

Filed: March 17, 2016
Staff: Trever Parker
Staff Report: April 7, 2016
Commission Hearing Date: April 20, 2016
Commission Action:

STAFF REPORT: CITY OF TRINIDAD

APPLICATION NO: 2016-02
APPLICANT / OWNER(S): Richard and Linnea Clompus
AGENT: NA
PROJECT LOCATION: 860 Van Wycke Street
PROJECT DESCRIPTION: Design Review and Coastal Development Permit to remove an existing 30' x 7' second story deck and stairway and replace it with a larger 30' x 13' deck and stairway. The existing concrete slab under the deck will also be similarly expanded.
ASSESSOR'S PARCEL NUMBER: 042-081-35
ZONING: UR – Urban Residential
GENERAL PLAN DESIGNATION: UR – Urban Residential
ENVIRONMENTAL REVIEW: Categorically Exempt from CEQA per §15301 exempting additions to, and modifications of existing structures.

APPEAL STATUS:

Planning Commission action on a coastal development permit, a variance or a conditional use permit, and Design Assistance Committee approval of a design review application will become final 10 working days after the date that the Coastal Commission receives a "Notice of Action Taken" from the City unless an appeal to the City Council is filed in the office of the City Clerk at that time. Furthermore, this project is X / is not ___ appealable to the Coastal Commission per the City's certified LCP, and may be appealable per Section 30603 of the Coastal Act.

SITE CHARACTERISTICS:

The property is located on the northeast corner of Galindo and Van Wycke Streets. It is currently developed with a single-family residence on the northern portion of the lot. The house has a Van Wycke Street address even though the driveway is off of Galindo Street, because the front of the parcel, as defined by the City's zoning ordinance as the shortest street frontage for a corner lot, faces Van Wycke. The lot slopes to the south on the northern portion where the residence is, but the southern portion is fairly flat. The 3-bedroom septic system is located on the southwest portion of the property.

STAFF COMMENTS:

The project came by way of a Building Permit referral. A referral was not sent to the City Engineer due to the simplicity of the project. A referral was sent to the County Division of Environmental Health (DEH). They have no objections to the project. The septic system is discussed further in that section of the staff report. This is a pretty simple project, but because it alters the external profile of the structure, it has some potential to impact views, and so is not exempt from design review.

Potential Conflicts of Interest

None known.

ZONING ORDINANCE / GENERAL PLAN CONSISTENCY

The property where the project is located is zoned UR – Urban Residential. The purpose of this zone is to allow relatively dense residential development; single-family residences are a principally permitted use. The minimum lot size allowed in the UR zone is 8,000 s.f. and the maximum density is one dwelling per 8,000 s.f. The existing 2,350 sq. ft., 3-bedroom house was approved in 1997 and built in 1998. The proposed project will not change the square footage.

The Urban Residential zone (§17.36.050) requires minimum yards of front 20', rear 15', and side 5' (§ 17.36.060). The parcel faces Van Wycke Street to the south. The existing residence meets all required setbacks. Features such as decks, balconies and stairways are allowed to extend up to 8 ft. into a front yard setback. The proposed deck extension will meet all setbacks.

The maximum height allowed in the UR zone, by Zoning Ordinance §17.36.06 (average ground level elevation covered by the structure to the highest point of the roof), is 25 feet, except that the Commission may require a lesser height in order to protect views. The project will not affect the height of the existing structure.

The Zoning Ordinance (§ 17.56.180) requires 2 off-street parking spaces other than any garage spaces for single-family dwellings. Each parking space is required to be 18 ft. long and 8.5 ft. wide. The existing driveway accommodates two parking spaces.

The Trinidad General Plan and Zoning Ordinance protect importance public coastal views from roads, trails and vista points and private views from inside residences located uphill from a proposed project from significant obstruction. Because the project increases the size of a second story deck, or balcony, there is the potential to block views from residences located behind the structure. Detailed elevations were not provided for this project, but the increased deck size should not be a significant change. Images from Google Street View indicate that views will likely not be impacted. Neighbors have been notified so they can have a chance to provide input.

Only minimal grading will be required to accommodate the extended concrete pad and deck footings. This site is already connected to services and utilities, and these will not change. Exterior materials and colors also will not change.

DESIGN REVIEW / VIEW PROTECTION FINDINGS:

Because the project proposes changes to the external profile of the structure and is not exempt (§17.72.070.C), §17.60.030 requires Design Review and View Preservation Findings to be made. The required findings are written in a manner to allow approval, without endorsing the project. However, if public hearing information is submitted or public comment received indicating that views, for instance, may be significantly impacted, or the structure proposed is obtrusive, the findings should be reworded accordingly.

Design Review Criteria

- A. *The alteration of natural landforms caused by cutting, filling, and grading shall be minimal. Structures should be designed to fit the site rather than altering the landform to accommodate the structure.* Response: Very little soil disturbance will be required to construct the new concrete pad; the lot is fairly flat where the construction will occur.
- B. *Structures in, or adjacent to, open space areas should be constructed of materials that reproduce natural colors and textures as closely as possible.* Response: The project is not located near any open space areas.
- C. *Materials and colors used in construction shall be selected for the compatibility both with the structural system of the building and with the appearance of the building's natural and man-made surroundings. Preset architectural styles (e.g. standard fast food restaurant designs) shall be avoided.* Response: Exterior materials and colors will be consistent with the existing structure and surrounding development.

- D. *Plant materials should be used to integrate the manmade and natural environments to screen or soften the visual impact of new development, and to provide diversity in developed areas. Attractive vegetation common to the area shall be used.* Response: No changes in landscaping are proposed at this time. The property is already landscaped.
- E. *On-premise signs should be designed as an integral part of the structure and should complement or enhance the appearance of new development.* Response: No signs are proposed as part of this project.
- F. *New development should include underground utility service connections. When above ground facilities are the only alternative, they should follow the least visible route, be well designed, simple and unobtrusive in appearance, have a minimum of bulk and make use of compatible colors and materials.* Response: No changes to the existing underground utilities are proposed.
- G. *Off-premise signs needed to direct visitors to commercial establishments, as allowed herein, should be well designed and be clustered at appropriate locations. Sign clusters should be a single design theme.* Response: No off-premise signs are proposed as part of this project.
- H. *When reviewing the design of commercial or residential buildings, the committee shall ensure that the scale, bulk, orientation, architectural character of the structure and related improvements are compatible with the rural, uncrowded, rustic, unsophisticated, small, casual open character of the community. In particular:*
1. *Residences of more than two thousand square feet in floor area and multiple family dwellings or commercial buildings of more than four thousand square feet in floor area shall be considered out of scale with the community unless they are designed and situated in such a way that their bulk is not obtrusive.* Response: The square footage of the structure is not being altered.
 2. *Residential and commercial developments involving multiple dwelling or business units should utilize clusters of smaller structures with sufficient open space between them instead of a consolidated structure.* Response: No such development is proposed.

View Protection

- A. *Structures visible from the beach or a public trail in an open space area should be made as visually unobtrusive as possible.* Response: This project is visible from the Van Wycke and Galindo Street Trails. However, it is only a very minor change from the existing conditions and will not negatively affect aesthetics.
- B. *Structures, including fences over three feet high and signs, and landscaping of new development, shall not be allowed to significantly block views of the harbor, Little Trinidad Head, Trinidad Head or the ocean from public roads, trails, and vista points, except as provided in subdivision 3 of this subsection.* Response: Due to the small

size of the project and its orientation in relation to the building, it has minimal potential to block public views.

- C. *The committee shall recognize that owners of vacant lots in the SR and UR zones, which are otherwise suitable for construction of a residence, are entitled to construct a residence of at least fifteen feet in height and one thousand five hundred square feet in floor area, residences of greater height as permitted in the applicable zone, or greater floor area shall not be allowed if such residence would significantly block views identified in subdivision 2 of this subsection. Regardless of the height or floor area of the residence, the committee, in order to avoid significant obstruction of the important views, may require, where feasible, that the residence be limited to one story; be located anywhere on the lot even if this involves the reduction or elimination of required yards or the pumping of septic tank wastewater to an uphill leach field, or the use of some other type of wastewater treatment facility; and adjust the length-width-height relationship and orientation of the structure so that it prevents the least possible view obstruction.* Response: The project will not be located on a vacant lot, nor will it affect building height or square footage.
- D. *If a residence is removed or destroyed by fire or other means on a lot that is otherwise usable, the owner shall be entitled to construct a residence in the same location with an exterior profile not exceeding that of the previous residence even if such a structure would again significantly obstruct public views of important scenes, provided any other nonconforming conditions are corrected.* Response: There was no residence that was destroyed by fire associated with this project.
- E. *The Tsurai Village site, the Trinidad Cemetery, the Holy Trinity Church and the Memorial Lighthouse are important historic resources. Any landform alterations or structural construction within one hundred feet of the Tsurai Study Area, as defined in the Trinidad general plan, or within one hundred feet of the lots on which identified historical resources are located shall be reviewed to ensure that public views are not obstructed and that development does not crowd them and thereby reduce their distinctiveness or subject them to abuse or hazards.* Response: The proposed project is not within 100 feet of the Holy Trinity Church, the Memorial Lighthouse, the Tsurai Study Area or the Cemetery.

SLOPE STABILITY:

The project site is not mapped as being “unstable” or of “questionable stability” on Plate 3 of the General Plan. The project is located outside of the Alquist-Priolo Fault Zone. Therefore, the finding can be made that no geologic study is required by the Zoning Ordinance.

SEWAGE DISPOSAL:

The property is served by a 3-bedroom septic system that was installed in 1998. An issue came up with the location of the leachlines in relation to the supports for the enlarged deck and concrete pad. However, it turns out that the leachfield was actually installed on the west side of the front yard, away from the deck. This was verified by Wes Green and DEH staff who visited the site. This means that the reserve area is on the east side of the yard in front of the deck. Should the reserve area ever be needed, the property owners should be aware that the concrete pad and deck may need to be altered or removed to accommodate the new leachfield. However, DEH had no objection to the current project. The property owners are in compliance with the City's OWTS Management Program and have been issued a valid OWTS Operating Permit.

LANDSCAPING AND FENCING:

This project does not involve any new landscaping or fencing.

STAFF RECOMMENDATION

Based on the above analysis, the project can be found to be consistent with the City's Zoning Ordinance, General Plan, Coastal Act, and other applicable policies and regulations. Therefore the necessary findings for granting approval of the project can be made. If the Planning Commission agrees with staff's analysis, a proposed motion might be similar to the following:

Based on application materials, information and findings included in this Staff Report, and based on public testimony, I move to adopt the information and required Design Review and View Protection findings in this staff report and approve the project as described in this staff report and as conditioned herein.

