approved by the City Manager or designee. The size of any outside enclosure shall be a maximum of ten (10) square feet and the outside enclosure shall be set back at least twenty-five feet (25') from any adjoining side and rear property lines and at least fifty feet (50') from any stream. The enclosure must provide adequate ventilation and adequate sun and shade and must both be impermeable to rodents, wild birds, and predators, including dogs and cats. The enclosure shall provide a minimum of two (2) square feet space inside for each bird.

(f) There shall be no more than one such enclosure per lot and shall be approved by the City Manager or designee before any use occurs and shall be designed to provide safe and healthy living conditions for the female chickens while minimizing adverse impacts to other residents in the neighborhood. The enclosure shall be enclosed with wire or screen on all sides and shall have a roof and doors. Access doors shall be shut and locked at night. No enclosures will be allowed in any front yard.

(i) Opening windows and vents shall be covered with predator and bird proof wire of less than one inch (1") openings.

(ii) The materials used in making the enclosure shall be uniform for each element of the structure within the City such that the walls are made of the same material, the roof has the same shingles or other covering, and any windows or openings are constructed using the same materials. The use of scrap, waste board, sheet metal, or similar materials to construct the enclosure is prohibited. The enclosure shall be well-maintained.

, (iii) The enclosure shall be placed in the rear yard meeting the required setbacks where it is uniform and in harmony with other structures on the lot and is not visible from the street.

(g) Enclosures must be kept in a neat and sanitary condition at all times and must be cleaned and/or moved to a different approved location on the lot on a regular basis to prevent offensive odors.

(h) Chicken feed must be kept in a rodent-proof container which is approved by the City Manager or designee and all chickens shall be humanely treated.

(i) Prior to purchasing any chickens pursuant to this section within the City, any person must obtain a permit from the office of the City Manager and an inspection shall be conducted of any proposed facilities for housing chickens in accordance with this section. There shall be a permit fee of fifty dollars (\$50.00) for any person desiring to keep chickens within the City.

G) The City Manager or designee shall deny a permit to keep domesticated chickens within the City if the applicant has not complied with all provisions of this section. A permit to keep domesticated chickens may be suspended or revoked by the City Manager or the designee at any time when there is a risk from existing conditions to public health or safety and if there is any violation or failure to comply with the provisions of this section after a permit has been properly issued. Any denial, revocation or suspension of a permit to keep domesticated chickens shall be in writing and shall include notification of the right to appeal to the Red Bank City Commission within ten (10) days of the denial, revocation or suspension by the permit holder.

OUTLINE OF CHICKEN ORDINANCE COMPONENTS

APP, FEE & PERMIT

- A permit will be required from the City.
- A site plan location of structure
- Enclosure must be inspected & approved before use occurs.
- An initial application fee of \$ 50.00 dollars.

PLACEMENT

- Zoning for single family Residential Properties only.
- Not allowed on Properties of less than ½ acre or in multi-family complexes, including duplexes, office or commercial or other zones.
- No enclosure may be placed in front yards. Must be placed in the rear yard.
- Coop location shall be not be visible from the street.
- Setbacks from any adjoining property lines to be twenty-five (25) feet.
- Setbacks from streams to be fifty (50) feet.

CONSTRUCTION

- No more than four (4) hens shall be allowed on any residential zoned property except for those properties of two (2) or more acres where a maximum of eight (8) hens will be allowed. No Roosters are permitted.
- A minimum cage size of two (2) square feet for inside enclosure for each bird.
- Outside runs shall be 10 sq. ft.
- Enclosed with wire or screen on all sides.
- Windows & vents shall be covered with predator & bird-proof wire of less than one-inch (1") openings.
- The structure shall be uniform around the structure and shall be in harmony with the surrounding area. See ordinance.

REGULATED CONDITIONS

- Enclosure shall be well maintained.
- Enclosures must be kept in a neat and sanitary condition at all times.
- Must be cleaned on a regular basis to prevent offensive odors.
- Must be kept /raised in humane manner.
- Must be designed to provide safe & healthy living conditions for the chickens while minimizing adverse impacts to other residents in the neighborhood.
- **Running at large is prohibited.** Must be kept in a secure enclosure at all times.
- Access doors shall be shut and locked at night.
- No Roosters permitted or allowed.
- No bird breeding operations or activities are permitted under any circumstance.
- All feed to be kept in rodent proof/raccoon proof containers.
- There shall be no outside slaughtering of birds.
- For more details or clarification please contact Red Bank City Hall (423) 877-1103.

NOTE: This is a general outline and information guide – provisions of the Ordinance have priority over this outline.

GENERAL WEBSITES

The following websites contain general information on the topic of urban chickens, which may be helpful but are not a part of the City of Red Bank governing Ordinance nor its Rules and Regulations regarding same. Any conflict with the governing ordinance(s) may not be relied on by the homeowner or occupant.

<http://www.urbanchickens.org>

<http://backyardchickens.net>

<http://www.urbanchickens.net>

MEMORANDUM

To: Members of the Red Bank Planning Commission

Cc: Tim Thornbury, Public Works Director

From: Ashley Gates, Regional Planner

Date: February 12, 2021

Subject: Land Use Plan Update – Review of Property Sale and Purchase requirements

Proposed Amendment

Review of Property Sale and Acquisition

The sale or purchase of public real property shall be reviewed by the Planning Commission as to the conformity with this plan. A recommendation regarding the sale or purchase of the property shall be provided to the Board of Commissioners within 30 days. The Board of Commissioners may overrule the Planning Commission's decision. This shall only apply to land and real estate that is open to and used by the public or where the intent of purchase is to open the land to allow public access and use. See Tennessee Code Annotated 13-4-104:

“The widening, narrowing, relocation, vacation, change in the use, acceptance, acquisition, sale or lease of any street or public way, ground, place, property or structure shall be subject to similar submission and approval, and the failure to approve may be similarly overruled. The failure of the commission to act within thirty (30) days from and after the date of official submission to it shall be deemed approval, unless a longer period be granted by such chief legislative body or other submitting board or official.”

Staff Recommendation

The above will provide the Planning Commission with more oversight of the City's real estate purchases and sales. It is important to note that real estate transactions may have certain time limitations. Should a time-sensitive sale or purchase come about the Planning Commission will be called upon to have a special-called meeting.

Staff recommends approval.

MEMORANDUM

To: Members of the Red Bank Planning Commission
Cc: Tim Thornbury, Public Works Director
From: Ashley Gates, Regional Planner
Date: February 12, 2021
Subject: Summary of Zoning Ordinance Amendments

Section	Pages	Change	Staff Recommendation
Throughout document	N/A	Change "yard" to "setback"	Setback is the more commonly used term
Throughout document	N/A	Increased the minimum square footage to 1,400 square feet for all single family residences, except in zone R-1A and mixed-use residential developments which requires 2,000 square feet. Duplexes have a minimum square footage of 1,800 square feet (900 sq. ft. per unit)	This recommendation supports the adopted land use plan. However, staff recommends against minimum home size requirements for the following reasons: • Above 600 square feet, there is no clear need to establish a minimum home size for reasons of health and safety • Courts tend to look unfavorably on minimum square footage requirements, particularly for homes • Square footage is more closely related to building type than zone location • Square footage is better regulated through building codes and based on the number of rooms, types of rooms, etc. Source: American Planning Association
Throughout document	N/A	Clarify that short-term rental units are limited to one per structure	Clarification is needed

Section	Pages	Change	Staff Recommendation
Access Easements and Flag Lots	1, 18-19	Allows access to lots by easement and flag lots as permitted in the Subdivision Regulations. This permits lots to be created behind existing homes on particularly long and narrow lots, allowing infill development.	These sections need to be altered to be the same as the Subdivision Regulations or need to be removed from the Zoning Ordinance.
202.07 Auto Wrecking Yard Definition	3, 92	Updates the definition of an Auto Wrecking Yard and creates screening requirements. Requirements also added to pertinent zones.	Approve
204.07 Access Control	14-15	Allows cars to back out from driveways only on streets that have a speed limit 25 MPH or under.	Current regulations provide residential uses an exception to this requirement. Approval recommended.
14-206 Process for Variances or Special Exceptions	22-26	Moves Special Exceptions decisions from BZA to the Planning Commission.	Tennessee Code (See T.C.A. 13-7-207) places special exceptions responsibilities with the Board of Zoning Appeals. Review by City Attorney is recommended.
14-209 Changes and Amendments	27	Fees for those applying to rezoning and other amendments are increased and include the cost of mailing	Certified mailings can be very expensive and costs should be covered by the applicant. Planning Commission may consider leaving fee schedule up to the City Commission so that fees may be changed by resolution.
14-307 Planned Unit Development	51-58; Changes on 57 and 58	Streamlines PUD approval process, allowing PUD plans to serve as preliminary plats. Additionally, allows Special Exceptions Permit and Rezoning to take place at the same meetings.	PUD process is very long and can be confusing. This will reduce the number of meetings required. However, the Planning Commission may still opt to table a proposal and hold additional meetings if a development is particularly controversial or concerning. Approval recommended.

