

MINUTES OF THE MONTHLY MEETING OF THE
TRINIDAD PLANNING COMMISSION
WEDNESDAY, July 20, 2016

I. CALL TO ORDER/ROLL CALL (6:00pm)

Commissioners Present: Pinske, Poulton, Stockness, Scott
Commissioners Absent: Johnson
Staff: City Manager Berman, Parker, Caldwell

II. APPROVAL OF MINUTES

None.

III. APPROVAL OF AGENDA

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

IV. ITEMS FROM THE FLOOR

A. Grau (433 Ewing) would like to know the status of the Lake appeal. Upon finding out that inspections were done by various staff, he notes his disappointment that they were not all conducted by the Building Inspector, and requests that the inspections indicate which person performed them.

M. Reinman (owner of RCVR) took exception to comments that were been made by Commissioners during his appeal hearing regarding the management of his company. He counters that he feels the comments were made with limited knowledge, and he has repeatedly offered to meet with anyone interested to discuss management operations. The minutes reflect that the Commission did not believe that most of the occupants had left. However, that charge was not proven and should not have been the basis of a decision.

G. Speigle (829 Edwards) has owned a house here for 18 years. In her experience, she has had to call three times about parties in VDUs. The first time the party was shut down in 5 minutes. The third party was actually being hosted by the property owners so nothing could be done. She thinks there should be fines for violations and that VDUs need to be micromanaged to maintain neighborhood compatibility. However, she feels a lottery would be unfair to VDUs that aren't causing problems. Commissioner Pinske ask her to save her comments for Agenda Item 1.

W. McNeill (McNeill Law Offices; attorney & representative for M. Reinman and other VDU owners) comments on the State Building Codes and points out that they can't be altered or selectively enforced by local jurisdictions. He advises that building code inspections are outside the City's authority and this is a violation of civil rights subject to litigation. He bets that there are violations in everyone's homes, and he warns against going where the City doesn't have legal authority.

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: final recommendations to the City Council.

Commissioner Comments

Commissioner Pinske reviews the process and order for tonight's meeting.

Planner Parker summarizes her memo. There was a discussion about whether the cap numbers had been voted on; the minutes reflect that they had been.

Commissioner Stockness asks about having the VDU owner/manager be responsible for notifying neighbors when the City has always done it. Planner Parker states that there are a couple of options. Requiring the owner/manager to do it takes some of the responsibility off the City, but has to have some careful oversight. She explains that the sample language was drafted based on the County of San Luis Obispo. Commissioner Stockness notes that the manager may not know who the neighbors are. Planner Parker assures her that that information is public, but admits that people are likely to ask the City Clerk for it anyway, so it may not save that much time.

Commissioner Stockness asks whether a homestay is the same as an "AirBnB." She asks that they be incentivized in the Ordinance. Commissioner Scott points out that AirBnB is a company, and Parker clarifies that their platform is based on 'homestays.' Commissioner Scott thinks that the categories should be owner-occupied or not, rather than hosted or non-hosted.

Commissioner Stockness questions why children under 5 are not counted as occupants and Planner Parker states that this is common. Commissioner Stockness thinks they should be counted as they make noise. Commissioner Scott adds that they are counted towards occupancy at the State Park where she works.

Public Comment

Do. Cox (436 Ocean) is worried about the VDU owners/managers being responsible for neighbor notification. She brings up 407 Ocean as an example, where submitting license plate and tenant information was a requirement of a previous permit issued by the City. That information was only provided once and she has asked for it several times over the past few months. Neither the City nor the property manager has provided that information. On June 2 she was told it would be provided and later was told it wasn't ready. On June 22 she asked City Hall for the information and they'd had it for a week. According to the agreement, neighbors should get this information. She shouldn't have to make a public records request for this information. She thinks this shows why the City should be careful about who is responsible for notifying neighbors.