PLANNING COMMISSION ALTERNATIVES

If the Planning Commission does not agree with staff's analysis, or if information is presented during the hearing that conflicts with the information contained in the staff report, the Planning Commission has several alternatives.

- A. Add conditions of approval to address any specific concerns on the part of the Commission or the public.
- B. Delay action / continue the hearing to obtain further information.
 - In this case, the Planning Commission should specify any additional information required from staff or the applicant and / or suggestions on how to modify the project and / or conditions of approval.
- C. Denial of the project.

- The Planning Commission should provide a motion that identifies the Finding(s) that can not be made and giving the reasons for the inability to make said Finding(s).

CONDITIONS OF APPROVAL

1. The applicant is responsible for reimbursing the City for all costs associated with processing the application. *Responsibility: Building Official prior to building permits being issued.*
2. Based on the findings that community values may change in a year's time, approval of this Design Review is for a one-year period starting at the effective date and expiring thereafter unless the project has been initiated through issuance of a building permit or an extension is requested from the Planning Commission prior to that time. *Responsibility: Building Inspector prior to building permits being issued.*
3. Construction related activities are to occur in a manner that will not impact the integrity of the septic system. The leachfield area shall be staked and flagged to keep equipment off the area. Alternatively, a written description of techniques/timing to be utilized to protect the system will be required from the contractor. If the proposed system area is impacted by construction activities, an immediate Stop-Work Order will be placed on the project. The contractor will be required to file a mitigation report for approval by the City and DEH prior to permitting additional work to occur. *Responsibility: Building Inspector to verify prior to building permits being issued and during construction.*
4. Recommended conditions of the City Building Inspector shall be required to be met as part of the building permit application submittal. Grading, drainage and street improvements will need to be specifically addressed at the time of building permit application. *Responsibility: Building Inspector prior to building permits being issued.*
5. Construction related activities are to occur in a manner that incorporates storm water runoff and erosion control measures as necessary in order to protect water quality considerations near the bluffs. Specific water quality goals include, but are not limited to:
 - a. Limiting sediment loss resulting from construction
 - b. Limiting the extent and duration of land disturbing activities
 - c. Replacing vegetation as soon as possible
 - d. Maintaining natural drainage conditions*Responsibility: Building Inspector to confirm prior building permits being issued.*

Notes for #860 VanWycke deck:

- Plan view notes:
 - Deck is 30' L-R; 12' 9" F-B; and approximately 9' 6" high.
 - The main support beam is 4"x10" P.T. supported by (5) 4"x 6" P.T. posts on 7' centers.
 - The 2"x 8" P.T. ledger is mounted on stand-off blocking on 4' centers with (2) ½"x 7" galv. lag screws each, into the existing rim joist.
 - The joists are 2"x 8" P.T. on 24" centers, with the ledger end mounted in simpson ties and with (2) hurricane ties at the main support beam.
 - The two diagonal 2"x 4" P.T. are for lateral support.

- Partial front elevation notes:
 - Railing posts are 4"x4" cedar mounted with (2) 3/8 Dia. X 7" carriage bolts.
 - Simpson post bases are imbedded in 12" of concrete.
 - The 37 ½" high front railing consists of (8) runs of 1/8 dia. stainless steel cable on 4" centers with support posts on 5' centers..
 - All decking and stair treads are of 2"x 6" cedar.

- Section "A"- "A" notes:
 - The 37 ½" high side and stair railings consist of 1 ½ x 1 ½ balisters on 5" centers allowing for 3 ½" open space between balisters.

- General notes:
 - The leach field is actually located in the "reserved" area. Please refer to enclosed photo.

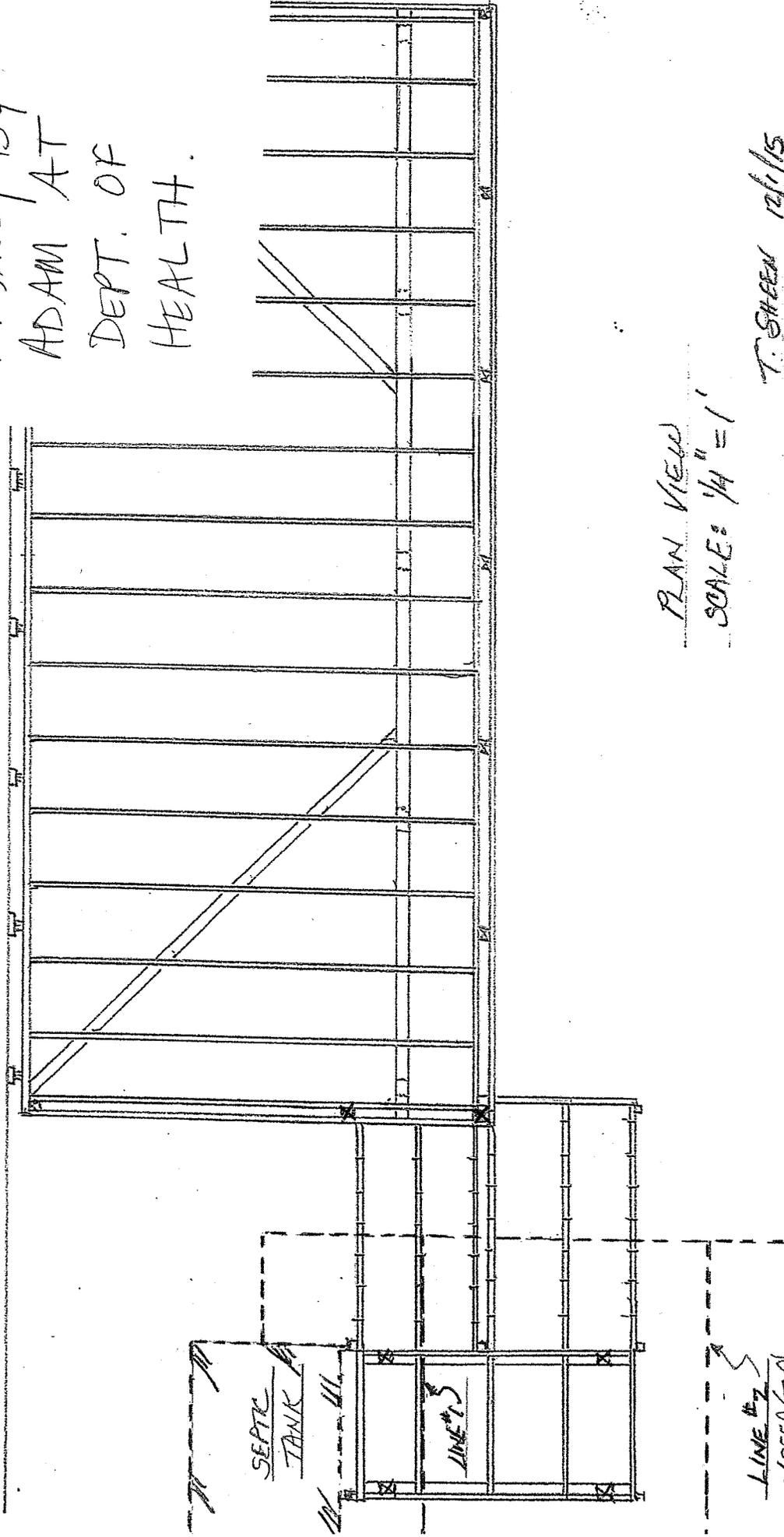
Sheet 4 of 5

T. SHEEN

T. Sheen 12/1/2015.

Rev - A - 1/27/2016.

CLOMPUS DECK.
ALREADY APPROVED
VERBALLY BY
ADAM AT
DEPT. OF
HEALTH.



PLAN VIEW
SCALE: 1/4" = 1'

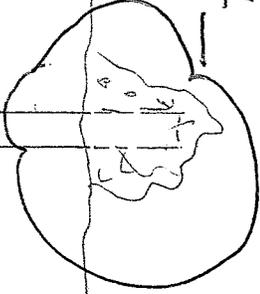
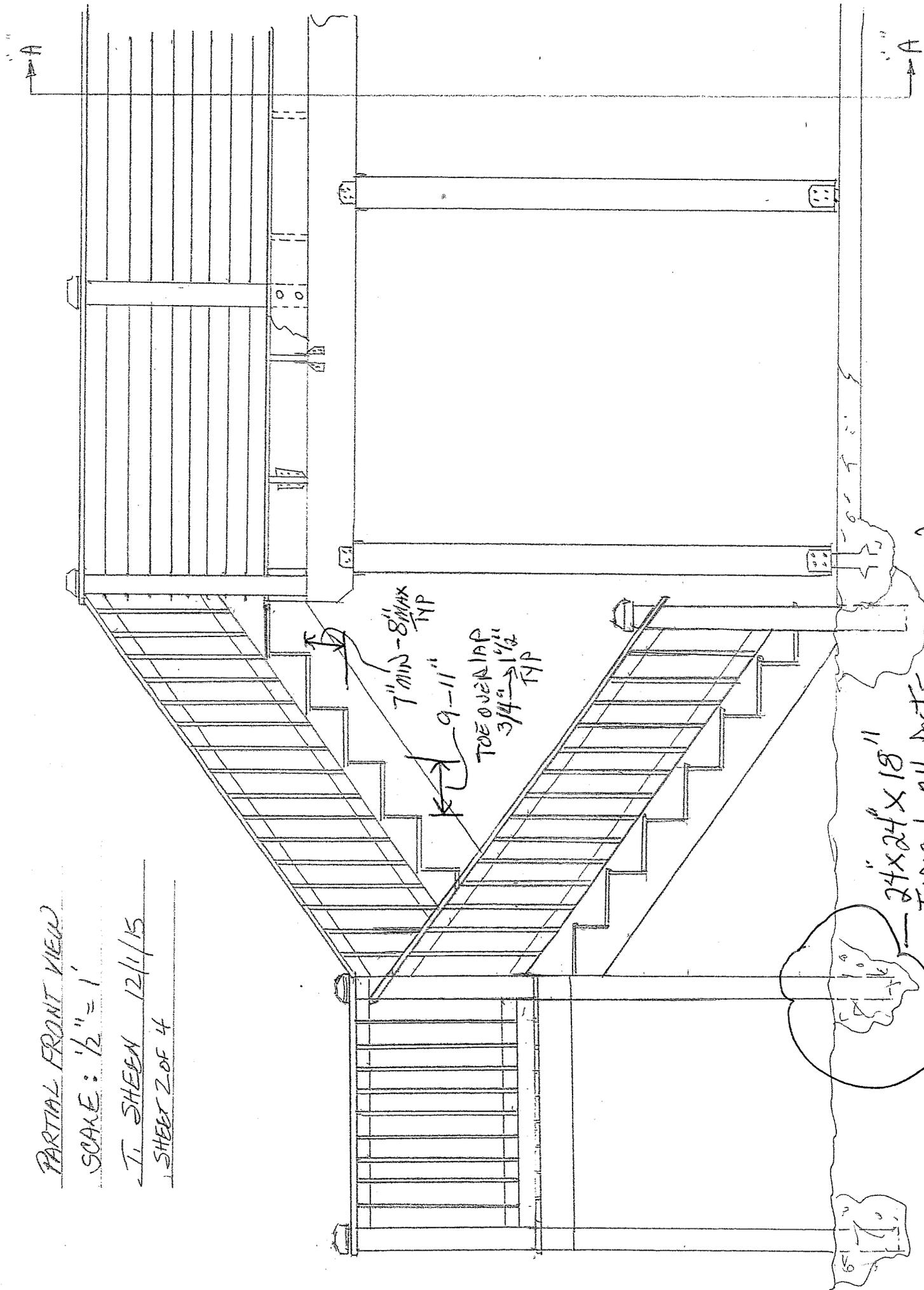
T. SHAFEN 12/1/15
SHEET 1 OF 4
REV. A 1/27/16

