

MINUTES OF THE MONTHLY MEETING OF THE
TRINIDAD PLANNING COMMISSION
WEDNESDAY, May 18, 2016

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

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

II. APPROVAL OF MINUTES

April 20, 2016

Commissioner Pinske notes that the date is incorrect on the Planning Commission's copies of the minutes.

Commissioner Scott adds that a speaker during 'items from the floor' was missing from the minutes. The minutes will be corrected to reflect that during Agenda Item IV. Zack Rotwein spoke following P. Morales regarding crime being the #1 issue in Trinidad and suggested a survey be included with the water bills and that the City hire another officer. In response to an accusation that the Planner picks and chooses what goes into the minutes, it is explained that this omission was solely an oversight in the write up of the minutes; not a conscious decision to choose which comments to include. Planner Parker also explains that the minutes are not intended to be a transcript, but exist to summarize the meeting actions.

Commissioner Scott also adds a correction that W. McNeil spoke twice at the last meeting, but wasn't sure where; it is noted that the minutes already reflect this.

Commissioner Poulton corrects a typo on Page 3 (ncluding to includes).

Commissioner Johnson notes that on Page 3 he requested a clarification of the footprint of the project in relation to the septic system components. He also mentions that there is an audio recording of the meetings available if someone wishes to review the meeting.

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

Passed unanimously (4-0).

III. APPROVAL OF AGENDA

Item 3, Trinidad 2016-04 is withdrawn from the agenda.

Commissioner Scott proposes adding an agenda item to request that the City Clerk take minutes at Planning Commission meetings. Commissioner Pinske notes that discussion items can not be added to the agenda at the meeting.

Motion (Johnson/Poulton) to approve the agenda.

Passed unanimously (4-0).

Commissioner Scott wants to know why Planner Parker has not provided her all the information she requested at the last meeting she attended. Planner Parker responds that she gave the list of requested copies to the City Clerk to compile, since he is the appropriate person for that; the Mendocino transferability language was in the staff report for the previous meeting in which Commissioner Scott was absent; and the visitor services information request would have to come from the entire Commission, not an individual Commissioner due to the amount of work involved.

IV. ITEMS FROM THE FLOOR

J. Cuthbertson (840 Van Wyke) refers to the issues with project 2016-02 at the April meeting and suggests building permit and project approval records be checked for project details prior to the

hearing avoid delays in approving pending projects. Planner Parker notes that old files are always reviewed, but the problem with the leachfield location was in the as-built drawings in the DEH file; she reminds him that the Planning Commission doesn't approve septic plans.

A. Grau (433 Ewing) congratulates Commissioner Scott on her recent graduation and reads from the Planning Commission online guide regarding Commissioner roles.

K. Lake (435 Ocean) thinks the minutes are not timely and has issue with a contract planner. She states that a City of Arcata staff planner takes minutes at their meetings. Since they increased the City Manager's and City Clerk's salaries, the City Clerk should perform this task. She speaks about the General Plan, highlighting its adherence to legal requirements and importance to successful planning efforts.

M. Russo (88 Himalaya) gets clarification on the removal of Item 3 from the agenda and is assured that it will be re-noticed if the project application is resubmitted for approval.

V. AGENDA ITEMS

1. **Clompus 2016-02:** Determination Design Review and Coastal Development Permit to remove an existing 30' x 7' second story deck and staircase and replace it with a larger 30' x 13' deck and staircase in the same location. The existing concrete slab under the deck will be similarly expanded. Located at 860 Van Wycke St.; APN: 042-081-35. Continued from the April meeting.

Parker summarizes the new information that was received regarding this project.

Commissioner Comments

Commissioner Pinske and Planner Parker discuss septic setback requirements and the DEH's role in interpreting and implementing project regulations.

T. Sheen, the applicant's representative and general contractor, is present. He reviews the project and assures the Commission that there are no permanent structures on top of the leach field or tank. He updates them on the project, highlighting details: the staircase is on the west side of the deck, there are 7 stairs, the staircase doubles back, terminating at the edge of the deck, and there are four pads for the staircase footings, which are near and within, but not on any of the leach lines. The Commission had the wrong revision of the as-built drawings.

Commissioner Scott confirms that the agent doesn't live at the residence.

Commissioner Johnson wants to make sure DEH is aware of the stair support locations and that they approve. Parker responds that DEH staff have reviewed the new plans. Commissioner Pinske suggests that a condition of approval be included that the footings not be located on any of the septic components. T. Sheen states that the homeowner had the septic components identified.

