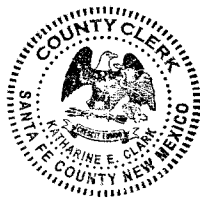


SANTA FE COUNTY
BOARD OF COUNTY COMMISSIONERS
SPECIAL MEETING

November 30, 2023

Anna Hansen, Chair - District 2
Hank Hughes, Vice Chair - District 5
Camilla Bustamante - District 3
Justin Greene - District 1
Anna T. Hamilton - District 4

SFC CLERK RECORDED 01/12/2024



COUNTY OF SANTA FE)
STATE OF NEW MEXICO) ss

BCC MINUTES
PAGES: 44

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County Clerk, Santa Fe, NM)
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Katharine E. Clark

SANTA FE COUNTY

SPECIAL MEETING

BOARD OF COUNTY COMMISSIONERS

November 30, 2023

1. A. This study session devoted to short-term rentals held by of the Santa Fe Board of County Commissioners was called to order at approximately 9:37 a.m. by Chair Anna Hansen in the County Commission Chambers, 102 Grant Avenue, Santa Fe, New Mexico.

This meeting was conducted in a hybrid fashion incorporating both in-person and remote participation.

B. Roll Call

Roll was called by Deputy County Clerk Evonne Gantz and indicated the presence of a quorum as follows:

Members Present:

Commissioner Anna Hansen, Chair [via Webex]
Commissioner Hank Hughes, Vice Chair
Commissioner Anna Hamilton
Commissioner Camilla Bustamante [via Webex]
Commissioner Justin Greene

Members Excused:

None

C. Approval of Agenda

CHAIR HANSEN: Is there any changes to the agenda from staff? Hearing none, what's the pleasure of the Board?

COMMISSIONER HUGHES: I'll move to approve the agenda.

COMMISSIONER GREENE: I'll second that.

CHAIR HANSEN: Okay, I have a motion from Commissioner Hughes, a second from Commissioner Greene.

The motion passed by unanimous [5-0] roll call vote.

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2. **Presentation and Discussion**

A. **Presentation on Options/Proposed Changes to the STR Ordinance, Ordinance No. 2022-07, the Short-Term Rental Regulation, Registration and Licensing Ordinance, and Ordinance No. 1992-3, the Business Registration and Licensing Ordinance**

CHAIR HANSEN: I have Growth Management Penny Ellis-Green and County Attorney Jeff Young. If you're online and you're one of the presenters please turn on your screen.

PENNY ELLIS-GREEN (Growth Management Director): Thank you, Madam Chair. If it is okay with the Commission what I would like to do is to read through my report and have Erle present some of the exhibits, some of data and the maps, and then we can go back and take each point as it comes. Some of the data that we'll present may affect some of the earlier on points and so we would like to be able to present all of that first before discussion.

CHAIR HANSEN: I think that is a good plan so please proceed with presenting and then we'll go back and talk about it some more.

MS. ELLIS-GREEN: The Commission commissioned a study related to Short-Term Rentals. This was presented to the Board on October 31st and it's attached as Exhibit A. The data reviewed and provided in the study did not find that, at current levels, there was a drastic impact on communities. However, it did show that many Short-Term Rentals cluster close to the City boundaries and suggest that, if unchecked, communities closer to the city boundaries and suggest that if unchecked, communities closer to the city boundaries may be negatively affected by an increase in short-term rentals. In addition, the survey conducted by Southwest Planning & Marketing raised concerns about the size of some short-term rentals and the inconvenience to neighbors.

The key recommendations were as follows: one, consider making the license and registration fees for owner-occupied short-term rentals to be the same as non-owner-occupied short-term rentals unless the it is a room within a primary residence and staff's considerations on that were that the Business Licenses and Registration Ordinance has only two categories – the business registration, which is automatically renewed and costs \$35 a year, and the business license, which is for a licensed activity, for which the Short-term rental Ordinance set the cost of initial review for non-owner-occupied short-term rentals of \$375. There is not a third category that we can use for a rental of a room within private residence, and the business registration renewal is established and a change in policy to require renewal would affect hundreds of businesses.

In addition, the staff time to process and enforce renewals for all business registrations just cannot be met. Initial staff presentation of the Short-term rental Ordinance was to only have licenses. So we have processed hundreds of registrations in this way. It does make sense to have the distinction as the Board is considering in some way non-owner-occupied.

In addition, a premise of the Short-term rental Ordinance is that owner-occupied short-term rentals will entail less enforcement costs. And finally, to the extent that owner-occupied short-term rentals are a means used by County residents to make living in the

County affordable, the lower registration cost supports that policy goal.

Staff's recommendation is that there is no change to this portion of the Short-term rental Ordinance and owner-occupied short-term rentals be required to obtain a business registration and non-owner-occupied short-term rentals be required to obtain a business license as is currently required.

The second point was consider only allowing owner-occupied short-term rentals. This would be a policy decision and a change from what is currently allowed. The study concluded that short-term rentals were not having a material impact on the availability of affordable housing in the County. There has been no data that shows that all non-owner-occupied short-term rentals violate the regulations. In addition, enforcement and non-renewals of licenses to properties where several noise complaints have been received could address these issues.

Finally, non-owner-occupied short-term rentals can attract investment into a community. If this were to be imposed, staff would need direction as to whether existing licenses can continue to be renewed. Currently, we have issued 165 registered owner-occupied short-term rentals, and 181 licensed non-owner-occupied short-term rentals. So the recommendation of staff, staff does not recommend prohibiting non-owner-occupied short-term rentals.

The third point was consider requiring that an individual or person own each short-term rental, not a corporation, limited liability company, limited partnership, or other business. The survey heard the cases where a corporation, limited liability company, limited partnership, or other business owns short-term rentals and, there is very little oversight on expanding the number of bedrooms in the dwelling which neighbors then feel that they are hotels due to the size. To the extent the Board decides to address this concern, it can be done more directly by limiting total occupancy.

Requiring a person to own all short-term rentals would still allow people to have non-owner-occupied short-term rentals. As we have heard in testimony, many Santa Fe County residents own non-owner-occupied short-term rentals and diligently check the properties regularly and enforce regulations. Individuals may want to establish an LLC for liability issues and family trusts may have a dwelling they want to use as a short-term rental. This restriction would unduly interfere with the business and estate planning of individuals.

This will still allow for economic development within the County but may hold the individual more responsible. Other limits may be more appropriate to control the larger short-term rentals. If this were to be imposed, staff would need direction as to the existing licenses. Of the 346 short-term rentals licensed and registered businesses, we have issued three to businesses, five to trusts, and 28 to LLCs.

So the recommendation is staff does not recommend imposing this restriction.

The fourth issue was consider imposing limits to non-owner-occupied short-term rentals in three ways: limiting the total number of non-owner-occupied short-term rentals a single owner or company can possess; limit on the total number of non-owner-occupieds in the County or in some communities and implement density restrictions on non-owner-occupieds located in

communities adjacent to the City of Santa Fe and in traditional and historic communities.

These options are related so we review them together. Limiting the number of

non-owner-occupieds a single owner or company would need a clear policy rationale to justify. Scale could bring benefits, such as increased investment in the STRs, professional management, and private enforcement of rules. Other limits are designed to protect non-competition policy goals, such as limiting the impact to housing stock or overconcentration of short-term rentals, and any limit could potentially be circumvented through the company structure and ownership percentages.

Options discussed include using boundaries that tie to traditional historic communities and traditional communities within a distance from the city, and Erle will go through Exhibit E for mapping of that. It may be more appropriate to establish the limit based on a percentage of housing stock in the designated area. And we attached matrix identifying limits some other communities have used – that’s Exhibit B that we will go through afterwards. For example, the City of Santa Fe limits only one STR per owner and it must be owned by a person and there is a total limit of 1000 STRs for the City as a whole.

Staff is recommending that if any caps or density thresholds are implemented for areas proximate to the City of Santa Fe that Census Designated Places, CDPs, be used as the areas of special regulations. Again, Erle will identify those in Map C. CDPs are preferred over an arbitrary radial distance or current Santa Fe County Community Planning Areas as these areas will provide for improved community granularity and, over the course of time, will have more reliable, consistent, and defensible housing counts within these CDPs generated by the US Census Bureau.

Density restrictions – so a separation between non-owner-occupieds will be difficult to regulate. It will lead to debate about where the distances are measured from. For example, is it fair if your neighbor decided to submit before you? If a density is to be set, staff would recommend that it apply only in the zoning districts with smaller lot sizes, so maybe CDPs closer to the City boundaries. Communities around the city are showing a higher number of short-term rentals than more rural communities, but there is a huge variance in different sections of the county in terms of the percentage of active STR listings. And Exhibit D goes over that and then Erle will identify that as soon as we finish going through these.

So staff Recommendations: staff does not recommend limiting the number of non-owner-occupieds that a single entity can own; staff recommends that the number of non-owner-occupieds be limited to ten percent of the total housing stock in the CDPs identified in Exhibit C; the percentage of housing stock limits are easier to calculate, understand, and enforce than limits based upon distance between short-term rentals and there is no quantitative or qualitative data that would dictate with certainty what the appropriate percentage would be. The suggested percentage is based, in part, on current market conditions while allowing some room for potential growth.

Number five: we have considered a limit on the number of people staying in an STR. Current limits are two people per bedroom, excluding children of age of five and under. The occupancy limits by short-term rental-type for short-term rentals that have been approved for, for owner-occupied, we have 79 with a limit of two people; 41 with four people; 36 with six people; 15 with eight people, ten with ten people; and eight with 12+.

Non-owner-occupied are 21, two people; 44 four person, 51 six person, 25 eight percent, eight ten person, and two 12+. So what that shows is that most of our short-term rentals are either one, two, three and four-bedroom short-term rentals.

There's been concern about the number of people staying in a single short-term rental. These concerns, however, have not translated into actual complaints to the County. Overall, the County has received only one complaint related to a homeowners covenants, and that's been since June 1, 2023. In addition, higher occupancy short-term rentals provide a housing option that may be attractive to a desirable segment of the traveling population such as large family reunions. If an occupancy limit is imposed regardless of the number of bedrooms, staff will need direction for the properties that are already approved with above that occupancy limit.

Recommendation: Staff does not recommend changes to occupancy limits, since higher occupancy limits have not always translated into rule violations. To the extent they do, criminal or civil enforcement and/or administrative proceedings to revoke or non-renew the registration or license should address these concerns. If limits are imposed, however, staff recommends that the limit not be less than eight, which would allow a four-bedroom house to have two people per bedroom.

Number six: Enforcement and penalties for individuals and platforms. The requirement for obtaining a license or registration has been in effect for approximately six months and there are still hundreds of listed STRs that have not applied. Staff will work with Granicus to review activity and use available mailings through the contract to start the enforcement program. Initial enforcement letters will be mailed by the end of the calendar year. Some platforms may remove short-term rentals if we have proof that we are enforcing non-compliance.

Currently, Code Enforcement Officers may issue misdemeanor citations through the institution of a criminal action against violators. A person convicted of a violation is guilty of a misdemeanor and can be punished by a fine of not more than \$300 or by imprisonment of not more than 90 days, or by both fine and imprisonment. Again, that is imposed by the court, not by us. A contract prosecutor may allow for more expedited enforcement action against short-term rental owners who refuse to comply.

Number seven is removing the homeowners association covenants language. Very few covenants actually state "no STRs". Consequently, staff has been caught between competing interpretations of unclear covenants, which is a no-win situation that is bound to upset one side or the other. In those situations, staff errs on the side of allowing the short-term rental so as to avoid depriving a property owner of income while the matter is litigated between private parties.

Staff recommends removing the language that prohibits short-term rentals if prohibited by restrictive covenants. These private restrictive covenants are a private matter and should be enforced by the homeowners association. This is consistent with the County's long-standing practice with regard to private restrictive covenants in the land use context.

Number eight: Other issues to be dealt with outside of a direct Short-term rental Ordinance amendment. First is to schedule a comprehensive review every five years. Committing policymaking and staff resources years in advance should cause pause and is somewhat in tension with the priority-setting process of the strategic plan. Five years is a

long time, during which there may be regular market changes and shifts

Staff Recommendation: Do not mandate a review at a specific time. Require regular reporting to the BCC on registration, licensing, and enforcement activity. Review can be initiated as needed and prioritized in connection with the County's strategic planning process.

Responsibility of enforcing Lodgers' Tax or Occupancy Tax from platforms: The amended Lodgers' Occupancy Tax Ordinance already requires short-term rental platforms that display listings and facilitate payment of rent to collect occupancy tax on behalf of the short-term rental vendor. The Treasurer's Office is ultimately responsible for collection of the Lodgers' Tax. The Lodgers' Occupancy Tax Ordinance, Ordinance No. 2023-02, allows for criminal penalties not to exceed ninety days in jail and/or a fine of \$500 for each violation. The New Mexico Taxation and Revenue Department is responsible for enforcement of GRT tax.

Staff Recommendation: Staff does not recommend a change to the Lodger's Tax Ordinance.

Streamline the short-term rental renewal process: Staff have already begun working on this. The amount of staff time to review and issue initial registrations and licenses has taken is not sustainable for renewals. Staff does not recommend making a change to who can apply for registrations that have automatic renewals. For license renewals, the proposal is that renewals where nothing is changing will ask for general contact information and the last year's license number and any else such as water restriction readings, and the staff will process the new license with no other information needed.

The online permitting system is in a test environment now and we would expect it up within a few months so renewals will be easy. So staff recommendation is no ordinance change is necessary for the renewal process to be streamlined. That is something that we will be working on anyway.

The next was educate the community on how to request tents, RVs, and domes. These uses are allowed through a Conditional Use Permit or administrative approval in many zoning districts under the SLDC. Staff can produce a more comprehensive checklist or packet to assist those with this type of use. If such uses are approved, they do not require a short-term rental license or registration any more than a hotel, bed and breakfast, or an RV park does. They would be done though a general business registration.