G. Speigal (829 Edwards) continues her comments from during Items from the Floor. She thinks that children should count towards occupancy. The lottery system will eliminate well-managed properties. She also suggests that if VDUs are clustered, they may disturb fewer neighbors than if they were spread throughout a block.

A. Grau (433 Ewing) asks for a definition of amortization. Hosted but non-owner occupied is a confusing loophole; only owner-occupied STRs should be allowed. There should not be any parking exceptions on Ocean Ave. The 60-day activity requirement is not legal; how will the City enforce that? Illegal signs on STRs need to come down. The 20 person maximum is too many. More than one violation should get penalties, and more than two result in mandatory revocation of the license. How many minor complaints can be amassed? What is the complaint process?

W. McNeill (McNeill Law Offices; attorney & representative for M. Reinman and other VDU owners) states that the 100' buffer creates a mess. If it is applied, it would eliminate a lot of VDUs; there would not be 19 left. The people he represents have been running VDUs for a long time and this land use is a vested right and entitlement, giving them precedent as a preexisting, nonconforming use and allows them to be grandfathered in. You can't eliminate an existing use. Items in the recommendation chart fundamentally deny property managers their rights; the lottery is particularly arbitrary. He states that it is important to move this ordinance on to the City Council so they can consider these important issues.

Do. Cox (Ocean) has lived in her house for 39 years and also has rights. There should not be businesses in a residential area.

M. Reinman (owner of RCVR) thinks VDUs licenses should be transferable. Complaints should not become significant violations if the complaint is not valid. The 60-day minimum activity should be audited; also consider a minimum rate/TOT. The meet and greet requirement should have a 24-hour window. What is the process if the other party does not want to partake in dispute resolution (Ocean Avenue example)? Violations need guidelines; they are too vague as written. Is it a significant violation if there is conflicting evidence?

L. Farrar (433 Ewing) speaks about community and a sense of place. Trinidad has value, and she asks what it will look like in 10-20 years. Each year there are more strangers/visitors whose actions are not always respectful. This is a deteriorating environment. She can't believe the Coastal Commission would require Trinidad residents to give up their values. Trinidad is held captive by revenue generation and is exploited for those that benefit for the few. Don't put money before residents.

Commissioner Comments

Commissioner Pinske refers to the recommendation table, noting that the original direction came from the City Council. He states that some of these issues have been expounded upon and the Commission is trying to get to a middle ground and look toward the future in a reasonable manner that is positive for the City over time.

The Commissioners go over the items from the chart; the numbers correspond to rows:

1. Caps on VDUs: Commissioner Scott wants to add environmental impacts to the key reasons. High density is a high impact to traffic, water quality, etc.
2. Cap details: The SR/UR caps were established with a 4-1 vote. Planner Parker has determined that there are about 205 housing units in the City, including second units, but not the RV parks. She and Commissioner Scott discuss how the RV parks are regulated by the State. Commissioner Scott doesn't think that they are low income housing. Commissioner Poulton counters that a lot of units are owned and rented. Commissioner Scott demands proof and states that until then they should continue to be considered and zoned as Visitor Services. Planner Parker notes that the trailer parks have something like 60-80 units.

Commissioner Pinkse thinks VDUs should be capped by zone. The Commission discusses a city-wide cap and caps for other zones. City Manager Dan Berman states that he's 'fairly sure there are currently 36 applications and approximately 6 are inactive. He adds that in the PD Zone, commercial activity is allowed so there is an underlying right to have a VDU. Planner Parker agrees, and adds that uses in that zone require a CUP. Commissioner Scott thinks it should be residential or commercial use, and Planner Parker says that residences

are also allowed in the PD. Pinkse notes that there are currently only 2 or 3 VDUs outside the SR and UR zones, and doesn't think it is worth capping at this point. **The Commission decides not to recommend a City-wide cap.**

3. Density/buffer restriction: Commissioner Stockness adds clustering and loss of neighbors to the key reasons for having one. Commissioner Scott adds reducing traffic bottlenecks. Commissioner Poulton adds emergency vehicle access.

