

MINUTES

PLANNING AND ZONING COMMISSION MEETING

COLUMBIA CITY HALL COUNCIL CHAMBER

701 EAST BROADWAY, COLUMBIA, MO

OCTOBER 10, 2019

COMMISSIONERS PRESENT

**Ms. Sara Loe
Ms. Tootie Burns
Mr. Brian Toohey
Mr. Michael MacMann
Ms. Valerie Carroll
Mr. Anthony Stanton**

COMMISSIONERS ABSENT

**Ms. Joy Rushing
Ms. Lee Russell
Mr. Rusty Strodman**

I. CALL TO ORDER

MS. LOE: I would like to call the October 10, 2019, Planning and Zoning Commission meeting to order.

II. INTRODUCTIONS

MS. LOE: Ms. Burns, may we have roll call, please.

MS. BURNS: Yes. We have six, we have a quorum.

MS. LOE: Thank you, Ms. Burns.

III. APPROVAL OF AGENDA

MS. LOE: Mr. Zenner, are there any additions or adjustments to the agenda?

MR. ZENNER: No, there are not, ma'am.

MS. LOE: Thank you. Can I get a motion to approve the agenda?

MR. MACMANN: So moved.

MR. STANTON: Second.

MS. LOE: Thank you, Mr. MacMann. Mr. Stanton seconded. I'll take a thumbs up approval.

(Unanimous vote for approval.)

MS. LOE: Unanimous.

IV. APPROVAL OF MINUTES

MS. LOE: Everyone should have gotten a copy of the September 19th meeting minutes. Are there any additions or changes to the minutes?

MR. STANTON: I move to approve.

MS. LOE: Thank you, Mr. Stanton.

MS. BURNS: Second.

MS. LOE: Thank you, Ms. Burns. Second by Ms. Burns. Thumbs up approval of the minutes?

(Unanimous vote for approval.)

MS. LOE: Unanimous.

V. TABLING REQUESTS

MS. LOE: Moving on to the meeting. Our first item of business is a tabling request.

CASE NUMBER 209-2019

A request by Primus Companies (agent) on behalf of Dr. Joseph Rich (applicant) of Family Focus Eyecare, to rezone the parcel comprised of 3, 7, and 101 West Briarwood Lane. The parcel lies at the southeast corner of Stadium Boulevard and West Broadway. The applicant wishes to rezone the property from R-1 (One-Family Residential) to M-0F (Mixed-Use Office District). The parcel consists of three lots and is 0.67 acres in size. (The applicant is requesting that this item be tabled to the December 5, 2019 Planning Commission meeting.)

MS. LOE: May we have a staff report, please.

MR. PALMER: Yes, you may. Thank you, Madam Chair. So as I put on the slide there, the applicant wishes to table this item to the December 5th Planning and Zoning meeting. The reason for that is because they intend to have a community meeting with the neighboring property owners. They had one scheduled, but cancelled along with this tabling -- or the tabling request. So I guess their plan is to regroup, perhaps change their plan, come back with a more comprehensive approach based on public comments and go from there.

MS. LOE: Thank you.

MR. ZENNER: This is a -- this was a publicly advertised meeting for this evening, so you will notice there are a number of people in the audience, many of which may be here for this case. It is not inappropriate if the Commission desires to entertain comment for the purposes of the public record given that these residents may be unavailable on the December 5th date certain tabling if that is the desire of the Commission. And I also believe that the applicant is here tonight if there are any comments or questions that you may have of them. A vote to table is a requirement given that this is a -- this was a publicly advertised agenda item. And as most of the Commissioners are familiar with, typically, when a request of this nature is presented with the underlying purpose of trying to address community as well as staff-related concerns with the application, they have been historically approved. Given that there is an extended delay in this project from its initial application, it will also require readvertising for the public hearing, and it will require readvertising for a public information meeting. The readvertising of the public information meeting will allow us the opportunity then to convey back to the residents any modifications that the applicant has made to the application from its initial submission. So that is a procedure that we internally manage and monitor in order to ensure that the public is informed of the proposed application before it is brought back before you. If you have any further questions, I'll be more than happy, or Mr. Palmer can answer them, as well.

MS. LOE: Point of clarification. Since this is tabled, if we have public comments, would the public comments be on the question of tabling only?

MR. ZENNER: They should be limited to just the question of tabling.

MS. LOE: Thank you. Are there any questions of staff? I see none. So as Mr. Zenner just explained, since this was a publicly advertised case, we will open the floor for public comments on the question of tabling this case to December 5.

OPEN PUBLIC HEARING

MS. LOE: So if anyone would like to come forward and offer any comments and, again, this is on the question of tabling this case only to December 5th. Seeing none -- if you would like to come forward, please come forward, give your name and address for the record. You are limited to three minutes.

MS. OROPALLO: Okay. Thank you. My name is Maria Oropallo; I live at 208 East Briarwood Lane, one street over from this proposed. Regarding the tabling, we understand why the applicant might have done that, but as a community, we have to say we're very frustrated. We showed up for the public information meeting. We showed up for the meet and greet that they were going to do for us, and both times they cancelled. Actually, the first time, they didn't even show up. The second time, they cancelled four hours before they were supposed to -- we just don't feel the community is being treated well with this. So, yes. Go ahead and do your voting the way you have to do, but you have to know this is not a very -- we do not have a very positive outcome with them so far. Thank you.

MS. LOE: Thank you. Any additional comments on the tabling of this case? Seeing none, we will close public comment.

PUBLIC HEARING CLOSED

MS. LOE: Question on -- Commissioners, discussion? Mr. MacMann?

MR. MACMANN: If there are no questions, in the matter of Case 209-2019, I move to table said public hearing to date certain 5 December 2019.

MR. STANTON: Second.

MS. LOE: We have a second by Mr. Stanton. We have a motion on the floor. Any discussion on this motion? I have a comment. Based on the comments received, I'm wondering if we should extend the period. It sounds like this applicant is having a hard time making dates.

MR. PALMER: So I can speak to that a little bit. They actually, if you noticed in the request letter, they asked for the second meeting -- or the -- I guess there's only one meeting in November. Yeah. They requested either the first meeting in November or the first meeting in December, and I basically told them it would be the better idea to take the December meeting to offer plenty of time. And then another aspect is if their request changes significantly, this will be withdrawn possibly and then a new request will be submitted. So it -- it may be later than that even. It just depends on what their -- what their plans -- how their plans change from now till they come back with whatever proposal they come up with.

MS. LOE: So, Mr. Palmer, just so I understand. If they miss the December 5th meeting, their request is going to be withdrawn and it will be a new application?

MR. PALMER: No. So one -- one possible outcome is that they change their request to include more property, per se, or maybe less property or whatever. And so the -- the area to be rezoned would change significantly, and I believe that's enough to trigger a new case essentially.

MR. ZENNER: Any new case submitted would have to then comply with our actual application deadlines accordingly. Our December 5th applications, I believe, are at the beginning of November, so we're -- we're right now, and I believe the staff memo, as it related to this, indicated the date for an upcoming -- the tentative revised PI meeting, a meeting to talk about the revisions in October -- it's before the end of this month, if I am not incorrect, or the beginning of early November, at that point, we may have a better idea if they are going to make the application deadline. We only have three Planning Commission meetings -- four Planning Commission meetings before the end of this calendar year and probably about an equal amount of application deadlines, as well. So at this point, if they are going to radically change the request, we're going to have it withdrawn and then resubmitted to ensure that all of the appropriate paperwork has been submitted and ownership certificate and all of the other material. We just cannot readvertise with an expanded request. So until we have an additional opportunity to see what the PI meeting and their community meeting generate, we're really unclear if this December 5th is realistic or if it is -- needs to be further pushed.

MS. LOE: Thank you. Mr. Stanton?

MR. STANTON: Before we vote, not hearing from the applicant in lieu of what was said by the community representative as it -- deep impacts our hope that this is enough time to address any community issues, and if it's not, we need to look at the date. That has a great impact on the future -- future date on this case to me.

MS. LOE: Additional comments? I see none. Ms. Burns, may we have a roll call, please.

MS. BURNS: Yes.

Roll Call Vote (Voting "yes" is to recommend approval.) Voting Yes: Ms. Carroll, Ms. Loe, Mr. MacMann, Mr. Stanton, Mr. Toohey, Ms. Burns. Motion carries 6-0.

MS. BURNS: Six to zero, motion carries.

MS. LOE: Thank you, Ms. Burns. Recommendation for tabling is approved.

VI. PUBLIC HEARINGS

MS. LOE: This takes us to the next section of the meeting which is public hearings.

Case Number 190-2019

A request by Agape Total Healthcare of Missouri, LLC (applicant) to revise the existing Statement of Intent for Centerstate Plat 6, Lot 1, to permit a medical marijuana dispensary. The subject 1.5-acre site is located at 3310 Vandiver Driver and improved with the former Ruby Tuesday.

MS. LOE: May we have a staff report, please.

Staff report was given by Mr. Rusty Palmer of the Planning and Development Department. Staff recommends approval of the revised statement of intent applicable to only Centerstate Plat 6, Lot 1, so as to allow a permit for a medical marijuana dispensary facility on the subject property.

MS. LOE: Thank you, Mr. Palmer. Are there any questions of Mr. Palmer? Mr. MacMann?

MR. MACMANN: I have a question for Attorney Caldera, if that's possible. Mr. Caldera, I'm going

to ask you to speculate a little bit here, if possible. What are our chances in getting entangled in this Menard's versus Centerstate thing?

MR. CALDERA: I assume you're talking about some form of litigation?

MR. MACMANN: Correct.

MR. CALDERA: Don't know, and I don't want to speculate. I will say that Rusty did point out that there's a private covenant and, at this point, there has not been, that I'm aware of, any court action that's enjoined us from acting tonight. So like in other situations where there's a private agreement between the entities, it's between them to fight out unless they get a court to enjoin us from acting, and so far, no one has done that.

MR. MACMANN: All right. I just wanted to know where the chips might fall. Thank you very much.

MS. LOE: Any additional questions of staff? Seeing none, we will open up the floor to public comment on this case.

PUBLIC HEARING OPENED

MS. LOE: If anyone would like to offer comment on this case, you're welcome to do so. Please come forward and give your name and address for the record. You're limited to three minutes. If you're speaking for a group, you will be given six minutes. Oh, sorry. Thank you, Ms. Burns. I have been remiss in asking Commissioners if they have had any ex parte related to this case, to please disclose that before we proceed any further so all Commissioners may have the benefit of the same information. I see none. Thank you. Please.

