



COUNTY OF SANTA CRUZ

PLANNING DEPARTMENT

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April 6, 2011

Agenda Date: April 13, 2011

Planning Commission
701 Ocean Street
Santa Cruz CA 95060

SUBJECT: Referral from the Board of Supervisors to the Planning Commission for report and recommendation on revisions that the Board of Supervisors intends to make to the version of the proposed vacation rental ordinance (amendments to County Code Chapter 13.10) that was recommended by the Planning Commission to the Board of Supervisors on February 23, 2011

Commissioners:

On April 5, 2011 the Board of Supervisors held a public hearing regarding your Commission's recommendation on a vacation rental ordinance. A majority of the Board indicated its intent to adopt a vacation rental ordinance, with several modifications. Under State law and County Code Section 13.03.90(b), in such a situation those modifications must be referred to the Planning Commission for report and recommendation back to the Board. The Board voted 4 to 1 to refer the proposed modifications back to the Planning Commission. The Planning Commission is not required to hold a formal public hearing, but it was requested that the Commission place the matter on this April 13th agenda for review and recommendation. Failure to report back to the Board within 40 days shall constitute approval by the Planning Commission of the modifications.

Modified Ordinance Supported by Majority of Board at April 5th Public Hearing

Supervisor Caput provided comments at the April 5th hearing which indicate that he does not support adoption of a vacation rental ordinance. Supervisor Stone provided comments which indicate that he could support an ordinance within the coastal areas which are experiencing issues, but does not believe regulations beyond those that function more as a registration system are needed for vacation rentals which may exist or be established within more rural areas. Supervisors Leopold, Coonerty and Pirie indicated general support for the provisions of the vacation rental ordinance that the Planning Commission had forwarded with a recommendation for adoption, although with certain modifications.

A modified ordinance which reflects staff's understanding of the majority Board perspective as of the April 5th hearing is attached to this report as Attachment A. Each of the modifications is discussed below, including staff comments or recommendations as relevant.

Also, later in this report the differing opinions or perspectives of the Board members in the minority are discussed, with alternative approaches outlined that would be responsive to these perspectives, for consideration by the Planning Commission.

1. Allow vacation rentals in all zone districts that allow residential uses

Supervisor Leopold's June 2010 letter called for a vacation rental ordinance in residential neighborhoods in the Live Oak area. However, in endorsing the concept of a vacation rental ordinance, the Board at that time voted to expand the area covered by such an ordinance to all of the unincorporated area. Staff understood this to mean all residential zone districts in the unincorporated area. However, the Board has now clarified that the intent was to have the vacation rental regulations apply to all districts that allow residential uses. The draft vacation rental ordinance allows residential properties with from one to three units to have vacation rentals. The following "non-residential" zone districts allow residential uses:

Agriculture

- i. CA (Commercial Agriculture)
- ii. A (Non-commercial Agriculture)
- iii. A-P (Agricultural Preserve)

Commercial

- i. C-1 (Neighborhood Commercial)
- ii. C-2 (Community Commercial)*
- iii. PA (Professional and Administrative Office)

PR (Parks, Recreation and Open Space)

SU (Special Use)

TP (Timber Production)

Residential use is allowed as a "stand-alone" use in all of the above-listed zone districts excepting the three commercial zonings. A stand-alone residential use is one where there is no requirement to have any other use within the development or site. In the commercial zone districts, by contrast, residential uses are allowed only as part of a mixed commercial-residential use, of up to one-half of the floor area of the entire development or up to two-thirds of the floor area if the residential portion is 100 percent affordable housing.

Because residential uses are not allowed as stand-alone uses in the commercial zone districts, but must be part of a mixed commercial-residential project, staff is recommending that the Commission recommend that the Board not allow new vacation rentals in the commercial zone districts. Staff is working on a proposal to update the commercial use charts as a separate work plan item, and the possibility of allowing new vacation rentals within commercial districts can be discussed as part of that effort in the future. However, it should be noted that existing vacation rentals within commercial districts will qualify to be grandfathered in after adoption of the current vacation rental ordinance, as they would be considered legal nonconforming uses.

The SU zone district is unique in that a parcel zoned SU can have any use, depending on the underlying General Plan land use designation. With a residential land use designation, residential uses are allowed and the SU zoning can therefore be considered, functionally, a residential zoning. With a commercial land use designation, commercial uses are allowed and the SU zoning would be considered a commercial zoning. For the same reason that vacation rentals should not be allowed

in a parcel with a C-1, C-2, or PA commercial zoning, we are recommending that your Commission recommend that the Board not allow vacation rentals on SU zoned parcels with a commercial land use designation or another land use designation that would make the SU zoning functionally a zoning that does not allow stand-alone residential use. The land use designations that do not allow stand-alone residential uses are:

- Neighborhood Commercial
- Community Commercial
- Visitor Accommodations
- Service Commercial/Light Industry
- Professional and Administrative Offices
- Public/Institutional Facilities
- Heavy Industry
- Quarry

2. *Make renewal criteria more clear*

County Code Section 18.18.133, which governs renewals of permits generally, is not instructive or directive regarding renewal of a vacation rental permit as contemplated in the proposed vacation rental ordinance, because renewal as used in that section means extending the time limit for exercising a permit, not for renewing a permit that has already been exercised.

Renewal of vacation rental permits would be required in the Live Oak Designated Area (LODA) only. The proposed ordinance currently requires a completed application, processing fee, and proof of payment of Transient Occupancy Tax. Although implied by the ordinance, there is no specific language that states that staff would review County records for any complaints, citations, or other violation-related information. However, as these permits are use/development permits, findings are required per County Code Section 18.10.230(a). The five required findings are as follows:

1. That the proposed location of the project and the conditions under which it would be operated or maintained will not be detrimental to the health, safety, or welfare of persons residing or working in the neighborhood or the general public, and will not result in inefficient or wasteful use of energy, and will not be materially injurious to properties or improvements in the vicinity.
2. That the proposed location of the project and the conditions under which it would be operated or maintained will be consistent with all pertinent County ordinances and the purpose of the zone district in which the site is located.
3. That the proposed use is consistent with all elements of the County General Plan and with any Specific Plan which has been adopted for the area.
4. That the proposed use will not overload utilities, and will not generate more than the acceptable level of traffic on the streets in the vicinity.
5. That the proposed project will complement and harmonize with the existing and proposed land uses in the vicinity and will be compatible with the physical design aspects, land use intensities, and dwelling unit densities of the neighborhood.

Staff is recommending that your Commission recommend addition of language to the renewal section of the vacation rental ordinance that specifically states that the renewal process entails a staff review of County records and other information specific to complaints and that the information be referenced in the required findings. Non-renewal of a vacation rental permit should be based on persuasive evidence that renewing the vacation rental would be detrimental to public health and safety, and/or that the required findings are not able to be made.

3. *The ordinance should require that signs be visible from the nearest road, and/or that instead of signs there be an on-line registry containing the information that the ordinance requires:*

There appears to be majority support for on-site signage, but concern that if sign sizes have a prescribed size or must be legible from nearest street, then sizes may get too large and not in character with the neighborhood. In rural areas in particular, signs legible from street might have to be very large, which is not desirable.

An on-line registry could serve as a convenient place for obtaining contact information and be an easily-updated site for new contact and other information. However, staff does not believe that it negates the need for signs. Your Commission discussed the issue of signs, including their locations and sizes and settled on requiring that there be a maximum sign size (216 square inches), but no minimum, so long as the sign was legible. In some instances, this could require that an interested party trespass in order to read the sign, if it is very small and/or located a distance from the street that it is rendered illegible from the street. Conversely, if a sign is required to be legible from the nearest street and if it were located well back from the street, it might have to be very large. Originally staff recommended to your Commission that the required sign be located either on the house or, if the house were more than 20 feet back from the street, that the sign be located on a fence or post or some other fixture closer to the street and that the sign be legible in any case. Now, staff is recommending that your Commission recommend to the Board that the required signs be located no more than 20 feet back from the nearest street and that the identification as a vacation rental and the contact person phone number be legible from that street.

