

LEXINGTON PLANNING COMMISSION

May 11, 2023 - 5:00 P.M

**Rockbridge County Administrative Offices – First Floor Meeting Room
150 South Main Street, Lexington, VA 24450**

AGENDA

- 1. CALL TO ORDER**
- 2. APPROVAL OF THE AGENDA**
- 3. APPROVAL OF MINUTES**
Minutes from April 27, 2023*
- 4. CITIZENS' COMMENTS ON MATTERS NOT ON THE AGENDA**
- 5. NEW BUSINESS**
 - A. ZOA 2023-02: An application by the City of Lexington to amend Article IV. Zoning District Regulations. of the Zoning Ordinance to amend the lot width requirements for multi-family dwelling units.
 - 1) Staff Report*
 - 2) Applicant Statement
 - 3) Public Comment
 - 4) Commission Discussion & Decision
 - B. Amendments to the By-laws of the Lexington Planning Commission
 - 1) Staff Report
 - 2) Public Comment
 - 3) Commission Discussion & Decision
 - C. ZOA 2023-01: Annual Zoning Ordinance Amendments. Accessory Dwelling Units (A.D.U).
 - 1) Staff Report* and continued Commission Discussion
 - 2) Public Comment
- 6. OTHER BUSINESS**
 - A. Zoning and Planning Report – If applicable
 - B. Key Annual PC Milestones: Ongoing. Remaining items:
 - 1) Zoning Text Amendments: Ongoing. Remaining items:
 - a. Cottage Housing
 - b. What else, if any?
 - 2) Comp Plan Review: Ongoing
 - 3) Major Project Update

7. CITY COUNCIL REPORT

8. ADJOURN

*iindicates attachment

MINUTES

**The Lexington Planning Commission
Thursday, April 27, 2023 – 5:00 p.m.
Rockbridge County Administrative Offices – First Floor Meeting Room
150 South Main Street, Lexington, VA 24450**

Planning Commission:

Presiding: Blake Shester, Chair
Present: Pat Bradley
John Driscoll
Shannon Spencer
Leslie Straughan, Council Liaison
Matt Tuchler, Vice-Chair

City Staff:

Arne Glaeser, Planning Director
Kate Beard, Administrative Assistant

CALL TO ORDER

Chair Shester called the meeting to order at 5:02 p.m.

AGENDA

The agenda was unanimously approved as presented. (S. Spencer / J. Driscoll)

MINUTES

The minutes from the April 13, 2023 meeting were unanimously approved as presented. (L. Straughan / S. Spencer)

CITIZENS' COMMENTS ON MATTERS NOT ON THE AGENDA

None

NEW BUSINESS

A. ZOA 2023-01: Annual Zoning Ordinance Amendments. Accessory Dwelling Units (A.D.U.)

1) Staff Report and Continued Commission Discussion –

At Director Glaeser suggestion, there was general agreement to consider Owner Occupancy requirements before discussing the Short Term Rentals standards. There was general agreement in support of a requirement that one of the two dwelling units be owner occupied. Following discussion that touched on concerns about whether allowing the property owner to inhabit the ADU might create an opportunity to game occupancy restrictions or impede owner control of utilities, there was general agreement to allow the property owner to reside in either the primary structure or the ADU. There was further agreement that whether the owner occupied the primary or accessory unit, it should be their primary residence.

Before considering the Short Term Rentals section of the staff report, Director Glaeser reminded the Commission of Lexington's existing short term rental regulations. Following discussion, there was general agreement to follow staff's recommendation to allow only one short term rental per parcel.

Addressing the Separate Sale of ADUs section, A. Glaeser recommended the separate sale of ADUs be expressly prohibited. There was general agreement to include that prohibition. There was also agreement to tentatively include language specifying that ADUs shall not be included in density calculations, with the understanding that it could be struck from the final draft.

Addressing the Utility Connections and Building Codes section, A. Glaeser noted the AARP recommendation against requiring separate metering for ADUs, as the expense could prohibit the construction of ADUs. He also noted that separate metering would remove some control of the parcel's utilities from the owner, creating a situation in which the ADU was less subordinate to the primary structure than intended. L. Straughan suggested specifying that an ADU is not required to be separately metered. B. Shester asked if number of utility meters was a metric used for determining number of households, property taxes, or any type of City service. A. Glaeser responded that number of dwelling units or addresses were more commonly used for census metrics. Noting there are existing residences with multiple utility meters/boxes, Commissioners Bradley and Straughan supported allowing separate metering should it be desired. There was general agreement that separate metering for ADUs be allowed, but not required. There was further agreement to use the language from Charlottesville requiring an ADU to comply with all applicable building code regulations.

S. Spencer suggested amending the first sentence of the Purpose section. A. Glaeser said staff would make note of the suggestion in the draft so it could be considered when the Commission begins finalizing the ordinance text. B. Shester suggested the Commission would also need to consider the differences in the requirements for internal and detached ADUs to determine if two separate definitions were, in fact, needed. A. Glaeser offered to provide more information for a discussion of ADUs in existing, nonconforming structures. He also said staff would begin working on formatting the draft text to more closely resemble an ordinance.

