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Th9e

MEMORANDUM

Date: June 6, 2017

To: Commissioners and Interested Persons

From: Alison Dettmer, Deputy Director
Robert S. Merrill, District Manager
Melissa B. Kraemer, Supervising Analyst

Subject: Addendum to Commission Meeting for Thursday, June 8, 2017
North Coast District Item Th9e
LCP-1-TRN-16-0065-1 (City of Trinidad Short Term Rentals)

This addendum responds to comments received since publication of the staff report on May 19, 2017 (all of which have been added to the [updated correspondence packet](#) as of the date of this addendum). Staff continues to recommend that the Commission certify the City's proposed Implementation Plan (IP) amendment as submitted, because the proposed amendment as submitted conforms with and is adequate to carry out the provisions of the certified Land Use Plan (LUP).

Staff believes the proposed caps are consistent with and adequate to carry out the certified LUP because: (1) there is evidence that the existing short-term rentals (STRs) operating in Trinidad are not operating at maximum occupancy rates (see [Exhibit 6](#) and [Appendix B of the staff report](#)); (2) there are no caps applied to Homeshare licenses, no caps on Resident licenses in the Suburban Residential (SR) zone, and no caps of any kind for STR licenses in other zoning districts; (3) the cap for the combined total of Full-time and Resident licenses in the Urban Residential (UR) zone (25) is set slightly higher than the number of active licenses in the UR zone (22), potentially allowing for some growth in the number of vacation rentals over time; and (4) there are additional visitor-serving lodging facilities available to serve visitors to the region within an approximately 5 mile drive of the City in the surrounding rural areas of the County including cottages, vacation rentals, RV parks, and camping facilities.

The additional comment letters received raise a number of issues related to standards for STRs, parking issues, water usage, occupancy rates, alternatives to the proposed caps on STRs in certain zoning districts, license transferability, and enforcement. In some cases, different comment letters convey opposing recommendations regarding certain issues. For example, one comment letter writes that the allowance of up to 20 visitors to STRs is too high for the City and

would lead to impacts to coastal resources and community character, while other letters recommend that allowing 20 visitors to each STR is not problematic and should be allowed, especially on certain holiday/special occasion weekends (e.g., graduations, Memorial Day, Labor Day, etc.). Many of the comments suggest that the proposed ordinance imposes too many restrictions on STRs, which could lead to a decrease in the number of residential lodging accommodations in the City available for visitors and an associated decrease in coastal access for visitors. Some of the issues raised in the comment letters do not raise an issue related to conformance of the proposed IP amendment with the certified LUP.

While there are many different alternatives to the proposed STR ordinance that the City could have adopted, including an alternative with additional definitions, with different standards, and with different enforcement provisions, the proposed IP amendment as submitted conforms with and is adequate to carry out the provisions of the certified LUP as discussed below.

The below responses constitute additional findings that will be added into the staff report at the relevant location.

Limitations on STRs and adequacy of visitor accommodations in the City: A number of the comments in the correspondence received recommend alternatives to the proposed caps on STRs in certain zoning districts. Some comments suggested the caps are too low to meet demand for visitor accommodations while other correspondence states the caps are too high and will harm the character of the community. The Commission received a specific comment that additional STRs should be allowed in the SR zone. Another comment letter is opposed to the limitation on just one STR license per parcel and suggests that an exception should be made for existing properties with more than one STR per parcel to be able to continue to maintain multiple STR licenses per parcel.

The certified LUP emphasizes both the appropriateness of visitor accommodations within residential zones and land use compatibility, minimization of land use conflicts, and protection of town character and coastal resources. Policy 53 of the LUP specifically provides for the allowance of “home occupations” in residential zones (including rooming and boarding of tourists), “...where the activity is confined to the residence or accessory building and signs are kept to a minimum.” In addition, the certified LUP allows for “intensive residential development” in the UR zone (where the majority of existing STRs are located), including an allowance for “unobtrusive home occupations and limited rooming and boarding of non-related residents or visitors.” The LUP describes the SR zone as intended to provide for variable density, single family residential development, with density consideration based on the “physical capacity of the land” with respect to water and sewer services. Finally, the certified LUP includes several policies related to the preservation of community character, such as Policy 45(b), which provides for the protection of “...the unique character of the city as a single family owner occupied fishing village.”

