

Portland Planning and Sustainability Commission
Tuesday, April 22, 2014
6 p.m.
Meeting Minutes

Commissioners Present: Andre' Baugh, Karen Gray, Don Hanson, Mike Houck, Gary Oxman, Michelle Rudd, Katherine Schultz, Howard Shapiro, Chris Smith
BPS Staff Present: Susan Anderson, Sandra Wood, Morgan Tracy, Julia Gisler, Julie Ocken
Other Staff Present: Kristin Cooper (BDS); Terri Williams (Revenue); Mike Liefeld (BDS)

Chair Baugh called the meeting to order at 6:01 p.m. and gave an overview of the agenda.

Items of Interest from Commissioners

Commissioner Baugh is in a panel discussion at City Club about gentrification this Friday.

Director's Report

Susan Anderson

- We had close to 20 apps for youth position. 2 rounds of interviews. Age 18-25. Margaret Tallmadge was selected by the Mayor as the youth appointment to the PSC. We are also trying to do the appointment to the other PSC opening at same time, likely in early June. We will ask Margaret to come to one of the next PSC meetings to introduce her to the Commission.

Consent Agenda

- Consideration of Minutes from 04/08/14 PSC meeting

Chair Baugh asked for any comments for the consent agenda.

Commissioner Shapiro moved to approve the Consent Agenda. *Commissioner Houck* seconded.

The Consent Agenda was approved with an aye vote.

(Y9 – Baugh, Gray, Hanson, Houck, Oxman, Rudd, Schultz, Shapiro, Smith)

RICAP 6: Short-Term Rentals

Hearing. Staffed by: Sandra Wood, Morgan Tracy, Joe Zehnder, Julia Gisler, Kristin Cooper (BDS), Mike Liefeld (BDS), Terri Williams (Revenue)

Documents:

- [RICAP 6 Proposed Draft](#)
- [Staff Amendment Memo from April 8](#)
- [RICAP 6 Overview](#)
- [Staff Amendment memo from April 22](#)
- Summary of Accessory Short-Term Rental Regulations

Presentation:

<http://efiles.portlandoregon.gov/webdrawer.dll/webdrawer/rec/6639716/view/>

Staff provided an overview of the minor policy items in the RICAP 6 package. The new staff memo dated April 22, 2014 makes the radio frequency towers policy consistent with FCC regulations.

There are also 20 clarification items in the RICAP 6 package to resolve technical errors, make code language more consistent, or clarify regulations to ensure the outcome is consistent with the original policy intent.

Staff also identified several issues in the workplan that were investigated, evaluated and ultimately did not warrant a code fix.

Testimony on non-short-term rental components of RICAP 6:

- Ken Lyons, AT&T, Busch Law Firm: Thanked staff at BPS and BDS for work. He supports the code changes as suggested to be amended by staff. While they would like some other language to reflect the federal law, they understand the balance needed. *Commissioner Shapiro* asked if with these updates we are still not in compliance with federal law.
- The wireless amendment addresses the LUBA decision; 1996 telecom act; and recent federal law change that talks about modifications of existing sites. Existing sites are the main issues, and they have been addressed in the amendments.
- Kathy Fuerstenau: She is happy to see the regulations address noise from utility cabinets. She asked that the required documentation about noise be submitted by a certified acoustical engineer. Another issue, but less important, is that the structures are often in the public right-of-way. At some point it becomes a safety issue, so she would like to see some size limit included. *Commissioner Hanson* noted that typically equipment would have an engineer's check-sheet to document included. If that was submitted, would that be acceptable?

Chair Baugh closed testimony on the non-short-term rental portion of RICAP 6.

Discussion

Commissioner Houck asked about the noise issue and if staff has discussed this with the Noise Ordinance Officer who has moved from BDS to the Office of Neighborhood Involvement.

- The proposed language was added at the City Noise Officer's recommendation. Staff agreed that the addition of a certified acoustical engineer would be fine to add. These are more issues in residential areas at night time, and the City Noise Officer recognized the issue. Mitigating these noise impacts after the fact is costly or might trigger another design review. The suggestion to add an acoustical check is good.
- *Commissioner Hanson* agreed that adding this language is appropriate.

Commissioner Smith noted testimony from Bonny McKnight and asked staff to walk through it:

- On-going maintenance requirements for the environmental zone standards for Multnomah County Drainage Districts already exists in the landscaping standards chapter.
- Public art and neighborhood review: Staff talked to RACC about their process. They notify Neighborhood Associations of proposals, so neighborhoods are included in decisions, and no additional language is needed here.
- Setbacks for mechanical equipment: In the rare cases where mechanical equipment must be located in a setback, the adjustment review process is already provided for in the Zoning Code for regulatory relief if people want to pursue it.
- Land Use Review Comment Period: This is the neighborhood's desire to generally have more time to consider land use reviews. The amount of time varies based on the level of review (i.e. a Type I is quicker than a Type III) which reflects the City's need to process reviews in a timely fashion and to comply with the state 120-day rule are

constraints.

