

CITY OF DUNDEE

Meeting: Planning Commission Meeting

Location: Hybrid meeting held in person and via Zoom.
Fire Department Community Meeting Room
801 N. Highway 99W
Dundee, Oregon 97115

Date: August 16, 2023

Time: 7:00 p.m.

I. Meeting called to order.

Chairman Ed Carlisle called the meeting to order. Commissioners present, which consisted of quorum, were Ed Carlisle, Logan Leichtman, Theresa Stevenson, Ron Mock, Alex Chiper. Commissioner Doug Pugsley was absent. City Planner Jim Jacks, City Administrator Steve Dahl, and Administrative Assistant Melissa Lemen were also present.

Members of the audience included Wendy Fontaine, Jake Waibel, Dawn O’Leary, Brian Kirschner, Lynda and Ron Martz, Mike Sherwood, Fred and Viola Gregory, Obdulia Bautista, Don and Elizabeth Sundeen, Cheryl and Ron Symolon, Teresa Heesacker, Steve and Anna Balmaseda, Jeanne Callahan, Chris Kopp, Rebecca Minifie, Sandra Andreasen, and Karen Bailey. Lisa Peck and Diane Armitage attended via Zoom.

II. Public Comment

There was no public comment.

III. Approval of Minutes

It was moved and seconded to approve the minutes from July 19, 2023. Motion passes unanimously.

IV. Public Hearing – LURA 23-02, City of Dundee STR Amendments (cont. from 07.19.2023)

1. Statement of Interest

Chair Carlisle reopened the public hearing and read the statement of interest into the record. He questioned whether there were any Commissioners that needed to declare bias or a conflict of interest, or that wished to abstain. There were no declarations. Chair Carlisle then questioned whether there were any objections to jurisdiction. There were none.

2. Staff Report

Planner Jacks introduced the staff report for the record and noted the public comments in the meeting packet as well as those received after the packet was distributed. Planner Jacks read through the staff recommendations for the Commission to consider.

3. Public Testimony

Jake Waibel stated that he had lived in Dundee for 20 years and when the short-term rentals were allowed in Dundee there was some fear as to what that might mean for the neighborhood. However, he stated in the eight years that they have been allowed he has heard zero complaints about the rentals in his area. He stated that for the past several years he had been using short-term rentals for stays and had learned to respect the homes and the neighbors, and he had been thinking about the future and what should be done with his house in retirement age. He concluded by stating that he was opposed to putting restrictions on where they could be located and how many Dundee allows. He advocated for the city to develop additional ways of regulating them instead.

Planner Jacks let the audience know that the Planning Commission would provide a recommendation to the City Council, and that notice would be sent to everyone that testified as to when the City Council hearing would be held.

Mr. Waibel responded to this comment and stated that his desire would be to see the issued tabled so that further discussion could take place.

Fred Gregory was next to speak. He stated that they had just purchased their retirement home in Dundee. He stated that he and his wife were opposed to the amendment(s). They had purchased their home intending to use the finished basement as a short-term rental, however his neighbor had one and he believed it would fall within the 200-foot radius. He stated that it was also his desire to see the hearing tabled so that additional discussion could take place.

Mike Sherwood was next to speak, however before doing so Chair Carlisle questioned whether someone could testify twice since it was a continuation of the previous hearing. CA Dahl stated that he believed so and would prefer to err on the said of caution and say yes.

Mike Sherwood stated that he wasn't sure if the removal of intermittent short-term rentals was included in the second notice that was sent but believed that if it was not then those amendments should be taken off the table. He reiterated his testimony from July that he was opposed to the 200-foot radius believing that it was not large enough and he would like it extended to 500-feet. He believed this distance would provide greater livability in the neighborhoods.

Jeanne Callahan stated that she had lived in Dundee for six years and that when they first moved in they had used their home as a short-term rental. She noted that they had stopped due to destruction to their home and complaints from neighbors. She requested that the Commission include deliberations as to what was best for the citizens of Dundee. Ms. Callahan also stated that she believed 200 feet was not a big enough radius. She concluded by stating that she was unsure of how the city regulated the requirements of short-term rentals and requested that be taken in to consideration when forming the regulations as well.

Elizabeth Sundeen passed out written testimony and stated that they had moved to Dundee in 1993. She talked about the City's Vision Statement and read the introduction and conclusion of the Vision Statement into the record. Ms. Sundeen also spoke about development of the Riverside District and the high-density residential development expected for that area. She noted that the cap on STRs was likely to increase from the current cap to approximately 150-200 STRs once the space had been built out. She stated that she believed that the 500-foot radius was something needed.

Ms. Sundeen concluded by stating that she had been talking to a new resident who had expressed concerns about not having a cohesive neighborhood. She concluded that she did not believe the 200-foot annual notice was adequate and requested that this regulation be changed to include that a notice be mailed any time the local representative changed.

