



TOWN OF LOS GATOS
TOWN COUNCIL POLICY COMMITTEE SPECIAL MEETING
OCTOBER 18, 2018
TOWN COUNCIL CHAMBERS – 110 EAST MAIN STREET
LOS GATOS, CA
1:30 P.M.

*Rob Rennie, Mayor
Marcia Jensen, Council Member*

MEETING CALLED TO ORDER

ROLL CALL

VERBAL COMMUNICATIONS (*Members of the public may address the Committee on any matter that is not listed on the agenda. Unless additional time is authorized by the Committee, remarks shall be limited to three minutes.*)

OTHER BUSINESS (*Up to three minutes may be allotted to each speaker on any of the following items.*)

1. Approve the September 20, 2018 Council Policy Committee Draft Minutes.
2. Discuss and provide direction on parklet parameters.
3. Receive a report on downtown Saturday time limited parking and provide direction to staff for next steps.
4. Discuss potential regulations for short-term rentals.

ADJOURNMENT

IN COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT, IF YOU NEED SPECIAL ASSISTANCE TO PARTICIPATE IN THIS MEETING, PLEASE CONTACT THE CLERK DEPARTMENT AT (408) 354-6834. NOTIFICATION 48 HOURS BEFORE THE MEETING WILL ENABLE THE TOWN TO MAKE REASONABLE ARRANGEMENTS TO ENSURE ACCESSIBILITY TO THIS MEETING [28 CFR §35.102-35.104]

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**TOWN OF LOS GATOS
TOWN COUNCIL
POLICY COMMITTEE**

MEETING DATE: 10/18/2018

ITEM NO: 1

**DRAFT
MINUTES OF THE TOWN COUNCIL SPECIAL POLICY COMMITTEE MEETING
SEPTEMBER 20, 2018**

The Town Council Policy Committee of the Town of Los Gatos conducted a Special Meeting on Thursday, September 20, 2018, at 1:30 p.m.

MEETING CALLED TO ORDER AT 1:37 p.m.

ROLL CALL

Members Present: Rob Rennie, Marcia Jensen

Staff Present: Laurel Prevetti, Town Manager; Robert Schultz, Town Attorney; Joel Paulson, Community Development Director; Sally Zarnowitz, Planning Manager; Sean Mullin, Associate Planner; Jocelyn Shoopman, Associate Planner; and Ryan Safty, Associate Planner.

VERBAL COMMUNICATIONS

None.

OTHER BUSINESS

1. Approval of August 16, 2018 Council Policy Committee Draft Minutes.

Approved.

2. Discuss and provide direction on objective standards.

Joel Paulson, Community Development Director, presented the staff report.

Lee Quintana

-Commented that through the General Plan update process, the Town should determine its goals and create objective standards to meet those goals (e.g., sustainability). She also suggested an objective standard that a new second story should be capped at a maximum percentage of the existing first floor square footage. No specific numbers were proposed.

After discussion, the Committee agreed that

- There is no need to change the Town's General Plan and Zoning Code density and/or intensity standards at this time.

SUBJECT: DRAFT MINUTES OF THE TOWN COUNCIL SPECIAL POLICY COMMITTEE
MEETING OF SEPTEMBER 20, 2018
DATE: OCTOBER 18, 2018

- The Town should continue to explore objective standards for views, shadows, mass/bulk, and privacy based on the goals that come from the General Plan update.
- Downzoning in the hillsides may be appropriate so that development is focused on the valley floor in infill locations or clustered to preserve hillside areas.

3. Discuss and provide direction on the treatment of County pockets when considering neighborhood compatibility.

Joel Paulson, Community Development Director, presented the staff report.

Lee Quintana

-Commented that there should be a referral from the County to the Town when a new home is proposed within a County pocket of Los Gatos. She also suggested that the Planning Commission focus on the consistency of the overall mass and scale of a new home instead of window and door details.

After discussion, the Committee decided to forward a recommendation to the Town Council to approve a new Town Council Policy or Resolution to clarify that properties within the County should be considered in the analysis of neighborhood compatibility.

4. Discuss and provide direction on changing the appeal process for minor residential applications with the Planning Commission as the final deciding appellate body.

Joel Paulson, Community Development Director, presented the staff report.

Lee Quintana

-Commented that the noticing distance for minor residential applications should be increased to 300 feet to be consistent with other noticing.

After discussion, the Committee's direction was to:

- Retain the Town Council as the final appeal body.
- Use the Town's existing administrative processes to streamline minor residential applications.
- Consider modifying the Town's Fee Resolution so the applicant does not pay higher fees if staff determines that the application should be heard by Planning Commission when it is eligible to be heard by the Development Review Committee.
- Consider modifying the Town's Fee Resolution so the applicant does not pay higher fees when a third party appeals the application.
- Modify the Code to remove the "punt" to Planning Commission.

PAGE 3 OF 3

**SUBJECT: DRAFT MINUTES OF THE TOWN COUNCIL SPECIAL POLICY COMMITTEE
MEETING OF SEPTEMBER 20, 2018**
DATE: OCTOBER 18, 2018

- Modify the Code to identify eligibility to file an appeal (i.e., standing) so it aligns with the noticing distance.
- Complete the Committee's work on the broader land use appeals streamlining before bringing the minor residential discussion to Town Council.

ADJOURNMENT

The meeting adjourned at 3:11 p.m.

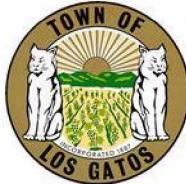
Prepared by:

Holly Zappala, Management Analyst

Attest:

Laurel Prevetti, Town Manager

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**TOWN OF LOS GATOS
POLICY COMMITTEE REPORT**

MEETING DATE: 10/18/2018

ITEM NO: 2

DATE: October 15, 2018

TO: COUNCIL POLICY COMMITTEE

FROM: LAUREL PREVETTI, TOWN MANAGER

SUBJECT: DISCUSS AND PROVIDE DIRECTION REGARDING PARKLETS PARAMETERS

RECOMMENDATION:

Discuss and provide direction regarding parklet parameters.

BACKGROUND:

In recent months, property owners and businesses have been inquiring about adding parklets in front of their locations to attract business and offer customers an outdoor dining experience where sidewalks may not be wide enough to support outdoor furniture. Most commonly, a parklet is defined as a small seating area or green space created as a public amenity on or alongside a sidewalk, especially in a former roadside parking space. The Town does not have a definition of a parklet at this time although could do so within a policy if it is the direction of the Policy Committee. Staff has been open to accepting and reviewing submittals for a public-private partnership for the construction of parklets as stakeholders inquire, and recognizes that there will likely be a bigger conversation about parklets as the Town looks at one-way streets in Downtown in early 2019. Establishing policy guidelines and supporting a pilot now may assist in the progression of that larger conversation. Staff will provide examples of other cities parklets and policies at the Policy Committee meeting.

DISCUSSION:

Town staff has received two proposals (Attachment 1) for parklets along Main Street. Staff had informed interested property owners that they could submit proposals for review and approval as a pilot program if the property owners provide a professionally designed plan and cover the cost for the construction and maintenance of the parklet. After the initial review of both submittals, several policy questions arose for which staff is seeking the Policy Committee's direction.

PREPARED BY: MONICA RENN
Economic Vitality Manager

DISCUSSION (cont'd):

Pilot Program Guidelines

Staff is seeking direction on the structure of the pilot program including duration of the pilot and maximum number of parklets that may be constructed during the pilot period. The Policy Committee may wish to include only Main Street in the pilot or extend it into other areas of Downtown. The Council directed staff to work with a consultant and the community to consider Downtown parking options and one-way streets on N. Santa Cruz Avenue to allow for a variety of community vitality benefits including increased outdoor dining opportunities. After consultation with the Town Attorney, staff is also recommending the consideration of a pilot application period to allow for property owners to be aware of the pilot and consider their own interest in submitting a parklet design.

Placement and Materials

Placement and materials are two other considerations for the Committee. Shall parklets be limited to only one parking space, or is it acceptable for them to occupy two spaces? The designs of parklets can vary greatly including the platform or design used to create a flat surface with the road, the type of barrier used to create walls around the parklet, and the tables, chairs, lights, or other outdoor furniture that fill the space. Does the Committee wish to provide design guidelines for parklets? The range could be no guidelines at all with each parklet having a very different design to specific guidelines that require them all to look similar, or some combination of the two.

Use of Parklet

The final area of discussion for the Committee's consideration is the use of the parklets by customers. As a public-private partnership, the Town would be providing the land and the property owner would provide the parklet, thus staff does not believe that any one business could be given exclusive rights of use for the space. Staff looks forward to the Policy Committee's direction on the use of the parklets.

COORDINATION:

The preparation of this report was coordinated with Community Development, Parks and Public Works, and the Town Manager's Office.

FISCAL IMPACT:

There is no fiscal impact associated with these initiatives at this time.

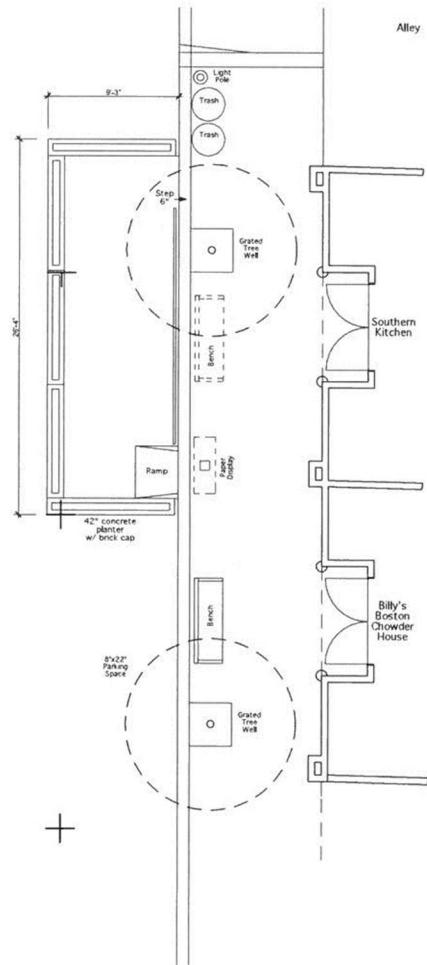
ENVIRONMENTAL ASSESSMENT:

This is not a project defined under CEQA, and no further action is required.

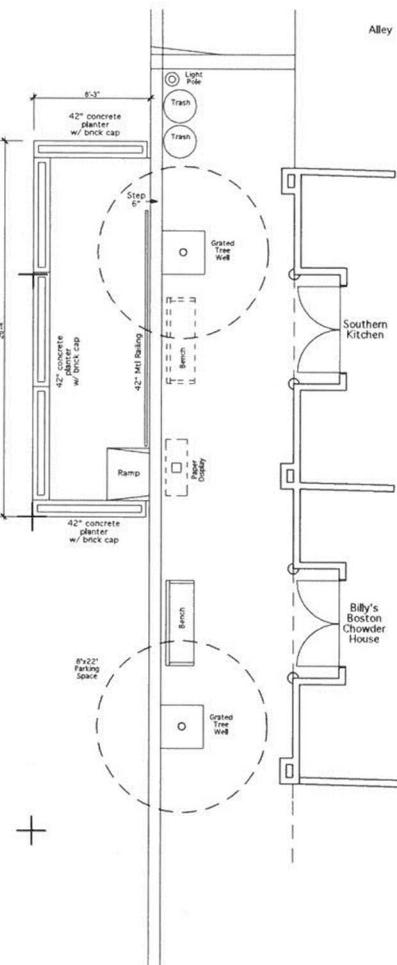
Attachment:

1. Parklet proposals for Main Street

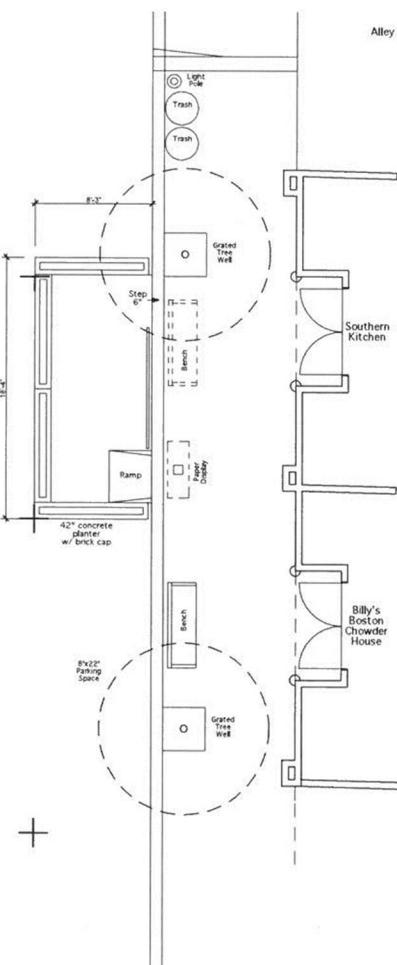
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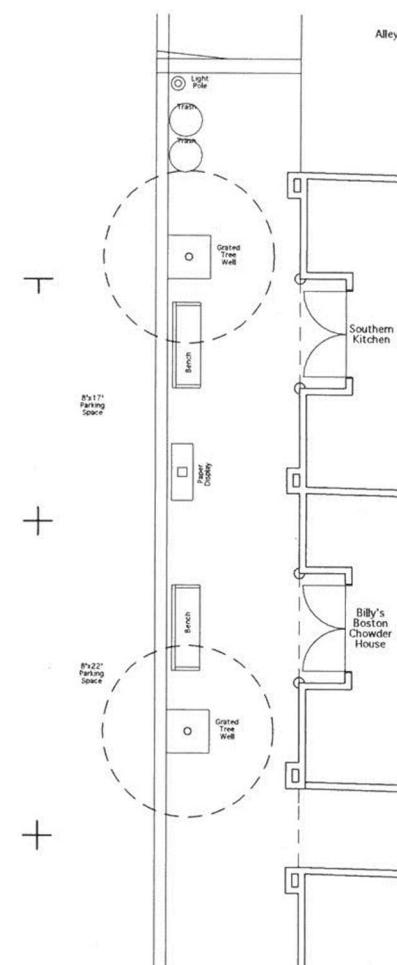
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<p>61 East Main Street, Suite D Los Gatos, CA 95030 Phone: 408-354-8810 Fax: 408-354-8812 Email: info@terryjmartin.com</p> <p>TERRY J. MARTIN ASSOCIATES, A.I.A. Terry J. Martin, AIA, LEED AP, Principal Lori J. Martin, AIA, LEED AP, Associate Lori J. Martin, AIA, LEED AP, Associate Lori J. Martin, AIA, LEED AP, Associate</p>	
<p>PARKLET'S Private Street Seats East Main Street Los Gatos, CA 95030</p>	
<p>Date & Revisions:</p>	<p>Date:</p>
<p>Rev. Description:</p>	<p>Date:</p>
<p>Project:</p>	
<p>Print Date: 9/17/18 Project: #00000 Scale: 1/4" = 1' Drawn by: T.J.</p>	
<p>Sheet Title:</p>	
<p>PROPOSED SITE PLANS</p>	
<p>A-3.2</p>	

Design Development

los gatos parklet

109 W. Main street
Los Gatos, CA

09.24.2018



architecture + planning + interior design
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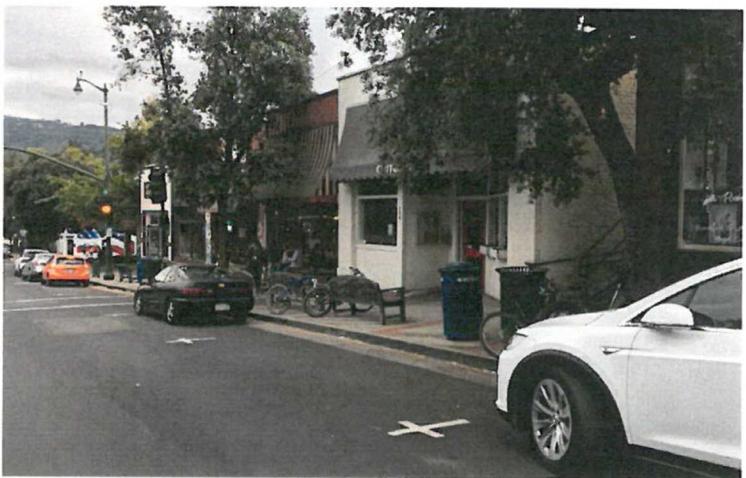


ATTACHMENT 1

109 W. Main st. Los Gatos, CA

design development

existing conditions





option 1 - inspiration

THE GREEN HOUSE

An open modular garden green house structure that invites and celebrates the surrounding downtown architecture.

- Open metal structure in the reduced form of a house, painted to coordinate the delegated business with coordinating signage.
- Modular units can be used individually or strung together to span multiple spaces.
- Planters hang from the low rails as well as on the perimeter of the structure.
- Wood deck flooring stained a dark tone for contrast.
- Wood cafe furniture feels good to the touch and warms up the space.
- Integrated string-lights follow the 'roof' line for a clean contemporary look.
- Wood and metal flag signage identifies each parklet as it's own entity. Logo provided by associated business.

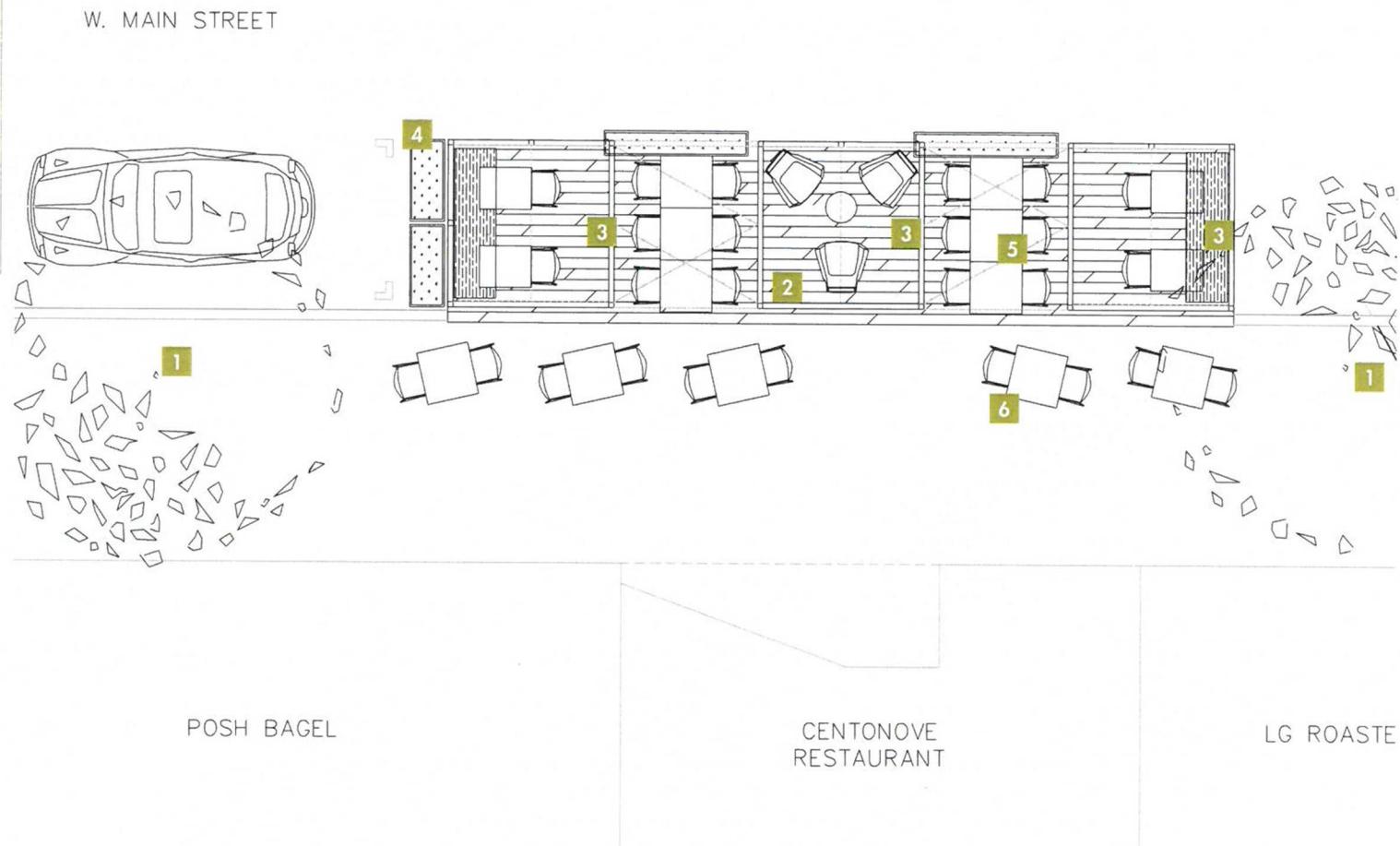




concept sketch

GREEN HOUSE - PLAN NOTES

- 1** Existing tree
- 2** Flush wood decking
- 3** Metal green house module
- 4** Floor mounted planter
- 5** Cantenary string lights above
- 6** New cafe tables



109 W. Main st. Los Gatos, CA

design development - parklet

option 1 3D view

6



109 W. Main st. Los Gatos, CA

design development - parklet

option 1 3D view

7



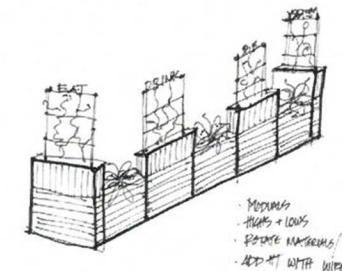
option 2- inspiration

SIMPLICITY

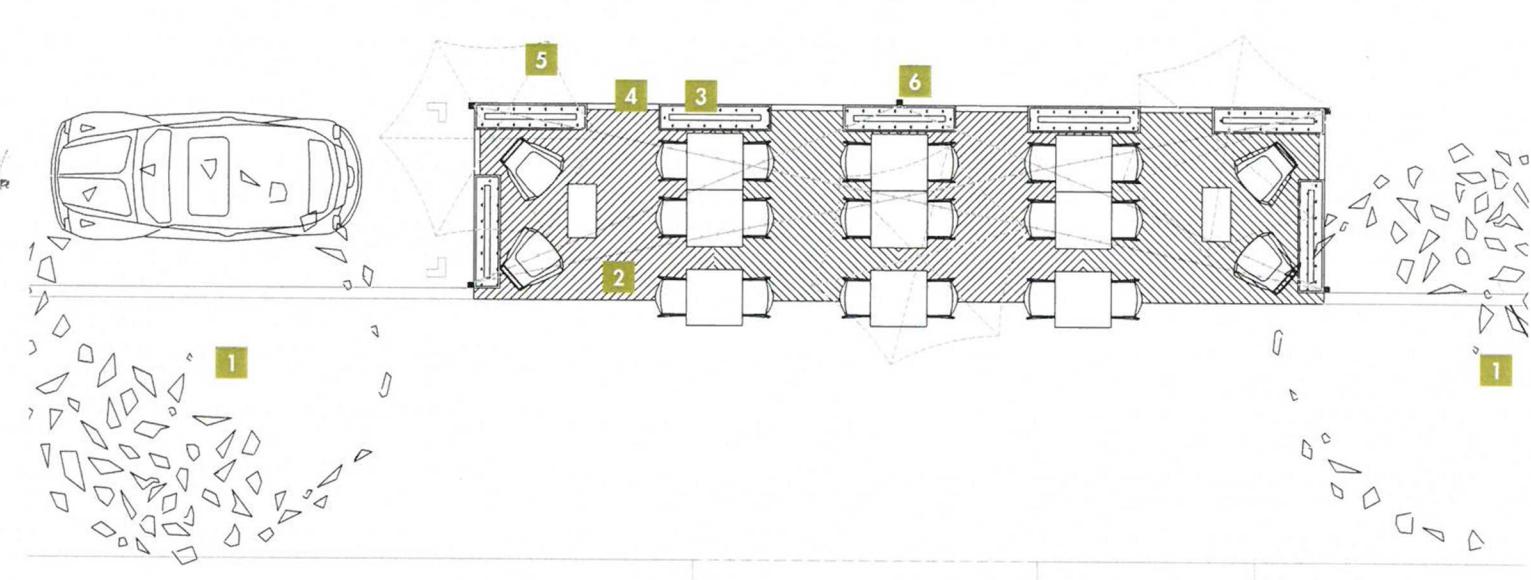
Modular network of homogeneous wood clad concrete planters bonded together with aircraft cable offers the simplest parklet solution that can easily be duplicated from parklet to parklet.

- Tall metal or concrete planters can have integrated lattice for vine growing plants or be a simple rectangular shape with tall, drought resistant plants that offer visual privacy. Planters bonded together with aircraft cable. Distance between planters can be adjusted per space.
- Colorful umbrellas offer a quick and easy shade solution that can coordinate per surrogate business.
- Durable metal cafe table and chairs to be used throughout for continuity.
- Continue existing cantenary string lights across space for evening to light space.
- Vertical signage embedded into corner planters for visibility.
- Wood decking installed in a chevron pattern for design interest and warmth.





W. MAIN STREET



POSH BAGEL

CENTONOVE
RESTAURANT

LG ROASTE

109 W. Main st. Los Gatos, CA

design development - parklet

option 2 3D view

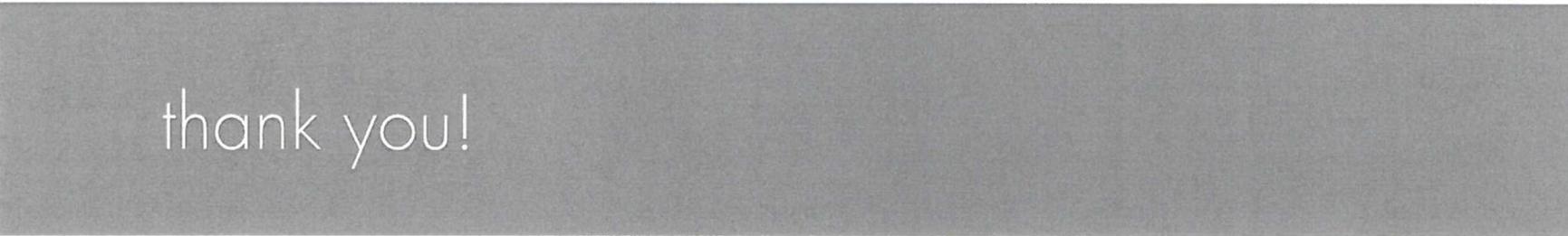
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09.24.18 | 18257 | LOS GATOS PARKLET

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thank you!



