



COUNTY OF SANTA CRUZ

PLANNING DEPARTMENT

701 OCEAN STREET, 4TH FLOOR, SANTA CRUZ, CA 95060
(831) 454-2580 FAX: (831) 454-2131 TDD: (831) 454-2123
KATHLEEN MOLLOY PREVISICH, PLANNING DIRECTOR

November 5, 2014

Agenda Date: November 12, 2014

Planning Commission
701 Ocean Street
Santa Cruz CA 95060

SUBJECT: Public hearing to consider amendments to County Code Section 13.10.694 (Vacation Rentals) to 1) expand and refine portions of the ordinance regarding adding bedrooms to or increasing the size of an existing vacation rental, local contact information, violations, and 2) apply the Live Oak Designated Area vacation rental regulations and limitations to a portion of the Seacliff/Aptos area, and 3) include other minor amendments regarding operation and definition of vacation rentals. County Code Chapter 13.10 is a coastal implementing ordinance.

Commissioners:

In September, the Board of Supervisors directed the Planning Department to bring to your Commission language amending the Vacation Rental Ordinance. Your Commission heard the item on October 8th and directed staff to engage in public outreach to solicit comments on the proposed amendments. As a result, staff mailed the information about the proposed ordinance amendments to the following:

1. Santa Cruz Association of Realtors
2. The Seacliff Improvement Association
3. The Rio del Mar Improvement Association
4. Owners of vacation rentals in the Seacliff/Aptos area where vacation rental permits are proposed to be limited to 20 percent of the parcels on each block
5. Residents and owners on Pot Belly Beach Drive, Las Olas Drive, Beach Drive, the northern-most block of Rio del Mar Boulevard above Rio del Mar Esplanade; and Via Gaviota, all of which are right on the beach and/or currently have a percentage of vacation rentals significantly in excess of 20 percent.

As of the date of this letter, the Planning Department has received email messages from 27 individuals in response to the mailings. Of that total, 25 expressed partial or total disapproval of the proposed amendments. The most frequent topics of objection are 1) the requirement for signage, especially that it be maintained even if the dwelling is not being rented, and 2) application of LODA regulations to the SADA. Regarding signage, the existing ordinance already requires signage, but is vague as when the sign must be displayed. The email messages are attached at Exhibit G.

Overview of the proposed amendments

The following is a brief description of the amendments with staff's comments in italics; the recommended ordinance language itself is found at Attachment 1 to Exhibit A.

1. Require an amendment to an existing vacation rental permit in the case of a proposal to add a bedroom or bedrooms or in the case of a proposal to demolish and rebuild a structure that would be 50 percent or more larger than that for which the existing vacation rental permit was issued.

To require an amendment to an existing vacation rental permit when one or more bedrooms are added would allow staff to review the permit for issues related to an increase in the number of bedrooms (such as parking) to ensure that the additional bedrooms would still result in a vacation rental use consistent with the Vacation Rental Ordinance. Enlarging a vacation rental would also trigger an amendment to the existing vacation rental permit so that the information about the dwelling is kept current. Staff supports these proposed amendments. Staff envisions the amended vacation rental permit either to limit the vacation rental use to that which was originally approved, if the additional bedrooms or square footage raised issues of consistency with the ordinance, or to allow for increased intensity if there were no issues. In no case would an amendment triggered by additional bedrooms or square footage, by itself, result in a reduction in the existing permitted intensity of the use or a revocation of the permit.

2. Require that a picture of the required sign, installed on the vacation rental property, and with contact information, be submitted as part of a proposed amended vacation rental permit renewal application.

Presumably, this amendment would apply only to proposed amendments to or renewals of existing vacation rental permits. The existing ordinance requires that a sign be installed, but not until an application has been approved.

3. After January 1, 2015, require that contact information be submitted to the County Auditor-Controller-Treasurer-Tax Collector and require that proof of mailing of contact information to required recipients be submitted to the Planning Department.

Historically, the Treasurer-Tax Collector's Office has collected the required transient occupancy tax (TOT) and kept records of the owner/manager of the vacation rentals. That office will be merged into the Auditor-Controller's Office on January 1, 2015. This proposed amendment would allow for cross-checking of ownership and contact information between that office and the Planning Department and would allow the Planning Department to maintain a yearly updated list of this information for public use.

