

**MINUTES OF THE RESCHEDULED MONTHLY MEETING OF THE**  
**TRINIDAD PLANNING COMMISSION**  
**WEDNESDAY, January 20, 2016**

**I. CALL TO ORDER/ROLL CALL (6:02pm)**

Commissioners Present: Espejo, Johnson, Pinske, Poulton, Stockness  
Commissioners Absent: none  
Staff: Parker, Caldwell

Commissioner Pinske welcomes Commissioner Poulton to the Commission and explains that it is a challenging but rewarding service job.

**II. APPROVAL OF MINUTES**

*December 3, 2015*

***Motion (Johnson/Stockness) to approve the minutes.***

***Passed unanimously (4-0).***

**III. APPROVAL OF AGENDA**

***Motion (Stockness/Poulton) to approve the agenda.***

***Passed unanimously (5-0).***

**IV. ITEMS FROM THE FLOOR**

S. Rotwein thanks the Commission for their volunteer community service.

L. Farrar (433 Ewing) talks about the Commission's responsibility for the future, taking care and consideration for the community and asks the Commission to take an interest in the community's thoughts to preserve Trinidad's character.

K. Lake (435 Ocean) asks if the draft General Plan is publicly available. Planner Parker responds that is publicly available online, and has been agendized at several public meetings; additional updates are currently in progress.

**V. AGENDA ITEMS**

- 1. VDU Ordinance Amendment:** Continued consideration of an amendment to the existing VUD 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.

Planner Parker describes the suggested and sample ordinance language provided in the Staff Report. She notes that it is broken down by each issue.

*Commissioner Comment*

Commissioner Stockness doesn't want to see too many exceptions in the document. Planner Parker assures her that the only added exception is in the location, which was based on the City Attorney's recommendation and requires a public hearing.

Commissioner Piske and Planner Parker discuss the VDU definition specifying owner verses agent. Planner Parker explains that a new definition is needed because the existing one from the TOT Ordinance is vague. The VDU Ordinance amendment will be more specific and

legally clear. Commissioner Pinske suggests the “occupant” as the party on the contract and a “guest” as a day guest that does not stay the night. Planner Parker also suggests the possibility of including definitions for “responsible party,” “home-hosted” and “home stays” such as were included in the robust VDU Ordinance from Palm Springs.

The Commission discusses “owner-occupied rentals” in Trinidad. Planner Parker explains that depending on how they are defined, they can be a secondary attached or detached unit, upstairs vs. downstairs, or part of the household. Also, a hosted rental does not necessary have to be owner occupied, but any long-term resident.

The timeline for this amendment and the moratorium is discussed. The moratorium can be extended until June 2017 at the most. If there is some legal discrepancy, the time period may be less. At the last meeting, the Planning Commission recommended staff to focus on a total City-wide VDU cap with the UR Zone restriction.

#### *Public Comment*

A. Grau (433 Ewing St) passes out a handout. He doesn't think that the cap addresses the problems and just adds to them. VDUs are not family residences but they are in residential areas. He would like non-owner occupied VDUs to be disallowed, referring to the City of San Louis Obispo regulations.

Commissioner Pinske reads an email from Pat Morales that asks that the VDU Ordinance be re-written to follow laws. It should include STR-Type 1 rentals only in the code. The vision of the General Plan leaves tourist accommodations out of the residential zone.

J. Kitchen (56 Berry Road; owner of Trinidad Retreats) states that the point of the moratorium is to address the issue of too many VDUs. This amendment to the Ordinance is turning into a re-write. The cap should be addressed first. She notes the points that she agrees with: 15-20% cap, minimum license activity requirements - 60-night minimum rental/year, transferable within 90 days after escrow, violations attributed to responsible parties.

T. Davies (435 Ocean Ave) thinks that the existing rules are based on a flawed framework, and the ordinance should be re-written from scratch. He agrees that VDUs should be redefined into Type 1 (owner-occupied) and Type 2 (non owner-occupied). Type 2 are undermining the community, and unhosted short term rentals are a commercial venture and should not be allowed. He is in support of only Type 1 VDUs in residential zones. Coastal Commission opinions are not mandates.

K. Lake (435 Ocean Ave) thinks the City Planner has shown bias and that the Commission needs to be careful about the wording. She suggests reviewing the City of San Louis Obispo ordinance and a San Diego City Attorney memo. She requests the use of standard terminology. She feels the current code must be enforced, a cap is not the answer and that rentals should be owner-occupied with the owner on-premises while rented.

L. Farrar (433 Ewing St) believes the VDU language should be simplified and that VDUs should adhere to the Zoning code and not be in residential areas. VDUs negatively impact the City and encourage a transient community with a resulting decline in affordable housing. Only owner-occupied VDUs should be allowed, the distance-based criteria map should be measured from the property lines, and 5 years is too long for licensing, VDUs are not consistent with business licenses. There should be an additional community meeting to discuss this without 3 minutes limits.

