



MEMORANDUM

TO: Trinidad Planning Commission

FROM: Trever Parker, City Planner

DATE: February 12, 2015

RE: February VDU Agenda Item

Because of the subcommittee assignments and the discussion at the February City Council meeting, I did not want to spend a lot of time revising the ordinance without further discussion and guidance. However, I think it is important to continue with our discussions. Therefore, I did add the suggested language from our January meeting into the existing ordinance so you can see it in context. I started to change VDU to the more common, currently used term of Short Term Rental (STR). But then realized that would be a lot of work to change it in the entire ordinance without specific guidance, so you will see both terms used. The amendments will at least give you some perspective as to how these and other potential changes will fit within the existing regulations.

For this meeting, I expect that we will discuss the comments and suggestions made at the February 20 City Council meeting. I will work on a summary of the comments and suggestions from the Council meeting, but do not have that ready yet. We can also discuss any progress or questions about your subcommittee assignments from the February 2 meeting. Finally, I provided the Coastal Commission's recent response to our list of questions about their stance on various VDU regulations. Please bring your materials from the last few meetings. In particular, I think the material from January is important for reviewing what other communities have done to resolve VDU issues.



ORDINANCE 20##14-01

**AN ORDINANCE OF THE CITY OF TRINIDAD
AMENDING ~~DDING~~ SECTION 17.56.190 ~~TO OF~~ TITLE 17 OF THE TRINIDAD MUNICIPAL
CODE (~~ADDING~~ ~~AMENDING~~ SECTION 6.26 ~~OFTO~~ THE COASTAL COMMISSION
CERTIFIED ZONING ORDINANCE),
~~AND AMENDING SECTIONS 17.56.160 AND 17.56.180 OF THE TRINIDAD MUNICIPAL~~
~~CODE (AMENDING SECTIONS 6.16 AND 6.18 OF THE COASTAL COMMISSION~~
~~CERTIFIED ZONING ORDINANCE)~~**

The City Council of the City of Trinidad does hereby ordain as follows:

ORDINANCE 2012-01, SECTION 1:

There is hereby added to the Trinidad Municipal Code a new Section, Section 17.56.190, (and hereby added to the Coastal Commission certified Zoning Ordinance a new Section 6.26), "City of Trinidad Vacation Dwelling Unit Ordinance," which shall read as follows:

Section 17.56.180 (6.26) Regulations for Vacation Dwelling Units

Sections:

17.56.190 (6.26).A	Short Title
17.56.190 (6.26).B	Definitions
17.56.190 (6.26).C	Purpose
17.56.190 (6.26).D	Application Requirements
17.56.190 (6.26).E	Effect on Existing Vacation Dwelling Units
17.56.190 (6.26).F	Location
17.56.190 (6.26).G	Non-Permitted Uses
17.56.190 (6.26).H	VDU Standards
17.56.190 (6.26).I	Tourist Occupancy Tax
17.56.190 (6.26).J	Audit
17.56.190 (6.26).K	Dispute Resolution
17.56.190 (6.26).L	Violations—Penalty
17.56.190 (6.26).M	Violations—Revocation
17.56.190 (6.26).N	Ordinance Review

17.56.190 (6.26).A

Short Title.

This Section shall be known and may be cited as "City of Trinidad Vacation Dwelling Unit Ordinance."

17.56.190 (6.26).B

Definitions.

1. Good Neighbor Brochure.

Good Neighbor Brochure. "Good Neighbor Brochure" means a document prepared by the City and approved by the City Manager that summarizes general rules of conduct, consideration, respect, and potential remedial actions. In particular, the brochure shall include provisions for off-street parking,

minimizing noise, establishing quiet hours, and minimizing disturbance to neighbors and environmentally sensitive habitat areas.

