DATE: September 24, 2019

TO: Housing and Economic Development Committee

FROM: Jeffrey Lambert, Community Development Director, (805) 385-7882, jeffrey.lambert@oxnard.org

SUBJECT: Short Term Rental Ordinance – Article XI of Chapter 16 and Section 17-53 of Chapter 17. (10/15/15)

RECOMMENDATION

That the Housing and Economic Development Committee receive a report on Planning Commission recommendation on the Short Term Rentals (STRs) ordinance and provide input on the recommendations.

BACKGROUND

The City has been discussing permitting and regulations for STRs for several years as noted in the public outreach efforts below:

- March 2016, an online community survey was conducted which contained a series of questions designed to receive public input on STRs. These results were summarized and electronically distributed.
- August 16, 2016, staff conducted a community workshop to summarize the March survey results and secure feedback from the community on specific STR related regulations and questions. These results were summarized and electronically distributed.
- November 3, 2016, the Planning Commission conducted a study session to receive input on specific STR regulations.
- June 1, 2017, the Planning Commission conducted a public hearing and specifically addressed STRs, questions raised at the November 3, 2016 meeting.
- February 26, 2019, the Housing and Economic Development Committee (HEDC) met to discuss policy questions and provided the following comments: (1) consider allowing STRs only in designated geographic areas; (2) consider the California Coastal Commission’s position on STRs; and (3) staff should prepare recommendations based on best practices for the City Council.
- March 25, 2019, the City Council held a special meeting and received public input and provided direction to staff. Staff identified three areas in particular that the Council wanted staff to consider including 1) enforcement and penalties for violations of the ordinance; 2) consideration of limiting the number of STRs by districts; and 3) how to address existing STRs.
- July 9, 2019, the HEDC met to discuss the draft ordinance with a focus on proposed changes to the ordinance including the maximum number of days per year a residence could be used as a STR, the required minimum number of nights per rental, and the establishment of a cap on the number of STRs.
by neighborhood.

- August 1, 2019, the Planning Commission held a public hearing on the draft ordinance and recommended approval with modifications. The recommended modifications are discussed below.

ANALYSIS/DISCUSSION
The proposed ordinance establishes a comprehensive set of operating requirements and performance standards for STRs. STRs include both vacation rentals and homeshares; both are defined as dwellings that are rented for a period less than 30 days. However, a homeshare must be the owner’s primary residence and the owner must be present in the dwelling while it is being rented. Owners of vacation rentals need not be present when renting out the dwelling.

Short term rentals will be allowed in the following zones:

<table>
<thead>
<tr>
<th>Non-Coastal Zones</th>
<th></th>
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</thead>
<tbody>
<tr>
<td>Residential Single -family</td>
<td>R-1</td>
</tr>
<tr>
<td>Multi-family</td>
<td>R-2</td>
</tr>
<tr>
<td>Garden Apartment</td>
<td>R-3</td>
</tr>
<tr>
<td>High Rise Residential</td>
<td>R-4</td>
</tr>
<tr>
<td>Downtown Edge</td>
<td>DT-E</td>
</tr>
<tr>
<td>Downtown General</td>
<td>DT-G</td>
</tr>
<tr>
<td>Downtown Core</td>
<td>DT-C</td>
</tr>
<tr>
<td>Coastal Zones</td>
<td></td>
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<tr>
<td>Single-family Beach</td>
<td>R-B-1</td>
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<tr>
<td>Single-family Water-oriented</td>
<td>R-W-1</td>
</tr>
<tr>
<td>Townhouse Water-oriented</td>
<td>R-W-2</td>
</tr>
<tr>
<td>Coastal Multiple-family</td>
<td>R-2-C</td>
</tr>
<tr>
<td>Coastal Medium Density Multiple-family</td>
<td>R-3-C</td>
</tr>
<tr>
<td>Coastal Planned Community</td>
<td>C-P-C</td>
</tr>
<tr>
<td>Beachfront Residential</td>
<td>R-BF</td>
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At the Planning Commission hearing on August 1, 2019, the Planning Commission recommended that City Council adopt the ordinance with modifications and that staff evaluate a separation requirement of 300 or 500 feet between STRs.

The following table summarizes the Planning Commission recommendations and the staff position regarding each recommendation.

