

**MINUTES OF THE MONTHLY MEETING OF THE**  
**TRINIDAD PLANNING COMMISSION**  
**Thursday, July 7, 2016**

**I. CALL TO ORDER/ROLL CALL (5:30pm)**

Commissioners Present: Johnson, Pinske, Poulton, Stockness, Scott (arrived 5:35)  
Commissioners Absent: None  
Staff: City Manager Berman, Parker

**II. APPROVAL OF MINUTES – June 15, 2016**

***Motion (Johnson/Poulton) to approve the minutes as submitted.***

***Passed (3-0-1) with Stockness abstaining because she had not had a chance to read the minutes yet, and Scott had not yet arrived.***

**III. APPROVAL OF AGENDA**

***Motion (Stockness/Johnson) to approve the agenda. Passed unanimously (4-0).***

**IV. ITEMS FROM THE FLOOR**

K. Lake (435 Ocean) notes that her appeal was brought up at the last meeting. The City Manager reported then, that all the inspections have been completed. She requests that the Planning Commission direct the City Manager to move forward on the appeal and release the inspection reports.

S. Rotwein (53 N Westhaven) points out that summer is in full swing with many visitors in town from all over the world. She likes being a representative for her community. She requests a report on the status of implementation of the City's OWTS management program. She also requested that the City pursue enforcement of illegal second units created in the UR and SR zones, which may pose a health and safety issue.

**V. AGENDA ITEMS**

1. **VDU Ordinance Amendment:** Continued consideration of an amendment to the existing VDU ordinance (§17.56.190 of the Trinidad Zoning Ordinance) and development of additional regulations to cap the number and / or density of VDUs in Trinidad. Specific topics of focus include, but are not necessarily limited to: definitions of different types of VDUs/STRs, cap, distance buffer, license transferability and enforcement.

Planner Parker summarizes her memo and the table that she put together as a starting point for summarizing the Commission's recommendations, noting that it is based on the Council's original recommendations; the memo also summarizes all the changes to the ordinance that have been made over the past several months. There was a discussion about the process and timeline.

*Commissioner Comments/Questions*

Commissioner Johnson asks about the proposed transferability language in relation to the suggested model of the Cannon Beach, OR ordinance. Parker notes that there may have been confusion because Cannon Beach defines two types of STR, each with different transferability standards.

### *Public Comment*

K. Lake (435 Ocean) states that the table and list of changes in the Planner's memo is helpful. She provides the following comments: where does the one STR per person limitation fit in the ordinance; agrees with a one year license term; does not agree with any Building Code exceptions; agrees with no presumption of renewal; notifying neighbors should be the responsibility of STR owners or managers, who then submit the list of notified property owners to the City; the language grandfathering parking should be further discussed; why was the requirement for all parking to be onsite removed from the ordinance (in 2010 version).

J. Baker (Council member) would like clarification about the Building Code exception.

S. Rotwein (53 N Westhaven) makes the following comments: would prefer a two year license term; agrees with no transferability of licenses; is in favor of a City-wide cap of 30-35 STRs; when considering a percent cap, the RV parks should be included in the housing count; local residents should be given preferences (e.g. wait list priority); owner-occupied STRs should not be subject to the cap; renew licenses administratively unless there have been complaints; if there have been complaints, renewals should go through the Planning Commission; does not agree with the one STR license per person limit (the cap is enough); the City needs a City-wide noise ordinance.

### *Commissioner Discussion*

Commissioner Stockness is concerned about the Building Code exemption. Commissioner Pinske asks if the Building Inspector reviewed all VDUs for Code compliance. Parker explains that most homes, particularly older ones, do not meet current building code requirements. These deviations do not necessarily pose any health and safety hazards, but can be difficult to correct. The current proposed STR language does not provide an exception, because these homes were built to the codes of their time, but it does allow flexibility for the Building Inspector to require upgrades that do pose a hazard. For the recent inspections, just the site and floor plans were verified to address the appeal; the existing ordinance does not require inspections.

Chair Pinske would like the Commission to review all of the existing verses amended language. He suggests going line by line through the table and voting on each specific issue. In regards to the question in the table about a City-wide cap, Commissioner Pinske thinks the proposed caps in the UR and SR zones are enough. He is concerned about a buffer, noting that almost all existing VDUs in the UR zone would be affected. He worries about how a buffer would interact with a lottery, and of eliminating existing VDUs that aren't causing problems just because they don't meet an arbitrary buffer. Commissioner Scott responds that that is just the way the world works; a few bad examples ruin it for the rest.

