



CITY OF PACIFIC GROVE
300 Forest Avenue, Pacific Grove, California 93950

AGENDA REPORT

TO: Honorable Mayor and Members of City Council
FROM: Mark Brodeur, Director, Community & Economic Development
David Laredo, City Attorney
MEETING DATE: November 4, 2015
SUBJECT: Consideration of an overall policy vision for how short term vacation rentals fit the residential character of the City
CEQA: Does not Constitute a "Project" per California Environmental Quality Act (CEQA) Guidelines

RECOMMENDATION

1. Find that short term vacation rentals are (a) currently a use in residential zones in the City program that is allowed by the General Plan and Municipal Code and that, (b) if properly regulated, managed, and enforced, has the potential to be a net positive for the community. This reserves to the Council the right to prohibit short term vacation rentals at any point after July 1, 2016 (when the current licenses will need to be renewed), if the necessary conditions prove unable to be maintained.
2. Direct the Short Term Vacation Rental Task Force to continue its efforts to design a program for Council consideration that is best able to maximize the net benefits for the community.

DISCUSSION

Prior to consideration of amending Chapter 7.40 and Chapter 23.64 of the Pacific Grove Municipal Code having to do with Transient Use Licenses, and prior to the Short Term Vacation Rental Task Force undertaking a detailed analysis of program options, it is advisable that the City determine if short term vacation rentals are consistent with the zoning for residential use and desirable in the City. Once those two initial decisions are made, the Short Term Vacation Rental Task Force can proceed with its assigned charge and develop recommendations for the Council's consideration.

The attached policy paper seeks to address these issues fully.

OPTIONS

1. Suggest modifications to the policy paper
2. Do not adopt policy paper.

FISCAL IMPACT

Adopting this policy paper does not have a direct fiscal impact. However, subsequent modifications to Chapter 7.40 and Chapter 23.64 would be likely to have significant fiscal impacts on the City.

ATTACHMENTS

1. A Vision for Pacific Grove in a Sharing Economy

RESPECTFULLY SUBMITTED,

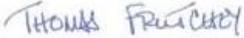


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REVIEWED BY,



Thomas Frutchey, City Manager

A Vision for Pacific Grove in a Sharing Economy

INTRODUCTION

The City of Pacific Grove is a picturesque coastal community with a wealth of historic homes. These historic buildings add richness and value to the overall urban fabric of the city and constitute an important scenic and cultural amenity. It is because of Pacific Grove's location and assets—including its scenic nature, mild climate, unprecedented public coastal access, architectural charm, and proximity to other major attractions—that the City has been a popular vacation spot for families from the Bay area and beyond for decades. In fact, the City was founded as a summer vacation retreat for families from San Francisco. Short term vacationers staying in various types of accommodations have and likely always will be part of this community's population.

Informal short term vacation rentals (STVRs) have likely always been a small part of the Pacific Grove residential mix. Tenants included seasonal fishermen, cannery workers, students, military personnel, and travelling nurses with a sprinkling of vacationers. Advertising was limited to print ads in local newspapers and/or simply putting a sign in the window. With the advent of the internet and most conspicuously, Airbnb and other similar platforms, an easy and inexpensive way to widely advertise vacation rentals suddenly went global and the prospect of successfully renting a residence for a short term was sizably enhanced. What was once arguably the practice of local residents could now be available to outside interests who saw an opportunity to "buy into" the Pacific Grove marketplace with the hopes of someday retiring to PG full time.

In 2011, Pacific Grove was starting to feel the pressure from short term vacation rentals and in response, developed an ordinance to control the increased trend. At that time, however, the practice was seen as a relatively occasional option for persons already living in PG or those who wanted to. Since early 2015, however, the number of short term vacation rentals has exploded, locally and nationally, due in large part to online hosting. Many travelers cite the preference of a richer family experience being able to stay in a home versus being in a hotel. Pacific Grove's beautiful tapestry of historic homes makes that experience even more special for visitors. People who may have never come to Pacific Grove to stay in a hotel now jump at the chance to "live like a local" in a residence.

