

MINUTES OF THE MONTHLY MEETING OF THE
TRINIDAD PLANNING COMMISSION
Wednesday, November 15, 2017

I. CALL TO ORDER/ROLL CALL (6:04pm)

Commissioners Present: Johnson, Graves, Gregory, Stockness

Commissioners Absent: None

Staff: Berman, Parker, Gunderson

II. APPROVAL OF MINUTES

August 16, 2017

There is no quorum of remaining Planning Commissioners that attended the meeting to approve the minutes.

III. APPROVAL OF AGENDA

Motion (Johnson/Graves) to approve the agenda.

Passed unanimously (4-0).

IV. ITEMS FROM THE FLOOR

K. Lake (435 Ocean) stated that it is illegal for someone other than City Staff to take the minutes at the Planning Commission meetings. She requested that the City please follow the law.

V. AGENDA ITEMS

1. Selection of a new Chair / Vice Chair due to the loss of the current Chair.

Planner Parker explained that normally the Chair/Vice-Chair positions are a two-year appointment. Currently Commissioner Stockness is Vice-Chair, so can serve as Chair in the interim, but there is no back-up in the event of her absence at a meeting.

Commissioner Johnson suggested that waiting until there are five commissioners will allow for the new Commissioners to consider the position, noting that, according to the City's regulations, neither Commissioner Johnson nor Stockness would be eligible to be Chair, since they have already served.

Planner Parker voiced her concern at the lack of back-up. Commissioner Johnson assured the Planning Commission that he would be willing to fill in if Commissioner Stockness were to be absent until new officers are elected.

2. Reinman/RCVR Appeal of Staff Determination: Appeal of a determination by City Manager Dan Berman on August 28, 2017 that a significant violation occurred pursuant to §17.56.190.R of the City's Short Term Rental (STR) Ordinance at the STR

known as Paloma Creek Lodge. The complaint/violation, which occurred on July 22-23, 2017, was related to noise standards, visitor and occupancy restrictions, emergency contact response and the required guest registry. Located at 178 Parker Creek Road; APN: 042-063-38.

City Manager Berman described the Appeal before the Commission. He began by identifying the documents in the Agenda Packet. He explained that the STR Ordinance provides that the City Manager evaluate complaints and allows him to levy fines and/or make a determination of a Significant Violation. An STR license may be revoked if there are more than two Significant Violations in a year. In this case, the City Manager issued a fine and determined that a Significant Violation occurred based on a complaint that was made and a follow-up investigation. Mr. Reinman, the STR owner and manager, is appealing the City Manager's determination.

The violations being charged against the STR are as follows: 1) the noise standards were violated, 2) unregistered visitors stayed overnight and/or occupancy was exceeded, 3) the required 24-hour emergency number was not immediately answered, and 4) there was not a guest registry in place. He added that, while the STR management did respond rapidly, the response was not adequate to satisfy the complainant. City Manager Berman stated that his determination was based on the complaint and investigation record as well as the purpose and standards of the STR ordinance. He noted that several minor violations can add up to a Significant Violation.

Planner Parker explained a correction to the staff report regarding the maximum allowable occupancy. At the time of the complaint, the STR was still operating under the previous vacation dwelling unit license, which was extended to September 30, and allowed for a maximum of 12 occupants. The allowable occupancy under the new STR license has been reduced to 10, because one bedroom is occupied by a long-term caretaker. She directed the Commissioners to the four options for action as presented in the Staff Report. They are as follows: (1) uphold the City Manager's determination that a significant violation occurred and the fine amount of \$200; (2) modify the decision, such as by removing the "significant" determination or altering the fine amount; (3) uphold the appeal by eliminating the fine and the "significant" determination; or (4) continuing the hearing in order to request additional information. She noted that the Planning Commission should consider not just what their determination would be, but whether the City Manager's determination was reasonable based on the available information.

Commissioner Comments

Commissioner Johnson requested clarifications of City Manager Berman and the Appellant, Mr. Reinman:

- Was there an in-person meet-and-greet? Reinman responded affirmatively.
- Was the guests' deposit kept? Reinman responded that it was originally, but then returned after the guest complained and threatened a lawsuit.

- Confirmed that no pets are allowed in this STR.
- Noting that Mr. Reinman's attorney had requested a follow-up meeting with City Manager Berman, did that meeting occur? Berman responded that yes it had, but no new information, insights or opinions had come out of it.
- Has the \$200 fine been paid? Berman responded that no it hadn't, but wouldn't be enforced until the appeal ran its course.
- Have there been any other violations or complaints at this STR? Berman responded that yes, there was another Significant Violation determination two or three years ago, but no issues in the past year. He clarified that the current determination was based on the events over this one weekend and not any past issues.
- Has mediation, as recommended in the STR ordinance, been attempted? Berman responded that his understanding is that Mr. Reinman offered it, but the neighbor was not interested.