Commissioner Rudd asked about modifications to RF towers. How does that relate to the requirement for the acoustical engineer?

- The language for modifications establishes the review a threshold between just getting a building permit and when a conditional use review is required. All new or replaced equipment (regardless of the review threshold) must demonstrate that equipment meets acoustical standards.

Recommendation

Commissioner Hanson moved to approve RICAP 6, with the exception of items #12-14 (short term rentals) as follows:

- Amend the Proposed Draft for Item #18 (RF Facilities), as shown in the April 22, 2014 staff memo;
- Recommend that City Council adopt the Proposed Draft as amended, and amend the Zoning Code as shown in the Draft (excluding Items #12-14); and
- Direct staff to refine recommended code language and commentary as necessary, including the need to address the acoustical engineer report as noted in Kathy Fuerstenau's testimony.

Commissioner Houck seconded.

Commissioner Hanson seconded and the vote passed unanimously.

(Y9 – Baugh, Gray, Hanson, Houck, Oxman, Rudd, Schultz, Shapiro, Smith)

Written Testimony Received (for all of RICAP 6):

Kathy Hansen	Susan Moray	Karrie Amiton
Paulette & Richard Meyer	ONI	Gloria Hartley
Chris Cross	William L Gregg	Diane Eklund
Nancy Chichester	Michael S Roth	Sue Chacartegui
RCPNA	Gaetano DeLeonibus &	Louis Cantor
Steve Unger / Lion & Rose	Gina Greco	Charles & Lynn Mason
Roger Warren	SMILE	Richard Mills
Renate Powell	Tim Kerr	Kathy Fuerstenau
Irvington Community Assn	Suzanne E. Hannam	Mary & Mark P White
Elise Wagner	Linda Fitzgerald	Maggie Chandler
HAND	Kaya Singer	Victoria Stewart
Jim Nolke	Ketzel Levine	Annie Rose Shapero
Jere Fitterman	Georgena Eggleston	Cara Rozell
Randall Havas & Melissa	Connie Cohen	Alisa Christensen
Weissberg	Buckman Community Assn	David Laws
Karin Williams / Old Chicago	Margaret Davis	Ann Garvin
Bonny McKnight	Carol Foley	Benjamin Kerensa
Peter Sergienko	SMILE LU / Ellen Burr	Maureen & Dennis Kinzel-
Joelle Flegal	Deanna Cintas	Grubbs
Ellen Knowles	Stuart Malkin	Terra Sojourn,
Deborah & Martin Merkle	Heather McGarry	Penelope Miller
Nathan Miller	Melinda Adams	Gary McHargue
Anesa Burkic	Maggie Rivera	Neil & Patricia Solomon
Tom Welsh	Becca Peters	Terrence O'Shea & George
Airbnb	Paul Cone	Campbell
Bill Perry, ORLA	Rhonda & Doug Baldwin	Alice Hardesty
Sue and Bob Low	Joanne Stainbrook	Ryan Swoverland

Mary Ann Schwab
Madoka Swoverland
Marie Phillippi
MCDD
Ed Menze
Steve Unger, Lion and the
Rose B&B

Darcy Cronin
James Knight
Lydia Crumbley
Margo Clark
Jane Waddell
William Gregg
Dean Gisvold, ICA

Ariel Lewis
Vicki de Ville
Eric J. Wieland
Elizabeth Grossman
Terry Parker
Mary Jane Slunaker

Staff summarized the short-term rental component of RICAP 6.

For home occupations, and as suggested for short-term rentals, the permit is documentation that the standards are met, including the inspections.

Questions for Staff

Commissioner Shapiro: Please review the defining of the number of occupants.

- The idea behind the definition is (for example): 1 person living in the house could have 3 college students renting from them.

Commissioner Smith asked if we know how many home occupation permits are currently in the city.

- It's in the 100's. Definitely not over 1000.

How do you differentiate between non-resident employees and other people that come to the site to perform a job (like housecleaning)?

- The person can't be an employee of the accessory short-term rental, but the operator is allowed to hire staff such as a cleaning service.

A concern is that "permanent resident" is not fully defined. If the person was not an employee, that would be fine.

We know there are about 1500 Airbnb listings in Portland. If this is adopted by Council, we can't do all those inspections immediately. If there are permits in the hopper, we would be able to let them continue operation until the inspection is complete?

- Yes. We would look at prioritizing resources to get through the first crunch time. The application would be pending, so staff would get to them as soon as possible, and the rentals could continue through the permit process time.

