



# Agenda

## PLANNING COMMISSION Thursday, June 18, 2020 - 6:00pm ATTEND VIRTUALLY

### SPECIAL PROCEDURES FOR VIRTUAL ATTENDANCE AND PUBLIC COMMENT:

In response to the State's declaration of a Public Health Emergency, the Mayor's Proclamation of Emergency, and the ban on public gatherings of more than five (5) people, this meeting will be conducted virtually using Zoom.

**Viewing on YouTube:** Members of the public may stream the meeting live on the City of Santa Fe's YouTube channel at <https://www.youtube.com/channel/UCuW5Fb7iWuKpTdsWYNDurgA>. The YouTube live stream can be accessed at this address from most computers, mobile devices, and smartphones. A video recording of the meeting will be posted on YouTube and available for viewing after the meeting.

**Attending on Zoom:** Members of the public may attend the Zoom meeting on a computer, mobile device, or phone. The video conference link and teleconference number will be posted on the City of Santa Fe's Calendar of Events website at least seventy-two (72) hours before the meeting: <https://www.santafenm.gov/events>. The direct Zoom link is: <https://us02web.zoom.us/j/86975140993?pwd=R2lva0g5c1NJdyttU45T1E3UVlqZz09> and use password: 419763.

**Attending Zoom by Phone:** Members of the public can attend the Zoom meeting by phone by dialing:  
US: +1 669 900 6833 or +1 253 215 8782 or +1 346 248 7799 or +1 929 205 6099 or +1 301 715 8592 or +1 312 626 6799  
Webinar ID: 869 7514 0993

#### Public Comment:

- **By video:** A person attending the Zoom meeting by using a computer, mobile device, or smart phone may provide public comment during the meeting. Attendees should use the "Raise Hand" function to be recognized by the chair to speak at the appropriate time.
- **By phone:** A person attending the Zoom meeting by phone may provide public comment during the meeting but **must** provide advance notice to City staff. Please contact Noah Berke (505-490-5930, [nberke@santafenm.gov](mailto:nberke@santafenm.gov)) no later than Monday, June 15, 2020, and provide your **full name, address, and the phone number** you will be using to call in to the teleconference. Without your phone number, the chair will not be able to recognize you to speak at the meeting.
- **In writing:** A person may submit written public comments in advance of the meeting by email ([LandUsePublicComment@santafenm.gov](mailto:LandUsePublicComment@santafenm.gov)), by U.S. Postal Service (City of Santa Fe, ATTN: Noah Berke, PO Box 909, Santa Fe, NM 87504-0909), or by dropping off a comment at the physical drop box which will be located outside City Hall at the entrance to Land Use Lobby facing Marcy Street. Please include your full name and address, and identify the specific agenda item you are commenting on. To be included in the official record and considered at the hearing, written public comment **must** be received no later than Monday, June 15, 2020.

#### A. ROLL CALL

#### B. PLEDGE OF ALLEGIANCE

#### C. APPROVAL OF AGENDA

#### D. APPROVAL OF MINUTES AND FINDINGS/CONCLUSIONS:

MINUTES: May 21, 2020

FINDINGS/CONCLUSIONS: None

## OLD BUSINESS

### E. NEW BUSINESS

1. **Case #2020-2115. Vista del Rio Final Subdivision Plat.** JenkinsGavin, Inc., Agent, for Moellenbeck Professional Association Retirement Trust and Twilight Homes, Owners, requests approval of a final subdivision plat for twenty-one single family lots located at 5401 Agua Fria St. The property is approximately 4.02 acres and is zoned MU (Mixed Use). (Dan Esquibel, Case Manager, [daesquibel@santafenm.gov](mailto:daesquibel@santafenm.gov), 955-6587)
2. An Ordinance Amending Section 14-6.2 SFCC 1987 to Adopt by Ordinance a Maximum of one thousand (1000) Short-Term Rental Permits in the City; to Prospectively Limit the Number of Short-Term Rental Permits to One Per Natural Person; to Prospectively Limit the Proximity of Short-Term Rental Units on Residentially Zoned Property; to Require a Local Operator for Short-Term Rental Units; to Adopt Record-Keeping and Reporting Requirements for Short-Term Rental Unit Owners and Host Platforms; and to Clarify Other Provisions of the Short-Term Rental Ordinance. (Mayor Webber and Councilors Lindell, Romero-Wirth, and Villarreal) (Elias Isaacson, Land Use Director, [esiasaacson@santafenm.gov](mailto:esiasaacson@santafenm.gov), 955-6730) (Sally Paez, Assistant City Attorney, [sapaez@santafenm.gov](mailto:sapaez@santafenm.gov), 955-6501)
3. An Ordinance Amending Section 14-11.4 of the Land Development Code to Adopt Civil Penalty Provisions, a Civil Fine Schedule, and Civil Citation Procedures for Land Use Code Enforcement Actions; and to Permit the Land Use Director to Order a One-Year Waiting Period for Application for Short-Term Rental Permit by a Person Who Has Violated the Short-Term Rental ordinance, Section 14-6.2(A)(5) SFCC 1987. (Mayor Webber and Councilors Lindell, Romero-Wirth, and Villarreal) (Elias Isaacson, Land Use Director, [esiasaacson@santafenm.gov](mailto:esiasaacson@santafenm.gov), 955-6730) (Sally Paez, Assistant City Attorney, [sapaez@santafenm.gov](mailto:sapaez@santafenm.gov), 955-6501)

### F. STAFF COMMUNICATIONS

### G. MATTERS FROM THE COMMISSION

### H. ADJOURNMENT

#### NOTES:

- 1) Procedures in front of the Planning Commission are governed by the City of Santa Fe Rules & Procedures for City Committees, adopted by resolution of the Governing Body of the City of Santa Fe, as the same may be amended from time to time (Committee Rules), and by Roberts Rules of Order (Roberts Rules). In the event of a conflict between the Committee Rules and Roberts Rules, the Committee Rules control.
- 2) New Mexico law requires the following administrative procedures to be followed by zoning boards conducting "quasi-judicial" hearings. By law, any contact of Planning Commission members by applicants, interested parties or the general public concerning any development review application pending before the Commission, except by public testimony at Planning Commission meetings, is generally prohibited. In "quasi-judicial" hearings before zoning boards, all witnesses must be sworn in, under oath, prior to testimony and will be subject to reasonable cross examination. Witnesses have the right to have an attorney present at the hearing.
- 3) The agenda is subject to change at the discretion of the Planning Commission.  
**\*Persons with disabilities in need of special accommodations or the hearing impaired needing an interpreter please contact the City Clerk's Office (955-6520) 5 days prior to the hearing date.**

**SUMMARY INDEX  
PLANNING COMMISSION MINUTES  
JUNE 18, 2020**

<b>ITEM</b>	<b>ACTION TAKEN</b>	<b>PAGE(S)</b>
A. Roll Call	Quorum Present	1
B. Pledge of Allegiance	Recited	1
C. Approval of Agenda	Approved as published	2
D. Approval of Minutes May 21, 2020	Approved	2
Findings/Conclusions	None	2
E. Old Business:	None	2
F. New Business		
1) Case #2020-2115. Vista del Rio Final Subdivision Plat Findings/Conclusions	Approved with conditions Approved	2-3 3
2) An Ordinance Amending Section 14-6.2	Postponed	3-37
3) An Ordinance Amending Section 14-11.4	Postponed	3-37
G. Staff Communications	Comments	37-38
H. Matters from the Commission	Comments	38
I. Adjournment	Adjourned at 10:06 pm	38

**MINUTES OF THE CITY OF SANTA FE PLANNING COMMISSION**  
**Thursday, June 18, 2020 - 6:00pm**  
**VIRTUAL HEARING**

**CALL TO ORDER**

A regular meeting of the City of Santa Fe Planning Commission was called to order by Chair Hiatt on the above date at approximately 6:00 p.m. at a virtual meeting held at <https://www.youtube.com/user/cityofsantafe>.

**A. ROLL CALL**

Roll Call indicated the presence of a quorum for the meeting.

**Members Present**

Commissioner John B. (Jack) Hiatt, Chair  
Commissioner Mark Hogan, Vice Chair  
Commissioner Janet Clow  
Commissioner Pilar Faulkner, Secretary  
Commissioner Brian Patrick Gutierrez  
Commissioner Jessica Lawrence  
Commissioner Dominic Sategna

**Members Absent**

Commissioner Lee Garcia (Excused)  
(One Vacancy)

**Others Present:**

Mr. Elias Isaacson, Land Use Director  
Mr. Noah Berke, Planner Manager and Staff Liaison  
Ms. Sally Paez, Assistant City Attorney  
Ms. Melissa D. Byers, Stenographer

**NOTE: All items in the Committee packet for all agenda items are incorporated herewith by reference. The original Committee packet is on file in the Land Use Department.**

**B. PLEDGE OF ALLEGIANCE**

Chair Hiatt led the Pledge of Allegiance.

Mr. Berke explained the process for participation by members of the public once the Chair opens the Public Hearing.

**C. APPROVAL OF AGENDA**

**MOTION:** Commissioner Faulkner moved, seconded by Commissioner Hogan, to approve the agenda, as presented.

**VOTE:** The motion passed by unanimous roll call vote with Commissioners Clow, Faulkner, Gutierrez, Hogan, Lawrence and Sategna voting in favor and none voting against.

**D. APPROVAL OF MINUTES AND FINDINGS/CONCLUSIONS**

**MINUTES:** May 21, 2020

Commissioner Clow noted on page 25, the sixth paragraph, "Commissioner Clow said the *applicant* appeared to have determined that having..." Instead of *applicant* it should say City staff.

**MOTION:** Commissioner Sategna moved, seconded by Commissioner Faulkner to approve the Minutes of May 21, 2020 as amended.

**VOTE:** The motion passed by unanimous roll call vote with Commissioners Clow, Faulkner, Gutierrez, Hogan, Lawrence and Sategna voting in favor and none voting against.

**FINDINGS/CONCLUSIONS:** None

**E. OLD BUSINESS:**

None.

**F. NEW BUSINESS**

1. **Case #2020-2115. Vista del Rio Final Subdivision Plat.** JenkinsGavin, Inc., Agent, for Moellenbeck Professional Association Retirement Trust and Twilight Homes, Owners, requests approval of a final subdivision plat for twenty-one single family lots located at 5401 Agua Fria St. The property is approximately 4.02 acres and is zoned MU (Mixed Use). (Dan Esquibel, Case Manager, daesquibel@santafenn.gov, 955-6587)

**Staff Report**

Dan Esquibel presented the staff report.