The 2011 Code amendment to regulate short term rentals was a good effort in its time and place. Fast forward four years and the issue of short term rentals is now the subject of heated debate in coastal and mountain communities throughout the country. What was originally in Pacific Grove a local 60 to 80 license program swelled to 170 in two years. (Even so, legal and illegal short-term rentals likely do not exceed 4% of the City's total housing stock.) Along with the increased number of licenses have come more concerns and complaints from residents.

The community and City Council thus have recognized that, before the community goes any further down this road, it is important to ask two basic questions. First, is there a basis for

finding that short-term rentals are not legal or appropriate (for conceptual, principled reasons) in the City's residential districts? And second, when considering the social and economic fabric of residential neighborhoods in Pacific Grove, is there a basis for finding that short term rentals either are not now or won't in the future be a positive influence (i.e., for evidence-based, pragmatic reasons) on the community. These two questions will be addressed in turn.

I. THE ZONING QUESTION OF APPROPRIATE RESIDENTIAL USE

Pacific Grove has an excellent 1994 General Plan that guides land use decisions for this predominantly residential community. Two organizing principles have shaped Pacific Grove's development – keeping the shoreline open and accessible to the public, and a sustained commitment to a low-scale residential character in the built environment. No doubt, those two principles contribute to the desirability of Pacific Grove as a vacation destination. The community is special and people both here and elsewhere know it.

The issue of how appropriate zoning affects short term rentals has been raised. Some contend that a short-term rental property is a commercial enterprise instead of a residential use and thus believe such a use is prohibited from residentially zoned districts. Others contend that renting a home long term or short term does not change that home from “residential” to “commercial.”

The type of tenant doesn't change the structure, nor does it change the zoning. There is no real difference between a visitor sleeping in a bedroom and a resident sleeping in a bedroom – the use of the property doesn't change. The financial transaction doesn't change the use either: a 30-day (monthly) rental does not differ in principle from an extended 29-day short term vacation rental. Moreover, a property offered as an STVR today might be offered as a long-term rental tomorrow, depending on tenant needs, owner desires, and other factors (such as City licensing processes). There is nothing in either the General Plan or the Municipal Code that would preclude short term rentals. There is also no known case law that would appear to threaten the City's right to determine whether it chooses to allow short-term rentals or not.

Similarly, because hotels, motels, and bed-and-breakfasts are limited to uniquely zoned districts does not imply that short-term rentals must also be. Bed-and-breakfasts face building codes and insurance requirements, and provide continuous services—including meals and housekeeping—that short-term rentals do not. Due to all of these factors, short-term rentals are not—from a conceptual perspective—anathema to the Charter's assertion that Pacific Grove is a City of homes. Thus, the assertion that short term vacation rentals are not residential uses but are, instead, commercial uses, does not meet the litmus test for commercial activity on residential parcels.

It is also not clear that, if the City were to prohibit STVRs by ordinance, that the community would be able to ensure compliance. Short-term rentals in some form or another have been with us for a long time; there are increasingly powerful economic and societal forces favoring them. Carmel and Santa Barbara are testing a community's ability to squash them once they are established; it behooves PG to monitor their efforts and effectiveness.

II. THE QUALITY AND FUTURE OF PACIFIC GROVE NEIGHBORHOODS QUESTION

Even though short term rentals are currently legal in Pacific Grove, it does not unquestionably follow that they should be. If it could be determined that short term rentals necessarily have a net negative impact on the community or if their benefits necessarily accrue to the renters/owners and the costs are necessarily imposed on the neighbors, the City may find it best—from the overall community perspective—to prohibit them.

Desirable neighborhoods are the result of a complex set of factors—many of which we do not fully understand—and their interaction. The hope-for result of these factors is a sense of place, a sense of belonging, and, if the neighbors get along, much more as well.

Neighborhoods and neighborliness in Pacific Grove and elsewhere are being influenced by a number of macro-level economic and societal forces, including, among others:

- ❖ Generational needs and values, including those of retiring boomers, Gen Xers in their prime employment years, and millennials just starting out.
- ❖ Simultaneous demand by those seeking a home to rent or buy for full-time residency, and those seeking a second home.
- ❖ New groups of vacationers, many of whom might have gone overseas in different times or who are coming from overseas.

