

# CITY OF DUNDEE

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**Meeting:** Planning Commission Meeting

**Location:** Meeting was held virtually via Zoom.

City Hall Meeting Chambers

620 S.W. 5<sup>th</sup> Street

Dundee, Oregon 97115

**Date:** March 17, 2021

**Time:** 7:00 p.m.

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## **I. Meeting called to order.**

Chair O'Neill called the meeting to order. Commissioners present, which consisted of quorum, were Shannon O'Neill, David Hinson, Ed Carlisle, and Doug Pugsley. City Planner Matt Straite and City Administrator Rob Daykin were also present.

Members of the audience tuning in to the hearing included Brian H., Shannon Stuekle, Justin Wiezorek, Steve Jara, Cathy Chambers, Megan Carda, Lisa Peck, Heather Howard, Pat Vial, Lance Koudele, Rachel, Jeff Peck, Mike, Wendy Fontaine, and John Bridges.

## **II. Public Comment**

There was no public comment.

## **III. Public Hearing**

**- LURA 20-16, City of Dundee (Revisions to Section 17.203.240 and 17.202.020 of the Dundee Municipal Code regarding Vacation Rentals)**

Chair O'Neill read the statements in to record and requested that any persons wishing to give testimony send an email or zoom chat message to Melody Osborne.

### **1. Declarations Bias, Requests to Abstain, or Objections to Jurisdiction**

Chair O'Neill questioned the Commissioners about whether they need to declare bias or wished to abstain. Commissioner Hinson stated that he is a friend of Elizabeth Sundeen who provided testimony. He stated that his relationship with her, not any of the conversations they had, would interfere with his ability to act as Planning Commissioner.

There were no objections to jurisdiction.

### **2. Staff Report**

Matt Straite reviewed the staff report, highlighting proposed changes and staff responses to written testimony that were included in the report and packet.

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Commissioner Hinson questioned which version (there were two in the packet) was going to be used, stating that neither seemed to include the changes made based on public testimony. Mr. Straite responded that the two versions should be the same, but that the changes were not included as the draft code had already been presented to the public and DLCD.

### 3. Public Testimony

Chair O'Neill read through the list of persons wishing to testify and again requested that anyone not on the list contact Melody Osborne to be added.

John Bridges of Brown Tarlow Bridges & Palmer, 515 E. 1<sup>st</sup> Street, Newberg, stated he represented the Tebb's, who owned property in the agricultural zone in Dundee. He described the property and stated that the property had been established a long time prior to the Riverfront Master Plan. They did not live in Dundee but had hoped to be able to use it as a place where they could gather with family and then sometimes rent it out as a VRBO. Mr. Bridges continued to explain that the property was well away from any other development and didn't have the same type of impacts as another vacation rental might.

Mr. Bridges addressed his proposed changes. Where he suggested the addition of "material", he felt this should be added because an STR could be determined by staff to be a burden to anyone. He disagreed with the comment by the staff that "the intent of the section was to address nuisance issues like noise and smoke and those issues would not be material". Mr. Bridges believed that those issues would be material if noise were defined as being a problem when it was noisy for too long, or too loud, or the timing was an issue. He believed that absent a definition there was a risk of staff making arbitrary decisions that could be challenged by the owner of the STR.

Mr. Bridges remarked next on his comment regarding ADU's. He wanted to clarify that he meant Planning Commission could make a distinction that if an ADU was part of the whole then it would be allowed to be used as a rental. Going back to his clients as an example, they have a home but also have a separate facility with an apartment that should be able to be used if the home was also being rented (together as a whole).

Finally, he requested that the Agricultural zone be amended to allow STRs. He again stated that the home was eventually going to be surrounded by Light Industrial and that very few agricultural homes existed that could be used as STR, so the burden would be light.

Chair O'Neill asked if the Commissioners had any clarifying questions. Commissioner Pugsley asked if Mr. Bridges knew how many homes were located in the Agricultural zone that may be affected by the change. Mr. Bridges responded that he did not. Commissioner Pugsley stated that he understood the uniqueness of the situation but wondered if it was something that may need to be taken up later. Mr. Bridges explained that he had spoken with staff about how the Tebb's may be able to use their property and staff thought bringing it up during this public hearing may be the best way to start.

