

D. Public Hearings for Recommendation

Agenda Item #2. PL20220134, Txt Amendment + #3. PL20220133, ZMA, Short-Term Rental Overlay Zone (Bessey)

STAFF PRESENTATION

Rebecca Bessey:

Gave a timeline of the origins and reasons for this effort. A more detailed explanation can be found in the meeting minutes of the public hearing and work sessions in which these items were discussed.

Bessey: In July 2021, Both Planning Commission and City Council discussed what if any impact STRs have on our community. While these were not quantified specifically, both PC and Council agreed have an impact on housing supply and availability, neighborhood character and overall community character. These points are what Council and PC have continued to come back to as we have worked for the last year or so to draft a short-term rental overlay zone.

This conversation goes back to December 2018 when Council put together an ad-hoc citizens' committee to review STR issues and policies. That committee worked for about six months and developed some recommendations that we presented to City Council. The main recommendation that came out of that work was the need for better enforcement as well as the need for a licensing or registration process for all STRs.

Council supported those recommendations and had given staff direction to move forward with their implementation. At the time, we had intended to have the licensing up and running by the end of 2021.

By June 2021, Council had enacted a moratorium on new VHR permits and directed staff to bring forward additional policy options. That's really when this current work started in June of last year. Since then, PC and Council have had a number of meetings and work sessions on this topic. My count is that we've had 30 public meetings between PC and Council discussing this potential policy change for STRs in the community.

That brings us to where we are today, which is a public hearing and recommendation to City Council for a new short-term rental overlay zone. We've also drafted a short-term rental licensing ordinance that would work together to implement that overlay zone concept.

Next Steps:

City Council has scheduled a public comment listening session on May 10. There will be a formal first and second reading of the draft ordinance before City Council on May 17 and June 7.

If a new policy and those ordinances are adopted, staff will begin the implementation process. There will be considerable public outreach. We will get the licensing program up and running and get the STRs licensed. There will be a process for nonconforming registrations, and we will launch the complaint hotline.

Overlay Zone Summary:

Our current Code uses several definitions to define STR uses vacation home rental (VHR), vacation rental, temporary short-term rental.

The proposed Code before you today would eliminate those three definitions from our Code and would no longer differentiate STR uses based on the type of unit that they occur in.

Those three definitions would be replaced by these two definitions:

All STR uses would be defined the same regardless of the type of unit. Essentially, it's a dwelling unit used for lodging for a period of less than 30 consecutive days.

There's also a new definition for what we're calling a hosted short-term rental, and that is where somebody living in a unit is renting one guest room while they're residing there and are present during the rental period.

The purpose as stated in the draft Code for the overlay zone is to create a short-term rental overlay zone that's intended to provide areas for STR uses that are complementary to and supportive of our downtown and resort areas, as well as to minimize potential negative impacts of these uses on the community's housing supply and residential neighborhoods.

Bessey summarized the overlay zone and subzones:

Zone A, Green: Unrestricted with no limit on the number or location of where STRs can occur; Zone B, Yellow: restricted zone that would establish a cap on the number of licenses that we would issue in that zone and six included subzones, with the exception of hosted STRs; Zone C, Red

: Prohibited zone that would not allow STR uses with the exception of hosted STRs.

Regardless of the restrictions and prohibitions in proposed zones B and C, vested VHR permits would be allowed to continue, as well as existing STRs that would be granted legal nonconforming status.

The draft Code also allows for a process by which HOAs could petition the city for rezoning or an amendment to the overlay zone map boundaries. This is defined in proposed Section 238.E, Short-term Overlay Zone Map Amendments, which lays out the process. These would be requests made by what we're calling qualified HOAs, and they would have to meet certain requirements, mainly having qualifying declarations that we have defined in the proposed Code. They would explicitly either permit or prohibit STRs depending which type of a rezoning they were requesting. Those qualifying declarations would have to have been adopted or amended and recorded within 12 months of the

overlay zone adoption. That provides for a little bit of time for HOAs to make tweaks or amendments to their Code to reflect their current practice and the current desires of their residents.

In certain situations, for example, a rezoning from yellow to green, those types of rezonings may also result in an amendment to the subzone cap. So, if certain neighborhoods were removed from the restricted zones through this zoning process, PC and City Council would have the ability to then adjust the cap that was allowed in that subzone accordingly.

I wanted to give a brief overview of the short-term rental licensing ordinance even though this ordinance is not something that Planning Commission has to take formal action on. The licensing component of this will live in the Municipal Code, Chapter 12, which is where we find some of our other licensing requirements. While this doesn't require a formal recommendation from Planning Commission to City Council, because it is important to the implementation of the overlay zone and this whole concept, I wanted to make sure that everyone had a good understanding of how that would work.

The short-term rental licensing requirement would be an annual license renewed every 12 months. Those licenses would not be transferable, so as property ownership turned over, the new owners would have to apply for and obtain a new license. Unlike land use approvals, licenses would be issued to the property owner.

The operational requirements will live in the Licensing Code. We'll treat all STRs the same so that everyone is abiding by the same rules. The draft Code includes an occupancy limit of 1 per 150 square feet up to a maximum of 16. There would be a requirement for a new parking plan, a designation of a responsible party who could respond to issues and complaints 24 hours a day. It would establish a maximum complaint response time of one hour.

That application process for the licensing would include a self-inspection checklist to ensure that we have some minimum safety requirements accounted for in these units.

Three license types:

Unrestricted (Zone A,) restricted (zones B and C,) hosted (any subzones.)

All of this will come along with some changes to our enforcement policies and procedures.

Operating without a license will result in a summons to Municipal Court, the draft Code explicitly increases the maximum allowable fine for that type of violation up to \$2,650 per day. Currently, our Code has a maximum fine of \$999 a day, so that's a pretty significant change.

Other operational violations at a licensed property would be sent to a hearings officer. This is similar to how we handle liquor license violations. That hearings officer would have the ability to levy fines, issue suspensions of licenses for certain types of violations, and even recommend revocation of a license altogether. Those license revocation recommendations would go to a hearing before City Council.

We have been under contract for some time now with a company called Granicus that provides us with some tools for enforcement and compliance monitoring, so we'll continue with that contract for services. Included in that is a 24-hour complaint hotline that we'll be able to launch once we have the licensing process up and running, and we're able to issue licenses for these uses.

Map Amendment:

There are two areas of the community that are proposed as Zone A, those being generally our downtown commercial core, Oak Street, Lincoln Avenue, and Yampa, generally from 3rd to 13th, as well as our mountain area. I included two shades of green on this slide in this area to illustrate that the unrestricted zone in the mountain area is proposed to be expanded pretty considerably from what our current zoning would allow. Currently, these types of uses are allowed by right in the Resort Residential and Gondola zone districts. Those zone districts are illustrated by the dark green color; the proposed expansion is illustrated by the lighter green. Ultimately, the two greens mean the same thing and would not be illustrated differently on the adopted map.

Zone B Areas and Caps:

B1: Sunlight Neighborhood: Proposed cap of 5.

B2: Old Town: Proposed cap of 20. This is about half of what is currently existing in this area.

B3: Fairway/Clubhouse: Proposed cap of 20, which I think is about consistent with what is currently existing in that area.

B4: South of Walton Creek/West of Whistler Road: Proposed cap of 18, which is about 50% of the current number of these uses in that location.

B5: South of Walton Creek + Village Drive + Columbine Drive: Proposed cap of 12, which is about 20% of what is existing there.

B6: Alpenglow Area: Proposed cap of 10, which is about 50% of the existing uses in that area.

QUESTIONS FROM COMMISSIONERS

Hearns: I had a question on the enforcement. We got a series of public comment this week; I didn't quite understand part of it. Folks were referring to this slide as a one-strike rule. The way that the enforcement is written, is it as I interpret, one strike can lead to suspension? Could you just comment on that?

Bessey: I saw that public comment as well, and I'm not sure where that notion has come from. The way that the draft licensing ordinance is currently proposed, there's no mandated number of strikes. There is some guidance in the Code with regard to what the hearings officer would consider, as well as some guidelines for the types of fines or suspensions or revocations that would be imposed by the hearings officer. That is in Section 12-578.B, Attachment C. So, it certainly doesn't mandate any number of strikes, but it does illustrate the concept of increasing penalties with an increased number of violations in a given time period. I think it also allows room for different penalties depending on the severity of the violation.

Tortora: Will you talk a little bit about the grandfathering? What kind of evidence are we looking for? Is this somebody advertised, somebody thought they advertised, sales tax receipts?

Bessey: Typically, we look for some level of proof that the use was legally established and that it was in act operating. I would envision that we'll have some specific items that we would look for in this type of nonconforming registration: proof of sales tax remittance, proof of prior bookings within a certain time period, that kind of thing.

Tortora: Given that and the fact that all of the existing STRs are going to be grandfathered in, and we have the same number of STRs, at least on day one, as time goes on, we've provided in this plan areas for expansion in the green zone that is beyond what it used to be, and the prohibited zone, which says as long as you are an existing STR, as long as you don't lose your license, it will be maintained through that time. So, is it fair to say that we're going to have the same number of STRs for the short term? There will probably be a reduction in the red zones and a reduction in the green zones.

Bessey: I think it would be fair to say that on day one, the numbers won't necessarily change based on this newly adopted policy. I don't think it's necessarily fair to assume that the numbers will increase in green. I say that because yes, the proposed green boundary is larger than the current RR and G, but in our current Code, any multiple-family unit can operate an STR by right, and any single-family or duplex prior to the moratorium could operate a VHR as long as they got a permit, and the permits were administratively approved. Generally, most properties met the standards and could get the permits. Growing that green boundary in some ways doesn't necessarily change what's occurring today in those areas. I think it does send a signal that that's where the community thinks those uses are appropriate, so whether that means those uses

increase over time and then coupling that with some restrictions in the yellow zones and prohibitions in the red zones, perhaps it may shift more to the green. But I don't want to make the assumption that just because the green zone is larger, that automatically means more uses will occur there than what occurs today. I think that's up to the market and property owner preference.

Tortora: We're not restricting STRs to the point where we're concerned that we're going to have a lot fewer STRs in the future.

Bessey: I would say that is a fair statement in that it will take some time for the existing – if STRs are granted legal nonconforming status, we would likely see a reduction in those over time, but that's generally an incremental reduction; it's not something that happens quickly.

Levy: Can you tell me how that occupancy of 1 per 150 square feet compares with our family definition?