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**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 10/18/2018

ITEM NO: 3

DATE: OCTOBER 12, 2018
TO: POLICY COMMITTEE
FROM: LAUREL PREVETTI, TOWN MANAGER
SUBJECT: RECEIVE A REPORT ON DOWNTOWN SATURDAY TIME LIMITED PARKING
AND PROVIDE DIRECTION TO STAFF FOR NEXT STEPS

RECOMMENDATION:

Receive a report on downtown Saturday time limited parking and provide direction to staff for next steps.

BACKGROUND:

The Town Council has expressed interest in revisiting time limits for downtown parking with respect to Saturdays. The expressed interest was specific to days when events are occurring to allow attendees to participate for an extended period of time without having to be concerned about the time limit of a parking space.

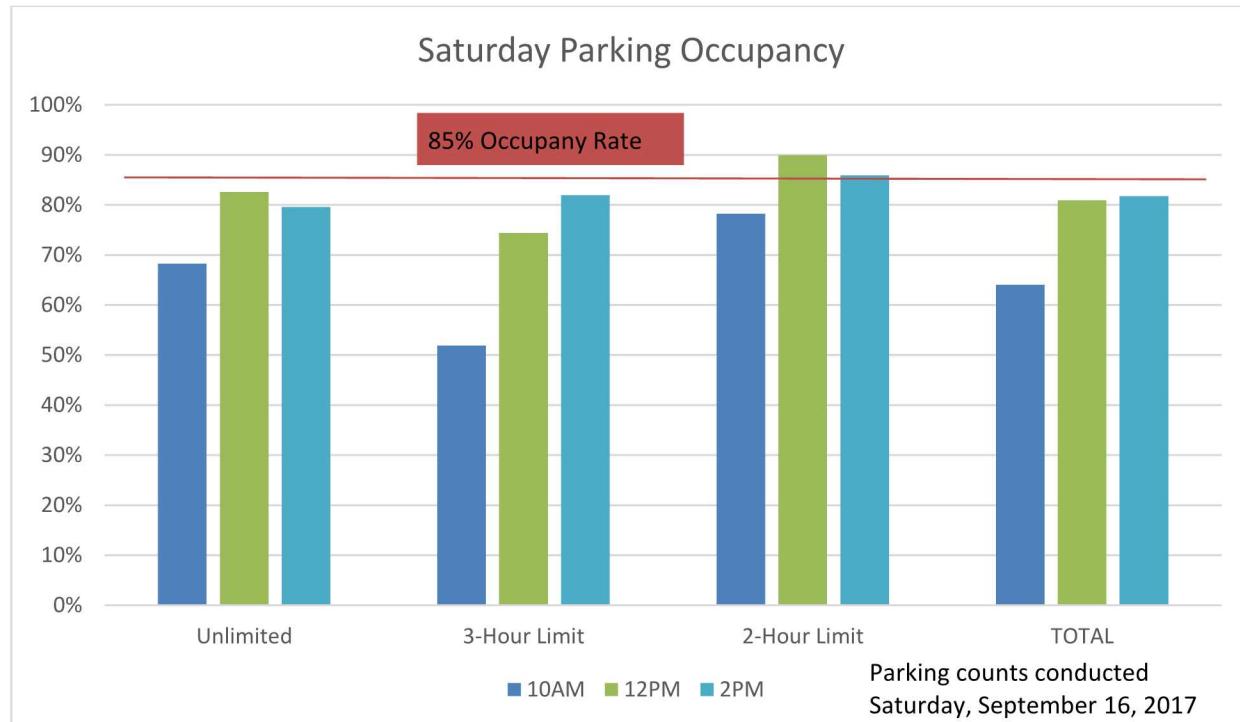
Currently spaces are time limited for on street parking at two hours with municipal lots having a combination of spaces with three-hour limits and spaces with no time limit. These time limits are set up to accommodate various needs with a customer focus. The structure accommodates quick visits to businesses with curbside parking on the streets. The two-hour time limit encourages turn over in the occupancy of these spaces to increase availability for customers. Similarly, parking lots in the most congested part of the downtown are completely or partially allocated to three-hour parking. Three-hour parking balances the need for longer customer stays while continuing to encourage turnover and discourage all day parking. Generally the spaces with no time limits are slightly more distant from the busiest parts of the downtown core and provide for longer term and all-day parking for customers and employees.

PREPARED BY: MATT MORELY
Parks and Public Works Director

Reviewed by: Town Manager, Assistant Town Manager, Town Attorney, and Finance Director

DISCUSSION:

Parking counts conducted by the Transportation and Parking Commission demonstrate the capacity in parking spaces. Generally, there is greater parking availability on weekends as a number of non-retail businesses are closed. The following chart demonstrates the results for Saturday parking counts. For parking, 85% occupancy is considered the threshold for having full parking.



Given the inquiry into the viability of modifications to parking time limits, staff presents five options for consideration.

1. *Saturday Event Days* – Allow for parking with no time limits on weekends when events occur downtown at the request of the event organizer.
2. *Saturday Event Days Muni Lots* - Allow for parking with no time limits on weekends with events only in municipal parking lots at the request of the event organizer. On street parking would still retain time limits.
3. *Eliminate Saturday Time Limits in Muni Lots only* – Allow for unlimited parking in muni lots on Saturdays. Continue to enforce on street parking time limits on Saturdays.
4. *Eliminate All Saturday Time Limits* – Allow for parking with no time limits on Saturdays year-round in lots and on street. This would treat Saturdays the same as Sundays.
5. *Maintain the Status Quo* – This option would make no changes to the current structure.

DISCUSSION (cont'd):

The Transportation and Parking Commission reviewed and discussed this subject at its October 10, 2018 meeting. Input from the Commission includes the following:

- Two-hour spaces are important to serve customers for short visits.
- Signage and communication on available parking is important.
- Any changes that are implemented may provide an opportunity to educate businesses on parking etiquette and visitors on parking availability.
- Staff should have the ability to modify the program to ensure the best opportunity for success.
- Although this could be a pilot, it is difficult to unwind any changes, pilot or not.
- Unlimited parking may encourage trail and other recreation users that are attracted to Los Gatos on the weekends to park in the currently time limited lots.

During the discussion, the Transportation and Parking Commission suggested option three which was not on the list in the report to the Commission. In building towards consensus, the Commission felt this was the most attractive option. The second choice of the Commission was option two, followed by option four.

Although staff believes the main goal achieved through time limited parking is enhanced access to business by their customers, non-compliance does result in parking citation revenue. Citations for on street time limit violations on Saturdays only result in revenue of \$50,000 a year and of that municipal parking lots amounts to \$30,000 per year.

CONCLUSION:

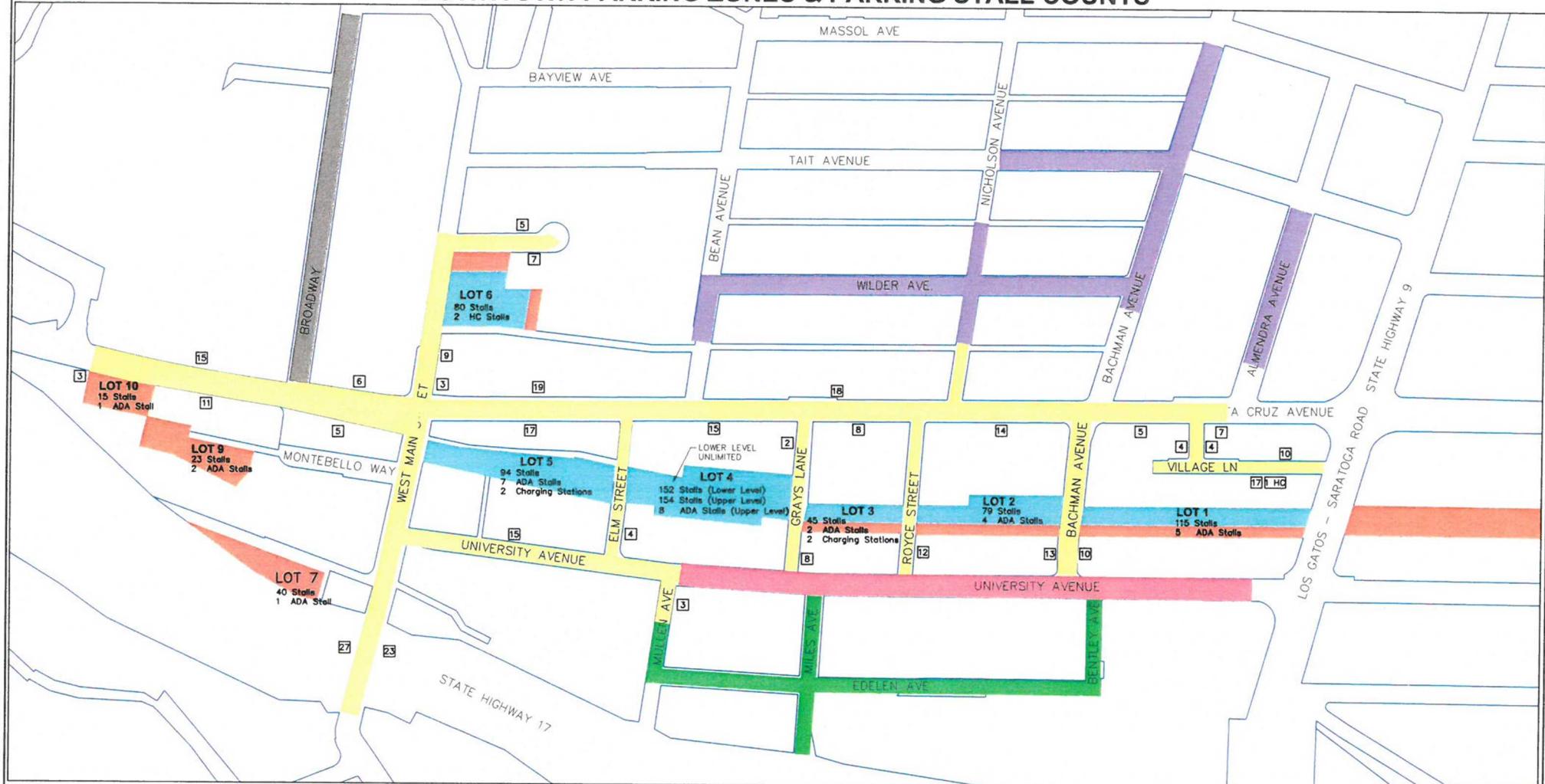
Staff would like input from the Policy Committee and direction on next steps.

Attachments:

1. Parking Map

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DOWNTOWN PARKING ZONES & PARKING STALL COUNTS



LEGEND

##	Parking Stall count	 	2 hour time limit 9 AM to 6 PM weekday After 6:00 PM, there are no parking restrictions
 	2 hour time limit 9 AM to 6 PM weekday (unless displaying a permit) After 6:30 PM, no parking without a permit	 	3 hour time limit 9 AM to 6 PM weekday (unless displaying a permit) After 6:00 PM, there are no parking restrictions
 	2 hour time limit 9 AM to 6 PM weekday (unless displaying a permit) After 6:00 PM, no parking without a permit	 	2 hour time limit 9 AM to 6 PM weekday (unless displaying a permit) After 6:00 PM, there are no parking restrictions
 	No parking without a permit	 	Unlimited parking

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TOWN OF LOS GATOS
TOWN COUNCIL POLICY COMMITTEE

MEETING DATE: 10/18/2018

ITEM NO: 4

DATE: OCTOBER 12, 2018
TO: COUNCIL POLICY COMMITTEE
FROM: LAUREL PREVETTI, TOWN MANAGER
SUBJECT: DISCUSS POTENTIAL REGULATIONS FOR SHORT-TERM RENTALS (STRs)

RECOMMENDATION:

Discuss potential regulations for short-term rentals (STRs).

BACKGROUND:

On October 2, 2018, a staff report regarding short-term rentals (STRs) was brought to the Town Council for initial discussion and direction. Council voted unanimously to refer the item to the Policy Committee for further discussion with input from Council members. A copy of the Council Staff Report is available as Attachment 1.

Council requested additional research regarding how neighboring municipalities have responded to this issue and considerations that those jurisdictions took into account when formulating their approaches. Council also sought an estimate of the anticipated revenue from transient occupancy tax (TOT) associated with STRs if the Town were to allow and regulate STRs.

DISCUSSION:

The policy responses of municipalities comparable to Los Gatos generally fall into one of three categories: (1) outright prohibition of STRs, (2) TOT voluntary collection agreements with Airbnb without specific policy allowing/regulating STRs, and (3) policy adoption to allow and regulate STRs. Following is a summary of findings from staff's review of neighboring jurisdiction staff reports and/or discussions with neighboring jurisdiction staff.

PREPARED BY: HOLLY ZAPPALA
Management Analyst

Reviewed by: Town Manager, Assistant Town Manager, and Community Development Director

DISCUSSION (Continued):

1. Outright prohibition of STRs

Some local municipalities have chosen not to allow STRs within their jurisdictions. STRs are banned in both Campbell and Saratoga.

Campbell

Campbell's position on STRs is nearly identical to the status-quo position of the Town of Los Gatos. STRs are not a permitted use in the Campbell Zoning Ordinance, which by default prohibits them from occurring in Campbell. Hotel-type uses are not permitted in residential zones, which prohibits homeowners from renting out their houses for periods of less than 30 nights. Campbell Code Enforcement enforces this ban on a complaint-driven basis. They receive relatively few complaints concerning STRs. There has been no interest within the City of Campbell in addressing the topic of STRs further, so their ordinance continues to remain silent on the subject. Campbell does not collect any TOT revenue from STRs.

Saratoga

Saratoga bans STRs outright within its city. The Saratoga Municipal Code is similar to those of Los Gatos and Campbell in that it does not allow STRs by-right as a permitted use in any residential zoning district. Saratoga staff examined the issue and brought it to the City Council in April, 2015 (see Attachment 2). Ultimately, the City chose to uphold the ban on STRs in order to avoid increased traffic, noise, and the high turnover of renters. Residents preferred to maintain their relatively quiet streets and valued neighborhood stability and privacy. Saratoga enforcement efforts include the creation of a flyer and a page on their website dedicated to providing information to the community regarding the ban on STRs (see Attachment 3). They currently receive approximately one or two STR-related complaints per year and do not collect any TOT revenue from STRs.

2. TOT voluntary collection agreement with Airbnb with no ordinance amendment to allow/regulate STRs

There are several neighboring jurisdictions that have chosen to enter into agreements with Airbnb wherein Airbnb collects TOT on behalf of its hosts and remits directly to the municipality, while not amending their Municipal Ordinances to allow or regulate STRs. Both Santa Clara and Morgan Hill have chosen this approach.

DISCUSSION (Continued):

Santa Clara

The City of Santa Clara does not regulate STRs. In 2015, the City Council authorized the City Manager to execute a voluntary tax collection agreement with Airbnb for the collection of the City's TOT on short term rentals (see Attachment 4). While the City has an agreement with Airbnb, there are other sharing economy rental sites that operate within the City of Santa Clara which do not have a TOT agreement with the City. Santa Clara has also not conducted any due diligence to ensure receipt of TOT from Airbnb, although the City has acknowledged that an upcoming review is warranted and planned (see Attachment 5).

Santa Clara's Zoning Code does not call out any restrictions and the relevant Zoning Code sections do not include provisions disallowing uses not mentioned, unlike other parts of their Code. The City's TOT definitions are broad enough to apply to STRs. Given the number of rentals in Santa Clara (approximately 130 at the time of the report), the anticipated revenue, and Airbnb's willingness to enter into a voluntary tax collection agreement, staff recommended the City enter into the agreement with Airbnb and Council approved it. One year into the agreement, Santa Clara's TOT revenue was \$291,789.26 (see Attachment 6). This was significantly higher than the initial projected annual TOT revenue of \$60,000.

Morgan Hill

Morgan Hill also chose a passive approach to the issue of STRs. Although they are not allowed in Morgan Hill, the City is aware that they are still occurring. There are approximately less than 50 listings on Airbnb. The City chose to enter into an agreement with Airbnb wherein Airbnb collects the TOT on behalf of its hosts and remits directly to the City (see Attachment 7). This was a strategy to collect the TOT revenue since the STRs, though not allowed, are still occurring within the City. Morgan Hill also created a system for hosts using platforms other than Airbnb to register and pay TOT independently (see Attachment 8). To date, no one has registered. If no STR-related complaints are received, the City does not get involved in the operation of the STRs; however, if complaints are received, the City will enforce the ban on STRs.

Palo Alto

Palo Alto has a similar strategy to Morgan Hill, noting that the TOT applies to homeowners or companies who may be renting bedrooms or dwelling units on a short-term basis, even if this activity violates the City's Zoning Ordinance.

DISCUSSION (Continued):

3. Policy adoption to allow/regulate STRs

In addition to the aforementioned policy choices, other local municipalities have chosen to allow and regulate STRs in their jurisdictions. When STRs are allowed, there are a number of policy considerations to be taken into account when establishing rules to regulate them. Some of the major considerations include: the type of rental (hosted vs. un-hosted), geographic location (confining them to certain zones), limiting the number of rental days allowed per year, limiting the number of renters allowed at one time, regulating parking, and limiting commercial/assembly uses. Sunnyvale and Los Altos Hills have both chosen to allow and regulate STRs within their jurisdictions.

Sunnyvale

Sunnyvale allowed and regulated STRs in 2015 (see Attachment 9). The City entered into a voluntary TOT collection agreement with Airbnb in 2018 (see Attachment 10). Sunnyvale staff also created a webpage with STR information, including an STR rental application and TOT registration form for hosts (see Attachment 11).

The City of Sunnyvale considered the impact on the housing stock and chose to not permit un-hosted rentals as a way to protect housing stock in the City. Un-hosted rentals can have a greater impact on the rental housing market, as owners may seek to purchase and rent multiple properties concurrently. A requirement for the host to reside on-site limits hosts to only rent a portion of their primary dwelling or an accessory dwelling unit on the property. Sunnyvale also considered neighborhood compatibility concerns when formulating STR regulations. They chose to limit the number of renters at one time and reserved the ability to revoke an approved STR. In addition to addressing housing stock concerns the city also required the host to reside on-site to handle nuisance concerns as a way to address the potential neighborhood compatibility issues. The highlights of Sunnyvale's Ordinance are as follows:

- STRs must be permitted through the City
- Maximum of four overnight lodgers (not including minor children)
- Renting to unaccompanied minors is prohibited
- Host shall reside on-site
- Host shall comply with all permit conditions, laws, and codes
- Rental space must be suitable for occupancy (sleeping space in tents, sheds, vehicles, etc. is not permitted)
- Host shall obtain a business license

DISCUSSION (Continued):

- Host shall be responsible for collecting/remitting TOT
- Host shall be responsible for ensuring the property does not become a nuisance
- STR approval may be revoked by the Director

The full ordinance may be found in Attachment 12 and minutes from the Council meeting are in Attachment 13.

Los Altos Hills

The Los Altos Hills Town Council also voted to allow and regulate STRs in early 2018 (see Attachment 14). The Council considered several concerns including preserving neighborhood integrity and not allowing developers to use residential properties for commercial enterprises. The Council discussed the goal of allowing responsible rentals but also providing protection for neighbors from nuisance situations. The importance of STRs being effectively controlled in neighborhoods was noted. Council expressed interest in not denying homeowners the right to do what they wish with their homes, but to deny landowners the ability to misuse their property to the detriment of neighbors.

Los Altos Hills approved a number of regulations to preserve neighborhood compatibility, including requiring the rental property to contain the owner's primary residence, prohibiting commercial uses, and requiring parking to remain on-site.

The highlights of the approved Los Altos Hills Ordinance regulating STRs is as follows:

- One STR per property is allowed
- The STR property shall contain the owner's primary residence
- Host shall comply with all permit conditions, laws, and codes
- Rental space must be suitable for occupancy (sleeping space in tents, sheds, vehicles, etc. is not permitted)
- Events and commercial uses are prohibited
- All parking must be on-site
- Host shall be responsible for ensuring the property does not become a nuisance
- STR license will be revoked after three validated nuisance violations

The complete ordinance may be found in Attachment 15 and Council meeting minutes in Attachment 16. Los Altos Hills does not have a TOT and is not planning on instituting one for STRs at this time. However, they are currently researching and interested in contracting with a third-party firm to identify all STRs in Town for online registration and to provide a 24/7 rental hotline for complaints.

DISCUSSION (Continued):

Town staff has been in contact with Airbnb and they have committed to send pro forma data for the past year regarding STRs in Los Gatos. The estimated potential TOT numbers for Los Gatos are forthcoming and will be shared once received.

CONCLUSION AND NEXT STEPS:

The Policy Committee should discuss and determine if the status-quo approach to banning short-term rentals in Los Gatos should be maintained or if regulations should be drafted to allow STRs.

Among the options for consideration are:

- Make no changes to the current Town ordinances and create enforcement tools to encourage compliance;
- Create an ordinance regulating STRs in the Town of Los Gatos and rely on owners/hosts to report and remit TOT directly to the Town;
- Create an ordinance regulating STRs in the Town of Los Gatos and enter into a voluntary TOT collection agreement with Airbnb wherein Airbnb collects and remits TOT directly to the Town on behalf of its hosts; and
- Enter into a voluntary TOT collection agreement with Airbnb wherein Airbnb collects and remits TOT directly to the Town on behalf of its hosts, while not changing the current Town ordinances.

Staff looks forward to the direction of the Policy Committee.

FISCAL IMPACT:

No fiscal impact at this time.

Attachments:

1. September 27, 2018 Los Gatos Council Report
2. April 1, 2015 Saratoga Council Report
3. Saratoga Short-Term Rental Flyer
4. September 29, 2015 Santa Clara Council Report
5. Santa Clara Response to Council Inquiries
6. Santa Clara One Year Review of Airbnb TOT
7. May 16, 2018 Morgan Hill Council Report
8. How to Guide for Short-Term Rentals in Morgan Hill
9. September 15, 2015 Sunnyvale Council Report

PAGE 7 OF 7

SUBJECT: SHORT-TERM RENTAL DISCUSSION

OCTOBER 18, 2018

10. June 12, 2018 Sunnyvale Council Report
11. Sunnyvale Short-Term Rental Webpage and Forms
12. Sunnyvale Municipal Code Chapter 19.76
13. September 15, 2015 Sunnyvale Council Meeting Minutes
14. March 22, 2018 Los Altos Hills Council Report
15. Los Altos Hills Ordinance 575
16. April 20, 2017 Los Altos Hills Council Meeting Minutes

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**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 10/02/2018

ITEM NO: 8

DATE: SEPTEMBER 27, 2018

TO: MAYOR AND TOWN COUNCIL

FROM: LAUREL PREVETTI, TOWN MANAGER

SUBJECT: DISCUSS AND PROVIDE DIRECTION REGARDING POTENTIAL REGULATIONS FOR SHORT-TERM RENTALS.

RECOMMENDATION:

Discuss and provide direction regarding potential regulations for short-term rentals (STRs).

BACKGROUND:

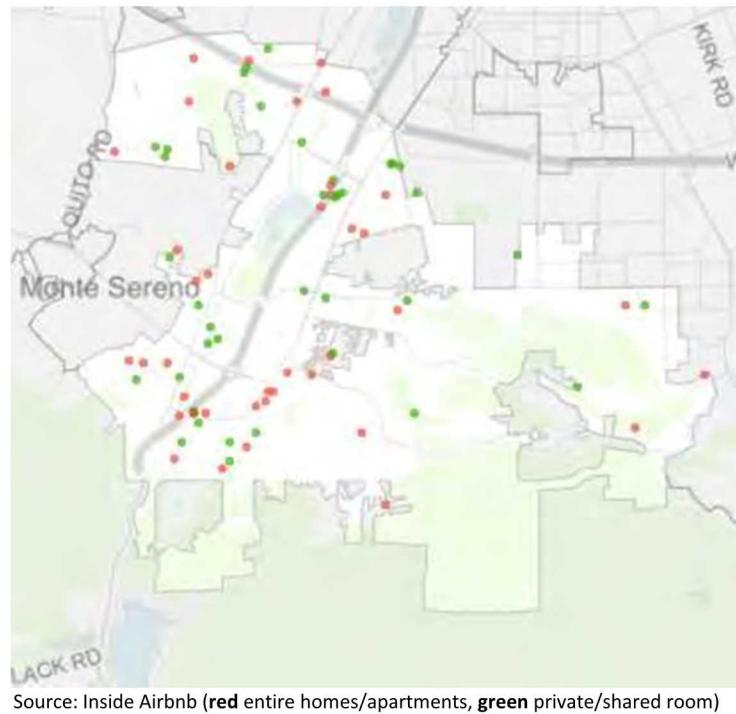
Short-term rental (STR) is the practice of renting a portion of or an entire home to a person or group of people for periods of less than 30 nights. In recent years, there has been exponential growth of STRs offered through "sharing economy" websites, such as Airbnb (by far the leader of the group), VRBO, Flipkey, and Homeaway. To illustrate the growth in STR platforms, seven million guests used Airbnb to rent out rooms or homes in California in 2017, according to Matt Middlebrook, Airbnb's Public Policy Lead for California. The growing popularity of STRs is forcing municipalities across the country and the world to develop strategies in response.

A review of Airbnb's website shows between 50 and 100 STR properties currently in Los Gatos. The majority (about 45 percent) are guesthouses/cottages, followed by about 30 percent room rentals and approximately 20 percent entire houses for rent. There were also a couple local hotel rooms listed and even a camper/recreational vehicle (RV). Currently, STR listings do not include the address of the rental, making them difficult to locate based on public listing information; however, based on information from one popular STR information aggregator, the picture below illustrates the units currently available in Los Gatos. Another STR information aggregator places the STR inventory at approximately 104 units in the 95030 and 95032 zip codes.