In response to Commissioner Scott's request for clarification, T. Sheen describes the project in more detail.

Public Comment

None.

Commissioner Comment

Commissioner Poulton is concerned with the temporary nature of the cinderblock supports and whether they are adequate. T. Sheen describes the cinderblocks and their location on a solid , but very small pad of concrete.

Motion (Johnson/Pinske) that based on based on the application materials and 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 the Staff Report and as conditioned in the staff report and at tonight's meeting.

Passed (3-0). Commissioner Poulton abstains.

- 2. Wilson 2016-03:** Design Review, Grading Permit and Coastal Development Permit to construct a new 1,236 sq. ft., 2-story, 1-bedroom, single family yurt (permanent construction) on a vacant lot. A new 2-bedroom septic system will also be installed. Located on Berry Rd. (Address not yet assigned; located on the north side of Berry Rd., just east of 15 Berry Rd.); APN: 515-331-48.

Planner Parker summarizes the project and the staff report. She notes that there were minor issues with the number of parking spaces and the setback of the front stoop, which have been addressed through conditions of approval. Otherwise the project is consistent with zoning and general plan requirements. She does not anticipate views to be an issue with this project.

Commissioner Comments

Commissioner Poulton gets clarification regarding the front stoop. Planner Parker notes that a structure that is flush with the ground, such as the walkway, is not subject to the same setbacks as a raised structure, such as a stoop.

There is a question about how the limitation on the size of the concrete stoop could be impacted by or conflict with building code standards. B. Oliver, project architect, is present. She notes that the width of the pad is dependent on the radius of the door swing, which open inward in this case.

Planner Parker explains that the original plans did not show the required two off-street parking spaces, but that a revised plan was submitted that shows two alternatives for an additional space; either one will comply with the Zoning Ordinance requirements.

In response to an inquiry, Planner Parker explains that the project is exempt from the Stormwater Ordinance because the new impervious surface area, which does not include gravel, does not exceed 2,000 sq. ft.

The Commission discusses the underground connection to the existing power box on the adjacent property. B. Oliver states that the box was built with two connections in anticipation of future development on this parcel.

The Commission discusses the aesthetics of the building with B. Oliver. The yurt will be cedar-sided with a galvanized metal roof. Commissioner Johnson expected the roof color to be more appropriate for the neighborhood and asks if the neighbors are OK with the color of the roof. Planner Parker states that the neighbors were notified of the project and notes that neighborhood compatibility is reflected in some of the Design Review findings that the Planning Commission must make in approving the project.

Commissioner Scott questions the grading and proper disposal of rainwater. B. Oliver states that there will be no gutters, and that the rainwater will be distributed off the roof in no particular direction. This is more of a building code issue. The structure has a 10' setback from the leach field so it shouldn't be affected. The Planning Commission thinks that it is still important to ensure that drainage is directed away from the septic system.

It is clarified and discussed that no trees over 12" dbh will be removed, and the building site is already graded and clear of most vegetation. Most of the existing vegetation on the lot will remain.

B. Oliver is anxious to see the project completed. Commissioner Poulton is pleased to see projects with new and interesting ideas.

Commissioner Scott notes that the shared driveway is at the crest of the hill and this could cause a hazard if there was an overflow of parking. So she thinks it is important for the conditions of approval to adequately address and include the second parking space.

The Commissioners discuss changes and additions to the conditions. "Downspouts" is removed from Condition 10 and Condition 13 is added to require one of the parking options be implemented and that if the spot closer to Berry Road is utilized as a second parking space, then a barrier shall also be provided there to protect the reserve leachfield.

Motion (Poulton/Scott) that based on the information submitted in the application, included in the staff report and public testimony, I move to adopt the information and Design Review and Grading Permit findings in this staff report and approve the project as proposed and as conditioned, including the modification to Condition 10 and addition of Condition 13.

Passed unanimously (4-0).

- 3. 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 summarizes the materials provided in the packet for this meeting's discussion. This includes some new amendments to the VDU ordinance, sample buffer maps, water use data, a summary of the transferability options that were discussed at the previous meeting, and some sample ordinances and sections that may be useful for the current discussion.

The Commission discusses the option of dealing with some violations and enforcement, such as noise and administrative fines in a separate ordinance / section of the municipal code so it wouldn't have to go through the Coastal Commission. They discuss Palm Springs as a good example.

