

**MINUTES OF THE RECHEDUED MONTHLY MEETING OF THE**  
**TRINIDAD PLANNING COMMISSION**  
**Wednesday, January 31, 2018**

**I. CALL TO ORDER/ROLL CALL (6:05pm)**

Commissioners Present: Johnson, Graves, Gregory, Stockness

Commissioners Absent: None

Staff: Parker

**II. APPROVAL OF MINUTES**

*December 20, 2017*

There were no comments.

***Motion (Johnson/Graves) to approve the minutes as submitted.***

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

**III. APPROVAL OF AGENDA**

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

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

**IV. ITEMS FROM THE FLOOR**

Do. Cox (436 Ocean) thanks the City for installing an ADA button for the Town Hall door. She knows that J. Cuthbertson will be very happy.

L. Farrar (433 Ewing) cringes when she reads staff reports. Arguments are made to benefit property owners, and there is no enforcement. Staff needs to put more emphasis on community character and benefits to actual residents. She states that many people feel the same way, but don't attend meetings for many reasons. City staff have a culture of using negative labels. She commends the Commission for their service, and asks them to carefully consider the long-term impacts of their decisions, which affect the City for generations.

**V. AGENDA ITEMS**

1. Hasselquist 2017-07: After-the fact Design Review, Use Permit, Variance and Coastal Development Permit to convert a permitted, 2-story garage with upstairs recreation room (approximately 1,120 sq. ft. total) into a 1-bedroom second dwelling unit. The conversion happened more than 10 years ago under a previous owner. The variance is needed because the structure does not meet residential setbacks. A new septic system designed to accommodate two units was recently installed. Located at: 150 Scenic Drive; APN: 042-141-03.

Parker summarizes the information in the staff report. She explains the scope of the project and its consistency with the City's zoning regulations. No physical changes are being proposed. She explains the history of the project. She notes that this is the second variance to come before the Commission in as many months. This is very

unusual, because variances are difficult to grant, but she feels that the findings can be made in this case due to the geologic limitations on the property. She summarizes the various findings that are required to approve the project, as well as the proposed conditions of approval.

*Commissioner Comments/Questions*

Commissioner Gregory confirms that the new owners were unaware that the unit was not legally permitted. P. Hasselquist (applicant) responds that they were not aware at the time, and they were planning on relying on the income from the STR to help pay for the mortgage on the property. He adds that they have been transparent with the City and their neighbors. Commissioner Gregory opines that the owners would not have upgraded the septic system if they were trying to be sneaky. He acknowledges that STRs have created problems in certain locations, but this seems to be an appropriate location that is not bothering any neighbors, because they have written letters of support for the project. Commissioner Gregory also confirms that a CDP was granted for the garage structure itself.

Commissioner Graves asks about the history of the STR. Planner Parker confirms that the STR was operating under a business license long before the City started regulating them. It also operated under a VDU license from the City under the first ordinance for two years until the City discovered that the STR was in an unpermitted dwelling under the new, stricter ordinance. Commissioner Graves adds that the fact that the STR/VDU was operating legally makes a significant difference to him, but he is still concerned about being able to make the variance findings.

Commissioner Stockness asks about the location and design of the septic system. Planner Parker responds that it is a standards system located adjacent to the primary residence, which was not shown on the submitted site plans. Stockness confirms that the STR is not currently in operation. She also gets clarification regarding: (1) the setbacks and the easement from the neighbor for the deck encroachment; (2) the SE Zone requirements; (3) the required OTD, OS easement and hold harmless agreement; and (4) geologic considerations. Commissioner Graves adds that he feels that the hold harmless agreement is very important, and it needs to be included as a condition of approval.

Commissioner Johnson seeks further clarification regarding the septic system. Parker notes that there is only one system that serves both residences. Johnson then asks for clarification regarding the location of the primary unit, because it is not shown on the site plans due to the large size of the property. He discloses that he is on the TCLT Board, and that the Land Trust would like to at least consider the feasibility of a public access easement along the shoreline to connect to adjacent access.