Section	Pages	Change	Staff Recommendation
14-309.03 RZ-1 Zero Lot Line Residential	63	Clarify RZ-1 side setback requirements. Minimum of 10 feet between single family homes. Allows the home to either be centered on the lot or at the lot line.	Approve. Current language is confusing and contradicts itself. Additional Planner Recommendation: Remove or reduce 25-foot buffer requirement between RZ-1 and other residential zones. This will result in far fewer conditionally zoned properties.
14-310 R-T\Z Residential Townhouse\Zero Lot Line Zone	66-67	Clarify R-T\Z side setback requirements. Minimum of 10 feet between single family homes. Allows the home to either be centered on the lot or at the lot line.	Approve. Current language is confusing and contradicts itself.
14-405.05 C-3 Neighborhood Commercial	86	Update setback requirements to match Design Review Standards.	These requirements were intended to be updated with the approval of Design Review Standards but were left out of the ordinance by mistake. Approve.
14-901 Screening Requirements	97-106	Update the tree and shrub list to only allow native species. Other, non-invasive species may be approved by the City. Also requires that dumpsters be screened by wood fence.	Approve. Planning Commission may also wish to review the 3-gallon, 8-foot-tall installation requirement for trees and 3-gallon requirement for shrubs for new species list.
14-1000 Design Review Standards	106	Adopt Design Review Standards by reference. Make the Planning Commission the Design Review Board.	A portion of the standards are in the Zoning Ordinance, but are not up-to-date. Design Review Standards were adopted separately and should be referenced. Approval recommended.

MEMORANDUM

To: Members of the Red Bank Planning Commission

Cc: Tim Thornbury, Public Works Director

From: Ashley Gates, Regional Planner

Date: February 12, 2021

Subject: Short-term rental unit regulations

Goal of Steep Slope Ordinance

The goal of a steep slope ordinance is to establish standards that will mitigate flooding, erosion, and, in extreme cases, landslides.

Staff Recommendation

The regulations from Oak Hill, Tennessee provides a simple option that requires additional engineering and design standards for steep slope development. Their ordinance applies to slopes over 15%, but other cities limit steep slope restrictions to slopes over 25%. The ordinance requires:

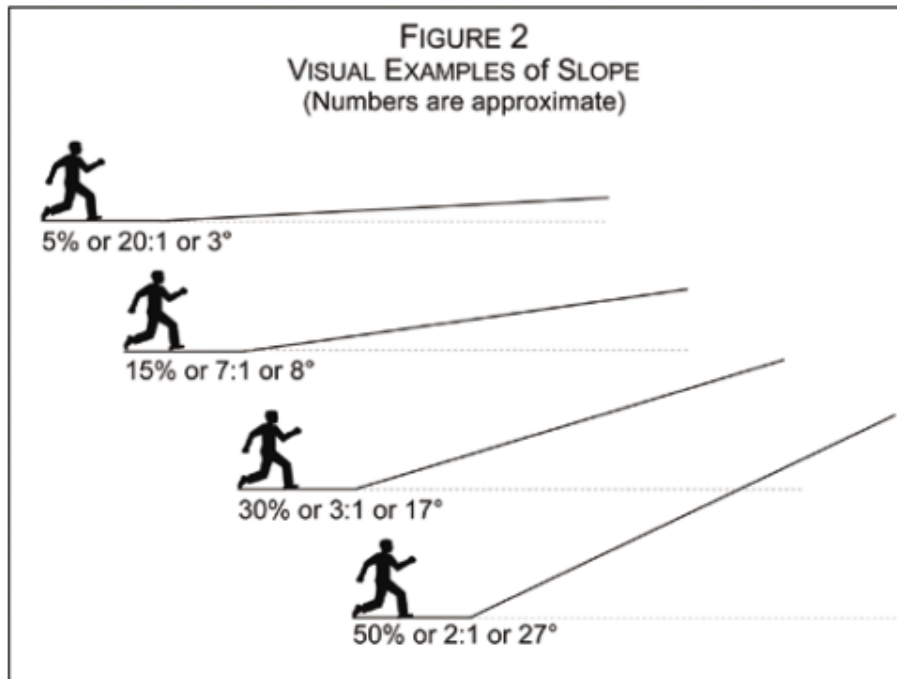
- A site plan that includes additional information on the vegetation, slope, and long-term stabilization plans
- The site plan to be stamped by a certified engineer
- To meet design principals that mitigate runoff and erosion, including the preservation of natural vegetation and drainage ways

Attachment 1. Slope Information.

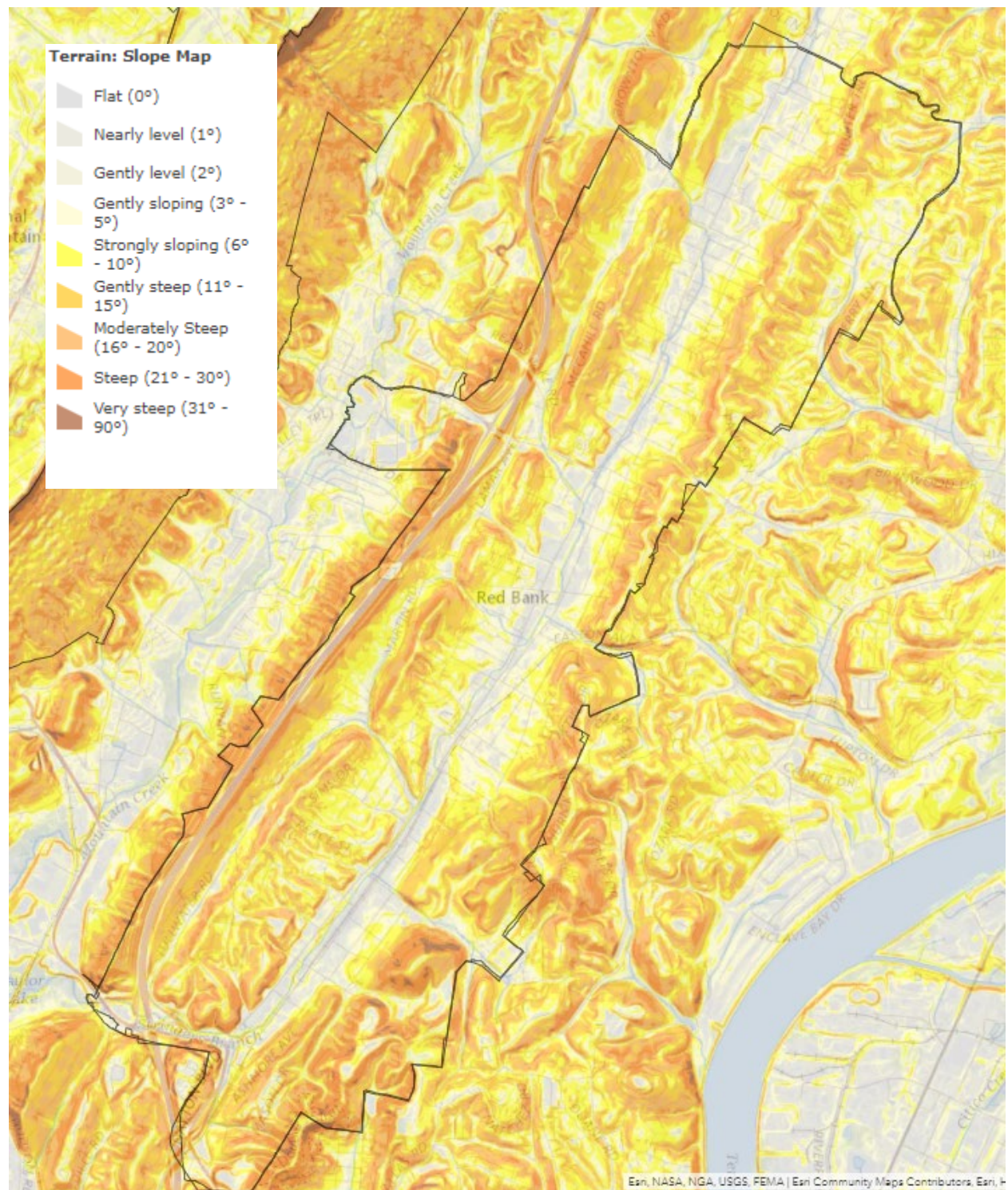
TABLE 1
Degree of Slope

Degree of slope	Development Potential
0% to 3%	Generally suitable for all development and uses.
3% to 8%	Suitable for medium density residential development, agriculture, industrial and institutional uses.
8% to 15%	Suitable for moderate to low-density residential development, but great care should be exercised in the location of any commercial, industrial or institutional uses.
15% to 25%	Only suitable for low-density residential, limited agricultural and recreational uses.
Over 25%	Only used for open space and certain recreational uses.

Source: Soil Surveys of Lehigh/Northampton Counties, Pennsylvania, Soil Conservation Service. 1963, 1974.



Attachment 2. Red Bank Slope Map.



14-238 Regulations for steep slope areas

It is a substantiated fact that areas of steep slopes, when developed into buildings and streets, present a significant threat of landslides or soil movement. This generally occurs on slopes exceeding fifteen to twenty (15-20%) percent grades. (See: *Landslides in the Nashville, Tennessee Area-Winter 1975*, Robert A. Miller and John D. Wiethe, Tennessee Division of Geology, 1975) Oak Hill contains many such areas. Therefore, it is the policy of the City of Oak Hill to protect life and property by requiring special review procedures for construction on any area of fifteen percent (15%) or greater slopes. The applicant shall pay, as adopted by Board of Commissioners resolution, for review by the Planning Commission for steep slopes or in connection with the Radnor Lake Impact Ordinance. The following regulations shall apply:

14-238.1 Site plan required

No building permit shall be issued for construction on any area of 15% or greater slopes until a site plan meeting the following requirements has been approved by the Planning Commission. Said site plan shall show:

- (a) The exact size, shape, and location of the lot, and the existing drainage pattern,

- (b) The proposed location of all buildings, driveways, drainage ways, and utilities,
- (c) Contours at vertical intervals of no more than five feet (5') taken from aerial photography or field survey,
- (d) The extent of natural tree cover and vegetation,
- (e) The location of any on-site soil absorption sewage disposal systems,
- (f) The type and location of erosion control methodology,
- (g) The exact area where any natural vegetation is proposed to be removed,
- (h) The size, type, and height of all buildings proposed to be constructed.
- (i) The location and extent of colluvial soil areas as determined by soil test borings,
- (j) The engineer's stamp that prepared the plan,
- (k) Certification as to the stability of the structures and slope and compliance with sound construction methods for areas with steep slopes and landslide problems by a registered geotechnical engineer. Said engineer shall also certify such features after completion of construction prior to issuance of the certificate of occupancy,
- (l) When the Planning Commission determines that additional information is required, an additional soils or geotechnical engineer may be employed to be funded by the developer. The Planning Commission may then require additional standards for development of the lot or tract if substantiated by the facts.

