



DISCUSSION ITEMS

Agenda Item # 9

AGENDA REPORT SUMMARY

Meeting Date: May 8, 2018

Subject: Express Short-Term Rental Prohibition

Prepared by: Jon Biggs, Community Development Director

Attachment(s):

1. Ordinance No. 2018-441
2. Planning Commission Resolution

Initiated by:

City Council

Environmental Review:

State CEQA Guidelines sections 15378(b)(2) and 15378(b)(5) provide that ongoing administrative activities and organizational activities of governments that will not result in direct or indirect physical changes in the environment do not constitute a “project” as defined by the State CEQA Guidelines (Cal. Code Regs., tit. 14, § 15000 et seq.) and therefore are exempt from CEQA and no further environmental review is required.

Policy Question(s) for City Council Consideration:

- Hotels are not listed as an expressly permitted use in any residential district in the City. Similarly, short-term rentals (STRs) are not expressly listed as a permitted use in any zoning district. The current municipal code states that any use that is not expressly permitted is prohibited by omission. Therefore, hotels and STRs are both prohibited in all residential districts, and STRs are prohibited throughout the rest of the City as well. Shall the City now make the current prohibition express?

Summary:

- The City Council is considering a draft ordinance that would expressly prohibit lodging in a dwelling unit for compensation for a period of fewer than thirty days.
- The ordinance also adds a section that prohibits advertising an illegal activity or use.
- The City Council is being asked to introduce and waive further reading of the ordinance so that it can return at its next meeting for adoption.

Staff Recommendation:

Introduce and waive further reading of Ordinance No. 2018-441 prohibiting short-term rentals within the City of Los Altos



Subject: Express Short-Term Rental Prohibition

Purpose

The purpose of the ordinance is to clarify the City's current prohibition of short-term rentals in dwelling units to help preserve the low-density single-family residential character of the City of Los Altos.

Background

The City Council has requested that staff draft an ordinance addressing short-term rentals in Los Altos. The attached ordinance draft is the result of an effort by the City Attorney's Office and the Community Development Department in response to City Council direction

Discussion/Analysis

In Los Altos, land uses are principally residential and its Citizens enjoy the quiet nature of their residential neighborhoods and the comfort that can come from knowing one's neighbors.

With the advent of on-line booking sites that connect those seeking short-term accommodations with those that provide them, there has been some concern expressed that this type of land use is not an appropriate one in the City of Los Altos in that it has the potential to negatively impact the character of residential neighborhoods.

STRs are already prohibited citywide because they are not an expressly permitted use in the City's municipal code. However, because of the growth of the STR industry and the increasing number of inquiries being made of the City, staff recommends clarifying the City's STR prohibition by making it express in the City's municipal code.

The draft ordinance adds Chapter 14.30, Short Term Rental Prohibition, to Title 14, Zoning, in the Los Altos Municipal Code. The chapter provides for the prohibition of short-term rentals in every zone district of the City. Within the new Chapter, short-term rentals are defined as:

... a use that provides lodging in a dwelling unit, for compensation, for a period of fewer than thirty consecutive calendar days. "Short-term rental" does not include transient lodging in city-approved hotels and motels.

As noted above, the municipal code currently prohibits all lodging uses (including STRs) by omission in all residential zones, and the only lodging uses allowed in non-residential zones are hotels and motels. As Section 14.02.050 of the Municipal Code notes in part -

"Land uses that are not provided for herein as permitted use, conditional uses, or limited conditional uses, are prohibited."



Subject: Express Short-Term Rental Prohibition

Thus, the prohibition is already effective. Nevertheless, staff has determined that it would be beneficial to the public and staff to include an express acknowledgement of the existing prohibition.

The draft ordinance also adds a section to Chapter 1.20, Violations, of Title 1, General Provisions, of the Municipal Code. This section expressly prohibits the advertising of an illegal activity or illegal use in the City. This will give staff one additional tool to help address STRs, or other illegal uses, when they are encountered.

