



Agenda Item No. 14.

Staff Report

Date: May 11, 2023

To: Mayor Kuhl and Council Members

From: Rebecca Markwick, Planning and Building Director

Subject: Town Council discussion of Short-Term Rentals

Recommendation:

It is recommended that the Town Council consider whether to regulate short-term residential rentals and provide policy guidance to staff on what actions should be taken, if any.

Background and discussion:

Consideration of regulating short term rentals (STR) within the Town has been an on-going discussion since February 2015. At the February 2015 meeting, the Town Council determined that regulation of short-term rentals was not warranted at that time. In April 2016, the Town Council directed staff to resume the discussion on whether to regulate short term rentals. On July 14, 2016, the Town Council identified that short-term rentals would provide both opportunities and challenges and requested staff to solicit further input from the community before a decision on the matter could be made. After the 2016 Town Council meeting, staff prepared a 12-question survey that was sent to the Town-wide email distribution list (1,132 recipients). The Town received 165 responses and the respondents were divided in supporting regulating short-term rentals and not regulating them. At the 2016 Town Council meeting, the Town Council decided to take a “wait and see approach” and decided to continue the policy discussion to a future date.

On January 12, 2023, the Town Council requested a review and discussion of short-term rentals in the Town. Currently, the Town of Ross does not regulate short term rentals for single family dwellings. The Accessory Dwelling Unit (ADU) section of the Municipal Code requires rentals of ADU and Junior Accessory Dwelling Units (JADU's) for a term longer than 30 days. As of April, 2023, there are three known STRs listed on AirBnB, and Vrbo within town limits (Shady Lane, Upper Road and Baywood), and complaints have been filed addressing grievances due to the STR use by one neighbor of the property on Shady Lane, one neighbor on Upper Road and one neighbor of the property on Baywood Drive.

Across Marin County, cities and towns have updated their STR regulatory status since 2017. Those changes are reflected in the table below:

City/Town/County	STR Allowed?	Regulated? Enforcement?
City of Sausalito	Prohibited	Active Code Enforcement: Progressive Fines Host Compliance (digital enforcement program)
Town of Tiburon	Prohibited	Active Code Enforcement: Fines, Criminal Charges, and Reimbursed investigative costs
City of Belvedere	Prohibited	No specific enforcement policy
City of Mill Valley	Allowed	Regulated/Active Code Enforcement Violation: non-renewal of business license Host Compliance (digital enforcement program)
City of Corte Madera	Prohibited	No specific enforcement policy
City of Larkspur	Prohibited	Active Code Enforcement Fines ranging from \$1,500 to \$5,000 for offenses
Town of Ross	Allowed – SFR Prohibited - ADU/JADU	No Regulations
Town of San Anselmo	Allowed	Business license required
Town of Fairfax	Allowed	Business License Required Host Compliance (digital enforcement program)
City of San Rafael	Allowed	Host Compliance (digital enforcement program)
City of Novato	Allowed	Host Compliance (digital enforcement program)
County of Marin	Allowed	Registered and Public Notice to Neighbors

Recent software innovations, such as Host Compliance (mentioned in the table above), assist municipalities in identifying STRs which have been operating in conflict with local ordinances and regulations. The addition of these software services aid in the enforcement of regulations to limit excessive time, energy and resources being spent on enforcing local regulations.

Regulatory Options

Should the Town Council wish to prohibit STRs:

- The Town can implement a prohibition on STRs via an amendment to the Municipal Code. The Town can use existing code enforcement or adopt code amendments to enforce the code.
- Enforcement can occur on a complaint basis, or the Town could increase its enforcement capabilities by contracting with a firm that utilizes software to search the internet for local listings, with the ability to identify the address of an online posting, which greatly enhances enforcement potential.

Should the Town Council allow STRs without regulations:

- The Town could continue allowing STRs without registration and fees.

Should the Town Council allow STRs with regulations:

- Numerous jurisdictions have chosen to register and regulate STRs rather than taking a largely hands-off approach.
- The Town could require fees and levy a transient occupancy tax (TOT), which would require a ballot measure to enact.
- The Town could also contract with a firm that utilizes software to search the internet for local listings, with the ability to identify the address of an online posting, which greatly enhances enforcement potential.
- The Town can regulate occupancy numbers; number of days rented per reservation, and/or per year, and/or per month; and on-site residency of owner.

Next Steps:

The Town Council may continue this discussion or direct staff on one of the regulatory options mentioned above.

Fiscal, resource and timeline impacts:

There would be no fiscal impact to the Town if the Council decides on no action.

Should the Town Council decide to take no action regarding STRs within Town limits:

- No fiscal impact

Should the Town Council pursue allowing STRs with regulation:

- Requiring STR operators to register with the payment of a registration fee and to pay a Transient Occupancy Tax would increase revenue for the Town. However, in order for a Transient Occupancy Tax to be implemented it would require a ballot measure which would be a one-time cost to the Town.
- With three current STR operators, the revenue generated would be negligible.
- Additional resources may need to be used for the enforcement of regulations.

Should the Town Council prohibit STRs:

- Additional resources will need to be used for the enforcement of prohibition.

Environmental review (if applicable)

This action is not subject to the California Environmental Quality Act.

Attachments

1. Town Council Staff Report, 2015 and Town Council Minutes Excerpt from July 14, 2016
2. Short-Term Residential Rentals Staff Report, Addendum, and minutes, dated June 8, 2017
3. Granicus Guide to Effectively Regulating [STRs] on the Local Government Level (selected pages)

ATTACHMENT 1



Agenda Item No. 13.

Staff Report

Date: January 22, 2015

To: Mayor Elizabeth Brekhus and Councilmembers

C: Rob Braulik, Town Manager

From: Greg Stepanicich, Town Attorney
Amanda Charne, Assistant Town Attorney

Subject: Short-Term Residential Rentals

Recommendation

Council consider whether to regulate short-term residential rentals and provide policy guidance to staff and the Town Attorney on what actions should be taken, if any.

Background

At its meeting on December 8, 2014, the Finance Committee requested information be presented to the Town Council on how the Town might address short term (i.e., less than 30 days) residential rentals. Finance Committee members noted several rentals located in Ross are listed on hosting platform websites, such as Airbnb. The Town Manager requested the Town Attorney research the regulatory approaches taken by various California jurisdictions and to prepare a summary of regulatory options for the Town Council's consideration. The goal of this report is to obtain Council consensus on whether or not to regulate short-term residential rentals and, if so, what methods should be used. With this policy guidance, staff and the Town Attorney will prepare the desired Municipal Code amendments for Town Council review and approval.

Discussion

As the popularity of hosting platform websites grows, cities across the country are attempting to address the issues associated with short-term vacation rentals in residential neighborhoods. We are unaware of any pending state legislation to regulate short-term residential rentals. Perhaps as a sign of things to come, however, the Sacramento Bee recently reported that Airbnb has retained a prominent California lobbying firm.

In many California cities, short-term residential rentals are illegal by default because such uses are not expressly allowed by or do not fall within the residential use permitted by the local zoning code. The Ross Municipal Code is ambiguous whether short-term residential rentals are a residential use.

This results because there is no definition of “residential use” but only of “family” and “dwelling.” See Ross Muni. Code §§ 18.12.100; 18.12.120; 18.16.030. Where a home or a room within the home is occasionally rented to a single family or person, the use could be deemed a residential use, an accessory use, or possibly even a home occupation. Ross Muni. Code §§ 18.12.030; 18.12.180. On the other hand, if a vacant property is rented out on a regular basis, the high-volume commercial use would arguably exceed residential use. Ross Muni. Code § 18.16.030.

Some cities have elected to allow short-term residential rentals subject to some type of business regulatory permit. The permits are often referred to as a “vacation rental permit,” or “short term residential rental permit.” Other jurisdictions opt to regulate vacation rentals through a use permit (e.g., Sonoma County, Laguna Beach). San Francisco takes a slightly different approach by requiring residents to register with the Planning Department. Violations of the San Francisco ordinance are enforced through administrative penalties, and if there are multiple violations, the Department removes the unit from the registry for one year.

