

CASCO TOWNSHIP PLANNING COMMISSION
RENTAL WORKSHOP
June 28, 2017 6 PM – 9 PM

Members Present: Chairperson Dian Liepe, Dan Fleming, Greg Knisley, and Dave Hughes and Judy Graff

Absent: None

Staff Present: Janet Chambers, Recording Secretary

Also Present: Paul Macyauski, Supervisor Overhiser and approximately 30 interested citizens (Sign-in Sheet attachment #1)

1. Call to order and review of agenda: The meeting was called to order at 6:12 PM. There were no changes to the agenda.

2. Opening comments by PC members:

Graff stated an important part of the rental conversation is the word “commercial”. Graff stated she reread the Sunset Shores Case, which said, “The Court finds that the defendant’s rental activity is a commercial sale of personal recreation services, impermissible under the zoning ordinance in the zoning district where the subdivision is located. The record reflects that several of the homes are essentially being treated like hotels for guests. Therefore, the Court finds that the Defendants are in violation of the Casco Township Zoning ordinance regarding commercial activity and this constitutes a nuisance per se.”

Graff also quoted the Master Plan. Page 20, 2nd paragraph, “A request to construct a commercial use in an area planned for residential development, for example, would be contrary to the Plan and should not be approved....”

Graff asked commissioners to turn to the Future Land Use Map in the Master Plan, page 18. There is no provision for “Commercial”. “Community Business” is provided for on Blue Star by Cousins, going south along Blue Star. “Community Business is not Commercial”.

Graff asked commissioners to look at the current Zoning Ordinance, Section 4. Community Business is in 2 locations, on Blue Star at 101st and 102nd for hotels. The thought process should be “What do we want our districts to be, and what are they now. In the current Zoning Ordinance renting is commercial. This has been determined by a judge and by our Zoning Ordinance. It is to be in districts we defined ahead of time in the Master Plan and Zoning Ordinance. Clearly not in our residential area. This needs to be discussed. Graff asked that this be put on the next agenda.

Fleming stated, a comment he made at the last meeting in his closing comment was regarding a public comment by John Barkley. Fleming said his closing comment was based on a misunderstanding of what Barkley said.

Fleming also commented on Pricilla Massie’s correspondence at the last meeting. Massie would like to have an accessory building on an undeveloped lot. Fleming’s feeling is that Massie should be able to have that accessory building. There is no good reason not to have it. Not allowing it would be punishing the innocent, which is worse than guilty until proven innocent because there is no way to prove innocence.

Chairperson Liepe received an email from Chris Barczyk concerning Baroda's rental ordinance and asked that it be attached to the minutes. (attachment #2) The article included a link to a newspaper concerning Baroda's Rental Ordinance and a link to the Baroda Rental Ordinance.

3. Public Comment

(So that the Planning Commission can hear from all interested, each person will be limited to 2 minutes. Time Keeper will raise hand and the person shall complete their sentence and sit down. Should time allow additional 2 minutes per person can be allowed after all have had chance to speak. Thank you for your cooperation)

Lois Schwartz said made the following comments:

- There was a legal decision that STRs are commercial and therefore, not allowed in residential districts. The PC does not think this applies to Casco and it is foolhardy to maintain it does not.
- STRs frequent turnover = chaotic environment and erosion of the residential character of the community for both full time and summer residents.
- Concentrating on regulating behaviors is a waste of time. As you have no financial or physical means of enforcement
- Casco has an obligation to protect its residents and its Master Plan
- Casco has no obligation, whatsoever to go out of its way to create a haven for a minority of commercial interests at the expense of the great majority of residents.
- Casco has an obligation to see that permits for single family residents are just that. Schwartz recalled that Mary Campbell suggested requiring those seeking permits for new construction of large single-family residence to sign affidavits that the proposed home be indeed for family use. That as an action the Planning Commission could take, that would make sense as a protection to the residents of the township.

Bonnie Byer of Miami Park said the beach is overrun, it is like a city beach rather than a private beach. There is a lot more noise, people and traffic. It is not fair to the residents who live there.

Kathy Watt, came home from work and got a phone call from a radiologist concerning what to do with a patient. During that call, there were at least 15 kids partying and screaming outside. Kathy could not hear the radiologist, and the radiologist could not hear her. She asked them to keep it down and they did for a short time and started up again. Again at 2:00 AM they got loud. Watt called the police the next day and they do not know what to do with this. She called a board member and has not gotten a response. No one returned her call. She has offered for a board member to come to her home and see for themselves what it is like, but they have not accepted her invitation. Casco has very little regard for privacy and safety. There are not enough police to enforce STRs.

Julia Workema said she videotaped the beach and took pictures. The only fireworks that day were one time at Miami Park, but was at a legal time.

Eric Stetzel of Eaton Park said there was no renting in Eaton Park when he moved there. Now there are maids and linen services in and out first thing on Saturday morning. 4:00 renters show up. Over ½ of the homes are rented. None of the people who own the rentals are there. When there are kids and bicycles, it's a good weekend. When there is beer and motorcycles, it is a bad weekend. A good friend confronted renters and there was a fight. His good friend has since left the neighborhood. The neighborhood is no longer the same. If a family leaves, they sell to a developer because locals do not want to live there. We all suffer. Stetzel owns a jet ski and renters will come up to him and say they want to reserve the jet ski. They assume it is like a hotel with no permanent residents. The judge ruled STRs are commercial.

