



CITY OF EL PASO DE ROBLES

"The Pass of the Oaks"

PLANNING COMMISSION MINUTES

October 24, 2017

6:30 P.M.

Planning Commissioners Roll Call:

Present: Davis, Agredano, Jorgensen, Donaldson, Barth, Rollins and Brennan.

Absent: Rollins

6:30 P.M.: Planning Commission Meeting called to order

General Public Comments Regarding Matters Not On The Agenda: None

Staff Briefing: None

Agenda Items Proposed to be Tabled or Re-Scheduled: None

Public Hearings

1. **Continued Public Hearing from Planning Commission Agenda of October 10, 2017**
Zoning Code Amendment (ZC 15-006) – Short-Term Rental Ordinance

Applicant: City of Paso Robles

Location: All residential and mixed use zoning districts in Paso Robles

Adoption of a code to regulate Short-Term Rentals (a.k.a. vacation rental homes) in all residential and mixed use zoning districts throughout the City. The code would include the following requirements:

- Ministerial permits for home-share and vacation rentals in all residential districts.
- Requirement to pay transient occupancy taxes and obtain business licenses.
- Requirement to comply with "Good Neighbor" guidelines
- Creation of a complaint hot-line system to resolve neighborhood issues

Commissioner Barth reads statement and steps down but stays in the room to address the Planning Commission.

Addendum 1 – Public Comments Received was provided to the Planning Commission (See Attachment 1)

Open Public Comment

Speakers: Doug Barth
Dan Jones
Betsy Amado

Closed Public Comment.

Action:

- A. A motion was made by Commissioner Jorgensen, seconded by Commissioner Davis and passed 5-1-1 (Absent: Commissioner Rollins, Abstain: Commissioner Barth to approve Resolution A with changes (See Attachment 2)

The Planning Commission forwarded the following comments to the City Council:

- The impacts of Short-Term Rentals density will need to be monitored and should be reviewed in the future by the Planning Commission.
- The Council should consider amnesty for existing Short-Term Rentals that didn't make TOT payments.
- There are privacy concerns regarding posting addresses on the website – no easy solution

Commissioner Barth returns to meeting.

2. **Waiver 17-001 – Paso Robles Athletic Club – Postponement of Frontage Improvements**

2975 Union Road / APN 025-371-025

Applicant – Neil Tardiff

A request for postponement of the installation of curb, gutter and sidewalk for the Union Road frontage associated with the development of the Paso Robles Athletic Club.

Open Public Comment

Speakers: Neil Tardiff - Applicant

Closed Public Comment.

Action:

- A. A motion was made by Commissioner Brennan, seconded by Commissioner Agredano and passed 6-0-1 (Absent: Commissioner Rollins) to approve Resolution A as presented.

Other Scheduled Matters- None

Consent Calendar

3. **Development Review Committee Minutes (for approval)**

October 9, 2017

October 16, 2017

4. **Planning Commission Minutes (for approval)**

October 10, 2017

Action:

- A. A motion was made by Commissioner Barth, seconded by Commissioner Brennan and passed 6-0-1 (Absent: Commissioner Rollins) to approve Items # 3 & # 4 as amended.

5. Other Committee Reports:

- a. Housing Constraints Advisory Committee: Director Report.
- b. Specific Plan Ad Hoc Committee: City Planner Report.

Planning Commissioners' Comments

- The Planning Commission asked that the DRC schedule be added to the next Agenda.
- The Planning Commission is still interested in a Waste Water Treatment Plan visit at DRC.
- The Planning Commission is interested in a tour of Cava RV

Staff Comments:

Director's Comments:

Regular Meeting Adjourned at: 8:26 PM

Minutes - Attachment 1 Addendum 1 - PC Agenda Item #1

Add to minutes
Att 1 - 6 pages

From: Doug Barth
To: [Warren Frace](#)
Cc: ["Kathy Bonelli"](#)
Subject: Short Term Rental Questions & Concerns
Date: Monday, October 16, 2017 6:23:15 PM

I've given some additional thought to the proposed short term rental ordinance and the recommendations/comments that were made by city staff.

My main concern involves the legal staff's requirement of obtaining a "Ministerial Permit" as the method to verifying if a property meets with Short Term Rental (STR) zoning codes.