Commissioner Johnson feels that it is important for the City to review the inspection requirements of the STR ordinance to ensure this kind of situation doesn't happen

again. He also asks for clarification regarding the zoning boundaries and requirements. Planner Parker explains how she made her determination of the SE/SR zone boundary, which she indicated on the site plan. She also explains the density limitations of both zones and that Trinidad's ordinance only considers gross lot size, not net developable area in calculating density.

Johnson also asked about the parking area, which appears to be partially located on a neighboring property. Parker responds that yes, in reality, cars would tend to park perpendicular to the access drive, which likely means they are encroaching on the neighbor's property. However, that small strip of neighboring property is at the base of a very large rock, and so not useable to the neighbor above. In addition, technically, there is room for at least 4 spaces that meet the City's size requirements in that area, plus more in the driveway that are located fully on the applicant's property. Commissioner Johnson also requests a brief summary of the City's enforcement process, including nuisance abatement, which Parker provides.

#### *Applicant Comment*

M. Hasselquist states that they are a local Trinidad family that has been in the area for more than 20 years. Their kids attend Trinidad Elementary. This property is their dream property, and they plan on living in the primary residence once their kids are older and move out.

Commissioner Graves notes that by law, family history and intent cannot be considered by the Commission, because permits run with the land.

P. Hasselquist that they are willing to do what is necessary to bring the property into compliance with City codes, even though it is a lot of work and expense. He encourages the Commission to approve the project expeditiously, so they can continue with that process.

#### *Public Comment*

Do. Cox (436 Ocean) states that she generally disapproves of after-the-fact permits due to the problems that have occurred in her neighborhood. She does not think it should be too easy to get approval for unpermitted work. She feels that the new septic system is great, but it is still fairly small for two units (only two bedrooms total capacity). She questions how the primary unit will be used until the Hasselquists can move in. She suggests that the Planning Commission wait on making a decision on this application until there is an ADU ordinance or until the the detached living space policy is finalized.

L. Farrar (433 Ewing) feels that the site plan is confusing, because it does not show the location of both residences. She notes that this project requires both a Use Permit and a Variance and urges the Planning Commission not to grant special privileges, especially in the SE zone. She also states that there have been problems in the past

with rocks falling on vehicles in the parking area of this property, and she worries about the City's liability. She is also concerned that there is no reserve area identified for the septic system. She urges the Planning Commission to be cautious about setting precedence. Ms. Farrar adds that she feels that the STR license should not be kept "on hold" and that the owners should have to apply for a new one if this project is approved. She notes that these comments are not personal, she just wants everyone to be held to the same standards.

A. Grau (433 Ewing) also expresses concern about the status of the STR license; he feels that it should be denied based on the illegal construction. He thinks that the previous owners should be held responsible and have to pay fines for the unpermitted development. The City needs to step up enforcement.

A. King (396 Wagner) notes that her comments are not personal. She feels that it is unfortunate that the Planning Commission has to deal with this kind of project. The Planner and Building Inspector give property owners too much hope and then drop applications in the Planning Commission's lap. Since the owner of this property is a contractor, he should have known to ask questions about the permitting status. She wants to know how a VDU license ever got approved for an illegal structure. She adds that no building (including a deck) should be allowed over the new septic system.

P. Hasselquist (applicant) states that the garage was likely converted soon after it was built in 1989 and that it was probably one of the first STRs in Trinidad. He notes that only septic tank is located under a deck, but the leachfield is open. He also adds that tonight's approval should focus on the use permit and variance for conversion to a residence, and that the structure itself was properly permitted.

M. Hasslequist (applicant) adds that the STR should not really be a consideration tonight. There is no STR license or activity at this time.

Do. Cox (436 Ocean) notes that this is one of four 2017/2018 STR licenses that are "on hold." She adds that the unit is still listed on VRBO but listed as "inactive."