Rachel Cason of 1007 SW 2<sup>nd</sup> Place, stated they were thinking about building an ADU into a portion of their home. She requested clarification on why ADUs were not going to be allowed as STRs. Chair O'Neill responded that when the ADU process was written into the code it was decided at that time that they were not to be used as short-term rental units. It was not the intention of the ADU to be used that way.

Sue Larson of 200 SW 7<sup>th</sup> Street stated that they had a vacation rental and infrequently used it in that matter. She responded that they have property cameras that monitor the property and if there was any type of an infraction to the rules they were calling immediately. She felt that it seemed peculiar that there would be limits on permits (to only one per owner) on persons using their STRs responsibly. She would prefer that people taking care of their STRs and responding to complaints would be the ones that she would want to be owners of STRs. Commissioner Carlisle questioned how it was possible to determine a good owner and who was not. Ms. Larson responded that one way would be to look at the numbers of complaints against the properties.

There were no additional requests to testify.

Chair O'Neill asked if there was any rebuttal or comments on statements made during testimony to which staff would like to respond. Mr. Straite stated that there was not.

CA Daykin stated a concern about the limitations on the number of STRs and whether the standard STRs would need to maintain some sort of activity so that they did not simply exist to preclude others from being present. He stated that there was a suggestion at one time that there be some sort of economic contribution. Mr. Straite responded that a requirement was added under business license requirements that an STR must rent during a one-year period in order to renew the business license.

#### **4. Staff Recommendation**

Chair O'Neill asked if there was a staff recommendation. CA Daykin responded that he would go back to his previous statement that he recommended adding, possibly, that an STR needed to remit at least \$500.00 in transient room taxes to the city to maintain their license.

#### **5. Deliberation**

Chair O'Neill opened deliberation.

Commissioner Hinson began with the question of ADUs and whether they were going to be considered a dwelling unit and therefore available to rent as an STR, or whether they were excluded. Chair O'Neill restated that during the addition of ADUs to the Development Code it was not intended for them to become STRs because that was not the intent. The intent for ADUs was to provide housing and it was her opinion that she did not want to change the code to include them. CA Daykin also stated that the ADU legislation was to address a housing shortage, and since that was the purpose the Commission at the time voted to exclude them as STRs.

Commissioner Hinson clarified that if they had an ADU and the owners were living in it the use would not be classified as an STR because the owners would be living there. The use would be a Bed and Breakfast. There was continued conversation regarding ADUs and the conclusion was to have staff add more clarifying language to make it obvious that ADUs could not be rented as STRs.

Commissioner Hinson pointed out some formatting errors and typos to be corrected. Commissioner Pugsley proposed that deliberation be continued to April so that a clean copy with the changes and corrections could be reviewed prior to the recommending motion to City Council. It was decided to finish reviewing the current proposed changes so that all changes could be on the next draft.

There was conversation about whether infrequent STRs should be required to pay transient tax or be exempt. CA Daykin suggested that Planning Commission also recommend to City Council that the Business License and Transient Tax section of the Municipal Code be updated as well to incorporate any decision made. Commissioner Hinson questioned whether the State would be collecting tax on infrequent STRs and whether it would be confusing for the City to exempt them. Two other commissioners stated that they should all be treated the same regarding taxes and business licenses—infrequent should be treated the same as frequent.

CA Daykin pointed out that it would also be difficult to determine whether an infrequent STR was truly infrequent or operating as an STR in disguise. He suggested that maybe they be required to give dates up front. Chair O'Neill asked if there was another reporting system that might work. Mr. Straite and CA Daykin responded it was going by the honor system. There was continued discussion regarding whether periods of rentals should be required and whether taxes should be collected. The conversation concluded with Commissioner Hinson restating that exempting infrequent STRs may be more complicated than intended because the owners would still be paying state tax.

Commissioner Hinson referred to the section on business licenses. He felt that the statement about complaints should be changed from "addressed by property owner" to "reported by/to property owner". He felt that the renewal should not be based on how many problems had been solved, but by how many had been reported. Commissioner Hinson also asked about whether a STR already having a business license would automatically be renewed, or if there were others waiting on the queue whether the current STR would then go to the back of the line so that another had the opportunity. Chair O'Neill responded that she agreed with the language change—that the renewal should be based on how many were reported. Commissioner Carlisle stated that it would be important to also add the action taken to the complaints reported.