2. Event.

"Event" means any use of a structure or land for a limited period of time. "Event" includes, but is not limited to, art shows, religious revivals, tent camps, concerts, fundraisers, and weddings or receptions. "Event" does not include small parties and social gatherings of 20 people or less consistent with normal residential use.

3. Existing VDU.

A VDU that had a valid license at the effective date of this ordinance.

3. Homestay.

3. Occupant.

"Occupant" within this Section means any person who exercises occupancy of a Vacation Dwelling Unit (VDU) or is entitled to occupancy by reason of concession, permit, right of access, license or other agreement for a period of 30 consecutive calendar days, or less, counting portions of calendar days as full days. Any such person so occupying space in a VDU shall be deemed to be a tourist until the period of 30 days has transpired. As used in this Section, "occupant" does not include children aged 5 or under.

4. Transient Use.

"Transient use" means any contractual use of a structure or portion thereof for residential, dwelling or sleeping purposes, for any period of time which is 30 consecutive days, or less.

5. Short Term Rental/Vacation Dwelling Unit.

~~"Short Term Rental/Vacation Dwelling Unit" (STRVDU) means a dwelling unit, (other than manufactured homes in a mobile home park), where the owner /agent does not live in the dwelling unit while it is rented for use as a short term rental and no one but the occupants and guests of the occupants live in the dwelling while it is rented for use as a short term rental and the entire dwelling unit is rented for the purpose of overnight lodging for a period of not more than 30 days other than (1) ongoing month-to-month tenancy granted to the same renter for the same unit, (2) one less-than-30-day rental per year, or (3) a house exchange for which there is no payment. Short Term Rentals may include the use of accessory structures associated with a residence (e.g. garages), but accessory structures that are not legal dwelling units shall not be, by themselves, a vacation dwelling unit. means any structure, accessory structure, or portion of such structures, which is contracted for transient use. As used in this Section, the definition of "Vacation Dwelling Unit" encompasses any structure or any portion of any structure which is occupied or intended or designed for occupancy by tourists for dwelling, lodging or sleeping purposes, and includes any home or house, tourist home or house, mobile home or house trailer at a fixed location except when located within a mobile home park or RV park, or other similar structure or portion thereof. "Vacation Dwelling Unit" does not include home exchanges or a short-term rental one time in a calendar year.~~

6. Visitor.

"Visitor" means someone staying temporarily at a VDU, but that is not an "occupant" and not staying at the VDU overnight.

17.56.190 (6.26).C

Purpose.

The purpose of this Section is to provide for the renting of single- and multi-family dwellings, and accessory dwelling units, for periods of thirty consecutive days or less, as transient visitor accommodations, consistent with all other provisions of the General Plan and Zoning Ordinance, and to ensure that Vacation Dwelling Units are compatible with surrounding residential and other uses and will not act to harm or alter the neighborhoods within which they are located.

17.56.190 (6.26).D

Application Requirements.

1. Initial Application.

Each VDU must procure a VDU License. Existing VDUs must obtain a VDU License within 3 months of the adoption of this ordinance. A VDU License issued pursuant to this Section shall also serve as a business license for rental activity pursuant to Chapter 5.04 of the Trinidad Municipal Code. The VDU License shall identify the existence of a VDU at a particular address and declare the number of bedrooms in the VDU and its intended maximum occupancy.

A site plan and floor plan must be submitted along with the VDU License application so the City can verify the number of bedrooms, off-street parking spaces, and other requirements. The site plan and floor plan do not have to be professionally prepared, but must be to scale and include enough information to verify compliance. A sample rental agreement that addresses the requirements of this Chapter shall also be provided.

Each application for a VDU License shall be accompanied with proof of a general liability insurance in the amount of one million dollars combined single limit and an executed agreement to indemnify, defend and hold the city harmless from any and all claims and liability of any kind whatsoever resulting from or arising out of the registration of a VDU.

An initial VDU License Fee, as set by resolution of the City Council, will be charged for the first year of each VDU's operation.