Commissioner Schultz: You note a 1-2 week process. Is that including the time for inspections?

- Yes, there is the application form, then staff contacts the requester to do an inspection, they do the inspection and it is complete. BDS is not set-up to take electronic applications just yet. There will be some additional application requirements in terms of verifying occupancy.

I have a concern about limiting inspections to just looking at bedrooms and smoke detectors.

- BDS does inspections like this (e.g. attic inspections) that are limited in review to look at only if the space is legal. It's more of an art than a science, but inspectors have been successful. We do have an obligation to let people know if they have inhabitable spaces even if this is not what we're looking for in these cases. There are thresholds from different code iterations to account for differing standards. Basements, attics and garages will have a question about if the space was built for.

Commissioner Rudd asked about the definition of household and the phrase "related by marriage."

- The City Attorney suggested an amendment to the language to change to "domestic partnerships" in the definition of "household."

There is a short-term rental fee. Is there a separate fee for the inspection?

- The fee includes both components.

If you have a basic home occupation, could you still have that and a rental?

- Yes, the Type A home occupation would allow in-home business owners to also have short-term rentals. Type B home occupation, where either one employee or eight customers come to the home each day, would not be eligible for the short-term rental.

Commissioner Oxman noted that vacation rentals are not included. What is the rationale for that? The risks seem comparable.

- The distinction is that one is a primary residence of a Portlander living here, and the vacation rental is not. The purpose for residential zones is to provide housing for Portlanders who are living and working here. By allowing vacation rentals, it would take the unit off the market for a permanent resident.

For people who are retired, they may spend some months of the year out of the city.

- If someone rents out their house during that time, that is still considered a primary residents for the Portlander and they could apply for the short-term rental permit. If it's more than 30 days, this is a long-term rental and wouldn't need a short-term rental permit.

Commissioner Gray asked about required notice. What are the "all recognized organizations?"

- Neighborhood Associations, Neighborhood Coalition Offices, neighborhood business offices, which are all through the City's Office of Neighborhood Involvement. This is consistent with language we use for notices for land use reviews, etc.

Neighborhood Watch groups could be included in the list of outreach.

Testimony on short-term rental component of RICAP 6:

1. Terry Parker: R-zones are for a safe haven for people. They are designed to be free from direct contact with commercial activity. The concept of short-term rental goes completely against this, and the short-term rental proposal needs to be removed from RICAP 6. It is not a minor code amendment.
2. Joan Sterrett: All 10 amendments violate zoning codes applied throughout the city. Amendments for short-term rental are impossible to regulate, and this proposal opens a Pandora's Box for other uses in residential areas of the city. There is a concern about safety, traffic and parking, and deterioration of property values.
3. Bill Perry, OR Restaurant & Lodging Association: From a legal standpoint, there is not a difference between Expedia and Airbnb. The law does not stipulate between a room in a house and a room in a hotel. The inspection process should include all safety reviews. Having someone on-site is more important than the owner-occupied question. As you move forward, have the mortgage lender and insurance company know that a commercial practice is taking place. Homeowner policies often don't cover the renter. An additional amendment should be for annual inspections too.
4. John Hannam: The short-term rental question is not a minor policy change. I ask the PSC and planning staff to take a step back, understand the need and put it out for a vote. We already have zoning that allows neighborhoods and commercial to co-exist. As was once said, "yards should be wide, people few, and vehicles restricted," which is against what this proposal offers. Don't let funds (Airbnb) accelerate the process.
5. Dustin Carsey, Lion and the Rose B&B: There are so many articles about Airbnb on Google, including the report of NYC today. Names of hosts should be released so enforcement and accountability can be possible. We need to think about transparency, accountability and enforcement. This [Airbnb] is a huge corporation that is going in the same category of small home occupations. It doesn't feel right. This is too big a subject

to cram into a small project.

6. Steve Unger, Lion and the Rose B&B: Airbnb has gone from couch surfing to renting full homes. I support host-present private-room rentals. But host-absent full home rentals need to be held to a higher standard. I've provided written testimony that includes four additional components needed in the short-term rental proposal as well.
7. Tamara DeRidder, RCPNA: The Rose City Park NA letter is of opposition and included 19 findings of fact against the Comprehensive Plan and municipal code. Short-term rentals are not a minor amendment. It should only be allowed in owner-occupied residences.
8. Michael Roth, RCPNA: Complaints about short-term rentals are documented all over the Internet. This proposed change should be pulled out of RICAP 6. There are too many quality-of-life and equity issues surrounding it. Permit fees should be annually renewed. The RCPNA board voted against accepting short-term rentals in RICAP 6.
9. William Gregg: We should take short-term rentals out of RICAP 6. It needs to be vetted thoroughly by itself and should require annual inspections. Findings need to be there for non-compliance. Hosts need to be present at all times. A permit number needs to be required, and all contact listings should be given to the City. Insurance needs to be included too.