Staff have had discussion with Commissioner Greene of a possible SLDC amendment to allow a small-scale use, maybe two or three units only, through an administrative streamlined process that would include health and safety requirements, such as ensuring correct electrical hookups, connection to a septic system, and availability of water. Many people have these structures on their property they do not use as short-term rentals, so research and safety concerns need to be reviewed.

As this is a use and needs to be regulated by the SLDC, it is not appropriate in the Short-term rental Ordinance because this is part of the Business License and Registration Ordinance.

An SLDC amendment will need to be included in the strategic plan and prioritized. Staff waits for final direction from the strategic planning process to set a

timeline for this possible change. Staff recommendation is that direction and prioritization through the strategic plan to bring forward options for RV, tent, domes that can be permitted for overnight occupancy and therefore used for short-term rentals.

And the last was the regulation of events. This has been an issue with some short-term rentals but the issue is larger because special events can be held at any property, whether private or for a profit. The Short-Term Rental Ordinance already has an overnight occupancy limit and a daytime limit twice that amount, and quiet hours, so exceedingly large events cannot occur at all or after hours. Rural event centers are not included in the use table and therefore not allowed within the county. However, it has been a use that has developed as more common over the last few years. It may be appropriate to address this new type of use in the SLDC and include regulations related to noise, size, and location. This would be a future SLDC change, again, priority would be set through the strategic planning process.

So the recommendation would be direction and prioritization through the strategic planning process to bring forward options for large-scale rural events.

And I am going to ask Erle if he will – actually, if I can start by looking at Exhibit B in your packets, and I’m wondering if, Daniel, if you could bring Exhibit B up. This is a comparison that our Planning staff did related to the number of STRs per owner, whether they use a real person or a business or LLC, percentage of housing stock. And the table shows City of Santa Fe, Town of Taos, City of Albuquerque, Village of Los Ranchos, Village of Ruidoso, Sedona, Boulder, Colorado Springs, Palm Springs, California and San Diego, California.

You’ll see that very few of them actually require real person. And some of them that do say that you could also be a non-profit organization as well. And then there’s the number per owner, several places have done that, and the percentage of total housing units. What I would say is that we are different from the City of Santa Fe as far as we have a lot of diversity for lot sizes throughout the county and in areas where we have one unit per 160 or one unit per ten acres, has a different kind of feel with short-term rentals in the City of Santa Fe where the houses are very, very close together.

From that I’m going to ask Erle if he could bring up and discuss the CDP map and the short-term rental units by CDP from information we have from Granicus, and then the map of the traditional and traditional historic communities in the five-mile boundary. If Erle is able to bring that up.

CHAIR HANSEN: Penny, could you tell us what exhibit you’re looking at, because I think those of us online, we can pull up the exhibit on our computers but we need to know exactly what exhibit you’re looking at.

MS. ELLIS-GREEN: Sure. Exhibit C is the map of the CDPs within five miles, so again, that is C. And Erle is going to try and share his screen and give some information about those Census Data Tracts.

CHAIR HANSEN: [inaudible] is it the same map that I have up on my computer. Commissioner Bustamante, do you have that map up also?

COMMISSIONER BUSTAMANTE: Yes, I do. Exactly the same one.

ERLE WRIGHT (GIS): So what I’m sharing is a live version of that map, so we’ll be able to kind of move around it in. But essentially it’s showing the census-designated places in the vicinity of the City of Santa Fe. The sort of magenta line on there

is the five-mile buffer of the City of Santa Fe.

CHAIR HANSEN: Erle, what's showing on my screen is only a portion of the map. Those of us who have the map, we have whatever you submitted in the packet.

COMMISSIONER BUSTAMANTE: There you go. If you could shrink your left panel.

MR. WRIGHT: Absolutely. It's a little slow. And excuse the – it's going to take a little bit of draw time. So yes, that's the full extent of the map. I can come out a little farther, but again, we have the five-mile limit and the cluster of CDPs that are immediately abutting the city. I brought it up this way because we could actually zoom into it and pick it apart, so to speak. But again, the recommendation was to move these CDPs if we are to consider density limits in these areas. The Census Bureau will actually accumulate data in these census designated places. Not only the decennial census but also during the five-year American Community Survey program. So we'll have, over time, consistent data to be able to really look at what's going on with these short-term rentals. If you've got any questions – it is a little fuzzy I see on the display. I'm not sure how that's coming across on Webex for you.

COMMISSIONER BUSTAMANTE: Madam Chair.

CHAIR HANSEN: Please use your hand. Yes. Commissioner Bustamante.

COMMISSIONER BUSTAMANTE: Do we have any in the Edgewood area? I recognize that we're only looking at the five-mile buffer, but I'm wondering if – being able to see the entire county.

CHAIR HANSEN: Well, Edgewood would have their own regulations.

COMMISSIONER BUSTAMANTE: So we have the Stanley, Glorieta – that's fine. Okay. I see. Thank you

MR. WRIGHT: Not a problem and I can also zoom into that area so it's more clear. But yes, we have the Golden census designated place, San Pedro, Cedar Grove, Thunder Mountain, Martin, actually spans both Bernalillo and Sandoval County, and then we also have the Stanley CDP down south. But as you can see, again, the dots on this map – let me zoom in a little more – we don't have a lot of short-term rental activity down there. The red dots are actually operating without a license.

COMMISSIONER BUSTAMANTE: The Stanley, Glorieta area?

MR. WRIGHT: Let me get over here.

COMMISSIONER BUSTAMANTE: Thank you. I appreciate it.

MR. WRIGHT: No problem. Just bear with a little lag time. Moving north we do have the Galisteo CDP. Let me zoom into that so you can kind of see that area because there's quite a bit of activity there. We do have a couple of licenses that have been issued. Those are non-owner-occupied. These two blue – I'm not sure how it's coming across on Webex. The gray dots are STRs that have been active in the last two years but are not currently active. And we'll get into that when we look at the spreadsheet of these numbers by census designated place. Unfortunately, we concentrated on the Extraterritorial – well, the five-mile area.

Let me get over to the Glorieta area. Now we're all the way out. Okay. Well, just to see it. Again, so that's the eastern end of the county. We have Valencia, Glorieta, La Cueva census designated places at the eastern edge of the county. And then if we move north away from the city, we have the Pojoaque Valley CDP and as you can see there's

quite a bit of granularity for San Ildefonso, El Rancho, Jaconita, Jacona, Pojoaque, Cuyamunge, the Cuyamunge Grant is a separate CDP, and the Nambe CDP, in the Pojoaque Valley, in addition to the Tesuque Pueblo CDP.

Moving farther north, these are the CDPs up north: the La Mesilla one, that's actually Rio Arriba County, but I wanted to just show it for reference.

CHAIR HANSEN: Commissioner Greene has a question.

COMMISSIONER GREENE: Thank you, Madam Chair and thank you, Erle. I also just one of my questions was La Mesilla and the White Rock area I think were not in Santa Fe County. But more importantly, how does – some of these areas that you're showing are tribal areas so the San Ildefonso area, there is the El Rancho part but it is Santa Fe County, and then there's of course San Ildefonso land and the same thing in Pojoaque and the same thing in Nambe and the same thing in Tesuque. That's one question, because there's definitely an overlap of those and so it would be good to see how those areas – like San Ildefonso's CDP is definitely 80 percent, 90 percent tribally governed. Same thing for half of Jacona and so on. Then just on that map, one.

Two, I'm wondering – I think my understanding is Española and Edgewood do not have regulations on this as of yet. And so while they're part of Santa Fe County and just like the City of Santa Fe has gotten ahead of us, they're sort of lagging. Is there any conversation with their administrations for us to either assist, or do they have plans to do it on their own? Sorry. I know it's a lot of questions.

GREG SHAFFER (County Manager): Madam Chair, Commissioner Greene, relative to their plans, unless other present staff have information that I do not, but I don't know one way or another what their plans are relative to potentially regulating short-term rentals. And again, that's specifically with regard to the Town of Edgewood and the City of Española. If any other present staff member has definitive information I'll let them raise their hand, but it doesn't look like that is information that we're privy to.

COMMISSIONER GREENE: Thank you. And in terms of the mapping and some parsing out San Ildefonso and all the different pueblos on this, I think it would be useful, maybe – obviously not today; we're in a meeting right now, but to just sort of show that these are other governed areas that are not our responsibility or jurisdiction.

MR. WRIGHT: Madam Chair, Commissioner Greene, the ones above the orange lines on the maps, that's actually the community planning area for the Pojoaque Valley. Those are the private in-holdings within the tribal areas. So those are subject to County jurisdiction and regulation, and you can see that we've got a couple of active STRs right there that are not permitted. There's a couple right here – actually there's three, here in the San Ildefonso Pueblo that are permitted. Two are non-owner-occupied. It's super-tiny. I can fix that. And then I'll just pan across so we can see that. But there are private in-holdings within those tribal areas and they are subject to County regulations.

COMMISSIONER GREENE: Okay. Thank you very much. And I'm sure somewhere in your layers over there you have a layer that shows the borders of the pueblos so we could sort of see those things. But that's fine. It's more of a between now and later, point that we can look at those more closely. Thank you.

MR. WRIGHT: So if there's no – I'll bet back to the five-mile – where the concentration of STRs are.

CHAIR HANSEN: What I do think with that, Erle, is that like Eldorado and Cañoncito, they're census designated areas, CDPs, but they're not within the five miles. So my first initial response is that we should be doing, as you suggested, the CDPs to regulate is that area. Is that what you're suggesting?

MR. WRIGHT: Madam Chair, yes. Well, that was the recommendation. We're seeing the concentration of STRs basically adjacent to the City of Santa Fe. So, yes, the suggestion was if the Commission was to consider some sort of density regulations, these would be good indicators to allow us to have the data, the housing count data to be able to look at that. Does that answer your question, Madam Chair?

CHAIR HANSEN: Yes. I just wanted to make that clear.

COMMISSIONER HAMILTON: Madam Chair.

CHAIR HANSEN: Yes, Commissioner Hamilton.

COMMISSIONER HAMILTON: Thank you. I think using this CDP is a great idea and I would just refine that by saying that allows us to focus on the CDPs we want to focus on. I don't see that we're in an area of needing that kind of limit. But Commissioner Hughes might feel differently, one way or the other about Eldorado which is not – the CDP is not adjacent to the city. Otherwise, I would start with the CDPs adjacent to the city and then add only the ones that are necessary.

COMMISSIONER HUGHES: Madam Chair.

CHAIR HANSEN: Yes.

COMMISSIONER HUGHES: Yes, so I also noticed that Eldorado was outside the five-mile limit and it does need some – I mean I think we should put some limit there. I'm also wondering about – sort of you can see the San Marcos area down along Route 14 is not a CDP but it has quite a few short-term rentals in that area. I'm wondering if we should somehow consider – I don't know whether it would be just sort of a general rule for the rest of the county that's not too strict or something like that to cover some of these other areas.

CHAIR HANSEN: Thank you. Go ahead, Commissioner Hamilton.

COMMISSIONER HAMILTON: Thank you. Is there a way to pick out the San Marcos Community by – they're an overlay district. So there's a mechanism for picking out that without doing a countywide limit.

MS. ELLIS-GREEN: Madam Chair, Commissioners, if we look at Exhibit W, that is another exhibit that shows us the five-mile and also shows us our traditional and traditional historic communities. And so we're recommending the CDPs but this could be another way that Commissioners would want to go or to identify certain boundaries. San Marcos is a contemporary community, not a traditional community.

COMMISSIONER HAMILTON: But it is an overlay district?

MS. ELLIS-GREEN: It has a planning district and it does have an overlay district, as is the 285 Highway Corridor. That's another district that's not also a traditional community. So there's a number of different ones that we can pull out. If we look at Map C as well there is a concentration kind of – some of them are not being used right now but in the Cañoncito and Eldorado areas we could identify which ones. And then I guess we could add in another district that's not a CDP, would also be these planning districts or –

COMMISSIONER HAMILTON: That was going to be my question. Is it

possible to do a little bit of a mix and match? The CDPs and then pick which ones or eliminate certain ones that are too far outside, away from the city, to require a limit, but then add areas that are identifiable where frankly, people clearly – San Marcos is clearly wanting some regulation. I know Glorieta – because we’re talking about regulating non-owner-occupied, in terms of number limits. So anyway, I was wondering if mix and match was possible, within a rational limit.

COMMISSIONER HUGHES: Madam Chair.

CHAIR HANSEN: Yes, Commissioner Hughes.

COMMISSIONER HUGHES: Penny, given the number of comments we got from the Madrid and – maybe it was just Madrid, but I think we’ll have to look at some communities that are a little further out, because Madrid is not in the five-mile or even close to it but as I recall there were quite a few STRs in Madrid and some people were looking for some regulation there.

CHAIR HANSEN: Is it a CDP?

COMMISSIONER HUGHES: It is a CDP, so we could use the CDP designation.

CHAIR HANSEN: I think that that is the starting point, so to speak, to use the CDPs as a place where we want to regulate and limit the non-owner-occupied.

COMMISSIONER HAMILTON: I just want to repeat myself, Madam Chair. Most CDPs, but not every one of them. Like I said, Glorieta area seems to be a CDP and it just doesn’t need limits. But there are many other – it’s a good starting point. So if we can take out unnecessary CDPs and add in if they’re – and maybe I’m wrong. We’ll get comments and if Glorieta needs it we’ll do it. So the CDPs are a great start.

CHAIR HANSEN: It does appear on this map of traditional – what am I looking at? Exhibit E. It does look like there’s a number of things happening in Glorieta. But I could be wrong. A number of short-term rentals in the Glorieta area already, but I’m not on the correct map. I’m on Map E. So I need to go back to –

COMMISSIONER HAMILTON: I just want to retain the concept of being able to eliminate if there’s a CDP that really doesn’t need regulation and to be able to add an area like San Marcos where they could use some regulation but they’re not a CDP.

