



BOARD OF SUPERVISORS
AGENDA LETTER

Agenda Number:

Clerk of the Board of Supervisors
105 E. Anapamu Street, Suite 407
Santa Barbara, CA 93101
(805) 568-2240

Department Name: Planning &
Development
Department No.: 053
For Agenda Of: Set Hearing on August
18, 2020 for September
1, 2020
Placement: Departmental
Estimated Time: 1.5 hours on September
1, 2020
Continued Item:
If Yes, date from:
Vote Required: Majority

TO: Board of Supervisors

FROM: Department Lisa Plowman, Director, Planning and Development
Director (805) 568-2085
Contact Info: Dan Klemann, Deputy Director, Long Range Planning Division
(805) 568-2072

SUBJECT: Short-Term Rentals (STRs) Coastal Zoning Ordinance Amendments

County Counsel Concurrence

As to form: Yes

Auditor-Controller Concurrence

As to form: N/A

Other Concurrence:

As to form: N/A

Recommended Actions:

On August 18, 2020, staff recommends that the Board of Supervisors (Board) set a hearing for September 1, 2020, to receive and file a report from Planning and Development Department (P&D) staff regarding STRs in the Coastal Zone and provide direction to staff on any potential draft regulations the Board would like staff to prepare and present to the Planning Commission and Board for consideration.

On September 1, 2020, staff recommends that the Board take the following actions:

- a) Receive and file a report from P&D staff regarding options for regulating STRs in the Coastal Zone.
- b) Provide direction to staff on any potential draft regulations of STRs in the Coastal Zone, which the Board would like staff to prepare and present to the Planning Commission and Board for consideration.
- c) Determine that the Board's actions are not a "project" as defined in the State California Environmental Quality Act (CEQA) Guidelines §15378(b)(5) and § 15060(c)(3) and are not subject to environmental review (Attachment 1).

Summary Text: The purpose of this Board letter and the corresponding hearing is to receive further guidance from the Board on how to proceed regarding the regulation of STRs in the Coastal Zone, based on:

- The Board’s direction at the August 2018 hearing and the new analysis provided by Staff below;
- Options the Board previously considered and dismissed at that time but may want to revisit (Attachment 2); and
- Local Coastal Program Amendments (LCPAs) regarding STR regulations that the California Coastal Commission (CCC) has recently certified for other local jurisdictions (Attachment 3).

Background:

On October 3, 2017, the Board approved STR ordinance amendments to the Land Use and Development Code (LUDC), Montecito Land Use and Development Code (MLUDC), and Article II Coastal Zoning Ordinance (Article II).

The proposed LCPA for the Article II STR amendments would have allowed STRs¹ in legal dwellings within: (1) the Limited Commercial, Retail Commercial, Resort/Visitor Serving Commercial, and Highway Commercial zones; and (2) a proposed, new STRs Coastal Historic Overlay District (Historic Overlay) that generally would have encompassed the residentially-zoned neighborhood of Miramar Beach. This Overlay was developed based on review of existing and past Transient Occupancy Tax (TOT) data, general knowledge of homes at Miramar beach being used as vacation rentals for several decades, and information received from the public during the processing of the LCPA. The proposed LCPA also would have allowed for homestays (a subset of STRs whereby the owner, or long-term tenant², is present on the property at the same time the transient occupant resides on the property) within legal dwellings in residential zones and the Agriculture I zone, subject to certain specific use standards. The LCPA was submitted to the Coastal Commission for review and certification on December 17, 2017.

However, on May 10, 2018, the CCC denied the proposed LCPA. The revised CCC’s findings for denial, adopted by the CCC on August 10, 2018, cited the failure of the LCPA to protect existing overnight accommodations in the Coastal Zone and that numerous existing STRs located within the Coastal Zone but outside of the historic overlay would be disallowed, as a result of the proposed LCPA. This reduction in visitor-serving overnight accommodations, the CCC concluded, would prohibit or unduly restrict the public’s ability to access and recreate on the coast. The CCC findings also state that the allowed homestays would not meet the needs of larger groups or families seeking accommodations when traveling to the coast.