<table>
<thead>
<tr>
<th>Staff Recommendation on August 1, 2019</th>
<th>Planning Commission Recommendation</th>
<th>Staff Position</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. No separation between STRs</td>
<td>300' separation between STRs</td>
<td>Not supported</td>
</tr>
<tr>
<td>2. 5% cap per General Plan Neighborhood</td>
<td>5% cap in R-BF zone (in addition to Neighborhood)</td>
<td>Not supported</td>
</tr>
<tr>
<td></td>
<td>180-day annual cap per year</td>
<td>100-day annual cap per year</td>
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<tr>
<td>3.</td>
<td>Distance of property manager/owner (40 miles)</td>
<td>Distance of property manager/owner (25 miles)</td>
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<tr>
<td>4.</td>
<td>No outdoor amplified music during quiet hours.</td>
<td>No Outdoor amplified music</td>
</tr>
<tr>
<td>5.</td>
<td>Escalating fines</td>
<td>Prohibit STRs from using on-street parking</td>
</tr>
</tbody>
</table>

The discussion that follows provides the reasoning for the staff's position.

**Separation Analysis**

The Commissioners asked that staff analyze a separation requirement between STRs so that an overconcentration of STRs would not occur. The Planning Commission recommended that a 300 or 500 foot separation analysis be prepared.

Staff completed an analysis of a 300 feet separation requirement. Because the result of the 300 foot analysis was so restrictive, staff did not complete the 500 foot separation analysis which would result in even fewer STRs being allowed. The separation analysis was conducted by using a standard radius map technique, meaning 300 foot circle from the property lines. Based on the small size of the lots, the 300 foot analysis demonstrates that a separation requirement greatly reduces the percentage of STRs in many General Plan neighborhoods to less than 3% if the STRs were spaced exactly 300 feet apart. Since STRs are not likely to be spaced exactly 300 feet apart from each other, the percentage would drop to below 3%. Based upon the Coastal Commission’s policy determinations to date, City staff does not believe limiting STRs to less than 3% of a geographic area in the Coastal Zone would be supported by the Coastal Commission.

Staff recommends that the 5% cap per General Plan neighborhood, not a separation requirement between STRs, be advanced to City Council for consideration. This recommendation is consistent with what staff presented to the HEDC in July 2019.

**5% Cap in RB-F Zone**

Section 16-662 of the draft ordinance includes a 5% cap per General Plan neighborhood. The Planning Commission recommended that a subsection be added to Section 16-662 requiring a further limitation of 5% cap specifically to the R-BF zone. The R-BF zone consists of the properties that lie between the ocean and the first public road. The zone is made up of 93 existing single-family homes and 14 vacant lots. Of the 93 single-family homes, 16 are currently operating an STR, which is 17% of the existing units or 15% of all lots zoned R-BF. By comparison, the Oxnard Shores neighborhood, as defined in the General Plan, currently has 3.2% of the properties operating an STR. These properties, with their proximity to the beach, are the most popular properties for STRs.
At the current concentration of 17% in the R-BF zone, this is approximately one STR per every five lots. With the proposal for a 5% cap, there could be one STR per every 20 lots. Adoption of the 5% cap specifically to the R-BF zone would reduce the total number of STRs allowed in the zone to 5 STRs - which is a 69% reduction of existing STRs in the zone. Capping the number of STRs per zone would necessitate procedures to address priority or lottery permitting in the zone, amortization procedures for the existing STRs, and creation of a wait list.

As stated on many occasions, the Coastal Commission’s review and decision on the City’s proposed STR regulations is weighed against compliance with the Coastal Act. One of the major drivers in the Coastal Act is enhancing access to the coast. Staff is concerned that a 5% cap in the R-BF zone, rather than a 5% cap per General Plan neighborhood, will be seen as too restrictive and therefore be one of the factors in a denial of the Local Coastal Plan Amendment by the Coastal Commission. As such, staff does not recommend implementation of a 5% cap specific to the R-BF zone.

If the Committee does support the 5% cap in the R-BF zone, staff recommends that any applicant currently operating an STR that comes in after the 5% cap is met and who would otherwise meets the requirements to operate an STR be issued an STR permit that would expire in one year and not be eligible for renewal. This would allow those STR operators to honor existing bookings and have time to convert the STR to a long term rental or dispose of the property.