MS. ELLIS-GREEN: Madam Chair, Commissioners, I think what we would probably be looking at then is the Commissioners to actually which CDPs they want to put a limit on and we would list them, and so if you have a CDP outside the five-mile that you wanted to put a limit on you would add that to the list, and then in addition to that, if there was a planning area, so long as we’ve got a good boundary. The issue with San Marcos is that it has a huge planning boundary. It’s a contemporary community and it’s incredibly big. I don’t know if you can see that on the –

CHAIR HANSEN: We wanted to go into Glorieta and see what was happening there, and it does look to be a number of dots, but maybe they’re all gray dots.

MS. ELLIS-GREEN: We could look, for example, if Commissioner Hughes wanted to include Eldorado – there’s only a portion of that in the five-mile, but we could list that CDP. If we didn’t want to include Glorieta we just wouldn’t list it. If we did want to include Cañoncito, again, we would list it. Maybe we wouldn’t for Lamy, and then as you go north we would list which ones you actually wanted to regulate. So I think in an ordinance we could be specific on the CDPs or the planning

areas.

COMMISSIONER HAMILTON: Madam Chair, I have another question. Is there on the map a way to differentiate owner-occupied and non-owner-occupied?

MR. WRIGHT: We're doing that.

COMMISSIONER HAMILTON: Just because my understanding may not be fully informed at this point, but my understanding is most in the Glorieta area are owner-occupied. So that's why –

MR. WRIGHT: That's what I've got up here. And what you'll notice is again, this is something that's interesting in the data. The last two years there's all sorts of STRs that have been active. Right now there are only six permitted in this mapping that we're looking at which includes both Valencia, the Glorieta CDP, and La Cueva CDP. There's only six permitted STRs in those three CDPs, and that's the numbers that you're seeing here. The STR-Os, that's an owner-occupied. There are three permitted short-term rentals there.

COMMISSIONER HAMILTON: I see the color. Yes.

MR. WRIGHT: But you'll also notice that there's 27 STRs in these extents, and again, the number here. I don't know if you can see that. I should have made this a little bigger, that have been active in the last two years in those areas. And that's also something you'll see on the chart when we get to Exhibit D and we can walk through that. But there's a very large number of active STRs. I don't think we have the data yet to really understand the STR market and how seasonal it is, and if these are coming, going, based on seasonal residents who are here at one point, probably maybe less than a couple of months, and then having it as an STR during those other ten, eight months or however long they are. And according to our regulations now, those would be considered non-owner-occupied just by the occupation of 270 days in order to qualify for an owner-occupied STR registration. The STR-Ns get a license; the STR-Os get a registration, a business registration.

COMMISSIONER HAMILTON: So you mean going forward, there are never going to be any more STR-Os?

MR. WRIGHT: No, no, no. That's why we're having this study session at this point is to actually look at these data that we're seeing now and make those determinations. Is the current ordinance working or do we need some tweaks to accommodate the market that we're seeing in Santa Fe County.

MS. ELLIS-GREEN: So just to add to that, where we're looking at gray dots, that means at some point they haven't been permitted yet, but at some point in the last two years they have been in the short-term rental market. So what you may find is that if we look at this data from Granicus in a month, in two months, some of those may turn as active, because people have gone to a warmer climate and they're renting out their house. And then during the summer, it would show that they're not active.

So that's the information that we're getting from Granicus as we go. I think as it comes to it, we can provide a look at these and we can provide the kind of data that we've got in the next table that Erle's going to go through for any of the CDPs you're interested. And we can provide that by the time we come back with an ordinance and at that point we can, during publish title, we could go ahead and narrow it down which ones you actually want to have included.

CHAIR HANSEN: So I would like to go on with the presentation, so Erle, would you please continue?

MR. WRIGHT: Yes, Madam Chair. I think the best thing is to look at Exhibit D, and again, these were only aggregated. We can produce this data throughout the county but we concentrated again on the CDPs in proximity to the City of Santa Fe, because that's where we've seen the highest density. So let me bring that up.

CHAIR HANSEN: Not quite on our side but I know that Commissioner Greene and Commissioner Bustamante both can pull up Exhibit D. Okay. Thank you.

MR. WRIGHT: Yes, so look – let me explain this table. You'll see there's multiple listings for each CDP. This is – so the central column is the STR permit compliance status. This is as per our vendor that is monitoring STR activity. This is the Granicus Host Compliance. Generally, they categorize them in five categories. So you'll see Santa Fe foothills has all five compliance status. It's either compliant because it's no longer advertised; those are the gray dots on the map. It's either compliant because it's not an STR, which by the host compliance definition in Santa Fe County Ordinance, that means that the rental period is greater than 30 days, so greater than a 30-day stay is the minimum stay.

I would note, however, that some people are doing that but actually are listing at a greater than 30-day minimum but are actually renting for less. That will be a code enforcement issue for us. The compliance status of permit-issued, that means we've actually issued a Santa Fe County permit, either an STR-N, for non-owner-occupied or an STR-O for owner-occupied. A permit has been issued for those STR accounts.

The non-compliant is it's an active STR that's actively listing that has not come in for a permit from Santa Fe County. And then this fifth category, this TBD, the vendor that we're using is very stringent about matching these records. They must identify a third party match before they will actually confirm that it's either compliant or non-compliant. So these are to be determined. However, the locations are there and they are active STRs.

So what I've done here in this table is to give you, first of all the columns looking at the total housing units and what's occupied or vacant. Again, this is from the American Community Survey from 2001 and again, this is one of the reasons why we're recommending using CDPs as this date is going to be regularly available to the County on at least a five-year basis.

But what you'll see is I've also put in a vacancy rate for these. Generally STRs would be captured as a vacant housing unit because the census is typically looking at permanent residents. So that vacancy rate, actually STRs are part of that vacancy rate, generally. Unless of course it was an owner-occupied, obviously.

MS. ELLIS-GREEN: Madam Chair, Commissioners, if I can just add, with the vacancy rate, that also would apply to second homes. So you would see a number of those in the Las Campanas area and some of the Tesuque area, so that would also cover people that don't primarily live here, may not be renting out their house as a short-term rental. It may be a second home that is only used when they come here to visit.

MR. WRIGHT: No problem. I appreciate that clarification. And just to continue, the STR by status is the number of STRs within that CDP according to their compliance status. That second to last column, STRs, the two-year total, so that's a sum

of all the compliance status. I think that's important because we need to understand the seasonality of the STR market that we're seeing in Santa Fe County. And it's interesting, I think there's both a summer and winter market, but again, we don't really have the data yet. We haven't been doing this long enough to really track that. So when we get to the percentage, what I highlighted in blue on these charts is basically what were active STRs. This is how I got at it. So either we've issued a permit, it's non-compliant and they have identified a matching record, or it falls into one of these to be determined categories that our vendor isn't fully confident they have the property matched yet.

So I used that blue coloring to indicate that and so the total of those columns, those STR counts, is the percent of the active STRs. That's where that number comes from. The second percentage number is the percentage of housing units of total STR activity in a CDP over the last two years. Hopefully that makes sense for everybody. I'll pause for a second in case there's questions about that.

COMMISSIONER HUGHES: Madam Chair, I have a question.

CHAIR HANSEN: Commissioner Hughes.

COMMISSIONER HUGHES: Yes, so this data includes both owner and non-owner-occupied STRs. Is that right?

MR. WRIGHT: Madam Chair, Commissioner Hughes, yes, that's correct.

COMMISSIONER HUGHES: Because when I computed the percentage for Eldorado of non-owner-occupied it was only about 1.3 percent, as opposed to the five percent that includes everything. And my 1.3 percent also didn't include the inactive ones. I'm just saying there's different ways you can compute these. But anyway, that answers my question, but I think when we look at these percentages – since we're not going to try and not regulate the owner-occupied it would have been nice just to have the percentage of non-owner-occupied. Thank you.

COMMISSIONER HAMILTON: Madam Chair, if you look at the overall data, I'm sure this is different region to region, but they're about 50-50. It was 55-42 or 52-48, or something. I didn't do the calculation, but it was close so you could just –

COMMISSIONER HUGHES: You could say about 50 percent.

COMMISSIONER HAMILTON: The old eye-balling it.

CHAIR HANSEN: And also, what I'm hearing is because we have not been collecting data for that long we don't have a full picture of what is happening. Commissioner Bustamante.

COMMISSIONER BUSTAMANTE: I need some clarification on the 50-50. I didn't quite catch that. I'm not understanding the 50-50 as I look at this. Pardon me. Slow on the uptake.

MS. ELLIS-GREEN: Madam Chair, Commissioners, I was going to give the very latest data that Erle has. It's out of the 354 short-term rentals that we have processed, 171 are owner-occupied, and 183 are non-owner-occupied. So maybe a few more non-owner-occupied but I did want to add as well the reason why we were saying the ten percent is that if you look at these percentages and then you back out the two areas where we have time-shares approved that were always approved for those that really don't need to be short-term rentals, and you would back out owner-occupied, the ten percent would still allow you some expansion. So it wouldn't completely crowd out anyone else from doing a non-owner-occupied.

COMMISSIONER HUGHES: Madam Chair.

CHAIR HANSEN: Yes, Commissioner Hughes.

COMMISSIONER HUGHES: And I guess my concern is that if Eldorado is at 1.3 percent, allowing it to go up to ten percent would be a ten-fold increase in STRs, which I think would be totally inappropriate for that area. So are we thinking that for each – I was exaggerating for effect. I was just wondering, are we doing to do a different percentage for each census designated place? I don't know if we want to do that. That would make it really complicated.

CHAIR HANSEN: I would think that's over the top. I think what Eldorado on this data sheet is at 5.3.

COMMISSIONER HUGHES: Right. But 5.3 is all the owner-occupieds, or they're mostly owner-occupied, which we're not going to regulate. What I'm concerned about was a seven-fold increase in non-owner-occupied. And if we do put limits – so let's say some places have already reached their ten percent, so if we limit some places – if we limited everybody to ten percent, then the places that are already at ten percent, there'll be no new ones there but it will push them into the areas that aren't maxed out.

CHAIR HANSEN: Okay, I'm going to go to Commissioner Greene.

COMMISSIONER GREENE: Thank you, Madam Chair. So just to Commissioner Hughes' point, you see in each of these areas, regardless of the percentage of active STRs, the vacancy rates. And so some areas, like La Tierra up in Chair Hansen and my district is 53 percent, 54 percent is non-resident ownership. Forget about the STRs. So all those folks could decide that they want to start partially renting their place just as a method of keeping some activity and generating some income. Whereas, Eldorado, as you said, Eldorado has a super-low second home rate. I'm sure a lot of people consider it their primary residence and they travel a significant amount of their life as well, but that is their primary home.

So there's all different ways to parse this. And I don't quite know that we're going to have the answers so quickly but it's an interesting thing to see that vacancy rate and to understand which neighborhoods have people with second homes. And second homes people can live in 180 days to get to be here all summer and all spring or all fall, but not – and go away from the winter. So there's a variety of ways that people live in these houses and it's tough for us to decide how we're going to make that happen. In general, I think the ten percent rule needs to be discussed a little bit more but a sort of percentage is potentially acceptable. I think we're sort of deciding how that really plays out and is something we should look at. But I look forward to more discussion on this but thanks for all this data.

CHAIR HANSEN: Okay. Commissioner Bustamante.

COMMISSIONER BUSTAMANTE: Actually, thank you. I had put my hand down because I sort of felt like I was getting to where I was understanding it a little differently and then Commissioner Greene said exactly what I was concerned about that there would have to be more discussion. I'd like to understand more the variables around what that percentage would be. Ten percent – there's a number, and I have no interest in being just – I need to understand better than it being arbitrary. And so understanding the factor that will dictate the percentage. And I know it's not arbitrary, but just

understanding how we would get to this percentage and my hand went up during the part of the conversation that said, well, we wouldn't dare go to have a different percentage for each of these different areas, and then just leads me to well, then what are the overarching variables, the factors, that are being considered when we are establishing these percentages?

And I, like Commissioner Greene, look forward to understanding that better. Well, having that conversation is what he said. I think he understands; I'm looking to understand better on the variables and understanding through conversation.

CHAIR HANSEN: Thank you, Commissioners. I'm going to go back to Erle and Penny. Oh, non-owner-occupied.

COMMISSIONER HAMILTON: Could I ask a follow-up question?

CHAIR HANSEN: Yes, of course.

COMMISSIONER HAMILTON: Thank you. It's just kind of a detail. Commissioner Greene's point made me think of this. So I think the takeaway from one of the things Commissioner Greene said is in some areas where – if there's a 53, 54 percent unoccupied rate, presumably many of them are second homes, and yes, it's true, many people might want to rent those out. So one thing would be that they would typically be non-owner-occupied, so they would be subject to a regulation. Is the definition of owner-occupied governed by the number of days out of the year somebody lives in the house? If it's more than 50 percent of the time it's owner-occupied? I know that applies to things like how they're regulated by the utilities and what not.

CHAIR HANSEN: I'll let Penny answer that question.

MS. ELLIS-GREEN: Madam Chair, Commissioners, owner-occupied means that it needs to be your primary residence, and primary residence means that you must reside there for 275 days per year out of a 12-month period.

COMMISSIONER HAMILTON: Okay. Thank you.

CHAIR HANSEN: Okay, I'm going to go back to Erle and Penny.

MR. WRIGHT: Okay. We have again, you'll see – the ones that stand out, and that was a good point, Commissioner Greene, is that some of these areas have really high vacancy rates in addition to – and some are actually zero which I'm a little suspicious of, but I'm super-suspicious of data. The American Community Survey is estimates; that needs to be understood. The only time we have good solid housing counts is every decennial census. But you can probably see the ones, again, that do stand out if we are looking at some sort of percentage threshold just going down the chart. The first one that pops out is the Chupadero CDP, which it looks kind of shocking that 25 percent almost of the housing units there have been STRs, but it's critical in this case to understand that that CDP includes the Rancho Encantado area, which were time-shares. They were approved time-shares from the beginning. From the initiation –

COMMISSIONER GREENE: I'm glad you recognize that.