Most of the ordinances also require the hosts to pay the same transit occupancy taxes that hotels do. San Francisco requires, and San Jose allows, the hosting platforms, such as Airbnb, to collect and remit transient occupancy taxes. The hosting platform, HomeAway, recently filed a lawsuit challenging San Francisco’s requirement that the hosting platform collect hotel taxes, claiming that this requirement is burdensome for out-of-state companies and forces them to conform to a specific business model approved by the ordinance. The Ross Municipal Code does not contain a transient occupancy or hotel tax. At this time, it would require majority voter approval to adopt such a tax.

Below is a list of the various regulatory mechanisms that have been adopted by or are under consideration by various California cities and counties. This list is by no means exclusive. Please consider these as possibilities to be tailored to fit the unique community and circumstances of the Town of Ross. While we present this list of regulatory mechanisms for your consideration, the legality of each will depend on how they are tailored for and implemented in Ross.

1. Advertising. To aid in enforcement, many cities require that any advertisement for the vacation rental must include the permit number (e.g., Petaluma, Ventura, San Francisco).

2. Building Inspection. Most jurisdictions have not required building code compliance in order to receive a vacation rental permit. Petaluma is considering a requirement that all short-term vacation rentals provide smoke detectors, carbon monoxide detectors, heating, and satisfy all applicable requirements of the California Building Standards Code. However, it is more common for jurisdictions to require plans showing that the parking and bedrooms listed are consistent with official records (see e.g., Napa, Santa Cruz County, El Dorado County).

3. Business License. In addition to a vacation rental permit, some jurisdictions also require the host to obtain a city business license or business registration certificate. Other jurisdictions, such as Solana Beach and El Dorado County, allow the short-term vacation rental permit to serve as the business certificate for rental activity.

4. Complaint Process and Dispute Resolution. Some jurisdictions have required a local contact person be available to handle complaints and problems. As a further step, some cities require that the permittee or contact person must respond within 1-2 hours of complaint and correct issues within 24 hours.

At least one city is considering voluntary mediation where there are three or more complaints in a calendar year (Petaluma). Santa Cruz County requires agreement to dispute resolution as a condition of a vacation rental permit through a county mediation center.

5. Duration and Renewal of Permit. Most of the regulatory permits are issued for 1-2 years. (Where utilized, use permits typically run with the land.) Petaluma is considering a provision that would allow the Director of Planning to deny renewal if he or she determines that the permittee has failed to timely remit transit occupancy taxes, there have been more than three violations of the ordinance, the applicant has provided false information, or there are health or safety violations.

6. Host Residency Requirements and Limits on Number of Rental Days. To discourage hosts from taking their properties out of the affordable housing rental stock needed for local residents or to preserve neighborhood character and stability, some cities impose limits on the number of nights that a property may be rented. Petaluma is considering a limit of 90 days to the number of days a non-hosted house can be rented per calendar year. San Jose imposes an annual limit of 90 days per year that a dwelling may be offered for transient occupancy, regardless of whether or not the host is present.

In San Francisco, resident hosts must demonstrate that they actually live in the unit for no less than three-quarters of the year. Some hosting platforms are geared toward vacation rentals and second homes whose owners do not reside in their properties. HomeAway has recently sued San Francisco in federal court arguing that the local residency requirement unconstitutionally discriminates against non-residents that own property in San Francisco. As noted above, HomeAway's lawsuit also challenges the requirement that the hosting platform collect hotel taxes. Decoupling the annual limit on rental days from a residency requirement, as in Petaluma and San Jose, may avoid the discrimination alleged by HomeAway.

7. Insurance. San Francisco requires hosts to carry liability insurance of not less than \$500,000 that covers the short-term residential rental use, or to conduct the rental transaction through a hosting platform that provides equal or greater coverage. There is confusion among hosts and the insurance industry whether short-term residential rentals are covered under standard homeowners' insurance policies. See New York Times, "The Insurance Market Mystifies an Airbnb Host," dated December 19, 2014, available online at: <http://www.nytimes.com/2014/12/20/your-money/the-insurance-market-mystifies-an-Airbnb-host.html>.

8. Noise. Some jurisdictions simply rely on their general plan noise standards (e.g., Sonoma County). Others include a standard that occupants may not create unreasonable noise or disturbances, disorderly conduct or violations of state law regarding overcrowding, alcohol or drugs (e.g., Solana Beach, El Dorado County).

9. Notice to Neighbors. Some cities require posting of the permit on the rental property (e.g., Solana Beach). Petaluma is considering a requirement to mail notice to all neighbors within 100 feet. Ventura requires notice of the approved permit and a nuisance response plan be provided to neighbors within 300 feet and posted on city website.

10. Occupancy Limits. Most jurisdictions have included limitations on the maximum number of occupants, which is usually two occupants per bedroom, plus one or two persons that presumably sleep in common areas (El Dorado County allows four additional persons). San Jose limits transient occupancy depending on the type of dwelling (single family, multiple family dwelling) and whether or not the host is present. Some ordinances exclude children from the occupancy limit. Some jurisdictions also limit the

maximum number of guests to twice the nighttime capacity. To distinguish from bed and breakfasts, some ordinances limit the number of bedrooms which may be furnished for compensation (Sonoma County, proposed Petaluma).

11. Parking. Some jurisdictions require the permittee to demonstrate compliance with applicable residential parking requirements. Other jurisdictions limit parking to the number of on-site spaces plus 1-2 on street (e.g., Santa Cruz County, El Dorado County).

12. Permit Revocation and Penalties. Many jurisdictions include a provision allowing revocation of the permit, and include administrative citations for owners as well as occupants.

13. Posting of Rules and Guest Manual. Some jurisdictions require hosts to post the permit conditions conspicuously within the residence, or include them as part of the rental agreement (e.g. El Dorado County/City of South Lake Tahoe, Sonoma County). Petaluma is considering a requirement that the host provide a written manual to guests that includes the local manager's contact information, local performance standards, parking limitations and other helpful information to minimize conflict with the neighborhood.

14. Rent Control Laws. San Francisco has extensive rent control laws and requires hosts to comply with all such laws.

15. Rental Day Minimum. Solana Beach prohibits rental for less than seven consecutive calendar days in duration within all residential zoning districts. Ventura requires rentals to be a minimum of seven consecutive days during the summer season, and two consecutive days for the remainder of the year.

16. Reporting. San Francisco requires hosts to report the duration of short-term stays annually. Other jurisdictions simply require guest registration records be maintained for two or three years (e.g., South Lake Tahoe, San Jose).

17. Signs. Petaluma is considering a requirement that would prohibit on-site signage. Other jurisdictions require an exterior sign identifying the structure as a permitted vacation rental with local contact information (e.g., Santa Cruz County).

18. Special Events. Some ordinances require special events to be permitted in accordance with existing special events permit regulations. Others flatly prohibit weddings, auctions, commercial functions, or other similar events that are inconsistent with the use of the property for transient occupancy in a residential neighborhood.

19. Surety Bonds. Ventura requires a surety bond to accompany an application for a short-term vacation rental permit conditioned on the payment of any civil penalty assessed for a violation of the short-term vacation rental ordinance or use of a short-term rental in a manner that otherwise violates the city's municipal code.

We have attached a vacation rental ordinance summary. This summary was prepared by staff from the City of Petaluma and presented to the Petaluma Planning Commission on November 18, 2014. Our firm was not involved in preparing this summary. We are providing it here for the Council's reference in comparing the various approaches taken by different cities.

Key Policy Questions for Council:

1. Should short-term vacation rentals be prohibited as a matter of zoning?
2. Should short-term vacation rentals be treated as an accessory use or home occupation for residential properties (single-family, multifamily)?
3. What are the key regulatory concerns with short-term vacation rentals?
4. If allowed, should the Town regulate short-term vacation rentals as a land use (i.e., a use permit) or as a business regulation? What level of control and monitoring does the Town desire to have over short-term residential rentals?
5. Does the Town wish to set forth a ballot measure to collect transient occupancy tax from such uses?

Please let us know if we can provide any additional information or assistance.

Fiscal, resource and timeline impacts

Staff and attorney time to prepare an ordinance.

Alternative actions

None recommended.