MR. NATIONS: Thank you very much, Madam Chair. Good evening, members of the Commission. My name is John Nations; I'm a lawyer with the firm of Evans & Dixon. We have offices here in Columbia, and I represent the petitioner. I am joined here this evening by Mr. Jay Perez of Agape Total Healthcare. Mr. Perez is here in the second row. And I really can't present the case any better than Mr. Palmer did. It's just simply an amended statement of intent. I would say with regard to the Menard's issue, that is a private matter. It is a private contract and the ability of the City to use its powers to enforce a private contract is generally a place where the City would not and should not go. I have extensive experience particularly in that matter. I have been a Planning Commissioner, a City Councilman, and a Mayor, and I've dealt with a lot of development issues and a lot of private contracts over the year, but that would -- we frankly don't agree with Menard's position, just for the record, and with everything that's gone on, we are prepared to comply with all of the requirements of the City of Columbia and we just are asking simply for an amended statement -- for a statement of intent to add the use as is previously approved by the City of Columbia under the mixed-use category, to simply add a medical marijuana dispensary facility, and we would ask for your recommendation of approval.

MS. LOE: Thank you. Are there any questions for this speaker? I see none at this time. Thank you.

MR. NATIONS: Thank you.

MS. LOE: Are there any additional speakers who would like to comment on this case? Seeing none, we will close public comment.

PUBLIC HEARING CLOSED

MS. LOE: Commissioner discussion? Mr. MacMann?

MR. MACMANN: The only reason I brought up the Menard's letter is there have been various -- and I agree, by the way, before I go on. I agree with this gentleman who just spoke and I agree with our esteemed counsel. I do find it troublesome when people toss lawsuit threats around or intimate that, and I think it very problematic because I think we're just doing the people's business here, and we have no desire to be entangled in private matters either.

MS. LOE: Any additional -- Mr. Stanton?

MR. STANTON: I would like to entertain a motion.

MS. LOE: I'm sure we'll join you in that. Would you like to make that motion for us to entertain?

MR. STANTON: I would.

MS. LOE: Thank you.

MR. STANTON: As it relates to Case 190-2019, Centerstate Ruby Tuesday PD Plan major amendment, I move to approve the amended statement of intent for Centerstate Crossing Ruby Tuesday PD Plan.

MR. MACMANN: Second.

MS. LOE: Second by Mr. MacMann. We have a motion on the floor. Any discussion on that motion? I see none. Ms. Burns, may we have roll call, please.

MS. BURNS: Yes.

Roll Call Vote (Voting "yes" is to recommend approval.) Voting Yes: Ms. Carroll, Ms. Loe, Mr. MacMann, Mr. Stanton, Mr. Toohey, Ms. Burns. Motion carries 6-0.

MS. BURNS: Six to zero, motion carries.

MS. LOE: Thank you, Ms. Burns. Recommendation for approval will be forwarded to City Council.

Case Number 31-2019

A request by the City of Columbia to amend Chapter 29, Sections 29-1.11 [Definitions], 29-3.2 [Permitted Use Table], and 29-3.3 [Use-Specific Standards] of the City Code relating to revision of the definitions of "hotel" and "bed and breakfast", creation of definitions for "short-term rental", "short-term rental hosted", "short-term rental unhosted" and "transient guest", and creation of new use-specific standards governing the establishment and operation of short-term rentals inside the City's corporate limits.

MS. LOE: May we have a staff report, please?

Staff report was given by Mr. Pat Zenner of the Planning and Development Department. Staff recommends adoption of the standards as submitted.

MS. LOE: Thank you, Mr. Zenner. Before we get to questions for staff, I would like to ask

Commissioners if there has been any ex parte prior to this meeting related to this case to please disclose that now so all Commissioners have the same information to consider on behalf of this case in front of us. I see none. Are there any questions for staff? Ms. Burns?

MS. BURNS: I want to talk a little bit more about conditional uses, if I may. On page 4 of the report, Section C, adjacent property owner notification. It says, "The City of Columbia shall provide public notice for any conditional-use application seeking to establish a short-term rental unhosted in accordance with the provisions of Section 29-6.3(c). So conditional use is not required in hosted R-1?"

MR. ZENNER: Not in general. And I -- as you read that and as I understood where you were going with the comment, a hosted -- if a hosted unit, if a hosted short-term rental wanted to expand its transient guest load, it would require a conditional use. What we could address within this particular paragraph is that it could read to establish a short-term rental hosted -- modify a hosted short-term rental or establish an unhosted short-term rental, public notification will be provided in accordance. I mean, that would be how we would handle it internally. It's not written that way. A conditional use by default in our general requirements of the Code requires notice, so this is simply just probably an omission on our part, and we need to look at adding in hosted short-term rental where applicable as -- just as a clarification so everyone knows that if you're going to ask for a conditional use to expand transient guest occupancy permitted in a hosted unit, it could be in R-1, it could be in any other zoning district, you're going to have to have -- public notice is going out on that. You just don't get to skate by.

MS. BURNS: And then just to follow up, the CA designation, the conditional accessory use -- or, I'm sorry -- the A/C designation that we're seeing in short-term rentals, the only other place that I see that is in currently in the table that you've provided is in home daycare.

MR. ZENNER: And so as -- in a home daycare, home daycare is actually a principal accessory use. It is a permitted accessory use to a regular residential structure. It has a -- it has a care limitation on the total number of children that can be cared for and the number of employees that can be employed. In the R-2 zoning district, if I am not incorrect, it actually allows an increase in the number of outside employees and an increase in the total number of children that can be cared for, but you have to ask for a conditional use to do that.

MS. BURNS: And I guess my point is just that A/C was -- is pretty much throughout the short-term rentals. I guess, to me, it makes more sense that we have conditional use as we bring this into our community allowing for neighbors and neighborhoods to be aware of what's occurring in their R-1 and R-2 neighborhoods, and that's just a comment.

MR. ZENNER: Thank you.

MS. LOE: Additional questions for staff? I have to follow up on Ms. Burns' comment about posted on page 3 of the draft, item (b)(2)(i). I believe that should also be hosted and unhosted dwelling unit in that this would apply to hosted dwelling units asking to increase their occupancy over three transient guests.

MR. ZENNER: And are we --

MS. LOE: In R-1 zoned district short-term rental hosted and unhosted dwelling units shall (a) not exceed a maximum of three transient guests, however transient guest occupancy may be -- it's just the same requirements would apply to both hosted and unhosted if you're going to exceed the three.

MR. ZENNER: That would be -- I believe that is correct, Ms. Loe.

MS. LOE: It's the same comment Ms. Burns was picking up, I think, on the second page.

MR. ZENNER: Yeah.

MS. LOE: Or the next page.

MR. ZENNER: It's just in the two sections. Thank you.

MS. LOE: On the front page in the definitions 29-1.11(a), short-term rental hosted, the third sentence down, "for transient guests either while the owner is on site," I believe the "and" should be an "or" -- "or represented by a designated agent not required to be on site."

MR. ZENNER: That "and" was actually added for the purposes of clarifying, and this was after some conversation with our law staff -- was added, and it's not an or. And the reason for that is we wanted to make sure that we were covering within this -- the hosted version of this that there is a requirement that there be a designated agent.

MS. LOE: I understand. Then we should delete the either perhaps, for transient dates while the owner is on site --

MR. ZENNER: That would be -- yeah. Yeah.

MS. LOE: -- and represented by a designated --

MR. ZENNER: For transient guests while the owner is on site or -- yeah. That would be correct.

MS. LOE: All right.

MR. ZENNER: The either would be the better one to delete.

MS. LOE: One way or the other. Either one way or the other, not both.

MR. ZENNER: Any other comments?

MS. LOE: That was mine for now.

MR. ZENNER: Thank you, Ms. Loe.

MS. LOE: Any additional comments? Seeing none, we will open the floor to public comment.

PUBLIC HEARING OPENED.

MS. LOE: If you can give your name and address for the record. You will be limited to three minutes, unless you're speaking for a group, and then we will be magnanimous and give you six minutes. A little red light flashes in the corner when your time is up. Thank you.

MR. NORGARD: Good evening. My name is Peter Norgard, 1602 Hinkson Avenue. I am here to speak in opposition to some of the things I've heard tonight. I have basically two points. The first point, I'm a little concerned about the fact that I'm hearing that R-MF is, for lack of a better term, being thrown under the bus. It sounds like protections are being built in for R-1 and R-2, but it sounds like R-MF is just being left out, and I -- I find that a little disturbing because there's a large number of people in this community that actually live as homeowners in R-MF use areas. I'm sure you're aware that in the '50s,

there was inexplicable upzoning for a lot of properties near the downtown areas, and so I feel like this is going to negatively impact those areas, North-Central, West Ash, Benton-Stephens, and possibly even East Campus. And so I have some concerns that we are ignoring the rights of those who live in R-MF districts, the same peace and the same quiet that you're affording for R-1 and R-2. My other concern is that I believe that the concept of short-term rental, particularly unhosted, is essentially a business proposition. It's -- it's a money-making operation. And I feel that because the City is going to be considering taxing these like hotels, that these are actually businesses. And I have concerns that we're going to be permitting business operations within residential districts, especially when, you know, I move into a neighborhood ten years ago and now, all of a sudden, I'm being told that we're going to have a business next door. I take a little bit of an exception to that, and I feel that we may be opening the City up for legal battles in the future. And so I'll end there.

MS. LOE: Thank you, Mr. Norgard. Are there any questions for this speaker? Mr. MacMann?

MR. MACMANN: Thank you. Mr. Norgard, do you think it would be equitable in an R-MF neighborhood in general, without -- we have a lot of nitty-gritties -- to have the similar or the same protections and/or processes that R-2 has? Would that be more equitable in your mind?

MR. NORGARD: I believe if we're going to extend procedures for R-1 residential, whether it's R-1, R-2, or R-MF, I believe if it's a residential district, we should be extending those same rights to all residential districts. I don't understand why we're excluding R-MF. I know that traditionally it's used for rental and higher density residential, but, to me, it seems, as a person that lives there that's not renting, I feel excluded.

MR. MACMANN: Maybe, Mr. Zenner -- Ms. Carroll, you have a --

MS. LOE: If I -- sorry. R-MF is covered by the same provision as R-2.

MR. ZENNER: Yeah.

MS. LOE: R-2, R-MF, M-OF, M-N, MDT, and M-C are all covered by the same policy.

MR. NORGARD: For unhosted?