The existing ordinance requires that local contact person information "shall be submitted to the Planning Department, the local Sheriff Substation, the main County Sheriff's Office, and 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 method of delivery is currently unspecified. The proposed amendment would require that the contact information be mailed to the required recipients and that proof of mailing be provided to the Planning Department. According to the US Postal Service, the cheapest way to obtain proof of mailing would be through sending each recipient the information with a certificate of mailing, which would cost a total of \$1.79 per letter (certificate of mailing = \$1.30; first class stamp = \$0.49). If the total number of recipients were 50, the total cost of the mailing would be \$89.50. Certified mail would cost \$3.79 per letter and for 50 recipients would total \$189.50. While these are not insignificant amounts by themselves, they would amount to only a very small fraction of the potential income that could be generated through renting a dwelling unit as a vacation rental with rates at least comparable to those of local motels and hotels. Therefore, this proposed requirement does not appear to be onerous and staff supports it, so long as the property owner/manager/agent is not required to use certified mail as the proof of mailing.

4. Require that vacation rental signs be maintained continuously while the property is being used as a vacation rental.

The existing ordinance does not specify the duration that the sign must be displayed, but the intent was that the sign be displayed during the periods of time that the dwelling was being rented so that neighbors would know who to contact if there were issues, which makes sense. There is no particular reason to have the sign up when the dwelling is not being rented. The existing ordinance should be amended to clarify that the sign must be up when the dwelling is being rented.

5. Expand what are considered to be significant violations of the vacation rental ordinance to include false or misleading information on an application, violations of health regulations, delinquency in payment of transient occupancy taxes, non-responsive management, failure to maintain signage as required, and verified complaints of noise or other disturbances.

This proposed amendment makes the violation section of the ordinance more specific, which is beneficial.

6. Provide that if a permit application is not renewed or is revoked based on a violation, no vacation rental permit shall be approved for that permit holder for two years after the non-renewal or revocation.

Non-renewal of a permit could be caused by any number of reasons. The permit holder may have experienced financial or other life issues that preclude renewal or an agent for the owner may have inadvertently missed the renewal deadline. Once the deadline to renew the permit has passed without the permit holder applying for renewal, the permit holder will have forfeited the permit and the permit will become available to someone else. It does not seem reasonable to further penalize a permit holder who has forfeited the current permit due to a failure to renew by not allowing them to apply for a vacation rental permit on another parcel. Application for a vacation rental permit on another parcel would be subject to all of the existing regulations, including review for the percentage of vacation rentals on that block, etc.

Regarding revocation, it does make sense to penalize the former permit holder for allowing extended or repeated significant violations of the ordinance. County Code currently provides that if a use permit (a vacation rental permit is a type of use permit) is revoked no application for the same use on the same parcel may be made for a year after the revocation. Given that the vacation rental use is typically seasonal, it is not unreasonable to provide that, in a situation where a vacation rental permit has been revoked, no application for a vacation rental use on the parcel may be made for two years after revocation. This would also allow for someone else who owns a dwelling on the same block as the parcel that had a vacation rental permit revoked to apply for a permit, thus providing for the possibility of some turnover.

7. Apply the regulations governing vacation rentals in the LODA to the portion of the Seacliff/Aptos area (the Seacliff/Aptos Designated Area, or SADA).

See the discussion below about applying the LODA regulations to the SADA.

Staff is also proposing two changes to the ordinance, based on experience of administering the ordinance over the last three years, to clarify the concept of "vacation rental" as used in County Code, and cessation of use as defined in the General Plan.

8. Add to the definition of vacation rental and to the ordinance itself that a vacation rental means the entire dwelling unit and does not include the renting of individual rooms in a dwelling unit and that the owner/operator/contact person does not live in the dwelling unit while it is rented for use as a vacation rental.

The existing Vacation Rental Ordinance states that its purpose is, among other things, "to establish regulations applicable to dwellings that are rented as vacation rentals for periods of not more than 30 days at a time" (emphasis added). The definition of vacation rental in County Code is "[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). . . ." Both of these point toward a vacation rental being the entire dwelling unit and not a room or rooms. This proposed amendment would positively state that and thereby distinguish a vacation rental from other types of transient occupancy use such as a bed and breakfast, motel/hotel, Airbnb, or other type of transient occupancy where individual rooms are rented and/or the owner also occupies part of the rental while renting part of it. The zoning ordinance allows for only three types of transient occupancy uses: 1) motels/hotels, 2) vacation rentals, and 3) bed and breakfast inns. Any occupancy that is for less than 30 days is not legal if it is not one of these. The only transient occupancy use recognized by the zoning ordinance that allows for owner occupancy while rooms are rented out is the bed and breakfast use. Airbnb and similar transient occupancy uses would therefore be allowed under the zoning ordinance only as bed and breakfast uses.