Bessey: The definition of family allows for a family of up to any number of occupants, so we don't put a limit on family per se. But it sets a limit on unrelated occupants in a unit, and that standard right now is 6.

Levy: Can you tell me why this occupancy limit seems less restrictive?

Bessey: We modelled this after our existing VHR standards and then modified it given that those VHR standards were drafted for single-family duplex homes, which are generally larger than our multiple-family units. So, we adjusted that square footage requirement down a little bit to make sure that we were allowing for some reasonable occupancy in our smaller units. I don't know that I have an answer. Are you suggesting that the occupancy limit should be the same as the definition of family?

Levy: I would assume the difference is that a number of people in a unit for 12 months out of the year, the impacts there interpersonally are a lot different than people that are there for a week or two.

Bessey: I would probably agree with that. The uses are different. When you're using it as an STR, it's like a lodging accommodation use. I understand that it's taxed at a residential rate. But it's a short-term use; it's typically folks that are here on vacation or visiting, and that's a different impact than people that are living there year-round and maybe have more impacts every day of the year.

Hearns: In the text amendment Attachment B1, in reference to the overlay zone map amendment, we have drafted here that a qualifying HOA with qualifying declarations has 12 months from the effective date of the ordinance to get those declarations in order for a request for an amendment.

My second question is implementation of the ordinance: If on the second reading on June 7 it becomes something that City Council chooses to adopt, are we talking like five days from that adoption or some other period? It will take a while for licensing and registration and all that kind of stuff, and there are existing contracts or bookings that we need to consider. So, when we talk about the 12 months for the HOAs to amend the map, is it 12 months plus this unknown time for implementation?

Bessey: The 12 months isn't for an HOA to apply for a rezoning; it's the time period for which they would have to have their qualifying declarations in place. It would be 12 months from the effective date of the ordinance. Typical ordinances are effective five days after publication. We're required to publish adopted ordinances after they're adopted, so on a typical schedule, City Council meets on Tuesdays; if they adopt an ordinance at second reading, we can have it published in the paper within 1-2 days, and it becomes effective five days after the publication date. Of course, Council could set any specific date beyond that for the effective date. We'll plug in that 12-month date once we know what that effective date would be. If it's on a typical schedule, it would likely be about seven days after scheduled reading + 12 months.

Hearns: So, if City Council chose to have a different effective date to give some buffer of time for bookings and some other things not related to the map amendment but just in general for licensing and registration, then we're really talking longer than 12 months from second reading.

Bessey: I think what you're asking about is if we establish some sort of a grace period by which folks get their license. My recommendation would be that the ordinance would become effective sooner and that we just through implementation allow for this grace period, because we're not going to be ready to license on day one. So, we would just have a grace period for enforcement while we look through getting everybody licenses. That way the ordinance is effective; we just say we're going to take six months or whatever it takes to get everybody licensed, and we'd move from there rather than pushing out that effective date, because the moratorium will expire at the end of June unless it's extended further, and I don't think that's been the intention.

Hearns: Could we just change the proposed text amendment to say 12 months from adoption, and then we wouldn't have to worry about if there's some grace period for staff time and licensing? Is that a reasonable type of thing to write in a code?

Bessey: Yes.

Steck: How will it work for a newly formed HOA that doesn't exist yet but will?

Bessey: If it were formed beyond that 12-month period of time, they would not be able to have qualifying declarations. That date we'll set will play into what's considered a qualifying declaration.

Steck confirmed that a new HOA could not change their zoning through this process.

Baldinger: In Zone 4 or 5, how does the STR overlay zone cap interact with the nonconforming status. For example, if somebody is a recent property owner, say last week, they weren't eligible to apply for a VHR permit because there was a moratorium; they don't have a history of STRs. Are they eligible to apply for an STR permit within their zone cap? Is that in any way interacting with any of the existing uses that will be essentially allowed to continue upon application.

Bessey: I think we know that in all of the proposed yellow subzones that the current state of STRs exceeds the proposed caps. So, through implementing the license requirement, staff's recommendation would be that during that time period that we work to get these uses licenses, we would only accept license applications from existing VHR permits or registered legal nonconforming uses first. I suspect that's going to exceed the caps, in which case we would not accept new applications.

Baldinger: So, another way to say it is: Anyone who established the use prior to the ordinance has a different right than someone that is new to the community or wanted to participate in the use cap.

Bessey: Yes, I think it would impact those folks differently.

Hearns: Prior to City Council suggesting that we look at caps, we were looking at different types of exceptions, limited numbers of days, so I'm thinking in that mindset when I ask this question about legal nonconforming uses. Back on December 13, we as a commission had a discussion on how we felt about nonconforming uses and this grandfathering if you will of all the existing types of things. My takeaway is that the group was a little bit torn and hadn't quite had consensus on granting legal nonconforming status to all of the existing ones. While the city's practice currently with this zoning and text amendments in the Code is to not restrict and is to grant legal nonconforming status, it was my understanding that because this was a residential purpose, it may be reasonably able to be adapted to a different residential use like just living there full time or a long-term rental. We had discussed a potential way to ask for legal nonconforming status. If an STR could reasonably demonstrate that they ad investments or improvements in the property that could not be reasonably adapted, then they could apply for legal nonconforming status. I don't know how we got to: Now they're all granted.

Bessey: We did have that conversation in December, and I think there was some discussion being had at that time about whether there could be different rules for nonconforming status. That was based on the draft concept at the time with certain types of restrictions. From what I understand that concept doesn't work well with the cap concept that we've landed on for this draft ordinance. Both Planning and Legal staff

are recommending the nonconforming registration language remaining as written in the draft ordinance per our standing rules for legal nonconforming uses.

Hearns: So, when we shifted away from a series of exceptions to get to caps, that kind of changed the legal mindset.

Bessey: What we proposed is what we feel is consistent with land use approvals and land use rights, and its what staff is recommending that we proceed with.

Levy: In the draft Licensing Code, 12-572, they don't have a specific fee in there for the license. You say that it will be to recover the cost of administration, enforcement, etc. How is that going to be determined, and is that restriction of just recovering administrative costs law or a policy decision? Are there other options?

Bessey: We don't typically set our fees for services in the Code. Our City Manager has the ability to adapt our fee schedule, and like all of our other application fees, we assess those on an annual basis and adjust if needed. So, in this case, we received clear direction from City Council that they want us to recoup all of our costs. That includes staff costs, our contract with Granicus, additional Municipal Court costs, the hearings officer, all of those things that will go into this licensing requirement and the enforcement of it. So, we'll do a calculation and estimate the total cost based on what we know, and we'll be able to review that on an annual basis and make adjustments if needed to make sure that we are in fact recouping our costs.

The second part of that question: When we charge fees for services, we can't charge fees that are more than the cost for us to provide those services. So, at this time, what we're looking at is just covering our actual costs. Council has discussed the concept of an affordable housing fee that would be an additional fee assessed with the license to provide for services to offset the impacts of these uses on housing in our community. That's not something that we are intending to implement right away, and I think there has to be some additional discussion with City Council and potentially some additional study in order to determine what that reasonable fee might be. So, right now, we're just looking at covering the cost of our direct services, personnel, and operating costs.

Levy: Since adoption is in a couple months, do we have an estimate? Do we have an idea of what that fee number is at this time?

Bessey: I don't have that with me today, but I think we have most of the information that we need to put that together.

Levy asked if that includes the costs for Granicus, etc.

Bessey: Yes, it would include the Granicus contract as well as a new STR compliance officer, (a position that hasn't been filled yet but that we're hoping to fill soon,) as well as some increased Municipal Court costs, our prosecutor, and the hearings officer.

Rusher: How will the existing VHRs and VRs be moved over to this new system? Is that plan defined yet?

Bessey: The licensing requirement will apply to everybody equally, so they will be required to get a license. If you have an existing vested VHR permit that's in good standing, it has been renewed annually as required, we will issue a license, which will then be required to be renewed annually. This proposed ordinance would eliminate the requirement to renew the permit on an annual basis, so the license will serve as that annual renewal.

The same VRs; they would first have to go through the legal nonconforming registration process to prove that they are in fact a legal nonconforming use. Once they have that registration, we would then issue the new STR license.

Rusher: With an existing VHR, would that be at the renewal of their VHR, or would that be sped up based on your ability to process them?

Bessey: I think they would be included in that same time period by which we would license all STRs. So, if it takes us six months or whatever that grace period is, they would be expected to obtain their new STR license in that time period as well. That's my understanding.

Rusher: Would the existing fees for a VHR be prorated? If I have a VHR now, I pay the \$75 for the annual renewal...

Bessey: I don't know whether there would need to be any sort of prorating or anything like that. I don't think so, but those are implementation details that we haven't gotten to quite yet.

Rusher: How would existing vacation rentals (VRs) expire and lose their nonconforming status?

Bessey: Our standard Code language, which is included in the CDC text amendment, I've included the nonconforming use section of the Code, which is Section 103 of the CDC. Section 103.D talks about termination of legal nonconforming status, and it indicates that the use has been abandoned or discontinued for a period of six consecutive months, regardless of any intent to resume that operation or use. There's also if the structure it's housed in has been officially condemned or the use is removed from its previous site or located on the same or other site... Some of these aren't necessarily applicable to these kinds of uses, but there are five points by which legal nonconforming status can be considered terminated. Primarily, I think it would be the abandonment section, and that's the discontinuance of the use for six months.

Rusher: How does that differ from an existing VHR?

Bessey: Existing VHR permits don't have that type of provision in them right now, and those are permits that we have issued, and we don't have the ability to change the rules for those kinds of permits. So, VHR permits will be treated a little bit different than legal nonconforming uses. They're considered a vested land use permit, and those rights will continue.

Rusher: They don't expire for non-use.

Bessey: I don't think so, however, they would still have to renew their STR license on an annual basis, so if they failed to do that, I think they would be operating without a license.

Rusher: But they're also nontransferable, similar to the STR.

Bessey: VHR permits, and nonconforming registration runs with the land, not the owner of the property. It is considered a land use right and is not tied to the property owner. Licensing we can tie to the property owner, and we can require a new license as properties change hands. But we can't terminate legal nonconforming status and VHR permits simply because the property changed ownership. So, those underlying land use rights will remain, and that's why we will be issuing licenses in the red and yellow zones even though we're already exceeding the caps. We have to allow those uses to continue.

Rusher: Is the VHR being turned into an STR, or is it a special kind of STR.