Environmental review (if applicable)

N/A

Attachments

- Attachment B from Report to City of Petaluma Planning Commission, dated November 18, 2014
- Summary of Vacation Rental Ordinances

Meeting Minute Excerpt

February 12, 2016

- 13. Informational only. Town Council consideration on whether to regulate short-term residential rentals and provide policy guidance to staff and the Town Attorney on what actions should be taken, if any.**

Town Attorney Greg Stepanicich summarized the staff report and recommended the Council consider whether to regulate short-term residential rentals and provide policy guidance to staff and the Town Attorney on what actions should be taken, if any.

Mayor Brekhus said unless they are having problems, why are they considering regulating. The idea of reporting notice to all neighbors and police, she felt is creating problems and adding an expense.

Mayor Pro Tempore Hoertkorn wanted to be informed as to whether her neighbor is renting out their home. Council Member Small noted that they had a situation in the past, which was addressed, where someone rented out their home and it ended up being rented out to individuals that had rave parties, which clearly violated zoning. They may have other individuals who rent out their homes that are not a problem, but is it a problem if they enforce some residents and not others. She asked if the inconsistency is a problem. Town Attorney Stepanicich explained if someone is regularly using their property as a wedding and recreation site, then that is a commercial corporation. Anything that starts to become a commercial type of use they should be consistent on treating all those the same way.

Council Member Robbins recommended investigating how many houses are actually rented out, and if it is a problem, then they need to understand how extensive and further discuss.

Mayor Brekhus understands if they start to receive complaints they should revisit this issue. Mayor Pro Tempore Hoertkorn did not believe it is about complaints, but using a home as a hotel is a concern. Council Member Kuhl felt drawing a line is going to be very difficult.

Mayor Brekhus opened the public hearing on this item.

Norman Hardie, Winding Way resident, believed if residents rent out their house for a few months during the summer, he did not see a problem. He would object if he had a neighbor continually rent out their home. In his view, he did not see this as a problem at the moment.

There being no further public testimony on this item, the Mayor closed the public portion and brought the matter back to the Council for discussion.

As the popularity of hosting platform websites (such as Airbnb) grows, cities across the country are attempting to address the issues associated with short-term vacation rentals in residential neighborhoods. At the request of the Finance Committee, the Town Attorney prepared a

summary of regulatory options for the Council's consideration. The goal of the report was to obtain Council consensus on whether or not to regulate short-term residential rentals and, if so, what methods should be used.

In many California cities, short-term rentals are illegal by default because such uses are expressly allowed by or do not fall within the residential use permitted by the local zoning code. Some cities have elected to allow short-term residential rentals subject to some type of business regulatory permit. The permits are often referred to as a "vacation rental permit," or "short term residential rental permit." Other jurisdictions opt to regulate vacation rentals through a use permit (e.g., Sonoma County, Laguna Beach). San Francisco takes a slightly different approach by requiring residents to register with the Planning Department. Violations of the San Francisco ordinance are enforced through administrative penalties, and if there are multiple violations, the Department removes the unit from the registry for one year.

Most of the ordinances reviewed also require the hosts to pay the same transit occupancy taxes that hotels do. San Francisco requires, and San Jose allows, the hosting platforms, such as Airbnb, to collect and remit transient occupancy taxes. The Ross Municipal Code does not contain a transient occupancy or hotel tax. It would require majority voter approval to adopt such a tax. The key policy questions the Council considered were:

- Should short-term vacation rentals be prohibited as a matter of zoning?
- Should short-term vacation rentals be treated as an accessory use or home occupation for residential properties (single-family, multifamily)?
- What are the key regulatory concerns with short-term vacation rentals?
- If allowed, should the Town regulate short-term vacation rentals as a land use or as a business regulation? What level of control and monitoring does the Town desire to have over short-term rentals?

After discussion, the Council determined there did not seem to be many short-term rentals, or problems associated with rentals, to warrant Town regulation at this time.

ATTACHMENT 2



Agenda Item No. 15.

Staff Report

Date: June 8, 2017

To: Mayor Hoertkorn and Council Members

From: Heidi Scoble, Planning Manager

Subject: Short-Term Residential Rentals

Recommendation

Council consider whether to regulate short-term residential rentals and provide policy guidance to staff on what actions should be taken, if any.

Background and Discussion

Consideration of regulating short term rentals within the Town has been an on-going discussion since February 2015. At the February 2015 meeting, the Council determined that regulation of short-term rentals was not warranted at that time. In April 2016, the Council directed staff to resume the discussion on whether to regulate short term rentals. On July 14, 2016, the Council identified that short-term rentals would provide both opportunities and challenges and requested staff to solicit further input from the community before a decision on this matter could be made.

Since the July 2016 meeting, staff prepared a 12-question survey that was sent to the Town-wide email distribution list (1,132 recipients). The Town received 165 responses. The following provides a summary of the responses:

- 160 respondents came from property owners, 2 respondents came from renters, and 3 respondents came from people who chose not to provide a response.
- 9 respondents have identified that they have previously rented their entire residence as a short-term rental.
- 53 respondents have identified that they have not previously rented their home as a short-term rental, but have considered renting either their entire residence, a detached unit/guesthouse, and/or a bedroom.
- 36 respondents stated that they have no interest in renting their home as a short-term rental, but would not be opposed to allow some usage as a short-term rental with regulations (e.g.,

rent only during emergencies, rent only to family members and/or close friends, rent only to senior citizens, and/or rent with strict regulations and standards).

- 67 respondents stated that they have no interest in renting their home as a short-term rental and would like the Town to prohibit short-term rentals.
- 88 respondents did not support a transient occupancy tax, 60 respondents did support a transient occupancy tax, 10 respondents were undecided, and 7 respondents did not provide a response.

In terms of where the responses came from, the following table provides a distribution of respondents by neighborhood area:

Neighborhood	Yes, I have rented my residence	No, I have not rented my residence, rooms, or guesthouse, but would consider it.	No, I am not interested in renting, but would support short-term rentals	'No, I am not interested in short-term rentals and would like to prohibit them
<i>Bolinas</i>	1	4	1	0
<i>Glenwood /Upper Road</i>	0	4	2	4
<i>Sir Francis Drake Blvd.</i>	0	9	2	7
<i>Laurel Grove Area</i> (Laure Grove, Canyon, Walters, Makin Grade, and Upper Toyon)	1	7	5	7
<i>South- Southwest Area</i> (Bridge, Redwood, Poplar, Quail Ridge, Woodside, Chestnut, Madrona)	2	5	4	13
<i>Winship Park Area</i> (Garden, Wellington, Winship, Baywood, Fallen Leaf)	2	11	6	14
<i>Shady Lane Area</i> (Ames, Upper Ames, Southwood, Norwood, Fernhill, and Circle)	2	4	10	16
<i>Lagunitas Area</i> (Lagunitas, Willow, Allen, and Ivy)	1	9	6	6
TOTAL:	9	53	36	67

The responses to the qualitative questions provided a range of comments advocating both support and opposition to short-term rentals. The respondents in support of short-term rentals provided the following comments when asked under which circumstance would you be supportive of allowing a short-term rental:

- Allow short-term rentals “without intrusion or interference from the Town.”
- Allow one lease during summer months only.
- Allow only if hosted by a reliable platform, such as AirBnb
- Allow only a few times a year.
- Allow only if rented to family members or friends.
- Allow only if there were “clear rules and regulations based on careful research and comparing how this was handled in other similar communities.”
- Allow if no large party or events and if only rented to small families.
- Allow if “no impact on our neighborhood and if our neighbors were unaffected.”
- Allow if no more than 90 days per year.
- Allow if “only 2 rentals in one calendar year, no business activity, and if fully disclosed to the Town”.
- Allow if “full security background check of renters and owner takes responsibility of any problems.”
- Allow if Town receives half of the rent.
- Allow “only if the neighbor is away and is leaving an empty home.”
- Allow only if no more than 5-6 people.
- Allow only when there is a county-wide emergency.
- Allow only with strict regulations and policies.
- Allow only homeowners and not corporations.
- Allow when not visible to neighbors.
- Allow only if hosted.