Cheryl Symolon spoke and stated that she had lived in Dundee for 50 years. She noted that the house across the street had become a short-term rental that operated for a few months at a time. She stated that her hope as they “aged in place” was that they would be able to build an ADU to house a caregiver. She believed that the rules being implemented would prevent that, which was unfair. Commissioner Mock questioned why the ADU for a caregiver would be a short-term rental. Ms. Symolon responded that she wasn’t sure how that would work in practice. Commissioner Mock responded that if a caregiver lived there permanently, or more than 30-days, it was not considered a short-term rental. Planner Jacks and Chair Carlisle noted that the current ADU code does not allow them to be used as short-term rentals. There was a question about what would happen once the house was passed to next of kin or sold. Chair Carlisle stated that unless the code changed it would still not be able to be used as a short-term rental.

Sergin Salagean stated that they had lived in Dundee for 30 years. He testified that he did not believe the city should impede opportunity, old or young, from additional income that might be needed. He stated opposition to the 500-foot radius suggestion. He believed that some of the rules could be stripped down and some complaints handled by a knock on the door.

Steve Balmaseda noted that he had lived in Dundee for 20 years. He testified that he was opposed to any change to the existing code language. He believed that it could lead to a breakdown in the community. He noted that the vision for Dundee was a large part of why they had chosen to move here. His hope was that one of his children would choose to live in the home after they move on and have the same opportunities in the neighborhood that they have had. He wanted to advocate that the radius be 750-feet. Mr. Balmaseda noted that they hadn’t had any problems with nearby STRs, but felt that problems may be forthcoming if the radius was 200 feet. Chair Carlisle questioned whether Mr. Balmaseda was aware that the current regulations allowed every other home to be an STR. Mr. Balmaseda responded that he was not. He stated that he was opposed to an increase in the allowed density of STRs. It was noted that 200-feet was a decrease over existing regulations (in proximity). Mr. Balmaseda stated that he would like to change his initial testimony and advocate changing the current code language.

Wendy Fontaine talked and noted that she had purchased a home approximately two years ago. However, due to life changes she had moved and was currently renting the home long-term, but also noted that the hope was to use it as a short-term rental. She believed that people should have the freedom to use their property as they wish, and that the additional income would be helpful for many individuals.

An unidentified speaker approached the microphone and asked whether the existing regulations allowed corporations to purchase homes as short-term rentals. A member of the Commission responded that they did not believe it was in the current code. The speaker stated that she’d like to see that (a prohibition) in the code.

Jake Waibel spoke again and stated that the discussion that had taken place was even more reason to table the hearing and have a community type meeting. He noted the many differing viewpoints regarding the current proposal. Mr. Waibel concluded by responding to the previous public

testimony comment regarding corporations. He stated that he agreed with the sentiment but noted that many people form corporations for tax purposes when it came to business ventures.

Sandra Andreasen stated that she had recently purchased a home and believed that the change in regulations was taking away people's rights and that someone purchasing a home should be able to use it as desired.

Brian Kirschner testified stating that he and his wife have lived in Dundee for a little over 22 years. He had come to the meeting for a better understanding of what was taking place. He stated, like with previous testimony, they had been hoping to use their daylight basement as a short-term rental. He requested that the hearing be tabled so that additional discussion could take place and more people could provide input.

Chair Carlisle closed the public hearing.

4. Staff Recommendation

Planner Jacks responded to some of the comments regarding using daylight basements as short-term rentals. He noted that this type of use was not allowed in the STR code language, as the code required the entire property to be rented out. He noted that several differing opinions were presented and that those differing opinions opened doors to additional thoughts so that staff did not have a particular recommendation other than having the Commission deliberate the testimony and staff report in order to make a recommendation to City Council. Or, if unable to form a recommendation, continue the meeting to September.

5. Deliberation

Chair Carlisle opened deliberation by noting that the Commission had held two work sessions prior to the public hearing that had been opened in July. He stated that the work sessions had been published on the city's website and were open to the public. He felt that the two work sessions where the Planning Commission had considered the code changes were sufficient and that there was no need to table the meeting for additional discussion.

Commissioner Chiper addressed the comments regarding the rental of daylight basements. He noted that per the code this qualified as a Bed and Breakfast, and encouraged the audience members to look at the code to see what other options might be available for them. He noted that the reason the Commission was having discussions on the code was that the existing code is more flexible. From the community feedback, he felt that the Commission was right in adding some additional limitations. He stated that a discussion about exemptions on out-of-state buyers might be warranted as local people were more invested in the community, but he felt the discussions thus far had been fair to both sides of the spectrum. He concluded by stating that if the audience had any questions they could ask. Chair Carlisle corrected and noted that the public hearing was closed which prevented audience members from participating in deliberation.

Commissioner Mock responded to this by acknowledging that the audience would have an additional opportunity to testify at the City Council hearing. He also brought up Bed and Breakfast regulations versus Short-Term Rental regulations because there was an important difference. He noted that in Bed and Breakfast situations, which the daylight basements would qualify, the rules are different because the owner lives on site and can contribute to the community as a neighbor.

