

**Planning and Zoning Commission Work Session Minutes
February 7, 2019
Conference Room 1-A - 1st Floor City Hall**

ATTENDANCE:

Commission Members Present: Burns, Harder, MacMann, Rushing, Russell, Stanton, Strodtman, Toohey

Commission Members Absent: None

Staff: Bacon, Caldera, Palmer, Teddy, Zenner

Guest(s): Various (STR interested parties)

ADJUSTMENTS TO AGENDA: None

TOPICS DISCUSSED

Old Business -

• **Short-term Rental Public Comment – Follow up**

Mr. Zenner recapped the public input process undertaken to-date regarding the proposed regulations relating to short term rentals. He reminded the Commission and public in attendance that the most recent STR draft, dated December 13, 2018, was reviewed at December 20 PZC listening session. He provided an overview of the purpose of tonight's meeting and explained that it was designed to obtain PZC member feedback that could be incorporated into a subsequent regulation drafts. He explained that while there were public in attendance it was staff desire to work only with the Commissioners to ensure greatest meeting efficiency. Mr. Zenner further explained the format of the meeting and several additional "ground rules" to ensure the meeting purpose was fulfilled.

Mr. Zenner noted that the Commissioners were provided a spreadsheet summarizing the 22 public comments received prior to publishing the work session agenda and were e-mailed two additional comments from the public. He said the spreadsheet included columns that identified topic areas, cited concerns, the City's authority to regulate, and a planning response for each comment. Mr. Zenner noted that before moving into the details of the spreadsheet that Mr. Caldera would be providing comments on several key points relating to legal issues raised within the spreadsheet.

Mr. Zenner noted that following these comments staff and the Commission would move through the spreadsheet with the goal of obtaining feedback that would guide staff in knowing where to go next in terms of revisions. He also ask for feedback at the end of the work session regarding the schedule moving forward, specifically if the Commission would be ready for the 12/13/19 draft to be updated for a public hearing on March 7 which had been tentatively discussed with the Commission and the public as the earliest possible public hearing.

Mr. Caldera provided information on the City's Police Powers and authority to regulate land use and provided legal information on the applicability of various cases and case law on short term rental regulations. He said it was important to make sure the regulations were not arbitrary and capricious and that creating land use regulation was within the City's purview.

Mr. Zenner asked the commission to provide feedback on four questions which would help guide staff to address the public's comments based upon the perspective of the Commission. He asked that each commissioner go around and answer each question individually. The Commission was favorable to this approach. The questions were:

1. Do you want STRs in any residential zoning classification?
2. Do you want land use regulations of STRs? (Chapter 29)
3. Do you want to only use the RCUL only, or with Chapter 29?
4. Do you want to distinguish between owner-hosted and non-owner-hosted?

Ms. Rushing presented a PowerPoint Presentation on her R-2 neighborhood which had been provided with the agenda materials. She noted the diversity of the neighborhood demographics. She had concerns that some of the testimony had said that if STRs are dangerous and shouldn't be in the R-1, that then they should also not be in R-2. Looking at yards, parking and size of the homes, many R-1 neighborhoods might be better designed to accommodate STRs if STRs were allowed. There was general discussion.

The majority of the Commission said STRs should be allowed in residential zones. Some Commissioners voiced concerns about STRs in the R-1 and R-2 zones. Some Commissioners noted a preference for greater restrictions, conditional use permits, or a ban in these zones. The majority of the Commission supported land use regulations for STRs overall (Chapter 29). Commissioners also noted areas within the proposed draft regulations that needed additional discussion and revisions. A majority of Commissioners said they wanted to see land use regulations that worked with the existing rental conservation law. While there was dissent and concerns with enforcement and regulation, the majority of the Commission supported distinguishing between owner and non-owner hosted model.

Ms. Bacon was asked to provide additional information on how STRs fit in the land use spectrum. She explained that there is a spectrum of land uses ranging from low intensity residential to commercial and industrial zones. She presented a graphic that portrayed this spectrum and how staff sees the incremental intensity of uses increasing from single family homes to short term rentals to bed and breakfasts to hotels. She described that the function of living was the same within each of the different land uses, but the uses became incrementally more intense. She noted that any proposed regulations should attempt to address the increases in intensity.