The City will notify all property owners within 100 feet of a VDU property of the VDU License within 7 days of its issuance or re-issuance. This notice may be combined with the required 24-hour emergency contact phone number notice required in subsection 3.b below.

Upon initial application for a VDU License, the City shall provide all VDU licensees with copies of informational materials identifying protective measures for preventing and minimizing impacts to environmentally sensitive habitat areas, water resources, and septic systems from the vacation rental use of the residences. Such protective measures include, but not limited to: (1) avoiding human encroachment into environmentally sensitive habitat areas; (2) directing or screening exterior lighting from illuminating riparian corridor areas; and (3) best management practices for the proper handling and disposal of trash and chlorinated water from hot tubs, swimming pools, and other spa facilities.

2. VDU License Renewals.

VDU licenses shall be renewed annually. The fee for annual renewals for subsequent years shall be set by resolution of the City Council. Any changes to the site plan, floor plan, allowable occupancy, or rental agreement shall be submitted along with the license renewal application.

Although the renewal process includes a staff review of City records and other pertinent information specific to complaints, if any, that have been received about the particular VDU, it is the intention of the City of Trinidad that there is a presumption that an application for renewal of a VDU License for an existing VDU will be approved as long as all applicable standards are still met

3. License Transferability.

Zoning Permits shall run with the landowner and shall automatically expire upon sale or transfer of the property.

4. Application Wait List

It is the City's intention to maintain ### VDU Licenses. When a VDU License is revoked pursuant to §17.56.190.L (violations) or (refer to license activity requirement if included) or until the VDU license expires pursuant to (refer to property transfer), the City will accept a new application for a VDU License as follows. The City will maintain a waiting list of property owners who are interested in obtaining a VDU License for their dwelling unit. A property owner may place his or her name on the waiting list at any time. Names will appear on the waiting list in the order in which they are received. When an opportunity for a new VDU License arises, the City will select the first name from the waiting

list. That person will have 90 days to submit a VDU License. If the person so selected does not obtain a VDU License within 180 days, the next name will be selected from the waiting list.

53. Contact Information.

a. Local Contact Person.

Each VDU must designate a local contact person on the VDU License form. That person may be either the owner or the property manager, and that person must live within 25 miles of Trinidad so that he/she can respond personally to an emergency.

b. 24-Hour Emergency Contact Phone Number.

A 24-hour emergency contact phone number is required for each VDU. The 24-hour emergency contact phone number shall be prominently placed for the occupants' use inside the VDU. Any change to the emergency contact number shall be promptly provided to the Trinidad City Clerk and posted within the VDU.

The emergency contact phone number will be forwarded by the City Clerk to the Trinidad Police Department, the County Sheriff's Office, the Trinidad Volunteer Fire Department, and to each neighbor within 100 feet of the VDU within 7 days after the issuance or reissuance of a VDU License for the VDU.

The emergency contact information sent to neighbors may include further instructions in the case that a response from the 24-hour emergency contact number is not forthcoming. If there is an emergency or complaint, and the emergency contact person does not respond within a reasonable period of time, concerned persons will be encouraged to report the emergency through the 911 emergency calling system or the Police or Sheriff's Department. It is unlawful to make a false report or complaint regarding activities associated with a VDU.

17.56.190 (6.26).E Maximum Number of Short Term Rentals

In order to preserve community character and an appropriate balance of residential, commercial and visitor-serving uses, the total number of STR permits issued by the City pursuant to this Section shall not exceed ##.

17.56.190 (6.26).FE Effect on Existing Vacation Dwelling Units.