PREPARED BY: ARN ANDREWS, Assistant Town Manager
HOLLY ZAPPALA, Management Analyst

Reviewed by: Town Manager, Assistant Town Manager, Finance Director, and Town Attorney

BACKGROUND (Cont'd):



Given the wide adoption of STR platforms and the subsequent proliferation of STRs within Los Gatos, it is timely for the Town Council to discuss the Town's current STR approach, review policy options, and provide direction on potential STR regulations.

DISCUSSION:

Existing Town STR Approach

The current Town of Los Gatos Zoning Ordinance is silent on the subject of short-term rentals as a permitted use in any of the Town's zones, which by default prohibits them from occurring within the Town's jurisdiction. Town Code Sec. 25.30.010 defines a hotel as any structure occupied by transients for dwelling, lodging, or sleeping purpose. Town Code Sec. 29.10.020 further defines a hotel/motel as a building where lodging, with or without meals, is provided for compensation and where occupancy is generally limited to no more than thirty (30) days. A hotel is not a permitted use in the residential zones, therefore prohibiting homeowners from renting out a house for 30 days or less. A transient is defined as any person who exercises occupancy for a period of thirty (30) consecutive calendar days or less. In addition, Code Sec. 29.10.320 (b) (14) also specifically prohibits rentals for durations of less than thirty (30) days, including short-term rentals, in accessory dwelling units. The Town enforces these Code

DISCUSSION (Cont'd):

sections and the prohibition on a complaint-driven basis. The Town received two STR complaints in 2015, one in 2016, three in 2017, and three in 2018 so far.

The current Transient Occupancy Tax (TOT) rate in Los Gatos is 12% and it applies to rentals that do not exceed 30 consecutive days. These rentals have historically been hotel stays, until the recent popularity of the sharing economy rentals. The Town currently collects this tax from hotels. The tax is paid by the hotel guest and collected and remitted by the hotel owners. No TOT is collected for STRs currently.

Alternative STR Policy Approaches

There are many STR policy approaches being adopted by regional and national peer municipalities. In Santa Clara County, jurisdictions have taken a variety of approaches to the topic of STRs. The City of Saratoga has banned them while the Cities of San Jose and Sunnyvale have regulated them. The Cities of Santa Clara and Morgan Hill have no ordinances or regulations in place but have agreements with Airbnb to collect Transient Occupancy Tax through its reservation platform. Other municipalities, including the Town of Los Gatos, do not have an ordinance regulating STRs.

Regulates STRs	STRs not allowed	No Regulations	Regulations under consideration
San Jose	Campbell	Gilroy	Mountain View
Sunnyvale	Milpitas	Santa Clara	Cupertino
Los Altos Hills	Saratoga	Morgan Hill	
San Francisco	Palo Alto		

While the policy approaches may vary in adoption, the variables addressed during policy formation are fairly consistent. In municipalities that have chosen to regulate STRs, there are a variety of best practices emerging as a way to manage them, including establishing a geographic zone specifically for STRs, requiring the STR host to be present, limiting the number of rental days per year (difficult to enforce), and limiting the number of guests at one time (difficult to enforce).

Following are the primary policy considerations if the Council would like to consider regulating and allowing STRs.

DISCUSSION (Cont'd):

- **Type:** There are two primary types of residency options in practice to consider:
 1. **Hosted Rentals:** In a hosted rental, a permanent resident must live at the home while it is being rented. Hosted STRs could present fewer compliance issues since the host would reside on the premises to oversee the rental. Having a resident host living at the house could also increase the comfort of neighbors who may otherwise be unsure about the guests.
 2. **Un-Hosted Rentals:** Un-hosted rentals are normally for the entire house/property as opposed to a room or accessory dwelling unit. Un-hosted rentals could have more neighborhood compatibility and enforcement issues, such as noise complaints. Un-hosted rentals may also have a greater impact on the affordability of the rental housing market, as owners may seek to rent multiple properties concurrently.
- **Geographic Zone(s):** STRs could be confined to certain zones within the Town. The number of STRs within those zones within the Town could also be limited. A minimum distance could also be established between properties that have been permitted for STRs.
- **Limiting the number of days allowed per year:** Many jurisdictions have regulated the number of days per year an STR can be rented. Jurisdictions further codify a distinct number of days per year for hosted units versus un-hosted units, with un-hosted rental days per year being significantly less than the number allowed for hosted rentals.
- **Maximum number of guests at one time—Hosted:** In order to control the number of people using an STR and the effects on neighbors (parking and noise), a limitation on the number of STR guests allowed in a 24-hour period can be included in the regulations. Children under a certain age can be excluded from the count. The number of guests can be calculated based on the number of rooms in the house. However, having one standard regardless of the number of bedrooms makes enforcement easier (e.g. four guests per property).
- **Maximum number of guests at one time—Un-Hosted:** If the entire home is available for use, some jurisdictions increase the maximum number of guests beyond the limit imposed upon hosted rentals.
- **Parking:** Vehicle parking for STRs could be required to remain on-site, or the number of vehicles per STR could be limited.

DISCUSSION (Cont'd):

- **Commercial Uses:** Assembly or commercial uses, such as weddings or other special events, could be prohibited at STRs. This would reduce noise, vehicles, and the overall impacts to a neighborhood.

Additional STR Policy Considerations

Potential Impact on Housing

While research regarding the potential impact of the STR market on housing availability is still in its infancy, early research indicates that it could have a negative impact in certain markets. Given the current relatively small number of STRs in Los Gatos, they likely have a minimal impact on current housing availability; however, if more homeowners begin renting their entire homes for longer durations, this could become a more prominent issue.

To discourage the conversion of units from long-term housing to STRs, municipalities have taken approaches such as: requiring STRs be only at the owner's primary residence, allowing only one unit per parcel to be used as an STR, requiring the host to be present during rental periods, and prohibiting STRs in Below Market Rate and senior units.

Neighborhood Character and Impacts

Transient tenants associated with STRs may impact parking, noise, and neighborhood character. There are a number of regulations that can be used to mitigate most of these concerns including: limiting the number of guests at one time, requiring parking to be on-site, limiting the number of vehicles, prohibiting assembly/commercial uses (such as weddings), requiring hosts to provide guests with local rules regarding noise, etc., and requiring the host to live at and be present at the property during any rentals.

Enforcement

In order to assist in effective enforcement either a continued ban on STRs or some form of a regulated model, violation penalties for both should be made clear and significant enough to encourage compliance. Some jurisdictions have created high penalties for failing to register an STR within 90 days of operation. This encourages STRs to register, making enforcement of any other violations much easier. In addition, many cities also include the ability to revoke the operator's STR-related business license or registration after two or three violations.

Staff will need to evaluate if additional Code Enforcement staff would be needed to assist in STR regulation. Given the history of very few STR-related complaints each year and the

DISCUSSION (Cont'd):

relatively low number of STRs currently in Town, additional staff may not be required right away.

Revenue Collection

Most municipalities that allow STRs require hosts to maintain a current business license and all hosts must report/remit TOT to the municipality. If the Town were to move forward with a regulatory program for STRs, a process for TOT collections from STRs would need to be established.

Airbnb has recently started entering into agreements with municipalities to collect and remit TOT on behalf of hosts/property owners. This allows municipalities to interact with one organization, rather than collecting funds from hundreds of individual property owners. Locally, San Jose, Santa Clara, Palo Alto, San Francisco, and Oakland have established agreements with Airbnb to collect and remit TOT on behalf of short-term rental hosts. Hosts using platforms other than Airbnb must self-report and remit TOT.

The other option is to refrain from contracting with Airbnb and use the honor system where owners remit taxes directly to the Town for all platforms. This approach has been less effective in other municipalities.

CONCLUSION AND NEXT STEPS:

Council should determine if the status quo approach to short-term rentals in Los Gatos should be maintained or if regulations should be drafted to allow STRs.

Among the options for Council consideration:

- Make no changes to the current Town ordinances and create enforcement tools to encourage compliance;
- Create an ordinance regulating STRs in the Town of Los Gatos and rely on owners/hosts to report and remit TOT directly to the Town;
- Create an ordinance regulating STRs in the Town of Los Gatos and enter into an agreement with Airbnb (and similar platforms) wherein Airbnb collects the TOT on behalf of the Town and remits directly to the Town; and
- Enter into an agreement with Airbnb wherein Airbnb collects the TOT on behalf of the Town and remits directly to the Town, while not changing the current Town ordinances.

Staff looks forward to the direction of the Town Council.

PAGE 7 OF 7

SUBJECT: DISCUSS AND PROVIDE DIRECTION REGARDING POTENTIAL REGULATIONS
FOR SHORT-TERM RENTALS (STR)
SEPTEMBER 27, 2018

COORDINATION:

This report was coordinated with the Town Attorney, Director of Community Development, and Director of Finance.

FISCAL IMPACT:

No fiscal impact at this time.

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SARATOGA CITY COUNCIL

MEETING DATE: April 1, 2015

DEPARTMENT: Community Development

PREPARED BY: Erwin Ordoñez, Community Development Director

SUBJECT: Short-Term Rentals Regulation

RECOMMENDED ACTION:

Review staff research regarding Short-Term Rentals (STR's) and provide direction to the Planning Commission.

BACKGROUND:

Local jurisdictions throughout the nation are grappling with the issue of Short-Term Rentals (STR's) and the potential impact raised with these types of "new sharing economy" commercial uses.

The advent of internet, wireless and web application-based platforms (e.g. AirBnb, HomeExchange, etc.) allow property owners to establish these commercial businesses in areas that are exclusively residential with relatively very-low or no investment costs and no notification requirement to the residents of local communities. While the threshold to establish these businesses is low, unregulated STR's have high potential to generate unwanted impacts to surrounding areas that can over-time erode the quality of life in a neighborhood (e.g. increased traffic, parking demand, noise disturbances, litter, and perceived neighborhood safety issues).

On February 4, 2015, at a Joint City Council/Planning Commission, Council directed staff to prepare an initial summary report of this issue for its review so it can provide guidance to the Planning Commission.

Adopted City Code

The City of Saratoga Municipal Code does not allow Short-Term Rentals by-right as a Permitted Use in any residential zoning district.

Short -Term Rentals due to length of stay and operations (i.e. less than 30 days) would most closely approximate a hotel, motel, or bed and breakfast use. These uses are only allowed by City Code Section 15-19.020(b) as potential Conditional Uses in designated commercial zoning districts and require the application and approval of a Conditional Use Permit (CUP).

An initial review of the 71 listings available on a STR-related website that resulted from a "Saratoga, CA" keyword query determined that only 16 have the potential to be located within the City. The other listings are located in surrounding communities or the unincorporated areas.

In July 2014, the City received its first neighborhood complaints regarding a STR business operating unlawfully in a Single Family Residential Zoning District. The City issued a series of Code Enforcement letters and a formal citation in December 2014. The citation was recently upheld by the City's outside Administrative Hearing Officer.

Staff Research

To assist with the City Council and Planning Commission review of this study issue staff has researched other communities who have or are considering ordinances for the regulation of STR's.

Currently, the cities of San Jose, San Francisco and San Luis Obispo have recently adopted local ordinances to allow and regulate STR's with early mixed results. Copies of relevant media reports are included in Attachment D. The cities of San Mateo and Sunnyvale are initiating their own studies of the issue.

The City of San Jose ordinance allows both owner and non-owner occupied short-term rentals by by-right in all residential zoning districts as "incidental uses" but sets limits on maximum number of "transient users" and establishes a limit of 90 rental days per calendar year that the unit can be rented out. Additionally, the ordinance requires that operators pay a 10-percent transient occupancy tax on their rentals.

The San Luis Obispo ordinance allows only owner occupied short-term rentals and defines them as "homestays" which can be approved by the Community Development Director through an administrative permit. Non-owner occupied short-term rentals are classified as "vacation rentals" and are prohibited. Homestays are not permitted uses in secondary units. The Homestay ordinance also requires additional parking, compliance with building and fire codes, establishes a maximum of four guests, the provision of owner contact information, and the payment of transient occupancy taxes.

In addition to these efforts there are at least two bills which have been proposed in the State Legislature to regulate STR's and could pre-empt regulation by local cities. Staff will monitor these bills as this study issue proceeds.

ISSUES TO CONSIDER:

Staff has outlined below a list of issues that could be considered by the Planning Commission if the City Council is supportive of potential changes to the City Code to allow Short-Term Rentals in Saratoga:

- 1) Defining What is considered a Short Term Rental
 - a) Duration of lease (i.e. less than 30 days)
 - b) Primary Use of the home vs. Ancillary/Accessory Short Term Rental Use
 - i) Limit on maximum number rooms and/or percentage of square footage

- ii) Limit on maximum number renters (e.g. maximum of 4 persons)
 - iii) Use of Secondary Dwelling Units (e.g. possible loss of affordable units)
- c) Owner Occupancy Requirements
 - i) No employees
 - ii) Absentee Landlords Issue

- 2) Identifying specific zoning districts or properties for Short Term Rental use
 - a) All residential zones vs. specific residential zones
- 3) Identifying Specific Requirements for Short Term Rental Uses
 - a) Additional Off-Street Parking Requirement (per room)
 - b) Possible New Permit/License Type
 - c) City Issued Short Term Rental Guest Parking Placard
 - d) Signs prohibited
- 4) Establishing a Permit Approval Process
 - a) Ministerial Permit (No notice or appeal) vs. Conditional Use Permit (Administrative or Planning Commission)
- 5) Additional Considerations
 - a) Collection of Transient Occupancy Tax (TOT)
 - b) Additional Code Enforcement demand

ATTACHMENTS:

Attachment A – City Code Excerpts

Attachment B – Map of West Valley Short-Term Rentals

Attachment C – Copies San Francisco and San Luis Obispo Short-Term Rental Ordinances

Attachment D – Copies of Short-Term Rental Media Reports

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City of Saratoga – Short Term Rentals

The City of Saratoga prohibits short-term rentals in the City's single-family residential districts. The City's regulations are intended to preserve Saratoga's residential environment.



Renting a private home in lieu of a hotel during a vacation or business trip has risen in popularity. Among other resources, online booking sites facilitate short term hotel type rentals between homeowners who can earn some extra income and travelers looking for an affordable and convenient place to stay.



However, like many other cities, the City of Saratoga's Municipal Code *prohibits* rental of a single-family home or room(s) within the home for a period of 30 consecutive calendar days or less.

The rules are put in place to avoid increased traffic, noise, and the high turnover of short-term renters on quiet streets where residents value stability and privacy.

For more information about the city's laws defining hotel type rentals:
See City Code Section 15-06.360 and Section 5-25.020(f)

You can also give us a call at 408-868-1222 or email us at [REDACTED]

COMPLAINTS

Complaints are investigated on a case-by-case basis. Anonymous complaints will not be accepted. If you would like to file a formal complaint, contact: Code Enforcement: 408.868.1214

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City of Santa Clara

The Center of What's Possible

AGENDA ITEM#: 10 A

AGENDA REPORT

Date: September 29, 2015

To: City Manager for Council Action

From: Assistant City Manager

Subject: Authorization for the City Manager to Execute a Voluntary Tax Collection Agreement with Airbnb, Inc., Inc. for the Collection of the City's Transient Occupancy Tax on Short Term Rentals

EXECUTIVE SUMMARY

Over the summer staff evaluated opportunities to apply the City's transient occupancy tax (TOT) to owners of residential property that rent some or a portion of their properties to travelers seeking short term accommodations utilizing internet-transacted vacation rentals. The proliferation of internet use has allowed for connections to be made through sharing economy web sites such as Home Away, Vacation Rentals by Owner (VRBO), and Airbnb, Inc. After research and discussion, staff determined that the collection and remittance of taxes by hosted platforms that facilitate the financial transactions such as Airbnb, Inc. would provide efficiencies for the City to collect additional TOT tax revenue.

Staff engaged Airbnb, Inc. in discussions about their interest in entering into a tax collection agreement with the City that would result in Airbnb, Inc. collecting TOT from hosts that rent accommodations to guests in Santa Clara via the Airbnb, Inc. platform. Currently, Airbnb, Inc. is collecting and remitting taxes in seventeen locations. Attachment A provides a complete list of the jurisdictions in which Airbnb, Inc. is currently collecting occupancy-related taxes and remitting directly to respective taxing authorities on behalf of its Hosts. This simplifies and automates the process for TOT collection compared to other hosted platforms that primarily act as online classifieds.

Staff proposes to enter into a Tax Collection Agreement between Airbnb, Inc. and the City for the collection of the City's Transient Occupancy Tax pursuant to Chapter 3.25 of the Municipal Code. Airbnb, Inc. is a corporation which provides an Internet platform through which third parties desiring to rent out accommodations ("Hosts") and third parties desiring to book accommodations ("Guests") have the opportunity to locate each other, communicate, negotiate, and book a transaction pursuant to an agreement between the Hosts and Guests.

For the purposes of this Tax Collection Agreement, Airbnb, Inc. has agreed to act as a limited collection and remittance agent of the Hosts to the extent such Hosts offer to or rent accommodations to Guests in Santa Clara via the Airbnb, Inc. platform that are subject to the City's Transient Occupancy Tax. Airbnb, Inc. assumes all responsibilities for the collection and remittance of the Transient Occupancy Tax for applicable transactions on its platform in the City, starting on the effective date of the collection agreement.

Short-term rentals that do not exceed 30 consecutive days in duration are the type of transient occupancy that is already subject to the City's Transient Occupancy Tax, which is 9.5%. The City's larger CFD tax rate of 11.5% will not apply to these rentals; in order for additional properties to be included in the CFD rate, they need to affirmatively vote to annex into the CFD area and this will not happen here.

Below summarizes other key provisions of the agreement. Staff is seeking authority for the City Manager to review and execute the final agreement.

- Airbnb will register as an operator for the reporting, collection and remittance of TOT.
- Collection will begin not later than November 1, 2015, (contingent upon the City's execution of the agreement).
- Airbnb will notify hosts that TOT will be collected and remitted as of the effective date and notify guests of the amount of TOT collected and remitted on each booking transaction.
- The City will maintain audit rights with Airbnb, but not individual hosts.
- The Public Records Act will apply to the agreement.
- Airbnb will retain records documenting the payment of TOT for a minimum of three years.
- Either party will be able to terminate the agreement for convenience.

ADVANTAGES AND DISADVANTAGES OF ISSUE

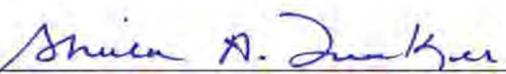
No known disadvantages. Staff will evaluate the tax collection agreement and Airbnb, Inc.'s performance over the next year and develop recommendations for future agreements and/or new agreements with other hosted platforms that facilitate the booking and payment transaction.

ECONOMIC/FISCAL IMPACT

At this time, Airbnb, Inc. estimates that there are approximately 130 hosts in Santa Clara using their internet-based, hosted platform. A typical Santa Clara host rents out their residence 65 nights per year with an average length of stay of 6.5 nights. Based on an average nightly rate of \$77 and average earnings per host of about \$5,000 annually, Airbnb estimates that the TOT that could be collected and remitted through Airbnb, Inc., Inc. would be approximately \$60,000 annually. Additional revenue is anticipated to be generated in Santa Clara during Super Bowl 50 as visitors seek local short term rental accommodations. The revenue will be deposited into the City's Transient Occupancy Tax account in the General Fund.

RECOMMENDATION

That the Council authorize the City Manager to review and execute a voluntary tax collection agreement with Airbnb, Inc. for the collection of the City's transient occupancy tax on short term rentals, subject to City Attorney approval.


Sheila A. Tucker
Assistant City Manager

APPROVED:


Julio J. Fuentes
City Manager

BACKGROUND

“Sharing economy” websites such as Airbnb, VRBO, Home Away and others provide applications that allow owners of residential property to rent some or a portion of their properties to travelers seeking such accommodations. There are some key distinctions in business models. For example, Airbnb is a community marketplace for people to list and book space for any duration of time. Airbnb, Inc. facilitates the process of listing and booking a space by handling all financial transactions. It’s also free to list space on Airbnb. A processing fee is charged only when a place is booked.

In contrast, other sharing economy websites have primarily acted as online classifieds where vacation rental owners pay to advertise their space. The site puts guests in contact with owners or property managers. However, the transaction is typically not facilitated and thus tenants and owners are responsible for processing their own payments. In addition to these subscription models, some sharing economy sites have added new online payment options in which they also offer to facilitate the booking and payment transaction similar to Airbnb. Staff will continue to evaluate opportunities for new agreements with other hosted platforms that facilitate the booking and payment transaction.

The question about how and if these new types of business models should be regulated is one currently being tackled in several communities. Advocates argue that such short-term rentals provide individuals with the ability to earn extra income to support their basic cost of living expenses, enables travelers to find less expensive alternative to hotels, and that guests of vacation rentals stay longer and spend more money in the communities in which they stay. Critics of such short-term rentals argue that this type of activity changes the character of residential neighborhoods, reduces long-term residential housing from the market, increases rents, skirts regulations (e.g. health and safety inspections), and potentially harms hospitality industry jobs and wages. The City has not received any complaints related to Airbnb, Inc. or other similar platform rentals.

Several cities have amended their municipal code to expressly allow and regulate transient occupancy as an incidental use to primary residential uses. Research with the Planning Department and the City Attorney’s Office determined that the City’s Zoning Code currently does not call out any restrictions and the relevant zoning codes do not include provisions disallowing uses not mentioned (unlike other parts of the code). The City’s TOT definitions in Chapter 3.25 are broad enough to apply to short term rentals. Given the number of rentals in Santa Clara, the anticipated revenue, and Airbnb, Inc.’s voluntary agreement to enter into a tax collection agreement, staff is recommending the City enter into this agreement.

Attachment A

Currently, Airbnb, Inc. is collecting and remitting taxes in the following locations:

1. Amsterdam, NL

Guests who book Airbnb listings that are located in the City of Amsterdam, NL will pay the following taxes as part of their reservation:

- Amsterdam Tourist Tax: 5% of the listing price including any cleaning fee. For detailed information, visit [Amsterdam's government website](#).

2. Chicago, IL

Guests who book Airbnb listings that are located in Chicago, IL will pay the following taxes as part of their reservation:

- Chicago Hotel Accommodation Tax: 4.5% of the listing price including any cleaning fee for reservations 29 nights and shorter. For detailed information, visit [CityofChicago.org](#).

3. District of Columbia

Guests who book Airbnb listings that are located in the District of Columbia will pay the following taxes as part of their reservation:

- DC Sales Tax on Hotels (transient accommodations): 14.5% of the listing price including any cleaning fee for reservations 90 nights and shorter. For detailed information, visit [DC.gov](#).

4. Malibu, CA

Guests who book Airbnb listings that are located in Malibu, CA will pay the following taxes as part of their reservation:

- Malibu Transient Occupancy Tax: 12% of the listing price including any cleaning fee for reservations 30 nights and shorter. For detailed information, visit [MalibuCity.org](#).

5. Multnomah County and Portland, OR

Guests who book Airbnb listings that are located in the State of Oregon, Multnomah County and/or the City of Portland will pay the following taxes as part of their reservation:

- Oregon Transient Lodging Tax: 1% of the listing price including any cleaning fee for reservations 30 nights and shorter. 1% is the State imposed tax rate only. For detailed information, visit [Oregon.gov](#).
- Multnomah County Transient Lodging Tax: 11.5% of the listing price including any cleaning fee for reservations 30 nights and shorter. 11.5% is the maximum Transient Lodging Tax for listings in Multnomah County (excluding the State level tax). For example, for Portland listings that are also located in Multnomah County, the Portland Transient Lodging Tax is 6% and the Multnomah County Transient Lodging Tax is 5.5%. For detailed information, visit [PortlandOregon.gov](#).

- Portland Transient Lodging Tax: 6% of the listing price including any cleaning fee for reservations 30 nights and shorter

6. North Carolina

Guests who book Airbnb listings that are located in the State of North Carolina will pay the following taxes as part of their reservation:

- North Carolina Sales Tax: 6.75-7.5% of the listing price including any cleaning and guest fees for reservations less than 90 nights. The State imposes both a statewide 4.75% tax and a local 2-2.75% tax, which varies by county. For detailed information, visit [North Carolina's website](#).
- City and/or County Occupancy Tax: All locally imposed occupancy taxes will be collected on reservations in North Carolina. The tax varies by city and county. It is typically 1-8% of the listing price including any cleaning and guest fees for reservations less than 90 nights.

7. Oakland, CA

Guests who book Airbnb listings that are located in Oakland, CA will pay the following taxes as part of their reservation:

- Oakland Transient Occupancy Tax: 14% of the listing price including any cleaning fee for reservations 30 nights and shorter. For detailed information, visit [Oakland's FAQ page](#).

8. Palo Alto, CA

Guests who book Airbnb listings that are located in Palo Alto, CA will pay the following taxes as part of their reservation:

- Palo Alto Transient Occupancy Tax: 14% of the listing price including any cleaning fee for reservations 30 nights and shorter. For detailed information, visit [CityofPaloAlto.org](#).

9. Philadelphia, PA

Guests who book Airbnb listings that are located in Philadelphia, PA will pay the following taxes as part of their reservation:

- Philadelphia Hotel Room Rental Tax: 8.5% of the listing price including any cleaning fee for reservations 30 nights and shorter. 8.5% is the tax rate imposed by the City and County of Philadelphia (the tax jurisdictions are one and the same). For detailed information, visit [Phila.gov](#).

10. Phoenix, AZ

Guests who book Airbnb listings that are located in Phoenix, AZ will pay the following taxes as part of their reservation:

- Phoenix Hotel/Motel Tax: 3% of the listing price including any cleaning fee for reservations 29 nights and shorter.
- Phoenix Transaction Privilege (Sales) Tax: 2% of the listing price including any cleaning fee for all reservations. For detailed information, visit [Phoenix.gov](#).

11. San Diego, CA

Starting July 15, 2015, guests who book Airbnb listings that are located in San Diego, CA will pay the following taxes as part of their reservation:

- San Diego Transient Occupancy Tax: 10.5% of the listing price including any cleaning fee for reservations 30 nights and shorter.
- San Diego Tourism Marketing District Assessment: 0.55% of the listing price including any cleaning fee for reservations 30 nights and shorter. For detailed information, visit [SanDiego.gov](#).