Bessey: They will all be defined as short-term rentals by the Code, but we will have to recognize those existing VHR permits. So, they do have some rights associated with those prior approvals that we will have to continue to maintain. But they will all be operating per a short-term rental license under the same types of rules for operational requirements and enforcement.

Tortora: We have roughly 226 VHRs. Those will maintain transferability.

Bessey: Correct.

Hearns: It's my understanding that city planning, zoning, city jurisdiction doesn't typically create policy based on HOAs or covenants, but in the text amendment here, we have the ability for a qualifying HOA to submit qualifying declarations and apply for an amendment to the zoning map. Could you just speak to why that's staff's recommendation to proceed in a way that is not usually what we do?

Bessey: That concept came out of some discussion that was had at prior work sessions of PC and Council that there's a lot of discussion about neighborhoods that have specific

covenants that explicitly allow them and folks that have purchased property there understanding that. You are correct; zoning does not typically include special provisions for HOAs, but the concept that we've included in this was to address some of the concerns that we heard early on.

Adams: How is that different from a single-family residence that also had a certain expectation currently. Let's say that they had every expectation that a VHR could have been applied for and moving forward it could not in their area. How is that any different than an HOA that could have done nightly rentals versus now would not be able to?

Bessey: I think that the concept was discussed because there was some expectation that if you had an HOA, there was another layer or lever of control of these uses and that if they were explicitly allowed, that they could manage the impacts of those uses in their particular neighborhood. Without that HOA level of control or explicit allowance for those, I don't know how we could accommodate that expectation for every property in town.

Adams confirmed that HOAs can be more restrictive than city Code but cannot typically enact more permissive regulations.

Bessey: I think it's fair to say that this provision in the draft ordinance is different than most in the other ordinances that we would adopt.

Rusher: For a hosted STR, there's guidance on it saying that it's limited to 400 square feet. Is that just the bedroom? In my house, I have a guest suite. Is the 400 just the actual sleeping quarters, or the entire living space associated with it.

Bessey: The intention would be whatever portion you would be leasing on that short-term basis for the use of the guest. Obviously, in a shared situation like that, the kitchen areas and other amenities might be shared spaces, but whatever you're offering as a private space would be considered the guestroom. So, it wouldn't necessarily have to be just the bedroom, and that's why we used the word guestroom to encompass the larger space but to put a limit on it so that it's clearly defined as one space and not multiple rooms. Once you have two guest rooms, you fall under the definition of a BnB, and that's a different permitting process.

Rusher: So, if I have a bedroom and a sleeping sofa in the attached little space there, does that count as two bedrooms?

Bessey: I think it could count as one guestroom; it could be like a suite scenario if it was within that 400 square feet.

Rusher: I remember from the ad-hoc committee in 2018, we talked about the inspections that would happen for a rental. I know we had spoke briefly about the city

doing those inspections, doing random inspections, but now I'm seeing that it's all self-inspection. Are there going to be some city inspections that would happen in addition to those self-inspections for a license?

Bessey: Not at the onset. To do the inspections, we would have a need for some additional staff in addition to the STR compliance officer – considerable additional staff based on the numbers of these. It's our intention to re-evaluate this as we go forward and see how things are working. If we feel the need or have the ability or desire to staff up to perform on-site inspections, certainly we will do so, and we would adjust the licensing fee to cover those costs. If there's a complaint we have to respond to, we can do that as needed. The ad-hoc committee did recommend some random inspections, but I think we had estimated that it would take probably five years to hit each one of the units once with the current staff that we have.

Rusher: Referring to ghost rentals, unregistered, not advertising anywhere but still renting and not paying taxes, how does the city plan to attack those types of rentals, and what kind of penalties would we see for those that get caught?

Bessey: If they're not advertising, it's going to be tough to find them; we're only going to be able to find them if we find out about them. If we can demonstrate that the use is occurring, they would receive a summons to Municipal Court and be subject to penalties up to the \$2,650 per day that they're found to be in violation.

Rusher: Is there any consideration of penalties for companies that are servicing ghost rentals?

Bessey: Possibly. I can discuss that with our Legal staff and see if there's an avenue for that. I don't think we've ever thought about holding other service companies responsible for knowing whether something is licensed, but it's a concept that we can explore.

Hearns: What would be the mechanism for someone to say my guest suite is 422 square feet, but it's not a BnB. Is there some ability to have wiggle room?

Bessey: The 400 square foot maximum on the guestroom is a use standard that's found in Article 3 of the CDC. The way that the Code is set up is that if it's a limited use with standards, and you don't meet the standards, you could apply for approval through the conditional use process. So, there would be an avenue by which somebody could seek approval for something really any size but something that just doesn't quite meet the 400 mark.

I'm really glad you asked that question because it made me realize that in Attachment B2, the 300 tables, I think I have hosted STRs listed as a use by right in all zone districts, and it really needs to have an L for limited use there because that's what ensures that those use standards are applicable. When we get to the point of a

recommendation, we would want to make sure we include a change to that for the draft that goes to City Council.

Hearns pointed out a typo in Attachment C, Page 2.

Levy: If an HOA comes forward to ask for rezoning, I assume that would come under the zone map amendment public notification criteria?

Bessey: I don't think that's the way it's set up, but we can require public notice for that. The way this rezoning process is set up, Section 720, this is our typical process and requirements and criteria for approval for a zone map amendment. So, this is what would apply to all the rezonings that you typically see and make recommendations on. The proposed language would direct the requests by qualifying HOAs back to the overlay zone section, Section 238. So, these requirements would not apply, and that public notice requirement applies to these. We can certainly make an adjustment to the Code to ensure that public notice would apply to all rezoning requests.

Levy: Assuming we ever get below the cap number in any of the restricted zones, is there any other notification for requests to STR?

Bessey: No, the STR licenses do not require public notice.

Levy: And the reasoning behind that?

Bessey: The reasoning behind that is that the licenses would be issued per the established policy, so in the unrestricted zones, they're allowed by right. Typically, when you're sending out public notice, it's because there's some subjectivity in the issuance of an approval. In this case, there's not. What we would focus on more so would be making sure that we're advertising and making that 24-hour hotline known to the public generally so that we can ensure that we are actually collecting the complaints and are able to respond to the complaints and providing that as a tool to the community when issues arise in their neighborhood.

Levy: The thought that comes to mind – and we've had this discussion before – is with shared driveways, shared access, whether that becomes an obstacle or consideration for any STR license request.

Bessey: That used to be a requirement of the VHR ordinance, and that was repealed a year or two ago. So, we did not draft that into this proposed ordinance.

Rusher: With the hosted STRs, is there a reason we don't have a limitation on the number of rental days in the more restricted zones?

Bessey: I don't think it was ever discussed. The concept of the hosted STR is that typically, the risk that you're going to have major negative impacts on your neighbors with a hosted STR is going to be much less because the occupant of the residence is there. Presumably, they don't want to be negatively impacted any more than the neighbors do. I understand that there's always going to be an exception to that rule, but I think the idea where was that one of the impacts that we're trying to address is housing affordability and availability, and if we can provide residents a means to supplement or offset their housing costs by way of STRs, that's a positive. So, I think that's where the hosted STR being allowed in all the zones with no restrictions came from.

Bessey asked Stauffer if staff has seen hosted STRs being limited in other communities.

Stauffer: I think they were limited in Crested Butte. What they found after limiting those for a while was that the restrictions were too restrictive for the people who did use them. Maybe a year ago, they were looking at changing some of the more restrictive STR rules, and that was one they were looking at changing. I don't know where they're at now.

Bessey: Hosted STRs are not directly defined in our current Code, so they really fall within that definition of family by which you can have an unrelated person staying with you, or you can rent a bedroom. We know it happens. It doesn't fit within any of the definitions that we have in the Code right now. We wanted to make sure that this draft ordinance didn't actually that type of use where it's occurring unrestricted right now. That was the basis for the proposal.

Tortora confirmed that going forward, the hosted STRs will need a license as well and thus will be subject to all the enforcement actions.

Adams: There are certain definitions I thought we discussed about how one can be a hosted STR. You must be able to prove this a primary residence, all within the licensing process for those hosted STRs.

Bessey: The concept of the primary residence was in the context of having a set of restrictions for STRs in the yellow zones. We've moved away from that to the caps, so this proposed ordinance does not have any special provisions or requirements for primary residence. The resident of the unit has to be residing there and present during the rental.

Rusher: Say I'm in a 3-bedroom, and I rent out long term to a buddy, and then I'm also doing a hosted STR, I wouldn't be able to leave town while that hosted STR is rented, even though my long-term renter is there. Clarify that for me.

Bessey: The way it's defined in the draft, it says it's the use of one guest room located within the dwelling unit offered, provided, used, and operated as a lodging accommodation to guests... while the owner or other permanent resident is residing within the dwelling unit. So, it can apply to renters as well; you just have to be a resident of that unit.

Adams: Choosing to put the Licensing Code instead of into the CDC in large part makes a lot of sense to me. The couple of areas that stand out within that are things like the operational requirements: vehicles, surface, and kind of a little bit more CDC-ish things, in my opinion. Similarly, the number of capped properties on that Section 12-574, those two stood out to me as to whether those really belong in Licensing Code or if they belong in CDC. How did staff arrive at lumping them all into one spot?

Bessey: The cap really applies to the number of licenses that we will be issuing, so that's why that's living in the Licensing Code rather than in the CDC or the Zoning Code. We thought it was important to have all the operational requirements within the Licensing Code so that we could apply them across the board. We would have a different enforcement mechanism than what we have in the CDC, so the concept of the hearing officer really works well with licensing rather than us having to follow the enforcement procedures in the CDC. That means we have to take everything to Municipal Court.

PUBLIC COMMENT

Karen Desjardin, 3261 Snowflake Circle:

I'm speaking in solid support of your current proposed overlay that has our neighborhood of Snowflake Circle and Snowflake Court in the red zone. You've received letters of support from some of my neighbors in the agenda packet tonight, and we thank you for recognizing our neighborhood as an area that has been and should be residential. We wish to remain in the red zone in any future maps or changes.

While we are delighted by this move, there's still a serious flaw. The problem is that we have quite a few active permit holders in our neighborhood who have permits merely as a hedge against future restrictions. They are not actively renting. But not keeping the moratorium in place for our area, three additional permits were applied for and granted. Now that we are placed in the red zone, we fear that this gold rush for permits will continue, and the fact that they are transferable to two new owners means that we may ultimately end up for more nightly rentals in our neighborhood in spite of being in a restricted.

