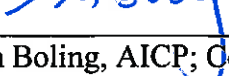


INDIAN RIVER COUNTY, FLORIDA
M E M O R A N D U M

CONTINUED
PUBLIC HEARING
LDR AMENDMENT
(LEGISLATIVE)

TO: Joseph A. Baird; County Administrator

1041

FROM: 
Stan Boling, AICP; Community Development Director

DATE: October 6, 2015

SUBJECT: Consideration of Proposed Parking Regulations for Vacation Rentals ("Ordinance 1");
Amending Land Development Regulations Chapters 901 (Definitions), 911 (Zoning), and
912 (Single-Family Development)

It is requested that the data herein presented be given formal consideration by the Board of County Commissioners at its regular meeting of October 13, 2015.

This item was initially considered at a public hearing on September 22, 2015 which was continued to the October 6, 2015 meeting. At the October 6, 2015 meeting the Board continued the public hearing, took additional public input and continued the public hearing to the October 13, 2015 meeting. The staff report prepared for the September 22nd meeting and for the October 6th meeting is provided below and has not been changed since the September 22nd meeting.

BACKGROUND

At its February 10, 2015 meeting, the Board of County Commissioners (Board) heard a presentation from Dr. Miles Conway regarding vacation rentals, including parking conditions at a vacation rental adjacent to his property on south SR A-1-A (see attachment #1). That vacation rental, whose owner is represented by attorney Barry Segal, is the subject of a Code Enforcement Board action which has been appealed to circuit court.

After hearing from Dr. Conway, Mr. Segal, and others at the February meeting, the Board voted unanimously to direct staff to draft parking regulations for vacation rentals. Based on that directive, Community Development staff and Deputy County Attorney Bill DeBraul conducted research and drafted an LDR (land development regulation) amendment ordinance establishing vacation rental parking regulations for the Board's initial review as a departmental discussion item at the May 5, 2015 Board meeting.

At its May 5, 2015 meeting, the Board heard from staff and a number of parties. At the end of discussion, the Board voted unanimously to "approve" staff's recommended ordinance and directed staff to initiate the formal LDR amendment process (see attachment #2). For the proposed amendment, that process involves one public hearing before the Planning & Zoning Commission (PZC) and one public hearing before the Board. Staff prepared a revised vacation rental parking regulation ordinance ("Ordinance 1") for the PZC's consideration, and after input at the PZC hearing, prepared a further revised ordinance for the Board's consideration.

It should be noted that at the May 5th meeting, the Board also voted unanimously to direct staff to draft and process an ordinance prohibiting commercial events such as weddings and reunions at single-family residences (see attachment #2). That ordinance (“Ordinance 2”) has been drafted by the Deputy County Attorney, with input from planning staff, and will be considered separately from “Ordinance 1”. Both ordinances were considered consecutively at the same PZC meeting (August 13, 2015) and are scheduled for consideration at the same Board meeting (September 22, 2015).

PZC ACTION

At its August 13, 2015 meeting, the PZC considered the vacation rental parking ordinance (Ordinance #1) at a public hearing and voted 5-1 to recommend that the Board adopt the proposed ordinance with one modification (see attachment 9). That modification was to delete the provision proposed by staff to allow on-site, excess day time parking spaces (overflow spaces) if specially buffered and site plan approved. Thus, staff recommends a provision for special overflow parking and the PZC recommends that no such provision be included in the ordinance.

The BCC is now to consider “Ordinance 1” and is to adopt, adopt with changes, or reject the ordinance.

ANALYSIS

The term “vacation rentals” generally refers to residential units rented-out for short-term stays, typically for periods of one week or less. In high tourist areas across the nation, including many parts of Florida, vacation rentals are popular and controversial to varying degrees. Staff’s research indicates that many local government regulations do not specifically treat “vacation rentals” except through interpretations of regulations for residential units or lodging units (e.g. hotels, motels, bed and breakfast use categories). Staff has also found that some communities, such as those in the Florida Keys (e.g. Monroe County), have extensive vacation rental regulations and local licensing requirements.

History of County Regulations, State Pre-emption, and Local Complaints

Indian River County’s history of vacation rental regulations, together with the State’s recent actions to pre-empt local vacation rental regulations, and local complaints related to vacation rentals are summarized as follows.

- **1980s to 2012:** County code was interpreted to classify any residential unit rented for a period of less than 30 days as a lodging unit requiring commercial zoning or approval as a bed and breakfast or residential resort (e.g. the Disney Resort at SR A-1-A and CR 510). During this period, occasional code enforcement activity occurred when staff received complaints about a vacation rental in a residential area (e.g. Summerplace, Roseland).
- **2011:** State law was enacted pre-empting local governments from prohibiting, restricting, or regulating short term/vacation rentals. Local ordinances in place prior to June 1, 2011 were grandfathered-in.
- **2012:** As part of an extensive LDR clean-up, staff proposed numerous modifications to the County code, including a modification to clarify the 30 day rental period applied to residential units since the 1980s. During the PZC and Board hearings for those amendments, vacation rentals owner Glenn Powell spoke against the modification and the prohibition interpretation of the old code. At the June 19, 2012 and July 10, 2012 Board hearings, County Attorney Alan Polackwich indicated that the existing code had a legal “gray area” that staff was trying to address with a proposed modification.

During discussion at the June meeting, Board members indicated that vacation rentals can be properly run and that by explicitly making them legal, many could “come out of the shadows” and be properly licensed by the state. At the July 10, 2012 hearing, the Board adopted an ordinance that specifically allows residential units to be rented-out for any period of time (daily, weekly, or longer). At that hearing, the Board directed staff to develop a mechanism to handle complaints and ensure that known vacation rentals get properly licensed by the state. Excerpts of minutes from both Board hearings are attached (see attachment #3)

- **2012 – Present:** Since the July 2012 code change, code enforcement staff has handled and maintained a log of general inquiries and complaints related to vacation rentals. Site specific complaints are investigated and turned over to the state Department of Professional Business Regulation (DPBR) for its determination on whether or not a state vacation rental dwelling license is required. State investigations can take several months, especially if rental activity is minimal. While a state investigation is active, the state will not provide code enforcement staff any information about the investigation. Violations of local regulations, if any, are handled through normal code enforcement procedures. Upon a determination by the state that a license is required, and upon issuance of a state license, staff notifies the license holder about County residential parking requirements, and informs the clerk’s office (see attachment #4).

Since July 2012, staff has received 5 general inquiries and 10 site-specific complaints regarding vacation rentals which included complaints about parking and impaired traffic flow. Of those 10 complaints, 5 were determined not to be used as a vacation rental, 2 were issued state licenses, and 3 have open investigations by the state. A copy of the current log is attached (see attachment #6). Based on that data, it appears that the number of site specific complaints in the unincorporated county has been relatively low, so far. Nonetheless, since July 2012, the percentage of unincorporated county site-specific vacation rental parking/traffic complaints compared to the total estimated number of vacation rentals in the unincorporated county ($\pm 4\%$) exceeded the percentage of unincorporated county parking/traffic complaints related to conventional residences ($\pm 2.4\%$) during the same three year period.

In addition, recent research conducted by the County Attorney’s Office indicates that there may be more than 375 vacation rental units county-wide that are offered for rent on the internet. It appears that roughly 250 vacation rental units are offered for rent in the unincorporated county. Planning staff research indicates that numerous local governments in Florida and other high tourist areas have experienced parking problems related to vacation rentals due to the frequency of larger than normal parking demands for such units. Such parking problems are reflected in recent position papers issued by the Florida League of Cities. Furthermore, the rise of internet and hand-held device tools and applications, together with the rise of management agencies, will make the marketing and management of vacation rentals easier. Consequently, the potential for increased vacation rental activity and related parking/traffic nuisances in the unincorporated county may be significant without proper parking regulations specific to vacation rentals.

- **2014:** The 2011 state law was modified to allow local regulation of vacation rentals but still pre-empted local governments from prohibiting vacation rentals or regulating the duration or frequency of vacation rentals.

- **2014/2015:** The south SR A-1-A (“Segal”) case was heard by the Code Enforcement Board (CEB). In that case, the CEB voted 4-1 to find a violation of parking location regulations and entered a continuing order “that parking not occur in anything other than the designated parking area”. The vacation rental owner appealed the CEB decision to circuit court. That lawsuit is currently pending. In February and May 2015, the Board considered vacation rental issues and directed staff to initiate adoption of vacation rental parking regulations and an ordinance prohibiting renting-out a single-family residence for special events such as weddings and reunions.

On July 14, 2015, the Board adopted a resolution establishing an advisory committee to make recommendations to the Board regarding any additional local regulations needed beyond the parking regulations ordinance and event prohibition ordinance already being considered. That committee, which will automatically sunset within one year of its first meeting or when it makes recommendations to the Board (whichever occurs first), will be known as the Short Term Vacation Rental Advisory Committee. In August, Commissioners made their district appointments to the committee, and the Board voted to appoint two at-large members and one alternate for the south beach property owners association representative who serves on the committee. Staff anticipates that the committee will convene this fall.