12. San Francisco, CA

Guests who book Airbnb listings that are located in San Francisco, CA will pay the following taxes as part of their reservation:

- San Francisco Transient Occupancy Tax: 14% of the listing price including any cleaning fee for reservations 29 nights and shorter. 14% is the tax rate imposed by the City and County of San Francisco (the tax jurisdictions are one and the same). For detailed information, visit [SFTreasurer.org](#).

13. San Jose, CA

Guests who book Airbnb listings that are located in San Jose, CA will pay the following taxes as part of their reservation:

- San Jose Transient Occupancy Tax: 10% of the listing price including any cleaning fee for reservations 30 nights and shorter. For detailed information, visit [SanJoseCa.gov](#).

14. India

Starting August 1, 2015, guests who book Airbnb listings that are located in the Country of India will pay the following taxes as part of their reservation:

- India Service Tax: 14% of the listing price including any cleaning fee, less a 40% abatement. Airbnb is required, as an aggregator, to collect and remit service tax on behalf of Airbnb hosts. For detailed information, visit [India's government website](#).

15. Chamonix- Mont-Blanc, France

Starting August 1, 2015, guests who book Airbnb listings that are located in Chamonix-Mont-Blanc will pay the following taxes as part of their reservation:

- Tourist Tax: 0.75€ per person per night for the category "meublés touristiques non classés". Exemptions may apply to some guests. For detailed information, visit [your local city hall's website](#). If a guest believes they are subject to an exemption, they may reach out to the Municipality.

16. Rhode Island

Starting August 15, 2015, guests who book Airbnb listings that are located in Rhode Island will pay the following taxes as part of their reservation:

- Rhode Island Sales Tax: 7% of the listing price including any cleaning fee for reservations 30 nights and shorter. For detailed information, visit [RI.gov](#).
- Rhode Island Local Hotel Tax: 1% of the listing price including any cleaning fee for reservations 30 nights and shorter.
- Rhode Island Statewide Hotel Tax: 5% of the listing price including any cleaning fee for reservations 30 nights and shorter on rentals of private rooms or shared rooms only. Rentals of an entire home or apartment are excluded from this tax.

17. City of Sunnyvale

Starting in October, 2015, guests who book Airbnb listings that are located in Sunnyvale will pay the following taxes as part of their reservation:

- Host shall obtain a business license
- Sunnyvale's Transient Occupancy Tax: 10.5%
- Host required to reside on-site throughout the lodgers' stay

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City of Santa Clara

RESPONSE TO COUNCIL INQUIRIES

City's Transient Occupancy Tax (TOT) Agreement: At the May 29, 2018 Council meeting, the Council requested additional information concerning the City's Transient Occupancy Tax (TOT) agreement with Airbnb, Inc. On September 29, 2015, the City Council authorized the City Manager to execute a voluntary tax collection agreement with Airbnb, Inc. for the collection of the City's TOT on short term rentals. Airbnb, Inc. is a corporation which provides an Internet platform through which third parties desiring to rent out accommodations ("Hosts") and third parties desiring to book accommodations ("Guests") have the opportunity to locate each other, communicate, negotiate, and book a transaction pursuant to an agreement between the Hosts and Guests. For the purposes of the Tax Collection Agreement, Airbnb, Inc. agreed to act as a limited collection and remittance agent of the Hosts to the extent such Hosts offer to or rent accommodations to Guests in Santa Clara via the Airbnb, Inc. platform that are subject to the City's Transient Occupancy Tax. Airbnb, Inc. assumed all responsibilities for the collection and remittance of the Transient Occupancy Tax for applicable transactions on its platform in the City, starting on the effective date of the collection agreement which was October 15, 2015.

While the City does have an agreement with Airbnb, there are other internet-transacted vacation rental sites that operate within the City of Santa Clara, such as Vacation Rentals by Owner (VRBO) and Home Away, which do not have a TOT agreement with the City. The City has also not conducted any due diligence to ensure receipt of TOT from Airbnb, as stated that evening that a review was warranted and planned.

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City of Santa Clara

The Center of What's Possible

AGENDA ITEM #: 15.D1

AGENDA REPORT

Date: February 7, 2017

To: City Manager for Council Information

From: Director of Finance

Subject: One-Year Review of Airbnb Transient Occupancy Tax

On September 29, 2015, a Tax Collection Agreement was executed between Airbnb, Inc., and the City of Santa Clara for the collection of the City's 9.5% Transient Occupancy Tax (TOT) pursuant to Chapter 3.25 of the Municipal Code.

Airbnb began collecting TOT from its hosts during October 2015. Airbnb remits quarterly TOT payments to the City. For the initial partial quarter ending December 31, 2015, the City received \$38,982.30. In the first four full reporting quarters that followed through December 31, 2016, the City has received \$291,789.26 year-to-date in TOT collections.

Collection Period	Amount Collected
01-01-2016 thru 03-31-2016	\$65,265.66
04-01-2016 thru 06-30-2016	\$80,497.02
07-01-2016 thru 09-30-2016	\$73,885.58
10-01-2016 thru 12-31-2016	\$72,141.00
Total	\$291,789.26

Gary Ameling
Director of Finance

APPROVED:

Rajeev Batra
Interim City Manager

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CITY COUNCIL STAFF REPORT

MEETING DATE: May 16, 2018

PREPARED BY: Edith Ramirez, Economic Development Director
APPROVED BY: City Manager

AIRBNB VOLUNTARY COLLECTION AGREEMENT

RECOMMENDATION(S)

Authorize the City Manager to negotiate and execute a Voluntary Collection Agreement with Airbnb Inc. for the collection of the City's Transient Occupancy Tax on behalf of Airbnb hosts who rent their residences to others using the Airbnb application and platform.

COUNCIL PRIORITIES, GOALS & STRATEGIES

Ongoing Priorities

Maintaining Fiscal Responsibility

2018 Strategic Priorities

Economic Development and
Telecommunications
Regional Initiatives

GUIDING DOCUMENTS

Economic Blueprint

REPORT NARRATIVE:

Airbnb is the largest of several online internet-based applications which allows people to rent all or part of their homes to third parties in exchange for payment, also known as short-term rentals. Online platforms like Airbnb allow residents to advertise their homes on the internet. When a home is booked, the customers pay by credit card directly to the online platform. The online platform receives a fee, which is typically a percentage of the rental fee, and remits the remainder to the host. Typically, no Transient Occupancy Tax (TOT) is collected with these transactions.

To collect TOT, the online platform has requested that the City enter into a Voluntary Collection Agreement with Airbnb. Currently, the City does not have a mechanism to collect TOT from short term rentals in Morgan Hill. It is recommended that the City enter into a Voluntary Collection Agreement (attached) with Airbnb to act as a limited collection and remittance agent of the host of short term rentals using the Airbnb platform.

To facilitate collection from other non-Airbnb platforms or hosts, Finance and Economic Development staff have created a two-step self-reporting system. A user-friendly flyer created for this new effort is attached.

The use of short term rentals is a growing trend. Entering into an agreement with Airbnb to collect TOT will allow the City to capture revenue from this growing industry. Having a

clear reporting system will encourage residents who allow short-term rental of their property outside of the Airbnb platform to self-report. In addition to the financial benefits to the City, this effort will support the City's goals to grow the tourism industry in the City.

Tourism in general is a pillar of the General Plan 2035 priorities and is one of the four key industries identified in the Economic Blueprint. A key strategy for Tourism is to support lodging, specifically, action item #25 calls to "Ensure General Plan and Zoning Code, address Bed and Breakfast, Airbnb, and Hotel Development." Expanding, growing, and capturing new TOT revenue streams is essential to achieving the objectives laid out in both the Economic Blueprint and General Plan.

COMMUNITY ENGAGEMENT: Involve

The Council action supports the Economic Blueprint which had an extensive community and stakeholder outreach process.

ALTERNATIVE ACTIONS:

1. The Council may choose not to enter into a Voluntary Collection Agreement with Airbnb.
2. The Council may wish to provide additional direction on the short-term rental TOT collection efforts.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

None.

FISCAL AND RESOURCE IMPACT:

The fiscal impact of entering into this Voluntary Collection Agreement is unknown. Currently, there are a couple of dozen short term rentals that are listed in Airbnb. Staff is not projecting significant revenue increases at this time, but as the industry grows the revenues will increase. If the City were to assume 50 hosts in Morgan Hill listing on Airbnb's site, and an average rent of \$80 per night, for 24 nights per year (only 2 nights per month), the projected revenue based on a 10% TOT, would be \$9,600 in TOT revenue on an annual basis.

CEQA (California Environmental Quality Act):

Not a Project.

The creation of government funding mechanisms or other government fiscal activities, which do not involve any commitment to any specific project that may result in a potentially significant physical impact on the environment.

LINKS/ATTACHMENTS:

1. Airbnb - Morgan Hill Draft VCA (4.5.18)
2. Short Term Rental Guide Flyer

How to Guide for Short-Term Rentals in Morgan Hill

This guide is to be used as a checklist, please speak with a City Staff Member if you have any additional questions.

- Step 1: Fill out the Transient Occupancy Tax Registration Form, which can be found online here: bit.ly/TOTRegistration**
- If applicable*, apply for a Business License with the City of Morgan Hill.**
- Step 2: The Business License application can be found online here: bit.ly/BusinessLicenseMH**
For more information about Business Licenses go online here: bit.ly/BusinessLicenseInfo
- Done: Yes, it's that easy.**

***Ask a City Staff Member if your short-term rental is subject to a Business License.**

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Sunnyvale

City of Sunnyvale

Agenda Item

15-0562

Agenda Date: 9/15/2015

REPORT TO COUNCIL

SUBJECT

Introduce an Ordinance to add a new Chapter 19.76 entitled “Short-term Rentals and Home Sharing” to Title 19 of the Sunnyvale Municipal Code, and find that the project is exempt under CEQA pursuant to Guidelines 15061(b)(3) (Study Issue 2015-7147) (Continued from August 25, 2015)

REPORT IN BRIEF

In recent years, the City has experienced a significant increase in the number of residents who rent all or part of their homes to guests staying thirty days or less. Pursuant to the zoning code (19.12.210), this activity is considered transient lodging similar to hotels and motels, and is therefore currently prohibited in residential zoning districts. However, enforcement of this prohibition is resource intensive and challenging. Many short-term rentals appear to co-exist peacefully with neighbors; there have been instances, however, where neighbors complained that short-term rental activities created a nuisance, especially when the rental generates a high turnover of strangers in the neighborhood. While not entirely reliable as an accurate count of activity, based on a review of advertising on websites such as Airbnb, there are currently more than 200 residences in the City being used for short-term rentals, making the task of enforcement a significant workload. Typically, the Department of Public Safety (DPS) responds on a complaint basis, and works towards resolving the issue with the occupant, owner and neighbors. However, DPS cannot lawfully enter a residence to conduct an investigation without a search warrant, consent, or exigent circumstances.

City Council ranked this study as a priority (CDD 15-12, Attachment 1), asking staff to identify realistic regulations to more effectively respond to this rapidly growing business. The goal of this study is to consider different options that address the concerns surrounding this new type of business, as well as respond to its growing use and popularity.

Many people use short-term rentals while on business trips, vacations, or while their home is under construction. Proponents argue that short-term rentals provide a more local experience, create opportunities to meet people, and are a more affordable alternative to traditional lodging. During large, area-wide events, short-term rentals can help augment the existing lodging units by providing people with more options in attending the event. Proponents also argue that many residents use short-term rentals as a way of augmenting their income, and may help some residents to afford their homes.

Concerns about short-term rentals include allowing a commercial-type use in residential areas, and complaints from neighbors about safety due to the high turnover of residents, noise, incompatibility with the residential neighborhood, and parking. Another concern is that short-term rentals remove housing stock that could otherwise be available for long-term rental or sale, adding to Silicon Valley’s critical housing shortage.

Many cities nationwide are working to develop effective programs to address short-term rentals. After reviewing many approaches, staff is recommending allowing short-term rentals in Sunnyvale with defined zoning standards and enforcement tools to address neighborhood concerns and ensure compliance. The recommended zoning code amendments focus on simplicity and ease of administration to reduce the deterrents for hosts of short-term rentals to obtain the necessary approvals. Staff will also attempt to work with businesses offering the service (such as Airbnb, Flipkey, Homestay) in Sunnyvale to collect transient occupancy tax (TOT) from hosts. This would reduce the work necessary by the City to find the hosts and ensure that TOT is paid.

The Housing and Human Services Commission (HHSC) reviewed the item on July 22, 2015, and the Planning Commission (PC) reviewed it on July 27, 2015. The HHSC voted unanimously to accept several of the staff recommendations, but suggested unhosted rentals also be allowed if property management is provided. The HHSC was split on whether the permits should be appealable. The draft HHSC minutes are attached, but the Commission has not met since to finalize them (Attachment 9).

The PC also accepted many of the staff recommendations (see Minutes, Attachment 10), and also recommended an unhosted option provided there is a local agent for management and contact in emergencies, and a higher maximum number of guests allowed than for hosted. The PC also recommended that approved accessory living units ("granny flats") be allowed as hosted short-term rentals, and further requested the short-term rental issue be returned in 12 months to determine the effectiveness of the program.

Staff recommends Alternative 1 to adopt an amendment to the Zoning Code (Title 1) to allow short-term rentals and home sharing (Attachment 2).

Staff continues to recommend limiting short-term rentals to hosted rentals only. Concerns with unhosted rentals include the impact on neighborhoods, the potential for corporate-type, short-term rentals, difficulty in ensuring a permanent resident or agent is available to manage the unit, and the potential impact to affordable housing. If the City Council supports allowing unhosted short-term rentals as recommended by the HHSC and PC, then they should also adopt Alternative 4 with the following additional provisions: 1) allow two guests per bedroom and a total of eight guests on site at one time; and 2) require an application for unhosted short-term rentals to include a floor plan of home indicating number of bedrooms, a list of all properties applicant is operating as a short-term rental in the City of Sunnyvale, and the name, address and phone number of a local contact person.

BACKGROUND

The Sunnyvale Municipal Code prohibits hotels and motels from most residential areas. Hotels are defined as facilities that offer transient lodging accommodations to the general public for compensation, and transient is defined as any individual who exercises occupancy for a period of 30 consecutive calendar days or less.

While short-term rentals are not new, they have expanded in popularity due to the emergence of Internet sites that link prospective renters to available properties. Renters work with the homeowner or another individual with the Internet companies serving as a middleman in the business transaction. These Internet sites give individuals more options for advertising their rentals, but the transactions tend to be private and difficult for a regulating agency to track.

Many cities are grappling with how to handle the growing popularity of short-term rentals. Some cities have attempted to put wide-ranging regulations in place to control the use, while others have taken a more hands-off approach. A brief description of how some cities are reacting to this use is included in Attachment 3.

In order to better understand the community's thoughts about the issue, an Open City Hall web page was created to provide information and a survey to receive feedback. In summary, 50 percent of the respondents are generally supportive of short-term rentals and another 24 percent would be supportive if only hosted rentals are allowed (see Attachment 4 for a summary of that survey). Hosted refers to rentals where the resident lives on the premises while the home or rooms are rented; unhosted refers to situations where the full house may be rented and the resident does not reside on the premises.

Enforcement

Since the short-term rental business model is a fairly new concept, the City only started addressing the issue in FY 2014/15, after staff determined that it is a municipal code violation. The City has not proactively enforced any short-term rentals but has received approximately ten complaints. Of those complaints, most were resolved quickly after informing the property owners that short-term rentals are a violation of the municipal code. Three property owners were informed of the violation and stated that they would cease the practice; however, subsequent complaints from concerned neighbors prompted further investigation revealing that the practice had not ceased. The three property owners received administrative citations.

Short-term rentals present enforcement challenges for Sunnyvale and other jurisdictions. Numerous short-term rental platforms exist with new ones continually added, making it difficult to prove that a resident is renting their home for fewer than 30 days. This is further complicated by the fact that many of these rental platforms do not provide the specific addresses of the rental properties so they are difficult to locate (even the user may not know the exact location until the transaction is completed). Staff has also found that after warning people about the violation, some have simply changed the description on the website to state "30 days or longer" while still renting their rooms/homes on a per night basis. To pursue and effectively enforce short-term rental complaints, additional staffing would be needed since these cases can be complicated, time intensive, and difficult to prove. DPS staff cannot enter private residences to gather evidence without a search warrant or consent, and short-rental platforms are generally unwilling to share information without a subpoena.

During the joint Study Session on May 12, 2015, City Council and Planning Commission members had questions about whether the City can identify short-term rental hosts and enforce City rules using tax data. According to Airbnb, they do collect taxpayer information from hosts, and those with income from house rentals must report that as taxable income. This is not sufficient data, however, for the City to determine which home owners and tenants are using the residence as a rental unit because the only information the City receives from the State Franchise Board is a list of individuals and property addresses for which a principal business activity (PBA) code is issued. The list the City receives does not specify the type of business at that location, so there is no way to determine if the PBA was for a rental unit, home consulting business, or other use. As a result, use of tax data is not sufficient for enforcement of city regulations.

EXISTING POLICY

General Plan:

From Land Use and Transportation (LT):

GOAL LT-2 Attractive Community - Preserve and enhance an attractive community, with a positive image and a sense of place, that consists of distinctive neighborhoods, pockets of interest, and human-scale development.

Policy LT-2.1 Recognize that the City is composed of residential, industrial and commercial neighborhoods, each with its own individual character; and allow change consistent with reinforcing positive neighborhood values.

Policy LT-3.4 Determine appropriate density for housing based on site planning opportunities and proximity to services.

Policy LT-6.3 Consider the needs of businesses as well as residents when making land use and transportation decisions

Policy LT-7.4 Support land use policies that provide a diversified mix of commercial/industrial development.

From Community Character (CC):

Policy CC-1.7 Encourage neighborhood patterns that encourage social interaction and avoid isolation.

ENVIRONMENTAL REVIEW

Pursuant to California Environmental Quality Act (CEQA) Guidelines 15061(b)(3), CEQA does not apply to activities that are not a project. The code changes will not have the potential for causing a significant effect on the environment. Allowing homes to be used for short-term rentals does not change the nature of residential areas in which they are located, it only changes the term of occupancy. This is not considered an environmental impact pursuant to CEQA.

DISCUSSION

Short-term rentals are enjoying immense popularity, with future growth expected. Although the use of personal residences for hotel-type lodging is popular, it comes with concerns and issues that are difficult to resolve. Listed below are areas of concern for this type of business in residential zones. The report identifies options to address these issues:

1. Lack of oversight of hosts
2. Difficulty in enforcement
3. Neighborhood compatibility
4. Safety
5. Noise
6. Parking

Overview

Enforcing short-term rentals is difficult whether the zoning remains the same (currently considered to be illegal) or if they are an allowed use. One key issue is that the Internet companies that post the rentals act as the middleperson in the transactions, but do not ensure that the host meets local regulations. Companies like Airbnb acknowledge that people using their service must do their own

due diligence regarding local permitting, and in some cases offer brief summaries of what different jurisdictions require, but they do not take responsibility for the transactions. In contrast to a hotel business, which gets the necessary permits to build and operate a lodging facility (in addition to providing on-site personnel to secure and maintain the facility), short-term rental companies act as go-betweens by listing available rentals and collecting a fee for each transaction. While these services benefit residents wishing to offer short-term rentals, surrounding residents may not be aware of such rentals until they occur.

In order to impose regulations that will benefit the entire community, cities have tried with varying success to place land use requirements and restrictions on the hosts. Cities have enacted specific permitting requirements but the resulting success rate of people obtaining permits is less than 10 percent. The companies that act as middlemen do not monitor or require proof of a local permit to list a rental. Responsibility for enforcing permitting requirements presently rests entirely with the jurisdiction. However, the State legislature is currently working on a number of bills on this issue, which may resolve the issue at the state level.

Options

Various cities have adopted regulations to ensure short-term rentals are compatible with their surrounding neighborhoods, but no single approach has proven to be an optimal solution. San Francisco has been cited as an example with a process in place that works well, but recent actions have shown otherwise. The Planning Department for San Francisco recently notified the Board of Supervisors of the difficulty of enforcing their regulations. Some of the aspects of the San Francisco regulations that are difficult to enforce include: the specified number of days units can be rented out; the number of days a permanent resident must live in the unit; and that tenants may not make more in short-term rental than their monthly rent. The Board of Supervisors recently has been discussing ways to change the process to ensure more participation by hosts with a resulting program that is enforceable. Recent statistics have shown that fewer than 10 percent of the Airbnb hosts have received permits for their businesses in San Francisco.

In choosing options for Sunnyvale, staff identified the best practices from different cities that could maximize the success rate of compliance and enforcement. Options are discussed below, followed by the staff recommended alternative.

Issues specific to short-term rentals:

- Regulating the use - type of license, registration or permit?
- Hosted versus unhosted rentals
- How many guests at one time
- Limit on number of days
- Limit the types of units
- Fees and taxes

There are two main types of short-term rentals: Hosted and unhosted. Hosted are rentals where the permanent resident lives in the unit, while unhosted are rentals of the entire house. Approaches for each are shown below. Regardless of hosted or unhosted, the issues to consider regarding short-term rentals include: (1) Methods to regulate the use, and (2) Standard criteria to be used regardless of the permitting option. Shown below are different options for these issues.

A. Regulating the Use. There are three main approaches to regulating short-term rentals:

1. Allow the use. There are different options to regulate short-term rentals. One approach would be to consider them to be allowed uses subject to performance criteria, but not require a permit. Another option is to require City approval to ensure compliance. The following is a discussion of those options:
 - a. *Allow by right.* This is the simplest approach for the hosts because it requires the least amount of action on their part. It is possible that requiring any type of permit could deter hosts from working with the City on meeting the goals of the program. The downside with this approach is the difficulty in knowing which hosts are meeting the performance criteria thereby making enforcement more difficult.

An example of a city that allows the uses by right, San Jose amended the zoning code to allow short-term rentals by right, provided they meet newly created performance standards. These include different occupancy standards based on type of unit and number of bedrooms; limits on the number of days per year rentals may be allowed; record keeping required by the hosts; and review by City, possible (see Attachment 5 for the San Jose criteria).

Although the approach used by San Jose removes the need for a permit, ensuring that the performance standards are met could be burdensome. It would be difficult for the City to determine compliance with the number of days a year units are rented; the number of people allowed based on the number of bedrooms; and allowing the City to review each host's lodging records. Although a permit or zoning clearance requirement may dissuade some people from working with the City, a simple process with consistent standards provides a relatively easy permit process. It would also make it easier for the City to determine those units that meet the criteria from those that do not based on who obtained a permit and who did not. Also, having a permit could provide the City with easier access into a residential unit to ensure compliance with City regulations.

Each short-term rental would need to register with the City to ensure the appropriate fees are collected.

- b. *Community Development Director's Approval.* This type of review is a variation of the process used for Large Family Child Care Homes (LFCCH) greater than 300 feet from another LFCCH. The Director's Approval provides an opportunity to review the requirements with the resident/host. Rather than site-specific conditions of approval, performance standards would be defined in the zoning code that would be applicable to all short-term rentals. These approvals are neither appealable nor noticed. The intent is to ensure the use is tracked and hosts understand the requirements. The approval can be revoked by the Director for violation of performance standards.
 - c. *Planning permit.* The two options include a Miscellaneous Plan Permit (MPP) or Use Permit (UP). This would be a more thorough review than a Director's Approval, and would allow specific conditions of approval to be added, as well as allow the permit to be appealed (appeal may be limited to the applicant or may allow any concerned party to appeal). An MPP would take up to two weeks to review and may include notification

to nearby property owners prior to taking an action (which increases the process time by another two weeks). A UP expands the review and requires a noticed public hearing with mailed notices to nearby property owners, advertising in the local newspaper and posting of the site. A UP requires significantly more staff time to process than an MPP and decisions would also be appealable to the Planning Commission. The minimum time frame to process is six to eight weeks (if there is no appeal). These types of permits help ensure conformity with the property and neighborhood and to provide options to apply conditions of approval unique to the site. When permits are issued for a use at a property, it provides the City with tools to enforce the use, including a record of which short-term rentals have permits, which makes it easier to inspect properties to ensure compliance with City requirements and conditions of approval.

2. Specifically prohibit. This option would include amending the code to explicitly disallow short-term rentals. It would take away any ambiguity or confusion about whether short-term rentals meet the definition of transient occupancy, and could assist in enforcement of the uses. This would be the most effective approach if the intent is to definitively prohibit the uses.
3. Make no changes. This option would continue to prohibit short-term rentals since they are considered transient occupancy. This is not an ideal approach because the large number of hosts in the City would be difficult to enforce and it may be possible to only enforce the extreme cases. This could result in selective enforcement, and given the temporary nature of the rental, the use may be discontinued by the time Neighborhood Preservation arrives at the property.

Staff recommendation: Amend the code to allow short-term rentals, subject to obtaining a Director's Approval. A Director's Approval is an existing process, making it easier for staff to implement. Although some hosts may have hesitancy to take the time to get City approval for their short-term rental unit, this process is the easiest to implement and provides the most effective tool to enforce the uses. Ultimately, having short-term rental applications available on-line would likely increase compliance and participation by the hosts.

B. Types of Short-term Rentals

If it is decided to allow short-term rentals, it is necessary to determine which type is allowed. Listed below is a discussion of both types:

1. Hosted Rentals: A permanent resident must live at the home while it is being rented. Requiring the permanent resident to be residing at the home while rented can address concerns about the safe rental of the unit and in meeting City requirements. Having a resident host living at the house could also increase the comfort of neighbors who may otherwise be unsure of whom the guests are. Hosts will need to demonstrate that they are physically residing at the home during any period it is being rented.
2. Unhosted Short-term Rentals: Both the HHSC and PC supported unhosted rentals provided management of the property was nearby. There are examples where an unhosted unit is a good neighbor, but it can also become more of a hotel-type unit with higher turnover of renters. Options for regulating unhosted rentals are listed in Attachment 6.

Hosted short-term rentals could present fewer compliance issues since the host would reside on the premises to oversee the rental. Unhosted rentals (entire house rentals) could have more neighborhood compatibility and enforcement issues, and are more likely to be used as a true business than sharing a home. Staff supports allowing a short-term rental if the permanent resident lives in the home while it is being rented. This approach should help alleviate the concerns about not having a resident host to ensure the safe rental of the unit and not meeting City requirements. Having a resident host living at the house could also increase the comfort of neighbors who may otherwise be unsure of whom the guests are.

