



Town Planning Commission Special Meeting
Tuesday, August 29, 2023 – 7:00 PM
Town Hall/Virtual
4030 95th Ave NE, Yarrow Point, WA. 98004

Commission Chairperson: Carl Hellings
Commissioners: Chuck Hirsch, David Feller, Jeffrey Shiu, and Lee Sims
Town Planner: SBN Planning
Town Attorney: Emily Romanenko
Clerk: Bonnie Ritter
Deputy Clerk: Austen Wilcox

Meeting Participation

Members of the public may participate in person at Town Hall or by phone/online. Town Hall has limited seating available, up to 15 public members. Individuals who call in remotely who wish to speak live should register their request with the Deputy Clerk at 425-454-6994 or email depclerk@yarrowpointwa.gov and leave a message before 7:00 PM on the day of the Planning Commission meeting. Wait for the Deputy Clerk to call on you before making your comment. If you dial in via telephone, please unmute yourself by dialing *6 when it is your turn to speak. Speakers will be allotted 3 minutes for comments. Please state your name (and address if you wish.) You will be asked to stop when you reach the 3-minute limit.

Join on computer, mobile app, or phone

1-253-215-8782

<https://us02web.zoom.us/j/89188397406>

Meeting ID: 891 8839 7406#

- 1. CALL TO ORDER:** Commission Chairperson, Carl Hellings
- 2. PLEDGE OF ALLEGIANCE**
- 3. ROLL CALL:** Commissioners, Chuck Hirsch, David Feller, Jeffrey Shiu, Lee Sims
- 4. APPROVAL OF AGENDA**
- 5. APPROVAL OF THE MINUTES**
July 18, 2023 Regular Planning Commission Meeting
- 6. STAFF REPORTS**
6.1 Updated Planning Commission Work Plan
- 7. PUBLIC COMMENT**
Members of the public may speak concerning items that either are or are not on the agenda. The Planning Commission takes these matters under advisement. Please state your name (and address if you wish) and limit comments to 3 minutes. If you call in via telephone, please unmute yourself by dialing *6 when it is your turn to speak. Comments via email may be submitted to depclerk@yarrowpointwa.gov or regular mail to: Town of Yarrow Point, 4030 95th Ave NE, Yarrow Point, WA 98004.
- 8. REGULAR BUSINESS**

8.1 AB Comprehensive Plan Update	–	(10 min)
8.2 AB Eagle Protection	–	(65 min)
8.3 AB Short Term Rentals	–	(40 min)
- 9. PUBLIC COMMENT**
- 10. ADJOURNMENT**

**TOWN OF YARROW POINT
PLANNING COMMISSION REGULAR MEETING MINUTES
July 18, 2023**

The following is a condensation of the proceedings and is not a verbatim transcript.

1. CALL TO ORDER:

Chairman Carl Hellings called the meeting to order at 7:03 p.m.

PRESENT:

Chairman: Carl Hellings

Commissioners: Chuck Hirsch
Jeffrey Shiu
David Feller
Lee Sims

Staff: Austen Wilcox – Deputy Clerk
James Eager – Town Planner

Guests: Kathy Smith – Councilmember
Ed Esparza – Resident

2. PLEDGE OF ALLEGIANCE

3. ROLL CALL

4. APPROVAL/AMENDMENTS TO AGENDA

MOTION: Motion by Chairman Hellings, seconded by Commissioner Feller to reorder Agenda Bill 8.1 after Agenda Bill 8.2.

VOTE: 5 for, 0 against. Motion carried.

5. MINUTES:

- June 20, 2023 Regular Meeting

MOTION: Motion by Chairman Hellings, seconded by Commissioner Hirsch to approve the June 20, 2023 regular meeting minutes as presented.

VOTE: 5 for, 0 against. Motion carried.

6. STAFF REPORTS:

Deputy Clerk Austen Wilcox and Town Planner James Eager provided staff reports on the July 11 regular Council meeting.

7. PUBLIC COMMENT

None.

8. REGULAR BUSINESS:

8.1 – Comprehensive Plan Update

The survey is out and has received 64 responses, as of July 13, 2023. Mailers should have arrived at every active residence in the Town's records. The Town's website has been updated with answers to some FAQs about the Comprehensive Planning process and town resident involvement.