14-238.2 *Development standards*

The following standards shall be used as a guide in determining the suitability of the construction proposed for the particular site in question. The engineer's certification required in § 14-238.1 above shall address these standards:

- (a) Natural vegetation shall be preserved to the maximum extent possible. Existing vegetation on slopes fifteen percent (15%) or greater shall not be removed except as approved by the Planning Commission. The Planning Commission may require replacement of removed trees up to the caliper inches removed. Any grass areas shall be sodded,

- (b) Natural drainage ways and systems shall be maintained, except that surface water may be diverted around a house or slope area to a natural drain using acceptable construction techniques,
- (c) Development shall require a minimum of two (2) acres of land per parcel. The Planning Commission may require additional acreage when justified by the soil tests and/or slope of the site and limit development to a maximum of ten percent (10%) of the lot,
- (d) Off-road vehicles shall be prohibited from all such areas and may not be operated off streets and driveways,
- (e) Operations that increase loads, reduce slope support, and cause instability of the slope shall be prohibited to the maximum extent possible which will permit reasonable development of the site. These include filling, irrigation systems, accessory buildings, and on-site soil absorption sewage disposal systems,
- (f) Where sanitary sewers are not available, any on-site sewage disposal system shall be shown on the site plan and located to avoid slide prone areas. Said system shall be approved by the County Health Department prior to the Planning Commission's review taking into account these requirements,
- (g) Erosion control measures shall be employed to prevent all soil material from leaving the site. Additionally, soil from excavation on the site shall not be deposited as fill on a potential slide area. Additionally, all aspects of the Metropolitan Nashville Storm Water Management Ordinance shall apply,
- (h) No construction, including for roads which would cut the toe of the slope shall be permitted, except as approved as a part of a soil stabilization plan submitted by a licensed geotechnical engineer on behalf of developer.

MEMORANDUM

To: Members of the Red Bank Planning Commission
Cc: Tim Thornbury, Public Works Director
From: Ashley Gates, Regional Planner
Date: ~~January 13, 2021~~ **Updated February 12, 2021**
Subject: Freeman Family Subdivision – Revised Plat

Background

This property was rezoned from R-1 to RZ-1 in 2016 at the request of the property owner. A plat was recorded in 2018 dividing the property into three lots, which was the stated intent at the rezoning hearing.

The submitted plat proposes adding a fourth lot to the subdivision. The lot will still be required to have a 25-foot setback from the adjacent R-1 property and the lot will not be able to utilize the alley as the main access point.

While the rezoning ordinance did not limit the density of the development, it does state that the intent was to create three lots.

Analysis

Lot Size and Use

~~The proposed subdivision will result in a fairly narrow home at the lot line on Lot 4 due to the 25-foot required side yard. The home would be between 14 and 15 feet wide. While this is narrow, homes are commonly built at only 12 feet wide.~~

The proposed lot is 40-feet wide. The lot is proposed as a community lot, offering some open space between the development and the residence at the end of Coker Circle. Should the applicant wish to build on this lot, a new plat would need to be submitted and reviewed by the planning commission.

Compatibility with Neighboring Properties

The density is similar to other developments in the area. ~~The 25-foot wide side yard will provide an adequate buffer between the home and the neighboring single-family residence.~~

Recommendation

Staff recommends approving this plat. ~~While it adds additional density above what was the stated intent, the conditions of the rezoning did not preclude adding density.~~

Attachment 2. Meeting Minutes – 1305 Coker Circle Rezoning

VII. NEW BUSINESS

a) Rezoning Request for 1103 Coker Circle

Commissioner Baker gave a summary of the request to rezone 1103 Coker Circle from R-1 to RZ-1 in order to construct higher density single family homes. Baker then asked if the owner and applicant for the rezoning request was present.

Jospesh Inger, a representative for the applicant, came forward and noted that the property had already been zoned RZ-1 once before, but that the rezoning had reverted to R-1 after the plat was not recorded in 90 days. The R-1 zoning was discovered by the applicant in April when a plat submitted to subdivide the lot for patio homes was rejected.

Commissioner Baker asked if there were any questions from the Commissioners. Baker then asked the members of the public in attendance for questions or comments.

Ray McGuffee, owner of 1101 Coker Circle, came forward and expressed a concern that the rear alley belonged to him and another family member, but had been incorrectly surveyed. According to Mr. McGuffee the surveyors had incorrectly drawn boundaries 12 feet over the property line next to his house. Mr. Guffee stated that he owned the alley and did not want it being used to access homes on the property at 1103 Coker Circle. Mr. Guffee then presented deeds to the Planning Commission.

Commissioner Baker asked staff how this possible surveying error on the alley would impact the rezoning. Staff responded that it would not affect a rezoning decision.

Commissioner Cannon asked staff if a site plan or plat had been submitted showing setbacks or the location of structures. SETDD staff responded that a plat had previously been submitted before the applicant knew that the property was not zoned RZ-1, but no proposed structures or setbacks were shown on the plat.

Mr. Inger stated that the proposed homes would need to be closer to Coker Circle to access sewer and that there were no plans to access the homes from the rear alley.

Commissioner Baker asked for clarification that the two issues raised by McGuffee are the use of the alley and the possible incorrect surveying. Mr. McGuffee said he did not want traffic running on his property to access the property

Mr. Inger said that he walked the property with Mr. McGuffee, agreed on the boundaries that McGuffee showed him, and mapped the existing pins in GIS. He also noted that no new pins were set.

Mr. Inger stated that he had no problem using the pin identified by Mr. McGuffee in the middle of the alley to set the boundaries for the plat. Mr. Inger also proposed attaching a condition to the rezoning to not use the alley to access the property.

Roy Millsaps, owner of 1106 Ashmore Avenue, noted this his property was downhill from 1103 Coker Circle and asked if there were any plans to control stormwater flowing off the property.

Commissioner Baker asked staff if they were at the point of reviewing stormwater. Mr. Frixen responded that storm water approvals do not come through the SETDD office.

Commissioner Baker then noted that the current decision before the Planning Commission was whether the proposed patio homes allowed under the RZ-1 zoning are compatible with the surrounding land uses.

Commissioner Cannon stated that he believed the higher density single family homes were compatible with surrounding land uses, but would like to know more about stormwater and sewer. Cannon said that he was not comfortable making a decision without more information about the infrastructure and environment.

Mr. McGuffee noted that stormwater started flowing onto his property after Coker Circle was paved and that he worried about additional stormwater flowing onto his property from new development. Mr. Baker asked if there were curbs on Coker Circle. Mr. McGuffee responded that there were no curb on Coker Circle.

Commissioner Smith asked if stormwater and sewer requirements have to be met before the plat is recorded. Staff responded that SETDD only reviews plats based on the requirement in the City of Red Bank Subdivision Regulations. Commissioner Baker stated that this was just a rezoning decision before the Planning Commission, not a PUD review, and that there were no stormwater requirements to review.

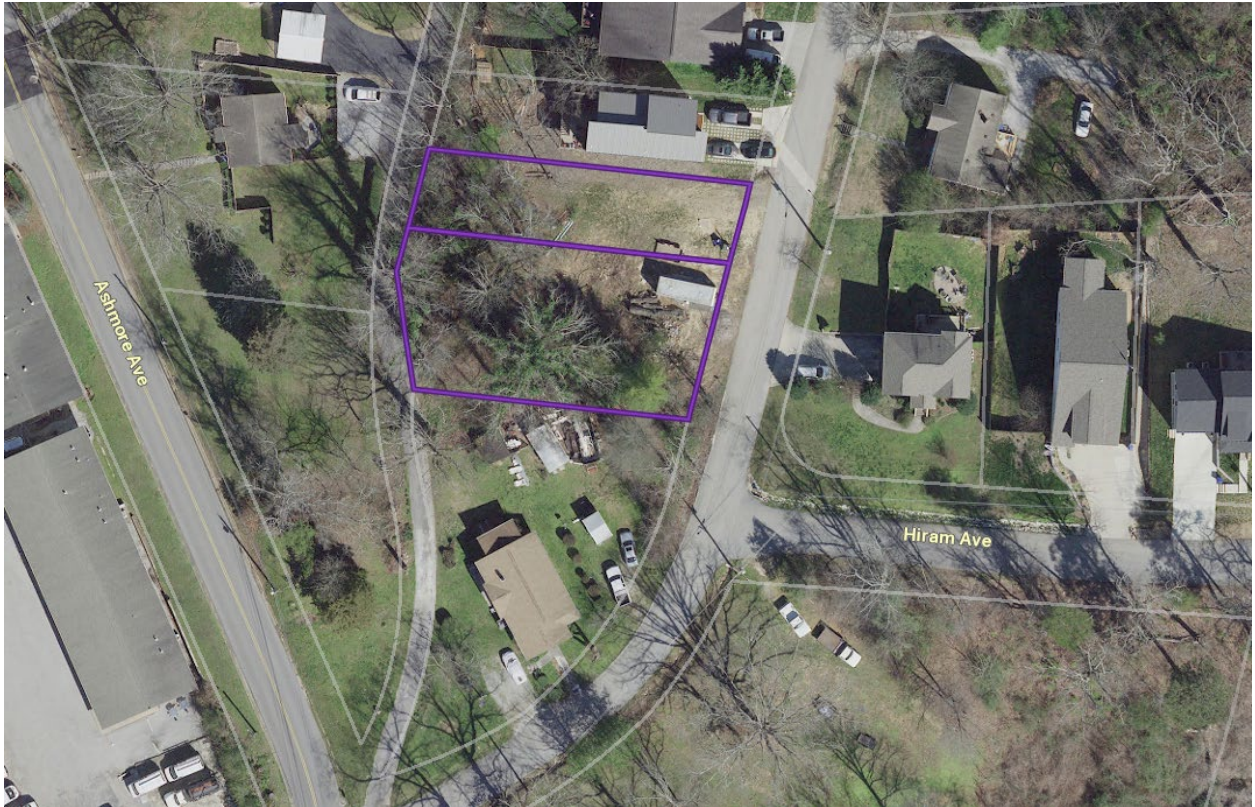
Mr. Inger stated that there was room for a rain garden on the property. Mr. Inger also noted that he had talked to WWTa about capacity and that they have already approved it.