That is why I will be petitioning the City Council again, this time asking for an emergency ordinance to put the moratorium back in place until Council has time to vote on their STR policy. Our intent in all of this is to keep our neighborhood a Steamboat community and not a party zone of one long spring break all through the summer.

You've seen the letters from homeowners documenting disturbances at all times of night. We've even had a drunk person enter through an unlocked door of our home and enter our bedroom late at night.

I'd also like to address our affordable housing crisis. While our neighborhood certainly isn't one for first-time homebuyers, it is a candidate for other Steamboat residents wishing to upscale, which would free up other, more affordable alternatives. When our neighborhood becomes dominated by STRs and outside property investors, it eliminates this well-known upward mobility path, keeping more affordable homes elsewhere from coming onto the market. Additionally, we know of two long-term rentals in our neighborhood that were closed down when they were purchased by outside buyers. Once of those was converted to STRs. That's a loss of long-term rental stock right there.

In summary, I'm pleading with you to not sacrifice our neighborhood character to out-of-town interests, speculators, and the property management industry. Instead, keep it where it can be part of the Steamboat community, which is why we first moved to this particular neighborhood. For the cause of keeping the community feeling of Steamboat, and to address the affordable housing crisis, please keep us in the red zone. If you could do anything about VHR permits, making them nontransferable or expiring after being used for six months or less, that would be great.

Dan Merits, President, Steamboat Springs Community Preservation Alliance:

We are a data-driven nonprofit that is really concerned citizens and business owners of Steamboat. We carry the voice of nearly a thousand different property owners, business owners and constituents of your community. I believe firmly in making sure that we have a balanced economic impact with our community character, we have responsible tourism and property use across Steamboat, and we're champions of affordable and attainable housing within Steamboat.

We believe our community is a partnership that requires diversity in housing, equity in property rights, and smart growth.

We thank you for the hours of working on this. We have attended all 30 of those meetings and participated in this actively. We also want to thank those on the Planning Commission who have asked for data and brought data to this discussion.

Economic impact and housing supply is a stated goal; it's not quantifiable; even Rebecca said that today. Not a single active part of this conversation has been driven to date around housing supply. We have come with the Yampa Valley Housing Authority and asked the city to do an economic impact study before implementing this. We consider the fact that we haven't combined that data with understanding the complexity and the history of uses, we're going to go down a path with a very unknown goal without an understanding of how this is going to impact our housing supply.

We ask you to understand what the demand for affordable housing is in Steamboat. We ask you for what the demand for nightly pillows to support our sales tax to make sure that we fund important initiatives. We ask you for a definition of what is affordable and attainable housing. What are we trying to achieve on a nightly rate to make sure our citizens can live and work in this town?

We fundamentally believe that the truth is that the number of STRs in Steamboat since 2019 has reduced by 40%. Even with the data used by the city on this, the number of active STRs in Steamboat has been reduced by 40% over the last three years. So, as we look to the other areas around how this is going to greatly affect our sales tax, we ask you not to overly contribute to caps and use data to use caps. Even the criterion that was exposed on how you're applying caps into the yellow areas, you have 50-50-50-20%. We listened to all the discussions on how you determined this. We ask you to go back and actually apply a fair rather than an arbitrary and capricious cap to this.

We wanted to thank you particularly for grandfathering all the STRs in; we just want to make sure the process for licensing is clear, everyone who has an existing STR is understandable.

On the complaint process, we really ask you to clearly define what your guidelines are so it's fair. It's currently written in the guidelines to be one strike and you are suspended for 14 days. Whether or not they go with that, it's one thing or other.

In closing, I would just like to say that the SCPA believes in a data-driven approach to license, enforce and revoke STR licenses in a way that won't tear our community apart. We ask you to watch out on what you're going to do on the economic impact of reducing potentially 30-40-50% of your sales tax revenue by overly restricting STRs in our community.

Bob Hickey, 580 Anglers Drive:

I'm a full-time resident and voter. I do not support the implementation of STR overlay zones for many reasons. As this began, we heard about all the disgruntled residents having issues with their quiet enjoyment of their homes because of some unruly STR tenants. I have experienced that, and I empathize with that. The frustration with that can be resolved with strict enforcement as is being discussed, with rules to ensure everyone's right to quiet enjoyment. I'm pleased to see the town has hired an enforcement company.

There's a few reasons why the overlay zone is a bad idea. It substantially damages property rights and property values. Many owners have expressed that they purchased property in Steamboat because it had STR rental rights. Like many others, I researched before purchasing that the property has no restriction on STR either by the HOA or the town. The overlay maps as of the April 14 meeting would make properties that are in

great locations for STR nonrentable. Properties on the ski area side of Old Town should all be green areas. These properties are close to and on the town bus route; many are even walking distance (10-12 minutes) to the mountain. It's disturbing that the proposal to determine which areas are yellow or red are being determined by feel and not by real data.

Dan mentioned rental units down from 4400 to 2800 in three years. That has occurred, and rental rates for year-round homes have gone up. Now it's 15-1700 per bedroom. Just because we've reduced the number of STRs has not made an impact on more available, affordable housing.

The plan will also discourage visitors for less rental opportunities, reducing sales taxes, demand for retail restaurants and most all businesses, restricting our economy. There has not been any data to support that reducing STRs will solve the affordable housing crisis. Let's make a difference for affordable housing with a tax proposed for STRs with the money reserved for affordable housing. I know numbers like 3-4% have been talked about, which could mean as much as 3-\$4 million per year with that money being slated for the affordable housing crisis.

I support licensing STRs, strict safety standards and requirements for STRs, maybe consider a nuisance deposit held by the town payable at time of licensing for collection of all violations with a substantial penalty fee and consider the loss of an STR license after a third violation in a calendar year.

Eliminate the idea of overlay zones so as not to damage the e property rights and financial status of owners in Steamboat because they live on the wrong side of the street.

Let's solve the goals of the City Council and Planning Commission to create affordable housing with a tax on STRs with the purpose of restoring affordable housing and maintain the peaceful enjoyment of the character of our neighborhoods with enforcement of rules. Let's not make the mistake of not solving issues with a plan that takes away owners and citizens' rights and financial wellbeing.

Suzie Spiro, Snowflake Circle:

I am a 22-year resident in Steamboat; I vote, and I have a voice.

I do not understand why you made Fairway Meadows yellow when it is 4.1 miles from the gondola base. They already have items in their declarations with regard to STRs. I don't understand why you made Sunlight yellow; it's 5.6 miles from the gondola. This brings me to Snowflake Circle, Sunray, Quale Run, Mustang Run, and everything along Whistler Road and the enclave. Snowflake Circle is 0.8 miles; you can walk there. While it appears from the letters that were addressed to the city through Engage Steamboat that there is definitely a conflict on Snowflake Circle, at Flat Tops View Village, we have gone to the community. There is no clear majority that they want to have or ban or cap STRs. In fact, we are going to proceed with a straw poll to see where that interest is.

Ulrich Salzgeber, 783 Amethyst Drive:

In 1988, my wife and I had the ability to finally purchase our home after 11 years of scrimping and saving. Our first interest rate was 15%. Our focus for the last 34 years was geared toward retirement and making sure that home is available and set up for STRs. Why? So that in retirement we can go visit other places, go see many people that used to live here. But we want to come back and enjoy things like Winter Carnival. I don't see any provision or allowance in this new ordinance for folks like me. I think it's short-sighted, and I think it's wrong.

So, if I get a professional management company, and I check with all of my neighbors, and they're fine with us short-term renting, I give everybody my cell phone just in case there is a significant problem, I don't understand why I don't have the right to short-term rent my property.

Jim Sunderland:

I'm the president of an HOA that currently allows nightly rentals. I'm not quite sure what my responsibility is going to be under the new designation as a qualifying HOA, whether I'm fighting for or against the change in the complexion of our neighborhood. It seems like you're putting an onus on an HOA to make a declaration one way or another. Let's say that we want to keep nightly rentals. We're in a red zone. We have six units. What does that actually mean? Does that mean that every unit in my HOA now could be an STR? Those are just questions that I have about where we're going with this particular designation.

Cari Rigner:

We recently purchased a condo at 406 Hilltop. Our primary residence is in Golden; however, my husband and my two children have been contributing to the Steamboat community for over 40 years. In May of last year, we closed on the purchase of that property. Prior to the purchase, we conducted a significant amount of due diligence to understand the city's STR policies, confirmed with the city that VHR was permissible. In addition, we confirmed that STRs are explicitly permitted by our HOA documentation, however, it is a single duplex; we are not part of a complex. The other half of the duplex currently holds a VHR permit and has actively engaged in STRs for a number of years.

In April of last year, a month prior to closing, we communicated with the Planning and Community Development Department regarding the permitting process, and on April 15, we completed a pre-submittal meeting with the Department. We were given no indication that the policies were subject to immediate change, nor did we receive any communication regarding the changes after we had already started the process back in April.

The ongoing moratorium has impaired the value of the property, denied us due process and personal property rights, and as every day goes by, it's denying us rental income and increasing the financial damages we're experiencing. We've invested a significant amount of money in reliance upon the due diligence that was conducted.

As you can imagine, we were even more disappointed to learn that the area where we purchased the property has now been designated as a restricted zone along Hilltop. The area is primarily categorized as condos, townhomes, and multi-family units with a very high density of STR and VHR. There's also a city bus line that provides access to the resort and downtown areas. It is nonsensical that a VHR rental be allowed in one unit of the duplex but then not allowed in the adjoining unit sharing the same driveway.

We need to insist that the city take whatever actions necessary to finalize the approval process that was already in progress prior to the moratorium being enacted. We have now been waiting for an entire year to move forward, and all the while we have invested in a property management company.

We did follow the regulations as they were written and have only been able to conduct temporary short-term rental over the Christmas holiday as outlined under the limited term and occurrence regulations as they were written.

It is certainly a relief to hear that there will be an opportunity to be granted legal nonconforming status, so we would appreciate clarity and consideration for our situation when determining what information is required to be grandfathered in.

Steven Jones, 3335 Columbine:

I'm secretary-treasurer of the Sunray Meadows HOA and have been in that role for 15 years. I have two major questions:

How in the world did someone put Sunray Meadows in the red zone when 20 yards to the left of my unit, Timber Run is in the green zone between the two B5 areas.

In all of the addendums where an HOA can ask for rezoning, the criteria for approval talks about the declaration must expressly permit or prohibit STRs consistent with the zone map amendment. Two years ago, we did our declaration to make sure we were 100% confirmed with Colorado law, and we've decided that our declaration neither endorses nor prohibits, long or short term. I don't see how that fits into the process you've stated there.