PARTIAL FRONT VIEW

SCALE: 1/2" = 1'

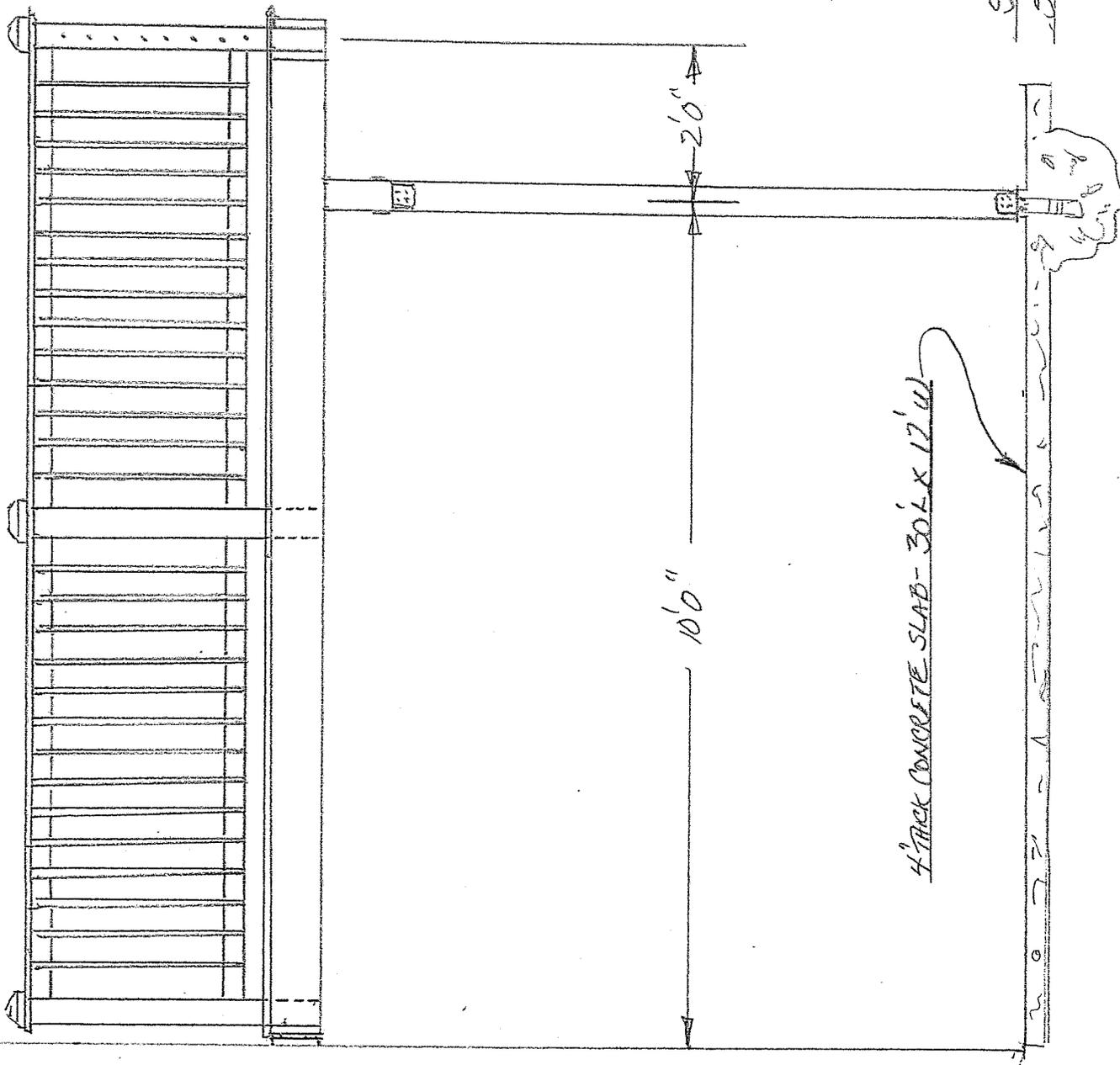
T. SHEEN 12/1/15

SHEET 2 OF 4



24" X 24" X 18"

TYPICAL ALL POST FOOTINGS MIN.



4" RECK CONCRETE SLAB - 30' L X 12' W

SECTION "A-A"
SCALE: 1/2" = 1'

T. SHEEN 12/11/15
SHEET 3 OF 4 REUA-17716

Google Maps Van Wycke St



Image capture: Feb 2011 © 2016 Google

Trinidad, California
Street View - Feb 2011

Google Maps

Google Maps Galindo St



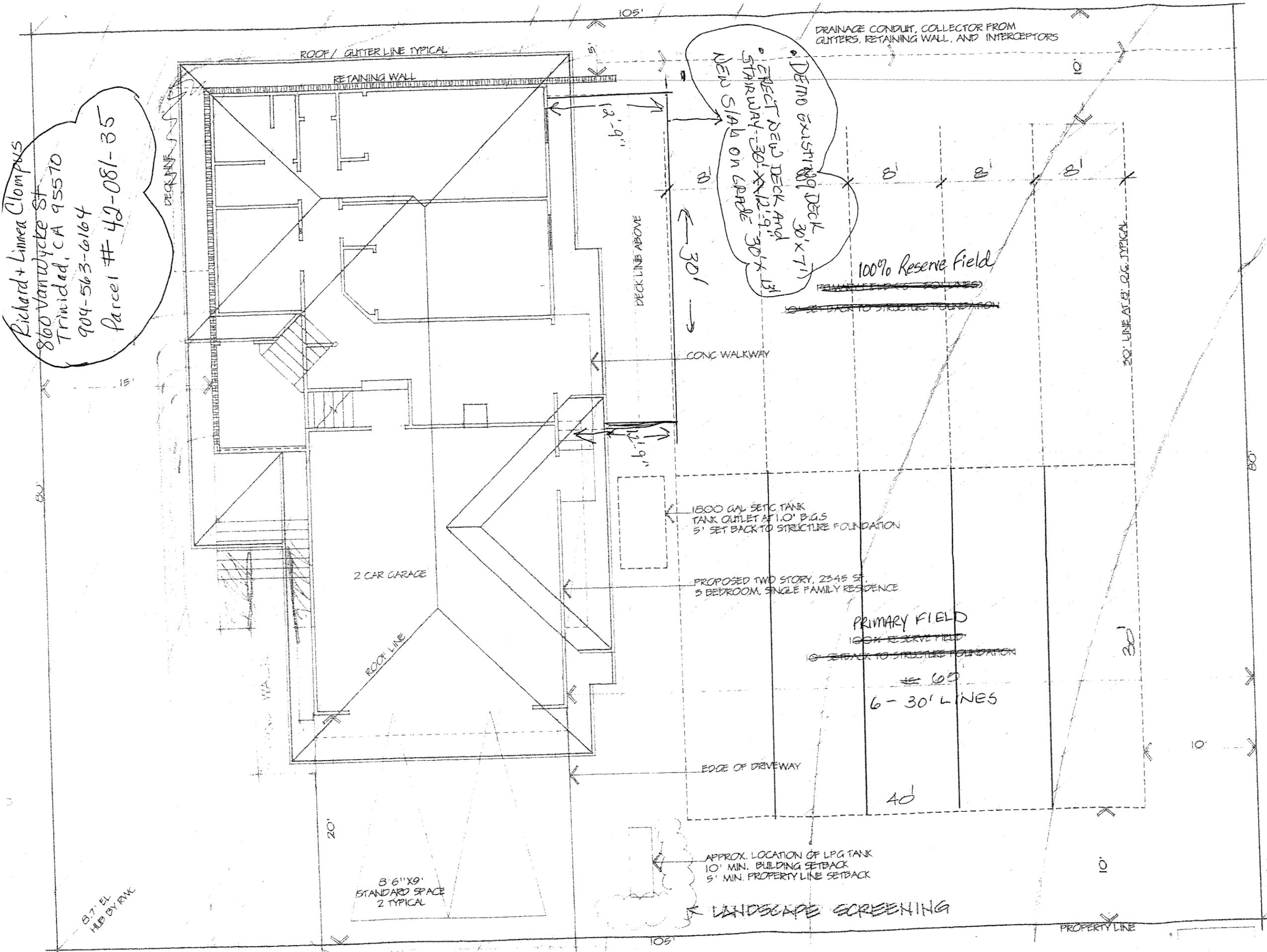
Google

Image capture: Jun 2012 © 2016 Google

Trinidad, California
Street View - Jun 2012

Google Maps

Richard + Linnea Clomps
860 Van Wyck St
Trinidad, CA 95570
909-563-6164
Parcel # 42-081-35



VAN WYCKIE

Revised 1/16/16



MEMORANDUM

TO: Trinidad Planning Commission
FROM: Trever Parker, City Planner
DATE: April 12, 2016
RE: April VDU Agenda Item

Short Term Rental Definitions

The top priority for staff right now is to figure out how the City is going to define and license different types of STRs. Depending on how that is decided, the scope and format of the ordinance could change significantly. The ordinance could also use some better organization, but I don't want to do that until this issue is decided. Types of STRs can include entire and partial structures, and owner-occupancy and "hosted" considerations. These definitions are fundamental to the ordinance and will affect the content and organization of the amendment, which is why it is important to get this issue decided.