Commissioner Smith asked RCPNA if anyone in the neighborhood had filed complaints about short-term rentals to the City since we do complaint-based enforcement.

- Airbnb's response was to cancel my account.
 - People need clarification on who to contact in the City to voice their complaint.
10. Renate Powell, Sellwood Land Use Committee: We need further discussion on short-term rentals. The draft is a good starting point, but it needs more thought to be successful. I have used short-term rentals in different cities with good experiences. Owners should reside on the premises. Parking in a densely-populated urban neighborhood is a problem.
 11. Jon Cohen: The proposal is much more than small technical amendments as RICAP should be. Changes to zoning designations deserve the full legislative process to protect all who reside in the neighborhood. Operating a B&B is different than allowing renters on a shorter-term basis.
 12. Richard Mills: We're looking at providing the maximum revenue for Airbnb but creating negative impacts for Portlanders. There is no regulatory relief for neighbors and no provision to allow prospective purchasers of adjacent homes to know if short-term rental are being implemented in houses. Quality of life in residential areas will be decrease. Need to restrict and limit short-term rentals.
 13. Rish Inanna, PDX Posh: I'm creating an online platform for Airbnb hosts to connect. Currently hosts take on risks of opening their homes. I propose that any fees are shared between hosts and guests. That should be conversation to have among hosts.
 14. Nola Gray, portlandoasis.com: Specializes in short-, med- and long-term rentals. The supply housing for disabled people, especially those who have chemical sensitivities, is very limited in Portland, and I fulfill a niche. I use Airbnb and have done so for past 3 years. It helps keep me in my home. A variety of people have stayed in my home. There are some hotels and motels trying to fill this need, but they have not fully accomplished it yet. I propose an amendment for exceptions for providing this type of housing to disabled people and can offer myself as a resource.

- *Chair Baugh* asked for clarification on the requested amendment. I provide a non-chemical, wheelchair-accessible space. I would like to include opportunities for people who need the resources. There could be exceptions (e.g. 30-day limit) for rentals.

15. Fred Gordon: My neighbor rents rooms by year and month. They notify neighbors and pay taxes. I can't discern a difference between the neighbors' long-term visitors and my short-term rental. I agree with the need for inspections and neighbor notification. Owners screen people before allowing short-term renters. There is accountability. It's similar to what's already allowed with home occupations.
16. Theresa Hannam: Don't change code in single-family homes to allow short-term rentals. Neighborhoods are for community development and families. Permanent residents enrich our community. Short-term renters don't. Short-term rentals are only about money. You will create commercial zones in residential zones. Short-term rentals who were found on a business website.
17. Amanda White: An Airbnb host and has used the site to find places to stay elsewhere. We own our home and use Airbnb because it creates more of a community atmosphere. It allows us to connect with a community through experience. I've met people from all over the world and have learned from the experiences of others. We are enriching our community because the housing market is so tight and/or expensive. For example, we are welcoming a neighbor's family soon so they can stay in one place, all together. We are serving the people of the community and local businesses too.
18. Kevin Gummer: I use Airbnb and have stayed in rentals throughout Washington and Oregon with great experiences. I'm working on an ADU project at my house, which we hope to rent out when it's completed. Short-term rentals create positive impact on local economy. I spoke to neighbors about the plans, and neighbors have wanted to do short-term rentals as well. I want to work together with neighbors to create good experiences for groups as well.

Commissioner Oxman asked about different regulatory scheme for short-term versus long-term rentals.

- There is some confusion about differentiating between 29 and 30 days. I understand reluctance for very short-term (e.g. 1-night rentals). Most visitors are in the longer-term range and we often have reoccurring guests.

Commissioner Schultz asked about guests who have a cars.

- The majority of people don't have cars. They are attracted to the area because it's walkable and has good transit options. We keep our driveway available for people who do come with cars.
- We offer bikes and short-term rental car information to guests.
- However, at least 8 out of 10 have a rental car for rentals near Theresa.

Chair Baugh asked about the ADU investment.

- This is an investment not just for short-term rentals but also for a long-term plan to relocate my parents here in the long-term.

19. Dean Gisvold, ICA: I live in heart of Irvington's Airbnb and VRBO rentals and support the regulation as far as it goes. I would like to see some amendments included. A host on-site is key to make this run properly. I would also like to include "it is subject to compliance with applicable city and county regulations" to invoke revocation of a permit if necessary.