The respondents opposing short-term rentals provided the following comments when asked under which circumstance would you be supportive of allowing a short-term rental:

- “Absolutely none!”
- “Not at all supportive under any circumstances.”
- “Under no circumstances.”
- “Never because you do not know who is coming and going.”
- “I am not supportive. I have children and their safety to consider and when having unknown people/renters around them.”
- “None. High turnover, unfamiliar help coming and going, drive too fast, not involved in the community, no community investment.”
- “The Town Council should not support short-term rentals.”

Based on the responses to the question regarding if the Town were to consider developing short-term rental regulations, the majority of the respondents identified that the following items should be addressed (items ranked by level of importance):

- Noise
- Parking
- Trash/litter
- Complaint process and dispute resolution
- Enforcement
- Advertising and signs
- Fire Safety and Building Inspection
- Regulatory Permit
- Rental Type
- Business license and taxes

Lastly, based on the community's responses in support of short-term rentals, the community appears divided as to supporting hosted versus non-hosted short-term rentals. The Town did receive responses whereby respondents suggested limits on the number consecutive days rented, number of rentals per year, seasonal rentals, and limitations on special events and parties.

In closing, based on the above summary of the survey and the community responses, the respondents are strongly divided. As such, staff is seeking direction regarding the below policy questions regarding short-term rental regulations:

1. Based on the existing zoning regulations, would the Council provide policy direction on whether short-term vacation rentals should be considered an accessory use or home occupation for residential properties (single-family, multifamily) or should rentals be considered a commercial use and therefore prohibited in residential zoning districts per Section 18.16.030 of the Ross Municipal Code? The Larkspur City Council has provided similar policy direction that short-term rentals are considered commercial uses and therefore not permitted in residential zoning districts.
2. Should the zoning regulations be amended to regulate short term rentals (approve, approve subject to a permit, or prohibit)? If the direction is to allow short term rentals, provide direction to staff on what level of review should be required (discretionary use permit or an administrative permit; registration and or business license)?
3. What level of control and monitoring does the Town desire to have over short-term residential rentals?
4. Does the Town wish to set forth a ballot measure to collect transient occupancy tax from such uses?

By answering the above questions, staff would be able to determine whether code amendments to the Municipal Code would be warranted. If code amendments are warranted, staff would

work with the General Government Committee and the Town Attorney to craft regulations to address how short-term rentals should be regulated.

Update on other Marin jurisdictions regulating short term rentals

Attached is an updated summary of Marin jurisdictions relative to their position on short term rentals. Out of the 12 local jurisdictions, the City of Mill Valley is the only municipality that is legally permitting short term rentals subject to registration, a business license, and payment of a transient occupancy tax. Even though San Anselmo allows short terms rentals provided no breakfast is served, there are no specific short term rental regulations. Sausalito, Tiburon, Belvedere, and Larkspur expressly prohibit short term regulations based on existing regulations and/or policy determinations. For example, the Larkspur City Council made a policy determination whereby the Council determined short-term rentals in residential neighborhoods were considered a commercial use and therefore prohibited based on its existing zoning regulations. Another example would be Belvedere's position that because the zoning regulations do not identify short term rentals as a land use, then based on the rules of permissive zoning, the use therefore would not be allowed. The remaining jurisdiction in Marin are taking a "wait and see" approach as to whether to regulate short-term rentals.

Fiscal, resource and timeline impacts

Staff and attorney time to prepare an ordinance.

Alternative actions

None recommended.

Environmental review (if applicable)

N/A

Attachments

1. Constant Contact Survey Questions and Responses
2. Staff Report dated July 14, 2016
3. Town Council Minute Excerpt from July 14, 2016
4. Staff Report dated January 22, 2015
5. Town Council Minute Excerpt from February 12, 2015
6. Updated Summary of Short Term Rental Regulations in Marin



Agenda Item No. 15.

Staff Report Addendum

Date: June 8, 2017

To: Mayor Hoertkorn and Council Members

From: Heidi Scoble, Planning Manager

Subject: Short-Term Residential Rentals

Since the writing of the staff report, a Councilmember has requested additional information on what the cost to the Town regarding the regulation of short-term rentals. The following provides a response to the question under three scenarios: Current Conditions with No Regulations, Prohibition of Short-Term Rentals, and Short-Term Rental Regulations.

Current conditions with No Regulations

Under the current regulations, the Town Administrative, Development, and Police Officer staff operate under a complaint driven policy. For example, if a complaint is received, staff will investigate the complaint and if necessary, proceed with code enforcement under the Administrative Penalties associated with Section 9.70.120 of the Ross Municipal Code. Administrative fines will be imposed if the violation is not corrected after a warning letter.

Over the past two years, the Town's Administrative and Development Services staff has only received two complaints (noise related) regarding short-term rentals. The complaints never escalated to imposing any administrative penalty fines. The Chief of Police has also stated that he remembers only two complaints regarding two individual properties over the past five years.

Prohibition of Short-Term Rentals

If short-term rentals were prohibited and complaint driven code enforcement, staff would initiate code enforcement and administrative penalty proceedings similar to the current conditions described above. If short-term rentals were prohibited, staff would estimate a similar amount of complaints; therefore, the cost would again be negligible as discussed previously.

If the Council directed staff to actively enforce whether property owners were still advertising the short-term rental of the properties, then the cost to monitor short-term rentals would increase because of the additional time allocated towards this task. The active monitoring of

short-term rentals could either be conducted by staff or the Town could hire a consulting service to monitor and conduct code enforcement. If staff were to actively monitor short-term rentals, then staff would estimate the additional cost to the Town would be approximately \$24,000 (10 hours a month at \$197 per hour). If the Town were to hire a consultant, such as Host Compliance, a consulting firm specializing in short-term rentals, the estimated cost would be in the range of \$27,000 to \$35,000 a year to monitor and send out code enforcement letters.

Short-Term Rental Regulations

If the Council approves short-term rental regulations, it is difficult to estimate what the cost would be to implement and regulate the rentals until the Town determines:

- The policies and procedures for such regulations;
- What type of application process and permit fees would be required
- The extent of monitoring (e.g., complaint driven verses active code enforcement monitoring);
- Whether staff and/or a consultant would be hired;
- Whether the Town would consider a ballot initiative for the collection of a Transient Occupancy Tax to offset the cost of the program; and
- The demand for short-term rentals permits;

The cost related to the implementation of short-term rentals would be based type and permitting of the regulations to be enforced and whether permit fees would be charged to recover the actual cost related to short-term rental permit or offset by the general fund and/or a transient occupancy tax.

In terms of providing information from another regulatory agency that approves short-term rentals, the City of Mill Valley charges a one-time \$50 registration fee and has collected \$50,357 in transient occupancy tax for 56 permits from July 2016 to February 2017. The City of Mill Valley has hired Host Compliance for monitoring and code enforcement services. In speaking with representatives of the City of Mill Valley, the registration fees and the collection of transient occupancy tax covers the cost of implementing and regulating the project.

Conclusion

In summary, the cost to the Town is dependent on the direction Council takes regarding regulation. Currently, there is negligible costs of not regulating short-term rentals. The cost of prohibiting is also anticipated to be negligible unless there is active monitoring of short-term rentals. The cost of allowing but regulating short-term rentals is highly dependent on the regulation requirements and whether complaint driven or active code enforcement is chosen. That being said, processing fees and/or a transient occupancy tax (which would require Ross voter approval) could offset the costs to the Town.

**REGULAR MEETING of the ROSS TOWN COUNCIL
THURSDAY, JUNE 8, 2017**

1. 5:15 p.m. Commencement.

Mayor Katie Hoertkorn, Mayor Pro Tempore Elizabeth Robbins, Council Member Elizabeth Brekhus, Council Member Beach Kuhl, Council Member Rupert Russell, and Town Attorney Greg Stepanicich.

2. Posting of agenda.

Town Manager Joe Chinn reported that the agenda was posted according to government requirements.

3. Open time for matters pertaining to the closed session items in agenda item 4 - None

4. Closed Session.

a. Conference with Legal Counsel—Existing Litigation

Government Code Section 54956.9(d)(1)

In the Matter of the Appeal Regarding Membership Eligibility of Patricia M. Riley, PERS Case No. 2016-005, OAH Case No. 2016080840.

b. Public Employee Performance Evaluation

Title: Town Attorney

5. 6:03 p.m. Open Session. Council will return to open session and announce actions taken, if any. No reportable action.