Paul Boni, Shadow Run Court:

I'm also on the board of the HOA. We delivered a letter to Rebecca late last night, so we just want to make sure that gets into the record.

My question is specifically on the qualifying HOA declaration. Our HOA declaration was filed March 21, 1980. It specifically states that our condominium units shall be used and occupied solely for dwelling or lodging purposes, including nightly and transient rentals. So, we are specifically requesting that Shadow Run be taken out of the red and put into

the green. We figure 40 years of having that declaration should qualify us to continue those nightly rentals. I don't know what the process is for an existing declaration that's 40 years old, so if you could enlighten us on that, that would be great as well.

Catherine Carson, 307 Locust Court:

I'm up in Fish Creek Falls/Tamarack neighborhood. I want to thank you for having us in the red zone. I moved here in 1999; I was looking for a local's neighborhood, and that's exactly where I live. The value to our community for our local homes is priceless.

Another area that is a very traditional local neighborhood is Old Town. Any home or housing unit that is in walking distance of an elementary school is valuable for our local families. So, I'd like you to maybe consider having Old Town also red.

STRs do affect our affordable housing supply. I think you guys have landed on a nice compromise. Keep up the good work!

Henry Fang, 3295 Snowflake Circle:

I'm a part-time resident, and I do have a VHR permit. I'd like to make sure that we've all taken note that there's a disproportionate number of voices tonight against an overlay and maybe even against some other particular issues that are being proposed.

I would encourage all of us, especially those with a vote, not to react to too much emotion. I would encourage you as other voices have this process be data driven with real economic impact studies done.

I would also encourage us to think about equity as applies to some of the rules. There's a lot of rules that apply to short-term renters that don't apply to fully and part-time residents who may also be responsible for creating nuisances. I think there would be some equity if there were other mechanisms for when I as a part-time resident am having my quiet enjoyment disturbed by homes that are occupied by full or part-time residents.

I support enforcement mechanisms; I support penalties for those who do create nuisances in general. I do believe that there should similarly be a mechanism to counteract those who file false complaints.

Finally, I make a plea for self-determination. I would ask this Council/PC to leave it to the individual HOAs to determine their own fate.

Randal Johannes:

I completely agree with the thoughts Paul from Shadow Run said about having STRs allowed. It looks like Shadow Run has been singled out to some extent. Right across the street are green areas, and we're sandwiched in between two yellow areas. Why

was Shadow Run singled out? It's perfectly suited to get to the slopes on the bus line. It just seemed strange the way it's pictured on the map.

I think false claims is very important. You could have a neighbor that you don't get along with for some reason, and they could be making reports just because they want to get rid of STRs in that area. So, I'd be really curious about how they're going to investigate proper claims or false claims.

Jonathan Brian, 3367 Covey Circle:

I own property. We are part-time residents of Steamboat, so we do not vote there. But we do enjoy spending time, and my wife and I bought the property with STRs being allowed in the community. We definitely feel that our property rights are being taken away by being put in the red zone. We are 0.9 miles from the mountain, so we are very much part of the mountain community, and we just feel that Quale Run should be reallocated into at least the yellow or green zone instead of being eliminated from the short-term rental program.

Meghan gutschenritter, 940 Confluence CT #5:

I'm the owner and operator of Sky Run Steamboat, which is a small property management company here in town. I currently manage 37 properties, and my husband is a firefighter/paramedic for the city. We have lived here in Steamboat for a combined total of 24 years. The bigger issue that I'm hearing locals talk about is having STRs in their neighborhood and issues with guests and people being in their neighborhood and not feeling like it's a safe Steamboat neighborhood like it used to be. It's less people talking about the issue of affordable housing.

One thing I wanted to point out is how I personally care for each of my properties as if they were my own, and I'm available to each of my homeowners and guests 24 hours a day, 7 days a week. I also personally speak to every single guest that walks through our doors prior to their arrival to make sure that they'll be respectful to the home, the neighborhood, and the neighbors. So, part of the problem here is irresponsible property managers that do not care about locals or the homes they are caring for but are just trying to make as much money as possible. So, I propose that we focus more about putting rules around property management companies and taking care of their homes instead of punishing all STRs.

I'm also concerned about the impact on our community and the jobs or people like my husband who rely on city sales tax to make a living wage. The loss of lodging that this overlay map will create in conjunction with the current expansion of the ski resort is setting our town up for a disaster. The impact that this will have on small businesses such as my own, local contractors, realtors, housekeepers is just astronomical.

So, I propose stronger regulations around property managers and putting a tax on STRs as a way to contribute to affordable housing.

Cheryl Chandler:

My husband Paul and I rent out our Quale Run condo with Meghan with Sky Run. We support John who spoke previously who has a place in Quale Run as well. You can walk to the resort from there; it's very accessible. We ski; we soak; we play tennis; and we bike with our 9-year-old son. We want this community to be an amazing place that people want to visit just like we do. The overall community character of Steamboat is that of a resort town and is growing into a much bigger one. All this needs long-term planning, not banning STRs.

Frankly, I'm not sure that reducing the number of STRs will do anything. It feels like STRs are getting pinned for a lot of things that are much bigger, macro challenges in Steamboat, including housing supply and availability.

I urge you to think long term when adjusting fees and permit numbers or considering bans. A knee-jerk reaction and ban on STRs will only lead to more empty houses and less revenue for Steamboat to address the challenges we have. Bans on STRs could reduce property values for both second homeowners and locals alike.

We bought our place in December, and we did our due diligence. STRs were allowed. It seems like these blanket bans come out of nowhere. We want to make things good for everybody there, so let's look long term together.

Ryan Walker:

I think this is a really important issue. I grew up in Basalt, Colorado, just down valley of Aspen and Snowmass, and kind of watched how things happened in that valley and how we went from pickup trucks and Datsun trucks in Basalt to Range Rovers and fur and watched the workforce get pushed further and further down the valley. So, I think affordable housing is very important to address.

I own a 10 Sequoia Court condo; I also have Sky Run as the management company for me. We chose them because they are a local company as opposed to a shareholder owned, and I knew we were going to get an organization that's going to take better care of the property and also be good neighbors and good stewards for the community as well.

My concern is the approach of the overlays and limiting the STRs isn't really going to get as much bang for the buck when it comes to converting them to long-term rentals. In my case, if this goes through, and my property is no longer able to be used as an STR, it's most likely not going to turn into a long-term rental; it will turn into a dark house. I'll end up letting friends and family come in to utilize, and we'll figure out a way to make due. But the reason I purchased the condo up there is once we found the Steamboat community, we decided we found something that kind of felt like Aspen back in the 80's. So, we wanted to have the chance to take the family up there; use the

resort. The economics were not the driving factor of it. With an STR, I might break even this year, versus a long-term rental it would be a cashflow property.

I suspect that there's a number of other STR owners and part-time residents that would say the same thing that a lot of these STR properties are not going to convert to long-term housing, and that's not going to be the solution that's needed for affordable housing in Steamboat.

So, I appreciate you tackling this issue; I'm just not sure that the proposed solution is going to have the impact you're looking for.

Victoria Merritts:

I've been an owner in Steamboat since 1997, and I have only experienced a profit in the last two years of renting our unit. Every other year has been a loss. We totally enjoy Steamboat; we totally enjoy our unit. We are at 2650 Medicine Springs in the Waterford complex. It's scary what's happening with property values up there, and you're not going to see a reduction in property values. Those property values for people like me are never going to be part of a system that's going to be affordable for anybody.

So, my big question for all of you is: The Meadows down below the ski area was supposed to be affordable back in the day, and they were built that way. They're not affordable anymore. You've got two big projects coming forward. Is there any guarantee that the new projects, Steamboat 700, and Brown's Ranch, will be for sure for affordable housing? This is a big question for me, and I don't see anything happening that you are all addressing that. It's all happening supposedly, but we could be facing another economic downturn shortly, and all of those spots could become high end again. What do you think?

ADDITIONAL QUESTIONS FROM COMMISSIONERS

Tortora: Several commenters have talked about process issues. They're not sure what it is they need to do when they need to do it. I assume there's going to be some sort of an outreach program. Is there something else we can do to make sure people are aware of their available options and that we're not banning STRs?

Bessey reiterated that there will be plenty of public outreach. She said staff would always be available to answer questions from the public.

Hearns: If I am operating a legal STR in my house right now, I feel like I could exhibit the types of things you were listing earlier tonight, but how far back would we go? If I only did it in 2019, but I haven't for three years – I don't recall us talking at all about the timeframe to establish that. Do we have an answer?

Bessey: I don't have an exact answer for you on that. I would think it would have to be within the last year, but I will look into that.

Levy: Could you clarify: Is there any process for those people that have shown an interest in registering a nightly rental or a VHR but haven't been able to due to the moratorium. Are they on the outside looking in? Is there another window that we haven't discussed?

Bessey: The moratorium was put in place to prevent additional new VHR permit applications from being approved by the city. The way the moratorium worked is as of the effective date of the moratorium, we no longer accepted new applications. If someone had an application in the door already, and it had been accepted prior to that time and date, then it was not subject to the moratorium, and we continued processing that. We approved a number of those. If there was not an application into the city at the time of the moratorium, and the use had not already been legally established, then they would not have an opportunity to claim a vested VHR permit or apply for legal nonconforming status.

Kingston: I know a lot of questions were asked by close to 20 members of the public. I don't think we have the time to address them specifically. I'm hoping staff has taken note and will give those questions some consideration. But a couple of them really stood out to me: One of them was that a number of people opposed the overlay referenced data.

In support of staff, I would say that data comes in many forms. Obviously, a lot of staff's hard work has come under the direction of Council, and Council has been looking at this for a number of years and has really taken public comment requiring the change to heart. Data in that sense is partly quantitative, but it can also be qualitative. Addressing the quantitative data, could staff reference any economic studies or any linkage studies that somehow test hypotheses related to the consequences of instilling the policies that we're about to recommend to Council, potentially? Will it result in more affordable, long-term rentals, for example? Are there studies that maybe I can't recall staff talking about that staff has looked at that have said there is a link between housing supply of a particular type and controlling or restricting STRs?

Bessey: We have not conducted such a study, but I know other communities have and are doing so. When I was talking earlier about the fee and a potential affordable housing fee being assessed to STR licenses, I do believe it was Breckenridge that recently did a study that identified an impact on their local housing supply caused by STRs, and they were able to quantify that and establish a fee to help mitigate that impact. So, there are communities that have done that; Steamboat has not done that yet. It is something Council has discussed.