In the weeks to come, aside from the last SFY23 deliverable package, the Town Planner will work with Department of Commerce to outline a scope and set of deliverables for SFY24. As part of this funding package, chapter drafts, development regulation updates, adoption, and implementation of the Comprehensive Plan will occur ahead of the December 2024 deadline. The Town Planner will also begin presenting chapter drafts and any requested analysis for Planning Commission review, followed by possible Town Council review at their request.

The Planning Commission will meet again in August and review a new round of updates from the Town Planner then.

8.2 Eagle Protection

The Town Planner developed an outline of draft code for the Town to review. The purpose of the code is to give explicit notice of existing federal regulations to residents, their contractors, and to developers. The code may warrant an accompanying FAQ document for the Town to further detail the permit process including the contact information of the local Migrator Bird Permit Office, a map of affected parcels, and further information about the long-term permit impacts such as mitigation and annual reporting.

The Commission discussed:

- Notification process for putting property owners, developers, and contractors on notice regarding active eagle nests.
- Triggers for permits through Department of Fish & Wildlife; and
- Penalties.

MOTION: Motion by Chairman Hellings, seconded by Commissioner Hirsch to have the Town Planner, staff, and Planning Commissioner Sims review the discussion tonight about a general letter to the population of Yarrow Point informing them of the existence of eagle nests, federal code that prohibits disturbing eagle nests, and notification that the Planning Commission is working on codifying Town code regarding the protection of eagle nests.

VOTE: 5 for, 0 against. 0 Motion carried.

MOTION: Motion by Chairman Hellings, seconded by Commissioner Hirsch direct the Town Planner to continue work on the Yarrow Point eagle protection code from the discussion tonight and follow up from Department of Fish & Wildlife.

VOTE: 5 for, 0 against. 0 Motion carried.

8.3 – Short Term Rentals

Staff has done a preliminary look at possible pathways for the Town which fall generally into three categories; first is to do nothing relating to STRs, second would be to create a system for basic tracking of STRs and perhaps a permit system, third would be the creation of a permitting process along with instituting fees or taxes which are in line with what the state and county allow the Town to collect. The third option may also include the creation of a business license program, or other business-related regulatory actions which are not currently undertaken by the Town.

At the May meeting, the commission discussed the need for a preliminary overview of the current state of STRs in the area. Staff presented a preliminary review of the current STRs which are available in the Town and some adjacent jurisdictions. The commission requested further research, including determining a possible cap to the number of STRs in Yarrow Point. The planning team presents an outline of the considerations and permitting process based on comparable local examples as an exhibit to this agenda bill.

The Planning Commission discussed:

- Accessory Dwelling Units being used as STRs;
- STR codes & permitting processes in other WA jurisdictions;
- Research the possibility to require background checks and creating restrictions;
- Consider the creation of a tax on top of the rent to pay for the use of Town resources; and
- International owners who do not occupy the property for extended periods of time.

MOTION: Motion by Chairman Hellings, seconded by Commissioner Hirsch direct staff to look at setting up a permit system for short term rentals and what the regulations for the ability to screen renters who will be using short term rentals in Yarrow Point.

VOTE: 5 for, 0 against. 0 Motion carried.

9. PUBLIC COMMENT:

Resident Ed Esparza spoke on the discussion regarding short term rentals.

Councilmember Kathy Smith discussed and asked questions regarding eagle nests.

10. ADJOURNMENT:

MOTION: Motion by Chairman Hellings, seconded by Commissioner Sims to adjourn the meeting at 8:54 p.m.

VOTE: 5 for, 0 against. Motion carried.

APPROVED:

ATTEST:

Carl Hellings, Chairman

Austen Wilcox, Deputy Clerk

DRAFT

I

Comprehensive Plan Update	Proposed Planning Commission Action: Discussion
----------------------------------	--

Presented by:	Town Planner
Exhibits:	NA

Summary:

The survey is out and has received 144 responses, as of August 9, 2023. Following the close of the survey on August 11th, the Town Planner will develop a report on the survey and how the results coincide with specific policy decisions in the Comprehensive Plan. The Town Planner has received the SFY24 GMA Grant paperwork from the Department of Commerce (COM) and will submit the final adjustments to the deliverables and schedule to COM shortly.