It might be helpful to look at a break-down of all the possible different types of STRs. Here is a possible list (where owner occupied = primary residence, through deed, property tax exemption, drivers license, etc.), but it may not be exhaustive:

Entire House

- Owner-occupied, unhosted (while the owner is on vacation e.g.)
- Owner-occupied, hosted (host stays on the property in a second unit or detached bedroom, but not in main residence; host may or may not be the owner)
- Non-owner-occupied, unhosted (traditional STR Type 2)
- Non-owner-occupied, hosted (host stays on the property in a second unit or detached bedroom, but not in main residence; host may or may not be a long-term tenant, but is not the owner)

Partial House

- Owner-occupied, hosted (host stays in the main residence; host is most likely the owner, but could be a designated representative of the owner)

- Non-owner-occupied, hosted (host stays in the main residence; host is a designated representative of the owner)
- Long-term tenant occupied, hosted (host is the long-term tenant)

In addition, while the term ‘Short Term Rental’ does seem to be becoming more common, the terminology, even in very recent ordinances, is highly variable. There is no consistent standard, and you should use whatever terms make the most sense for Trinidad. The definitions are what matter, not the terminology. I have included some different examples of definitions in the ordinance amendment.

I have recently spent some more time researching regulations for owner-occupied, or Type 1, STRs. One of the things I found in the ordinances that I reviewed that only allow Type 1 STRs in residential areas, is that they all define owner-occupied as the primary residence of the owner, not necessarily that the owner has to be present during the short-term rental. For example, Austin, TX has three different categories of Type 1 STRs, and defines them overall as being owner-occupied at least 51% of the time. They can be rented with or without the owner’s presence.

The City of San Luis Obispo requires that the property be designated as the owner’s primary residence on the deed, and that they reside there “for the major portion of the year.” San Luis Obispo also requires that a responsible party be designated that is available by phone and not more than 15 minutes away during rental periods, but that party does not have to be the owner. And there is no requirement in the ordinance that the owner or responsible party sleeps at the home while it is rented. This is somewhat unclear based on their definitions, so I called to speak with one of their planners. He confirmed that no one has to be staying on the premises during a “homestay” rental, which is legal in single-family and other residential zones. He stated that many of their homestay permits are used by owners who rent out their home while they are on vacation.

I have not spent a lot of time reviewing the Town of Mendocino’s new code partly because it is a moving target, and partly because it is pretty complex and beyond the scope of what Trinidad is doing. It also is not anywhere close to being certified by the Coastal Commission. It is a significant amendment that addresses more than just STRs, including increased allowances for second units and rezoning some properties. The Mendocino County Board of Supervisors has already amended the LCP amendment and application once, and is considering doing so again. They have also had to double the consultant’s budget from \$50,000 to \$100,000 to continue working on the LCP amendment application, because of the amount of backup documentation, studies and justification that Coastal Commission staff are requesting.

Ordinances that differentiate between entire house rentals and those that have a long-term resident present during rentals often use the term “hosted.” A number of these ordinances have more relaxed standards for hosted STRs than for non-hosted. For example, Portland, OR, San Francisco and Berkley all limit the days of non-hosted rentals to around 90 per year; in San Jose, it is 180 days. In contrast, hosted rental days are unlimited. The City of Napa has a smaller cap for non-hosted rentals. And not all of these jurisdictions require the host to be the owner (e.g. San Francisco requires that it be the “primary resident”).

Rather than only allowing hosted rentals, the City could provide incentives for that type of rental, such as in the examples above, and / or by minimizing the licensing requirements, but still allow for the more traditional and desirable entire home STRs on a limited basis. There are many ways that the City can limit the impacts of STRs on residential neighborhoods without completely restricting them. This provides balance as well as a reasonable path forward that can realistically be completed within the timeframe of the moratorium. By changing directions now, as advocated by some community members, the City process will become longer and more complex. In addition, the likelihood of a speedy Coastal Commission certification would be substantially reduced.

As mentioned above, one way to incentivize owner-occupied, hosted STRs would be to minimize the permitting or licensing requirements. The current version of the ordinance amendment defines “home stays” as renting up to two bedrooms to 4 people, which does not require an STR license. A homestay would just require a business license and payment of Transient Occupancy Taxes. Then the City can still differentiate between Type 1 and Type 2 STRs as well.

Some of the issues that have come up regarding possible illegal second units and how detached living spaces are used help to highlight some of the problems that are likely to occur if STRs are limited to only owner-hosted STRs. The demand for STRs appears to mostly be for private, separate spaces. By enacting such a strict limitation, it will encourage owners to create those separate living spaces that may be in violation of land use regulations, or for STRs to go ‘underground’. It does not appear that homestays are particularly advantageous or appealing to homeowners, or more would exist at this time. That approach also does not provide the balance in the community that many people have said they are looking for. It seems to go above and beyond what is needed to ensure that STRs have minimal impacts on residential neighborhoods. In addition, such an approach would be difficult to justify to the Coastal Commission, or to a Court.

Ordinance Amendment

I have made several amendments based on the discussion and direction given by the Planning Commission at the last meeting. I went ahead and accepted all

the changes made in the previous version, so that you can easily identify the changes made since the last meeting. If you would prefer a version that shows all of the changes that have been made compared to the current ordinance, there are a couple of options. We may need to prepare something like that for the Coastal Commission at the end of this process anyway if that is possible (depending on how much the organization changes). But I can also change the color of the track changes after each meeting and print the ordinance amendment in color for the packets. So let me know if that would be helpful for your review.

Similar to last month, I included some of my own comments, questions and sample alternative language in italics. Some of my comments are not underlined, because they were in there last time, and there are also some new comments. I have added a number of definition examples, many related to different types of STRs. I also added some provisions for a “Property Watch List,” a term used by Palm Springs to identify properties that have had problems and therefore get additional oversight. The other major addition was an explicit allowance for the City Manager to add administrative rules and policies to help the City clarify and implement the ordinance into the future. In one sense, it is nice to have as many details in the ordinance as possible to cover different situations that may come up. But eventually the regulations get overly detailed, and it is impossible to predict every possible scenario that may arise. So this language gives the City Manager clear discretion to add additional standards as necessary and to define and determine significant violations.

Questions for the City Attorney

I have attached the memo that I sent to the City Attorney with a current list of questions, mostly related to enforcement. He was hoping to get me a response in time for the packets, but I have not yet received it. So you will likely get that material early next week.

I have also attached the administrative citation chapter from the Palm Springs Municipal Code. These regulations are not specific to vacation rentals, but they can be used as a model to add to Trinidad’s code. The Planning Commission could recommend that the City Council take that up for consideration separate from the VDU ordinance amendment. It should not have to go through the Coastal Commission.



ORDINANCE 2016-##

**AN ORDINANCE OF THE CITY OF TRINIDAD
AMMENDING-REPEALING EXISTING SECTION 17.56.190 AND ADDING A NEW SECTION
17.56.190 AND AMENDING SECTION 17.56.060 OF TITLE 17 OF THE TRINIDAD
MUNICIPAL CODE (AMMENDING-REPEALING EXISTING SECTION 6.26 AND ADDING A
NEW SECTION 6.26 AND AMENDING SECTION 6.06 OF THE COASTAL COMMISSION
CERTIFIED ZONING ORDINANCE),**

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

ORDINANCE 2016-001, SECTION 1:

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

Section 17.56.180 (6.26) Regulations for ~~Vacation Dwelling Units~~ Short Term Rentals

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~~ Short Term Rental Ordinance."

17.56.190 (6.26).B

Definitions.

#. Dwelling.

A single family dwelling, or a dwelling unit within a duplex or multi-family dwelling, not to include mobile homes in a mobile home park.

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 maximum occupancy and visitors, off-street parking, minimizing noise, establishing quiet hours, minimizing disturbance to neighbors and environmentally sensitive habitat areas, and penalties for violations.

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.

#. Existing STR.

An STR that had a valid VDU license as of the effective date of this ordinance.

#. Homestay.

An owner-occupied dwelling in which no more than two bedrooms are rented for transient use to up to four occupants total, not including residents, and in which the owner also stays overnight in the dwelling while it is rented. Residents plus occupants shall not exceed two people per bedroom, plus two people.

#. Host

A long-term resident that lives on the property, either in the Short Term Rental, or in another legal dwelling unit on the property, and who sleeps on the property while the STR is being rented, and who is responsible for overseeing or managing the STR while it is being rented.

#. Hosted Short Term Rental

A Short Term Rental with a Host.

(San Jose defines 'Host Present' as: "means the Host is present on the premises of the dwelling unit that is being used for Incidental Transient Occupancy during the term of the Transient Occupancy at all times between the hours of 10pm – 6am." This standard would be easier to verify and enforce than the "stays overnight" requirement in the 'Homestay' definition above.)

3. Occupant.

"Occupant" within this Section means any person who exercises occupancy of a Short Term Rental, or is entitled to occupancy by reason of concession, permit, right of access, license or other agreement. As used in this Section, "occupant" does not include children aged 5 or under.

(This definition seems overly complicated. It came from the definition of tourist in the TOT ordinance. And as is, complicates occupancy requirements if there is a caretaker or other residents living in the VDU. However, I have also included provisions for that possibility in other sections as well. Most ordinances do not actually define occupant or renter. That may be because it is defined elsewhere in the Code, or because the definition is considered common sense. The City of Napa defines 'Renter' as "a person, not the owner, renting or occupying a vacation rental unit in accordance with the terms of this section.")

Owner-occupied.

"Owner-occupied" means the "domicile" of a person, as defined by California Elections Code Section 349, which generally means the place in which the person's habitation is fixed, wherein the person has the intention of remaining, and to which, whenever he or she is absent, the person has the intent of returning. At a given time, a person may only have one domicile.

(San Luis Obispo defines 'Owner Occupancy' as: "a lawfully permitted dwelling that is occupied by the owner(s) named on the property deed as their primary residence and is occupied by them for the major portion of the year." San Jose defines 'Primary Residence' as: "a permanent resident's usual

place of return for housing as documented by motor vehicle registration, driver's license, voter registration or other such evidence." Santa Monica defines a 'primary residence' as "considered to be a legal residence for the purpose of income tax and/or acquiring a mortgage."