2) Public Comment –

Mirabai McLeod, 451 Lime Kiln Road, reminded the Commission of the existing carport on her property which she would like to convert into an ADU. She noted that the size requirements, as they are currently written, penalize her for having a small residence. She indicated that if she were to enclose the existing carport footprint, as she has planned, the resulting ADU would be 570 square feet – a size she believed could comfortably house a single resident. She noted, however, that because her home is only 896 square feet, an ADU on her property would be limited to 395 square feet in size, if the current size requirements are adopted. She did not believe that would allow adequate space for a dwelling. She requested the Commission reconsider the ADU size requirements.

3) Continued Staff Report and Discussion -

L. Straughan said she saw a distinction between converting an existing structure into dwelling units and building an entirely new structure. She said she was hesitant about changing the 40% generally, because the intent was that an ADU be subordinate to the primary dwelling, but she would be comfortable making allowances for ADUs intended to be in existing structures. J. Driscoll noted the concern had been to prevent ADUs from

being too large, but there had not been thought given to whether the size requirements might result in an ADU being too limited in size. Several amendments to the size requirements were suggested and discussed. B. Shester pointed out that limiting both internal and detached ADUs to 40% of the gross floor area of the primary dwelling actually places greater restrictions on the size of the detached unit than it does the internal unit, due to the fact that the floor area of the internal unit is included in calculating the gross floor area, while the floor area of the detached unit is not. L. Straughan suggested increasing the percentage of allowable square footage for detached ADUs and also reminded the Commission of the public comment included in a previous packet requesting the size cap be increased from 800 square feet to 1,000 square feet. A. Glaeser remarked that *gross floor area* would need to be looked at closely during a future discussion. S. Spencer said total lot coverage would also be a consideration. She indicated that while she might be inclined to increase the percentage cap for detached ADUs, she was less inclined toward increasing the overall size cap from 800 square feet.

P. Bradley initiated discussion of ADUs in existing accessory structures that are nonconforming with respect to setbacks, as was likely the case on Ms. McLeod's property. A. Glaeser said a project that would enlarge such a nonconformity would be problematic, but that that did not seem to be the case with the project Ms. McLeod was suggesting. He reminded the Commission that it had not yet decided whether to allow ADUs in such existing nonconforming structures, but he added that past discussion had given him the impression there was support for the idea. S. Spencer pointed out that the impact of a garage is significantly different than the impact of a dwelling unit when directly on the property line. A. Glaeser said he thought having examples and photographs would aid future discussion. J. Driscoll suggested having design professionals review the final draft of the ordinance to provide feedback. He also provided language from other jurisdictions that he believed could be used during the editing process to "future proof" the final ordinance.

OTHER BUSINESS

A. Zoning and Planning Report – Director Glaeser reported the following:

- Staff conducted a short term rental inspection at 211 N. Randolph Street. The property will be approved once smoke alarms have been installed and will be the 34th short term rental registration in the City.
- He attended a meeting with the CSPDC about interim data for the regional housing study.
- An electrician is working on the exterior lights at the Farmer's Co-op that do not meet dark sky requirements.
- The next agenda will include a public hearing for the lot width zoning text amendment per the preference of the City Attorney.
- The next agenda will also include a request to amend the Planning Commission by-laws to delete the conflicts of interest section.

B. Key Annual PC Milestones

- 1) Zoning Text Amendments – Cottage Housing – A. Glaeser reported that the property owner who had previous interest in a cottage housing development for his property at the corner

of Houston and Walker Streets has now obtained a demolition permit for the property. The property owner seemed to be comfortable with the time line for when the cottage housing amendment

CITY COUNCIL REPORT -

L. Straughan reported that at its meeting on April 20th, City Council unanimously approved the boundary line adjustments and vacations for the properties on Massie Street and Marble Lane. There was also a decision to allow a privately funded gold star memorial to be installed at Jordan's Point Park. She said the proposed location for the memorial would not interfere with the park's master plan.

ADJOURN

The meeting was adjourned at 6:35 pm with unanimous approval. (S. Spencer / P. Bradley)

B. Shester, Chair, Planning Commission

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**Staff Report & Recommendation
Zoning Ordinance Amendment Application
ZOA 2023-02 – Amend Lot Requirements for Multi-Family Dwelling Units &
Townhouses**

Project Name Zoning Ordinance amendment to amend lot width requirements for multi-family dwelling units & townhouses

Zoning Ord. Section 420-4.6. Lot Requirements

Applicant City of Lexington

*PLANNING COMMISSION RECOMMENDATION: pending
STAFF RECOMMENDATION: approval*

OVERVIEW OF REQUEST

The Zoning Ordinance contains an inconsistency in the Lot Requirements table with regard to density calculations and City Council requested the inconsistency be addressed.

ISSUE:

Multi-family residential units (i.e. apartments) are allowed in the R-M (Multi-family Residential) and R-LC (Residential-Light Commercial) zoning districts. The Lot Requirements Table provides two calculations for the number of multi-family units allowed on a parcel. One calculation is based on lot area and the second is based on lot width.