Beginning in the fall, the Town Planner will begin presenting draft chapters to the Commission for review, alongside an explanation of required elements and those ideal for discussion and potential adjustment. These chapter reviews will set up a smooth adoption process in the Spring of 2024, ahead of the December 2024 deadline for the Comprehensive Plan. In addition to these draft chapters, the Town Planner will present analyses required as part of the Comp Plan, including the aforementioned public engagement analysis and a Housing Needs Analysis.

Action Items

- Staff Presentation on the Comprehensive Plan Status (10 min)

Commission Options:

- Take no action
- Continue Discussion

Recommended Motion:

- NA

I

Eagle Protection	Proposed Planning Commission Action: Discussion
-------------------------	--

Presented by:	Town Planner
Exhibits:	Eagle Protection Draft Code US FWS Pacific Region Decision Tree

Summary:

The Town is home to several known eagle nests and other eagle habitat. While Federal protections exist for eagles, the Town could do more in the way of protecting specific sites and making explicit the existing Federal protections for future development projects in the Town. The Town may also adopt code and guidelines which are as restrictive or more restrictive than federal and state regulations for the protection of eagles.

During the May meeting, Planning commission discussed the need to have experts on enforcement present on the matter. Staff has Invited Special Agent Alec Crook with the US Fish and Wildlife Service Office of Law Enforcement to come present on the enforcement elements at the June meeting. Staff met on site with commissioner Sims and documented the locations of one known nest and two known roosting trees. Two maps were prepared which shows their locations, along with the 330' and 660' radiuses, and highlight properties which are affected.

Following Special Agent Alec Crook's presentation to the planning commission, staff followed up with the Commission to submit any lingering questions to the Department of Fish and Wildlife. Following a discussion with a biologist from the local DFW office, two letters were drafted for the residents of Yarrow Point and real estate agents working in the Town. The letter details the Town's position on eagle and migratory bird protections and points relevant parties in the direction of the Town's resources, including a map of the most high-risk parcels for eagle disturbances.

The Town Planner has also developed a draft code following these discussions. The purpose of the code is to give explicit notice of existing federal regulations to residents, their contractors, and developers. The code may warrant an accompanying FAQ document for the Town to detail the permit process further. The Town's website has already been updated to include the contact information of the local Migratory Bird Permit Office and a map of affected parcels. As an accompaniment to the draft code, the Town

Planner also presents a flowchart from the US FWS Pacific Office outlining when certain development actions may trigger FWS outreach.

Additional Resources:

- [Washington Department of Fish and Wildlife](#)
- [Bald and Golden Eagle Protection Act](#)
- [Migratory Bird Treaty Act](#)
- [USFWS Eagle Management Program](#)

Action Items:

- Staff Presentation (10min)
- Discussion (20min)
- Vote (5min)

Commission Options:

- Direct staff to do further research and develop draft code further
- Direct staff to invite more experts and advisors to speak on the matter
- Continue discussion with no staff action

Recommended Motion:

- I move to continue discussion at our next meeting without any additional staff action or research.
- I move to direct staff to research eagle protection further as discussed during the meeting and to develop a draft code for the Town's approach to eagle protection.
- I move to direct staff to invite experts and/or advisors to speak on the matter of Eagle protection as discussed during the meeting.

Yarrow Point Municipal Code
Title XX Draft Amendments

XX.XX.010 Title, purpose, and intent

The regulations in this chapter require development occurring within the proximities detailed in XX.XX.040 to comply with the U.S. Bald & Golden Eagle Protection Act and the U.S. Migratory Bird Treaty Act.

XX.XX.020 Definitions

“Communal roost site” means an area where eagles gather repeatedly in the course of a season and shelter overnight and sometimes during the day in the event of inclement weather.

“Disturb” means to agitate or bother a bald or golden eagle to a degree that causes, or is likely to cause, based on the best scientific information available,

- (1) injury to an eagle,
- (2) a decrease in its productivity, by substantially interfering with normal breeding, feeding, or sheltering behavior, or
- (3) nest abandonment, by substantially interfering with normal breeding, feeding, or sheltering behavior.