At a hearing on August 28, 2018, at which the Board received a staff report regarding the CCC’s denial of the proposed LCPA, the Board directed staff to develop an STRs ordinance that provides a permit path for those STR operators who (1) operated for the 5-year period prior to the October 2017 Board hearing in which the original Coastal STR Ordinance was approved, (2) possessed a TOT certificate, and (3) were remitting TOT to the Treasurer Tax Collector during that 5-year period. The Board also directed staff to

¹ “Short-Term Rental” is defined in the LUDC as a structure which is rented for overnight lodging, in whole or in part and with or without the presence onsite of the owner or representative of the owner, for 30 consecutive days or less. Unless explicitly stated otherwise, “STRs” when used in this Board letter includes both STRs and homestays.

² “Long-Term Tenant” is defined in the LUDC as a person who occupies the property, who is the owner of the property or who rents the property for six months or more.

develop an ordinance that would terminate an operator’s ability to operate an STR upon the sale or transfer of the property.

Staff began work on this most recent-Board requested STR ordinance in fall of 2018; however, in January 2019 this project was put on hold to prioritize other projects added to the Long Range Planning Division Work Program. Given the completion of the other prioritized work in the Work Program, and the inclusion of this project in the current Fiscal Year Work Program, staff resumed work on the STR ordinance. As part of this work, staff analyzed recent STR-related data, reviewed Coastal Commission-certified LCPAs for other local jurisdictions, and identified certain items on which staff would like the Board’s conceptual direction, as discussed further below.

Recent STR Activity in the Coastal Zone

Article II does not currently specifically regulate STRs in the Coastal Zone. As of June 10, 2020, 126 STRs had been active in the Coastal Zone sometime in the last 12 months, and 338 have operated since data collection began on STRs. The vast majority of STRs occur within the First District, particularly within the Summerland and Montecito Community Plan Areas. (See Table 1.) The relative locations of these rentals with respect to supervisorial district and community plan boundaries can be seen in an interactive map found at <http://tiny.cc/tbrjsz>.

**Table 1. Recent STR Activity in the Coastal Zone
 (Active June 2019- June 2020)**

Supervisorial District	STRs Count*
1	113
2	8
3	5
Community Plan Area	STRs Count*
Montecito	52
Summerland	35
Toro Canyon	14
Eastern Goleta Valley	9
Goleta	4
Gaviota	1
Coastal Zone Outside CP Boundaries	11
Total in Coastal Zone	126

*Counts are estimations due to some ambiguities in mapping data.

Regulatory Approach Discussion:

Staff is seeking direction on whether the Board would like staff to continue to pursue the Board’s August 28, 2018, conceptual direction, given the likely effects of such an approach and its improbability of receiving CCC certification due to the low number of STRs that would be eligible for permits. The following provides an analysis of the Board’s August 28, 2018, conceptual direction, as well as a summary of CCC-certified alternative approaches for the Board’s consideration when providing this conceptual direction to staff.

2018 Board-Directed STR Approach:

At a hearing on August 28, 2018, the Board directed staff to develop an STR ordinance that provides a permit path for those STR operators who (1) operated for the 5-year period prior to the October 2017 Board hearing in which the original Coastal STR Ordinance was approved, (2) possessed a TOT certificate, and (3) were remitting TOT to the Treasurer Tax Collector during that 5-year period.

In order to determine the group of eligible permittees that could obtain an STR permit under this approach, staff obtained TOT records for rental units in the Coastal Zone from the Treasurer Tax Collector. These records provided information regarding the operators, identifies the rental units, and includes monthly records regarding TOT remittance, for the period of October 2012 to October 2017. A total of 41 STR properties have property owners who possessed a TOT certificate and returned some form of remittance (e.g., TOT, or statement of non-rental) to the Treasurer Tax Collector, for all five years during the 2012-2017 period making them the only ones that would qualify to remain operational under the Board's previous direction. There were a total of 253 STR properties that have property owners who possessed a TOT certificate and returned some form of remittance (e.g., TOT or statement of non-rental) to the Treasurer Tax Collector, for at least one year during the 2012-2017 period. The low number of qualifying permittees is largely due to the fact that there were only 140 STRs operating in the Coastal Zone as of October 2012, making this the maximum number that are eligible to meet the requirement that their operators remit TOT for the entire 5-year period. Additionally, there was significant turnover in operators during this period since only about half of the operators of STRs located in the Coastal Zone during this period maintained their TOT certificates by continuing to return some form of TOT remittance for the remainder of the 5-year period, once they began operating.

