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Mark Personius, AICP
Director

Memorandum

TO: The Honorable Jack Louws, Whatcom County Executive
The Honorable Whatcom County Council

FROM: Cliff Strong, Senior Planner *CS*

THROUGH: Mark Personius, AICP, Director *MP*

DATE: November 15, 2018

SUBJECT: Vacation Rental Regulations – Title 20 and Title 23 Amendments

Background

At its December 4, 2018, meeting, the Council's Planning and Development Committee will continue its discussion of regulating short-term rental units such as bed and breakfasts and vacation rental units. I have again attached the staff report, draft ordinance, and Exhibits A & B, showing the proposed amendments, which you previously reviewed at your August 8, 2018, meeting.

The proposed zoning code amendments (Exhibit A) would add vacation rentals as an accessory use in UR, URM, URMX, RR, RRI, TZ, RC, STC, AG, and R, and as a conditional use in the Lake Whatcom Watershed Overlay District, subject to a series of performance standards listed in WCC 20.80, the "supplemental requirements" chapter of the zoning code; require those on septic to provide a current satisfactory Report of System Status upon registration (and thereafter every three years); require owners to annually register with Planning and Development Services; and amend two bed and breakfast definitions and add a definition of "vacation rental unit." (See attached staff report for more detailed descriptions of these amendments.)

The proposed Shoreline Management Program (SMP) amendments (Exhibit B) would include vacation rental units and bed and breakfast establishments as part of a single family residential use (rather than a commercial use) for purposes of determining permitted uses in various shoreline designations; remove bed and breakfasts as a conditional use in the Urban Conservancy and Conservancy shoreline designations; and amend several definitions and add a definition of "vacation rental unit." These would make the shoreline code more consistent with the proposed zoning code amendments. (See attached staff report for more detailed descriptions of these amendments.)

Both sets of draft amendments have been reviewed by the Planning Commission, who recommended approval. In 2016, the Council held a hearing on the SMP amendments and passed Resolution 2016-039, forwarding the SMP amendments to the Department of Ecology (DOE) for its review (which has since approved them). However, the Council has not had a hearing on the zoning code amendments, having chosen to hold off until DOE approved the SMP amendments.

At your August 8, 2018, meeting, the P&D Committee asked for additional information, including:

- Updating the 2015 data regarding the number of vacation rentals in Whatcom County
- Providing you with information on vacation rental complaints, and
- Providing you with tax revenue information

Requested Information

Number of Vacation Rentals in Whatcom County

Previously, PDS staff had informed Council that in November 2015 there were 414 vacation rental units listed in Whatcom County, and you asked for an update to this number for 2018.

This 2015 information was obtained using the two most common websites (Airbnb and VRBO), counting the number (and estimating the locations) shown on those websites' maps of available rentals.

Using this same method in November 2018, staff counted 164 vacation rental unit listings in Whatcom County.

It may seem odd that there are fewer listings today than in 2015. Staff would like to point out, however, that this is only an approximation of the number of rental units, as those maps only show what's available for the dates one enters; it does not include those units that may be available at other times. Furthermore, we have searched two websites, and some of the units may be listed on both (addresses are not provided).

Vacation Rental Complaints

There are several types of complaints that could be filed, and the complaint would be handled by different departments, depending on the nature of the complaint.

The following chart shows the potential complaints citizens may submit to PDS about vacation rental homes and lists what department and/or agency would best handle the complaint:

Possible Alleged Complaint	PDS or Referral	Name of Department and/or Agency Referral
Noise, Disorderly House, Criminal and/or Suspicious Activities	Referral	Advise complainant to contact the Whatcom County Sheriff's Office.
On Site Sewage System (OSS) Overtaxing of and/or Failure	Referral	Advise complainant to contact the Whatcom County Environmental Health Department.
Unkempt Residence – Garbage, Trash, Solid Waste, Rats	Referral	Advise complainant to contact the Whatcom County Environmental Health Department.
Multiple Vacation Rentals on One Parcel, Including ADUs	PDS	Advise complainant to complete a PDS Code Enforcement Investigation Request (CEIR).
Detached Structures being used as Sleeping Quarters/Bunkrooms	PDS	Advise complainant to complete a PDS Code Enforcement Investigation Request (CEIR).
Number of People Exceeding the Permitted Vacation Rental Capacity	PDS	Advise complainant to complete a PDS Code Enforcement Investigation Request (CEIR).
Parking on the County Right-of-Way	Referral	Advise complainant to contact the Whatcom County Sheriff's Office.
Parking on Neighboring Properties or Private Easements	N/A	Advise the complainant that the parking issue is civil. Recommend complainant resolves parking issues with the owner of the vacation rental.