Roy Millsaps said that a rain garden would be difficult given the steep grade on the property. Sheree Millsaps, owner a 1106 Ashmore Avenue, asked how sewer would be provided. Mr. Inger responded that there was access on the corner of the property and the sewer lines will be extended a hundred feet. Roy Millsaps asked if sewage would be pumped uphill. Mr. Inger responded that it would not.

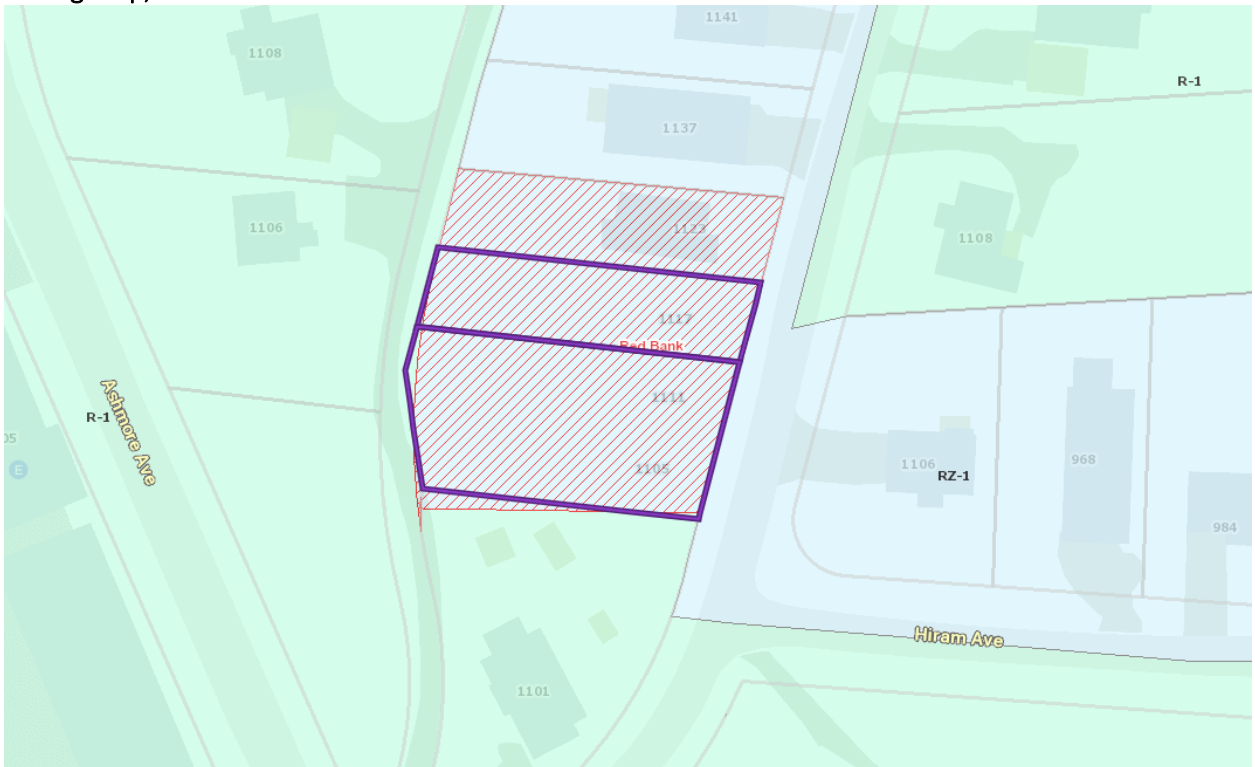
Commissioner Baker asked if there were any remaining questions. Mr. McGuffee asked how large the required setbacks were between homes. Staff responded that the setback for buildings in the RZ-1 district was 25 feet from any R-1 district boundary.

Commissioner Smith made a motion to approve the rezoning with the conditions that stormwater facilities be installed, that the alley will not be used to access the home, and that the pins identified by Mr. McGuffee would be used to identify the boundaries of the property to be rezoned.

Attachment 3. Aerial Imagery, 2020.



Zoning Map, 1305 Coker Circle



MEMORANDUM

To: Members of the Red Bank Planning Commission

Cc: Tim Thornbury, Public Works Director

From: Ashley Gates, Regional Planner

Date: February 12, 2021

Subject: Short-term rental unit regulations

Summary of Regulations

In 2018, extensive discussions regarding Short Term Rentals took place and Red Bank adopted an ordinance to regulate these units in accordance with the recently passed state-wide Short Term Rental Act. The ordinance, which remains in place, includes the following restrictions:

- Limited to R-3, R-4, R-5, and Commercial zones
- Maximum rental period of 30 days
- Does not include a hotels or bed and breakfasts
- “Grandfathered” units could continue operating, provided they paid the appropriate taxes and submitted their permit application and fees
- Limited to one unit per structure
- Maximum of 5 bedrooms, occupancy of 2 people per 70 square feet of bedroom
- Must pay all applicable taxes and meet all safety and building code requirements
- Must apply for and renew a permit with the city
- Three code violations, and the permit shall be revoked

Analysis

Current Short-Term Rental Units

Red Bank has eight (8) short-term rental units that are registered and properly remit taxes to the City. Hamilton County maintains a listing of short-term rental units that remit taxes to the County that is shared with city staff.

A cursory search of Airbnb.com indicated that 21 units are currently listed within city limits. Staff does not have statistics on which units have received code enforcement citations. Having some “under the table” units is very common in cities. Codes enforcement is typically complaint-driven with this type of regulation, as there are numerous inspections and codes violations that are of more immediate importance. However, staff has not verified the process with Codes Enforcement staff.

A total of 150 lots are properly zoned for a short-term rental. So, most requests for short-term rental units requires rezoning. Within single-family residential neighborhoods, this often is considered spot zoning which is illegal in Tennessee.

Impact of Short-Term Rental Units

The impact of short-term rental units on neighboring properties depends almost entirely on the way the short-term rental unit is managed. Being part of an owner-occupied home or duplex ensures that any issues that arise will be dealt with quickly and that the owner will take safety precautions as to who they rent the unit to. Otherwise, the enforcement of municipal and state laws is often complaint driven and up to law enforcement and the neighbors. In neighboring Chattanooga, it is much easier to get a permit to operate an owner-occupied short-term rental than one that is not owner-occupied.

Positive Impacts

The positive impacts of short-term rentals are almost entirely economic. It provides income for property owners, increases the number of visitors to some degree, and creates tax revenue for the city.

If there is an excessive amount of vacant housing, it may serve to fill blighted properties. However, this would be a rare situation as such areas are unlikely to become tourist destinations.

Negative Impacts

The potential negative impacts include:

- Displacing income of established hotels
- Impact on neighborhood character due to increased tourism and decreased long-term residents
- Traffic increase
- Noise, trash and other “un-neighborly” behavior
- Most importantly, the displacement of long-term renters

Short-Term Rental Market Conditions

The greater Chattanooga area brings in many tourists each year, with \$1.16 billion worth of expenditures in Hamilton County in 2019. In 2017, AirBnB reported that 62,000 people stayed in an AirBnB in the Chattanooga market (including Cleveland and other areas). Nearby Signal Mountain saw 1,300 people that year, with short-term rental owners earning \$133,000.

(Source: AirBnB via Times Free Press)

These statistics indicate that the market for these rentals does exist, and if Red Bank increased the area where these rentals were allowed, the units will surely be built. However, even at double or triple the amount of income that was seen in Signal Mountain in 2017, the tax revenue would not be so significant as to drive policy.

More significant would be the impact on property owners and small businesses, who would see the benefits of increased income and spending. However, poorly run short-term rentals could negatively impact property values. Additionally, some of these properties are owned by residents of other communities, so the income would not necessarily be spent in Red Bank.

At least a portion of the income generated by these rentals will be displacing the income that would normally go to a hotel, motel, or inn. Red Bank does not appear to have any hotels at this time, so the income generated is income that would otherwise go to businesses outside the city limits of Red Bank.

Housing Market and Household Income

An estimated 40% of housing units are renter-occupied, which is slightly above that of Hamilton County which is 37.3%. The vacancy rate (12.9%) is also slightly above Hamilton County's rate of 10.5%. Given that Red Bank is on average more urban and denser than the county overall, Red Bank's occupancy statistics appear to be in line with the larger market trends rather than localized conditions.

Red Bank Housing Stock

Measure	2020 Units	2020 Percent
Total Housing Units	6,592	100.0%
Occupied	5,741	87.1%
Owner	3,048	46.2%
Renter	2,693	40.9%
Vacant	851	12.9%

Source: ESRI Business Analyst

When assessing policies that will alter the housing market, it is essential to consider the burden of housing costs on residents. A study by the National Low Income Housing Coalition showed that the density of short-term rentals correlated with higher property prices, both ownership and rental costs. Essentially, this is because short-term rentals create an increased demand for housing, driving the costs up. (Source: National Low Income Housing Coalition, www.nlihc.org)

Increased property values do have benefits for the community, including property tax revenue and better return for property owners. It also drives people to invest in property improvements. However, when the driver of this increased demand is short-term rentals and not increased interest in living in the community, those seeking long-term housing bear the burden of higher costs with few benefits.