Staff recommendation: Although both the HHSC and PC supported unhosted rentals provided management of the property was nearby (e.g., available by phone and able to respond to the property in-person within a short time frame), staff recommends limiting short-term rentals to hosted rentals only due to:

- Neighborhood compatibility issues for unhosted rentals;
- The impact unhosted units could have on the affordability of the rental housing market;
- The lack of a permanent resident in the home;
- The potential of larger groups of people renting out homes without a resident to supervise; and,
- The potential for unhosted homes to be used as a hostel, quasi-hotel or corporate housing, which is not in keeping with the intent of residential zoning districts.

C. Application Process

If the decision is to allow short-term rentals, certain information should be provided to the City to ensure the criteria are met, and to assist in enforcing the uses. The following criteria would apply to both hosted and unhosted rentals, while number four would apply only to unhosted rentals:

1. Approval issued to individual or property. As opposed to other planning permits, the approval for short-term rentals should be issued to a specific person at a specific address. This would help assure that the host is aware of the City requirements and limitations.
2. Owner consent. Require property owner's consent to the application if the host is not the property owner, including homeowner's associations in common interest developments. This is especially important for subleases and apartment units.
3. Best practices. In order to remind hosts of the community's interests in having compatible short-term rental units in residential neighborhoods, a "best practices" sheet will be prepared by the City to be signed by applicant at the time of approval acknowledging understanding and agreement of the items listed. Examples of what could be included in the list of best practices includes: ensuring that guests park on-site, maintain quiet hours during the night, limit outdoor activities, notifying neighbors of the activity, etc.
4. Unhosted rentals. In order to provide greater security and assurance that an unhosted rental unit wouldn't negatively impact a neighborhood, certain specific items could be required as part of the application:
 - a. Floor plan of home indicating number of bedrooms.
 - b. Name, address and phone number of a local contact person.
 - c. In addition to the requirements for hosted rentals, additional requirements for unhosted

rentals could be included, such as: identifying a local contact person or property manager for the property; or requiring a floor plan to determine the maximum number of allowed guests (if regulated by bedrooms).

Staff recommendation: Applications for short-term rentals should:

- Apply to an individual for specific properties;
- Require the property owner and homeowner association consent;
- Be provided with a best practices document if approved; and,
- If unhosted rentals are allowed, the applicant must also provide the floor plan of the home.

Staff does not recommend requiring a local contact person because that information cannot be easily verified during the permit process or may change over time.

D. Codify specific requirements. In order to make the requirements easier to enforce and understand, specific criteria regarding short-term rentals should be codified. The attached zoning code amendments include short-term rental standards and include minimum or maximum allowances. These criteria would only be used if the use is allowed, and wouldn't be necessary if the use is prohibited.

1. Maximum number of guests at one time- Hosted. In order to control the number of people using a short-term rental and the concomitant effects on neighbors (e.g. parking and noise), a limitation of the number of short-term rental guests allowed in a 24- hour period can be added (some regulations exclude children under five years old from the count). Some cities allow a three-bedroom unit to rent to more people than a two-bedroom, and so on, but staff expects that having one standard regardless of the number of bedrooms make enforcement easier.
2. Maximum number of guests at one time- Unhosted. Since the entire home is available for rental, increasing the maximum number of guests could be considered beyond the recommended limit of four for hosted rentals. Cities that allow unhosted rentals have adopted different approaches. Options include allowing a higher total number of guests regardless of the house size (e.g. six or eight), or setting a maximum occupancy base on number of bedrooms. Many cities use two guests per bedroom, with a maximum of eight or ten. Although both standards are clear and understandable, it will be more challenging to regulate based on the number of bedrooms.
3. Limiting the number of days allowed per year. As seen in other cities, setting a specific number of days a year a residence can be rented for short-term purposes is difficult and infeasible to enforce. Staff would need to closely monitor the number of days that guests stay at the residence, or rely on the good faith effort of hosts to provide such records when requested. Placing a limit on the number of days that short-term rentals are allowed is contrary to the program goal of creating standards that can be reasonably enforced.
4. Regulate the types of residence allowed (single-family detached, townhouse, apartment, etc.). Making regulations that ensure the highest rate of compliance depends on predictability and commonality. By having different standards for different housing types

or conditions, it could create confusion and complications that could affect the success of compliance. Therefore, having the same requirements for any type of residence helps in permitting and enforcement.

Staff recommendation: Adopt changes to the code to specifically address short-term rentals (see draft ordinance Attachment 2), including:

- Allow short-term rentals because it increases the likelihood of compliance with City regulations and promotes greater sensitivity and responsiveness to the potential concerns of neighbors;
- Limit short-term rentals to hosted;
- Limit to four guests per residential unit at one time;
- Do not define a limit on the number of days per year that is allowed for short-term rentals.
- Allow short-term rentals in any unit type. Require property owner signature on application forms for leased residences (e.g. apartments, duplexes) and homeowners' association approval for common interest developments (e.g. townhouses, condominiums).
- Require that all renters have facilities for sleeping, bathing, and toileting inside of a permanent dwelling that is suitable for human occupancy. Rental of sleeping space in or on balconies, porches, tents, sheds, vehicles or outdoor areas is prohibited.
- Unhosted rentals (not recommended by staff) - If Council allows unhosted rentals, consider a limit of six to eight guests on site at one time.

E. Payment of fees and taxes. Three types of fees and taxes typically assessed on lodging uses are: permit application fees, business license tax and TOT (these do not include regular fees for new development such as building permits, sewer connections, etc.). This revenue would assist in covering the cost of implementing the program and in providing enforcement. Listed below are the fees and their collection options.

1. Permit Application Fee. The fee established should cover the staff time in issuing the approval. In setting the fee amount, one option would be to create a modest fee to avoid a significant disincentive for hosts to obtain a City approval. If Director Approval is the selected process, the same approval for a LFCCH does not currently require a fee; however, staff suggests that a fee is reasonable to consider for short-term rentals. Another approach would be to require a higher fee to assist in enforcing these uses. Regardless of the process chosen, enforcement of short-term rentals can be costly and staff intensive.
2. Business License Tax. The Municipal Code limits collection of business licenses to rental of "any building or buildings (whether or not connected), in a single ownership, *within which three or more separate spaces or units* are located which are available for rental and are intended to be used for office or dwelling, lodging or sleeping purposes." Since short-term rentals typically do not involve the separate rental of three or more spaces or units, business license taxes would not apply in most cases. Since it is a tax, the method of changing this requirement would require a vote by residents. A property owner would be required to pay a business license tax if their rental met the requirements of the Municipal Code.
3. Transient Occupancy Tax (TOT). Short-term rental units provide overnight and

temporary lodging for business travelers and other visitors similar to hotels/motels. TOT is required for short-term rentals at the same rate as for hotels/motels. Some companies, such as Airbnb, have worked with cities so the company collects the TOT on behalf of the City and remits it on a quarterly basis.

Staff recommendation: Staff recommends the following actions:

- Adopt a processing fee in the City's Fee Schedule that is reasonable to ensure maximum participation from the short-term rental hosts in the City;
- Collect business license tax where subject to the tax under the Municipal Code. Note, in most cases, short-term rentals can operate without a City business license;
- Short-term rental hosts are required to pay the 10.5 percent Sunnyvale TOT. If short-term rentals are allowed, staff recommends working with the short-term rental companies to set up a remittance program. Any host that uses a platform that does not collect the TOT will be required to pay the tax in accordance to the TOT ordinance.

FISCAL IMPACT

Transit Occupancy Tax (TOT)

Short-term rentals are treated the same as any other lodging uses and would be required to pay TOT. The current rate is 10.5 percent, and applies to the guest staying at a hotel, not the hotel itself. Therefore, the tax is not based on the hotel and number of units but the length of time a guest stays.

According to Airbnb, there are, on average, 120 Sunnyvale units on their platform at one time, though most are not rented each night. They estimate each host rents their unit seventy-five days a year at an average rate of \$90 per night for an annual income per year of \$6,750. The resulting TOT from Airbnb hosts would be approximately \$85,000 per year. Airbnb is the leader in the short-term rental market, and the same information was not available from other companies, but if all other platforms in total equal Airbnb's market share, the total additional TOT for the City would be approximately \$170,000 per year.

TOT is paid by the lodging facility, in this case the hosts, but Airbnb has shown a willingness to work with the City in collecting the TOT. Staff has discussed with Airbnb the possibility of collecting the TOT on behalf of the City that, since all transactions go through their system, would greatly assist the City in assuring the TOT is paid by all hosts using the Airbnb platform. Staff will attempt to work with other platforms to have them collect the TOT and remit to the City, but the City cannot compel them to do so.

Any TOT collected goes into the General Fund. Penalties and interest would be charged for hosts that do not pay TOT.

Business License Tax

The City Municipal Code requires the rental of three or more separate spaces or units to pay a business license tax. Staff expects that most short-term rentals will be for fewer than three separate spaces or units, and therefore not be subject to the tax. As a result, no significant related fiscal impact is expected.

There will be additional costs and fee revenue that can be developed following further Council direction. If so directed, staff will return to Council with a resolution amending the Fee Schedule to

reflect the appropriate processing fee for short-term rentals. That Report to Council will provide additional information regarding the fiscal impact.

PUBLIC CONTACT

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall, at the Sunnyvale Senior Center, Community Center and Department of Public Safety; and by making the agenda and report available at the Sunnyvale Public Library, the Office of the City Clerk and on the City's website. Notice was sent to the neighborhood associations, interested parties, and was posted on the Open City Hall web page created for this study. Staff met with a representative from Airbnb, and communicated with members of the community on the issue.

At a joint study session with the City Council and Planning Commissioners, topics discussed included:

- Determining how neighboring cities address the issue.
- Enforcement concerns: Determine what actions DPS can do at this time, and what tools they need to be more effective going forward.
- Research whether federal tax information can be used to identify individuals claiming income from short-term rentals.
- Describe the expected revenue from collecting TOT and business license taxes for short-term rentals.
- Discuss with Airbnb how it would work with the City in coming up with program options.

Staff has received information from hosts of short-term rental properties explaining the value of the short-term rental service. Staff has also received information from residents concerned about short-term rentals in their neighborhoods, and the difficulty in the illegality of the uses. Finally, staff has received information from representatives of hotel workers about the negative effect short-term rentals have on the stock of affordable housing in the area. Correspondence can be found in Attachment 7. Staff also has had discussions with representatives of Airbnb; a summary of this discussion is captured in Attachment 8.

During both the HHSC and PC hearings, several people spoke in favor of allowing short-term rentals in Sunnyvale. Many of those people also advocated allowing unhosted short-term rentals. A representative of hotel workers spoke about the negative impact short-term rentals has on the affordability and availability of affordable housing for their workers in the area and suggested that if allowed, short-term rentals be hosted units only.

ALTERNATIVES

1. Introduce an Ordinance to add a new Chapter 19.76 entitled Short-term Rentals and Home Sharing to Title 19 of the Sunnyvale Municipal Code.
2. Direct staff to return with a Resolution amending the Fee Schedule to reflect the appropriate processing fee for short-term rentals.
3. Find that the project is exempt from CEQA under Guideline 15061(b)(3).
4. Introduce an Ordinance with modifications to the staff recommendation, such as allowing unhosted short-term rentals as recommended by the Planning Commission and Housing and Human Services Commission.
5. Do not add Chapter 19.76 and make no changes at this time.

STAFF RECOMMENDATION

Alternatives 1, 2 and 3: (1) Introduce an Ordinance to add a new Chapter 19.76 entitled Short-term Rentals and Home Sharing to Title 19 of the Sunnyvale Municipal Code; (2) Direct staff to return with a Resolution amending the Fee Schedule to reflect the appropriate processing fee for short-term rentals; and (3) Find that the project is exempt from CEQA under Guideline 15061(b)(3).

Regulating short-term rentals will continue to be difficult whether the City takes a proactive approach or not. The nature of the business makes it difficult for the City to regulate and enforce the use. Staff finds, however, that the best chance at maximizing success with this business type is to create clear requirements, an easy approval process and reasonable fees. The recommendation considers different options that both address the concerns surrounding this new type of business, as well as respond to its growing popularity, and follows Council's direction to identify realistic regulations to more accurately respond to this growing business type.

Although both the HHSC and PC recommend allowing unhosted short-term rentals, staff recommends limiting short-term rentals to hosted situations only. The potential issues related to unhosted rentals raises additional concerns, including the impact it could have on the affordability of the rental housing market, the lack of permanent resident present at the home, and the potential of larger groups of people renting out homes without a resident present. Unhosted rentals also bring the potential for homes to be used as quasi-hotel, corporate housing, which is not in keeping with the intent of residential zoning districts.

If the Council would like to allow unhosted short-term rentals, staff recommends adopting Alternative 4 with the following additional provisions: 1) allow two guests per bedroom and a total of eight guests on site at one time; and 2) require an application for an unhosted short-term rentals to include a floor plan of home indicating number of bedrooms, a list of all properties applicant is operating as a short-term rental in the City of Sunnyvale, and the name, address and phone number of a local contact person.

Prepared by: Andrew Miner, Principal Planner

Reviewed by: Trudi Ryan, Planning Officer

Reviewed by: Hanson Hom, Director, Community Development

Reviewed by: Frank Grgurina, Director, Public Safety

Reviewed by: Grace K. Leung, Director, Finance

Reviewed by: Kent Steffens, Assistant City Manager

Approved by: Deanna J. Santana, City Manager

ATTACHMENTS

1. Study Issue Paper
2. Draft Ordinance
3. Other Cities' Approaches
4. Open City Hall Survey Results
5. San Jose Performance Criteria
6. Unhosted rental options
7. Correspondence
8. Summary of Airbnb Business
9. Draft Housing and Human Services Commission minutes of 7/22/15
10. Planning Commission minutes of 7/27/15

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Sunnyvale

City of Sunnyvale

Agenda Item

18-0400

Agenda Date: 6/12/2018

REPORT TO COUNCIL

SUBJECT

Approve Agreement between the City of Sunnyvale and Airbnb, Inc. for the Collection of the City's Transient Occupancy Tax on Short-Term Rentals

BACKGROUND

Like many cities across the country, the City of Sunnyvale continues to grapple with the popularity of short-term rentals. Sunnyvale Municipal Code (SMC) Chapter 19.76 provides that short-term rental hosts register with the City and remit Transient Occupancy Taxes, "in accordance with any hosting platform if utilized, pursuant to Chapter 3.16." Chapter 19.76 also requires the host to reside on-site throughout the lodger's stay (no "unhosted" rentals) and limits the number of adult overnight lodgers to four.

The proliferation of hosting platforms facilitating short-term rental transactions has made it difficult for cities to track and register rentals. A recent estimate identified more than 900 short-term rental listings in Sunnyvale across multiple hosting platforms. Online platforms generally do not make available the identity of hosts or addresses of rental listings, nor do they proactively facilitate collection of TOT. These limitations have made it difficult for cities to identify properties being used as short-term rentals and to collect applicable taxes.

Generally, lodgers booking accommodations pay electronically using the host platform website, with the host platform briefly holding the funds, deducting platform service fees from guests and hosts before passing the remainder of the funds to the host. Many public agencies have negotiated tax collection agreements with hosting platforms for the collection and remittance of TOT payments.

EXISTING POLICY

Council Policy, Chapter 7, *Planning and Management*, Policy B.1.1 - The City will maintain a diversified and stable revenue base, not overly dependent on any land use or external funding source.

Council Policy, Chapter 7, *Planning and Management*, Policy B.1.4 - When considering a new tax or revenue source or an increase in an existing tax or revenue source, the following criteria should be considered:

- Community/Voter acceptance
- Competitiveness with surrounding communities
- Efficiency of revenue collection and enforcement
- Effectiveness in generating sufficient revenues in the short and long-term to justify its establishment

- Enhancement of revenue diversity to promote stability and provide protection from downturns in business cycles
- Equity/Fairness in distribution of the revenue burden on various segments of the community

ENVIRONMENTAL REVIEW

This action being considered does not constitute a “project” within the meaning of the California Environmental Quality Act (“CEQA”) pursuant to CEQA Guidelines section 15378(b)(4) in that it is a fiscal activity that does not involve any commitment to any specific project which may result in a potential significant impact on the environment and section 15378(b)(5) in that it is a governmental organizational or administrative activity that will not result in direct or indirect changes in the environment.

DISCUSSION

The City currently has a total of 28 short-term rental hosts registered, with 20 actively remitting an average of \$3,200 in TOT monthly. Staff has received multiple complaints from registered hosts who are aware of and frustrated by the low citywide levels of compliance with SMC requirements, as they feel that this is unfair to the few hosts who do comply.

Since late 2015, when the short-term rental ordinance went into effect, the City has received complaints on approximately 20 properties from neighbors about lawful and unlawful short-term rental activity. The Department of Public Safety, Neighborhood Preservation Unit, responds to complaints and works to address violations of the short-term rental ordinance, while respecting the constitutional and legal rights of residents and guests in private homes.

City staff engaged Airbnb (currently the largest hosting platform for short-term rentals) regarding entering into a voluntary tax collection agreement on behalf of hosts using their service. After research and discussion, staff determined collection and remittance of taxes by the hosting platform is appropriate and would provide immediate benefits to the City.

Over 30 California public agencies have already entered into similar tax collection agreements with Airbnb. In Santa Clara County, Palo Alto, Santa Clara and San Jose have negotiated voluntary tax collection agreements with Airbnb.

Key provisions of the proposed agreement are summarized below:

- Airbnb is not a host, but will act on hosts’ behalf to collect and remit TOT.
- Airbnb will assume liability to report, collect and remit the correct amount of TOT.
- The agreement does not relieve short-term rental hosts from remitting TOT for bookings on other platforms, or registration requirements under the Short-Term Rental ordinance.
- Airbnb will not provide personal identifying information about hosts except in response to a warrant or court order.
- The City will maintain audit rights with Airbnb, but not individual hosts.
- The City agrees to waive the right to collect TOT payments owed by hosts for Airbnb bookings made prior to the effective date of the agreement.
- Airbnb agrees to notify guests and hosts of the TOT to be collected.

The proposed agreement does not require Airbnb to enforce other terms of the City's short-term rental ordinance, such as registration or host-occupancy requirements. Likewise, this agreement only covers bookings via the Airbnb platform, so staff will be initiating entering into agreements and collection processes with other hosting platforms.

Staff's recommendation is that enforcement be effected via other means, such as contracting with a compliance service equipped to identify and outreach to hosts across multiple hosting platforms. Staff is currently exploring this service with potential vendors. TOT payments for platforms not covered by a collection agreement could also be remitted through such a service.

FISCAL IMPACT

The City will receive additional Transient Occupancy Tax revenue as a result of entering into this Agreement. Airbnb estimates that bookings would generate approximately \$500,000 in annual revenue. Revenue from TOT goes to the General Fund.

PUBLIC CONTACT

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall, at the Sunnyvale Senior Center, Community Center and Department of Public Safety; and by making the agenda and report available at the Sunnyvale Public Library, the Office of the City Clerk and on the City's website.

RECOMMENDATION

Authorize the City Manager to execute a Voluntary Collection Agreement, in substantially the same form as Attachment 1 to the report, with Airbnb, Inc. for the collection of Transient Occupancy Tax.

Prepared by: Beth Goodsell, Senior Management Analyst

Reviewed by: Timothy J. Kirby, Director, Department of Finance

Reviewed by: Teri Silva, Assistant City Manager

Reviewed by: John Nagel, City Attorney

Approved by: Kent Steffens, City Manager

ATTACHMENTS

1. Draft Airbnb, Inc. Voluntary Collection Agreement

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Short-term Rentals

What is a short-term rental?

A short-term rental (or vacation rental) is the renting out of your residence, rooms in your residence or an accessory unit (granny flat). Short-term rentals are for a period of 30 consecutive calendar days or less. Such rentals have become a popular option for visitors, and the City has regulations in place to ensure the needs of everyone in the community are balanced.

Am I legally eligible to host a short-term rental?

To legally host a short-term rental, you must adhere to [Municipal code 19.76](#) which requires that you:

- Reside on-site throughout the guests' (lodgers') stay
- Limit guests to a maximum of four adult guests per night
- Register as a host with the City
- Collect and pay Transient Occupancy Tax (TOT)

How do I register as a host?

1. Fill out the [short-term rental application](#)
2. Complete the [Transient Occupancy Tax \(TOT\) Registration form](#)
3. Bring your completed short-term rental application and TOT registration form to the One-Stop Permit Center for approval and pay a one-time registration fee.

Note: If you have separate listings for three or more spaces or rooms, you are required to obtain a business license.

[How to apply for a Business License](#)

How do I pay the Transient Occupancy Tax?

The Transient Occupancy Tax, sometimes called a "hotel tax," requires that any person or business engaged in the renting of any number of rooms for lodging, dwelling, or sleeping purposes, must collect, report and remit this tax to the City on any guest rentals.

The Transient Occupancy Tax rate for the City of Sunnyvale is 10.5%.

Use the following form to submit the TOT payment each month:

[Monthly TOT Remittance Form](#)

Notice: Effective August 1, 2018, Airbnb will collect and remit TOT on behalf of hosts. Hosts must still remit TOT for non-Airbnb bookings.

[Website Feedback](#) [Close](#)

Attachment 11

TOT Exemptions

Some guests may be exempt from paying Transit Occupancy Tax:

- Federal, California state or foreign government employees
- Guests who have stayed longer than 30 consecutive days

[TOT Exemption Claim Form](#)

Last Updated: Jul 26, 2018

 [Website Feedback](#)  [Close](#)



Sunnyvale

SHORT TERM RENTAL APPLICATION FORM

City of Sunnyvale

Community Development Department

Planning Division - 456 Olive Avenue - Sunnyvale, CA 94087 - Phone (408) 730-7444

Property Address: _____ APN: _____

Applicant Information

Name: _____
 Address: _____
 City: _____
 State: _____ Zip: _____
 Email: _____ Phone: _____

Property Owner Information

If the property is an apartment complex or common interest development, the application shall include the name, address, contact information and signature of the apartment manager or HOA

Name: _____
 Address: _____
 City: _____
 State: _____ Zip: _____
 Email: _____ Phone: _____

General Requirements. The City Code requires that all short-term rentals comply with the following regulations:

1. Short-term rental activity must be approved by the Director pursuant to Section 19.76.050 of the Sunnyvale Municipal Code.
2. A maximum of four overnight adult lodgers are allowed per night in any residential unit. Rental to unaccompanied minors under the age of 18 is prohibited.
3. The Host must reside on-site throughout the lodgers' stay.
4. The host must provide all lodgers with facilities for sleeping, bathing, and toileting inside of a permanent dwelling that is suitable for human occupancy.
5. Register with Finance to pay the transient occupancy tax.
6. Submit current application fee - See Planning Fees Sheet or ask staff.

Declaration. I certify that I have read and will comply with the Short-Term Rental of Residential Property Ordinance as listed above and hereby state Short-Term Home Rental will conform to all the provisions set forth therein. I also understand and agree that non-compliance with the above is grounds for revocation of the Short-Term Rental Permit as outlined above. Further, I certify that the information supplied on this form is true and correct to the best of my knowledge.

Signature - Applicant

Date _____

Signature - Property Owner or agent (if applicable)

Date _____

OFFICE USE ONLY

Project Number:		Type of Payment Fee total: _____ <input type="checkbox"/> Check _____ <input type="checkbox"/> Credit _____ <input type="checkbox"/> Cash
Accepted By	Filing Date	Receipt #
<input type="checkbox"/> Approval	<input type="checkbox"/> Denial	By _____
		For the Director of Community Development _____ Date _____



Sunnyvale

TRANSIENT OCCUPANCY TAX Registration Form

Please return completed form to: City of Sunnyvale ▷ Department of Finance ▷ 650 W. Olive Avenue, Sunnyvale, CA 94086 ▷ Office Hours: Monday – Friday, 8 a.m. to 5 p.m. ▷ 408-730-7670

Request Type New Registration Update to Existing Registration
Type of Property Hotel/Motel Corporate Housing Short-Term Rental

PROPERTY DETAILS

Property Name _____

Property Address _____
(Physical Address)

Number of Rooms at this Property _____ **Operation Start Date** _____

PROPERTY OWNER INFORMATION

Send all correspondence (including legal correspondence) to this address

Owner Name(s) _____

Mailing Address _____

Telephone Number _____ **Email** _____

Ownership Type Corporation Ltd Liability Sole Proprietor
 Partnership Trust Other: _____

OPERATOR/MANAGER INFORMATION - if different from Property Owner

Send all correspondence (including legal correspondence) to this address

Operator Name _____

Mailing Address _____

Telephone Number _____ **Email** _____

SIGNATURE

I declare under penalty of perjury that all the above information is true and correct to the best of my knowledge.

Print Name _____ **Title** _____

Signature _____ **Date** _____



Sunnyvale

TRANSIENT OCCUPANCY TAX

Exemption Claim Form

Please return completed form to: City of Sunnyvale □ Department of Finance □ 650 W. Olive Avenue, Sunnyvale, CA 94086 □ Office Hours: Monday – Friday, 8 a.m. to 5 p.m. □ 408-730-7670

The City of Sunnyvale Transient Occupancy Tax Ordinance (Section 3.16.050) states that no tax shall be due for hotel occupancy for the exemptions listed below. This form is to be kept with the Operator and made available for inspection by the Tax Administrator upon request. A separate form is required for each person and each occupancy.