20. Kim Gordon-Gumbo: Has an Airbnb property and is supportive of the amendment. It is addressing the “pink elephant.” It feels good to be part of something that will be recognized. There is only been one time that I haven’t been in my house when guests have been there, which was due to a family emergency. We have to know our guests. The term “transient” is misrepresentative.
21. Jason Fayen: I operate a licensed B&B in SE Portland and am put out by considering people being able to license what is basically a B&B without a conditional use process. I urge the PSC to reconsider this allowance. The issues that is bringing this to a forefront is economics. Airbnb should be required to provide information for the hosts on their site because they are facilitating them to not pay their taxes. The City’s efforts should be to review the sites with tax maps and require them to pay taxes and back-fees. There is nothing to enforce this point either.

Commissioner Smith asked about Airbnb being required to display a permit number in the listing. Would you be ok with this? Would it be advantageous?

- It would be fine, but not an advantage.
- We pay transient taxes already.

Commissioner Schultz asked about the review process.

- It would be fair and fine.

Commissioner Shapiro asked about traffic impacts.

- There has been an increase, but NE 15th is a busy street regardless. We have not had any neighbor complaints about additional traffic either.

22. Sue Carter: We were doing short-term rentals for 4-5 months but didn’t know it was illegal. Neighbors notified the City and shut us down. I do like the notification requirement in the proposal. It builds trust. Many of our guests would also like to talk with our neighbors. If there is a problem, we can then add it to the house rules to ensure it won’t happen again. We’ve had great renters. We live near Providence hospital and have had renters who have family in the hospital. There is a long-term rental across the street with 4-5 cars all the time. Only about half of our guests have cars with them.
23. Ana De Castro: The amendment is trying to regulate something that’s already happening. I appreciate that RICAP 6 only deals with Type A short-term rentals. We haven’t been enforcing the law yet, so all the posts on Airbnb right now are illegal. How do you plan to enforce the owner-occupied requirement? This is necessary.
24. Miriam Barnard: An Airbnb host. I received an enforcement letter recently. I’m interested in hearing from people who are nervous and have objections. Neighborhood dialogue is encouraged. There are concerns about what could happen, but the only thing I have heard that has been truly negative is a lost key and the host family not being in town. Noise can be an issue regardless of the area. A variety of people have stayed with us with good outcomes. It is my home and where we live. I will be particular about who sleeps under my shared roof, and we do want neighbors to know what’s going on. The complaint I got was anonymous and threatening, but we hope that’s not how neighbors will work together in the future.
25. Molly Turner, Bob Low, Rose Blackson, Elise Wagner, Ada Kardos, Airbnb: The local economy benefits with short-term rentals. Owners benefit. We are happy with the progress on the short-term rental proposal. We are concerned about the inspection requirement in the April 8 amendments. If homes are safe enough for our families, they

should be safe enough for our guests. Hosts should not be held to higher standards than those with long-term renters. Airbnb helps people save their homes against foreclosure. Short-term rentals contribute to the economy of Portland and share what Portland has to offer with people from around the world. Most guests don't bring cars with them. We're creating an effective use of home space. We applaud the new policy for homeowners to rent homes on an occasional basis.

Commissioner Smith asked about how many nights per year are homes rented. If we required that owners be in residence all the nights that it is rented, would that be an impediment? Airbnb hosts commented:

- Always on-site, usually a couple times per month.
- Always on-site, 15-20 nights/month,
- Have a back-up friend who meets people when I'm not there; my cell is always available. Average 15 nights/month, heavily in summer.
- About 20 nights/month, I'm typically in the house, but do expect to have option as a back-up to meet guests.
- On average, hosts rent entire homes much less frequently than they do individual rooms.

Commissioner Oxman noted that he met with Airbnb for a briefing. What is the data on the percentage of total occupancy days that are greater than 30 days versus less than a month?

- Rentals are mostly fewer than 30 day consecutive rentals on Airbnb. We have relatively few longer rentals. Airbnb can get this data.

Commissioner Shapiro noted we want to be acting on behalf of all Portlanders. As we go forward, how willing is Airbnb to be a partner and share information?

- Airbnb is here to be helpful. We applaud City leaders in Portland, especially compared to other cities. We are committed to watching as this unfolds and want to collaborate to make sure this is successful. As an Internet platform, we do have to protect users, which is why locations are not posted directly on the site.

Chair Baugh asked about the new updated Airbnb policy in terms of collection and remittance of taxes.

- They are working with the Revenue bureau. Revenue can audit Airbnb and hosts. We are still collaborating about what enforcement will look like. The auditing policy is still being drafted with the City Attorney. Tax collection will add to every room night in Portland, so everyone will be compliant.
- Not all short-term rentals are through Airbnb, so that will require another way to collect taxes.

Commissioner Smith is using Airbnb for a trip to Seattle soon. The site offers ways for users to improve their credibility to hosts. What about displaying permit numbers to facilitate hosts' credibility?

- Yes, that is an option. And this is a requirement and/or option in other jurisdictions.