A 2019 study by the United Way showed an estimated 50%, or about 2,600, households in Red Bank struggle to meet their basic needs.

Share of Renters with Severe Housing Cost Burdens – Metro Area ¹	18.1%
Share of Homeowners with Severe Housing Cost Burdens – Metro Area	6.0%
ALICE Households ² (Asset Limited, Income Constrained, Employed) + Poverty in Red Bank	50%

¹ Source: Joint Center for Housing Studies, Harvard University. <https://www.jchs.harvard.edu/son-2019-cost-burdens-map>

² ALICE is a measure of poverty developed by the United Way to measure the number of households struggling to meet their basic needs and includes both income and expenditure data based on location and family size. See <https://www.unitedwaysela.org/>

Staff Recommendation

The Tennessee Short Term Rental Act of 2018 provides clear protections for short-term rental operators that are operating at the time new regulations are in place. Should new regulations allow additional short-term rental units to be established, they would be “grandfathered” under any new regulations.

For that reason, staff recommends careful study of the previous short-term rental regulation effort. Any desired changes should happen incrementally with careful study. One area that the Planning Commission may wish to explore is creating separate regulations for owner-occupied units, much like the City of Chattanooga.

Motion by Commissioner Smith to recommend the zoning map amendment for approval. Second by Commissioner Browder. Motion passed unanimously.

b) Short Term Residential Rentals Ordinance, Amendment to City Code and Zoning Ordinance

Staff gave an overview of the proposed ordinance. Staff referenced APA best practices recommended regulation of short term rental units, but noted that the APA is agnostic on which zoning districts short term rental units should be permitted. Staff did note that a bill currently under consideration by the Tennessee legislature could dramatically limit the ability of local governments to regulate short term rental units, especially where they may be permitted. The city code amendment establishes clear standards and a straightforward application process for short term rental units. The zoning ordinance amendment, however, included overly complex language. Staff recommended that the confusing language under prohibited uses subsection be rewritten for clarity.

Commissioner Browder agreed that the language was overly complex or convoluted. Commissioner Baker noted that there was an internal logic that made sense about the language. Chairman Hafley agreed that it took him a while to understand what is being prohibited, noting that it was obtuse, but comprehensive.

Chairman Hafley identified additional errors, including the absence of the R1-A zoning district from the amendment, and the addition of subsection (n) where subsection (n) already exists.

Commissioner Baker asked if STRR units should be permitted in the C-2 district. Commissioner Baker said he thought the consensus at the workshop was to prohibit them in C-2. Commissioner Browder said she thought a STRR is a commercial use that belongs in commercial districts. The other Commissioners agreed.

Motion by Commissioner Hafley to recommend approval of the amendment to the zoning ordinance contingent upon revisions to the prohibited uses subsections for clarity, the addition of R1-A zoning district to the Zoning Ordinance amendment, and the consolidation of specifications for short term residential rental units where they are listed as permitted such as in paragraph J.

c) Amendment to Parking Regulations in City Code

Staff gave an overview of the four city code amendments to parking regulations and penalties. The City Manager gave background on the impetus for the city code amendment to parking regulations and penalties, including complaints about on-street parking issues in residential neighborhoods. Commissioner approved of the proposed amendments to parking regulations.

VI. UNFINISHED BUSINESS

a) Review of Proposed Commercial District Intent Statements and Table of Uses in Red Bank Zoning Ordinance

Chairman Hafley noted that staff had provided a revised intent statement and table of uses. The Commissioners agreed on permitted and prohibited uses on the last page of the draft table of uses.

Public Hearings

Vice Mayor Pierce advised that there are three separate Public Hearings on the agenda tonight.

1) Proposed amendment to the Zoning Ordinance in regard to minimum square footage requirements in the R-1 and R-1A Residential Zones.

City Attorney Stulce explained that this ordinance, initiated by the Commission, and if approved, will amend the zoning regulations so as to place minimum square footage requirements for newly constructed homes in the R-1 and R-1A zones of the city. He further explained that the minimum square footage would be set at 1400 square feet in the R-1 zone and 2000 square feet in the R-1A zone, with no allowances for existing surrounding home sizes. It was noted that the Red Bank Planning Commission reviewed this ordinance and recommended against approval. Vice Mayor Pierce invited citizen comments, of which there were none. After nothing further this Public Hearing was closed.

2) Proposed amendment to the Zoning Ordinance in regard to Short Term Residential Rental Properties

City Manager Smith explained that this ordinance will amend the Zoning Ordinance to define the term Short Term Residential Rentals and designate zones where these type business uses will be permitted and/or prohibited. He explained that, if approved, Short Term Residential Rentals will be permitted in R-3 and R-4 Residential zones and Commercial Zones and that they would be prohibited in all other zones. It was also explained that there is an accompanying ordinance on the agenda tonight that regulates registration of Short Term Residential Rentals with respect to various code and safety issues. It was noted that the Red Bank Planning Commission held a Public Hearing in regard to this matter and has recommended approving the ordinance. Vice Mayor Pierce invited Citizen Comments:

- Fred Spahn, 308 Hedgewood Drive, Favors the concept of Short Term Rentals in all zones.
 - Chris Williams, 2016 Ashmore Avenue, Favors the concept of Short Term Rentals in all zones.
 - Andrea Abercrombie, 2000 James Avenue, Favors the concept of Short Term Rentals in all zones.
 - Marie King, 3607 Pickering Avenue, Favors the concept of Short Term Rentals in all zones.
 - Diane Evans, 207 W. Euclid Avenue, Favors the concept of Short Term Rentals in all zones.
 - Erin Spahn, 308 Hedgewood Drive, Favors the concept of Short Term Rentals in all zones.
 - 307 Euclid Avenue, Favors the concept of Short Term Rentals in all zones.
- All who spoke urged the Commission to investigate further before adopting the ordinance referenced above.

After no further comments, this Public Hearing was closed.

3) Proposed amendment to the Zoning Ordinance in regard to Planned Unit Development set-back requirements

City Attorney Stulce gave an overview of the ordinance and advised that the current zoning regulations require a minimum set-back of 25 feet. He explained that this ordinance would amend that number to whatever distance the City Commission deems appropriate. Vice Mayor Pierce invited citizen comments:

- Rocky Chambers, Chattanooga Engineering Group, Advised that he is the engineer for the Midvale Highland PUD and would like to see this ordinance approved. He advised that there are two lots in the Midvale Highlands development that, due to the proposed home size, cannot meet the 25 foot minimum setback requirement because the prospective purchasers want to have a covered deck constructed.
- Chris Anderson, GreenTech Homes, Advised that he is the developer of the Midvale Highland PUD and that there are two lots that cannot meet the 25 foot setback requirement. He requested

ORDINANCE NO. 18-1108

AN ORDINANCE OF THE CITY OF RED BANK, TENNESSEE, TO AMEND
TITLE 9 OF THE RED BANK CITY CODE BY ENACTING A
NEW/ADDITIONAL CHAPTER 16 THEREOF TO ADDRESS REGULATION
OF SHORT TERM RENTAL UNITS WITHIN THE CITY OF RED BANK

WHEREAS, the City Commission recognizes the increasing existence, locally, regionally, statewide and nationally, of commercial and/or quasi-commercial endeavors whereby residential dwelling units are leased, rented, utilized or occupied, in exchange for a fee and/or various forms of consideration, on a short term basis, and often advertised on or promoted pursuant to internet or digitally based platforms and/or other forms of social media; and

WHEREAS, current Red Bank Zoning Ordinances and Regulations have heretofore been interpreted as not permitting such commercial or quasi-commercial or similar residential occupancy endeavors in residential zones of the City, except as relates to zones R-3, zones R-4 Special and zones R-5, i.e. in the context of boarding and/or rooming houses as defined in the Red Bank City Zoning Ordinance; and

WHEREAS, the Board finds and determines that the present utilization of commercial and/or quasi-commercial short term rental units within most of the residential zones in the City, except zones R-3, R-4 Special and R-5 would be contrary to the land use plan and to the ~~findings~~ ~~and~~ objectives of the City, would be likely deleterious to fostering a traditional community residential atmosphere(s) sought to be fostered and encouraged by the Commission and by the Red Bank Planning Commission; and

WHEREAS, utilization of more traditional residential properties by short term occupants, on a commercial or quasi-commercial basis, likely increases the risk and likelihood of potentially irresponsible and/or interruptive behavior or conduct by some short term residential rental unit occupants and is of sufficient concern to recommend prohibition of such uses in all residential zones except for R-3, R-4 Special and R-5 zones; and

WHEREAS, short term residential rental units should be required to comply with certain public safety and operational standards.

NOW, THEREFORE, BE IT ORDAINED by the City Commission of the City of Red Bank, Tennessee, as follows:

SECTION 1. That Red Bank City Code, Chapter 9, be amended by adding the following new definitions and provisions to Chapter 16, SHORT TERM RESIDENTIAL RENTAL UNITS, as follows:

Section 9-16-101. Short term residential rental units. Short term residential rental units is defined as follows:

(A) “Short Term Rental Unit” or “Unit”: “Short Term Rental Unit” or “Unit” means a residential dwelling unit that is rented wholly or partially for a fee for a period of less than thirty (30) continuous days and does not include a hotel as defined in T.C.A. Section 68-14-302 or a bed and breakfast establishment or a bed and breakfast homestay as those terms are defined in T.C.A. Section 68-14-502.

