

Amy Harvey

From: Jeanette Coffin
Sent: Monday, June 10, 2019 11:30 AM
To: mcclintock.julie@gmail.com
Cc: Ben Hitchings; Becky McDonnell; Judy Johnson; Allen Buansi; Daniel Bowen; Donna Bell; Hongbin Gu; Jeanne Brown; Jess Anderson; Karen Stegman; Michael Parker; Nancy Oates; Pam Hemminger; Rachel Schaevitz; Sarah Muneton; Amy Harvey; Carolyn Worsley; Catherine Lazorko; Flo Miller; Laura Selmer; Maggie Bailey; Mary Jane Nirdlinger; Maurice Jones; Rae Buckley; Ralph Karpinos; Ross Tompkins; Sabrina Oliver
Subject: email....email...FW: Petition to present at Wednesday Council meeting
Attachments: Joint STR Petition on 06.12.19.v2.docx; ATT00001.htm; Joint STR Petition Supplemental Information.v3.docx; ATT00002.htm

Thank you for your correspondence with the Town of Chapel Hill. The Mayor and Town Council are interested in what you have to say. By way of this email, I am forwarding your message to the Mayor and each of the Council Members, as well as to the appropriate staff person who may be able to assist in providing additional information or otherwise addressing your concerns.

If your email is related to a development application or a particular issue being addressed by the Council, your comments will be made part of the record. If applicable, we encourage you to attend any public meetings related to the items addressed in your email.

Again, thank you for your message.

Sincerely,

Jeanette Coffin



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From: Julie McClintock [mailto:mcclintock.julie@gmail.com]
Sent: Monday, June 10, 2019 10:45 AM
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Carol Davis <lcdhomes@bellsouth.net>; Katie Loovis <kloovis@carolinachamber.org>

Subject: Petition to present at Wednesday Council meeting

Dear Madam Mayor and Chapel Hill Town Council members:

Please find attached a joint petition from a Study Group composed of representatives from CHALT, the Chamber For a Greater Chapel Hill-Carrboro, and local Hoteliers. This petition asks the Town of Chapel Hill to craft a framework for regulating the rental of individual dwelling units on a short-term basis and makes some initial recommendations on how to proceed. Also attached is supplemental information about what we've learned and our positions to date on this complex subject.

We remain ready to assist you in this task.

Julie McClintock for CHALT

Katie Loovis for the Chamber for a Greater Chapel Hill-Carrboro

Rosemary Waldorf for the Hoteliers

Petition

To: Mayor Pam Hemminger and Chapel Hill Town Council Members
CC: Town Manager Maurice Jones and Town Attorney Ralph Karpinos
From: Study Group on Short-Term Rentals (STRs)

- Linda Carol Davis, Julie McClintock, and John Quintero representing CHALT
- Aaron Nelson and Katie Loois representing The Chamber For a Greater Chapel Hill-Carrboro
- Anthony Carey, Mark Sherburne, Rosemary Waldorf, Manish Atma and D.R. Bryan representing local hoteliers

Date: June 12, 2019

This petition asks the Town of Chapel Hill to craft a framework for regulating the rental of individual dwelling units on a short-term basis. The rapid growth in the number of dwelling units being rented for fewer than 30 days at a time—typically through the use of web-based platforms—has occurred in the absence of any coherent regulatory framework, resulting in negative impacts on neighborhood cohesion, housing affordability, tax collections, and the local hotel industry. We ask the Town Council to appoint an advisory group to support the town staff in the creation of regulations adequate for a commercial activity that existing regulations never envisioned and are not designed to address.

Background on our Study Group

For several months, an ad hoc study group comprised of local hotel owners and general managers, representatives of Chapel Hill Alliance for a Livable Town (CHALT), and the Board Chair and Vice Chair of the Chapel Hill/Orange County Visitors Bureau have met regularly to gather facts about, and discuss concerns regarding, the rapid growth in the number of dwelling units being rented on a short-term basis, typically via such web-based platforms as Airbnb, HomeAway, and VRBO. Our work has been ably facilitated by The Chamber For a Greater Chapel Hill-Carrboro. Together, we have put in more than 150 hours.