MR. WRIGHT: Yes. Well, that have been active. If I switch back to the map, and I can do that and show you that area, but there's a cluster of time-shares that were approved that way through the master planning process. It's possible – I think if you're looking at these, that these situations, and there's another one – Tesuque is another one that stands out in that. That's the red notes on the spreadsheet. It's actually up on the screen. But this is another one. The Tesuque CDP also includes all the Bishop's Lodge

time-shares that again, via master plan approval by the County, that these were approved, essentially, as short-term rentals from the get-go.

COMMISSIONER HAMILTON: Are those in that 179 –

MR. WRIGHT: They're in those counts. And at this point we've been permitting those. Some of these have come in for permits, but a lot of these owners have not. And again, we see the seasonal activity. If I can switch back to the map I can zoom in on these areas and we can look at them. But yes, as you can see, just running through this real quick, and I think the real question is if we do look at density restrictions, what percentage are you looking at? Total activity over a year, or several years? Where you can just look at "active", and if someone is for instance, just a seasonal rental, a couple months, but they hold the permit year-round, in a way they're sort of cornering the market and preventing other people from actually doing that seasonal rental later if we do set some sort of density cap. I think that's something the Commission should bear in mind in coming up with a policy direction here.

COMMISSIONER HUGHES: Madam Chair, just on that point if I may.

CHAIR HANSEN: Well, first, Commissioner Hughes, Commissioner Greene has had his hand up.

COMMISSIONER GREENE: Thank you. I'll make it quick. It's probably related. So to the point of all these areas, first off that have been either approved through the planning process as de facto short-term rentals, but short-term fractional ownership, right? So whether it's a fractional ownership, which I don't know for sure if we have a special classification or if that's just a conditional use that we go through when somebody comes in with a master plan, but those should probably be pulled out of these data points because they've been approved for a fractional thing. So thank you. I liked the head-nodding. Thank you, Erle.

And so that's one aspect of that. And kind of giving them a de factor short-term rental permit, because these are fractional owners. How could one fractional owner apply for their two-weeks a year for – I'm going to go sub-rent my sub-ownership, my fractional ownership? So anyway, it's a complicated aspect and I think we need to pull out anybody that has been approved by a planning process, a planned unit development process, whether it's the Encantado group, or the Bishop's Lodge group that, a) these are sort of grandfathered into this process right now, and then, b) that we're aware of that now in the future when we do approve people like this. So if somebody does come in with a fractional ownership proposal that we either automatically say that you are going to be allowed to or not allowed to short-term rental. And they're kind of strangely, hotels of a certain fractional thing.

It's definitely complicated and needs to be studied a little more as a certain use case within this conversation. So thank you.

CHAIR HANSEN: Okay, I'm going to go to Commissioner Hughes.

COMMISSIONER HUGHES: Yes, and basically the same idea as what Commissioner Greene said, but I was simply wondering for today's project is it possible just to not include the Bishop's Lodge and the Rancho Encantado? Can we just say they're not included in the count for the density for those communities?

MS. ELLIS-GREEN: Madam Chair, Commissioners, yes. I think you could give us that direction to make sure that we don't count those. We're seeing now

people that had done bed and breakfasts years and years ago, the traditional bed and breakfast, but now also are listing on Airbnb, as well as their own sites. And that's something that they can do. Same as an RV park. If an RV park holds a business registration, but has some units that people can rent through Airbnb, then they're covered by their business registration.

So I think just a direction that those that are covered by another business registration shouldn't be in our count. We'll need to go back and see if any of them are in those areas and we'll flip them to their actual business registration and not include them as a short-term rental.

COMMISSIONER HUGHES: Yes, that makes sense to me. Thank you. We can do it that way.

CHAIR HANSEN: Okay, where are we? Are we moving on, Erle?

MR. WRIGHT: Yes, Madam Chair. I believe so. It's at the discretion of the Board? Any questions on the numbers we did put together? I think the numbers actually are counted there. We do have the higher ones indicated, the Tesuque area is close to ten percent of active STRs, but again, we have that issue of removing those counts. We haven't done that yet. Chupadero is at the same place, but again, it's almost 30 percent vacancy rate anyway. As Commissioner Greene pointed out, those are second homes anyway. So that's something we need to refine our data and look at that at the discretion of the Commission.

So I'll leave it at that unless there's any questions on the table and I can share the map of there's particular areas you want to look at. I think I'll stop sharing this.

CHAIR HANSEN: I think it's been very helpful to see this list we have on short-term rental owners by CDP, with the five-mile including Eldorado. So let's move on to the next part of the presentation.

COMMISSIONER HAMILTON: Madam Chair, do you think we could take a very short break.

[The Commission recessed from 10:55 to 11:07]

CHAIR HANSEN: I'm going to call us to order and go back to Penny and Erle.

MS. ELLIS-GREEN: Madam Chair and Commissioners, I wanted to talk a little bit more about the vacancy rate. The discussion of limiting non-owner-occupied short-term rentals is really to try and keep the sense of community. And when we look at vacancy rates, for example in Agua Fria, we have a six percent vacancy rate. But when we look at vacancy rates over, maybe 30, 40, 50 percent, it is a different kind of community. It's kind of a second home community. That's where people choose to live, but it's got a different feel than the communities where most people are living permanent in the houses. So I'm going to throw out whether or not the Board actually wants to include CDPs that have a high vacancy rate.

What you're preserving in somewhere like Agua Fria that has a very low vacancy rate is that you don't want to change the face of that community, but maybe a community with a 30, 40, 50 percent vacancy rate has a very different feel. And whether they are vacant for second homes or used as short-term rentals may or may not be an issue there.

COMMISSIONER HAMILTON: Madam Chair.

CHAIR HANSEN: Yes, Commissioner Hamilton.

COMMISSIONER HAMILTON: I think that's a really good point. One thing that makes me wonder, it kind of loops that back together with the question about whether different CDP areas could actually be regulated with different percentage caps. Maybe those are areas where we want to put a much higher cap, if we want to put one on at all. So I just wanted to throw that out as one rational reason for either excluding or having a different cap than the areas we really need to preserve character in. Thank you.

CHAIR HANSEN: Thank you. Commissioner Greene.

COMMISSIONER GREENE: Thank you, Madam Chair. I think that there's – this is definitely a nuanced subject. So I will argue without definitive information but knowing lots of people that own and live in La Tierra, that's a lot of people that, yes, it does have a lot of people with second homes, and a lot of those second homeowners are Texans who do not choose to register and vote and/or reside officially in New Mexico for tax purposes. So that could have the same second home statistic as Eldorado with a bunch of retirees that live here as their official first home but spend 179 days of the year traveling but choose to live and vote and pay taxes in New Mexico and in Eldorado.

So it becomes a little nuanced and we need to get more granular and get more information about our community before we can start painting those broad stroke judgments on some of these areas.

To another point, having second homes that are vacant – two points to this. One, the City of San Francisco has just created a vacancy tax. So they're not only going to the regulating of short-term rentals, but they're actually saying if you're just going to keep it as a vacant pied-à-terre when you're in town, we don't want to encourage that because that's taking it away from workforce housing. No way I'm advocating that; I'm just putting that on the radar of different ways that people are regulating vacant homes.

And then having vacant homes without a short-term rental seems to be counterproductive and it's not producing income. It's producing a home that is dark and using a resource, whether it's for long-term rental or short-term rental, it is definitely sort of a trapped resource that should be utilized better. So anyway, more nuance to this needs to come in – more data, more information about who, how and what our constituents want as well, so I look forward to that.

CHAIR HANSEN: So yesterday we were sent a website by one of our constituents and they listed a number of places that only allowed owner-occupied primary residency as their way of dealing with it. I don't hear that from the Commission that we are going to go in that direction of only owner-occupied short-term rentals. Unless I'm wrong. I would like to hear from people, because that would indicate a certain direction that we're going in. So Commissioner Greene, briefly.

COMMISSIONER GREENE: Yes, thank you. So Madam Chair, first of all, I am absolutely against that for a variety of reasons. First off, in my district I have a lot of homes in traditional communities, even if they're not "traditional communities" where folks have had multi-generational homes that do not feel like they're ready to sell them and they want to preserve them –

CHAIR HANSEN: I get that. I think the short answer is adequate.

COMMISSIONER GREENE: Okay. There you go. So thank you. I think

that restricts that type of use.

CHAIR HANSEN: Okay. Commissioner Bustamante.

COMMISSIONER BUSTAMANTE: I don't have a – I agree with Commissioner Greene, frankly. So I don't have anything further on that issue.

CHAIR HANSEN: Okay. Commissioner Hughes.

COMMISSIONER HUGHES: I just want to say it's fine with me that we have non-owner-occupied short-term rentals. So I agree with Commissioner Greene as well. We should regulate them but not ban them.

COMMISSIONER HAMILTON: I agree.

CHAIR HANSEN: Okay. So I just want to set that up as off the table. So we're clear about that. I think that we're moving down the path that we're moving on and I'm going to go back to Penny and Erle and let them continue with their presentation.

MS. ELLIS-GREEN: Madam Chair, Commissioners, what I would recommend now is that we go back to each item, and we take direction. It sounds like we just got direction on the second item, which was consider only allowing owner-occupied. Our recommendation is that we shouldn't prohibit non-owner-occupied and I believe what I heard was that the Commission supported that. But the first option was the cost for owner-occupied to be the same as non-owner-occupied.

CHAIR HANSEN: Penny, would you please say what exhibit you're on?

MS. ELLIS-GREEN: I'm on my memo, page 2. Recommendations and considerations. So the first item was cost of owner-occupied short-term rentals to be the same as non-owner-occupied, and to require renewal fees. Based on statute, that clearly tells us we can charge no more than \$35 for a business registration, which is why we set it at that. So our recommendation is that we don't make a change to this. We keep owner-occupied as business registration, and non-owner-occupied as business license.

CHAIR HANSEN: Okay, so I'm going to go to Commissioner Greene.

COMMISSIONER GREENE: I actually think that these are businesses and I think that even if you're owner-occupied, a lot of these folks are owner-occupied but still renting out for just 179 days a year, so it's just a fraction. If they're a bedroom, I agree that maybe the \$35 fee is acceptable, but there are a lot of enforcement actions and things that we need to compensate for and be compensated for that I think if you're in the business, \$300, \$350, \$375 is a small price to pay to make sure that we have the staffing and enforcement to do this. So I don't know where that falls under the recommendation, but I think that unless you're only just doing a bedroom you should be paying the \$375.

CHAIR HANSEN: Commissioner Bustamante.

COMMISSIONER BUSTAMANTE: I completely agree and concur with what Commissioner Greene has stated. Yes, and it should be consistent.

CHAIR HANSEN: Commissioner Hamilton and Commissioner Hughes, whoever wants to go first.

COMMISSIONER HAMILTON: I strongly disagree with Commissioner Greene and Commissioner Bustamante. We went to all this effort to separate owner-occupied and non-owner-occupied. Staff has indicated that the logic of having, first of all, a simpler registration. This falls into the regulation the way it is, and there is minimal – and the whole point of justifying owner-occupied was – there were two things. One was they're there. You have minimal enforcement required because the owner is there. And

the idea that we want to charge a whole bunch more money because we want more enforcement. I think we can deal with the enforcement. I don't see at all that it's worth the complications of having to completely back out what we did, which was to give an individual who's just trying – making a little bit of extra money to be able to either afford to retire or afford their mortgage to pay – yes, they're making some money, and so this is kind of like an unnecessary grab.

There are things it's important to charge for. I'm a total believer in government charging to be able to provide services. But any owner-occupied who has a second house that they rent, that they have, and that house, that second house they have to pay a business license for. It's only their primary residence that they get an inexpensive registration for. So I don't understand what this grab for money is.

It's just the effort we would have to go to to change this, it's kind of also like saying, well, we defined an owner-occupied but we're not going to make any differentiation for you, so it was really just to fake you out and give you the idea that you were getting a different set of considerations.

CHAIR HANSEN: Commissioner Hughes.

COMMISSIONER HUGHES: I think we should go with the staff recommendation, which is what Commissioner Hamilton was also saying. We did go through quite a bit of debate coming up with the two tiers and I think it was logical. I think we did decide that we don't want to do a lot of time regulating owner-occupied short-term rentals because they're not the ones that people complain about. I also think that it would be an incredible burden on our staff if they had to all of a sudden – we're having enough trouble dealing with the non-owner-occupied ones, getting them licensed. I don't want to put a burden. If we're going to enforce things I want to enforce things that really matter. And I don't think regulating or charging the owner-occupied ones is getting to get us very much community benefit. Thank you.

MS. ELLIS-GREEN: Madam Chair, if I could just add a little bit to this conversation. By statute we can't charge more than \$35 for a business registration. The Board asked us to differentiate between owner-occupied and non-owner-occupied. So the way we did that was to say owner-occupied is a business registration. We can only charge \$35 for that. Non-owner-occupied is a license; we can have a licensing fee. So if the Board wants everyone to pay the same they will need to swap to licenses, and therefore not have – we'd just have short-term rentals, which was the original way that staff had drafted this ordinance.

But that would mean – that would be a fairly large change. It would mean that all the registrations that we've issued so far, we would have to let them know that we're changing those to licenses and they have to come back each year, and that's 171 of those so far. So we'll take direction from the Board but I'm not able to say the business registration is going to cost more than \$35 per statute. So I just wanted to add that and to make that clear, that if we were going to charge the same for everyone one, then everyone would need to be doing licenses.

CHAIR HANSEN: I'm going to go to Commissioner Bustamante and then to Commissioner Greene.

COMMISSIONER BUSTAMANTE: I understand this a little better. I have to concur with Commissioner Hamilton's statement. I don't know what the

difference would be then. So going with the staff recommendation makes more sense, in that this would be the business license. So thank you for the clarification.

CHAIR HANSEN: Thank you, Commissioner Bustamante. Commissioner Greene.