(B) Per the provisions of the Zoning Ordinance, Short Term Residential Rental Units are, subject to conditions, certification and licensure hereinafter imposed, permitted only in the Zoning Districts specified in the Zoning Ordinance, and are “prohibited uses” in all Zoning Districts in which not expressly permitted EXCEPT that certain properties that were used as a short term rental unit prior to the enactment of this Ordinance: i.e. property that began being held out to the public for use as



Southeast Tennessee Development District
1000 Riverfront Parkway
Chattanooga, TN 37405
Phone: (423) 266-5781
www.sedev.org

MEMORANDUM

To: Members of the Red Bank Municipal Planning Commission
From: Brian Taylor, SETDD Regional Planner
Date: February 7, 2018
Subject: Draft Amendments to Zoning Ordinance and City Code to regulate Short Term Rentals

SUMMARY

Proposal:	Amendments to regulate Short Term Rentals in Zoning Ordinance / City Code
Background:	The City has proposed an amendment to restrict Short Term Rentals to specific zoning districts and establish a permitting process.

ANALYSIS

Amendment to City Code

The proposed amendment to the Title 9 of the City Code would define short term rentals, establish minimum standards for short term rentals, and establish an application process to obtain the required certification. Key sections of proposed Chapter 16 are summarized below.

Section 9-16-101. Short term residential rental units

- A residential dwelling
- exclusive of hotels or motels, boarding houses, bed and breakfast units
- containing not more than five (5) bedrooms
- rented or leased wholly or partially for overnight stays of 30 days or less
- subject to certification and issuance and maintenance of permit

Section 9-16-103. Certificate required.

Section 9-16-104. Minimum standards for short term residential rental units

- No on-site signage
- Maximum occupancy for rooms up to 140 square feet: 2 persons per bedroom
- Maximum occupancy for rooms over 140 square feet: Area of room / 70 square feet

Section 9-16-105. Certificate application; action on certificate application; certificate approval or

appeals to City Commission

- Application Fee: \$75 for owner-occupied, \$125 for non-owner-occupied

Section 9-16-106. Certificate approval, transferability, conditions and revocation

- The City Manager reserves the right to condition the approval to a certain number of rooms, operating days/hours, signage, or other restrictions, including but not limited to vegetative or other sight screening and directional outdoor lighting requirements, as may be deemed necessary to address impacts to adjacent or nearby properties and/or to ensure safe operation of the property.

Section 9-16-107. Short term residential rental unit annual fee

- \$50 annual fee

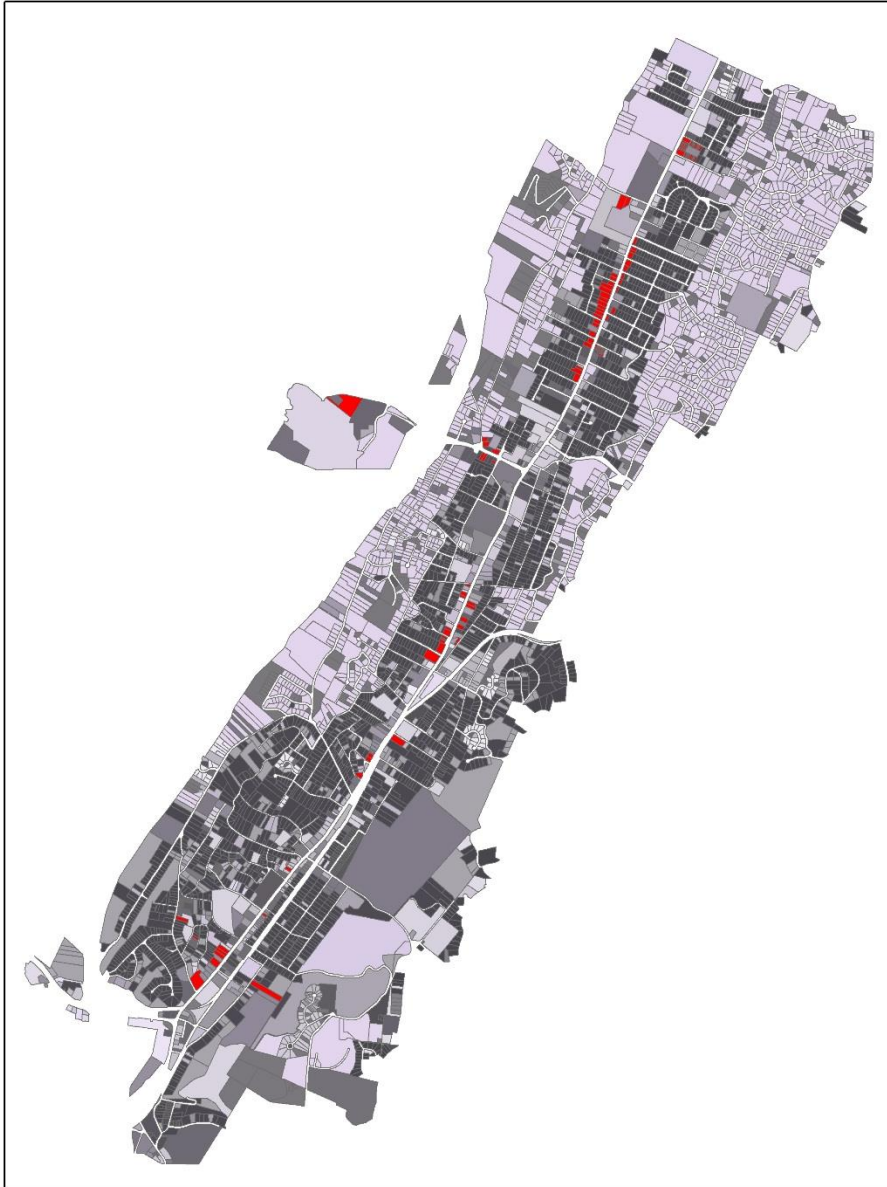
Section 9-16-108. Short term residential rental agent

- Designated agent required to appear on the premises of any short term residential rental unit within two hours following notification from the City of issues related to the use or occupancy of the premises.

Section 9-16-109. Failure to obtain certificate; penalties

Amendment to Zoning Ordinance

The proposed amendment to the Zoning Ordinance would limit short term residential rental units to R-3, R-4 and all commercial zoning districts. The amendment classifies short term residential rental units as a prohibited use in all other residential zoning districts. The following map shows existing residential properties, excluding multi-family, where short term rental units would be permitted in red.



Map 1. Existing residential properties where short term residential rentals would be permitted under the proposed ordinance

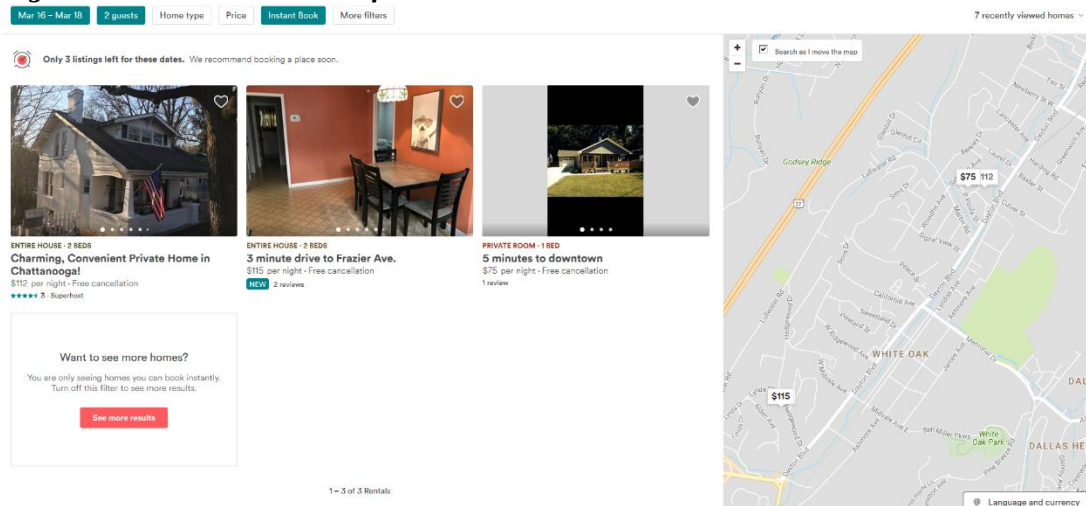
The amendment proposes inserting the language below in red into a prohibited uses section for every zoning district. This language is unnecessarily confusing and not directly related to the regulation of short term rentals.

“Any use not closely similar in character and impact as the above specified and allowed/permitted uses including but not limited to the prohibited uses specified below, provided that the final interpretation of this subsection, if necessary, shall be by the Red Bank City Commission upon recommendation of the Red Bank Planning Commission.”

Existing Conditions and Trends

Existing AirBnB activity has been steadily growing in metro areas, including Chattanooga, but is still limited in Red Bank at the moment.

Figure 1. Air BnB Screenshot for Red Bank area



Chattanooga passed an ordinance regulating short term residential rental units in 2017. The ordinance established an overlay zone that permits short term residential rental units in most areas of the city, including residential neighborhoods. An application process and minimum standards were established to reduce nuisance impacts on neighboring properties. The draft Red Bank amendment to the City Code that establishes the application process and standards appears to be largely adapted from the City of Chattanooga ordinance.

Tennessee SB 1086 by Stevens / HB 2010 by Sexton

Tennessee legislature is currently considering a bill that would limit the ability of local governments to prohibit short term rental units in residential areas.

APA PAS Report on Short Term Residential Rental Units

A report from the American Planning Association summarized the challenges and opportunities presented by short term residential rental units and provides some best practice examples for regulating short term residential rental units.

