



COUNTY OF SANTA CRUZ

PLANNING DEPARTMENT

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KATHLEEN MOLLOY PREVISICH, PLANNING DIRECTOR

September 29, 2014

Agenda Date: October 8, 2014
Agenda Item #: 7
Time: After 9:00 a.m.

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:

Last month, the Board of Supervisors directed the Planning Department to bring to your Commission language amending the Vacation Rental Ordinance that would accomplish the following:

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 larger than that for which the existing vacation rental permit was issued.
2. Require that a picture of the required sign with contact information be submitted as part of a new vacation rental permit or renewal.
3. Require that the Planning Department maintain a publicly available internet database of vacation rental contact information.
4. Require that proof of mailing of contact information to required recipients be submitted to the Planning Department.
5. Require that vacation rental signs be maintained continuously while the property is being used as a vacation rental.
6. Expand what is 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.
7. 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.
8. Apply the regulations governing vacation rentals in the LODA to the portion of the Seacliff/Aptos area.

The first seven of these changes are intended to tighten the existing ordinance and provide easily accessible, additional information to the public regarding the contact person who is designated by the owner to respond to complaints about the operation of the rental. The eighth change would address concerns surrounding the number and concentration of vacation rentals, similar to those in the Live Oak Designated Area, in the Seacliff/Aptos area. Staff recommends approval of all of the eight proposed changes, with a couple of exceptions to application of the LODA regulations to the Seacliff/Aptos area, as discussed below.

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.

9. 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; and
10. Clarify that vacation rental permits for units outside of the LODA and SADA 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; and

Application of the LODA regulations to the Seacliff/Aptos area

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				
	1st Leopold	2nd Friend	3rd Coonerty	4th Caput	5th 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	--	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)).

In 2011, when the vacation rental ordinance took effect, there were 368 applications filed, mostly for existing vacation rentals. The following table shows the number of applications received by supervisorial district for 2012, 2013, and 2014 to date.

TABLE 2						
Supervisorial District \ Year	1 st	2 nd	3 rd	4 th	5 th	TOTAL
2012	20 (19 LODA)	17	5 (4 LODA)	0	1	43 (23 LODA)
2013	19 (17 LODA)	14	3 (2 LODA)	0	1	37 (19 LODA)
2014, to date	12 (11 LODA)	10	7 (all LODA)	0	1	30 (18 LODA)
TOTAL	51 (47 LODA)	41	15 (13 LODA)	0	3	110 (60 LODA)

Except for the large volume of applications in 2011, which was a result of the limited grandfathering-time for applying as an existing vacation rental, the pace of applications has remained similar from year to year.

As shown in Table 1, the data demonstrates that the existing percentage of all housing units that are used for vacation rentals in Supervisorial District 2 (Seacliff/Aptos) is just below that in District 1 (Live Oak), 1.26% vs. 1.46%. Due to concerns about the effect of converting approximately 15 homes per year from permanent housing to vacation rentals in Seacliff/Aptos, and approximately 40 per year County-wide, it is recommended that the LODA provisions in general be extended to the Seacliff/Aptos area.

In the LODA, vacation rental regulations limit the number of vacation rentals in two ways, density by block, and by overall percentage. First, if existing vacation rentals on the same block total 20 percent or more of the total vacation rental-eligible parcels on that block, no new vacation rentals are permitted. Second, no more than 15 percent of all vacation rental-eligible parcels in the LODA may contain vacation rentals. Additionally, the LODA regulations limit the life of a vacation rental permit to five years, with the possibility of renewal.

If this same model is 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 Park Avenue on the west to Bonita Drive, San Andreas Road and the Urban Services Line on the southeast, as shown on Exhibit D as the Seacliff/Aptos Designated Area (SADA). These regulations will limit the life of vacation rental permits in the SADA to five years, with possibility of renewal, and will establish maximum percentages of vacation rentals allowed on any block (20%) and in the area as a whole (15%), with the exception of the blocks in the SADA consisting of those parcels along Beach Drive and those parcels having vehicular access from, or an address on, Cliff Court and that portion of Rio del Mar Boulevard from its intersection with Beach Drive/Aptos Beach Drive/Esplanade to its intersection with Kingsbury Drive, Cliff Drive, and Beach Villa Lane, where the maximum percentage of vacation rentals allowed on any block shall be 50%, for the reasons discussed below.