#### *Commissioner Discussion*

Commissioner Johnson states that he appreciates the lengths the applicants have gone to bring the property into compliance. He expresses frustration with the overall lack of enforcement in the City, but acknowledges that there is no way to hold the responsible party accountable at this point. Johnson also notes that the situation was discovered under the new STR regulations, so they are working in that sense. He states that he does not have a problem with the STR license being on hold in this case. He points out that a second unit is a permissible use on this property and that it generally meets all the regulatory requirements. He feels that it is an ideal location for an STR and notes that the neighbors are in support of the project. Key considerations

include the facts that the structure is located in the SR Zone, it is on a large lot in an isolated location, and the proposed project does not increase the existing degree of nonconformity of the structure.

Commissioner Stockness would like to review the hold harmless agreement language before approving the project. She is also concerned about the access easement and enforcement. She is unsure if she can approve the project without additional information. She feels that the Planning Commission should first finalize its policies on detached living spaces. Planner Parker clarifies that this situation would not fall under that policy, because it is a true second unit. Commissioner Johnson clarifies that the access easement language is pretty standard. He adds that they take the form of an Offer to Dedicate (OTD) an easement that is valid for 21 years, but does not actually become a public access easement until and if accepted by an entity such as the TCLT.

Commissioner Graves states that the fact that this structure was one of the first VDUs/STRs in town and had been legally operating under a license from the City for many years is significant to him. He notes that fact was not clear in the staff report. In his view, this is a longstanding use, and the proposal is not actually changing anything, just completing some paperwork that should already have been done. He feels that he can see a way for making the necessary findings. He suggests that the Commission add a condition that a Hold Harmless clause or agreement, in a form approved by the City Attorney, be required, and that the language be brought back to the Commission as an information item (not for approval). Graves also expresses appreciation for the comments from the public and the perception of a double standard; he lives near STRs himself. In looking at the totality of the situation, he is in favor of this project.

Commissioner Gregory echoes Commissioner Graves' comments. He adds that the situation is not the fault of the applicants, and that they bought the property with a valid STR license. Commissioner Stockness states that she was confused by the site plan, which does not show the entire property. She could go along with Commissioner Graves' proposal with the added Condition #10 requiring a hold harmless agreement. She would also like to see VDU/STR license file(s) for this property.

*Action*

***Motion (Graves, Gregory) Based on application materials, information and findings included in the staff report, and based on public testimony, I move to adopt the information and required Design Review, Use Permit and Variance findings in the staff report and approve the project as submitted in the application, as described in this staff report, and as conditioned therein and amended at this meeting. Passed unanimously (4-0).***

2. Policies for Detached Living Spaces: As directed by the City Council, an initial discussion to develop clear policy recommendations about permitting detached living space to minimize the potential for these spaces to be utilized as separate dwelling units and add enforcement fines and/or fees for violators. *Continued from the July, August and November meetings.*

Parker summarizes the staff report. She provided an outline of what the policy might look like and some sample language. She also summarized another case example for consideration, noting that there are a wide variety of these situations in Trinidad.

#### *Commissioner Comments/Questions*

Commissioner Graves would like to get further input from the City Council, including a timeline and more specific direction. He would also like staff to have more discussions with other jurisdictions about their regulations. Parker notes that the few jurisdictions she has spoken with don't have this come up as a major issue. Many are more focused on looking for ways to allow additional housing rather than prevent the creation of second units.

Commissioner Johnson suggests revisiting the Council discussion and action on this issue, particularly the part about enforcement and fines, which is not generally a Planning Commission issue. He would like to get an idea of the breadth of policies that other jurisdictions have.

Commissioner Gregory would like to see a list of all the known detached living spaces in town. He would also like clarification on the enforcement process.