Opportunities

- Supplement income and make use of underutilized space
- Promote economic ripple effects of housing tourists in neighborhoods throughout city

Challenges

- Potential nuisance impacts on adjacent homes
- Economic impacts of unregulated competition to hotels and B&Bs
- Loss of local revenue from transient occupancy tax
- Impacts on local rental housing markets and affordability

The APA report calls for clear and easily enforced ordinances that avoid blanket prohibitions and onerous regulations. There is no one-size-fits-all recommendation regarding where rentals should be prohibited or permitted.

a short term rental unit within the City of Red Bank and as to which the owner/manager thereof remitted taxes due on renting the unit pursuant to the provisions of Tennessee Code Annotated Section 67-6-501, et seq. for filing periods that cover at least six (6) months within the twelve-month period immediately preceding the effective date of this Ordinance, i.e. January 17, 2018, such short term rental units pre-existing (as defined herein) the effective date of this Ordinance are referred to as “Grandfathered short term rental units”.

(C) As per the provisions of T.C.A. Section 13-7-301, certain limited provisions of this Ordinance may not be applicable or wholly applicable to “Grandfathered short term rental units”.

Section 9-16-102. Additional definitions.

(A) Code Compliance Verification Form: A document, on a form prepared by the Office of the City Manager, executed by a short term rental unit owner certifying that the Short-Form Residential Rental Unit complies with applicable zoning, housing, building, health and life safety code provisions. No person shall allow occupancy or possession of any short term residential rental unit if the premises are in violation of any applicable laws including, but not limited to, zoning, building, housing, health or life safety code provisions. No person shall be able to possess more than two short term residential rental certificates for non-owner occupied premises in a multi-family dwelling.

(B) Short Term Residential Rental Agent: A natural person designated to be responsible for daily operations by the owner of a short term residential rental or a short term residential rental certificate application. Such person shall be available for and responsive to contact at all times and someone who is customarily present at a location with Hamilton County, Tennessee, for purposes of transacting the short term residential rental business. The short term residential rental agent must meet all other requirements set forth by state law.

(C) Short Term Residential Rental Occupants: Guests, tourists, lessees, vacationers or any other person who, in exchange for compensation, occupy a short term residential rental dwelling unit for lodging for a period of time not to exceed thirty consecutive days, but not in any event to be from any period of time less than overnight.

Section 9-16-103. Certificate required.

No person or entity shall operate a Short Term Rental Unit, including without limitation a Grandfathered short term rental unit, unless a Short Term Rental Permit has been first obtained from the Office of the City Manager. To obtain a Short Term Rental Permit, an otherwise eligible applicant must submit an application in compliance with the provisions of this Chapter of the City Code on a form provided by the City. If approved, a legible copy of the Short Term Rental Permit shall be posted within the unit and shall include all of the following information:

(a) The name, address, telephone number and email address of the owner of the short term rental unit and the short term rental agent, if

applicable;

- (b) The Business License Number;
- (c) Any applicable Hotel-Motel tax certifications and or numbers as are applicable pursuant to T.C.A. §67-4-1401 et seq.;
- (d) The maximum occupancy of the unit; and
- (e) The maximum number of vehicles that may be parked at the unit;
- (f) The Short Term Rental Permit number.

All Short Term Rental Units must be properly maintained and regularly inspected by the owner to ensure continued compliance with applicable zoning, housing, building, health and life safety code provisions.

The decision of the Office of the City Manager (“OCM”) as to whether to issue, deny or revoke any permit shall be final, reviewable only by application for Writ of Certiorari to the Chancery Court of Hamilton County, Tennessee as provided in the Tennessee Code Annotated.

Section 9-16-104. Minimum standards for short term rental units

- (A) Short Term Rental Unit shall meet the following minimum standards:
 - (i) A short term rental unit may include a primary dwelling unit and/or a secondary dwelling unit, but cannot include uninhabitable structures such as garages, barns or sheds.
 - (ii) A short term rental unit must have functioning smoke detectors as determined by the Fire Marshal and other life safety equipment as required by generally applicable local, state and federal law.
 - (iii) A short term rental unit must meet all applicable laws related to zoning, housing, building, health, electrical, gas, plumbing and life safety.
 - (iv) No on-site signage shall be permitted except for those short term rental units that are located on tracts of at least five (5) acres in area and which unit(s) have a dwelling unit that is not readily visible from the public right of way, which can have directional signs placed on the parcel that shall be at least 50 feet from the public right of way, the provisions of the Red Bank Sign Ordinance shall otherwise govern the topic of “signs” off-site signage.
 - (v) there shall be no more than five (5) sleeping rooms made available for rental.
 - (vi) Maximum occupancy: the maximum occupancy shall be determined by the total of
 - (1) Two (2) persons per bedroom up to 140 square feet.
 - (2) For bedrooms over 140 square feet the occupant load will be determined by the area of the room divided by 70 square feet.
 - (3) The occupancy maximum shall be conspicuously posted within the short term residential rental unit.

(vii) The short term rental unit Owner shall not receive any compensation or remuneration to permit occupancy and shall not permit occupancy of a short term rental property for any agreed or contracted period of less than twenty-four (24) hours.

(viii) The short term rental Permit holder shall be responsible for collecting and remitting all applicable Hotel and Motel and sales taxes and any other taxes required by state law and/or by the City Code of the City of Red Bank.

(ix) Adequate on-site parking shall be provided, as determined by the City after considering proposed/maximum permitted number of guests, frequency of operations, and availability of on-street parking (if any). As a general rule, parking shall not be allowed on any vegetated area of the premises on which the short term residential rental is located.

(x) All occupants shall abide by all generally applicable codes, ordinances and regulations, including without limitation, applicable noise restrictions and all applicable waste management provisions of the City Code of the City of Red Bank.

(xi) The name and telephone number of the owner of the short term rental unit or the short term rental Agent shall be conspicuously posted within the short term rental unit.

(xii) Short term rental units shall only be located within zoning district(s) which expressly permit such usages according to the Red Bank Zoning Ordinance.

(B) As per the provisions of T.C.A. Section 13-7-301, certain limited provisions of this subsection may not be applicable or wholly applicable to “Grandfathered Short Term Rental Units”.

Section 9-16-105. Certificate application; action on certificate application; certificate approval or appeals to City Commission

(A) Certificate applications. Applicants for a short term rental units Permit shall submit an application to the Office of the City Manager. The application shall be furnished under oath on a form specified by the City. This provision shall apply whether the Application is for a short term rental unit or a “Grandfathered short term rental unit” together with documentary evidence which supports classifying to (proposed) Short Term Rental Unit as a “Grandfathered Short Term Rental Unit”. Such application shall include:

(i) The name, address, telephone number and email address of the owner of the short term rental unit and the short term rental Agent, if applicable;

(ii) Documentation that applicant is the owner or the short term rental Agent;

(iii) The Business License number;

(iv) Certification and/or registration number relating to the Hotel-Motel occupancy tax authorized by T.C.A. §67-4-1401 et seq.;

- (v) A site plan, drawn to scale, indicating the subject property, the building(s) on the site intended for short term rental unit, proposed parking and guest access;
 - (vi) A narrative with the following:
 - (1) A description of the area available for short term rental (i.e. the entire property and house, a guest cottage, a portion of the house, etc.);
 - (2) A description of the number of bedrooms proposed for rental, which shall not be more than five (5) bedrooms under any circumstance;
 - (3) The maximum number of guests to be accommodated at one time;
 - (4) The days of operation (all year, just holidays, weekend/weeknights, etc.);
 - (5) How trash will be handled, and the method of informing occupants about method of disposal of trash; and
 - (vii) A copy of the Code Verification Form,
 - (viii) Proof of insurance on the dwelling unit.
- (A)(1) As per the provisions of T.C.A. Section 13-7-301, certain limited provisions of this subsection may not be applicable or wholly applicable to “Grandfathered Short Term Rental Units”.
- (B) Application fee.
- (i) The permit application fee for owner-occupied short term rental units shall be \$75.00.
 - (ii) The permit application fee for all other non-owner-occupied short term rental units shall be \$125.00.
- (C) Application review.
- (i) Upon application for a short term residential rental unit Permit, the Office of the City Manager (“OCM”) shall review the application and provide comment where necessary and, if necessary, request additional information. Letters shall be, within five (5) business days, mailed to any property owner (as shown by the records of the Hamilton County Tax Assessor) (“adjacent property owner”) who owns land within 300 feet of the subject property. Adjacent property owners shall have thirty (30) days from the date of the letter to respond, in writing, with any concerns or objections about the application.
 - (ii) The OCM shall also by mail or email submit a copy of the application for any short term rental unit permit to individual members of the City Commission.
 - (iii) The OCM shall notify the Fire Marshal and the

Building Inspector to ensure compliance with state and local laws.

(iv) A sign furnished by the OCM or designee shall be prominently posted by the applicant on the site of the proposed short term rental unit that is the subject of the application of the short term rental unit. The sign shall be displayed for at least fifteen (15) consecutive days between the date of application and thirty (30) days thereafter.

The sign shall meet the following requirements:

(1) Sign(s) shall be posted at the right-of-way of primary street or road on which the property fronts, in the main entrance area in case of condominium, apartment, PUD or townhouse buildings, and additional areas if required by the OCM.

(2) Sign may be mounted on flat hard surface to prevent curling or bending of sign.

(3) Sign may be nailed or tied to a tree or mounted on stakes and shall be visually free from obstruction to said primary road.

(4) Signs improperly displayed may be ruled as a violation to the short term residential rental Application procedure and may result in deferral of any action by OCM.

(5) The applicant is responsible for replacing any sign which is damaged or lost.

(6) The applicant is responsible for removing the sign after the final governmental action.