“Eagle nest” means any assemblage of materials built, maintained, or used by bald eagles or golden eagles for the purpose of reproduction.

“Important eagle-use area” means an eagle nest, foraging area, or communal roost site that eagles rely on for breeding, sheltering, or feeding, and the landscape features surrounding such nest, foraging area, or roost site that are essential for the continued viability of the site for breeding, feeding, or sheltering eagles.

“In-use nest” means a bald or golden eagle nest characterized by the presence of one or more eggs, dependent young, or adult eagles on the nest in the past 10 days during the breeding season.

“Take” means pursue, shoot, shoot at, poison, wound, kill, capture, trap, collect, destroy, molest, or disturb.

XX.XX.030 Statutes Incorporated by Reference

The following federal statutes are incorporated by reference:

50 CFR Part 21

- §21.2 Purpose of this part.
- § 21.4 Scope of this part.
- § 21.6 Definitions.
- § 21.8 Information collection requirements.
- § 21.10 General permit requirements.
- § 21.12 General exceptions to permit requirements.
- § 21.42 Authorization of take incidental to military readiness activities.
- § 21.45 Permit exceptions for captive-reared mallard ducks.
- § 21.48 Permit exceptions for captive-bred migratory waterfowl other than mallard ducks.
- § 21.63 Taxidermist permits.
- § 21.67 Import and export permits.
- § 21.70 Banding or marking permits.
- § 21.73 Scientific collecting permits.
- § 21.76 Rehabilitation permits.
- § 21.82 Falconry standards and falconry permitting.

- § 21.85 Raptor propagation permits.
- § 21.88 Waterfowl sale and disposal permits.
- § 21.95 Special purpose permits.
- § 21.100 Depredation permits.
- § 21.120 Special Canada goose permit.
- § 21.123 Special double-crested cormorant permit.
- § 21.150 Depredation order for blackbirds, cowbirds, crows, grackles, and magpies.
- § 21.153 Depredation order for horned larks, house finches, and white-crowned sparrows in California.
- § 21.156 Depredation order for depredating California scrub jays and Steller's jays in Washington and Oregon.
- § 21.159 Control order for resident Canada geese at airports and military airfields.
- § 21.162 Depredation order for resident Canada geese nests and eggs.
- § 21.165 Depredation order for resident Canada geese at agricultural facilities.
- § 21.168 Public health control order for resident Canada geese.
- § 21.171 Control order for purple swamphens.
- § 21.174 Control order for Muscovy ducks in the United States.
- § 21.177 Control order for invasive migratory birds in Hawaii.
- § 21.180 Conservation order for light geese.
- § 21.183 Population control of resident Canada geese.

50 CFR Part 22

- § 22.2 Purpose of this part.
- § 22.4 Scope of this part.
- § 22.6 Definitions.
- § 22.8 Information collection requirements.
- § 22.10 Relationship to other permit requirements.
- § 22.12 Illegal activities.
- § 22.50 Eagle scientific and eagle exhibition permits.
- § 22.60 Eagle Indian religious permits.
- § 22.70 Eagle falconry permits.
- § 22.75 What are the requirements concerning permits to take golden eagle nests?
- § 22.80 Permits for eagle take that is associated with, but not the purpose of, an activity.
- § 22.85 Removal of eagle nests.
- § 22.90 Permits for bald eagle take exempted under the Endangered Species Act.
- § 22.100 Eagle depredation permits.
- § 22.120 Golden eagle depredations control order on request of Governor of a State.
- § 22.122 Conditions and limitations on taking under depredation control order

XX.XX.040 Applicable proximity of provisions

The permit process required by this chapter apply to sites within 660 feet of a known Eagle nest or Communal roost site.