The recent request for Conditional Use Permit approval for the Spotswood parcel revealed this inconsistency. The developer proposed up to 62 apartments on that 2.365 acre ± parcel, and the proposal met the lot area calculation. According to the Lot Requirements table, multi-family dwellings in the R-LC and R-M zoning districts are required to provide 10,000 square feet of lot area plus 1,500 square feet of lot area for each unit in excess of 4. A maximum of 65 units can be constructed on the Spotswood parcel (2.33 acres x 43,560 = 101,494.8 s.f. total – 10,000 s.f. for the first 4 units = 91,494.8 s.f. ÷ 1,500 s.f. = 60.99 units + 4 first units = 65 dwelling units total) according to this lot area standard, and the applicant proposed only 62 units.

The Spotswood parcel could not however meet the lot width requirements listed in the Lot Requirements table. Multi-family dwellings in the R-LC and R-M zoning districts are required to provide 50 feet of lot width plus 10 feet for each unit above 4. The lot width required for the 62 proposed multifamily units is 630 feet (50' + (10' x 58) = 630 feet), and the lot width along Spotswood Drive is only 406.44 feet.

There are at least four options for addressing the inconsistency in the Lot Requirements table. First, the requirements for lot area and lot width can be left as is with no

Staff Report & Recommendation
Zoning Ordinance Amendment Application

ZOA 2023-02 – Amend Lot Requirements for Multi-Family Dwelling Units & Townhouses

amendments. The development proposal for the Spotswood parcel however demonstrates that the 62 proposed apartments can fit on the parcel with the existing 406.44 feet of frontage along Spotswood Drive - the additional frontage required by the lot width calculation is excessive. The apartment complex would not have been improved by meeting the required lot width of 630 feet, and in fact, it is difficult to understand how a parcel with 400 feet in width and 280 feet in depth is superior to a parcel with 280 feet in width and 400 feet in depth, provided there is sufficient land area for all of the components for an apartment complex. The lot width requirement may be more appropriate in a suburban setting but perhaps not in an urban setting where the road network and lot dimensions are already established.

Second, the lot width requirements for multi-family dwellings can be deleted from the Lot Requirements table while retaining the lot area requirements. Staff investigated peer jurisdictions to see how other communities regulated lot area and lot width for multi-family developments, and the table provided at the end of this report show that Lexington is the only jurisdiction that regulates lot width based on an increasing number of dwelling units. None of the other jurisdictions examined require additional lot width as the number of multi-family units increases, and most require a “flat” minimum lot width between 50’ and 100’. Staff recommends the deletion of the existing lot width requirement for multi-family units that increases as the number of multi-family units increases, and substitute a “flat” minimum lot width requirement of 100 feet as exhibited in other nearby jurisdictions.

Third, a larger discussion about alternative density calculations for multi-family units can be undertaken to review whether density limits need to change and determine how to establish those density limits in the Zoning Ordinance if not by lot area. This is not the expedient solution to the current inconsistency and a larger density discussion, if even needed, can be added to the next round of zoning text amendments.

RECOMMENDATION:

Delete the lot width requirements for multi-family dwelling units in the Residential Multi-Family (R-M) and Residential - Light Commercial (R-LC) zoning districts and substitute a 100 foot minimum as shown on the following pages and

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§420-4.6. Lot Requirements.

Zoning District	Lot Area	Lot Width	Building Height	Front Yard	Side Yard	Rear Yard
R-1	8,000 sq. ft.; 12,000 sq. ft. for two-family dwellings	60 feet; 80 feet for two-family dwellings	35 feet; up to 45 feet w/30 foot side yard plus 1 foot for each additional foot over 35 feet	15 feet	10 feet	25 feet for main buildings, 5 feet for accessory buildings
R-2	15,000 sq. ft.	80 feet	35 feet; up to 45 feet w/30 foot side yard plus 1 foot for each additional foot over 35 feet	25 feet	15 feet	25 feet for main buildings, 5 feet for accessory buildings
R-M	8,000 sq. ft.; Two-family dwellings-12,000 sq. ft.; Multi-family-10,000 sq. ft. plus 1,500 sq. ft. for each unit in excess of 4; Townhouses - 2,400 sq. ft. per unit	60 feet; Two-family dwellings- 80 feet; Townhouses-20 feet each unit; Multi-family-50 feet plus 10 feet for each unit <u>above 4 100 feet</u>	45 feet	25 feet	10 feet; 20 feet for multi-family	25 feet; 30 feet for multi-family
R-LC	Residential use: 8,000 sq. ft.; Two-family dwellings-12,000 sq. ft.; Multi-family-10,000 sq. ft. plus 1,500 sq. ft. for each unit in excess of 4; Townhouses - 2,400 sq. ft. per unit; Non-residential: 8,000 s.f.	Residential uses: 60 feet; Two-family dwellings- 80 feet; Townhouses-20 feet each unit; Multi-family-50 feet plus 10 feet for each unit <u>above 4 100 feet</u> ; Non-residential: 60 feet	35 feet, except dwellings may be increased up to 45 feet, provided that each side yard is 20 feet, plus at least one foot for each additional foot of building height over 35 feet.	25 feet	Residential uses: 10 feet, or 20 feet for multi-family Non-residential: 10 feet	Residential uses: 25 feet, or 30 feet for multi-family Non-residential: 25 feet

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Townhouses**

Zoning District	Lot Area	Lot Width	Building Height	Front Yard	Side Yard	Rear Yard
C-1	None	None	45 feet; public and governmental buildings up to 60 feet w/CUP	None	10 feet when abutting a residential district	10 feet when abutting a residential district
C-2	None	None	45 feet	30 feet	30 feet when abutting a residential district	30 feet when abutting a residential district
PUD	3 acres		see §420-5.10			
POS	0 sq. ft.	0 feet	15 feet; 35 feet if ≥ 10 feet from a property line	5 feet ¹	5 feet ¹	5 feet ¹

¹Structures located in designated cemeteries and designed to contain human remains, such as but not limited to, mausoleums, columbaria, crypts, and niche walls, are not subject to P-OS yard setback regulations.