Mr. Esquibel stated the Land Use Department recommends approval for the final subdivision plat for the 21 family units, with the conditions of approval as outlined in the report and technical corrections in Exhibit A. He noted the criteria of section 14-3.7(C) is shown in Exhibit C and the applicant has agreed to the conditions.

### **Applicant's Presentation**

Jennifer Jenkins, 130 Grant Avenue, Suite 101, was sworn. She stated the applicant agreed with all conditions of approval and technical corrections. She stood for questions.

### **Public Hearing**

There were no public comments, therefore, Chair Hiatt closed the public hearing.

### **Commission Discussion**

**MOTION:** In Case #2020-2115, Vista del Rio Final Subdivision Plat, Commissioner Hogan moved to approve with staff recommendations and technical corrections and conditions of approval. The motion was seconded by Commissioner Clow.

**VOTE:** The motion was approved by unanimous roll call vote with Commissioners Clow, Faulkner, Hogan, Gutierrez, Lawrence and Sategna voting in favor and none voting against.

**MOTION:** In Case #2020-2115, Vista del Rio Final Subdivision Plat Findings of Fact and Conclusions of Law, Commissioner Hogan moved, seconded by Commissioner Clow to approve the Findings of Fact and Conclusions of Law.

**VOTE:** The motion was approved by unanimous roll call vote with Commissioners Clow, Faulkner, Hogan, Gutierrez, Lawrence and Sategna voting in favor and none voting against.

2. **An Ordinance Amending Section 14-6.2 SFCC 1987 to Adopt by Ordinance a Maximum of one thousand (1000) Short-Term Rental Permits in the City; to Prospectively Limit the Number of Short-Term Rental Permits to One Per Natural Person; to Prospectively Limit the Proximity of Short-Term Rental Units on Residentially Zoned Property; to Require a Local Operator for Short-Term Rental Units; to Adopt Record-Keeping and Reporting Requirements for Short-Term Rental Unit Owners and Host Platforms; and to Clarify Other Provisions of**

the Short-Term Rental Ordinance. (Mayor Webber and Councilors Lindell, Romero-Wirth, and Villarreal) (Elias Isaacson, Land Use Director, [esiasaacson@santafenm.gov](mailto:esiasaacson@santafenm.gov), 955-6730) (Sally Paez, Assistant City Attorney, [sapaez@santafenm.gov](mailto:sapaez@santafenm.gov), 955-6501)

3. **An Ordinance Amending Section 14-11.4 of the Land Development Code to Adopt Civil Penalty Provisions, a Civil Fine Schedule, and Civil Citation Procedures for Land Use Code Enforcement Actions; and to Permit the Land Use Director to Order a One-Year Waiting Period for Application for Short-Term Rental Permit by a Person Who Has Violated the Short-Term Rental ordinance, Section 14-6.2(A)(5) SFCC 1987.** (Mayor Webber and Councilors Lindell, Romero-Wirth, and Villarreal) (Elias Isaacson, Land Use Director, [esiasaacson@santafenm.gov](mailto:esiasaacson@santafenm.gov), 955-6730) (Sally Paez, Assistant City Attorney, [sapaez@santafenm.gov](mailto:sapaez@santafenm.gov), 955-6501)

Chair Hiatt asked if both ordinances should be heard at the same time.

Ms. Paez explained it was up to the Commission, but the two proposals are meant to work in harmony and have one staff report. Taking them together made sense.

Seeing no objections from the Commission, Chair Hiatt ruled the two Ordinances would be heard together

### **Staff Report**

Director Isaacson provided the staff report. The amendments improve enforcement of the City's Short-Term Rental (STR) program and create a system to impose penalties on owners operating STRs without authorization from the Land Use Department. The sponsors include Mayor Webber and Councilors Signe Lindell, Carol Romero-Wirth, and Renée Villarreal.

Per section 14-3.3, amendments to the Land Use Code require a public hearing, a review, and a recommendation from the Planning Commission before consideration by the Governing Body.

The amendments to section 14-6.2 amend and clarify the existing Short-Term Rental ordinance. The current limitation maximum is 1000 permits that may be issued by the Land Use Department as previously adopted by the City, by resolution. That amount will remain unchanged.

Additionally, the Ordinance will limit short-term rental permits to one per natural person and the proximity of STRs on residentially zoned property and require a local

operator for STR units. The Ordinance will require permit holders and host platforms to adhere to record-keeping and reporting.

Amendments to Section 14-11.4 include provisions for adopting civil penalties, a civil fine schedule, and civil citation procedures for Land Use Code enforcement. The amended ordinance would clarify the circumstances under which the Land-Use Director can invoke permits, including short-term rental permits. The Director could order for anyone that violates Code, a one year waiting period for application for a STR permit.

Director Isaacson referred to a chart in the packet showing the substantive changes to the two ordinances, the policy objectives, and the City's regulatory approach which is to ensure that operation of the STR in residential areas does not disrupt the character or quality of life of the neighborhood. The regulatory approach will be to limit the density and proximity of STRs by preventing new STRs on residentially zoned property within 75 feet of an existing STR. The resolution's 1,000 permit limit would be maintained and incorporated into the Ordinance.

Another policy objective is to prevent speculators from purchasing multiple homes for the purpose of operating multiple STR units, resulting in the reduction of long-term rental (LTR) housing. The regulatory approach is to issue only one permit to one actual person. Additionally, law-abiding residents would be allowed an option to utilize accessory dwelling units (ADU) as STR units to create wealth and generate supplemental income. The regulatory approach would exclude ADUs operating in compliance with the ADU ordinance section 14-6.3(D)(1) from the proximity/density limitations set forth in 14-6.2(E)(5)(e).

The policy objective to minimize public safety risks associated with STR units such as higher traffic levels, parking issues, noise, litter, and other public nuisances. Regulatory approaches would include who is available requiring a local operator 24/7 to respond to complaints and include their contact information. Also proposed is to limit frequency in STR guest turnover by prohibiting the rental of STR units to no more than once in 7 days. Existing limitations will be maintained on the maximum number of guests (2 x the number of bedrooms) and continued administration of the City's formal annual permitting requirements.

Last, to ensure the owner/operator of STR's follows applicable regulations, including the payment of all fees and taxes, they will adopt and enforce new enforcement options. That includes the schedule of civil fines which increases for repeat violators, the revocation of permits, and a one-year application waiting period for anyone who has violated. Permit holders will also be required to maintain books and records for a three-year minimum and record-keeping/reporting by host platforms and to collect revenues.

Director Isaacson turned the floor over to City Attorney Paez to discuss the policy making process and opportunities for public participation.



Ms. Paez said this is the first opportunity for public input on the legislation and is a matter of interest for City Councilors and the Mayor. Due to the limitations in State law for open meetings they cannot get together as a group of interested Councilors outside the context of formal public meetings. The objective of the four sponsors was to create a preliminary proposal with a lot of ideas and take that into the committee process. They would then obtain input from members of the public and stakeholders.

Staff has received a lot of input already and this is the first time a City body could weigh in on the amendments in a formal public meeting. The schedule proposed for the committees staffed by City Councilors is to go before the Quality of Life Committee on July 1; Public Works and Utilities Committee, July 6; request to publish before the City Council on July 8, go to the Finance Committee on July 13; and public hearing before City Council on August 12, 2020.

It is possible the Planning Commission could reach a final recommendation to approve, that contains possible nuances. They can recommend changes of what they like or eliminate what they don't like within their purview.

Staff has been compiling comments even those received after the deadline (Monday), due to the large volume. She hoped that Commissioners had a chance to review the first batch because three additional batches of recent public comments were sent to Commissioners.

Ms. Paez said she would like to read the names of those who sent written comments into the record. Additional comments have been received since the last batch. She will continue to gather that input and make it available to the City Councilors and other committees and the Governing Body to retain as a formal record.

Chair Hiatt asked if the draftsmen or sponsors of the Ordinance had an opportunity to involve the STR community or interested citizens.

Ms. Paez replied she is aware that sponsors individually have been speaking with stakeholders and community members ad hoc. There was no formal opportunity until tonight.

Mr. Berke provided historical context on the STR Ordinance and changes. He said that in about 2005, Santa Fe recognized the operation of vacation rentals throughout the City and they were somewhat disruptive to neighborhoods. They received a lot of neighborhood input on the issue and the City decided to look into the issue. Subsequently through a series of stakeholder meetings an STR ordinance was drafted and passed in 2007/2008. In 2015 the Governing Body passed a resolution that asked staff to analyze the current Land Development Code regarding STRs. They were asked to make recommendations in the ordinance.

There were a series of well attended public meetings with neighborhoods, different stakeholders, the Tourism/Hospitality industry. Options were presented at the meetings by City staff and the Tourism Department and considered changes and issues that would be needed through ordinance revisions. There were online platforms that could be rented through AirBNB, Craig's List, VRBO, etc. all showing short-term rentals that were not captured as having a permit.

The cap at that time was 350 STRs with a lengthy waiting list. They drafted major changes to the STR ordinances in 2015-2016 which included that:

- All rentals of less than 30 days had to register with the City with a registration permit regardless of zoning district.
- The cap for residential permits was increased from 350 to 1000 and could be adjusted if City Council thought necessary.
- They eliminated the 17 rentals per year but kept that there could only be 1 rental every 7 days.
- Two adjoining STRs on a residential street was prohibited.
- They clarified that STR permits were nontransferable and only for the owner of the property, it wouldn't transfer to a new owner.
- Applicants were allowed to submit self-compliance statements for renewal.
- A mailing requirement was added that applicants should notify the homeowners and neighborhood associations within a specific range.
- Fees were adjusted to cover the cost of staff performing fire inspection, home inspection and business permitting, and a late fee of \$50 that granted a 30-day extension for renewals.
- Fees for enforcement were added and a fine of \$500 with a required written notice to the applicant of a violation.
- Applicants had to list on the application where they advertised for verification by the City that the applicant legally advertised.
- A Short-Term Rental office was added with an increase in staffing of that office.
- The City purchased compliance software with the ability to compare the list of STRs with permits and the lists from VRBO, AirBNB, etc. and the ability to send a notification for non-compliance.
- Council instructed staff to report back and provide an update in 18 months from the adoption of the changes. That has been done.

Chair Hiatt asked Director Isaacson if there was anything else from staff. He was told there was none.

