



# ***Agenda Report***

## ***Fullerton City Council***

**MEETING DATE:** MARCH 4, 2025

**TO:** CITY COUNCIL / SUCCESSOR AGENCY

**SUBMITTED BY:** SUNAYANA THOMAS, DIRECTOR OF COMMUNITY AND ECONOMIC DEVELOPMENT

**PREPARED BY:** BENJAMIN KOFF, ASSOCIATE PLANNER

**SUBJECT:** SHORT-TERM RENTAL AT 1850 EDGECLIFF DRIVE PERMIT APPEAL

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### **SUMMARY**

A request to consider appeal of a December 11, 2024 Planning Commission decision to allow continued operation of a partial-home, Short-Term Rental (STR) at 1850 Edgecliff Drive.

### **PROPOSED MOTION**

Deny appeal and allow STR-2023-0038 to continue to operate, subject to Resolution No. PC-2024-38 stipulating that the approval remains valid for an additional six months, after which staff will present a status report to the Planning Commission outlining any STR performance or activity issues at the subject property.

### **ALTERNATIVE OPTIONS**

- Approve the Proposed Motion
- Uphold appeal and deny, or otherwise revoke, STR-2023-0038
- Other options brought by City Council.

### **STAFF RECOMMENDATION**

Staff recommends the Proposed Motion.

### **CITY MANAGER REMARKS**

The City Manager defers to the Planning Commission decision to allow continued operation of the STR based on their findings.

## PRIORITY POLICY STATEMENT

Not applicable.

## FISCAL IMPACT

None.

## BACKGROUND AND DISCUSSION

### *First STR Application*

The property owner applied for a partial-home STR permit (STR-2022-0028) on September 3, 2022. The Director of Community and Economic Development (“Director”) denied the application on September 26, 2022 due to neighbor complaints, an incorrect listing type (whole home vs. partial-home) on public rental websites and an open code enforcement case on the property.

### *Second STR Application*

The property owner applied for a second partial-home STR permit (STR-2022-0036) on October 3, 2022. The Director denied this application due to an incorrect listing description (whole home vs. partial) and the applicant continuing to list the property for rent without the necessary permitting in place.

### *Third STR Application*

The property owner applied for a third partial-home STR (STR-2023-0038) on March 29, 2023. Staff sent notices to properties neighboring the subject site on August 25, 2023 with a ten-day response period. The Director reviewed neighbor complaints received by staff and determined the Planning Commission should hold a public hearing to adequately allow for public comment. Staff scheduled the public hearing for September 27, 2023 and the Planning Commission continued the hearing to October 11, 2023 due to equipment failure during the September meeting.

The Community and Economic Development Department conduct a more intensive review when staff receives negative comments in response to noticing, including a request for a police activity report within the past several months at the subject site, referred to as “calls for service”. This property generated 12 calls for service between December 2020 and June 2023, including five calls for disturbances.

Staff consulted Host Compliance, a contracted service that monitors rental activity within the City through searches of online services such as Airbnb and Vrbo, and found the STR at the subject property listed 14 times and then removed 12 times, typically within a few days between August 24, 2022 and September 12, 2023. The service detected the residence was rented out eight times, called “documented stays”, during this same period. These stays all occurred without a valid City of Fullerton STR permit or business license.

### *Initial Planning Commission Action*

The Planning Commission approved Resolution No. PC-2023-35 on October 11, 2023 by a 4 – 0 – 1 vote, authorizing a partial-home STR operation subject to conditions.

Condition 2.a. stipulated the approval of STR-2023-0038 remained valid for one year from the issuance date after which time the Planning Commission would receive a status report. The Planning Commission could revoke the permit or the permit would remain valid for the remainder of the three years per Fullerton Municipal Code (FMC) Section 15.55.020.F3(b) if the Planning Commission determined permit operated responsibly. The Planning Commission reviewed the one-year operation of the approved STR at during a public hearing on December 11, 2024.

*Planning Commission Action – Annual Review*

Staff assessed the STR operation prior to the one-year review including looking at police reports, code enforcement cases and any complaints filed on Host Compliance.

Staff examined police activity and found no calls for service logged against the property between September 2023 and November 2024.

A Host Compliance review showed the residence was rented out 14 times between November 22, 2023 and November 22, 2024 with two complaints logged during this period as follows:

1. December 9, 2023 - Nuisance at a Short-Term Rental: Four vehicles parked overnight on the street (driveway also full of cars).

Host Compliance recorded two documented stays during December 2023. City of Fullerton staff could not determine whether the reported vehicles parked overnight belonged to the property owner and their guests or customers of the STR. City of Fullerton Good Neighbor Guidelines require overnight parking on the property either in the driveway or in the garage / carport. Vehicles may not park on lawns or in a manner which blocks sidewalks or alleys.

2. January 12, 2024 - Advertising Violation: Owners obtained a Short-Term Rental Permit for a partial-home STR not a whole home STR. The add on Airbnb advertises for whole home.