The City has a legitimate interest in fostering and preserving the long-term residential character of its residential neighborhoods. 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.

On April 19, 2018, the Planning Commission held a public hearing on the draft ordinance and after considering public testimony voted 5-0 to recommend adoption of the ordinance to the City Council. PC Resolution included as an attachment to this agenda report.

The Commission in voting to recommend adoption of the draft ordinance did bring up two points that it felt warranted consideration. The first point was whether the definition of a short-term rental was problematic for the month of February, since it has less than 30 days. To address this, Staff has modified the ordinance slightly to account for the month of February.

The second issue regarded other web sites that provided the long-term rental of room in a shared living arrangement or boarding house. The City Attorney has advised that the draft ordinance does not address the long-term rental of rooms. It merely addresses short-term rentals.

Options

- 1) Introduce the ordinance as drafted

Advantages: It would make the City's current prohibition of short-term rental, by omission from the list of permitted uses, express and so would help preserve the character and nature of residential neighborhoods, especially the single-family residential neighborhoods

Disadvantages: It would continue to limit opportunities for the City to regulate short-term rentals in a manner that may provide benefits to the City, like revenues



Subject: Express Short-Term Rental Prohibition

collected through a Transient Occupancy Tax, that could be collected to help support the funding of City services

2) Decline consideration of the draft ordinance

Advantages: STRs will remain prohibited-by-omission without an express prohibition

Disadvantages: The public and City staff will have to continue to rely on the municipal code's implied prohibition in determining whether and how STRs might be allowed. This results in administrative inefficiencies

3) Direct staff to prepare a different ordinance, that would allow and regulate STRs in the City

Advantages: This might provide new opportunities to regulate short-term rentals by allowing them under certain conditions and requiring the collection and remittance of Transient Occupancy Tax, which would support the general fund and help pay for services that the City provides, as well as be a source of income for the owners of a residential property that, in some cases, might allow them to maintain their property and keep it in good repair

Disadvantages: It would likely adversely impact the quality of the residential neighborhoods in Los Altos, especially of the single-family residential neighborhoods, by encouraging the conversion of long-term residential housing stock into commercial lodgings with the adverse impacts that often accompany them as a result of the loss of on-going accountability to neighbors and long-term community involvement

Recommendation

The staff recommends Option 1.

ORDINANCE NO. 2018-441

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LOS ALTOS AMENDING CHAPTER 1.20, VIOLATIONS, OF TITLE 1, GENERAL PROVISIONS, BY ADDING PROHIBITIONS ON ADVERTISING ILLEGAL ACTIVITY OR USES, AND ADDING CHAPTER 14.30, SHORT TERM RENTAL PROHIBITION, TO TITLE 14, ZONING, OF THE LOS ALTOS MUNICIPAL CODE

WHEREAS, the City of Los Altos has a unique arrangement of land uses that require regulations and standards that preserve the character of the community and provide for compatibility of adjacent uses; and

WHEREAS, under the City’s police power, the City may enact comprehensive land-use and zoning regulations to promote community values, beauty, health, safety, and welfare; and

WHEREAS, the City may establish residential districts for the quiet enjoyment of its residents, and it may restrict discordant uses that would ultimately destroy the character and benefits of those districts, and it has done so for exactly those reasons; and

WHEREAS, the City has a legitimate interest in fostering and preserving the long-term residential character of its residential neighborhoods; and

WHEREAS, the City’s municipal code states that “[l]and uses that are not provided for herein as permitted uses, conditional uses, or limited conditional uses, are prohibited” (LAMC § 14.02.050); and

WHEREAS, aside from permitted home occupations, commercial uses are not expressly permitted in the City’s residential districts, so they are prohibited; and

WHEREAS, transitory lodging, whether as short-term rentals or hotels, is a commercial use of residential property, and they are not expressly permitted by the City’s zoning ordinance in any residential district, so they are currently prohibited in accordance with LAMC section 14.02.050; and