PLANNING COMMISSION RECOMMENDATION

pending

STAFF RECOMMENDATION

Delete the lot width requirement for multi-family dwelling units in the Residential Multi-Family (R-M) and Residential - Light Commercial (R-LC) zoning districts and substitute a 100 foot minimum lot width requirement in these two zoning districts.

SUGGESTED MOTION

The public necessity, convenience, general welfare, and good zoning practice warrant the consideration of the following Zoning Ordinance amendment and I move to approve ZOA 2023-02 to amend Article IV Section 6. Lot Requirements such that the minimum lot width requirement for multi-family dwelling units in the R-M and R-LC zoning districts is 100 feet.

ZOA 2023-02 – Amend Lot Requirements for Multi-Family Dwelling Units & Townhouses

Lot Requirements for Townhouses and Multifamily Dwellings in Peer Jurisdictions

		Minimum Lot Area	Minimum Lot Area per dwelling unit	Minimum Lot Width	Frontage at the Setback Line	Other Requirements
BUENA VISTA						
R-3 Residential Limited	Single-, two-and four-family residential (960 sf per unit)	6,250 sf			50	
		3,125 sf for each additional unit				
R-4 Medium Density Residential	Single-family, multifamily	6,250 sf, 3,125 sf for each additional unit			75' for three-family and greater	Maximum density 15 units per acre
CLIFTON FORGE						
R-2 (moderate density)	Townhouse	7,500 sf	3,750 sf	60'		
R-3 (medium to high density)	Townhouse	7,500 sf	2,500 sf	50'		
	Multifamily Efficiency unit	7,500 sf	6,000 sf plus 800/unit	50'		
	1-bedroom unit	7,500 sf	6,000 plus 1,100/unit	50'		
	2-bedroom unit	7,500 sf	6,000 plus 1,600/unit	50'		
	3-bedroom unit	7,500 sf	6,000 plus 1,800/unit	50'		
	4- or more bedroom unit	7,500 sf	6,000 sf plus 2,000/unit	50'		

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Zoning Ordinance Amendment Application**

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		Minimum Lot Area	Minimum Lot Area per dwelling unit	Minimum Lot Width	Frontage at the Setback Line	Other Requirements
ROCKBRIDGE						
R-2 Residential Mixed District	Townhouse	0.25 acre				No more than ten townhouses shall be included in any townhouse grouping
R-2 Residential Mixed District	Multi-family	0.5 acre plus 2,000 sf for each additional unit				
STAUNTON						
R-3 Medium Density Residential		6,000 sf plus 1,500 for each additional unit		100' at front building line		For those structures which provide off-street parking within the main building, the lot area requirement may be reduced 200 square feet per such parking space.
R-4 High Density Residential	1-2 story multifamily	6,000 sf plus 1,500 for each additional unit		100' at front building line		For those structures which provide off-street parking within the main building, the lot area requirement may be reduced 200 square feet per such parking space.
	3-5 story multifamily	6,000 sf plus 800 per dwelling unit		100' at front building line		For those structures which provide off-street parking within the main building, the lot area requirement may be reduced 200 square feet per such parking space.
	6-8 story multifamily	6,000 sf plus 750 per dwelling unit		100' at front building line		For those structures which provide off-street parking within the main building, the lot area requirement may be reduced 200 square feet per such parking space.

BY-LAWS OF THE LEXINGTON PLANNING COMMISSION

ARTICLE I - NAME

The organization shall be known as the Lexington Planning Commission and referred to hereinafter as "the Commission".

ARTICLE II - ORIGIN AND AUTHORITY

Section 1. Origin: The Commission was established by Council in 1958 in accordance with Code of Virginia Title 15.1, Chapter 11, Article 3 provide for planning and administration of the subdivision and zoning ordinances.

Section 2. Purpose: The Commonwealth provides for creation of local planning commissions to improve public health, safety, convenience, and welfare and to plan for future development. The Lexington Planning Commission is specifically charged with the following responsibilities:

- (a) **Administration of the Subdivision Ordinance:** In accordance with Chapter 22 of the City Code, preparation of recommendations to City Council with regard to approval or disapproval of subdivision applications;
- (b) **Administration of the Zoning Ordinance:** In accordance with Chapter 28 of the City Code, approval of site plans and preparation of recommendations to City Council with regard to approval or disapproval of rezoning and conditional use applications; and
- (c) **Maintenance of the Comprehensive Plan** in accordance with Section 2-71 of the City Code.

Section 3. Annual Report: The Commission will report annually to the Mayor and City Council in the month of January. The annual report will review the major decisions rendered during the year, and outline the rationale for those decisions. The report may also include recommendations regarding improvements in land use and planning procedures.