Consistent with the LUP directives to allow STRs in residential areas while protecting town character and coastal resources, the proposed IP amendment as submitted imposes limits on the total number of non-hosted (e.g., Full-time and Resident) STRs allowed in the City as well as

standards on STRs to minimize the potential for significant adverse impacts associated with lodging in residential neighborhoods, including impacts related to noise, number of occupants, parking, water usage, septic system capacity, and signs. In addition, the City determined that restricting the number of licenses to one per parcel rather than one per structure as under the existing regulations would protect community character consistent with the LUP. Under the existing certified Vacation Dwelling Unit (VDU) regulations, only one license per parcel is allowed, but in limited cases (e.g., duplexes), it has been possible to obtain more than one license per property (since a duplex may constitute multiple structures on a single property). However, since both the existing and proposed VDU regulations require that licenses be renewed annually, the VDU regulations, including the provisions relating to the ability to maintain multiple vacation rental licenses per property, have always been subject to change and have never conferred a compensable property interest.

Furthermore, there are no caps applied to Homeshare licenses, no caps on Resident licenses in the SR zone, and no caps of any kind for STR licenses in other zoning districts. The City determined that it was necessary to impose a cap on the maximum number of non-hosted STRs allowed in the City (unlike as is the case under the City's existing VDU regulations) to avoid impacts to community character, parking and public access. The proposed IP amendment as submitted imposes a fixed number cap based on current developed housing stock for Full-time STR licenses in the UR zone (maximum 19) and SR zone (maximum 6) and a flexible cap for Resident STR licenses in the UR zone (up to 6, but exceptions may be granted by the Planning Commission for additional licenses). While one of the comments suggests that there should be a higher cap for Full-time licenses in the SR zone, the caps as proposed are consistent with the LUP, because they provide for residential lodging of visitors while at the same time recognizing the need to protect coastal resources such as creeks and riparian areas on these lower-density lands. Although the City's proposed caps for Full-time licenses are set slightly below the current number of existing active vacation rental licenses in the UR zone (22), the City's proposed caps for the combined total of Full-time and Resident licenses in the UR zone (25), where most of the City's housing is located, is set slightly higher than the number of active licenses in the UR zone (22), potentially allowing for some growth in the number of vacation rentals over time. Instituting a cap lower than the City's proposed caps, as some comment letters suggest, would reduce the number of visitor accommodations below what currently exists, while instituting higher caps than proposed, as other comment letters suggest, would increase the potential number of STRs allowed in the City. However, as discussed below, there is evidence that the caps as proposed are sufficient to meet the demand for visitor accommodations in the area.

There are additional visitor-serving lodging facilities available to serve visitors to the region within an approximately 5- to 25-mile drive of the City including cottages, vacation rentals, RV parks, camping facilities, and numerous motels and hotels in McKinleyville, Arcata, and Eureka. Residential STRs in Trinidad supplement the existing supply of visitor accommodations in the surrounding area. This is the case with the existing 22 active STRs in the City and with those that will continue to be provided for under the proposed IP amendment as submitted. There is evidence that occupancy rates for the totality of existing STRs in the City are less than 100% for

much of the year (see [Exhibit 6](#) and Appendix B), including on upcoming weekends and holidays during the peak season, as evidenced by reviewing booking calendars on www.vrbo.com.¹

Moreover, as explained in the staff report, the proposed new regulations require a minimum activity threshold for Full-time STR licenses (must be rented at least 60 nights per year), and because licenses continue to be renewed annually, those STRs operating under Full-time licenses that fail to meet the minimum activity level will not be eligible for renewal. The minimum activity requirement for Full-time licenses will help to maintain a steady supply of visitor-serving lodging facilities in Trinidad as licenses are transferred from inactive sites to sites that may be rented more often.

Finally, it's important to note that the proposed regulations as submitted include a requirement that the ordinance shall be reviewed by the Planning Commission within two years after its certification, and periodically thereafter. Thus, the City and public will have the opportunity in just two years to evaluate how successful the ordinance has been, discuss alternatives to the STR ordinance, and consider revisions as needed to ensure that it is continuing to meet the needs of the community consistent with the certified LUP.

Parking: A number of public comments object to the proposed parking requirements as confusing and unrealistic and burdensome. The only LUP policy that addresses parking is Policy 37, which requires that (*emphasis added*) “All *new* residences in the planning area should provide graveled or paved parking for at least two vehicles (in addition to any garage parking) so that residents and visitors are not required to park along the streets.” As submitted, the proposed IP amendment requires that each STR provide at least one off-street parking space for every two occupants, and STR owners/managers shall not use public right-of-way (street) spaces to meet their required off-street parking needs. One of the comment letters states that the parking requirements under the proposed IP amendment are confusing. However, the proposed IP amendment requires an applicant for an STR to submit a site plan with the application so the City can verify, among other things, the number of off-street parking places for visitor parking. This process should ensure that STR owners/managers, occupants, and the City all understand where parking is and isn't allowed. Furthermore, the proposed IP amendment requires the STR owner or manager to maintain an occupant and vehicle register for each tenancy that includes the names and license plates for all occupants. Some of the comments received oppose this requirement as unrealistic and overly burdensome. As maintaining the availability of street parking in Trinidad for coastal access is important for maximizing access consistent with the Coastal Act, the proposed IP amendment as submitted includes parking requirements and restrictions consistent with and adequate to carry out the LUP and Coastal Act access policies.