Existing Indian River County Residential Parking Regulations

Regulations on the number and location of automobiles regularly parked at a single-family residence are intended to maintain the visual/aesthetic character of residential neighborhoods, while accommodating parking needs. For any residential unit, the general parking minimum is two spaces per unit. That parking standard minimum is typical for most jurisdictions and for a single-family residence is easily met by providing a standard driveway. Current County parking regulations for a single-family zoned lot allow a maximum of 3 automobiles (not including RVs, which are separately regulated) to be parked outside an unenclosed area, with two exceptions. One exception allows for one additional vehicle for each licensed driver permanently residing at the residence. The second exception allows the parking of automobiles by persons visiting the residence without those automobiles counting toward the previously described limitations. The current regulations also prohibit parking within a required yard such as within the front yard setback area of a lot. It should be noted that in general, a car may be parked (but not stored) within a public local road right-of-way.

It is staff’s position that the existing code’s exception for parking by persons visiting the residence (the second exception described above) is not intended to apply to vacation unit renters or “guests” of the vacation unit renters. Although the current code is not clear on that point, that issue will be clarified and addressed through adoption of the “Ordinance 1” amendment now being considered.

Comparison of Parking Standards for Vacation Rentals

Staff has researched vacation rental parking standards and obtained information from nine Florida local governments as well as information from six out-of-state local jurisdictions (see attachment #7). Staff’s research indicates that Vero Beach specifically prohibits vacation rentals and therefore has no standards relating to that use. Neither Fellsmere nor Sebastian have specific standards for vacation rentals, the same as Indian River County.

Several of the surveyed jurisdictions specifically restrict vacation rental parking locations to driveways and designated areas (Islamorada, Bal Harbor Village, and communities in California and Nevada). With respect to regulating the number of parking spaces, several jurisdictions require a minimum number of spaces or fraction of a space per room. A few jurisdictions limit the maximum number of spaces based on the number of designated spaces shown on a local government vacation rental application.

Proposed Ordinance

Based on the Board's direction, items brought up during the May 5th meeting, and comments provided to staff by interested parties, staff revised and re-formatted the draft ordinance resulting in the proposed ordinance now under consideration (see attachment 10).

The proposed ordinance defines the term "vacation rental", clarifies existing parking regulations for single family residences in general, and establishes parking regulations specific to vacation rentals. As structured, the proposed "vacation rental" definition closely follows the state's definition of such use for state vacation rental dwelling licensing purposes. Thus, any unit "advertised or held out to the public" for regular rental for a period of less than 30 days will be considered a vacation rental. Consequently, the County's definition will "capture" every short term rental unit that requires a state license.

As structured, the proposed ordinance clarifies the County's current regulations by referring to "carport or garage" parking areas rather than referring to enclosed or unenclosed parking areas. The proposed ordinance also establishes automobile parking maximums for vacation rentals. As currently proposed, for vacation rentals with a garage and/or carport, the maximum number of parked automobiles is the total number of garage/carport spaces plus one space per bedroom not to exceed 5 automobiles parked outside a garage/carport. For vacation rentals with no garage or carport, the current proposal limits the total number of parked automobiles to 2 plus one space per bedroom not to exceed a total of 5 automobiles on site. For all vacation rentals, all automobiles except service and delivery vehicles are required to be parked on-site and not parked within a road right-of-way except within a designated and improved or stabilized driveway (a portion of which typically lies within a road right-of-way).

In addition to the parking limitations described above, a vacation rental unit may provide for "excess" parking spaces if such spaces meet parking location requirements and are visually screened from view from any adjacent public or private street by a 15' – 20' wide Type "C" landscape buffer with 6' opaque feature. As proposed, excess spaces cannot be occupied between 10 pm and 8 am, must be reviewed and approved by planning staff through the administrative approval site plan process, and must comply with standards applied by Traffic Engineering and Fire Prevention. In practice, the current proposal to allow excess spaces will be useable on larger sites, will maintain visual compatibility from the view from adjacent streets, and will accommodate larger numbers of parked automobiles thereby accommodating larger numbers of people at vacation rentals situated on larger sites. **As noted earlier in this report, the PZC has recommended deletion of the excess parking space provision while staff recommends adoption of that provision as part of the ordinance, as shown on pages 2 and 3 of the proposed ordinance as section 911.15(4)(b)4 and 912.17(2)(b)4 [see attachment #10].**

Issues Other Than Parking

During the May 5th Board meeting, staff presented and discussed issues and concerns other than parking that have been raised during discussion of vacation rentals. Those issues are discussed below.

– Event Sites

One issue relates to use of vacation rentals or any single-family residence rented-out for events involving large gatherings of people, such as weddings, reunions, and other events characterized by music, dancing, catered food, tents, or outdoor tables. Staff's initial review with the Deputy County Attorney indicated that the County could prohibit or separately regulate the renting of a residence (conventional residence or vacation rental) for compensation for a large gathering event. Since that initial review, the Deputy

County Attorney has confirmed his opinion that enacting an outright prohibition on using a rented-out residence for a special event is justifiable and legal. That opinion seems to be supported by the June 22, 2015 Florida 1st District Court opinion in the Bennet v Walton County case. In that case, the court found it reasonable for Walton County to allow customary occasional events such as house parties and wedding celebrations at a conventional residence while prohibiting similar events at a particular home that was rented-out and used frequently for such events.

With respect to the event issue, the Deputy County Attorney, with input from planning staff, has drafted a proposed ordinance that would prohibit renting-out (for compensation) any single-family residence for a special event such as a wedding or reunion. Since the August 13, 2015 PZC hearing, staff has added to the special event prohibition ordinance an exception for events scheduled (contracted) prior to the September 22nd Board hearing that are to be held within one year. In addition, a provision has been added to the ordinance to allow special events on large (4+ acre) agricultural sites subject to obtaining a temporary use permit (TUP) from planning staff. The special events prohibition ordinance ("Ordinance #2) is scheduled for consideration immediately after the Board's consideration of the proposed vacation rental parking regulations ("Ordinance 1"). *In staff's opinion, "Ordinance 2" adequately addresses the event site issue.*

– Fire Safety

Another issue raised relates to fire safety for vacation rentals. In response to that issue, County Fire Prevention staff coordinated with DBPR (Florida Department of Business and Professional Regulation) staff. According to DBPR staff, a licensed vacation rental is required to have functioning smoke detectors and a fire extinguisher. Actual site inspections by DBPR staff, however, appear to be rare and are scheduled only in response to complaints. Inspections of vacation rentals by County Fire Prevention are not currently provided in the county code. Consequently, local inspections of vacation rentals for smoke detectors and fire extinguishers cannot be required without a change to the county code. At the May 5th Board meeting, Fire Prevention indicated that fire code occupancy loads were not applicable to a residential unit. Staff's position is that occupancy limits for vacation rental units would not be practical to monitor or enforce. *In staff's opinion, the issue of fire safety will likely be evaluated in the future by the Short Term Vacation Rental Advisory Committee.*

– Citation Powers & Fines

Based on Florida Statutes Chapters 162 and 489, County Code Section 103.07, and County Resolution No. 92-59, County code enforcement officers have the power to issue citations for various violations subject to specific procedures. Those procedures include issuance of a warning for an initial violation with time given for compliance. A violation that occurs thereafter may be cited per occurrence. Under the citation resolution currently in place, a \$50 citation may be issued for each vehicle in violation of a parking regulation after a warning has been issued to the owner of the premises. Specific types of violations and associated fine amounts could be added to the County's current citation schedule by adoption of a resolution, as was done in 2013 when fertilizer ordinance violations were added to the schedule by Resolution No. 2013-089. County code section 103.07, Resolution No. 92-59, and a citation procedures flowchart are attached (see attachment #8). *In staff's opinion, citation powers and fine amounts will likely be evaluated in the future by the Short Term Vacation Rental Advisory Committee.*

– Local License & Rental Management Contact Information

In order to better coordinate with various departments/agencies and better manage compliance with local and state requirements (e.g. parking regulations, special event prohibition, state license, local tourist tax,

business tax receipt) a local vacation rental license requirement could be established. Such a license could involve a simple submittal and review process to ensure that applicants read and acknowledge local requirements, and provide up-to-date local manager contact information. That information could be use by staff and shared with property owners associations to facilitate timely contact in the event that compliance or unit management problems arise. *In staff's opinion, it is likely that requirements for local licensing and local management contact information will be evaluated in the future by the Short Term Vacation Rental Advisory Committee.*

CONCLUSION

The proposed vacation rental parking regulations (“Ordinance 1”), if adopted, will reasonably accommodate and limit the number of automobiles parked outside of carports and garages at vacation rentals. In addition, the proposed regulations appropriately limit parking locations at vacation rentals to carports, garages, and driveways. The proposed regulations also allow for properly screened and located day-time excess parking spaces which can be accommodated on larger sites. In staff’s opinion, the proposed ordinance adequately addresses the issue of parking at vacation rentals.