6. Minutes – May

Mayor Hoertkorn asked for a motion.

Mayor Pro Tempore Robbins moved and Council Member Kuhl seconded, to approve the Special Meeting Minutes of May 4, 2017 as submitted. Motion carried 4-0. (Hoertkorn recused)

Mayor Pro Tempore Robbins moved and Council Member Kuhl seconded, to approve the Regular Meeting Minutes of May 11, 2017 as submitted. Motion carried 4-0. (Hoertkorn recused)

7. Demands.

The demands were met.

8. Open Time for Public Expression - None

9. Mayor's Report

Mayor Hoertkorn announced that this is her last report as Mayor, she is very thankful to have had the opportunity to serve as mayor these past two years. Ross's reputation as a small bucolic

community faces constant, significant challenges, which require prompt clear-headed responses. Your Town council's actions are aimed at preserving the trust our friends and neighbors place in us to meet challenges. Hardly a day goes by that your Town staff and elected council members aren't met with a new twist on an old problem, or more challenging, a new twist on a new problem.

Looking back, they have come a very long way since the challenges that faced the Town earlier in this decade, the strides they have made in addressing issues, have enabled the Council to look forward with confidence and conviction that the Town of Ross has met its challenges and has prospered. As Mayor, she led the Town through Town Manager changes, and pushed a more aggressive approach with CalPERS saving the Town hundreds of thousands of dollars. The Town's operating budget is much improved, and Ross Recreation is a fully-fledged operating department of the Town. They have just again successfully negotiated the Post Office lease, achieving market rates, and now have formalized the role of the Advisory Design Review Group (ADR). She worked diligently to clear up inconsistencies with ordinances that conflict with the General Plan, although some remain. She believed that the General Plan, with the effort and input from residents over many years, is our best guide as Council members, and as Mayor, she is deeply committed to it. Her second term as mayor has been marred by personal illness; however, my ability to stay in near daily contact with town staff and fellow council members has been a meaningful antidote. She sincerely appreciated the generosity in both time and energy expended by my colleagues during this challenging time. Throughout her time as mayor, she worked as hard as possible to improve Ross. She has brought decades of business experience to her role of mayor, and tried to conduct meetings with integrity, fairness, and agility. She truly appreciated and enjoyed being your mayor. Thank you so much!

10. Council Committee & Liaison Reports.

Council Member Brekhus reported on Ross Valley Fire Department and noted that they are considering hiring a fire marshal/inspector and have shared services with Corte Madera, Larkspur and Kentfield. That position would carry with it CalPERS pension and obligations and there are some concerns with shared services that were raised. Additional information has been requested before moving forward. Mayor Hoertkorn added that future accountability must be discussed in regard to cost.

Council Member Brekhus felt Ross Recreation Committee should be discussed in regard to proper oversight. Town Manager Joe Chinn agreed to have quarterly reporting from Ross Recreation.

11. Staff & Community Reports.

a. Town Manager.

Town Manager Joe Chinn reported that with summer months approaching there have been many graduation ceremonies occurring in Town including the Ross preschool graduation ceremony that occurred yesterday. There are a number of construction projects that will be happening in Town during the summer. Staff thanked RPOA for putting together all the funding for the bike racks and kiosks.

Town Manager Chinn invited all to attend the annual Town of Ross 4th of July celebration on Tuesday, July 4th. The celebration kicks off with a parade beginning at 11:00 a.m. A picnic on Ross Common from 12:00-2:00 p.m. follows the parade. There will be live music, games, face painting

and much more. Hot dogs and sausages by "Let's be Frank" will be available for purchase at the picnic site.

b. Marin Art & Garden Center.

Antonia Adezio, Exec. Director MAGC, reported that the sidewalk is being installed at MAGC. It has been very busy. They will adjust the right-of-ways to improve safety. She thanked everyone involved in "Garden Day." She then invited everyone to come celebrate summer at the MAGC with free concerts on the Gazebo lawn each Thursday evening from June 29 - August 10, 5:00-7:00 pm. A different local band performs each week and delicious food from Marin's finest caterers is available for purchase. Beer, wine, and botanical cocktails from the Edible Garden will also be for sale.

c. Ross Property Owners Association.

Jeff Koblick, representing RPOA, thanked the Town for the new bulletin board at the post office. It was a group effort. The next big project is the Fourth of July decorations. They look forward to decorating the bridge. The banner arms will be repaired on the light poles. Ross School is designing brand new banners.

d. Ross School – No report.

12. Consent Agenda.

The following seven items will be considered in a single motion, unless removed from the consent agenda: Item 12g was removed from the consent agenda due to Council Member Kuhl having a conflict of interest.

a. Town Council consideration of adoption of Resolution No. 2007 approving the Ross Valley Paramedic Authority tax levy for fiscal year 2017-18.

b. Town Council consideration of adoption of Resolution No. 2008 authorizing renewal of Community Development Block Grant Cooperation Agreements with the County of Marin.

c. Town Council designation of voting delegates and alternates for League of California Cities Annual Conference.

d. Town Council appointment of five members to serve three-year terms for the Ross Advisory Design Review Group.

e. Town Council approval of budget adjustments for Fiscal Year 2016-17.

f. Town Council response to Marin County Grand Jury Report entitled "Overcoming Barriers to Housing Affordability."

Mayor Hoertkorn asked for a motion.

Council Member Brekhus moved and Council Member Kuhl seconded, to adopt the Consent Agenda as submitted. Motion carried unanimously.

End of Consent Agenda.

12g. Town Council consideration of adopting the Marin Clean Energy (MCE) “Deep Green” program to provide 100% renewable electrical energy for Town-owned facilities beginning in Fiscal Year 2017-18.

Mayor Hoertkorn asked for a motion.

Council Member Brekhus moved and Mayor Pro Tempore Robbins seconded, to adopt Item 12g as submitted. Motion carried 4-0. (Kuhl recused)

Administrative Agenda

13. Flood Control Update Presentation by Marin County Flood Control.

Tonya Redfield, Ross Valley Programming Manager, provided an update on Phoenix Lake detention basin project and alternative flood risk reduction projects in Ross Valley. The County was awarded a Department of Water Resources (DWR) Proposition IE grant in the amount of \$7,661,000 to evaluate, design, and construct flood control/detention basin features and water supply improvements at the Phoenix Lake Dam in Ross. The project was subsequently included into the adopted Bay Area Integrated Regional Water Management Plan (IRWMP) in October 2014. The Bay Area IR-WMP is a nine-county effort to coordinate and improve water supply reliability, protect water quality, manage flood protection, maintain public health standards, protect habitat and watershed resources, and enhance the overall health of the Bay. The results of the draft feasibility assessment have revealed various operational, environmental, and constructability challenges that potentially outweigh the flood risk reduction benefit and the grant timeline of the Phoenix Lake IRWMP project. The decision to halt the Phoenix Lake IRWMP project provides an opportunity for County staff to transfer or “migrate” the DWR Prop IE grant funding to other projects which may be equally if not more beneficial to the residents of Ross Valley while remaining consistent with the goals of the Bay Area IRWMP.

Russ Eberwein, Project Engineer, noted in the preliminary review landslides have been identified around the lake that would require additional analysis.

Programming Manager Redfield revealed some potential replacement project alternatives, including removal of the damaged fish ladder and replacing portions of the concrete channel with a more natural park like setting. They are in the process of calibrating a watershed model. They have met with a number of stakeholders; they must model the alternatives and they are moving fast because this must be completed this month for approval. Once approved, they will prepare the alternative for environmental review.

Council Member Kuhl understands that they take down the concrete walls, using land on the side of the creek in order to broaden out the area in which water can flow, so it will flow slower and hold more water. Programming Manager Redfield agreed with Council Member Kuhl’s comments. Currently they have creek maintenance that incorporates going into the creeks during the dry season.

Mayor Pro Tempore Robbins wanted to make sure the Town is not responsible for ongoing maintenance. Also, she expressed concern for safety in terms of removing the fence.

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Programming Manager Redfield explained that it would go through environmental review. Safety will be a consideration in terms of the design. Council Member Brekhus expressed the same concern for liability as Mayor Pro Tempore Robbins.