4. *Modify the violation section, Section (k), as follows:*

- a. Delete and add the following at the beginning of the last sentence: "Documented, Evidence of significant violations includes...."

As this adds clarity to the section, staff is recommending that your Commission endorse this proposed modification.

- b. Add to the end of the last sentence: "or other documents which substantiate allegations of significant violations."

This proposed addition also adds clarity and staff is recommending that your Commission endorse this proposed modification.

5. Clarify that, while a vacation rental permit runs with land in perpetuity outside the LODA, a permit can be revoked, and specify the revocation criteria.

Permit revocation procedures are described in County Code Section 18.10.136, as follows:

- (a) **Permits Which May Be Revoked.** Any permit heretofore or hereafter granted may be revoked or amended in lieu of revocation by the Planning Commission or Board of Supervisors, as provided herein, upon a finding that any term or condition of the permit has not been, or is not being complied with or that the permit has been issued or exercised in violation of any statute, law or regulation, or in a manner which creates a nuisance, or is otherwise detrimental to the public health and safety. Such revocation may be initiated by a Resolution of Intention adopted by either the Board of Supervisors or by the Planning Commission. Such Resolution of Intention shall provide notice to the permittee of the noncompliance, violation or nuisance and reasonable opportunity consistent within the public health and safety for permittee to correct same to the satisfaction of the County. Such reasonable opportunity for correction may be provided by scheduling the actual hearing on revocation for a date which will allow time for such correction.
- (b) **Hearing Procedures.** If a Resolution of Intention is adopted, to initiate the revocation of any planning approval, the Planning Commission or Board of Supervisors shall set the matter for a hearing, giving notice of the time, place and level of the hearing as prescribed in Section 18.10.223. A copy of the Resolution of Intention shall be sent to the current owner of record. Upon the conclusion of the hearing, the Planning Commission or the Board of Supervisors may, upon making the appropriate findings, either revoke the permit or amend the permit in lieu of revocation.
- (c) **Appeal Procedures.** Any decision of the Planning Commission to revoke a permit or amend a permit in lieu of revocation shall be subject to the appeal and special consideration provisions set forth in Sections 18.10.310 through 18.10.360, inclusive, of this Code. Any decision by the Board of Supervisors to revoke a permit or amend a permit in lieu of revocation shall be final, except for revocation or amendment of permits for projects cited in Santa Cruz County Code Section 13.20.122(a)(4) (Major public works projects and major energy facilities) which may be appealed to the Coastal Commission according to the provisions of Section 13.20.122.
- (d) **New Application After Revocation.** Following the revocation of a permit, no application for a permit for the same or substantially the same use on the same parcel shall be filed within one year after the date of revocation, without the prior consent of the Board of Supervisors

Staff recommends that your Commission recommend to the Board that the revocation section of the vacation rental ordinance specifically refer to County Code Section 18.10.136, but not add any other language about the revocation criteria.

6. Site and floor plans should be required in the Live Oak Designated Area only, and the ordinance should indicate that such plans do not need to be of professional quality

There was some discussion at the Board hearing about the cost of drafting site and floor plans generally and whether they should be required in the Live Oak Designated Area (LODA) only. A

site plan is needed to know how many parking spaces exist and a floor plan is needed to know how many bedrooms exist. Both of these are necessary regardless of the location of the vacation rental. Staff had not contemplated requiring that these plans be prepared by a professional such as an architect, building designer or surveyor, but rather of the type that could be drawn by the homeowner using an assessor's parcel map or graph paper, so long as they were to scale. However, the only scaled information that would actually be needed is that for parking spaces. Staff is recommending that your Commission recommend to the Board delete the requirement for scaled floor plans, and modify the site plan requirement to require that only the parking spaces need to be shown to scale.

7. *Outside of Live Oak, there should not be a limit on the number of people or a minimum parking requirement.*

Staff does not believe that there is a rational basis for this modification, unless the ordinance as a whole was fundamentally changed so that many of the requirements do not apply outside of the LODA. While that is an option, the Board's original direction was for the ordinance to apply throughout the unincorporated area. Staff is recommending that your Commission recommend that the Board not adopt this proposed modification, which would also be consistent with the April 5th majority perspective.

8. *Outside of Live Oak, permits should function only as a registration system*

See the comment and recommendation for number 7, above.

9. *Change the cutoff date for distinguishing between an existing vacation rental and a new vacation rental from June 22, 2010 to April 5, 2011. Also, clarify the standard for level of activity that qualifies as proof of an existing vacation rental.*

Staff, in consultation with County Counsel, agrees with this proposed modification and is recommending your Commission endorse this proposed modification for the following reasons. Setting the cutoff date for existing vacation rentals at June 22, 2010, is not equitable because that was the very first time the proposed regulations were discussed at a public meeting and likely many interested parties were not aware of the proposal and could not provide input. Between then and now there have been three public workshops and three public hearings, providing ample notice and opportunities for comment to all interested parties. Additionally, adopting the June 22, 2010 date could unjustifiably penalize home owners who were in the process of establishing a vacation rental and could not reasonably have been expected to have any knowledge of that date as a cut-off date. For these reasons it is reasonable to set the cutoff date as of the date the Board held its first legally advertised public hearing and discussed the content of a vacation rental ordinance the Board intends to adopt, rather than the date of initiation of the process to develop an ordinance.

It is also recommended that the ordinance clarify that proof of use as a vacation rental would need to meet the same standard that is recommended to be used for vacation rental renewals in the LODA: that there has been significant rental use of the unit for two of the previous five years.

Alternative Approaches Responsive to Minority Board Perspectives Expressed on April 5th

As discussed on page one of this report, it appears that Supervisor Caputo does not support adoption of a vacation rental ordinance. An approach that would be responsive to this perspective

is to not adopt a vacation rental ordinance and to instead rely on existing provisions of the County Code such as the noise ordinance.

There could be several options for structuring an alternative vacation rental approach that could be responsive to concerns expressed by Supervisor Stone. One option that would seem to be closest to meeting his perspective could be as follows:

1. Adopt a more simple permit for vacation rental properties located outside of the Urban Service Line areas, which does not impose a requirement for plan submittal, does not require submittal of a compliant form of rental agreement, does not impose parking restrictions, and does not impose limits on the number of people staying overnight or attending gatherings at the vacation rental; and
2. Adopt the system of regulation of vacation rentals that is recommended by the Board majority and staff for the remainder of the County, including the caps that would apply in the LODA area only.
3. Another variant that may reflect Supervisor Stone's perspective is similar to 1 and 2 above, but would use the coastal zone rather than the urban services line as the defining line for greater and lesser regulation.

CEQA Analysis of Modifications to the Proposed Ordinance

Of the nine modifications to the proposed ordinance that the Board has referred to your Commission, none creates a significant environmental impact or increases an environmental impact that has previously been identified.

The Initial Study originally analyzed an ordinance that would apply only to residential zone districts. If vacation rentals are also allowed in the other districts that allow stand alone residences (CA, A, A-P, PR, TP, and SU where there General Plan designation is residential), as envisioned by modification number 1, the result of the ordinance is still a lessening of potential environmental impacts relative to the current situation. The current situation, which is the baseline for the analysis, is that vacation rentals are allowed anywhere in the unincorporated area and there are no regulations controlling the use. In addition, the great majority of existing vacation rentals is close to the coast, in residential zone districts inside the urban areas. There is no indication that there will be a large number of vacation rentals developed in the CA, A, A-P, PR, TP and SU zone districts, as parcels in those zones are mostly rural and away from the coast. In addition, there is no conflict created with agriculture or timber harvesting because the vacation rental ordinance does not allow any development that is not already allowed by the General Plan and zoning ordinance. The same is true for properties zoned PR; the vacation rental ordinance does not allow any development that is not already allowed by the General Plan and zoning ordinance.

Modifications 2, 4, 5, and 6 would add or revise language about permit renewal, revocation, handling of violations, and required plans. These changes clarify the permit process and do not have environmental impact.

