



## South Carolina Planning Education Advisory Committee (SCPEAC)

June 21, 2024

### NOTICE OF DECISION

**Title of Program:** ZBA functions

**Organization:** City of Rock Hill

**The following action has been taken by the SCPEAC on this application:**

APPLICATION RECEIVED                      Date: June 14, 2024

APPLICATION REVIEWED                      Date: June 20, 2024

ACCEPTED WITHOUT OBJECTION              Date:

- a)       X   ACCREDITED for: 90 min. CE credits: 1.5
- b)     \_\_\_\_\_ DENIED ACCREDITATION
- c)     \_\_\_\_\_ RETURNED for more information

**If accredited:**

- a)     Authorized Course No.: 2024-03
- b)     Date of accreditation: June 21, 2024

Certification Signature, MASC Administrative Representative: *L.P. Floyd*

Certification Signature, SCPEAC Representative: *Stephanie Monroe Tilerson*

**For further information, contact Urica Floyd at 803-354-4754  
or the committee at [SCPEAC@masc.sc](mailto:SCPEAC@masc.sc).**



**COURSE DESCRIPTION AND OUTLINE:  
CONTINUING EDUCATION SESSION ON ZBA FUNCTIONS**

This session will help our Zoning Board of Appeals' members learn more about how they should be analyzing the cases that come before them in terms of making findings of fact for variance requests and evaluating the specified criteria for special exception requests. It also will cover more unusual types of cases that the Board sometimes sees and it will briefly discuss issues of decorum and other general tips for the Board that the members need to understand. Finally, it will dive into the topic of short-term rentals, as those cases have started coming to the ZBA during the last year.

The session will involve both listening to a PowerPoint presentation given by the coordinators and going over several examples of past cases on each topic.

- a. **Variances:** 25 minutes
- b. **Special Exceptions:** 25 minutes
- c. **Appeals to ZBA:** 5 minutes
- d. **Waiting Period After Denial:** 5 minutes
- e. **Issues of Decorum and General Tips:** 5 minutes
- f. **Special Topic: ZBA Role in Short-Term Rentals:** 20 minutes
- g. **Wrap-up/Other Questions:** 5 minutes



## Application for Accreditation of a Continuing Education Program or as a Sponsor Organization

NOTE: This certification form, together with the required information referenced therein, shall be submitted to the South Carolina Planning Education Advisory Committee. Applications are due no later than 30 days prior to the first scheduled presentation of a program or class. Once submitted, if no objections are raised by a member of the SCPEAC within 10 business days of receipt, the program shall be considered accepted. If an objection is raised, a teleconference meeting shall be scheduled with appropriate public notice, as soon as reasonably possible, to review the application. The Committee will consider extenuating circumstances where the 30-day deadline cannot be met.

### Reason for Application

Choose one:

Request as a Local Official for Continuing Education Program Approval  Request as an Organization for Accreditation of a Continuing Education Training  Request as an Organization to be an Approved Sponsor of Continuing Education Programs

### Applicant Information

*Applicants must meet the educational requirements of at least an undergrad degree, plus 5 years experience in the planning field.*

#### Name

<input type="text" value="Mrs."/>	<input type="text" value="Leah"/>	<input type="text" value="Youngblood"/>	<input type="text"/>
Title	First	Last	Suffix

#### Municipality/County/Organization

#### Position

#### Phone

#### Email

If you are a COG Director, indicate which jurisdiction the certification is being requested for:

**Applicant Resume/Vita**  
Coordinator.Bio.docx

## Information About Organization Providing the Training

### Organization Name

### Organization Address

Address Line 1

Address Line 2

City

State

Zip Code

### Organization Phone

### Organization Website

### Name of Training Contact

### Title of Training Contact

### Training Contact's Phone

### Training Contact's Email

## Training Program Information

### Title of Planned Training or Program

### Date of Training

### Training Location

### Brief description of the Training or Program and its relevant content:

### Method of presentation (in-person; virtual; or other):

### When will materials be distributed (before or at the time of the program):

**Description of materials to be distributed:**

PowerPoint presentation

**Method of Advertisement (Describe how you plan to notify local officials of the program):**

Email Notifications, and personal reminder on June 18, 2024 (next ZBA Meeting)