Chair Baugh asked the hosts if they all own their homes.

- Yes [all on the panel].
- 84 percent of Airbnb hosts in Portland are renting out their primary residences.

26. Jere Fitterman: Has rented her extra room out long-term for 4 years. This then allowed guests to share her family kitchen, which got complicated. Airbnb is a better solution for us. We don't have short-term renters yet but will this week. I use Airbnb as a service to help rent out our home. It's convenient, and I don't have to worry about

getting paid since Airbnb collects the fees.

27. David Ivy: An Airbnb host in Hawthorne. I lease my property; the owner is an old friend who likes to visit Portland a few times per year. Hosting has allowed me to pay the mortgage and save ownership of the house for my friend's daughter in the future. I've only had great experiences with guests. Neighbors are aware and have my contact information. I commend planning staff for the proposed rules. Inspections may not be necessary.
28. Tim Kerr: Recently started with Airbnb with a great experience. Few guests have cars with them. Neighbors know of guests/rentals. The staff proposals are great. Taxes are fine.
29. Kol Peterson: Owns a hotel and uses Airbnb as a platform. There is too much tourism without enough places to stay in Portland. People who are coming to Portland are coming for a unique experience and often want to stay in a great residential neighborhood.
30. Luisa Zoeller: Airbnb host. All guests have been wonderful, thoughtful, considerate and respectful. Has been a host for 3 years. Hosts can provide comments and recommendations about renters via Airbnb.
31. James Knight: The business is the homeowner or resident, not Airbnb. Airbnb makes it easier. Hosts are reviewed, as are guests. As a host, you can vet the kind of people who come in and vice versa. This will happen if Airbnb is here or not; people will do short-term rentals is some way. This proposal makes it cleaner and supports the shared economy.

Chair Baugh closed testimony.

Discussion

Staff: This isn't a zoning code recommendation specifically for Airbnb. We're talking about amending the Zoning Code, so we want to tie that with land use impacts. We have other goals in the City (e.g. collecting taxes), but we are looking only within the confines of the Zoning Code with this proposal.

There has been testimony about proposal as a major policy change. However, the PSC held a hearing on whether this should be included in the RICAP 6 package last August, and all agreed that it should be included.

Regarding the owner-occupancy or hosts on site: we need to be specific about which we mean. Those terms were used interchangeably. Defining "primary residence" and whether a host should be on-site (#1 on the summary of changes document) was the most-testified item this evening.

We heard most of these issues during the public comment period.

Commissioner Rudd: In terms of treating this in RICAP, this is already allowed as a conditional use under the code. The idea is not to allow something completely new, but to recognize that 1 to 2 bedrooms is a smaller impact use and consider whether less than a full conditional use permit process is appropriate. It makes sense to treat short-term rentals as a home occupation, but they also need a home presence. We need to have some sort of monitoring there. I would like to see the definition of household expanded to include domestic partnership. Short-term rentals shouldn't be limited to the owner of the house. If you're the renter, you should be able

to take advantage of this too.

Commissioner Houck: We had previously heard assertions that we'd lose the housing stock in the city, but I didn't hear comments about that tonight.

- Staff has not found data about housing stock being lost.
Noise issue is something that I want to hear about. How will the coordination occur now that the Noise Officer is at ONI?
- BDS maintains coordination with the Noise Officer. Most noise concerns that would be lodged due to short-term rentals would be more for police / non-emergency, and it's very unlikely that it would be subject to any City ordinance.

Commissioner Schultz: Did you consider third-party inspections?

- We did hear this suggestion but don't believe this will provide greater consistency.

Commissioner Smith: On the question of if short-term rentals should be in RICAP 6, if we were redoing the scope right now, I might think not. It may have done damage to overtaking the community's input instead of looking more thoroughly at the rest of this RICAP package. On the inspection issue, we'll see pretty quickly how many non-legal bedrooms we have. If it's not generating value, could we take this out?

- It would be a full legislative process to do so.
There was a question about knowing who's a host. I assume this is a matter of public record when a permit is issued.

- Yes.

Would there be requirement for the permit to be displayed on the home?

- No. This would be in the notice and renewal requirement.

Criteria to include compliance with other regulations could be a basis for revocation of the short-term rental permit.

- It would be revoked if the owner is not meeting regulations in the new chapter. We typically don't include those regulations in the Zoning Code, so we felt comfortable not putting it in. BDS would be in a position to be regulating other laws that they are not in position to do.

- We don't want to use the Zoning Code to cross-reference to other rules.

Someone might install a tenant only to be the primary resident to rent to short-term on his behalf. I don't see it as likely, but I guess this could be possible. Would making a host in residence (sleeping in the house the same night as guests) put a buffer around some of the concerns we've heard?