The Initial Study analyzed signs that would be posted on the structure or in a window, visible from the street, and a maximum size of 216 inches. Modification 3 would add the requirement that the signs to be posted within twenty feet of the street. Because the maximum size of 216 inches is not

proposed to be changed, and in addition because most structures are within twenty feet of the street at the front setback line, the change created by this modification is negligible.

Modifications 7 and 8 would lessen regulation of vacation rentals outside of the Live Oak Designated Area relative to what was analyzed in the Initial Study. Specifically, the number of renters, number of parking spaces, and signage would not be regulated. Given the current baseline, which is that there are no regulations in place, and the fact that registration through a permit system, even without additional regulations, will facilitate enforcement of existing codes that lessen environmental impacts, there is no environmental impact associated with these modifications.

Lastly, modification 9 may increase the number of vacation rentals in the LODA that would be considered existing under the ordinance by moving the threshold date forward from June 22, 2010 to April 5, 2011. These vacation rentals currently exist with no regulation, and therefore there is no environmental impact associated with allowing a greater number of them to qualify for the "grand father" provisions of the code.

Recommendation

Therefore, it is RECOMMENDED that your Commission take the following actions:

- 1. Consider the ordinance modifications proposed by a majority of the Board of Supervisors, staff's recommendations on those proposed modifications, and other approaches that would be responsive to perspectives of the minority positions of the Board; and**
- 2. Provide a recommendation of support for either the ordinance that reflects the April 5th Board majority position (Exhibit 1); or the ordinance that also incorporates some minority Board perspectives (Exhibit 2). Also, provide a recommendation for whether Exhibit 2 should extend certain requirements within only the coastal zone, or to areas within the urban services line.**

Sincerely,



Kathleen M. Previsich
Planning Director

- Exhibits:
1. Ordinance Reflecting Majority Board Perspective as of April 5, 2011
 2. Ordinance Reflecting Minority Board Perspective as of April 5, 2011

ORDINANCE NO. _____

**ORDINANCE ADDING VACATION RENTALS AS A USE TO SECTION 13.10.322(b),
ADDING NEW SECTION 13.10.694, AND ADDING A DEFINITION TO SECTION
13.10.700-V OF THE SANTA CRUZ COUNTY CODE RELATING TO THE REGULATION
OF VACATION RENTALS**

The Board of Supervisors of the County of Santa Cruz ordains as follows:

SECTION I

Section (b) of Section 13.10.312 of the Santa Cruz County Code is hereby amended to add the use "Vacation rental" to the agricultural uses chart after the use "Stands for the display and sale of agricultural commodities produced on site**", to read as follows:

<u>USE</u>	<u>CA</u>	<u>A</u>	<u>A-P</u>
Vacation rentals (subject to Section 13.10.694)	<u>2P</u>	<u>2P</u>	<u>2P</u>

SECTION II

Section (b) of Section 13.10.322 of the Santa Cruz County Code is hereby amended to add the use "Vacation rental" to the Visitor accommodations category of the residential use chart after the use "Bed and breakfast inns (subject to Section 13.10.691)", to read as follows:

<u>USE</u>	<u>RA</u>	<u>RR</u>	<u>R-1</u>	<u>RB</u>	<u>RM</u>
Vacation rentals (subject to Section 13.10.694)	<u>2P</u>	<u>2P</u>	<u>2P</u>	<u>2P</u>	<u>2P</u>

SECTION III

Section (b) of Section 13.10.352 of the Santa Cruz County Code is hereby amended to add the use "Vacation rental" to the Visitor accommodations category of the PR uses chart after the use "Type B, pursuant to Section 13.10.353(b), such as group quarters, tent camping, recreational vehicle camping", to read as follows:

<u>USE</u>	<u>PR</u>
Vacation rentals (subject to Section 13.10.694)	<u>2P</u>

SECTION V

Section (b) of Section 13.10.372(b) of the Santa Cruz County Code is hereby amended to add the use "Vacation rental" to the Visitor accommodations category of the TP uses chart after

the use "Small-scale, in the Coastal Zone, upon conversion of an existing structure (subject to Chapter 13.20 and VA District regulations Section 13.10.330 et seq.", to read as follows:

<u>USE</u>	<u>TP</u>
Vacation rentals (subject to Section 13.10.694)	<u>2P</u>

SECTION VI

The Santa Cruz County Code is hereby amended by adding paragraph 4 to Subsection (a) of Section 13.10.382, "Uses in the Special Use 'SU' District", to read as follows:

4. Vacation rentals are allowed in the Special Use "SU" District where the underlying General Plan land use designation allows residential uses with no requirement to have any other use. The applicable General Plan land use designations that allow residential uses with no requirement to have any other use are the Agricultural (AG) land use designation, the Existing Park, Recreation and Open Space (O-R) land use designation, the Urban Open Space Lands (O-U) land use designation, and all residential land use designations (R-M, R-R, R-S, R-UVL, R-UL, R-UM, and R-UH).

SECTION VII

The Santa Cruz County Code is hereby amended by adding Section 13.10.694 to read as follows:

13.10.694 Vacation Rentals.

(a) The purpose of this section is to establish regulations applicable to dwellings on ~~residentially zoned parcels~~ that are rented as vacation rentals for periods of not more than thirty days at a time. These regulations are in addition to all other provisions of this Title. This section does not apply to Pajaro Dunes where vacation rentals are governed by an existing development permit.

(b) ~~Vacation rentals are allowed only in residential zone districts in all zone districts that allow residential use with no requirement for any other use, except that any vacation rental meeting the requirements of (c)1 and (d)1, below, may be permitted in any zone district.~~

(c) For the purposes of this section, the following terms have the stated meanings.

(1) Existing vacation rental means a dwelling unit that was used as a vacation rental prior to ~~June 22, 2010~~ April 5, 2011.

(2) New vacation rental means a dwelling unit that was not used as a vacation rental prior to ~~June 22, 2010~~ April 5, 2011.

(3) The "Live Oak Designated Area" means the Yacht Harbor Special Community (as described in the General Plan – Local Coastal Program and depicted on the General Plan – Local Coastal Program map) and that portion of Live Oak that lies east and south of East Cliff Drive and Portola Drive from the intersection of 9th

Avenue and East Cliff Drive to the intersection of Portola Drive and 41st Avenue, as depicted in Figure LODA, attached hereto.

(4) "Block" means the properties abutting both sides of a street extending from one intersecting street to another or to the terminus of the street.

(d) Permit requirements. A vacation rental permit and Transient Occupancy Tax registration are required for each residential vacation rental. Each vacation rental permit shall run with the land in perpetuity although a permit is subject to revocation as provided for in County Code Section 18.10.136, except that each vacation rental permit issued for a vacation rental located in the Live Oak Designated Area shall expire five years from the date of issuance of the original permit unless an application for renewal has been submitted and is deemed complete prior to the expiration date, which will stay the expiration of the permit until final action on the renewal application. No application for renewal of a vacation rental permit shall be accepted more than 180 days before the expiration date. The Planning Director may approve extensions of permit expiration dates or application submittal dates based on demonstrated hardship to the applicant or for other good cause.

(1) Existing vacation rental. An initial permit shall be obtained. ~~The applicant shall demonstrate that a dwelling unit was being used as a vacation rental prior to June 22, 2010.~~ No public hearing shall be required and no notice of an application for a permit for an existing vacation rental shall be given. For an existing vacation rental to be considered a legal use the applicant shall provide the following to the Planning Department within 90 days after the certification of this ordinance by the California Coastal Commission:

(A) Completed application form

(B) Plans, which do not need to be drawn by a professional, ~~drawn to scale including showing~~ the following:

(i). Plot plan showing location of all property lines, location of all existing buildings, and location of dimensioned on-site parking spaces with the parking spaces drawn to scale

(ii). Floor plan showing all rooms with each room labeled as to room type

(C) Non-refundable application fee as established by the Board of Supervisors, but no greater than necessary to defray the cost incurred by the County in administering the provisions of this Chapter

(D) Copy of a rental/lease agreement, which shall include, but not necessarily be limited to, the following: number of guests allowed (2/bedroom + 2, children under 12 not counted; for celebrations and gatherings between 8:00 a.m. and 10:00 p.m., the maximum number of people allowed is twice the maximum number of guests allowed); number of vehicles allowed (not to exceed the number of existing on-site parking spaces, plus two additional on-street); noise, illegal behavior and disturbances, trash management (e.g., trash to be kept in covered containers only).