#. Responsible Person (or Responsible Party).

Means the occupant of an STR who is at least twenty-five (25) years of age and who shall be legally responsible for compliance of all occupants of the STR and / or visitors will all provisions of this Section.

(This definition was adapted from Palm Springs, but it should be noted that a number of other ordinances that I reviewed define the Responsible Party as what this ordinance currently calls the 'Local Contact Person.'

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.

#. Short Term Rental (STR)

"Short Term Rental" (STR) means a rental of any dwelling unit, in whole or in part, within the City of Trinidad, to any person(s) for transient use, other than a Homestay or a Bed and Breakfast.

(The effect of these regulations on the existing Bed and Breakfast should be considered. Should that use be included as an STR, or a different kind of use subject to a Use Permit and only allowed in certain zones?)

#. Short Term Rental: Type 1 (STR:1)

As described in my memo, I need some direction on how to define this.

#. Short Term Rental: Type 2 (STR:2):

"Short Term Rental: Type 2" (STR:2) means a **non owner-occupied** dwelling without a host, which is rented for transient use, and no one but the occupants and visitors 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, game rooms, etc.), but accessory structures that are not legal dwelling units shall not be, by themselves, a short term rental.

STR Watch List

"STR Watch List" means one or more Short Term Rentals that the City Manager has identified on the basis of good cause as STRs that warrant a higher level of oversight, scrutiny, review, or monitoring.

6. Visitor.

"Visitor" means someone staying temporarily at a VDU, such as guests of occupants, 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.

a. Each VDU must procure a VDU License. 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.

b. 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.

c. At the time of application for a new STR, the dwelling shall be subject to inspection by the building official. The purpose of the inspection is to determine the conformance of the dwelling with the Uniform Building Code (date) and Zoning Ordinance. Prior to the issuance of the STR license, the owner of the dwelling shall make all necessary alterations to the dwelling as required by the Building Official to conform with applicable codes.

d. 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.~~ In addition, the applicant shall sign an acknowledgement that they will operate the STR in accordance with all applicable rules and regulations, including this section, and that they will be held responsible for the behavior of their occupants and visitors.

(The hold harmless agreement was removed based on the suggestion of the City Manager. It has been an issue for some owners, and the City Attorney has assured him that it is not necessary to protect the City anyway.)

e. 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.

f. The City will notify all property owners within 3400 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. STR License information, including license number, address, maximum occupancy and 24-hour contact, will be posted on the City's website.

g. 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. STR License Renewals.

STR licenses shall be renewed annually. ~~Renewals must be submitted by~~ ~~on~~ February 1. New STRs that received a license after October 1 do not need to renew their license until the February after the license has been in place for a year. 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. Existing STRs that have not have an initial inspection as required by §17.56.190.D.1.c will be subject to such an inspection.

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 STR, it is the intention of the City of Trinidad that there is a presumption that an application for renewal of a STR License for an

existing VDU will be approved as long as all applicable standards are still met 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*) or if it is voluntarily withdrawn.

(This section mentions staff review of complaints as part of the renewal process. This should probably have more detail if that is to be the case, such as if a property has had over a certain number of complaints, only a provisional license will be granted. There is more discussion of provisional licenses or a license watch list in the violations and enforcement section.)

3. License Transferability.

~~Zoning Permits~~STR Licenses 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 an STR license becomes available, the City will accept a new application for a VDU License. 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, but only once per property. 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 ~~45~~90 days to submit a complete VDU License application, along with any other associated permit applications (Use Permit, OWTS Operating Permit, etc.). If the person so selected does not obtain a VDU License within 180 days, the next name will be selected from the waiting list.

5. 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 20 miles of Trinidad ~~so~~ that he/she can and be able to respond personally to an emergency within 30 minutes.

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 ~~4~~300 feet of the VDU within ~~10~~7 business 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 ~~##30~~.

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

Existing VDUs, 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*).

17.56.190 (6.26).G Location.

STR's are permitted only in legally established dwelling units within any zoning district. 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 STR shall be located within ### foot radius around another existing STR. Distances shall be measured from the closest property line of the existing STR, to the closest property line of the property containing the proposed STR. This location standard can be modified through Planning Commission approval of a Use Permit.

17.56.190 (6.26).H Non-Permitted Uses.

No additional occupancy of the dwelling (with the exception of the property owner and private, non-paying guests) shall occur. An STR shall only be used for the purposes of occupancy as an STR or as a full-time occupied unit. No other use (e.g. home occupation, temporary event, homestay, etc.) shall be allowed on the site.

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), less any residents, hosts or caretakers (*define one or more of these*). 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. On properties that are less than 8,000 sq. ft. in area, the maximum number of occupants allowed is two (2) persons per bedroom. 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. Occupants will be required to utilize onsite parking prior to utilizing offsite and on-street parking as part of the rental contract but are not allowed to park onsite in undesignated parking spaces. Occupants and visitors shall be encouraged to not take up all of the available street parking of adjacent and nearby properties.

(Note that the intent of these additions is to minimize parking impacts, but the second part would not be enforceable.)

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.

(Should parking exceptions have a more formal process or require Planning Commission approval? Technically this section is probably no longer applicable because all existing VDUs have already been dealt with.)

#. Guest Registry

The STR owner or manager shall maintain an occupant and vehicle register for each tenancy of the STR. The register shall include the names, ~~phone numbers~~, and vehicle license plate numbers for all occupants as well as the dates of the rental period. The guest registry must be available for City inspection upon request.

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 of 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 the allowable occupancy of the STR at any time. Visitors are not allowed in the STR between 11 p.m. and 7 a.m. and shall not stay overnight on the premises. Regardless of the allowable occupancy, there shall be no more than 20 combined occupants and visitors on the premises at any time.

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.

STRs and hosted STRs shall be rented for a minimum of 60 nights per year in order to maintain a VDU License. If the STR owner / manager fails to document rentals of at least 60 nights per year, the City Manager may determine that license is inactive and ineligible for renewal.

(This requirement could go here or up in the license process section)

13. 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 shall post the Good Neighbor Brochure in a clearly visible location within the VDU.

14. 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.

##. Transmittal of Rules

Prior to rental of an STR, the Responsible Person shall be provided with a list of rules and responsibilities, in a form approved by the City Manager. The Responsible Person shall initial each rule indicating that they have read it and sign an acknowledgement that infractions will not be tolerated and if any rules are broken, they-occupants can be fined by the City, lose their security deposit and / or be evicted. In addition, the STR owner or manager shall meet at least one occupant on the day of their arrival in order to ensure that the rules are understood, and that the occupants have represented themselves correctly.

(Note that the idea of security deposits will have to be reviewed by the City Attorney and probably more added to the violations section to implement it.)

##. Administrative Standards and Rules

(a) The City Manager shall have the authority to impose additional standard conditions, applicable to all Short Terms Rentals, or Types, as necessary, to achieve the objectives of this Section. A list of all such additional standard conditions shall be maintained and on file in the office of the City Clerk and such offices as the City Manager designates.

(b) The City Manager shall have the authority to establish administrative rules and regulations consistent with the provisions of this Section for the purpose of interpreting, clarifying, carrying out, furthering, and enforcing the requirements and the provisions of this Chapter. A copy of such administrative rules and regulations shall be on file in the Office of the City Clerk.

Property Watch List

Notwithstanding the provisions of Subsection (##) above, upon a determination of good cause, the City Manager may impose additional or special standards or requirements for (1) the determination or placement of properties on the Property Watch List; (2) placement or imposition of special conditions or performance standards for Owners, Owner's Agents, Local Contact Persons, and their affected STRs on the Property Watch List; and (3) and removal of an STR from the Property Watch List.

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 & Inspection

Each owner and agent or representative of any owner shall provide access to each VDU for inspection 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 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. 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.

Complaint as used in this subsection means the need or requirement to contact the Local Contact Person to rectify a situation that is disturbing to a neighbor or resident. Complaints, and their

resolution, must be reported to the City Clerk's office by the Local Contact Person within two business days of being received.

(Would it be clearer to have these definitions in the definition section? Should provisions for a 'property watch list' (as used in Palm Springs) or other type of provisional / probationary license be included?)

As used in this subsection, significant violation is a situation where the Local Contact Person is either unable to unwilling to rectify the situation within a timely manner, and / or when public safety personnel must be called to assist in resolving the situation. 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.
- (#) Failure to maintain or provide the required guest registry.
- (iii) Violation of the STR 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. The City Manager shall have the authority to determine what constitutes a significant violation, as necessary, to achieve the objectives of this Section. A list of all such additional significant violations shall be maintained and on file in the office of the City Clerk and such offices as the City Manager designates.

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.



MEMORANDUM

TO: Andrew Stunich, City Attorney
FROM: Trever Parker, City Planner 
DATE: March 29, 2016
RE: Vacation rental ordinance questions

The Planning Commission, and staff, are starting to compile a number of questions having to do with legal issues related to vacation rentals, or short-term rentals (STR), as they are starting to be known. Most of these questions revolve around enforcement and penalties. Some of the questions are not framed very specifically, since we don't always know the right question to ask. But we are looking for guidance and advice on how best to proceed to accomplish certain goals, such as effective enforcement. For each set of issues and questions, I have provided some background to help you better understand what we are trying to accomplish.

One of the primary questions is about transferability of STR licenses and the legality of restricting transferability. Both the City Council and Planning Commission have expressed the desire to limit transferability in order to make the system fairer for everyone and as way of reducing the number of STRs should a cap be enacted. I have found a number of STR ordinances that completely restrict transferability. However, the STR owners and managers are against this, and have argued that it would be an illegal 'taking.'

Probably the strictest version I have seen is from the Town of Mendocino, which states (§20.748.020(F)): "Permits for a single unit rental or a vacation home rental shall not be transferable in any way."

The currently proposed language in the City's ordinance amendment is based on a Sonoma County STR ordinance and states: "STR Licenses shall run with the landowner and shall automatically expire upon sale or transfer of the property."

Based on discussions with the Planning Commission, the intent would be to limit transferability in the case of both sale and inheritance. One exception would be a transfer from spouse to spouse, such as with the death of one spouse. Another exception could be in the case of a Trust, where children may inherit the property and license because the ownership by the Trust would not actually change. That scenario may be acceptable to the Commission, but there is a desire to ensure that STRs are not held by corporations.

Hopefully that gives you enough background to answer these questions:

1. To what extent can license or permit transferability legally be restricted?
2. With the proposed language above, what would that mean for spouses or a Trust, or others we haven't thought of?
3. If there are problems with takings and legality in restricting transferability, would allowing a one-time transfer for existing license holders avoid that?