Existing VDUs (may need a definition), in excess of the number allowed in §17.56.190.??, or that do not meet the minimum distance between VDUs in the UR zone as required by §17.56.190.F, that hold a valid VDU license issued by the City, shall be allowed to continue to operate under that VDU license as long as the permit is renewed in accordance with §17.56.190.D.2 unless or until such time as the permit is revoked pursuant to §17.56.190.L (violations) or (refer to license activity requirement if included) or until the VDU license expires pursuant to (refer to property transfer). Each individual operating a VDU existing at the time the VDU Ordinance is adopted, including those currently holding a valid Trinidad Business License, shall be subject to the requirements of this Section of the Zoning Ordinance upon its adoption. The owner of an existing VDU which does not meet the requirements of this Section will not be issued a VDU License and shall not use the VDU structure for VDU purposes.

17.56.190 (6.26).GF Location.

VDU's are permitted only in legally established dwelling units within any Special Environment, Suburban Residential, Urban Residential, and Planned Development zoning districts.- VDUs are also permitted in a legally established Accessory Dwelling Unit subject to meeting the requirements of this Section. Each separate VDU must obtain its own, individual VDU License. There shall be no more than one VDU per parcel unless a Use Permit is approved by the Planning Commission.

Within the Urban Residential (UR) zone, no new VDU shall be located within ### foot radius around another existing VDU. This same distance applies to other types of visitor-serving accommodation (i.e. Bed and Breakfast or Homestay.) Distances shall be measured from the closest property line of the existing VDU, and/or other visitor-serving accommodation, to the closest property line of the property

containing the proposed VDU. This location standard can be modified through Planning Commission approval of a Use Permit.

17.56.190 (6.26).GH Non-Permitted Uses.

There shall be no permitted use of the VDU structure other than occupancy for dwelling, lodging, or sleeping purposes. Use for commercial events or events which are not hosted by the VDU's property owner are not permitted.

17.56.190 (6.26).H VDU Standards

All VDUs will be required to meet the following standards:

1. Number of Occupants.

The maximum number of occupants allowed in a VDU shall not exceed two persons per bedroom plus an additional two persons (e.g., a two-bedroom VDU may have six occupants). Except that in the Suburban Residential Zone, if the VDU has a total floor area that exceeds 800 square feet per bedroom, then for each additional 500 square feet of floor area above this total, one additional occupant may be allowed, up to a maximum of two additional occupants. Where it can be determined based on the Humboldt County Division of Environmental Health permit or file information or an actual inspection of the system, the number of bedrooms will be based on the design capacity of the septic system.

2. Off-Street Parking.

A VDU must provide at least one off-street parking space for every two occupants allowed in the VDU pursuant to Section 17.56.190 (6.26).H.1. The off-street parking space/s shall be entirely on the VDU property. VDU owner/operators shall not use public right-of-way (street) spaces to meet their required off-street parking needs. Off-street parking spaces will not be located on the septic system unless it is designed and rated for traffic in a manner that will not compromise the functioning of the septic system.

VDUs that have been in existence for a minimum of two years that can not feasibly comply with the parking requirements may apply for an administrative exception. Exception requests shall be made through the City Clerk and shall provide documentation (e.g. receipts or rental contracts) showing both that the VDU has been in active operation for a minimum of two years and the maximum rental occupancy over that period. The request shall include a detailed site plan and justification as to why the required parking spaces can not be accommodated on the site, as well as note where alternative parking is utilized. The City Planner shall only grant an exception to accommodate the documented maximum occupancy over the past two years. The City Planner may deny an exception request or approve the exception for fewer parking spaces than requested if the exception would be detrimental to the public health and safety.

3. Water Use.

To prevent overloading of septic systems, each VDU shall be operated in a manner to ensure that the occupancy and use of a VDU shall not result in annual domestic water use greater than that associated with the non-VDU use of the residence based on an average daily consumption of 150 gallons per bedroom (7,324 cubic feet per year per bedroom) with a 30% allowance for landscaping above the design flow.

Where it can be determined based on the Humboldt County Division of Environmental Health permit or file information or an actual inspection of the system, the number of bedrooms will be based on the design of the septic system. Annual water use records will be kept on file along with the VDU License and application materials to allow for verification that the VDU water use did not exceed allowable volumes as described above.