Concerns:

The permit is for a defined (3 year) period of time and involves initial permit fees and renewal fees. The primary reasoning behind the 3 year term was so a "legal non-conforming use" is not created if the city were to "do away with" short term rentals in the future, in addition to providing an ongoing source of funding for the hotline. A non-transferable clause was included to keep records current.

Challenges:

1. Short term rental agreements are often made a year (or more) in advance of the tenancy (Wine Festival weekend, Zin Fest, etc).
 - a. What is an owner supposed to do if they only have 9 months remaining on their 3 year permit. Not take the reservation?
 - b. If an owner takes a reservation beyond their 3 year permitted term, is there a consequence?
 - c. If an owner takes a reservation while legally permitted and the city decides to "do away with" STRs before the tenant can stay at the property, what happens?
2. Many property owners subcontract the day to day operations of a STR to a family member or outside management service.
 - a. If an owner holds title to the property in a Trust or LLC and refinances, banks require title to be transferred into the owners name and then back to the Trust or LLC. Under the proposed language, would this trigger a new permit?
 - b. If an owner passes away and their spouse/kids (who run the licensed business) take title to the property, would this trigger a new permit?

Solutions:

1. Change the language requiring a "permit" to one requiring a "**Zoning Clearance**". This is really what we are asking for. Most jurisdictions (cities, counties, etc) call this for what it is, a "Zoning Clearance". Zoning Clearances run with the property. Charge the one time fee for the initial "Zoning Clearance". No renewals would be necessary unless something changes structurally.
2. Require every STR to obtain a **Business License** and tie the hotline funding and transferability issues to the annual Business License.
 - a. Business licenses run with the business and relate directly to the owner/operator of that business and include all of the required information, etc
 - i. Owner /agent contact, property address, mailing address, etc.
 - b. They are good for 12 months (no 3 year wait to update permit database records)
 - c. They can easily create an on-going annual hotline funding source.
 - d. STR License should become inactive after 12 months if not renewed.
 - i. If a short term rental license becomes inactive, require a new zoning clearance (& fee) should be required.
 - e. If a property sells, new owners should be required to obtain a new business license.
 - i. If they apply for a new license before the existing license becomes inactive, no new zoning clearance should be required
 - f. Using a business license as your primary STR regulation removes staff's legal non-conforming use concern.
2. Require every STR to fill out a **Transient Occupancy Tax Registration** at the time of the Business License (this can be part of the business license).

Addendum 1 - PC Agenda Item #1 Minutes - Attachment 1

Other Concerns:

1. **Noise standard.** The goal of this standard is to have something that is enforceable.
 - a. Do we currently have decibel noise standards for residential properties after 10pm?
 - b. If we do, we should reference them in the current ordinance.
 - c. If we don't, we should create some. Ones that apply to everyone in the city (not just STRs).
2. **City publicly listing short term rental addresses on the city website.** The reasoning behind this is to notify neighboring property owners as to the existence of a vacation rental in the event they wish to make a complaint.
 - a. Short Term Rental addresses are confidential and are not available to a tenant until after they sign a rental agreement.
 - i. Reasoning behind this is for security purposes. Short Term Rental Units are vacant many days of the month. If a burglar knows a property is a vacation rental, it becomes an easy target for them to look up the vacant dates on the internet and know when the best time is to steal the contents without fear of being caught.
 - b. If the City publishes addresses of STRs on the city website.
 - i. This is a breach of confidentiality and the city could be held liable if proven the burglar obtained the address from the city website.
 - c. **Solution**
 - i. Create a program whereby a notice is sent to surrounding (nearby) property owners when a property receives a zoning clearance & business license for a short term rental. Notice would include address of property, local contact person and the standards for noise & parking (good neighbor brochure).
 1. This would allow "complaints" to be sent directly to the owner first without impacting the Hotline service as well as relieving the city of any liability that might result from publishing confidential information about a property.
 2. Of course, a complaining neighbor would retain the option to notify Hotline as well.
2. **Penalties for using or allowing to use a property for a short term rental without the property zoning clearance and/or business license.**
 - a. One of the main goals behind creating a Short Term Rental Ordinance was to bring all STR operators into compliance so the city can collect the TOT.
 - b. The only penalties in the proposed ordinance relate to someone who already has a licensed short term rental and what happens if they are found to be out of compliance (via complains, etc).
 - c. No penalties are provided which specifically refer to what happens to someone who is operating a short term rental or homestay without a permit, zoning clearance, TOT registration or business license.
 - d. **Solution.** Include a section in the ordinance that specifically states "Penalties for properties found to be operating a short term rental or homestay without a permit, zoning clearance, TOT registration or business license"

Please forward this to the Planning Commission & City Council.