Sally Newton of Shores Vacation Rentals manages 4 rentals in Eaton Park, she disagreed that maids and linens show up on Saturday morning. Not all rentals start on Saturdays. She also disagreed that owners are not present due to the fact that her owners actually book the homes for a week or two for their own use.

Mary Campbell said enforcement would be a challenge. She provided the PC with an article on the City of Victoria (attachment #3). One thing Victoria found was if they made renters register as a business it was easier to enforce, rather than residential.

Larry Scott referred to the PC's objective #3, Solving Commercial Rental problems. He felt limiting the number of days per season would be good. 15 days would be a reasonable start. Spring Lake has something similar.

Ryan Servatius said in the January 25th meeting there was a motion by Fleming which included a statement that the judge's decision does not reflect Casco's feelings. He stated that commercial rental is currently being allowed.

Karen Hart of Miami Park asked about property rights. She feels everyone has the right to use their property as they see fit. She does not like the word "transient". Vacationers decide to come here because of advertising by pure Michigan. They contribute to the community, employ people. She also stated that the residents with the most guests and cars were full time residents. There were graduation parties and parties over Memorial Day by residents.

Bill Chambers provided commissioners with a copy of a work schedule and what it would take for full time police coverage (attachment #4). A 168-hr. week is well over 20,000 for just an hourly fee, not including additional costs of cars, equipment, etc. He asked that the PC do the math, go into this with eyes wide open and be able to reconcile the cost.

Carol Ann Hall said when she purchased two lots, and built her home she did not intend to rent. Their intent was to build a home, sell it, and build another. Now they rent. She stated that South Haven exists on tourists. She asked how many local residents have purchased a ticket for a ride on Friends Goodwill, indicating vacationers support South Haven. Restaurants would not exist in South Haven if it were not for STRs. Renters are not here to raise hell and drink. They are families gathering with siblings. In part, this is made possible by the internet.

Greg Haas of Glenn Shores said he moved here with his partner, an airline pilot and jet instructor. With all the noise of STRs he could no longer perform the task of flying and teaching. He could not function the next day when parties went on all night long. When someone moves into the community, you want them to have a vested interest. He hears fireworks every night, not just the holidays. He is also afraid of the liability of the crowds. Should he have to put up a fence and no trespassing signs. He has a tree that kids like to climb. He is afraid they may get hurt. He bought into a quiet residential community and ended up with STRs. He does not want to live with fences and no trespassing signs.

4. Approval of minutes of 6/14/17 (Workshop Meeting)

A motion by Fleming, supported by Hughes to approve minutes of 6/14/17. All in favor. Minutes approved as written.

5. Report from Citizens Advisory committee (Allan Overhiser or Mary Campbell)

Campbell said many people have helped. Lois Schwartz provided information from Miami Park, and Stetzel provided information from Eaton Park, resulting in more pins on the map. She also noted that Sills (owners of STRs) have specified "no parties or events" in their advertising. It would be good to require this be put in all Casco STR ads.

Chris Barczyk asked Supervisor Overhiser if he has contacted the police about the Good Neighbor Policy and fireworks. Barczyk contacted the police about fireworks and was told there is not a

fireworks ordinance. Police drove by, but at a time the noise level was lower. He asked Overhiser to contact the police and inform them of the Good Neighbor Policy and ordinance on fireworks.

Overhiser stated that he would check into it. Overhiser added that Officer Katje is taking care of it.

6. Planner review the draft she has developed from the PC matrix. PC managers discuss as we go through the draft, make changes/additions. (attachment #5)

Wells questioned whether STRs belongs in the Zoning Ordinance or general law ordinance because of the legality of grandfathering. New standards would not apply to someone currently operating as STR.

Graff pointed out that the current Zoning Ordinance does not allow STRs now. Therefore, grandfathering will not apply. Graff will follow up with the attorney.

As Wells went through the draft, the following discussion ensued including:

- Making a 90-day requirement for long term rentals. Fleming said there were no complaints with the 28 days. Was not changed at this time
- Should notification to neighbors be immediate neighbors, within 300' or within 200', etc.?
- Whether to register LTRs (undecided)
- STR changed to less than 28 days
- Remove the word "residential" from the definition of Short Term Rental, Limited Short-Term Rental and Long-Term rental
- Add to definitions Good Neighbor Policy stating: "Good Neighbor Policy Document adopted and available at Township Hall"
- Delete #8 Enforcement. Don't want to limit Chapter 21.
- Current Sign Ordinance is 19.07
- 3.39, B 1 a. Length of stay. Fleming would like to see the data used for determining the minimum stay
- If owner has multiple buildings on property, it was decided that *owner on site* applies only the specific building where owner resides. The other buildings would not fall under the owneroccupied category
- Fleming would like data that supports limiting number of occupants.
- #5 Registration and certification.... last line changed to "A change in ownership shall cease certification".
- #4 Owner's agent: Add a, b, & c to cover individual districts as in #1, 2 & 3
- #5 Registration and certification: Add a, b, & c to cover individual districts as in #1, 2 & 3
- #6 Notification to neighbors: Add a, b, & c to cover individual districts as in #1, 2 & 3
- #7 Inspection: Add a, b, & c to cover individual districts as in #1, 2 & 3#
- Easier to have more stringent rules now and back off later than the other way around
- Liepe asked Overhiser if this would affect farmers. Overhiser stated farmers are protected in Migrant workers act.
- Inspecting all rentals would add to the funding of the whole think. Safety is a consideration. Commissioners are divided, so they will come back to inspection on all rentals.
- Should STRs be permitted in all districts or be SLU in lake shore communities. Graff stated SLU would enable limits on the number of commercial activities in residential districts. In PUD, chapter a6, commercial is limited to 15%, thus, there is already reference to limitation in the Zoning Ordinance.

