

To Jennifer Barrett
PRMD
From Valley of the Moon Alliance
Reference: Proposed Vacation Rental Standards Draft

February 28, 2010

Subject: Suggested Changes and Questions for Vacation Rental Standards Proposal

Dear Jennifer:

The Valley of the Moon Alliance has the following suggestions and questions concerning the proposed vacation rental standards. Sonoma Valley communities have been severely affected due to the conversion of individual residences to transient rentals.

In the background paragraph references –

Sonoma County Code would be amended to allow home owners to convert to vacation rental and include special use permit standards. The simple over the counter zoning permit would not require notice or posting. What is this intended to do? Why should we do this? Are we losing the transparency that we are attempting to create? Why shouldn't the neighbors be notified that this residence is being converted to a transient use?

VOTMA suggests that information about complaints, where received, along with additional data that was presented at the Supervisors meeting, be included to help explain the importance of establishing these standards. If the standards are not met, it requires posting a notice—what does this require? Shouldn't we also require the home owners to contact each of their immediate neighbors directly and provide proof that it was completed?

Background second paragraph changes --

It assumes that owners of vacation rentals will voluntarily apply for zoning a use permit, a TOT number, and pay TOT payments. What will the PRMD process be to find residents that have converted to transient rentals and did not seek the necessary permits etc.? Without a process, there is no way to identify transient rentals unless complaints are received and acted upon. Maybe the Sonoma County Tax Collector should monitor all listings on web sites such as Vacation Rental by Owners and B&B rentals in finding properties that are converted from family homes to transient rentals. VOTMA also suggests that there needs to be a penalty for owners that do not apply for permits and pay TOT. The County loses income and transient rentals owners walk away with all the money. Require rental property owners to post a \$1,000 bond with the County as insurance for costs associated with Sheriffs calls and enforcement issues.

Term of Permit:

“Both the zoning permit and (add minor) use permit” VOTMA suggests a more proactive approach. Currently there is automatic renewal where no complaints have been issued on the rental. If there have been complaints, an automatic review will be done to determine if renewal should be allowed or more restrictions placed on the rental.

Enforcement Process:

Add the Code Enforcement department phone number and develop a process that will be required to support code enforcement complaints; i.e., call Sheriff, record data, make a complaint, take pictures, record noise levels, after-hours phone numbers, etc.

The proposed code enforcement process allows for four verified violations per year before it goes to the Board of Zoning Adjustments. VOTMA suggests that is too many. How do you count violations (one night, one rental period)? The verification process for a violation needs to be defined. In the past, a hearing officer required neighbors to prove that there were problems, only looked at the specific night reference, and would not consider an existing history of abuse at the rental. The Sheriff will not file report unless there is a citizen arrest complaint, nor will they close a party down due to noise, traffic, parking or go into a community that has a private gate entrance. The PRMD Code Enforcement official and neighbors lost the Code Enforcement action even after seeing a video tape showing excess limos, autos, and buses entering the rental. The neighbors could not provide proof that there were more than one driver in each vehicle. The owner won the case and didn't pay any fine. (See below for memo) He probably kept the deposit and of course all the rental money. The burden of proof for a complaint enforcement falls on the neighbors. Somehow the Sheriff's Deputies must have the tools to record, report, and authority to shut down a transient rental party due to noise, hours, number of attendees, parking violations, etc.

Please define Sonoma County code Section 1-7.3 that is referenced in the proposal.

The owners benefit from the income and security deposits to cover their costs. The neighbors pay the price for abusive use of a rental and are required to provide proof of the violations. The neighbors need to complain, call code enforcement and sheriff, and follow up if further violations occur. They may also need to attend hearings, Board of Zoning Adjustments meetings, all this to seek only a year of peace and quiet. The penalty needs to punish the owner of the rental, not the neighbors. We suggest a five year suspension. The owner of the property has many options, where the neighbors have only two—move or live with the problem.

Draft Standards item:

4. Required on site parking: If on-street parking is allowed, proof must be presented that emergency vehicle access is possible and maybe the Sheriff needs to verify compliance and/or issue tickets.
5. Noise Limits: please define Table NE-2 and how does this apply if lots are close together.
6. What are the limits of overnight guests for RR and R1 zones?
7. Special Events: why should we allow four? Each time the transient rental is rented there is a potential of event taking place; i.e., reunions, family gathers, weddings, graduations, etc. The owner gets the money, but the neighbors have to put up with all the action. Allowing four special events each year is too many, most of them will take place in the summer time and lumped into three or four months. The standards need to restrict transient rentals to only allow one special event each year to minimize impacts on the neighbors. There is a big difference in a home owner who occupies the property having a special event. Transient rentals should not have the same capabilities or rights.