COMMISSIONER GREENE: Thank you, Madam Chair. So just to reiterate the nuances of this. If you are a owner-occupied and live in your home 183 days a year to qualify for owner-occupied, 170 something days a year you could be renting this and not be on property. So you're not really owner-occupied. You are a short-term rental manager. You could be renting your house. So there's this sort of owner-occupied classification that doesn't really talk about owner management and owner really controlled. And this is the nuance of this, right? So we're laying this down in a way that has a very hard, bright line, but for \$375 or whatever the magic number is in the 300s, that is somebody that is not renting out a bedroom in their own private residence, and it's somebody who could be having a casita and they go to Mexico for six months of the year, or five months and 28 days, and give their house up and it is basically not managed.

And so it's nuanced and I understand Commissioner Hamilton's perspective on this. I've just seen it on the ground as the people who are "non-owner-occupied" or owner-occupied, not really being owner-managed. And so I think that small price to pay is not a bad thing to require. Thank you.

CHAIR HANSEN: Okay, I'm going to make a few comments, because I've let everybody make comments. I have had this discussion with many different people, staff and Commissioners. We also collect GRT. We also collect lodgers' tax. So both of those two things contribute to the pay that these people have to pay. So I have spoken with the County Manager about this, that like we're talking about 165 people who are owner-occupied, at \$300 each, it doesn't add up to very much money. It doesn't seem like it's enough to make it influential or cover our costs. What is going to cover our costs are the lodgers' tax and the GRT.

And so I see that we already have three Commissioners asking it to stay the same. I think for the time being it can stay the same. I think over the next couple of years, how things change, I think that it's going to make and influence the decision, but I also don't think it's enough money. If you take 165 times 300 – it's not that much. I can't add it in my head and talk at the same time. I'm not that good.

COMMISSIONER GREENE: It's about \$50,000 and it's about half of a full-time position. Anyway, it's an enforcement officer. Thank you. As I've said, and I'm okay either way. I just want to be clear.

CHAIR HANSEN: Okay. Commissioner Bustamante, and then I'm going to move on from this.

CHAIR HANSEN: This is a tough one. It really is, and I do, because I understand the issue of enforcement, though I do agree and understand that there are other things to enforce, it's a tough one in our ability to ensure that things stay managed, because the moment we're not managing it and enforcing things properly, it's like a dam that breaks that suddenly things can go rogue very fast when people understand that things aren't enforceable. And that's – I just want to say that for the record. That's top of mind. I do see it as something that we do want to make sure is done. And this is a difficult one. I am right – following up, and I'm hearing what Commissioner Greene is

saying, but how to make sure that this is – I think we’re all here on a Thursday morning because we want to get this done and do it right. And this one is a tough one. I’m going to leave it at that. This is not an easy answer, but how to assure that the enforcement is going to be do-able, is the biggest question of the day. So I hear you that it’s the GRT that should take care of that, but there’s a lot to have happen here, so thank you for the opportunity to make sure that that’s said. This is not easy.

CHAIR HANSEN: Thank you, Commissioner Bustamante. Commissioner Hamilton.

COMMISSIONER HAMILTON: I’m not sure that arguing that – I don’t think we have any data, other than Commissioner Greene’s personal observation that most owner-occupieds are people who travel to Mexico or the beach or something for half the year. Most of the people in my district don’t fall into – some of them do, maybe. But I don’t have the data on that. I’m not willing to regulate and I think most of the people in my district that – the ones I know, there are plenty that have owner-occupied short-term rentals, it’s their primary residence. Even if they have – even if it’s a little casita that they’re renting, it is the legit, straight up, owner-occupied rentals we were intending to try to make a separate category for.

So if you can bring data in the future that says more than half of our – in different areas are people who are just gaming the system. Once again, at this level, I’m not so worried about some people gaming the system. Thank you, Madam Chair.

CHAIR HANSEN: Thank you. What I wanted and what are not going to get is a third category. So we have the non-owner and we have the owner. And we don’t have the ability to do anything else except for those two categories. What I wanted to see was something like if somebody had a casita – or if somebody had only a bedroom, they were at \$35. If somebody had a casita, which they were renting out short term, that is something that is taking away from our workforce housing where people could actually live.

And so that’s where I’ve seen where it would be good if we could have a third avenue, so to speak, but that’s not possible, so we move on. Quickly, Commissioner Greene, and then we’re going to move on.

COMMISSIONER GREENE: Thank you, Madam Chair. It is possible. Under the licensing structure it’s not under the business registration structure allowable, but under the licensing structure we could have two tiers of licenses that if somebody just rents out a bedroom, it’s the \$35 thing. If somebody rents out their casita and keeps their primary residence for however little or much they use their house they could have the lower level – \$150, \$200, \$300, whatever. And then at I rent a second home or this is a non-owner-occupied, it could be at a more higher tier. So there is the potential to do three tiers as we’ve discussed but I understand the complications involved in that.

I do think it’s a useful amount of money to use for enforcement. Lodgers’ tax cannot be used for any of these things; it’s all for tourism purposes, and gross receipts tax, we definitely need to use some of that towards enforcement and making sure that we’re able to operate in the county. So thank you.

CHAIR HANSEN: Okay. I think you have your direction, Penny and Erle. We’ve already considered only owner-occupied STRs. We have dealt with that. I’m going on to item three.

MS. ELLIS-GREEN: Madam Chair, the third item was consider requiring an individual person own each short-term rental and not a corporation, limited liability company, limited partnership or other business. Staff has recommended that we do not do this. We have not seen a lot of businesses so far. Again, of the 346 licensed and registered short-term rental we've issued only three to businesses, five to trusts, and 28 to LLCs. Individuals will often want to create an LLC for liability issues and we didn't feel that it was appropriate to limit their ability to do that. So that was item number three we need direction on.

CHAIR HANSEN: Commissioner Bustamante.

COMMISSIONER BUSTAMANTE: [inaudible] how do we prevent out of state companies from buying – I see these signs around the areas that say, we will buy your house. Or we'll buy – entities from out of state who are looking to buy properties because we are a desirable destination location. And there are people who can invest and buy up residential who will not having anything to be here, because we haven't provide that thus far, my flag goes up completely that if we don't put some kind of restriction that we're not going to be a corporate owned county, there's a lot of potential for individuals to go in and get properties that they are – it's all speculation. Like they're going to go in for speculation. They're speculating, they're going in in the interest for the investment and that's what they're here to buy. And that raises big flags. That goes in the face of all that's done.

Yes, there are – and I'll say it outright, there are those of us who have our LLC or S-Corp but – and that should not be prohibited. If I'm an individual or a family that has put it in a trust or whatever the case may be, but to have outside entities that are specifically looking to buy desirable properties, we already have that problem in our area. And I don't know if there's a way that we can limit that or find out, make sure that there's a way to vet the actual ownership not being some outside corporation that's coming in to buy Santa Fe.

CHAIR HANSEN: I'm going to go to Commissioner Greene next.

COMMISSIONER GREENE: Thank you, Madam Chair and Commissioner Bustamante. I agree that we do definitely need to protect the rights of an LLC and S-Corp on these sort of individualize things and family trusts, and I do agree that we need to be careful, for sure, that we don't have this sort of corporatized purchasing of these things here. So item number three and item number four are sort of interrelated here. So first off, if you're an individual person owning these there could be – or a corporation, an LLC or whatever, there could be a limit on the number of units that common ownership that these things have. So in a way, you say, look, if we're going to have a limit, as item four we'll get to in a few seconds after this topic, then we circle back and say that there needs to be a mechanism to find common ownership.

So if you say, oh, you're only allowed to have one per LLC, well, there's no way to say, oh – well, there is but it is complicated and there definitely needs to be a mechanism to screen that. So similar to the liquor licensing issue, when you apply for a liquor license in the State of New Mexico, you have to certify your common ownership, even if you're a minority partner of a bar or restaurant or whatever, that your name is on a liquor license. So similar sort of mechanism that could be out there to say, look, okay. If you're part of an LLC, please testify or swear that your ownership in any other STR.

And I think that that is a way for us to then have people swearing and testifying, attesting to this and allow for a level of common ownership and a level of limitations, but also allowing for LLCs and other corporate structures to protect people's liability and so on.

And sort of related to this, and it's not been actually put in here, and I do not think it is part of our requirements, is a requirement that we put at least a million dollars or probably closer to two million dollars of liability as a requirement for anybody that is applying for an STR, that that is one of the requirements that they have a liability policy that covers either a million or two million for this business. So if you're an LLC or if you're a private person that you have some coverage. Anyway, thank you.

CHAIR HANSEN: Okay, I'm going to Commissioner Hamilton.

COMMISSIONER HAMILTON: So I strongly recommend going with staff's recommendation. I don't see that we achieve any of our goals, preserving communities as truly residential. I think it's fear-mongering to talk about the Texas corporations based on everybody in New Mexico hating everybody in Texas, which is a really bad thing to promote anyway. Plus, I just can't imagine the benefit of putting in regulations that I think we're going to get sued over. I would sue over it. Part of preserving – we're suggesting putting a percent cap on non-owner-occupied on a community by community basis so that – to achieve the goal of not having too many non-owner-occupied – an excessive number of non-owner-occupied STRs in any one neighborhood. And so I just see this as unnecessary and one that's going to cost us an awful lot in litigation.

I haven't asked any of our County lawyers. I don't know if I'm right or not.

CHAIR HANSEN: Jeff Young has his hand raised so I would like to go to him.

MR. YOUNG: Thank you, Madam Chair, and I apologize if there's any feedback. I'm at a conference talking on my phone, or background noise. But we would – I don't think I would recommend any distinction between the in state, out of state LLC. If there was a restriction on LLCs, I think that would apply equally. The limitation that would apply equally. But in any event, I just wanted to add that comment. Thank you.

CHAIR HANSEN: Okay. I'm going to go back to Commissioner Hamilton, just because you were bringing up legal issues and so since our Attorney had his hand raised. I felt like it was appropriate to have him weigh in. Commissioner Hughes.

COMMISSIONER HUGHES: Yes, I agree we should go with the staff recommendation on this one with the caveat that Commissioner Greene brought up that we should seriously consider under 4.A a mechanism for limiting the number of units any one group can own. If that's a possible way to sort of get at the same thing without causing lawsuits and problems. Thank you.

CHAIR HANSEN: Okay. Thank you. Do you feel like you have adequate direction, Penny, on that?

MS. ELLIS-GREEN: Thank you, Madam Chair. Staff had intended to jump 4 and go to 5, 6, and 7 because we thought they would be faster, but if you'd like to go to 4 now we can do that.

CHAIR HANSEN: I think we should go to 4 since we've already been commenting.

MS. ELLIS-GREEN: There were three portions to number 4 with a limit on the total number of non-owner-occupied short-term rentals a single owner or company can possess, limit on the total number of non-owner-occupied short-term rentals in the county or in some communities, or implement density restrictions. We do not recommend the density restrictions, and a lot of the discussion we had about that table was limiting the total number of non-owner-occupied short-term rentals in the county or in some communities.

What I would offer is if we wanted to go through and identify the communities that we wanted the information in we could add data to the table that we've got for those that are already permitted, so you can see for those permitted, are they owner-occupied or non-owner-occupied? The unpermitted ones we wouldn't have that data for. But we could add that if you had some other areas or some other CDPs you wanted to add, we could bring that back as well when we publish title, and we could recommend limits and discuss limits then at that point as well.

So if we wanted to take 4. A first, limit on the total number of non-owner-occupied short-term rentals a single owner or company can possess, that could either be countywide, or it could be in the designated CDPs or areas that you show.

CHAIR HANSEN: Commissioner Greene.

COMMISSIONER GREENE: Thank you, Madam Chair. So I am in favor of a limited restriction. I think we're trying to avoid the corporatization of this and having a restriction of three, four, five, allows somebody to get a small business started and do that. I think one is very low. I think two is even low. I think three might be where you start to get to the right number per person, but then again, the LLC and sheltering and hiding the identity is something that we need to preserve in a way or at least be able to enforce so we can make it where people don't buy 20 by setting up 20 different LLCs. So it's a complicated issue.

CHAIR HANSEN: I agree with you, Commissioner Greene, on that.
Commissioner Bustamante.

COMMISSIONER BUSTAMANTE: I agree with Commissioner Greene on that. I hold that we at some point need to be able to control that, as well as allow for someone to have a way to make their means. So, yes.

CHAIR HANSEN: Commissioner Hughes.

COMMISSIONER HAMILTON: Yes, I understood what Commissioner Greene was saying, I just want to clarify. I think what we're suggesting is a limit of five, perhaps, as long as we can try and figure out ways to prevent people from getting around that. That might be a future thing, but if we limit it to five I think that would be enough for someone to have a nice small business without creating a mega-hotel within the county. And I guess I would add to that I think it should be countywide. Why would you limit it – like you get to have five in Eldorado and five in La Cienega, and five in La Tierra. That would get to be too many. So I think five countywide would be my suggestion.

CHAIR HANSEN: Commissioner Hamilton.

COMMISSIONER HAMILTON: I'd kind of like to ask my colleagues what we gain by this. If we're going to do a percent limit in each community, what difference does it make if one person owns ten units in non-owner-occupied in

community X, or if ten people own one unit each in that community? If there's a ten percent limit, like what are we achieving? Like what difference does it make? Like once again, I don't know if it's legal. I don't know if this would attract a lot of litigation. I suspect it would. I just think if we're going, regulations should have a goal and if you can get to that goal through one pathway, why are we trying to put in five pathways that are redundant and are going to give us legal troubles?

CHAIR HANSEN: The City allows you to have one STR. So at least that's what I read and I could be wrong. So I think we are being incredibly generous to allow people to have five in the county. Commissioner Greene.

COMMISSIONER GREENE: Thank you, Madam Chair. So to answer Commissioner Hamilton's thing. So imagine if we do have a limitation in Glorieta, for an example. Close to home for you. And because of the number of homes there, the limitation is – we can only have 20 STRs in your district. And one person, through being the most pro-active and aggressive in their licensing, manages to corner the market in your neighborhood, or in any neighborhood, and makes it impossible for anybody else to either get into the market and to rent their – buy their neighbors home and use it as a vacation rental, and use it as their family homestead for their next generation and so on. So I think that there's a level of – when you start to restrict and unrestrict a certain thing you may end up with people that create monopolies in neighborhoods. And I'm a little concerned about that issue in some areas that don't have that many homes or ability of licenses. But then that goes to the next issue of limiting in certain neighborhoods, so we can get into that later. Thank you.