Property Name

_____ (Name of Hotel or Rental Property)

Property Address

Dates of Occupancy **From** _____ (check in date) **To** _____ (check out date) **Total Rent Paid \$** _____

GUEST INFORMATION

Guest Claiming Exemption _____

Guest Phone Number _____

GOVERNMENT EXEMPTIONS – *complete this section if claiming State/Federal/Foreign Employee Exemption*

Agency Name _____ **Agency Department** _____

Agency Address _____

EXEMPTION REQUESTED

- Non-Transient Occupancy:** A guest is transient for the first 30 days of continuous stay and taxable for that period. Once 30 days elapse, the guest becomes non-transient and exempt from tax for the remaining uninterrupted stay. **Note:** If there is a non-refundable, contractual agreement for a stay of more than 30 days upon check in, the guest is not subject to the tax for any portion of the stay and a claim form is not required.
- State of California/Federal Officer or Employee*:** Any federal or state of California officer or employee on business who shall pay rent by warrant or check drawn on the Treasury of the United States or the state of California or who provides written evidence of such official business on an official claim form approved in advance by the tax administrator. Government contractors are not exempt from this tax.
- Foreign Government Officer or Employee*:** Any officer or employee of a foreign government exempt by reason of express provisions of federal law or international treaty.

GUEST SIGNATURE

I declare under penalty of perjury that all the above information is true and correct to the best of my knowledge.

Signature of Guest Claiming Exemption _____ **Date** _____

*** OPERATOR:** Contractors for government agencies are not exempt from tax. Do not accept this form unless the guest provides you with at least one acceptable proof of exemption: 1) copy of the warrant or check drawn on the treasury of the United States or state of California, 2) copy of the official travel orders indicating the issuing governmental agency and the guest's full name, 3) copy of a letter on the official letterhead of an exempt governmental agency requesting exemption and listing the employee's name and stating that the stay is for official government business. The dates of occupancy must be included.

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City of Sunnyvale Municipal Code

Chapter 19.76 SHORT-TERM RENTAL OF RESIDENTIAL PROPERTY

The purpose of this chapter is to establish regulations governing the short-term rental of residential property within the city of Sunnyvale. The establishment of these regulations will help maintain adequate housing stock for permanent residents while ensuring that short-term rental activities do not become a nuisance or threaten the public health, safety, or welfare due to excessive noise, disorderly conduct, overcrowding, traffic congestion, illegal parking, the accumulation of refuse, and other effects related to short-term rentals. (Ord. 3059-15 § 1).

For purposes of this chapter, the following definitions apply:

- (a) “Host” means the person who is responsible for conducting the short-term rental activity and who is identified as the host in the application for approval submitted pursuant to this chapter.
- (b) “Hosted short-term rental” means to provide transient lodging in a dwelling unit, for compensation, for a period of thirty consecutive calendar days or less, while the host resides on-site throughout the lodger’s stay. “Hosted short-term rentals” do not include transient lodging in city-approved hotels and motels.
- (c) “Hosting platform” means a marketplace in whatever form or format which facilitates short-term rentals through advertising, match-making or any other means, using any medium of facilitation, and from which the operator of the hosting platform derives revenues, including booking fees or advertising revenues, from providing or maintaining the marketplace.
- (d) “Short-term rental” means to provide transient lodging in a dwelling unit, for compensation, for a period of thirty consecutive calendar days or less. “Short-term rental” does not include transient lodging in city-approved hotels and motels. (Ord. 3059-15 § 1).

The short-term rental of residential property is a prohibited use in every zoning district in the city, with the exception of approved hosted rentals permitted pursuant to this chapter. (Ord. 3059-15 § 1).

- (a) Hosted short-term rentals are allowed in any zoning district where residential uses are permitted subject to the following requirements:

- (1) The short-term rental activity must be approved by the director pursuant to Section

(2) A maximum of four overnight lodgers are allowed per night in any single-family dwelling or any single dwelling unit in a multi-family dwelling. The limit of four overnight lodgers does not include minor children who are accompanied by an adult.

(3) Rental to unaccompanied minors under the age of eighteen is prohibited.

(4) The host shall reside on-site throughout the lodgers' stay. To reside on-site means that the property being used for short-term rentals is the host's primary residence and the host uses the property for purposes of eating, sleeping, and other activities of daily living during the time periods that lodgers are present. Lodgers may stay in an accessory dwelling unit if the host resides in the primary dwelling. Lodgers may also stay in one dwelling unit of a two-family dwelling if the host resides in the other dwelling unit.

(5) The host shall comply with all permit conditions and applicable local, state, and federal laws including but not limited to health, safety, fire, and building codes.

(6) The host must provide all lodgers with facilities for sleeping, bathing, and toileting inside of a permanent dwelling that is suitable for human occupancy. Rental of sleeping space in or on balconies, porches, tents, sheds, vehicles or outdoor areas is prohibited.

(7) The host shall obtain a business license if required by Chapter [REDACTED] of this code.

(8) The host shall collect and remit transient occupancy tax, in coordination with any hosting platform if utilized, pursuant to Chapter [REDACTED] of this code.

(9) The host is responsible for ensuring the property does not become a nuisance due to the short-term rental activity. (Ord. 3059-15 § 1).

[REDACTED]

(a) No person shall undertake, maintain, authorize, aid, facilitate or advertise any hosted or short-term rental activity that does not comply with the provisions of this code.

(b) The application for approval of short-term rental shall include the following:

(1) Name, address and contact information of the host.

(2) Name, address and contact information of the owner of the property where the short-term rental activity will occur. In the event that the applicant is not the legal owner of the property, the application shall be signed by the property owner consenting to the use of the property for short-term rentals.

(3) If the property is part of a common interest development, the application shall include a letter of authorization from the homeowner's association indicating that use of the property for short-term rentals meets the property's requirements.

(4) Any additional information or supporting materials to describe existing property conditions and the proposed operations as required by the director.

(c) The director shall not approve the short-term rental application unless he or she finds that the use will comply with the requirements of this code and other applicable law. The decision of the director shall be final. (Ord. 3059-15 § 1).

[REDACTED]

The approval of short-term rental may be revoked or modified by the director as follows:

(a) Notice and Hearing. Notice shall be mailed to the host at the address specified in the approval application. The notice shall specify the reasons for the revocation and shall designate a time and place of an administrative hearing with the director of community development no sooner than the sixth business day following the mailing date of the notice. The host shall be given the opportunity to present written and oral evidence at the hearing. Failure to appear at the hearing shall constitute a waiver of any objections to the proposed revocation.

(b) Revocation. Following the hearing, the director may revoke the approval if the director makes one or more of the following findings:

- (1) The approval was obtained by fraud;
- (2) The short-term rental activity has been or is being conducted in violation of any provision of this code or other applicable law;
- (3) The conditions of approval have been or are being violated;
- (4) The short-term rental activity constitutes a public nuisance.

(c) Notice of Decision. A written notice of the director's decision shall be prepared and mailed to the host at the address specified in the application for approval. If the approval is revoked, the notice shall contain a statement directing the host to immediately cease using the property for short-term rental, and that failure to cease such use may be subject to further legal action or enforcement.

(d) Appeal. The decision of the director is final. The decision may be appealed to the Superior Court. (Ord. 3059-15 § 1).

[REDACTED]

The city council may establish and set by resolution all fees and charges as may be necessary to effectuate the purpose of this chapter. (Ord. 3059-15 § 1).

[REDACTED]

Any short-term rental operated, conducted, or maintained contrary to the provisions of this chapter shall be, and the same is hereby declared to be, unlawful and a public nuisance which the city attorney may seek to abate, remove, and enjoin in any manner provided by law. Such remedies shall be in addition to any other remedies available to the city under this code or under state law. (Ord. 3059-15 § 1).

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City of Sunnyvale

Meeting Minutes City Council

Tuesday, September 15, 2015

7:00 PM

Council Chambers, City Hall, 456 W. Olive
Ave., Sunnyvale, CA 94086

Regular Meeting-7 PM

CALL TO ORDER

Mayor Griffith called the meeting to order in Council Chambers.

SALUTE TO THE FLAG

Mayor Griffith led the salute to the flag.

ROLL CALL

Present: 7 - Mayor Jim Griffith
Vice Mayor Tara Martin-Milius
Councilmember David Whittum
Councilmember Pat Meyering
Councilmember Jim Davis
Councilmember Glenn Hendricks
Councilmember Gustav Larsson

SPECIAL ORDER OF THE DAY

SPECIAL ORDER OF THE DAY - Falls Prevention Day

Mayor Griffith presented a proclamation to Dr. Tamar Semerjian of Silicon Valley Healthy Aging Partnership and Sunnyvale Community Services Manager Gerard Manuel in recognition of Falls Prevention Awareness Day.

PUBLIC ANNOUNCEMENTS

Mayor Griffith announced an upcoming "Small Business Ignite" program.

Councilmember Whittum announced board and commission vacancies and an application deadline.

Michael Goldman announced an upcoming event to provide information about the Sunnyvale Public Lands Act and presented a PowerPoint presentation.

CONSENT CALENDAR

Councilmember Meyering pulled Items 1.A through 1.E and 1.G through 1.J.

MOTION: Vice Mayor Martin-Milius moved and Councilmember Larsson seconded the motion to approve Consent Calendar Item 1.F.

The motion carried by the following vote:

Yes: 7 - Mayor Griffith
Vice Mayor Martin-Milius
Councilmember Whittum
Councilmember Meyering
Councilmember Davis
Councilmember Hendricks
Councilmember Larsson

No: 0

1.A [REDACTED] Approve City Council Meeting Minutes of August 25, 2015

Public Hearing opened at 12:05 a.m.

No speakers.

Public Hearing closed at 12:05 a.m.

MOTION: Vice Mayor Martin-Milius moved and Councilmember Larsson seconded the motion to approve the City Council Meeting Minutes of August 25, 2015 as submitted.

The motion carried by the following vote:

Yes: 6 - Mayor Griffith
Vice Mayor Martin-Milius
Councilmember Whittum
Councilmember Davis
Councilmember Hendricks
Councilmember Larsson

No: 1 - Councilmember Meyering

1.B [REDACTED] Approve City Council Special Meeting Minutes of September 1, 2015

Public Hearing opened at 12:05 a.m.

No speakers.

Public Hearing closed at 12:05 a.m.

MOTION: Vice Mayor Martin-Milius moved and Councilmember Larsson seconded the motion to approve the City Council Special Meeting Minutes of September 1, 2015 as submitted.

The motion carried by the following vote:

Yes: 6 - Mayor Griffith
Vice Mayor Martin-Milius
Councilmember Whittum
Councilmember Davis
Councilmember Hendricks
Councilmember Larsson

No: 1 - Councilmember Meyering

1.C [REDACTED] Approve the List(s) of Claims and Bills Approved for Payment by the City Manager

Public Hearing opened at 12:06 a.m.

No speakers.

Public Hearing closed at 12:06 a.m.

MOTION: Vice Mayor Martin-Milius moved and Councilmember Larsson seconded the motion to approve the list(s) of claims and bills.

The motion carried by the following vote:

Yes: 6 - Mayor Griffith
Vice Mayor Martin-Milius
Councilmember Whittum
Councilmember Davis
Councilmember Hendricks
Councilmember Larsson

No: 1 - Councilmember Meyering

1.D [REDACTED] Authorize Amending an Existing Contract for Cellular Wireless Phone Services (F16-24)

Public Hearing opened at 12:07 a.m.

No speakers.

Public Hearing closed at 12:07 a.m.

MOTION: Councilmember Meyering moved and Vice Mayor Martin-Milius seconded the motion to 1) Approve an amendment to an existing contract with Verizon Wireless to increase the contract value by \$20,000, from \$96,000 to

\$116,000; and 2) delegate authority to the City Manager to renew the contract for up to four additional one year periods, subject to available funding, acceptable pricing and service.

The motion carried by the following vote:

Yes: 7 - Mayor Griffith
Vice Mayor Martin-Milius
Councilmember Whittum
Councilmember Meyering
Councilmember Davis
Councilmember Hendricks
Councilmember Larsson

No: 0

1.E [REDACTED] Approve Budget Modification No. 5 to Modify Funding for Two-Phase Feasibility Study of Structural Stormwater Best Management Practices for the SMaRT Station® and the Concrete Recycling Facility and Modify Contract with Geosyntec Accordingly

Public Hearing opened at 12:09 a.m.

No speakers.

Public Hearing closed at 12:09 a.m.

MOTION: Vice Mayor Martin-Milius moved and Councilmember Hendricks seconded the motion to approve 1) Approve Budget Modification No. 5 and 2) Modify the Geosyntec contract scope of work to delete the concrete recycling facility study and add the supplement to the SMaRT Station feasibility study.

The motion carried by the following vote:

Yes: 6 - Mayor Griffith
Vice Mayor Martin-Milius
Councilmember Whittum
Councilmember Davis
Councilmember Hendricks
Councilmember Larsson

No: 1 - Councilmember Meyering

1.F [REDACTED] Reject Bid for Vehicle Exhaust Removal Systems at Three Fire Stations (F15-86)

Reject the one bid received from Air Exchange Inc. in the amount of \$231,153.

1.G [REDACTED] Approve Final Map (Tract No. 10294) - 67-unit Condominiums at 680 and 698 East Taylor Avenue by Taylor Morrison of California, LLC, a California Limited Liability Company

Public Hearing opened at 12:11 a.m.

No speakers.

Public Hearing closed at 12:11 a.m.

MOTION: Vice Mayor Martin-Milius moved and Councilmember Davis seconded the motion to approve the final map for Tract No. 10294; authorize the Mayor to sign the subdivision agreement upon submittal of other documents deemed necessary by the Director of Public Works; direct the City Clerk to sign the City Clerk's Statement and forward the final map for recordation.

The motion carried by the following vote:

Yes: 6 - Mayor Griffith
Vice Mayor Martin-Milius
Councilmember Whittum
Councilmember Davis
Councilmember Hendricks
Councilmember Larsson

No: 1 - Councilmember Meyering

1.H [REDACTED] Approve Final Map (Tract No. 10299) - 184-unit Condominiums at 701 East Evelyn Avenue by DR Horton Bay, Inc., a Delaware Corporation

Public Hearing opened at 12:11 a.m.

No speakers.

Public Hearing closed at 12:11 a.m.

MOTION: Vice Mayor Martin-Milius moved and Councilmember Davis seconded the motion to approve the final map for Tract No. 10299; authorize the Mayor to sign the subdivision agreement upon submittal of other documents deemed necessary by the Director of Public Works; direct the City Clerk to sign the City Clerk's Statement and forward the final map for recordation.

The motion carried by the following vote:

Yes: 6 - Mayor Griffith
Vice Mayor Martin-Milius
Councilmember Whittum
Councilmember Davis
Councilmember Hendricks
Councilmember Larsson

No: 1 - Councilmember Meyering

1.I [REDACTED] Approve Final Map (Tract No. 10285) - Seven Single-family Homes at 523 E. Homestead Road by Madison Terrace, LLC, a California Limited Liability Company

Public Hearing opened at 12:11 a.m.

No speakers.

Public Hearing closed at 12:11 a.m.

MOTION: Vice Mayor Martin-Milius moved and Councilmember Davis seconded the motion to approve the final map for Tract No. 10285; authorize the Mayor to sign the subdivision agreement upon submittal of other documents deemed necessary by the Director of Public Works; direct the City Clerk to sign the City Clerk's Statement and forward the final map for recordation.

The motion carried by the following vote:

Yes: 6 - Mayor Griffith
Vice Mayor Martin-Milius
Councilmember Whittum
Councilmember Davis
Councilmember Hendricks
Councilmember Larsson

No: 1 - Councilmember Meyering

1.J [REDACTED] Adopt Resolutions Approving Amendments to the City's Contribution for CalPERS Medical Insurance for Management, SEA/Confidential and SEIU Annuitants (Retirees)

Public Hearing opened at 12:17 a.m.

No speakers.

Public Hearing closed at 12:17 a.m.

MOTION: Vice Mayor Martin-Milius moved and Councilmember Larsson seconded the motion to adopt two resolutions (1) fixing the employer's contribution under the Public Employee's Medical and Hospital Care Act ("PEMHCA") for 2016, and (2)

amending Salary Resolution No. 190 05 to modify the City's contribution for medical insurance for Management, SEA/Confidential and SEIU employees and annuitants.

The motion carried by the following vote:

Yes: 6 - Mayor Griffith
Vice Mayor Martin-Milius
Councilmember Whittum
Councilmember Davis
Councilmember Hendricks
Councilmember Larsson

No: 1 - Councilmember Meyering

PUBLIC COMMENTS

Michael Goldman spoke regarding costs of public libraries and provided a PowerPoint presentation.

Andy Frazer spoke regarding the Sunnyvale Public Lands for Public Use Act and provided a PowerPoint presentation.

Peter Cirigliano spoke regarding a recent article in The Metro.

Maria Pan spoke regarding freedom of speech.

Steve Scandalis spoke regarding the Sunnyvale Public Lands for Public Use Act.

PUBLIC HEARINGS/GENERAL BUSINESS

2 [REDACTED] REQUEST FOR CONTINUATION to October 27, 2015 to Introduce an Ordinance to Amend various sections of the Sunnyvale Municipal Code Title 19 (Zoning) Related to Child Care Facilities (CDD 15-11); Approve Guidelines for Commercial Child Care; and Finding of CEQA Exemption Pursuant to CEQA Guideline 15061(b)(3). (Planning File: 2015-7149)

Director of Community Development Hanson Hom provided the recommendation to continue this item to October 27.

Public Hearing opened at 7:39 p.m.

No speakers.

Public Hearing closed at 7:39 p.m.

MOTION: Councilmember Hendricks moved and Vice Mayor Martin-Milius seconded the motion to continue this item to October 27, 2015.

The motion carried by the following vote:

Yes: 7 - Mayor Griffith
Vice Mayor Martin-Milius
Councilmember Whittum
Councilmember Meyering
Councilmember Davis
Councilmember Hendricks
Councilmember Larsson

No: 0

3 [REDACTED] Council Update and Possible Direction on Establishing a Temporary County Cold Weather Shelter for the 2015-16 Winter Season at the City's Onizuka Site

Community Development Director Hanson Hom provided the staff report. City Manager Deanna Santana, City Attorney Joan Borger and Neighborhood Preservation Manager Christy Gunvalson provided additional information.

Public Hearing opened at 7:52 p.m.

David Wessel, Democratic Club of Sunnyvale, spoke in support of the Onizuka site for the emergency cold weather shelter and clarified his comments from a previous Council meeting regarding the effect of the Sunnyvale Public Lands for Public Use Act.

Diana Nguyen spoke regarding enforcement of shuttle service for the shelter to prevent loitering and the need to address security concerns.

Marie Bernard, Sunnyvale Community Services, spoke in support of the Onizuka site for a temporary cold weather shelter and regarding services that will be provided by community service groups.

Public Hearing closed at 7:58 p.m.

MOTION: Councilmember Davis moved and Councilmember Whittum seconded the motion to receive the report.

The motion carried by the following vote:

Yes: 7 - Mayor Griffith
Vice Mayor Martin-Milius
Councilmember Whittum
Councilmember Meyering
Councilmember Davis
Councilmember Hendricks
Councilmember Larsson

No: 0

4 [REDACTED] Introduce an Ordinance to add a new Chapter 19.76 entitled "Short-term Rentals and Home Sharing" to Title 19 of the Sunnyvale Municipal Code, and find that the project is exempt under CEQA pursuant to Guidelines 15061(b)(3) (Study Issue 2015-7147) (Continued from August 25, 2015)

Principal Planner Andrew Miner provided the staff report and noted a correction to the report on page 13 in the last paragraph, that the list of provisions for unhosted rentals should not have been included. Director of Community Development Hanson Hom and Director of Finance Grace Leung provided additional information.

Public Hearing opened at 8:53 p.m.

Linda McGahen spoke in support of short-term rentals and home sharing and provided information regarding personal verification procedures she uses.

Diana Ngyuen requested consideration of changing the ordinance for the occupancy limits to two people per room.

Charisse Ma Lebron, Director of Community Development and Health Policy, Working Partnerships USA, spoke in support of allowing hosted short-term rentals, and requested amendments such as a permanent City of Sunnyvale residency requirement, that Council not permit unhosted rentals and provide close monitoring of the potential impact on the affordable housing stock.

Majid Bargh expressed concerns regarding potential negative impacts of short-term rentals on long-term rentals and neighborhoods and recommended strict limitations on short-term rentals including a permanent residency requirement.

Sarah McDermott, Unite Local 19, stated they have been working with Working Partnerships to ensure short-term rentals are not impacting affordable housing and hospitality workers. McDermott spoke in support of the staff recommendation of hosted only, and recommended strict limitations on unhosted if approved, including

a 90-day limit for unhosted and 180 days for hosted rentals. McDermott recommended the owner of the property be a Sunnyvale resident.

Dan Paustian spoke in support of allowing unhosted short-term rentals and provided information on the careful review of potential clients.

Jackie Nicoli spoke in support of allowing short-term rentals and regarding the reviews available on both sides.

David Wessel spoke in opposition to the ordinance altogether, citing problems with enforcement and lack of notice to the public.

Nancy Smith expressed concerns regarding loss of rentals in Sunnyvale, accountability of owners or tenants, the potential for coercion of tenants by raising rental rates, and including restrictions for hosts in the ordinance.

John Cordes, SNAIL Neighborhood Association Chair speaking for himself, spoke in support of allowing short-term rentals including the unhosted option. Cordes also provided information regarding the short-term rental of RVs.

Ray Crump expressed concerns regarding safety of children and spoke in opposition to unhosted rentals.

Ed Gocka spoke in support of the staff recommendation of restricting short term rentals to hosted.

Simone Yan spoke in support of short-term rentals for the opportunities it provides to people who otherwise cannot afford long-term rent in Sunnyvale. Yan also spoke in support of the benefits to the economy.

Chris Oliva spoke regarding the opportunity to defray long-term costs of a mother-in-law unit and in support of the ordinance.

Public Hearing closed at 9:36 p.m.

MOTION: Councilmember Davis moved and Councilmember Larsson seconded the motion to approve Alternatives 1, 2 and 3: (1) Introduce an Ordinance to add a new Chapter 19.76 entitled Short term Rentals and Home Sharing to Title 19 of the Sunnyvale Municipal Code; (2) Direct staff to return with a Resolution amending the Fee Schedule to reflect the appropriate processing fee for short term rentals; and (3) Find that the project is exempt from CEQA under Guideline 15061(b)(3).

FRIENDLY AMENDMENT: Councilmember Larsson offered a friendly amendment to add the language “as amended from time to time” as suggested by staff in the response to Council comments.

Councilmember Davis accepted the friendly amendment.

FRIENDLY AMENDMENT: Councilmember Larsson offered a friendly amendment to allow a host to stay in an accessory dwelling unit if they are renting the primary unit.

Councilmember Davis accepted the friendly amendment.

FRIENDLY AMENDMENT: Councilmember Larsson offered a friendly amendment to return to Council in two years with an update on how it has gone and a chance to revisit the ordinance.

Councilmember Davis stated this is already covered by the first friendly amendment.

FRIENDLY AMENDMENT: Councilmember Hendricks offered a friendly amendment to add a requirement that any lister must include the City permit number in their listing.

Councilmember Davis accepted the friendly amendment.

FRIENDLY AMENDMENT: Councilmember Hendricks offered a friendly amendment to exclude mobile home parks.

Councilmember Davis declined to accept the friendly amendment.

AMENDMENT: Councilmember Whittum moved to amend the motion to exclude mobile home parks from the ordinance.

Councilmember Hendricks seconded the motion to amend.

Following discussion, Councilmember Whittum withdrew the motion to amend and Councilmember Davis accepted the exclusion of mobile home parks as a friendly amendment, with direction to staff to prepare the appropriate language when the ordinance comes back to Council for adoption.

City Clerk Kathleen Franco Simmons read the ordinance title.

The motion carried by the following vote:

Yes: 6 - Mayor Griffith
Vice Mayor Martin-Milius
Councilmember Whittum
Councilmember Davis
Councilmember Hendricks
Councilmember Larsson

No: 1 - Councilmember Meyering

Council recessed at 10:42 p.m.

Council reconvened at 11 p.m. with all Councilmembers present.

5 [REDACTED] Introduce an Ordinance to Amend Sunnyvale Municipal Code Chapter 8.16 (Solid Waste Management and Recycling), Chapter 10.04 (General Provisions), and Title 12 (Water & Sewers).

Director of Environmental Services John Stufflebean provided the staff report.

Director of Finance Grace Leung provided additional information.

Public Hearing opened at 11:09 p.m.

No speakers.

Public Hearing closed at 11:09 p.m.

MOTION: Councilmember Davis moved and Vice Mayor Martin-Milius seconded the motion to approve Alternative 1: Introduce the proposed Ordinance to Amend Sunnyvale Municipal Code Chapter 8.16 (Solid Waste Management and Recycling), Chapter 10.04 (General Provisions), and Title 12 (Water & Sewers).

AMENDMENT: Councilmember Meyering moved to amend the motion to, at the moment, delete the resetting in section 12.24.230 and postpone a determination about changing the meter resetting charge until we have more concrete information as to what the new charge will be.

The motion to amend died due to lack of a second.

City Clerk Kathleen Franco Simmons read the three ordinance titles.

The motion carried by the following vote:

Yes: 6 - Mayor Griffith
Vice Mayor Martin-Milius
Councilmember Whittum
Councilmember Davis
Councilmember Hendricks
Councilmember Larsson

No: 1 - Councilmember Meyering

6 [REDACTED] Adopt Memorandum of Understanding between the City of Sunnyvale and the Communication Officers Association and the Corresponding Resolution to Amend the City's Salary Resolution and the Resolution for Paying and Reporting the Value of Employer Paid Member Contributions for CalPERS Retirement

Director of Human Resources Teri Silva provided the staff report.

Public Hearing opened at 11:15 p.m.

No speakers.

Public Hearing closed at 11:15 p.m.

MOTION: Councilmember Davis moved and Councilmember Larsson seconded the motion to approve Alternative 1: Adopt the Memorandum of Understanding between the City of Sunnyvale and the Communication Officers Association, and the corresponding Resolution amending the City's Salary Resolution and the Resolution for Paying and Reporting the Value of CalPERS Employer Paid Member Contributions.

The motion carried by the following vote:

Yes: 5 - Mayor Griffith
Vice Mayor Martin-Milius
Councilmember Davis
Councilmember Hendricks
Councilmember Larsson

No: 2 - Councilmember Whittum
Councilmember Meyering

7 [REDACTED] Consider a Request for Funding from Urban Systems Laboratories for an Automated Transit Network Development Partnership and Approval of Budget Modification No. 6

Assistant City Manager Kent Steffens provided the staff report.