¹ Booking availability calendars for each STR within the City (found on <https://www.vrbo.com/>) were viewed on April 13, May 15 (Appendix B), and again on May 31, 2017 (after publication of the staff report) to determine current vacancies of existing STRs in the City over the next several months, including during upcoming weekends in June and upcoming popular holiday rental periods (4th of July, Labor Day weekend, and Thanksgiving weekend). **As of May 31, 2017, there were multiple STRs in Trinidad available for rental during upcoming weekends in June as well as the for days surrounding the 4th of July, the weekend after the 4th of July, Labor Day weekend, and the Thanksgiving holiday weekend.**

Water usage: One of the comment letters suggests that the allowable water usage standards for STRs are too high. The certified LUP includes several policies related to the maintenance of onsite wastewater treatment systems (septic systems) and related water consumption and conservation, since (1) the City has no centralized sewer system (instead every home and business in Trinidad is served by an individual onsite wastewater treatment system), and (2) the City's public water system is derived from Luffenholtz Creek, which has capacity limitations and is located entirely outside of the City limits. County regulations for septic systems (the County Division of Environmental Health serves as the City's Health Department) require that septic system design for residential dwellings be sized for the number of bedrooms in a residence, assuming an average daily consumption of 150 gallons of domestic water per day per bedroom.

The proposed IP amendment as submitted includes limitations on water usage to prevent overloading of septic systems. The regulations limit the maximum number of occupants allowed based on number of bedrooms in the STR dwelling. Prior to the issuance of the STR license, the owner of the dwelling will be required to make all necessary alterations to the dwelling as required by the Building Inspector to conform with applicable codes, including necessary upgrades to septic systems consistent with the certified LUP. Homeowners in the City that don't seek STR licenses are not currently required to upgrade aged or substandard septic systems.

The proposed regulations also limit water usage similar to the water use restrictions required under the City's existing certified VDU ordinance (annual domestic water use is limited to average use levels typical of a long term residential dwelling based on an average daily consumption of 150 gallons per day per bedroom with a 30% allowance for landscaping above the design flow). If the City determines that the STR use has exceeded the appropriate average annual water usage during the preceding year, the STR owner/operator will be required to take steps to reduce water use, such as installing water conservation fixtures and appliances; planting xerophytic landscaping, and/or reducing the maximum occupancy of the STR.

License transferability: Except for transfers between spouses and other limited exceptions, the proposed IP amendment as submitted states that the STR license shall be revoked when the holder sells or transfers the property. Several comment letters expressed opposition to the restrictions on license transferability. The proposed restrictions on license transferability are consistent with and adequate to carry out the LUP as discussed below.

First, under the proposed IP amendment as submitted, a homeowner with an existing STR license will be able to maintain that license under the new regulations, as long as the license is renewed annually consistent with the new regulations and as long as the license otherwise remains in good standing consistent with the new regulations (e.g., Full-time STRs must meet the minimum activity level of being rented for at least 60 days annually). In other words, no STR licenses will be revoked under the new regulations simply because the number of Full-time licenses in the UR zone may exceed the specified cap (19), and license transfers between spouses will be allowed.

Second, limiting transferability is a reasonable way to implement the cap that the City determined is needed to protect community character and coastal resources consistent with the certified LUP. The proposed license transferability limitations allow more people the opportunity

to obtain STR licenses, because a buyer or inheritor (other than a spouse, to whom licenses are transferable) of a home with an existing STR license whose license will be revoked upon sale or transfer of the property has the right to apply for a new STR license the same as any other property owner in the City with a legal dwelling that wishes to obtain an STR license.

Third, buyers and inheritors of properties with existing STR licenses (which will be revoked upon sale or transfer of the property) have no restrictions on their ability to obtain the other types of STR licenses, because the regulations do not impose a cap on the number of Homeshare licenses allowed in any of the zone districts. In addition, there is no cap on the number of new Resident STR licenses that may be issued in the SR zone. Furthermore, for all of the zoning districts other than the UR and SR zones, there are no caps on any type of STR license. Thus, there are no barriers to obtaining a new STR license after an existing STR license is revoked upon sale or transfer of the property.