Forty-one STRs is substantially lower and 253 is not much higher than the 157 STRs that could have been allowed by the County's original STR Ordinance that the CCC denied. It is also much more restrictive than other local jurisdictions' CCC-certified STR LCPAs, as discussed further below.

The Board also directed staff to develop an approach that would extinguish the right to operate an STR upon the sale or transfer of the property on which the STR is located. This provision, coupled with the approach that would limit permittees to 41, would treat these STRs similar to non-conforming uses which, over time, would cease to exist as properties are sold or transferred to different owners. It is unlikely the CCC would support such an approach.

Regulatory Approaches Previously Considered by the Board, but not Pursued:

Other regulatory approaches that the Board considered, but did not pursue, in development of the original ordinance in 2017 and at the August 2018 hearing are provided with updated information in Attachment 2. The Board may direct staff to pursue any one or more of these approaches, which included:

- Concentration Limits - Regulating the number of STRs by setting a distance separation requirement in a specific geographic area (e.g., Block, Census Tract, or Community Plan Area).
- Permit Limits - Setting a cap for the total number of STR permits issued, in total or per year.
- Primary Residence (formerly known as "Home Sharing") - Require the STR be the owner's primary residence and limit short-term rentals to a certain number of days per year.
- Rental Agency Only - Only allow professional rental agencies to receive permits or require that the STR be managed by a rental agency.

- Minor Conditional Use Permit - Require increased standards and permit conditions, and review STRs on a case-by-case basis.
- Night Maximum - Allow STRs with a night maximum stay to discourage party houses.
- Lot Size - Establish a minimum lot size requirement for the operation of an STR to limit the density of STRs and potential nuisance issues.

CCC-Certified STR LCPAs for Other Jurisdictions:

In an open letter to planning directors in 2016 regarding the regulation of coastal STRs in the Coastal Zone (Attachment 4), the CCC highlighted the importance of STRs as a source of visitor accommodations in the Coastal Zone, especially for larger families and groups and for people of a wide range of economic backgrounds. However, it acknowledged legitimate community concerns associated with the potential adverse impacts associated with STRs, including community character, housing stock and affordability, noise, and traffic impacts. The letter further explains the CCC's expectation for reasonable, enforceable LCP regulations that allow public recreational access opportunities to be maximized while also addressing potential local concerns and issues.

Staff reviewed CCC-certified LCPAs from over 18 cities and counties. A detailed description of these approaches, the components necessary to implement them, the jurisdictions in which they are implemented, and additional notes (e.g., a brief description of some of the benefits of adopting a particular approach, or potential enforcement difficulties) can be found in Attachment 3, Table 1 *Short-Term Rental Approaches Certified by the CCC*. The table includes approaches the County has proposed previously (e.g., an overlay) and approaches considered in 2018, but not pursued [e.g., concentration limits, permit limits, and home sharing (primary residence requirement)]. When possible, this table contains information on whether a particular approach may assist the Board in achieving some of the objectives previously stated for these regulations, including maintaining neighborhood character and the preservation of permanent housing stock. Attachment 3, also contains Table 2 *STR Regulatory Approaches from Other Jurisdictions with Certified Local Coastal Programs, by Jurisdiction* contains additional information on these approaches, organized by jurisdiction with a certified LCP.

The following summarizes these STR regulatory approaches that are discussed in further detail in Attachment 3:

Primary Residence and Rental Limits: This approach uses official documents to establish that an operator's dwelling is their primary residence, and that when the dwelling is not operated as an STR, it is the permanent residence of the owner or their long term tenant. This requirement also limits the operator to one STR. Because the owner or long term tenant must live in the dwelling for a majority of the year (e.g., a specific duration established by the jurisdiction), the dwelling is still providing permanent housing to the operator or long term tenant. This approach typically also includes a rental limit requirement (Attachment 3, Table 1) that limits the total calendar days an STR may operate per year. This requirement may be difficult to enforce, if adopted as a zoning regulation; however, a business license program could enable the County to require submittal of documentation to verify whether the dwelling was rented pursuant to the limitations on doing so. If the Board would like to consider implementing such a program, the Treasurer Tax Collector should opine on it given that the Treasurer Tax Collector would have the primary responsibility for implementing it.