**Maximum Number of Rental Days**

Nuisance response plans and operational standards are the best practices to protect neighborhood character and address negative behaviors associated with STRs, but some cities establish a maximum rental period as an extra step to protect neighborhood character. Goleta established a 183-day limit and Pismo Beach established a 182-day limit. Staff did not recommend to the HEDC a maximum number of rental per calendar year to the HEDC on July 9th.

The HEDC discussed the issue at their July 9th meeting but did not reach consensus on whether the 180-day limit should be included. Two Committee members suggested the 180-day limit be included in the ordinance while one did not feel a limit was necessary. Although the Committee did not agree on 180-day (vs. no limit) all three Committee members agreed that the effect any proposed limit has on the STR market should be reviewed after a determined period of time. Staff recommended the limit be reviewed in 18 to 24 months to provide enough data points to analyze the effects of a 180-day limit. The Committee recommended the data be reviewed between 6-18 months.

Consistent with direction given by the HEDC on July 9th, staff drafted an ordinance with a maximum of 180 rental days per calendar year. The Planning Commission recommended that the 180 days be reduced to 100 days per year. The Planning Commission discussed the issue and, based on a recent Coastal Commission approval of a 100-day limit for Del Mar, recommended that the City’s proposed 180-day limit be reduced to a 100-day limit. Del Mar’s local ordinance had limited the maximum number of days to 28 days a year. Coastal Commission staff had recommended 180 days rather than the 28 days included in Del Mar ordinance. Eventually, the Coastal Commission agreed the 28 days wasn’t sufficient, but modified the allowed number of days per year to 100 days. Del Mar did not accept the Coastal Commission’s suggested modification and sued the Coastal Commission. The litigation between Del Mar and the Coastal Commission is currently pending at the trial court level.

Staff attended a Coastal Commission Short-Term Rental workshop on July 12, 2019. At the July 12th
workshop, the Coastal Commission stated its concern that cities with STR ordinances limiting the number of days a STR can be rented are not providing adequate visitor serving accommodations. Coastal Commission staff indicated that any Local Coastal Plan update must provide data to show that adequate visitor serving accommodations such as hotels, campgrounds, and STRs are available.

Staff recommends the ordinance stay as presented to the Planning Commission establishing a 180-day maximum rental period per year that has been approved by the Coastal Commission in the past.

**Distance of Property Manager from STR**

The Planning Commission recommended that proposed Section 16-668.1(B) be modified to require that one of the individuals listed on the nuisance response plan be within 25 miles of the property at all times. The draft ordinance established a 40 mile distance requirement. Staff had recommended 40 miles consistent with the County of Ventura ordinance. Not all cities have a provision requiring property owners/property managers to be located within a certain distance from the STR. There is not a best practice standard in terms of distance. For instance, Carpinteria is 30 miles, Santa Cruz is 20 miles, Santa Cruz County is 30 miles and Petaluma is 45 miles.

The Planning Commission felt the property owner/manager should be close enough to visit the property to resolve any complaints within thirty minutes, or within fifteen minutes during the quiet hours between 10:00 p.m. and 7:00 a.m., after the complaint is first received. It is likely that most property owners/managers will first attempt to resolve any complaint with a phone call to the tenant and would only drive to the property if they could not reach the tenant. However, in the event that the owner/manager did have to visit the property, being located within 25 miles instead of 40 miles would aid in resolving the issue in a timely manner. This change may require more STR owners to employ a local property management company in order to comply. Staff does not object to this recommended change by the Planning Commission.

**Outdoor Amplified Music**

The Planning Commission recommended that Section 16-667.4 (C) be revised so as to prohibit amplified music outside the STR at any time. The draft ordinance includes a provision that prohibits outside amplified music during quiet hours. Staff recommends that this change not be made and that it would be better to rely on the City’s noise ordinance which establishes a maximum noise level at all times with a reduced noise level during quiet hours.

**No On-Street Parking**

The Planning Commission recommended amending Section 16-668.3 and Section 16-668.4 to include in the advertisement and rental agreement the total number of off-street parking spaces and that no on-street parking is allowed.