COMMISSIONER HAMILTON: May I respond to that, Madam Chair?

CHAIR HANSEN: Yes.

COMMISSIONER HAMILTON: So my argument is, or my thinking on that is, first of all, in a place like Glorieta, the greater Glorieta area, 20 is probably the maximum number of non-owner-occupied STRs that would ever be allowed, because there are about 200 homes in that area. And the number of owner-occupied are not going to be regulated. So if people are selling their houses and moving because – that's their right. And having somebody come in and buy it with the intent of doing an STR is also their right. But once there are 20 homes that are non-owner-occupied STRs, or 21 or whatever ten percent is, nobody else is going to be able to buy a home to get a non-owner-occupied STR. That's the regulation.

And in terms of having a monopoly, I'm asking, what difference does it make to the quality of life or the nature of the community for people in the greater Glorieta area or any other community, if those 20 homes are owned by one corporation or ten corporations, or ten individuals. If my neighbor sells the house next to me to somebody who lives in Agua Fria who wants to have a non-owner-occupied, or if somebody who lives in Texas, as long as they run it well, it's not going to impact my quality of life. If they let the home degrade and violate, there are separate ways to deal with that. I could be convinced if there's a reason. I just don't see that this has any impact on what we're trying to preserve. Because they can't come in and buy an unlimited number of homes. We're dealing with that separately. That's my only point.

CHAIR HANSEN: Commissioner Bustamante.

COMMISSIONER BUSTAMANTE: Please allow me to share a

perspective. Because if an entity comes in and is able to get multiple STRs, which they already will be under this, if we were to say five. And I'm going to just go to the average Joe. I'm glad we're talking about Glorieta, right. I think of relatives, cousins, who would love, who would cherish the opportunity to be able to offer one short-term rental. When we have an entity that comes in to buy multiple short-term rentals, these are individuals of means. These are people who already can afford, frankly, their first home and maybe a second, and you're right; it is their right.

But there are people who don't have the means who will sell, and frankly, when I think of the out-migration of people from the Upper Canyon Road area because Bellamah was going to be able to give them a nice stick home, and those houses on the Upper Canyon Road area turned into multi-million dollar homes, it's a sad day on how gentrification happens. And what I see the opportunity here, for an entity that can come in and buy multiple homes for an STR, as opposed to that individual who could benefit from an STR and actually be able to assure that their child or their kids or something would have something for the future, then we start having a different narrative around what it really means and what difference it will make.

One, there's a real opportunity for gentrification. It happens and I've watched it happen in a lifetime now. Or we find a way to allow for other people to have that benefit if that's what it's going to be, or god forbid, it turns out to be sold for a long-term residence. But the reality is, when somebody has the means to come in and buy multiple STRs, and there are people who could either live in it or have an STR to benefit their home and their family, then why the heck not? And that is something that we haven't had that conversation.

We talk about where will the normal Joe, the firefighter and the school teacher live, but we haven't talked about the gentrification component of this, and what it does to neighborhoods that basically bargain people out. And that is something where if we're going to gentrify it actually allows those individuals living in their community to be a part of the betterment of their community by actually making money and surviving where they are, all the things we've talked about, and how this is an economic benefit to our area.

So I think that it's very important to see that if there's somebody who's able to pull together to have an extra residence for a rental, that is what we're looking towards. But if somebody comes in and they have the pocketbook that can get them multiples, then let's just continue to watch what's happened to Santa Fe in the last 60 years. We can continue to watch that. I can't be a part of it. But I'm going to tell you I've seen it and these multiple – we're going to cap it at five for any one entity? Wow. Like that's cake. It's like I would. And nobody's dog in Texas – who cares where they're from? It doesn't have to be to the west or the east. It can be from anywhere. What does it mean to the neighbor in that neighborhood to be able to sustain their home and their quality of life, and their families where we are. And I'm going to say that loudly. Their families where we are.

COMMISSIONER HAMILTON: Madam Chair.

CHAIR HANSEN: Yes, I saw your hand raised. At the moment I see we have three Commissioners who support a limit. I'm going to go to Commissioner Hamilton to respond and then we're going to move on.

COMMISSIONER HAMILTON: Thank you very much, Madam Chair. I appreciate your passion on this and I agree, Commissioner Bustamante, in principle with your trying to avoid gentrification. What I'm saying is that limiting – if you limit the number of – a maximum number of non-owner-occupied in a neighborhood, that is the regulation that is going to go toward preventing that. Limiting the number per owner will not change that number, and it will invite additional litigation. And so I feel like the address to your concern is limiting the percentage in a neighborhood. And this is at best redundant but will not achieve your prevention of gentrification. As a matter of fact, some of the litigation could have to do with interfering with property rights. Part of the reason gentrification – it's not relevant to gentrification, but part of the home values have to do with the fact that they're sellable. So if we limit the number to ten percent per neighborhood or whatever that percentage turns out to be, that is what is going to cap your gentrification. Because there will be, and it will not be an unlimited number of houses that can be sold in that way. And I don't see that it has anything to do with how many houses per owner.

CHAIR HANSEN: I want to say one word also. I agree with the limit, but also if we limit it to five countywide, that is not the same effect as a ten percent cap in each area. So that way we are not allowing a large corporation to come in and have – buy up different areas, one in each CDP area. I think it is a good idea to limit it, and the City has limited it to one. So if they have been sued on that issue then we would be in the same category with them. Commissioner Bustamante, I'm going to finish on this topic because I think we have all – we have a majority of limiting the number of total non-owner-occupied that a single owner or business can possess.

COMMISSIONER BUSTAMANTE: Okay, if we're on that and that's where we're standing and that works, but I do want to say a person's ability to own more than one short-term rental clearly is an issue or an indicator of their means. And that does show the amount of money that a person has compared to somebody pulling it together to try to have a short-term rental so that they have a place where their kid's going to grow up and live. There's a distinct difference in one's ability to afford multiple homes. Let me just say that.

CHAIR HANSEN: Okay. Thank you. I'm going to go on to 4. B, a limit on the total number of non-owner-occupied STRs in the county or in some communities of the county. Penny, is this where you want the CDPs listed?

MS. ELLIS-GREEN: Madam Chair, Commissioners, yes, that would be helpful if we knew which areas you would want to put a limit on, so we can list those. We can bring back more data if you want to choose some areas like Madrid that are not in the five-mile as well, we can bring back that data, and then we would be looking at a percentage.

COMMISSIONER HAMILTON: Madam Chair, do we want to do that now while we sit here or get the additional data and do it like interactively back and forth with land use?

MS. ELLIS-GREEN: Madam Chair, Commissioners, it would be helpful to know the areas you're looking at so we can make sure we've got that data to bring back. We can draft an ordinance for publish title that has listed them all that you could then choose to take some out if you're not interested when we bring back the data that

would include owner-occupied and non-owner-occupied for those that have been submitted.

CHAIR HANSEN: So what I'm hearing is places like Madrid, Eldorado, those areas need to be included in the total number of listing. That's what I heard from before from Commissioner Hughes. So I think –

COMMISSIONER HAMILTON: And could they put up the data for Lamy?

MS. ELLIS-GREEN: If we went through Exhibit D, and then we can add any other ones. So Agua Fria, are you interested in that area?

CHAIR HANSEN: Yes.

MS. ELLIS-GREEN: Okay. Arroyo Hondo?

CHAIR HANSEN: I would believe that – isn't that within the five-mile limit?

COMMISSIONER HAMILTON: Yes. It's very close and that's reasonable to include.

MS. ELLIS-GREEN: Cañada de los Alamos?

COMMISSIONER HAMILTON: Same. Also reasonable to include.

MS. ELLIS-GREEN: Okay. Cañoncito?

COMMISSIONER HAMILTON: That's really interesting, because Cañoncito is relatively far out but it's probably pretty close, given the large number of STRs, I guess we should include it.

MS. ELLIS-GREEN: Chupadero?

COMMISSIONER GREENE: Madam Chair, so in terms of Chupadero, I have – those numbers were skewed because of the area in Bishop's Lodge, the Encantado area. So I'd be happy to discuss that and hear from my constituents if they think that that's an issue but because Erle brought up the skewed numbers with the fractional ownership, I think – I'm happy to consider it but I think that there's some skewed numbers that we would have to address before we could make a decision on that.

MS. ELLIS-GREEN: Madam Chair, Commissioners, for Chupadero and Tesuque, we will go ahead and identify the numbers that are in those time-share areas and we'll remove those from the numbers by the time we come back.

COMMISSIONER GREENE: Thank you.

CHAIR HANSEN: So some place like Galisteo, if you look at the larger map you might want to include in the CDP or Commissioner Bustamante, I would think that Galisteo would want to preserve some of their cultural integrity.

COMMISSIONER HAMILTON: Can we just go through the list and then add the additional ones? Okay.

CHAIR HANSEN: Go ahead, Penny.

MS. ELLIS-GREEN: We could just ask the Commission if there are any on the list that you do not want to include. So we had Conejo, which is fairly close to the city, Eldorado – I think we heard that we did want to include that, Encantado – that's kind of just south of the Chupadero area, Hyde Park.

COMMISSIONER HAMILTON: We should include that.

MS. ELLIS-GREEN: La Cienega? La Tierra? Lamy, that is outside of the five-mile but we had still listed that. Would you like us to continue with that one?

COMMISSIONER HAMILTON: Yes.

MS. ELLIS-GREEN: Okay. Las Campanas?

CHAIR HANSEN: You can include it but they have their homeowners association does not allow short-term rentals.

MS. ELLIS-GREEN: Okay. So we'll bring it back for data but we may not want to include it in the actual ordinance. We have Rio en Medio.

COMMISSIONER GREENE: Rio en Medio seems to be a borderline inside and outside. I'd love to see the data, more granular and have it refined before we make a decision. I'll also reach out to the neighbors through our newsletter and find out what the constituents want.

MS. ELLIS-GREEN: Okay. Santa Fe Foothills? It's to the southeast of the city.

CHAIR HANSEN: Yes.

MS. ELLIS-GREEN: Seton Village.

COMMISSIONER HAMILTON: They're pretty close to the limit. Yes, that should be included. It's pretty close.

MS. ELLIS-GREEN: Sunlit Hills.

COMMISSIONER HAMILTON: Yes, that should be included too.

MS. ELLIS-GREEN: Tano Road?

CHAIR HANSEN: Yes.

MS. ELLIS-GREEN: Tesuque? And again we would take out the Bishop's Lodge time-shares. And then Tres Arroyos. So we will bring back all of these, and what we heard so far was to add in Madrid, Galisteo, those both have CDPs, right?

CHAIR HANSEN: San Marcos?

COMMISSIONER HUGHES: Right. Madam Chair, I was wondering about San Marcos and also the Community College District isn't a CDP but it's an area that has some short-term rentals.

MS. ELLIS-GREEN: Could I ask the area of San Marcos you'd be looking at? The whole planning area? It is vast.

COMMISSIONER HUGHES: Well, is there any other way to define it? I think –

MS. ELLIS-GREEN: I don't think so. We'll bring back –

COMMISSIONER HUGHES: The planning area. It's not very densely occupied either. Most of the lots are very large.

MS. ELLIS-GREEN: Okay. So we'll bring back – can we do data on CCD and San Marcos?

MR. WRIGHT: Absolutely.

MS. ELLIS-GREEN: Okay. You can see in orange the San Marcos.

COMMISSIONER HAMILTON: I didn't realize – since I kept bringing it up as an example, could you actually get some data on Glorieta so we can make a rational decision, because maybe it should be included for all I can see. Thank you.

COMMISSIONER HUGHES: It's better to include it than take it out.

COMMISSIONER HAMILTON: Right.

MS. ELLIS-GREEN: Okay, are there any others that people would like us to study and bring back data on?

COMMISSIONER BUSTAMANTE: I did send a request for information from the Edgewood area. I don't know. The Stanley-Edgewood area, it's just a place of question. Stanley is outside of the Town of Edgewood, but there may be a reason to think of those other areas. I would be interested in learning more of what's going on.

MS. ELLIS-GREEN: Madam Chair, Commissioners, Erle's just pulled up Stanley. At the moment we have no short-term rentals there.

COMMISSIONER BUSTAMANTE: Okay. Thank you.

MS. ELLIS-GREEN: Edgewood Town would not fall under this. Erle, do we have anything?

MR. WRIGHT: We have Golden, San Pedro, Cedar Grove, Thunder Mountain. There's not a lot.

COMMISSIONER BUSTAMANTE: Madrid-Cerrillos area?

MS. ELLIS-GREEN: We have a Madrid CDP. Do we have a Cerrillos CDP? Would you like us to add Cerrillos CDP?

COMMISSIONER BUSTAMANTE: Please. Thank you.

MS. ELLIS-GREEN: Commissioner Greene, any CDPs in the northern area that you would like to look at?

COMMISSIONER GREENE: I think it would be interesting to understand – Chimayo is a traditional village but it is split by Rio Arriba. It's in two counties so I think it's tough to restrict one side of the border and then have people have no regulation on the other side. And then understanding more about the whole Pojoaque Corridor with all the tribal lands is definitely interesting. I think we can actually just, Penny and Erle, if we can sit and meet before we make final decisions we can have a one-on-one discussion about this to sort of see how this all works out and what your recommendations would be.

CHAIR HANSEN: One of the things, I believe is there a number of short-term rentals in El Rancho.

COMMISSIONER GREENE: Absolutely. I know of a few people and I know that most of them are not short-term rentals in the traditional vacation rental space. They are mostly short-term rentals for Los Alamos, new hires in Los Alamos that are trying to find a place to live long term, but cannot find a long-term rental, and so they're renting for 30, 60, 90 days on a voucher from LANL and commuting up the hill there because they can't find housing up at Los Alamos. So I'm appreciative of the landowners there and what they're doing to help with the employment and the workforce housing, even if it is in short-term model. So we'll look at those numbers, but I don't know if I would restrict anything.