The next set of questions has to do with existing enforcement and penalty tools. We want to understand what the City's existing options are, and how useful they can be when applied to STRs that have temporary violations by transient people.

1. Does the City currently have the authority to issue tickets / infractions with fines associated with them to STR guests / renters / occupants (e.g. TMC §8.12.120) for violations of the STR ordinance without having to go through another legal process (e.g. court order, notice to appear)?
2. If not, please provide a brief summary of what the process does entail.
3. If so, who can issue such tickets, fines, or infractions?
4. What kinds of violations can this tool realistically be used for?
5. What is the usefulness of the existing zoning ordinance penalties section (§17.76.050)? My understanding is that a misdemeanor would require a court process and therefore potentially significant expense to the City. That would also limit its usefulness for the temporary nature of STR violations and violators.
6. If infractions are a useful tool for STR enforcement, can minor revisions be made to the above section to include that process? In terms of the Coastal Commission certification process, it would be easier to amend a section in the zoning ordinance that has already been certified, than it would be to refer to an uncertified section of the TMC such as the Nuisance Abatement ordinance referenced earlier (Chapter 8.12).

Now for future options. We want a clear and easily used set of tools for dealing with enforcement and penalties. That desire isn't necessarily limited to STRs, but that is the current focus and priority. The first priority would be to avoid violations in the first place. This may be accomplished by stricter application and renter screening requirements as well as better education for renters. But it also means having useful tools for dealing with violations if they do occur, which would also help discourage bad behavior. And we also want clear enforcement tools and penalties in order to be able to follow up to the satisfaction of the affected parties effectively and efficiently.

1. Is there a mechanism by which the City can legally fine, or otherwise hold STR owners and / or managers responsible for violations that occur by renters at their STRs? We do have a mechanism for revoking a license if there are too many violations.
2. Can the City legally require that STR owners / manager supply an up front deposit to be used in the case of violations or to pay for enforcement actions?
3. If the answers to the above questions are 'yes,' can you provide some examples or sample language that we can include in the ordinance?
4. Do you have any other suggestions of things we haven't thought of to help the City meet its enforcement goals?

Palm Springs Municipal Code[Up](#)[Previous](#)[Next](#)[Main](#)[Collapse](#)[Search](#)[Print](#)[No Frames](#)[Title 1 GENERAL PROVISIONS](#)**Chapter 1.06 COMMUNITY IMPROVEMENT AND ADMINISTRATIVE CITATIONS****1.06.010 Intent.**

- (a) This chapter provides for administrative citation remedies, which are in addition to all other legal remedies, criminal or civil, which may be pursued by the city to address any violation of this code, including any codes adopted by reference, or other public nuisance.
- (b) This chapter establishes an administrative citation process and monetary penalties to encourage and expedite compliance with the provisions of the Palm Springs Municipal Code. This chapter encourages voluntary compliance through the implementation of a process that informs responsible parties of violations by giving a written warning before taking action and allowing reasonable time lines for compliance.
- (c) The goals of this chapter focus on minimizing the number of code violations made by property owners, renters, business owners, and other stakeholders of the city by instituting a citation process and promoting a positive city image. The goals of this chapter are as follows:
- (1) To improve the quality of life for Palm Springs residents and business owners by reducing the number of code violations through the encouragement of expedient compliance;
 - (2) To protect the health, safety, and welfare of the general public by minimizing potentially harmful municipal code violations;
 - (3) To provide a simplified administrative citation process in order to encourage its implementation;
 - (4) To minimize the time and expense associated with code enforcement action;
 - (5) To provide a methodology to hold noncompliant parties responsible for continuous violations; and
 - (6) To provide for the enhanced collection of delinquent code enforcement fines, costs, fees and penalties by conditioning issuance and renewal of city licenses and permits upon payment of such delinquent code enforcement fines, costs, fees and penalties.
- (d) The council finds that the enforcement throughout the city of the provisions of this code, including such codes as have been incorporated by reference and any applicable state codes, is an important public service. Code enforcement is vital to the protection of the public's health, safety, and quality of life. The council recognizes that code enforcement depends upon the codification and implementation of fair, reasonable, and consistent regulations that can be effectively applied in administrative and judicial proceedings. The council further finds that a comprehensive code enforcement system that uses a combination of judicial and administrative remedies is critical to gain compliance with this code and the regulations contained in this code. (Ord. 1669 § 5, 2005)

1.06.020 Definitions.

In construing the provisions of this chapter, the following definitions shall apply:

“Administrative citation” means a monetary penalty issued after failure to abate a violation of the Palm Springs Municipal Code.

“City manager” means the city manager of the city or the city manager's designee or designees.

“Enforcement officer” means a code compliance officer, police officer, building inspector, or any other city employee designated by the city manager to enforce the provisions of the Palm Springs Municipal Code and granted authority to issue notices and administrative citations pursuant to this title. The term “enforcement officer” also includes any city employee or official expressly pro-

vided enforcement authority pursuant to the provisions of this code.

“Hearing” means a hearing conducted by a hearing officer regarding an appeal of the issuance of an administrative citation submitted by a responsible party.

“Hearing officer” means an individual or board (including, but not limited to, the administrative appeals board) as may be designated by the city manager to conduct hearings, including appeals hearings, and make decisions as provided in this chapter.

“Public safety officer” means a police officer or the fire chief of the city or the fire chief’s designee authorized under the laws of the State of California or this code to enforce the provisions of the Palm Springs Municipal Code. A “public safety officer” is an “enforcement officer” as defined in this chapter.

“Responsible party” means the owner of property upon which a violation of the Palm Springs Municipal Code exists. This term shall also include any non-owner, occupant, or other person or entity in control of the property who is creating, causing, or maintaining any condition in violation of the Palm Springs Municipal Code. (Ord. 1679 § 3, 2005; Ord. 1669 § 5, 2005)

1.06.030 Administrative citation and pre-citation or courtesy notice.

(a) Whenever an Enforcement Officer charged with the enforcement of any provision of this Code determines that a violation of that provision has occurred, either by receiving a complaint or being witness to the violation, the Enforcement Officer has the authority to take the actions identified in this Section and issue an administrative citation to a responsible party for the violation, as provided herein, unless the violation is deemed to be an immediate threat to life and safety, at which time the matter shall be referred to the Building Official, Police Department, Fire Department, or other applicable agency, depending on the nature of the violation, for immediate action. A Public Safety Officer shall not be required to issue a pre-citation or courtesy notice as provided in Subsection (b) of this Section; however, a Public Safety Officer, in the discretion of such officer, may issue such courtesy notice. The City Manager may by administrative rule or regulation or by direction or order authorize an Enforcement Officer to issue an administrative citation without first complying with the pre-citation or courtesy notice requirements as otherwise required pursuant to Subsection (b) of this Section.

(b) Prior to issuing an administrative citation for a violation of this code that does not create an immediate danger to health or safety, the enforcement officer shall serve a pre-citation or courtesy notice on the responsible party for the violation containing the following information:

- (1) The date the violation was observed;
- (2) The address or a definite description of the location where the violation was observed;
- (3) The section of this code violated and a description of the violation;
- (4) The compliance date by which the violation shall be corrected or otherwise remedied, which shall be no less than fifteen days and no more than sixty days from the date the pre-citation notice is given, as determined to be reasonable by the code enforcement official;
- (5) A statement that if the violation is not corrected by the specified compliance date, that an administrative citation will be issued which imposes a fine, for the amount of which will be specified; and
- (6) The name, signature and department of the enforcement officer issuing the pre-citation notice.

(c) Each administrative citation shall contain the following information:

- (1) The date of the violation;
- (2) The address or a definite description of the location where the violation occurred;
- (3) The section of this code violated and a description of the violation;
- (4) The amount of the fine for the code violation;
- (5) A description of the fine payment process, including a description of the time within which and the place to which the fine shall be paid;

(6) An order prohibiting the continuation or repeated occurrence of the code violation described in the administrative citation;

(7) A description of the administrative citation review process, including the time within which the administrative citation may be contested and the place from which a request for hearing form to contest the administrative citation may be obtained; and

(8) The name, signature, and department of the citing enforcement officer.

(d) An administrative citation shall be issued and served in accordance with Section 1.06.040. (Ord. 1848 § 1, 2014; Ord. 1679 § 4, 2005; Ord. 1669 § 5, 2005)

1.06.040 Imposition of penalties.

(a) **First Administrative Citation.** If the violation is not abated by the date set forth in the courtesy notice, a first administrative citation shall be issued. The first administrative citation shall carry a fine of one hundred dollars, or such amount as the city council may establish by resolution, and shall require abatement of the violation within ten calendar days from the date of the first administrative citation. If an extension of the compliance date set forth in the first administrative citation is requested and approved in accordance with Section 1.06.050, the fine must be paid prior to the city's grant of the extension. The first administrative citation shall warn the responsible party of an additional two hundred fifty dollar penalty, or such amount as the city council may establish by resolution, for not abating the violation by the compliance date set forth in the first administrative citation or the extension period granted by the city.

(b) **Second Administrative Citation.** If the violation continues after the compliance date in the first administrative citation or any extension period granted by the city, or a second violation of the same provision of this code occurs within one year of the compliance date of the first such violation, a second administrative citation shall be issued. The second administrative citation shall carry a fine of two hundred fifty dollars, or such amount as the city council may establish by resolution, and shall require abatement of the violation within ten calendar days from the date of the second administrative citation, and shall clearly indicate "SECOND ATTEMPT TO OBTAIN COMPLIANCE." If an extension of the compliance date set forth in the second administrative citation is requested and approved in accordance with Section 1.06.050, the full amount of all fines must be paid prior to the city's grant of the extension. The second administrative citation shall warn the responsible party of an additional five hundred dollars penalty for not abating the violation by the compliance date set forth in the second administrative citation or the extension period granted by the city.

