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Public Testimony Regarding
Proposed Amendment to Resolution 03-2021

We are writing to express the serious concerns we and the many neighbors with whom we have spoken have with the proposed resolution and associated work plan.

We believe the Council has not sufficiently established the necessity of the extended moratorium and, therefore, the pursuit of an extended moratorium should be abandoned. In brief, our testimony is:

- It is unclear what problem this resolution seeks to address
- Vacation rentals contribute to a vibrant local economy
- Vacation rental regulation is unlikely to solve the long-term rental shortage
- Vacation rentals do not pose a disproportionate infrastructure burden
- The work plan is flawed and does not support a moratorium

By way of brief personal history, in the sixties Patricia's parents built, by their own hands and with the assistance of skilled San Juan Island contractors, a small cabin on Davison Head, and that is largely where Patricia and her sister grew up. Their parents came to know their neighbors as life-long friends, and we now know our neighbors' children as our life-long friends. We have raised our families to have a deep and abiding love and respect for the San Juan Islands. With the passing of Patricia's parents, she and her sister were fortunate to inherit the family cabin and are committed to a continuing stewardship of the property and the encompassing community. We are also fortunate that the County's vacation rental permit program has allowed us to survive the economic challenges of maintaining the Davison Head property, and to share this special place with others. Without that program, and the modest business income it allows us, we would have to abandon our connections to the island and its people and would lose our opportunity to create for other generations the sorts of wonderful experiences that we have been able to enjoy.

It is unclear what problem this resolution seeks to address

The draft resolution lacks a clear statement of legislative intent, and the reader is left to discern what issue the resolution is intended to resolve. As noted in our discussion of the work plan, below, without such statement of intent it is impossible for the people of San Juan County to ascertain the purpose or focus of the measure.

Vacation rentals contribute to a vibrant local economy

The draft resolution accurately states that vacation rentals can have significant impacts on the community. Vacation rentals directly and significantly contribute to the retail, accommodations/dining, and FIRE (finance, insurance, real estate) sectors that constitute almost 50 percent of the County's economy. Available economic reports show that visitor dollars form an overwhelming proportion of the contributions to those sectors.

The findings of fact developed for the draft resolution state:

“Vacation rentals are the primary source of growth of transient accommodations in the County. Other sources of transient accommodations such as hotels, campgrounds and resorts are significantly limited by existing land use regulations.”

The implication here is that, without vacation rentals, the county's ability to attract visitor dollars would be significantly limited. There would be corollary negative impacts on the local employment market, the variety and volume of retail goods and critical services available to island residents, and the vibrancy of the local real estate market upon which many county residents depend for long-term capital gains. Removing the economic activity generated by vacation rentals would also decrease the county's tax base, meaning that the variety and quality of government services and employment would be severely impacted; given that government accounts for more than 20 percent of the county's employment, the impact of reduced tax base could be very significant.

The draft resolution uses the term “overtourism” without defining the term or indicating any measure that one might use to determine that tourism had reached or surpassed a limit of some sort. The Council is reminded that legislation is sometimes an unintentionally blunt tool and use of imprecise or undefinable language may well contribute to judicial challenge of an otherwise sound measure.

Vacation Rental Regulation is Unlikely to Solve the Long-Term Rental Shortage

The apparent assumption that limiting vacation rental permits will free housing stock for long-term rentals is not valid. In the discussion of vacation rentals that has been provided by the local press over the last few years some writers have asserted that the existence of the vacation rental business model significantly reduces the stock of available long-term rental housing in San Juan County. The islands have had a long history of families building vacation homes that they would occupy part-time during the summers; the rest of the year, those second homes stood empty, awaiting the return of their owners.

Typically, a family's vacation home was not offered on the long-term rental market. If they had been, housing for the tenants of those rentals would have been available only during the non-summer months, when the owners were not using their properties. The advent of the vacation rental business model made it possible for families to derive an income stream when they were not occupying their second homes, helping to defray the rising costs of maintaining the families'

legacies, thereby contributing to the stability of the greater community. As noted above, that income stream makes important contributions to the county's economy, creating jobs in retail stores, real estate management, restaurants, construction, and other fields, and helping to create demand for the eco-tourism businesses that provide many a visitor's introduction to the wonders of our island paradise.

