

- 4 [15-0585](#) Introduce an Ordinance to add a new Chapter 19.76 entitled Short-term Rentals and Home Sharing to Title 19 of the Sunnyvale Municipal Code, and find that the project is exempt under CEQA pursuant to Guidelines 15061(b)(3) (Study Issue 2015-7147)

Chair Melton confirmed with Rebecca Moon, Senior Assistant City Attorney, that approval of an amendment to the Zoning Code would require a vote of the majority of the members of the whole Planning Commission, which is four.

Andrew Miner, Principal Planner, presented the staff report.

Comm. Klein confirmed with Mr. Miner that AirBnB is capable of automatically deducting the Transient Occupancy Tax (TOT), and discussed the proposed permit approval process and permit fee. Comm. Klein discussed with staff whether an accessory living unit being used as a short-term rental would be considered a hosted or unhosted site. Ms. Ryan added that the subtlety can be corrected in the Ordinance to say that if otherwise no one is using the accessory unit it could be used for rental. Comm. Klein discussed with Jeffery Hunter, Department of Public Safety (DPS) Captain, several municipal code violations at short-term rental sites that were investigated by the Neighborhood Preservation Division of DPS, and confirmed with Ms. Moon the fines for such violations. Mr. Miner added that clearly defining the rules in the Ordinance for renters and working with the different platforms to educate potential users may help avoid violations. Comm. Klein discussed with Mr. Miner State level actions and proposed bills.

Vice Chair Harrison discussed with Mr. Miner the permit approval process and what may serve as grounds for denial of a permit. Vice Chair Harrison also confirmed with Mr. Miner that accessory living units are limited to one bedroom, and discussed with staff whether that would accommodate both resident and renter.

Comm. Simons discussed with staff the process of permit revocation and how neighbor complaints would be addressed. Comm. Simons also discussed with staff ideas for encouraging people to file for a permit once the Ordinance goes into effect, and potentially requiring anyone who receives a violation to wait two years before applying for permit. Comm. Simons confirmed with staff that the space being rented must be inside of the residence, and confirmed with Ms. Moon that this Ordinance covers renting a room or home for compensation and would not impact house swaps.

Chair Melton verified with Mr. Miner that one could not rent out a tent or balcony, and Chair Melton suggested making that as clear as possible in the Ordinance. Chair Melton and Mr. Miner discussed the level of cooperation and communication

of AirBnB with staff, and Chair Melton suggested also making clear that unaccompanied minors cannot be renters. Chair Melton and staff discussed the requirement of homeowners to get approval from a Home Owners Association (HOA) to rent property, and discussed neighborhood impacts of allowing unhosted sites. Chair Melton mentioned that he met with a member of the public who rents a unit to see her unit and how she advertises it.

Chair Melton opened the public hearing.

Lorraine Heng, a Sunnyvale resident, discussed her participation in and support of allowing short-term rentals and her disagreement with over-regulation. Comm. Simons discussed with Ms. Heng whether her daughter, who lives in close proximity to her rental site, would be considered a host.

Dan Paustian, a Sunnyvale resident, discussed his appreciation of short-term rentals and support of the service. Chair Melton confirmed with Mr. Paustian that he does not have a maximum number of adult rule, and Mr. Paustian said he generally limits rental to two adults per bedroom and that at most he has had ten people renting at one time, three of which were children.

Stacey McGowen, a Sunnyvale resident and AirBnB host and guest, discussed her support of the unhosted model of service.

Linda McGahen, a Sunnyvale resident and AirBnB host, discussed her support of the short-term rental service.

Sarah McDermott, with Unite Here Local 19, discussed the impact of short-term rentals on affordable housing, and suggested allowing for short-term use in a responsible way.

Simone Yau, a Sunnyvale resident and AirBnB host, discussed her support of the short-term rental service without over-regulation. Vice Chair Harrison discussed with Ms. Yau the regulations that make her fear she would have to discontinue renting out her home.

Ray Crump, a Sunnyvale resident, discussed his concern with preserving the single family neighborhood and his support of regulation.

Chair Melton closed the public hearing.

Comm. Klein clarified with Mr. Miner the Housing Commission recommendations,

and confirmed that a record of permit issuance will be available online.

Vice Chair Harrison verified with Mr. Miner that no consideration was given to requiring an agent of an unhosted property be within a certain distance of the property, and discussed whether any consideration was given to limiting the number of properties one person or company could rent.

Chair Melton confirmed with Ms. Moon staff is amenable to the Planning Commission voting on each Alternative individually, and clarified the voting requirement to approve an amendment to the Zoning Code.

Comm. Simons suggested reaching consensus on each potential modification.

MOTION: Comm. Simons moved to recommend to City Council Alternatives:

- 2) Direct staff to return with a Resolution amending the Fee Schedule to reflect the appropriate processing fee for short-term rentals; and,
- 3) Find that the project is exempt from CEQA under Guideline 15061(b)(3).