If the City determines that the VDU use has exceeded the appropriate average annual water usage, as described above, during the preceding year, the VDU owner/operator shall take constructive measures to reduce water use. Adaptive measures include, but are not limited to: (a) installing water

conservation fixtures and appliances; (b) planting xerophytic landscaping; and/or (c) reducing the maximum occupancy of the VDU.

4. Septic System.

Each VDU's owner or property manager must provide proof that the septic system for the structure in which the VDU is located is functioning properly and in conformance with all federal, state, and local regulations. Information on the appropriate use of a septic system, in a form approved by the City, shall be posted in each bathroom in the VDU and the kitchen.

5. Appearance and Visibility.

The outside appearance of the VDU structure shall not change the residential character of the structure by the use of colors, materials, lighting, or signage (except as allowed by Section 17.56.160 (6.16)). The VDU shall not create any noise, glare, flashing lights, vibrations, or odors that are not commonly experienced in residential areas or that would unreasonably interfere with the quiet use and enjoyment of any other residence or business in the area.

6. Signs.

A single sign, legible from the property's street frontage, and no greater than 3 square feet in size may be attached to the VDU structure or placed immediately adjacent to the front of the VDU structure. The purpose of the sign is to notify the public that the structure is or contains a VDU. The sign must provide a 24-hour emergency telephone contact number for complaints, and a business telephone number for persons seeking information on the VDU. The signage shall comply with all applicable standards of the Zoning Ordinance's sign regulations.

7. Trash.

Trash and refuse shall not be left stored within public view, except in proper containers for the purposes of collection. There shall be no accumulation or storage of trash and / or debris on the site or within the VDU.

8. Visitors.

The number of visitors to a VDU shall be limited to not more than 20 persons, including occupants, per parcel at any time. If there is more than one VDU on a property, the 20 person maximum applies to the property, not each VDU. Visitors are not allowed to stay overnight on the premises.

9. Noise.

Occupants of VDU properties and visitors shall not generate noise such that it would unreasonably interfere with the quiet use and enjoyment of any other residence or business in the area. Any noise occurring after 10:00 pm and before 8:00 am should be contained within the VDU and shall not be able to be heard by or offend any adjacent neighbors. What is reasonable in terms of noise generated shall be determined under existing legal standards applicable to evaluating alleged nuisances.

10. Traffic.

Vehicles used and traffic generated by the VDU shall not exceed normal residential levels or unreasonably interfere with the quiet use and enjoyment of any other residences or businesses in the area. What is reasonable in terms of traffic generated shall be determined under existing legal standards applicable to evaluating alleged nuisances.

11. Tenancy.

The rental of a VDU shall not be for less than two successive nights.

12. Minimum Activity.

VDUs shall be rented for a minimum of 60 nights per year in order to maintain a VDU License. [This requirement could go here or possibly up in license process section (17.56.190.D)]

132. Good Neighbor Brochure.

Prior to occupancy pursuant to each separate occasion of rental of a VDU, the owner or the owner's agent shall provide a copy of the Good Neighbor Brochure to the occupants and / or shall post the Good Neighbor Brochure in a clearly visible location within the VDU.

143. Emergency Preparedness.

Information regarding local hazards, such as earthquakes and ocean related hazards, in a form approved by the City, shall be posted within the vacation rental in an easily seen location, such as the entry or kitchen area. In particular, information regarding regular testing of the tsunami siren, the Volunteer Fire Department siren and real emergencies shall be included.

17.56.190 (6.26).I Tourist Occupancy Tax.

The letting, leasing, or other contractual use of a VDU is subject to a Tourist Occupancy Tax ("TOT") and any other mandated taxes. Each VDU owner and/or manager shall meet all of the requirements of the City with respect to registration of TOT collectors, and the collection, recordkeeping, reporting and remittances of applicable TOT.