According to our Code Enforcement staff, we have no way of tracking complaints specific to vacation rentals in our permit tracking system (Tidemark). However, PDS did receive several vacation rental complaints in 2015, all along Northshore Road, all on the same date, all from one person.

Tax Revenue Information

Steve Oliver, County Treasurer, responded to your inquiring about tax revenues as follows:

We cannot provide a simple answer to your query due to secrecy agreements with the Department of Revenue that protect the individual data of tax remitters or any data that potentially would allow a person to intuit or estimate protected data either by business classification and/or geographic location. For example, we could not disclose transient lodging tax revenues for Lummi Island because it would be dominated by the Willows Inn. Because of the way that AirBnB, HomeAway, VRBO, and similar businesses are classified by DOR, using a very specific classification code that separates it from the majority of other transient lodging remitters, it creates a very small and discrete list of remitters that is highly dominated by one remitter. I believe that disclosing this information could be interpreted as a violation of our secrecy agreements with the DOR. The specific data is available, but I believe we are barred from disclosing it. I'm happy to visit this issue with the Prosecuting Attorney if necessary.

What we can share is the following data (reporting 2017 data as the last complete annual data set):

- There's no specific industry (NAICS) classification for "vacation rentals" per se but these uses are generally found in a few classification codes that generally encompass all transient lodging services.
- In 2017, approximately \$228,000 in local sales tax was remitted by approximately 149 remitters comprising transient lodging services reported in the unincorporated county. This may or may not be inclusive of all revenues as we are relying upon DOR assigned industry (NAICS) classifications to identify these revenues, which may or may not be accurate. The lack of local business license/registration data hinders the County's ability to identify these revenue sources more accurately or noncompliance with state or local tax laws.
- In 2017, approximately \$685,000 local special hotel/motel transient lodging taxes were also remitted to Whatcom County. This tax is an additional 2% local option tax in addition to other state and local sales taxes.

Additionally, the County Executive's Office recently shared with me that the Bellingham/Whatcom County Tourism Bureau in 2019 is going to start acquiring data from AirDNA.co in an effort to try to understand that sector of the local transient lodging market better. As a stakeholder in the tourism bureau, that data may be available to the County for other uses.

City of Bellingham Regulations

Though not requested by Council, staff thought you might want to know how the City of Bellingham has handled this issue, as its Council recently adopted regulations for short-term rentals.

Bellingham adopted a much more complicated set of regulations, with various zoning districts having slightly different regulations. In general, their lower density, strictly residential districts have more stringent regulations, while the higher density, more multi-family/commercial districts have laxer regulations in terms of length of stay, number of units, permitting process, owner occupancy, allowance in accessory dwelling units, and allowance of events (e.g., weddings, banquets, parties, etc.). Perhaps of particular note to Council is that they do not permit short-term rentals in the Lake Whatcom Watershed on properties that drain into Basin One or that are within their Shoreline Jurisdiction. Their ordinance also makes provisions to revisit some of their proposed caps if their vacancy rate reaches 5% or higher.

Next Steps

PDS would like to get direction from the Committee, especially as to whether to continue discussion with the Council or to schedule the ordinance for introduction and action by the County Council.

If the Council chooses to adopt the ordinance, staff would suggest making it effective a few months out. This would give PDS time to develop the registration system established by proposed WCC 20.80.960(3), to conduct outreach to vacation rental owners, and to add registration fees to the Unified Fee Schedule.

Attachments:

- Staff Report
- Draft Ordinance No. ____
- Exhibit A – Proposed Title 20 (Zoning) amendments
- Exhibit B – Proposed Title 23 (Shoreline Master Program) amendments