As described above, there are several vacation rental issues other than parking that are being addressed separately from consideration of the proposed parking regulations. The issue of renting-out a residence for special events such as a wedding or reunion is being addressed via consideration of a proposed ordinance that will prohibit that activity (“Ordinance 2”). Other issues, such as fire safety, citation powers and fines, and local license and rental management contact information will likely be addressed via the recently established Short Term Vacation Rental Advisory Committee.

RECOMMENDATION

Staff recommends that the Board of County Commissioners adopt the proposed ordinance (“Ordinance 1”) establishing vacation rental parking regulations.

ATTACHMENTS

1. Excerpt from February 10, 2015 BOARD Minutes
2. Excerpt from May 5, 2015 BOARD Minutes
3. Excerpts from June 19, 2012 and July 10, 2012 BOARD Minutes
4. Sample Notice to Owner of Vacation Rental Regarding Residential Parking Requirements
5. Sample Vacation Rental Dwelling State License Details
6. Log of Vacation Rental Complaints
7. Chart: Comparison of Parking Standards for Vacation Rentals
8. County Citation Powers Documents
9. PZC Minutes from August 13, 2015 Meeting
10. Proposed “Ordinance 1” (Vacation Rental Parking Regulations)

APPROVED AGENDA ITEM:
FOR: October 13, 2015
BY: Joseph A. Baur

Indian River Co,	Approved	Date
Admin.		10/7/15
Legal		10/7/15
Budget		10/7/15
Dept.		10/6/15
Risk Mgr.	_____	_____

Shores had adopted a Resolution regarding the Florida Auditor General's audit of the Florida Municipal Power Agency and the plans of the City of Vero Beach, in response to that audit. He asked fellow Commissioners if they wished to draft a similar Resolution.

ON MOTION by Vice Chairman Solari, **SECONDED** by Commissioner O'Bryan, the Board unanimously directed the County Attorney's Office to: (1) draft a Resolution similar to one that was adopted by the Town of Indian River Shores with regards to the Florida Municipal Power Agency's preliminary and tentative audit findings and recommendation concerning the Florida Municipal Power Agency (FMPA), and the plans of the City of Vero Beach in response to that audit report, and (2) bring back the draft Resolution for Board review.

C. **Commissioner Joseph E. Flescher**
None

1:30
p.m. D. **Commissioner Peter D. O'Bryan**
1. Parking for Vacation Rentals
(memorandum dated January 26, 2015) 302-314
(Clerk's Note: This item was heard following Item 13.F. Update on the Public Service Commission Meeting, and is placed here for continuity).

Commissioner O'Bryan reported that on August 18, 2014, a Code Enforcement Board Order was filed against Michael D. Dudek for residential parking violations at his vacation rental property in the White Surf Subdivision, and that Mr. Dudek's attorney, Barry G. Segal, has filed a challenge to that Order. Commissioner O'Bryan explained that the volume of renters at the home has led to parking issues with the adjoining property owners, Dr. Miles Conway, Dr. Walter Forman, and Dr. Thomas Gillman, and proposed that the County Attorney's office draft an Ordinance regulating parking at vacation rentals, with the maximum number of allowable cars tied to the size of the home.

There was a brief discussion among the Board about vacation rentals in residential areas.

Dr. Miles Conway, 2340 South Highway A1A, stated that he, Dr. Thomas Gillman, and Dr. Walter Forman, are in civil litigation with Mr. Dudek, because they have been putting up with untenable conditions for over a year. He noted that he resides in the Kansas City Colony subdivision, just north of

the White Surf Subdivision, and that the other two property owners live in the same subdivision as Mr. Dudek. He presented supporting evidence that the transient rentals are negatively impacting his quality of life and that of Drs. Gilman and Forman, as well as other beachfront property owners. Dr. Conway elaborated on issues related to these transient rentals as follows: large volumes of cars being parked at individual properties and on right-of-way; damage to the sand dunes; sea turtle disorientation; unknown persons wandering around in the middle of the night; trespassing; noise pollution; and vandalism, and invited individual Board Members to spend time at the site to see what is going on.

Vice Chairman Solari asked Dr. Conway to clarify what remedy he was seeking from the Board.

Dr. Conway responded that he would like to see the Board enact a two to three car limit at individual properties.

Discussion/debate ensued between the Board and Dr. Conway about the existing parking regulations for residential homes.

Commissioner Flescher voiced concerns that formulating regulations governing residential parking might impede upon individual property rights.

Commissioner O'Bryan said that the parking rules for homeowners will fall under the existing County Code, as far as guests visiting a single-family residence; however, he was proposing separate regulations governing commercial vacation rentals.

MOTION WAS MADE by Commissioner O'Bryan, **SECONDED** by Vice Chairman Solari, to direct staff to draft parking regulations for vacation rentals, either by the addition of wording to our existing County Code, or by drafting a new Ordinance to deal with parking at residences that are being employed as vacation rentals.

Chairman Davis asked staff to provide him with a list of properties at which there have been complaints related to transient rentals.

Dr. Conway related that since the City has tightened up its restrictions on transient vacation rentals, these types of rentals will migrate over to the County.

A brief discussion ensued between the Board and staff about the collection of Tourist Taxes.

Dr. Conway stated that he would like to speak at a future Board meeting on the deleterious impact of transient rentals on property values and other associated issues.

Daniel Lamson, Executive Director, Indian River Neighborhood Association, spoke in support of Commissioner O'Bryan's proposed parking regulations, and provided for the record, emailed correspondence from three homeowners having problems associated with neighboring short-term rental properties.

Barry Siegel, Esq., representing Mr. Dudek, provided to the Clerk a copy of the Florida Attorney General's Legal Opinion that a local government may not restrict vacation rentals, and cautioned the Board that the proposed Ordinance may have unintended consequences.

Attorney Reingold, responding to Board questions, clarified that while a local government may regulate vacation rentals, it may not enact a local law, ordinance, or regulation which would operate to prohibit vacation rentals.

The Chairman CALLED THE QUESTION and the Motion carried unanimously.

E. Commissioner Tim Zorc

2:46
p.m.

1. Update on Foreign Trade Zone from the Port Canaveral Meeting held on January 21, 2015
(no back-up)

(Clerk's Note: This item was heard following Item 14.B.1. Resolution Regarding FMPA Audit, and is placed here for continuity).

Commissioner Zorc stated that the Port Canaveral Board of Commissioners was receptive to his request to create an Indian River County sub-zone within Port Canaveral Foreign Trade Zone 136, but would need to review their Charter. He asked for authorization to attend any future meetings about the County's request to be included in Foreign Trade Zone 136.

ON MOTION by Commissioner O'Bryan, SECONDED by Chairman Davis, the Board unanimously approved out-of-County travel, as needed, for Commissioners and staff to attend meetings regarding: (1) the Florida Municipal Power Agency (FMPA); and (2) Port Canaveral Foreign Trade Zone 136.

approved to fund a contribution cap of 50% of the overall project cost, with a County cap of \$115,000; and 3) authorized staff to coordinate with St. Christopher Harbor Home Owner's Association to obtain the Home Owner's Association's authorization to use Island Drive for land-based removal of fill and a commitment of further contribution to project costs.

3. Request to Speak from Patricia Hunt Regarding New Public Cameras in Public Building, Documented, Etc. 195
Deleted

C. PUBLIC NOTICE ITEMS

None

11. COUNTY ADMINISTRATOR MATTERS

None

12. DEPARTMENTAL MATTERS

A. Community Development

10:05
a.m.

1. Consideration of Draft Parking Regulations for Vacation Rentals
(memorandum dated April 23, 2015) 196-230

Community Development Director Stan Boling recalled the Board meeting of February 10, 2015, when the Board directed staff to draft parking regulations for vacation rentals. Mr. Boling, using a PowerPoint presentation, stated that the draft ordinance defines the term "vacation rental", clarifies existing parking regulations for single-family residences in general, and establishes parking regulations specific to vacation rentals. He asked the Board to review the draft ordinance and determine whether or not to direct staff to initiate the formal Land Development Regulation (LDR) amendment process with any initial ordinance modifications desired by the Board.

Each Commissioner shared their concerns and opinions on how to fairly apply different regulations on vacation rentals from regulations on a single-family residence. The Board posed questions to staff to gather additional information.

Commissioner Zorc stated, aside from parking regulations, he wanted to see regulations imposed similar to those applied to Bed and Breakfast businesses, to enforce

capacity and occupancy regulations.

The Board discussion continued regarding comparisons of the proposed parking regulation ordinance to other property restrictions, and several Board Members mentioned that the real issue was events, and not parking.

The Chairman opened the floor to the Public.

Joseph Paladin, President of Black Swan Consulting, and Atlantic Coast Construction, wanted to know how the Board would count the cars at vacation rentals in a mixed use project, and learned that the Associations within those projects have their own parking regulations.

Glenn Poweli, 12845 Bay Street, Roseland, did not think parking regulations were sufficient, and believed that the renters would find ways to work around the Ordinance. He thought the big issue was the number of people, and suggested limiting the number of people that can occupy a vacation rental at any given time.