(E) Proof that a dwelling unit was being used as a vacation rental prior to ~~June 22, 2010~~ April 5, 2011. Such proof may consist of, among other things, the following items:

(i) Documentation that the owner paid County of Santa Cruz Transient Occupancy Tax for the use of the vacation rental; or

(ii) Documentation that there has been vacation rental use of the unit. This could include the following: the owner allowed transient guests to occupy the subject property in exchange for compensation and the applicant furnishes reliable information, including but not limited to, records of occupancy and tax documents, guest reservation lists, and receipts, showing payment and dates of stay.

(F) Retroactive payment of Transient Occupancy Tax. For those applicants who provide adequate documentation that a dwelling unit was used as a vacation rental prior to ~~June 22, 2010~~ April 5, 2011, but where the owner has not registered and paid Transient Occupancy Tax, proof of retroactive payment of the Transient Occupancy Tax amount due to the County to the extent allowed by law for the time during which a dwelling unit was being used as a vacation rental shall be submitted.

(G) Number of people allowed. The maximum number of guests allowed in an existing individual residential vacation rental shall not exceed two people per bedroom plus two additional people, except for celebrations and gatherings between 8:00 a.m. and 10:00 p.m., when the maximum number of people allowed is twice the maximum number of guests allowed. Children under 12 are not counted toward the maximums.

(2) New vacation rental. Except as provided in County Code Section 18.10.124(b), no public hearing shall be required and action on these applications shall be by the Planning Director or designee, with notice of the proposed action provided not less than 10 calendar days before issuance of the permit, pursuant to County Code Section 18.10.222(c) and (d). Appeals of the proposed action on the application may be made by the applicant or any member of the public. Pursuant to County Code Section 18.10.124(b), the Planning Director may refer the application to the Zoning Administrator or Planning Commission for a public hearing.

(A) When a public hearing is required, notice of such a public hearing shall be provided not less than 10 calendar days before the public hearing, pursuant to County Code Section 18.10.223.

(B) In the Live Oak Designated Area, no new vacation rental shall be approved if parcels with existing vacation rentals on the same block total 20 percent or more of the total ~~residential~~ parcels on that block that allow residential use, excluding those parcels in the Mobile Home Park Combining Zone District. In addition, no more than 15 percent of all of the ~~residential~~ parcels that allow residential use in the Live Oak Designated Area, excluding those parcels in the Mobile Home Park Combining Zone District, may contain vacation rentals. Notwithstanding these maximums, each block in the Live Oak

Designated Area that has ~~residential~~ parcels that allow residential use, excluding those parcels in the Mobile Home Park Combining Zone District, may have at least one vacation rental.

(C) Applicants for a permit for a new vacation rental shall provide the following to the Planning Department:

(i) Completed application form.

(ii) Non-refundable application fee as established by the Board of Supervisors, but no greater than necessary to defray the cost incurred by the County in administering the provisions of this Chapter, except that if the application requires a public hearing due to referral of the application to the Zoning Administrator or Planning Commission, then the application will be converted to an "at cost" application and the applicant will be billed for staff time associated with processing the application.

(iii) Plans, which do not need to be drawn by a professional, drawn to scale including showing the following::

I. Plot plan showing location of all property lines, location of all existing buildings, and location ~~and dimensions of dimensioned~~ on-site parking spaces, with the parking spaces drawn to scale.

II. Floor plan showing all rooms with each room labeled as to room type

(iv) Copy of a rental/lease agreement, which shall include, but not necessarily be limited to, the following: number of guests allowed (2/bedroom + 2, children under 12 not counted; for celebrations and gatherings between 8:00 a.m. and 10:00 p.m., the maximum number of people allowed is twice the maximum number of guests allowed); number of vehicles allowed (not to exceed the number of existing on-site parking spaces, plus two additional on-street); noise, illegal behavior and disturbances, trash management (e.g., trash to be kept in covered containers only).

(v) Copy of a County of Santa Cruz Transient Occupancy Registration Certificate for the purpose of the operation of a vacation rental.

(D) Number of people allowed. The maximum number of guests allowed in a new residential vacation rental shall not exceed two people per bedroom plus two additional people, except for celebrations and gatherings between 8:00 a.m. and 10:00 p.m., when the maximum number of people allowed is twice the maximum number of guests allowed. Children under 12 are not counted toward the maximums.

(3) Renewal of vacation rental permits in the Live Oak Designated Area. In the Live Oak Designated Area only, vacation rental permits must be renewed every five years. An application to renew a permit for a vacation rental in the Live Oak Designated Area shall be made no sooner than 180 days before expiration of the

existing permit. Determination that the application is complete shall stay the expiration of the existing permit until final action is taken on the renewal application. Except as provided in County Code Section 18.10.124(b), no public hearing shall be required and action on permit renewal applications shall be by the Planning Director or designee, with notice of the proposed action provided not less than 10 calendar days before issuance or denial of the permit, pursuant to County Code Section 18.10.222(c) and (d). Appeals of the proposed action on the renewal application may be made by the applicant or any member of the public.

(A) If a public hearing is required, the Planning Director shall schedule the public hearing before either the Zoning Administrator or the Planning Commission, at the Planning Director's discretion. Notice of such a public hearing shall be provided not less than 10 calendar days before the public hearing, pursuant to County Code Section 18.10.223.

(B) Applicants for renewal of a permit for a vacation rental in the Live Oak Designated Area shall provide the following to the Planning Department:

(i) Completed application form

(ii) Non-refundable application fee as established by the Board of Supervisors, but no greater than necessary to defray the cost incurred by the County in administering the provisions of this Chapter, except that if the application requires a public hearing due to referral of the application to the Zoning Administrator or Planning Commission, then the application will be converted to an "at cost" application and the applicant will be billed for staff time associated with processing the application.

(iii) Proof of payment of Transient Occupancy Tax for the use of the dwelling as a vacation rental and a summary of the dates the unit was used as a vacation rental between the time of issuance of the existing permit and the date of application for the renewal. Renewal applications must show significant rental use of the unit for two of the previous five years.

(C) The renewal process shall include a staff review of County records and other pertinent information specific to complaints, if any, that have been received about the particular vacation rental. Approval of a vacation rental renewal permit shall be based on affirmative findings as set forth in County Code Section 18.10.230(a). Denial of an application for renewal shall be based on one or more of the required findings not being able to be made, as set forth in County Code Section 18.10.230(a).

(e) Local contact person. All vacation rentals shall designate a contact person within a 30-mile radius of the vacation rental. The contact person shall be available 24 hours a day to respond to tenant and neighborhood questions or concerns. A property owner who lives within a 30-mile radius of the vacation rental may designate himself or herself as the local contact person.

The name, address and telephone number(s) of the local contact person shall be submitted to the Planning Department, the local Sheriff Substation, the main county

Sheriff's Office, the local fire agency, and supplied to the property owners of all properties located within a 300 foot radius of the boundaries of the parcel on which the vacation rental is located. The name, address and telephone number(s) of the local contact person shall be permanently posted in the rental unit in a prominent location(s). Any change in the local contact person's address or telephone number shall be promptly furnished to the agencies and neighboring property owners as specified in this subsection.

(f) Signs. All vacation rentals shall have a sign identifying the structure as a permitted vacation rental and listing a 24-hour local contact responsible for responding to complaints and providing general information, which shall be placed ~~in a front or other window facing a public street or may be affixed to the exterior of the front of the structure facing a public street~~ no more than 20 feet back from the nearest street. The sign may be of any shape, but may not exceed 216 square inches. There is no minimum sign size so long as the information on the sign is legible from the nearest street.