Public Hearing opened at 11:22 p.m.

No speakers.

Public Hearing closed at 11:22 p.m.

MOTION: Councilmember Davis moved and Councilmember Hendricks seconded the motion that the City of Sunnyvale, contingent upon other communities joining in the partnership with additional funds, and that any partnership agreement that is drafted, it is understood that we are interested in pursuing the concept, not buying in to the development or building of the structure.

The motion failed by the following vote:

Yes: 3 - Councilmember Whittum
Councilmember Davis
Councilmember Hendricks

No: 4 - Mayor Griffith
Vice Mayor Martin-Milius
Councilmember Meyering
Councilmember Larsson

MOTION: Councilmember Hendricks moved and Councilmember Whittum seconded the motion to proceed with the remaining agenda items.

Yes: 7 - Mayor Griffith
Vice Mayor Martin-Milius
Councilmember Whittum
Councilmember Meyering
Councilmember Davis
Councilmember Hendricks
Councilmember Larsson

No: 0

8 [REDACTED] Cast Vote as Member City for the League of California Cities
Peninsula Division 2016 Election of Officers

Assistant City Manager Kent Steffens provided the staff report.

Public Hearing opened at 11:56 p.m.

No speakers.

Public Hearing closed at 11:56 p.m.

MOTION: Councilmember Hendricks moved and Vice Mayor Martin-Milius seconded the motion to ratify the list in the report:

President: Liz Kniss, Councilmember, Palo Alto

Vice President: Alicia Aguirre, Council Member, Redwood City

Secretary-Treasurer: Marilyn Librers, Councilmember, Morgan Hill

Board Director (Two-Year Term): Kirsten Keith, Council Member, Menlo Park

San Mateo County: Larry Moody, Councilmember, East Palo Alto

Santa Clara County: Jim Davis, Councilmember, Sunnyvale

The motion carried by the following vote:

Yes: 7 - Mayor Griffith
Vice Mayor Martin-Milius
Councilmember Whittum
Councilmember Meyering
Councilmember Davis
Councilmember Hendricks
Councilmember Larsson

No: 0

9 [REDACTED] Approve City Position on Proposed League of California Cities' 2015 Annual Resolutions

Assistant City Manager Kent Steffens provided the staff report.

Public Hearing opened at 11:59 p.m.

No speakers.

Public Hearing closed at 11:59 p.m.

MOTION: Councilmember Hendricks moved and Councilmember Davis seconded the motion to approve resolution positions:

1. League Bylaw Amendment - Support
2. Overconcentration of Alcohol & Drug Treatment Facilities - Support
3. Residential Rentals, Support for SB 593 (McGuire) - Support
4. Compensation for Prolonged Electrical Power Outages - Take No Position

AMENDMENT: Councilmember Meyering moved to amend the motion to take no action on Resolution #2.

The motion to amend died due to lack of a second.

FRIENDLY AMENDMENT: Councilmember Whittum offered a friendly amendment to take no position on Resolution #2 pending clarification on the item.

Councilmember Hendricks declined to accept the friendly amendment.

The motion carried by the following vote:

Yes: 5 - Mayor Griffith
Vice Mayor Martin-Milius
Councilmember Davis
Councilmember Hendricks
Councilmember Larsson

No: 2 - Councilmember Whittum
Councilmember Meyering

COUNCILMEMBERS REPORTS ON ACTIVITIES FROM INTERGOVERNMENTAL COMMITTEE ASSIGNMENTS

Councilmember Whittum reported his attendance at meetings of the El Camino Real Bus Rapid Transit Policy Advisory Committee and a VTA Board meeting.

Vice Mayor Martin-Milius reported her attendance at the CALAFCO conference.

NON-AGENDA ITEMS & COMMENTS

-Council

Councilmember Whittum reported the comments he made earlier on the water rates study are available on the dais or electronically.

Mayor Griffith reported on the State of the City Address and Community Awards event held on September 12.

-City Manager

Assistant City Manager Kent Steffens reported SB588 passed the legislature and is on Governor's desk for signature.

INFORMATION ONLY REPORTS/ITEMS

[REDACTED] Tentative Council Meeting Agenda Calendar

[REDACTED] Information/Action Items

[REDACTED] \$15 by 2018 Regional Minimum Wage Goal Update
(Information Only)

[REDACTED] Study Session Summary of August 25, 2015 - Sunnyvale
Clean Water Program - Master Plan Update

[REDACTED] Board/Commission Meeting Minutes

ADJOURNMENT

Mayor Griffith adjourned the meeting at 12:22 a.m.

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TOWN OF LOS ALTOS HILLS
Staff Report to the City Council

March 22, 2018

SUBJECT: INTRODUCTION OF AN AMENDMENT TO CHAPTER 10 OF THE MUNICIPAL CODE (ZONING) TO ADOPT SHORT-TERM RENTAL REGULATIONS. FILE # 117-17-MISC

FROM: Suzanne Avila, AICP, Planning Director *SA*

APPROVED: Carl Cahill, City Manager *C.C.*

RECOMMENDATION OF THE PLANNING COMMISSION:

That the City Council waive reading and introduce the ordinance amending Chapter 10 of the Los Altos Hills Municipal Code.

BACKGROUND:

The City Council began discussion of issues related to short-term rentals in 2016. A Town Hall/Special City Council meeting was held on March 23, 2017 to discuss and take comments from the public on the issue. At the April 20, 2017 City Council meeting the Council directed staff to draft an ordinance to regulate short-term rentals in Town. A draft ordinance was considered and recommended for approval by the Planning Commission on August 3, 2017. The Council considered the draft ordinance on September 21, 2017 and directed staff to work with the Planning Commission to revise the ordinance to simplify the permit process and establish regulations to address neighborhood impacts for short-term rentals that are not operating in compliance with Town Code.

DISCUSSION:

The specific direction by the City Council on September 21, 2017 was as follows:

- **Prohibit short-term rental properties as commercial enterprises:** The Council stipulated that short-term rental uses shall be limited to residents of the Town, and that the property should contain the owner's primary residence.
- **Only restrict problem rentals:** Many short-term rentals operate currently in Town without any issue or impact on neighborhoods. Those short-term rentals should be allowed to continue without undue burden or restriction. The commercial listings and problem rentals should be removed and/or addressed through application of appropriate conditions of approval or code enforcement action when needed.

Based on this direction, staff revised the draft ordinance as follows:

- **Short-term rental license:** Rather than require an in-depth permit application process, a simple short-term rental license (similar to a business license) would be

applied for, potentially online, which would determine compliance with the homeowner requirement along with agreement to the Short-Term Rental Policy.

- The Town could work with a vendor that would regularly search online and review all Los Altos Hills short-term rental listings and pursue compliance with the licensing and policy agreement. This would better establish the Town's ability to track and enforce nuisance violations and complaints.
- **Conditional Short-Term Rental Permit:** While the Town cannot adopt regulations that only apply to problem rentals, clear expectations can be set for applicants which would simplify the process for revocation. Applicants who wish to pursue a short-term rental after revocation would be subject to a more restricted permit process with appropriate conditions to address specific impacts. This would effectively allow the Town to apply more stringent regulations on problem sites while allowing those in good standing to operate with fewer restrictions. The process would also allow an applicant to pursue an exception to the general rules within the Ordinance. For example:
 - The Ordinance restricts short-term rental applicants to only registered property owners and requires the property to contain their primary residence. A local resident who does not reside on the property full time could request an exception through the conditional permit process; or
 - A property owner who is interested in renting out more than one space at the same time could document the appropriateness of their request through the conditional permit process.

The conditional permit process would allow the applicant to provide appropriate justification and documentation as to how the use will comply with the intent of the Short-term Rental Ordinance and Policy. Through a noticed public hearing process staff and neighbors would consider the intended use and could apply additional requirements or limitations to ensure the use does not become a nuisance for the neighborhood.

The Ordinance grants the Site Development Committee the authority to approve conditional short-term rental permits. The intention is to allow the Planning Director to approve justifiable exceptions when neighbor concerns have been adequately addressed, similar to the existing Fast Track process for new residences. If a consensus cannot be reached or the impacts are particularly egregious the matter would be forwarded to the Planning Commission.

- **Policy and Agreement:** Staff has drafted a Short-term Rental Policy and Applicant Agreement. This document will coincide with the license application and require the property owner to sign documenting their agreement to adhere to the Town's standards and what would be considered a violation.

The Planning Commission recommended approval of the draft ordinance as presented and requested two edits to the short-term rental policy and applicant agreement.

PUBLIC COMMENT:

No additional written comments have been received since the matter was last discussed by the City Council.

FISCAL IMPACT:

Staff will propose an annual license fee with adoption of the upcoming fee schedule that will cover permit issuance and code enforcement as well as a Conditional Permit process fee if it is to be different than the Site Development Permit process fee(s) currently in place (\$1,328 plus deposit to cover staff time). Pending approval of a permit fee applications can be processed based on staff time and materials.

Town staff will work in coordination with a vendor such as Host Compliance to identify and bring existing and new rental sites into compliance with the Town's short-term rental regulations. Ongoing enforcement and neighbor complaints will be handled by the Town's Code Enforcement Officer and will require additional code enforcement hours.

CONCLUSION:

Staff and the Planning Commission believe the proposed ordinance will be effective in addressing short-term rental operating issues previously reported by Town residents.

All prior reports and memos on this topic can be reviewed along with their attachments on the short-term rental page of the Los Altos Hills website. Staff will continue to do outreach to residents to inform them of the new regulations; including use of social media, the Town website, and an article in the Town newsletter.

Staff will report back to the Planning Commission and the City Council six months after the ordinance goes into effect to provide available data on the effectiveness of the regulations.

Report prepared by: Marni Moseley AICP, Senior Planner

ATTACHMENTS:

1. Draft short-term rental ordinance
2. Short-term rental policy and application agreement
3. August 3, 2017 Planning Commission report
4. September 21, 2017 City Council report
5. February 1, 2018 Planning Commission report

ORDINANCE

AN ORDINANCE OF THE TOWN OF LOS ALTOS HILLS AMENDING SECTION 10-1.702 AND ADDING SECTIONS 10-1.1202 THROUGH 10-1.1208 TO THE LOS ALTOS HILLS MUNICIPAL CODE PERTAINING TO SHORT-TERM RENTAL REGULATIONS WITHIN RESIDENTIAL ZONES

WHEREAS, the City Council of the Town of Los Altos Hills (“Town”) wishes to amend the Municipal Code with regard to regulation of short-term rentals in Town and establish regulatory and enforcement guidelines.

NOW, THEREFORE, the City Council of the Town of Los Altos Hills does **ORDAIN** as follows:

Section 1. AMENDMENTS

The following sections are hereby added to Title 10, Chapter 1 (“Zoning”) of the Los Altos Hills Municipal Code to read as follows. Sections and subsections that are not amended by this ordinance are not included below, and shall remain in full force and effect.

Article 7. Accessory uses and structures permitted (R-A). is hereby amended:

10-1.702 Accessory uses and structures permitted (R-A).

.....

(r) One short-term rental unit operated pursuant to the requirements of Article 12 of this chapter.

.....

Article 12. Short-term Rental of Residential Property is hereby added:

10-1.1201 Purpose and intent.

The purpose of this chapter is to establish regulations governing the short-term rental of residential property within the Town of Los Altos Hills. The establishment of these regulations will provide for additional residential options while ensuring that short-term rental activities do not become a nuisance or a threat to public health, safety, or welfare due to excessive noise, disorderly conduct, overcrowding, traffic congestion, illegal parking, refuse accumulation, and other effects related to short-term rentals.

10-1.1202 Definitions.

For purposes of this chapter, the following definitions apply:

(a) "Primary residence" means the residence must be used as the owner/applicant's primary residence for a minimum of 270 days per year and must be listed as the mailing address with the Santa Clara County Assessor.

(b) "Short-term rental" means to provide transient lodging use in exchange for compensation in any dwelling unit, in whole or in part, on residential property for a period of thirty (30) consecutive calendar days or less.

(c) "Validated nuisance" means a prohibited use or impact associated with a short-term rental including those listed within the Short-term Rental Policy and which sufficient documentation is provided to confirm the occurrence and extent of the violation.

10-1.1203 Short-term rentals prohibited.

No person shall use or maintain, nor shall any person authorize, aid, facilitate or advertise the use of, any residential property on any parcel for short-term rental without registering and obtaining a short-term rental license from the Town of Los Altos Hills.

10-1.1204 General requirements.

Short-term rentals permitted on residential property shall be subject to following restrictions and requirements:

(a) A maximum of one (1) short term rental unit is permitted per residential property.

(b) The short-term rental property shall contain the property owner's primary residence.

(c) The short-term rental shall comply with all applicable local, state, and federal laws, including but not limited to state and local health, safety, fire, and building codes.

(d) The host must provide all renters with facilities for sleeping, bathing, and toileting within a permanent dwelling that is suitable for human occupancy. Rental of sleeping space in or on balconies, porches, tents, sheds, vehicles, garages or outdoor areas is prohibited.

(e) Short-term rental uses are permitted solely for residential purposes only. No events or commercial uses are permitted. This includes site rentals for weddings, corporate meetings/events/trainings, photo or video shoots, birthday parties, etc.

(f) All short-term rental parking must be provided on-site in approved parking areas. No overnight street parking is permitted pursuant to Municipal Code section 4-3.1006.

(g) The host is responsible for ensuring the property does not become a nuisance due to any short-term rental occupant activities. Any short-term rental with three (3) validated nuisance violations will result in revocation of the short-term rental license.

10-1.1205 Conditional Short-Term Rental Permit Approval required.

An applicant may apply for a Conditional Short-Term Rental Permit if an exception to the general requirements is requested or if a previously approved short-term rental license has been revoked. A noticed public hearing before the Site Development Committee is required for consideration of a Conditional Short-Term Rental permit.

(a) Additional limitations and restrictions may be imposed to ensure any nuisance concerns or site-specific limitations are adequately addressed to ensure that the short-term rental use would be compatible with the general intent of this Ordinance and the policies of the Town of Los Altos Hills. Additional limitations or restriction may include but are not limited to:

- i. limitation on number of rental rooms or occupants
- ii. additional off-street parking provisions
- iii. modification of quiet hours for occupants
- iv. neighborhood notification and or ongoing communication requirements

(b) Pursuant to 10-1.1002 of the Municipal Code, the decision of the Site Development Committee may be appealed to the Planning Commission.

10-1.1206 Fees.

The City Council may establish and set by resolution all fees and charges as may be necessary to effectuate the purpose of this chapter.

10-1.1207 Violations a public nuisance—Penalties, nuisance abatement, and other remedies.

Any short-term rental operated, conducted, or maintained contrary to the provisions of this chapter shall be, and the same is hereby declared to be, unlawful and a public nuisance which the City may seek to abate, remove, and enjoin in any manner provided by law. Such remedies shall be in addition to any other remedies available to the City under this chapter or applicable local or state law.

SECTION II. SEVERABILITY.

If any provision of this ordinance or the application thereof to any person or circumstance is held invalid or unconstitutional, the remainder of this ordinance, including the application of such part or provision to other persons or circumstances shall not be affected thereby and shall continue in full force and effect. To this end, provisions of this ordinance are severable. The City Council of the Town of Los Altos Hills hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases be held unconstitutional, invalid, or unenforceable.

SECTION III. EFFECTIVE DATE AND PUBLICATION.

This ordinance shall take effect thirty (30) days after adoption. Within fifteen days after the passage of this ordinance the City Clerk shall cause this ordinance or a summary thereof to be published once, with the names of those City Councilmembers voting for or against it in a newspaper of general circulation in the Town of Los Altos Hills, as required by law.

INTRODUCED:

PASSED:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

BY: _____
Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

2840788.1

TOWN OF LOS ALTOS HILLS

26379 Fremont Road
Los Altos Hills, CA 94022
Phone: (650) 941-7222
www.losaltoshills.ca.gov



Short-Term Rental Policy and Applicant Agreement

Approved by City Council – X/X/XXXX

Intent:

The purpose of this policy is to inform applicants of the Town's expectations of the standard operating practices of short-term rentals within the Town. The Town is a rural residential community with expectations of peace and privacy for its residents. Short-term rentals are limited to property owners and permitted with the expectation that their use would not impact neighbors or the character of the community. All property owners are responsible for ensuring their renters are informed of and comply with this policy.

The property owner must in addition comply with all provisions of the Short-term Rental Ordinance and ensure the property does not become a nuisance, as listed below, due to any short-term rental occupant activities. Any short-term rental with three (3) validated nuisance violations will result in revocation of the short-term rental license.

Prohibited Nuisance Activities

Parking: All renters and residents must park on-site. The Town prohibits parking on pathways at any time and does not permit on-street parking overnight, including private streets. The Property Owner/host/applicant are responsible for ensuring that sufficient parking is available for themselves and their renter(s), resident(s) and visitor(s) throughout their stay.

Noise: Outdoor amplified sound systems are prohibited. All short-term rentals must comply with the Town's noise limitations as described in Section 5-2.02 of the Municipal Code: 50 decibels during daytime and 40 decibels at nighttime. Daytime shall be the period from 8:00 a.m. to 7:00 p.m. on weekdays, and 9:00 a.m. to 7:00 p.m. on weekends and Town Holidays, Pacific Standard Time or Daylight-Saving Time.

Events: Short-term rental uses are permitted solely for residential purposes only. No events or uses that are commercial in nature are permitted. Such prohibited uses include site rentals for weddings, corporate meetings/events/trainings, photo or video shoots, birthday parties, and other non-residential events and commercial gatherings.

Visitors: Renters are permitted to have visitors as long as all visitors abide by the short-term rental policy. The host/applicant is responsible for ensuring the visitors' compliance.

Minors: Adult (21 years of age or older) supervision is required throughout the rental period for all renting minors.

PROPERTY OWNER SIGNATURE REQUIRED:

I hereby acknowledge that I have read, understand and accept the Short-Term Rental Policy and agree to abide by these restrictions and ensure all renters of my property understand and comply. I understand that any documented violations of this policy may be used to revoke my short-term rental license and that I will be held financially responsible for Town time and materials associated with any nuisance violation documentation and/or abatement.

Property Owner Signature	Date	/	/
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TOWN OF LOS ALTOS HILLS
Staff Report to the Planning Commission

AUGUST 3, 2017

SUBJECT: INTRODUCTION OF AN AMENDMENT TO CHAPTER 10 OF THE MUNICIPAL CODE (ZONING) TO ADOPT SHORT TERM RENTAL REGULATIONS WITHIN RESIDENTIAL ZONES. FILE # 117-17-MISC

FROM: Marni Moseley, AICP, Senior Planner

APPROVED: Suzanne Avila, Planning Director

RECOMMENDATION: That the Planning Commission:

Review the draft short-term rental ordinance (Attachment 1), accept public comment, and forward a recommendation to the City Council.

BACKGROUND:

The City Council discussed concerns regarding short term rentals and whether to pursue collection of Transient Oriented Tax (TOT) on July 20, 2016 and October 20, 2016. A Town Hall/Special City Council meeting was held on March 23, 2017 to discuss and take comments from the public on the issue. A follow up to this meeting was provided at the April 20, 2017 City Council meeting where the Council directed staff to draft an ordinance to regulate short term rentals in Town. Example ordinances and staff feedback has been provided to both the Planning Commission and the City Council in recent months. Staff has drafted an ordinance to best encompass the feedback received so far.

DISCUSSION:

Based on the limited feedback that staff has received on this matter, the draft ordinance was prepared with consideration for how staff would regulate and enforce the ordinance. Some areas that the Commission may want to discuss are:

- **Length of permit term and renewal requirements:** the ordinance includes a one-time permit application and the requirement for an annual business license to maintain current contact information. Any change to the permit conditions would require a new permit review.
- **Maximum number of rental nights:** the draft ordinance does not currently include a maximum number of nights. The enforcement of a restriction like this could be problematic due to the difficulty of verifying where short term rentals exist and how many nights they are being rented. Most rentals are listed on multiple rental sites and when a unit is listed as unavailable it does not necessarily mean the unit is rented. The requirement of the owner/host to reside on-site throughout the rental period is expected to discourage the commercial motel type uses.

- **Director approval:** the draft ordinance appoints the Planning Director as the approving body. This would make the decision of the Planning Director appealable to the Planning Commission. The Commission should provide direction on the approval process and whether that should include a noticed public hearing or a courtesy notice to adjacent neighbors. The more complicated the review process the higher the application fees would need to be to cover the associated costs of review.
- **Penalties and/or fines for non-compliance:** If additional fines or enforcement measures for repetitive nuisance violations are necessary they should be included in the ordinance.

ATTACHMENTS:

1. Draft short-term rental ordinance
2. Matrix of other communities regulations

TOWN OF LOS ALTOS HILLS
Staff Report to the City Council

September 21, 2017

SUBJECT: INTRODUCTION OF AN AMENDMENT TO CHAPTER 10 OF THE MUNICIPAL CODE (ZONING) TO ADOPT SHORT-TERM RENTAL REGULATIONS. FILE # 117-17-MISC

FROM: Suzanne Avila, AICP, Planning Director

APPROVED: Carl Cahill, City Manager

RECOMMENDATION OF THE PLANNING COMMISSION:

That the City Council waive reading and introduce the ordinance amending Chapter 10 of the Los Altos Hills Municipal Code.

BACKGROUND:

The City Council discussed concerns regarding short-term rentals and whether to pursue collection of Transient Oriented Tax (TOT) on July 20, 2016 and October 20, 2016. A Town Hall/Special City Council meeting was held on March 23, 2017 to discuss and take comments from the public on the issue. A follow up to this meeting was provided at the April 20, 2017 City Council meeting where the Council directed staff to draft an ordinance to regulate short-term rentals in Town. Example ordinances and staff feedback has been provided to both the Planning Commission and the City Council in recent months. The draft ordinance was considered by the Planning Commission on August 3, 2017 and the Commission recommended approval of the draft with minor edits.

A Town-wide notice was sent to inform residents and property owners of the Town Hall meeting on March 23, 2017 and to engage the community of the topic. A short-term rental page was created on the Town's website to keep the community informed regarding information and meetings, and information was circulated on Next Door and Facebook. An additional Town-wide notice was sent at the end of August to notify the community regarding the September 21st Council meeting and to encourage those interested to review the past and upcoming documents on the topic. In addition, all required legal ads were placed in the Town Crier.

DISCUSSION:

On April 20, 2017, the Council provided staff with the direction to permit short-term rentals within the Town while establishing regulations to help limit and remove "problem rentals". Staff continues to receive comments both in support and in opposition of short-term rentals. An ordinance was drafted based on feedback from the Council as well as the types of complaints and issues that have arisen over the last year.

The Planning Commission considered the draft ordinance on August 3, 2017 and provided minor edits along with a recommendation of approval. The modifications requested by the Planning Commission are as follows:

- Short-term rentals should require at least one renter that is at least 21 years of age
- The applicant/host must be a minimum of 25 years of age
- Increase of the quiet hours until 8 a.m. rather than 7 a.m.
- Clarification on restriction regarding non-renting visitors

These edits have been incorporated into the draft ordinance (see Attachment 1). Additionally, staff found an error in the draft ordinance considered by the Planning Commission that includes a permit renewal requirement. That section was added by the attorney's office and was not an intended requirement. Staff believes that either an annual business license or permit renewal should be required, but not both. The permit renewal section has been removed from the ordinance since this is how the topic was presented by staff to the Planning Commission.

Staff has received additional public comments on the topic and draft ordinance since the August 3 Planning Commission meeting (see Attachment 3). Many of the public comments/concerns were already incorporated in the draft ordinance. The topics which were not included are:

- Excluding any participants in the International Student Placement (ISP) program through Foothill College
- Limiting the number of children or minors permitted
- On-site Signage/Identification for each short-term rental
- Limitation on number of rentals/year
- Less regulation and paperwork

PUBLIC COMMENT:

All public comments received since the August 3, 2017 Planning Commission meeting are included in Attachment 3.

FISCAL IMPACT:

The Town will need to establish a permit review fee and annual renewal or business license fee to cover staff permit review and enforcement.

CONCLUSION:

The City Council should consider the comments from the public and the discussion by the Planning Commission and provide feedback for modification to the draft ordinance. Revisions will be made and proceeded by a second reading of the ordinance. Ordinances are effectuated 30 days after the second reading.

All prior reports and memos on this topic can be reviewed along with their attachments on the short-term rental page of the Los Altos Hills website.

Report prepared by: Marni Moseley AICP, Senior Planner

ATTACHMENTS:

1. Draft Ordinance
2. August 3, 2017 Planning Commission report
3. Public comments

TOWN OF LOS ALTOS HILLS
Staff Report to the Planning Commission

February 1, 2018

SUBJECT: INTRODUCTION OF AN AMENDMENT TO CHAPTER 10 OF THE MUNICIPAL CODE (ZONING) TO ADOPT SHORT TERM RENTAL REGULATIONS WITHIN RESIDENTIAL ZONES. FILE # 117-17-MISC

FROM: Marni Moseley, AICP, Senior Planner

APPROVED: Suzanne Avila, AICP, Planning Director

RECOMMENDATION: That the Planning Commission:

Review the draft short-term rental ordinance (Attachment 1) and Short-term Rental Policy and Applicant Agreement (Attachment 2), accept public comment, and forward a recommendation to the City Council.

BACKGROUND:

The Planning Commission considered a draft short-term rental ordinance on August 3, 2017 and recommended approval of the ordinance with several edits, to the City Council. The Council considered the amended ordinance on September 21, 2017 and directed staff to work with the Planning Commission to revise the ordinance to simplify the permit process and establish regulations to address neighborhood impacts for short-term rentals that are not operating in compliance with Town Code.

DISCUSSION:

The specific direction by the City Council on September 21, 2017 was as follows:

- **Prohibit short-term rental properties as commercial enterprises:** The Council was firm that short-term rental uses shall be limited to residents of the Town, and that the property should contain the owner's primary residence.
- **Only restrict problem rentals:** There are 30 to 75 short-term rentals advertised in and around Los Altos Hills. Many operate without any issue or impact on neighborhoods. Those short-term rentals should be allowed to continue without undue burden or restriction. The commercial listings and problem rentals should be removed and/or addressed through application of appropriate conditions of approval or code enforcement action when needed.