Commissioner Flescher agreed; however, Deputy County Attorney Bill DeBaal stated that staff found it to be easier to enforce parking regulations, than event regulations. He encouraged the Board to focus on events as another issue.

The Board continued discussing the enforcement issue.

Commissioner Flescher stated earlier and reiterated that the County needed to prevent events at vacation rentals.

Emergency Services Director John King advised the Board that residences are only discussed through code enforcement, and not under fire regulations. For residences operating as a business, he said that the County would need additional regulations. He pointed out that a number of vacation rental owners were not applying for a business license. Without a separate County ordinance, he would have very little influence.

Fire Marshal John Duran responded to questions on occupancy loads in residences.

Joseph Paladin saw no difference in a short term rental and a Bed and Breakfast.

David Hunter, 3702 Eagle Drive, Vero Beach, pointed out

that we have a black market operation in the County where vacation rentals are operating without a license, which is a misdemeanor. He related that the County is losing revenue from sales taxes, and that the situation is causing chaos because the County has no way to control it.

Commissioner Zorc confirmed that Florida Statute 509.242, Public Lodging Establishment, was the Statute that Mr. Hunter was discussing, and agreed with his statements.

Honey Minuse, 27 Starfish Drive, representing the Indian River Neighborhood Association (IRNA), said vacation rentals are threatening the cohesiveness and stability of the community. She pointed out some requirements established in order to operate a vacation rental in Monroe County, and asked the Board to look into having local regulations in place that would treat vacation rentals as a business.

Mr. Hunter thought the County needed to find a way to control bad behavior at events.

Vic Cooper, 715 Harbor Drive, in the Moorings, commented that people tend to "push the envelope", and when you allow this to happen it affects property values, and tax revenues. He suggested developing a contract.

The Chairman called for a break at 11:22 a.m. and he reconvened the meeting at 11:34 a.m., with all members present.

John Burns, 1811 E. Sandpointe Place, pointed out that there are some homeowners that are not a part of any homeowner's association. He related that it is the responsibility of the South Beach Property Association (SBPA) to advocate the regulations of the rentals. He addressed other issues that needed to be dealt with such as unsightly trash, disorderly conduct, and loud music. He urged the Board to issue a strong ordinance that regulates these issues.

A discussion followed by the Board with comments and questions to staff regarding issues addressed by Mr. Burns.

George Bryant, 180 Springline Drive, in the Moorings, President of the Moorings' Property Owners Association, supported the adoption of the Ordinance on a reasonable

number of vehicles parking at a vacation rental. He recalled staff's memorandum of April 23, 2015, where other issues were addressed besides parking that they feel should be addressed with specific limitation: heads in bed, noise, trash containers, and compliance with State safety and licensing requirements.

Tuck Ferrell, 12546 N. Highway A1A, President of the North Beach Civic Association, addressed problems with people abusing the system at events held in his neighborhood. He provided pictures for the record. He looked up VRBO (Vacation Rentals by Owner) who are advertising special events on the internet, and addressing parking at the County park. He thought the parking Ordinance was a good start, but did not know if it was going to help the event situation. He supported the Board for all their efforts in this matter.

A lengthy discussion continued between the Board and staff regarding ways to fairly regulate events in an Ordinance.

MOTION WAS MADE by Vice Chairman Solari, **SECONDED** by Chairman Davis, to: 1) accept the draft ordinance as written, and direct staff to initiate the formal Land Development Regulations amendment process; and 2) direct staff to draft a separate ordinance that would prevent commercial events at vacation rentals in single-family residential neighborhoods, defining specific events that are prohibited, include criteria for formal advertising, whether it be newspaper, internet or other prima facie evidence for the use of commercial activity, and include general criteria to enforce the ordinance.

Attorney Barry Segal, representing his client Mitch Dudak, a vacation rental owner, presented a letter from his client, pointing out that vacation rental parking is not the problem; it is an event problem. His client would be very encouraged to see the event problem addressed. Attorney Segal responded to several questions from the Board.

Commissioner Flescher said the vehicle count on the parking ordinance was the one thing preventing him from supporting the motion, and he asked that it be modified.

Vince DeTurris, 595 Reef Road, Vice President of the South Beach Property Owners Association (SBPOA), and a concerned citizen, appreciated the Board's support on this

issue. He introduced Dr. Miles Conway who had been working on this issue for three years.

Mr. Hunter disputed Mr. Dudak's comments presented by Attorney Segal that the use of vacation rental properties and the parking issue are a separate issue.

Dr. Miles Conway, 2314 S. Highway A1A, Economist Industrial Consultant, Director and Secretary of SBPOA, and Chairman of the Land Use Sub-Committee, provided a slide presentation regarding social economic impact of transient boarding houses, or vacation rentals. He defined the reasoning and supportive suggestions of the SBPOA:

1. Avoid the gaming of the system, and control the influx of people, the ordinance needs to include the restriction of designated drivers in a driveway, and also eliminate valet parking, limousine, and shuttle service.
2. Remove the stipulation "for a vacation dwelling, the number of automobiles parked outside of a carport or garage." They see that as a step going backwards.
3. Adopt an ordinance as Monroe County has for their vacation rental law, and property license requirements.
4. Counsel staff on using qualitative statistics.

Discussion continued by the Board commenting on Dr. Conway's presentation, and further questions were posed to staff.

Sheriff Loar stated his office's responsibility is to enhance and assist the County with any ordinance that they adopt.

The Chairman asked Vice Chairman Solari to restate his Motion, as two separate motions.

MOTION WAS RESTATED by Vice Chairman Solari, **SECONDED** by Chairman Davis, to approve staff's recommendation directing staff to initiate the formal Land Development Regulation (LDR) amendment process.

Discussion continued by Chairman Davis who posed additional questions to staff, reviewing the issues addressed

and shared thoughts and ideas on how staff could address them in the ordinance.

The Chairman CALLED THE QUESTION and the Motion carried unanimously.

MOTION WAS RESTATED by Vice Chairman Solari, SECONDED by Commissioner Flescher, to direct staff to draft an ordinance that would prevent commercial events at vacation rentals in single-family residential neighborhoods, defining specific events that are prohibited, include criteria for formal advertising, whether it be newspaper, internet or other prima facia evidence for the use of commercial activity, and include general criteria to enforce the ordinance.

Following the Motion, Vice Chairman Solari stated that he wanted staff to bring the Ordinance back to the Board through the normal LDR amendment process.

The Chairman CALLED THE QUESTION and the Motion passed unanimously.

MOTION WAS MADE by Commissioner O'Bryan, SECONDED by Commissioner Zorc, to ask staff to review and analyze the Monroe County Ordinance on Vacation Rentals, consider the comments from the SBPOA, and bring it back to the Board for further discussion.

A brief discussion followed among several Board members regarding the Monroe County Ordinance being in compliance with Department of Environmental Protection and Health Regulations.

Vice Chairman Solari read the Monroe County Ordinance and said he was not going to vote in support of this Motion. He found the Monroe County Ordinance to be incredibly onerous, and while Monroe County has certain specific aspects to its nature for which it may be appropriate in that County, he did believe it was not appropriate for the unincorporated area of Indian River County.

The Chairman CALLED THE QUESTION and the Motion carried, by a 3-2 vote (Commissioner Flescher and Vice Chairman Solari opposed).

The Chairman called for a break at 1:42 p.m. and reconvened the meeting at 1:55 p.m.

**8.H. CONSIDERATION OF CHANGE ORDER NO. 1 TO CONTRACT AGREEMENT
WITH TIMOTHY ROSE CONTRACTING, INC. FOR CONSTRUCTION OF
PUBLIC ACCESS IMPROVEMENTS ON THE FLINN TRACT OF THE LAGOON
GREENWAY**

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis, the Board unanimously approved Change Order No. 1 to the Lagoon Greenway Phase I Construction Agreement with Timothy Rose Contracting, Inc., and authorized the County Administrator to execute the Change Order on behalf of the County, as recommended in the memorandum of June 12, 2012.

CHANGE ORDER ON FILE IN THE OFFICE OF THE CLERK TO THE BOARD

Chairman Wheeler called a break at 10:15 a.m. and reconvened the meeting at 10:27 a.m., with all members present.

9. CONSTITUTIONAL OFFICERS AND GOVERNMENTAL AGENCIES - NONE

10. PUBLIC ITEMS

10.A. PUBLIC HEARING

10.A.1. CONSIDERATION OF PROPOSED LDR (LAND DEVELOPMENT REGULATION) AMENDMENTS (LEGISLATIVE)

PROOF OF PUBLICATION OF ADVERTISEMENT FOR HEARING IS ON FILE IN THE
OFFICE OF THE CLERK TO THE BOARD

June 19, 2012

9

ATTACHMENT 3

107

Planning Director Stan Boling, using a PowerPoint presentation (on file), recapped his memorandum dated June 7, 2012, providing background and analysis on the proposed Land Development Regulations (LDR) amendments, which are the result of staff's Evaluation and Appraisal Report (EAR) process. He said that the Board needs to adopt the comprehensive plan policies, pointed out that some of the added amendments were initiated by the Board, and some were initiated through staff to clean up, clarify, and/or update the LDRs. He reviewed the proposed recommendations from the Agriculture Advisory Committee and the proposed recommendations and exceptions from the Planning and Zoning Commission. Director Keating also spoke about short-term lodging in single-family zoning districts; the definition in the County Code of hotel/motel; not currently having a definition of lodging facility (a use that is allowed only in commercial zoning districts); what staff has done over the years regarding 30-day stays; and the proposal to clarify the definitions in the ordinance. He recommended the Board direct staff to make any necessary changes to the proposed LDRs, and announce their intention to adopt the ordinances at the July 10, 2012, 5:01 p.m. hearing.