Commissioner Poulton comments that, based on the 100' buffer map, if that buffer is implemented, the UR zone would not accommodate 19 VDUs. Commissioner Scott responds that that would be okay, since 19 is the maximum number.

4. Partial owner-occupied (or hosted) treatment: Commissioner Pinske summarizes the existing provisions in the draft amendment. City manager Berman thinks there are currently only 2-3 STRs with long-term residents, but they are all managed somewhat differently. The Commission discusses treatment of such. Commissioner Poulton thinks that the same rules should apply to hosted STRs, but would like to incentivize them if possible. Commissioner Scott suggests giving them priority in the lottery. Planner Parker wants to ensure that long-term residents are included in maximum occupancy definition, and Commissioner Pinske would like a clause added about the host being responsible for the STR. There is a discussion regarding the definitions and differences between hosted and owner-occupied. Planner Parker notes that "hosted" can be difficult to verify or enforce. Commissioner Scott thinks owner-occupied could be verified using the homeowner tax exemption and that should be the preferred distinction. There is a discussion about how a tiered lottery might work. Commissioners Pinske and Poulton think there should be no distinctions. Commissioner Stockness thinks that the terminology should be defined anyway. **The Commission votes 2-1-1 (Pinske, Poulton / Scott / Stockness) to not have any distinctions between STR types.**
5. Activity requirement: Commissioner Scott is concerned about enforcing this. Commissioner Poulton explains that the information should be included in the TOT report. City Manager Berman verifies that this should be a straightforward, self-reporting issue, and the nights rented, rate and revenue are City and public record. The City gets 10% of the rental revenue, and the County gets 1-2%. This requirement obliges those with permits to use them. Commissioner Scott feels the requirement is unnecessary, because it is unlikely that someone would go to the trouble of getting a license and then not using it. Commissioner Poulton points that there are currently several inactive permits. Commissioner Scott does not think that TOT tax and minimum activity is any of the Commission's business. **The Commission votes 3-1 (Scott against) for a minimum 60-night activity requirement.**
6. License Term: Although this issue was already voted on, there was some additional discussion. However, the Commission did not add or change anything from the previous recommendation. But there was a suggestion to consider some kind of staggered license termination and lottery system so they don't all expire at once.
7. License Transferability: The following key reasons were added to the table: 1) to reduce STR influence on property values; and 2) allow more people a chance to obtain an STR license.
9. Waiting List for Permits: Planner Parker and the Commission review how a lottery system might work. The first lottery consists of existing VDUs. A name is drawn, and if the property

meets the buffer, the name is kept, and if not, the next name is drawn. It is recognized that there are not 19 existing VDUs that would meet the buffer, but the lottery continues until there are no more that meet the buffer. In 5 years there is a new lottery that would not include the existing STRs. Parker suggests that staggering the lottery adds a lot of complexity because of the buffer. City Manger Berman suggests not specifying the lottery details in the Ordinance as that level of detail is usually set by policy. Commissioner Scott thinks vagueness is a current problem and gives Staff too much leeway. Planner Parker suggests recommending how to stagger the lottery at 2.5 and 5 years. The Commission decides to leave that up to the Council.

The Commission discusses additional issues. Planner Parker suggests recommending the Council adopt a formal complaint system based on Commissioners Johnson and Pinske's proposal. Commissioner Pinske adds that the STR complaint system should tie in with enforcement and should be on the City's website. There is a flow chart. Commissioner Scott wants the notes from the last meeting added to that. Planner Parker notes that she did not have an editable copy of the flowchart, but will ask Commissioner Johnson for an update based on the last meeting and add that to the next packet.

City Manager Berman suggests a column be added to the recommendation table that references sections in the Ordinance for review. Planner Parker suggests that the Ordinance should be as specific as possible but should also provide some flexibility to allow the City Manager to address unforeseen circumstances.