General discussion ensued.

Graff stated density of STRs must be addressed. Otherwise residential doesn't mean anything. Liepe added, it's only going to get worse. Graff stated STRs are taking property values away. 5 or 6 homes listed for sale have dropped their prices because of being next to rentals. Rentals should be put in the commercial district.

Hughes a way to control saturation is to put 1,000 ft. between them. Graff stated it starts with building permits. Knisley said nothing requires a person to live in a home if they build it. Fleming would like access to the covenants and codes of subdivisions that have them.

Knisley asked if people have tried talking directly to the neighbor instead of calling the police and what the outcome was. Liepe said it could be dangerous.

Liepe mentioned the three strikes and out method. Can the board pull the certification of someone with multiple complaints? May be difficult because the rental owner may have whole summer booked.

It was decided to ask Bultje the following questions:

- How to revoke a certification
- Existing STRs not presently permitted, how does grandfathering apply
- How to consider saturation

Graff said to be specific in asking questions of the attorney. If you ask a question wrong, you will usually not get the answer you are seeking. le: HOW to revoke, as opposed to CAN WE revoke a certification.

Graff stated that someone who only rents, and does not stay in the home at all, is different from someone who owns a home and rents it occasionally. Absentee owners with hired agents are different. Graff also stated that in the current MP and Zoning Ordinance, there was careful consideration to limit commercial. We must be sure the draft works with the current zoning ordinance.

Hughes stated they need to look at the definition of "commercial".

Knisley asked if residents can call with a complaint, or must Ellingsen witness it. At what point is it enforceable, and can neighbors complain without fear of retaliation. Are there specific laws within the enforcement of any complaints?

Liepe asked if commissioners who find information that might be helpful, share it with the rest of the commissioners.

8. Public Comment:

Regarding signage, Mary Campbell asked whether the green SHAE signs would be easier for emergency vehicles to see. Regarding saturation issue, Campbell stated that some townships have put a limit on the percentage of rental. If someone is looking to buy a STR, they can look at the township map to see the odds of approval of a STR.

Karen Hart opposed the idea of a sign on rental properties. It may not be occupied always.

Chris Barczyk said Airbnb is a national trend. He showed a chart demonstrating commercialization of our neighborhoods over the last 3 years and growing. As far as STRs with an owner in the home, what is the difference between that and B&Bs? You will have a discriminatory prejudice issue if you allow only certain commercial activities. What if I put in a bar?

Debbie Weaver of Pacific Avenue stated she agrees with the Good Neighbor Policy. She asked how you know if the problems are rentals. Only facts should be considered. She said Saturday was quiet. There were a lot of cars, not belonging to a renter. She said you would be hard pressed in Miami Park to determine problems caused by rentals vs residents.

Jen Chada of Miami Pk. has been renting her cottage for 6 seasons through VRO. She is not an absentee landlord. She lives in Chicago and is hands on. The neighbors have her phone number.

Stays average 7 nights. She has stringent policies. She has been doing this for many years. Nancy Luke has heard a lot about preserving residential neighborhoods. She hopes and expects that everything the PC decides preserves residential neighborhoods. In the past there was no commercial allowed in a residential community. It started small, it happened and was let go, and let go. It has gotten big. It would be a win-win if you do something about the saturation. It would be an advantage to the rentals because it would be less competition. Those of us who don't rent, lose property value being next to rentals.

Daron Massie of Miami Park. Believes it is a commercial activity. If someone pays for 8 nights, you have conducted a transaction.

Lois Schwarts said despite the legal definition for Short Term and Residential, Casco is taking upon themselves to redefine them, disregardless what is legal in the state. You have spent months going over this despite the Master Plan and the legal vulnerability.

9. Closing Comments from Commissioners and Adjournment. Discussion ensued about meeting dates for August. Chairperson Liepe asked when the Citizens group would meet and have data for the PC's consideration. Mary Campbell felt the committee will meet prior to August 9th. Wells schedule was considered. The next meeting dates for Rental Workshops will be August 16th and 30th.

A motion by Fleming, supported by Graff to adjourn. All in favor. Meeting adjourned at 8:55 PM.

Minutes prepared by Janet Chambers, Recording Secretary.

Next Meetings:

August 2nd. SLU for Super 6 PM, followed by regular meeting at 7 PM

August 16th Rental Workshop 6 PM

August 30th Rental Workshop 6 PM

Attachment #1 Sign-in Sheet

Attachment #2 Correspondence from Barczyk regarding Baroda Rental Ordinance

Attachment #3 City of Victoria Short-Term Rental – Regulatory Options

Attachment #4 Scheduling for Police Coverage

Attachment #5 Planner's Draft Ordinance

Planning Com

6-28-17

John & Susan Barkley	646 Water Edge
Mary + Dave Campbell	7174 FERDELL Ave
Gregory W Haas	7151 Ferndell Ave.
Larry Booth	7182 Orled Lake Dr.
Valerie Bars	7220 Beach DR.
Lisa Schmitt	7275 B St.
Bill Chambers	7340 Lake Ridge Rd
Ryan Servatius	74293 Lambert DR.
Ron Seiler	567-71st Street
Tom Tischer	726 Blue Star
Bethany Fleming	
Jen Chada / Mike Torti	7238 Pacific Ave
Darren Massey	7242 Miami
John / D & BE Weaver	7271 Pacific Ave
MAs Weaver	7256 LAKEVIEW
Nancy Duke	7170 Orchard Ln Dr
Jim + Lisa Stett	7384 Highfield Beach Dr
Chris Barczyk	476 High Shores Ln
Kristin Barczyk	476 High Shores Ln
Maura Conly	372 7251 Miami
Kelly Woot	7202 ATLANTIC AVE
Alma Agui	7255 ATLANTIC MIAMI PK
Sally Newton Resseguie	SOHA Township
DOUG NICKERSON	7266 PACIFIC AVE
Karen Hart	619 Lakeshore
Jim Hart	619 Lakeshore

Baroda Township Zoning Ordinance excerpts

Definitions:

Boardinghouse - A single family dwelling unit, providing sleeping accommodations for short term rental for compensation, without meals prepared or provided. The term boarding house means the same as lodging house, tourist home and vacation home. Amended July 3, 2007

Section 13.27 Tourist Homes

- A. Unless modified by specific requirements set forth in this Section, all applicable requirements for a permitted use in the zoning district where the special land use will be located shall apply. A tourist home shall only be located in the following zoning districts: R-2, Rural Estate Residential Zoning District; and AG, Agricultural Zoning District.
- B. All general requirements for a special land use permit of Section 13.03 shall be satisfied
- C. An application for a special land use permit for a tourist home shall also include the following information:
1. A floor plan of the dwelling unit, drawn to an appropriate scale to adequately show details and showing the layout of the dwelling. The location of the guest room(s) and bathroom(s) and such other information as requested by the Township Planning Commission and as required herein to facilitate a proper review of the application must also be depicted.
 2. A site plan of the property drawn to an appropriate scale to adequately show details , or conforming to current site plan requirements of Article 16, (change made as site plans not required in every circumstance) and showing the principal dwelling unit, any accessory structures and the location of all public or private roads, driveways and designated parking areas. Dimensions to all property lines, as well as to all adjoining structures, shall be depicted.
 3. Proof of ownership, such as deed, land contract or other instrument which demonstrates the applicant's ownership.
 4. The local emergency contact person and local person responsible for maintenance and daily management of the tourist home shall also be provided.
- D. The proposed tourist home shall comply with the following:
1. No more than four (4) guest bedrooms (2 persons per room, maximum) will be permitted in a tourist home. Capacity of these bedrooms is limited by applicable Township, county, state, federal and other adopted regulations.
 2. A tourist home shall be accessed directly from a paved, public road, or a paved private road that is in compliance with the Baroda Township private road standards. All driveways and parking areas serving a tourist home shall be accessed directly from either a paved public road or a paved private road that is in compliance with the Baroda Township private road standards.
 3. A tourist home shall contain at least two (2) exit doors to the outdoors, which are readily accessible by guests at all times. Such exit doors shall comply with all state, federal and local building code standards, as adopted and applied by the Township from time to time.

4. Smoke detectors shall be installed in each guest bedroom and outside of each separate sleeping area in the immediate vicinity of the bedrooms and on each additional story of the dwelling, including basements, cellars and attics. All smoke detectors shall be kept in properly maintained and working order at all times, per current applicable building code.
5. No more than one (1) unlighted sign which notifies the public of the tourist home may be posted on the lot or dwelling. The sign shall not exceed a size of three (3) square feet. The sign shall not be located within forty (40) feet of any public or private right of way or from the front or rear property lines; nor shall the sign be located within twenty (20) feet of a side lot line.
6. There shall be at least two (2) off-street parking spaces for each guest sleeping room in the tourist home. Such off street parking space must be located either in a rear or side yard. The Township Planning Commission may recommend, and the Township Board may approve, screening for parking areas abutting residential properties, as a condition of approval of a special land use permit.
7. All off street parking spaces must be depicted on the site plan submitted with the special land use application and must be provided in accordance Article XII of this Ordinance. Appropriate barrier free parking shall also be provided.
8. If a municipal water and/or municipal sewer system is available to serve the tourist home, the tourist home must be connected to the municipal water and/or municipal sewer system.
9. If no municipal water and/or municipal sewer system is available to serve the bed tourist home, and the tourist home is served by a private well and/or private wastewater treatment system or septic tank and drain field, the applicant must demonstrate that the water and/or wastewater systems have been approved by the appropriate agencies. After approval, the applicant must annually resubmit proof of the water and/or wastewater systems' continued approval to the Township Planning Commission for review.
10. As a condition of approval of a special land use permit for a tourist home, the Township Building Official, Zoning Administrator and/or Township Fire Chief, or their designees, may inspect the tourist home as needed, upon prior reasonable notice to the property owner, to insure continued compliance with Township and all other applicable regulations. An inspection fee shall be assessed per the current fee schedule in conjunction with these inspections.
11. The tourist home shall not have an adverse impact on surrounding property owners or the adjacent neighborhood as a result of noise, traffic generation, an excessive number of parked vehicles and other physical alterations that may change the appearance and character of a residential area or any other attendant effects.
12. One tourist home is permitted per minimum two (2) acre parcel in the AG, Agricultural Zoning District.
13. Each tourist home in the AG, Agricultural Zoning District must comply with the required frontage on either a paved, public road or a paved, private road that is in compliance with the Baroda Township private road standards.
14. The tourist home shall be completely contained within the single family dwelling unit, which is the principal structure on the property. Accessory structures on the property may not be used for residential purposes.