Commissioner Scott asks why the technique that Indian Wells used was not recommended. Planner Parker responds that it resulted in an eventual ban, which is not likely to obtain certification by the Coastal Commission; Indian Wells is not in the Coastal Zone. Commissioner Scott wants to know what percentage of housing units other cities use as a cap. Planner Parker notes that information on caps from a variety of communities has been included in previous packets, but she can compile it for the next meeting.

The Commission discusses buffers. Commissioner Scott points out that the City Council did not ask the Planning Commission to look at buffers. She also states that buffers need to be measured from the property line, not the center of the parcel. Planner Parker notes that several examples of buffers were supplied for discussion, and it was easiest to measure from the center point, so that is mostly what was used for discussion purposes. She notes that the buffer of 150' from center is similar to the 100' buffer from the property line. Parker adds that one advantage of measuring from the center is that smaller parcels get larger buffers. Commissioner Scott states that she has had GIS classes and measuring a buffer from the property line is very simple. She also adds that the buffer should not be measured from the center because parties and activity areas don't necessarily congregate in the center of a parcel—she gives the examples of smokers or a hot tub near a property line. Commissioner Pinske notes that this is all still up for discussion, and the actual buffer has not been determined.

Commissioner Johnson discusses the water use data with Planner Parker. They also discuss the possibility of including a requirement for separate water meters for indoor or outdoor water use to ensure protection of the septic system. Parker notes that the original reason for the water use limitation was to protect the septic system, but landscaping water use has also been brought up as a concern, particularly considering the ongoing drought. Planner Parker also notes that in negotiations with Coastal Commission staff, they asked for a numerical limit on water use, and the data provided in the packet provides justification as to how the 30% allowance for landscaping was determined.

Commissioner Poulton and Planner Parker discuss the legality of transferability and the Attorney's input. Having a distance restriction gives the City one basis for deciding on permit renewals if they are discretionary, but Planner Parker suggests getting guidance from the Attorney for the language. Examples of license renewal limitations include distance, complaints, violations, etc. They discuss possible procedures for license renewals. The City Attorney expressed a preference for City discretion over hard and fast rules, because it increases flexibility for different situations and reduces City liability. A revocation process and watch list are also discussed. Who reviews and approves these things (e.g. City Manager, Planning Commission) is up for discussion.

Commissioner Johnson summarizes the issue of complaints. He feels that the City needs a robust complaint system with checks and balances and feedback. All parties involved (property owner, manager & complainer) need to be aware of the process. He recommends the City move forward on this and suggests it be embedded in City regulations that apply not only to VDUs. Commissioner Scott agrees. Planner Parker notes that outreach / awareness can be furthered by the Good Neighbor brochure and an online complaint system, but these actions can also be policies rather than regulations.

Commissioner Pinske summarizes the discussion from the last meeting for Commissioner Scott related to the Commission's decision to recommend a cap. Scott thinks that a cap is unfair to other property owners that now have to deal with STRs but can't get a license themselves, because it decreases property values for those without a license. The Planning Commission further

discusses this issue. Planner Parker asks for direction regarding caps by zoning designation, and how regulations will differ for hosted and non-hosted STRs.

Commissioner Scott would like Staff to provide her the information she previously requested regarding visitor services information from Clam Beach to Patrick's Point and also notes that Parker never forwarded her the City Attorney's email recommending Scott recuse herself for the Lake-Davies Appeal. Planner Parker needs direction from the Planning Commission as a body to compile the visitor services information. She also responded that she was informed that she could not forward the City Attorney's email due to attorney-client privilege, but that the City Manager had responded to her with a portion of the email.

The Commission redirects to discuss buffer zones. They discuss other ordinances that use buffer zones as criteria. San Luis Obispo County uses different buffers in certain communities that are heavily impacted; the distances are measured from the property lines. The Commission discusses how buffers can limit the number of STRs. They asses that if an STR violates a buffer, then license renewal would not have to be guaranteed; it could go to a lottery or some kind of complaint-based and / or discretionary determination. There is a discussion about the validity of complaints and whether they could be used frivolously.

The Planning Commission breaks.

Commissioner Poulton and Planner Parker discuss buffers and how they could overlap or not using properties on Underwood as an example. Planner Parker notes that San Luis Obispo uses a 50' to 150' measurement from property line to property line, which is probably easier to measure on the ground then from the parcel center.

