

## **A REASONABLE APPROACH FOR MANAGING SHORT TERM RENTALS IN DEL MAR**

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**The following reflects my personal views and not necessarily those of the council or city. I've done my best to be accurate in what follows.**

If you see something factually wrong, let me know and I will correct it. If you disagree with any of my recommendations or conclusions I will respect that and encourage you to share your perspective. If you want more detail, let me know. This paper doesn't cover everything and these issues are complex. Dialogue is good!

### **My Positions:**

- **I support the Community Plan** which limits commercial uses like Short Term Rentals (STRs) to the Visitor Serving, Commercial, and Residential Commercial zones (covering a part of Stratford), to the Wave Crest timeshares, and the L'Auberge and 941 Project Specific Plan areas.
- **The City can consider allowing limited STR use in the beach** area consistent with transient uses documented in the Community Plan.
- **On a very limited basis STRs can be considered in residential areas** if the number, density, and location are strictly regulated to protect the residential character of our neighborhoods.

### **The Del Mar Community Plan and Zoning Should be our Guiding Principles.**

The Community Plan provides important foundational principles to guide us in crafting rules and policies for STRs. The Community Plan:

- Protects our residential neighborhoods:

***OVERALL GOAL: PRESERVE AND ENHANCE THE SPECIAL RESIDENTIAL CHARACTER OF DEL MAR, THE ELEMENTS OF WHICH ARE A VILLAGE-LIKE COMMUNITY OF SUBSTANTIALLY SINGLE FAMILY RESIDENTIAL CHARACTER, A PICTURESQUE AND RUGGED SITE, AND A BEAUTIFUL BEACH.***

- Documents historic student rentals during the school year in the beach area with summer rentals for the race season, and owners who visit a second home for the

summer, but nothing like the hyper-intensive short term rentals now occurring through online platforms like Airbnb.

- The Community Plan's only statement on "transient" uses is:

***A comparatively large percentage of transient housing is available within this [North Beach] planning area. During the year much of this transient housing changes from occupancy by students and moderate income families in off-season months to wealthy tourists (often affiliated with the race track) or the property owners themselves during the summer.***

- **Full time STR rentals with turnover every few days are a commercial use,** not a residential use.
  - A commercial use is any use for profit, including short term renting.
  - "Home Occupations" are allowed in the R zones but STRs do not qualify.
  - Our Community Plan and R zones don't allow STR businesses because they are commercial uses.
- **There is plenty of room for intensive STRs where they belong**—in the Visitor and Commercial areas:
  - STRs are allowed in the Central Commercial, North Commercial, Beach Commercial, and Residential Commercial zones;
  - 12 STRs are allowed (weekly rentals) in the L'Auberge condos;
  - 31 STRs are allowed (weekly timeshares) in the Wave Crest Apartments;
  - STRS will be allowed in the 941 project when complete.
  - In addition Del Mar has 350+ hotel/motel rooms including some with kitchenettes.
  - There is more than ample opportunity for people to visit Del Mar and stay in a variety of short term accommodations at a variety of prices. We don't need to open our residential neighborhoods to extensive STR use.
- **Everyone can rent their home for 30 days or longer.**
  - No one is deprived of a right to rent their home for 30 days or more by the Community Plan or Zoning. That is a property right that all owners have.
  - The issue is whether or not the business of short term renting with regular turn over every 2-3 days should be allowed in residential zones.

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## BACKGROUND INFORMATION

In 2016 I wrote a white paper concluding that STRs are NOT allowed in the residential zones (except RC) under Del Mar's Community Plan and Zoning. I concluded that to allow them in the residential zones will require a Community Plan Amendment (4/5ths council vote required or vote of the people). Zoning Amendments (majority council vote) would be required too. You can read the paper here: [bit.ly/2016-STR-White-Paper](http://bit.ly/2016-STR-White-Paper)

Since I wrote that paper in 2016 some important things have happened:

- **Binding Interpretation: STRs are not allowed in the R zones.** On May 1, 2017 the city council (4-1 vote) rendered a binding zoning interpretation that STRs are not allowed in the residential zones except RC. See Resolution 2017-29.
- **Interpretation Resolution Challenged in court.** STR proponents challenged the Resolution in court. The court did not invalidate the Resolution, but ruled that the city must complete CEQA review before implementing it.
- **City Adopts 28-7 Plan.** On November 26, 2017 the city adopted a 28-7 STR ordinance. See Ordinance No 934. This program, for the first time, allowed limited STRs in the residential zones:
  - Up to a max of 28 days per year
  - Minimum 7 day stay
- **28-7 Plan Challenged at Coastal Commission.** STR proponents challenged this program before the Coastal Commission. The Commission approved the application provided it was modified to allow up to 100 days per year of rentals and 3 day minimum stays. The city declined to accept those changes.
- **City Sues the Coastal Commission.** The city challenged that Coastal Commission ruling in court. The case was dismissed without a ruling on the merits for technical reasons. The 28-7 ordinance stands on the city books but in abeyance.
- **Coastal Commission Approves the Programs of Other Cities.** The Coastal Commission has reviewed and approved the STR programs of a number of cities since 2016. The Coastal Commission has prepared a table of its actions on STRs through 2019. It can be accessed here: <https://documents.coastal.ca.gov/assets/la/Commission-STR-LCP-Actions-Table-May-20-2019.pdf>.

- **City Adopts Forbearance Period.** On November 6, 2017 by Resolution 2017-71 the city council enacted a Forbearance Period. Under the Forbearance Period STRs that were in operation prior to April 4, of 2016 are allowed to continue on an interim basis, but new STRs are prohibited.
- **New State Housing Laws Prioritize Housing for Long-Term Residential Use.** Since 2016 the state has enacted a whole series of new housing laws increasing the pressure on the city to protect its existing housing stock from conversion to other uses such as STRs, and to prioritize housing for long-term residential use. Our current Housing Element acknowledges and addresses this priority.
- **Data Collection.** 2023 data have been collected for the months of January through April, and for June, on the number of STRs operating in Del Mar that advertise online. It's about 120.
  - We don't know how many additional STRs forgo the expense or spotlight of online advertising and instead rely on yard signs, property managers, or repeat customers. We know these off-line STRs are occurring but not reflected in our data.
  - Adding the L'Auberge 12 condos and the Wave Crest 31 units available as STRs in weekly rentals, the 8 units at the 941 project, and the "offline" STRs, a conservative estimate of the total number of short term units available or authorized in Del Mar is more than 200 units.
  - Del Mar's total number of housing units as of 2018 was about 2800. 200+ STRs is a significant percentage of Del Mar's units. Loss of these units to STR use is a serious problem, making it more difficult and expensive for families to find housing in Del Mar for long-term residential use.

### **A REASONABLE SOLUTION**

**I look forward to a dialogue with my council colleagues and with Del Mar residents on this matter. I am open to all approaches that are consistent with our Community Plan. Here is where I currently stand:**

- The City should focus on a program that allows STRs in the Visitor, Commercial, Beach Commercial, and RC zones, in the Specific Plans Areas for L'Auberge and the 941 project, and for the timeshares at Wave Crest.
- The City can consider allowing very limited STR use in residential areas consistent with the historical transient rentals documented in the Community Plan, i.e. the historical rentals in the beach area for:

- Summer race season rentals;
  - 2<sup>nd</sup> home owners who rent long-term for the off season and visit for the summer
  - Limited STRs in the RM Zones where most STRs have historically occurred.
- The city should:
    - Continue to prohibit full time STRS in the R zones (except RC) and allow limited STR use in the RM zones;
    - Allow an updated version of the 28-7 program for the R zones, where the owner or a long-term tenant occupies the property most of the year;
    - Require good neighbor policies for all STRs, enforceable and with teeth;
    - Require a permit for all STR use;
    - Require TOT payment from all STRs;
    - Limit the number, density, and location of STRs to avoid over-concentration in any neighborhood;
    - Require all STRs to meet basic safety standards, to have adequate parking, and to post Neighbor Friendly rules and a 24 hour contact number for neighbors to address problems.

#### Why Do I think this can work?

- It honors the Community Plan and avoids an amendment that degrades the protections and benefits provided to our residential neighborhoods in the Community Plan.
- Full time STRs will be restricted to the Visitor, Commercial, Beach Commercial, and RC zones, and to the Wave Crest, 941 Project, and L'Auberge where they are allowed and welcome.
- Together with our 350+ hotel and motel rooms, Del Mar will have plenty of short term accommodations.
- STR use in the residential neighborhoods will be restricted primarily to those beach areas that the Community Plan documents had historical transient uses.
- Non beach area residential zones will have very limited STR use consistent with protecting their residential character and prioritizing our housing stock for long-term residents.