Whereas no one lives in a short-term rental and there is a constant rotation of people who are not members of the community.

Commissioner Mock noted that he had four areas that he wanted to make sure there was discussion on. He believed that the Commission should not act until they were able to see the distribution and percentage of short-term rentals. Chair Carlisle pointed out that a map was shown at one of the work sessions and viewed by most of the Commissioners. He also noted that Dundee was still well below the percentage (cap) allowed. Commissioner Mock questioned whether the 5% cap was per neighborhood. It was answered that the cap was city-wide. Commissioner Mock stated he would like to discuss this regulation so that concentrations of STRs in specific areas could be avoided.

He also expressed the desire to discuss the need for a new notice if management changed. Commissioner Leichtman added that he would like to see this for any type of contact information change. Commissioner Mock also raised the issue of ownership by corporation. The existing language was read from the code and a brief discussion took place about whether the verbiage was enough to prevent multiple homes being owned as STRs by the same entity.

There was discussion regarding the notification requirements. Planner Jacks stated that the current code only required one notice a year at the end of the year and that there was not a requirement to notice should the local representative change during the year. The Planning Commission was in general agreement that this needed to be corrected to include notice requirements for any change in contact information. There was continued discussion regarding ownership and how this was defined.

There was conversation regarding the length of stays for STRs; complaints and what constitutes reasonable/unreasonable burden; whether homes with separate entrances could be rented as two separate STRs and occupancy limits; and complaint driven code enforcement in Dundee.

CA Dahl questioned the Commission about whether they should discuss the acceptability of STRs at the end of a private drive. He noted that the city was dealing with a complaint regarding this issue now. Commissioner Leichtman responded that he would be hesitant to get in the middle of anyone's private agreement (such as an easement or access agreement). He noted that Clackamas County had a regulation regarding Cannabis that if the business takes access off a private road, then the business needed to get signatures from all the persons who take access from that road. This was the only regulation he could think of that might be similar to what was being discussed.

Commissioner Mock proposed language to amend 17.203.240(E.1.) *"The proposed STR will not present an unreasonable burden to any owners or occupants of any other properties."* He stated that he didn't believe there was any reason to limit the distance as the issue wasn't distance but burden. He then suggested the insertion of a sentence reading, *"A violation of Section J is an unreasonable burden."* Then he suggested that the next sentence read, *"The permit application shall address any concerns about unreasonable burdens identified through the application review process."*

There was a discussion regarding how many complaints had been submitted to the city. CA Dahl responded that since he had been hired 18-months ago he believed that there had been two. There was a question regarding how to determine whether complaints are being made to other entities. CA Dahl responded that they were required to submit a log of complaints at the time of business license renewal. Chair Carlisle read the code language requiring this into record. There was some continued discussion regarding this standard.

There was a question about whether the distance radius needed to be discussed again. Chair Carlisle responded that he believed they had discussed the point at length during the work session and felt that 200-feet was the appropriate outcome. Commissioner Chiper stated that there was a lot of discussion to determine what was too restrictive and not restrictive enough and that's how they determined the 200-foot radius. There was agreement with this statement from the Commissioner.

It was proposed to add language to 17.203.240.F.4.c, "Any omission or any false or intentionally misleading statement shall be grounds for a renewal application to be deemed incomplete."

It was proposed to add new language as 17.203.240.F.4.b.ii, "The STR owner must mail via the U.S. Postal Service a change in the Local Representative's contact information, including the name, phone number and email address, to the owners and occupants of properties within 200 feet of the STR property within 30-days of the change."

Chair Carlisle asked Planner Jacks to reread the proposed (additional) changes to the proposed recommendation. Planner Jacks reiterated the proposed language regarding criteria and unreasonable burden, regarding renewals and false statements, and the added language to the renewal section regarding additional notice.

MOTION: It was moved to adopt the proposed changes in the staff report with the three additional changes discussed that evening.

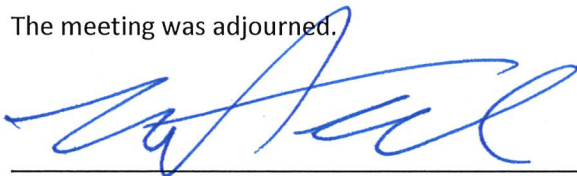
Motion was seconded. Motion carries 5-0.

VI. Planning Issues from Commission Members.

CA Dahl spoke regarding the creation of the Water Task Force and stated that they would like two members from the Planning Commission to be on the committee. The purpose is to review where the city might obtain future water supply. He also reminded the Commission about the Third Thursday event taking place the following evening.

VII. Adjournment

The meeting was adjourned.



Ed Carlisle, Chair

ATTEST:



Melody Osborne, Planning Secretary