Mayor Hoertkorn opened the public hearing on this item.

Charles Goodman, Ross resident, submitted a packet to the Council for their consideration. His additional concern is having a wider basin. The fish ladder removal has been in every single project. The data being used is data he collected back in 1988. The creek produces so much sediment. He asked the Town to be very cautious moving forward without any studies.

There being no further public testimony on this item, the Mayor closed the public portion and brought the matter back to the Council for discussion.

Programming Manager Redfield explained that they must submit an amendment to try to retain these funds. They would be happy to come back and provide updates, especially after the modeling is complete. Robbins wants to know the steps for the Town in regard to moving forward. Programming Manager Redfield stated once they receive approval they can move forward with these concepts and they are open to the Council and Town preferences. Town Attorney Greg Stepanicich added that it must come back to the Town if town property is involved. Town Manager Joe Chinn responded that with the concept before the Council there is Town property involved. Council Member Brekhus wanted all residents notified within 500 sq. ft. of any impacted land moving forward.

The Marin County Flood Control and Water Conservation District staff encouraged all to attend the Flood Control Zone 9 Advisory Board Meeting on June 12th at Marin Art & Garden Center Studio, 5:00-7:00 pm, where the Flood Control Advisory Board will consider and select the preferred alternative.

- 14. Public hearing: Town Council consideration of adoption of Resolution No. 2009 adopting the Fiscal Year 2018 Budget and setting the Parcel Tax Assessment for FY 2018; and Town Council consideration of adoption of Resolution No. 2010 making certain findings and determinations in compliance with Section XIII(B) of the GANN Initiative and setting the appropriation limit for FY ending June 30, 2018.**

Town Manager Joe Chinn summarized the staff report and recommended that the Council open the public hearing and take public comment. The Council is then asked to adopt Resolution No. 2009 approving the FYE 2018 budget and setting the parcel tax rate; and adopt Resolution No. 2010 setting the Town appropriations limit as provided in Government Code Section 7910 for the fiscal year ending June 30, 2018.

Mayor Hoertkorn stated without a slow down of fire department percentages, continuing to use all growth in property tax funds to support the fire department is questionable in the short to medium term.

Mayor Hoertkorn opened the public hearing on this item.

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Charlie Goodman, Ross resident, thought the fire department merger would save the Town money, not cost the Town more.

There being no further public testimony on this item, the Mayor closed the public portion and brought the matter back to the Council for action.

Mayor Hoertkorn asked for a motion.

Council Member Kuhl moved and Council Member Brekhus seconded, to adopt Resolution No. 2009 adopting the Fiscal Year Ending 2018 Budget and setting the Parcel Tax Assessment for FYE 2018. Motion carried unanimously.

Council Member Brekhus moved and Mayor Pro Tempore Robbins seconded, to adopt Resolution No. 2010 making certain findings and determinations in compliance with Section XIII(B) of the GANN Initiative and setting the appropriation limit for FY ending June 30, 2018. Motion carried unanimously.

15. Town Council review and discussion of short-term rentals survey results.

Planning Manager Heidi Scoble summarized the staff report and recommended that the Council consider whether to regulate short-term residential rentals and provide policy guidance to staff on what actions should be taken, if any.

Council Member Russell is reluctant to support and wanted to take the wait and see approach.

Council Member Brekhus believed there is a community benefit to have rentals. The problem associated with rentals in terms of noise and trash can be addressed. This continues to be a solution in search of a problem.

Mayor Hoertkorn felt it is commercialization of property and felt short-term rentals should be prohibited in Town.

Mayor Pro Tempore Robbins stated that she would support to prohibit short-term rentals or wait and see.

Council Member Kuhl did not want to create a bunch of regulations and agreed with the wait and see approach.

Mayor Hoertkorn opened the public hearing on this item, and seeing no one wishing to speak, the Mayor closed the public portion and brought the matter back to the Council for discussion.

The Council agreed to the "wait and see approach" and continued the policy discussion on this item to a date in the future.

16. Town Council consideration of Resolution No. 2012 of the Town of Ross authorizing the recording of a Lien on Certain Real Property located at 63 Laurel Grove Avenue to secure the payment of construction delay penalties.

Town Attorney Greg Stepanicich summarized the staff report and recommended that the Council hold public hearing and adopt Resolution No. 2012 authorizing the filing of a lien on the property located at 63 Laurel Grove Avenue (the "Property") for construction penalties.

Mayor Hoertkorn opened the public hearing on this item, and seeing no one wishing to speak, the Mayor closed the public portion and brought the matter back to the Council for action.

Council Member Brekhus moved and Council Member Kuhl seconded, to adopt Resolution No. 2012 authorizing the recording of a lien on certain real property located at 63 Laurel Grove Avenue to secure the payment of construction delay penalties. Motion carried unanimously.

End of Administrative Agenda.

Public Hearings on Planning Projects.

17. 15 Madrona Avenue, Design Review and Use Permit No. 2016-051, and Town Council consideration of adoption of Resolution No. 2011.

Jeff Greenberg, 15 Madrona Avenue, A.P. No. 073-252-09, R-1:B-A (Single Family Residence, 5 Acre min. lot size), Very Low Density (.1-1 Units/Acre), Zone X (Outside 1-percent annual chance floodplain). The applicant is requesting a Design Review and Use Permit applications to allow the new construction of a two-story 7,276 single family residence with attached garage and the conversion of the existing 1,920 square foot residence into a guest house. The new residence will also include a new swimming pool, terraces, trellis and related landscaping and hardscape improvements, new driveway gate and parking. The project has been revised to incorporate recommendations made by the Advisory Design Review Group at the March 28, 2017 and April 25, 2017 meetings. The Design Review is required for the new construction of the project and a Use Permit is required to allow for the conversion of the existing residence into a guesthouse.

Existing and proposed conditions:

Lot Area	61,351 square feet	
Existing Floor Area/Ratio	1,920 sq. ft.	3% (15% FAR Permitted)
Proposed Floor Area/Ratio	9,196 sq. ft.	14.9%
Existing Lot Coverage	3,096 sq. ft.	5% (15% Permitted)
Proposed Lot Coverage	6,360 sq. ft.	10.4%
Existing Impervious Surfaces	13,184 sq. ft.	21.5%
Proposed Impervious Surfaces	15,809 sq. ft.	25.7%

Contract Planner Brett Bollinger summarized the staff report and recommended that the Council approve Resolution 2011 conditionally approving a Design Review, a Use Permit, and a Tree Removal Permit to allow the new construction of a two-story 7,276 single family residence with attached garage and the conversion of the existing 1,920 square foot residence into a guest house. The new residence will also include a new swimming pool, terraces, trellis and related landscaping and hardscape improvements, new driveway gate and parking.

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Council Member Russell pointed out that they have the ability to discuss bulk and mass relative to the three-story appearance of the building even though the building is only meets the definition of a two-story building. Planning Manager Scoble responded in the affirmative. In reviewing this project the most critical elements of the findings would be the design review criteria standards such as neighborhood compatibility, adverse impacts on adjacent properties, mass and bulk.

Council Member Kuhl pointed out that there are no variances being requested. The applicants want to use the existing house as guesthouse. The applicants went to Advisory Design Review (ADR) Group three times, and ADR made various suggestions about the design, which the applicant incorporated into the plans and ADR has approved this plan before the Council. Contract Planner Bollinger responded in the affirmative.

Mayor Hoertkorn opened the public hearing on this item.

David Kotzebue, architect, explained that the north elevation is the lower point and then it goes up and into the side of the hillside. The next story is approximately 11ft. Mayor Hoertkorn asked the height from the ground to the top. Architect Kotzebue responded approximately 40 ft. from basement to top of pitch.

Jeff Greenberg, applicant, stated that it seems there is some confusion about the design. He understands their concerns about the height and felt they should start from the beginning so the Council better understands the changes from the ADR meeting.