Vice Chair Hogan said he wanted to disclose two things: One, he received a large number of calls on this issue. Out of concern about ex parte, he had encouraged everyone to send their comments in writing to the City to be distributed to everyone. He added he did not believe his capacity to take action on this had been compromised.

Commissioner Hogan said secondly, he may soon be an STR operator. He had applied for a permit in January for his converted office and was given a permit. But he has never acted on that nor received any income because of COVID.

Commissioner Hogan said he felt the obligation to disclose his permit, but again did not think that compromised his ability to participate. He offered to recuse himself if the Chair or Attorney Paez felt differently.

Chair Hiatt said his understanding is that legislative matters for ex parte have a different connotation. He asked Ms. Paez to comment.

Ms. Paez agreed. A legislative matter has no ex parte communication limitation, whereas a quasi-judicial matter does have an ex parte communication limitation. In a quasi-judicial matter, the applicant has a constitutional right to impartial decision-makers who have not been swayed by information from outside the formal record. In this case, as a legislative matter it is okay to correspond. The sponsors have been trying to correspond with interested parties, which is appropriate. She saw no problem as long as a quorum of the Commission does not discuss this outside the context of a public meeting.

Chair Hiatt said on the second matter of the Vice Chair owning a STR but not having any tenants yet, based on Vice Chair Hogan's comments, he did not find an inability for him to participate. He asked if any Commissioner objected to the ruling of the Chair. There were no objections noted.

Ms. Paez provided for the record additional context in the Code of Ethics in Code, Section 1-7 requiring a public official with a conflict of interest to disclose that conflict at the public meeting. It states, "*A public official shall not perform an official act or attempt to influence another person to perform an official act in any matter in which he/she has a conflict of interest.*" In this case because changes are not being made that would increase the revenues received, voting on the legislation would not be a conflict of interest. As long as no money is a result to the Commissioner.

### **Public Hearing**

Chair Hiatt explained the process for the public hearing and that the comments were limited to two minutes. He noted 58 people wanted to participate and he appreciated all of their comments.

Ms. Paez read the names of those submitting written comments to the Commission, noting they continue to receive comments. Those will be compiled and be of benefit to additional committee meetings. She read into the record names of those sending written comments in alphabetical order: Rebecca Anderson, Cindy Atanasoff, Irene P. Ayala, Cheryl Benard, Tai Bixby, Steve Harris, Karen Heldmeyer, Robert

Hilgendorf, Craig Lamb, Patricia Lillis, David Mansure (with petition attached), John M. Nye, Paul Plunket, Karen Kolbert Richelli, Victoria Rogers, Tim Ryan, Marvin Schrager, Ron & Myrna Simon, Sara & Dave Singleton, Michael Tankersley, Jon B. Tucker, Elizabeth West, Janet Williams and Richard A. Woodruff. The written public comments are attached hereto as Exhibits 1, 2, 3 and 4.

Ms. Paez indicated the list of names would be provided to the stenographer. She apologized for any incorrect pronunciations.

Chair Hiatt noted for the record that he had not seen at least half of those comments. He counted the names on the petitions and appears there are 700 names.

Preston Ellsworth, 1412 Cerrillos Road, was sworn. He thanked Mr. Berke for his help in navigating the administrative management of the system. He said he preferred this go to the Governing Body for better administration and oversight. Secondly, they need to get the County on board so the community could comprehend the problem. Third, the revenues, which are substantial, should be coming to the City and distributed by the Governing Body to the Convention and Visitor's Bureau, minus the fees and charges for enforcement.

Myra Canterbury, 15 Mesa Encantado, Unit 227, was sworn. She wasn't sure if she fell under the guidelines or was outside the boundaries of the 1000 people who are permitted. She asked the boundaries for the legislation.

Chair Hiatt asked Ms. Canterbury if she was registered with the City as a short-term rental owner. She told him she thought she was outside City limits.

Chair Hiatt said they were interested in her comments either way. He asked Mr. Berke to assist Ms. Canterbury.

Ms. Canterbury continued, saying how important it is to balance having affordable housing in Santa Fe because they need them to help manage their properties. She lives in a townhome community that has on-site management. She thought they could probably accommodate that. She pays her taxes through VRBO and they have started collecting taxes for the State and she presumes for Santa Fe, around December.

She asked if she has to be registered with the City of Santa Fe. She is not opposed to the changes other than that this community has a lot of short-term owners. They are back to back and attached, etc. and the 75 feet rule would be a problem for them. She wasn't sure what the 75 feet rule buys them when you have a community that is well-maintained and has a very strict HOA. She wanted to be sure she is legal and has no desire to cheat anyone out of revenues or money.

Ms. Paez encouraged Ms. Canterbury to contact the City. She noted the information is on the website for the Short-Term Rental office and they are easy to contact about the City's boundaries.

Chair Hiatt said he would go a step further and be proactive. He asked Mr. Berke to take Ms. Canterbury's address and initiate contact. He thanked her for coming.

Karen Kolbert Rokelly, 214 Griffin Street, was sworn. She didn't agree with this. She lives downtown and knows that the City needs to look for revenue, but where she lives there are no residents. It is just her and one other person. The City should look at another part, like Catron to Grant, not the Capital District area. They are different than a residential district. Her house was a business for 10 years and she now lives in it and uses it as both. She thought this absurd because the City needs the money more than ever because of the pandemic. They are cutting off their nose to spite their face by not letting a district like this, which is really business. STRs in this area should be exempt if they are not already, because it is not residential and areas like downtown should be excluded.

Andy Duettra, 25 Bluebonnet Circle, was sworn. He owns WSR Properties and manages almost 40 STRs in commercial districts, most within three blocks of the Plaza. They feel zoning rules should be consistent and reasonable. He agrees with Ms. Rokelly on separating commercial and residential areas, the BCD is a business district. He has operated a lodging business recognized by the City for 15 years. He doesn't understand why now that would change and residential rules brought into a business zone. The distinction contained in 14-6.2(A)(6) should remain and be reinserted into the Ordinance. He operates like any other hotel and B&B and the zoning should stay in place and remain sensible.

Marc Bertram, 906 Trail Cross Court, was sworn. He was thankful that Mr. Burke provided the history of the Ordinance. He echoed Andy's concerns on non-residential zoning versus residential. Every iteration of the Ordinance has taken that difference into account and the difference should remain. Another problem with the Ordinance is enforcement. The recommendations of the O'Donnell Report said additional regulation might be needed at some point. The City has to do better at enforcing laws already on the books. He asked how the Planning and Land-Use staff would grade themselves on the enforcement issue. He thought the ultimate problem was the City is trying to get those not in compliance, not registered and/or permitted, to either be in compliance, or get out of the business. Enforcement would go a long way to address the concerns of those in the residential zones. He recommends removing the "*natural person*" ownership requirement and wasn't sure that is legal. It is problematic and could be a legal problem down the road. He agreed with the previous speaker on the 75-foot rule.

David Mansure, 212 E. Berger St., was sworn. He works with Mr. Duettra and would add what he and many others have said, they need to reinsert 14-6.2(A)6. As a

BCD downtown business for 15 years they were exempt from residential rules. They are licensed as a business and operating solely in the BCD District. They should be treated like any other hotel and B&B downtown. He and Mr. Duettra initiated and sent the petition with 700 online signatures and had garnered them in one week. He also canvassed the downtown, BCD District retail businesses, galleries, restaurants, jewelers etc. and has a fair number of signatures in hand from them that he could share. The lists from which the signatures were garnered has past guests, property managers/owners, realtors, and other fellow business owners who all assert the language should be reinserted and all favor the exemption from residential rules.

Chair Hiatt stated unless the Commission objected, the Commission will permit the additional signatures to be added to the record if Mr. Mansure could turn them in to the Land Use staff by tomorrow at 5 PM, since the hearing is a virtual hearing.

Susan Orth, 2115 Calle Tecalote, was sworn. She noted she is the president of the Santa Fe Association of Realtors with over 900 realtor members and 100 affiliated industry members. She respectfully requested on their behalf that the action on the two ordinances be postponed. The ordinances represent significant changes to the City's existing short-term rental ordinance, as well as a fines and penalties structure. They believe the Association, STR owners and the public needs more time to review the proposals and the significant impact they will have on property owners and businesses in how the City will enact those regulations. The regulations were only available for public preview last week and the ordinance was extensively rewritten. Additionally, the fine and penalties section was severed from the original ordinance and changed extensively from a criminal to a civil structure. The Association was not involved nor consulted regarding the proposed changes. They believe the timing of the significant Land Use changes is particularly problematic. The community and local businesses are already seriously stressed in responding to the COVID 19 pandemic. The City should be completely invested in an open, transparent, inclusive process on any regulatory changes, particularly those that impact property rights. The City should ensure that changes are thoroughly vetted and supported to the extent possible by the community. The Association strongly urged the Planning Commission members to postpone action this evening.

Gregg Bovee, 3760 Academy Road, Unit A, was sworn. He said the regulation was brought to preserve the neighborhood's cohesiveness by eliminating traffic, noise, and complaints from neighbors. But he couldn't find a list or police reports verifying that those occurred. He asked if that was available.

Chair Hiatt asked that he address his questions to him as Chair. He has been making a note of them. He asked staff to put his question on the list of questions to be answered at the end of public comment.

Paula Moya, 625 Garcia St., was sworn. She is a registered, compliant short-term rental owner and pays STR taxes even before the platforms started collecting them. They have worked hard to contribute to the City. She grew up and went to school in Santa Fe and her parents owned a business here. She and her husband plan to retire from their jobs as professors at Stanford University to their home in Santa Fe. They purchased the home in Santa Fe not only as a home for them when visiting Santa Fe and her parents, but to be financially feasible they rent the house as an STR. She has two problems with the proposal: one is the STR should be one per natural person. They have the home in an LLC and the "natural" language could be problematic. Also, on the requirement of being a local operator. She manages the rental herself and works with many local residents in Santa Fe. She is available 24 hours a day and has never had any complaints or problems. Those two provisions make it financially unfeasible for her to own the home that they hope to retire to.

Charles Burkhardt, 13 Desert Plume Trail, was sworn. He noted he also owns 1155 Camino Delora and operates his own and several other vacation rentals throughout town. He said he is against the majority of the regulations. Someone earlier asked if the restrictions were to address current weaknesses in regulations. He didn't think so. Additional restrictions will only hurt those following the rules and does nothing to curb those who are operating illegally. The City should enforce the current regulations and look at the results. The Commission should consider the number of actual complaints filed over the last year; how many fines were issued for illegal operation of STRs. He was against all of the restrictions proposed.