A provision prohibiting parking on-street would be unenforceable without a parking permit program/requirement city-wide or at least by neighborhood. Therefore, staff recommends that the number of parking spaces onsite (off-street) be included in the advertisement and rental agreement along with a note that off-site parking is severely limited and strictly enforced. Property owners will need to provide unobstructed on-site (off-street) parking as required by the ordinance, which requires:

- 1 space for vacation rentals in a studio or one bedroom
• 2 spaces for vacation rentals/homeshares with 2 to 4 bedrooms
• 3 spaces for vacation rentals/homeshares with 5 bedrooms

Fines

The Commission recommended that Section 16-675 be revised to include escalating fines with each new violation to act as a deterrent. They felt a $1,000 fine was insufficient to deter violations given the daily rental amounts being paid to property owners. The current draft established the first two violations as infractions and the third violation as a misdemeanor. The City Code has maximum fines for infractions of $100/$250/$500 and for misdemeanors the maximum fine is $1,000. In order to establish higher escalating fines, the City Code would need to utilize the administrative citation process (OCC Section 7-50 et seq.). Under the existing City Code, the amount of these civil fines is set by City Council resolution (Section 7-56).

As an alternative, the Council has the option of amending Section 7-56 to indicate that for STRs, the amount of the fines is set by the STR regulations. Staff recommends that a modification Section 7-56 by adding a subsection (C) that states, “The fines for violations of regulations established by the coastal and non-coastal ordinances are regulated by said ordinances.” The STR ordinances would then be modified to establish escalating fines as follows: 1st violation $1,000.00, 2nd violation $2,000.00, and the 3rd violation $3,000.00 and revocation of the permit for a period of two years after which the property owner would have to reapply. The fine for operating an unlicensed and/or unpermitted STR is recommended at $5,000.00 per day.

STRATEGIC PRIORITIES

This agenda item supports the Quality of Life strategy. The purpose of the Quality of Life strategy is to build relationships and create opportunities within the community for safe and vibrant neighborhoods, which will showcase the promising future of Oxnard. This item supports the following goals and objectives:

Goal 1. Improve community safety and quality of life through a combination of prevention, intervention, and suppression efforts that address crime and underlying issues.

Objective 1e. Develop a rental inspection program.

Goal 3. Strengthen neighborhood development, and connect City, community and culture.

Objective 3a. Create a renewed focus on establishing a positive outlook and orientation of our City, neighborhoods and overall community.

This agenda item supports the Economic Development Strategy. The purpose of the Economic Development Strategy is to develop and enhance Oxnard’s business climate, promote the City’s fiscal health, and support economic growth in a manner consistent with the City’s unique character. This item supports the following goals and objectives:

Goal 1. Create vibrant and economically sustainable commercial, industrial and retail industries throughout the City.

Objective 1a. Focus available resources on a comprehensive effort to promote economic activity in Oxnard, including a marketing program that communicates the City’s available resources and assets.
Goal 2. Enhance business development throughout the City.

Objective 2a. Develop a strong citywide economy which attracts investment, increases the tax base, creates employment opportunities, and generates public revenue.

Objective 2c. Capitalize on historic, cultural and natural resources.

Objective 2d. Public safety will collaborate with the business community to promote an environment that supports economic development.

FINANCIAL IMPACT

The Draft Short Term Rental ordinance includes regulations that require permits, business licenses, and the payment of Transient Occupancy Tax (TOT) which will bring additional revenue to the City. The ordinance requires STRs to obtain a STR Permit. In addition to a STR Permit fee, the draft ordinance calls for the establishment of a code compliance deposit for use in responding to complaints. Staff is currently completing a cost analysis to determine the fee and deposit amounts needed to cover the cost of administering the STR program. As part of the cost analysis, staff will also be issuing a Request For Proposals (RFP) for a host compliance firm to monitor and respond to complaints regarding STRs. This cost will also be factored into the STR permit fee.

The selection and hiring of a host compliance firm along with a fee resolution will be available at the City Council hearing on the ordinance. This will allow the fees to be adopted concurrently with the ordinance so the City can begin accepting STR application once the ordinance is effective.

Prepared by: Paul McClaren, Associate Planner

ATTACHMENTS
1. CH 16 - Short Term Rental Ordinance (1)
2. CH 17 - Short Term Rental Ordinance - Coastal
3. STR Ordinance PPT HEDC 09.24.19