MS. LOE: Yes.

MR. ZENNER: Hosted and -- hosted and unhosted.

MS. LOE: Hosted and unhosted. So where there was -- and it's a blanket policy except that R-2, R-MF, it's 25 percent of the dwelling units, which makes sense in that R-2 only has two dwelling units.

MR. NORGARD: Well, I also distinctly remember reading that the limitation on the number of transient guests in one zoning district was -- was tied to the zoning district itself, and another was being tied to the International Property Maintenance Code, so I have some concerns that --

MR. ZENNER: Both --

MR. NORGARD: Is that true?

MR. ZENNER: No. Both -- both -- the maximum occupancy limits are both tied -- and both R-1 and then R-2 and above are all tied to the International Property Maintenance Code based on square footage, bedroom, and living-room, dining-room square footage, so that's the -- how we determine the

maximum in an unhosted -- in a hosted or an unhosted situation. In the hosted situation, you would have to seek a conditional-use permit in order to increase the tenancy, the maximum guest occupancy. In the unhosted version in R-1 or any of the other zoning -- in R-1, it's actually still capped out at a maximum of three unless you seek to have more as a part of a conditional use, so you would be unhosted to begin with. You would be having to get your conditional-use permit, you would have to ask for more guests. Likewise, if you were in R-2 or R-MF unhosted, you would be either capped at four to begin with, or you would have to seek the ability to increase the occupancy load as part of your required conditional use as an unhosted unit. So you either have to comply with the maximum tenant -- the maximum transient guest load, three in an R-1 zoning district, four in an R-2, R-MF, and above, and that's -- and you have to live there. That's how you get your administrative approval. Any other way, you either are complying with the minimal requirement of three or four, or you're asking, as part of your conditional use because you're unhosted, for more people. And it's at that point that when you ask for more people, we're going to ask for a whole lot more information, and we'll ask for more information in order to do that conditional-use evaluation. We're going to ask for square footage, we're going to ask for parking, we're going to ask -- and we're going to analyze the area because the loads is the load of transient guests increases, so too do the impacts. And under the unhosted version, the safeguard is there, but we calculate maximum load the same way in both categories. Maximum load is calculated based on the Property Maintenance Code. And then the conditional use approved by the -- by -- recommended by the Commission and ultimately approved by Council is what sets that upper end of what you're allowed. You get right out of the gate three or four, depending on which zoning district you're in, and then any more beyond that is -- is the Council's decision based upon the analysis of the impact that it will create, so everybody is equally protected.

MR. NORGDARD: So after two readings of this, I didn't get that out of that, so I feel that your -- your Code is very confusing.

MR. MACMANN: I will say, Mr. Norgard, we have been pouring over this and pouring over this and pouring over this. And for those of you who don't know Mr. Norgard, he is very much an attention to detail person, and I'm glad you brought up something that you might have missed because others may have, as well.

MS. LOE: Ms. Carroll?

MS. CARROLL: You're in an R-MF single-family home?

MR. NORGDARD: We are in an R-1 home.

MS. CARROLL: You're in an R-1.

MR. NORGDARD: But we're land-locked by R-MF.

MS. CARROLL: I'm glad you commented because there is a difference between R-1, R-2, and R-MF, in that one is kept at three and they have to ask permission, the other is four. I -- I get what you're saying about the 25 percent and it's -- it's hard to get on the first reading. I -- that's intended for there's more units. But I do think that the impacts to a -- any residential zone is the same, perhaps greater, based

on the residential zoning and that they should be treated the same. Just a comment.

MS. LOE: Any additional comments or questions for this speaker? I see none. Thank you, Mr. Norgard.

MR. NORGDARD: Thank you.

MR. BURNS: My name is Richard Burns; I live at 310 East Brandon Road. And full disclosure, my wife, Tootie, is on the Planning and Zoning Committee. I really have just a couple of questions as opposed to a comment. Could I address staff with these questions, Ms. Loe? So if -- if my neighbor sells their house and someone buys that house and it's a five-bedroom house, and they want to Airbnb it, and put in ten occupants, Mr. Zenner, you describe a little bit about what the conditional-use process would be. It sounds like it may go before Planning and Zoning, it may go to the Council. If they fulfill all the requirements that are listed, can -- tell me what circumstances might you deny their request?

MR. ZENNER: We have not -- Mr. Burns, I would love to be able to give you answer. We have not dealt with running that hypothetical scenario through our process at this point. There are criteria in which the Code currently identifies conditional uses that would be the purview of the Planning Commission. They deal with compliance with the comprehensive plans, goals, and intents. We deal with, likely, safety-related matters or the capacity issues within a neighborhood. So it is possible that based on the broad categories that we have, we would be evaluating a significant number of factors. What's the location of the structure in relationship to other structures around it -- how big is the lot area, how many parking spaces are provided on site or -- and where is the access potentially to the property in relationship to others, how does that relate to the context of the neighborhood. The conditional-use process is relatively broad in its general application right now as it exists, and part of what we have to determine is do we need to tighten up or add criteria as it relates to our conditional-use evaluation. We haven't really had a cause to think that critically at this point because we're still trying to get through the first steps of are we going to even adopt supplemental standards that require a conditional use. If it's chosen that Council doesn't want to do a conditional use and they only want to do registration, expending that much staff time to try to develop something that may not even be used, we have many other things that we can be doing at this point, but it is not something that is not in our mind. We realize that there may need to be augmented standards that deal specifically with how do we assess impact, and we have not yet come to that. That's -- to some extent, that's part of what the administrative rules are that we would also be developing. It gives the context in which we want to look at it. A denial of a project is probably going to be based on a number of factors. I mean, (a) we have to determine what is the occupancy of the home, and it's based on bedrooms. So, yes, you may have five bedrooms in a house. They may all may be well over the square footage of each individual bedroom to accommodate two people or more per bedroom. There's a particular point which you, if we have to think about the number of vehicles that may be driven there by individuals, it's, again, location, how that site is -- how the house is situation on the site. All of that comes to be in -- into play. Then, as a conditional use, it's going to require a public hearing, and neighbors that are around that that have either experienced -- have negative experiences with others that

have existed there previously or within the neighborhood prior to the adoption of regulations that may impact this body's reaction to anything new of that scale, and very well may also impact Council's view of something being proposed that large. While a home may be able to accommodate ten guests, that doesn't necessarily mean that it is appropriate, and I think that that's part of where justification would need to be provided as to why, and then it would have to be determined does the site support that many from the traffic impacts that it may create, from the locational impacts of how you ingress and egress the house, how much additional backyard, is the backyard fenced, what other amenities may exist within the home that could cause greater impacts. Again, it all comes back down to the fact, though, that you could have a neighbor that has a husband and a wife, and they have eight kids. They have a pool and you have seven of them that drive. You know, you're going to have in an individual residential environment, you could have the same impacts that a short-term rental could be creating, just not on as frequent a basis. And I think that that's part of where, you know, it becomes really in the weeds as to what we would use.

MR. BURNS: But I know those neighbors.

MR. ZENNER: Exactly. And there is -- and that becomes a -- that does become a -- that is a factor that potentially would be utilized. Standard variance procedure, if I just may, within our Board of Adjustment, has five criteria, and the five criteria are pretty well flushed out as to what constitutes an actual -- constitutes their rights or their role in approving something. And right now with the way that our conditional-use process is set up, we don't have that same structure. So what we may have to do is we may have to, as we go further down this path, we may have to identify very definitive markers as to has this piece of evidence been provided, has this assessment of impact been evaluated, and that's something that, again, we have not yet gotten to.

MR. BURNS: Well, then I would be in favor of just making a blank limit to three or four people and that way you get rid of any of this -- right now it's very -- we don't know, and you can't tell me really what this is going to look like. And so it's really hard to kind of move this forward without, you know, me personally knowing what this is going to look like.

MR. ZENNER: I believe I would suggest that there are many people in our community that would like to have the same answers that you're asking for, and creating, again, a single one-size-fits-all based on potentially unique conditions of homes within a neighborhood and how far they're spaced apart from each other and how much parking they provide. It would probably be inappropriate at this point to basically define an arbitrary maximum or minimum -- or maximum without having criteria that we've actually been able to develop. And what this proposes right now is a general framework that we then can come back and have the opportunity to do additional work to create those more unique standards.

MR. BURNS: And do you -- do you foresee there would be additional money that would be necessary to hire extra staff to look over applications or help with enforcement?

MR. ZENNER: The -- that's (a) outside the purview of the Planning and Zoning Commission to really have that discussion, but that's a business licensing function.

MR. BURNS: Well, I'm asking you as City staff, I guess.

MR. ZENNER: That's -- it's -- it's revenues that would be generated out of business licensing, it would revenues generated out of tax collection, and it would be revenues generated out of inspection fees.

MR. BURNS: Well, do you think that existing staff could handle what's being proposed now as far as what we're -- what we'd be talking about?

MR. ZENNER: Until -- until we have a better handle on how many total units that we have that we will have to inspect, I have no way of answering that question.

MR. BURNS: Thank you.

MS. LOE: Thank you, Mr. Burns. Are there any questions for this speaker? Ms. Carroll?

MS. CARROLL: I don't have a question for this speaker. I have a comment on staff.

MS. LOE: Okay. We'll go to -- do you have a question for this speaker, Mr. MacMann?

MR. MACMANN: I actually had a comment for the speaker.

MS. LOE: Okay.

MR. MACMANN: Do you want me to wait or do you want me to proceed?

MS. LOE: Let's -- let's go to Ms. Carroll first, if it follows up on the commentary.

MS. CARROLL: Comment.

MR. BURNS: I'll go ahead and sit down unless you have a question for me. That's --

MS. LOE: Thank you, Mr. Burns.

MS. CARROLL: Thanks. Pat, you mentioned that the -- that a family of eight might have the same impacts as a short-term rental, and I -- I just wanted to comment that that's not necessarily true. It's been fairly well documented that short-term rentals do increase housing costs for both long-term rental availability and for housing prices, and that's been confirmed by independent research agencies.

MR. ZENNER: And I -- I would suggest that the regulations that are before this Commission and that will be presented before City Council are regulations that deal with land-use impacts, they do not deal with the economic impacts of this industry or this use within the community. That is a policy decision that will be made at the Council level as it relates. We are proposing and my comments are focused on land use.

MS. CARROLL: Right.

MR. ZENNER: The impacts that a --

MS. CARROLL: You're focusing on nuisance comments.

MR. ZENNER: And land-use related impacts, ma'am.