Robert Zilinski, 502 Sunset, Unit B, was sworn. He currently lives in New Jersey and graduated from the University of New Mexico. In 1976 he bought property in Santa Fe and started the STR in 2008 after regulations were put in. He has always had a permit and paid all taxes and fees and has never had problems with noise or parking at the rental. He wondered who the regulation benefits because he thought it limits competition and benefits larger hotels. He saw no benefit for the City to limit competition. His renters have said they like staying in a house rather than a hotel and some of his people return again and again. This could hurt the visitors and tourism in Santa Fe and the investors who purchased property with conditions that appear to be changing. He thought this overregulation, and as one person with one property, appeared he was being pushed out of the STR market. He recommended postponing the ordinance or rejecting it.

Frances Maier, 633 Garcia Street, was sworn. She lives in both San Francisco and Santa Fe and grew up here. She has two rental properties that are loved by her guests, pays the taxes and has notified her neighbors. She has never had a complaint and her guests comply with everything. Vacation rentals bring in families who are not comfortable in hotels and like to support the local community. STRs allow her to keep her properties in the best shape. She agrees there is not enough enforcement. This change puts more burden on those who are compliant than someone who is not. She couldn't understand the benefit of the natural person rule. There are good reasons to

have an LLC to protect themselves. And the local operator rule is ridiculous. She pointed out that the Internet and phone works well both in Santa Fe and San Francisco and she can address any issues her guests might have. She said she does have a question on the part of the Ordinance that is grandfathered and isn't clear how or what that applies to. She purchased her second property based on the last ordinance and wants to be sure her property rights are not violated.

Germaine Gomez, 511 Cortez Street, was sworn. She owns and operates Fridays Off in Santa Fe, a STR property management company. She and her business partners were born and raised in Santa Fe. The proposed changes would hurt their small business, which supports 10 local families. They buy and shop in Santa Fe. Vacation rentals bring in revenue to the area and expand the economic pie. They provide jobs, support vendors and contractors regularly, and some rentals bring in traveling nurses. They provide a place for people to stay in a local vacation rental and this will limit competition. They want to see current regulations enforced. She has been in the industry almost 13 years when there were only 350 rentals. She understands a lot of changes have happened, but enforcement has not come full circle. They oppose the one rental per person, and the natural person and have several homeowners that own multiple properties. That should be allowed, and it helps to support the economy. Lastly, on the 16.3 or the one year, if there is a violation there should be a warning. Some of their owners are getting letters of violation when there is no violation. It would be unfair for the home to lose their permit without verification.

Barbara Yoffee, 209 Polaco Street, was sworn. She is the vice president of the Historic Guadalupe Neighborhood Association. She has lived in the neighborhood since 2002 and understands those with a vested interest. She said residential neighborhoods are not here as a business proposition or only for investors. As residents they have invested a lot of blood, sweat and tears and money in their neighborhoods. She has talked to many residents in the neighborhood who feel this is a good balance. Finally, there is a proposal and it should be discussed. Also, the STR rentals in historic neighborhoods have cut the long-term rental housing problem. Their neighborhood used to have long-term rentals for people who worked here, and the neighborhood was more substantial and consistent. She asked that they please talk with the neighbors, not just realtors and investors.

Karl Hans Sommer, PO Box 2678, was sworn. He said the job tonight is to look at the policy behind the amendment in light of the policies for the STR Ordinance. The proposed amendments, with the inclusion of the BCD, will be counterproductive. He noted that Mr. Bertram is just one of many local investors who revitalized buildings that were obsolete and difficult to occupy. He and others have spent tens of millions of dollars to bring properties to a new vitality in the downtown area. If the BCD is subject to the new regulations, they will limit the supply and eviscerate and discourage those investments and discourage further investment downtown. That is a serious policy to consider. Also, there is a serious question about the ownership provision. There is a



case in the New Mexico Supreme Court that may prohibit the amendment on who owns the property.

Chair Hiatt asked that Mr. Sommer to forward a copy of the Supreme Court case to Ms. Paez.

Jerry Richardson, 703 Don Felix St., was sworn. He is the president of the Historic Guadalupe Neighborhood Association but was speaking for himself. He has notified all of the members so they could make their opinions known. He is gratified to see the City looking at problems created by unlimited STR growth that has negatively impacted his neighborhood. His neighborhood is close to downtown and walkable to the Railyard, etc.

Mr. Richardson said people lose the sense of neighborhood and don't know their neighbors and there are a lot of people going in and out. They don't understand how densely populated their neighborhood is with zoning that allows 19 units per acre. It isn't that people are misbehaving or there have been significant issues. They are just not aware of other people living here. He appreciates the efforts to get the issue under control and thought it obviously needs more work. Most of the people talking tonight are not going to be affected by the amendments because they are grandfathered in. This is just trying to control it in some way.

Richard A. Woodruff, 615 Onate St., was sworn. He said for the record he co-owns Adobe Casitas Vacation Rentals. They have been renting about 18 homes for about six years and pay all their taxes and have never had a complaint. There are too many things wrong to go through each point. He doesn't believe they did due diligence on an economic impact study and what it would mean if they did not capture STR and if transfers were prohibited. They are mostly rented by tourists with families, often with pets. The 75-foot radius will decimate home transfer by about 75% of the existing vacation permits. Another point of fact is that since 2018 and the increase from 350 to 850 STR permits, they have not grown and remain flat. He recommends a proper economic impact study be done by City Council and an evaluation.

Laura Post, 832 Dunlap Street, was sworn. She lives in the Guadalupe neighborhood and this has been a concern of hers. She does not have an STR. She lives and works at St. Vincent Hospital and is a full-time resident for 45 years and raised her family here. She understands the economic impact that was expressed but is concerned more about the explosion of the AirBNB's. Specifically, downtown where she lives now. Her focus is on the availability and affordability of houses and the ability to buy affordable houses. Many of the AirBNBs are bought by people from out of State, out-of-towners who are exploiting their neighborhoods. Her son recently moved back with his family this year and couldn't find anything nearby to rent or buy. There is a long list of young people in the same situation.

Denise Ramonas, 600 A Griffin Street, was sworn. She is the president of the Griffin Park Condominium Association off Paseo de Peralta. They have 27 units and now have 8 units licensed for STR. Most of the other units are full-time residents who are very unhappy about the STRs. The Association's declaration prohibits STRs, "*No unit can be used for hotel or transient purposes*". They have written and met with the STR office over the last three years and ask them not to renew or issue STRs for Griffin Park. Yet renewals continue and new permits have been issued. Most of the Griffin Park owners, including herself, support the proposed changes to the Ordinance. They ask that the Commission also consider including in the ordinance that if a condominium document prohibits STR, the City will honor that and not issue short-term licenses.

Mr. Berke offered to look into that if Ms. Ramonas emailed him the addresses.

Marilyn Proctor, Sandia Circle, was sworn. She has owned Proctor Property Management and Adobe Destinations for over 40 years. Her most important question is addressed to the Land-Use Director or Mr. Berke: "why this is happening"? She wants to hear the complaints and where they were and what the complaint was about. This is her livelihood and she has never had a complaint in 40 years. She asked why now the City is starting random inspections and why they couldn't go back to fire inspections instead. As a small business she shouldn't be punished because of the large corporate businesses like AirBNB. She follows the rules and guidelines and as many others said, there is and never has been enforcement. There has been a huge turnover in the Land Use Department, and she has never had them return her calls. She manages 50 properties and since the pandemic has lost over \$300,000 of revenue since March. Tourism is suffering.

Stefanie Beninato, PO Box 1601, was sworn. She was happy that fines would be civil rather than criminal penalties because they will be easier to enforce. She has concerns about some of the provisions. It will not be easy to enforce a 75-foot separation of STRs. There are about the same number of unpermitted STRs as those permitted. The problem is enforcement and the City has been putting that off for at least three years. They say they are acquiring more programs and staff that is needed to enforce, but nothing changes. She favors one STR rental per owner because that does not affect the availability of affordable housing, which is a huge issue in neighborhoods like South Capital. Also, it can be disruptive in terms of feeling like they are part of the neighborhood. She sees a lot of RVs parked on the street in her neighborhood and appreciates that supposedly will not be allowed. But again, it is about enforcement. The City needs for not just the AirBNBs to pay taxes, but all of the platforms and to pursue those without a permit. She knows a person who rents apartments and uses them for AirBNBs. That is a total abuse of the system, as well as the people who own 10 units. People who have a second unit on their property are treated differently than someone with one unit. The treatment of STRs compared to hotels, now STRs have to meet hotel standards for fire. She goes to AirBNBs to avoid chemicals at the hotels. The Commission should look at consistency in terms of fire standards.

Madelyn Carey, 1674 Camino de Cruz Blanca, was sworn. She explained she is Nick's partner and is using his computer. Nick runs an STR. Her experience comes mostly from a federal level in environmental. She is heartened by the amount of diligence, care and opportunity for the public to comment. She would like the City to be regulating, managing and enforcing towards a vision, instead of in response to complaints. It is important to have a vision and know how STR rentals will exist within it. She wanted more discussion about tourism economy and how it has long been a consistent opportunity for locals to participate. To deny or limit how individuals can participate creates an equity issue. She encourages policymakers to consider how STRs can be part of a healthy, thriving Santa Fe and contribute to the locals' ability to remain in Santa Fe and participate in the economy. Ms. Carey said her partner is a full-time freelance creative and the AirBNB allows him to maintain his expenses while participating in the artistic and creative community.

Janet Williams, 1200 Don Gaspar, was sworn. She was speaking on behalf of the amendments which she believes are important. Her daughter lives on Apodaca Hill and neighbors on two sides are AirBNB. They have no neighbors, the STRs are destroying the fabric of neighborhoods. The City needs to get them under control. Owning one is fine, or a guest house rental is fine, but she doesn't want people owning 50 AirBNBs. She wants a limit and approves of the amendments.