Doug Barth

Public Comment Received

From: Betsy Amato [REDACTED]
Sent: Monday, October 23, 2017 4:01 PM
To: Warren Frace; Susan DeCarli; Darren Nash; Darcy Delgado; Dick McKinley; David Athey; Iris Yang
Subject: VR Ordinance Policy

Dear City Staff,

FYI, the following was my letter to the commissioners.

Thank-you,

Betsy Amato

Dear Commissioner,

My name is Betsy Amato and I'm writing in regards to the readings, discussions and comments that took place at the Planning Commission meeting of Oct. 10, 2017, specific to the proposal of ZC 15-006 - the Short Term Rental Ordinance.

Although it was evident that the Short-Term Rental Task Force spent many, many hours of volunteer time attempting to build a good code proposal, I believe the result is not. I was astounded that this proposal came to your board in what is obviously a very incomplete and confusing form, with many components left so unclear that they seemed subject to interpretation, when not totally absent of what is hoping to be achieved. It does make one wonder if the answer may be again: more revenue from a fee/tax?

I was heartened to hear the request made for documentation of the history of complaints made towards the vacation rental guests, owners, and industry, locally. I understand that information will be shared at the next meeting to consider. It was disappointing that the complaints weren't already a part of the prepared documents, since they were used as justification for creating new code.

Public Comment Received

In my 3 minutes I voiced my concerns regarding the open-ended and unknown cost of the proposed permit that will be influenced by other unknown costs such as paperwork, enforcement, Hotline attendants, and what I would see as most important: public outreach to educate the community on resources, policy and procedures supposedly being created for THEM.

I once again echo these concerns as well as stating my disapproval of the creation of The Good Neighbor Brochure. A costly brochure when a door-hanger would achieve the same good? As an experienced vacation rental owner-operator in Paso Robles since 2014, I'd invite you to drive by, come in, and see the pride that I take inside and outside in my home and small business. The first thing on my list of House Rules is and has always been:

Be A Good Neighbor

A Simpler Suggestion..

That said, the more I read the draft, I see the confusing attempt made here that results in a redundant policy to that we *already pay for* in our community, using our trained, in-place professionals. Noise disruption, parking issues and occupancy concerns are matters for qualified Police and Sheriff's Department response and should continue to be legally recorded through them, no matter who the occupants of the property are. Why are we not providing to our local law enforcement agencies an annual updated list of existing registered vacation rental addresses and the owner information? It seems a much simpler system would be for law enforcement to respond as they are charged to do, document the results, and when appropriate, notify owners. The city could work with law enforcement on an acceptable guideline or possible cap on offenses that would result in owner fines, charges or revoked license.

Thank you for making hard decisions and hearing the voices of your public.

Addendum 1 - PC Agenda Item #1 Minutes - Attachment 1

From: Robert Hess

To: Planning Commission

Subject: Zoning Code Amendment (ZC 15-006) – Short Term Rental Ordinance

Meeting date: 10/24/17

Date: 10/23/17

Re: future density limits and parking.

Members of the Planning Commission,

I am not able to attend the Hearing for Zone Code Amendment (ZC 15-006)- Short Term Rental Ordinance. I would like to add my input on two issues: future density limits and parking.

1. Future density limits were discussed at the meeting on October 10, 2017. Citizens were concerned about the increase in numbers of applicants for the home share and vacation rentals, combined business license. If the commission will be addressing this issue in the future to determine density limits of vacation rentals, then there needs to be a way to determine if the combined business license application is for a vacation rental or simply a home share. Community home owner residences (non-commercial) that are only participating in home share will not have the same effect on density as non-community commercial investors, buying up homes for the commercial vacation rental business.