MS. CARROLL: That's not entirely separate from the land use. It is an economic use with economic impacts.

MS. LOE: We're going to take a five-minute break. I'm sorry. Just -- we only have six people, so we're at quorum. We can't take an intermediate breaks and run business, so that's why we're having a little discussion up here on the dais. We're going to give that a little break. But before we do, Mr. Zenner [sic], you had a quick comment?

MR. MACMANN: Just a quick comment, both to staff and to Mr. Burns, and for those he would

ask the questions for. As this goes forward, and anyone who is interested in this, I would comment -- I would focus my energies on the commercialization of residential neighborhoods. Your three or four -- okay. You have ten, it's a business, and maybe the health, safety, and welfare issues. And something else, I had the ten people at home, and we had seven drivers. Maybe we were short-term rental, maybe we weren't. Let's take a break.

MS. LOE: We're going suspend -- take a break for five minutes. We'll be back soon. Thank you.
(Off the record)

MS. LOE: We're going to call the October 10th Planning and Zoning Commission meeting back to order. We are in the middle of public comment. If you are intending to make comment, I'm sure we have multiple speakers and this could go on for a while. We're famous for our 2:00 a.m. meetings, but we really do get a little bit groggy after midnight. So if you want to move forward or just get prepared, we would appreciate that. Again, your name and address for the record, and three minutes, if you please.

MS. NEUNER: I'm Shawna Neuner, 3709 Citation Drive. I am also president of the Columbia Apartment Association, and the first portion of what I would like to -- to speak, I want to address from that perspective. I have a -- a strong concern that we -- sorry. I'm short. And this maybe is a question for Mr. Zenner or -- and kind of a statement for you guys at the same time. The -- the portion of this that addresses not doing individual room leases or stays for different guests, I would request that -- that we look at maybe changing some of that verbiage that would protect the long-term traditional rentals. We have a large percentage of our population that are university students, young people, who do individual leases. This gives the benefit of a young person that they can afford a nicer property, but not be responsible for their roommates lack of ability to follow through. If a roommate decides to take the next semester and go to Australia, instead of staying here, they're not stuck with a lease on a roommate who ran off on them. So there's individual leases on a long-term situation can protect those people, and I think that that's something that if you have a lease that's more than 31 days, that it would be exempt from that would be something I would like to request that we maybe consider putting in there. I also want to make a comment on the nontransferability for the short-term rental.

MS. LOE: It would not be considered a short-term lease.

MS. NEUNER: I understand that, but I would like that it -- that we clarify that somewhere that it -- that that is only for a short-term rental that that would come in because that's one of the concerns that the Apartment Association has is anything that -- any rules that are going onto to the short-term rentals we're very closely watching what that is going to do to our traditional rentals or what -- what may impact those.

MR. ZENNER: I believe, Ms. Neuner, what I'd like to be able to explain to you is is a part of the rental conservation law changes that will need to be made. There will be two totally separate compartmentalizations of rules that apply to long-term rentals and rules that apply to short-term rentals. There is no way that the short-term rental requirements that are being described here in this particular specific --

MS. NEUNER: Uh-huh.

MR. ZENNER: -- use-specific standard can be confused with a long-term rental when we are done because there will be complete segregation within the Rental Conservation Code which deals with your long-term rentals that you're concerned about. So I -- while I understand -- I understand your point, I don't believe it's necessary because of what we will do in addition to these use-specific standards for the other code sections.

MS. NEUNER: Okay. I also would like to say sort of along that lines the -- the nontransferability.

MR. ZENNER: Un-huh.

MS. NEUNER: I also -- I would like that that -- for the short-term rental also be able to transfer with similar rules to the way that the compliance inspection now transfers. It -- it doesn't automatically transfer for the duration. It's within certain rules that that would -- would be able to transfer and there's a process for it. We do still sell a property subject to tenant's rights, and when you have a short-term rental, that is a contract that you have. So if we sell it and we sell that contract then to the next owner, and they become responsible for honoring that contract. So it would -- I would like to have some protection for them that that be able to transfer.

MR. ZENNER: A short-term rental is not considered in a similar fashion to a rental contract. If you have a tenant within the property or a transient guest in the property at the time that it transfers, that's maybe a different situation. However, I would imagine if you're selling your land, you're possibly not going to be renting it to transient guests at the same time unless you're unhosted maybe. However, the -- the conditional-use permit process is a -- is a special right that is applied to that property. And as a special right applied to that property, we, as a municipality, believe that it is appropriate that that right to terminate with the sale of the property to the individual to which it was granted, that is why the provision is written the way it is. Unlike a long-term rental which is more traditionally accepted within the community, as a, in essence, a vested -- I hate to use the term vested -- but a vested right with that residential dwelling unit, that is why long-term rental components, if you had a lease or you had some other tenancy that was there long-term, it would transfer likewise.

MS. NEUNER: Well, but with the short-term rental, we have those contracts sometimes a year ahead of time, and we have that obligation to withhold that contract.

MR. ZENNER: Is it not also possible, though, that if you are a property owner that is licensed to have a short-term rental, that you also can contact those potential future tenants or those future transient guests and tell them that I'm selling my land and, therefore, my future buyer doesn't have an approval for that?

MS. NEUNER: No. I'm held responsible for the contract, and they have to pay damages if I choose to do that.

MR. ZENNER: Thank you.

MS. NEUNER: Uh-huh. Anyway I would also like to take a moment to mention that I believe short-term rental has a true value to this community. We hear a lot about the people who are using these in party-type situations. The majority of the people that are staying in our short-term rentals are not

coming in to party for homecoming. That is actually not who I want to stay in my short-term rentals at all. I do my best to avoid that type of stay. The majority of my guests are coming here for hospital visits. We have people that are purposely attempting to find a home, not a hotel, so that they can be here with their family while their grieving during a funeral, while they are helping a loved one convalesce. That helps support our community members that are going through medical emergencies to have that support system to be able to come in here for them. The majority of my guests are coming in for medical stays, veterinary stays, funerals, and a lot of those types of circumstances. And I just think that we need to realize that there is a value to our community for having places for them to go, and that those people are not having the huge impact with the neighborhoods and such that we're hearing complained about. I realize that there are some problem properties that I would like for us to look for some ways that we don't cap everybody in the entire city, but that we look instead at looking for ways of dealing with the nuisance properties and allow for this thing that can be very beneficial to our community. Thank you.

MS. LOE: Thank you. Are there any questions for this speaker? Mr. MacMann?

MR. MACMANN: Just a statement for Ms. Neuner. My concern, while these certainly are very notable and well-spoken of or oft spoken of party properties, my concern and I think a couple of my other Commissioners' concerns are as follows: STRs are driving up home prices notably. We already have a housing shortage with people that comes to affordability. To err on the side of caution, do not get in the situation which we're kind of already in that maybe other communities have had this even a more notable rise in property, maybe it is one of the other reasons to be cautious and thoughtful with STRs.

MS. NEUNER: May I respond to that?

MR. MACMANN: Certainly.

MS. NEUNER: The majority of those places -- locations where you see that short-term rentals drive up the value of properties, those tend to occur in tourist destinations. In a location like Columbia, I'm seeing the majority of people who are doing short-term rental and sticking with it for very long are people who are using it to offset vacancy rates. And as the president of the Apartment Association, I can tell you very clearly that the housing shortage that some people talk about is being felt very differently in the rental community where we have a very high percentage of vacancies still.

MR. MACMANN: Well, we also have a community that has 12,000 renters -- (inaudible) -- that work that they can afford. That's -- it's a big discussion that maybe you and I should have at another time. Okay?

MS. NEUNER: I understand, and I agree affordable housing is a different concept, but these -- these properties are not usually going into the areas where you find affordable housing to be what you're trying to get in there anyway.

MS. LOE: Any additional questions for this speaker?

MR. TOOHEY: I have a question for Mr. MacMann. So where are you getting that data from that shows that?

MR. MACMANN: NCS 2017, the data that was collected between 2013 and 2016. We have

almost 16,000, if the numbers continue to grow, households that are burdened currently.

MR. TOOHEY: Yeah. But where are you showing that that's increasing current housing prices?

MR. MACMANN: We could have this debate, if you would like. There's plenty of data to go -- go forward.

MS. CARROLL: There's quite a bit of academic increase --

MS. LOE: I'm sorry. There can only be one conversation up here at a time. This is public comment period right now, so --

MR. TOOHEY: No, that's fine.

MS. LOE: So, yes. Thank you. Any additional speakers?

MR. GALEN: Madam Chair, fellow Board members and City staff, thank you very much. My name is Jeff Galen; I live at 3603 Topanga Drive. I'm also on the board of the CoMoRea. We're an organization of real estate investors, and I represent 510 members of our group. First of all, I'd like to mention that we appreciate all the work that you all have done on this. We recognize this has been a very trying and difficult ordinance to take care of and I think you've done a very good job of balancing the needs of both sides of this. As far as recommendations go, we basically just have two -- I'd like to mention two things we would like to maybe see addressed in the UDC that we think might make this a little bit better. As Mr. Zenner mentioned earlier, one of the concerns that staff had mentioned was the idea of having a -- a conditional use that could be potentially burdensome on the City employees. We also recognize that, too, and we would maybe suggest something in between. Our recommendation is for those -- for those properties for initial use when we get the certificate of use that we have in administrative process as opposed to a conditional-use process, but in the cases of where we want to exceed the UDC or if we want to -- or if there is a problem with that certificate of compliance, then it would have to go back for conditional use. We think that that might address that issue better so could not put a burden on the City, as well as make it a lot more easy for owners to -- to pursue getting these properties on the City books. The second thing we wanted to recommend was there were several places where we mentioned where we have transient guests being limited to three in the R-1 districts, whereas in the other districts where we have transient guests listed at two per room -- bedroom, our recommendation would be that we unify that across to two. The concern is that a lot of the folks who are going into these places are families, and I know we don't mention families specifically. We're talking about transient guests, but there are families that are using the properties, and what we do know is that 57.7 percent of the families out there that have children have two or more children. What that would mean is if you're limited to three guests, that means those individuals cannot use those places. In addition to that, if do you wish to use one, that would mean you would have to split a family into two different residences to have them stay as opposed to using the condition of using bedrooms. We feel that that would not cause a disparate impact on families in this situation. Other than that, again, we thank you very much for all the work that you have done on this.

MS. LOE: Thank you. Are there any questions for this speaker? I see none. Thank you.