Commissioner Stockness noted that the new ordinance provides more and better tools for making and resolving complaints. Commissioner Gregory noted a discrepancy in the documents as to where the car was parked; three different places were noted. He wanted to know if the neighbor had trespassed to photograph the dogs and instigate their barking. City Manager Berman responded that the vehicle was parked in one of the designated spaces at the STR and later, up at the vacant lot behind the grocery store, but there was no evidence one way or the other as to the neighbor's specific actions. Much of the information that has been provided cannot be verified.

Public Comment

S. Wise (622 Hiller Road, McKinleyville, RCVR employee) explained that she is a Property Manager for Mr. Reinman and was the one that received the phone call from the neighbor regarding the barking dog. She stated that she immediately called the STR guests, who apologized and assured her that they would take care of the dog.

B. Kilborne (178 Parker Creek) is the onsite caretaker. When he arrived on the property after 10:00 p.m., the dog barked at him from the car. He said the dog barked less than two minutes. He stated the dog barked occasionally between the hours of 10:30 and midnight, when the complaint was made; after that the car was moved, and it was quiet. He added that there was no party or noise from inside the house. He also stated that since then, in order to help prevent further issues, he attends the meet and greet, there is a guest registry, and the booking and screening process has been enhanced.

M. Reinman (owner/manager, RCVR) thanked the Planning Commission for hearing his appeal. He explained that he and his staff work hard to make sure the guests, neighbors, and the community, have a good experience with STRs; good communication is a big part of that. When the call was received by his Property Manager, the call was handled immediately and professionally. He stated that the neighbor was distressed partly just because the dogs were left in the car, but did not

communicate that to the manager; if he had, more could have been done. He also noted that the 24-hour contact does not have to be awake all the time. He also added that they get a lot of false and non-issue calls. Since this incident occurred, exterior cameras have been added to this STR. Mr. Reinman has tried to reach out to Mr. Beaupre about the issue, but his calls have been rejected. He stated that Mr. Beaupre trespassed on his property, which upset the STR renters, which subsequently affects his business financially. RCVR filed a complaint about that with the City, but has yet to receive a response.

Mr. Reinman thinks that City Manager Berman's letter issuing the violation was not clear. He is concerned that the violations will end up before the City Council if complaints aren't handled better. He went through the letter point by point. He stated that he has put a lot of effort into complying with the STR Ordinance and is frustrated. This is a case of he said-she said and other neighbors haven't complained. Of his 120 rentals, this is the only one with complaints. He suggested that instead of the City Manager having the only say in determining violations and fines, that a panel would be more fair. In response to Commissioner questions, Reinman stated that there are several noise meters in the house that text the Property Manager when noise exceeds a previously set level. He also confirmed that the caretaker permanently resides on the property as the twelfth guest since May 2016.

K. Lake (435 Ocean) implored the Planning Commission to uphold the Appeal. She is disappointed in the City's allowance of these commercial uses in residential neighborhoods. She points out that Mr. Reinman admitted that managers cannot control guests. She complained that the City is not enforcing the rules and is not available to manage complaints, which results in constant stress to residents. She said that the complainant has been slandered, harassed, and discredited. Due to intimidation, he did not complain when there was noise the following weekend. She also added that for him, it is like living next door to a Motel 6 with constant parties and no cops. This must change, she asserted.

Do. Cox (436 Ocean) lives in the same neighborhood as the complainant and says it is heavily impacted by STRs. She states that the complainant, Mr. Beaupre is honest and kept detailed notes of the incident. She said he is being bullied by the property owner and so no longer wants to engage in the process. She asked why it took so long for the complaint to be addressed by the City, and asserts that the response was sloppy. She complained that the City is not enforcing the Ordinance and hopes that the Complaint Binder is being kept up. She trusts that the Planning Commission will do the right thing and deny the appeal.

N. Archer-Klemm (1107 Driver Rd.) is a Property Manager at Redwood Coast. She said that the rules, which are strict and posted all over the house, are discussed with all guests and that the whole group is involved in the Meet and Greet. She added that guests in Trinidad sometimes feel harassed by neighbors, which makes these STR less

desirable. She also said that cell phone coverage in Trinidad is spotty and consequently response times can be difficult. Email may provide a better paper trail because Trinidad's cell coverage is a factor. She said RCVR does not maintain "party houses" and added that sometimes dogs bark.

M. Reinman (owner/manager, Redwood Coast Vacation Rentals) takes exception to being accused of harassing people. He notes that he was a neighbor of the Coxes for years, and there was a lot of noise at 4 a.m. during the crab season at their place. The rules should be applied equitably.

Commissioner Discussion

Many of the Commissioners lamented that it would have been advantageous to have had Mr. Beaupre in attendance. The general consensus was that many of the "facts" of the case could not be verified. Commissioner Gregory stated that neighbors have the right to quiet enjoyment of their property, but STRs are a legal use. He adds that there seems to be some ongoing issues with this STR, but most are not significant. And he knows Mr. Beaupre to be an honest person.

Commissioner Graves opines that the circumstances are not as clear as he would like. Apparently occupancy was not a violation, and most of the other violations are a matter of he-said-she-said. He adds that he has lived next to an STR and has also rented them. He understands the problems that can occur. He thought the case was pretty clear from the staff report, but the testimony makes it much less so. He wonders what the ultimate reason for the appeal is.