The Chairman opened the Public Hearing.

Glenn Powell, 12845 Bay Street, Roseland, owner of several single family homes and short-term rentals in Sebastian and Roseland, said he had four houses that were charming but did not lend themselves to attracting a good long-term tenant, so over the years he rented them as short-term vacation homes. He provided background, revealed his ongoing monthly costs, and noted that when he purchased the properties, he researched the County Code for single family residences, but it did not address rental terms or time limitations. He thereafter voiced concerns over: (1) the County Code being silent on short-term rentals, (2) how changing the LDR would affect him, and (3) not being notified of the workshops/meetings that had taken place. He claimed that the Courts have held that short-term rentals are not a business use. Mr. Powell emphasized that in addition to collecting lodging taxes, he also maintains the properties, and is an asset to his neighborhood; and if there is a code that specifically prohibits short-term rentals,

people will still continue to rent, but the landlords will not collect the taxes, and it will be a black market rental business. He relayed that on June 2, 2011, Governor Rick Scott signed a Bill into law that reclassifies a single-family home as a vacation rental, and a local law cannot restrict, prohibit, or regulate the rentals based on the classification use for occupancy.

Vice Chairman O'Bryan said that his family has used short-term rentals in the past, and felt they provide a family friendly environment. He believed that most of the people that moved or brought their business to this County visited here first. He asked the County Attorney to review the State Law that Mr. Powell referenced, and provide an opinion before the final meeting, so the Board can take appropriate action.

Commissioner Davis also revealed that his family uses short-term rentals when traveling. He could only recall two negative complaints in his eight years of being a commissioner.

Community Development Director Bob Keating acknowledged that there have not been a lot of complaints, and reiterated that staff is not changing the policy, they are only clarifying it.

Chairman Wheeler believed that by clarifying the ordinance, it is in effect, changing it.

Commissioner Davis did not favor changing the ordinance, he wanted time to observe whether there is a real or perceived problem; at this time he believed it to be perceived.

Mr. Powell said the people who come for short-term rentals have money, are educated, and seek out what Indian River has to offer. He said there are regulations that can be put into place to take care of the concerns of single-family residences.

Attorney Polackwich focused on legal issues and the interpretation of the proposed amendments to the ordinance. He recalled that vacation rentals are defined under Chapter 509 of the Florida Statutes, which also deals with hotels and vacation rentals at the State level, and are

regulated by the Division of Hotels and Restaurants, Department of Business and Professional Regulations, which is why this situation has been dealt with through the definition of hotel/motel. He said the County Code is gray, and staff's position is that because the ordinance includes "any building," they now want to clarify that "any building" includes single-family residences.

Richard Gillmor, Sebastian Councilmember and Congressional candidate, addressed the LDR's regarding vacation rentals. He felt the vacation rental business is self-regulating, and he cautioned the Board not to fix what is not broken. He suggested that staff invite other short-term rental landlords to future workshops.

There being no other speakers, the Chairman closed the Public Hearing.

MOTION WAS MADE by Commissioner Solari, SECONDED by Commissioner Flescher, to direct staff to remove the proposed changes to the "Hotel/Motel" section of the Land Development Regulations.

Discussion ensued among the Board as to how to make the amendment to the Land Development Regulations clearer.

MOTION WAS AMENDED by Commissioner Solari, SECONDED by Commissioner Flescher, to allow short-term rentals for less than one month.

The Chairman CALLED THE QUESTION and the motion carried. The Board unanimously directed staff to: (1) remove the proposed changes to the "Hotel/Motel" section of the Land Development Regulations; and

(2) include a sentence that would allow for short-term rentals less than one month at a time.

The Commissioners and staff debated the density transition area buffer requirement in the subdivision and site plan ordinance.

ON MOTION by Commissioner Solari, SECONDED by Commissioner Davis, the Board unanimously approved to eliminate any Land Development Regulation wording that implements the density transition area requirements of Future Land Use Element (FLUE) Policy 1.48.

In conclusion, the Board announced its intention to adopt the final ordinances at the Special Call Meeting, scheduled for July 10, 2012, at 5:01 p.m.

10.B. PUBLIC DISCUSSION ITEMS – NONE

10.C. PUBLIC NOTICE ITEMS

**10.C.1. NOTICE OF SCHEDULED PUBLIC HEARING FOR JULY 10, 2012:
PELICAN ISLAND AUDUBON SOCIETY'S REQUEST FOR SPECIAL EXCEPTION USE
APPROVAL FOR A COMMUNITY CENTER (QUASI-JUDICIAL)**

County Attorney Polackwich read the notice into the record.

11. COUNTY ADMINISTRATOR MATTERS

**11.A. APPEAL OF COMMUNITY DEVELOPMENT DIRECTOR'S DENIAL OF 12
IMPACT FEE REFUND APPLICATIONS SUBMITTED BY IMPACT FEE
CONSULTANTS (QUASI-JUDICIAL)**

3. PLEDGE OF ALLEGIANCE

Commissioner Flescher led the Pledge of Allegiance to the Flag.

4. PUBLIC ITEMS

4.A. PUBLIC HEARINGS

4.A.1. FINAL HEARING: CONSIDERATION OF PROPOSED LDR (LAND DEVELOPMENT REGULATION) AMENDMENTS (LEGISLATIVE)

PROOF OF PUBLICATION OF ADVERTISEMENT FOR HEARING IS ON FILE IN THE
OFFICE OF THE CLERK TO THE BOARD

Community Planning Director Stan Boling, using a PowerPoint presentation (on file), reported that this is the second and final hearing to consider amendments to various Land Development Regulations (LDRs). He stated that several of the proposed regulations include LDR amendments that implement the adopted Evaluation and Appraisal Report (EAR) Comprehensive Plan policies; however, the LDR amendments under consideration do not include the Urban Service Boundary buffer initiative or the West Gifford initiative. He reviewed the proposed LDR amendments and pointed out that the proposed revisions would: (1) revise the previously proposed changes to the definition of hotel/motel and add a provision specifically allowing residential dwelling units to be rented out for short-term vacation stays; and (2) delete the previously proposed changes that would implement density transition area Future Land Use Element (FLUE) Policy 1.48. He also noted that the County's LDRs need to be amended to be consistent with the EAR amendments to the Comprehensive Plan, and the other proposed amendments that were initiated by staff, and the Commissioners at the Board of County Commission meeting of June 19, 2012. He thereafter summarized the points from an e-mail he received from David Risinger (on file) regarding his objections to short-term stay issues, and the responses from the County Attorney.

The Chairman opened the Public Hearing.

THE FOLLOWING INDIVIDUALS SUPPORTED SHORT-TERM RENTAL UNITS:

Glenn Powell, 12845 Bay Street, Roseland, said he was the “poster child” for short-term vacation rentals; therefore, he provided background and reiterated concerns from when he spoke at the Board of County Commission meeting of June 19, 2012, regarding issues of short-term vacation rentals, individual property rights, the County Code being silent on short-term rental times and limitations, and the role of the government controlling private ownership rights.

John Conway, owner of Sebastian Riverfront Resort, and Sebastian Vacation Rentals

Bill Waterman, 460 10th Place SW, Oakridge, licensed vacation manager

THE FOLLOWING INDIVIDUALS OPPOSED SHORT-TERM RENTAL UNITS:

David Hunter, resident of Central Beach, Indian River County

Jim Gregg, landlord, lives in gated community

Terry Potts, Board Member of Amelia Plantation Property Owners’ Association

Beth Casano, 1610 3rd Court, Rockridge Property Owners’ Association President

Randy Fryar, owner of four properties in Indian River County

Susan Aiken, Floralton Beach Subdivision

Commissioner Davis sought and received details on how to differentiate between legitimate and non-legitimate rental businesses.

Commissioner Flescher clarified that legitimate short-term rental businesses are licensed, inspected by the County Health Department, and lodging taxes are collected when the dwellings are rented (7% for State, 4% for County).

Community Development Director Bob Keating affirmed for Vice Chairman O'Bryan that Code Enforcement could/would address complaints regarding bad behavior at short-term rentals.

Chairman Wheeler expressed that those living in gated communities should address concerns and issues through their Property Owners' Association. He did not want to pass an ordinance that would prevent short-term vacation rentals Countywide.

Director Boling, in response to Commissioner Davis, disclosed that the existing definition is unclear, and staff's interpretation of the County Ordinance is that to rent for less than 30 days constitutes a hotel/motel usage.