17.56.190 (6.26).J Audit

Each owner and agent or representative of any owner shall provide access to each VDU and any records related to the use and occupancy of the VDU to the City at any time during normal business hours, for the purpose of inspection or audit to determine that the objectives and conditions of this Section are being fulfilled.

17.56.190 (6.26).K Dispute Resolution.

By accepting a VDU License, VDU owners agree to engage in dispute resolution and act in good faith to resolve disputes with neighbors arising from the use of a dwelling as a VDU. Unless an alternative dispute resolution entity is agreed to by all parties involved, dispute resolution should be conducted through Humboldt Mediation Services.

17.56.190 (6.26).L Violations

1. Penalty

Violations of this Section are punishable as either infractions or misdemeanors, pursuant to the provisions of Section 17.76.050 (7.20) ~~the referenced section could also use a possible amendment~~ of the Zoning Ordinance. Each separate day in which a violation exists may be considered a separate violation. The City of Trinidad can also enforce these VDU regulations by way of nuisance abatement action. Enforcement by way of a nuisance action shall be discretionary and shall only occur upon a lawful vote of the Trinidad City Council to prosecute the matter as a civil nuisance action.

2. Revocation

If the VDU owner or property manager is deemed by City staff to be negligent in responding to an ~~emergency situation complaint~~ more than two times in a 12-month period, or if more than two documented, significant violations, ~~defined below~~, occur in any 12-month period, the VDU License may be revoked. ~~Documented, significant violations include, but are not limited to, copies of citations, written warnings, or other documentation filed by law enforcement.~~ No revocation shall occur unless decided by a lawful majority vote of the Trinidad City Council and after written notice, served by first class mail, of at least 21 days was given to the owner of record and the local contact person as set forth in the VDU application. Revocation may be temporary or permanent depending on the nature and number of the violations.

Examples of significant violations include, but are not limited to:

(i) Failure of the local contact person, owner or manager to respond to a complaint within a timely manner [timely manner may need to be defined]

(ii) The inability of City staff or the Sherriff's Dispatch to reach a contact person.

(iii) Violation of the VDU maximum occupancy, parking, noise and other requirements as set forth in Section 17.56.190.H.

(iv) Failure to notify City staff when the contact person or contact information changes.

(v) Failure to pay fees or TOT in accordance with this Section.

- (vi) Providing false or misleading information on a VDU License application or other documentation as required by this Section.
- (vii) Violations of state or County, or City health regulations

Examples of acceptable documentation of significant violations include, but are not limited to:

- (i) Copies of citations, written warnings or other documentation filed by law enforcement.
- (ii) City file information.
- (iii) Advertisements for the VDU
- (iv) Signed affidavits and / or photographic evidence from neighbors or other witnesses
- (v) Other documents which substantiate allegations of significant violations.—

3. It is unlawful to make a false report to law enforcement regarding activities associated with vacation rentals.

17.56.190 (6.26).M Ordinance Review

This ordinance shall be reviewed by the Planning Commission within two years after its certification, and periodically thereafter, to ensure that it is meeting the needs of the community.

ORDINANCE 2014-01, SECTION 3:

This Ordinance shall take effect upon certification by the Coastal Commission.

Passed, approved, and adopted this # day of (month), 20## by the following roll call vote:

CALIFORNIA COASTAL COMMISSION

NORTH COAST DISTRICT OFFICE

1385 8TH STREET • SUITE 130

ARCATA, CA 95521

VOICE (707) 826-8950

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February 10, 2016

Trever Parker, City Planner
Streamline Planning Consultants
1062 G Street, Suite I
Arcata, CA 95521

SUBJECT: Your 2/2/16 Request for Input In re: Amendments to Vacation Dwelling Unit Ordinance

Dear Ms. Parker:

This letter comes in response to your above-referenced correspondence in which you inquire as to the Coastal Commission's perspectives and past practices with respect to certifying provisions within local governments' local coastal programs (LCPs) as relate to the regulation of short-term (less than 30 days) rental of residences, herein referred to as "vacation dwelling units" of "VDUs." In addition, your February 2nd email included other lines of inquiry as to certain hypothetical locational and operational restrictions of VDUs. Herewith are our responses and input in order of their occurrence:

1. *What is the Coastal Commission's stance on VDUs as an allowable use in residential zones?*

Since first emerging as a form of transient accommodation in the 1980s, the Commission has considered the rental of all or portions of a structure as a form of the principal residential use of the dwelling that does not change the character of its use, nor as an activity constituting "development" within the meaning of Public Resources Code Section 30106 as a "change in the density or intensity of use of land" such that securing of a coastal development permit would first be required before initiating such a use. Thus, where either: (1) an entire structure is rented out intermittently, either for periods of greater than or less than thirty days; or (2) where one to several rooms in a home are periodically sub-let rented, the Commission has considered the intensity of use to be not significantly different than what can be expected from a family. Consequently, permits are not viewed needed in such cases as the use by non-owner occupants does not change the intensity of use. In making this determination, the Commission has often referred to Coastal Act sections 30213 and 30222, which state, in applicable part:

Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided...

The use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general industrial, or general commercial development, but not over agriculture or coastal-dependent industry.

Conversely, the Commission has, on a case-by-case basis, determined that where five or more rooms in a home are steadily rented to transients, it is clear that a change in intensity of use has occurred: There are impacts on parking, traffic circulation, sewer and water use, and neighborhood character. Issues basic to land use planning and zoning are raised, particularly as to whether the use surpasses familial residency and enters the realm of being more of a “boarding house,” “single room occupancy unit” or “inn” use. Accordingly, all of these impacts are appropriate for consideration in the context of a coastal development permit. As a result, the Commission has processed permit applications for conversions of existing dwellings to what has been typically characterized as bed and breakfast operations offering three, four, or more units.

2. *Would Coastal Commission staff support certification of an LCP amendment that set some form of cap on the total number of VDUs in the City?*

Possibly, provided any such cap is based on the need for protecting an at-risk coastal resource, such as public access, the availability of community services, including water supply and wastewater treatment and disposal, or community character as referenced above. Perhaps the most applicable example of such a limitation, albeit based upon a targeted ratio between long-term residences and all forms of commercial and residential-based visitor-serving accommodations, is found in the plan for the Town of Mendocino.¹

3. *Would Coastal Commission staff support certification of an LCP amendment that prohibited VDUs in residential zones?*

It is doubtful that the Commission would certify a full prohibition on VDUs. In fact, the Commission has, in the past, denied requested certification of such outright prohibitions finding them to be inconsistent with Coastal Act sections 30213 and 30222, cited above.

4. *Would Coastal Commission staff support certification of an LCP amendment requiring vacation rentals in residential zones to be “hosted;” that is with a long-term resident living on-site, either in the residence or a second unit.*

Certification of a requirement where the whole of a residential unit is short-term rented and the host resides in another dwelling on the site *might* be certified. Indeed, such a form of overnight visitor accommodation, referred to as a “single unit rental,” or (“SURs”) is currently certified in the Town of Mendocino LCP. However, SURs are only one of several accommodation types provided for in Mendocino, where non-hosted “vacation home rentals” are also available.

¹ See http://www.co.mendocino.ca.us/planning/pdf/MTP_1992_DOCUMENT_FOR_WEB_2-5-15.pdf

Alternately, it is questionable whether the Commission would certify a requirement that would compel the long-term resident to live within the dwelling being offered for short-term rental. Commission staff believes such a requirement would significantly impede the rental of such an overnight visitor accommodation, contrary to the mandates of Coastal Act sections 30213 and 30222. Staff perceives such in-house manager presence would likely be viewed by most prospective short-term tenants as a significant diminution of their full use and enjoyment of the dwelling. For example, prospective tenants might conclude their privacy or unmonitored mobility would be degraded to a point where renting the unit would become undesirable, effectively nullifying the use of the residential structure as a short-term rental.

