



Town of Woodfin

90 Elk Mountain Road
Woodfin, NC 28804
PH: (828) 253-4887
FX: (828) 253-4700

October 7, 2022

Bo Carpenter
Allen Stahl and Kilbourne
bcarpenter@asklawnc.com

Re: Robinhood Road Development Application
PINs: 9740-28-8968 & 9740-29-9345

Dear Mr. Carpenter,

The Town of Woodfin is in receipt of your emails dated 9/29/22 and 10/4/22 – thank you for sharing your perspective and thinking on these matters. In response I would like to offer the following determination, specifically on whether short-term rentals [STRs] could be permitted in the Mountain Village [MV] zoning district. I have reviewed the information you provided, along with the applicable ordinances, statutes, and related information, and it is my position that STRs would not be permitted in the MV zoning district.

While Chapter 30 of the Town of Woodfin Code of Ordinances allows the limited use of STRs in certain specified zoning districts, and while Sec. 30-4 appears to offer a path to allowing STRs in the MV and other residential zoning districts, this section cannot be applied to your client's project because it requires the assignment of an overlay zoning district that was never adopted by the town. To effectively apply Sec. 30-4, the Town Council would have to follow the applicable sections of North Carolina General Statutes Chapter 160D and the town's zoning code and first adopt a zoning text amendment creating a Short-Term Rental Overlay District [STROD]. Once the overlay district is established, a separate zoning action adopting a zoning map amendment would also have to be reviewed and approved by the Town Council. Both the zoning text and zoning map amendments are legislative decisions to be reviewed first by the Planning Board who, in their limited authority under N.C. Gen. Stat. § 160D-301(b)(4) would make a **recommendation** as to the creation of a STROD with the final decision being left to the governing body, the Woodfin Town Council. The applicable language in 30-4 states:

Upon the home owners' association submitting valid proof of such a successful vote, then the planning and zoning board of adjustment would take up a vote on the matter of establishing an overlay zoning district to permit such use [. . .]

It is my position that this code language refers to the first step in the prescribed legislative processes in which the planning board would first vote and make recommendation on the creation of a STROD to

the Town Council. Should the Town Council vote to adopt the overlay district, the Planning Board may then vote on a recommendation as to where the overlay shall be applied. I do not agree that the decision to allow STRs is ministerial in nature (per your 9/29/22 email), nor is it quasi-judicial in nature (per your 10/4/22 email) and feel that to agree to such would violate Chapter 160D by shifting the legislative decision-making power granted the town council to another body.

To summarize, based on the existing zoning and the applicable codes and statutes, an option to allow STRs in the MV zoning district is not currently available. You may, however, submit a request to the Woodfin Planning Board to consider the creation of a STROD, but that the final decision will lie with the Woodfin Town Council.

Sincerely,

A handwritten signature in blue ink that reads "Shannon Tuch". The signature is written in a cursive style with a large initial 'S'.

Shannon Tuch, Town Manager/Interim Planning Director