WHEREAS, the City’s zoning ordinance already defines “hotel” to include any “structure in which there are three or more guest rooms or suites, where lodging ... is provided for compensation”; and

WHEREAS, the City’s definition of “hotel” applies to, among other things, any boardinghouse-type use of residential property where three or more rooms are rented separately from the rest of the house; and

WHEREAS, the municipal code does not currently expressly define short-term rentals; and

WHEREAS, with the rising popularity of online advertising, promoting, and facilitating of both short-term rentals and longer-term boardinghouses, City staff is increasingly asked about the permissibility and regulation of these transitory-lodging uses; and

WHEREAS, to help the public, as well as City staff, to more clearly understand the City’s existing restrictions on transitory-lodging uses, the City desires to make the current prohibition-by-omission express; and

WHEREAS, these regulations help maintain adequate housing stock for permanent residents while ensuring that short-term-rental and other transitory-lodging 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 transitory lodgings; and

WHEREAS, staff has thus prepared an ordinance that makes the current prohibition of short-term rentals express in an effort to preserve the unique character and mix of land uses in the City; and

WHEREAS, the purpose of these transitory-lodging regulations is to help maintain the long-term residential character of the single-family residential neighborhoods that comprise most of the City; and

WHEREAS, State CEQA Guidelines sections 15378(b)(2) and 15378(b)(5) provide that ongoing administrative activities and organizational or administrative activities of governments that will not result in direct or indirect physical changes in the environment do not constitute a “project” as defined by the State CEQA Guidelines (Cal. Code Regs., tit. 14, § 15000 et seq.) and therefore are exempt from CEQA and no further environmental review is required.

NOW THEREFORE, the City Council of the City of Los Altos does hereby ordain as follows:

SECTION 1. FINDINGS. After considering the record before it, including but not limited to the agenda report, presentation of staff, public comment, and discussion, the City Council hereby finds that adoption of this Ordinance will help protect and promote public health, safety, comfort, convenience, prosperity, and welfare by clarifying the City’s existing regulations.

SECTION 2. AMENDMENT OF CODE. The following Section, is hereby added to Chapter 1.20, Violations, of Title 1, General Provisions, of the Los Altos Municipal Code.

1.20.060 Advertising an illegal activity or use.

It is a violation of this code for a responsible party to advertise any activity or use that violates this code or state or federal law or regulation and that is advertised to take place within the City. For purposes of this provision, a responsible party includes a property owner, business owner, operator, manager, lessor, lessee, and any other person that conducts or offers to conduct the illegal activity or use; but it does not include a person who publishes the advertisement, such as a newspaper or online booking service.

SECTION 3. AMENDMENT OF CODE. The following, Chapter 14.30, Short-term Rental Prohibition, is hereby added to Title 14, Zoning, of the Los Altos Municipal Code.

Chapter 14.30

SHORT-TERM RENTAL PROHIBITION

14.30.010 Purpose and intent.

The purpose of this chapter is to establish regulations governing the short-term rental of residential property within the city of Los Altos. The City has a legitimate interest in fostering and preserving the long-term residential character of its residential neighborhoods. 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.

14.30.020 Definitions.

For purposes of this chapter, the following definitions apply:

"Short-term rental" means a use that provides lodging in a dwelling unit, for compensation, for a period of fewer than thirty, save February which has less, consecutive calendar days. "Short-term rental" does not include transient lodging in city-approved hotels and motels.

14.30.030 Short-term rentals prohibited.

A short-term rental is a prohibited use in every zoning district in the city.

SECTION 4. SEVERABILITY. If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid, such decision or decisions shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance, and each section, subsection, sentence, clause and phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid.