(g) Posting of rules. Vacation rental rules shall be posted inside the vacation rental in a location readily visible to all guests. The rules shall include, but not necessarily be limited to, the following: number of guests allowed (2/bedroom + 2, children under 12 not counted; for celebrations and gatherings between 8:00 a.m. and 10:00 p.m., the maximum number of people allowed is twice the maximum number of guests allowed), number of vehicles allowed (not to exceed the number of existing on-site parking spaces, plus two additional on-street), noise, illegal behavior and disturbances, trash management (e.g., trash to be kept in covered containers only).

(h) Noise. All residential vacation rentals shall comply with the standards of Chapter 8.30 of the County Code (Noise) and a copy of that chapter shall be posted inside the vacation rental in a location readily visible to all guests. No use of equipment requiring more than standard household electrical current at 110 or 220 volts or activities that produce noise, dust, odor, or vibration detrimental to occupants of adjoining dwellings is allowed.

(i) Transient Occupancy Tax. Each residential vacation rental owner shall meet the regulations and standards set forth in Chapter 4.24 of the County Code, including any required payment of transient occupancy tax for each residential vacation rental unit.

(j) Dispute resolution. By accepting a vacation rental permit, vacation rental owners agree to engage in dispute resolution and act in good faith to resolve disputes with neighbors arising from the use of a dwelling as a vacation rental. Unless an alternative dispute resolution entity is agreed to by all parties involved, dispute resolution shall be conducted through the Conflict Resolution Center of Santa Cruz County.

(k) Violation. It is unlawful for any person to use or allow the use of property in violation of the provisions of this section. The penalties for violation of this section are set forth in Chapter 19.01 of this Title (Enforcement). If more than two documented, significant violations occur within any 12-month period a permit may be reviewed for possible amendment or revocation. Documented, Evidence of significant violations includes, but are is not limited to, copies of citations, written warnings, or other documentation filed by law enforcement; and copies of Homeowner Association

warnings, reprimands, or other Association actions, or other documents which substantiate allegations of significant violations.

(l) It is unlawful to make a false report to the Sheriff's Office regarding activities associated with vacation rentals.

SECTION VIII

Section 13.10.700-V of the Santa Cruz County Code is hereby amended by adding a definition for "Vacation rental" following the definition of "VA" to read as follows:

Vacation Rental. A single-family dwelling unit, duplex, or triplex (including condominium and townhouse units, but not including apartments or manufactured homes in a mobile home park), rented for the purpose of overnight lodging for a period of not more than thirty (30) days other than (a) ongoing month-to-month tenancy granted to the same renter for the same unit, (b) one less-than-thirty day period per year, or (c) a house exchange for which there is no payment. Habitable accessory structures, non-habitable accessory structures, second units constructed under the provisions of County Code Section 13.10.681, and legally restricted affordable housing units shall not be used as vacation rentals.

SECTION IX

This ordinance shall take effect on the 31st day after the date of Final Passage, or upon certification by the California Coastal Commission, whichever date is later.

PASSED AND ADOPTED by the Board of Supervisors of the County of Santa Cruz this _____ day of _____, 2011, by the following vote:

AYES: SUPERVISORS
NOES: SUPERVISORS
ABSENT: SUPERVISORS
ABSTAIN: SUPERVISORS

CHAIRPERSON, BOARD OF SUPERVISORS

ATTEST: _____
Clerk of the Board

APPROVED AS TO FORM:

County Counsel

Copies to: Planning
County Counsel
Coastal Commission

ORDINANCE NO. _____

**ORDINANCE ADDING VACATION RENTALS AS A USE TO SECTION 13.10.322(b),
ADDING NEW SECTION 13.10.694, AND ADDING A DEFINITION TO SECTION
13.10.700-V OF THE SANTA CRUZ COUNTY CODE RELATING TO THE REGULATION
OF VACATION RENTALS**

The Board of Supervisors of the County of Santa Cruz ordains as follows:

SECTION I

Section (b) of Section 13.10.312 of the Santa Cruz County Code is hereby amended to add the use "Vacation rental" to the agricultural uses chart after the use "Stands for the display and sale of agricultural commodities produced on site**", to read as follows:

USE	CA	A	A-P
Vacation rentals (subject to Section 13.10.694)	2P	2P	2P

SECTION II

Section (b) of Section 13.10.322 of the Santa Cruz County Code is hereby amended to add the use "Vacation rental" to the Visitor accommodations category of the residential use chart after the use "Bed and breakfast inns (subject to Section 13.10.691)", to read as follows:

USE	RA	RR	R-1	RB	RM
Vacation rentals (subject to Section 13.10.694)	2P	2P	2P	2P	2P

SECTION III

Section (b) of Section 13.10.352 of the Santa Cruz County Code is hereby amended to add the use "Vacation rental" to the Visitor accommodations category of the PR uses chart after the use "Type B, pursuant to Section 13.10.353(b), such as group quarters, tent camping, recreational vehicle camping", to read as follows:

USE	PR
Vacation rentals (subject to Section 13.10.694)	2P

SECTION V

Section (b) of Section 13.10.372(b) of the Santa Cruz County Code is hereby amended to add the use "Vacation rental" to the Visitor accommodations category of the TP uses chart after the use "Small-scale, in the Coastal Zone, upon conversion of an existing structure (subject to Chapter 13.20 and VA District regulations Section 13.10.330 et seq.", to read as follows:

USE	TP
Vacation rentals (subject to Section 13.10.694)	2P

SECTION VI

The Santa Cruz County Code is hereby amended by adding paragraph 4 to Subsection (a) of Section 13.10.382, "Uses in the Special Use 'SU' District", to read as follows:

4. Vacation rentals are allowed in the Special Use "SU" District where the underlying General Plan land use designation allows residential uses with no requirement to have any other use. The applicable General Plan land use designations that allow residential uses with no requirement to have any other use are the Agricultural (AG) land use designation, the Existing Park, Recreation and Open Space (O-R) land use designation, the Urban Open Space Lands (O-U) land use designation, and all residential land use designations (R-M, R-R, R-S, R-UVL, R-UL, R-UM, and R-UH),

SECTION VII

The Santa Cruz County Code is hereby amended by adding Section 13.10.694 to read as follows:

13.10.694 Vacation Rentals.

(a) The purpose of this section is to establish regulations applicable to dwellings that are rented as vacation rentals for periods of not more than thirty days at a time. These regulations are in addition to all other provisions of this Title. This section does not apply to Pajaro Dunes where vacation rentals are governed by an existing development permit.

(b) Vacation rentals are allowed in all zone districts that allow residential use with no requirement for any other use, except that any vacation rental meeting the requirements of (c)1 and (d)1, below, may be permitted in any zone district.

(c) For the purposes of this section, the following terms have the stated meanings.

(1) Existing vacation rental means a dwelling unit that was used as a vacation rental prior to April 5, 2011.

(2) New vacation rental means a dwelling unit that was not used as a vacation rental prior to April 5, 2011.

(3) The "Live Oak Designated Area" means the Yacht Harbor Special Community (as described in the General Plan – Local Coastal Program and depicted on the General Plan – Local Coastal Program map) and that portion of Live Oak that lies east and south of East Cliff Drive and Portola Drive from the intersection of 9th Avenue and East Cliff Drive to the intersection of Portola Drive and 41st Avenue, as depicted in Figure LODA, attached hereto.

(4) "Block" means the properties abutting both sides of a street extending from one intersecting street to another or to the terminus of the street.

(d) Permit requirements. A vacation rental permit and Transient Occupancy Tax registration are required for each residential vacation rental. Each vacation rental permit shall run with the land in perpetuity although a permit is subject to revocation as provided for in County Code Section 18.10.136, except that each vacation rental permit issued for a vacation rental located in the Live Oak Designated Area shall expire five years from the date of issuance of the original permit unless an application for renewal has been submitted and is deemed complete prior to the expiration date, which will stay the expiration of the permit until final action on the renewal application. No application for renewal of a vacation rental permit shall be accepted more than 180 days before the expiration date. The Planning Director may approve extensions of permit expiration dates or application submittal dates based on demonstrated hardship to the applicant or for other good cause.