Based on this direction, staff revised the draft ordinance as follows:

- **Short-term rental license:** Rather than require an in-depth permit application process, a simple short-term rental license (similar to a business license) would be

applied for, potentially online, which would determine compliance with the homeowner requirement along with agreement to the Short-Term Rental Policy.

- The Town could work with a vendor that would regularly review all Los Altos Hills short-term rental listings and pursue compliance with the licensing and policy agreement. This would better establish the Town's ability to track and enforce nuisance violations and complaints.
- **Conditional Short-Term Rental Permit:** While the Town cannot adopt regulations that only apply to problem rentals, clear expectations can be set for applicants which would simplify the process for revocation. Applicants who wish to pursue a short-term rental after revocation would be subject to a more restricted permit process with appropriate conditions to address specific impacts. This would effectively allow the Town to apply more stringent regulations on problem sites while allowing those in good standing to operate with fewer restrictions. The process would also allow an applicant to pursue an exception to the general rules within the Ordinance. For example:
 - The Ordinance restricts short-term rental applicants to only registered property owners and requires the property to contain their primary residence. A local resident, who does not reside on the property full time could request an exception through the conditional permit process; or
 - A property owner who is interested in renting out more than one space at the same time could document the appropriateness of their request through the conditional permit process.

The conditional permit process would allow the applicant to provide appropriate justification and documentation as to how the use will comply with the intent of the Short-term Rental Ordinance and Policy. Through a noticed public hearing process staff and neighbors would consider the intended use and apply additional requirements or limitations to ensure the use does not become a nuisance for the neighborhood.

While the Ordinance grants the Site Development Committee the authority to approve conditional short-term rental permits, staff anticipates that most applications would be forwarded to the Planning Commission for review. The intention is to allow the Planning Director to approve justifiable exceptions when neighbor concerns have been adequately addressed, similar to the existing Fast Track process for new residences. If a consensus cannot be reached or the impacts are particularly egregious the matter would be forwarded to the Planning Commission.

- **Policy and Agreement:** Staff has drafted a Short-term Rental Policy and Applicant Agreement. This document will coincide with the license application and require the property owner to sign documenting their agreement to adhere to the Town's standards and what would be considered a violation.

ATTACHMENTS:

1. Draft short-term rental ordinance
2. Draft short-term rental policy and applicant agreement
3. September 21, 2017 City Council minutes

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ORDINANCE 575

AN ORDINANCE OF THE TOWN OF LOS ALTOS HILLS AMENDING SECTION 10-1.702 AND ADDING SECTIONS 10-1.1202 THROUGH 10-1.1208 TO THE LOS ALTOS HILLS MUNICIPAL CODE PERTAINING TO SHORT-TERM RENTAL REGULATIONS WITHIN RESIDENTIAL ZONES

WHEREAS, the City Council of the Town of Los Altos Hills (“Town”) wishes to amend the Municipal Code with regard to regulation of short-term rentals in Town and establish regulatory and enforcement guidelines.

NOW, THEREFORE, the City Council of the Town of Los Altos Hills does **ORDAIN** as follows:

Section 1. AMENDMENTS

The following sections are hereby added to Title 10, Chapter 1 (“Zoning”) of the Los Altos Hills Municipal Code to read as follows. Sections and subsections that are not amended by this ordinance are not included below, and shall remain in full force and effect.

Article 7. Accessory uses and structures permitted (R-A). is hereby amended:

10-1.702 Accessory uses and structures permitted (R-A).

.....

(r) One short-term rental unit operated pursuant to the requirements of Article 12 of this chapter.

.....

Article 12. Short-term Rental of Residential Property is hereby added:

|||||

The purpose of this chapter is to establish regulations governing the short-term rental of residential property within the Town of Los Altos Hills. The establishment of these regulations will provide for additional residential options while ensuring that short-term rental activities do not become a nuisance or a threat to public health, safety, or welfare due to excessive noise, disorderly conduct, overcrowding, traffic congestion, illegal parking, refuse accumulation, and other effects related to short-term rentals.

10-1.1202 Definitions.

For purposes of this chapter, the following definitions apply:

(a) “Primary residence” means the residence must be used as the owner/applicant’s primary residence for a minimum of 270 days per year and must be listed as the mailing address with the Santa Clara County Assessor.

(b) “Short-term rental” means to provide transient lodging use in exchange for compensation in any dwelling unit, in whole or in part, on residential property for a period of thirty (30) consecutive calendar days or less.

(c) “Validated nuisance” means a prohibited use or impact associated with a short-term rental including those listed within the Short-term Rental Policy and which sufficient documentation is provided to confirm the occurrence and extent of the violation.

10-1.1203 Short-term rentals prohibited.

No person shall use or maintain, nor shall any person authorize, aid, facilitate or advertise the use of, any residential property on any parcel for short-term rental without registering and obtaining a short-term rental license from the Town of Los Altos Hills.

10-1.1204 General requirements.

Short-term rentals permitted on residential property shall be subject to following restrictions and requirements:

(a) A maximum of one (1) short term rental unit is permitted per residential property.

(b) The short-term rental property shall contain the property owner’s primary residence.

(c) The short-term rental shall comply with all applicable local, state, and federal laws, including but not limited to state and local health, safety, fire, and building codes.

(d) The host must provide all renters with facilities for sleeping, bathing, and toileting within a permanent dwelling that is suitable for human occupancy. Rental of sleeping space in or on balconies, porches, tents, sheds, vehicles, garages or outdoor areas is prohibited.

(e) Short-term rental uses are permitted solely for residential purposes only. No events or commercial uses are permitted. This includes site rentals for weddings, corporate meetings/events/trainings, photo or video shoots, birthday parties, etc.

(f) All short-term rental parking must be provided on-site in approved parking areas. No overnight street parking is permitted pursuant to Municipal Code section 4-3.1006.

(g) The host is responsible for ensuring the property does not become a nuisance due to any short-term rental occupant activities. Any short-term rental with three (3) validated nuisance violations will result in revocation of the short-term rental license.

10-1.1205 Conditional Short-Term Rental Permit Approval required.

An applicant may apply for a Conditional Short-Term Rental Permit if an exception to the general requirements is requested or if a previously approved short-term rental license has been revoked. A noticed public hearing before the Site Development Committee is required for consideration of a Conditional Short-Term Rental permit.

(a) Additional limitations and restrictions may be imposed to ensure any nuisance concerns or site-specific limitations are adequately addressed to ensure that the short-term rental use would be compatible with the general intent of this Ordinance and the policies of the Town of Los Altos Hills. Additional limitations or restriction may include but are not limited to:

- i. limitation on number of rental rooms or occupants
- ii. additional off-street parking provisions
- iii. modification of quiet hours for occupants
- iv. neighborhood notification and or ongoing communication requirements

(b) Pursuant to 10-1.1002 of the Municipal Code, the decision of the Site Development Committee may be appealed to the Planning Commission.

10-1.1206 Fees.

The City Council may establish and set by resolution all fees and charges as may be necessary to effectuate the purpose of this chapter.

10-1.1207 Violations a public nuisance—Penalties, nuisance abatement, and other remedies.

Any short-term rental operated, conducted, or maintained contrary to the provisions of this chapter shall be, and the same is hereby declared to be, unlawful and a public nuisance which the City may seek to abate, remove, and enjoin in any manner provided by law. Such remedies shall be in addition to any other remedies available to the City under this chapter or applicable local or state law.

SECTION II. SEVERABILITY.

If any provision of this ordinance or the application thereof to any person or circumstance is held invalid or unconstitutional, the remainder of this ordinance, including the application of such part or provision to other persons or circumstances shall not be affected thereby and shall continue in full force and effect. To this end, provisions of this ordinance are severable. The City Council of the Town of Los Altos Hills hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases be held unconstitutional, invalid, or unenforceable.

SECTION III. EFFECTIVE DATE AND PUBLICATION.

This ordinance shall take effect thirty (30) days after adoption. Within fifteen days after the passage of this ordinance the City Clerk shall cause this ordinance or a summary thereof to be published once, with the names of those City Councilmembers voting for or against it in a newspaper of general circulation in the Town of Los Altos Hills, as required by law.

INTRODUCED:

PASSED:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

BY: _____
Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

2840788.1

Town of Los Altos Hills

City Council Regular Meeting Minutes

Thursday, April 20, 2017

Council Chambers, 26379 Fremont Road, Los Altos Hills, California

Mayor Waldeck called the meeting to order at 6:02 p.m.

CALL TO ORDER (6:00 P.M.)

A. Roll Call

Present:	Mayor Waldeck, Vice Mayor Radford, Councilmember Corrigan, Councilmember Spreen, Councilmember Wu
Absent:	None
Staff:	City Manager Carl Cahill, City Attorney Steve Mattas, Planning Director Suzanne Avila, Senior Engineer Tina Tseng, Administrative Services Director Pak Lin, Senior Planner Marni Moseley, City Clerk Deborah Padovan

B. Pledge of Allegiance

1. AGENDA REVIEW

There were no changes to the agenda.

2. PRESENTATIONS AND APPOINTMENTS

A. Introduction by George Hurst of the Newest CERT Members and the Administration of Oath to the CERT Volunteers

Los Altos Hills County Fire District Emergency Preparedness Coordinator **George Hurst** introduced the newest Los Altos Hills CERT members.

City Clerk Deborah Padovan administered the oath of office to the CERT members.

B. Invitation by Marc Sidel to Attend Hidden Villa's Behind the Scenes Event on Sunday, May 7, 2017

Marc Sidel, Hidden Villa, thanked the Council for continuing to invest in Hidden Villa, as the annual community grants received by the Town is truly appreciated. He invited the Council for a Behind the Scenes tour of Hidden Villa and Japanese Cultural Day on Sunday, May 7, 2017.

C. [Annual Report of the Pathways Committee](#)

Ann Duwe, Chair of the Los Altos Hills Pathways Committee, presented the annual report of the committee. Council asked questions of **Ms. Duwe**. No action was taken.

D. [Annual Report of the Environmental Initiatives Committee](#)

Raj Reddy, Chair of the Los Altos Hills Environmental Initiatives Committee, presented the annual report of the committee. Council asked questions of **Mr. Reddy**. No action was taken.

E. [Westwind Community Barn Report Presented by Victoria Dye Equestrian](#)

Victoria Dye presented a report on the financials of Westwind Community Barn.

Council asked questions of **Ms. Dye** and received her responses. No action was taken.

F. [Reappointment to the Environmental Initiatives Committee](#)

City Clerk Padovan presented the reappointment request of **Aileen Lee** to the Environmental Initiatives Committee.

Peter Evans, Los Altos Hills, said that **Aileen** is a worldwide recognized thought leader in environmental policy and the committee is lucky to have her.

MOTION MADE AND SECONDED: Councilmember Spreen moved to reappoint Aileen Lee to the Environmental Initiatives Committee for a second, four-year term. The motion was seconded by Vice Mayor Radford.

Motion Carried 5 to 0:

AYES: Mayor Waldeck, Vice Mayor Radford, Councilmember Corrigan, Councilmember Spreen, Councilmember Wu

NOES: None

ABSENT: None

ABSTAIN: None

G. Reappointment to the Community Relations Committee

City Clerk Padovan presented the reappointment request of **Nena Price** to the Community Relations Committee.

MOTION MADE AND SECONDED: **Councilmember Corrigan** moved to reappoint **Nena Price** to the Community Relations Committee for a second, four-year term. The motion was seconded by Vice Mayor **Radford**.

Motion Carried 5 to 0:

AYES: [Mayor Waldeck](#), [Vice Mayor Radford](#), [Councilmember Corrigan](#), [Councilmember Spreen](#), [Councilmember Wu](#)

NOES: [None](#)

ABSENT: [None](#)

ABSTAIN: [None](#)

3. PRESENTATIONS FROM THE FLOOR Persons wishing to address the Council on any subject not on the agenda may do so now. Please complete a Speaker Card located on the back table of the Council Chambers and submit it to the City Clerk. Comments are limited to two (2) minutes per speaker. California law prohibits the Council from acting on items that do not appear on the agenda. Under a Resolution previously adopted by the Council, such items can be referred to staff for appropriate action, which may include placement on the next available agenda.

Kjell Karlsson, Los Altos Hills, thanked the Los Altos Hills maintenance crew for the fantastic job they did cleaning up after the storm of April 6, 2017.

Councilmember Corrigan pointed out that Building Technician Austin Hancock also worked alongside the maintenance crew on a Saturday to assist in the cleanup.

Captain Rich Urena, Santa Clara County Sheriff's Office, explained that all of the sheriff officers are now wearing body cams and demonstrated the use.

Apurva Chandra, Los Altos Hills, spoke about auxiliary dwelling units, also known as in-law units. **Mayor Waldeck** asked the City Manager if staff was aware of the topic and if any action was needed. The City Manager responded and said the Town is aware of the law. **Planning Director Suzanne Avila** said she believes the Town ordinances are in agreement.

Pat Ley, Los Altos Hills, said she has received an email informing her of focus groups organized to express views on the working habits of town staff. She asked, "have you

given any consideration whatsoever to the anger and frustration and indignation that people so commented on, are going to wreak havoc in what you consider a happy family staff?"

4. CONSENT CALENDAR

MOTION MADE AND SECONDED: Vice Mayor **Radford** moved to approve the **CONSENT CALENDAR**, with the exception of item 4.G, specifically. The motion was seconded by Councilmember **Spreen**.

Motion Carried 5 to 0:

AYES: Mayor Waldeck, Vice Mayor Radford, Councilmember Corrigan, Councilmember Spreen, Councilmember Wu

NOES: None

ABSENT: None

ABSTAIN: None

- A. Approval of Special Meeting Minutes: City Council Meeting - March 8, 2017
- B. Approval of Special Meeting Minutes: City Council Meeting - March 23, 2017
- C. Review of Disbursements: February 1, 2017 - February 28, 2017 \$462,499.00
- D. Review of Disbursements: March 1, 2017 - March 31, 2017 \$897,791.00
- E. Resolution 14-17 Approving the Purchase of Three Art Pieces for \$27,690 and Increasing the Special Donation Expenditure Budget by \$30,000 to Purchase and Install Art Pieces (Staff: P. Lin)
- F. Adoption of Ordinance 569 (Second Reading) Amending Title 10, Chapter 2, Article 4, of the Los Altos Hills Municipal Code, Restrictions During Rainy (Wet Season) (Staff: A Chen)
- H. Resolution 15-17 Accepting the Grant of an Open Space Easement on the Lands of Gera; 12345 Gigli Court; File #51-15-TM-IS-ND (Staff: S. Avila)
- G. Resolution Awarding of Contract for the 2017 Sanitary Sewer Repair and Replacement Project to C2R Engineering, Inc. (Staff: T. Tseng)

Councilmember Corrigan questioned the budget allocation.

Senior Engineer Tina Tseng provided an explanation on the budget allocation for the project.

Council discussion ensued.

MOTION MADE AND SECONDED: Vice Mayor **Radford** moved to adopt Resolution 16-17 awarding the contract for the 2017 sanitary sewer repair and replacement project to C2R Engineering in the amount of \$792,820.50; approve a contingency fund of \$79,280, authorize the Public Works Director to approve potential contract change orders within said fund and authorize the City Manager to execute contracts with consulting/inspection firms in an amount not to exceed \$131,200. The motion was seconded by Councilmember **Spreen**.

Motion Carried 5 to 0:

AYES: Mayor Waldeck, Vice Mayor Radford, Councilmember Corrigan, Councilmember Spreen, Councilmember Wu

NOES: None

ABSENT: None

ABSTAIN: None

5. ONGOING BUSINESS

A. Consider Adoption of a Resolution Initiating a Reorganization (Annexation) of an Inhabited Area Designated as Mora Glen Drive No. 2, Approximately 106 Acres Located on Eastbrook Avenue, Eastbrook Court, Mora Drive, Mora Glen Drive, Mora Heights Way, Partridge Lane and Terry Way; File #86-17-MISC (Staff: S. Avila)

Planning Director Suzanne Avila presented the staff report.

Council discussion ensued.

Shetal Divatia, Los Altos Hills, asked that the Council address existing roadways before spending more for annexation.

Carey Trost, Unincorporated Santa Clara County, spoke in opposition to the annexation.

Council discussion ensued. No action was taken.

B. Consideration of Regulations for Short Term Rentals and Provide Direction to

Staff (Staff: M. Moseley)

Senior Planner Marni Moseley presented the staff report.

Peter Evans, Los Altos Hills, spoke about owner occupied properties and believed owners should be able to do what they want with their property.

Scott Vanderlip, Los Altos Hills, recommended that the Town approach this slowly and understand issues from all sides.

Angela Sanders, Los Altos Hills, questioned the liability on a private street if someone gets hurt due to a short-term rental.

Wendie Ward, Los Altos Hills, suggested the Town move as quickly as possible as these short-term rentals are exploding.

Bill Happ, Los Altos Hills, spoke about an unpleasant experience of a short-term rental near him.

Bonnie Badertscher, Los Altos Hills, spoke against short-term rentals.

Roxann Happ, Los Altos Hills, stated her opposition to short-term rentals.

Pat Lang, Los Altos Hills, said she likes living here because it is nice, quiet and rural. She was not in support of short term rentals.

Mansour Moussavian, Los Altos Hills, shared a negative experience of a short-term rental near him.

Nils Angquist, Los Altos Hills, suggested enforcement of short-term rentals based on days and how many times a year.

Council discussion ensued.

Councilmember Wu said her goal is to keep Los Altos Hills as the number one place to live and to keep the integrity of the neighborhood. We do not want to disrupt the peace and ambiance. Short-term rentals are disruptive and said we need have a way to effectively control them.

City Manager Cahill said that the Town does have regulations on the books that can address some of the symptoms of the rentals. Since this is a land use matter, he requested the Council provide direction to staff and the Planning Commission to suggest rules that can be enforced.

Vice Mayor Radford said that if a developer is in town and never takes residence and simply uses the property as a rental, he believes it should be shut down as it is a commercial enterprise. He recognized that owners rent out second units and if an

owner is going to travel for three months and they want to put it up on Airbnb to offset travel costs, that is appropriate. He was mostly concerned about developers using properties as a commercial enterprise and said "that needs to stop immediately."

Councilmember Corrigan concurs that the problem is snowballing. She was in support of sending it to the Planning Commission with very specific guidelines. There should be clear understanding of owner occupied vs. non-owner occupied permissions; the number of nights, the number of people as well as number of times per year. Furthermore, it is the intention of the Town to enforce no parties, no events, complying with all parking, noise ordinances and no shuttle rentals to obfuscate what may be occurring at an evening event. She said it was not her intention to deny individual homeowners the right to do what they wish with their own home, but it is her intention to deny a land owner to misuse their property to the detriment of neighbors. She later added that there needs to be a notification component to address neighbor concerns.

Councilmember Wu stated that neighborhood complaints should weigh heavily for investigation.

Councilmember Spreen said that he sees a few things; we have to protect individuals from nuisance situations; whatever is done, it has to be administrable. Meaning, what is the minimum number of rules that would allow the program to run itself. He wanted to allow responsible rentals. Having an onsite owner is key and onsite should be defined legally, but he envisions that the owner either has to be onsite or if renting the entire property, owner contact information needs to be made available to neighbors. Anyone the Town finds who is not registered, we have to come up with some "teeth for enforcement".

DIRECTION: Return this item to the Planning Commission to review the issue and bring it back as soon as possible with a recommendation and proposal of regulations for the Council to review. **Councilmember Corrigan** added that the Planning Commission should be given sufficient time, perhaps 90 days, for them to make a recommendation to craft an ordinance for the Council to discuss.

Meeting went into Recess at 8:47 p.m.

Meeting Reconvened at 8:52 p.m.

C. [Discussion of Potentially Updating the Private to Public Road Policy \(Added at the Request of Mayor Waldeck\)](#)

Mayor Waldeck presented the item.

Thomas Brunner, Los Altos Hills, presented a proposal on behalf of the residents of Byrne Park Lane and Deer Springs Way. He requested that the council add an agenda item at a future meeting to accept Deer Springs Way and Byrne Park Lane into the public road system of Los Altos Hills.

Council discussion ensued.

Walt Wood, Los Altos Hills, said the Town has a vested interest in this road due to the water storage at the end of Byrne Park Road.

DIRECTION: The City Manager shall draft a broad policy amendment to allow the Council to make exceptions. In addition, staff shall return with resolutions accepting these two roads, Byrne Park Lane and Deer Springs Way, into the Town's public road system.

Allan Epstein, Los Altos Hills, provided an explanation about the private roads in Town.

6. NEW BUSINESS

A. Resolution Awarding a Contract to a Vendor to Provide a Scope of Service and Project Management to Update the Audio/Video System in the Council Chambers (Staff: D. Padovan)

Councilmember Spreen said he discussed this item with the City Clerk and he has a number of questions relating to the needs of the audio/video system in the chambers. He suggested a short term subcommittee be formed to craft a request for proposals of what audio/video tasks need to occur in the Council Chambers.

Councilmember Wu said she has ideas and would be happy to serve on the subcommittee.

DIRECTION: Form an ad hoc committee consisting of **Councilmembers Spreen and Wu** to review the audio/video system in the Council Chambers.

7. REPORTS FROM COMMITTEES, SUB-COMMITTEES, AND COUNCILMEMBERS ON OUTSIDE AGENCIES

A. Recommendation by the Environmental Design and Protection Committee to Extend the Criteria for the Removal of Heritage Oaks to other Tree Species and Consolidate the Town's Current Tree Regulations into a Comprehensive Tree Protection Ordinance

Carol Gottlieb presented the recommendation of the Environmental Design and Protection Committee. She requested approval from the Council for funds for the services of an arborist.

Council discussion ensued.

At this point, the Council considered a motion to extend the meeting past 10:00 p.m.

MOTION MADE AND SECONDED: Councilmember **Corrigan** moved to extend the meeting past 10 p.m. The motion was seconded by Councilmember **Spreen**.

Motion Carried 5 to 0:

AYES: Mayor Waldeck, Vice Mayor Radford, Councilmember Corrigan, Councilmember Spreen, Councilmember Wu

NOES: None

ABSENT: None

ABSTAIN: None

Council discussion ensued regarding tree preservation.

Nancy Couperus, Los Altos Hills, said the committee fully supports this proposal. She pointed out that we are the only town in this area that doesn't protect trees other than oaks.

Pat Lang, Los Altos Hills, said one of her neighbor's clear cut cedar trees that were 60 feet tall and "it looks horrid."

Jitze Couperus, Los Altos Hills, said all surrounding towns have more stringent requirements for tree removal than we do and the word is out for developers.

Planning Director Avila stated an arborist would give staff advice on what trees should be protected.

Councilmember Corrigan stated her opposition to the motion.

MOTION MADE AND SECONDED: Vice Mayor **Radford** moved to authorize spending up to \$10,000 for an arborist to work with the staff and committee and provide recommendations regarding potentially updating the tree protection ordinance. The motion was seconded by Councilmember **Spreen**.

Motion Carried: 3-0-1

AYES: Mayor Waldeck, Vice Mayor Radford, Councilmember Spreen

NOES: Councilmember Corrigan

ABSENT: None

ABSTAIN: Councilmember Wu

B. Public Art Committee Presentation Requesting Placement of the Three Sculptures Accepted by the City Council in November 2016 and an Update on the Completion of the Sculpture Known as "Blue"

Councilmember Radford presented the report on the placement of public art.

MOTION MADE AND SECONDED: Councilmember Corrigan moved to approve the sighting of the art sculptures, but remain committed to using our current standards for signage and naming art work. The motion was seconded by Vice Mayor Radford.

Motion Carried 5 to 0:

AYES: Mayor Waldeck, Vice Mayor Radford, Councilmember Corrigan, Councilmember Spreen, Councilmember Wu

NOES: None

ABSENT: None

ABSTAIN: None

Vice Mayor Radford stated that we will be proceeding with the art work placement and directed the City Manager provide the art committee with our standard bronze plaques for the proper wording.

8. STAFF REPORTS

A. City Manager - No report.

B. City Attorney – No report.

C. City Clerk

City Clerk Padovan announced that the Coyote Forum was being held on Thursday, April 27, 2017 and Brown Act training for committee members was occurring on Thursday, May 11, 2017.

D. Planning Director

Planning Director Avila stated that a representative for TrakIt, the Town's new building permit software, will be here next week to start the transition.

E. Administrative Services Director - No report.

F. Public Works Director – No report.

9. COUNCIL INITIATED ITEMS

A. Consideration and Possible Action to Remove the VTA Bicycle and Pedestrian Advisory Committee Appointment from the Charter of the Pathways Committee and Include, when Appropriate, in the Annual Council Appointments (Councilmember Spreen)

Councilmember Spreen presented the item and suggested amending the Pathways Committee charter to remove any reference to that appointee position and have it as part of the Council's annual appointment process.

MOTION MADE AND SECONDED: Councilmember Spreen moved to amend the standing committee resolution removing from the Pathways Committee charter any reference to that appointed position (VTA BPAC) and have the appointment to the VTA BPAC as part of the Council's annual appointment process when necessary. The motion was seconded by Vice Mayor **Radford**.

Motion Carried 5 to 0:

AYES: Mayor Waldeck, Vice Mayor Radford, Councilmember Corrigan, Councilmember Spreen, Councilmember Wu

NOES: None

ABSENT: None

ABSTAIN: None

B. Consideration and Possible Action to Form an Information Technology Committee to Review Technology Utilized by the Town (Councilmember Wu)

Councilmember Wu presented the item.

MOTION MADE AND SECONDED: Councilmember Wu moved to form a Technology Committee to Review Technology to improve the Town's technology. The motion was seconded by Mayor **Waldeck**.

The motion failed due to lack of a second.

Council discussion ensued and included discussion about the focus of the committee and suggested working with staff determine the needs of technology.

The Council requested that **Councilmember Wu** return with a more refined, targeted charter. **Vice Mayor Waldeck** withdrew his second on the motion on the floor.

10. ADJOURN

The meeting adjourned at 10:47 p.m.

Respectfully submitted,

Deborah Padovan

Deborah Padovan

City Clerk

The minutes of the April 20, 2017 regular City Council meeting were approved as presented at the May 18, 2017 regular City Council meeting.