Based on my experience with home sharing, guests typically will come and stay on Friday night and leave Saturday morning or come Saturday night and leave Sunday morning. It is rare to have guests that stay on a consecutive basis. Community home owner residences that are only participating in home share should be issued a separate business license. In my opinion, residents that only participate in home sharing should pay half the licensing fees and half of the required TOT tax. Instituting reduced fees may keep home sharing residents from going underground and increase business license compliance. In addition, adopting reduced fees for home sharing residences will set a precedent for which the entire country can emulate. There is a huge difference from a resident participating in home sharing to a commercial vacation rental. Residents that are participating only in-home sharing are just trying to get by in this difficult economy, the extra income helps to pay their bills, mortgage payments and feed their children etc.

There is also a huge difference in an owner-occupied vacation rental (a resident that rents out their personal home on occasion) and company operated vacation rental properties (differences and definitions were described in previously submitted information to the advisory board).

Addendum 1 - PC Agenda Item #1 Minutes - Attachment 1

2. Parking, I have attended every advisory board meeting except one. The issue of parking has been changed many times. Palm Springs ordinance, and the Palm Springs *Good Neighbor Brochure*, does not address parking. Both Palm Springs and Paso Robles already have existing parking ordinances. When a new 4 or 5-bedroom home is built in Paso Robles, it must be approved by the Building and Planning Development Division. New homes will come with adequate parking in the form of a garage and driveway, this is all approved by the city. The Building and Planning Development Division also oversees all home conversions. If a resident or commercial investor home owner in the historic district of Paso Robles, converted a 1 or 2-bedroom home into a 4 or 5-bedroom home, the building had to be approved by the city. If the city did not require additional onsite-parking at the time of approval, then someone dropped the ball or maybe it occurred so many years ago that parking was not an issue. Now the city is expecting the vacation rentals owners to solve the problem, this is unjust.

Parking should be viewed on a case-by-case basis and limited to the historic district of Paso Robles to solve this problem.

We already have existing city parking laws and adequate city approved parking for newer homes. Parking has been taken out of the ordinance and should also be removed from the *Good Neighbor Brochure*.

I look forward to your response on these issues.

Thank you,

Robert Hess

Attachment 2

8. The name and telephone number of the designated contact person (who may be the Owner or the Authorized Agent) who shall be available by telephone 24 hours a day, 7 days a week, while the Short-Term Rental property is occupied by a Renter.
 9. Provide any other information as the Director deems reasonably necessary to administer this Chapter.
 10. Acknowledge and agree that any and all use of the property for Short-Term Rental shall cease upon the expiration of the permit or upon revocation of the Permit, pursuant to Section 21.34.060.
 11. Agree to hold harmless, indemnify and defend the City against any claims or litigation arising from the issuance of the Permit.
 12. Agree to pay any costs to enforce the conditions of the Permit, including, but not limited to inspections of the Short-Term Rental Property.
 13. Certify under penalty of perjury as to the accuracy of the information provided on the Permit application and agree to comply with all conditions of the Permit and this Chapter.
- C. Permit Application Process.
1. Processing Fee. The City Council, by resolution, shall determine the amount of the Permit application and processing fee, based upon the City's reasonable estimated costs for processing and reviewing the Permit application materials and for maintaining the Hotline. The City Council shall establish the Permit application processing fee by resolution.
 2. Review. Upon review of the materials submitted with the Permit application, the Director shall determine whether a Permit will be issued or the application is incomplete and notify the Applicant within 30 days. If the Director determines that the Permit may be issued upon compliance with certain conditions, the Director shall notify the Applicant in writing of the nature of the conditions that must be satisfied in order to receive a Permit. If the Director determines that the Permit should be denied, the Director shall notify the applicant in writing of the reasons for the denial. The decision of the Director may be appealed to the planning commission pursuant to the procedures set forth in Chapter 21.23A.
 3. Permit Renewal. No earlier than one hundred and eighty (180) days 12 months and at least sixty (60) days prior to the expiration of a Permit, the Owner or Authorized Agent of a Short-Term Rental shall submit