Director Keating confirmed that the current code is enforceable, but believed it would be best to clarify, not change it.

Attorney Polackwich explained why the ordinance is unclear, and why staff reached its conclusion by implication, rather than by a direct sentence in the definition stating that any structure offering a combination of rooms for rent or lease for longer than one month at a time, shall not be considered a hotel or motel. He made it clear that the definition does not expressly address the question of what happens if a property is rented for less than a month; therefore, staff interpreted the provision to mean that if a house is rented for less than one month, it is regarded as a hotel/motel.

Chairman Wheeler believed that most of the complaints would have occurred whether the ordinance addressed the situation or not, since those individuals are probably operating illegal rentals. He also emphasized that anytime a citizen suspects that someone is renting without a license, they need to call Code Enforcement.

There being no additional speakers, the Chairman closed the Public Hearing.

Commissioner Davis favored weekly rentals, observed that the individuals not doing the right thing are causing the problems, and felt that passing a regulation that would not permit short-term rentals would put the law abiding landlords out of business.

Commissioner Flescher shared Commissioner Davis's sentiments. He believed that approving the amendments would make things better. He said he would rather see rental houses registered and well maintained, as opposed to those that cannot be rented and left to fall into foreclosure. He concluded that adopting the proposed ordinances would be the best option for all County citizens.

Vice Chairman O'Bryan determined that most issues with short-term rentals were due to a lack of communication. He believed issues/situations could be resolved if people would be good neighbors, and more proactive. He thanked the speakers for expressing their opinions, and said that if they have any issues, to contact staff or the Commissioners to ensure the property is being rented legally.

Commissioner Solari understood the perspectives of both the landlords and the residents of the neighboring properties. He believed the existing mechanisms could deal with the issues, and if the Board prevented people from renting short-term rentals, and made them annual rentals, it might be just as bad. He wanted the County to continue making people aware of the County Code, local laws, and State mechanisms; therefore he suggested staff research the State mechanisms and develop something in terms of local mechanisms that could be used and readily available to those with complaints.

MOTION WAS MADE by Vice Chairman O'Bryan, SECONDED by Commissioner Solari, to adopt the 18 ordinances as proposed by staff.

Chairman Wheeler concurred with the other Commissioners' comments and added that many problems in the neighborhoods have not "just been brought to light," but believed they have been going on for years, either illegally or through Code Enforcement violations.

The Chairman CALLED THE QUESTION and the Motion carried unanimously. The Board adopted the following ordinances:

Ordinance 2012-013 concerning amendments to its Land Development Regulations (LDRs); providing for amendments to Chapter 901, Definitions, by amending definitions in alphabetical order in Section 901.03, and by providing for repeal of conflicting provisions; codification; severability; and effective date.

Ordinance 2012-014, concerning amendments to its Land Development Regulations (LDRs); providing for amendments to Chapter 902, Administrative Mechanisms, by amending appeals from decisions of the Community Development Director or his designee Section 902.07; and by amending Technical Review Committee Section 902.10; and by providing for repeal of conflicting provisions; codification; severability; and effective date.



INDIAN RIVER COUNTY
COMMUNITY DEVELOPMENT DEPARTMENT
1801 27th Street, Vero Beach FL 32960
772-226-1237 / 772-978-1806 fax
www.ircgov.com

December 17, 2012

Ann Cotton
8617 SE Merritt Way
Jupiter FL 33458

RE: Vacation Rental at 6450 Frances Manor and Indian River County Limitations on Vehicles Parked at Single Family Dwellings

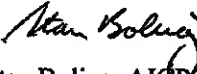
Dear Ms. Cotton:

Recently, the state notified county staff that you obtained a state license for a vacation rental at 6450 Frances Manor within the Amelia Plantation subdivision. Staff is contacting you, and has contacted every other vacation rental state license holder in the unincorporated area of the county, to ensure that each license holder is aware of the county's limitation on vehicles parked at a single-family dwelling. Within the unincorporated area of the county, no more than (three) 3 vehicles may be parked outside of an enclosed area (garage or attached carport). A copy of the pertinent county regulations is attached for your reference. This parking limitation applies to the residence/vacation rental at 6450 Frances Manor.

Staff requests that you ensure that your vacation rental clients are aware of and comply with the county's single family dwelling parking regulations. Also, staff encourages you to contact the Amelia Plantation subdivision property owners association regarding any private restrictions or policies.

If you have any questions, please do not hesitate to contact me at (772) 226-1235 or sboling@ircgov.com.

Sincerely,


Stan Boling, AICP
Planning Director

Attachment: As Stated

cc: Board of County Commissioners (via e-mail)
Joe Baird, County Administrator (via e-mail)
Alan S. Polackwich, Sr., County Attorney (via e-mail)
Robert M. Keating, AICP
Roland M. DeBlois, AICP (via e-mail)
Kelly Buck (via e-mail)
Amelia Plantation P.O.A. (US Mail)

901 Definition:

Unenclosed storage the temporary placement of recreational vehicles, boats, trailers and similar recreational equipment in an open area or accessory structure without walls. For the purposes of this section, recreational vehicles and similar equipment stored in accessory garages or attached carports shall be considered to be in enclosed areas.

912.17(2)(b)

- (b) *Parking or storage of automobiles.* A maximum of three (3) automobiles (not including recreational vehicles) may be parked in an unenclosed area on a single-family zoned lot. However, one additional vehicle for each licensed driver permanently residing at the premises may be parked on the lot. No automobile may be parked or stored in any required yard area. The provisions of this section shall not preclude the parking of automobiles by persons visiting a single-family home.

Licensee Details

Licensee Information

Name: DUDEK MITCHELL D (Primary Name)
DUDEK RENTAL (DBA Name)

Main Address: 3 ROYAL PALM POINTE PHE
VERO BEACH Florida 32960-3151

County: INDIAN RIVER

License Mailing: 3 ROYAL PALM POINTE PHE
VERO BEACH FL 32960

County: INDIAN RIVER

License Location: 2403 23 ST SE
VERO BEACH FL 32963

County: INDIAN RIVER

License Information

License Type: Vacation Rental - Dwelling

Rank: Dwelling

License Number: DWE4101319

Status: Current, Active

Licensure Date: 04/29/2014

Expires: 04/02/2016

Special Qualifications

	Qualification effective
Single	04/29/2014
Indian River APR	04/29/2014
SINGLE UNIT	04/29/2014

Alternate Names

[View Related License Information](#)

[View License Complaints](#)

[View License Inspections](#)

VACATION RENTAL COMPLAINTS

	Address of Complaint	Verify License w/DBPR	Date complaint given to DBPR	Code Officer	Status
1	2125 W Beachside Ln	No license	7/16/2012	Rose	Case closed by the state -- no license issued
2	1571 Smugglers Cove	No license	7/11/12	Vanessa	Case closed by the state -- no license issued
3	6450 Frances Manor	No license sent initial contact letter to owners	Sent initial contact letter to owners	Kelly	License issued
4	3011 Calcutta Dr	No license	12/7/2012	Kelly	Case closed by the state -- no license issued
5	580 Reef Rd	No license	12/2/2013	Rose	Case closed by the state -- no license issued
6	8515 De Havilland Ct	No license	2/11/2014	Vanessa	Case closed by the state -- no license issued
7	2400 23 rd St SE	No license	3/21/2014	Vanessa	Licensed issued
8	12576 A1A	No license	4/21/2015	Betty	Under state investigation
9	1491 Smugglers Cove	No license	4/23/2015	Vanessa	Under state investigation
10	13060 Hwy A1A	No license	5/22/2015	Betty	Under state investigation

F:/users/kelly/vacationrentals/vaccomplaintchart

Comparison of Parking Standards for Vacation Rentals (April 2015)

	Jurisdiction	Comments	Parking Location	Min. # Spaces	Max. # Spaces
1.	Vero Beach, FL	Prohibits vacation rentals in residential districts (in lawsuit)	N/A	N/A	N/A
2.	Fellsmere, FL	No specific standards for vacation rentals	—	—	—
3.	Sebastian, FL	No specific standards for vacation rentals; no complaints in recent years	—	—	—
4.	Brevard County, FL	Allows single family resort dwellings	No parking along street	1 off-street space per bedroom	—
5.	St. Lucie County, FL	Applies parking at lodging use rate	—	.71 to 1.29 spaces per occupied room	—
6.	Manatee County, FL	No specific standards for vacation rentals	Must park in driveway or along street; cannot block driveways or hydrants	—	—
7.	Fort Myers Beach, FL			1 space per bedroom or guest room	
8.	Islamorada, FL	Specific standards apply; application for vacation rentals required	Park in driveways only; parking over sidewalks or in right-of-way prohibited	—	Limited to max # presented in vacation rental application
9.	Bal Harbor Village, FL	Specific standards apply; application for vacation rentals required	Park in areas shown in vacation rental application	—	Limited to max # presented in vacation rental application
10.	Duluth, Minn.	—	—	1 space per 2 bedrooms	—
11.	Coconino, Ariz	—	—	1 space per bedroom	—
12.	Douglas County, Nev.	Max. occupancy 2 persons per bedroom plus 4 extra persons per residence	On site and assigned spaces only	—	Limited to max # shown on vacation rental application
13.	South Lake Tahoe, CA	Currently changing regulations. Max. occupancy 2 persons per bedroom plus 4 extra persons per residence	As shown on vacation rental application	—	Limited to max # shown on vacation rental application