Commissioner Pinske moves on to the staggered lottery idea proposed by Mayor Miller. Personally, he prefers attrition, and thinks better enforcement will solve most problems. Commissioner Poulton suggests a lottery that gives preference to local residents. Commissioner Johnson states that he has been thinking a lot about this issue. In considering problems with VDUs, he doesn't think an arbitrary buffer will solve them; one VDU by itself can cause the same issues. He thinks increased enforcement and accountability on the part of owners and managers is the best solution. However, Commissioner Johnson could support a modified lottery that gave preference to long-standing VDUs that don't have complaints. Commissioner Scott asks how that would work if a lottery is supposed to be random. Commissioner Johnson responds that maybe good owners/VDUs get extra tickets. A discussion ensues about how such a modified lottery could be quantified and kept fair.

Commissioner Johnson suggests that the Commission needs to look at this from all angles, and from a big-picture perspective. He notes that it is difficult to vote on individual issues (in the table) without considering the whole, because each issue impacts the way others work. He points out that the City's VDU regulations are relatively new; he would rather start small, and then review the regulations each year to discuss if they are working and consider amendments. He also thinks that attrition may work faster than some think to reduce VDU numbers.

Commissioner Poulton likes buffers so that everyone has neighbors, but he is fine with getting there over time through attrition. He also thinks there should be a process for granting exceptions. Commissioner Stockness is also in favor of buffers, but would prefer to get there more quickly, possibly through a lottery. Commissioner Scott points out that buffers also reduce STR density and resulting environmental impacts. Commissioner Johnson agrees with all the comments, but is not sure how to get to the buffer with so many VDUs not currently meeting it. Commissioner Scott suggests a simple process of drawing names, and if one meets the buffer, it gets a license, if not, the next name is drawn. Commissioner Pinske points out that it is complicated by the fact that only about three of the existing VDUs would meet the proposed 100 ft. buffer. Commissioners Poulton and Stockness suggest that the lottery also include those on a wait list, not just the existing VDUs. Parker states that it is likely that there will not be 19 properties that want VDUs that also meet the buffer. Commissioner Scott points out that 19 is a maximum, not a minimum.

Commissioner Johnson points out the difficulty of justifying license denials based on a buffer if the cap has not been met. Commissioner Scott suggests that not meeting the buffer is an adequate basis for denial. Planner Parker suggests that those who were drawn but did not meet the buffer could be allowed to apply for a use permit / exception in the order in which they were drawn, if there is still space under the cap after the lottery. Commissioner Pinske feels that the buffer and lottery together are too complicated. He notes that Trinidad is a small town with existing VDUs, many of which are not causing problems. He really thinks that increased teeth in the ordinance combined with increased enforcement by the City will solve most of the problems. He feels that If licenses of problem VDUs are not renewed, then that will speed up attrition and reduce the number. Commissioner Pinske is not in favor of buffers in such a small area; the ordinance needs to work into the future, and the City needs to step up with enforcement.

Commissioner Scott counters that density has been one of the main issues that has come up during these discussions and is a major source of problems. In addition, it seems that the City does not have the money or the staff for adequate enforcement. Commissioner Pinske thinks that a good complaint and revocation system, possibly implemented by a temporary staff position, will discourage bad behavior from happening in the first place. Commissioner Scott disagrees, stating that existing staff can't get their current jobs done in a timely manner, so how could enforcement be improved. Commissioner Johnson states that one reason the ordinance and its implementation need annual review is so staff can be added or eliminated from the process as needed. Commissioner Johnson states that he could support a buffer as long as there is an exception process in place. Commissioner Poulton agrees. Commissioner Stockness reiterates that she feels a buffer is very important for neighborhoods.

Commissioner Johnson suggests that the Planning Commission take a close look at responsibilities; making the owners and managers accountable for most responsibilities will reduce the workload of City staff. Parker suggests that an annual review of the ordinance is too soon, because the regulations take time to implement; consider what happened this past year. Commissioner Johnson thinks it is important to review the ordinance regularly, regardless of the exact timing.