CHAIR HANSEN: Okay. So are we done with number 4, Penny?

COMMISSIONER HUGHES: Madam Chair, I don't think we addressed whether we wanted to limit the total number of STRs in the county. I know I probably have the minority position but I wanted to suggest that there be some overall limit that covers – if we're only going to regulate in more detail these areas we mentioned, it does seem like we might want to have sort of a catchall limit of 1,000 or 500 or something short-term rentals in the whole county.

COMMISSIONER HAMILTON: Madam Chair.

CHAIR HANSEN: Commissioner Hamilton.

COMMISSIONER HAMILTON: I disagree with that. First of all, it's a

very low number, and second of all, which is fine in some respects but if we're going this community by community, I think the specific regulation is far superior than a blanket catchall. So I strongly disagree with having a countywide cap.

CHAIR HANSEN: Commissioner Greene.

COMMISSIONER GREENE: I agree. I think we should probably visit both the district or the community area at the same time as whether we do an overall restriction and we can go one way or the other. Honestly, I'm not in favor of an overall number restriction. I don't think we're anywhere close to that now. This is something to revisit in future years I think.

CHAIR HANSEN: Commissioner Bustamante.

COMMISSIONER BUSTAMANTE: I see things the way Commissioner Hughes does. I think that putting a cap on it addresses our concerns for long-term housing availability.

CHAIR HANSEN: Okay, that leaves it to me. I have very mixed feelings both ways about this. I think a cap might be necessary, but as Commissioner Greene said, we're already at low numbers, so is a cap really necessary? And we are capping at different levels. So I would be interested in seeing data about all of these places that are in gray phenomena that don't seem to be short-term rentals but have been short-term rentals. If we added up all of those, what would we be at?

MS. ELLIS-GREEN: What's the limit that Granicus is showing us right now?

MR. WRIGHT: Madam Chair, the ones that are no longer advertised, as of last Wednesday, there were over 1,000, 1,077. There were 46 that are supposedly 30-day or longer rentals, of that number. So I don't know if that helps. Non-compliance, we had 237 as of last Wednesday.

COMMISSIONER HAMILTON: Do those numbers that you're talking about include the owner-occupied as well, right?

MR. WRIGHT: That includes everything, yes, Madam Chair and Commissioner Hamilton.

COMMISSIONER HAMILTON: Okay.

CHAIR HANSEN: And we're talking about a limit on only the non-owner-occupied, and we've put a cap on five non-owner-occupied countywide. We're putting a cap in areas of the CDPs. I think we should look at that information before we put a cap overall.

COMMISSIONER HUGHES: Madam Chair, could we ask staff to come back with a possible cap that would make sense for us to consider? Since we seem to be undecided at the moment.

CHAIR HANSEN: I'm okay with that. Yes, Penny.

MS. ELLIS-GREEN: Madam Chair, Commissioners, I was going to say we could come back with the data for the CDPs in the areas that you've identified. A ten percent limit of the housing stock for those which, again, we can change that number during publish title, if you want to, and a possible total county cap. Active listings at the moment are around the 500 to 550. It does swing up and down, but of all the ones that we've seen in the last two years there is close to or just over 1,000 of them. So it would probably be a number somewhere between about 550 and 1,000. But that would include

all, yes. Are we looking at only non-owner-occupied then? Okay.

The last is 4.C, a density restriction, meaning a separation, whether it's in countywide or whether it's in the CDPs that are listed. We don't recommend that just simply because we would have probably a limit on the total, and it could be really difficult to enforce and to where you would take measurements from. But we'll take BCC direction. So that would be 4.C.

COMMISSIONER HUGHES: Madam Chair.

CHAIR HANSEN: Yes, Commissioner Hughes.

COMMISSIONER HUGHES: Yes, I think the staff is right. With all these other things we're going we don't also need to do a separate density restriction in addition to all the other things we're trying to do.

CHAIR HANSEN: Commissioner Greene.

COMMISSIONER GREENE: I agree. Thank you. I think it's sort of a redundant issues here and we're choosing one that is seemingly going to solve it by [inaudible]

CHAIR HANSEN: Commissioner Bustamante.

COMMISSIONER BUSTAMANTE: Same. Yes.

CHAIR HANSEN: Okay. So I think you've got direction on that. I would be with my fellow Commissioners. Commissioner Hamilton, do you have any comments on that?

COMMISSIONER HAMILTON: I was just a little – I just wanted some clarity, because we were talking about like a cap of a percentage of housing stock in particular areas, and so I thought that's what the density limit was, but now that's been clarified for me. So yes, I'm good with not having this as redundant.

CHAIR HANSEN: Okay, good. Fine. So next we'll go on to consider a limit on the total number of people who can stay in an STR. So this also seems to be where we can deal with the hotel phenomenon that many of our residents seem to be quite unhappy with. I believe that the number eight would be a good number to limit the number. That's four bedrooms. I'll open it up to other comments. Commissioner Bustamante.

COMMISSIONER BUSTAMANTE: I'm sorry. I'm trying to look over the numbers because I thought I had seen a table that gave us that and how – and please come back to me. I can't find the information. Are we on number 5 or did we move past?

MS. ELLIS-GREEN: Madam Chair, Commissioner Bustamante, we're on page 5 of the memo and it is item number five. There is a table that shows the number of people and owner-occupied and non-owner-occupied.

COMMISSIONER BUSTAMANTE: Yes, I see it. I'm looking at it. Thank you. Please allow me to just look at this a little longer and come back to me. I appreciate it. Thank you.

CHAIR HANSEN: Commissioner Greene.

COMMISSIONER GREENE: Thank you, Madam Chair. If you give me a second on this I'm going to explore a little train of thought that I have on this, which is that bedrooms are one aspect of this but a slightly equally important aspect of this is bathrooms. So if somebody just slaps extra bedrooms on a house but only has one bathroom, the quality of the experience becomes a boarding house and not a vacation

rental of sorts. And so I'm kind of – I'd like to explore the idea of a ratio of at least one bathroom per two bedrooms at a minimum. So if somebody has a four bedroom, eight people sharing one bathroom is probably a little overloading this issue and yes, people are friendly in a family but it is part of the experience that we're trying to make a quality experience.

So I think ten people maximum in five bedrooms, and a minimum of three bathrooms for those ten people would be my sort of ratio in there. I could probably go as far as 12 people per house, but again, going back to six bedrooms, three bathrooms at a minimum so people aren't sharing one bathroom and people just turning their dens into an extra bedroom.

CHAIR HANSEN: Commissioner Hughes.

COMMISSIONER HUGHES: I'll let Commissioner Hamilton go. I think she had a thought.

COMMISSIONER HAMILTON: I did have a thought on this. I'm like, so the whole idea of STRs is they're alternates for a hotel. I didn't think I was here today to regulate the quality of somebody's stay. Honestly, if I was coming to Santa Fe, I don't think I would actually want to stay in a tent. That's my choice. A tent probably doesn't have a bathroom. But I'm happy for people to have choices of what kind of experience they're looking for. And so – I don't get it. There have to be sufficient facilities. I think we have regulations on that, right? I just am not sure that I want to add numbers of bathrooms and numbers – there aren't that many houses that don't have enough bathrooms compared to their bedrooms. There are probably other regulations on that.

I do think that - I guess there are ways that you can regulate how many people stay in a place. There are some places that re more remote. They're in lower density, higher acreage requirement developments and the houses were built with six or seven or eight bedrooms. I doubt that there are a whole lot of those that are the STR market, but if somebody is renting their house out and it was built with six bedrooms and we're going to say you can't have 12 people, I don't get why. Personally, if you want to go down that path I would say limit the number of bedrooms that can be added to a house after it's purchased. If it was built with four bedrooms, to like, one additional bedroom. And there's some logic to that.

So if the house was naturally constructed with four bedrooms, maybe they can convert the den but they can't convert – they can't make it a ten-bedroom house, which I think what the complaint is. So I personally recommend going with the two people per bedroom and from here on, because you can't retro-act on people, say if you buy a house that was constructed and permitted with four bedrooms or three bedrooms, or five bedroom, you can only add one additional bedroom for conversion to an STR, and that will limit the number of people in a fairly fair way, because you're only adding one bedroom, compared to the way it was originally permitted with that number of bathrooms as well.

COMMISSIONER HUGHES: Madam Chair.

CHAIR HANSEN: Commissioner Hughes.

COMMISSIONER HUGHES: Yes. I think the limits would be good, because of some of the complaints we've had, and I'm fine with either eight or ten. I don't think we need to regulate the bathrooms. I think that will regulate itself, or we have

other regulations for that. I guess what I would say too is maybe we grandfather in the ones that have more than ten, but not allow them to be transferred, so that they would fade out after the current owners don't have them anymore.

COMMISSIONER HAMILTON: For the record, since I didn't add this. I think both of those limits are too low. I think if you really have a wild hair to have to regulate instead on absolute numbers instead of number of bedrooms, like I said, I don't understand why if somebody actually has a mansion they're renting out I doubt that they have neighbors that are so close that they really care. But 12 – something like 12 has got to be more fair than eight or ten. That's just way too low.

COMMISSIONER HUGHES: Madam Chair, I'm fine with 12 as well.

CHAIR HANSEN: Commissioner Bustamante.

COMMISSIONER BUSTAMANTE: I personally want to stick to the – in a general sense two per bedroom, and I say general sense, I can't really say eight, ten or twelve, though I do know that give the complaints that we have and the propensity or the potential that somebody's going to – let's all go to Santa Fe. We brought 16 people and we're all going to squish into this place. It's going to be a hoot type of event. Those do happen. Which is problematic for the neighbors and it's not about people staying in big places; it's about just trying to get the biggest bang for a buck, knowing you're not going to be in the building most of the time, or in the rental.

That being said, the reason that I like staff's recommendation to at least consider something that's more along the lines of two people per bedroom, but I also think about the parent/family kind of situation and we don't want to limit that. If I have four kids and all the kids are going to have to stay in one room, that's just too bad, kids. We're going to Santa Fe and the parents have their room and if it's two rooms, so something that does allow for people to take their children.

So it's really – what we're trying to control here is the type of complaint that we've heard in having a bunch of people pack into a smaller place and then everybody's sort of put out because it's over-occupied. But if you can sort a recommendation out of that, that's all I've got. Because it just seems that we do want to manage it but I don't have a real sense on the best way to do that except to go with the recommendation, though it says not – staff is recommending not to change the occupancy levels, and I would have to go with the two people per bedroom. And honestly, the reason that this one is so jellyfish in my hand is good luck with the County being able to enforce this one. Like, what day are we going to show up and actually do something about it. We got a call on Wednesday. It's okay. They already left for the weekend. It's over. So onward ho.

CHAIR HANSEN: Okay. So I have constituents in my district, the Tres Arroyos area, the Paseo neighborhood, where it is a neighborhood and they have a house that has been converted to have 14 people, and that means – and I think you need to hear this – 14 people means 22 cars. Okay. And you have a residential neighborhood.

COMMISSIONER HAMILTON: Could you clarify where that comes from, 22 cars for 14 people? Because I've yet to meet anybody who can drive two cars at once.

CHAIR HANSEN: That means they can have people come to the house besides the people who are staying in there. So you're not – the two people who are staying there, but let's say they have their friends in town or they have their friends have

another house and they come over. They can have 22 cars. I'm expressing this because my constituents are expressing this and are unhappy with this large hotel venue in the neighborhood. So I don't have any problem with a – well, I do have problems. We did have a problem – it was outside of Madrid somewhere where these people had a B&B and they had turned it into a wedding venue and they were having like 100-some cars there. This was before your time on the Commission, Commissioner Bustamante, and so they'd have these wedding venues, and the neighborhood was completely flipped out about it.

COMMISSIONER BUSTAMANTE: It was [inaudible]. Since you said it was before my time on the Commission. We had meetings there. It was a really nice place.

COMMISSIONER HAMILTON: Are those regulated separately? Are wedding venues and things like that, aren't they regulated separately?

CHAIR HANSEN: It wasn't a wedding venue. It was a B&B. It was before the short-term rental. They had expanded their scope. So the impact on neighborhoods I think is one of the things we are concerned about in all of this. And so if you're going to have these mini-hotels in neighborhoods, maybe we really need to work with our constituents to help them with their HOA rules because this is where they would have a little more control, but at the same time we should at least allow them some protection.

COMMISSIONER HAMILTON: Madam Chair, I think you ought to consider my – from going forward, my limit on expanding the number of bedrooms past what the house was constructed, permitted, one or two additional. And that would address –

CHAIR HANSEN: I wouldn't even do that. I would just go with the original amount of bedrooms.

COMMISSIONER HAMILTON: It would address your concern, because it limits – if the neighborhood is characterized often by the numbers of bedrooms in the house. Like the places that legitimately have six or seven bedrooms probably aren't all over Agua Fria. It would go toward maintaining the character of different communities and recognize the fact that communities like – places where there are much bigger mansions would be allowed more people because it would accommodate more people and would have the concerns about having 14 people and 22 cars and seven dogs and 17 gerbils, because – anyway, it would just – it automatically tailors on average to a community. That's just a thought.

CHAIR HANSEN: Commissioner Greene.

COMMISSIONER GREENE: Thank you, Madam Chair. I think this might become a different clause in this, and less about the occupancy over night, although two per bedroom is one thing, but maybe having a requirement that any event over 20 people on a property be required as somebody who's licensing their property, that they have to go get either an event license or notification of some way so that they're not turning it into a wedding venue. Some of them might be completely legit for this sort of purpose. They've got a bathroom, they've got parking, they've got lots of space, but some look at ways to regulate large events in some of these properties, and looking at it through a different filter, maybe it's not bedrooms; maybe it's bathrooms, maybe it's

open space, maybe it's parking, maybe it's all these other things that are not so much the bedrooms but it's some other sort of event regulation that overlays this. It is not a regular event regulation but it is the short-term rental event overlay.