(1) Existing vacation rental. An initial permit shall be obtained. No public hearing shall be required and no notice of an application for a permit for an existing vacation rental shall be given. For an existing vacation rental to be considered a legal use the applicant shall provide the following to the Planning Department within 90 days after the certification of this ordinance by the California Coastal Commission:

(A) Completed application form

(B) Areas located inside the [coastal zone OR urban services line]. Plans, which do not need to be drawn by a professional, showing the following:

(i). Plot plan showing location of all property lines, location of all existing buildings, and location of dimensioned on-site parking spaces with the parking spaces drawn to scale

(ii). Floor plan showing all rooms with each room labeled as to room type

(C) Non-refundable application fee as established by the Board of Supervisors, but no greater than necessary to defray the cost incurred by the County in administering the provisions of this Chapter

(D) For vacation rentals located in areas inside the [coastal zone OR urban services line] a G copy of a rental/lease agreement, which shall include, but not necessarily be limited to, the following: number of guests allowed (2/bedroom + 2, children under 12 not counted; for celebrations and gatherings between 8:00 a.m. and 10:00 p.m., the maximum number of people allowed is twice the

maximum number of guests allowed); number of vehicles allowed (not to exceed the number of existing on-site parking spaces, plus two additional on-street); noise, illegal behavior and disturbances, trash management (e.g., trash to be kept in covered containers only). Outside of the [coastal zone OR urban services line] these maximum and hours do not apply, but no activity at a vacation rental located outside of the [coastal zone OR urban services line] is allowed that would violate other County ordinances, including those regulating noise.

(E) Proof that a dwelling unit was being used as a vacation rental prior to April 5, 2011. Such proof may consist of, among other things, the following items:

- (i) Documentation that the owner paid County of Santa Cruz Transient Occupancy Tax for the use of the vacation rental; or
- (ii) Documentation that there has been vacation rental use of the unit. This could include the following: the owner allowed transient guests to occupy the subject property in exchange for compensation and the applicant furnishes reliable information, including but not limited to, records of occupancy and tax documents, guest reservation lists, and receipts, showing payment and dates of stay.

(F) Retroactive payment of Transient Occupancy Tax. For those applicants who provide adequate documentation that a dwelling unit was used as a vacation rental prior to April 5, 2011, but where the owner has not registered and paid Transient Occupancy Tax, proof of retroactive payment of the Transient Occupancy Tax amount due to the County to the extent allowed by law for the time during which a dwelling unit was being used as a vacation rental shall be submitted.

(G) Number of people allowed. The maximum number of guests allowed in an existing individual residential vacation rental inside the [coastal zone OR urban services line] shall not exceed two people per bedroom plus two additional people, except for celebrations and gatherings between 8:00 a.m. and 10:00 p.m., when the maximum number of people allowed is twice the maximum number of guests allowed. Children under 12 are not counted toward the maximums. Outside of the [coastal zone OR urban services line] these maximum and hours do not apply, but no activity at a vacation rental located outside of the [coastal zone OR urban services line] is allowed that would violate other County ordinances, including those regulating noise.

(2) New vacation rental. Except as provided in County Code Section 18.10.124(b), no public hearing shall be required and action on these applications shall be by the Planning Director or designee, with notice of the proposed action provided not less than 10 calendar days before issuance of the permit, pursuant to County Code Section 18.10.222(c) and (d). Appeals of the proposed action on the application may be made by the applicant or any member of the public. Pursuant to County Code Section 18.10.124(b), the Planning Director may refer the application to the Zoning Administrator or Planning Commission for a public hearing.

(A) When a public hearing is required, notice of such a public hearing shall be provided not less than 10 calendar days before the public hearing, pursuant to County Code Section 18.10.223.

(B) In the Live Oak Designated Area, no new vacation rental shall be approved if parcels with existing vacation rentals on the same block total 20 percent or more of the total parcels on that block that allow residential use with no requirement for any other use, excluding those parcels in the Mobile Home Park Combining Zone District. In addition, no more than 15 percent of all of the parcels that allow residential use with no requirement for any other use in the Live Oak Designated Area, excluding those parcels in the Mobile Home Park Combining Zone District, may contain vacation rentals. Notwithstanding these maximums, each block in the Live Oak Designated Area that has parcels that allow residential use with no requirement for any other use, excluding those parcels in the Mobile Home Park Combining Zone District, may have at least one vacation rental.

(C) Applicants for a permit for a new vacation rental shall provide the following to the Planning Department:

(i) Completed application form.

(ii) Non-refundable application fee as established by the Board of Supervisors, but no greater than necessary to defray the cost incurred by the County in administering the provisions of this Chapter, except that if the application requires a public hearing due to referral of the application to the Zoning Administrator or Planning Commission, then the application will be converted to an "at cost" application and the applicant will be billed for staff time associated with processing the application.

(iii) Areas located inside the [coastal zone OR urban services line]. Plans, which do not need to be drawn by a professional, showing the following::

I. Plot plan showing location of all property lines, location of all existing buildings, and location of dimensioned on-site parking spaces, with the parking spaces drawn to scale.

II. Floor plan showing all rooms with each room labeled as to room type

(iv) For vacation rentals located in areas inside the [coastal zone OR urban services line] a G copy of a rental/lease agreement, which shall include, but not necessarily be limited to, the following: number of guests allowed (2/bedroom + 2, children under 12 not counted; for celebrations and gatherings between 8:00 a.m. and 10:00 p.m., the maximum number of people allowed is twice the maximum number of guests allowed); number of vehicles allowed (not to exceed the number of existing on-site parking spaces, plus two additional on-street); noise, illegal behavior and

disturbances, trash management (e.g., trash to be kept in covered containers only). Outside of the [coastal zone OR urban services line] these maximum and hours do not apply, but no activity at a vacation rental located outside of the [coastal zone OR urban services line] is allowed that would violate other County ordinances, including those regulating noise.

(v) Copy of a County of Santa Cruz Transient Occupancy Registration Certificate for the purpose of the operation of a vacation rental.

(D) Number of people allowed. The maximum number of guests allowed in an existing individual residential vacation rental inside the [coastal zone OR urban services line] shall not exceed two people per bedroom plus two additional people, except for celebrations and gatherings between 8:00 a.m. and 10:00 p.m., when the maximum number of people allowed is twice the maximum number of guests allowed. Children under 12 are not counted toward the maximums. Outside of the [coastal zone OR urban services line] these maximum and hours do not apply, but no activity at a vacation rental located outside of the [coastal zone OR urban services line] is allowed that would violate other County ordinances, including those regulating noise.

(3) Renewal of vacation rental permits in the Live Oak Designated Area. In the Live Oak Designated Area only, vacation rental permits must be renewed every five years. An application to renew a permit for a vacation rental in the Live Oak Designated Area shall be made no sooner than 180 days before expiration of the existing permit. Determination that the application is complete shall stay the expiration of the existing permit until final action is taken on the renewal application. Except as provided in County Code Section 18.10.124(b), no public hearing shall be required and action on permit renewal applications shall be by the Planning Director or designee, with notice of the proposed action provided not less than 10 calendar days before issuance or denial of the permit, pursuant to County Code Section 18.10.222(c) and (d). Appeals of the proposed action on the renewal application may be made by the applicant or any member of the public.

(A) If a public hearing is required, the Planning Director shall schedule the public hearing before either the Zoning Administrator or the Planning Commission, at the Planning Director's discretion. Notice of such a public hearing shall be provided not less than 10 calendar days before the public hearing, pursuant to County Code Section 18.10.223.