Eric Enfield, 612 Old Santa Fe Trail, was sworn. He has lived in Santa Fe most of his life and has invested in the BCD zone and had an AirBNB. He said it is a mistake to include the BCD District in the Ordinance and is short sighted. The dynamics of a downtown area requires visitors. He has lived here for 48 years and worked with many of the City agents and including the BCD in a residential ordinance isn't right. Currently you can build a restaurant and bar next to a house in the BCD District. That is important for them to consider. The idea that a person can only own one unit makes no sense economically. When they change a district in the center of the City there is a lot to consider; it should be vibrant with people coming and going. He would rather have a family stay three days with their dog than a restaurant and bar. That would be what they are talking about if they eliminate residential use in the BCD.

Patricia Lilis, 2119 Conejo Drive, was sworn in. She appreciates the changes to the STRs and recognizes their negative effects on Santa Fe's long-term housing and the neighborhoods. The ordinance is written, "*Any natural person from anywhere can obtain one short-term rental permit.*" Primary residency is not a requirement. Denver, Boulder, Charleston, Portland and many other cities chose to have a primary resident requirement in residential neighborhoods to address STR speculation and housing challenges. She has two requests: first, that the ordinance consider allowing one short-term rental per primary residence in residential neighborhoods. One permit per household for a main house or a guest house. Secondly, page 17, "*All current rentals are grandfathered in.*" She asked how that would address the current housing issues and neighborhood

complaints. She asked that the Commission consider a grandfather clause of two years, which is generous, and more than many cities have allowed; including anonymous complaints to help identify illegal rentals and the safety of anyone making a complaint; post STR permit numbers instead of a business license; and require the owner's name(s) on the permit to match all names in the deed. STR abuse takes homes from people and families who have a primary residence in Santa Fe. STR regulations need to be reformed and a primary residence requirement is the best way to do that.

Nancy Bookbinder, 426 Abeyta Street, was sworn in. She said she seconded and concurred with everything Ms. Lilis said. Core to the conversations is to define what is meant by community. They use the word a lot and have talked about a key issue, a community that doesn't have housing.

Ms. Bookbinder said Long-term rentals are fine in a neighborhood, but short-term rentals tear up the neighborhood fabric. Not having neighbors or knowing who they are, people who come into your neighborhood and don't respect your property, or letting their dogs come onto your grounds. Someone had mentioned they live in San Francisco. San Francisco recognized what STRs were doing to the neighborhoods and changed their requirements. They allow STRs for a shorter period of time with the requirement that the owner must live on the property. She agrees with one property with a casita, etc., but when talking about what community is, means they have to support the people who want to live in Santa Fe. The hotels in Santa Fe serve people and support tourism. Neighborhoods are not established for people to come in for a night or two and disrupt the rest of the neighborhood. They preclude the opportunity for Santa Feans to live in these neighborhoods. People who are concerned about their investments should look at the market today and put their place up for sale. It will sell in the next two weeks.

Mr. Berke noted that Karen Heldmeyer, 325 E. Berger had called in and was not able to access the meeting. She asked that her following statement be read into record:

I swear. Karen Heldmeyer, 325 E. Berger.

I sent in a consensus document w/ suggestions from the Neighborhood Network board.

3 issues with STRs: affects actual neighborhoods w/ actual neighborhoods, decreases stock of available housing in many neighborhoods, never really been adequate enforcement especially of fiscal impact

People who actually live here also contribute to the city financially through their ownership and through their living expenses, but also contribute in many other ways to the community. that doesn't occur with transient renters.

Mr. Berke indicated he would email the comments to the stenographer for the record.

Chair Hiatt thanked Ms. Heldmeyer for her comments. He informed the Commission for those who didn't know, Councilor Heldmeyer was *the* Councilor who brought this to the Land Use Department and the various committees and to the Planning Commission when it was originally passed in the early 2,000's.

Paul Dedomenico, 1413 Paseo de Peralta, was sworn. He commented there had been a lot of focus on the BCD, but there are other commercial zonings that allow residential use. He owns properties in both BCD and C1 and thought there shouldn't be any STR limitations on property zoned commercially that allows residential use. He thought if that were to happen it was taking away his property rights.

Michael John Blackwell, 709 Don Felix, Unit D, was sworn in. He said he knows the STR's bring in a lot of revenue to the City in Gross Receipts Tax. He asked if the property tax would be increased or City workers would be laid off if STRs are decreased.

Chair Hiatt said Mr. Blackwell's question would be posed to Director Isaacson after the public hearing.

Chair Hiatt allowed a minute to ensure anyone wanting to comment had done so.

Mr. Berke noted there appeared to be no one else who wanted to comment.

Chair Hiatt closed the public hearing. He asked if there were questions from the Commissioners to staff. There were none.

He noted that he had been in the Director's chair at one time and was there when the Ordinance was passed. He had tried to create a strong enforcement team but thought he had not succeeded and hasn't been successful in enforcement since. He asked if there were statistics on enforcement activity in STR.

Mr. Isaacson replied he didn't have specific data on enforcement. The short-term rental enforcement is challenged by staff's ability to respond in a timely manner to issues. When a complaint is received of noise in the late evening, by the time staff receives the complaint they are not in a position to act. They are not able to verify that a violation occurred when they go to the site the following day.

Another challenge is that, as drafted, the Ordinance contains inherently difficult to enforce supervisions that either lacked clarity. Worse, staff doesn't have the tools to verify a violation. That motivated them in providing clarity in the ordinance where it was not clear and to simplify where necessary for easier interpretation.

He indicated when Ms. Paez started work on the amendments and presented it to the City Attorney's office, a comment was made that the Ordinance, as drafted, was very vague. That kicked off the question, before they went into public comment of, what is your opinion on areas of weakness and do the amendments address them? He thought one area of weakness is the drafting of the current ordinance. They have made significant strides with the proposals to strengthen the areas that are difficult to enforce.

Director Isaacson said they have made important strides in the department in the past 18 months and did a good job aligning their human resources to their technological resources. They now have better tools, especially with the switch to the Inter-Gov Permitting System. They no longer have to manage the STR program by spreadsheet and the licensing program allows them to accept applications online or in person. They can be entered into the system and tracked year to year. The system also communicates with another platform that allows them to monitor the permitted and unpermitted short-term rentals. By comparing a list of both they get a clear picture of who is operating outside the lines. Now they are in a position to strengthen the Ordinance in regard to enforcement. The tools through the civil penalties system will make it significantly easier for them to enforce the STRs.

Commissioner Clow asked to clarify the statement that a permit has to be issued to a natural person. She asked if that meant that the person applying for the permit has to have their name on the permit, but the house could still be deeded in an LLC.

Ms. Paez said yes, the intent of the natural person provision is to ensure the permit is held in the name of an actual human, not a legal or business entity. A real property owned by an LLC would typically have an operating agreement that specifies managing members who have authority to sign documents on behalf of the LLC. The people with that authority could obtain the permit. The intent is to have a human identity for the permit, but it doesn't restrict the underlying manner in which the real property is owned.

Commissioner Clow thought she had heard comments of concern it was legal title.

Ms. Paez said a sentence could be added to clarify that.

Chair Hiatt asked Ms. Paez to work in the meantime on an appropriate sentence.

Ms. Paez confirmed it would be okay to have a concept, so she wouldn't lose track of the substantive discussion.

Chair Hiatt addressed Mr. Isaacson on the argument on the BCD. He didn't understand why they should be treated differently than hotels.

Director Isaacson wasn't sure that had been contemplated. He explained motivation behind one of the changes was to simplify the program rather than have to

make a distinction between permits and registrations. Staff thought STRs would be easier to administer, manage and enforce by having only one license/permit application for all STR operators.

Chair Hiatt said he still didn't understand why they shouldn't be treated that way if in the District and competing with the hotels.

Director Isaacson said the number of comments received indicate the area warrants additional consideration.

Mr. Berke explained the requirements for hotels are completely different in their regulations and fire codes than an STR. At the time the Ordinance was drafted there was a difference between a bed-and-breakfast, a hotel and an STR. The Code differentiates through definitions, not just the amount of days the person stays. Amenities are also considered such as meeting rooms and recreation centers to determine what districts the hotels are allowed.

Commissioner Faulkner thought that wouldn't even be feasible in more dense neighborhoods on the requirement for 75 feet between STRs. The houses are six feet from each other and there isn't enough distance between properties.

Director Isaacson explained the 75 feet is measured with their software, not from property lines, but from the center of the property. As written, no two adjoining properties could have STRs but what is unclear is if adjoining means side to side or rear to rear. That lacks clarity and has been a challenge for staff to determine what properties are eligible for STR permits based on the existing permits. This is a clearer more precise way to quickly analyze proximity and density of the existing permits in any neighborhood.

Commissioner Faulkner asked if the 75 feet is from permits owned by the same person or between permits, period.

Director Isaacson replied 75 feet between permits. Applicants under the new system with exiting permits do not have to give up permits, even if they violate the 75 feet rule. But applicants who apply in the future may not be eligible if within 75 feet of a property holding a permit shown in the system.

Commissioner Faulkner said that would eliminate the ability for anyone in a dense neighborhood to have an STR. Her property is not 75 feet wide.

Director Isaacson agreed if her neighbor has a permit, she may not be eligible.

Commissioner Faulkner said that would exclude a massive amount of people who could have benefited from this in their retirement.

Director Isaacson said this is a way to express an existing provision in Code that is easier for staff to interpret.

Commissioner Faulkner asked if there is a way to specify restrictions of an area based on density and zoning. The 75-foot rule is very prohibitive regarding density. In Tierra Contenta or Las Solaras less than one person per 7-10 houses could have an STR.

Director Isaacson explained they ran an analysis and found applying the existing STRs to the existing permit holders affects roughly 125-140 existing permits. This is not as restrictive, but it is restrictive, intentionally. This was partly an approach to try to reduce the intensity and concentration of STRs in residential areas.

Commissioner Faulkner asked what areas of the City were facing that problem.

Director Isaacson replied that analysis confirmed their suspicions. The densest areas for short-term rentals are in the BCD and neighborhoods immediately adjacent.

Commissioner Faulkner asked why not just address those neighborhoods more stringently.

Chair Hiatt asked to interrupt. He noted that everyone on the Commission has the opportunity to amend and Commissioner Faulkner could provide specific limitations in a motion. He noted there were others that wanted to speak, and they could return to this issue.

Commissioner Sategna in trying to understand the one STR per natural person limitation, asked when married if each individual could own an STR.

Ms. Paez replied yes, one permit per human.

Commissioner Sategna clarified that a married couple could actually own two properties and be within the law.

Ms. Paez said it could be argued that way as community property.

Commissioner Sategna noted that given that; a single person doesn't have the same economic advantage as a married couple.