Planner Parker requests clarification on how the Commission wants the buffers to work in various situations. A discussion ensues. Commissioner Johnson would like to see all the pieces together in the ordinance (e.g. lottery, buffer, exceptions) prior to making a final decision. Commissioner Poulton suggests language similar to the following: each property line of an STR must be located a minimum of 100 ft. from the property line of another STR. He also suggests that each existing VDU be assigned a number through the lottery. The one with the lowest number gets first priority, then each subsequent number gets an STR license if the buffer is met. Any exceptions would also be applied for in the order of lowest number. He also thinks complaints should be part of the findings for granting an exception.

Commissioner Scott suggests that each owner gets only one 'ticket' in the lottery. Commissioners Johnson and Poulton think that all existing VDUs should go into the first lottery, regardless of who owns them. Commissioner Scott argues that that scenario allows a monopoly by those that already have VDUs and anyone should be able to enter the lottery. Commissioner Johnson points out that the ordinance already limits VDUs to one per parcel, and he thinks that is enough. Commissioner Scott feels that allowing one owner to hold multiple VDU/STR licenses is unfair to those who don't own multiple properties and that it does not protect affordable housing. Commissioner Poulton counters that the cap protects housing stock, and it is not likely that one owner will get multiple licenses in a lottery anyway.

Chair Pinske calls for a vote on whether the first lottery should be based on all the existing licenses, or be limited to one license / property per owner. **The Commission votes 4-1 to include all existing VDUs in the initial lottery; Scott is opposed.** Commissioner Johnson encourages any Commissioner who has a different viewpoint from the overall vote to bring it up at the Council meeting. Parker asks when the lottery should start—immediately or after some grace period. There is general agreement that it should start ASAP with the City Attorney's input. Parker clarifies that the intent for subsequent lotteries is that the City will keep a list of those who want licenses, and then hold a lottery from that list any time a space opens up under the cap.

Chair Pinske calls for a vote on whether to include a buffer of 100 ft. as measured from property line to property line. **The Commission votes 3-2 yes on the 100 ft. buffer with Pinske objecting to any buffer and Scott objecting because 100 ft. is too small.**

Chair Pinske calls for a vote on whether to include an activity requirement. Commissioner Poulton asks whether the activity requirement applies to all STRs or only those that are 'unhosted.' Parker suggests that 90 days (or some time period) could be used for both an activity requirement and to differentiate owner-occupied STRs, using Pacific Grove as an example. Commissioner Johnson thinks that an activity requirement should apply to all STRs. Commissioner Scott questions why an activity requirement is needed. Planner Parker responds that it ensures the City is receiving adequate transient occupancy tax to implement the ordinance and that STRs are providing the visitor service they are intended to.

The Commission discusses STR license terms. Commissioner Poulton suggests that licenses are renewed annually, with a maximum term of 5 years. Commissioner Scott agrees that licenses should be reviewed annually for compliance and complaints.

A discussion of the lottery resumes. Parker cautions that a limited license term with a random lottery at the end could take away some of the force of the threat of revocation and could provide an incentive for owners to maximize the use of their STR over the permit term. Commissioner Scott responded that if licenses are reviewed annually, they won't be renewed if the STR is causing problems. Commissioner Pinske suggests discussing standards of review for license renewals.

There is a discussion about what would happen after 5 years when the license term is up. Commissioner Poulton wonders if there will be enough of a market for limited term licenses, pointing out that there were only 38 licenses before the moratorium when anyone could have gotten one, there are now only 34 or 35, and several of those are inactive. Commissioner Scott feels there will be more demand in the future with an increase in the current 'sharing' economy. Commissioner Poulton suggests a staggered lottery so that all the licenses are not up at once. Planner Parker points out that that would further complicate the buffer and lottery system.

Commissioner Johnson asks whether there is a difference between a permit and a license. Parker responds that legally no, but that in government use, licenses more commonly are ministerial and have to be renewed, and permits are usually more permanent, often with discretionary review. There is a discussion regarding license renewals and terms. Commissioner Pinske prefers annual renewals, but no maximum term. Commissioner Scott thinks that property values would be further impacted if there is no maximum term. Commissioner Pinske opines that with limits on density and total number, that won't be an issue. Commissioner Scott states that redistribution of licenses every few years is fairer. Commissioner Pinske thinks that taking away licenses from well-run STRs that aren't causing problems is not fair.