(c) **Third Administrative Citation.** If the violation continues after the compliance date in the second administrative citation or any extension period granted by the city, or a third or subsequent violation of the same provision of this code occurs within one year of the compliance date of the first such violation, a third administrative citation shall be issued. The third administrative citation shall carry a fine of five hundred dollars, or such amount as the city council may establish by resolution, and shall require abatement of the violation within ten calendar days from the date of the third administrative citation, and shall clearly indicate "FINAL ATTEMPT TO OBTAIN COMPLIANCE – FAILURE TO COMPLY MAY RESULT IN PUBLIC NUISANCE PROCEEDINGS AND OTHER ENFORCEMENT ACTIONS – ALL COSTS ASSOCIATED WITH PUBLIC NUISANCE PROCEEDINGS MAY BE LIENED AGAINST THE SUBJECT PROPERTY IF NOT PAID BY THE RESPONSIBLE PARTY." If an extension of the compliance date set forth in the third administrative citation is requested and approved in accordance with Section 1.06.050, the full amount of all fines must be paid prior to the city's grant of the extension. (Ord. 1679 §§ 5, 6, 2005; Ord. 1669 § 5, 2005)

1.06.050 Action required upon receipt of an administrative citation.

(a) Upon receipt of an administrative citation, the responsible party must take one of the following actions to avoid additional penalties:

(1) Correct the violation, pay the corresponding fine(s), if any, and contact the city to request a re-inspection, prior to the compliance date specified in the administrative citation; or

(2) Request an extension of time in writing, which shows a reasonable hardship pursuant to subsection (b) of this section, prior to the compliance date specified in the administrative citation; or

(3) Request a hearing to appeal the administrative citation pursuant to subsection (c) of this section.

(b) All requests for extensions must be made in writing, submitted to the enforcement officer, and present a reasonable hardship. The enforcement officer may grant a one-time extension at his/her discretion after payment of the fine due. The extension shall not exceed thirty days unless the matter is referred to the city manager for additional

time. The city manager may grant additional time as determined in the city manager's reasonable discretion, considering all relevant facts and circumstances of the hardship. If the case has been referred or appealed to the hearing officer, extensions may not be granted.

(c) A responsible party receiving an administrative citation may appeal such citation within ten calendar days from the date the citation is deemed served, or such extended date, if an extension is granted pursuant to Section 1.06.050.

(1) The appeal must be in writing and must indicate the appellant's full name and mailing address. It must be accompanied by the penalty amount and appeal fee which shall be set by city council resolution, must specify the basis for the appeal in detail, and must be filed with the city clerk's office. If the appeal deadline falls on a day City Hall is closed, then the deadline shall be extended until the next regular business day.

(2) As soon as practicable after receiving the written notice of appeal, the city manager shall fix a date, time, and place for the hearing before a hearing officer. Hearings shall take place once per month at a set time and date, unless the city finds it necessary to conduct hearings more frequently. Written notice of the time and place for the hearing may be served by first class mail, at the mailing address indicated on the written appeal. Service of the appeal notice must be made at least ten calendar days prior to the date of the hearing to the party appealing the administrative citation.

(3) The failure of any person with an interest in the property, or other responsible party, to receive such properly addressed notice of the hearing shall not affect the validity of any proceedings under this chapter. Service by first class mail, postage prepaid shall be effective on the date of mailing.

(4) Failure of any responsible party to file an appeal in accordance with the provisions of this section shall constitute a waiver of that responsible party's rights to administrative determination of the merits of the administrative citation and the amount of the penalty. If no appeal is filed, the administrative citation shall be deemed a final administrative order and a failure to exhaust the responsible party's administrative remedies.

(Ord. 1669 § 5, 2005)

1.06.060 Hearing procedure.

(a) The city manager shall designate a hearing officer or hearing officers to conduct appeals under this chapter. Each hearing officer shall be an individual or appointed person or board, subject to the provisions of the Political Reform Act of 1974 and all other laws, ordinances, or regulations of the state or the city relating to conflicts of interest. All costs associated with the hearing officer shall be paid from the appeal hearing fees and fines collected from administrative citations. The responsible party may request the city manager to excuse a hearing officer upon a showing of actual prejudice against the party's cause. The hearing officer shall conduct an orderly fair hearing and accept evidence on which persons would commonly rely in the conduct of their ordinary business affairs as follows:

(1) A valid citation shall be prima facie evidence of the violation.

(2) The hearing officer shall administer oaths and accept testimony by declaration under penalty of perjury relating to the violation and the appropriate means of correcting the violation.

- (3) The owner, agent, person responsible for the violation, or any other interested person, may present testimony or evidence concerning the violation and the means and time frame for correction.
- (b) The city manager shall establish all appropriate administrative regulations for implementing this chapter, including the conduct of hearings and rendering decisions pursuant to this section.
- (c) The hearing officer may modify the penalties stated in an administrative citation depending upon the circumstances of each case and the evidence presented and the hearing officer provides specific grounds for such modification in the written decision. The hearing officer has authority to reduce, conditionally reduce, or increase the amount of any penalties, subject to the fine amounts or limits established by the council by resolution. The hearing officer may impose conditions and deadlines for correction of violations or payment of outstanding penalties.
- (d) The failure of the responsible party or duly authorized representative to appear at the hearing shall constitute a forfeiture of the fine and appeal fees and a failure to exhaust the responsible party/appellant's administrative remedies.
- (e) The hearing officer shall make findings based on the record of the hearing and make a written decision based on the findings. The city shall preserve all exhibits submitted by the parties and shall serve the decision by first class mail on the appellant within ten calendar days after the hearing. The decision of the hearing officer dismissing the administrative citation is final and conclusive. The decision of the hearing officer affirming the administrative citation is final and conclusive, subject only to review by the Superior Court in accordance with state law pursuant to an appeal to Superior Court filed by the appellant within twenty days of the date that the administrative citation is served upon the appellant. There are no appeals to the city council.
- (f) If the hearing officer dismisses the administrative citation, all fines and appeal fees shall be refunded to the responsible party/appellant within thirty calendar days.
- (g) The responsible party who requested the hearing may obtain review of the hearing officer's administrative decision regarding the administrative citation by filing a petition for judicial review pursuant to the provisions of California Government Code Section 53069.4. (Ord. 1679 § 7, 2005; Ord. 1669 § 5, 2005)

1.06.070 Collection of fines.

- (a) The failure of any person to pay a fine assessed by administrative citation within the time specified on the administrative citation constitutes a debt to the city. To enforce that debt, the city manager may file a civil action, impose a special assessment as set forth below, or pursue any other legal remedy to collect such debt, including reasonable costs of collection and attorneys' fees.
- (b) The city council may impose a special assessment against the property that is the subject of a citation if the citation has been issued to the property owner. The city manager shall record a notice of lien in the office of the county recorder when the special assessment procedure is used. When so made and confirmed, the cost shall constitute a lien on that property for the amount of the assessment.
- (c) After confirmation and recordation, a copy shall be turned over to the Riverside County tax collector. At that point, it will be the duty of the tax collector to add the amounts of the respective assessments to the next regular property tax bills levied against the lots and parcels of land for municipal purposes. Those amounts shall be collected at the same time and in the same manner as ordinary property taxes are collected, and shall be subject to the same penalties and procedures under foreclosure and sale as provided for with ordinary municipal taxes. Or, after recording, the lien may be foreclosed by judicial or other sale in the manner and means provided by law.
- (d) Non-payment of fines which the city has made reasonable effort to collect shall be deemed a misdemeanor for which the responsible party may be prosecuted.
- (e) Administrative citation fines collected pursuant to this chapter shall be deposited into a an appropriate fund

to be administered in furtherance of the purposes of this chapter and to fund such code enforcement and public nuisance abatement actions and proceedings as the city council may identify or proscribe. (Ord. 1669 § 5, 2005)

1.06.080 Civil or criminal actions not affected.

Any administrative citations pursuant to this chapter shall not prejudice or adversely affect any other action, civil or criminal, that may be brought to abate the public nuisance or violation or to seek compensation for damages suffered. A civil or criminal action may be brought concurrently with any other process regarding the same public nuisance or violation. (Ord. 1669 § 5, 2005)

1.06.090 Neighborhood involvement.

The city manager shall cooperate with neighborhood organizations and the neighborhood involvement committee, as may be organized pursuant to the provisions of Chapter 2.55 of this code, in the implementation of this chapter. Such cooperation may include the provision of information and the establishment of forums for dialogue and communication on the requirements of the city's code and the city's enforcement of the code. Nothing in this chapter shall be construed as authorizing the city manager to appoint or designate any member of any neighborhood organization or the neighborhood involvement committee as an enforcement officer. (Ord. 1669 § 5, 2005)

View the [mobile version](#).



MEMORANDUM

TO: Trinidad Planning Commission

FROM: Trever Parker, City Planner

DATE: April 15, 2016

RE: Appeal of Staff Determinations Agenda Item

The document in the packet that was provided by the appellant to support the appeal does not represent all the material that the appellant wanted to provide to you. However, what was provided to staff was a general list (e.g. *"The emails between you and Trever, myself and others that clearly state that these properties had illegal units and/or long term tenants that did not comply with ordinance standards prior to their approval."*), rather than the individual emails or documents themselves. The City Manager requested that the appellant provide the City with those documents explicitly in order to include them in the packet. However, the deadline to get the documents into the packet was not met. Therefore I left the item on the agenda, but was only able to include the one appellant item I did have, and the City Manager's response to the appeal.

You may be provided the additional material at a later time before the meeting. It will be up to the Planning Commission to decide whether they have adequate time and information to hear the item at this month's meeting, or whether it should be continued.

I will note that I agree with and support the City Manager's response. The appeal is somewhat unorthodox and has been unclear as to the basis for the appeal. The City Manager had a meeting with the appellant to discuss the appeal in more detail. The City had no evidence of illegal activity at most of these properties when the VDU licenses were issued. As the City Manager mentioned in his letter, when and where the City had questions about illegal construction during the VDU license application process, those were addressed. For others, the complaints are allegations at this time, and need to be investigated further. Staff is addressing, and will continue to follow through with these matters. An appeal is not the appropriate process for addressing these complaints. I can provide more detail about specific properties at the meeting upon request.

Dan,

Re: Appeal

We have attached the following additional information as per your request. We believe that the administrative history is also important to support this appeal. This appeal is also supported by STN who also agree that the decision to allow these properties with illegal dwellings to continue as vacation rental businesses creates harm to neighborhoods. Others have also emailed to state their support for this appeal and their concern for your decision. As citizens it has taken us an inordinate amount of time and effort to even get the city to provide us the information that these were illegal units and were permitted as vacation rentals, as we suspected. Once that was confirmed we were shocked and dismayed as we had attempted to work with City Staff in good faith for over a year's time to assure that this would not be the case. We feel that all of the supporting documents that we supplied are important for the record. We are asking the City to revoke the Vacation Rental Licenses associated with the properties listed in the attachment.