The active listing title on Vrbo states, “Charming entire 3-bedroom Fullerton home with private pool & yard!!” In reading through the “about this property” section, the listing states, “This home is divided into two units, yours, being on the one downstairs, a 3 bedroom, 3.5 bath vacation rental...” While the current listing title may be misleading, staff can confirm the City approved the property for, and the owner operates as, a partial-home STR. Staff suggested revising the listing title to indicate the rental does not include the entire home, but only a portion thereof, during the Public Hearing for STR-2023-0038. This administrative change would allow greater clarity on the short-term rental operation for both community members and potential renters.

The City initiated two code enforcement cases between November 22, 2023 and November 22, 2024. The most recent case (COD-2024-1066) involved investigating an oil spill and resolved on November 20, 2024. Neighborhood complaints alleged an illegal auto repair business operation at the residence, citing it as the source of the oil spill, however, code enforcement has not observed any vehicle repair or signs of repairs taking place and determined the oil spill was cooking oil.

Staff opened the second case, COD-2024-0064, on January 29, 2024 and resolved on April 22, 2024. This case involved a complaint of numerous trash bags stored outside the home for extended periods of time. Code Enforcement inspection found no garbage outside the premise nor trash cans located in public view. Staff ultimately closed/resolved the case.

City of Fullerton Good Neighbor Guidelines stipulate residents return trash and recycling containers to a designated location (in this instance, on the west side of the home) within 24-hours of trash pickup and residents keep the property clean, presentable and free of trash.

#### *Planning Commission Review and Resolution*

The Planning Commission approved STR-2023-0038 operation for an additional six-month period by a 3 – 2 vote and the original conditions of approval requiring a review before the Planning Commission remained in effect.

#### *Appeal*

The Appellant, Andrew (Todd) Liverman, filed an appeal to City Council pursuant to FMC Section 15.70.060. The appeal cites concerns about inconsistencies in Planning Commission actions when reviewing STR permit requests, the reasonable expectation of a covenant of quiet enjoyment for homeowners and residents on Edgecliff Drive and inaccuracies in code enforcement reporting.

The following summarizes the main appeal points and City responses:

*Comment:* The Planning Commission ruled in an inconsistent manner in denying STR-2023-0036 and approving STR-2023-0038. The applicant for STR-2023-0036 had zero history of any issues, Code Enforcement recommended approval, three residents spoke to oppose the STR permit, citing potential noise and safety concerns and all five members of the Planning Commission voted to deny the STR. STR-2023-0038 was approved by the Planning Commission despite applicant issues, violations of the Good Neighbor Guidelines and noise and safety concerns. (*Staff Note: STR-2023-0036 was an application for the property at 2231 Jose Way and was denied by the Planning Commission at their meeting on December 11, 2024.*)

*Staff Response:* The Planning Commission evaluates each STR application on a case-by-case basis, considering the totality of circumstances unique to each property, applicant and community input. While consistency is a guiding principle, individual applications often present different sets of facts that warrant distinct determinations. The denial of STR-2023-0036 was based on significant resident concerns and the perceived impact on the community, whereas STR-2023-0038 was approved with the expectation of compliance with all applicable guidelines and a mandatory review of performance in six months.

*Comment:* Residents of Edgecliff Drive have a reasonable expectation of peace and quiet, meaning that they can and should expect a relatively undisturbed living environment, free from excessive noise or disruptions caused by others; a covenant of quiet enjoyment is a reasonable expectation. It is a privilege, not a right, to operate a

business on a residential street with residential neighbors. It is a right that neighbors are entitled to a safe and quiet street and neighborhood.

*Staff Response: The City's Short-Term Rental Ordinance establishes clear guidelines to ensure that STR operations do not create excessive noise, disturbances or safety concerns. This includes:*

- *Compliance with noise regulations in accordance with the City's Municipal Code.*
- *A requirement that STR operators adhere to occupancy limits and responsible guest behavior.*
- *Enforcement mechanisms, including penalties for violations, to address any disturbances that may arise.*

*While residents have a reasonable expectation of quiet enjoyment, the City has established policies that allow for certain regulated business activities, including STRs, in residential zones under specific conditions. The approval of an STR permit does not override existing nuisance laws, and any verified complaints related to noise or disruptions can result in enforcement actions, up to and including permit revocation.*

*The City appreciates input from all residents and takes community concerns seriously. Should the STR operator violate the established rules, residents are encouraged to report incidents to the City's enforcement team, who will investigate and take appropriate action.*

*Comment: Code Enforcement representatives provided inaccurate information to the Planning Commission.*

*Staff Response: Code Enforcement has investigated several cases stemming from the property at 1850 Edgecliff Drive. To date, these cases are all closed. Allegations regarding the operation of a car repair business at this residential location have been unfounded.*

Attachments:

- Attachment 1 – PowerPoint Presentation
- Attachment 2 – Letters of Opposition to STR-2022-0028
- Attachment 3 – Letters of Opposition to STR-2022-0036
- Attachment 4 – Planning Commission Resolution No. PC-2023-25
- Attachment 5 – Appeal Letter
- Attachment 6 – Planning Commission Staff Report dated December 11, 2024
- Attachment 7 – Planning Commission Resolution No. PC-2024-38

cc: City Manager Eric J. Levitt