



Staff Report

File #: REPORT 16-0307, Version: 1

Honorable Mayor and Members of the Hermosa Beach City Council
Regular Meeting of May 10, 2016

**TEXT AMENDMENT TO THE MUNICIPAL CODE, TITLE 1 AND TITLE 17 TO EXPRESSLY
PROHIBIT SHORT-TERM VACATION RENTALS IN RESIDENTIAL ZONING DISTRICTS**
(Community Development Director Ken Robertson)

Recommended Action:

1. Approve the Planning Commission recommendation to approve a text amendment to Municipal Code Title 1 and Title 17 to expressly prohibit short-term vacation rentals in residential zoning districts, and determining that the project is not subject to the California Environmental Quality Act; or
2. Direct staff to initiate a more comprehensive community dialogue about the issue to investigate all possible options. This could start immediately as an alternative to the ban, or commence some time after initiating our enforcement program and assessing its success.

Background:

Background information regarding short-term vacation rentals (STVRs) was provided to the City Council in an Issue Paper at their January 9, 2016 Study Session. The City Attorney and Community Development staff interpret the Hermosa Beach Municipal Code as banning STVRs in residential zones because the Code limits residential zones to "residential uses" in "dwelling units." The Code does not expressly ban rentals of homes for short periods of time, and the lack of a clear ban of the practice in the Municipal Code makes criminal prosecution more difficult. Also, punishment for violation by administrative violation is an insufficient deterrent (\$100.00 fine) because the practice is so lucrative. Following discussion, the Council referred the matter to the Planning Commission. http://hermosabeach.granicus.com/MediaPlayer.php?view_id=6&clip_id=4032.

At its February 16, 2016 meeting, the Planning Commission received public comments as well as voluminous documentation containing background information regarding STVRs http://hermosabeach.granicus.com/MediaPlayer.php?view_id=6&clip_id=4060&meta_id=251883. Following discussion, Commissioners agreed to use the City's Decision-Making Tool to evaluate numerous options for mitigating adverse impacts associated with STVRs, including the option of prohibiting them altogether, to help guide the Commission in determining which option(s) they wished staff to explore further.

At its March 15, 2016 meeting, the Planning Commission reviewed the Decision-Making Tool evaluations provided by each Commissioner, and considered information provided by City staff as

well as written and verbal information provided by the public
http://hermosabeach.granicus.com/MediaPlayer.php?view_id=6&clip_id=4095&meta_id=257881.

Following discussion, the Planning Commission directed staff to:

1. Prepare an ordinance expressly prohibiting STVRs in residential zoning districts for Planning Commission consideration in April 2016; and
2. Investigate the feasibility of allowing STVRs in the existing stock of nonconforming residential uses located in commercial zones, and report back at some future time (see map).
3. At its April 19, 2016 meeting, the Planning Commission considered information provided by City staff as well as extensive written and verbal information provided by the public
<http://hermosabeach.granicus.com/MediaPlayer.php?view_id=6&clip_id=4138>.
4. A common theme of the extensive community input received by the Planning Commission pertained to quality of life issue for residents in residential zoning districts. Following discussion, the Planning Commission unanimously recommended that the City Council adopt the proposed text amendment to expressly ban short-term vacation rentals in residential zoning districts.

Analysis:

Prohibition

As noted in previous reports, the adjacent cities of Redondo Beach and Manhattan Beach prohibit STVRs in residential districts, and the Redondo Beach City Council recently voted to step up enforcement efforts from a complaint-based investigation to proactive outreach, education and enforcement strategy. While the City of Hermosa Beach also bans STVRs in residential districts because the Code limits residential zones to “residential uses” in “dwelling units,” in order to better enforce the City’s Code, additional language is proposed to expressly prohibit rentals of homes for short periods of time, to prohibit the advertising of such rentals, and to impose punishment that will serve as a more sufficient deterrent to violations.

The Planning Commission recommends adoption of the proposed text amendment to the City’s Municipal Code which makes the following provisions:

- Makes unlawful the advertising of STVRs and provides a definition of “advertisement” to mean any printed or lettered announcement, whether in a magazine, newspaper, handbill, notice, display, billboard, poster, email, internet website or application or any other form.
- Makes unlawful for any person to offer or make available for rent or to rent (by way of a rental

agreement, lease, license or any other means, whether oral or written) for compensation or consideration a residential dwelling, a dwelling unit or a room in a dwelling for less than 30 consecutive days.

- Makes unlawful for any person to occupy a residential dwelling, a dwelling unit or a room in a dwelling for less than 30 consecutive days pursuant to a rental agreement, lease, license or any other means, whether oral or written, for compensation or consideration.
- Applies to all residential zoning districts: R-1 (single-family residential zone), R-1a (two dwelling units per lot zone), R-2 (two family residential zone), R-2b (limited multiple-family residential zone), R-3 (multiple-family residential zone), MHP (mobilehome park development district), and R-P (residential professional zone).

Provides that violations are a misdemeanor.

It should be noted that the Municipal Code provides that misdemeanors are punishable by a fine of not more than \$1,000 or by imprisonment in County jail for a period not exceeding 6 months, or by both such fine and imprisonment. Also, the Code provides that all violations are a misdemeanor, unless the Code otherwise identifies the violation as an infraction or is subject to a civil administrative penalty. Proposed changes to the Code make it clear that civil administrative penalties do not apply to STVR violations, and therefore, violations are punishable as a misdemeanor.