Fourth, under the proposed IP amendment as submitted, the Planning Commission may grant exceptions for additional Resident STR licenses in the UR zone beyond the specified cap (6). Thus, a buyer or inheritor of a property with an existing STR license in the UR zone that is revoked upon sale or transfer of the property may still obtain a license for two types of STRs (Homeshare and Resident).

Finally, as stated above, like the existing VDU regulations, the proposed regulations continue to require that licenses be renewed annually. Thus, the VDU regulations, including the provisions limiting the ability of a property owner to transfer licenses, have always been subject to change and have never conferred a compensable property interest. Any expectation to the contrary is unreasonable.

Changes/additions to ordinance definitions, standards, and provisions for violations: Many of the comments suggest that additional definitions be added to the regulations (e.g., add definitions for “bedroom” and “kitchen”), that certain changes be made to STR standards (e.g., add more restrictive language related to the proper treatment of hot tub water; increase the number of occupants allowed on lots in the UR zone that are less than 10,000 square feet in size; and make certain changes to the Good Neighbor Brochure and Good Neighbor Contract provisions), and that certain changes be made to the provisions for dispute resolution and violations (e.g., clarifying who would be fined and how fines would be imposed).

As submitted, the proposed IP amendment requires an applicant for an STR to submit a site plan with the application so the City can verify, among other things, the number of occupants and visitors allowed (to prevent overloading of septic systems and to protect community character, consistent with the certified LUP) and the number of off-street parking places required (to ensure availability of street parking for maximizing public coastal access consistent with the certified LUP and the Coastal Act). The required Good Neighbor Contract will ensure that all parties understand the rules and limitations of the short-term rental, including measures required to protect surrounding ESHA from, for example, the draining of hot tub water. In addition, each STR will be subject to compliance inspections to ensure conformance of the dwelling with existing City regulations. The proposed IP amendment empowers the City with additional

enforcement tools (beyond those included in the existing certified VDU ordinance) for violations and non-compliance, including the ability for the City Manager to (1) impose administrative penalties of up to \$1,000/day for each continuing violation; (2) place properties on a Watch List indicating that the STR warrants a higher level of oversight, scrutiny, review, or monitoring and which may affect license renewal determinations; (3) impose special conditions or performance standards for owners, agents, and affected STRs; and (4) revoke licenses if the STR is found to be negligent in responding to a complaint more than twice in a 12-month period, or if more than two documented “significant violations” occur in any 12-month period. Together, these new enforcement provisions will encourage compliance with the STR regulations consistent with the certified LUP.

During the at least 28 public meetings held to consider the proposed new STR regulations between July of 2015 and November of 2016, the City considered numerous alternatives to the proposed IP amendment as submitted. For example, unlike the existing VDU regulations which offer just one type of license, the proposed regulations differentiate between three types of STR licenses, and the three types are treated differently with respect to certain licensing restrictions and density caps in certain zoning districts. For example, Homeshare STRs are not subject to the limits on the number of licenses per lot or the location restrictions. In addition, the City considered whether or not to impose density/buffer restrictions in certain zones, and if so, how large of a buffer. For example, both 100 feet and 300 feet were considered as possible minimum buffers between properties with STRs in the UR zone (the proposed IP amendment as submitted prohibits issuance of an STR license for a lot that is adjacent to a property with an existing STR, unless an exception is approved by the Planning Commission). Furthermore, the City considered whether or not to require minimum and/or maximum activity levels for STR licenses. The proposed IP amendment as submitted requires Full-time STRs to be rented for at least 60 nights per year and Resident STRs to be rented for no more than 59 nights per year. And although the City considered changing the license renewal terms from annually to 5-year terms, the proposed IP amendment as submitted continues to require that licenses be renewed annually. As discussed throughout the staff report, the proposed IP amendment as submitted conforms with and is adequate to carry out the provisions of the certified LUP.

Finally, as previously discussed, the proposed IP amendment as submitted includes a requirement that the ordinance shall be reviewed by the Planning Commission within two years after its certification, and periodically thereafter. Thus, the City and the public will have the opportunity to discuss alternatives to the STR ordinance two years from now and revise the ordinance as needed to ensure that it is continuing to meet the needs of the community consistent with the certified LUP.

In conclusion, the City’s proposed IP amendment as submitted, will maintain land use compatibility, minimize land use conflicts, and protect town character and coastal resources in a manner consistent with and adequate to carry out the policies of the certified LUP.