Steck: Dan from the Community Preservation Group said that STRs have gone down 40% in the last three years. Have we seen anything to support that?

Bessey: We started contracting with Granicus last year, and we have seen the numbers on that platform remain pretty steady. I can't speak to the numbers from four years ago, although when we started talking to STR compliance firms as we were thinking about contracting for their services, most of the estimates that we received estimated between 3,000 and 3,500 STRs in our community, and we're seeing right around 3,000 listed pretty consistently. Of course, those numbers fluctuate throughout the year. I don't have the data far enough back to be able to say that it has reduced by 40% in three years, no.

Steck: One strike, 14-day suspension. Did that come from someplace? I hadn't heard that.

Bessey: License violations would be referred to the hearings officer. There are no mandated per Code penalties. Rather, the hearings officer would be able to assess certain penalties (fines or suspensions,) or make recommendations for revocation based on the facts of the case, the severity of the violation, the number within a certain time period. So, there are some guidelines on Page 5 of the Licensing Code, and those guidelines do suggest an increasing penalty per offense within a certain time period. I'm guessing that the first note there says for a first offense in a two-year period, guidelines for penalty include a warning, imposition of a fine, or suspension for a period of 14-60 days. If it's a very egregious violation, that may warrant a suspension, but the hearings officer would try and apply a penalty that they think is commensurate with the level of severity of the violation; it is not a mandated one strike, you're suspended.

COMMISSIONER DELIBERATION

Hearns: Are these linked where if one were to fail, the other is subject to failing as well?

Adams: I was surprised not to see that as a condition, which it usually is with plats.

Bessey: We could adopt a text amendment and not adapted a zone map amendment. We can create zones and not put them on the map. I don't think we need conditions; I think we know these two things have to go together. It would be silly to get all the way through a Council second reading where only one passes. But you may have comments on the text amendment that are separate. You may be recommending approval of the text amendment with a few changes; I have a couple of notes that I want to make sure that we include if we're going to move that way. Perhaps there are changes you want to make to the map amendment. I think at this point if your discussion needs to be separated, that makes really good sense.

Levy: We didn't cover every discussion point that we've had in the past because we've had them already. We didn't want to rehash everything we had a basic consensus on.

I've compromised. When I first sat down, I really only wanted nightly rentals in the RR and G zones, and I realized that wasn't palatable. I think all of us probably have compromised somewhat. This is a compromise bill, but no matter what, this is going to be better than no bill at all.

Tortora agreed.

Tortora: From my perspective, what has taken place here is we've started the process of controlling the proliferation and expansion of STRs in the community. We've provided an approach so that the current STR owners who can demonstrate that they're STR owners can continue operating their STRs. We've increased regulations, and I think we've provided opportunities for HOAs to change their designation in some form or fashion by going through a process. There's no way this is banning STRs, which I've heard more than once tonight. I don't think that this is unfair; I think there are going to be some exceptions out there that people probably aren't going to be happy about, and I think there are some places that may want to change how they are in the overlay zone. I think that's ultimately fair. So, from that standpoint, I'm fully supportive of both motions.

Rusher: I think one of the big wins that everybody can agree on is public safety by having every rental registered within the city with standards for inspection and for safety devices in those units. I think that's one of the biggest wins out of this whole conversation.

Kingston commended staff's efforts and general (but not specific) guidance throughout the process.

Kingston: As Rich said, each one of us has probably altered our thinking. I think this is a great first step, and it's an important step that the community has asked for. We do have a lot of important survey data that really got us thinking about this issue, and it's a complex issue. Like all complex issues, it's never going to be a simple solution that's going to please everybody and always. So, I too will be supporting both motions.

Adams agreed.

Baldinger: I'd like to jump in there, too, and compliment staff because, for members of the public that don't know, since this process started, at least over the past six months, we've changed directions multiple times. We started with an overlay concept, then went to a regulation method with equal rights within those zone districts. Then we got input that we were headed towards caps; then we had to talk about where do we start with caps; where do we end; how do we all feel? I feel like I actually had pretty decent data to make at least an informed decision. I also think the public has done a good job, and we've seen and read more letters than you here in the audience might understand. I read every letter that I was given, so I do think we have data and information to form

opinions. But unfortunately, even though I favor regulation very heavily on this issue, I favor an overlay concept. I think it's a valuable tool that really gives clarity going forward, and I also very much value licensing and enforcement. I think that's going to be the number one outcome of any ordinance or attack on this perceived problem. That's going to clean up a lot of this neighbor versus neighbor angst because we really haven't had an adequate system, and city staff was just not set up to deal with complaints.

I think that's a big part of it when you think about community character, use and enjoyment of your property. Everybody has property rights, and the last thing you need is repeated noise complaints and people parking in your driveway and all the other negative impacts of a few.

That's a good part. What I don't think is a good part is: I came at it from where do we start. We got good data of where we are, generally or estimated of how many nightly rentals we have of various different types and various different zones. Like Lou said, the biggest thing I think an ordinance could tackle is the proliferation of STRs. I'm worried about that in the future, but I come at it from a different place where I see that as starting where we are and preventing too many in the future. I think you'll hear from others that they believe we have too many and would like to reduce that number over time.

I think reducing it over time is potentially dangerous for economic reasons. We don't have that data, and that's not really within our purview. I think it's dangerous because we think that we're creating affordable housing based on a loose theory that I'm not sure will actually come true, unfortunately. I worry that if we reduce the number, we'll just have more dark houses with wealthier owners rather than necessarily creating a lot of meaningful housing. Housing, to me, is a very important issue in the community, but I don't think STRs are necessarily going to directly influence housing affordability. So, with that said, I won't be supporting recommendation to Council, but that doesn't mean that I don't think we're close. I just think that on the overlay zone map, we've gone too far with red; the caps are too low; we haven't really evaluated multi-family especially, the mountain, and on the Hilltop Connector areas. I'm just really nervous that we did make arbitrary decisions based on our own anecdotal perception of certain complexes that we may or may not even be familiar with.

We had a long debate last week about Shadow Run and what their future should be, and then we hear they allow STRs. So, in a good way, the process is bringing that out. It's not as if tonight if you made Shadow Run yellow or green, or changed to cap 10, I think we're off by a factor of several hundred units, at least. I think we should start where we are and prevent a proliferation above a certain number, which would be pretty close to where we are currently. That could adjust if there's new development where the caps change. If we had new hotels at the base area in the next ten years, I'd have a total different thinking on this. But at this point, I think we're taking away valuable bed base for the community all year round, and we're doing it by rewarding some people and penalizing others, and it feels a little bit artificial and heavy-handed. So, with reluctance, I can't support this particular recommendation as it is.

Tortora: I think what we have done is we've given recourse to some of those developments that we had split votes on or whatever to go from one color to another. I've seen several letters that say we're currently in the yellow; we want to be red. I think there's a process now that allows us to accommodate maybe some of those misgivings that you might have.

Hearns: I think you're referring to the section of the text amendment that allows for qualifying HOAs to apply for a zone map amendment. I don't recall ever having a straw poll on reaching consensus for that. I know we've talked about it, but I've never been in support of HOAs being able to carve up our map. I'd like to spend some time on that tonight before I think about not supporting the recommendation of staff.

I imagine we have disproportionate comments; every single person tonight was a homeowner. The hundreds of comments that we've read that David alluded to, I can only recall and have been able to find three that were renters. That doesn't discount those three commenters and the hundreds of others that I've spoken to just as my friends who had a long-term rental situation that was month to month and stopped immediately for STRs. I can count six from my front door that I can see where that has occurred. Associations that have explicitly in their 40-year-old declarations that they can have nightly rentals, but it is absolutely taking away from the housing market. I wish that homeowners that write us would realize it's not a binary situation. It isn't, I have my home and I enjoy my retreat in Steamboat a couple of times during the year, and then have short-term renters. You can have a seasonal worker who supports the town who's only here for three months as a river guide. They're a long-term renter, but it's only three months; it's not giving up your retreat to visit. I don't recall ever seeing someone who pointed that out, so I wanted to do that and say that if we were to keep the prohibited zones and not allow HOAs to make those changes, they can still have something that's very similar; it just isn't this Airbnb/VRBO/Vacasa type that the city has gotten into. So, I think it absolutely has taken away from housing stock for workers, and by restricting areas, we have potential to do that when we grandfather these in. HOAs are homeowners; they have a completely different sense of what they want. Not saying that these are bad people, but their investments are their own or their neighborhood, and it is my very strong believe that it is our duty to the city to think about the city as a whole, and we've done that in the map. An HOA is only caring about their streets, and they think to themselves, well, if I'm just doing it and I'm not providing housing stock to workers, what big deal is that? But as we have this ability for an amendment in the Code to change all of them – that is an extreme but a possibility – then we are not protecting this city and those renters. I can't support it unless I'm convinced that it is a wise idea.

Steck: I didn't like it, but I understood that I can't get everything I want with those overlays, so I was good with that. At one point, we started talking about grandfathering properties in, and we were going down that track, and then we stopped. Where we stopped was, we don't want unlimited grandfathering, and that's where we're at now. If

we allow every property to be grandfathered in, what we have is: Yellow and red is frozen in time. It will not increase or probably decrease much in our lifetime. The green will immediately start rising and will continue to rise; there's no reason to think it would stop where it's at. So, on a city level, STRs are going to continue to rise, with some areas being frozen.

When we talk about HOAs, I'm really uncomfortable giving a vote to people who live on the front range or out of state on properties in this community. In no other area does an HOA have the ability to make things looser. That is giving the vote to people who don't even live here. I can't agree with that.

One of the speakers said something about where we're at now on rentals, \$1500-\$1800 a month per bedroom is where we're at right now, and he is correct. What that means is, for a family of four who needs three bedrooms, that means you need to make over \$200,000 to live in this community as a family. If you have your property already, you're okay, because you're locked in. But if you're moving here, or if you've been renting, and the person you were renting from sells it because property values are up or STRs it, now you're going to either have to leave town or put the family into a 1-bedroom. Is that where we want to be?

I went to lunch with a fireman, and he said he had an apartment downtown that he rented long term. He said, "I do it because I care about my community. I know I can make a lot more money on an STR, but I do it because I care about my community." I was really kind of blown away. I didn't bring it up; he just said it to me.