CHAIR HANSEN: So I'm going to go back to this one problem that I have in my – it's in the Tres Arroyos neighborhood where there's a lot of fairly dense – these people have a large home and they have a guesthouse. So there's owner-occupied, because they're right next door. They pay \$35 for their license, and they're making over \$150,000 to \$200,000 a year because they live on the property, and then they have this large house that they can rent out and have 14 people in it because they've expanded the bedrooms, and then they can have 22 cars in the neighborhood where there's houses across the street that can see them. There is something wrong with that.

Commissioner Greene, do you still have your hand up?

COMMISSIONER GREENE: No, but thank you very much. This is very nuances and this is a complicated issue. Again, to that point, so there's somebody who's living in their casita and renting out there ten-bedroom or whatever – eight bedroom home, and getting away with a \$35 license. So I get it. It's complicated and there's all sorts of use cases here, but thank you very much. Thanks for bringing that up.

CHAIR HANSEN: Commissioner Bustamante.

COMMISSIONER BUSTAMANTE: I just want to say that I hope that Commissioner Greene's point on any additional use is somehow captured, that if somebody does go to a short-term rental, it's big enough. They know the property and they say, this is where we're going to have the wedding, that somehow that is captured that they are required to get a license. That was a very well put point and I could see that that's an easy thing to do, and it would be something that I could see wanting to do, but to know that there would be an additional restriction that I can't make that something that I'd go in, just because I knew the property. But that's the point.

COMMISSIONER HUGHES: Madam Chair.

CHAIR HANSEN: Commissioner Hughes.

COMMISSIONER HUGHES: This brings up a point I was making before about Eldorado being different from other communities and I am wondering if we can really apply the exact same rules to each of these different districts, because they're so different. You look at Madrid which has a tourist economy compared to Eldorado which is totally residential, especially in terms of the percentage limits. I think we maybe might need to have a couple different categories. And that would apply to this one too. Although I had another thought is that what if we set a limit of eight to ten, but as a conditional use, you could apply for more, and that way, if you did have a mansion on a hill where your neighbors were all a mile away you could apply for a permit to operate a small hotel with 20 people or whatever. And that way we would be providing protection from the neighborhoods but allowing people who did have a property that was appropriate for family reunions and wedding parties to apply for a different type of permit.

MS. ELLIS-GREEN: Madam Chair, Commissioners, on that point, under the SLDC this is not a use that's being regulated under the business license ordinance, so if you did put a limit you could say anything larger than that has to go through a bed and breakfast under the SLDC, which would be a completely different process and would be

conditional use or permitted in whichever area. I can't see us requiring a CUP under the business license ordinance. So that would be a concern about putting that actually in the business license ordinance.

I did want to point out the events. At the moment we have a daytime occupancy and a nighttime occupancy and no one can exceed that. The last point in the memo is regulation of events. We've seen more and more over the last few years, these more rural events. It used to be that you would go to a large hotel to have a wedding, and now we're seeing more rural events. That is not a use that's under the SLDC and so our recommendation is if that is something you want us to look at, that that would need to come through strategic planning and be prioritized through the strategic planning to look at a change to the SLDC about regulating rural events. That was the last point in the memo. Thank you.

CHAIR HANSEN: Okay. So I think we've heard that we want to have a limit of ten to twelve, two per bedroom. It's 12:30 already and I am going to go to both Commissioner Greene and Commissioner Hamilton. I'm just trying to move us along, which is a challenge.

COMMISSIONER GREENE: Very quickly, in the City of Santa Fe renting a vacation rental used to be popular for creating a wedding event location. And I don't think they restrict the wedding event location aspect but they do restrict commercial uses. So they very clearly say that this is for residential and overnight lodging; it is not for commercial uses. And so as an example, as I've mentioned, I have a vacation rental and I've had somebody rent our house for a lifestyle photo shoot. Right? And I was like, we can't do that. That is not permitted under our thing. That is not a residential use. We're very sorry and so we actually had to reject their inquiry. And so they were very specific. They were nice that they told us that, but that should be part of our regulations that said this is for lodging, and not for commercial use, or events.

CHAIR HANSEN: Commissioner Hamilton.

COMMISSIONER HAMILTON: Thank you, Madam Chair. Actually, that could make some sense to me, but other than that potential addition, I actually don't really support – I think the size of the house automatically regulates the number of people and I think that we should be going – I want to throw my voice in with the staff's recommendations and do it that way.

CHAIR HANSEN: Okay. Commissioner Bustamante. This is the last comment on that. I think we've given you enough direction, staff, to try and sort it out.

COMMISSIONER BUSTAMANTE: So I just want to concur with that Commissioner Greene said, and want to ask Commissioner Hamilton where she went to college. We loved piling into rooms. If we could get more people on top of each other in every corner we would do it.

COMMISSIONER HAMILTON: Why do you want to know where I went to college?

COMMISSIONER BUSTAMANTE: Because that was one of the things we did is get people in a room.

COMMISSIONER HAMILTON: I went to Johns Hopkins University. I was in the first 20 women admitted to the undergraduate school. And so I was greatly outnumbered and never got into a Volkswagen with that many people.

COMMISSIONER BUSTAMANTE: Those of us who went to a state college, those of us who went to a state university, we put as many people in a room as we could. I have stepped out of line. Pardon me.

CHAIR HANSEN: We're going to move on to item 6 which is consider implementation of stringent enforcement protocols for STRs found operating without a correct license. I completely support this. Yes or no.

MS. ELLIS-GREEN: Madam Chair, Commissioners, under number six, this is enforcement and penalties. That is something we will be doing anyway. Our penalties are only for court action, so if we do have to take someone to court, the court could impose these penalties. And so I don't know that we need any determination on that.

Number seven is consider removing the homeowners association covenants language, which is under the – I believe the non-owner-occupied. Staff would recommend removing that. We'll take direction from the Board on that.

COMMISSIONER HUGHES: Madam Chair, I'd recommend that we go ahead with the staff recommendation because it doesn't seem to be working the way we wanted it to.

COMMISSIONER HAMILTON: Agree.

CHAIR HANSEN: Agree. Okay, we have shaking heads from – okay, four Commissioners, five Commissioners. Okay. Next, go on to item eight.

MS. ELLIS-GREEN: Item number eight is other issues outside of the Short-Term Rental Ordinance, so again, for the review, we will go ahead and make sure that we give maybe quarterly reporting to the Board on the status of short-term rentals and if at any point, the market changes and shifts and the Board wants to bring this back up, we would do that through the strategic planning process. The lodgers' tax and occupancy tax, we don't recommend a change to that. We already have the requirements in our lodgers' tax. The streamlining the short-term renewal process for non-owner-occupied, we are doing that already. We need to do that just – I guess for staff availability every year. So we will be doing that and hopefully within the next couple of months online permitting will be up and running and no one will even need an appointment to come in.

Then the last two points were how you do tents, RVs, domes and the regulation of events, and those are items that would need an SLDC change, not a change in the Short-Term Rental Ordinance, and again, staff would recommend that any direction for that come through the strategic planning and be prioritized that way. But we are able to accommodate both of those through an SLDC change, as and when the Board identifies that through strategic planning.

So those were really – Section eight is really outside of the purview of the Short-Term Rental Ordinance, so I think that we have enough now to be able to draft and bring this back to the Board. As we do publish title, if the Board wants to change percentages, or which communities are being looked at, we can do that but we will bring the information back.

COMMISSIONER HUGHES: Madam Chair, I just wanted to clarify a little bit about that last point. Is it possible to do different percentages because I think the percentage for Eldorado would be different from Madrid.

MS. ELLIS-GREEN: Madam Chair, Commissioners, yes. What we will do, what it sounds like the Board wants us to do is to bring back the data for the CDPs with all the additional ones that were added, and then maybe we can group some together. It would be helpful not to have a different percentage for every single CDP. But if we could have some that are maybe at five percent, some that are at ten percent, that could be a possibility.

COMMISSIONER HUGHES: Okay. Great. That's what I was hoping for.
Thank you.

CHAIR HANSEN: Okay. Commissioner Greene.

COMMISSIONER GREENE: Thank you, Madam Chair. Two points related to this. First off, I know the platforms aggregate a lot of their collections, and it is the responsibility of the individual owners to actually submit to the County for lodgers' tax and to the state for gross receipts tax, and it is very difficult for owners to actually get a report that proves that they were actually compliant, even though they're using these other platforms to collect and to submit for those. So I would like to investigate how we can find an itemized report from the platforms. So Airbnb, or Vrbo, submits a million dollars to the state on behalf of a thousand owners that they can itemize it, not by state, per se, but at least something that they can report and that we or other people as owners can say, oh, on my behalf, they actually did pay accurately.

And then related to that, over the past few years, these platforms have been collecting on behalf of Santa Fe County residents and submitting it under the – on behalf of the City. And there is probably a million dollars or more that has been in Santa Fe County vacation rentals, both in gross receipts tax and in lodgers' tax, that Santa Fe County is probably due, and I request that we start to put this in writing to the platforms to itemize that accounting in a way that says, oh, by the way, we think we're due this. And if we can get some research on that and what we think we've given to the City.

CHAIR HANSEN: Okay. Any other comments from the Commission?

COMMISSIONER BUSTAMANTE: Madam Chair, so I did lose track of where we were, because I understood we were talking about the conditional use permit recommendations for the tents and RVs. That was what we were on?

CHAIR HANSEN: You can talk about that if you would like to make a comment, but what Penny is suggesting is that needs to go – that those things need to be permitted under the SLDC under a different regulation.

COMMISSIONER BUSTAMANTE: That's understood. So I guess we moved a little forward faster than I expected. But I do request – I understand that this should be something through the strategic planning but we also understand that there were people who had benefited from this and were very concerned about their livelihoods being affected. And however and whatever we can do to get this comprehensive checklist and packet available, sooner than later, and then we can continue to move forward with something that's going to get it more formalized in the SLDC. I want to move forward in assuring that the people who have been using this type of short-term glamping not be left out of their ability to do so. So I just want to make sure that that is happening, because I didn't hear that stated.

MS. ELLIS-GREEN: Madam Chair, Commissioners, I myself have spoken to several people that have RVs or tents, and let them know we can help them

through the process, and I have not been contacted again by anyone. But we will definitely get that up on our website, have a checklist for tents, RVs, domes, or anything like that, and let people know we can help them through the process.

COMMISSIONER BUSTAMANTE: Thank you very much.

CHAIR HANSEN: Okay, Commissioner Greene.

COMMISSIONER GREENE: Very quickly. Just if we're not going to regulate them as short-term rentals – they are short-term rentals, at least in terms of gross receipts tax and lodgers' tax, so if they're not going to be through the Short-Term Rental Ordinance, but rather through the SLDC, those folks should be collecting and reporting and submitting gross receipts tax and lodgers' tax.

CHAIR HANSEN: Okay. Thank you. Penny, are you good? Under discussion and next steps, I think we have gone through the next steps and I would like to go on to concluding business if there is not any other comments between the presentation and discussion.

MS. ELLIS-GREEN: Madam Chair, Commissioners, we have the information we need to draft. Thank you.

3. Concluding Business
A. Announcements

CHAIR HANSEN: I want to make an announcement. The City of Santa Fe has closed their libraries, so there will be no meeting on the Two Mile Pond tonight. It was scheduled and other people have thought this meeting was about the wastewater plant and if you're interested to know what the City is doing on the wastewater plant you can listen to their meeting that they had last night where John Dupuis gave a complete overview on how they're working on the plant, and they're project. But I want to let you know that Two Mile Pond meeting is canceled and if Daniel could please put that up on the website or something like that to let people know that the City of Santa Fe has closed the libraries so the meeting is automatically canceled.

Okay, are there any other announcements from anybody?

COMMISSIONER BUSTAMANTE: I would like for us to consider having either a discussion on the best way to go about identifying something formalized, and I'll look forward to talking with our County Manager, formalizing an invitation to the City of Santa Fe on how we might support their wastewater objectives. Something inviting and supportive of their goals and efforts. And thank you, Chair Hansen, for encouraging people to recognize the importance of us working together in this capacity.

CHAIR HANSEN: Last night at the Council meeting of the City, three City Councilors suggested a partnership with the County should be looked at in regards to the wastewater treatment plan.

So I think that's all the announcements we have unless Commissioner Hughes or Commissioner Hamilton – do you have anything? Okay. Thank you. See you all soon. Enjoy the snow. I'm very proud of both Commissioner Hughes and Hamilton for making out in the snow.

COMMISSIONER HAMILTON: The roads still look bad.

CHAIR HANSEN: So please be careful, all the staff and everybody.

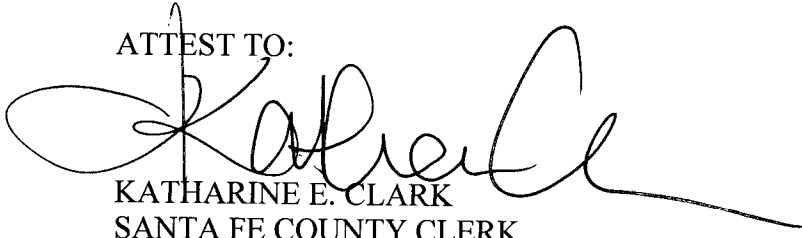
B. Adjournment

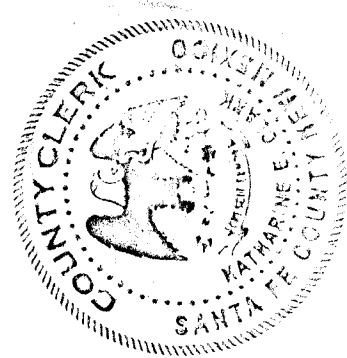
Having completed the agenda and with no further business to come before this body, Chair Hansen declared this meeting adjourned at 12:50 p.m.

Approved by:



Anna Hansen, Chair
Board of County Commissioners

ATTEST TO:


KATHARINE E. CLARK
SANTA FE COUNTY CLERK



Respectfully submitted:


Karen Farrell, Wordswork
453 Cerrillos Road
Santa Fe, NM 87501

SFC CLERK RECORDED 01/12/2024