XX.XX.050 Building permit requirements

- A. Any building permit or tree permit applicant in the radius defined in XX.XX.040 must consult the local U.S. Department of Fish and Wildlife Office to determine if an Incidental Take permit is necessary.
 - 1. If a permit is deemed necessary by the USDFW the applicant must provide the approved permit before a building permit is issued in accordance with 14.04.070.
 - 2. If a permit is not deemed necessary by the USDFW, the applicant must submit such a determination as part of the permit review process.
- B. As detailed in 50 CFR § 22.80 (c), permit holders must comply with all avoidance, minimization, or other mitigation measures specified in the terms of the permit to mitigate for the detrimental effects on eagles,

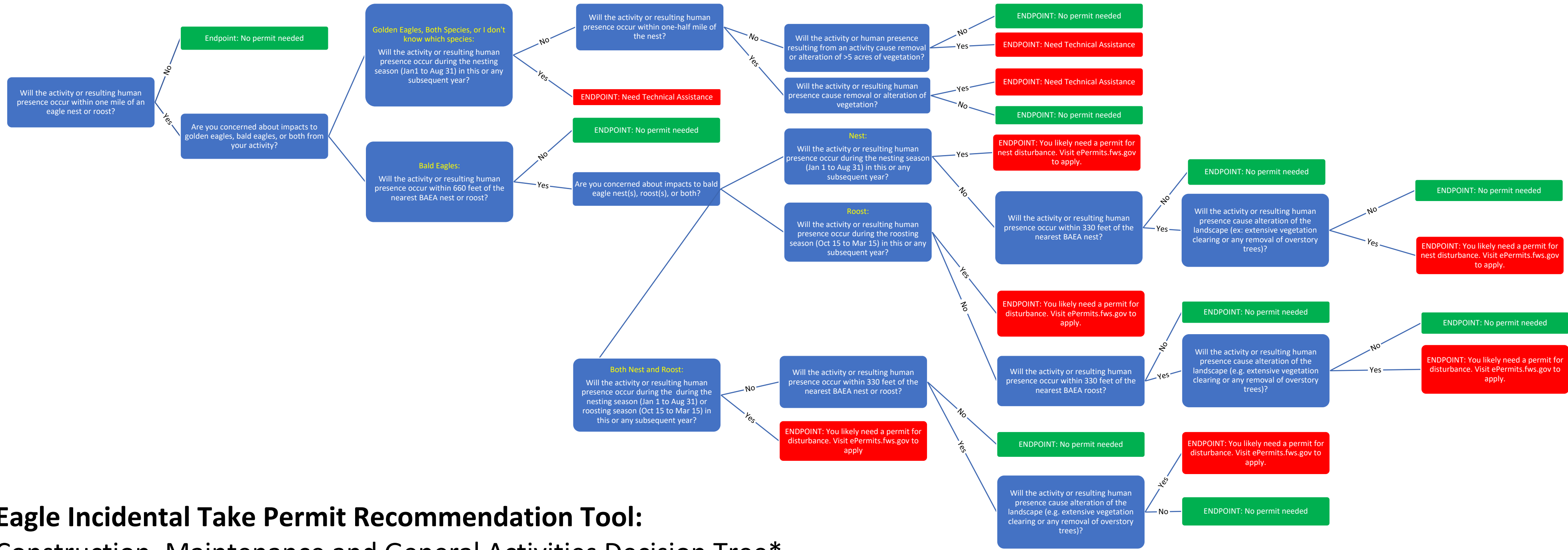
including indirect and cumulative effects, of the permitted take. Annual reports and mitigation plans, if required, should also be communicated to the Town.

XX.XX.060 Enforcement

A. It shall be unlawful for any person to build, erect, construct, alter, rebuild, renovate, enlarge or expand any building, structure or use within the radius set forth in XX.XX.040 in violation of the provisions of this title. Any person so violating this title shall be punished by a fine not to exceed \$1,000.00 and issued a stop work order. Each day that a violation is continued shall be considered a separate offense.

B. In addition, any violation of the provisions of this title constitutes a code violation under Chapter 1.08 YPMC and is subject to enforcement action, corrective action, fines and penalties described therein.

DRAFT



Eagle Incidental Take Permit Recommendation Tool: Construction, Maintenance and General Activities Decision Tree*

Updated 10/8/2021

***This tool applies to activities in Washington, Oregon and Idaho only**

I

Short Term Rentals	Proposed Planning Commission Action: Discussion Only
---------------------------	---

Presented by:	Town Planner
Exhibits:	Short Term Rental Permitting Outline

Summary:

The Town has the ability to regulate short-term rentals. Currently no such regulations, taxes, or codes are in place. The Town council placed the topic of short-term rentals (STR) on the 2023 Planning Commission work plan. STRs can be regulated by creating a permit system along with various fees, and taxes. The commissions goal is to decide on the direction which the Town would like to take with regards to the regulation of STRs.