15. One (1) tourist home is permitted per minimum one (1) acre parcel in the R-2, Rural Estate Residential Zoning District per Section 4.04 of the Baroda Township Zoning Ordinance.
16. Each tourist home in the R-2 Rural Estate Residential Zoning District must have a minimum of one hundred fifty (150') feet of frontage on either a paved, public road or a paved, private road that is in compliance with the Baroda Township private road standards.
17. No outdoor gatherings (i.e., weddings, receptions, family reunions, business meetings) may be held in conjunction with the operation and/or rental of the tourist home.
18. No loudspeaker or outside amplification may be used on the property on which the tourist home is located.
19. The Planning Commission may require screening (landscape buffering and/or fencing) between the tourist home property and adjoining properties, as a condition of approval of a special land use permit for a tourist home in an AG zoning district.
20. The sale of food (other than a meal included as part of the normal and customary operation of a tourist home, as supplied solely to registered guests), articles, gift store, or any similar activity conducted within the tourist home is not permitted. However, minor items incidental to the marketing of promotional materials for the tourist home by way of example, such as t-shirts, may be sold on the premises to registered guests.
20. The Special Land Use Permit for a tourist home shall be reviewed by the Planning Commission on an annual basis, to determine if the operation continues to meet the requirements of this ordinance and any conditions attached to the Special Land Use Permit. If an operation is found to be in violation of this ordinance and /or any conditions imposed thereon, the Planning Commission may enforce the Special use in accordance with Article XIX, including, if necessary, revocation of the Special Land Use. Amended July 3, 2007; March 2009

ARTICLE XIII. SPECIAL LAND USE

SECTION 13.03 **BASIS OF DETERMINATION**

Prior to approval of a special land use application and required site plan, the Township Planning Commission shall insure that the standards specified in this section as well as applicable standards established elsewhere in this Ordinance, shall be satisfied by the completion and operation of the special land use under consideration.

- A. General Standards - The Township Planning Commission shall review the particular circumstances of the special land use request under consideration in terms of the following standards, and shall approve a special land use request only upon a finding of compliance with each of the following standards, as well as applicable standards established elsewhere in this Ordinance:
1. The special land use shall be designed, constructed, operated and maintained in a manner harmonious with the character of adjacent property and the surrounding area.
 2. The special land use shall not inappropriately change the essential character of the surrounding area.
 3. The special land use shall not interfere with the general enjoyment of adjacent property.
 4. The special land use shall represent an improvement to the use or character of the property under consideration and the surrounding area in general, yet also be in keeping with the natural environment of the site.
 5. The special land use shall not be hazardous to adjacent property, or involve uses, activities, materials or equipment which will be detrimental to the health, safety, or welfare of persons or property through the production of traffic, noise, smoke, odor, fumes or glare.
 6. The special land use shall be adequately served by essential public facilities and services, or it shall be demonstrated that the person responsible for the proposed special land use shall be able to continually provide adequately for the services and facilities deemed essential to the special land use under consideration.
 7. The special land use shall not place demands on public services and facilities in excess of available capacity.
 8. The special land use shall be consistent with the intent and purpose of this Ordinance, and the objectives of any currently adopted Township Development Plan.



**Committee of the Whole Report
For the Meeting of June 15, 2016**

To: Committee of the Whole **Date:** June 8, 2016
From: Jonathan Tinney, Director, Sustainable Planning and Community Development
Subject: Short-Term Rentals – Regulatory Options

RECOMMENDATIONS

That Council direct staff to:

1. Limit short term rentals in Victoria to the greatest extent possible through appropriate language in the *Zoning Regulation Bylaw*, housing agreements, or other available tools to ensure that all new residential zoned units are used for the primary purpose of housing, rather than as short-term rentals (STR).
2. Bring forward a comprehensive scheme of business regulations for existing and future short-term rentals. Such regulations may include:
 - a. requirements for a business licence for all short-term rentals
 - b. business licence fees
 - c. requirement that business activity comply with applicable strata rules
 - d. establishing appropriate rules for operation of short-term rentals.
3. Work with the BC Assessment Authority to ensure that properties used for short-term rental are properly assessed as Class 6 – business and other
4. Report back with a short-term rental enforcement strategy that will detail considerations for proactive enforcement of City-wide short-term rental including:
 - a. benefits and challenges of manual (staff led) enforcement vs. enlisting third party STR management assistance
 - b. fines and escalatory action for non-compliance
 - c. audit options to monitor adherence to rules and regulations
 - d. engaging STR host platforms for regulatory cooperation
 - e. additional policies, regulations, and programs to ensure compliance with regulations
 - f. expediting the time frame for rolling out enforcement
 - g. creating a dedicated short-term rental webpage for clarity and transparency regarding new regulations that outlines the City's progress on reducing short-term rental impact on long-term rental housing availability
 - h. establishing a monitoring system to evaluate success of short-term rental regulations and the Short-Term Rental Enforcement Strategy.

EXECUTIVE SUMMARY

The purpose of this report is to respond to Council direction on regulatory options for short-term rentals (STR) in downtown Victoria where both residential use and transient accommodation is permitted. Council directed staff to explore specific options for strata properties; specifically,

whether it is possible to 'opt-in' or 'opt-out' of transient zoning, and aligning business licence issuance with strata rules.