(B) Applicants for renewal of a permit for a vacation rental in the Live Oak Designated Area shall provide the following to the Planning Department:

(i) Completed application form

(ii) Non-refundable application fee as established by the Board of Supervisors, but no greater than necessary to defray the cost incurred by the County in administering the provisions of this Chapter, except that if the application requires a public hearing due to referral of the application to the Zoning Administrator or Planning Commission, then the application

will be converted to an "at cost" application and the applicant will be billed for staff time associated with processing the application.

(iii) Proof of payment of Transient Occupancy Tax for the use of the dwelling as a vacation rental and a summary of the dates the unit was used as a vacation rental between the time of issuance of the existing permit and the date of application for the renewal. Renewal applications must show significant rental use of the unit for two of the previous five years.

(C) The renewal process shall include a staff review of County records and other pertinent information specific to complaints, if any, that have been received about the particular vacation rental. Approval of a vacation rental renewal permit shall be based on affirmative findings as set forth in County Code Section 18.10.230(a). Denial of an application for renewal shall be based on one or more of the required findings not being able to be made, as set forth in County Code Section 18.10.230(a).

(e) Local contact person. All vacation rentals shall designate a contact person within a 30-mile radius of the vacation rental. The contact person shall be available 24 hours a day to respond to tenant and neighborhood questions or concerns. A property owner who lives within a 30-mile radius of the vacation rental may designate himself or herself as the local contact person.

The name, address and telephone number(s) of the local contact person shall be submitted to the Planning Department, the local Sheriff Substation, the main county Sheriff's Office, the local fire agency, and supplied to the property owners of all properties located within a 300 foot radius of the boundaries of the parcel on which the vacation rental is located. The name, address and telephone number(s) of the local contact person shall be permanently posted in the rental unit in a prominent location(s). Any change in the local contact person's address or telephone number shall be promptly furnished to the agencies and neighboring property owners as specified in this subsection.

(f) Signs. All vacation rentals shall have a sign identifying the structure as a permitted vacation rental and listing a 24-hour local contact responsible for responding to complaints and providing general information, which shall be placed no more than 20 feet back from the nearest street. The sign may be of any shape, but may not exceed 216 square inches. There is no minimum sign size so long as the information on the sign is legible from the nearest street.

(g) Posting of rules. Vacation rental rules shall be posted inside the vacation rental in a location readily visible to all guests. The rules shall include, but not necessarily be limited to, the following: number of guests allowed (2/bedroom + 2, children under 12 not counted; for celebrations and gatherings between 8:00 a.m. and 10:00 p.m., the maximum number of people allowed is twice the maximum number of guests allowed), number of vehicles allowed (not to exceed the number of existing on-site parking spaces, plus two additional on-street), noise, illegal behavior and disturbances, trash management (e.g., trash to be kept in covered containers only). Outside of the [coastal zone OR urban services line] these maximum and hours do not apply, but no activity at

a vacation rental located outside of the [coastal zone OR urban services line] is allowed that would violate other County ordinances, including those regulating noise

(h) Noise. All residential vacation rentals shall comply with the standards of Chapter 8.30 of the County Code (Noise) and a copy of that chapter shall be posted inside the vacation rental in a location readily visible to all guests. No use of equipment requiring more than standard household electrical current at 110 or 220 volts or activities that produce noise, dust, odor, or vibration detrimental to occupants of adjoining dwellings is allowed.

(i) Transient Occupancy Tax. Each residential vacation rental owner shall meet the regulations and standards set forth in Chapter 4.24 of the County Code, including any required payment of transient occupancy tax for each residential vacation rental unit.

(j) Dispute resolution. By accepting a vacation rental permit, vacation rental owners agree to engage in dispute resolution and act in good faith to resolve disputes with neighbors arising from the use of a dwelling as a vacation rental. Unless an alternative dispute resolution entity is agreed to by all parties involved, dispute resolution shall be conducted through the Conflict Resolution Center of Santa Cruz County.

(k) Violation. It is unlawful for any person to use or allow the use of property in violation of the provisions of this section. The penalties for violation of this section are set forth in Chapter 19.01 of this Title (Enforcement). If more than two documented, significant violations occur within any 12-month period a permit may be reviewed for possible amendment or revocation. Evidence of significant violations includes, but is not limited to, copies of citations, written warnings, or other documentation filed by law enforcement; and copies of Homeowner Association warnings, reprimands, or other Association actions, or other documents which substantiate allegations of significant violations.

(l) It is unlawful to make a false report to the Sheriff's Office regarding activities associated with vacation rentals.

SECTION VIII

Section 13.10.700-V of the Santa Cruz County Code is hereby amended by adding a definition for "Vacation rental" following the definition of "VA" to read as follows:

Vacation Rental. A single-family dwelling unit, duplex, or triplex (including condominium and townhouse units, but not including apartments or manufactured homes in a mobile home park), rented for the purpose of overnight lodging for a period of not more than thirty (30) days other than (a) ongoing month-to-month tenancy granted to the same renter for the same unit, (b) one less-than-thirty day period per year, or (c) a house exchange for which there is no payment. Habitable accessory structures, non-habitable accessory structures, second units constructed under the provisions of County Code Section 13.10.681, and legally restricted affordable housing units shall not be used as vacation rentals.

SECTION IX

This ordinance shall take effect on the 31st day after the date of Final Passage, or upon certification by the California Coastal Commission, whichever date is later.

PASSED AND ADOPTED by the Board of Supervisors of the County of Santa Cruz this _____ day of _____, 2011, by the following vote:

AYES: SUPERVISORS
NOES: SUPERVISORS
ABSENT: SUPERVISORS
ABSTAIN: SUPERVISORS

CHAIRPERSON, BOARD OF SUPERVISORS

ATTEST: _____

Clerk of the Board

APPROVED AS TO FORM:

County Counsel

Copies to: Planning
County Counsel
Coastal Commission

Additions to the Staff Report for the Planning Commission

Item 8.1: Vacation Rentals

Late Correspondence

April 5, 2011

Via Facsimile and Email

Ms. Kathleen Previsich
County of Santa Cruz Planning Department
701 Ocean Street, 4th Floor
Santa Cruz, CA 95060

Dear Ms. Previsich:

As you know, Somach, Simmons & Dunn represents Good Neighbors of Santa Cruz County, an unincorporated association, and Anthony Abene, Holly Keiser, and Matthew Schwartz. On behalf of our clients, we write to include the following comments in the record of proceedings for the proposed Vacation Rental Ordinance and the urgency moratorium that staff proposed publicly for the first time on April 1, 2011.

- There has been no CEQA review for the urgency ordinance, and the ordinance cannot be supported by the exemptions claimed. A moratorium on new vacation rentals will have the housing, traffic, and other environmental impacts cited in previous comments regarding the Vacation Rental Ordinance, including our previous comment letters to you.
- There is no evidence in the record to make the findings required to support an urgency ordinance. Indeed, the evidence in the record of these proceedings directly contradicts many of the misstatements made in the recitals for the urgency ordinance.
- The staff report disingenuously ignores the first Initial Study / "Negative Declaration"¹ that the County prepared for the Vacation Rental Ordinance. The approving agencies – the Board of Supervisors and the Coastal Commission – should be fully apprised of all the CEQA documents that have been prepared for this project, so they can evaluate the inconsistencies between the first Initial Study / "Negative Declaration" and the second.
- The County's responses to our January 11 comment letter (included in the staff report dated February 3, 2011 and considered by the Planning Commission at its

¹ As you know, we do not believe the documents circulated by the County meet the legal requirements of a Negative Declaration, for the reasons we set forth previously. For ease of reference in this letter, we refer to the documents by the same name the County uses, but, in doing so, we do not concede any arguments regarding the legal adequacy of either the current so-called "Negative Declaration" or its predecessor.

February 23, 2011 meeting) took inconsistent positions regarding whether the County or the Coastal Commission was the lead agency for purposes of CEQA review of the Vacation Rental Ordinance. We requested clarification of the County's position, which the County has not provided. The County's position on how it is fulfilling its CEQA obligations is so hopelessly confused that it cannot now act on the Initial Study / "Negative Declaration" that is being presented to the Board of Supervisors. The only means of assuring CEQA compliance at this point is to begin the process again and analyze the whole of the project.