Rebecca Badgett of the UNC School of Government briefed the group on various approaches for the regulation of short-term rentals (STRs), shared examples of ordinances adopted in other communities in North Carolina and across the nation, and posed questions to guide our group's discussions. Meanwhile, the Chapel Hill/Orange County Visitors Bureau contracted with a third-party expert to compile and analyze data about the local use of three leading STR platforms (Airbnb, HomeAway, and VBRO) since 2015. We have attached a summary of this material to this petition.

Jurisdictions across the state and nation—Asheville, Wilmington, and Raleigh, in North Carolina, as well as places like San Francisco, Nashville, Boulder, and Albemarle County, Virginia, to name a few — recently have enacted ordinances governing the siting and operation of STRs. This is because the renting of dwelling units intended for long-term occupancy, either in whole or in part, is essentially a commercial activity in which overnight accommodations are provided to transients in exchange for money. In many communities, rapid growth in this form of commercial activity—activity often occurring in areas not zoned for commercial purposes—has prompted concerns about neighborhood cohesion and quality of life, while also creating troubling distortions in local housing markets.

Additionally, because many existing town codes were written prior to the emergence of the STR model, many STR operators are able to conduct business without complying with any of the health, safety, accessibility, and tax collection requirements imposed on traditional hoteliers. This results in a patently unfair system in which some businesses engaged in the same basic commercial activity as others must compete under a strict set of rules (hotels) while other businesses (STRs) have no rules.

Comments on June 7 Town Presentation on STRs

We appreciate the work performed by the planning staff shared on June 7, 2019, at the Council Committee on Economic Sustainability. The presentation made it clear that STRs in Chapel Hill currently occupy a legally grey area when it comes to zoning and permitting. In the assessment of our study group, however, the basic STR activity—the provision of overnight lodging to transient visitors in exchange for payment—fits with neither the letter nor spirit of the town’s existing home occupation ordinance applicable to most residential zones. And, as was clear from the remarks shared by STR operators in attendance, many STR operations would not be allowed under with the town’s existing rules and regulations that address the operation of tourist homes. Plus, many questions exist about the proper status of STR units operating in multi-family properties and accessory structures.

Initial Recommendations from the Study Group

Instead of trying to shoehorn the new business of STRs into town ordinances that never envisioned such an activity, our study group recommends that the town develop a functional definition of STRs consistent with how this business actually operates (such as by amending the definition of a “tourist home” or by creating a new use category for “Short-Term Rentals”; distinguish between the different types of short-term rentals; establish appropriate regulations that are enforceable and that ensure STR operators compete fairly with existing hoteliers (see attachments for more details); and designate clearly the zoning districts in which STRs are permissible.

Within the framework sketched above, our study group would support the operation of “Hosted Rentals” (aka “homestay” STRs), in which space in a dwelling unit is rented while the unit’s primary occupant is present while the guest is present. We also would support allowing “Unhosted Rentals” (the primary resident of a unit to be temporarily absent from a dwelling unit while a guest is present) for a fixed number of nights per year (e.g., 14 nights).

At the same time, our study group does not support allowing any dwelling unit in Chapel Hill to be a “Dedicated Vacation Rental” (rented as a dedicated STR). Put differently, if a dwelling unit lacks a permanent resident, then it should not be available to rent on a short-term basis.

Supplemental Information

We include with this petition supplemental information that will be useful as the Council works on this issue. The attachment is a framing paper which the working group developed. It defines and summarizes the STR issue, shares the latest data, outlines our proposed next steps, and provides more background on why this issue matters.