Staff determined that it is not possible to opt in or out of zoning. Further, zoning is not an effective tool to reduce existing STR units where they are currently permitted in zoning (transient zones) as legal non-conforming status would still apply in these buildings even if they were rezoned (the entire building would retain the right in zoning to operate as STR). Making changes in zoning is primarily only useful for preventing future STRs, and as such, staff have included a recommendation to prohibit short-term rental in future developments, unless expressly requested (i.e. consideration for future hotel uses).

Effective regulation of STRs and mitigation of STR impacts is possible through business regulations. STRs are businesses and, as such, are subject to regulation by the City. The City does not have the power to enforce strata rules but it can, as part of business regulations, require that strata rules be complied with as a condition of the issuance of a business licence. There are several other aspects of STRs that business regulations can address; therefore, it is recommended that Council consider directing staff to develop a comprehensive system of business regulations to govern STRs.

Following the development of an STR business regulation system, staff can move forward with a Short-Term Rental Enforcement Strategy. The strategy will outline a range of considerations for the proactive enforcement of STRs City-wide, both legally recommended and which have seen success in other jurisdictions, including appropriate fines, outsourced management of STRs, and several other options and their resource implications.

PURPOSE

The purpose of this report is to respond to Council direction to explore three regulatory options for STRs in condos with transient zoning so they are limited to the greatest extent possible, and to provide further options for regulating STRs.

BACKGROUND

At a Council Workshop on STRs held on January 19, 2017, Council decided on a regulatory direction for each of the six most common scenarios where STRs are occurring in Victoria. The decisions were as follows:

	Scenario	Current Regulation	Regulatory Direction Approved by Council January 19
1	Entire condo with no transient zoning	Prohibited	Proactively enforce current prohibition in zoning so STRs cease
2	Entire condo with transient zoning	Permitted	Proactively enforce current zoning rights through business license registration; Monitor use through business license tracking
3	1-2 bedrooms within occupied condo	Prohibited	Permit and proactively enforce through business license registration and tracking (neutral effect on rental market, adds flexibility and affordability for primary residents and fairness across housing types and tenures)
4	Entire homes	Prohibited	Proactively enforce current regulations so STRs cease
5	Entire secondary suites (including garden suites)	Prohibited	Proactively enforce current regulations so STRs cease
6	1-2 bedrooms within occupied SFD	Permitted	Proactively enforce current zoning rights through business license registration; Monitor use through business license tracking

Staff recommended not to remove zoning rights in Scenario 2 because:

1. This action will not reduce the number of STRs currently operating downtown, as entire buildings containing STR units will be entitled to continue to operate even after the zoning is changed due to legal non-conforming regulations. Legal non-conforming rules under the Local Government Act provide that when a non-conforming use is permitted in any part of a building, **the entire building will maintain the right to that use** even after the zoning changes until such time as every unit ceases STR operations for a period of 6 months without indicating its intention to continue operations.
2. Enforcing regulations in buildings with legal non-conforming status will be highly challenging as enforcement would involve monitoring all existing STRs until such time as all STRs cease operations for 6 months without any of the units providing 'intent to continue'. As the variables involved, including the number of STR units in any one building, and the fact that it could be argued that STR operations are often seasonal in nature and may habitually discontinue for more than six months at a time, it is extremely unlikely that adequate evidence could be collected to justify a removal of the legal non-conforming status.

Instead, it was suggested by staff that the City would preserve more residential units by proactively enforcing regulations in locations that do not permit STRs and where no legal non-conforming statuses would apply. With proactive enforcement, STRs could cease immediately in:

- all condos that do not have transient accommodation as a permitted use
- secondary suites and garden suites
- whole single-family homes.

Subsequently, it would be likely that several units of housing would be returned to the long-term rental pool. Prohibiting transient accommodation in all new residential developments in the City would prevent the STR market from proliferating further.

At the Council meeting of February 23, 2017, Council elected to refer Scenario 2 "entire homes in transient zoned condos" back to Committee of the Whole to explore whether specific regulatory options could be enacted to restrict STRs in transient zones. After discussion at the March 2, 2017 Committee of the Whole meeting, Council passed the following new motion:

"Scenario 2: Entire condo with transient zoning (downtown)

Direct staff to provide advice on what tools are available to limit the number of Short Term Vacation Rentals where they are currently allowed, and that this report includes options for:

(a) a City-initiated rezoning to remove transient accommodation as a permitted use from residential strata property, with an "opt-out" process where stratas can apply to retain transient accommodation as a permitted use, where a majority of strata lot owners in a residential strata indicate their support for that use.

(b) a business license scheme for Short-Term Vacation Rentals that is consistent with the Strata Property Act and does not include granting licences for stratas that do not allow Short-Term Vacation Rentals in their bylaws.

(c) maintaining transient accommodation as a permitted use, with the option of an "opt-in" mechanism for a City initiated rezoning to prohibit transient accommodation as a permitted use, where a majority of owners of units in a residential multi-unit building (condominium) downtown indicate their preference for this rezoning."