Regards,

Tom Davies and Kathleen Lake on Behalf of Saving Trinidad Neighborhoods

April 13, 2016

To: Trinidad City Council

Re: request for additional information

Appeal of City Manager's Decision (pursuant to Section 30600.5) in the permitting of business licenses for Vacation Rentals that have not met City Ordinance Requirements or Building Code Compliance.

In addition to the letter and supporting documents previously submitted this is additional information as per the City's request, for the Appeal of the City Manager's decision to permit residential homes with illegal second dwelling units, as vacation rentals.

We have listed several properties below.

From Dan Berman 3/6/16

· Where the City has found illegal/unpermitted dwelling units, or other unpermitted construction, we have, and are, addressing them. That starts with an inspection to determine the situation on the ground. If work was done without permits, or work needs to be done to comply with the law, then it will involve requiring the owner to enter into the permit process. That goes through the Planning Commission public process. This often involves requiring

removal of kitchen facilities so that what was built as an illegal second dwelling unit is converted to legal additional living space for the main house. We may require a deed restriction to permanently ensure that there cannot be two dwelling units, limit bedrooms, etc.... This process will not increase the number of bedrooms beyond what zoning allows based on septic system and lot size and zone. This process is not specific to VDUs, the City has been addressing these type of problems, in this manner, for many decades.

First - None of these properties have two legal permitted dwelling units.

789 Underwood –The chart clearly states that there was an illegal dwelling unit (downstairs apartment) built here, and the City, through a public permit process 10 years ago, forced the owners to agree to permanent deed restrictions that it could not be used as such, and also limiting total bedrooms to the original 3 that were permitted. Therefore the VDU is the entire house, including that part of the house. In spite of the extra living space provided by the downstairs, occupancy is limited based on the three bedrooms. There are not two legal units here. It can't be used as two separate units. It's not being used as two separate units. I don't understand what problem you see remaining with this property. It's a three bedroom house, being used as a VDU. The illegal unit was resolved in 2006.

Response from us:

<https://www.youtube.com/watch?v=TKoE8zvUiRo>

*On this advertisement for Fisherman's Escape in states **Private Downstairs with Kitchen**. Code states this means **ILLEGAL SECOND DWELLING** permitted as a vacation rental. It is frustrating to us when you keep saying that extra living space downstairs is legal, if it is a single family dwelling then it should not have a kitchen. If it has a kitchen, and it does, then it is an **ILLEGAL** dwelling unit.*

178 Parker Creek. – As it says in the table we provided, the City is not aware of two dwelling units here. The fact that they may have a long term resident/host on site does not automatically mean there are two dwelling units. A tenant can share the house with vacation renters. I was encouraged the manager was taking this step partly in response to problems with loud parties at this rental, and subsequent city enforcement actions. I hope it helps. If you have specific knowledge of two dwelling units, i.e. two distinct spaces with their own kitchen and bedroom(s), please confirm and we'll follow up accordingly.

Response from us:

Our understanding is that there are two kitchen areas on this property and that this property is actually two dwellings and the city is fully aware of a caretaker who lives on the property and that it is also used as a business for a vacation rental.

381 Ocean – This home has a detached structure in the back with a bedroom and bathroom. That structure, combined with the main structure, make up the one legal dwelling unit on the property, with two bedrooms total. My understanding is that the deed and permit conditions, which date back to the 1990’s, allow a tenant/boarder if and only if they have access to the main house kitchen, as the detached back bedroom does not have one. Again, home sharing of a single dwelling unit is allowed, like you renting out a portion of your home. I agree this is difficult to enforce – the City can’t really know perfectly whether a back tenant uses the main house or not. We can inspect to make sure the past permit conditions are being respected, i.e. there is still no kitchen in the back unit.

88 van wycke – this came to my attention last Tuesday, partly as a result of your previous information request, so thank you for that. The upstairs has a long term tenant and downstairs is a VDU. The VDU application to the City seemed to indicate that the entire home was a VDU. I have already had multiple conversations with Trever and the property manager, and contacted the owner. We are scheduling a home inspection as soon as possible. Until that is done I can’t say whether there are two dwelling units there or not. If there are, we will require the owner to work with the City to correct the situation. If the downstairs doesn’t have a kitchen, it may be allowable under city rules to have a VDU downstairs and a tenant upstairs, in one legal dwelling unit, if water use, septic, etc.. is OK. We’ll see what the home inspection reveals, and what our Planner says based on that inspection.

Response from us:

As we have stated prior, this back garage unit also has a kitchen. It has been rented as a separate vacation rental unit for years AND the City is fully aware of this as they collected TOT taxes on Hidden ALLEY COTTAGE. it is either two legal dwelling units or an ILLEGAL dwelling unit.

Known Permitted Vacation Rentals w/ Illegal Second Dwelling Units

Lic.#	Address	Second Unit	Action Requested from the City.
15	363 Ocean	Illegal second unit. The back unit is reported to have a long term tenant by adjoining	Business license must be

		neighbors.	revoked.
16	407 Ocean Currently rented Long Term	Unknown As a LONG TERM RENTAL Owner has not met or fulfilled City Requirements to provide tenant names and vehicle licences	Business license must be revoked.
17	178 Parker Creek Currently has LONG TERM TENANT/CARETAKER IN SEPARATE DWELLING AND IS RENTED AS A VACATION RENTAL. TWO DWELLING UNITS.	Illegal second unit. As per the website and conversation w/ City Manager this property currently has a "caretaker/host" residing on the property in a separate dwelling. Clearly understood by the City Manager who is aware of this situation and that a caretaker lives in a separate dwelling on the property.	Business license must be revoked.
24	88 VanWycke Current has LONG TERM TENANT AND IS RENTED AS A VACATION RENTAL. TWO DWELLING UNITS.	Illegal second unit.	Business license must be revoked.
32	381 Ocean Currently has LONG TERM TENANT IN THE BACK COTTAGE AND IS also RENTED AS A VACATION RENTAL in main houses. TWO DWELLING UNITS.	Illegal second unit. <u>Hidden Ally Cottage</u> City records of collected TOT tax for converted dwelling unit for the past 10 years. Front house was used as owner occupied resident for years and back unit was vacation rental. Currently has long term tenant in the back dwelling unit.	Business license must be revoked.
35	651 Parker St	Illegal second unit. Currently advertised as Bell Buoy and Harbor Heights. With 2 night minimums.	Business license must be revoked.
20	789 Underwood	Illegal second unit Two dwelling units. Kitchen, bedroom and bathroom downstairs.	Business license must be revoked.

Interpretations and determinations as to all ordinance provisions is an administrative duty assigned to the City Manager and/or any delegated staff under his direction per [Trinidad Municipal Code](#) sections 2.07.060 and 2.07.080. Per section 7.14 of the Zoning Ordinance of the City of Trinidad, entitled "Appeals:"

In the case of any variance, conditional use permit, design review permit, coastal development permit, or denial of a proposed change in the Zoning Map by the Planning Commission, and in the case of any **order, requirement, decision or other determination made by any city employee**, the procedures for appeals shall be provided herein:

A. Administrative actions appealable. Any person aggrieved by a determination, interpretation, decision, decree, judgement, or similar action taken by a city employee under the provision of this ordinance may appeal such action to the Planning Commission within 10 working days of being notified of the decision.

B. Planning Commission or Hearings Officer actions appealable. Actions, or appellate determinations of the Planning Commission may be appealed to the City Council by those interested persons who have communicated their comments at the Planning Commission or Hearings Officer hearing.

C. City Council actions appealable. Actions, or appellate determinations of the City Council representing the approval or (*sic*) a coastal development permit pursuant to section 7.12 may be appealed to the Coastal Commission for the reasons cited, and if the subject property is located within the area described in Section 30603 of the Public Resources Code. Requirements for appealing decisions shall (*sic*) be as provided in the Coastal Commission Regulations.

Tom Davies and Kathleen Lake on Behalf of Saving Trinidad Neighborhoods



April 14th, 2016

Chairman Mike Pinske and Planning Commissioners

This letter is in response to the appeal filed by Tom Davies and Kathleen Lake of my decision to issue specific Vacation Dwelling Unit Licenses.

Summary:

I appreciate and support the appellant's efforts to see the VDU Ordinance fully enforced, as well as the rest of the Trinidad Municipal Code. However I think the issues raised in this appeal are better addressed through the City's investigation of complaints, and through the process for renewing VDU Licenses. There is an argument that the appeal was not filed in a timely manner, as the licenses were issued months before the appeal was filed. However I would recommend that the Commission set that aside and instead focus on the merits of the appeal. Therefore I recommend the Planning Commission:

1. deny the appeal, and
2. consider voicing support for staff's approach of requiring strict compliance with the VDU Ordinance as a prerequisite for renewal of the VDU Licenses

Discussion:

We are in the initial year of implementing this Ordinance. In reviewing the initial applications, Staff worked to ensure priority issues including parking, septic systems, occupancy limits, emergency contacts, and more were addressed. However staff did not attempt to inspect every property, or to require complete compliance with every aspect of the Ordinance in this first year.

Staff did review the initial license applications for problems with second units. Three applications included information that raised questions about second units, and those applicants were notified that their application was on hold and no VDU use would be allowed until and unless those issues could be resolved.

This appeal is basically a list of alleged City Code and VDU Ordinance violations. Staff believes these allegations are best addressed through City investigation, rather than an appeal process. The appellant may be correct that some of these VDUs have problems with illegal second units. One of the properties in question was recently inspected, and based on the

preliminary report of that inspection there does appear to be an illegal second unit. I appreciate the appellants bringing these complaints to the City's attention. However until a City inspection and review of the records for each property is completed, I believe that neither staff nor the Planning Commission have the evidentiary record to support a decision to revoke licenses, as the appellants are requesting.

Staff has proposed to use the relicensing process this spring to require full compliance with the Ordinance, including building inspections as needed. Staff's intent is that VDU Licenses will only be renewed for those applicants who have demonstrated full compliance with the VDU Ordinance, with any permit conditions specific to their properties, and with the Trinidad Municipal Code as a whole.

The City Council has indicated their support for this approach. Staff are planning to include building inspections and review of permit records for each of the properties listed in this appeal as part of that license renewal process. I hope the Planning Commission will indicate their support for this approach to resolve the underlying issues in this appeal. I think having the clear backing of the Planning Commission and Council will help City Staff in holding the license renewal applications to a strict standard.

Finally, I would add that denying this appeal does not prevent the appellants from revisiting these issues. If, after this rigorous license renewal process, the City issues license renewals this summer that the appellants feel are still in error, the decision to issue those licenses can be appealed.

Sincerely,



Daniel Berman
City Manager