ARTICLE III - COMPOSITION

Section 1. Composition: As directed in Sec. 2-66 of the City Code, the Commission consists of seven members, one of whom shall be a member of City Council and all of whom must be qualified voters of the City of Lexington and otherwise qualified under Section 15.2-2212 of the Virginia Code. The term of the council member shall correspond with his or her tenure of office. All other members are appointed by the City

Council to serve terms of four years.

Section 2. Compensation: As directed in Sec. 2-68 of the City Code, all members of the Commission will serve without compensation.

Section 3. Removal: As directed in Sec. 2-67 of the City Code, any member of the Commission may be removed by the Council for inefficiency, neglect of duty, or malfeasance in office, provided that such removal may be made only after a public hearing in which such member is given an opportunity to appear and be heard.

Section 4. Absences: The chairperson shall have the authority to excuse members from attendance at Commission meetings for reasons of sickness, vacation, personal, or business obligations, provided he/she is notified by the member in advance of the meeting. The chairperson shall request that the City Council replace any member that is absent on an unexcused basis from three consecutive regular Commission meetings or on an unexcused basis from six regular meetings within any six month period.

Section 5. Filling Vacancies: A chairperson and vice-chairperson of the Commission will be elected from the membership by majority vote during the first meeting in July of each year to serve one year terms, provided that no Commission member shall succeed him/herself as chairperson and/or vice-chairperson more than two consecutive years. Positions of chairperson and vice-chairperson will not normally be filled by the representative from City Council. The City Planner or designee will serve as secretary to the Commission.

ARTICLE IV - OPERATIONS OF THE COMMISSION

Section 1. Procedures for Meetings: Meetings will be held on the call of the chairperson at 5:00 p.m. on Thursday at a properly advertised location. Additionally, the chairperson may call meetings, provided three working days notice is afforded to all members and the media, and posted in accordance with Code of Virginia § 2.2-3707. The chairperson may appoint committees as necessary and make assignments to them. Committees will meet on the call of the appointed committee chairperson.

(a) **Quorum:** Four (4) members of the Commission shall constitute a quorum. No business or action may be taken absent a quorum.

(b) **Order of Meetings:** Regular meetings of the Commission shall follow a written agenda which includes an opening, approval of minutes, consideration of new business, consideration of old business, and provides an opportunity for citizens attending to provide comments on item not listed on the agenda.

(c) **Minutes:** Except in the case of work sessions and committee meetings, minutes will be taken during each meeting and, following approval of the Commission, will be filed as part of the Commission's official written record of proceedings.

(d) **Voting:** When voting on any question, each member's vote will be recorded and no proxy will be allowed at any time. No action of the local planning commission shall be valid unless a quorum is present and such action is authorized by a majority vote of those present and voting.

(e) **Conflicts of Interest:** All members must comply with the Virginia State and Local Government Conflict of Interest Act, Virginia Code § 2.2-3100 et seq., and the Lexington City Council Code of Ethics and Conduct~~are entitled to vote, provided, however, that no member will participate in reviewing or voting on any work of which he/she or any employee, partner, or professional associate is the applicant, work in which he/she or associates have any direct or indirect financial interest, or applications proposed by any group or agency in which he/she is a member.~~ –If the chairperson is disqualified by reason of conflict of interest, the vice-chairperson will preside. –If the vice-chairperson/she is also disqualified, a majority of the remaining members will designate a chairperson to preside.

(f) **Applicability of the Freedom of Information Act:** All activities of the Commission are subject to the Virginia Freedom of Information Act.

(g) **Cancellation of Meetings:** When inclement weather jeopardizes the health, safety, or well-being of commissioners and the general public, the chairperson of the Commission is empowered to cancel a scheduled meeting. The decision to cancel a meeting shall be made with the approval of one other member of the commission.

Members of the Commission will be notified, where feasible, of cancellation via telephone. Local radio stations and print media will also be advised of the cancellation.

In the event that a cancellation would prohibit a scheduled and publicized Public Hearing, the chairperson or vice-chairperson will notify the petitioners of the cancellation. The chairperson or vice-chairperson will, if possible, appear at the site of the Public Hearing, open the Hearing and announce a continuance. Announcement of the continuance will be scheduled for the next regularly scheduled meeting.

(h) **Parliamentary Procedure:** The Commission shall for parliamentary purposes, follow *Robert's Rules of Order Newly Revised in Brief*.

Section 2. Inquiries: Prior to filing of any submissions, the applicant and/or designee are entitled to meet with the secretary or with the Commission itself in order to obtain information on the general guidelines which the Commission expects to use in evaluating the application. In addition to providing such information itself, the Commission may refer the applicant to established groups knowledgeable of the requirements of the City Code and the Comprehensive Plan to seek advice or consultation.

Section 3. Fairness and Impartiality: Board members will, insofar as possible, conduct business in a manner free of bias or hostility so as to deal with each application in a fair and impartial manner.

Section 4. Applications: Application for land use permits shall be made in writing on the City's designated forms, by the owner/agent of such building, structure, or property and submitted to the Planning & Development Department.