ISSUES & ANALYSIS

For options (a) and (c), there is no possibility of 'opting in' or 'opting out' of zoning, and it would not be appropriate to set a pre-determined numerical criteria which determines whether or not a strata property is rezoned or not based on a percentage of owners in favour of a specific use. While the City could choose to rezone to entirely remove transient accommodation as a permitted use, it would not likely achieve any meaningful results as buildings containing STR units would all retain non-conforming rights to operate as STRs legally. Further, rezoning transient zones and monitoring activity to demonstrate that the non-conforming use has ceased would be time consuming, costly, and would raise public expectation that this would achieve a reduction in STRs, which it would not. Therefore, zoning is not recommended as the main response to STR regulation except to prohibit STRs in all future rezonings. Other, more appropriate tools, are recommended below.

Business Regulations

For option (b), STRs are businesses and, as such, are subject to regulation pursuant to the City's business regulation power. At this time, there are no specific business regulations directed at STRs within the City's bylaws; however, given the proliferation of STRs and growing number of public complaints about their impacts on neighbouring properties, it is evident that there is a need for such regulation. Exact regulations will have to be developed based on direction from Council and input from the community; however, at a minimum, consideration for STR business regulations are expected to include the following:

1. Requirement for business licences
2. Licence fees
3. As part of business licence application, requirement to demonstrate compliance with strata rules
4. Establishment of appropriate rules for operation of STRs.

Taxation

Although STRs constitute as a business use of property, they are largely classified by BC Assessment as residential, and therefore, do not pay the same taxes as hotels and other businesses; however, the rules under the Assessment Act allow for classification of at least some STRs as businesses. Exact rules are technical and have to be applied to each property individually; however, BC Assessment is prepared to review and consider evidence related to individual properties and reclassify those properties that should properly fall into Class 6 – business or other. It is recommended that Council direct staff to work with BC Assessment to ensure that properties used as STRs are properly classified.

Upcoming Enforcement Strategy

Staff have previously been directed to develop a comprehensive enforcement strategy outlining in detail all of the options available to Council to restrict STRs and enforce these regulations. The following are some of the solutions currently being considered:

- analyse options and resource requirements for proactive enforcement, including manual (staff-led) enforcement and/or enlisting third party STR management assistance
- analyse best practices and options for fines and prosecution for non-compliance
- establish an audit system to monitor adherence to rules and regulations
- engage STR host platforms for regulatory cooperation
- consider additional policies, regulations, and programs to ensure compliance with regulations

- create a dedicated STR webpage for the public to be aware of regulations, and the City's progress on reducing STR impact on long-term rental housing availability
- expedite the time frame for rolling out enforcement
- establish a monitoring system to evaluate success of STR regulations and the enforcement strategy.

Following the implementation of the STR Enforcement Strategy, it is anticipated that the City would soon see a significant reduction in STR units in Victoria.

Impacts to Financial Plan

While the recommendations for this report are regulatory in nature and do not have a direct financial impact, proactive enforcement of regulations will have significant resource implications, depending on the level of enforcement chosen by Council. A detailed analysis of financial impacts will be included in the Enforcement Strategy report.

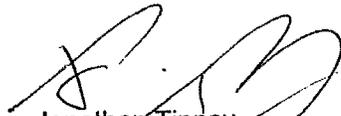
CONCLUSION

There is no simple solution available to address issues raised by STRs. Therefore, staff recommend that Council adopt a comprehensive approach including proactively enforcing existing zoning rules, developing zoning changes to prevent STRs in new developments, and exploring proper tax assessment to limit STRs to the greatest extent possible, as well as, adopting new business regulations to mitigate impacts of existing STRs.

Respectfully submitted,



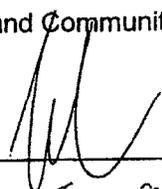
Lindsay Milburn
Senior Planner - Housing Policy
Community Planning



Jonathan Tinney
Director
Sustainable Planning and Community Development

Report accepted and recommended by the City Manager: _____

Date: _____



June 9, 2017

List of Attachments

1. Appendix A: COTW Workshop Report – January 19 2017

Dear Planning Commission Board Members,

Recently, much has been said concerning the need for additional law enforcement to work in concert with short term rentals. The conversation usually drifts towards some type of license fee paying for a 24/7 police presence.

Think about the problems you are trying to solve. Are the complaints only on the weekend? No. Are they only during regular business hours? No. Complaints come at all times in all forms.

Now, think about the resources necessary to cover the week: Seven days in a week x twenty four hours in a day = 168 paid enforcement hours. This does not include training, vacations, or sick days. If an officer makes \$20 an hour with a minimal benefits package the total is well above \$200,000. This doesn't count the infrastructure of additional equipment.

The voices supporting the idea of additional police paid by licensing fees are trying to smooth the argument and sway your favor. Don't be fooled. Be your own person. Do the math.

Respectfully,

Bill Chambers

JANUARY

2017

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MEMORANDUM

To: Casco Township Planning Commission
Date: June 28, 2017
From: Lynee Wells, AICP
RE: Rental Amendment Draft

Please find the revised language as discussed by the Planning Commission at the 6.28.17 work session. I have highlighted new and revised language. The following language includes only additions to the Zoning Ordinance text and does not include full sections or chapters.

SECTION 2.13 DEFINITIONS – L

LIMITED SHORT TERM RENTALS

The rental of any dwelling for a term not to exceed 14 days in any calendar year.

LONG TERM RENTAL

The rental of any dwelling for a term of 28 consecutive days or more.

SECTION 2.15 DEFINITIONS – N

NEIGHBOR

A property owner or tenant that occupies a lot or dwelling located adjacent, abutting, or within two-hundred (200) feet of the lot line of another lot or dwelling.