MS. MALEDY: Hello. I'm Teresa Maledy, and I live at 215 West Brandon Road. I also appreciate

the thoughtfulness and the pace that the Planning and Zoning has set to make sure that we get this right, because I think it's been mentioned, it's very hard to undo this if you open the doors too wide and then you find out that you need to bring them back, and some communities have had to go through that. I also read the comments before this meeting, and as I read the ones at least online, it looked like there are still quite a few concerns about short-term rentals and I appreciate you listening. One thing I wanted to talk about tonight which touched on a little bit, you were talking about safety and the businesses itself. I recently went to Tuscaloosa, Alabama on the Chamber Leadership visit.

Mr. Toohey was there, and so some of those, he might recall as well, or want to add to it. But during the trip, we met with city officials and among other topics, they touched on short-term rentals, and so that kind of piqued my interest. And as they started what sounded like a multi-year process, and I don't say that to discourage you because I know how long this has been going on, but they also mentioned that they had 70-some meetings and hearings about this. And what they were surprised when they started out, and it was to address some of the complaints they were having, they were surprised to find that 19 percent of their housing was at that time considered seasonal and recreational use and being used as short-term rentals. They also formed what they called their framework process and they were very proactive in soliciting information from using a Neighborhood Partnership Committee. They talked with higher education. There's a very large university there, as you know. They also talked to neighborhood associations and individual citizens. And the City of Tuscaloosa said that their guiding principle through this process, which they referred to as a framework process, was that the City needed to take care of their own citizens. That was what their focus was. Now what's interesting, they also said they wanted something simple, predictable, and business friendly, but as they looked at the business requirements, I thought that was interesting and wanted to share. The City designated three areas that were eligible to operate short-term rentals. They placed caps on the percentage of short-term rentals within these districts. They do have a formal application process and the property must meet building codes and be equipped with safety equipment which also included being -- meeting fire codes, sprinklers, even in hosted short-term rentals, and they must be inspected by a licensed home inspector. They also have insurance requirements to approve the application, and the applicant must prove a rider on their homeowner's or commercial property that expressly covers short-term rentals showing \$1 million liability coverage, and also with the City shown as an additional insured, and I thought that was interesting. I hadn't heard that before. They also have very specific parking requirements that go along with their particular short-term rental property. If the short-term rental property is approved, they have a business license, and that expires in two years, and they also complete audits, and ties along with the caps that they put within these certain districts. I would encourage Columbia to still consider protecting the residential neighborhoods. I think that's very important to your citizens here, and we've heard it over and over again. I also wanted to touch on, and I was glad that it was brought up. There is data within other cities and one of the reasons they sometimes pull back is it does impact affordable housing, and that's workforce housing and we need to be aware of it. It's being talked about by the City Council, and it seems that we would be working

against ourselves if we don't consider that because, once again, you need to protect your citizens and your residents, but also those that are investing in these properties right now with the hopes of being able to use them as short-term rentals, if we open the door too wide and then need to pull it back, in my sense, we have betrayed them, as well. Thank you.

MS. LOE: Thank you. Are there any questions for this speaker? I see none. Thank you.

MS. CARROLL: Can I make another comment?

MS. LOE: Ms. Carroll?

MS. CARROLL: Since we've brought up data in other cities again, I just wanted to point out that the data I'm drawing from is a study by the National Bureau of Economic Research, and it was based on nationwide data, and the conclusions were drawn at a median level.

MS. LOE: Thank you.

MR. TOOHEY: It would just help when you guys bring that data up if you had, like, brought that data to us to view.

MS. CARROLL: Yeah. Okay.

MS. LOE: Yes. Please come forward.

MR. ALDEN: Good evening. My name is Mike Alden, and I live at 111 East Ridgeley Road right here in Columbia. And I really only have three points I'd like to make as a citizen and community member, and someone who has sat through my very first meeting with the Planning and Zoning Commission. Enjoyable evening I have had. And let me say -- and I'm sorry. I really have. It's been very interesting to be able to listen to this discussion. It's also been very confusing. And so -- and I mean this seriously as a community member. Right. I moved to Columbia, Missouri, 21 years ago to live in the Grasslands neighborhood, a neighborhood surrounded by neighbors and people that you had an opportunity to know and to grow with and to learn and to build acquaintances. I did not move into that neighborhood to have a business being operated right next door to me, to have transient guests come through the home on an occasional basis. And frankly I think in many instances, STRs are very closely assimilated to bed and breakfasts. I'm sorry to take exception to your comments earlier, but I do. And so I think it's critically important that we pay attention to fabric of our neighborhoods in this community. The second thing would be as you consider your communication strategy on how you're going to communicate this throughout our community, I would encourage you to do that in a way that's more understandable, acceptable, and certainly easier for us in the community to -- to recognize how this benefits us in Columbia and how this benefits us in the neighborhoods of which we live. And the third comment I would make to you to consider is this. As far as enforcement of these extensive regulations, whether it be 70 square foot for a bedroom, 100 square foot for a bedroom -- I listened this evening about the size of a living room or how many bathrooms, or whatever all this litany of regulations are that we're going to incorporate to be able to go to my next-door neighbor to make sure that he or she is in regulation of operating a business in my neighborhood, I would encourage you to make sure that you have a plan fully thought out to understand how those are going to be incorporated based upon the number of staff that that would require, that cost

that that would require, and how that would impact us as a community to make sure that we have appropriate enforcement of the regulations that you're considering incorporating. You know, I'm in opposition to this. I think that STRs are not the place to be located in traditional neighborhoods in this community. I would echo the comments that Teresa Maledy made relative to the experience they had in Tuscaloosa, and, Brian, I know that you were there, and I know a lot of other people were there as well too. And I think it would be best served for us as a community to take a look at other best practices like Tuscaloosa and other areas and try to learn from some of those before we step forward and incorporate those in our community here in Columbia. Thank you for the opportunity to make some comments. I appreciate it.

MS. LOE: Thank you for coming to one of our meetings.

MR. ALDEN: Thank you.

MS. LOE: Are there any questions for this speaker? Mr. Stanton?

MR. STANTON: Where should a short-term rental be?

MR. ALDEN: I don't have an answer for that. I think that that's a decision and a consideration for this Planning and Zoning Commission, as well the City, to incorporate. I think, though, that we could be best served by going throughout the country of examples where this has been implemented in an acceptable way and in an appropriate way, and one that enhances the community and see if we can try to replicate some of those community models here in our community. But I don't have the answer to that question. But thank you for the question.

MS. LOE: Mr. MacMann?

MR. MACMANN: Just quickly. I'd like to thank Director Alden for reminding us that we dwell in Arcana and sometimes that doesn't always communicate very well, and your point is well taken.

MS. LOE: Any additional questions or comments? I see none. Thank you.

MR. ALDEN: Thank you. Thank you.

MS. LOE: Any additional speakers on this topic?

MS. LEEPER: Hi. Alice Leeper; I'm at 2015 Ivy Way, and I don't currently operate an Airbnb. Okay. But what I'd like to say is -- is as Ms. Neuner mentioned earlier, a lot of the people that do participate in -- in these short-term rentals are families, and I would hate to see us adopt a Code that completely overlooks the family aspect. I understand the risks in allowing too many people in a building and them providing a nuisance situation, so I was going to suggest that maybe we look at your three transient guests, plus up to two additional minors under the age of 18, and that would potentially allow two adults and three children, which would be your typical three-bedroom, two-bath house size family. And then, you know, that can be -- that would make the whole conditional-use applications much reduced, and it would allow for a broader use of these properties. And the other thing that I would suggest is that there are a number of people that use these short-term rentals to offset the cost of their own housing. You know, I have friends that are renting a basement room, you know, on a periodic basis, and it is actually a good way to make housing more affordable for people if you have the setup that allows for it. Thank you.

MS. LOE: Thank you. Are there any questions for this speaker? I see none. Any additional speakers?

MS. GARDENER: Good evening. My name is Christine Gardener; I live at 112 Anderson Avenue. I moved there in 1984, and it was and still is probably considered the wrong side of Broadway. I didn't know that at the time. I was happy there. Later on, one of our former City Managers called my neighborhood the Notorious Ash Worley Corridor, but through this all, it was affordable. I moved in and it was a true neighborhood. Many elders were there who had lived there from the time the houses were built. That was 35 years ago. At the time we moved in, it was diverse, it was family solid houses, a lot of connections among the neighbors. Today it's even more diverse. It's a strong neighborhood, very well connected, but it's at risk. Recently I'm seeing stresses put on my neighborhood, worsening infrastructure, neglect, homes condemned and replaced with unneighborly student housing. We need traffic safety and calming. And all this has happened with our West Ash Neighborhood Action Plan. Still continues. The problem is that the West Ash Neighborhood Action Plan doesn't address the stresses that are mentioned. Page 19 says this plan provides a valuable service by highlighting the projects and priorities that matter most to West Central stakeholders, so staff and Council can move confidentially toward dedicating resources to these neighborhood goals. Unfortunately, no resources have been dedicated that I know of. But, right now, the stress of today is unhosted short-term rentals. Unhosted short-term rentals are not neighbors. It's a commercial operation. There's no sharing or caring amongst your neighbors if it's a short-term rental, unhosted. There are no eyes on the street, as Jane Jacobs talks about frequently. No one is there when your electricity goes out or you need some help or you just want to share a cup of coffee. On the other hand, home businesses and hosted STRs are encouraged. They bring eyes to the street, frequently daytime eyes because they work at home. It was interesting as I was going through the process of the West Ash Neighborhood Action Plan, I was also reading the "Death and Life of Great American Cities". It was a veneer of things from Jane Jacobs in our neighborhood action plan, but, unfortunately, her teeth, her substance was left out. I recommend the chapter on gradual money versus cataclysmic money for you to look over. So anyway the neighborhood action plan mentions brew pubs coming into our community, but what would be the reality? If you zone something commercial, the reality could be anything that moves in there. Hosted STRs, on the other hand, and home businesses would provide more diversity, walkability, and more connections, which is also something that Jane Jacobs talks about a lot. What is difficult about acknowledging that unhosted are commercial? I don't understand this, and they belong in commercial-zoned areas. I wish Jane was here so we could ask her what she would think about empty houses unhosted STRs in neighborhoods.

MS. LOE: Ms. Gardener, are you willing to take questions from the Commission?

MS. GARDENER: I would like to finish all my comments, please. I have waited a long time to go on the public record with this, so —

MS. LOE: We have received several communications from you. Your three minutes are —

MS. GARDENER: I have new information. I have new thoughts.