5. *What about implementing such a restriction in just the UR Zone?*

For the zoning district in question, the UR zone comprises one-third to one-half of the land base in the City where residential development is both allowed and not otherwise limited to being appurtenant to another commercial or resource management principal use of the property. This represents the majority of the residences that might likely get offered up for short-term rental. The same concerns would exist in UR areas as those outlined under Item 4 above, with respect to the presence of in-house hosts.

Again, any such restriction would need to be based on protection of an at-risk coastal resource. In the case of the UR areas, such concerns may exist with respect to its small parcel and narrow street rights-of-way attributes in terms of traffic and parking congestion that might adversely affect public access. Given the paucity of legal nonconforming second units of guest houses and servant's quarters, it is unlikely that such a hosting requirement, whereby the long-term resident resides in a separate dwelling, could be effectively implemented.

6. *In considering limitations on VDUs in Trinidad, will Commission staff consider the number of other overnight accommodations in the general vicinity but out of the City (i.e. between Patrick's Point and Westhaven)?*

Yes. Any amendment to the VDU should include a revised assessment of existing overnight accommodations and other visitor-serving facilities both within the Trinidad municipality as well as those within a reasonable proximity of the City, say Patricks Points State Park to Moonstone Beach and including the unincorporated Westhaven community, to determine whether the supply is adequate to meet future demand. The assessment should entail an inventory of the types of overnight accommodations and visitor facilities, as supplemented by cost information and occupancy/vacancy data. Such an assessment would serve as the basis for determining whether any proposed restrictions on short term rentals are consistent with the priority land use and public access policies of the Coastal Act.

7. *Is there anything else you want to add about the issue of vacation rentals in Trinidad with respect to the Coastal Act and LCP amendment certification?*

In response to residents' concerns, some coastal communities have similarly been motivated to consider ordinances to regulate or prohibit the rental of private homes on a short-term basis. Such rentals can help meet Coastal Act Section 30222 requirements to protect the priority for visitor-serving uses, particularly lower-cost forms, over residential uses and help to maximize public access as required by the Coastal Act. Thus, complete prohibitions on such rentals can be problematic. However, past Commission actions have recognized the potential effects of short-term rentals on residential communities and considered standards to regulate the length of time and how the use is conducted in a manner that protects residential communities while maximizing public access and priority visitor use. Proposals for policies or ordinances to address short term rentals will be based on the unique conditions in each jurisdiction.

Moreover, the issue of short-term rentals is an evolving subject: As has been seen in the more high-profile cases of San Francisco and New York, in other high volume ski resort destinations such as Bend Oregon and Crested Butte, Colorado, and in numerous other communities throughout the country with significant transient visitation, local governments have undertaken imposing short-term rental regulatory programs to address new emerging issues such as the unavailability of affordable housing for year-round residents and seasonal employees, decreased school enrollment, lack of volunteer organization personnel, and concerns over the loss of locally collected transient-oriented tax due to centralized Internet-based reservation and hosting management structures.

Many of these issues, especially those relating to noise and parking nuisance, and/or revenue generation, might arguably best be addressed under other bodies of law such as a local government's police powers to protect health, safety, and general welfare. While others legitimately fall under the rubric of land use regulations for which adjustments to the City's coastal land use plan and zoning standards are indicated. Should the City wish to undertake amendments to its existing certified VDU ordinance, any such amendments should be structured in terms of, and limited to, efforts for protecting coastal resources rather than other community objectives not otherwise addressed in the Coastal Act.

Please feel free to contact me with any questions regarding this letter.

Sincerely,

SIGNATURE ON FILE

James R. Baskin AICP, Coastal Planner