Commissioner Carlisle stated that his memory of discussion regarding the idea of the queue was that the Commission believed it was fairer to let those already approved as an STR to renew. Mr. Straite stated that his notes from his workshop indicated that the Commission did not want to include the queue. Commissioner Carlisle remembered that Dundee was also so far away from meeting the 5% cap that the need for a queue was a long time off. Mr. Straite noted that in recent discussion with the Oregon Fair Housing Council they stated they were very appreciative of the 5% cap.

Commissioner Hinson noted the standard under Parking (Item J-8). He felt sentence two should read "All overnight and visiting guests (not overnight guests) must park in designated parking areas." since they were allowed one on-street parking spot. There was a question about whether the reference under Noise Limits (J-11) was correct. Mr. Straite responded he would check.

Commissioner Hinson questioned whether, under J-16, if "in a timely manner" was too vague and should be more specific. He also questioned whether the specific instances needed to be spelled out. Chair O'Neill responded with types of disturbances that may need more immediate response than others. She also questioned how they could define "timely".

Clarification was requested regarding the term "response". It was concluded that "response" did not mean "action". That the issue should be responded to—acknowledged—but that the action could take place at a later time. Commissioner Carlisle stated that he would be opposed to setting a specific period of time, he liked "timely". Chair O'Neill concurred. There was conversation regarding

whether the responsible party was responding to the complaint or the complainant. The conclusion was that the RP was responding to the complaint and was not required to call the complainant. It was also concluded that “timely” did not need to be specified; and that the specific disturbances listed were in response to the survey responses from citizens, so they should continue to be listed.

Under K-3 “Immediate Complaints”, it was questioned whether complaints should be reported as soon as the limit of three was reached instead of annually at the time of renewal. Commissioner Carlisle stated that he felt the number of three was too low since an owner could have one bad group that accumulated three before the owner was able to get them out. Commissioner Pugsley noted that he believed the owners would be on top of complaints. Mr. Straite agreed that much of this was self-regulating since owners of STRs depended upon good reviews.

There was conversation regarding whether Section K-4 was meant that the City had received three complaints, or whether the three complaints were to the owner. It was agreed that it was three complaints to the City. Questions arose about whether that meant the complainant would need to contact both the property owner and the city; it was answered that the complaint should go to the property manager, but if not resolved then the complaint should call the city. CA Daykin questioned the revocation of a permit and how long a revocation would last. Mr. Straite noted there was not a legal standard, so it would be whatever the Commission was comfortable with. There was commentary that one-year would be a good standard, however it could also be something that was decided during the hearing. Mr. Straite suggested that language be added to say, “Any revocation will last one year, or as otherwise indicated by the Planning Commission.” There was consensus to this addition.

Commissioner Pugsley stated that, upon Mr. Bridges suggestion, he would like to add the word “material” to “E. Criteria (1)”. Commissioner Carlisle stated that he wanted to hear what the City Attorney’s opinion on this was before he felt comfortable supporting the change. Chair O’Neill agreed.

Commissioner Pugsley opened discussion on whether the Agricultural zone should be added to zones permitted to have STRs. It was noted that because the Riverside District Code had a special plan, there would not be the agricultural zone in the future. Therefore, future rezoning of the district would nullify the change. There was some conversation regarding whether there were other land use options available for the applicant rather than add the ag zone to permissible uses. The Commission consented to change the zoning regulation to permit STRs in the Agricultural zone.

CA Daykin requested that the Planning Commission further define infrequent STRs and standard STRs, suggesting again some sort of economic threshold. The conversation segued into requiring a threshold for standard STRs so that an owner couldn’t prevent their neighbor from having an STR by pulling a permit and then never renting. Planning Commission agreed to add a \$500.00 threshold. Chair O’Neill questioned whether there should be a caveat for unexpected events. Mr. Straite suggested adding a comma to the \$500.00 threshold that stated, “or otherwise approved by the City”. CA Daykin suggested that the Commission give Mr. Straite and him the opportunity to confer and come back with some language.

Mr. Straite also circled back to the transient tax for infrequent STRs as he did not hear a consensus. The Commission gave a consensus that all STRs should be taxed equally.


Commissioner Pugsley stated that he would like to see a clean version prior to making any motion to recommend. This was agreed upon by the other Commissioners and it was moved and seconded to continue deliberation to April 21, 2021.

**VI. Planning Issues from Commission Members.**

CA Daykin shared that Commissioner Gilden had resigned from the Planning Commission.

**VII. Adjournment**

The meeting was adjourned.



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Maria Hinoveanu, Vice Chair

ATTEST:



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Melody Osborne, Administrative Assistant