(7) Failure of the applicant to remove the sign within thirty (30) days of either being granted or denied the short term rental unit Permit shall be subject to a daily administrative penalty not to exceed fifty (\$50.00) dollars for each day of violation of these provisions.

(v) If the Application meets all of the requirements set forth in this Chapter, the OCM shall so advise the City Commission and shall issue, to the applicant, a short term rental unit Permit within thirty (30) days of receipt of the Application.

(vi) If objections or appeals are made to the issuance of the short term residential rental Certificate, the OCM shall note and hold a hearing, upon notice to the applicant and the objecting parties, in a manner that OCM prescribes and shall determine whether to grant or deny the short term rental unit Permit based upon the minimum standards for review as set forth herein, and as relates to any generally applicable health, safety, and/or building codes with respect to the short term rental unit. Such hearing shall

take place not later than forty-five (45) days after the application has been submitted to the OCM. The decision of the OCM as to whether to issue, deny or revoke any Permit shall be final, reviewable only by application for Writ of Certiorari to the Chancery Court of Hamilton County, Tennessee as provided in the Tennessee Code Annotated.

- (C)(1) As per the provisions of T.C.A. Section 13-7-301, certain limited provisions of this subsection may not be applicable or wholly applicable to “Grandfathered Short Term Rental Units”.

Section 9-16-106. Permit approval, transferability, conditions, renewal and revocation

(A) Permit approval. The Permit Application, if approved, shall be issued for a specific site location and/or address of the proposed short term rental unit or Grandfathered short term rental unit provided in the application as set forth in this Chapter of the City Code. The OCM reserves the right to condition Permit approval to a certain number of rooms, operating days/hours, signage, or other restrictions, including but not limited to vegetative or other sight screening and directional outdoor lighting requirements, as may be deemed necessary to address impacts to adjacent or nearby properties and/or to ensure safe operation of the property. Said conditions will be based on the recommendation of the OCM.

Upon receipt of a short term rental unit Permit number, the applicant must display said number on any materials or platforms used to advertise the short term rental unit.

(B) Grant or denial of application. Review of an application shall be conducted in accordance with due process principles and shall be granted unless the applicant fails to meet the conditions and requirements of this Chapter, or otherwise fails to demonstrate compliance with generally applicable local ordinances, state or federal law. Any false statements or information provided in the application are grounds for revocation, suspension and/or imposition of penalties, including denial of future applications. The decision of the OCM as to whether to issue, deny or revoke any Permit shall be final, reviewable only by application for Writ of Certiorari to the Chancery Court of Hamilton County, Tennessee as provided in the Tennessee Code Annotated.

(C) Transferability. The Certificate is non-transferable to another site, property, location or owner. Grandfathered short term rental unit Permits are subject to additional transferability restrictions as provided in T.C.A. Section 13-7-601, et seq., as now enacted or hereafter amended.

(D) Revocation. The City reserves the right to suspend, revoke and/or modify any Permit as restrictions and/or conditions imposed as a granted short term rental unit at any time upon notice to the address of record for the short term rental unit and after a public hearing. Once the property has three (3) documented City Code and/or other violations of any generally applicable state laws or breaches of the peace within any running 12 month period and/or based upon unreasonable interference with the use and enjoyment of adjoining or other nearby properties. Such violations shall be evidenced by a finding of guilt or fault or unreasonable interference with the use and enjoyment of nearby properties, by a court or an administrative officer or other body designated by the City Commission.

A short term rental unit Permit which is revoked shall prevent its Permit holder and/or any owner of or agent for the specific property from applying for a new Permit for short term rental unit Permit for a period of one (1) year from date of revocation.

(E) Suspension of Permit. The OCM may suspend a previously issued Permit in the event that a Permittee is found to be noncompliant with any of the terms, conditions or requirements of this Ordinance. Any permit which is suspended for administrative noncompliance with permitting requirements may be, upon payment of a fifty (\$50.00) dollar reinstatement and inspection fee, be reinstated upon the Permittee demonstrating, to the satisfaction of the OCM, that the noncompliance issue(s) which resulted in suspension of the Permit have been resolved.

(F) No property shall be operated as a short term rental unit which its Permit is suspended and/or if its Permit has been revoked and unless and until a valid short term rental unit Permit shall be subsequently issued by the OCM.

(G) As per the provisions of T.C.A. Section 13-7-301, certain limited provisions of this subsection may not be applicable or wholly applicable to “Grandfathered Short Term Rental Units”.

Section 9-16-107. Short term rental unit annual fee

(A) There shall be a short term rental unit Permit renewal and inspection fee to be paid annually in the amount of \$100.00 which, upon inspection by the City and satisfactory demonstration of compliance by the Permit holder and property of the terms, provisions and conditions of the Ordinance shall entitle the Permittee to renewal of the Permit for the ensuing twelve (12) months.

(B) Failure to pay the annual renewal fee and to cooperate with permit inspection requirements shall result in suspension of the Permit which, if not remedied within sixty (60) days after suspension, shall automatically result in revocation of the Permit for that particular location.

Section 9-16-108. Short term rental agent

(A) The owner of a short term rental unit shall designate a short term rental Agent on its application for a Permit for a short term rental unit. A property owner may serve as the short term rental Agent. Alternatively, the owner may designate a person as his or her agent who is over age 18 and meets all local and state regulatory requirements to fulfill the duties of a short term rental Agent.

(B) The duties of the short term rental Agent are to:

- (i) Be reasonably available to handle any problems arising from use of the short term rental unit;
- (ii) Appear on the premises of any short term rental unit within two hours following notification from the City of issues related to the use or occupancy of the premises. This includes, but is not limited to, notification that occupants of the short term rental unit have created unreasonable noise or disturbances, engaged in disorderly conduct or committed violations of the City Code or other applicable law pertaining to noise, disorderly conduct, overcrowding, consumption of alcohol, or use of illegal drugs.

Failure of the agent to timely appear to two or more complaints regarding violations may be grounds for penalties and/or permit/certificate revocations as set forth in this Chapter. This is not intended to impose a duty to act as a peace officer or otherwise require the agent to place himself or herself in a perilous situation;

(iii) Receive and accept service of any notice of violation or notice of hearing related to the short term rental unit; and

(iv) Monitor the short term rental units for compliance with all laws, including without limitations compliance with the provisions of the Hotel-Motel tax authorized by T.C.A. §67-4-1401 et seq.;

(C) An owner may change his or her designation of a short term rental Agent temporarily or permanently; however, there shall only be one such agent for a property at any given time. To change the designated agent, the owner shall notify the OCM in writing of the new agent's identity, together with all information regarding such person as required by the applicable provisions of this Chapter.

(D) As per the provisions of T.C.A. Section 13-7-301, certain limited provisions of this subsection may not be applicable or wholly applicable to "Grandfathered Short Term Rental Units".

Section 9-16-109. Failure to obtain permit; penalties

(A) Any violation of this Article, including failure to obtain a Permit or to renew a Permit of continued or initiating operation of a short term rental unit either without a Permit or after revocation of a Permit shall be punishable by a civil penalty of one hundred (\$100.00) dollars per violation. Each day that the violation continues shall be a separate offense. There shall be a rebuttable presumption that a person or entity is in violation of this Chapter if they list or hold out a property as a short term rental unit without first obtaining a short term rental Permit. This rebuttable presumption also applies to those dwellings featured on websites whose primary purpose is business related to short term rental unit reservations.

(B) The owner and/or Agent of or with respect to a "Grandfathered Short Term Rental Unit", which may be otherwise exempt from compliance with some of the regulations, conditions and requirements of this Ordinance shall nevertheless be required to apply for a Permit within the thirty (30) days next following the effective date of this Ordinance. If the owner or agent shall fail to apply within said thirty (30) day period or shall otherwise fail to meet the requirements of generally applicable laws, rules and ordinances as to said Grandfathered short term rental units, shall, upon notice from the OCM cease operations as a short term rental unit and shall not resume such operations or advertisement as a short term rental unit until such time as the owner and/or property shall make a proper application for a Permit and demonstrate compliance with all requirements of this Ordinance and generally applicable law. As provided in T.C.A. Section 13-7-604, a "Grandfathered short term rental unit" may lose grandfathered status by failure to adhere to and/or violation of all or any of the qualifying conditions and/or requirements of T.C.A. Section 13-7-604, including but not limited to

(1) The property used as a Grandfathered short term rental unit is sold or otherwise transferred by or from the owner(s) of the

property when first qualified or established as a Grandfathered short term rental unit and/or

(2) The property ceases to be used as a short term rental unit for any period of thirty (30) continuous months and/or

(3) The property has been found to be in violation of a generally applicable local Ordinance or state law on three (3) or more separate times and with no appeal opportunities remaining.

(C) As per the provisions of T.C.A. Section 13-7-301, certain limited provisions of this subsection may not be applicable or wholly applicable to “Grandfathered Short Term Rental Units”.

Section 9-16-110. Invalidity of part; private agreements and covenants

Should any court of competent jurisdiction declare any section, clause or provision so declared unconstitutional, such decision shall affect only such section, clause, or provision so declared unconstitutional, and shall not affect any other section, clause or provisions of this Article. Additionally, this Chapter shall in no way be used to supersede any privately created agreements or covenants by any homeowner associations or developers restricting certain uses.

SECTION 2. Every section, clause, and phrase of this Ordinance is separable and severable. Should any section, sentence, clause, or phrase be declared unconstitutional or invalid by a court of competent jurisdiction, said unconstitutionality or invalidity shall not effect or impair any other section, sentence, clause, or phrase.

SECTION 3. This Ordinance shall take effect from and after the date of its final passage the health, safety and welfare of the citizens of the City of Red Bank requiring it.

Mayor

City Recorder

July 3, 2018
Passed on First Reading

July 17, 2018
Passed on Second and Final Reading

Approved as to form:

City Attorney