

**MINUTES OF THE RESCHEDULED MONTHLY MEETING OF THE**  
**TRINIDAD PLANNING COMMISSION**  
**WEDNESDAY, December 3, 2015**

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

Commissioners Present: Espejo, Johnson, Pinske, Stockness (arrives at 7:10pm)  
Commissioners Absent: Poulton  
Staff: Parker, Caldwell

**II. APPROVAL OF MINUTES**

*November 4, 2015*

Commissioner Espejo clarifies the letter from J. Keegan that she read at the last meeting regarding the concerns about quantity and enforcement of VDUs, but not wanting to increase the workload for the City.

Page 3, 4th line: change "things" to "think"

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

***Passed unanimously (3-0).***

**III. APPROVAL OF AGENDA**

***Motion (Espejo/Johnson) to approve the agenda.***

***Passed unanimously (3-0).***

**IV. ITEMS FROM THE FLOOR**

Leslie Farrar thanks the Commission for their work and looks forward to the future and living sustainability. Impacts to the next generation should be considered in decision-making. Not everyone is able to attend Planning Commission meetings and some points of view are not considered. People choose to live in Trinidad for its beauty, community and proximity to nature.

**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.

Following the introduction to the supplemental staff report and an outline of the probable next steps in this process, Planner Parker explains that if the Commission is able to make some specific recommends tonight, such as putting a cap on VDUs, staff can start drafting ordinance language.

*Public Comment (on whether to pursue a cap)*

Commissioner Pinske opens up the floor to public comments regarding caps.

Dennis Halkides (VDU and long-term rental owner) thinks a cap probably won't affect him but is not in favor of one and doesn't see the basis for a cap because the population of Trinidad has grown regardless of the number of VDUs.

Karen Glinden is concerned about this important issue. She suggests that the Commissioners take their time to get to the real issues. Complaints are coming from just a few people and don't necessarily represent the community. She thinks that there shouldn't be a cap until more research is done. She would rather see mediation between residents and VDU management than a cap.

Mike Reinman (Redwood Coast Vacation Rentals, VDU owner) is not in favor of a cap. He would be willing to compromise with a reasonable percentage-based cap such as 20%.

Karen Hicks (VDU owner) is not in favor of a cap.

Zack Rotwein does not have a strong opinion about the cap but believes that the biggest issue with VDUs is enforcement. And public safety and the impact to the budget needs to be considered in regulating VDUs. He reads a letter from Susan Rotwein, which notes that most of the issues and complaints lie in the management of VDUs. Trinidad's character has changed regardless of VDUs, and the City does not have enough information to justify a cap. She supports implementing the existing VDU Ordinance, removing the moratorium and performing an economic study of VDU impacts in Trinidad.

Steve Ladwig (VDU owner) votes for no cap. He agrees it the problems are related to management. The regulations should represent all voices in Trinidad.

Walt McNeill (lawyer) states that it is in violation of the Brown Act to prevent any interested party from speaking at a meeting (in response to Commissioner Pinke requesting that people comment only on the issue of a cap at this time, and only if they did not comment at the last meeting). He notes that he has new information, and continues, stating that the City's 2009 moratorium on new VDUs renders the current moratorium illegal and invalid. The City Council should revoke the moratorium. He has emailed this information to the City Attorney per government code 65858, paragraph F.

Andy Stunich (City Attorney) notes that this meeting is independent of the moratorium as it is addressing an amendment to the VDU Ordinance.

Dorothy Cox (346 Ocean) votes for a cap or ban on VDUs.

Jacques Beaupre (231 Parker Creek Dr) is in favor of a cap.

### *Commissioner Comments*

Commissioner Pinske notes that the Staff Report provides good information regarding the legality of caps, the Coastal Commission's position, and overview of VDU regulations.

Commissioner Espejo sees both sides of this tough issue and has taken it all into consideration. She would like to see the City put some TOT money toward code enforcement. She notes that there is not a strong police presence at night. She also doesn't like how this issue has divided the community. She recognizes that the City Council voted to send this decision to the Planning Commission and they will eventually vote on the ordinance. She states that her position is in favor of a cap.

