

Code Interpretation

Subject: Short Term Rentals in APD Districts

Date: March 30, 2023

Code Sections Impacted: 144-5.17 Short-Term Rental or Occupancy

Purpose: To provide consistency in categorizing all zoning districts into residential or non-residential.

Proposal: To clarify that a rezoning request to apply a Special Use Permit may be sought to allow Short Term Rental within the “APD” Agricultural/Pre-Development District

Analysis:

- The STR section of the zoning ordinance states that short-term rentals within residential districts are not allowed.
- The zoning ordinance, 144-1.4 defines residential districts. This definition excludes the APD district.
- The STR section of the zoning ordinance, 144-5.17.2 defines non-residential districts. This definition includes all districts that were not included in the residential district definition, with the sole exception of APD.
- The APD district, 144-3.4-1 is termed the agriculture pre-development district, designated for newly annexed areas, agricultural uses, and for areas where development is premature because of a lack of utilities, capacity, or service, or where the ultimate use has not been determined. Allowed uses within this district are listed within this section, and include multiple residential and non-residential uses. However, the non-residential uses far outnumber the limited residential uses allowed and include for example, cemeteries and mausoleums, churches, country clubs, farm equipment storage, golf courses, government buildings, parks, plant nurseries, public recreation buildings, rodeos, stables, and many other non-residential uses.
- The APD district allows a number of uses that require “development” as defined in the zoning ordinance.
- It does not seem reasonable that APD would be listed as neither a residential nor a non-residential district in the zoning ordinance, but rather appears as though this lack of designation was an oversight.

Interpretation:

Due to:

- the confusion created by the lack of inclusion of APD as either a residential or a non-residential district, and
- the broad variety and number of non-residential uses allowed in the APD district, and
- the fact that many of the non-residential uses and corresponding structures allowed in APD would be more impactful to adjacent uses than would short term rentals, it is interpreted that the APD district should have been listed and defined as a non-residential district.

Recommended Code Amendment:

Revise the definition of non-residential districts included in section 144-5.17.2 to include APD. This will provide clarity and consistency of application of the Zoning Ordinance, and will in effect allow the submittal of a rezoning request to apply a Special Use Permit allowing short-term rental in the APD district in accordance with sections 144-3.6, 144-5.17, and the NOTE at the beginning of the Land Use Matrix 144-4.2.

Sec. 144-5.17. - Short term rental or occupancy.

5.17-2. Definitions.

Non-residential district means the following zoning districts: APD, R-3, R-3L, R-3H, MU-A, MU-B, C-1, C-1A, C-1B, C-2, C-2A, C-3, C-4, C-4A, C-4B, C-O, M-1, M-1A, and M-2A. This includes all subsequently approved special districts identified as non-residential unless otherwise specified within the special district.



Assistant Director, Planning and Development Services