Also, a review of the county's register of vacation rental permits indicates that many properties permitted for vacation rentals were purpose-built to provide that kind of visitor accommodation. These purpose-built properties were never intended to serve as long-term rentals and, therefore, cannot be characterized as removing potential rental housing stock.

While it is clear that the islands suffer from an undersupply of long-term rental housing, it is equally clear that the existence of permitted vacation rentals has not been the prime contributor to that shortage. Other jurisdictions have addressed their similar long-term rental shortages by applying less restrictive residential land use regulations, identifying areas in which higher residential densities are encouraged, providing revenue or tax-abatement subsidies to developers of long-term rentals, and a host of other well-recognized strategies that serve to create the market conditions that result in additions to the long-term rental housing stock. If it is the council's intent to impose additional regulations on vacation rentals as a means of addressing the long-term rental shortage, that intention is misdirected and unlikely to be successful.

Vacation Rentals Do Not Pose a Disproportionate Infrastructure Burden

The language of the resolution employs the possibility of over-demand for ferry services as an apparent proxy for disproportionate infrastructure demands attributable to users of vacation rentals. The assertion is that growth in vacation rental traffic has placed a burden on the ferry system and has caused overcrowding of ferry capacity. In fact, a review of the Washington State Ferry (WSF) system's annual statistical reports indicates that ferry ridership to and from San Juan County has grown at a relatively modest rate of one-half of one percent per year for several decades. If the spike in vacation rental permits was causing overdemand for ferry capacity, a reasonable person would expect the WSF statistics to show a concurrent spike in ridership – no such spike is reported.

Similar concerns could be raised about vacation-rental-related demand for other types of infrastructure and would be similarly unsupportable. If our family were to choose to live in our island property year-round, we would make demands on, say, the water and roadway systems, and those demands would occur every day throughout the year. By contrast, the vacation renters who transiently use our property make demands on infrastructure only on those days during which they are on-island to use the property, and there are significant periods when our property is vacant and contributes essentially no demand on infrastructure. Given that our family and our renters cannot occupy the property simultaneously, it must be concluded that our vacation rental business at worst results in no increase to infrastructure demand, and at best may actually contribute to a reduction in infrastructure demand.

The Work Plan is Flawed and Does Not Support a Moratorium

The work plan, which is a required element of the draft resolution's one-year moratorium, is flawed in at least two respects:

1. The work plan fails to describe the Council's intended outcomes. The work plan states that a one-year moratorium is necessary to research ways to implement the Council's intended outcomes, but nowhere in either the draft resolution nor other available county documents are those intended outcomes described or otherwise enumerated. By failing to so enumerate those intended outcomes, the workplan creates an opaque wall, denying public accountability for the Council's unknown intentions. A reasonable person will condemn opacity in government operations, especially with regard to an issue of this importance, and we call upon the Council to become transparent in its intentions so that all of us in the county may judge the potential impacts to our lives and liberties.
2. The extended moratorium is not necessary to the process. The draft resolution calls for a one-year moratorium to end January 13, 2022, but the work plan details the Council's schedule to complete the process about six months after the moratorium expires. The implication is that the moratorium itself is not critical to the ordinance process. It is difficult, therefore, to reasonably determine why the extended moratorium might be necessary or desirable at all. Indeed, the failure to demonstrate rational nexus between the extended moratorium and the ordinance process may expose the County to a claim that the extension is an arbitrary and capricious mis-exercise of the Council's considerable power.

While we must admit that the moratorium on new vacation rental permits may result in some short-term business advantage to us, we believe the Council has not sufficiently established its necessity and, therefore, the pursuit of an extended moratorium should be abandoned.

Thank you for the opportunity to present this testimony.

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