## **Required Attachments**

**Brochure, if available:**

**Course Presenter(s) and credentials (include brief resumes and qualifications, combine into one .pdf document):**

Coordinator.Bio.docx

**Copies of all handouts and course materials (combine into one .pdf document):**

Presentation about Proposed Rules of Procedure.ppt

**Evaluation Form and method of evaluation (each program must be evaluated, combine into one .pdf document):**

Evaluation form.ZBA.TGT.docx

## **Certification. By submitting this application, the applicant agrees to:**

1. Allow in-person observation, without charge, of the Program by the SCPEAC Committee members. Any food, travel, or lodging costs will be the responsibility of the Committee member.
2. The applicant acknowledges that its approval for this Program may be withdrawn for violations of the regulations or failure to comply with the agreements and representations contained herein and as may be required by the SCPEAC.



**COORDINATOR:  
CONTINUING EDUCATION SESSION ON  
ZBA FUNCTIONS**

**Leah Youngblood, Esq., AICP**

Leah Youngblood, who is a licensed attorney in South Carolina as well as a certified planner, has worked in the planning field since graduating with a master's degree in public administration and law from the University of South Carolina in 2007. She worked for the Town of Lexington while in graduate school and afterwards until 2010, ultimately serving as the town's director of planning, building, and technology. Since 2010, she has worked for the City of Rock Hill in various planning supervisory roles and currently serves as planning and development director. She supervises a team of 35 people in functions including zoning, historic preservation, and commercial code enforcement; long-range planning; transportation planning; and plan review, permitting, and inspections.



**CONTINUING EDUCATION EVALUATION FORM**

Name of Program: \_\_\_\_\_ Date: \_\_\_\_\_

Facilitator(s): \_\_\_\_\_

Please rate the following on a scale from 1 to 5 by circling the appropriate number:

1= strongly disagree (SD); 2= disagree (D); 3= neutral (N); 4= agree (A); 5 = strongly agree (SA)

	SD	D	N	A	SA
1. The topic of this continuing education session was interesting and/or relevant to my role with the City of Rock Hill.	1	2	3	4	5
2. The coordinator demonstrated comprehensive knowledge of the subject matter.	1	2	3	4	5
3. The coordinator conveyed the material effectively.	1	2	3	4	5
4. The coordinator was well-prepared and the session was well-organized.	1	2	3	4	5

**What was the most valuable part of this session?**

**What could have been done to improve this session?**

**Ideas for future continuing education topics:**

# ZBA functions

Continuing Education Session  
July 19, 2024



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# VARIANCES



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# Findings of fact

- State law requires that in order to grant a variance, the ZBA must make four findings of fact.

**ALL FOUR must be true.**



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*Finding #1:* The subject property has extraordinary and exceptional conditions.

- What to look for:
  - ***Extraordinary and exceptional*** conditions of the ***land***



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*Finding #2:* Those conditions are not only extraordinary and exceptional, but they also are unique.

What to look for:

- The extraordinary and exceptional conditions that apply to this particular property *do not apply to other property in the vicinity.*



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Finding #3: Applying the normal rules would prevent the property from being used or would restrict its use too much.

- What to look for:
  - Because of the extraordinary and exceptional, unique conditions, if we applied the regular ordinance standards, the **use of the property would be *effectively prohibited or unreasonably restricted.***



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Finding #4: If you grant the variance, it will not cause harm.

- What to look for:
  - Will granting variance ***harm the adjacent property?***  
***The public good overall?***
  - ***Will it change the character of the area in a bad way?***



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# Things variances cannot do

- Allow any use that is not allowed in the zoning district.
- Rezone a property.
- Allow a nonconforming use to expand into new areas.