Commissioner Johnson points out that all these differing opinions illustrate why regular review of the ordinance is important; things can and will change. He feels there should not be a maximum license term, but they should be renewed and reviewed annually. Commissioner Scott thinks it would be fine if after 5 years all the STRs went away, then the City will have to step up and find another source of income; the Coastal Commission will let the City know if they think those regulations are too onerous. She references a February 10, 2016 letter from Coastal Commission staff that discusses protecting coastal resources; she opines that the Coastal Commission will support the City's regulations to protect coastal resources and limit impacts on parking for example. Commissioner Poulton likes a 5 year limit, because that will give more owners the opportunity to have an STR, but thinks people should be able to reapply if there are not enough applicants to fill the cap. **The Commission votes 5-0 for annual license renewals. The Commission votes 3-2 for a maximum license term of 5 years; Pinske and Johnson opposed.**

Chair Pinske summarizes the transferability discussion from the last meeting, noting that the 3 Commissioners in attendance had agreed to no transferability except to immediate family, but they wanted to get input from the other 2 Commissioners before finalizing their recommendation. **The Commission votes 5-0 to limit transferability to immediate family only.**

Chair Pinske moves on to enforcement, pointing out that this is a major issue. He references the complaint flowchart prepared by himself and Commissioner Johnson, stating that one of the main goals is to ensure that owners/managers are communicating with their renters to avoid violations from ever happening. Parker also points out some of the other amendments that were added to the ordinance for this purpose, including: transmittal of rules, meet and greet, beefing up the good neighbor brochure and including mandatory contract language. There is a discussion about the definition of the 'responsible person' and their role and importance.

Commissioner Poulton feels that it is important for the City to ensure that the 24 hour contact number is posted online. Commissioner Scott adds that it needs to be posted outside the STR as well. Planner Parker points out the controversial nature of signs in Trinidad, and therefore the previous ordinance did not make them mandatory. Commissioner Johnson states that the City needs to ensure that wherever the number is posted, it is the right number.

Referring to the complaint flowchart, Commissioner Scott asks where the City responsibility is in

the process if the manager drops the ball. Commissioner Johnson responds that the STR manager must contact the City the day after any complaint. Commissioner Scott suggests that the complainant also be directed to contact the City in case the manager does not follow up. Commissioner Johnson agrees that the disturbed neighbor should file their complaint with the City as well as the manager; the City should also know how the complaint was resolved, or not.

*Public Comments*

T. Davies (435 Ocean) requests another opportunity for the public to comment because the flowchart was not included in the packet. He feels that it is important for the City to get the neighbor's version of events as well as the manager's. Also, even situations that are resolved quickly by the manager should be considered complaints, because there was still a disturbance to the neighbors. When these things happen frequently, even if for a short time, they add up, and those instances should be considered in license renewals. He mentions Paloma Creek Lodge as an example of a situation where the neighbor has to call the manager on a regular basis, but the City doesn't necessarily hear about it. Commissioner Pinske responds that the flowchart is intended to show that all calls are logged by the City, regardless of how minor or how they were resolved; this information will be considered during license renewals, and provides transparency to the public. T. Davies responds that that needs to be made more clear on the flowchart.

K. Lake (435 Ocean) states that the online STR info on the Pacific Grove website is a good example. She expanded on the Paloma Creek Lodge example, stating that once when the neighbor complained about cars speeding, the manager responded that the cars did not belong to the VDU, and the neighbor was then forced to take photos. She notes that there are often minor nuisances that are not called in.

M. Poulton (811 Underwood) references a letter she sent to the Planning Commission suggesting that the City create a specific email address, such as [STR@trinidad.ca.gov](mailto:STR@trinidad.ca.gov), for complaints and correspondence related to STRs. Neighbors could use that address to file complaints, and managers can use it to report back as to how complaints were resolved.

*Commission Discussion*

Chair Pinske asks Planner Parker whether she has the direction she needs to revise the ordinance and recommendation table. Parker responds that she has gotten a number of solid recommendations. The main outstanding issue is whether and how various types of STRs will be categorized. The Commission decides they will tackle that at the next meeting.

**VI. COUNCIL REPORT**

There is nothing to report since the last meeting just a week ago.

**VII. STAFF REPORT**

There is nothing to report since the last meeting just a week ago.

**VIII. ADJOURNMENT**

Meeting adjourned at 9:15 p.m.

**Submitted by:**

**Trevar Parker**

Acting Secretary to Planning Commission

**Approved by:**

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**Mike Pinske**

Planning Commission Chair