Section 5. Limitations of Review: The Commission shall not design or assist in the design of any projects. The Commission will restrict its considerations to a reasonable and professional review of the proposal and plans, leaving full responsibility for the design and development to the applicant. Failure to take reasonable account of the items in Article V of these By-Laws will justify unfavorable disposition by the Commission.

The Commission shall not use its authority to exclude housing or economic opportunities for minorities or low - and moderate - income persons.

The Commission shall not use its authority to unduly restrict building types, materials or methods, or to vary the specific allowances or prohibitions of the Zoning Ordinance.

Section 6. Disposition by the Commission: The Commission may dispose of the application at its initial meeting or may, subject to the time limit noted herein, defer action until such time as full information can be provided and/or a decision can more appropriately be made.

Subject to the constraints noted elsewhere in these by-laws, the Commission shall dispose of each application in an expeditious manner. The Commission may attach to its recommendation necessary and appropriate conditions to comply with subdivision or zoning regulations. The Commission may expressly reserve until a later date its recommendations to approve detailed aspects of the application.

Provided the proponent has submitted a complete application and has in good faith complied with the Commission's request for additional information, failure of the Commission to dispose of the application within the times specified by code shall be deemed to constitute approval or recommendation for approval as submitted.

Whenever the Commission recommends disapproval of an application, at the request of the applicant it will be obliged to specify in writing the reasons for disapproval.

ARTICLE V - BY-LAW AMENDMENTS

Subject to final approval of the City Council, these by-laws may be amended, repealed, or altered in whole or in part by a majority vote at any duly organized meeting of the Commission, provided that notice and a description of the proposed change is submitted by the chairperson ten (10) days prior to the meeting at which the vote on the change is conducted.

Draft amendments for Accessory Dwelling Units

Proposed Amendments to the Zoning Chapter (*Chapter 420*)

The Lexington Planning Commission is considering a zoning text amendment to potentially allow accessory dwelling units in accessory structures in accordance with strategy HO 1.2 from the Comprehensive Plan. That strategy directs us to review regulations allowing accessory dwelling units in separate structures in appropriate residential areas. Currently, Accessory Apartments are defined in the Zoning Ordinance as a residential use having the external appearance of a single-family residence in which there is located a second dwelling unit that comprises no more than 25% of the gross floor area of the building nor more than a total of 750 square feet. The current definition does not allow accessory dwelling units to be located in accessory structures that are detached from the main dwelling unit. The purpose of this zoning text amendment is to explore whether accessory dwelling units can be allowed in accessory structures while not creating negative impacts to our neighborhoods.

In this report, staff is proposing a draft outline for the accessory dwelling unit zoning text amendment in an effort to guide the discussion. The following outline is pulled primarily from the *AARP ADU Model State Act and Local Ordinance* and is modified to fit the format of the existing Lexington Zoning Ordinance.

The February 9, 2023 Planning Commission discussion regarding the definition of an accessory dwelling unit raised a number of questions about maximum occupancy, parking requirements, and size limits for accessory dwelling units. In response to that portion of the discussion, staff thought it helpful to provide two examples of accessory dwelling regulations from two other Virginia jurisdictions to show the overall structure of those regulations and how the use and design standards can be organized. Included in the attached “background” document are the accessory dwelling regulations from Arlington and Charlottesville, as well as a zoning map for Lexington.

For the Planning Commission discussion on April 13, 2023, staff recommends the Planning Commission continue with short term rentals, separate sale of ADUs, etc. Subsequent meetings will generally follow the proposed outline and staff will continue to provide examples from other ADU ordinances for each item in the outline.

Article XI. Use and Design Standards.

The following additional regulations apply to specific uses as set forth below. These regulations are intended to serve as the minimum standards for these uses, and are not intended to be in substitution for other provisions of this ordinance that may apply.

§420-11.1. Residential Uses.

1. Accessory Dwelling Units.

- A. Purpose
- B. Definitions
- C. Authorization of ADUs by zoning district
- D. Number of ADUs allowed per lot in Single-Family Zones
- E. General Standards
 - 1. Minimum Lot Size in Single-Family zones
 - 2. Types of Structures
 - 3. Size of ADUs
 - ~~4. Lot Coverage Limits~~
 - 5. ADU Setbacks
 - ~~6. Floor Area Ratios~~
 - 7. ADU Height Limit
 - 8. Architectural Consistency and Design Review
 - 9. Orientation of Entrance
 - ~~10. ADU Screening, Landscaping and Orientation~~
 - 11. Parking Requirements
 - 12. Short-Term Rentals
 - 13. Separate Sale of ADUs
 - 14. Owner Occupancy (Residency) Standards
 - 15. Other Common Standards Not Recommended for Application to ADUs
- F. Utility Connections and Building Codes
 - 1. Utility Connections
 - 2. Local Building Codes
- G. ADU Application and Review Procedures
 - 1. Application Process
 - 2. Clear and Objective Versus Discretionary Standards
 - 3. Review Procedures
 - 4. Appeals of ADU Decisions
- H. Fees
- I. Legalizing ADUs

A. Purpose

In Lexington, accessory dwellings are intended to provide additional housing options in the City for the benefit and convenience of families and households with changing economic conditions and/or family structure. Accessory dwellings are expected to increase housing opportunities for individuals and households who might have difficulty finding housing in Lexington. In addition, these provisions are provided to formally recognize previously established apartments and provide for improved safety and physical appearance.