Currently, two major streets in the SADA significantly exceed the proposed model's 20 percent per block density. These are Beach Drive (approximately 35%) and Rio del Mar Boulevard between Beach Drive and the Kingsbury Drive/Cliff Drive/Beach Villa Lane intersection (approximately 27%). Applying the LODA model there without modification would mean that no new vacation rentals could be approved in those areas. Given that many of these dwellings are vacation and/or second homes and are very close to the beach (those along Beach Drive are on or across the street from the beach), it seemingly would make sense to allow all of those dwellings to become vacation rentals. However, staff believes that doing so would fundamentally change the character of the area and instead staff recommends that the maximum percentage of vacation rentals on Beach Drive and on the portion of Rio del Mar Boulevard between Beach Drive and the Kingsbury Drive/Cliff Drive/Beach Villa Lane intersection be set at 50 percent. This would recognize the existing higher percentage of vacation rentals, allow a significant increase over the existing percentage, yet not allow those areas to become completely transient occupied (see Exhibit E for map, SADA1).

Currently, all vacation rentals operating legally in the SADA, and elsewhere, have permits. Excepting the LODA, all of those permits run with the land with no expiration date, unless the unit is not used as a vacation rental for three years out of any consecutive five year period. In such a case, the unit would be considered to have ceased use as a vacation rental and would no longer be considered as a vacation rental. In the LODA, all vacation rental permits must be renewed every 5 years. The SADA is similar to the LODA in that, although it is in the unincorporated area, it is an urbanized area adjacent to the beach with heavy beach use, especially in the summer and during holiday periods. Although the existing vacation rental permits in the SADA were issued with no expiration/renewal requirement, staff recommends that the previously issued vacation rental permits and all future vacation rental permits issued in the SADA be limited to five years starting on January 1, 2015 with the possibility of renewal. This would allow, just like in the LODA, review of all vacation rental permits five years after issuance. This allows for unused permits to become available in areas that may have reached their percentage limits.

Alternatively, the five year vacation rental permit life could be applied to vacation rental permits issued after the effective date of the proposed amendments. This would result in a two-tiered system of vacation rental permits: those that were granted under the current ordinance and those that are valid for only five years. This alternative appears to be inequitable, would be somewhat cumbersome to administer, and does not create an opportunity for unused permits to become available, which is particularly important if blocks have reached their percentage maximums or the 15 percent overall cap is in effect.

Finally, the five year requirement could be omitted from the SADA. However, and keeping in mind that the SADA is similar to the LODA in proximity to the beach and in heavy beach use, that would not provide for the possibility of turn-over in vacation rental permit ownership and would not provide a mechanism for the heightened scrutiny of problematic issues during the preceding five year period.

Environmental Review

The County, acting as lead CEQA agency, adopted a Negative Declaration for the original vacation rental ordinance in 2011, and in doing so found that the ordinance would not have significant adverse environmental impacts. Of the nine proposed amendments to the vacation rental ordinance, none creates a new significant environmental impact or substantially increases an environmental impact identified in the environmental review that was conducted for the original vacation rental ordinance.

The proposed amendments do not expand the zone districts in which vacation rentals may be allowed, nor do they result in any lessening of regulations that could lead to any significant environmental impacts. On the contrary, the proposed amendments tighten the regulations. The proposed amendments enhance the vacation rental ordinance regulations and apply the stricter LODA regulations to the SADA. Since the vacation rental ordinance became effective in 2011, there have been no significant effects on the environment due to its implementation. Adopting the Negative Declaration again with the findings presented in the Addendum (Exhibit F) will satisfy the requirements of the California Environmental Quality Act.

Recommendation

It is therefore RECOMMENDED that your Commission take the following actions:

1. Conduct a public hearing on the proposed amendments to County Code Sections 13.10.694 and 13.10.700-V.
2. Adopt the attached resolution (Exhibit A) recommending that the Board of Supervisors adopt the Negative Declaration with the Addendum and approve the proposed amendments to County Code Sections 13.10.694 and 13.10.700-V, as shown in strike-through by Attachment 1 to Exhibit A, and as the ordinance proposed for adoption as Exhibit B.

Sincerely,



Steven Guiney, AICP
Principal Planner



Kathy M. Previsich
Planning Director

Exhibits:

- A. Resolution making findings and recommending adoption of Negative Declaration regarding amendments to County Code Sections 13.10.694 and 13.10.700-V, with strike-through copy of proposed ordinance
- B. Clean copy of Ordinance
- C. Locations of Existing Vacation Rentals in the SADA
- D. Proposed Seacliff/Aptos Designated Area (SADA) map
- E. Beach Drive and Rio del Mar Boulevard between Beach Drive and the Kingsbury Drive/Cliff Drive/Beach Villa Lane intersection
- F. Negative Declaration, with Addendum (provided to Planning Commissioners), available for review at the County Planning Department.

cc: County Counsel, Coastal Commission