Summary of Joint CHALT, Chamber, and Hotelier Short-Term Rental Position

Updated on 6/10/19

DEFINITIONS

(Source: Adapted from UNC School of Government and Town of Chapel Hill)

- 1) **“Hosted Rentals” - Primary occupant of a residence remains on-site with guests.** Also known as “Homestay” rental, this is an arrangement where the guest and host are co-occupants of a dwelling unit being used as a short-term rental. For example, I rent my guest room for a weekend while I am present.
- 2) **“Unhosted Rentals” - Primary occupants vacate the unit while it is rented to short-term guests.** Also known as a “Whole House” rental of the host’s primary residence. In this arrangement, the entire dwelling unit is effectively the host’s primary residence and the host is away from the property while it is used as a short-term rental. For example, I rent my entire house to a family during UNC graduation weekend while leaving town for the entire time the guests are present.
- 3) **“Dedicated Vacation Rental” - No primary occupants.** Also known as a “Whole House” rental of a dwelling unit that is not the host’s primary residence. In this arrangement, the entire dwelling unit--often a “second” home or permanent rental property-- is rented while the host is away from the property. For example, I rent my house in Chapel Hill as a permanent vacation rental for an additional revenue stream while living at the coast.

BY THE NUMBERS

(Source: Chapel Hill/Orange County Visitors Bureau)

- Note that there is no comprehensive source of data for short-term rental activity across every short-term rental platform. The data below are based on information drawn from three platforms: Airbnb (the industry leader), VRBO, and HomeAway.
- An estimated total of 97,556 sleeping units were listed as short-term rentals in 2018 in Orange County, NC. That translates to an average of 267 sleeping units per night.
- Of the units listed on the three main short-term rental platform noted above, 56,283, or 58 percent, were occupied in 2018.
- The short-term rental market has grown rapidly, with the supply of available units listed on the three platforms noted above almost tripling between 2015 and 2018, rising to 97,556 from 33,650. Over that same period, demand for units, as reflected by the number of occupied units, more than tripled rising to 56,283 from 16,093.
- Short-term rental market in Orange County now has nearly 15% (13.6%) of market share.
- In 2018, the value of bookings made through the three platforms noted above totaled \$6.1 million, up from \$1.2 million in 2015.
- In 2018, the average rate paid to stay in a unit listed on the three platforms noted above was \$108 per night, as compared to \$77 per night in 2016.

THE FIVE Q'S

(Source: Adapted from UNC School of Government and Town of Chapel Hill)

1) Why are short-term rental (STR) regulations being proposed?

For regulatory consistency, health and safety, preservation of neighborhood character, housing availability and affordability, and economic development.

2) What types of STRs should be covered in the regulations and what zones should STRs be allowed to operate (Residential, Mixed-use, and/or Commercial Zones)?

- ✓ "Hosted Rentals" and "Unhosted Rentals" should be allowed in residential areas zoned for low-density residential uses and in nonresidential zones where tourist homes are allowed. These units should require permitting and be subject to fair and reasonable rules, regulations, and enforcement.
- ✓ "Dedicated Vacation Rentals" should not be allowed in any part of Chapel Hill.

3) Should there be a STR Registration Process for allowable STRs?

- ✓ Yes, applicants should go through a simple, online registration process through which an applicant to certify such information as the following: identity of host, address/location of STR, residential status of host, proof of insurance, presence of required safety devices, and designation of a responsible party.
- ✓ The information should be made publicly available through a database and/or through a public notification.
- ✓ This process should include a fair and reasonable fee to help cover the cost of processing and enforcement (including possible spot-inspections).
- ✓ The process should require applicants to renew on an annual basis with fee and proof of all applicable tax payments.

4) What STR quantitative regulations should be implemented?

- ✓ "Hosted Rentals" should be subject to TBD requirements, such as occupancy limits and/or limits on the number of nights.
- ✓ "Unhosted Rentals" should have a limit on the number of nights in which the unit is rented while the primary resident is away (e.g., no more than 14 nights).

5) What operational requirements should be expected of STRs?

- ✓ Designate responsible party (listed in publicly available database and/or through a public notification)
- ✓ Attestation of Insurance and Health & Safety requirements
- ✓ Abide by all applicable noise and parking rules
- ✓ Collection and remittance of all applicable state and local taxes.