Comparison of Parking Standards for Vacation Rentals (April 2015)

Jurisdiction		Comments	Parking Location	Min. # Spaces	Max. # Spaces
14.	Sonoma County, CA	Max. occupancy 18 persons per residence except for recognized holidays	On-street parking "may be considered"	1 space per 2 guest rooms	—
15.	San Luis Obispo Co., CA	—	Limited to garage or driveway only	—	—

Indian River County		Comments	Parking Location	Min. # Spaces	Max. # Spaces
A.	Existing	Section 911.15 and right-of-way ordinance regulate parking locations. No vacation rental regulations; vacation rental considered same as a residential unit	Off-street parking required for commercial and multi-family development. In single-family areas parking allowed in right-of-way but not in required front yard areas	<p>Motels: 1 space per rentable room</p> <p>Bed & Breakfast: 2 spaces plus one space per rentable room</p> <p>Multi-family: 2 spaces per unit</p> <p>Note: all spaces off-site with landscaping between parking area and street</p>	—
B.	Draft Proposal	Create definition of "vacation rental" consistent with state definition used for licensing ("transient public lodging establishment"); create specific parking standards for vacation rentals in 911.15	Limited to garage, carport, and driveway. Over flow parking allowed elsewhere on site if screened from view from street and shown on approved administrative approval site plan	—	Total number of garage and carport spaces plus up to 5 spaces in designated driveway (one such space per bedroom not to exceed five spaces). Extra "overflow" spaces allowed if screened from view from street and shown on approved administrative approval site plan.

Section 103.07. Code enforcement citation procedures—General.

- (1) These procedures are enacted pursuant to F.S. §162.21.
- (2) Citation authorization; application. A code enforcement officer so designated by the county is authorized to issue a citation to a person when, based upon personal investigation, the officer has reasonable cause to believe that the person has committed a civil infraction in violation of a duly enacted county code or ordinance; the county court will hear the charge. Designation as a code enforcement officer does not provide the code enforcement officer with the power of arrest or subject the code officer to the provisions of F.S. §§ 943.085 through 943.255.
- (3) Notification prior to citation issuance; procedures.

- (a) Prior to issuing a citation, a code enforcement officer shall provide notice to the person that the person has committed a violation of a code or ordinance and shall establish a reasonable time period within which the person must correct the violation. Such time period shall be no more than thirty (30) days. If, upon personal investigation, a code enforcement officer finds that the person has not corrected the violation within the time period, the code enforcement officer may issue a citation to the person who has committed the violation. A code enforcement officer does not have to provide the person with a reasonable time period to correct the violation prior to issuing a citation and may immediately issue a citation if the code enforcement officer has reason to believe that the violation presents a serious threat to the public health, safety or welfare, or if the violation is irreparable or irreversible. ^(b)

Notwithstanding the preceding paragraph (103.07(3)(a)), the board of county commissioners shall adopt, by resolution, a schedule of violations and penalties to be assessed by code enforcement officers, including standard notification time periods for specific types of violations, said time periods not exceeding thirty (30) days.

- (b) A citation issued by a code enforcement officer shall be in a form prescribed by the county and shall contain:
 1. The date and time of issuance.
 2. The name and address of the person to whom the citation is issued.
 3. The date and time the civil infraction was committed.
 4. The facts constituting reasonable cause.
 5. The number of the section of the code or ordinance violated.
 6. The name and authority of the code enforcement officer.
 7. The procedure for the person to follow in order to pay the civil penalty or to contest the citation.
 8. The applicable civil penalty if the person elects to contest the citation.
 9. The applicable civil penalty if the person elects not to contest the citation.
 10. A conspicuous statement that if the person fails to pay the civil penalty within the time allowed, or fails to appear in court to contest the citation, he shall be deemed to have waived

his right to contest the citation and that, in such case, judgment may be entered against the person for an amount up to the maximum civil penalty.

11. A statement to read as follow: I hereby elect to waive my right to a court hearing and in lieu thereof select to have my case heard by the Indian River County Code Enforcement Board or designated special master. I understand that the decision of the code enforcement board or designated special master shall be final and binding on me. _____ (signature).

- (4) After issuing a citation to an alleged violator, a code enforcement officer shall deposit the original citation and one copy of the citation with the county court, unless the alleged violator elects to appear before the code enforcement board or designated special master in which case the citation and copy shall be deposited with the secretary of the code enforcement board.
- (5) Any person who willfully refuses to sign and accept a citation issued by a code enforcement officer shall be guilty of a misdemeanor of the second degree, punishable as provided in F.S. §§ 775.082, 775.083.
- (6) The provisions of this section shall not apply to the enforcement of building codes adopted pursuant to F.S. § 553.73, as they apply to construction, provided that a building permit is either not required or has been issued by the county.
- (7) The provisions of this section are an additional and supplemental means of enforcing county codes and ordinances; nothing contained in this section shall prohibit the county from enforcing its codes or ordinances by any other means.

(Ord. No. 92-9, § 1, 4-21-92)

Commission office. He recommended the board move forward on approving the rezoning request.

The Applicant, Bruce Barkett, waived his presentation and explained that the application is consistent with the approved site plan.

ON MOTION BY Dr. Day, SECONDED BY Ms. Caldarone, the members voted unanimously (6-0) to approve the recommendation for rezoning with the conditions set forth in the staff's recommendation to the Board of County Commissioners.

Chairman Polackwich read the following into the record:

B. Consideration of Proposed Parking Regulations for Vacation Rentals ("Ordinance 1"); Amending Land Development Regulations Chapters 901 (Definitions), 911 (Zoning), and 912 (Single-Family Development) [Legislative]

Mr. Boling presented a PowerPoint presentation, a copy of which is on file in the Commission office. He discussed the fact that in 2011, the State preempted local government regulations regarding vacation rentals and the Board of County Commissioners adopted a code change in 2012 specifying that vacation rentals are treated the same as conventional residences. Since that time, Code Enforcement has received several complaints regarding parking and the BCC directed staff to initiate the adoption process for special parking regulations for vacation rentals. In addition, a Short Term Vacation Rental Advisory Committee was established in July 2015.

Mr. Boling went on to review Proposed Ordinance #1, clarifying that it does not change existing parking allowances for conventional residences. For vacation rentals, parking would be limited to the number of carport/garage spaces plus one space per bedroom, not to exceed five spaces outside. For rentals with no carport/garage, parking would be limited to two spaces plus one space per bedroom, not to exceed five spaces outside. There was also a provision for "excess spaces" for larger parcels. He pointed out some of the concerns from "interested parties" thus far.

Chairman Polackwich voiced his concern with the ordinance regarding the definition of "vacation rental", particularly when the homeowner also lives in the residence. The homeowner wouldn't have the same parking privileges as his neighbor whenever he's living in his home.

Glen Powell, who operates four vacation rentals in Roseland, conveyed his belief that 99.9% of vacation rental landlords do the right thing but the other 0.1% are the problem. He believes that if Ordinance 2 (prohibiting commercial events at residences) is passed, it will take care of Ordinance 1. He went on to point out that bad behavior is not limited to vacation home rentals; homeowners often exhibit bad behavior as well and there's nothing in the county ordinance that deals with that. Perhaps there should be code limiting number of cars in front of a residence regardless of whether it is a vacation rental or not.

Carol Lewis, real estate broker in Indian River County since 1975, spoke in favor of vacation rental parking and commercial use restrictions. She contended that the majority of vacation rental owners are unlicensed. Her neighborhood, Angler's Cove, is a mix of vacation rentals and residences which she believes is problematic.

Dr. Tom Gilman spoke in favor of rental parking and commercial use restrictions. He asserted that there are times he can't even get into his driveway due to all the cars parked at the nearby vacation rental. He believes that his home value has decreased dramatically due to this problem as well.

George Lamborn, President of the South Beach Property Owners Association thanked the Board for the work they've put in regarding this problem that they inherited but believes that there is not enough police force to enforce this Ordinance. He believes that they should keep things simple and easy to enforce.

Dr. Miles Conway lives on South A1A and supports the Ordinance with the exception of the second part which allows a person to apply for additional parking with a Type C buffer as he contends that this could allow too many vehicles at a residence.

Nat Mortese of Vero Beach spoke in support of the Ordinance except that he believes it is unenforceable. He believes that as short term rentals bring revenue to the county, an enforceable way to solve this problem must be found.

Steven Geezler, a Stuart attorney, spoke of his experience in short term rental litigations. He commended the board for attempting to tackle this case and believes that dealing with behavior is the answer, despite whether the people are vacation renters or homeowners.