There was a young man on the gondola who was very excited because he had been able to buy a bunch of properties. He said, "I'm going to be able to make so much money. This is going to be the next Aspen." I just couldn't say anything. That's not what I wanted to hear. But I thought it was interesting that he thought that was a good thing. I don't think most of this community thinks that's a good thing. I don't think that's what this community wants, so I'm going to vote no, predominantly because of the unlimited grandfathering.

Adams: HOAs and grandfathering in has been weighing heavily on me as well. I think it's important to remember that there is a housing aspect to this and that it is critically important to our town. However, considerations of zoning map locations and cap numbers and things like that have really been more of a cleaning up of a previous overseen circumstance within our Code for me. Within that, certainly there has been a use, and in this case, the use is STR, that needs to be incorporated within the Code similarly to any number of uses. The use table is huge, and it's carefully considered so that we take a look at which uses might immediately impact other uses. Hotel uses and local residential neighborhoods are two uses in my opinion that very much do not go hand in hand, and I think that that's somewhat anecdotal, somewhat reasonable, but also something that I think was very much made apparent to us with a lot of the early polling that we did with the city outreach website and things like that.

I think when we take a look at how we developed the map, how we tried to find a correction to that now moving forward, that the map as it has been laid out, compromises aside, is in a very good place where we're making sure to recognize all

the various aspects that make up our town ranging from visitors, which is a hugely important part of our town -- I think we would all say that that's very obvious -- but it's not the only portion of our town. Certainly, the local community, the ability for there to be a local community, is also of great importance and that we make sure that one doesn't get rid of the other.

In looking at that and all the meetings where we carefully considered all the parts of town, considering what the impacts were, what parts of town were being made up, what the impacts were, what existing circumstances, etc. To minimize those impacts, we carefully considered what those are best going to be for visitors, where we can preserve locals housing and make sure that can continue. This map is a goal. It is a careful consideration of the long-term health of our town. How do we get to long-term health? What does that look like? What are the proper proportions of available units, undeveloped on property and all of those factors? I think that we take that same heavy weighted decision that we had to make when we were going through all those different areas and say that this is our goal. Moving forward, this has reason behind it. It has impacts to each property owner equally, whether it's an impact towards the green, yellow or red. All of that then takes me back to the HOA. To my line of questioning that I asked Ms. Bessey about this evening, I don't really see a difference between the HOA governed properties and the non-HOA governed properties, whether those be single-family, duplex, whatever. We are making this heavy handed and standing behind the decision, and I think that applies to those portions of town we looked at on the map and may or may not have an HOA to them. I'm not quite sure why the HOA gets special circumstance. There's a grey area as far as property rights, which kind of gets into grandfathering a little bit. Last meeting, I had some concerns about the date that we might set for when an HOA would need to have their documents in place. It seems illogical based on all the other things that I was just talking about that we would then say okay, we understand the impact, but as long as you guys can get your documents together within the next few months, then you can do whatever you want; it doesn't really apply to the goals that we've been carefully considering. That doesn't follow to me.

There's a different conversation for documents that might already be in place, and I would love to have that as a separate one again, but moving forward, that doesn't make any sense to me.

I bring this up more for the sake of City Council weighing it. I know we already kind of had this poll. So, I'm not personally looking to not support the motion that we might make tonight; I would certainly still look to approve this. But I would certainly like to point out that this seems like an error that we could have cleaned up a little bit better.

Certainly, a lot of people spoke to us via the public comment tonight about: I bought this; I did my due diligence; I expect to do that with this purchase I just made; you're taking away a viability of some sort.

I don't think that's our goal, and I think that's just worth pointing out again tonight that our goal is not to try and see whose rights we can take away.

But I do wonder whether there might be a middle ground between existing that can continue into perpetuity versus it ends in June. Where is a middle ground that might be successful and help us reach this goal that we've been carefully considering that gets people the opportunity to not just immediately lose rights, have the opportunity to make other arrangements or decisions or goals for themselves and don't feel immediately impacted. Does that sound like five years, ten years? Even that would be better than in our lifetime as was brought up as a potential where things don't really change. Along the lines of the original Community Survey, I would say that the status quo is not what people as a majority are content with at the moment. I would like to see that get resolved faster if there was an appropriate middle ground there. One of the fantastic things about Steamboat is that we have such a great local's community as well and that we are not just a bedroom resort community. I would argue, as a public commenter said, that Aspen in the 80s when it was good looked more like that, and I think that this goal in place is exactly what we are trying to maintain rather than accidentally lose when it's too late. I think creating this strong community is not only good for the community but is also good for our visitors. It's important that we keep that; it's what makes Steamboat exciting for both our locals and our visitors, and I think this is going to end up benefiting and being successful for everyone because of this decision.

Hearns: I thought a lot about legal nonconforming uses. I'm still swayed tonight either way, but my instinct is I don't like it. We have a statistically significant survey done by people who identify themselves as Steamboat residents that in my opinion is similar to what you had just mentioned that the status quo is not what they wanted. I understand all the stories we hear of I've been doing it and would like to keep doing and have made decisions based on that. But when I look at the criteria tonight, the third criteria is: "the proposed amendment is necessary to ensure public health, safety and welfare," and I don't believe that welfare is covered if we allow the status quo to continue. That's why, in my opinion, City Council asked us to explore this. When you talk to a group of folks about taking something away, they get loud, and they get disproportionately loud. That's for good reason, but it doesn't discount why we're here; it doesn't discount that survey before, and I think having it change so recently on us that we would be recommending a motion with grandfathering in all existing STRs in addition to the VHRs does not support the third criteria for a text amendment based on that word welfare to me. The city has said that this is not sustainable, and it is not okay.

Recently, I joined a Facebook group for rooms for rent in the city just to see firsthand these peoples' stories, and it is the most sobering thing I have read in the last ten months. I would like to be able to do something for them tonight that increases their ability to live here. So, I really can't support the text amendment.

Rusher: I'm a life-long serial entrepreneur, but capitalism, it's a cockroach; it's always going to find a way no matter what we do, no matter how we restrict, it's going to find a way to be successful because capitalism makes money. So, by expanding the area

around the base, we're going to see more development happening there. There's 30-something acres of vacant land that easily will be developed and fill up with additional lodging for our guests.

Also, being an entrepreneur, these are all investments, and investments are inherently risky. One of the original goals is to preserve quality of life for the people that live here, and that's one of the buckets I hear and read about all the time from the locals.

Affordable housing is in there also, but quality of life – living next to one of these STRs that is essentially a hotel next to them – is tough. So, there is the capitalism bucket, and then there's the quality-of-life bucket. The quality of life is all about the community and the people that live here. The reason why this commission exists is to help with planning and zoning, and zoning separates the different types of uses that we have in the city. The reason why we have zoning is so we don't have different uses impacting the lives of the others. We don't put industrial right inside residential neighborhoods or commercial with industrial because nobody wants to go shopping right next to the big cement factory. It's quality of life.

I also hear from a lot of people that are second homeowners saying: We love Steamboat; we want to retire there.

If we don't do something now, the Steamboat that you love right now is not going to be the Steamboat when you actually do retire here. So, we need to preserve this housing; we need to get the capitalist side over next to the resort and open it up for more people to stay in steamboat instead of having to leave Steamboat or live down valley.

Kingston: Having heard a lot of the more recent concluding conversation, I have to say I feel like some of the potential votes may have changed in recent memory. Obviously, that's the prerogative, but I do think we went through an extensive process over many months, and I think staff really helped guide us and inform us and respond to our questions. I'm comfortable with the motions as they stand because they deal with a complex matter where there's no easy solution. I think there's a whole sequence of compromises in there, and I'm comfortable with those compromises. Also, it's a starting position, and I think as Jessica said very well, we have a problem that we have to do something about; we have to start doing something about this. I'm under no illusion that a perfect solution is not viable. I think this is the best possible immediate starting point for a very, very critical issue, and that's why I will be supporting staff's work and recommending a yes vote to Council.

Totora: I've been in business for a really long time, and I learned a long time ago that you look for little victories whenever you can get them. What we've gone from is kind of a wild west of STRs to a map that says here's where you can have them; here's where you can't have them; and here's an area where you might. I think we are gaining control over the expansion and proliferation of STRs, and I think that's a problem that has been stated clearly by the residents of Steamboat. Full-time residents overwhelmingly support an overlay, and they want control. I think we are giving that level of control. The whole thing is beginnings. It's a reasonable approach to a complex

situation because we've provided flexibility and determination. Whether or not Shadow Run is an STR haven or a potential place for locals to rent long term is a discussion we had, and that's fine. But the reality is – and this goes back to self-determination on the HOA's part – is if that's what they want, then we should respect that in some form or fashion because you can't reach back in time and say let me change everything. As it is, this is a pretty big reach going from the wild west to red, yellow and green zones that make a lot of sense. So, my support stands.

Hearns: I highly support the map. It was such a collaborative, involved, careful experience that we all went through to get it there, and I think we did a fantastic job. I support the map entirely, but I think for me it was always with this understanding that perhaps we would talk more carefully about HOAs and legal nonconforming status and things like that. We really just focused on the map for the last several months, in my opinion, and not the other things that I have concerns with.

Adams: I have similar concerns, however, still a supportable send to Council to make the decision that ultimately they need to discuss and make themselves.

Hearns said she could support leaving the legal nonconforming language in the text amendment but not the HOA after-the-fact rezoning in there.

Steck: One of the things that Tom Ptach and I agreed on was that we didn't think that when you sold your property, it should automatically transfer, but that was locked in; we couldn't get that change. So, this is going to go on forever. Unless you quit renting it out, you can keep selling it, and it's just going to go on. I understand Legal has stepped in and said that we cannot fight this, but I have read other cities have fought this battle. Yes, we can be bullied by corporations and not take the fight to them, or we can say we're not just going to be bullied by outside corporations; maybe we need to spend some money and hire an attorney who can fight back for the community.

Baldinger: I just want to address Jessica's comments. You've got a conflict in your mind about either caps or grandfathering, and I think they're absolutely related. That's why I'm kind of in opposition. If you allowed HOAs to go in, and you really look at the numbers that we have from Granicus, it's not a lot of units. I think we're 85% to something I can support. But on principle, I cannot get over mainly things in 5 and 6 and on Hilltop, which really involves only maybe 20-150 property owners maximum. They're all interrelated. If you had higher caps, and more yellow, it would have the same potential result to the community as low caps and certain associations being able to go in and the grandfathering. The unfairness of the grandfathering, the unfairness of the grandfathering is that only people that have done it in the past get their right, not everybody. So, I get stuck on that. But it's not illogical what you're saying, they're related. It's really how many STRs are we going to end up with in five or ten years, and I think we're making the number artificially too low. I think we're almost there, but I feel rushed even though we put a lot of time into these work sessions. We still have

questions, and to just push it onto Council I think is a mistake. On the other hand, if we do push it onto them, they can make the decision and give feedback, and they can always change it next year if they made a mistake.