Overlay Zone: An overlay zone allows a tailored set of regulations to be applied to a particular geographic area, based on unique characteristics or issues of an established planning area (e.g., Community Plan Area, or zoning district). Any of the other approaches listed in Table 1 may be applied within an area that is

subject to a zoning overlay. The establishment of the overlay zone should be based on a planning area recognized in the existing LCP, or data or other substantial evidence to justify the establishment of the overlay zone and corresponding STR regulations that would apply to a specific area.

Zoning or Lot Size Limits: STRs may also be allowed only in certain zone districts, based on the characteristics and purpose of the zone and/or lot size. The Cities of Pismo Beach and Trinidad limited STRs to only certain residential zones, and the City of Carpinteria limited homestays to residential zones with single family dwellings. Zoning restrictions could also be used to limit STRs in areas with higher housing density, if it is the Board's intention to avoid oversaturation. No jurisdictions explicitly set limits based on lot size; however, minimum lot size requirements apply in each zone and may be a factor as to why certain other jurisdictions decided to limit STRs by zone districts.

Permit Limit and Concentration Limits: Permit limits can accompany an overlay and provide a limit on the number of STRs that may be issued within a given planning area. Concentration limits ensure there is a set distance between STRs, and may favor operators who are first to receive permits, preventing adjacent property owners from obtaining permits. Concentration limits are intended to limit nuisance issues, preserve neighborhood character, and also have the effect of implementing a permit limit. Many jurisdictions established a permit limit or concentration limit by examining the current number and concentration of STRs in their communities and then assessing the community's desire to reduce, increase, or maintain the same number, of STRs. Some jurisdictions, such as the City of Santa Cruz, developed an area-wide permit limit that would "grandfather" existing STR operators that were diligently paying TOT and operated the STR as their primary residence. Three jurisdictions developed permit limits in combination with concentration limits within specific neighborhoods and even blocks within neighborhoods. For instance, the County of San Luis Obispo developed concentration limits in Cambria and Cayucos (100-200 feet of separation) and determined that the approximate permit limits they would establish would produce an acceptable increase in STRs over time.

Business License: Adoption of a business license ordinance would provide the County with greater enforcement capabilities with respect to certain provisions and approaches regulating STRs. For instance, it could allow the County to terminate a permit or provide justification for non-renewal if an operator did not pay TOT, received too many nuisance complaints, or did not comply with other provisions of their permit or license. Also, as discussed above, it would provide a means to achieve the Board's objective to terminate a permit upon the sale or transfer of a property because a license is issued to an operator and assigned properties, in contrast to a zoning permit that runs with the land regardless of the property owner. A business license ordinance is implemented by the Treasurer Tax Collector, and this program would require coordination between P&D and the Treasurer Tax Collector. This approach would entail a coastal development permit (CDP) and a business license to operate a STR. If a business license could not be obtained or renewed due to change of ownership or non-compliance with permit/license provisions, the owner would no longer be allowed to operate the STR even though the CDP was still in place.

Minimum Night Stay: A minimum night stay for an STR may reduce their use for events and parties and their associated nuisance issues (e.g., noise, parking, trash). However, this approach may be difficult to enforce, and it is also unclear the degree to which this approach would limit the total number of STRs. The Cities of Trinidad, Oxnard³, and Solana Beach have limits of 2, 3, and 7 nights, respectively. Solana

³ The City of Oxnard STR LCPA was certified by the CCC, with modifications, in July 2020. At this time, it is unclear whether the City will accept the modifications and complete the certification process of the LCPA.

Beach's relatively high limit is due, in part, to the City's small size and lack of services typically associated with vacation destinations.

Bedroom Limits: The County of Ventura and City of Oxnard both do not allow STRs to operate in dwellings with more than five bedrooms, and the Cities of Carpinteria and Oxnard allow only one room to be used as a homestay. Santa Barbara County's Inland Area regulations allow up to three bedrooms to be used for a homestay. The approach may prevent or reduce the use of STRs for events/parties, and is often coupled with a limitation on the total number of overnight guests that can occupy a bedroom. These limitations are difficult to enforce in situations where a dwelling has more bedrooms than are allowed to be rented as an STR.