BACKGROUND

SEQUENCE

- In 2018, hoteliers raised concerns to the Chamber on short-term rentals, and a working group emerged in early 2019 with participants including: Anthony Carey (Siena Hotel), Manish Atma (Atma Hotel Group/ Hampton Inn and Suites, Holiday Inn Express, Quality Inn), Rosemary Waldorf (Hyatt Place), DR Bryan (Southern Village), and Mark Sherburne (Carolina Inn). The Chamber staff (Katie Loois and Aaron Nelson) provided facilitation for the discussions.
- In early 2019, the Chapel Hill/Orange County Visitors Bureau presented the local data on short-term rentals and a representative from the UNC School of Government, Rebecca Badgett, presented a state snapshot on how other communities are "Regulating Short-Term Rentals."
- A follow-up meeting helped uncover the primary question: are short-term rentals even allowed in Chapel Hill, Carrboro, and the unincorporated parts of Orange County?
- Shortly thereafter, The Chamber researched what is permitted and posted an article on WCHL/chapelboro.com, "Air Your Opinion on Airbnb" and shared the latest data table.
- Since then, the hoteliers have reconvened to discuss their interests and next steps with facilitation from The Chamber. CHALT (Julie McClintock, Linda Carol Davis, and John Quinterno) expressed shared interests.
- The Chamber, the Hoteliers, and CHALT have reached a shared perspective and vision re: short-term rentals and will petition Chapel Hill Town Council in mid-June.

CURRENT INTERPRETATION OF THE RULES

- **In Chapel Hill:** Current LUMO regulations predate the rise of STRs. The current interpretation of the ordinance is as follows: Whole House STR is only allowed in certain commercial zones and requires a permit ("Tourist Home"). Homestay is only allowed with a permit ("Home Occupation") for an owner-occupied, home-based business that takes up no more than 35 percent of the home nor more than 750 square feet.
- ***Note for Chapel Hill:** This was discovered after the fact-finding: "In the Blue Hill District, "Overnight Lodging" including Short-Term Rental is allowed as a use in the WX-5 and WX-7 zoning districts, but not in the WR-3 and WR-7 districts. "Overnight Lodging" is defined as "Accommodations arranged for short term stays of less than 30 days for rent or lease."
- **In Carrboro:** STRs (both Homestay and Whole House STR) are only allowed in certain zones and require a permit ("Tourist Home" and "Bed & Breakfast").
- **In Orange County:** In residential districts, only Homestay is allowed (no Whole House STR), host must be onsite, and a special use permit is required for more than 3 bedrooms. (Note – no more than 3 bedrooms in rural buffer.) In non-residential districts, both Homestay and Whole House STR are allowed for transient short-term rental (less than 30 days) and require permit. *The Orange County summary is based on a phone conversation with County Planning and Zoning Supervisor, Michael Harvey, and could have inaccuracies.

WHAT WE LEARNED FROM OTHER ORDINANCES

(From Rebecca Badgett, UNC School of Government, on 4/23/19)

1. **Albemarle County, VA.** This county prohibits whole-house STRs, but it seems that they plan to allow homestays and the rental of accessory dwelling units when the primary resident resides on the property. Keep in mind that you CANNOT require the OWNER to reside on the property. Instead use language such as permanent resident or primary resident. The court of appeals case *Wilmington v. Hill* prohibits regulations that require the *owner* to reside on-site. <https://www.albemarle.org/departments.asp?department=cdd&relpage=22028>
2. **Santa Monica.** This city has banned all vacation rentals (whole-house STRs), but it does allow homestays. Interestingly, the Ninth Circuit just upheld Santa Monica's short-term rental regulations. The case will likely be cited by cities that plan to follow Santa Monica's lead. *HomeAway Inc. v. City of Santa Monica*, 918 F.3d 676 (9th Cir. 2019). <https://www.smgov.net/Departments/PCD/Permits/Short-Term-Rental-Home-Share-Ordinance/> and <https://www.housingwire.com/articles/48452-airbnb-suffers-major-loss-in-fight-for-santa-monica-rentals>
3. **Boulder.** Boulder allows STRs, but the rental property must be the owner's principal residence; principal residence is defined as the dwelling unit in which a person resides for more than one half of the year. Chapel Hill could ban whole-house STRs in residential zones but allow an owner in a commercial or mixed-use district to rent his/her principal residence. In that case, investors would be prohibited from purchasing multiple condos to use as a de facto hotel. The Boulder approach could provide a compromise. <https://bouldercolorado.gov/plan-develop/short-term-rentals>

