

Pending Conn. Supreme Court case could affect proposed short-term rental rules



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By Kimberly Drelich Day Staff Writer

k.drelich@theday.com

Groton — The town has tabled a discussion of proposed short-term rental regulations amid uncertainty over a pending Connecticut Supreme Court case involving a Branford beach community that could have implications for Groton and communities across the state.

The town's Planning and Zoning Commission also wanted to weigh more than a dozen comments from people over the regulations that the commission has been crafting as it looks to how to handle the controversial issue.

Residents during a public hearing Tuesday said regulations would protect their quality of life and prevent escalating housing costs, while short-term rental owners raised concerns about "over-regulation" and said renting out their properties helps them afford to live in town.

Groton is among the communities in the region weighing regulations. East Lyme has an ad-hoc committee and is in the process of figuring out what to do about short-term rentals. In Preston, a six-month moratorium on short-term rentals started on Dec. 15 so the Planning and Zoning Commission has time to make a decision regarding whether or not they should be allowed.

Lyme adopted regulations in 2022 to allow short-term rentals of no more than 30 days for up to six rooms and 12 guests at a time. A host must live on-site whenever guests are there. Montville currently allows short-term rentals, but they are designated as bed and breakfasts.

The Town of Groton Planning and Zoning Commission's proposed regulations would ban new short-term rentals, of 30 days or less, in some town zones, while allowing them if they met certain conditions and received approval in other zones.

Deborah Jones, the town's assistant director of planning and development services, said that if adopted, the regulations would only apply to new short-term rentals.

Specifically, the regulations would ban new short-term rentals in single-unit residential (RS) zones, heavy industrial (IG) zones, Working Waterfront zones and green zones, according to the proposal.

Short-term rentals would be allowed, if they met certain conditions and received site plan approval, in neighborhood commercial (CN), regional commercial (CR), and mixed-use industrial (IM) zones.

Short-term rentals would be allowed, if they received both a site plan and a special permit, in (R) residential zones that allow one and two-unit dwellings, rural residential (RU) zones, multi-unit residential (RM) zones, and in the mixed-use zones of downtown Mystic, downtown Groton and Poquonnock Bridge.

In residential zones, the owner or long-term lessee would be required to live on site, according to the proposal.

The regulations outline requirements for parking, lighting, noise and temporary events and restrict the number of short-term rentals per lot in residential zones, according to Jones.

The regulations would not apply to Noank, Groton Long Point and the City of Groton.

In Noank, short-term rentals are not authorized.

Pending court case

The town's Planning and Zoning Commission closed the public hearing on Tuesday and is slated to discuss the proposed regulations at a later meeting. Members said they wanted time to digest the information and also to understand the potential impacts of the court case, Frances Wihbey v. Zoning Board of Appeals of the Pine Orchard Association.

According to court documents, the Pine Orchard Association's Zoning Board of Appeals banned short-term rentals in 2018 and told Wihbey he could not rent out his property, but Wihbey argued that his short-term rental was a "protected nonconforming use under the 1994 zoning regulations, which were the governing regulations when he bought the property and began using it for short-term rentals."

Groton Town Attorney Rich Cody noted in written comments to Jones last Thursday that a decision in the case before the Connecticut Supreme Court could affect how the town could enforce the proposed regulations if they are adopted. Superior Court and Appellate Court decisions have said short-term rentals are allowed in the Pine Orchard Association.

In a letter to the commission on Tuesday, Edward E. Moukawsher, an attorney for residents Heather Sutter and Bruce McDermott, said the case will be heard in February. He said the case "will establish the law pertaining to STRs in the State of Connecticut" and urged the commission to not take any action until the Supreme Court "has resolved the issue of whether STRs are an allowed use in a residential zone."

Comments from residents

At Tuesday's hearing, people in favor of the proposed regulations said short-term rentals were driving up the prices of homes, at a time when housing is in short supply, and having deleterious effects on neighborhoods. Many short-term rental owners spoke at the hearing and said some regulation is fine, but argued against going too far because short-term rentals allow people to pay the taxes to live in town and benefit the community.

Resident Elisabeth Pendery said the proposal will "go far to protect our neighborhoods from the professional investors that have proliferated in southeastern Connecticut and beyond."

She said short-term rentals diminish available housing stock and exacerbate the affordable housing crisis in the community, burden infrastructure, and "accelerate gentrification and disproportionately displace lower-income, long term residents."

Ellen Elfering, who owns a short-term rental home and lives in a cottage on her property, said those are townwide issues. She said what is driving up housing costs is people moving out of cities to this beautiful community.

She said the short-term rental owners all talk and communicate: "I feel like people want to do the right thing and financially it is something that people need in their lives," she said.

Resident Bruce McDermott thanked the commission for "common sense regulations" and said they would help neighborhoods and quality of life.

Geoff Gordon, a resident who owns multiple short-term rentals, said it is counter intuitive to ban future short-term rentals in the RS zones, which skew toward the neighborhoods that are walkable to downtown Mystic, the region's tourist hub.

k.drelich@theday.com

Day Staff Writers Claire Bessette, Daniel Drainville and Elizabeth Regan contributed to this report.

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READER COMMENTS

KATHLEEN NEUGENT January 11, 2024 at 15:35 Report

In my view, the problem isn't with the owner occupied STRs: the person who wants to rent out a room or small in-law apartment in their home to help meet expenses; or, the family with a vacation home the family uses part of the year and rents other weeks to help pay taxes and upkeep. The problem is with outside investors buying up multiple properties and running them as STRs. They're running a business purely for profit and taking housing out of the local long-term rental market. This is exasperating our housing shortage and driving up rents. The later is the type of STR that needs to be curtailed.

Elisabeth Pendry January 11, 2024 at 14:55 Report

Oh Heavens, Jessica! There is SO much literature on the correlation between rising housing costs and the presence of STRs (AirBnB). Since you are in the industry, it is well that you are aware of this fact. Also, educate yourself on the additional externalities imposed on communities by STRs. The State Supreme Court will soon come to a determination, and the case will hopefully be in support of communities, not real estate speculators and outside investors. Here's a read: "The dark side of the sharing economy: A systematic literature review of externalities and their regulation" by Mohamed Mosaad, et. al., Nov 2023

Jessica Hodge January 11, 2024 at 09:37 Report

Is there data behind the statement "short-term rentals diminish available housing stock and exacerbate the affordable housing crisis in the community, burden infrastructure, and "accelerate gentrification and disproportionately displace lower-income, long term residents."? I would really like to know. I am also curious as to how an STR has any effect on the "quality of life" of others. Are there instances where an STR renter abuses the property or does something that they shouldn't, sure, but like anything, whether you have a new neighbor that you end up in an ongoing battle over your lot lines, mowing the lawn, partying into the wee hours or where they can park, these things are all just chance and can happen to anyone, at any time. Groton, along with most towns, has raised taxes each year, the average family can't afford to buy a house let alone rent one. The long-term rental market has gone up exorbitantly in the last couple of years. What is the problem with a homeowner having a STR to help cover the costs and not have to sell or let it go into foreclosure?

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