9. Clarify that vacation rental permits for units outside of the LODA do not expire unless the unit is not used as a vacation rental for three years out of any consecutive five year period, such that the unit would be considered to have ceased use as a vacation rental and would no longer be considered as a vacation rental.

Typically, development permits run with the land in perpetuity, subject to revocation if the use becomes a nuisance or there are significant violations of the permit. The General Plan has policies regarding non-conforming commercial uses that allow the use, if legal, to continue to operate so long as the use is in use for three years out of the previous five. County Code provides that if a use that is subject to a development permit ceases for one year, the permit becomes null and void. The proposed amendment seeks to strike a balance regarding the life of vacation rental permits on parcels that are located outside of the LODA by allowing lapses in the use to occur to account for financial or other life situations where it may not be possible for the owner to rent the unit for a period of up to two years out of any five years.

Application of the LODA regulations to the Seacliff/Aptos area

Background

The existing LODA regulations require that vacation rental permits be valid for five years and allows for their renewal and limits the density of vacation rentals to no more than 20% per block and 15% overall. If this same model were generally applied to portions of Seacliff/Aptos, the most logical area for this would be the portion of the Aptos Planning Area closest to the beach: south of Highway One from the Capitola city limit on the west to Bonita Drive, San Andreas Road and the Urban Services Line on the southeast, as shown on Exhibit F as the Seacliff/Aptos Designated Area (SADA).

Currently, two major streets in the Rio del Mar portion of the SADA exceed the LODA model's 20 percent per block density. These are Beach Drive (approximately 38%) and Rio del Mar Boulevard between Beach Drive and the Kingsbury Drive/Cliff Drive/Beach Villa Lane intersection (approximately

22%). Other blocks in the Rio del Mar area, such as Marina Avenue, one block inland from the Beach Drive-Rio del Mar Blvd. intersection, also exceed the LODA's 20 percent maximum. On the northwesterly block of Marina Avenue, vacation rentals occupy approximately 30 percent of the parcels. Staff has not performed an exhaustive study to determine the vacation rental percentages on each block in the SADA, but a cursory review of the maps showing vacation rental locations indicate that there are additional blocks elsewhere in the SADA that also exceed the LODA 20 percent maximum, mostly by around 5 to 10 percent.

According to Planning Department and GIS records, the breakdown of vacation rental factors in each Supervisorial district is as shown in the following table.

TABLE 1					
Vacation rental factors	Supervisorial District				
	1 st Leopold	2 nd Friend	3 rd Coonerty	4 th Caput	5 th McPherson
Applications received	204	225	42	0	7
Applications approved	204	225	42	0	7
Applications denied	0	0	0	0	0
Number of vacation rental-eligible parcels and number and percentage of those with vacation rentals	13,955 204 1.46%	17,867 225 1.26%	2542 42 1.65%	2539 0 --	21,795 7 0.032%
Number of vacation rental-eligible parcels in the Aptos planning area both south of Highway One and within the Urban Services Line and number and percentage of those with vacation rentals (the SADA)	--	6658 189 2.83%	--	--	--
Number of vacation rental-eligible parcels in the LODA and number and percentage of those with vacation rentals	1996 184 9.2%	--	294 42 14.2%	--	--
Totals for LODA irrespective of Supervisorial District	2290 226 9.86%				

"Vacation rental-eligible parcels" means those parcels in zone districts that allow residential uses without requiring any other use. The zone districts are the following:

- Agriculture: CA or A
- Residential (excluding parcels in the Mobile Home Park Combining Zone District): RA, RR, R-1, RB, or RM
- Parks and Recreation: PR
- Timber Production: TP
- Special Use: SU, with one of these underlying General Plan land use designations:
 - Agriculture (AG)
 - Existing Parks and Recreation (O-R)
 - Urban Open Space (O-U)
 - Residential (R-M, R-R, R-S, R-UVL, R-UL, R-UM, and R-UH)).