Architect Kotzebue stated that in the current proposal there is no basement. The living area for the new proposal is about 6,300 sq. ft. they organized the structure in an L-shape around the terrace. The front leg of the L-shape facing Madrona is 62 ft. from the street. The other leg of the L-shape will not be seen. They believe that is a responsible approach in terms of design. The portion that creates the bedroom wing, during ADR process, they pushed that portion back 12 additional feet into the hillside. It creates an element in the background, so in true elevation it is stepped back. This is a stepped project and referred the Council to the section drawings to better understand the proposal. The part that creates the gable structure is the bedroom wing that is an additional 12 ft. back.

Council Member Brekhus asked the purpose of the pedestrian area. Architect Kotzebue stated the lot is relatively flat with a slight incline, so they created a protected covered patio or breezeway between the kitchen area and gym.

Council Member Russell asked staff if a hydrology study was conducted. Planning Manager Scoble indicated that no hydrology study was conducted, but preliminary drainage and grading plans were prepared as well as a biological assessment.

Architect Kotzebue explained that there are two buildings on this site and with the L-shape plan proposed only about 4,200 sq. ft. is visible from the street. Council Member Brekhus asked the purpose or concept of having this step back. Architect Kotzebue responded that they are trying to connect both structures together.

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Mayor Hoertkorn stated the reason it is only a two-story house is because the second and third levels are pushed back 12 ft. into the hillside. Architect Kotzebue responded in the affirmative. Basically they have 10-foot ceiling height. The great room has a sloped ceiling. The bedrooms are sloped ceilings as well around 8 ft.

Council Member Kuhl excused himself for a brief minute as the discussion continued.

Mr. Greenberg pointed out what could have been a large massive structure they purposely broke it up in smaller elements separated by flat roof pieces. In addition, with it set back the closest to the property line is 51 ft. and as the road curves they are 60 to 70 ft. At the tallest portion of the building they are 50 ft. from the side yard. They will not have any adverse impact on the neighborhood. They are well camouflaged. He then presented the Council with a materials board for their consideration. Mayor Hoertkorn pointed out that renderings would make it much easier for the Council to understand the proposal. She also noted that permeable pavers should be used wherever possible. Planning Manager Scoble responded in the affirmative and noted that such guidelines are included in the design review criteria and standards.

Bill Martin, Spring Road resident, stated that the visual impact of the three-car garage and two buildings on one parcel is a concern. He expressed concern for liability in terms of potential floodwater and underground storm drains. He added that ADR lacks consistency and predictability because the make of the committee changed each meeting.

Nancy Macphee, Madrona Ave resident, expressed concern for the bulk and mass of the proposed home. Her home is above street level and her view will now be the house. It is inevitable that change is happening, but some consideration of the existing area would be appreciated.

Matt Macphee, Madrona Ave resident, this area has always depicted small town character of Ross. This will be a huge house and a home of this size does not belong in this area. This will be twice the size of any other home on Madrona Ave. The overall purpose of ADR is to preserve the small town character of Ross and discourage bulk and mass. The size of this home will overwhelm the neighborhood. This will be out of character with the other dwellings in the neighborhood. This house will be completely out of character.

Larry Scion, Willow resident, moved to the neighborhood last year and he looked at this property. When he viewed this plan he was overly impressed. He thought they would have to build up high. He felt the plans are amazing. He walks around the neighborhood all the time. Out his bedroom window there is a four-story house, which is a part of Ross. He loves the uniqueness of Ross and this project would make a statement that they can build a bigger house on such a lot without being visible from the road. He noted support for the project as submitted.

Peter Nelson, Circle Drive resident, commented as an individual and felt there was active participation at ADR. There was a steady response from the applicant to respond to the suggestions and comments from ADR. Based on ADR discussion, this is over the third floor, but the only way to measure dimensions is straight down. From viewing this site from Madrona there is an initial impression of more height. He found the color to be a positive feature.

There being no further public testimony on this item, the Mayor closed the public portion and brought the matter back to the Council for discussion and action.

Council Member Brekhus felt it is a very pretty design and house. Her concern is how long it appears. She added that it looks like a hotel. It is the biggest house on the block. She has concerns with the project. She believed it is a three-story residence with too much bulk and mass. She added that the plans are confusing and during her site visit the applicant or architect should have been present to explain the proposal.

Mayor Pro Tempore Robbins indicated that it is tucked into the hillside and overall it meets all the Town's guidelines. There are no variances. ADR made several suggestions that were incorporated into the design. She could support the project.

Council Member Kuhl is reluctant to vote against the recommendation of ADR, particularly since they discussed the project at three different meetings. He also agreed to support the project.

Council Member Russell is very conflicted and agreed with Council Member Brekhus. He wanted to be as consistent as possible. They have rules about bulk and mass. He is not sure this project fits nicely into the neighborhood. He is not ready to approve at this point. He felt ADR did a terrible job. ADR met three times with the applicant and he is disappointed in the outcome, which is not fair to the applicant. He is not sure how to proceed on this one. Council Member Brekhus agreed with the comments about ADR. This project does not fit into the neighborhood. She is also conflicted.

Mayor Hoertkorn believed the design would work, but noted disappointment that no renderings were provided. It was impossible to read the drawings. ADR and staff must make it easier for the Council and residents in regard to what is being proposed. This process has not been easy for anyone. She will vote to approve.

Council Member Kuhl moved and Mayor Pro Tempore Robbins seconded, to approve 15 Madrona Avenue, Design Review and Use Permit No. 2016-051, and adopt Resolution No. 2011. Motion carried 3-2. (Brekhus/Russell opposed)

- 18. 3 Circle Drive, Design Review, Basement and Attics Exception, Floor Area Variance, Lot Coverage Variance, Nonconformity Permit, Minor Exception, and an Accessory Dwelling Unit Floor Area Exception No. 2017-016, and Town Council consideration of adoption of Resolution No. 2005.**

This item was continued to a future date.

End of Public Hearings on Planning Projects.

- 19. Election of Mayor.**

Mayor Hoertkorn moved and Council Member Kuhl seconded, to appoint Mayor Pro Tempore Elizabeth Robbins as Mayor of the Ross Town Council. Motion carried unanimously.

Mayor Robbins presented outgoing Mayor Hoertkorn with a commemorative gavel plaque and thanked her for two years of service as Mayor.

20. Election of Mayor Pro Tempore.

Council Member Brekhus moved and Mayor Robbins seconded, to appoint Council Member Beach Kuhl as Mayor Pro Tempore of the Ross Town Council. Motion carried unanimously.

21. No Action Items:

- a. Council correspondence – None
- b. Future Council items - None

22. Adjournment.

Mayor Hoertkorn moved to adjourn the meeting at 9:17 p.m.


Kathleen Hoertkorn, Mayor

ATTEST:


Linda Lopez, Town Clerk

ATTACHMENT 3



A Practical Guide

**To Effectively Regulating Short-term
Rentals on the Local Government Level**

Why regulate home-sharing and short-term rentals in the first place?

There are many good reasons why local government leaders are focused on finding ways to manage the rapid growth of home-sharing and short-term rental properties in their communities. To name a few:

1. Increased tourist traffic from short-term renters has the potential to slowly transform peaceful residential communities into “communities of transients” where people are less interested in investing in one another’s lives, be it in the form of informal friend groups or church, school and other community based organizations.
2. Short-term renters may not always know (or follow) local rules, resulting in public safety risks, noise issues, trash and parking problems for nearby residents.
3. So-called “party houses” i.e. homes that are continuously rented to larger groups of people with the intent to party can severely impact neighbors and drive down nearby home values.
4. Conversion of residential units into short-term rentals can result in less availability of affordable housing options and higher rents for long-term renters in the community.
5. Local service jobs can be jeopardized as unfair competition from unregulated and untaxed short-term rentals reduces demand for local bed & breakfasts, hotels and motels.
6. Towns often lose out on tax revenue (most often referred to as Transient Occupancy Tax / Hotel Tax / Bed Tax or Transaction Privilege Tax) as most short-term landlords fail to remit those taxes even if it is required by law.
7. Lack of proper regulation or limited enforcement of existing ordinances may cause tension or hostility between short-term landlords and their neighbors.

8. The existence of “pseudo hotels” in residential neighborhoods (often in violation of local zoning ordinances etc.) may lead to disillusionment with local government officials who may be perceived as ineffective in protecting the interests of local tax-paying citizens.