Comm. Klein seconded. The motion carried by the following vote:

Yes: 4 - Chair Melton
Commissioner Harrison
Commissioner Klein
Commissioner Simons

No: 0

Absent: 2 - Vice Chair Olevson
Commissioner Rheaume

Comm. Simons moved to recommend to City Council Alternative 4 to introduce an Ordinance to add a new Chapter 19.76 entitled Short-term Rentals and Home Sharing to Title 19 of the Sunnyvale Municipal Code with modifications to the staff recommendation:

- 1) Allow a maximum of four overnight guests, not including children;
- 2) If the ordinance passes, it shall be reviewed in 24 months;
- 3) Recommend that any central company handling short-term rentals over the internet collect the Transient Occupancy Tax;
- 4) After six months of the Ordinance being in effect those who have been using their homes for short-term rentals without a permit cannot apply for a permit for 24 months.

Vice Chair Harrison clarified this modification with Comm. Simons. Mr. Miner and Ms. Moon added that the goal is to bring people in to register and come under compliance and that a moratorium could defeat that purpose. Comm. Simons withdrew his fourth modification.

Chair Melton noted that if an issue is not addressed as part of the motion, the Planning Commission would be going along with the staff recommendations.

Comm. Klein seconded, and offered a friendly amendment to reword the ordinance to specify that property hosting requirements are per unit, except that sites with a duplex or an accessory living unit may be by property. All Commissioners consented.

Vice Chair Harrison offered a friendly amendment to allow unhosted properties in the Ordinance as long as the owner owns no more than two properties that they are renting in this manner, and an agent is within 300 yards. Comm. Simons said he will not accept that amendment as stated.

Comm. Klein and Mr. Miner discussed the difficulty of enforcement in requiring permits to list a primary contact that has to be within 200 feet of the rental site.

Chair Melton suggested allowing unhosted sites and limiting those to a maximum of six overnight guests.

Comm. Klein said that is not the crux of problem, which is who is in charge if there are any issues.

Mr. Miner interjected that the unhosted option raises the possibility of removing housing which can make a bad housing market worse and questions who will be

there to manage any problems that arise. Ms. Ryan added that staff has tried to be on the side of caution with the recommendation to have the Ordinance reviewed in 24 months, that at that time it may be appropriate to expand features of the program and that beginning with more limitations makes it easier to expand the options in the future.

Comm. Simons discussed with Mr. Miner whether staff considered allowing the unhosted option with a local property management professional.

Comm. Klein suggested recommending to City Council that the unhosted option not be part of the Ordinance now, and to direct staff to evaluate that or shorten the earlier recommended 24 months specifically to discuss the unhosted issue at that later date. Comm. Simons clarified this modification with Comm. Klein. Vice Chair Harrison said she would support an unhosted option if an agent is very close by. Comm. Klein suggested reviewing the Ordinance in 12 months rather than 24. All Commissioners consented.

Chair Melton said he thinks it is enough to requiring an owner's signature to sublet a site one is renting, to limit the number of people on an unhosted site and that he thinks we need to allow this by right. He said it is hard to come to the conclusion that the unhosted option is prohibited out of gate until it is reviewed in 12 months. He said he would vote yes if the unhosted option is reviewed in six months.

Mr. Miner asked for clarification of what the Commission expects staff to bring for review in six months.

Comm. Klein interjected that most of the Commission thinks the unhosted option should be part of the Ordinance, but that he is not sure the Commission can come up with a meaningful solution tonight to allow both the hosted and unhosted options without much enforcement. He said recommending a change to the Ordinance to allow an unhosted option without a process in place does not seem to be an appropriate response, and that he is amenable to revisiting the unhosted option in six months. He said City Council may decide to include the option and improve the permit process. Mr. Miner said if the consensus is to pursue an unhosted option the Planning Commission can direct staff to come up with wording to give a recommendation to City Council.

Comm. Simons said we are recommending to City Council inclusion of an unhosted option with the goals that may or may not include having a contact person in close proximity to the property, that there are limited numbers of property an individual owner can own and rent and that the unhosted option can include an increased

number of maximum guests. Ms. Moon interjected that limiting someone in engaging in this rental activity based on the number of properties they own is not legal.

Chair Melton clarified that the concept of unhosted is supported by the Commission in general and we are asking staff to come up with language that would address the Planning Commission concerns of having a local person of control and a maximum number of adults greater than four. He offered a friendly amendment to add a recommendation to prohibit unaccompanied minors from renting sites and prohibit the rental of tents in a backyard.

Comm. Simons said there may be concern with the age restriction being 18 years old.

Chair Melton confirmed with Ms. Ryan that specific amendments should be included in the motion.

Comms. Klein and Simons discussed the age restriction concern with Ms. Moon and accepted the amendment.