Please consider our suggestions and provide answers to our questions. Thanks for addressing this critical area of impact.

Thanks

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Reference: Abatement hearing for Triggs (VPL08-0122)

Subject: Zoning Adjustments for Resolution 08-003 needs further work

The actions taken by the neighbors and PRMD seeking to stop a continued abuse of the rental property at the Triggs Property at 1154 Kenilworth Ave, Kenwood was very time consuming, frustrating, and apparently unsuccessful. The PRMD enforcement department abatement hearing was based on cultural events that violated Sonoma County Code Chapter 25 including imposition of civil penalties.

The hearing which started in the morning went on until late in the afternoon with many neighbors and concerned members of the community in attendance for much of it. Unfortunately, due to the nature of the complaint filed by Code Enforcement and the very ineffective ordinance in question, evidence of the many prior incidents of outrageous conduct at that address was not permitted. Thus what was submitted to the hearing officer was restricted to what neighbors may have been about to hear or see from the street on the specific night in question starting around 10:30 p.m. No history of the abuse of the transient rental property was to be considered.

Because of the limited scope of the ordinance the ultimate question became whether there were 35 or more attendees. Thus it appeared the burden was on the neighbors to establish the number of cars, shuttle buses, and limos used as well as determining how many people were inside each vehicle. In this case the property which is not readily visible from the street is advertised as sleeping 20 guests. It was rented for four days for a series of pre-and post-wedding parties. The hearing focused only on an event held on Saturday, after the wedding. That party started around 10 p.m. and went on until 2 or 3 a.m. the following morning.

A security video provided by one of the neighbors showed a large number of vehicles entering the property commencing around 10:30 p.m., including a 33-person transport van, a 26-person van, a 10-passenger stretch limo, a converted ambulance, and other cars. One of the neighbors testified that around 10:30 p.m., he walked a few feet on to the property and counted in excess of 18 cars. Assuming each of the cars and commercial vehicles that included both drivers and passengers, the circumstantial evidence is overwhelming that more than 35 people were at the party that night. Additional points confirming this conclusion include the wedding party rentals and the 150 + person wedding at Kunde Winery with the wedding party and other guests staying at the property advertised to sleep 20 guests.

Under the present ordinance transient rental owners in this county currently appear to have no interest or incentive to control their rental tenants once they receive their deposits and rental money. They are not next door to the activity that is taking place. Their only recourse would be to withhold any deposits, which might financially benefit the owners by giving them more money for their rental and the neighbors pay the price, including traffic, noise, garbage, abusive contacts, fire potentials, drinking and driving on narrow country roads to name a few).

While we have no interest in becoming another Napa County, the Napa City Council in March in 2008 reviewed transient rentals. I have included their report for your information and consideration. They were addressing the issue before it got completely out of hand. It may be to our advantage to look at what Napa County and City has done about this issue. Also included in there report is a survey they did on approaches to vacation rentals from various cities and counties. Nothing, short of eliminations of short term (transient) rentals was effective. It is acknowledged that vacation rentals in single-family neighborhoods may disrupt the continuity and character neighboring homeowners expend when they buy their homes. Vacationers have different needs and expectations when they rent a home for a vacation, wedding or party house. This can lead to conflicts over activities—especially noise, parking, number of renters and management of the physical characteristics of the property. Stable neighborhoods create safety through knowing one's neighbors, connecting to community activities, and engaging in social functions. In rural areas of the county's dark narrow roads, fewer lights can be dangerous if not familiar with the area even if no drinking has occurred.

Special events, private parties, transient parties and transient rentals all need to be addressed so the rural public is not suffering from the actions of a few.

The fines imposed are far too little for the amount of work involved. The real victims here are the neighbors, the community and PRMD all of whom expended a great deal of time and money trying to reign in the behavior of a run-away neighbor who continues to make money running a commercial entertainment center in a Rural Residential neighborhood. The owners of the property in this case could have easily paid the \$1,400.00 fine, kept his \$1,000.00 deposit from the renters and paid the remaining \$400.00 out of pocket. Then continue doing business as usual.

Valley of the Moon also recommends that fines need to be sufficiently large to serve as a true deterrent and provide some relief for the neighbors. The accumulated effects of police calls, neighbors' complaints and PRMD expenditures need to be factored into the fine and

abatement hearing results. There should be a 24 hour phone number of the owner of the property that could be used by the police and enforcement officials. The Police need a noise ordinance so that they can close down party activity without a citizen's complaint. Also the current zoning adjustment 08-003 needs to be reexamined and further defined.

Valley of the Moon Alliance

Board of Directors

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