B. Definitions

ACCESSORY DWELLING UNIT - ATTACHED

A complete independent dwelling unit, with kitchen and bath, designed, arranged, used, or intended for occupancy by not more than **2 persons** for living purposes, and meeting the standards of §11.1.1. Accessory dwelling units are clearly incidental and subordinate to, and remain under the same ownership as the main dwelling on the lot. When contained within the principal structure of a single-family dwelling, such accessory dwelling unit constitutes an “attached accessory dwelling unit,” for which a separate entrance and street address are required.

ACCESSORY DWELLING UNIT – DETACHED

A complete independent dwelling unit, with kitchen and bath, designed, arranged, used, or intended for occupancy by not more than **2 persons** for living purposes, and meeting the standards of §11.1.1. Accessory dwelling units are clearly incidental and subordinate to, and remain under the same ownership as the main dwelling on the lot. When contained in a separate, fully detached structure from the principal structure of a single-family dwelling, such accessory dwelling unit constitutes a “detached accessory dwelling unit,” for which a separate street address is required.

C. Authorization of ADUs by zoning district

Zoning District	FP, Floodplain Overlay	P-OS, Parks and Open Space District	R-1, Residential General	R-2, Suburban Residential	R-M, Residential Multifamily	R-LC, Residential- Light Commercial	C-1, Central Business District	C-2, General Commercial District
<i>B = By-right uses, C = Conditional uses</i>								
Use Types								
Residential								
Accessory apartment (interior)			B	B	B	B	B	
Accessory apartment (detached)			C	C	C	C		
Dish Antennas (not meeting use and design Standards in §420-11.1.1)			C	C	C	C		
Family Health Care Structure, temporary			B	B	B	B		
Fraternity/Sorority House, University Administered			C		C			
Group home			B	B	B	B		
Guest room			B	B	B	B		
Live-work dwelling					B	B	B	B
Multi-family dwelling					B	C	B ¹ , C ²	
Single-family dwelling, attached			B	B	B	B		
Single-family dwelling, detached			B	B	B	B		
Townhouse					B	B	B	C
Two-family dwelling			B		B	B		

D. Number of ADUs allowed per lot

No more than one per lot, provided the parcel meets the minimum lot size and the structure meets the minimum setback requirements for the district.

E. General Standards

1. Minimum Lot Size

- a) Same minimum lot size for the accessory dwelling unit as the minimum lot size for the primary dwelling.
- b) Accessory dwelling units may be created within or attached to an existing primary dwelling located on a lot that is smaller than the minimum lot size provided the primary dwelling is a legal nonconforming use.
- c) The underlying zoning district development standards for lot coverage, height, setbacks and floor area ratio that apply to the primary dwelling shall also include the accessory apartment in the calculation of these standards.

2. Types of Structures

A modular dwelling affixed to a permanent foundation may be used as an accessory dwelling unit in any zone in which an accessory dwelling unit are permitted.

3. Size of ADUs

- a) *Accessory dwelling unit – attached.* The gross floor area of an attached accessory dwelling unit may not exceed forty (40) percent of the gross floor area of the principal structure in which it is located nor more than the total of 750 square feet.
- b) *Accessory dwelling unit – detached.* The gross floor area of a detached accessory dwelling unit may not exceed forty (40) percent of the gross floor area of the primary dwelling on the property nor more than the total of 800 square feet. Additionally, detached accessory buildings and structures cumulatively shall not occupy more than ~~2~~ (2) percent of a rear yard.

~~4. Lot Coverage Limits~~

5. ADU Setbacks

Any detached accessory building approved after July 1, 2023, containing an accessory dwelling shall comply with setbacks as follows:

- (1) For lots in the R-1 zoning district, the nearest wall of the accessory building shall not be located closer than fifteen (or ten) feet to a side lot line or fifteen feet to a rear lot line;
- (2) For lots in the R-2 zoning district, the nearest wall of the accessory building shall not be located closer than twenty (or fifteen) feet to a side lot line or twenty feet to a rear lot line; and

- (3) When a garage situated within a required rear yard is entered from an alley, the garage shall not be nearer than ten (10) feet to the property line adjacent to the alley or side street.

(Staff notes we will also need to determine if an ADU can be installed in a structure that is nonconforming with respect to setbacks, and if so, what are the restrictions on the expansion of that nonconforming structure?)

~~6. Floor Area Ratios~~

7. ADU Height Limit

Detached accessory buildings containing accessory dwellings shall exceed neither 25 feet nor 1½ stories in height.

8. Architectural Consistency and Design Review

A detached accessory dwelling unit located in the Residential Historic District must be reviewed by the Architectural Review Board for consistency with the Historic District Design Guidelines.

9. Orientation of Entrance

No attached accessory dwelling unit with an entrance above the first floor shall have exterior stairs to that entrance on the side of the lot fronting a street. Accessory dwelling units facing an alley as determined by the Zoning Administrator may have external stairs on the side of the lot facing the alley. No detached accessory dwelling unit with an entrance above the first floor shall have exterior stairs to that entrance on the side of the lot fronting a street unless the accessory building was built prior to the date of the adoption of this ordinance.