Hearns agreed that she feels rushed and asserted that June is a self-imposed deadline. Hearns: The last ten days is the first time that we've seen the cumulative effect of all of our work, and I would argue for more time. I know that's a City Council question for them to extend that moratorium, but it feels self-imposed. It has the potential to increase more STRs that we might have to grandfather in. I would prefer just to have more time to hash that out. When I sit here not being sure if I want to grandfather in all the units tonight, I'm talking about 382 homes. We're so close to being able to all probably agree on something; 382 homes out of 3,080 is only a 12% reduction, which doesn't feel like enough, but it also kind of does. There's so much uncertainty in my own mind, and it's nice to hear that I'm not alone on the Commission.

Baldinger: The beauty of it is your preventing proliferation in the future. That was my number one goal, and I heard that loud and clear no matter what side of the issue you're on. I just think we're hacking the numbers so much without knowing the consequence, and it has a wide-ranging impact on a lot of people randomly. If you own at Quale Run, why is Timber Run the lucky ducks, and Quale Run has to determine their fate even if we allow that. If we're going down the cap road, they have to be higher to get my support. If we leave the caps where they are, you have to have some type of mechanism to continue the use, even though I think it's unfair to give it to the people in the past only.

Levy: Do commissioners feel that if we had more time, we would actually get to a better consensus? You two are saying you're close, but I think you're close in opposite directions. There are other options besides a self-imposed deadline by City Council. We can choose to honor that or not. But before I bring up tabling, you should think hard about whether more time will really benefit us.

Adams: Or change anything.

Steck thought there was room for more compromise. He mentioned Shadow Run for Sunlight.

Tortora: I have no problem making a motion to table this, but I don't know for how long. How much time do we need? Is this something that we could hash out tomorrow or over the next week? How much time is needed?

Adams: It's an important decision, and of course we could talk about it more, but we certainly have, and unless you desperately felt like you totally forgot a critical part of it – we've taken dozens of straw polls; I don't feel good about them all, but I feel like the compromise place is very good. Is this just the reality of getting to a compromise where

nobody feels perfectly happy but talking about it for another ten hours if not getting anywhere different; it's just driving in the same conversation. Are we at a place where we can let Council finish the conversation and move on.

Kingston agreed with Adams. He pointed out that staff asked commissioners if this was the right time for a public hearing.

Hearns: I think what has changed is that this is the first time we've seen the actual draft ordinance all together. If this were a work session, I would propose something like: I would like the HOA zone map amendment to be removed entirely, and with that in mind, maybe I would think let's cap Shadow Run at the 40 they're at now, and then perhaps David and I and other people could get to a place where we feel comfortable. I think Lou made a lot of decisions through the mapping with the idea that HOAs would be able to change it, so if people wanted to get rid of that, I think we could talk about changing the numbers and feeling a lot more comfortable. If everyone else likes the zone map amendment, I'll just take it gracefully.

Tortora: To me, the grandfathering is more important than the HOAs. I believe we should have grandfathering. The HOAs I think will take care of themselves if all of the people who are currently renting inside the HOAs are allowed to continue renting. To me, that is the lesser of two evils. So, I could support an amendment where the HOAs' self-designation is removed as long as we're ensured that the grandfathering is taking place.

Adams: If such a change were proposed this evening, is there even a way that some kind of amendment could be described in a vote this evening that would be able to change something with clarity for staff to be able to bring to Council in the next couple weeks, or does that prove impossible?

Bessey: If we're just talking about recommending approval of the ordinance with the change of eliminating the HOA rezoning process, that's pretty straightforward.

Baldinger: I would suggest that perhaps we need to vote on the ordinance as-is and see where we are.

Adams: There's no requirement that we do that. Friendlies are entertained all the time even after motions are presented. Certainly, you can make a motion and look for a second.

Steck: I really feel like we did not really hash out the grandfathering in. We have an attorney. He never really sat down with us. I think I'd like to let him hear what we have to say and him say, no, if you do that, this will happen.

Adams: We did get some feedback on that.

Bessey: The nonconforming status is really a legal issue; we're talking about land use rights. It's different than licensing. When you mentioned earlier that some other communities have taken the right of way for STRs, most other communities have been doing licensing for quite some time. We have not. It has been handled in our Zoning Code. There are some land use rights, and there are legal issues with that. City Council did have I think a two-hour executive session with our city attorney on this topic. It's come up I think in every Planning Commission work session that we've had. I know that there were some questions about it. There's been a lot of opinion that you would like to see nonconforming status expire with change of ownership, but that is not how legal nonconforming status works. It's not an option. I think we've talked about that on many occasions, and I also think that as we worked through the map, I can recall almost every single conversation recognizing that no matter what we set the cap at, the existing STRs would remain if the Council decided to grant legal nonconforming status. I did have in my notes that that was a factor in your conversations and your work sessions going back nearly a year now. I know that there was in December a conversation about other potential options. That was when we were talking about the restrictions concept and not the caps. I think that there are some differences in that type of ordinance and scenario. I'm not going to try to provide legal advice or explanation, but I will say that what we have heard from the city attorney and what I know as a city planner is that legal nonconforming status does not expire with change of ownership, and per the State of Colorado, we cannot establish an amortization period for legal nonconforming uses to expire.

MOTION

Commissioner Tortora moved to recommend approval of PL20220134 with the existing conditions, fixing the typo, changing hosted short-term rentals to be a limited use in all zones, and the elimination of the HOA language.
Commissioner Levy seconded the motion.

DISCUSSION ON MOTION

Levy: I agree with some of the angst over the HOA thing. It's unfortunate that we got direction from Council instead of us making our own recommendations from them and then letting them hash it out. I'm sure legally they could not extend the legal nonconforming, but I guess they've decided that they didn't want to take that risk. I don't remember if the HOA was something they decided on as well, but the legal nonconforming, they did. We actually made a huge change at one point where Rebecca was asking us how come we're changing everything to red, and at least for me, the big reason was that all these STRs are going to remain for a long time. That's when we started to get a lot stricter on the cap numbers and on the red zones. That's not the most appropriate way to make decisions. We're supposed to be the recommending

body and then let them tell us, well, we don't like that, and we'll make changes – instead of forcing us to make changes in a smaller box.

Talking about data: Economic data is one thing. That's just the choice how prosperous we want to be or may or may not be. But one data we have is the amount of need for rental housing or purchase housing. There's data that's out there. YVHA has been presenting it constantly. There's data that is very important to the decisions that we're making, and that's certainly the driving force for me as to why I think regulations are required.

Somebody talked about equity for existing STR owners; what about equity for the business owners that can't hire anybody because they can't live here? What about equity for the people that have a job here but can't take that job because they can't find a place to buy, and they have money? We're not talking about affordable housing; we're talking about attainable housing. They're getting outbid by people with more money that want to do STR and say that.

There's some equity that hasn't been discussed by everybody, instead it's just equity of people looking to make money.

I think tabling was a legal option for us. But how much longer do you want this to go on before action is going to be taken? Some action is better than no action in my book. This is not perfect. I agree with David, Jessica, and Jeff that I think our community's position was to put more restrictions on STRs. As Jessica said, the status quo was not acceptable. But I think because of the decisions Council has already made and sent down to us, this is as good as we can get right now. That's why I'm supporting it. We had the ad-hoc committee in 2018; here it is 2022 and we're just now coming to an ordinance. That's pathetic.

Hearns asked if the group is comfortable with the caps that have been set if the group were to approve the motion.

Shadow Run wrote us that letter and showed us their HOA language granting the 45 out of 135 units existing STR as legal nonconforming. It's my understanding that if they were to not do that for six months, then they don't keep that as a vested property right. Is that correct?

Bessey: If they abandon the use, nonconforming status would terminate.

Hearns: That wouldn't apply to the VHRs, but it could to the STRs, so would the group want to look at places that we know have them in their HOAs for 40 years and adjust the cap?

Tortora: I have no problem with that concept; I don't know that we should do that tonight.

Baldinger: I don't think it's a large number, so I wouldn't have a lot of heartburn about it. That's just my guess. I can't predict whether associations will gather and amend their covenants or not, but that's hard to do. You need a supermajority. If there are a lot of people living there, it's very difficult. In Timber Run, it would be a slam dunk because they're just trying to remain residents, renting, or owning. Shadow Run I don't know. Maybe it's already allowed. Other neighborhoods I just don't have enough information. That's why I'm comfortable with that 12 month. I think it's only going to be a couple of neighborhoods that we might have just miscolored.

Adams: I didn't look at the numbers and the goal setting on the map based on this change, so I wouldn't want to do that. I think it's the right decision, regardless.

Kingston: I'm a little uncomfortable with the change at this 11th hour, but in the spirit of compromise and accommodation and the fact that a no vote to make it clear would be a no to the whole thing – I'm a little uncomfortable with making this change this late in the process when there's plenty of documentary evidence for Council who is the decision-making body to really look at that issue of HOA. There's plenty of angst and plenty of doubts. I think they'll see that regardless of the vote. So, if I support the motion, it's principally because I don't want the whole effort to be defeated.

Adams: To add a silver lining to that, I think it's an intelligent decision to move forward given the fact that it is their final vote to make and that even if we present it as is motioned right now, Council has the ability to change that based on all of our lengthy debate this evening. I believe that's all the more reason to support it.

Levy clarified that a denial vote on this motion does not kill the discussion.

Kingston: My assumption is if the motion passes with one or two dissenting voices, that might not send a strong enough support message to Council. I think all the dissenting opinions are in the minutes, so rather than prolong the voting, I think I can live with supporting it.

Steck confirmed that the six-month abandonment criteria for ending legal nonconforming status comes from the CDC and that it could be changed, either for all nonconforming uses or for this specific use subject to further investigation.

VOTE

The motion carried 5-2 with commissioners Steck and Baldinger opposing.

Commissioner Levy moved to recommend approval of PL20220133.
Commissioner Tortora seconded the motion.

DISCUSSION ON MOTION

None.

VOTE

The motion carried 5-2 with commissioners Steck and Baldinger opposing.