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Memorandum

TO: The Honorable Whatcom County Council
The Honorable Satpal Sidhu, County Executive

FROM: Cliff Strong, Senior Planner

THROUGH: Mark Personius, Director

DATE: February 9, 2022

SUBJECT: Update on Vacation Rental Regulations – Titles 20 and 23 Amendments

Purpose

The Council Planning & Development Committee has requested an update on where the proposed vacation rental amendments stand. This memo serves to address that. Staff would like to obtain direction as to what Council would like to do with them.

Background

In late 2014 after having received complaints from citizens neighboring vacation rental units the Council started a process to adopt regulations pertaining to vacation rentals (a.k.a., short-term rentals or STRs). Whatcom County Code (WCC Title 20, Zoning) currently does not prohibit the rental of single-family dwellings, either short- or long-term. Lacking such a prohibition, Planning and Development Services interprets Title 20 to permit vacation rentals wherever single-family dwellings are permitted.

When the Council's review process first started the Council was provided a range of regulatory schemas, including:

- 1. Permitted outright as a single family dwelling.** Allow rentals of any duration in residential zones without conditions.
- 2. Permitted with performance standards.** Allow vacation rentals as a permitted use in all rural and residential zones, subject to conditions.
- 3. Permitted in specified locations, with performance standards.** Same as 2 but permitted only in certain zones or geographic areas.
- 4. Permitted with registration.** Same as 2 or 3 but with licensing or registration requirements.
- 5. Prohibition.** Vacation rentals are not permitted uses in any residential zones.

After a series of discussions¹ and a recommendation from the Planning Commission², the Council chose a schema that would:

¹ The Council has discussed this issue in 10 workshops so far, from 9/16/2014 through 1/25/2022.

² The Planning Commission also held several workshops on the Title 20 amendments, and a public hearing on 1/8/2015.

- 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;
- Adopt performance standards addressing parking, maximum numbers of guests, signage, health and safety measures, etc.;
- 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 the definitions of “bed and breakfast establishment” and “bed and breakfast inn” and add a new definition of “vacation rental unit” (see Exhibit A).

So as to maintain consistency between zoning (Title 20) and the Shoreline Management Program (SMP), amendments were also proposed to Title 23 (Exhibit B). These amendments 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.”

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 approved them). However, Council has not yet adopted an ordinance effecting them³. Nor has Council held a hearing or adopted the Title 20 (Zoning) amendments, having chosen to hold off until DOE approved the Title 23 (SMP) amendments.

Vacation Rental Registration

As discussed in more recent P&D committee meetings, staff has found a possible system for managing the annual registration component in which Council has been interested. We have been exploring a program from a software vendor (Granicus⁴) called *Host Compliance*⁵. They offer a suite of six modules, to which a jurisdiction can subscribe (to any number of modules).

- *Address Identification* – Automated monitoring of 60+ STR websites and online dashboard with complete address information and screenshots of all identifiable short-term rentals. Every address is quality checked by an analyst to ensure that address identification is accurate.
- *Compliance Monitoring* – Ongoing monitoring of STRs for zoning and permit compliance coupled with systematic outreach to illegal short-term rental operators. Identifies non-compliant properties and streamlines outreach efforts related to non-compliance.
- *Permitting & Registration* – Online forms and back-end systems to streamline the registration process and electronically capture required documentation, signatures, and payments. Makes

³ These amendments have been included in the SMP Periodic Update that Council has approved, though are not yet adopted into code as we’re awaiting Department of Ecology approval prior to final adoption.

⁴ Yes, the same company that manages Council’s agendas through their program *Legistar*.

⁵ A presentation on this service was provided on January 25th.

permitting and registration processes available, easy, and accessible, guiding applicants through what can be complex permitting workflows.

- *24/7 Hotline* – A dedicated phone number to make it easy for neighbors to report, prove, and resolve non-emergency short-term rental related problems in real-time, any day, at any hour.
- *Tax Collection* – Makes tax reporting and collection easy for hosts and staff to submit and review online.
- *Rental Activity Monitoring* – Sends estimated occupancy and rental revenue for each property and identifies audit candidates who are under-reporting on taxes or exceeding occupancy regulations.

Through our initial exploration of this service Granicus has already provided us with updated data regarding the number of vacation/short-term rentals in the County listed on-line⁶. In August of this year Granicus ran a search and found 1,656 unique rental units, with a mean nightly rental rate of \$207 (addresses are not provided).

If Council would like to pursue this system, PDS suggests that the first four modules listed above would be useful to the County. If the Council wishes to pursue this approach, we would need Council to approve a supplemental budget request to cover the costs of these services. Then PDS would have to contract with a software vendor (such as Granicus or others) and get the system operational before these regulations take effect (our understanding is that such software programs typically take 3-6 months to implement and test the system).

How much does it cost? Granicus charges a per STR Listing/Rental Unit fee:

| Module | Annual Cost per STR Listing/Rental Unit Fee ⁷ | Estimated Annual Total Cost (based on number of STR units) |
|----------------------------|--|--|
| Address Identification | \$22.50 | \$57,690 |
| Compliance Monitoring | \$11.25 | \$21,071 |
| Permitting & Registration | \$8.00 | \$14,984 |
| 24/7 Hotline | \$9.00 | \$16,857 |
| Tax Collection | \$8.00 | N/A |
| Rental Activity Monitoring | \$15.00 | N/A |
| Total | | \$110,602 |

The annual cost for the four modules PDS recommends would be about \$110,602. However, this particular vendor suggested that we set our annual registration fee at two times the mean nightly rate that operators charge, which would be about \$400, which could generate a potential maximum of roughly \$662,400 if all known STR's were registered and paid.

The City of Bellingham is currently contracted with Granicus for this service, and staff there have expressed satisfaction with the service.

Next Steps

Staff would like to get direction from the Council. If Council is interested in moving forward with adopting vacation rental regulations then we'll need to schedule a public hearing and prepare an ordinance to adopt the amendments to Title 20. This would be scheduled at roughly the same time

⁶ There are now at least 125 such on-line short term rental platforms.

⁷ According to Granicus, this is roughly what they charge all their clients, and they don't expect the per unit prices to increase.

Council does the final approval of the SMP Periodic Update⁸. We would also like an indication as to whether Council would support contracting with a vendor to provide support so that staff can start the supplemental budget request, preparing a contract, develop the registration system (through the software vendor), conduct outreach to vacation rental owners, and add registration fees to the Unified Fee Schedule. If Council is no longer interested in pursuing this project then we'll drop it and have you remove it from the docket.

Attachments

- Exhibit A – Draft Title 20 (Zoning) amendments

⁸ Sometime in the first half of 2022, we believe.