BY THE NUMBERS

Short-term rentals in Orange County, NC

*Source: Chapel Hill/Orange County Visitors Bureau

Item	2017	2018
Short-term Rental Unit Count (Homes/rooms available to rent on three main STR platforms vs. Hotels in Orange County throughout year)	78,464 <ul style="list-style-type: none"> • Increase of 23,163 units over 2016 or 63 rooms per night • 215 STR units available/night vs. 1,586 hotel rooms 	97,556 <ul style="list-style-type: none"> • Increase of 19,092 units over 2017 or 52 rooms per night • ~267 STR/ night vs. 1,693 hotel rooms
STR Units Occupied (Homes/rooms rented in Orange County)	41,553	56,283 <ul style="list-style-type: none"> • Up 14,730 room nights or 35.4% from 2017
STR Market Share	10.7%	13.6%
STR Revenue	\$4,395,388 <ul style="list-style-type: none"> • Increase of \$1,836,362 or 71.8% over 2016 	\$6,065,367 <ul style="list-style-type: none"> • Increase of \$1,669,979 or 38.0% over 2017
ADR (Average Daily Rate for hotel vs. STR)	\$125.91 Hotel ADR \$137.87 Hotel Entire Place ADR \$105.78 STR	\$127.34 Hotel ADR \$137.13 Hotel Entire Place ADR \$110.54 STR <ul style="list-style-type: none"> • Hotel ADR is up \$1.43 or 1.4% from 2017 but Hotel Entire Place ADR, which is in competition with STR is down \$.74 or 0.5%
STR Growth Trajectory	STR has grown over \$1MM each year since the first full year reported (2015)	Current trends show similar growth will continue. Revenue most likely will top \$8MM in 2019.

ADDITIONAL POINTS TO CONSIDER

Community Impacts of Short-Term Rentals (STRs)

Key concerns about STRs (data mostly from Airbnb) are visitor safety, preservation of neighborhood character, loss of affordable housing to the visitor market, the need for regulatory consistency, and suppression of economic development (new hotels are not developed because STRs absorb demand growth). Loss of business at our hotels is a consideration because hotels and STRs do not operate on a level playing field.

AirBNB (STRs) is doing more than providing guests with lodging. By incentivizing the conversion of residential units into tourist accommodations, AirBNB forces neighborhoods and cities to bear the costs of its business model. Residents must adapt to a tighter housing market. Increased tourist traffic may alter neighborhood character and introduce new safety risks. Cities lose out on revenue (occupancy taxes, sales taxes and tax base). Jobs are lost in the hospitality industry.

Impact of Short-Term Rentals on Chapel Hill

- First, AirBNB's impact on Chapel Hill is steadily growing. The most recent report shows 317 AirBNB units listed for rent in Chapel Hill.
- Second, these units are not, by and large, the "shared" space implied by terms like host or sharing economy. Instead, nearly 66 percent of AirBNB's Chapel Hill revenues are generated by lessors with whole units and leasing companies who rent out two or more whole units. There are an estimated 207 units taken off the rental market by AirBNB.
- We believe renting out residentially zoned units as accommodation for travelers runs on the AirBNB model is not permitted by Chapel Hill's land use and zoning regulations.

Data About the Chapel Hill Short Term Rental Market

- Today there are 317 active rentals on AirBNB. 66 percent of them are entire dwellings in which the owner never resides.
- 86 percent of the total listings in Chapel Hill reside on AirBNB. While it is difficult to extrapolate the exact mix of business from AirBNB and the HomeAway/VRBO network, it is safe to assume AirBNB is producing upwards of 80 percent of the entire shortterm rental market.
- Chapel Hill has 60 percent occupancy in the short-term rental market. This is very close to what is reported for the hotels in the market. The demand trends also mirror the hotels in the area.
- Data supplied by AirDNA (a third-party reporting company specializing in AirBNB, HomeAway, and VRBO) shows that revenues produced in the short-term rental market were more than \$6 million dollars last year.
- YTD, Chapel Hill is trending towards 58 percent growth, which would put the 2019 annual AirBNB/STR figures at more than \$9 million in captured rental revenues.