Among other results, these forces have created a jobs/housing imbalance on the Monterey peninsula and housing prices that are high and rising faster than incomes. This, in turn, introduces an additional group seeking to purchase homes: investors.

These forces are certainly putting pressure on traditional neighborhoods such that neighborhoods are changing, and will continue to change. The City cannot prevent those changes; it would be futile and foolhardy to try to preserve neighborhoods and neighborhood life exactly the way they were at some point in the past. It may, however, behoove the community to seek to temper or deflect some or all of these forces. (That motivation, of course, is the very basis of a zoning code.)

Certainly a case can be made that a poorly managed short-term rental (just as the case with a poorly managed long-term rental) or the over-proliferation of short term vacation rentals within a particular neighborhood increases the likelihood of adverse impact to residential values. Remedies that disperse clustering of short term vacation rentals in tightly-knit neighborhoods should be a key component of a new STR ordinance. In 2015, the City began responding to more complaints from residents about disturbances caused by short-term tenants, including excessive noise, late night parties, trespassing, parking, and increased traffic and other disruptive activities. Generally speaking, the rationale was expressed that vacationers and guests who have few ties to the local community are concerned more with maximizing their fun than by being a good neighbor. Better regulations, management, and enforcement can protect residential neighborhoods from “inconsiderate tenants,” whether these are short term occupants or long term residents. (As a side note, there are a small number of underground or illegal short term rentals that do not play by the rules and may in fact be the source of a significant portion of these complaints.)

IMPACT: LONG TERM HOUSING MARKET

Studies from other cities show that short term vacation rentals can negatively impact the availability of long term rental housing stock. In the past few years, real-estate investors have become a larger segment of Pacific Grove homeowners; some have found it more profitable to rent homes by the week instead of the month. A 2011 survey by the National Association of Realtors shows some 91% of vacation-home buyers plan to rent their property to either long- or short-term renters. Vacation-home rentals claim a small but growing share of travelers. PhoCusWright, a travel-research company, said 11% of U.S. travelers rented a vacation home in 2011, up from 9% in 2009. The number in 2015 is projected to increase even further.

Studies show short-term and vacation rentals may increase costs of long term housing, thereby possibly reducing the supply of affordable housing available on the market. One study, commissioned by Airbnb, showed the introduction of Airbnb in San Francisco increased the price of a one-bedroom unit by \$19 per month. But the researcher who conducted the study, Professor Thomas Davidoff of the University of British Columbia, estimated that if most Airbnb listings are posted by investors rather than residents, the rental price effect could actually be as high as an increase of \$76 per month.

Pacific Grove has long suffered from a lack of affordable housing, making living in Pacific Grove unaffordable for many workers, military families and students. If City Council continues short-term and vacation rentals, such as those found on Airbnb, then it must adequately regulate them in order to protect the city's supply of affordable housing. Without long term families as part of the City's demographic makeup, long term prospects for the City's schools, recreation programs and the like are undoubtedly in peril.

On the other hand, the ability to rent properties under a short term rental program may assist others to purchase homes, or to remain in homes, that they may not have otherwise been able to afford. Testimony at Council hearings by some vacation rental owners supports an argument that short term rental can be a near-term strategy to enable future residents to transition into the community (e.g. relocation due to planned retirement or other planned moves) and may facilitate home ownership.

Short-term rentals may also assist the community in minimizing the negative impacts of second-home purchases. Pacific Grove neighborhoods treasure the vibrancy that is lost by neighborhoods that have a large number of second homes that remain vacant for extended periods.

Short-term rentals may also pose a significant threat to the City's hotels, motels, and bed-and-breakfasts. New York City has seen the number of short-term rentals exceed the total number of hotel rooms. Because a high proportion of New York's visitors appear to be seeking what they consider to be a more "authentic" New York experience, the demand for hotel rooms has dropped. That might not be a risk in PG, since Asilomar and the community's bed-and-breakfasts offer virtually the same "authentic" PG experience as do single family residences. Even if that might be a risk in PG, by limiting the number and density of short-term rentals, that risk could be significantly minimized.

Unfortunately, the best that can now be concluded is that STVRs are likely to impose a negative net impact on PG if not well regulated, managed, and enforced. But best practices have not been developed and tested; there has not been time. Thus, we do not yet know whether STVRs can create a net positive for the community if they are well regulated, managed, and enforced.