SECTION 5. COMPLIANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT. Based on all the evidence presented in the administrative record, including but not limited to the staff report for the proposed ordinance, the City Council hereby finds and determines that the proposed ordinance is not a "project" for purposes of CEQA and is exempt from further CEQA review under State CEQA Guidelines sections 15378(b)(2) and 15378(b)(5). Specifically, this ordinance clarifies already existing Municipal Code provisions, will allow the City to better enforce existing prohibitions, and will not allow any new or different land uses than are already permitted in the City's Zoning Code. Therefore, this Zoning Amendment constitutes ongoing administrative activities and will not result in any direct or indirect physical changes in the environment. No further environmental review is necessary at this time.

SECTION 6. CUSTODIAN OF RECORDS. The documents and materials associated with this Ordinance that constitute the record of proceedings on which the City Council's findings and

determinations are based are located at Los Altos City Hall, One North San Antonio Road, Los Altos, California. The City Clerk is the custodian of the record of proceedings.

SECTION 7. NOTICE OF EXEMPTION. The City Council hereby directs City staff to prepare and file a Notice of Exemption with the County, County Clerk within five working days of the adoption of this ordinance.

SECTION 8. PUBLICATION. This ordinance shall be published as provided in Government Code section 36933.

SECTION 9. EFFECTIVE DATE. This ordinance shall be effective upon the commencement of the thirty-first day following the adoption date.

The foregoing ordinance was duly and properly introduced at a regular meeting of the City Council of the City of Los Altos held on _____, 2018 and was thereafter, at a regular meeting held on _____, 2018 passed and adopted by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Jean Mordo, MAYOR

Attest:

Jon Maginot, CMC, CITY CLERK

RESOLUTION NO. PC 2018-04

**A RESOLUTION OF THE PLANNING COMMISSION
OF THE CITY OF LOS ALTOS RECOMMENDING THE CITY
COUNCIL ADOPT AN ORDINANCE AMENDING CHAPTER 1.20,
VIOLATIONS, OF TITLE 1, GENERAL PROVISIONS, BY ADDING
PROHIBITIONS ON ADVERTISING ILLEGAL ACTIVITY OR USES,
AND ADDING CHAPTER 14.30, SHORT TERM RENTAL
PROHIBITION, TO TITLE 14, ZONING, OF THE LOS ALTOS
MUNICIPAL CODE**

WHEREAS, the City of Los Altos has a unique arrangement of land uses that require regulations and standards that preserve the character of the community and provide for compatibility of adjacent uses; and

WHEREAS, under the City's police power, the City may enact comprehensive land-use and zoning regulations to promote community values, beauty, health, safety, and welfare; and

WHEREAS, with the rising popularity of online advertising, promoting, and facilitating of both short-term rentals and longer-term boardinghouses, City staff is increasingly asked about the permissibility and regulation of transitory-lodging uses; and

WHEREAS, to help the public, as well as City staff, to more clearly understand the City's existing restrictions on transitory-lodging uses, the City desires to make the current prohibition-by-omission clear; and

WHEREAS, staff has prepared an ordinance that makes the current prohibition of short-term rentals express in an effort to preserve the unique character and mix of land uses in the City; and

WHEREAS, the purpose of these transitory-lodging regulations is to help maintain the long-term residential character of the single-family residential neighborhoods that comprise most of the City; and

WHEREAS, the Planning Commission held a public hearing on April 19, 2018 and considered all comments, including written comments, on the draft ordinance.

NOW THEREFORE, BE IT RESOLVED, that the Planning Commission of the City of Los Altos hereby recommends the following to the Los Altos City Council:

That the City Council adopt the Draft Amendments to Chapter 1.20, Violations, of Title 1, General Provisions, by adding prohibitions on advertising illegal activity or uses and adding Chapter 14.30, Short Term Rental Prohibition to Title 14, Zoning, of the Los Altos Municipal Code.

Passed at a regular meeting of the Planning Commission of the City of Los Altos held on April 19, 2018 by the following vote:

AYES: Bodner, Bressack, Enander, Mc Tighe, Meadows

NOES: None

ABSENT: Samek

ABSTAIN: None

Vacancy: One