These are basic gatekeeper questions—staff would not bring cases forward to you that would do any of these things. You do not need to make findings about these.



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# Types of votes you can take

## 1. Approve

- Please make positive motion even if plan to vote against it—especially if even number of board members present

## 2. Approve with conditions

- Whether suggested by staff, applicant, neighbors, or yourselves

## 3. Deny

## 4. Defer

- For more information or to give applicant time to work with neighbors



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# Variances

- Questions/comments



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# VARIANCE SCENARIOS



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# SPECIAL EXCEPTIONS



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# Ways Land Uses May Be Allowed

## 1. Permitted by right

- Allowed in zoning district without any special conditions related to the use itself

## 2. Conditional uses

- Allowed in zoning district only if all special conditions that pertain to the use can be met
  - We call these use-specific standards

## 3. Special exception uses

- Allowed only after public hearing if ZBA votes to approve
- May or may not have use-specific standards



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# Special Exceptions for Uses

- **Purposes of special exception uses:**
  - Depending on location and what is around it, use may not have any big impacts. Or it may have a lot.
  - Public hearing process with entire board of citizens making decision.
  - ZBA can add conditions to special exception approvals in a way that staff cannot do for permitted uses or conditional uses.



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- **Only the criteria that you deem applicable must be met. Not all criteria will apply to all cases.**
- Example:
  - If the site has an existing building and parking lot, we will not require a full professional site plan to be submitted as part of the ZBA application unless there's a good reason for it.



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## Criteria to Evaluate:

1. Complies with Use Specific Regulations
2. Compatibility with Surrounding Uses
3. Design of Use Minimizes Any Adverse Impacts
4. Design of Use Minimizes Any Environmental Impacts
5. Roads Have Necessary Capacity; No Access Concerns
6. Use would Not Injure Neighboring Land or Property Values
7. Site Plan Has Been Submitted
8. Use Complies With All Other Relevant Laws and Ordinances



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# Special Exceptions to Reduce Separations

- **Our Zoning Ordinance requires some uses to be separated a certain distance from other types of uses.**
- **Examples:**
  - Extended hours restaurants must be located at least 300 feet away from most residential uses and zoning districts
  - Automobile painting/body shops must be located at least 250 feet from residential uses and zoning districts



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- The ZBA may reduce or even eliminate the required separation by special exception.
- Criteria to evaluate:
  - 1) **No impacts** to the uses from which separation is requested that are **greater than the impacts of uses that are permitted by right** in the zoning district
  - 2) **Any impacts of the use can be mitigated** through buffering, screening, or other mechanisms that are made a part of the site plan for the property



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## Some uses cannot have separation distance reduced:

- Adult entertainment
- Bars and nightclubs
- Teen clubs
- Alternative financial services
- Flea markets
- Personal services Type B (tattoo parlors, body piercing establishments, and psychics and mediums)



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# Other Types of Special Exceptions

**These occur less frequently. Staff would carefully walk you through the process and criteria to consider for each of these:**

- Animal care specifics: 20+ animals; outdoor run locations
- Location of outdoor areas for bar/nightclub and teen club uses
- Height of wireless tower
- Temporary office buildings during business expansion/rebuild
- Shared parking areas
- Whether a nonconforming use should be allowed on a site that already has different (worse) nonconforming use
- Re-establishing commercial uses in residential zoning districts
- Allowing commercial uses on nonconforming lot in business district



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# Special exceptions

- Questions/comments



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# SPECIAL EXCEPTION SCENARIOS



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# APPEALS TO ZBA



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# Appeals of Decision

- Anyone who disagrees with a decision of the Planning & Development Director may appeal to the ZBA for relief from the decision.
- Not a public hearing, but staff and appellant may call witnesses.
- The ZBA may reverse or affirm, wholly or in part, or may modify the order, requirements, decision or determination of the Director.