- The County impermissibly seeks to split a portion of the project, the urgency ordinance, from the Vacation Rental Ordinance, and to adopt *separate CEQA documents and findings* for each part of the project. CEQA flatly prohibits this type of piecemealing.
- As the County acknowledges, the record of these proceedings dates back to June 2010.
- There is ample evidence in the record demonstrating that the proposed limit on vacation rentals will cause direct and indirect impacts on the local housing stock, including development in areas not subject to the regulation. It is not correct to characterize these as "counsel's arguments" when there is abundant evidence consisting of facts, reasonable assumptions based on facts, and expert opinions based on facts in the record of proceedings.
- The County's current assertions regarding the number of existing vacation rentals and the "increase" in these units over time are contradicted by previous statements made by the County staff in the first Initial Study / "Negative Declaration" and elsewhere.
- The record includes inconsistent statements of the baseline conditions. Moreover, the County's responses to our January 11 comment letter incorrectly indicate that the revised baseline identified in the second Initial Study / "Negative Declaration" used the "best available" data, but the County has ignored the factual evidence relevant to baseline conditions that the commenters have submitted.
- There is ample evidence in the record, including the County's own Housing Element certified in January 2010, of existing congested traffic conditions, particularly in peak summer visitor periods. There is also ample evidence in the record to support the conclusion that restricting the availability of vacation accommodations in certain areas will not decrease the number of summer visitors, which necessarily means that visitors will stay elsewhere and drive in to Santa Cruz, causing more traffic impacts. These impacts of the ordinance have not been studied.
- There is ample evidence in the record that limiting vacation rental accommodations will result in less public access to the beach, the Marine Sanctuary, the Harbor, and state parks, particularly given the congested traffic conditions and lack of adequate parking near many of these public resources during peak summer travel months.

- The County's responses to our January 11 comment letter incorrectly characterize our complaint about the ordinance as a demand for enhancing public access to these areas. In fact, the environmental issue that the County has neglected to study is the reduced public access that will necessarily result from further restricting the accommodations available to vacationers. As the County acknowledges in its Housing element, the number of hotels and motels in the area is limited and some of them no longer offer vacation rentals because they have effectively converted to long-term residency. The ordinance proposes to restrict properties that are currently visitor-serving. Thus, the ordinance will cause a lack of adequate local accommodations, coupled with the heavily congested summer traffic, which will reduce public access to the beach, state parks, the Harbor, and the Marine Sanctuary.
- The ordinance requires a site plan and a floor plan, both drawn to scale. There is nothing in the ordinance that states that the County will accept plans that are not stamped by a professional engineer. The evidence already in the record demonstrates that the costs of having a professional engineer produce these plans could run into the thousands of dollars. The County has not considered the direct and indirect impacts that will result from this aspect of the ordinance: these high costs of compliance will very likely result in people taking their vacation rentals off the market.
- The direct and indirect impacts to housing that will result from implementation of the ordinance are neither speculative nor unsubstantiated. The record already contains ample evidence (facts, reasonable assumptions predicated on facts, and expert opinions based on facts) that the number of vacation rentals will be reduced by implementation of the proposed ordinance. The record also contains ample evidence to show that the implementation of the proposed ordinance will cause shifts in development patterns to areas outside the effect of the regulatory scheme – yet the County has utterly failed to analyze these environmental impacts.
- There is ample evidence in the record that the implementation of the Vacation Rental Ordinance will cause a loss of income to property owners. Indeed, the very imposition of the fee will cause a loss of income to property owners, so it is unclear how the County could even dispute this point.
- The County has yet to produce any nexus study to justify the imposition of any fee at all.
- The County previously made statements, on the record, that it would take 1-2 new employees to implement this regulatory scheme, but the County has not analyzed the environmental impacts associated with these new employees (and now claims, in direct contradiction to its earlier statements, that they will not be needed).
- There is ample evidence in the record that vacationers would be displaced by imposition of this ordinance. There is ample evidence that some property owners will choose not to undergo the expense and inconvenience of registering under the

Ms. Kathleen Previsich
April 5, 2011
Page 4

new regulatory scheme, and then these accommodations will be lost to visitors. It is simply false for the County to claim otherwise.

Thank you for including these additional comments in the record of proceedings, along with all the prior comments submitted on the first Initial Study / "Negative Declaration," all comments submitted on this new Initial Study / "Negative Declaration", and all drafts of the proposed Vacation Rental Ordinance and new urgency ordinance.

Sincerely,

A handwritten signature in cursive script that reads "Jennifer Buckman". The signature is written in dark ink and includes a stylized flourish at the end.

Jennifer T. Buckman, Esq.

JTB:aw

cc: Matt Johnston
Environmental Coordinator

From: PLNAgendaMail@co.santa-cruz.ca.us
Sent: Friday, April 08, 2011 9:12 AM
To: PLN AgendaMail
Subject: Agenda Comments

Meeting Type : Planning Commission

Meeting Date : 4/13/2011

Item Number : 8.10

Name : Frank Goff

Email : Not Supplied

Address : Not Supplied

Phone : Not Supplied

Comments :

I am very concerned about the provision to allow neighbor documentation as evidence for a violation. This is passing police power to a private citizen. Violations need to be better defined and recorded by a sheriff or county official.

From: PLNAgendaMail@co.santa-cruz.ca.us
Sent: Friday, April 08, 2011 10:00 AM
To: PLN AgendaMail
Subject: Agenda Comments

Meeting Type : Planning Commission

Meeting Date : 4/13/2011

Item Number : 8.10

Name : Joyce Harrington

Email : joyce@santacruzjoy.com

Address : 4355 Opal Cliff Dr.
Santa Cruz, CA 95062

Phone : 775 230-0641

Comments :

This is being pushed through the system by unknown special interest groups. It is irrational, unreasonable, unconstitutional and not the voice of the people. What is wrong with our supposed leaders?

From: PLNAgendaMail@co.santa-cruz.ca.us
Sent: Friday, April 08, 2011 4:34 PM
To: PLN AgendaMail
Subject: Agenda Comments

Meeting Type : Planning Commission

Meeting Date : 4/13/2011

Item Number : 8.10

Name : Franlin Labe

Email : Not Supplied

Address : Not Supplied

Phone : Not Supplied

Comments :

Where is the agenda for the vacation ordinance? 4:30 PM and nothing posted yet

From: PLNAgendaMail@co.santa-cruz.ca.us
Sent: Saturday, April 09, 2011 8:30 AM
To: PLN AgendaMail
Subject: Agenda Comments

Meeting Type : Planning Commission

Meeting Date : 4/13/2011

Item Number : 8.10

Name : Anthony Abene

Email : Not Supplied

Address : Not Supplied

Phone : Not Supplied

Comments :

Please provide the rationale basis for renewals in the LODA.

From: PLNAgendaMail@co.santa-cruz.ca.us
Sent: Saturday, April 09, 2011 8:40 AM
To: PLN AgendaMail
Subject: Agenda Comments

Meeting Type : Planning Commission

Meeting Date : 4/13/2011

Item Number : 8.10

Name : Anthony Abene

Email : Not Supplied

Address : Not Supplied

Phone : Not Supplied

Comments :

Section 2. Make Renewal Criteria More Clear. States that 5 finding need to be met for renewal.

Finding #1 states: "That the proposed location of the project and the conditions under which it would be operated or maintained will not be detrimental to the health, safety, or welfare of persons residing or working in the neighborhood or the general public, and will not result in inefficient or wasteful use of energy, and will not be materially injurious to properties or improvements in the vicinity"

Language from the recently passed Urgency Ordinance: This interim ordinance is necessary in that there is a current and immediate threat to the public health, safety, or welfare from the unregulated operation of vacation rentals that may begin operation prior to the consideration of regulations by the California Coastal Commission.

So has the County already determined that vacation homes pose a threat and that no renewals will be allowed?