She described the frequency of trips, the degree of known persons in a community, and the impact on infrastructure as elements subject to increases in use intensity. There was general discussion by the Commission relating to this concept with additional clarification needed on the issue of occupancy. Commissioners commented on topics such as: 1) how to define occupancy within an STR and should it be compatible with the underlying definition of a family for the zone in which the STR was located, 2) how to address situations of over-occupancy, 3) how to mitigate impacts, and 4) how to define acceptable levels of occupancy.. Existing challenges and opportunities on occupancy and nuisance issues were also discussed.

There was general discussion of the definition of a hotel for zoning purposes and taxation purposes. The definition for taxation purposes would be in Chapter 26, not in Chapter 29 (Unified Development Code) and could be defined to include STRs in the hotel tax definition as they were revenue producing. Chapter 29 would provide for the land use regulations of STRs and Chapter 22 would contain the rental conservation components applicable to STRs dealing with registration and health and safety inspections. Mr. Zenner noted that multifamily buildings were not built to the same standards and did not undergo the same types of inspections as hotels. This is why the conversion of multi-family structures into multiple STRs was limited to 25% in the proposed draft.

Ms. Loe noted there was a lot of refinement and deep diving to do on specific issues and the language of the ordinance. She asked that in the interest of time each Commissioner go around and speak to their high level issues. Mr. McMann agreed there were fine details that the Commission needed to evaluate in terms of the definitions and the regulations. He said they had a path and that he thought it would be helpful for the Council to have a good understanding of the day to day impacts of the regulations.

Mr. Strodtman agreed with Mr. McMann on the details needed to be worked out and that the legal framework and meeting framework were helpful for working with the public comments. Ms. Burns said she wanted to see occupancy drilled down due to the public comments. She said many of the neighborhoods don't want STRs from the comments. She also said there needed to be consideration of cost on the City's enforcement and manpower. She wanted to look at the issue through the lens of what the impact would be on existing neighborhoods.

Ms. Loe said she wanted to look at hosted and non-hosted and where was the line on keeping things from getting too commercial. She said the commercial threshold may not be in favor of non-hosted. Ms. Russell said she was wavering

over hosted versus non-hosted and was concerned about the verbiage and wanted to tie it down. She had concerns about property rights being fair across property types and between neighbors and owners. Mr. Toohey cited concerns about property rights. He wanted to look at how many days for owner-hosted as it wasn't uncommon for someone to be away for 60-90 days a year.

Mr. Harder had concerns that neighbors have a route for enforcement. Mr. Stanton said he thought the model was good but needed refinement. He was concerned about occupancy and enforcement. He wanted to promote the initial model of STRs where folks rented out rooms. He said as the business model becomes more complicated and where there is more separation between owners and visitors there needed to be more regulations. Ms. Rushing said it was important that people be treated equally in R-1, R-2 and R-3. She wanted to look at hosted versus non-hosted and agreed with Mr. Stanton that owning multiple STRs becomes a commercial enterprise.

After discussion it was determined that the March 7 meeting would be a public comment meeting with no vote. Mr. Zenner indicated that staff would produce a new draft ordinance to address the comments heard tonight, but that it wasn't expected to be the formal public hearing draft. He said they would advertise the public meeting appropriately.

Mr. Zenner indicated that staff would look more into how the regulations would work with the existing rental conservation program following more formal action by the City Council. He indicated that staff would schedule a work session discussion on March 21 to go over the March 7 public comments in efforts to schedule a final public hearing on the proposed regulations by the second meeting in April.

ACTION(S) TAKEN: Made motion (Russell, seconded by Toohey) to approve agenda as submitted. Made motion (Russell, seconded by Toohey) to approve the January 24, 2019, minutes as submitted. No other votes or motions were made.

Meeting adjourned approximately 6:55 p.m.