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# WAITING PERIOD AFTER DENIAL



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Any request that is denied by ZBA cannot be reconsidered for one year, unless ZBA determines that one of the following exists:

1. There was a substantial change in circumstances
2. New or additional information has come to light
3. The new application is materially different from old
4. There was a material mistake of fact

Requires 2/3rds vote. If time period to wait is approved, application will be heard at following meeting (so can notify public again).



# ISSUES OF DECORUM AND GENERAL TIPS



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- **Keep in mind that you were appointed by City Council.**
  - Please be respectful to the applicant, anyone else from the public in attendance, staff, and the City organization at all times.
  - Your role is to uphold the ordinance standards unless you truly see that the request meets the standards for granting relief.



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- **Remember that your role is very important.**
  - You have the final say about the cases that are before you, appealable only to Circuit Court.



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- **Use the microphones and speak loudly.**
  - So the audience can hear you deliberate and for the permanent record.
- **No side conversations.**
  - This can appear as though you are hiding some deliberations from the public and makes it hard for everyone else to hear.



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# ZBA'S ROLE IN SHORT-TERM RENTALS



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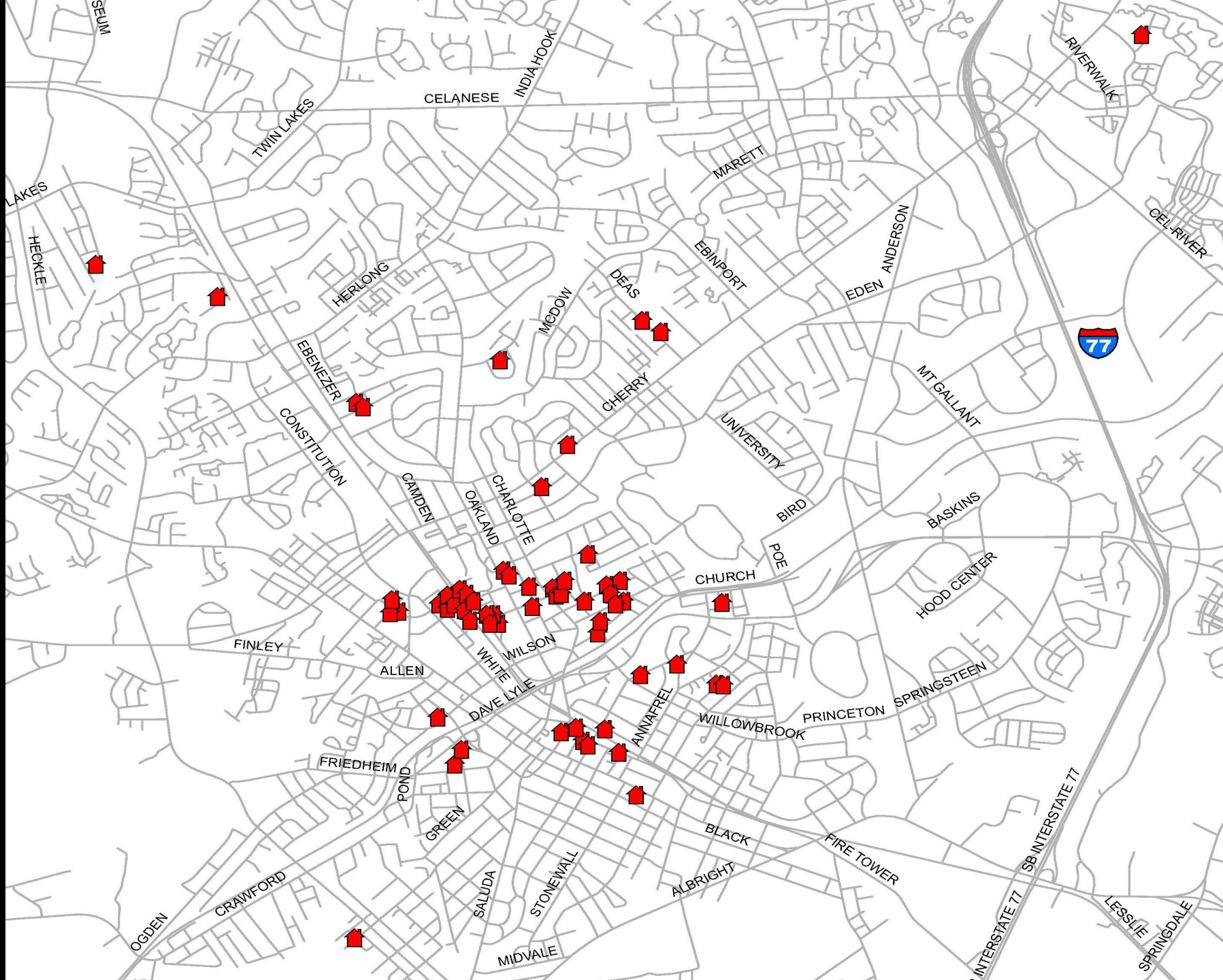