Commissioner Scott discusses the complaint system again; she thinks that every call regarding a disturbance should be considered a complaint and should be logged as such. Commission Pinske adds that problem STRs can be transferred to the property watch list and suggests that every time the Contact Person is contacted, they must report to the City. Commissioner Scott thinks that holding the contact person responsible is a potential loop-hole and that the City should also be contacted (example: complaint@trinidad.com). Commissioner Poulton doesn't understand the property watch list, and Planner Parker explains that they can be subject to additional restrictions. Commissioner Scott thinks that if they're added to the watch list, then revoking their license should be a possibility. Commissioner Pinske discusses significant violations v. rectified violations. Commissioner Scott suggests that 10 minor violations = 1 significant violation. Planner Parker notes that the City Attorney will look into the administrative fine system. Commissioner Scott thinks it should be a tiered fine system that increases every time there is a complaint; Commissioner Poulton thinks that may encourage more complaints that may not be valid. Commissioner Scott notes that there is section in the Ordinance declaring that it is unlawful to make false complaints.

Commissioners Pinske and Poulton agree that for noticing the neighbors, the owner/manager should submit the notice and notice list and the City will be responsible for mailing it. Commissioner Scott wants a penalty added if that is not done. Planner Parker mentions that it is likely that the owner/manager will just request the neighbor contact information from Gabe, so that provision may not save much time for City staff. Commissioner Scott states that the burden should be on the property managers.

Planner Parker requests clarification regarding the buffer between the PD and UR zones since PD allows commercial uses. Commissioner Poulton does not want the UR buffer to affect commercial areas. **The Commission votes to apply UR buffers to STRs in the PD zone (2-1-1) Commissioner Poulton is against, and Commissioner Pinske abstains because he was against buffers in the first place.**

Planner Parker discusses the timeline for the Ordinance. There should be one more brief meeting to vote on the final recommendation before sending it to the City Council, and Planner Parker will put together a packet with the final table. The Council meeting will be noticed as a joint meeting between the Commission and Council. The next regular City Council meeting is August 10. Commissioner Scott would like time added to the agenda so the Planning Commission can present. Commissioner Stockness would like all of the Planning Commission present. Commissioner Pinske thinks a meeting should be held specifically for this issue rather than a busy regular meeting. The next Planning Commission meeting is tentatively set for August 2.

Commissioner Pinske asks if the City Attorney will provide comments in written form or in person, and Planner Parker states that he may do both. But he will thoroughly review the final ordinance prior to Council adoption.

VI. COUNCIL REPORT

City Council member Baker is present and states that he appreciates the Planning Commission's hard work. Enforcement was not discussed at the last meeting because it wasn't on the agenda. The Reinman significant violation determination has been appealed to the Council; the Council will get a record of the Planning Commission's discussion and decision.

VII. STAFF REPORT

City staff is still gathering information for the Lake appeal, and it will be on the agenda soon. There has been some progress on the Clean Beaches grant and several candidates for repairs have been identified. Several people in the City went ahead with repairs without grant funding that may be used as a match. Planner Parker has received the requested additional information regarding the Sebring remodel, which will potentially be on the August agenda.

The septic system for the yurt project has been installed. There were concerns from a neighbor about the clearing on the premises. City Manager Berman suggests that Staff will make a site visit.

City Manager Berman is intent on finishing the FY16/17 VDU licenses. Commissioner Scott asks if Staff or the Building Inspector is doing inspections. Berman responded that it varied. Planner Parker states that most of the inspections focused on whether the application information was correct and whether the VDUs met ordinance provisions; they were not looking for building code (plumbing, electrical, etc.) violations. City Manager Berman adds that there is a 2-page check list the City has been using for inspections. Commissioner Scott requests that the appeal report note who did which inspections.

VIII. ADJOURNMENT

Meeting adjourned at 9:15 p.m.

Submitted by:
Sarah Caldwell
Secretary to Planning Commission

Approved by:

Mike Pinske
Planning Commission Chair