With changes to development regulations as a result of HB1110 and HB1337 coming from the state legislature, and the demand for high-quality short-term rentals for business professionals visiting the area, the Town may see an increase in the number of STRs. With this increase comes a possible increase or change to public facilities and infrastructure usage.

Staff has done a preliminary look at possible pathways for the Town which fall generally into three categories; first is to do nothing relating to STRs, second would be to create a system for basic tracking of STRs and perhaps a permit system, third would be the creation of a permitting process along with instituting fees or taxes which are in line with what the state and county allow the Town to collect. The third option may also include the creation of a business license program, or other business-related regulatory actions which are not currently undertaken by the Town.

At the May meeting, the commission discussed the need for a preliminary overview of the current state of STRs in the area. Staff presented a preliminary review of the current STRs which are available in the Town and some adjacent jurisdictions. The commission requested further research, including determining a possible cap to the number of STRs in Yarrow Point. At the June meeting, the Town Planner presented a market analysis of existing STRs in Yarrow Point, as well as active STRs in the nearby Point Communities.

At the July meeting, the Town Planner presented an outline of existing regulations for STRs in predominantly residential jurisdictions as well as regulations for low-density residential neighborhoods in larger cities. The commission discussed possible considerations, regulations, limits on the number or intensity of STRS, and whether steps such as requiring a business license were necessary. The planning team further reviewed existing permitting processes in comparable jurisdictions and outlined a process for the commission's August meeting.

Two processes are outlined based on the two predominant methods for permitting STRs. One approach, employed by Clyde Hill, is to review the permits as part of a business license application. The second, employed by Chelan County, is to review applications as a land use permit, meeting the requirements of the standards outlines by their STR code. The latter approach appears more flexible if the Town does not

intend to employ a business license requirement. Requirements imposed by both jurisdictions include occupancy limits, parking requirements, limits on specific activities, submission of a property management plan, and specific contact information for someone who is able to quickly respond to concerns as they may arise.

Additional Resources:

- [Municipal Research and Services Center of Washington Examples](#)
- [Normandy Park STR Regulations Public Assistance Memo](#)
- [Chelan County Short Term Rentals Information Page & FAQs](#)

Action Items:

- Staff Presentation (15min)
- Discussion (20min)
- Vote (5min)

Commission Options:

- Continue Discussion at next meeting
- Direct Staff to do further research and/or draft code

Recommended Motion:

- I move to continue discussion of this topic at the next meeting without any additional staff action or research
- I move to direct to staff to research short term rentals further as discussed during the meeting.
- I move to direct to staff to develop draft short term rental code as discussed during the meeting.

Short-Term Rental Permitting Process

Clyde Hill Permit Process:

1. STR must apply for a City Business License
2. As a condition of the license, the City reviews the permit for the following:
 - a. Require a local representative to file with the Town, who is available 24 hours a day to handle complaints and remedies with the short term rental
 - b. Adherence to code requirements of maximum occupancy, event restrictions, and insurance requirements
 - c. Require regular reporting and possible inspections
3. City reviews the business license for completeness and consistency and issues once requirements are met.

Chelan County Permit Process:

1. STRs must apply for a STR land use permit annually:
 - a. Annual deadline of October 31st for renewal
 - b. All permits expire on December 31st (no prorated fees)
2. Permit conditions include:
 - a. Fire and safety inspections of all STR units upon initial application
 - b. Self-certified inspections of fire and safety on subsequent renewals
 - c. Compliance with all requirements of STRs, including:
 - i. “Qualified Person” available to readily respond (60 minutes) to any STR concerns
 - ii. A property management plan, including health, safety, and communication details
 - iii. Adherence to STR code on occupancy limits, parking requirements, and communication to short-term tenants
 - iv. Taxes, insurance, and business license
3. Planning department reviews permit:
 - a. Check for completeness and consistency
 - b. Conduct relevant inspection(s) or delegate to relevant organizations (Fire Department, Building Official)
 - c. Issue permit