Ms. Paez replied that could be argued. There are a lot of benefits that tend to favor married couples, taxes and economics. This is not much different.

Commissioner Sategna asked if that was considered when this was being drafted and if staff believes it complies with the law.



Ms. Paez responded she hasn't come across anything that indicated the contrary. Other restrictions were looked at, such as restricting out-of-state owners. That type of limitation is problematic and raised potential issues with constitutional doctrines. She is unaware of a legal limitation treating one person the same as another, married or not.

Commissioner Sategna asked if they had also considered families that pass down property or in a trust where a family will benefit from the property. He asked if this Ordinance would impact that.

Ms. Paez said her understanding is a transfer of property ownership does not transfer an STR permit. She thought that was not allowed in the existing Ordinance. It is an ambiguity they want to clean up and in the current draft it is not allowed. The property has to be held by a natural person, which may have limited duration of ownership. To that point they could add language about transfers to allow the permit to be renewed and remain effective if it remains within the family. More precise limitations could be drafted, but none are in the current draft.

Commissioner Sategna said they have to consider consistency of the criteria with the General Plan. There is not a lot of detail how the changes meet that. The executive summary notes that the General Plan includes enhancing the quality of life for residents; fostering economic diversity; maintaining Santa Fe's unique personality; a sense of place and character; and preserving a community oriented downtown. Other issues raised in public comment were how this will impact small businesses.

He asked if there had been an economic impact study and details on how this met the criteria of consistency with the General Plan.

Director Isaacson said a main motivating factor in the revisions is the quality of life for residents. Several of the public comments today were on concerns for their neighborhoods, some centrally located. The sentiment is that the proliferation of STRs come at the expense of long-term rental units. The O'Donnell Report looked at issues around accessory dwelling units as well as short-term rentals. A connection was made between the proliferation of STRs and the decrease of the long-term rental units available, and the commencement increase in rents with LTR units. The report also connected the proliferation of STRs with the rising cost of housing. Ms. O'Donnell attributed roughly a 20% increase in average home prices directly caused by having more STR units.

Director Isaacson said comments were made tonight on economic diversity and that having LTR units on the market is important to the local workforce. They can see the vulnerabilities in local economy caused by relying solely on tourism for Santa Fe's economic base. More rental units on the market allows people in more diverse sectors of the economy to live, work and have families in Santa Fe. The City is more resilient to things like economic and health crises as currently experienced.

Commissioner Sategna thanked the Director for the additional information. He pointed out that an economic impact study has not been done on the changes.

Director Isaacson replied some decisions in preparation of the proposals have relied on the study by Ms. O'Donnell and informed these changes. But, he agreed, analysis on the changes themselves or the potential economic impact has not been done.

Commissioner Lawrence commented on Commissioner Faulkner's point on the 75 feet. She said she supports a radius and limitations on STRs and is often concerned about the possibility of STRs on multiple sides of her at one time. She wasn't sure 75 feet was the right number, but it is a good way to address the issue. She asked why one STR, opposed to two or three.

Director Isaacson thought that had come up in conversations and questions about primary residents. Limiting one STR to a natural person seemed a way to achieve the same outcome of limitation and move in that direction without going too far. Comments received over the last week may suggest that warrants further consideration.

Commissioner Lawrence asked if other ways were considered to limit the speculation, which clearly is the problem they need to solve.

Director Isaacson replied staff investigated the legality of restricting the permits to local residents, reducing the out-of-towners buying to use as STRs. That was decided as inappropriate. Returning to the question of why they are doing this, it is partly because the STR industry has evolved since the early 2000's and it has been a rapid evolution to now. Although this is more profound in larger cities, it is definitely happening in Santa Fe. One per natural person was a way to push back the trend and try to limit the growth. They wanted it to be more about the preservation of neighborhoods and the STR program to provide opportunities for people to supplement their income, but not as a big business. If STRs become big business, it will be at the detriment to many of their great neighborhoods.

Commissioner Lawrence thought the reasoning was sound, but was hesitant about having just one, opposed to two or three. She suggested increasing fees could obtain more funds from those renting STRs as a small business.

Director Isaacson said it is important that he declare he is not a short-term rental operator. Meetings like tonight are valuable because they receive input from people who are professional STR operators. He is happy with the level of interest, but they should keep in mind that often the operator/management companies operate STRs for private individuals. They manage the listings, do the rentals, etc., but the companies don't own the units and will not be impacted by these changes. He added there are various structures and he realizes he may have misspoken for some.

Commissioner Lawrence added that she also appreciated the public comments and has learned a lot.

Commissioner Clow referenced page 6, section D about a permit not being transferable to another person or property. She suggested clarification that a transfer to a trust for estate planning purposes is allowed. The reference specifically is when transfer is to another owner. Also, on page 12 section E, stating the 75-foot radius, "*shall be measured from the subject property boundary.*" She would think that would be the edge of the property.

Director Isaacson replied that is correct, but the statement is inaccurate on how the 75 feet is interpreted.

Commissioner Clow noted she was confused about the exception of STR units that complies with the requirements of an accessory dwelling unit. She asked to clarify whether the 75-foot requirement is excluded.

Ms. Paez explained the Accessory Dwelling Unit Ordinance allows an STR on the property only if the owner resides in one of the units. The ADU Ordinance was written such that both units could not be STRs; for consistency, the STR Ordinance allows an owner who lives on site to rent out either the principal or accessory dwelling unit and excludes that owner from the density limitation. But if they want to rent an accessory or principal dwelling as STR, the owner must reside in one of the units. The nuance is similar to a permanent residency requirement because having an owner reside on the property mitigates damage to the character of the neighborhood. An application for an ADU in that circumstance would not prohibit a permit based on the 75-foot proximity rule.

Commissioner Clow confirmed the owner would be allowed to have an STR in that instance, even if within 75 feet of a neighbor who also has an STR.

Ms. Paez agreed. The ADU was written that both units could not be STRs for consistency, but this excludes the owner from the density limitation.

Commissioner Faulkner asked to clarify that the 75-foot requirement would not affect married couples.

Ms. Paez said the density limitation and the discussion of one per person could potentially impact families with more members. But they have more opportunities to have more permits as long as the permits are spread throughout town. If she and her husband and her daughter all wanted STR permits, they would have to find locations meeting the density requirement.

Director Isaacson thought the scenario described by Commissioner Faulkner may fall under the 75-foot exception rule Commissioner Clow referenced. The additional unit may likely be an accessory dwelling unit and would therefore be exempt.

Commissioner Faulkner asked how difficult it would be to enforce a larger radius instead of the 75-foot rule for one STR to another, using the number of homes within a specific radius, like a block.

Director Isaacson said that would not be as easy to enforce. Many of the amendments proposed are to simplify and eliminate having to do case by case analysis.

Ms. Paez explained problems with the existing proximity provision include the difficulty in defining "more than two adjacent STRs on a residential street", or "what is a residential street" or "what is a Santa Fe block." The City blocks don't look anything alike and it is difficult to apply a universal metric. They also discussed census blocks and tracts and Council Districts as potential quantifiable boundaries.

Commissioner Faulkner agreed each is different and each part of the City has a different matrix. Her thinking was to have a radius, such as 500 feet, in which no more than five STRs would be allowed.

Director Isaacson said that makes more sense, but the question is how to identify the center point of the 500-foot radius. The solution to the issue in other cities may not be one that could be easily applied in Santa Fe.

Commissioner Faulkner asked about a subdivision.

Director Isaacson said again it would be a situation requiring the application of a unique rule to a specific area of town that would have to be tracked or analyzed. They want to remove those unique aspects and have one rule that could be applied as consistently as possible that could determine eligibility.

Commissioner Faulkner said given the neighborhoods are diverse and different, she wasn't sure a blanket approach is the most equitable.

Director Isaacson said staff did a rough analysis on the existing permits on distances ranging from 25 up to 200 feet to find the best spot. In most places 75 feet seemed to work and aligned with areas where sentiment was that there was a concentration of too many STRs. It spoke directly to a policy objective and wouldn't negatively impact other parts of the City.

Commissioner Faulkner noted the intent is to grandfather the existing STR permits. The 75-foot restriction is mostly to ensure additional rentals could not go into areas with high STR rentals.

Director Isaacson explained it is twofold. It will immediately impact new permit applications but have a long-term effect in those areas as well. Through attrition, owners moving etc. the 75-foot rule will balance the neighborhoods and they will find equilibrium.

Chair Hiatt noted Richard Woodruff testified that the 75-foot rule could eliminate 75% of short-term rentals. He asked if that comported with what the Director observed.

Director Isaacson said Jennifer Fabian who helped put the proposals together also worked with GIS staff to analyze the properties. That assessment did not bear out the analysis. There is roughly 800 STRs in the City and the overlapping conflict of the 75-foot radius was about 125-140 of the current permits.

Commissioner Hogan said he appreciated the outline of the policy objectives and was glad the Ordinance was separated from the enforcement. He noted the numbers between the permitted and non-permitted STRs are nearly parallel, which points to enforcement being a significant issue. It would become more complicated to ensure the quality of STR management is maintained if the City doesn't have access. He supports enforcement and likes the idea of the penalty but suggests having a short period of amnesty for those who are noncompliant to be able to get permits.

Commissioner Hogan said he had more questions when it gets to making the changes. But he wondered how many issues they would hear if there were less illegal STRs. He noted the second point from the policy objectives, in the information the Commission was given says, *"Prevent speculation for purchasing multiple homes for the purpose of operating multiple short-term units, thereby, reducing the amount of long-term housing availability."*

Commissioner Hogan thought that seems intuitive, but he wasn't sure if it was factual. He and Alexandra Ladd have discussed that his impression, given the location of the majority of STRs, is they do not have a big impact on the long-term rental market. He asked if the Director could address and substantiate that.

Director Isaacson said he did not have the numbers with him, but agreed it seems intuitive with the fixed amount of housing. It is hard to say and is a one to one correlation. With the current health crisis and the State restriction of STRs operating at full occupancy, more than a handful of STRs have converted to long-term rental. They anticipate the trend to continue if the conditions continue; or a reversal of the trend if tourism increases the demand. One does impact the other.

Commissioner Hogan said it would be good to drill down on that more. Many would find that makes sense, but the action could negatively impact a lot of people financially. Including opportunities for locals to utilize their property to increase their family income. He suggested they get more hard data on that.