In short, while it may be very lucrative for private citizens to become part-time innkeepers, most of the negative externalities are borne by the neighbors and surrounding community who may not be getting much in return. The big question is therefore not whether it makes sense to regulate short-term rentals, but how to do it to preserve as many of the benefits as possible without turning neighbors and other local community members into “innocent bystanders”. In the next sections we will explore how to actually do this in practice.

Effective short-term rentals regulation starts with explicit policy objectives and a clear understanding of what regulatory requirements can be enforced

As with most regulation enacted on the local level, there is no “one size fits all” regulatory approach that will work for all communities. Instead local regulation should be adapted to fit the local circumstances and policy objectives while explicitly factoring in that any regulation is only worth the paper it is written on if it can be enforced in a practical and cost-effective manner.

Start with explicit policy objectives!

As famously stated in Alice in Wonderland: “If you don't know where you are going, any road will get you there.” The same can be said about short-term rental regulation, and unfortunately many town and city councils end up regulating the practice without first thinking through the community’s larger strategic objectives and exactly which of the potential negative side effects

As an example, the Town of Tiburon in California recently passed a total ban of short-term rentals without thinking through the severely negative impact of such regulation on its stated strategic policy objective of revitalizing its downtown. Likewise the City of Mill Valley, California recently adopted an ordinance requiring short-term landlords to register with the city, while failing to put in place an effective mechanism to shut-down “party-houses” although there had been several complaints about such properties in the past. Such oversight was clearly unintentional but highlights the fact that the topic of regulating short-term rentals is extremely complicated and it is easy to miss the forest for the trees when it comes time to actually writing the local code. To avoid this pitfall, local government leaders should therefore first agree on a specific list of goals that the new short-term rental regulation should accomplish before discussing any of the technical details of how to write and implement the new regulation. Any draft regulation should be evaluated against these specific goals and only code requirements that are specifically designed to address any of those concrete goals should be included in the final ordinance. Below are a few concrete examples of what such lists of concrete policy objective could look like for various types of communities:

Example A: List of short-term rental policy objectives for an affluent residential community in attractive location

- Ensure that traditional residential neighborhoods are not turned into tourist areas to the detriment of long-time residents
- Ensure any regulation of short-term rentals does not negatively affect property values (and property tax revenue)
- Ensure that homes are not turned into pseudo hotels or “party houses”
- Minimize public safety risks and the noise, trash and parking problems often associated with short-term rentals without creating additional work for the local police department
- Give permanent residents the option to occasionally utilize their properties to generate extra income from short-term rentals as long as all of the above mentioned policy objectives are met

Example B: List of short-term rental policy objectives for an urban community with a shortage of affordable housing

- Maximize the availability of affordable housing options by ensuring that no long-term rental properties are converted into short-term rentals
- Ensure that short-term rentals are taxed in the same way as traditional lodging providers to ensure a level playing field and maintain local service jobs
- Ensure that the city does not lose out on hotel tax revenue that could be invested in much needed services for permanent residents
- Minimize public safety risks and the noise, trash and parking problems often associated with short-term rentals without creating additional work for the local police department
- Give citizens the option to utilize their properties to generate extra income from shortterm rentals as long as all of the above mentioned policy objectives are met

Example C: List of short-term rental policy objectives for a workingclass suburban community with ample housing availability and a struggling downtown

- Give property owners the option to utilize their properties as short-term rentals to help them make ends meet
- Encourage additional tourism to drive more business to downtown stores and restaurants
- Minimize public safety risks and the noise, trash and parking problems often associated with short-term rentals without creating additional work for the local police department
- Ensure that the city does not lose out on tax revenue that could be invested in much needed services for permanent residents

Example D: List of short-term rental policy objectives for beach town with a large stock of traditional vacation rentals

- Ensure any regulation of short-term rentals does not negatively affect the value of second homes (and thereby property tax revenue)
- Encourage increased visitation to local stores and restaurants to increase the overall availability of services and maximize sales tax collections
- Minimize public safety risks and the noise, trash and parking problems associated with existing short-term rentals without creating additional work for the local police department

Once clear and concrete policy objectives have been formulated the next step is to understand what information can be used for code enforcement purposes, so that the adopted short-term rental regulation can be enforced in a cost-effective manner.

Only adopt policy requirements that can and will be enforced!

While it may seem obvious that *only enforceable legislation should be adopted*, it is mindboggling how often this simple principle is ignored. To give a few examples, the two California towns previously mentioned not only failed to adopt regulation consistent with their overall strategic policy objectives, but also ended up adopting completely unenforceable rules. In the case of Tiburon, the town council instituted a complete ban of all short-term rentals within its jurisdiction, but not only failed to allocate any budget to enforce it, but also failed put in place fines large enough to deter any violation of the ban. As a result, the number of properties listed for rent has remained virtually unchanged before and after the ban.

In the case of Mill Valley, the town's registration requirement turned out to be completely unenforceable as the town's personnel had neither the technical expertise, time nor budget to track down short-term landlords that failed to register. As a result, the town has had to rely exclusively on self-reporting, and unsurprisingly the compliance rate has been less than 5%.

Best Practices for Enforcing Short-term Rental Regulation

To implement any type of effective short-term rental regulation, be it a total ban, a permitting requirement, and/or a tax, local governments must expect to invest some level of staff time and/or other resources in compliance monitoring and enforcement. That said, most local governments are neither technically equipped nor large enough to build the true expertise and sophisticated software needed to do this cost-effectively. There are several reasons why this is the case:

1. Rental property listings are spread across dozens (or hundreds) of different home sharing websites, with new sites popping up all the time (Airbnb and HomeAway are only a small portion of the total market).
2. Manually monitoring 100s or 1,000s of short-term rental properties within a specific jurisdiction is practically impossible without sophisticated databases as property listings are constantly added, changed or removed.
3. Address data is hidden from property listings making it time-consuming or impossible to identify the exact properties and owners based just on the information available on the home-sharing websites.
4. The listing websites most often disallow property owners from including permit data on their listings, making it impossible to quickly identify unpermitted properties.
5. There is no manual way to find out how often individual properties are rented and for how much, and it is therefore very difficult to precisely calculate the amount of taxes owed by an individual property owner.

Luckily, it is possible to cost-effectively outsource most this work to new innovative companies such as Host Compliance that specialize in this area and have developed sophisticated big data technology and deep domain expertise to bring down the compliance monitoring and code enforcement costs to a minimum. In many situations, these companies can even take on all the work associated with managing the enforcement of the short-term rental regulation in return for a percentage of the incremental permitting fees, tax revenue and fine revenue that they help their local government partners collect.

Adopting short-term rental regulation and outsourcing the administration and enforcement can therefore be net-revenue positive for the local government, while adding no or little additional work to the plates of internal staff. What's more, getting started generally requires no up-front investment, long-term commitment or complicated IT integration.

That said, while it is good to know that adopting and enforcing short-term regulation can be net revenue positive if done in partnership with an expert firm, it is important to note that the economic benefits are only a small part of the equation and that local government leaders should also factor in the many non-economic benefits associated with managing and monitoring the rapidly growing short-term rental industry in their local communities. These non-economic benefits are often much more important to the local citizens than the incremental tax revenue, so even if the incremental revenue numbers may not seem material in the context of a local government's overall budget, the problems that unregulated and/or unmonitored short-term rentals can cause for the neighbors and other "innocent bystanders" can be quite material and should therefore not be ignored. Or as Jessica C. Neufeld from Austin, TX who suddenly found herself and her family living next to a "party house" reminds us: "We did not buy our house to be living next to a hotel. Would you buy a home if you knew a hotel like this was operating next door, if you wanted to set your life up and raise a family?"².

Conclusion

It is the responsibility of local government leaders to ensure that as few people as possible find themselves in the same unfortunate situation as Jessica and her family. In this white-paper we have outlined how to make it happen – in a revenue positive way. To find out more about how we can help your community implement simple, sensible and enforceable short-term rental regulation, feel free to **visit us on www.hostcompliance.com or call us for a free consultation on (415) 715-9280**. We would also be more than happy to provide you with a complimentary analysis of the short-term rental landscape in your local government's jurisdiction and put together an estimate of the revenue potential associated with adopting (or more actively enforcing) short-term rental regulation in your community.