MS. LOE: If you would like -- care to summarize your last points.

MS. GARDENER: I really -- I really would like to through my whole thought process here, and if you want to haul me off, go ahead. But the three-minute rule, I know the history of that. I call it the Paul Albert Memorial Three-Minute Rule. I'm not Paul Albert. I have waited a long time. I have more comments to make.

MS. LOE: Excuse me. Are there any other speakers that would like to make comments? I'm sorry, Ms. Gardener.

MS. GARDENER: It's not okay to remove needed housing.

MS. LOE: Ms. Gardener, there are other speakers.

MS. GARDENER: It's not okay to sever opportunities for connections. It's not okay to stress my strong, healthy neighborhood. I'm going to need these connections as I age and climate disruptive events increase. I'm going to say that again. I'm going to need these connections as I age and climate disruptive events increase. Are you going to call me hysterical? It's based on the Greek word for womb. If I'm a woman and I'm acting hysterically, I've been called that before. I'm a long-time environmentalist. I have been watching this play out for a long time.

MS. LOE: If you're going to make comments, please direct them to the case in front of us.

MS. GARDENER: Two weeks ago, I was in a barn in Salina, Kansas, in front of Bill McKibben. You may not know of him. He is the organizer of 350.org. Recent book is called "Falter." It's about human species faltering. It was a small crowd, but he was just coming from the largest global action on climate change ever.

(Off the record.)

(Ms. Gardener continues speaking.)

(Inaudible.)

MS. LOE: We're going to call the meeting back to order. Just to clarify, the three-minute rule is an objective rule to give everyone a fair chance at speaking. We do ask that you hold to it. With that in mind, are there any other speakers that would like to make comments on the case in front of us? Please come forward. Your name and address for the record.

MR. HAFHEY: Yes. My name is Ron Haffey; I live at 1805 University Avenue, and I actually have two questions. You talked about posting the agent who is available for the unhosted rental. As a neighbor, how is that information available to me?

MS. LOE: Mr. Zenner, would you like to respond to that one?

MR. ZENNER: It would be not -- it would not be for the unhosted, it would be for a hosted unit, so there is -- the agency posting is required for hosted units only, sir, not unhosted. An unhosted unit is considered unhosted; so therefore, we don't have that criteria.

MR. HAFHEY: What good does that do me as a neighbor who has a concern about --

MR. ZENNER: About an unhosted unit? The route for any complaint as it exists currently within the Code is a -- a potential violation needs to be reported to the police. If it is after regular business hours

or it needs to be reported to our office, at the Community Development office, during regular business hours.

MR. HAFHEY: That kind of takes away the -- you know, the neighborly thing of working out your problems without taking it to the police. Second question is we limit the number of people in the short-term rentals. I don't see any mention of limiting cars.

MR. ZENNER: That, again, is a function -- it's a function, generally, of the number of the people that are present. Cars normally are related to transient guests.

MR. HAFHEY: Then I'll give you my scenario. When Missouri joined the SEC, and the Campus neighborhood area and I think in the Grasslands and maybe other neighborhoods, we all got door knockers on our house offering to buy our -- rent our house for \$1,000 to \$1,500 a weekend. My neighbor rented her house, a great neighbor, by the way. She rented her house to a nice group of people from Georgia for the first time Georgia played Missouri in Columbia, and it was great. Another house in the neighborhood likewise did that, and it was more of a horror story. Two years after my neighbor rented her house, I got a call from somebody in Georgia wanting to rent my house, which was adjacent to the neighbor's house actually, and my house is 150 feet -- my property is 150 feet wide, 400 feet deep, so my house is on the front of block. My backyard goes clear through to the back street and there's two houses perpendicular to my house. They wanted to rent that house plus my house because I had two-thirds of an acre of property, and they wanted that to be their Georgia party home for the weekend. So I'm just -- I mean, I think that's a concern if Missouri ever gets their game up to where they're a topnotch SEC team, I think those problems are going to exist. I think it's good that you regulate it because I'm sure the people in my neighborhood, made a quick \$1,000 or \$1,500, and it didn't get taxed or to go to the community, so -- but I think that pressure is real and could reoccur. And on my property --

MS. LOE: Mr. Hatfield --

MR. HAFHEY: -- I can park -- I have two driveways and two streets, and I could easily park 16 to 18 cars.

MS. LOE: Mr. Haffey, do you -- are you willing to take any questions from the Commission?

MR. HAFHEY: Sure.

MS. LOE: Any questions for this speaker? I see -- Mr. Stanton?

MR. STANTON: So you're not against the short-term, but you're supporting in the regulations that are before us?

MR. HAFHEY: Well, I am concerned about the density, you know, how many of these could be in a particular neighborhood. I have 50 houses in my neighborhood that do not -- that have double lots. There is nobody behind them, or if the house is behind them, there's a football field in between them. And so, we're pretty desirable for this type of activity. But I wouldn't want, you know --

MR. STANTON: So the nightmares that you did witness, how were they remedied or were they?

MR. HAFHEY: They were not remedied because on a football weekend, the City is so overwhelmed by parties and stuff, they can't respond to all the complaints for parties and noise, thus my

question about the property -- the agent, because -- and I met specifically with the police department. They upped their game this last couple of years, but they will tell you that they cannot, with all the problems they've got down on Broadway, the football weekends, they can't staff all the neighborhood complaints.

MR. STANTON: Thank you, sir.

MS. LOE: Ms. Carroll?

MS. CARROLL: So -- so you would be in support of short-term rentals with something to do to -- some sort of regulation that would handle the density of short-term rentals allowed in a particular area?

MR. HAFHEY: I would -- I -- no. I personally am not in favor of them.

MS. CARROLL: Okay.

MR. HAFHEY: I don't know the attitude of my neighborhood and I'm on the neighborhood board, but it's -- it's a real concern to us.

MS. CARROLL: Clarifying. Thanks.

MS. LOE: Any additional questions for this speaker? I see none.

MR. OTT: Good evening. Are you ready for me? Okay. Thanks. My name is John Ott; I reside at 212 Bingham Road. I'm on the board of the Grasslands Neighborhood Association. I think the year that Mr. Haffey didn't get the event -- the Georgia event in his neighborhood, it ended up in ours. It was on the corner of Bingham and Providence Road, and it was the -- the kicker for Georgia, his family rented the house and then they -- you know, it might have only been two or three people, or four or whatever, but they invited everybody from the Georgia clan to come in and have a big party right next to people who were trying to have quiet enjoyment of their house during the course of a football weekend. And so, you know, that's -- that's kind of how it works. If they don't find, you know, someone to do it, they find somebody else, and that's what happened there. But I've got a couple of questions -- and I don't know -- you know, we heard the one time that now, you know, the short-term rentals are considered commercial use and -- and, you know, certainly I would agree with that, but not -- I didn't realize that long-term rentals are considered commercial uses. I mean, I -- I never thought of it that way. When you have somebody who lives in a -- in a place for a year or so, you know, typically, they're year rentals, I think of them as being a residential use, which I think maybe that's how they've been thought of within our Codes over the years. But for now -- now we're calling them commercial uses. And I would just, wow, if they're commercial uses and we're -- you know, we have a hard time, and some people might take exception to this, but I think we have a hard time managing and enforcing that particular branch of our -- of our -- of our uses in our neighborhoods, the long-term rentals, and now we're talking about unleashing short-term rentals on folks. I talked to a number of -- one thing is the intensity. That was another thing, the intensity spectrum, and I know there's been some work on that. And I look at them, but I don't really agree with that. I mean, a short-term rental is going to be more intense than other uses that are on that graph and you might place it on a different place. I don't know if there's any scientific work that's been done on that, or if it's just a subjective thing that it's placed every time that short-term rentals aren't intense, but I can --

you know, I -- from experience, we know they're intense. We've had, you know, a case study in our neighborhood where -- where, you know, we learned how intense they can be. Ask our neighbors about, you know, the intensity of -- of short-term rentals, and they'll have an answer for you there. But hosted versus nonhosted, I agree with the previous speaker. I don't think we need unhosted commercial applications in our neighborhoods. Hosted, perhaps. And when I talk to other neighborhoods, they say yeah, you know, they may have a positive impact economically on our neighborhood. And I said okay, cool, that's good. And so, if that's the case then, maybe there's some room for this designated area, the idea that Tuscaloosa has. Apparently, you know, they've thought through it. But if there's a neighborhood that believes there's a value to having short-term rentals, then, you know, permit them to do it. But maybe it ought to be a neighborhood that brings it to the City and says we would find this a positive rather than a detrimental thing that might affect our property values and our quality of life.

MS. LOE: Thank you, Mr. Ott. Are there any questions for this speaker? I see none. Thank you.

MR. OTT: Thank you.

MS. PLEMMONS: Ms. Bacon, Mr. Zenner, and Commissioners, my name is Gail Plemmons. I live at 17 Aldeah in the West Ash Neighborhood area. Thank you for your careful deliberations regarding this critical decision. It's important that we try to prevent problems rather than try to fix them later. Our central neighborhoods need help preserving our way of life. I recommend, number one, unhosted STRs be located in commercial areas or apartment complexes and should be regulated as businesses. Number two, only hosted STRs should be allowed in residential neighborhoods regardless of zoning. If unhosted STRs are allowed in residential neighborhoods, it will further reduce affordable housing for rentals and home ownership. I have a question for Mr. Zenner. Will there be any limits -- if unhosted STRs are allowed in R-1, R-2, and R-MF areas, will there be limits as to percentage of houses that could be unhosted?

MR. ZENNER: At this point, there are none proposed within the regulations.

MS. PLEMMONS: Why is that?

MR. ZENNER: It is not something that we have given consideration to at this point.

MS. PLEMMONS: So it's unlimited. If they -- if they are allowed, and I'm assuming they will be allowed in those areas, R-1, R-2, and R-MF; is that correct?

MR. ZENNER: They have the opportunity to be allowed, however, there is no guarantee because there is a conditional-use approval process required which must go through two levels.

MS. PLEMMONS: But if there is approval, there is no limits of percentages allowed on a street or a neighborhood?

MR. ZENNER: On a particular -- no. There are not. That is not something that we have identified in this ordinance, nor have given consideration to in prior discussion.

MS. PLEMMONS: I wish that would be taken into consideration. There are -- as previous persons have talked about, in our areas, there are abandoned houses and there are houses that are being left by landlords to fall apart. And those houses could be bought up cheaply by people who want to

operate a business in our area. And I -- I think there should be limits of percentages of how many should be allowed in certain areas, and that we should be adequately notified of the conditional-use process to input.