- *Commissioner Hanson* noted the word "host" is good. We don't want to discriminate. We want someone who stays there and is a consistent contact. We don't want to tie someone to their house.
- *Commissioner Schultz* noted you can't enforce who's always there. Or even that a substitute or fill-in is there.
- *Chair Baugh* noted the critical issue is how you enforce it. Someone should be there, but how do you make sure?
- *Commissioner Oxman* noted we're jumping to enforcement before creating the rules. People will mostly comply if they know what the expectations and requirements are.

Commissioner Shapiro reminded PSC members that we're looking at this through the eyes of the Portland Plan. We are trying to produce equitable outcomes to allow people to be resourceful. What about neighborhood watch in the notification process?

- Neighborhood Watch is part of the coalition offices. Notification does go to the coalition offices, so it could go on to neighborhood watch. The letter from SE Uplift was supportive of neighborhood watch to help know what's going on in the neighborhood.

What about overzealous inspections? How can we have assurance that there won't be an overreach?

- The enforcement program focuses on compliance. There is a path to make an illegal scenario legal. Inspectors are dealing with problems with inherited issues. These are code experts and investigators and want to help people.

Commissioner Oxman: Inspecting for legality of bedrooms as “more of an art than a science” is concerning. For an inspection program to be valid, there has to be an underlying list of things we’re looking to inspect. It’s random if an inspector finds a defect and then you’re down a compliance and/or regulatory pathway. There is a risk for the homeowner not knowing what they’re getting into. What does the inspection hope to accomplish in the broader picture?

- Inspections are to verify that the space for the public is a legal space. It could have been legal many years before, and if they were legal at the time of their being built, they are considered as being legal now unless you’re proposing an alteration. We are trying to ensure spaces are being used as intended.

It just doesn’t seem like this is a compelling governmental function. Safety issues need to be honed-in.

- The change is where the building code talks about them as lodging houses. That use change does trigger the allowance for a safety inspection or requirements per the state. We are confident this will protect the public.

We understand that few communities have required building inspection as a tool for short-term rentals.

- Part of this is inspection amendment is from our community discussions. This was an issue that came up time and again. We are also issuing a permit in this case, which triggers the inspection.

Have you looked at self- or electronic-inspection options as an alternative to on-site inspection?

- Yes. It would be difficult to create a matrix of historic building codes to self-certify that the space was legal at the time of construction.

Commissioner Gray: I agree there should be someone fairly consistent on-site. You have to have inspections; I would suggest they move to being annual if possible and include a certificate of inspection be posted inside the residence. We need to list reasons for revocation on a piece of paper so it’s clear. People will comply just knowing what the revocation requirements should be. The addition of “domestic partners” is necessary. This process gives people a legal option with reasonable regulation.

Commissioner Hanson: The insurance issue is none of our business. That’s between the insurance company and the operator/host. But having an inspection requirement is good and something insurance companies would want to have done anyway. If the City has done an inspection that determines the place is safe and code requirements are met, the City would be in a good spot in terms of any potential liability issues.

Chair Baugh: As an industry, some companies will collect for the hosts; others will put that responsibility on the hosts themselves, correct?

- The operator has the responsibility to collect the tax and remit it. Airbnb is suggesting that rentals on their platform will be done with Airbnb as the operator on the owner/operator’s behalf.

How would you audit the platform that submits a check without where the money came from?

- We have this now with people who do corporate housing with units throughout the city. In an audit, we look at their books and records, test that, and verify we’ve done and collected everything we need to do. This is similar to what we would do on a platform.

I don’t think we understand the marketplace impacts. The City invests millions of dollars in affordable housing. The efficiency of short-term rentals may or may not (there isn’t good data yet since it’s so new) impact the rental market in Portland. For me, it makes sense to

daylight to short-term rentals, collect taxes with regulations. It doesn't make sense to let it go and run free. We need to put timeline on it to make us look at it again and address questions that may have come up. Our investment in the city is driven by Portland Plan about affordability, prosperity and equity. I would propose an amendment to ask Council to review this in 3 years as it could be a contributor to affordability in the future. We could ultimately craft ideas for HUD properties in the future as an opportunity for low-income people to rent out their rooms, which is not allowed in the rental market in Portland today.

- *Commissioner Houck* asked about the 3-year time frame and who would do the analysis. *Chair Baugh*: The City could work with an independent group to develop the study. 3 years gives enough time to see price increases in the rental market.

- *Commissioner Hanson* suggested this is a monitoring or study period. But I consider this different than affordable housing and don't see how there would be an impact. I consider this as a service for people who want to stay short-term and for people who own or operate the houses who can derive extra income. How does this impact affordable housing in the city?