~~10. ADU Screening, Landscaping and Orientation~~

11. Parking Requirements

a) **Sample #1**

1. If no parking spaces exist prior to an application for approval of an ADU, 1 space shall be created, provided, however, that if an applicant can demonstrate to the Zoning Administrator that adequate on-street parking exists on the block on which the main dwelling is located, such new space may not be required.
2. Where either 1 or 2 spaces exist prior to issuance of the accessory dwelling permit, all such space(s) shall be maintained.
3. Where more than 2 spaces exist prior to issuance of the accessory dwelling permit, at least two spaces shall be maintained.

b) **Sample #2**

1 per accessory dwelling unit in addition to the number of parking spaces associated with the primary dwelling existing as of the date of approval.

12. Short Term Rentals

One short term rental is allowed per parcel.

13. Separate Sale of ADUs

The separate sale of an accessory dwelling unit is prohibited.

14. Owner Occupancy (Residency Standards)

The owner of the principal building or lot shall be the occupant of the principal dwelling or of the accessory dwelling unit.

15. Other Common Standards Not Recommended for Application to ADUs

Accessory dwellings shall not be included in calculations of density.

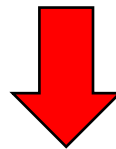
F. Utility Connections and Building Codes

1. Utility Connections

An accessory building in which the accessory apartment is located shall not be required to be separately metered for utilities from the principal single-family home.

2. Local Building Codes

Must comply with all applicable building code regulations.



Continue with 5.11.2023
P.C. discussion here

G. Nonconformities

1. Illegal accessory apartments in detached structures must be approved by a conditional use permit and must meet all code requirements.

a) Sample from Roanoke City

If it is an illegal non-conforming structure, the property owners are required to go through the special exception process. *(A special exception is the same as our conditional use.)*

2. Don't allow accessory apartment in existing accessory structures that do not meet lot requirements (lot size, lot width, front/side/rear yard setbacks).

a) Sample from Bedford County

An accessory apartment may be permitted in a building other than the principal building provided:

- a) the parcel meets the minimum lot size requirement for the district in which it is located.
- b) the building in which it is located complies with all setback requirements for a principal building.

3. Allow accessory apartments in existing, legal, nonconforming structures (if the structure can be shown to be a legal nonconformity).

a) Sample from Arlington County

Accessory dwellings shall be located in accordance with all requirements of Article 3 Density and Dimensional Standards, provided, however, accessory dwellings shall be allowed within a nonconforming dwelling or detached accessory building, in accordance with all requirements of Article 16 Nonconformities. In addition, accessory dwellings shall be subject to the following limitations:

- (a) Detached accessory buildings existing prior to May 18, 2019, may be altered to make interior alterations, whether structural or non-structural, in accordance with all requirements of Article 16, to create an accessory dwelling.
- (b) Any detached accessory building approved after May 18, 2019, containing an accessory dwelling shall comply with all requirements of Article 3, and with setbacks as follows:
 - (1) On interior lots, the nearest wall of the accessory building shall not be located closer than five feet to a side or rear lot line;
 - (2) On corner lots, the nearest wall of the accessory building shall not be located closer than five feet to any side lot line, and the nearest edge of the eave of the accessory building shall not be located closer than 10 feet to any rear lot line; and
 - (3) The nearest wall of the accessory building shall not be located closer than 25 feet from any street or officially designated street right-of-way line. (c) Detached accessory buildings approved after May 18, 2019, containing accessory dwellings shall exceed neither 25 feet nor 1½ stories in height.

b) Sample from Loudon County

A structure existing prior to January 7, 2003, that is:

- 1) located within a County Historic Site (HS) District or Historic and Cultural Conservation (HCC) District under Section 6-1800 et seq.;
- 2) listed or eligible for listing in the Virginia Landmarks Register (VLR) or the National Register of Historic Places (NRHP); or
- 3) listed or eligible for listing as a contributing resource to a VLR or NRHP listed or eligible Historic District, may be used as an accessory dwelling and shall be exempt from the floor area and minimum lot area requirements specified above, provided that any expansion or enlargement of such structure shall not exceed 15% of the total floor area existing prior to January 7, 2003. Documentation shall be provided to the Zoning Administrator demonstrating that the Virginia Department of Historic Resources has confirmed the listing or eligibility of structures.

c) Sample from Fauquier County

Where located in the RA or RC districts on a lot at least five acres in size and where a legally existing dwelling unit built before 2013 is being converted into an ADU, the unit may contain up to 1,400 square feet, or square footage of existing unit, whichever is less.

H. Additional items to consider

a) Sample from Fauquier County

5-104 Standards for an Administrative Permit for an Accessory Dwelling Unit

7. For purposes of this provision, square feet shall be calculated as the sum of the total horizontal areas of all floors of the building, measured from the interior faces of exterior walls. Rooms with structural headroom of less than 6' 6" shall not be counted, nor shall garage space, provided the area of the garage does not exceed the counted floor area. Covered porches, balconies, etc. shall not be counted unless they are enclosed, but shall not exceed 50 percent (50%) of the area of the counted floor area. (staff likes this language to specify what is included in allowed s.f.)

Reiterate the accessory cannot be constructed without the primary dwelling existing on the parcel.