Mr. Emmons stated that he didn't see the merit in the exception for excess daytime parking spaces and questioned enforceability as well.

Chairman Polackwich discussed the fact that this is a unique issue in that we're talking about what amounts to a commercial activity in a residential neighborhood. Normally zoning would take care of this but the situation is that the State has put us in the position of having to deal with the problem. He stated that he would vote against the Ordinance because he feels that it should only apply during periods of rental.

Mr. Stewart pointed out that perhaps there should be a Sunset Clause in the ordinance so that if a residence does not rent for a certain period of time, there should be a way to stop it from being classified as a rental.

Mr. Boling discussed the possibility of setting up "seasonal" licenses.

ON MOTION BY Mr. Emmons, SECONDED BY Dr. Day, the members voted (5-1) with Chairman Polackwich dissenting, to approve Ordinance 1 as presented with striking out the excess parking exception allowance in the staff's recommendation to the Board of County Commissioners.

Chairman Polackwich read the following into the record:

C. Consideration of Proposed Prohibition of Commercial Events at Single-Family Residences ("Ordinance 2") [Legislative]

Mr. DeBraal explained the logic of the Ordinance 2 that would prohibit a single-family residence being rented out as a site for a commercial event. It would not affect activities such as private parties by the homeowner. Moreover, temporary use permits could be applied for on a case by case basis, especially on large (agricultural) parcels.

Dr. Miles Conway urged the board to pass this Ordinance, not only because it's good for the neighborhood, but also for the environment, due to the sea turtles on the beach where many weddings are held.

Nat Mortese voiced concern about events being held on large acreages and Mr. DeBraal responded that he could apply for temporary use permits as needed. Mr. Mortese argued that by limiting activities at venues such as these acreages, the county loses revenue in the form of tourist taxes and jobs.

AN ORDINANCE OF INDIAN RIVER COUNTY, FLORIDA, CONCERNING AMENDMENTS TO ITS LAND DEVELOPMENT REGULATIONS (LDRS); PROVIDING FOR AMENDMENTS TO CHAPTER 901, DEFINITIONS, CHAPTER 911, ZONING, AND CHAPTER 912, SINGLE-FAMILY DEVELOPMENT; BY AMENDING SECTION 901.03, ESTABLISHING THE DEFINITION FOR "VACATION RENTAL"; BY AMENDING GENERAL PROVISIONS SECTION 911.15(4), PARKING OR STORAGE OF VEHICLES; AND BY AMENDING SINGLE-FAMILY DEVELOPMENT SECTION 912.17(2), PARKING OR STORAGE OF VEHICLES; AND BY PROVIDING FOR REPEAL OF CONFLICTING PROVISIONS; CODIFICATION; SEVERABILITY; AND EFFECTIVE DATE.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF INDIAN RIVER COUNTY, FLORIDA THAT THE INDIAN RIVER COUNTY LAND DEVELOPMENT REGULATIONS (LDRS) CHAPTER 901, DEFINITIONS, CHAPTER 911, ZONING, AND CHAPTER 912, SINGLE-FAMILY DEVELOPMENT, BE AMENDED AS FOLLOWS:

SECTION #1:

Amend LDR Section 901.03, To Establish a Definition of "Vacation rental"; as follows:

Vacation rental: any residential dwelling which is rented or leased more than three times in a calendar year to a tenant, individual, group of individuals, or party for a period of less than 30 days, or which is advertised or held out to the public as a dwelling which may be regularly rented or leased for a period of less than 30 days.

SECTION #2:

Amend LDR General Provisions Section 911.15(4), on Parking or storage of vehicles, as follows:

(4) Parking or storage of vehicles.

- (a) *Parking or storage of junk vehicles.* No junk vehicle shall be parked, and no motor vehicle frame, vehicle body, or vehicle body part shall be stored on residentially zoned or used property unless expressly permitted by this chapter, except when parked or stored in a completely enclosed garage or building. In any agricultural district, one such vehicle is permitted in the rear yard, completely screened from view of neighboring homes and properties.
- (b) *Parking or storage of automobiles.* **Except as provided in sub-sections 1. – 4. below, a maximum of three (3) automobiles (not including recreational vehicles) may be parked in an unenclosed area outside of a carport or garage on a single-family zoned lot. However, one additional vehicle for each licensed driver permanently residing at the premises may be parked on the lot. No automobile may be parked or stored in any required yard area except in a designated and improved or stabilized driveway. The limitations on the number of automobiles parked outside of a carport or garage provisions of this section shall not preclude the parking of automobiles by persons visiting a single family home.**

1. For a vacation rental that has a carport or garage, the number of automobiles that may be parked outside of a carport or garage shall be limited to one automobile per bedroom not to exceed a total of five (5) automobiles parked outside the carport or garage. Automobiles parked outside of a carport or garage shall be parked within a designated and improved or stabilized driveway and not within any required yard area.
2. For a vacation rental that has no carport or garage, the total number of automobiles parked shall be limited to two automobiles plus one automobile per bedroom not to exceed a total of five (5) automobiles parked on site. Automobiles parked outside of a carport or garage shall be parked within a designated and improved or stabilized driveway and not within any required yard area.
3. For all vacation rentals, all automobiles except for service and delivery vehicles shall be parked on-site and shall not be parked within a road right-of-way except within a designated and improved or stabilized driveway.
4. For all vacation rentals, the number of automobiles parked outside of a carport or garage may exceed the limitations and maximum set forth above if the excess parking spaces are provided on the single-family lot outside of required setback areas, are visually screened from view from any adjacent public or private street by a Type "C" buffer with 6' opaque feature, and are not occupied by automobiles from 10 pm to 8 am. In addition, prior to use of any excess parking spaces, the vacation rental owner shall apply for and obtain approval from the planning division of an administrative approval site plan depicting each excess parking space and demonstrating compliance with these regulations and standards applied by Traffic Engineering and Fire Prevention.

SECTION #3:

Amend LDR Single-Family Development Section 912.17(2), on Parking or storage of vehicles, as follows:

(2) *Parking or storage of vehicles.*

- (a) *Parking or storage of junk vehicles.* No junk vehicle shall be parked, and no motor vehicle frame, vehicle body, or vehicle body part shall be stored on residentially zoned or used property unless expressly permitted by this chapter, except when parked or stored in a completely enclosed garage or building. In any agricultural district, one such vehicle is permitted in the rear yard, completely screened from view of neighboring homes and properties.
- (b) *Parking or storage of automobiles.* A Except as provided in sub-sections 1. – 4. below, a maximum of three (3) automobiles (not including recreational vehicles) may be parked in an unenclosed area outside of a carport or garage on a single-family zoned lot. However, one additional vehicle for each licensed driver permanently residing at the premises may be parked on the lot. No automobile may be parked or stored in any required yard area except in a designated and improved or stabilized driveway. The

~~Limitations on the number of automobiles parked outside of a carport and garage provisions of this section shall not preclude the parking of automobiles by persons visiting a single-family home.~~

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SECTION #4: SEVERABILITY

If any clause, section or provision of this Ordinance shall be declared by a court of competent jurisdiction to be unconstitutional or invalid for any cause or reason, the same shall be eliminated from this Ordinance and the remaining portion of this Ordinance shall be in full force and effect and be as valid as if such invalid portion thereof had not been incorporated therein.

SECTION #5: REPEAL OF CONFLICTING ORDINANCES

The provisions of any other Indian River County ordinance that are inconsistent or in conflict with the provisions of this Ordinance are repealed to the extent of such inconsistency or conflict.

SECTION #6: INCLUSION IN THE CODE OF LAWS AND ORDINANCES

The provisions of this Ordinance shall become and be made a part of the Code of Laws and Ordinances of Indian River County, Florida. The sections of the Ordinance may be renumbered or

relettered to accomplish such, and the word "ordinance" may be changed to "section", "article", or any other appropriate word.

SECTION #7: EFFECTIVE DATE

This Ordinance shall take effect upon filing with the Department of State.

This ordinance was advertised in the Press-Journal on the ____ day of _____, 2015, for a public hearing to be held on the ____ day of _____, 2015, at which time it was moved for adoption by Commissioner _____, seconded by Commissioner _____, and adopted by the following vote:

- Chairman Wesley S. Davis _____
- Vice Chairman Bob Solari _____
- Commissioner Joseph E. Flescher _____
- Commissioner Tim Zorc _____
- Commissioner Peter D. O'Bryan _____

BOARD OF COUNTY COMMISSIONERS
OF INDIAN RIVER COUNTY

The Chairman there upon declared the ordinance duly passed and adopted this ____ day of _____, 2015.


BY: _____
Wesley S. Davis, Chairman

ATTEST: Jeffrey R. Smith, Clerk of Court and Comptroller

BY: _____
Deputy Clerk

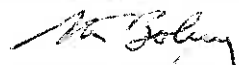
This ordinance was filed with the Department of State on the following date: _____

APPROVED AS TO FORM AND LEGAL SUFFICIENCY



Dylan Reingold, County Attorney

APPROVED AS TO PLANNING MATTERS



Stan Boling, AICP; Community Development Director