Commissioner Pinske opens the public comment period.

Public Comment

T. Davies (Ocean) speaks about the last meeting having supposed to be a workshop as requested by the Planning Commission; this issue needs conversation and discussion, not 3 minute time limits. He wants to know when a joint meeting with the City Council will occur. He supports buffers from the edges of property lines rather than the center. A cap is not equitable to all homeowners. Non-owner occupied STRs increase traffic, noise and allow commercial businesses in residential areas. There should be no transferability. There are too many exemptions in the amendment. He chides the Planning Commission for discussing the color of a roof as an issue to neighbors in the yurt proposal, but not giving neighbors the same deference in the issue of STRs.

Commissioner Johnson reminds him that they spent at most four minutes discussing the roof and have spent many, many hours on the VDU issue. It's all in perspective.

A. Grau (Ewing) wants the Planning Commission to discuss an absolute ban on STRs as listed by the City Planner as one possible option. He also wants to see a discussion without TOT revenue mentioned. Ideas from the community survey should be prioritized. Return the City to the residents. The moratorium has failed in its purpose. VDU licenses should only be approved with a 2/3 majority vote by the neighbors. The City of Durango can be an example. Density is an issue. VDUs should be required to adhere to drought landscaping requirements. Buffers should not be measured from the center of parcels. Enforcement should include revocation of a license with two violations in a year instead of three, and three violations in two years should also be grounds for revocation. In addition, three violations per year per property manager should be a termination of their management rights.

K. Lake (Ocean) examines the process. She complains that it is difficult to get facts from Staff and that Staff is not complying with Planning Commissioner information requests. There is no General Plan consistency analysis. A cap of 15-20% of residential housing stock is outside the General Plan. TOT revenue is a decision not based on facts, is violating the General Plan and therefore State law. This direction is not benefitting all residents. There is no enforcement. Meeting minutes are biased. Visitor services information was a Coastal Commission request and needs to be respected. The Planner said owner-occupied only is possible. The Planner was authorized more money, and it needs to be looked at who is making the decisions. The Planning Commission needs to act in the interest of the public and make sure procedures are correctly followed.

Do. Cox (Ocean) wants a timeframe established for producing minutes and the minutes from the previous meeting made available sooner. Planner Parker reminds her that the policy is that the public has access to the minutes once the Planning Commission receives them in their packets. Cox continues, stating that she agrees with K. Lake that the General Plan is not being followed, and density issues need to be better addressed. She was happy with the City Attorney's explanation at the last meeting that when long-term tenants or owners are causing problems the neighbors have recourse handle, but some of those opportunities are lost with VDUs and transient tenants. Protect neighborhoods, and don't allow businesses in residential areas. If 15-18 is used as a percentage, Ocean and Wagner are already much more impacted than that. The City Attorney said that STR-2s are businesses.

Commissioner Comments

Commissioner Pinske closes the public comment period and steers the Commission toward Planner Parker's request for direction on different regulations for hosted and non-hosted STRs. The Commission discusses possibilities and options, including how an on-site host promotes adherence to rules, and allowances or incentives for hosted and / or owner-occupied STRs. Existing on-premise host situations were discussed along with different caps or no caps on hosted VDUs, and differing distance restrictions. It was suggested that limiting non-hosted VDUs may make hosted VDUs more popular. Planner Parker notes that in her research, all the ordinances that only allow owner-occupied STRs do not also require owners to be onsite while it is rented (hosted). The Commission feels that hosted is more likely to self-regulate than non. Commissioner Johnson suggests including hosted STRs as a subset in the amendment.

Owner-occupied is discussed as being different from hosted. Commissioner Poulton has an issue with discriminating against or discouraging long-term renters as being VDU hosts; he doesn't think owner-occupied should be a requirement, just hosted (as long as the host is a long-term resident). Commissioner Scott disagrees, and thinks that could put long-term renters in a compromised position if their landlord wants them to host an STR. The Commission discusses long-term renters and their position in hosted STRs, the balance between owning and renting property, long-term renters and housing stock. Commissioner Scott offers to find ordinance language for owner-occupied rentals. Commissioners Poulton and Scott further discuss the merits of hosted versus owner-occupied.