City Attorney Stunich clarifies that the City Council recommended consideration of a cap to the Planning Commission. This amendment process will stay at the Planning Commission level at this point. The Planning Commission will direct Staff on how to draft the ordinance amendment and then recommend a final draft to the Council for consideration and adoption.

Commissioner Pinske notes that the Coastal Commission's certification process favors visitor services and that there is a lack of hotel options in Trinidad. However, there has to be balance, and an amendment drafted that can pass Coastal Commission standards. There should be a compromise on VDU numbers, however they are regulated. He recommends that staff draft an ordinance that caps VDUs.

Commissioner Johnson knows that there isn't a solution that will make everyone happy. The \$120,000 TOT tax impact on the City's \$550,000 budget should be given serious consideration. Community concerns from workshops include protecting the small fishing village character, ensuring adequate housing stock and maintaining public safety; he believes a cap will help balance the VDUs to homes ratio. Additionally, a cap helps protect housing inventory that would meet General Plan policies and goals. He recommends a revision to the ordinance that includes a cap on VDUs.

The Planning Commission consensus is unanimous that Staff should be directed to draft a revision to the VDU ordinance that includes a cap on VDUs.

The Commission moves on to consider what type of cap should be implemented.

Commissioner Johnson summarizes three letters that were submitted as public comment:

Jack Nash (30 Scenic Dr) has a family house (previous owned by his parents) that he would have to sell if he couldn't use it as a VDU, because the family only uses it 30 nights of the year.

John Rotter is concerned that this VDU issue is driven by a just a few people. He noted that the Coastal Act is intended to protect the coastline and access to it for everyone. He is concerned for the City's budget if VDUs are further regulated and is against a cap.

Barbara Wright does not support a cap. She would like to see the onus put on management companies and have them enforce rules correctly. VDUs owners do not all represent a high income or investors.

McNeill Law Offices submitted a letter with City records, budgets, copies of the moratoriums and states that there is no factual support for a cap. They support the existing VDU Ordinance and removing the moratorium.

Commissioner Pinske notes that a cap can be a flat cap, a percentage, a percentage by street or distance-based (e.g. 100'). Planner Parker adds that the caps can be combined to include an overall cap as well as a secondary street, neighborhood or zoning based cap.

The Commission discusses how to proceed with a cap based on percentages or distance. Planner Parker summarizes some other cities' caps that are based on percentages and maintains that the Commission can first decide what kind of cap to pursue prior to deciding on what the actual numbers should be. Planner Parker can provide some options and samples.

The Commission also discusses how to grandfather in existing VDUs with a cap if it is less than the existing number of VDUs.

City Attorney Stunich suggests that a cap is likely to be challenged and recommends limiting the amendment to specifically address the major issue of congestion and limiting the number of VDUs by proximity. This would address the general health and safety of the public without being overreaching. The next problem is to tailor the cap so as to not further impact housing availability. He also suggests including an exception process, such as through a CUP.

Planner Parker reminds the Commission that any changes, now or in the future, have to go through the Coastal Commission. She also agrees with Commissioner Johnson's idea to keep it simple now and review any new regulations in two years.

Commissioner Stockness notes that all the examples of VDU regulations are going to be from bigger cities than Trinidad and that Trinidad's specific needs really have to be considered. She muses that perhaps there could be an alternative lodging facility or other new development that would meet visitor services requirements and reduce the need for VDUs.

*Public Comment (on type of cap)*

Mike Reinman (VDU owner) thinks that the biggest issue with a cap is grandfathering in existing VDUs and that needs to be examined closely.

Walter McNeill (McNeill Law Offices) speaks on complying with State law and the serving coastal visitors. To justify a cap, there has to be a demonstration of substantial harm to public health and safety.

Kathleen Lake (435 Ocean Ave) thinks that an alternative recommendation to that provided by staff is needed. The staff report presents a biased viewpoint; the Coastal Commission does not encourage VDUs, and the City does not need a certified LCP. Visitor services should not affect the community, and hotels do not fall under home occupations. Focus on housing and what is good for the Trinidad community. The existing ordinance does not provide adequate enforcement. There needs to be proactive code enforcement to protect the community. She handed out some sample ordinances from other cities.