- Historically, the growth trends after the first four months continued or increased through the balance of the year.

Short Term Rentals and the Housing Market

- Traditionally, the rental housing market and the hospitality industry do not intersect. However, AirBNB has created a platform that allows landlords to pit tourist dollars against renter dollars. Landlords can potentially earn significantly more money by converting traditional rental stock into AirBnB units, as many appear to have done.

Impact on Jobs

- Although data are not available, it is almost certain that AirBnB units do not provide as many jobs as hotels. Hotels employ workers in many job classifications that AirBNB units do not— front desk, sales and management, valet and parking, telephone operator, kitchen staff, shuttle driver, security, and janitorial, to name a few.
- Further, AirBNB may actually cost jobs in hotels. A [2014 Boston University School of Management](#) study demonstrated that AirBNB's growth has had a statistically significant negative impact on hotel revenue. This effect compounds the downward pressure that AirBNB places on wages, as hotels are less likely to give part-time employees any more hours or hire new staff.

A Level Playing Field for Hotels and STRs

- Public health and safety in hotels are ensured by numerous health, safety, and insurance requirements. The town of Chapel Hill and Orange County regulate hotels differently than residential properties because they are different in fundamental ways. AirBNB allows hosts to utilize their spaces like hotels without being subject to any of the same regulatory checks to which actual hotels have adapted over the years.
- Hotels must, for example, keep detailed registries of all guests. These registries are often used in criminal investigations and to “regulate sketchy motels that can serve as magnets for crime.” AirBNB hosts do not maintain such records.
- As public accommodation spaces, hotels are subject to the Americans with Disabilities Act (ADA) compliance standards. Under ADA guidelines, any public accommodation with five or more rooms set aside for guests qualifies as a “place of lodging” and is subject to the accessibility requirements set forth in the ADA.
- ADA requirements for lodging places include accessibility retrofits to entry and exit points, grab bars in restrooms, and designated lodgings for individuals with disabilities. As of 2012, lodgings must also enumerate through their reservation systems the types of accessible features in each handicap accessible room. AirBNB is aware of these requirements, but the company does not verify any of its hosts’ claims of wheelchair accessibility.
- To construct a hotel in Chapel Hill, the applicant hotelier must go through a rigorous Special Use Permit and Zoning Compliance Permit process (and often a rezoning) to demonstrate that the proposed hotel complies with all local ordinances, safety requirements and the town’s comprehensive plan. This takes years and costs hundreds of thousands of dollars. AirBNB owners, of course, have no similar regulatory risks, hurdles or expenses.

Impact on Affordable Housing and Neighborhoods

One of the Town's stated goals is to provide diverse, affordable housing options for residents all along the income spectrum. This is reflected in recent town actions to subsidize affordable housing, including multifamily residences. The explosive growth of AirBNB/STRs, combined with the associated economic incentives, threatens to reduce the availability of diverse housing types for people who wish to live here, and place upward pressure on housing costs.

Additionally, the explosive growth of unregulated AirBNB/STRs in neighborhoods — where hotels, motels and bed and breakfasts have not been permitted — has led to the filing of more and more complaints about undesirable neighborhood impacts such as noise and parking, along with concerns about the commercialization of residential areas.

The Promise of Tax Revenue

Hotels automatically collect the 6 percent occupancy tax: 3 percent for Orange County and 3 percent for Chapel Hill. With our 6 percent occupancy tax, AirBNB/STRs should have remitted \$360,000 total in occupancy tax revenues for 2018, plus relevant sales tax revenues. At \$9 million in revenue for 2019, the total that should be remitted would be \$540,000. Without any way to identify systematically individual hosts, the Visitors Bureau has no way to monitor how the monies Orange County and Chapel Hill are receiving relate to the overnight stays of visitors in AirBNB lodgings. Our belief is that a meaningful percentage of houses and apartments being "rented" as STRs are not complying with the sales and occupancy tax collection and remittance rules. Of course the whole portion of the state and local sales tax applies as well.