Conditions of Approval and Other Recommended Provisions

Staff recommends the inclusion of specific use standards in the STR ordinance to avoid potential nuisance issues and adverse effects on neighborhood character that can result from STRs. Staff requests the Board's direction on whether the Board would like staff to include the specific use standards in the draft STRs ordinance, for the Board's consideration of adoption. The following list includes specific use standards that are: in effect in the Inland Area of the county for homestays; from other jurisdictions; and recommended by P&D Enforcement Staff.

Santa Barbara County Inland Area:

- Compliance with Fire, Building, and Health Codes
- Limits on occupancy for adults and children per bedroom
- Limits on visitors
- Prohibition of events
- Parking requirements
- Noise restrictions
- Nuisance Response Plan that includes a local contact who can respond to an issue in a timely manner

Other Jurisdictions and Enforcement Staff Recommendations:

- Emergency Response Plan requirement
- Limits on water usage as needed due to onsite water treatment system limitations
- Require advertised STR listings to reflect the limits and requirements in the County's ordinance

Accessory Dwelling Units (ADUs) and STRs

Staff are working on amendments to the County's Accessory Dwelling Unit (ADU) ordinance that will prohibit their use as an STR. The County's previous ADU ordinances prohibited the use of an ADU as an STR; however, State legislation that went into effect in January of 2020 nullified the County's Inland Area ADU ordinances (i.e., LUDC § 35.42.015 and MLUDC § 35.442.15). The amendments to the Inland Area ADU ordinances will clarify and reaffirm the County's former ordinances' provision that STRs are prohibited in ADUs. The County's existing Coastal ADU regulations (Article II, § 35-142) and its

prohibition on operating an STR in an ADU remain in effect, and likely will remain unchanged when the California Coastal Commission certifies the County's new ADU ordinance.

Environmental Review

State CEQA Guidelines § 15060(c)(3) states that an activity is not subject to CEQA environmental review if it is not a “project” as defined in State CEQA Guidelines § 15378. State CEQA Guidelines § 15378(b)(5) states that “project” does not include organizational or administrative activities of governments that will not result in direct or indirect physical changes in the environment. The Board’s actions to receive a staff report, receive public testimony, and provide conceptual direction to staff to prepare a draft LCPA for the Board’s consideration, constitute administrative activities that do not have the potential to create a significant environmental impact, or create a physical change to the environment, either directly or indirectly. See Attachment 1 (Notice of Exemption) for additional information regarding the CEQA exemption.

Special Instructions:

N/A

Fiscal Analysis:

Funding for this project is budgeted in the Long Range Planning Program on page D-294 of the Fiscal Year 2020-21 adopted budget.

Information on the Transient Occupancy Tax (TOT) Certificate and Revenue

Pursuant to the County Code (Chapter 32), the County of Santa Barbara Treasurer-Tax Collector’s office collects TOT. Hotel operators in the unincorporated areas of the County are required to collect the TOT from transients who stay for a period of 30 consecutive days or less. Chapter 32 of the Code defines “hotel” very broadly to include STRs. The current TOT amount is 12 percent of the rent that an operator charges. The table below lists the total amount of TOT revenue that the Treasurer-Tax Collector’s office collected for STRs countywide, and the total number of TOT Certificates that the County of Santa Barbara Treasurer-Tax Collector’s office issued for STRs over the last five fiscal years. As of July 2020, there are currently 147 TOT certificates in the Coastal Zone, and a total of 266 in the County.

Timeframe	Amount of TOT Collected for STRs	Number of TOT Certificates for STRs
Fiscal Year 2014 – 2015	\$1,416,339	492
Fiscal Year 2015 – 2016	\$1,669,810	535
Fiscal Year 2016 – 2017	\$1,880,824	539
Fiscal Year 2017 – 2018	\$2,016,028	480
Fiscal Year 2018 – 2019	\$1,688,150	437
Fiscal Year 2019 – 2020	\$1,255,488*	332

* Totals as of 7/14/20, Treasurer Tax Collector is still collecting.

Attachments:

1. Notice of Exemption
2. Other Options for Regulating STRs that were considered and discarded, Attachment 5 to the August 2018 Board Letter that the Board may wish to revisit
3. Short-Term Rental Regulatory Approaches from Other Jurisdictions with Certified Local Coastal Programs, Tables 1 and 2
4. Letter from Steve Kinsey to Coastal Planning/Community Development Directors, dated December 6, 2016

Authored by:

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