- **Short-term rentals (<30 days) were prohibited before Feb. 2020**
  - Enforcement was complaint-based
- **Use was becoming more prevalent**
  - 52 in early 2020
  - Most were located in predominantly single-family detached neighborhoods
- **Started getting more complaints** (parties, noise, parking, trash, etc.)

# Key components of ordinance

- Short-term rentals allowed in **all zoning districts**
- **Annual application** required.
  - Staff review before Dec. 31, 2020; ZBA after that.
- **Business license and local accommodations tax** must be paid.
- Planning Director **allowed to revoke (and reinstate)** under specific circumstances:
  - Applicant untruthful on application
  - Host violates any of the requirements
  - Nuisance (three-strikes rule)

- **81 currently operating**
  - **64 with permits**
    - 85% were reviewed by staff before 12/31/20
  - **6 current applications**
  - **11 are under active code enforcement**
    - compliance = remove listing or apply for and be approved for permit
- **7 had permits but have stopped operating**
- **27 have removed listing** after being found operating without permit
  - Most were converted to long-term rentals



- **11 applications for use since January**
  - 9 approved
    - 5 had no neighbor opposition
    - Other 4 had one or two people speak against
  - 1 not approved
    - Several people spoke against
  - 1 withdrew but is planning to reapply for January
    - Last-minute possible covenant issue
- **One appeal of staff decision that use is not allowed**
  - ZBA upheld staff decision



1. If neighborhood has covenants/deed restrictions, HOA board gets to interpret them to say whether use is allowed or not.
  - Staff/ZBA does not make this interpretation—Council wanted neighborhoods to make this decision themselves
    - Could have one neighborhood decide that “no commercial uses” language means that short-term rentals are not allowed
    - And the neighborhood next door could use the exact same language to decide that short-term rentals are allowed
  - **If HOA says covenants do not allow use, staff will not bring a *special exception* for the use to the ZBA.**
    - But .... applicant may *appeal* staff’s decision to ZBA

2. City Council decided to **give authority to the ZBA** to make decisions about when to grant short-term rentals outside of covenanted neighborhoods using the existing special exception process. **Why?**

- **Process already exists, and it works** for other types of uses.
- **Public hearing—neighbors can have say.**
  - ZBA should weigh all factors, but as with many other special exception requests, compatibility is a key consideration.
- **ZBA can add conditions**
  - Remember how staff cannot add conditions to land uses? City Council cannot, either, unless annexation (which does not usually apply to short-term rental requests, or Master Plan rezoning (\$\$\$\$)).

**City Council decides policy direction** in many ways, one of which is enacting ordinances. They will continue to monitor short-term rental ordinance, and may eventually modify it to directly address policy issues such as:

- Should **concentration requirements** be added to ordinance so we do not end up with too many in one area?
- Is the use displacing too many units that could be better used for **long-term affordable housing**?
- Until then, these topics can be **part of ZBA discussion** on specific cases if desired.
  - **You will need to weigh all the different interests and make the best decision that you can on a case-by-case basis.**



**ANYTHING ELSE YOU'D LIKE TO  
TALK ABOUT?**



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