



STAFF REPORT SAN CLEMENTE PLANNING COMMISSION

Date: May 20, 2020

PLANNER: Gabriel Perez, City Planner

SUBJECT: Short Term Lodging Unit Update

BACKGROUND/ANALYSIS

On May 17, 2016 the City Council adopted Ordinances regulating short-term lodging units. The San Clemente Vacation Rental Alliance challenged certain aspects of the short term lodging unit (STLU) ordinances and contended that the ordinances constituted a “development project” under the California Coastal Act and that as a development project the ordinances required a Coastal Development Permit (CDP). A central issue was the position that Buena Vista in North Beach and on Avenida Montalvo areas would be required for inclusion in the STLU overlay if California Coastal Commission (CCC) approval for the ordinances had been sought.

The City and the Alliance reached a negotiated settlement that required passage of certain changes in the STLU ordinances that would allow the ordinances to remain on the books and the ordinances amended (Ordinance 1654) in 2018 to include the following:

1. Eliminate an STLU-specific parking standard, leaving STLUs subject to the same parking regulations that govern residential uses in the same area.
2. Allow a STAR owner to satisfy the occupancy requirement by having a “trained and qualified property manager” reside at the STAR, with standards for manager training and qualifications to be determined by City resolution.
3. Designate STLU-permitted areas by reference to a map of “Short-Term Lodging Units (STLU) Allowed Areas,” instead of to a parcel description in the code.
4. Expand the STLU Allowed Areas to include some additional lots on Avenida Montalvo and on Buena Vista.
5. Allow for an extended amortization period for non-conforming STLUs if the STLU owner applies for an extension, is in good standing, and meets certain requirements.

The City provided an application process for determining whether an STLU owner should be granted an extended amortization period beyond the base period provide in 2016 Ordinances.

Throughout this process, the City remained in close contact with the CCC concerning the amendments to the STLU Ordinances and their potential incorporation into the City's proposed Local Coastal Program (LCP) and LCP Implementation Plan (IP), which are pending final approval of the IP by the CCC.

Settlement Agreement in Coastal Access Alliance et al. v. City of San Clemente

The San Clemente Coastal Access Alliance and Coastal Environmental Rights Foundation (collectively, Alliance) filed a lawsuit against the City seeking to invalidate the STLU Ordinances, based on allegations that the City cannot enforce them prior to the CCC's final approval of the LCP/IP, unless the City obtains a separate CDP in the meantime. The litigation aimed to set aside all San Clemente STLU regulations until and unless the CCC approves them as part of the LCP/IP.

The City Council approved the settlement agreement on April 21, 2020. Under the settlement terms, the City will pay \$25,000 to the Coastal Environmental Rights Foundation and \$100,000 to the Coast Law Group. As a part of the settlement, the City agrees to approve amortization hardship extensions for qualified STLU operators that had active STLU licenses and were in good-standing on the effective date of the Ordinances (an estimated 25-30 licensees).

Qualified STLU Operators

Under the settlement agreement, "Qualified STLU Operator" means an individual or entity that, on June 16, 2018, based on current City records:

1. Possessed a valid STLU operator permit to operate an STLU located in a Residential Low ("RL") or Residential Very Low ("RVL") zone;
2. Possessed a valid STLU operator permit to operate an STLU located in the Coastal Zone;
3. Had timely paid all Temporary Occupancy Tax payments due and owing as of June 16, 2018; and
4. Has not committed sufficient violations of the San Clemente Municipal Code to cause the City to initiate revocation proceeding under San Clemente Municipal Code Section 3.24.067(A).

The term "Qualified STLU Operator" also means an individual or entity that, on May 17, 2016, based on current City records:

1. Possessed a valid STLU operator permit to operate an STLU located in the areas of the overlay maps that include the Buena Vista and Montalvo/Lobiero area shown in Exhibit A;
2. Possessed a valid STLU operator permit to operate an STLU located in the Coastal Zone;
3. Had timely paid all Transient Occupancy Tax payments due and owing as of May 17, 2016;

4. Has not committed sufficient violations of the San Clemente Municipal Code to cause the City to initiate revocation proceeding under San Clemente Municipal Code Section 3.24.067; and
5. Could not obtain an STLU operator permit after passage of the 2018 STLU Ordinances for the sole reason that the applicant was not one of the first five successful applicants for a STLU operator permit for an unit within a multi-family-dwelling structure, and approval of the applicant's application would have changed the multi-family-dwelling structure's parcel classification to a hotel or motel use. However;
6. An otherwise qualified STLU Operator will not be considered a Qualified STLU Operator if granting the operator an extended amortization period and STLU operator permit would result in a single multi-family-dwelling structure having more than 20% of its units operated as an STLU.


A "Qualified STLU Operator Amortization Extension Application" is under development and a staff determination for granting of the amortization extension is be based on the applicant satisfying the eligibility requirements. The amortization extension for qualified operators shall extend to May 17, 2026, or until the sale or transfer of the property

Attachments:

1. Exhibit A – Montalvo/Lobiero and Buena Vista Allowed STLU Areas



Legend

-  Permissible STLU Area Under the 2018 STLU Ordinance

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
Montalvo/Lobeiro Short-Term Lodging Unit (STLU) Allowed Area

4-21-20 / 8A-19
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Legend

-  Additional Permissible STLU Area Under the 2018 STLU Ordinance

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Buena Vista Short-Term Lodging Unit (STLU) Allowed Area

4-21-20 / 8A-20

