

**MINUTES OF THE SPECIALLY SCHEDULED MEETING OF THE**  
**TRINIDAD PLANNING COMMISSION**  
**THURSDAY MAY 5, 2016**

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

Commissioners Present: Johnson, Pinske, Poulton, Stockness  
Commissioners Absent: Scott  
Staff: City Planner Parker, City Attorney Stunich

**II. APPROVAL OF AGENDA**

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

**III. ITEMS FROM THE FLOOR**

There were no items from the floor.

**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 may include, but are not limited to: definition of different types of VDUs, City-wide cap, neighborhood cap or distance restriction, license activity requirement, license term, transferability, grandfathering of existing VDUs, waiting list, enforcement and any subsections of the existing VDU ordinance.

Planner Parker states that she does not have much new information to present at this meeting. She briefly summarizes the memo providing the suggested transferability language from the City Attorney and the transferability language from the Mendocino County, Town of Mendocino LCP amendment. She also explained that she used a different color to track the most recent changes to the VDU ordinance so that it can be easily seen.

*Commissioner Comments / Questions*

Commissioner Pinske suggests going through the ordinance section-by-section at tonight's meeting. He notes that the Commission has been working on the amendment for six months, and he doesn't want to rush the process, but he does want to ensure continued progress.

Commissioner Johnson asks Attorney Stunich about his suggested transferability language. Stunich clarifies that it was not intended to be final language, but the main point is to allow City discretion in the decision to transfer a permit, which reduces the lawsuit risk. He thinks that 'bright line' rules without flexibility don't usually work well in every situation, so allowing discretion is more fair. In response to Commissioner Johnson's concern about attrition, Stunich states that as part of its discretion, the City can decide not to allow a transfer if the cap is not met.

In terms of a cap, Attorney Stunich suggests that a neighborhood cap is a good choice because it addresses specific problems of overcrowding, narrow streets and / or small lots in certain areas. Commissioner Stockness suggests that because the City is so small, a city-wide cap is appropriate. Stunich responds that in that case, the findings justifying the cap need to be based on the fact that the entire City is impacted; regulations can not be 'arbitrary and capricious.' Commissioner Pinske asks whether a distance restriction would be legally defensible. Attorney Stunich responds that is

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sounds reasonable, and he notes that the more data and findings the City has to justify new restrictions, the more defensible they are. Stunich adds that it is important for the City to impose strong management guidelines for owners and renters of STRs, because neighbors have less legal recourse with short-term tenants; neighbors can bring a civil suit against owners or long-term tenants for the loss of quite use and enjoyment of their own property.

*Public Comment*

Commissioner Pinske opens the hearing to public comment, reminding speakers of the 3 minute time-limit and asks that everyone remain civil.

Do. Cox (436 Ocean) thanks the City Attorney for his comments. She understands that not all VDUs cause problems, but she has several problems ones around her. She states that at first she thought a cap was a good idea, but has since realized that it limits her own options and property values. She explains that 407 Ocean is licensed VDU, but the long-term tenants are severely impacting her own property rights, quality of life and use of her property; it is particularly offensive when the weather is nice. Impacts include traffic, noise, trash, and the strong smell of marijuana.

A. Grau (433 Ewing) states that limiting comments to 3 minutes is difficult. He requests more opportunities for comment, possibly more opportunities at each meeting, but less than 3 minutes each. He states that the VDU problems are too complex for band-aid fixes street by street. He suggests that the most reasonable solution is no Type 2 STRs in residential neighborhoods.

T. Davies (435 Ocean) agrees that a cap is unfair, and that the best solution is to not allow STR2s in residential neighborhoods. He is concerned that the amendment is giving staff too much discretion in how the ordinance is implemented and enforced. He supports clear amendments and thinks that discretionary decisions and interpretations need to go to the Planning Commission.

K. Lake (435 Ocean) appreciates the Attorney's presence. She suggests that most cities have enacted owner-occupied requirements in order to protect neighborhoods and be fair to all residents. She emphasizes that residential zones are for residences. She wants to ensure that the ordinance includes clear language with objective standards. She does not think licenses should be transferable. She has presented substantial evidence that neighborhoods are being negatively impacted.

L. Farrar (433 Ewing) emailed more detailed comments to the Commission. She requests that the Commission look at the issue as a City-wide problem rather than street-by-street. Everyone should be treated equally.

L. Snell grew up in Trinidad and raised her family here. Her family has also owned several businesses, including VDUs. She does not like seeing her community torn apart by this issue and would like to be able to work together to find amicable solutions. She does not want to see the City continue to spend excessive amounts of money on this issue.

Da. Cox (436 Ocean) suggests that having the City Attorney at more meetings may cost money, but also may speed up the process. He does not have a problem with the VDUs in town that are not causing problems in their neighborhoods. He supports a distance restriction between vacation rentals. He especially wants to see the City better address enforcement.

B. Snell is tired of these arguments. She finds it interesting that many garages around Ocean Street were illegally converted to second units while she was on the Planning Commission, but no one seemed worried about the lack of enforcement then, even though she brought it up several times. She suggests that homelessness is a bigger problem in Trinidad than VDUs.

### *Commissioner Discussion*

Commissioner Pinske notes that the Planning Commission has been considering different caps for different types of STRs. Attorney Stunich responds that this seems like a fair compromise if the caps are based on the different impacts of each. Commissioner Stockness asks if short-term, individual room rentals are considered VDUs and whether they pay TOT. Planner Parker responds yes.