Commissioner Stockness notes that the community has invested a lot of time into this tough issue. She appreciates what the STR managers have done to try to resolve some of the issues, but dogs barking in the middle of the night is a noise violation.

Commissioner Johnson notes that the Planning Commission has been put in the position of resolving a neighbor dispute. Because the same issues come up with STRs over and over, there must be a problem somewhere. The City must find a balance and work within the existing STR Ordinance. He refers to the criteria for determining a significant violation, and several were met in this case. The provision of a guest registry and a lack of immediate response from the emergency contact person were violations. It also seems clear that there was late night activity for two nights. However, there are also many instances of conflicting information and lack of evidence. The Commission needs to be considering whether the City Manager's determination was reasonable, not just their own feelings on the issues. Based on the fact that at least two criteria for a significant violation were met, he would uphold the significance determination, but eliminate the fine because of the lack of hard evidence. He adds that the City should learn from this situation. The system didn't work and the Ordinance may need to be rewritten so that this situation won't happen again. He likes the idea of a panel for determining violations and states that better message/call forwarding

should be implemented. He adds that it is unfortunate that there has been no mediation.

City Manager Berman emphasized that his determination was based in large part on the lack of response from the emergency contact phone number, even though another number did reach someone quickly. But if the neighbor had not happened to have that alternative and personal number, he would not have gotten the required response. That alone is considered a significant violation in the Ordinance.

There was a brief discussion about call/message forwarding options.

Action

Motion (Johnson, Stockness) Based on the evidence in the file record, the requirements of the STR Ordinance, and public testimony, I find that the City Manager's significance determination was reasonable and correct, but that the fine was unjustified, and I move to modify the City's Manager's decision and remove the \$200 fine, but deny the rest of the appeal.

Passed (3-1).

3. 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 and August meetings.*

Planner Parker reviewed the staff report, including the goals for addressing detached living spaces (DTL). The result would be to write a policy document, not an ordinance, that will restrict certain uses and/or improvements to detached structures and thus keep them from becoming second units. Improvements that qualify as development will come before the Planning Commission, where with a strong policy, the Commission can add conditions on a case by case basis. Additionally, a strong policy will be easier for the City to enforce. She noted that the Planning Commission expressed a desire to emphasize uses and performance standards over structural improvements. However, she could not find examples of such ordinances, and stressed that such an approach would be difficult to enforce. She suggested reconsidering the Sonoma County example.

Commissioner Comments

Commissioner Graves suggests specifically looking at the Mendocino regulations and other small coastal cities in California. He does like the definitions from Sonoma. The Commission should start with something that another community has adopted. Commissioner Johnson concedes that regulating the use may not work, but he does not want to overregulate this issue. He asks how "policies" would be implemented as

opposed to regulations. Planner Parker responds that they would be particularly useful as guidance for approving and conditioning detached living spaces.

Public Comment

K. Lake (435 Ocean) pointed out that detached living spaces, ADUs and STRs are all separate, but related issues. Detached living spaces have always been used to varying degrees, and when they are used by residents no one complains, but when they are part of STRs, they become problems. (She provided several examples.) She requested consistency in applying the Municipal Code. She also requested clarification for kitchens and the difference between ADUs and single-family dwelling units, emphasizing that single-family dwellings should have only one kitchen. Kitchens are easy to define, and extra kitchens impact septic systems. State laws allowing ADUs are intended to provide long-term housing, not STRs.

A. King (396 Wagner) opined that this is not a small issue for Trinidad. She provides an example of a home for sale on her street that has a detached living space, but she doesn't know how it is being marketed or disclosed. She is concerned for how the policy will be handled by the City. She requested that building permit requirements be included in the policy.

Action

Planner Parker will review some other ordinances and provide a draft policy document for the Commissioners to review at their next meeting.

VI. COUNCIL REPORT

Commissioner Johnson reported that the alder trees on Van Wyke had been pulled from the Council Agenda. The waiver of permit fees on the tsunami siren relocation was approved (there is interest in relocating the tsunami siren to a pole as originally proposed). Vegetation maintenance on the Van Wyke trail was discussed. Letters of support for the Strawberry Rock and Little River public access were received. November is Native American History Month. Trinidad Civic Club gave a presentation on the Lighthouse issue.

VII. STAFF REPORT

Planner Parker announced that an application for an emergency permit for moving the Trinidad Memorial Lighthouse away from the slide was expected any day. She has two applications that have been submitted that may be moving forward in time for the December meeting. She notes that a staff priority will be working on the General Plan Update / LCP Grants and getting a new draft to the Commission early next year. She also informs the Commission that the LCP Amendment application for the CALFIRE water line was submitted to the Coastal Commission.

VIII. FUTURE AGENDA ITEMS

Commission Stockness requested Ethics training. She also wants to see an example of the STR application checklist and the conditions of approval checklist. She also wants to know more about where the TOT taxes go.

IX. ADJOURNMENT

The meeting was adjourned at 8:50

Submitted by:

Cheryl Gunderson

Interim Secretary to Planning Commission

Approved by:

Diane Stockness

Acting Planning Commission Chair