Director Isaacson noted some data is available in the O'Donnell Report about STRs as a percentage of housing, and the connection to the impact of STRs on affordable housing and housing prices overall. Also, the report references impact on the overall numbers of LTRs versus STRs and how the ratio fluctuated over the years and STR rentals have increased.

Commissioner Hogan said he couldn't help but wonder how the number would change if the number of illegal STRs were reduced. On the public safety, risk and quality of life it is implied that STRs have less maintenance and care and assumed they therefore become a blight on the neighborhood. He has seen the opposite. The property not viable for renovation in the historic downtown area was renovated. The reason it could be brought back to life is because a higher income could be expected from the STR. It is not necessarily a safe assumption that an STR will degrade the quality of the neighborhood and they are more sensitive to presentation and curb appeal. They advertise in an effort to attract people online.

He said another assumption is there is increase in traffic levels. When occupied full-time the person would make numerous trips in and out. Occupancy with an STR is more restricted because occupancy is cut by 50%, which would be less traffic than the average homeowner.

Director Isaacson pointed out nothing in the proposed revisions restricts occupancy and it remains the same as the existing Ordinance. Earlier his reference was the occupancy description that was related to the public health order issued. The order placed occupancy restrictions on STRs during the health crisis.

Commissioner Hogan asked if the discussion in the packet on the limit of one rental per seven days, is a response to the virus or if it is the existing condition.

Director Isaacson replied it is the existing condition and will carry through to the new version of the Ordinance. His reference was to recent restrictions of 50% occupancy for hotels and lodging in the State.

Commissioner Hogan said he didn't hear a lot of good public testimony and examples of direct testimony of how the quality of life has diminished, other than comments about losing their neighborhoods.

Commissioner Sategna asked on public comment referencing a petition with 700 signatures that favors exempting the BCD, has that been considered and if not, why not. He asked if that action is consistent with other policies adopted by the Governing Body.

Director Isaacson replied based on feedback received, questions regarding the proposed changes in the BCD probably warrant further consideration.

Commissioner Sategna asked if correct that the 800 permits already issued would be grandfathered and 80% of the existing permits would not be impacted by the new amendments. He was told that was correct.

Commissioner Sategna noted the amendments would only apply to 200 future properties and appears applications are already in place for those.

Director Isaacson replied currently not more than a handful of applications are pending.

Commissioner Sategna thought empowering the City to address the issues and enforce the laws was great. He liked that it is separate from other amendments but asked how they really help. They only apply to 20% of the applicants, and 80% are not impacted.

Director Isaacson explained it goes back to his discussion with Commissioner Faulkner. Initially 200 more permits can be issued before reaching the cap, but over time the existing permits will expire. The new applicants will be subject to the new provisions of the Ordinance and they will see a small impact at first. Over time the landscape of STRs will become more in line with the new Ordinance.

Commissioner Sategna said back to the matter on pass-through entities, family trusts; there might be loopholes. He supports a family being able to pass their property down but is concerned about an entire family having the ability to use that opportunity in the Ordinance. He asked that staff consider that while 800 homes will not be impacted currently and some will fall off, they should consider the loopholes and the impact of that.

Commissioner Gutierrez said the Commission was bombarded with additional correspondence and this is the first time the amendments have been heard. He asked if there would be other opportunities for the public to talk with staff on the changes.

Director Isaacson said this is the first time these specific policy proposals have been shared for public comment. There is a steady stream of feedback on the direct strengths and weaknesses of the Ordinance that has informed the policy shaping. And there will be plenty of opportunity for the public to weigh in on the revisions and shape the final Ordinances.

Ms. Paez added this has been driven by the elected policy makers who all have strong thoughts about amending the Ordinance. Limitations on moving this forward were due to the inability to meet with the public without violating the Open Meetings Act and quorum issues. The decision was to get something introduced and receive targeted input such as tonight. She thanked everyone for their help. It is a work in progress and has to go through the legislative process. They will consider the amendments and the input received throughout the summer.

Commissioner Gutierrez noted that it would be up to the chairman of each committee as this goes through the process, whether there will be public comment.

Ms. Paez said that is her understanding. There is a lot of interest and she anticipates the committees will want to hear the public comments. She plans to forward all of the written public comments on the record from this hearing. There are also people emailing City Council directly.

Commissioner Gutierrez said like an ENN, some issues can be hammered out before going to committees or the Governing Body. He was confused why the STR seven-day, one stay limitation was included in the proposed regulatory approach. He asked if that had changed.

Ms. Paez explained they highlighted some things they would keep, including the limit of 1000 permits. Potentially there is some ambiguity in the existing Ordinance about whether the one stay per every seven days limitation applies to non-residentially zoned properties. She explained it is an existing provision that is not expressly limited to residential properties. As she reads it, it is general and applied Citywide, but it could be argued either way. At a minimum they want to clean up the language and be very clear on the intent and rules.

Director Isaacson pointed out prior to the new technology, that provision had been almost impossible to enforce. Though they are not in a position to be proactive, if more than one rental occurs, they can now confidently verify that and pursue enforcement.

Commissioner Gutierrez clarified that when the Director says *technology* the reference is to the host platforms that will notify them.

Director Isaacson said one is the permitting system, Inter-Government, which helps throughout Land-Use and with the STR enforcement and applications. The other is Host Compliance, a platform monitoring service that provides data on all STR activity.

Commissioner Gutierrez asked the Director to pick one of the biggest problems with the STR Ordinance and how the issue is addressed, opposed to what the Commission has before them.

Director Isaacson replied one of the toughest and most confusing is the adjacency provision language. It continues to cause problems because of the number of variations; is it a private drive, a residential street, how do you define adjoining, etc. Some would argue adjoining is across the street or back door to back door. That causes frustration and has led to inconsistent permitting.

Director Isaacson stated that per the comments, they have not done a good job



cracking down on the STR units that have no permits. That impacts quality of life as well as loss of revenue to the City and is important they get a handle on that. They have the staff and technology, but they need an ordinance that is easy to understand and enforce. Those three things will enable the City to be more effective in managing the STR program.

Commissioner Gutierrez asked what other cities comparable to Santa Fe were looked at and what was the biggest take-away.

Director Isaacson said other cities with larger short-term rental programs that were looked at and were comparable in size: Charleston, SC because they are always neck and neck in the Top Tourist Destination for Historic. Also, they looked at larger cities like Austin, Boulder, San Francisco, Denver, and Boston for trends in the industry. Some cities have canceled their STR program altogether, but two consistent approaches were a primary residence versus limiting the number of permits per person. Staff chose to limit the number of permits.

Commissioner Gutierrez asked if Director Isaacson was comfortable that the 75 feet rule would work best for Santa Fe.

Director Isaacson said he was comfortable with the recommendations. The 75 feet is a workable distance; 50 feet didn't work and over 100 feet wasn't workable either. Staff felt the 75 feet would achieve their goals without drastically impacting the existing STRs.

Chair Hiatt indicated that Alexandra Ladd had signed back on to address Commissioner Hogan's question.

Mr. Berke asked to first clarify the discussion on the adjacency issue. That was not recommended by staff, as stated. The recommendation came from Councilors who included that provision as an amendment to proposals. He recalled the intent at the time was that the streets would not be inundated with short-term rentals.

Commissioner Hogan thanked Ms. Ladd for returning to the meeting. He asked her about the idea that an increase in short term rentals results in problems because it reduces the amount of long-term housing availability. He thought that seemed intuitive and recalled they had discussed it briefly. He was surprised now to hear it was not as big an impact. He asked if she could elaborate.

Ms. Ladd said there is not years of study, but research has shown in other communities there is a tipping point where the number of STRs impact the market. Santa Fe is probably not there yet but certain neighborhoods do have a higher share of STRs. It was possibly because those neighborhoods did not offer a lot of affordability due to their location or they were higher-end homes. She thought it likely that the initial purchase of a home had created more of the impact on raising the values rather than the use of the home for STR that affected rent affordability or rental units available.

Commissioner Clow referenced page 5, *Short-term rental units located in a development containing resort facilities...* She noted the statement had been deleted. She asked to confirm that had been the exception to requiring a permit for an STR.

Ms. Paez explained the existing Ordinance has two categories: the Permit and the Registration category. The registration category is any short-term rental on a non-residentially owned property. Residentially owned property has a list of zoning districts as defined in the definitions and is mostly residential.

Pursuant to the registration category, the two categories were non-residentially zoned including BCD and Commercial Districts and developments that contain resort facilities. Two of the resort facility communities came into the City through annexation with Special Use Permits for the County. They were built on that business model and that was justification not to subject them to the permit limitations and adjacency requirements. In review, they noticed there are only 3 registered STRs in that category. The sponsors found no reason to include them.

Commissioner Clow asked going forward if those units would have to be permitted, opposed to just registered.

Ms. Paez agreed the existing requirements subject them to being like any STR unit unless they are grandfathered.

Commissioner Clow referenced page 17, *Preexisting Permits*. She asked if the units in the development have permits or if they were just registered.

Ms. Paez said the Commissioner is pointing out a definite drafting error at the top of page 17.

Commissioner Clow verified it should say *short-term rental permits and registrations held at the time of the Ordinance amendment*.

Ms. Paez said that was correct. She thought this draft had included that and the intent was to convert those.

Commissioner Clow asked if the amendment had to be addressed tonight. It is complicated and she preferred their comments be noted and come back after edits. She said it was good to explore the changes and hear the public comments, but she preferred this come back after it is fine-tuned. She wanted others to hear the changes and get additional comments before making a decision.

Chair Hiatt agreed with Commissioner Clow's point of view. He said he would come back to that after hearing all of the Commissioners comments.

Commissioner Hogan had a point on the BCD. He thought the BCD is very unique given the part of town, income, the number of tourists it attracts and the percentage of turnover. He suggested it should be treated separately.

Director Isaacson agreed that was consistent with feedback from the public and it may warrant further consideration.

Commissioner Sategna asked if Chair Hiatt would entertain a motion.

Chair Hiatt said they were getting close to wrapping up comments.

Commissioner Faulkner agreed with Commissioner Hogan but couldn't step away from the 75-foot radius as the only solution for every part of town. She wouldn't be comfortable voting without trying to amend that in some way.

Commissioner Faulkner said she was trying to be helpful and offer solutions but couldn't understand why they don't apply the 75-foot rule in the areas where there are problems. If it becomes a problem in another part of town they will have a mechanism to activate the 75-foot radius. She agreed there was a lot to consider.

Chair Hiatt confirmed with Ms. Paez recommendation could be to postpone to a date certain.