Alternatives to Prohibition

The City Council has provided policy direction that City staff prepare alternative recommendations for the Council to consider. In the spirit of that direction, management staff conducted a collective exercise utilizing the Decision Making Tool to frame a discussion of whether to prohibit or allow and regulate STVRs in Hermosa Beach. While the Planning Commission's use of the Tool was limited to their purview of land use, management staff included other issues for consideration, and their discussion led to a core trade-off question of small town quality of life vs. positive impacts on economics, environmental, and innovation goals, and a discussion of how quality of life impacts could be mitigated if regulated.

Catalyst for Innovation	Environmental Impact	Quality of Life	Economic Impact
<ul style="list-style-type: none"> +Attracts tourists +Business-friendly +Proactive to an emerging trend rather than reactive +Banning is "business as usual"; not transformative 	<ul style="list-style-type: none"> +Sharing resources reduces pressure on need for new construction +Promotes walkability/bikeability by scattering visitors throughout community rather than concentrating in commercial areas +Local Coastal Plan more likely to be approved if STVRs allowed 	<ul style="list-style-type: none"> - Fear that allowing will increase number of STVRs - Impacts worse if home used 100% as STVR - Impacts on neighbors: noise, trash, parking problems - Impacts of strangers in the neighborhood + Activity will continue regardless of ban. + Accommodations more family-friendly than typical hotel room + Allows long-term residents who might be priced out of area to supplement income and remain in community, reducing gentrification and keeping community intact. 	<ul style="list-style-type: none"> - Possible negative impact to hotels + Increased tourism creates increased tax revenue + Business friendly + Allows long-term residents who might be priced out of area to supplement income so they can afford to remain in community + Promotes City's brand by allowing more people to experience beach culture

California Coastal Act

Approximately 43% of the City lies within the Coastal Zone, and is subject to the State's Coastal Act. In general, a Coastal Development Permit from the Coastal Commission is required for demolitions and for new development that intensifies or changes a use, affects a coastal resource, or involves a site where a Coastal Development Permit was previously issued. Modifications to City regulations within the Coastal Zone, such as amendments to the Zoning Ordinance, or changes in parking fees, are also subject to Coastal Commission approval.

The Coastal Act addresses overnight room rentals in the Coastal Zone:

"Section 30213 Lower cost visitor and recreational facilities; encouragement and provision; overnight room rentals

Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred.

The commission shall not: (1) require that overnight room rentals be fixed at an amount certain for any privately owned and operated hotel, motel, or other similar visitor-serving facility located on either public or private lands; or (2) establish or approve any method for the identification of low or moderate

income persons for the purpose of determining eligibility for overnight room rentals in any such facilities.”

In working with Coastal Commission staff on the City’s Local Coastal Program (LCP), Commission staff has preliminarily advised they cannot support a complete prohibition of STVRs in the Coastal Zone because they view STVRs as a way to increase the range of potential visitor-serving accommodations. The City will ask the Coastal Commission to take into consideration that within Hermosa Beach’s relatively small 1.3 square mile area there already exists within walking distance of the beach a good inventory of low- and moderate-cost visitor serving overnight accommodations (such as the Sea Sprite and Surf City Hostel), as well as accommodations in close vicinity to the Coastal Zone. The City can also propose implementation measures within the LCP that provide strong protection of existing low- and moderate-cost accommodations, and require developers to replace/mitigate loss of any such accommodations. Also, pursuant to Planning Commission direction, the City will investigate the feasibility of allowing STVRs within the existing stock of nonconforming residential uses located in commercial zones as a means of increasing the stock of low- and moderate-cost accommodations without negatively impacting residents. Staff estimates there are approximately 47 such properties containing approximately 75 units.

Fiscal Implications:

The Fiscal Year 2016-17 budget proposal includes the addition of two full-time Code Enforcement Officers assigned to STVR enforcement at an estimated annual cost of \$156,500. The proposed budget also includes \$36,000 to outsource additional enforcement support, including tasks such as providing monthly reports of Hermosa Beach addresses that are advertising STVRs on AirBnB, VRBO and the like, as addresses are typically not provided on these internet listings.

Some cities have opted to allow STVRs, require registration and compliance with conditions that mitigate their impacts, and tax them through their transient occupancy tax (TOT) ordinances. While we have received estimates of potential TOT annual revenue as high as \$900,000, revenue generated would depend on the policy adopted and the occupancy rate of such rentals. Because this is a use that can easily go undetected, to capture the maximum amount of revenue would rely heavily on additional City code enforcement efforts. STVRs were identified by the community dialogue finance group in 2013 as a way to increase revenue to the City.

Attachments:

1. Proposed ordinance
2. Planning Commission Resolution
3. Decision-Making Tool
4. Map of Coastal Zone
5. List of existing Hermosa Beach hotel/hostel overnight accommodations

6. Map of existing nonconforming residential uses in commercial zoning districts
7. Additional public comment received subsequent to Planning Commission 4-19-16 hearing

Respectfully Submitted by: Kim Chafin, Senior Planner
Concur: Ken Robertson, Community Development Director
Noted for Fiscal Impact: Viki Copeland, Finance Director
Legal Review: Mike Jenkins, City Attorney
Approved: Tom Bakaly, City Manager