Chair Baugh noted the platforms of short-term rental reduce inefficiency in the market. HUD notes this impacts the amount of affordable housing, so the City would end up asking HUD for more funding. Portland doesn't have rent control. We don't know of short-term rental will push up rental rates.

Commissioner Hanson noted if we decide to do an evaluation period, we should prescribe what we want the analysis to accomplish.

- *Commissioner Smith* noted there short-term rentals will mostly affect market-rate rental housing. It could potentially put more demand on Section 8 housing, but not much. We are not addressing multi-family buildings in this amendment, and that would have more impact on the low-income rental options than this proposal.
- *Commissioner Schultz* said this is either this is the right thing to do or it's not. We either need to study it and put it off for now, or we support it as part of the RICAP 6 package. It can be adjusted through other processes and RICAP projects in the future.
- *Commissioner Shapiro* said the PSC is the monitor. Airbnb reviews have been mixed in other cities. We should be looking at this in a few years and what the Airbnb relationship is valid.

Susan noted that the name of the company shouldn't matter. I would worry about people who are investing now to make changes in their homes. We're open to the idea to have a report back to Council in a few years. There isn't that much Section 8 housing, so there isn't that much to affect in terms of the number of units.

- *Commissioner Oxman* liked the idea of reevaluating. For the data that will be needed, we need to talk about that soon so brokers are positioned to provide data to us. Mixed about the sunset clause; government should continually evaluate projects, which is something we should be doing all the time, not because of a requirement.

Joe commented that there are 163,000 single-family houses and duplexes in Portland. We don't know for sure how many are (let's say 40 percent) are rentals. Today we're talking about 1500 properties in short-term rental market from Airbnb. Even if it's 2,000 out of 80,000, that's still a small portion of single-family houses. Then you have to evaluate of all the things that make rents go up, how much would short-term rental influence that? How do you parse that out? A partnership to review data could be useful just to see what we can learn.

- *Commissioner Hanson* noted we don't know if short-term rentals will cap-out at some time.
- *Commissioner Oxman* noted it would be interesting to do something of a survey to see what the penetration of the service in the community is and what financially may be derived.
- *Commissioner Houck* concurred with *Commissioner Schultz*. Doing research with PSU and short-term rental provider platforms as partners are an opportunity, but that is outside of this code amendment process.
- *Commissioner Smith* asked who's capturing the value of the short-term rentals. How much gets to you, landlord, Airbnb and/or other facilitators. These are things we could seek information about in a study.

Discussion of Possible Amendments

- Annual inspections:
 - BDS supports an annual inspection. In the Code for home occupations, it's currently a renewal every 2 years. In this case, it's about use and life-safety issues. The "is the space legal" question is only in the initial inspection.
 - *Commissioner Schultz* asked about "does the bedroom conform to when it was built/renovated?" We are looking only at if the space is being used as intended when it was built. These reviews are not new to this program.
 - Clarification: This is a request to renew the permit annually, which triggers the inspection.
 - *Commissioner Rudd* asked about how this will work in terms of BDS staffing.
 - It will be a prioritization that we'd have to allocate staffing to. This would be a requested permit, and we'd have to make sure we can maintain service-level goals.
 - *The PSC recommendation will stay with the proposed every-other year proposal.*
- On-site presence by operator/host.
 - A local designee who that the customer or a neighbor can actually contact who is available and in proximity. Ability to be on-site in a short period of time. Need to have someone who is authorized to take necessary action in case of emergency. Neighborhood network could be a starting point.
 - Phone number in the notice and communication with neighbors could be included in handouts.
 - *These concepts will be included in handouts, not in code.*
- Criteria for revocation.
 - We would like this to be listed in information handouts, not necessarily in the code. *[We don't need to vote on this point.]*
- Staff will work with ONI to get notices to Crime Prevention offices.
- *Amendment:* Update definition of "household" to include "domestic partnership."

Recommendation

Commissioner Hanson proposed to approve items #12-14 (short-term rentals) in RICAP 6 as follows:

- Amend the Proposed Draft for items #12-14, as shown in the April 8, 2014 staff memo;
- Recommend that City Council adopt the Proposed Draft for items #12-14, as amended, and amend the Zoning Code as shown in the Draft; and
- Direct staff to continue refining code and commentary, as necessary. Included in this is an update to the definition of “household” to include “domestic partnership.”

Commissioner Shapiro seconded and the vote passed.

(Y8 — Gray, Hanson, Houck, Oxman, Rudd, Schultz, Shapiro, Smith; N1 — Baugh)

In the transmittal letter to Council, the PSC will incorporate *Chair Baugh’s* concerns and recommendation for monitoring. Equity concerns should be front-and-center in the letter as well.

Adjourn

Chair Baugh adjourned the meeting 10:45 p.m.

Submitted by Julie Ocken, PSC Coordinator