The Commission decides there are not enough differences between STR types to necessitate separate ordinances, but thinks the regulations for different types of VDUs should be separated in the ordinance. Hosted versus non-hosted regulations in Napa's ordinance should be examined. Commissioner Johnson liked the enforcement ideas in Napa's ordinance and the noise violation regulations in Indian Wells' ordinance. An option is to relax requirements for hosted VDUs to incentivize them.

The Commission revisits the issues with long-term renters and hosted VDUs, balancing rights of property owners, owner/property manager responsibilities, complaints and response times.

Do. Cox states that Wagner Street is congested with STRs but residents are too intimidated to complain.

There is a discussion about the various responsibilities of different roles identified in the ordinance. The Local Contact Person should live within a 20 minute response time, and the Emergency Contact should be available 24 hours a day. Commissioner Pinske adds that the Emergency Contact and Local Contact need to be reported to the City, and should be made available online. They can be the same or different people. The Responsible Person / Party is the renter / occupant that signs the rental contract / agreement. The Local Contact Person responds to issues and reports back to the City on how they were resolved. Each application designates a Local and Emergency Contact information.

The public brings up the recent incident at 461 Ocean where they were transferred around several times before getting a hold of someone who could respond. Parker notes that the City provided the wrong number by mistake in the neighbor notification letter. Commissioner Johnson would like to add language to require the Emergency Contact's number also be included in the neighbor notification if different from the Local Contact Person. Planner Parker assumes the Emergency Contact should have to be able to respond within 30 minutes, like the Local Contact does. Commissioner Johnson would like the information to be clear and all numbers available. Commissioner Scott thinks 30 minutes is too long for an Emergency Contact response and is therefore in favor of owner-occupied VDUs only.

What happens if the Local or Emergency Contact fails to respond is discussed. No response has been specifically enumerated as a "significant violation" in the ordinance amendment, which can lead to eventual license revocation. Commissioner Scott wants an online complaint system. Commissioner Johnson says that this has been part of his and Commissioner Pinske's discussions with the City Manager. He notes that not all enforcement tools, including a more strongly worded Good Neighbor Brochure and on-line complaint for or tracking system, need to be in the ordinance; the City can go ahead just do them.

Commissioner Johnson feels he needs more time to examine the new information that has been provided and to consider issues related to caps and distances. Commissioner Johnson suggests discussing transferability more specifically at the next meeting. He considers Mayor Miller's suggested 5 year staggered permit expiration system with a lottery pool at the end of each group of license terms, but needs more time to review it.

The VDU buffer maps are discussed again. Commissioner Scott explains that creating a buffer from the property edge is simply a point-line polygon function and suggests a more competent GIS person perform this operation if it can't be provided by the Planner's office. The Commissioners discuss whether the buffer should be measured from the center of a parcel or property lines.

Commissioner Johnson summarizes his thoughts regarding the importance of enforcement and how it will make the Ordinance work better for everyone.

Planner Parker suggests that it would be beneficial to have the City Attorney at the next meeting. The Planning Commission determines that the focus of the next meeting will be the following four issues: transferability, enforcement, a cap, and buffer zones.

There is a discussion about the timeline. Planner Parker explains the importance of timeliness as the moratorium, even if extended, will expire in a little over a year. The Commission discusses the moratorium and cap and review process. Commissioner Johnson defers to Staff regarding the Coastal Commission involvement and process. Planner Parker notes that the more amendments that are made to the ordinance, the longer it will likely spend in Coastal Commission review. Commissioner Poulton suggests that the Commission consider a recommendation to the City Council on just a cap for submission to the Coastal Commission. That would basically permanently extend the moratorium, and give the City more time to work on the more complicated ordinance revisions.

A special meeting is scheduled for May 31. The next meeting date is June 15.

A. Grau (Ewing) demands a discussion about only allowing owner-occupied STRs in the UR Zone as has been repeatedly requested. It is noted that this option has been discussed, but would be difficult to get through the Coastal Commission. The Commission and A. Grau discuss what a workshop is and how Roberts Rules of Order require public hearings to be run.

K. Lake (Ocean) insists the City of Napa requires owners of owner-occupied STRs be onsite while the STR is rented, contrary to what the Planner said. Commissioner Pinske adjourns the meeting due to the public being out of order.

VI. COUNCIL REPORT

There was no Council report.

VII. STAFF REPORT

There was no staff report.

VIII. ADJOURNMENT

Meeting adjourned at 9:55 p.m.

Submitted by:

Sarah Caldwell

Secretary to Planning Commission

Approved by:

Mike Pinske

Planning Commission Chair