Adora King (396 Wagner, VDU owner) is a resident with a seasonal VDU. There are three VDUs on her private street, and she doesn't really like them (even though one is hers), but no one there wants to ban VDUs. The best solution is a distance-based cap to avoid clustering.

Jonna Kitchen (56 Berry Rd, Trinidad Retreats) states that adding a hotel somewhere instead of VDUs will not retain a fishing village atmosphere in the City. She also notes that VDUs are kept well maintained to display curb appeal. Based on complaints, the problem is mainly with clustering; she is not in favor of a cap, but a simple distance restriction of 100' would address density. She notes that there do not seem to be any complaints about VDUs on Scenic Dr. The Ordinance should include a dispute resolution process. She states that neighbors are not getting contact information after permits are issued. The City should use TOT money to hire staff to deal with VDU and Ordinance enforcement issues and paperwork.

Leslie Farrar (433 Ewing Street) is concerned with business use in residential areas. Threats of litigation are unfriendly. The burden shouldn't be on the residents to protect the community. There are plenty of visitor serving uses on Patrick's Point Dr. There is insufficient enforcement, and the City needs a staff member to do that. She would rather have more sales tax than VDUs.

Tom Davies (435 Ocean Ave) asserts that there are no State laws preventing the regulation of VDUs. Ocean Avenue and Wagner and Edwards Streets are heavily impacted. Mendocino is a similar size. He encourages looking at how VDUs affect neighborhoods and states that 71% of the VDU applications are in the UR Zone, which is not balanced.

Tom Lindquist (980 Westhaven, VDU owner) states that Trinidad is a popular vacation destination and will remain so. VDUs benefit the community. There needs to be dedicated enforcement and no ban. The City should work in conjunction with the County and look at tax revenue with an enforcement emphasis.

Laura Scott (98 Berry Rd) thinks that there is direct harm to public safety from VDUs. She is a member of the Trinidad Volunteer Fire Department and can't find an affordable rental in the community she protects. Available rentals are overpriced even though there are lots of vacant homes. She is aware of the income from VDUs, but Trinidad needs to be safe and affordable.

Brendan Brisker (930 1st Ave., Weshavent) has seen first-hand that VDUs can intensify the residential use. A smart cap will provide access to the coast as required by the Coastal Act, but also retain the character of Trinidad. He agrees that an enforcement officer would be useful. He also advocates for a complaint log created that can be submitted to the Coastal Commission for evidence of VDU impacts.

Doran Morgan (Scenic Drive) wonders why this can't be put up for a City-wide vote. Trinidad is now tourism based and expensive; that won't change. Other communities are expensive too--he notes that people can't afford to live in Arcata now either because of grow houses.

City Attorney Stunich states that the City Council adopts ordinances. But this issue or regulations could also be put up for a direct vote.

Dick Bruce (Underwood resident) is in favor of a fixed cap of 25-30 VDUs with the cluster/ density issue also addressed. He thinks that existing VDUs should be grandfathered with attrition to get to the cap number. Complaint-driven enforcement should work if followed up on.

Dennis Halkides (VDU Owner) thinks the City needs attorney advice, because they can't just take away people's property rights. There are financial consequences to this plan of action. LA had to pay millions of dollars in litigation fees based on inverse condemnation when they tried to ban porn shops. VDUs are a long-established use.

City Attorney Stunich mentions that the porn shop case was actually related to 1st Amendment freedom of speech rights. Attrition is not taking away the license; the license only expires if it is let go or if violations occur.

Allan Grau (433 Ewing Street) reads the purpose of the City's zoning ordinance and notes that unless you live next to one, you can't know the impacts of a VDU. He thinks that the City's job is to protect the residents, not visitors. Trinidad has changed and VDUs have created problems.

Danny Cox (436 Ocean Ave) thinks that the management companies should be responsible for enforcement rather than the City. The license should cover the costs for enforcement. Don't discount the old industries; VDUs are an industry in Trinidad, just like crabbing. He notes that his property rights are infringed upon if he has VDUs on both sides. He also thanks the City for working on resolving VDU issues.