Comm. Simons said this is a complicated issue, and that he is probably in the minority regarding the unhosted issue and would have gone with the staff recommendation to not allow it at this time. He said his concern is not that there is no usefulness to unhosted short-term rentals in Sunnyvale, but rather about minimizing potential abuses and implementing rules that will be followed and will be useful to the citizens of Sunnyvale. He said he is supporting this as a group motion, and wishes staff well on coming up with a workable unhosted solution. He added that he came into the meeting with certain expectations having heard complaints from the community about renters who have not been gracious in how they handle their renters, but he appreciates the public who came out to speak, some of whom are the finer renters using AirBnB and other services who have changed his perceptions.

Comm. Klein said this is a complex issue that we have discussed with City Council and we want to put something in the code to help resolve issues and abuses in the City. He noted that the people who showed up to speak have all had positive experiences renting out their homes, that he has rented via AirBnB and has always had a good experience, but that the people here are not the problem. He said the people who do abuse services and cause problems in their neighborhood may be renting to too many people thus causing noise and traffic issues. He said an unhosted site causes more issues but does need to be an option, whether or not

staff comes up with, and Council approves, a way to regulate is the question. He said it is a great idea that the City will get its TOT and help City coffers, that the extra burden short-term rentals are putting on the City with the Neighborhood Preservation Division or neighbors dealing with the abuse issues will be addressed. He said the Ordinance will give the general public an option to not rent at a hotel where those fees will ultimately be paid and that putting in place a permitting process is important and will deal with AirBnB and other services collecting fees does so that it does not become a property owner or renter issue. He said he hopes it works, that we are putting the review process in place to see if allowing short-term rentals is burdensome, and that this hearing will provide feedback to Council on how successful it can be and how many nuisances we have had. He said hopefully this will alleviate concerns and help neighbors and residents utilize the service. He added that he is supporting the motion, and that hopefully staff and Council can come together on a final Ordinance.

Vice Chair Harrison said she will be supporting the motion, that she has stayed in hosted and unhosted AirBnB situations and can see the value of having a short-term rental for a large group of people at an unhosted site. She said has had relatives from many parts of the country come together to stay at an unhosted site and she finds that limiting the number of people at an unhosted site limits the experience. She said she has a strong concern of the concept of unaccompanied minors and how it plays into human trafficking, that she hopes staff and Council can come up with an unhosted option solution and that having a substitute host in short proximity to the property which is similar to having the property owner renting out but not living in the dwelling unit shows they care about the rental and being a contact for the renter.

Chair Melton said he will be supporting the motion, and thanked the public for sharing their comments and staff for a great report. He noted that this has been a challenging public hearing, not because of disagreeable opinions, but because there are many moving pieces that has caused the Planning Commission to take a while to get to a motion. He said this is about competing priorities, that we are trying to draw people into the process and not make it complicated enough to discourage them. He said we are trying to emphasize the good and deemphasize the bad, that we have a lot of good hosts here but that there will always be some joker who takes a bonafide rental and makes a profit by subletting it. He said we need to protect neighborhoods and affordable housing, and he thinks we have ended up at place where we have accomplished some or most of those priorities, and have also put in a review period of 12 months. He noted that we decided before to review how something is working after a set period of time, that he finds it interesting that Chair Gilbert of the Housing and Human Services Commission

tussled with the unhosted option as well and that he is interested in seeing where City Council ends up on all of this.

FINAL MOTION: Comm. Simons moved to recommend to City Council Alternative 4 to introduce an Ordinance to add a new Chapter 19.76 entitled Short-term Rentals and Home Sharing to Title 19 of the Sunnyvale Municipal Code with modifications to the staff recommendation:

- 1) Allow a maximum of four overnight guests, not including children;
- 2) If the ordinance passes, it shall be reviewed in 12 months;
- 3) Recommend that any central company handling short-term rentals over the internet collect the Transient Occupancy Tax;
- 4) Reword the ordinance to specify that property hosting requirements are per unit,
except that sites with a duplex or an accessory living unit may be by property;
- 5) Recommend allowance of an unhosted option and direct staff to come up with language for the goal of having a local agent per site and a maximum number of adults that is greater than four; and,
- 6) No unaccompanied minors at short-term rental sites.

Comm. Klein seconded. The motion carried by the following vote:

Yes: 4 - Chair Melton
Commissioner Harrison
Commissioner Klein
Commissioner Simons

No: 0

Absent: 2 - Vice Chair Olevson
Commissioner Rheaume

5 [15-0733](#) **Standing Item:** Potential Study Issues for 2016

Comm. Simons suggested a potential study issue that would look at developing a Transportation Demand Management process for multi-family developments, to which Ms. Ryan replied that City staff is currently working on such a study issue.

NON-AGENDA ITEMS AND COMMENTS

-Commissioner Comments

Chair Melton mentioned that he attended the Civic Center Modernization Project meeting on Saturday, that City staff put on a great event. He asked that staff provide an overview of the proposed project at 777 Sunnyvale-Saratoga Road.