S. Rotwein (54 Westhaven Dr) states that Trinidad is a vacation destination and visitors and tourists are an important part of the community. The public is responding to poor management and clustering of VDUs rather than the VDUs themselves. A cap is appropriate (she suggests 45 based on the existing housing stock or 60 if including owner occupied) with distance and density taken into consideration. A minor use permit is also a good idea for those that don't meet standards but aren't causing problems. A maximum number of tenancies per month is unnecessary because Trinidad has a short season. She thinks that inspections of VDU and recovering costs in the permits are good ideas. She would like the City to enforce all ordinances, including the septic system regulations, which impact public health.

L. Scott (98 Berry Rd) notes that the TVFD has trouble finding volunteers because of a lack of affordable housing. She has a petition that more than 60 people have signed. She echoes similar concerns: allowing only owner-occupied VDUs, defining VDUs by type, adhering to Land Use and Zoning requirements, bias in the Staff Reports, the lack of availability of rentals, negative VDU impacts to the City and the benefits of Type 1 rentals.

D. Allan (Westhaven) states that VDUs do not belong in residential areas and should be restricted to C and PD zones. He thinks that a cap is not necessary, just eliminating VDUs from residential areas.

D. Bruce (788 Underwood Dr) agrees with the minimum license activity of 60 nights per year. There should not be an automatic transfer of licenses. He likes the additions to the enforcement section. If there are more than two violations (max occupancy, parking, noise, etc.), then the license should be revoked. Allowing signed affidavits as violation documentation is a good idea. He recommends enforcement, violation records and a forfeited deposit as a type of enforcement/incentive.

D. Cox (436 Ocean Ave) is impacted by the VDU businesses. The municipal code should be reviewed for a clear understanding of what is allowed. She, and others, would rather pay more in sales taxes than depend on the money generated by the TOT. VDUs are a business and should not be allowed in residential areas.

R. Kitchen (56 Berry Rd; owner of Trinidad Retreats) appreciates the Planning Commission and the work staff is doing. The community consists of friends and neighbors. He doesn't want to be sandwiched between vacation renters, either. A balance should be found that is fair, diplomatic and equitable.

#### *Commissioner Comments*

Commissioner Pinske notes the Commission agreed at the last meeting that a cap would be based on measurability and distance. VDUs in the SR Zone are not an issue, a few exist in the C and PD Zones so they will concentrate on the UR Zone.

Commissioner Johnson realizes that if both parties are upset with the Commission's decision, then they are likely balanced. He too, would like to find a balance and compromise. He has not always had positive experiences with vacation rentals, but he understands the issues and recognizes the financial support they provide the City, so he is not opposed to VDUs.

Commissioner Pinske states that, since there is only one in existence, a cap based on owner-occupation is not a reality, and would almost amount to a ban. This amendment needs to address the streets / areas with major issues with density or distance restrictions and enforcement. He thinks documenting violations will highlight problem areas. He suggests having a dedicated staff member that oversees complaints, regulations, permits, etc. to be fair

and enforce the Ordinance. The distance cap will alleviate some issues as will attrition and violations. He would like to see some TOT tax routed to enforcement.

Planner Parker explains the buffer map. GIS was used to measure VDU buffers, and the samples provided measure 150 ft from the parcel center (which is easier to measure in GIS) and 100 ft from the property boundary. She notes that she also tried a 50 ft. buffer, which basically just include one property in each direction.

Commissioner Poulton notes that it is a tough decision to address the VDU issues. He asked how many VDUs would be possible under the different distance restrictions; Parker answers that she has not calculated that. Density is a huge problem. Underwood and Ocean Ave have parking and noise problems. He likes the idea of a nontransferable permit to reduce crowding. He agrees in defining Type 1 and 2 rentals, but not allowing VDUs is unrealistic. A VDU Ordinance exists, so this means that regardless of how the municipal code was previously interpreted, VDUs are now allowed.

Commissioner Stockness notes that there are 7 VDUs in her viewshed. She, too, is concerned with density. She agrees with a non-transferable permit and would like to address licensing term and fees. She has been affected by noise and would like to see better regulation and enforcement. The TOT money may be a way to fund that.

Commissioner Espejo agrees about using TOT money for enforcement. Laguna Beach has contracted code enforcement which costs quite a bit. She researched enforcement salaries (which was difficult) and there appeared to be a larger range. She continues, stating that she would like to preserve the community character and tourism is part of this. She suggests using a parking permit system as a tactic to relieve the parking issue. A first come, first served wait list is fair, but priority should be given to Trinidad residents. The VDU permit should expire with a home sale or death.