#### *Commissioner Comment*

Commissioner Stockness would like to see enforcement examples from other cities. Planner Parker states that the enforcement mechanism in Trinidad is generally the same as in other jurisdictions, but could be beefed up. There are good enforcement tools in the current VDU Ordinance draft that have not been used yet. The Ordinance puts the onus on management; they can lose their license or be fined. There is also a requirement for 24-hour local contact person.

Commissioner Johnson confirms that the cost of a VUD license is currently \$100. He was originally in favor of a flat cap, but thinks that the clustering issue has to be addressed based on public comments. However, a cap won't address all issues, such as noise. He recommends drafting an ordinance to include provisions for language eliminating clustering and recognizing grandfathering.

Commissioner Pinske states that complaints are neighbor-driven. Complaints won't stop until there is a better system for enforcement. Any proposed amendment needs to include better enforcement language and penalties. Issues such as transferrable licenses, and grandfathering can be addressed later. He wants the cap tailored to the unique Trinidad situation, with a focus on the UR Zone.

Commissioner Johnson thinks that it may not make sense to have a cap in the SR zone, because development is less dense and that is not where the complaints occur.

Commissioner Stockness considers potential alternatives to VDU lodging in the City and in the surrounding area. She is in favor of putting a cap on VDUs by street. There are parking and traffic issue because of VDUs. Perhaps the County has some input as to alternative lodging facilities.

Commissioner Espejo is in favor of the cap near the existing number of VDUs. But the clustering in the UR zone also needs to be addressed. She thinks that enacting the ordinance is the first step, and then it should be reviewed again in two years. She would like to see language in the draft ordinance that uses distance to address clustering in the UR Zone.

Commissioner Johnson agrees that there needs to be a limitation on VDUs and thinks that clustering would be best addressed by a distance restriction in the UR Zone. This would not unnecessarily restrict those VDUs in less dense areas that are not a problem. Enforcement is also a big deal and he recommends that staff look into enforcement language to add to the draft ordinance. He also notes that Trinidad has the lowest license fee of any other city he has seen. Increased fees could be a mechanism to fund additional staff for processing and enforcement, though he likes the idea of property owners and managers regulating themselves. The City has spent a lot of money on this process already. He suggests that if there are complaints, perhaps an increased license fee could support an independent review board to resolve complaints.

Planner Parker comments that the City Council set the VDU fees by resolution, so that can be easily changed, though fees to have to be based on actual costs.

Commissioner Espejo adds that, based on some of the examples she has seen, it was important to have a manager located within 25 miles. Management companies have been involved in the process and seem willing to help come to a peaceful solution. VDUs do generate money for the community, but she can understand not wanting to be surrounded by them. She suggests looking at other types of permitting programs that provide incentives for compliance, including fisheries management.

Commissioner Stockness is concerned about enforcement and thinks that perhaps the Council may have additional ideas or guidance.

Commissioner Pinske considers the pros and cons of regulating density of VDUs in the UR based on distance or percentage.

Commissioner Johnson would like to review the draft language provided by Staff that focuses on a cap in the UR Zone based on distance plus a total cap City-wide, grandfathering, attrition, license activity and terms and waiting lists. There is a discussion about the legality of limiting the transferability of a permit.

Planner Parker remarks that the moratorium speaks to licensing property not people. City Attorney Stunich suspects that when property is transferred, the VDU is not automatically qualified, and the new owner does not have to be relicensed. VDUs are not a vested right, but he can research this.

The Commission comes to a consensus to review draft language provided by Staff in January addressing their concerns.

## **VI. CITY COUNCIL REPORT**

The Council voted to appoint a new Planning Commission member – Cliff Poulton.

The interpretation of the ‘one VDU per parcel’ language in the VDU Ordinance was discussed.

## **VII. STAFF REPORT**

VDU license letters are all sent, and most licenses have been issued.

The Clean Beaches Monitoring Plan and QAPP have been submitted and Parker has met with all three tribal entities regarding the LCP grant General Plan update. The Cultural Element needs work. She needs to make the entire draft compliant with State and Coastal guidelines and then a final will be available early next year.

## **VIII. ADJOURNMENT**

Meeting adjourned at 9:02 p.m.

**Submitted by:**

**Sarah Caldwell**

Secretary to Planning Commission

**Approved by:**

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**Mike Pinske**

Planning Commission Chair