Ms. Paez said if the Commission could supply input it would be helpful. If further exploration was warranted it possibly could be amended as it goes through the committee process. Then this could be brought back to the Commission.

Chair Hiatt asked why they would go through the process if there is opportunity now to provide input, and then have revisions come back to them. He was concerned because he hadn't read all of the public comments. He heard public comments today that he knows have not been addressed and there are important comments that haven't been answered. He wasn't sure they had been through all of them. He thought this was too quick for him.

He asked if they could keep the amendments here before sending to other committees.

Ms. Paez explained the sponsors are interested in taking it to the additional committee meetings which have been scheduled. They would want to proceed. She offered to forward the request. She noted it would not preclude the Commission from postponing and making a recommendation. Per Code, this would not go to the Governing Body without the Commission's recommendation. She agreed it would be fair for them

to take more time to digest the proposal and the input received.

Ms. Paez indicated she had written a couple of sentences of clarification requested by Commissioners. On clarifying subject property: *"If the subject property is owned by an organization or a legal or business entity, the permit must be held in the name of a person with legal authority to act on behalf of that organization or entity."* That language clarifies that the property could be held by a business or legal entity.

Ms. Paez added in terms of transfer, transferring into an entity, *"This subparagraph does not preclude a permit holder from transferring ownership of the subject property into ownership by an organization or a legal or business entity, provided however, that the permit holder must have legal authority to act on behalf of the organization or entity that owns the property."* She said something could be added that specifies the property title in a person's name could be transferred into a trust, and the owner could maintain their permit as trustee.

Commissioner Clow thought it really applies to whether a legitimate transfer to a different person/entity could apply upon death, if gifted to a trust, or if a person dies and goes through an estate. That is a legitimate transfer that requires a new deed and taxes to be paid. Those are the issues that should be looked into.

She explained if transferred to an entity, 100% owned by the original owner, that is not really a transfer. A transfer is if legally transferred to a different owner, and a gift where gift tax is due, or a transfer to a different entity. She noted comments by Commissioner Sategna of whether there is an exception and if family members should be able to gift to their children and the children retain the permit, are issues to look into further. But they are two separate issues.

Commissioner Clow continued that the two issues, the kind of transfer it is and if a new owner, should be addressed. In addition to whether there should be exceptions to a transfer that allow the permit to be transferred.

Ms. Paez said she hoped Commissioner Clow could render some proposed language.

Mr. Berke thought it beneficial to look at STR permits being transferable in general. He wasn't sure they were.

Ms. Paez informed him they are not transferable but can be held by a business entity which makes them more durable. The persons involved might change and the business entity owning the permit could remain the same. Eliminating the ability to hold a permit by a legal or business entity will preclude turnover of the ownership structure.

Commissioner Clow noted that many people do irrevocable trusts because they don't want a probate. They own a house in their name but retitle it in an irrevocable trust so it passes without probate and that should be excluded. The big issue is when there is a real transfer with new owners.

Director Isaacson explained the intent is for permits to expire at that point. The process was discussed in different contexts and that is how they will slowly implement the new regulation. The permits would expire over time with the transfer of property. The new owner would have to apply and is subject to the new permitting rules. That should remain intact as a critical part of the implementation.

Commissioner Clow agreed but noted the issue raised by Commissioner Sategna whether there should be family exceptions to the transfer.

Chair Hiatt asked Ms. Paez when this would return to the Commission before going to the Governing Body.

Ms. Paez thought it would be either the second meeting in July or the first meeting in August; most likely July.

Mr. Berke also thought the second meeting in July.

Director Isaacson explained they are reviewing the Land Use Development Fee schedule and it would come before the Planning Commission for review. The timeliness of the fee schedule relates to the Land Use operational budget proposal.

Ms. Paez noted it was seen before by the Commission with Carol Johnson.

Chair Hiatt asked if it was necessary for the Governing Body to hear from the Commission at that time. He wouldn't be opposed to both on the same schedule.

Director Isaacson said the timing for the second meeting of July is important. He noted the fee schedule isn't significantly different than last year.

Chair Hiatt said if they receive the draft ordinance by the second meeting in July, and the fees were in the same meeting, he suggests they not hold a public hearing. He asked if that would be acceptable.

Ms. Paez said the motion to postpone should include whether or not the Commission would hear public comment. She thought it might be useful to continue receiving written public comments with a specific deadline before the meeting.

## **Commission Discussion**

**MOTION:** Commissioner Clow moved to postpone the recommendation on the ordinances until the second meeting in July, at which time there would be no public hearing, but written comments are encouraged to be received by the deadline, a week prior to the meeting. Commissioner Faulkner seconded the motion for both ordinances.

Commissioner Sategna said he suggested exceptions be considered for family pass-through entities. He understood the current proposed amendments already have exceptions through an LLC. He asked Ms. Paez for clarification if people could own multiple properties through an LLC.

Ms. Paez explained the existing draft legislation would preclude that. Any type of ownership transfer would result in the termination of the existing permit. Commissioners could add a friendly amendment or rely on staff, but there is no loophole for that in the draft.

Commissioner Sategna said he still favors exceptions.

Chair Hiatt asked to confirm that if the motion is successful it would not preclude any of the Commissioners contacting Ms. Paez or staff to provide more feedback.

Ms. Paez replied they would be happy to receive feedback. The sponsors are also considering input and amendments before the draft is published.

Chair Hiatt confirmed that Commissioner Clow's motion referred to both item 2 and item 3 and Commissioner Faulkner was aware of that.

Commissioners Clow and Faulkner confirmed that was their understanding.

Director Isaacson asked Ms. Paez if the draft could still move forward to the Governing Body committees if postponed tonight.

Ms. Paez said she wasn't aware of any legal limitation. The Code states there must be a recommendation from the Planning Commission, but the practice is to send legislation to committees. The Commission could include a request in their recommendation to hold this back from review by other committees at this time. She noted staff recommends this stay on schedule with the other committees to keep momentum and to have discussion in other venues.

Director Isaacson thought it important to use the committee's public hearings for the public to participate and provide input. He didn't want to stop the momentum for other committees to also have this type of conversation. He hoped this could still move forward to other committees.

Chair Hiatt said that was his intent.

Commissioner Faulkner asked if they could postpone but include a recommendation requesting the chairs of the committees allow public comment.

Chair Hiatt suggested the Commission just stay in their lane. The other committees will know this is an issue that will have tremendous feedback.

Chair Hiatt said he wanted to be sure everyone has opportunity to hear feedback and that the sponsors receive that feedback. Then the Planning Commission could give the sponsors their best in regard to the recommendation and language. He was looking forward to getting this draft back from the other committees.

Director Isaacson noted the Governing Body committed to the Ordinance revision going through all three Governing Body committees. That shows their interest in getting the draft in front of as many people as possible.

Commissioner Gutierrez repeated that the motion would not have public comment except the written comments. He asked if possible since other committees could decide whether to have public comment, to ask staff to set up a meeting for public feedback. Staff could report back to the Commission on the results.

Chair Hiatt asked if Commissioner Gutierrez was concerned it would stifle public comment by the Planning Commission not having a public hearing in July.

Commissioner Gutierrez replied there are three committees where public comment depends on the chair meaning there is only public comment at the Governing Body level. And they don't know if the other committees will open their meeting to comments.

Chair Hiatt pointed out written comment is requested before the draft comes back to the Commission. That provides opportunity for the public to focus on the changes or something they may have missed.

Commissioner Gutierrez noted there is no interaction with written comment.

He wanted a meeting of some sort with Land Use staff and the public who want to comment.

Chair Hiatt stated the motion limits public comment to written comments. Commissioner Gutierrez would like to ask Land-Use staff if they would consider a meeting with the general public.

Director Isaacson said he is reluctant for several reasons, one because of workload and capacity challenges. Secondly, the circumstances they find themselves in and the challenge of holding a public meeting over Zoom and the efficacy of that. If they could make the request contingent on what happens at the committee meetings, if all three committees hold public comment, the meeting hosted by Land Use may not be necessary.

Chair Hiatt asked if Commissioner Clow would remove public comments from the motion and allow the chair to make that decision.

Ms. Paez suggested the motion specify one way or the other.

Commissioner Clow said for her, listening to someone for two minutes and then cutting them off really doesn't provide a lot. Written comments are much better if everyone reads them and they give more details. She envisions the next meeting as brainstorming and doesn't want to take time for a two-minute public comment.

**VOTE:** The motion was approved by unanimous roll call vote with Commissioners Clow, Faulkner, Hogan, Gutierrez, Lawrence and Sategna voting in favor and none voting in against.

#### **G. STAFF COMMUNICATIONS**

Mr. Berke thanked everyone for their participation and good comments.

Director Isaacson agreed with Mr. Berke. He too appreciated the conversation and good public input. He will keep Chair Hiatt informed on the progress through the committees. He noted that staff will receive several applications and be very busy through July and August.

Ms. Paez added she would work with Director Isaacson to communicate suggestions from the meeting on areas that warrant further consideration. She took notes and thought it important to communicate the highlights of the discussion, especially to City Council. She offered to run what she captured of the discussion by Chair Hiatt and circulate that to the full Commission. Commissioners could contact her directly with their specific comments or anything she missed.



Chair Hiatt said he definitely wanted to see those.

Director Isaacson offered to work with his team to get the numbers for the data driven questions and have them available at the next meeting.

#### **H. MATTERS FROM THE COMMISSION**

Chair Hiatt said he received a communication about the Land Use budget issue that he will pass on to staff.

He noted that Commissioner Faulkner had drafted a letter to the Governing Body, and he will postpone the discussion until the next meeting.

Commissioner Gutierrez thanked staff for their work. He asked that they pay attention to the deadline date on the emails for the written comments, and stick to the deadline to allow the Commissioners time to process the comments.

Commissioner Faulkner asked if the letter from the Commission had to be postponed or could it be circulated and sent by the Chair.

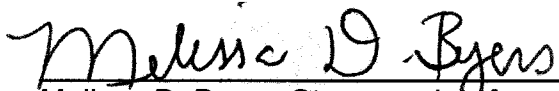
Chair Hiatt thought it had to come before the Commission in an open meeting.

Ms. Paez agreed.

#### **I. ADJOURNMENT**

Adjourned at 10:06 pm.

Submitted by:

  
Melissa D. Byers, Stenographer for  
Byers Organizational Support Services

Approved by:

  
John B. Hiatt, Chair