Can the City remain true to the General Plan, protect the integrity of neighborhoods, and address long-term housing availability? Are there adequate tools so that the City can ensure short-term rentals are properly regulated, appropriately managed, and effectively enforced (by the owners, the neighborhood, and the City)? Options such as the following could protect neighborhoods by bolstering the City's existing ordinances:

1. Consider proximity rules that minimize clustering of too many short term rentals in one block or neighborhood. *Currently unrestricted.*
2. Consider limiting short term rentals from the R-1 Districts south of Pine Avenue. *Currently unrestricted.*
3. Consider limiting the number of times a property can be rented per week (or total nights per year) to reduce the "turnover" rate in neighborhoods. *Currently unrestricted.*
4. Consider establishing a maximum number of short term rentals citywide. *Currently unrestricted.*
5. Consider allowing no more than one short term rental per parcel. *Currently unrestricted.*
6. Consider prohibiting the conversion of multi-unit apartment complexes to short term rentals. *Currently unrestricted.*
7. Consider setting aside a portion of the Transient Occupancy Tax collected by the City for furthering the provision of affordable housing. *Currently no set asides.*
8. Consider raising the established TOT to 15% (versus 10%) on short term rentals only. *Such a tax measure would require a vote of the people.*
9. Dedicating and limiting the use of additional Transient Occupancy Tax (if approved) collected from short term rentals. *Such use limits would make this a special tax measure and require 2/3s approval by vote of the people.*
10. Consider whether (or not) to grandfather previously approved properties that cannot meet revised standards. If not, consider whether legal non-conforming STR properties must immediately comply (a cliff) or may phase-in compliance.
11. Require professional property management for certain properties—such as those that have one or more sustained complaints—as a condition of permit approval.

Other cities are struggling with versions of these same issues. There are no proven formulae for solving them; such formulas may be developed over time. It is not even clear that the City can resist the economic and political forces on a sustained basis, in order to chart its own path successfully.

By retaining a one-year licensing program, the City can adapt its regulations as needed. The City can also, if needed, prohibit short term rentals going forward, as no permanent property rights have been granted.

DEVELOPING A BETTER ORDINANCE

The Pacific Grove short term rental ordinance was developed and adopted in 2011. The most commonly cited municipal purpose for regulating short-term rental housing is to protect the character of existing residential neighborhoods. From 2011 to 2015, the Municipal Code appeared to be effective. Only 60 or so short term rentals were licensed. Suddenly, in 2015, short term vacation rentals in residential neighborhoods proliferated.

Some community members claim the need to protect life-style characteristics of individual residential neighborhoods. The stated rationale is that short-term rental properties are generally not owner-occupied and therefore transients are less likely to care about peace and quiet to the same degree as permanent residents. In theory, absentee property owners are presumed to be less diligent about regular and routine maintenance typically associated with home ownership, such as lawn care, tree and shrub pruning, and exterior painting.

Evidence of poor maintenance witnessed by the City Code Enforcement is that the opposite is true. Each vacation property must compete in a global online marketplace for customers. Since most transactions occur online, aesthetics and condition of these properties needs to be top-notch. Many use professional photography and “stage” the unit to look spectacular. Properties in Pacific Grove showing the least care tend to be homes owned by residents who lack physical or monetary resources to maintain their property. There is little evidence that short term vacation properties are ill kept

CONCLUSION

The ability to rent one’s own property, even in the short term, may be a tremendous aid to struggling homeowners, but if mishandled may also be a disruptive element in established neighborhoods. By providing a limited number of well-regulated and managed short-term vacation rentals, the City may be able to ensure that some owners can shift the burden of homeownership. This shifting can help to defray mortgage and real estate costs. It can also free up money to make much needed exterior repairs and modifications. Moreover, the sharing of this burden, through the consequent sharing of the benefits of homeownership – use and enjoyment in particular – can help to avoid or mitigate instances of blight due to disrepair, distressed sales, and foreclosures. Thus, allowing owners to homeshare can help to protect Pacific Grove’s community character and property values by helping to insulate individual owners from some of the high costs associated with homeownership.