SECTION 2.16 DEFINITIONS – O

OWNER

A person holding legal or equitable title to the premises.

OWNER-OCCUPIED

A dwelling which is inhabited by the owner.

OWNER'S AGENT

An individual designated by the owner to oversee the rental of a dwelling unit and to respond to calls from renters, neighbors, concerned citizens, and representatives from the township.

SECTION 2.19 DEFINITIONS – S

SHORT TERM RENTAL

The rental of any dwelling for a term of less than 28 days; the definition does not include the use of campgrounds, hotel rooms, transitional housing operated by a non-profit entity, group homes such as nursing homes and adult foster care homes, hospitals, or housing provided by a substance-abuse rehabilitation clinic, mental-health facility, or other health-care related clinic.

SECTION 3.39 RENTAL OF DWELLINGS

All limited short term, short term, and long term rentals as defined in Chapter 2 shall be subject to the following regulations and performance standards:

A. Regulations applicable to all rentals.

1. Garbage and refuse: Garbage shall be kept in a closed container and disposed of on a regular basis.
2. Lighting: All lighting on the premises shall be fully cut-off, downward-facing, dark-sky compliant, and shall not cast glare or light beyond the property line.
3. Parking: Parking shall comply with the standards of Chapter 18 and Section 3.24.
4. Postings: In-unit and “good neighbor” postings shall be provided and shall describe at a minimum the name and telephone number of the owner or owner’s agent, notification of the maximum occupancy, notification and instructions as to parking locations, and a copy of this Section. The posting shall be located in a conspicuous place.
5. Building Code: All dwellings for rent shall comply with the Michigan Building Code.
6. Signage: Each property shall have an address number clearly visible from the driveway intersecting the public or private street accessing the subject site. All other signage, if permitted, shall comply with the standards of Section 19.07.
7. Ancillary uses: Ancillary uses shall be regulated by applicable Township ordinances. Any ancillary uses not conforming to respective regulations may be considered a public nuisance per say subject to Section 21.04.

B. Regulations applicable to short term rentals.

1. Length of stay:
 - a. If the short term rental is owner-occupied, and the owner is present on-site and in-dwelling during the entire time of the rental period, no minimum stay required.

- b. If located in AG, RR, C-1, C-2, PUD, or I-1, no minimum stay required.
- c. If located in LDR, MDR, and Lakeshore A and B, six (6) night minimum stay required.

2. Maximum occupancy:

- a. If the short term rental is owner-occupied, and the owner is present on-site and in-dwelling during the entire time of the rental period, no maximum occupancy.
- b. If located in AG, RR, C-1, C-2, PUD, or I-1, no maximum occupancy.
- c. If located in LDR, MDR, and Lakeshore A and B, up to three (3) people per bedroom, not to exceed ten (10) total people in the entire dwelling.
- d. No tents or campers for lodging shall be permitted in LDR, MDR, and Lakeshore A and B.

3. Overnight and daytime guests:

- a. If the short term rental is owner-occupied, and the owner is present on-site and in-dwelling during the entire time of the rental period, no limits on overnight and daytime guests.
- b. If located in AG, RR, C-1, C-2, PUD, or I-1, no limits on overnight and daytime guests.
- c. If located in LDR, MDR, and Lakeshore A and B, no daytime or overnight guests permitted.

4. Owner's agent: The owner or owner's agent shall be capable of being present at the property containing a short term rental within an hour of being notified to be on-site.

5. Registration and certification: Short term rentals shall be registered by the owner or owner's agent and certified by the Township. Re-registration and re-certification shall be required every two (2) years. Any change in ownership shall cease rental certification, and the new owner shall be required to file and complete a new registration and pursue certification.

6. Notification to neighbors: An applicant seeking registration and certification shall notify all neighbors within two-hundred (200) feet of the subject property boundary of the intended establishment of a short term rental. Proof of notice shall be provided to the Township by affidavit signed by the applicant or by furnishing certified mail receipts to the Township prior to certification or re-certification.

7. Inspection. Inspection by the Township shall be required prior to certification or re-certification.

SECTION 5.02 PERMITTED USES AND SPECIAL USES

USES	AG
Limited short term rental	P
Long term rental	P
Short term rental	P

SECTION 6.02 PERMITTED USES AND SPECIAL USES

USES	RR
Limited short term rental	P
Long term rental	P
Short term rental	P

SECTION 7A.02 PERMITTED USES AND SPECIAL USES

USES	LR-A
Limited short term rental	P
Long term rental	P
Short term rental	P

SECTION 7B.02 PERMITTED USES AND SPECIAL USES

USES	LR-B
Limited short term rental	P
Long term rental	P
Short term rental	P

SECTION 8.02 PERMITTED USES AND SPECIAL USES

USES	LDR
Limited short term rental	P
Long term rental	P
Short term rental	P

SECTION 9.02 PERMITTED USES AND SPECIAL USES

USES	MDR
Limited short term rental	P
Long term rental	P
Short term rental	P

SECTION 11.02 PERMITTED USES AND SPECIAL USES

USES	C-1
Limited short term rental	P
Long term rental	P
Short term rental	P

SECTION 12.02 PERMITTED USES AND SPECIAL USES

USES	C-2
Limited short term rental	P
Long term rental	P
Short term rental	P

SECTION 13.02 PERMITTED USES AND SPECIAL USES

USES	I
Limited short term rental	P
Long term rental	P
Short term rental	P

As always, please let us know if you have any questions.