MS. LOE: Thank you. Are there any questions for this speaker? I see none. Thank you. Are there any additional speakers on this case? I see none. I'm going to close the public hearing.

PUBLIC HEARING CLOSED

MS. LOE: Commission discussion? Actually, Mr. Zenner, some clarification. What do you need from us exactly? A motion to approve the regulations as presented or some motion on the regulations as presented?

MR. ZENNER: Yes.

MS. LOE: Okay.

MR. ZENNER: I mean --

MS. LOE: That's what we're moving toward this evening?

MR. ZENNER: Not to be flippant. I'd love a recommendation of approval.

MS. LOE: Approval.

MR. ZENNER: However, I think in light of the conversation that we have had this evening and the public input that has been received, the Commission may desire to make particular modifications. And what I would request, as we have in other ordinance revision public hearings such as this, any requested revision be stated as a motion and we have that captured for the public record so we can assemble those and pass them on to our City Council for ultimate consideration. The ordinance that is presented here this evening is the ordinance that would be prepared as a public -- as the actual ordinance document unless we are going to table final discussion on this ordinance tonight and request that staff proceed with revisions to address comments. However, I think we -- as we have discussed in prior work sessions, as well as previous experience, we could continue to discuss this matter till the cows come home and continue to be delaying and delaying. So the route to handle this is the ordinance before you tonight is the ordinance that we would provide to the legal department for preparation of an official ordinance revision, and the comments made by the Commission as to its revision would be forwarded to City Council for their consideration and incorporation. At this point, the ordinance as we have prepared was prepared with the full knowledge of the Commission after lengthy discussion during our work sessions from May to September. You may all have considerations at this point after the public has commented to ask for additional changes, and we respect that fully, and we will capture those requested changes as we did when we did our medical marijuana ordinance and forward those to Council. And just so the public understands correctly, this is a staff -- this is a staff drafted version. As we had been instructed by our legal department, there is only one ordinance that can move forward, and that is the ordinance that is before us that has been publicly advertised. Any revisions to this ordinance need to be consented and consolidated by Council through an amendment sheet. We are really not at liberty to amend the ordinance as it exists right now because this is what has been publicly advertised.

MS. LOE: Thank you, Mr. Zenner, for that clarification. Mr. Stanton, then Mr. MacMann?

MR. STANTON: I think we had some very good comments this evening, and they need to be considered at the next level. I am prepared to make a motion to vote on the up or down as it exists, as the document exists, if I'm sure that the public comment has been captured tonight and that City Council will see this public comment for their consideration. That gets this ball moving forward and the new -- and the information that we learned tonight can be moved forward and it they can consider that in their final deliberation on this issue. So that's what I plan to do. I guess I'll wait for everybody else to speak and I'll be ready to make a motion forthwith.

MS. LOE: Mr. MacMann?

MR. MACMANN: Just a quick point -- a couple of quick points -- excuse me. Mr. Zenner and Mr. Caldera, the corrections that were offered by Commissioner Loe and Commissioner Burns will be modified -- correct -- when that goes to --

MR. ZENNER: Yes. I would consider those de minimis changes to the ordinance and their purpose is for clarification only. They are not substantive.

MR. MACMANN: All right. With -- with that in mind, I generally agree with Mr. Stanton. I believe that someone has some -- anyone, you know, here among us have some noble things they wanted Council to focus on or issues of that nature, I think you should go ahead and make that comment at this time so that's included and we pass that along. My general feeling is Mr. Stanton is -- and to follow up on what Mr. Stanton said was that we appreciate everything you guys have said. We haven't heard a lot of new stuff, so I think it kind of is time to take it to the next level and see what they -- what they want to do and how we can help them with that process. And I'd like to thank everyone for their input, too.

MS. LOE: Ms. Burns?

MS. BURNS: I don't know. One thing that I've heard loud and clear tonight is citizens want this to be gotten right before it's implemented and before we take steps that we can't walk back from. And I think we could have probably ten more of these public hearings and hear additional information, good information, repeated information. I agree that I think we need to move this forward. One thing that's been made clear to me tonight and that has been nagging, I know in March that City Council made comment that they were very concerned about conditional-use permits that would come before them as to how much time and effort and cost that might cost the City Council or City staff, and I remembered that, and I realize that can't be a consideration. If it takes conditional use across the board and we vet every single one of these, I think we have a responsibility to make that happen so we can get the best possible product.

MS. CARROLL: And I do have a couple of comments. I also --

MS. LOE: Ms. Carroll?

MS. CARROLL: Thank you. I also appreciate the comments that we have received tonight. I think they were very helpful. I do hope that Council takes these comments in light of the City's agenda to maintain affordable housing stock. I also take to heart the comments that were received today about

hosted STRs. I don't think it's our goal to make legislation that is prohibitive to a family that wants to rent out their basement, for example, and I hope that we can adjust something that protects our neighborhoods without impeding this type of use.

MS. LOE: Mr. Stanton?

MR. STANTON: So new things that I heard tonight. I think that, just to put it on the record, that Tuscaloosa, Alabama, is where the conference was, that maybe that should be looked at. I like maybe looking at percentage of STRs per area might be something to -- to look at. I do caution some of the -- some of the comments that were made about Tuscaloosa. I definitely don't want it to become an elitist situation. My position is that the true nature of the business started out with single-family homes, somebody had extra space in their home and they wanted to rent it. So I don't want a full commercial scale. I want to make sure that it's still accessible for the little guy to turn a buck or two. So to balance that commercial versus, you know, having a family business needs to be balanced, but those ideas are good to hear and it seems definitely that hosted STRs are what most people like and we need to really make sure that if we have unhosted, that we're really looking at how to protect the neighborhoods and the integrity versus -- as well as affordable housing, so that's what I learned this evening.

MS. LOE: Mr. Toohey, did you have any comments?

MR. TOOHEY: No.

MS. LOE: No. Mr. MacMann?

MR. MACMANN: Just real quickly. I want to reinforce what Commissioner Burns said, the fact that this would be a lot of conditional uses should not be a barrier to getting it right. And as a message to Council, I would strongly suggest, folks, that you take some of these taxes and fees that may be raised and hire a staff person or two to make this happen because, if we don't do that, we're going to have a problem. A lot of -- some of you know, and as everyone up here knows, we have a lot of discussions about enforcement and how that's going to happen. And staff is always going we don't have the staff. Well, this may be an additional source of income that will regulate itself. With that, thank you very much.

MS. LOE: Ms. Carroll, additional comments?

MS. CARROLL: I also would like -- because I know that we didn't discuss this and it came up tonight. I would like to see some consideration given to a limit on the number of applications that are allowed per person. And I know several other cities have done such a thing, and those could serve as models.

MS. LOE: Any additional comments? Mr. Stanton -- well, I'm not ready for a motion yet.

MR. STANTON: Okay. I'm ready for --

MS. LOE: So as Mr. Zenner said earlier, this is definitely a compromise, and we've gone through the wringer a couple times. And I think we would all agree that no one is completely happy with it, so a couple of things I'm not thrilled about that I just wanted to go through and point out. I was in on the discussion, so I understood why the agent on the hosted STR was added, so that the host wasn't needed to be present 100 percent of time, but I do feel like it's created a bit of a loophole in that it completely

eliminates the need for the host to be present at all. They could be absent the whole 95 days, only the agent there, and it's still hosted in that the -- it needs to be a primary residence of the host, so it still needs to be someone's primary home. But, Mr. Zenner, as you said in your introduction, if they're gone for three months, which would then be a long-term rental, but they could do a three-months of short-term rentals with an agent taking care of those during that time. So in my mind, that starts to defeat how we were discussing hosted in that you're not having someone present at the house at all. It meets our requirement for having an agent, but I am uncomfortable with the fact that the agent appears to have excused the need. I mean, the item right before that says the owner of record is going to be there with the exception, and then the next one says, except when they're not, and then you can have an agent. So that was one item. I -- I was not a big proponent of short-term rental in R-1 neighborhoods, period. And I -- this is something I've been debating a lot, and this is a big compromise for me, I'm going to say, and I am planning to support this because it is only allowing administrative approval for hosted STRs. Any nonhosted have to get conditional use and there's no guarantee that any unhosted will be approved as conditional use. And the maximum three transient guests, the fact that it's not comfortable to everyone, I'm okay with that because I don't want it to be an automatic business model in single-family residences. If you are going to allow it for bigger groups, I want that to be a conditional use in R-1, as well. So I like the fact that it has been kept smaller, so -- because I was not a big proponent of this in R-1. So, to me, that's a compromise. I'm willing to come up that far. So those are my comments. Mr. Stanton?

MR. STANTON: As it relates to Case 31 -- well, Ms. -- Madam Chair, I would like to make a motion.

MS. LOE: Please.

MR. STANTON: Oh, okay.

MS. LOE: Mr. Stanton.

MR. STANTON: As it relates to Case 31-2019, short-term rentals Code amendments, I move to approve the regulations as presented this evening.

MR. ZENNER: And if I may add to that motion, just for the purposes of clarity -- subject to the two revisions offered during the initial Commissioner comments relating to Sections B(2)(i) by introducing hosted or unhosted dwellings, and C(1) with the clarification on -- adjacent to property owner notification to be incorporative of hosted short-term rentals when seeking increased transient guest occupancy.

MR. STANTON: What you said, Mr. Zenner.

MR. MACMANN: With Mr. Zenner's clarification in mind, I second.

MS. LOE: Second by Mr. MacMann. We have a motion on the floor. Any discussion on this motion? I see none. Ms. Burns, roll call, please.

MS. BURNS: Yes.

Roll Call Vote (Voting "yes" is to recommend approval.) Voting Yes: Ms. Loe, Mr. MacMann, Mr. Stanton. Voting No: Ms. Carroll, Mr. Toohey, Ms. Burns. Motion tied 3-3.

MS. BURNS: Three to three, motion ties.

MS. LOE: No recommendation will be forwarded to City Council.

MS. BURNS: No recommendation.