Commissioner Poulton asks about the legality of only allowing owner-occupied / hosted VDUs in residential areas, particularly considering that there appears to be only one currently in existence in the City. Stunich responds that he would have to research it further, but he doesn't think that the Coastal Commission would approve something like that. He elaborates that the courts don't like it when a jurisdiction enacts a blanket ban on something that is not causing problems everywhere. He suggests that it would make sense to not include owner-occupied, hosted types of VDUs in a cap, which would indicate to a judge that the City is addressing the real problem.

Commissioner Poulton asks about allowing a one-time transfer for existing VDUs, and then no transferability after that and for any new VDUs. Attorney Stunich replies that that sounds like a very safe option. He also notes though that just because someone currently has a VDU, does not mean that the license can't be revoked if the VDU is causing problems. Stunich states that there are lots of options, and that the Planning Commission must rationally decide what is best for this community. He provides a couple of examples. When a license is up for renewal, there could be a lottery for the permit with all interested parties. The current license holder may get the license back. That would address the issue of fairness. Or, if a neighborhood is above its cap, then a license in that area would not be renewed, but if there is room under the cap, then the license could be renewed or noticed for availability.

Commissioner Pinske suggests that the Commission discuss STR definitions as requested by Planner Parker. Parker summarizes various examples of how to categorize them, such as hosted and unhosted, owner-occupied, etc. There is a discussion about what the various terms mean, and what categories make sense for Trinidad. The Planning Commission agrees to differentiate between hosted and non-hosted STRs, specifying that the host does not have to be the owner, but does need to be a long-term resident, and that the host must live on the property, either in the STR or in a second unit. The reasoning for this is the assumption that STRs with a host onsite will not cause the same problems as an unsupervised STR. And that long-term renters are as much a part of the community as owners.

Parker asks whether there should be a category that does not require a special license, such as the current allowance in the zoning ordinance for rooming and boarding of up to two tourists as a home occupation. Attorney Stunich suggests that any kind of STR should have to get a license or permit for tracking and enforcement purposes. The Planning Commission agrees; Parker will include deletion of that section of the zoning ordinance as part of this amendment. She will also provide the Commission with the City of Napa ordinance, because they differentiate between hosted and non-hosted rentals.

Commissioner Stockness had to leave because she wasn't feeling well due to a recent surgery.

The Planning Commission discusses cap numbers and distance restrictions. Commissioner Poulton suggests a cap of 20 to 25 non-hosted STRs in the UR zone with 150' buffer between them as measured from the center of the parcel. Attorney Stunich likes the idea of a dual cap – a maximum with a distance restriction. Based on the number of developed parcels in the UR zone (identified in December Staff Report), 20 would be about 16% and 19 would be 15%. The existing number of 6 VDUs in the SR Zone is 20% of the developed parcels, which the Commission feels is reasonable. Commissioner Johnson suggests that the number be left flexible, and reviewed every couple of years. Parker suggests that that probably would not be allowed by the Coastal Commission.

The Planning Commission reviews some of the buffer maps that were previously prepared and discusses how well those distances would limit the number of STRs. Commissioner Johnson suggests limiting occupancy if existing VDUs don't meet the distance buffer, such as only allowing two people per bedroom and not the extra two people. The Commission generally agrees. Johnson notes that this may require the Good Neighbor Brochure to be customizable. He also suggests removing the occupancy reduction for smaller lots if occupancy is limited by distance instead.

The Planning Commission discusses permit life, expiration and renewal. Commissioner Johnson suggests a five-year permit term. But he questions how the City would decide which permits get renewed after 5 years. Attorney Stunich suggests that complaints and problems can be used to decide. Having such a review also acts as additional enforcement. He emphasizes the importance of beefing up the City's ability to revoke licenses of those STRs that consistently cause problems. Having an STR is a privilege and should not be allowed to continue if they are negatively impacting neighbors' quality of life. He notes that based on the discussions, it appears that most VDUs are not causing problems, and the City should focus on the ones that are.

A suggestion is made to also disqualify managers if too many violations or complaints occur related to their managed properties. Stunich opines that it would be difficult to disqualify a manager based on complaints; he thinks it should apply to individual properties. He suggests that it may be possible to include some kind of provisions for punishing problem managers though. Planner Parker notes that the current version of the ordinance amendment includes provisions for a property Watch List for problem VDUs.

The Planning Commission revisits the topic of transferability. Johnson summarizes the general options that were discussed earlier: 1) allow a one-time transfer for existing VDUs; 2) no transferability whatsoever; 3) City review of transfers; and 4) a time limit on the life of STR permits. Various combinations of these options are also discussed, such as City review after a time limit. Stunich thinks that is a sound option; licenses could be reviewed as often as every year, and then transferability would not really be an issue. Commissioner Johnson thinks that the City of Indian Wells might provide an example of that.

Commissioner Pinkse briefly summarizes the discussion. He requests that Planner Parker write up a summary of the transferability options and make the appropriate edits to the ordinance that were discussed tonight. Commissioner Johnson adds that he would like to consider water use limitations as was brought up in the public comments. Parker states that she will provide some additional information.

## **VI. ADJOURNMENT**

Meeting adjourned at 9:20 p.m.

**Submitted by:**

**Sarah Caldwell**

Secretary to Planning Commission

**Approved by:**

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**Mike Pinske**

Planning Commission Chair