Commissioner Johnson pointed out that some of the sample policies use the term "kitchenette," but that it isn't defined; it either needs to be defined or taken out of the policies. He questions the need to limit them to existing structures; why can't someone build new detached living space? Parker responds that if someone wants additional living space, they should add on to the existing structure rather than constructing a new one in order to avoid these problems. In addition, there is an exemption in much of the City to construct a 500 sq. ft. accessory structure, which could further complicate this issue. However, she acknowledges that this does not necessarily have to be limited to existing structures.

Commissioner Graves would like to get the clarification from the City Council on their expected timeline, and then just keep this item on the agenda until it is done, even if there is no new information to present.

Commissioner Gregory notes that there is a lot of variability in existing situations and examples. It's clear that many people don't follow the rules. These requests may need to be considered on a case-by-case basis.

Commissioner Stockness suggests setting a timeline and then start with getting the definitions in order.

Commissioner Johnson questions the limitation on a studio/workshop not being allowed to be used for profit. He points out that Home Occupations are a legal use in residences. Commissioner Graves added that it would be difficult to prove one way or another.

#### *Public Comment*

Do. Cox (436 Ocean) opines that the Planning Commission must start somewhere. One place to begin would be the lessons learned from 407 Ocean. She states that she has obtained copies of all the STR applications and has compiled, reviewed and notated them; not one would receive an "A." There are too many staff exceptions (e.g. "okay as long as..."). She provides the example of "Starfish House," which has a parking exception as well as a requirement to open up the only official parking space on the property, which is currently gated and used as a patio for the detached bedroom. She also provides a photo that shows limited kitchen facilities in the detached bedroom. She also provides an example of an "exception" on Underwood that is described as having an extra unit with a kitchen downstairs. Commissioner Johnson points out that the extra kitchen was explicitly allowed by the City; the property has a deed restriction limiting it to a single unit, and it is rented under only one STR contract for the entire property. Ms. Cox continues, opining that the City's review procedures are too lackadaisical and need to be tightened up.

A. King (396 Wagner) asks the Commission to consider what they want Trinidad to look like. She doesn't want to see people crawling out of every structure and crowding the town. She suggests that the Commission needs to define the limits with very clear language and then ensure everyone complies. She provides an example of living space being approved by the Building Inspector in a downstairs garage on Wagner.

#### *Commissioner Discussion*

Planner Parker explains some of the recent, and not so recent, State laws that limit local control over the creation of second units. However, these laws are complicated by the fact that Trinidad operates under an LCP certified by the Coastal Commission, which is not necessarily trumped by State law. Therefore, as she understands it, the City's density limitation of one unit per 8,000 sq. ft. of lot area still applies. However, newer State law also encourages creation of "junior" second units within existing structures, and that the Coastal Commission doesn't consider that "development" under the Coastal Act. To avoid some of the confusion between conflicting State and local laws, the City has often fallen back on Health Dept. requirements for septic upgrades for second units. However, it seems that their policy has changed, and that

they no longer require upgrades if there is not increase in the total number of bedrooms on the property when a second unit is created.

Commissioners note that it is getting late, and elect to continue this item to the next meeting.

#### **VI. COUNCIL REPORT**

Planner Parker reports that the Council considered Mr. Reinman's appeal of the Planning Commission decision on his "significant violation" determination under the STR ordinance. The Council upheld the Planning Commission's decision and denied the appeal. Commissioner Johnson notes that the Trinidad Rancheria will be presenting an update to Council on their interchange project at the February 28 meeting.

#### **VII. STAFF REPORT**

Planner Parker provided an update as to the current status of the Trinidad Memorial Lighthouse move. She also informs the Commission that the second LCP update grant contract was recently finalized.

#### **VIII. FUTURE AGENDA ITEMS**

There were no future agenda items requested.

#### **IX. ADJOURNMENT**

*The meeting was adjourned at 9:10*

**Submitted by:**

**Trever Parker**

Interim Secretary to Planning Commission

**Approved by:**

Original signed by: \_\_\_\_\_

**Diane Stockness**

Acting Planning Commission Chair