MR. ZENNER: While no recommendation will be forwarded to City Council, it is still an item that will be forwarded, and no recommendation means that this item will appear under old business, which is where it would have appeared anyway, which means that City Council will hold a public hearing. All in attendance this evening, as well as those that may be watching in TV-land are more than welcome to attend that Council meeting and offer their comments. All comments that were provided this evening will be captured within the actual formal meeting minutes, which are provided to City Council as a part of staff's transmission of its report, and then we will also summarize so the public is aware as was being discussed with the Commission, we will summarize all public comments with recommended alternative text, as well as Commission comments and its recommendations as it relates to particular textual items, as well, and they will generally be itemized by section of the ordinance as we have done previously. And that is to provide Council an opportunity to be able to itemize in their discussion then potential revisions, as well. With that, that does conclude all of our business items for this evening, and we will be forwarding this to Council for its consideration. Tentative introduction scheduled right now for the first meeting in November.

MS. LOE: That concludes Case 31-2019. Thank you all for joining us for this meeting.

VII. PUBLIC COMMENTS

MS. LOE: Anyone care to make additional public comments? This is an open -- all right. Closing public comments.

VIII. STAFF COMMENTS

MR. ZENNER: Yes. Next meeting is October 24th. It will not be nearly as exciting as this one. We only have a single item on the agenda, so I was hoping we would have only had one on this one, but I was wrong, but I can guarantee you that we will only have one on the next agenda because we have tabled the other item to December. And that item that we have before you on the October 24th meeting is our Rock Quarry Road Stakeholder Report, long awaited, but it will be brought forth to you for consideration. The way that this particular project has been advertised, it is acknowledgment of the Rock Quarry Stakeholder Group Report prepared in January of 2017, and recommended action on an implementation table. That is how it has been publicly advertised, so the implementation table that we have previously discussed with you will be introduced and comments can be made on each of the action items in the implementation table. Or if you so choose, you could make one holistic motion to adopt the implementation table and let Council assign the pieces out back to staff. So it takes care of two issues, this hearing will. It will be to acknowledge the plan that has been produced similar to how we have acknowledged the Business Loop Corridor Plan and give it some standing, and then to obviously establish the implementation table which then gives additional opportunity for redirection for text changes and other things to effectuate the actual plan's content through regulatory changes. The areas that the plan covers, as all of you are probably well aware by now, Stadium all the way down to the south city limits, just south

of Gans Road. That is the corridor that this particular plan covers. That is the only item on the regular Commission agenda for the next meeting. We will be reengaging in discussion in work session on the 24th with the comprehensive plan. Ms. Bacon is in the process right now of reviewing some information that we had prepared by an intern that was working for us, as well as potentially a recap of information that we have previously presented to help the Commissioners understand where we have been and then for our newest Commissioner, Ms. Carroll, bringing her up onto speed as to what we're doing so when we move forward, we'll have an opportunity to be able to move forward with positive traction. And then we will also need to be finishing up street trees here under this portion of the discussion, as well. So as we discussed within our work session, we will need to either determine if you would like us to publicly advertise or prepare an ordinance amendment based on Option 1 that we discussed within our work session, or Option 2, and bring that back. That would be advertised for a public hearing at the first meeting and our only meeting in November, on November 7th, if I am correct. So what is the pleasure of the Planning Commission based on this evening's discussion?

MS. LOE: Can there be an Option 3, in that gas is already vacated from one side of the street, so we don't have to require it to vacate from both sides.

MR. ZENNER: There could be an Option 3; however, I think as was discussed in work session, we may want to give consideration to the overall aesthetic along a residential street, and to only require street trees on one-half of a public street, I would suggest --

MS. LOE: But for the purposes of our voting on something to move it forward, didn't we have three options tonight?

MR. ZENNER: If that's what you would like, Ms. Loe, you can have three options. If you would like Option 3 -- door number 3, I will have to prepare that option, and is that --

MS. LOE: There may be no support for it, so the door may close.

MR. ZENNER: And there may not be. I would suggest then if there may or there may not be any support for Option 3, if we were to prepare Option 1 or Option 2 with an alternative to be presented at the public hearing for Option 3, it may be -- that may be better because it would be difficult to produce an ordinance that then is published and then come back and expand the content of that ordinance if there is no support for it at the hearing, if you -- if you understand where I'm coming from.

MS. LOE: Right. But we're voting tonight on whether we pick 1, 2, or 3.

MR. ZENNER: Okay. Let's go there then. I'm sorry. And maybe I'm confusing matters.

MR. STANTON: Madam Chair?

MS. LOE: Mr. Stanton?

MR. STANTON: I would like to entertain a motion.

MR. ZENNER: He's the man of the hour.

MS. LOE: Sure.

MR. STANTON: I move that we -- that we support Option 2 as presented by staff.

MR. TOOHEY: Second.

MS. LOE: Okay. We have a second by Mr. Toohey. Any discussion? So this option, just to remind everyone, is to leave everything in place and plant trees in the yards if they're wanted?

MR. ZENNER: No.

MR. MACMANN: Thank you, Madam Chair.

MS. BACON: And for the audience, this information was published on the work session agenda, so if you go on the City calendar, you look at the work session, you can find Option 1 and Option 2 presented in the staff report.

MR. ZENNER: We're just completely off the rails of the regular business items, so --

MS. LOE: Sorry. Use trees existing in the --

MR. ZENNER: However -- however we want to do this. So Option 2, and let me -- I'll back up here. Option 2 proposes that the standards related to street trees, the requirement for planting street trees within the public right-of-way be eliminated from streets containing less than 50 feet of roadway width; i.e., that is a typical residential street, and only be effective to those street types. All other streets, anything greater than 50 feet in width, which would normally be a neighborhood collector or a feeder street, would require street trees. So something that was more like a boulevard, along those lines. We have added in Option 2 particular provisions that deal with modifying the tree density from what is currently one tree per 40 feet to one tree per 60 feet, which, in essence, is one tree per minimal lot width per the Code. We have authorized or we would authorize an opportunity for the arborist to determine tree species based on the large, medium, or small tree specific to the project area, so if there are particular soil types or other issues, the arborist and the design professional would be determining the appropriate type of tree in order to increase survivability. We are leaving in place the requirement that no more than 30 percent of the trees along a particular roadway frontage be of one tree species. So, in essence, we did not want to have an entire neighborhood developed with a single type of tree. We wanted a diversity of trees within the neighborhood. And, again, through the selection process that the arborist and the design professional would have, the distribution of trees that may be harmonious to each other will be able to be achieved. The required trees that must be planted would be at this 60-foot interval; however, they can be clustered based on unique conditions in other intervals as approved by the arborist when it's determined that site conditions that may be impacting public health, safety, or welfare exist, so it leaves a broader option for the arborist to make modifications to that actual desired 60-foot interval.

MS. LOE: In a nutshell, Mr. Zenner.

MR. ZENNER: We have soil augmentation and some other things.

MS. LOE: We have read this.

MR. ZENNER: Okay.

MR. STANTON: What we have to do is make the vote for options.

MR. ZENNER: The option -- the option is, in essence, you have tree requirements still in Option 2, but they do not apply to residential streets. Option 1, on the other hand, was require the utility placement in the public right-of-way to be moved out of our public right-of-way and have street trees left

where the utility used to be --

MS. LOE: In the -- in the tree lawn.

MR. ZENNER: Yeah. In the tree lawn. So the motion on the floor is Option 2 which is to eliminate, in essence, residential street trees and add a series of other standards that were designed to enhance tree survivability.

MS. LOE: All right. Any discussion on the motion? No.

MR. STANTON: And we were properly seconded, so --

MS. LOE: Roll call, Ms. Burns.

Roll Call Vote (Voting "yes" is to recommend approval.) Voting Yes: Mr. Stanton, Mr. Toohey. Voting No: Ms. Carroll, Ms. Loe, Mr. MacMann, Ms. Burns. Motion fails 4-2.

MS. BURNS: Motion fails four to two.

MS. LOE: Sure. Motion for Option 1.

MS. BURNS: I move that we approve Option 1 that was presented to us in the work session concerning tree placement.

MS. CARROLL: I will second that.

MS. LOE: Second by Ms. Carroll. Any discussion? We've already had the nutshell overview. Ms. Burns, roll call.

Roll Call Vote (Voting "yes" is to recommend approval.) Voting Yes: Ms. Carroll, Mr. MacMann, Ms. Burns. Voting No. Ms. Loe, Mr. Stanton, Mr. Toohey. Motion ties 3-3.

MS. BURNS: Three to three, motion ties.

MS. LOE: I move motion Option 3.

MR. STANTON: Second.

MS. LOE: Second by Mr. Stanton. This is leave the utilities where they are, plant trees on the other side of the street in residential neighborhoods.

MR. ZENNER: Retaining all other revisions that have been proposed in the ordinance?

MS. LOE: In -- yes.

MR. ZENNER: In Option 2?

MS. LOE: Yeah.

MR. ZENNER: In essence?

MS. LOE: Yeah. Option 2, with, yeah, this modification, keeping street trees on one side of the street and --

MR. ZENNER: Subject to all of the other provisions.

MS. LOE: Yeah.

MR. ZENNER: Okay. It's clear to me.

MS. LOE: All right.

Roll Call Vote (Voting "yes" is to recommend approval.) Voting Yes: Ms. Carroll, Ms. Loe, Ms. Burns. Voting No: Mr. MacMann, Mr. Stanton, Mr. Toohey. Motion ties 3-3.

MS. BURNS: Three to three, there is a tie.

MR. ZENNER: All right.

MS. CARROLL: Do we have to come up with something that goes forward?

MS. LOE: We need a -- we need a seventh commissioner.

MR. STANTON: We've got to -- this has been on the agenda, like, three years.

MS. CARROLL: Three years?

MR. STANTON: Yeah. Three -- no. Four years.

(Multiple people talking simultaneously.)

MS. LOE: Scissors -- rock, paper, scissors.

MR. STANTON: I move to adjourn.

MR. ZENNER: Ms. Loe, if you would like, I mean we -- while this is a -- while this is an issue that does need to be addressed, it is not so pressing that it has to be advertised and addressed as expediently as November -- the first meeting in November. We would hopefully be able to have a full quorum of commissioners at our second meeting here in October and, at that point, we can represent the topic and have a vote at that point.

MR. MACMANN: Revote.

MS. LOE: Sounds wonderful.

MR. ZENNER: And I will -- I will prepare Option 3 as a -- as an option for Commissioners that are not present here this evening to have before them, as well.

MS. LOE: Well, we can consider additional thoughts and options, too.

XI. COMMISSIONER COMMENTS

MS. LOE: Any Commissioner comments?

X. ADJOURNMENT

MR. STANTON: I move to adjourn.

MR. MACMANN: Second.

MS. LOE: Thank you. Second by Mr. MacMann. We are adjourned.

(The meeting was adjourned at 9:51 p.m.)

(Off the record.)