Planner Parker summarizes the Commission's direction so far. She notes that the City Council tasked them with addressing a limited list of issues but that other concerns can still be addressed. She discusses the process and potential timeline to get a permit through the Coastal Commission. She notes that the City Council can still make changes after the Commission recommends an amendment. In addition, the ordinance can be reviewed and revised again in the future.

The Commission discusses the issues: the cap, clustering in the UR Zone, density, enforcement. Planner Parker relays the VDU statistics: there are 38 license applications and still 2 have issues. Pinske states that 29 have been active VDUs (based on the 2015 TOT).

Commissioner Poulton thinks that the cap plus the distance requirement, non-transferability and attrition will bring the numbers down. He would like to see a minimum number of rental days per year as a way to ensure the permit is in use.

Commissioner Pinske like the 100' buffer as part of the cap. Activity is also important. He doesn't think transferability should occur with a change in ownership. He is concerned about the grandfathering procedure.

Planner Parker explains that use permits are not currently required or allowed for VDUs. They are authorized based on glorified business licenses that reviewed by City staff. City Attorney Stunich had suggested that an exception to the distance requirement be allowed to be reviewed on a case-by-case basis. Grandfathering of VDUs seems to be standard practice;

Parker has not seen another Ordinance that has capped VDUs below the existing number. California legislation is also going through that the City could add to the Ordinance language regarding reporting from 3rd party platforms such as VBRO.

Commissioner Espejo agrees that there is a density problem in the UR zone. VDUs should be capped at the current number and 100' buffers should be enacted so as to not encroach on property rights. She does not want this process to take too long and so the Commission should stick to the primary issues.

Planner Parker summarizes the language she will include in an amendment and provide the Commission at the February meeting:

- caps in neighborhoods
- minimum rental days
- license terms
- non-transferability of permits
- term definitions
- wait list (based on 1st come, 1st served)
- enforcement

Commissioner Pinske would like to include a formal recommendation to the City Council to increase permit fees.

Commissioner Johnson thinks that changing the density or definition of a VDU will not improve the fundamental issues. Parking, noise, over occupancy boils down to enforcement. He would like to have a special enforcement session and recommends raising the license fees to cover staff costs.

The Commission discusses enforcement and costs. Planner Parker adds that the City charges \$100 for a license. She will look into how much time it takes to realistically process licenses and because enforcement is difficult to quantify, suggests not instituting fines until a few issues have been documented. She has spoken with the Coastal Commission and gotten direction from them, but will also send early drafts of any amendment to them for review to expedite the approval process; she notes that any new regulations would not be in effect this summer.

The Commission discusses the definition of VDU. Planner Parker notes that there has been a general convergence on the use of the term short-term rentals rather than VDUs in other Ordinances (but not Type 1 or Type 2). The current definition is vague and she will make it more specific and enforceable. Commissioner Johnson likes the definition on page 4/6. He would like to include the exceptions in the SR. Planner Parker will work on the definition and may include additional definitions as examples.

**Motion (Poulton/Espejo)** to ask the Council to increase VDU license fees to cover anticipated costs for enforcement of the Ordinance. (The fee will be resolved at a later date.)

**Tabled.**

Based on a public member's objection over Robert's Rules of Order, this Motion will be tabled for public comment. (A tentative meeting is planned for the 3rd of February, but everyone will check their schedules.)

## **VI. CITY COUNCIL REPORT**

The lawsuit between the City and Tsurai Ancestral Society is progressing. Part of their agreement is that certain steps will be taken towards settlement by November. Dan is meeting regularly with the Tsurai Management Team to work towards an agreement.

In response to an inquiry, Parker explains that the Civic Club appeal is tied up by larger issues. There may be an opportunity for the City to help fix issues around the lighthouse (on City property) and help move the appeal forward.

## **VII. STAFF REPORT**

The Clean Beaches grant is moving forward with the goal of performing some inspections during this wet season and repairs in the summer. Planner Parker will present more information at the upcoming Trinidad Bay Watershed Council (6:30pm).

6pm Tuesday night there will be a town hall meeting to present the proposed regulations the County has to meet regarding stricter oversight on 303d listed impaired waterbodies. Strawberry Creek to Mill Creek fall within this oversight.

In terms of the general plan update, Parker is working on the Cultural Element, a reviewing a Climate Change Risk report and Harbor Area planning. Background documents will include a consistency analysis of the General Plan and Zoning with the Coastal Act regulations.

## **VIII. ADJOURNMENT**

Meeting adjourned at 8:46 p.m.

### **Submitted by:**

**Sarah Caldwell**

Secretary to Planning Commission

### **Approved by:**

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**Mike Pinske**

Planning Commission Chair