

**CITY OF TRUTH OR CONSEQUENCES
PLANNING & ZONING COMMISSION
MINUTES
MONDAY, APRIL 14, 2025**

REGULAR MEETING

Regular meeting of the Planning & Zoning Commission of the City of Truth or Consequences, New Mexico to be held in the City Commission Chambers, 405 W. Third, Truth or Consequences, New Mexico, on Monday, April 14, 2025 at 4:00 p.m.

INTRODUCTION:

ROLL CALL:

Chris Sisney, Chairman
Susan Buhler, Vice Chairman
Esther Luchini, Member Absent
Lisa Kent, Member
Molly Hammer, Member

ALSO PRESENT:

Gary Whitehead, City Manager
Traci Alvarez, Assistant City Manager
Katy Martinez, Deputy Clerk

1. APPROVAL OF AGENDA:

Member Kent made a motion to approve the agenda. Vice-Chairman Buhler seconded the motion. Motion carried unanimously.

2. APPROVAL OF MINUTES:

a) March 10, 2025.

Vice-Chairman Buhler made a motion to approve the minutes. Member Kent seconded the motion. Motion carried unanimously.

3. COMMENTS FROM THE PUBLIC (3 Minute Rule Applies)

There were no comments from the public.

4. NEW BUSINESS:

a) Discussion/Action: Changes to R3 and R2 for Park Model Homes 400 square footage.

City Manager Whitehead: This is a general discussion, so no action is necessary. As I expressed with Traci this morning as I weave my way through the functions and roles that I need to be attentive to, less and more. This is one that is important but ultimately Traci has been doing it a long time and this was an opportunity for me to let her see how I want to structure things, how I want to go. Which will help her begin to steer the discussion. It's just to brief everyone. At some point I may not attend these meetings as much. They are Traci's. I'm comfortable with her knowledge. I just want to make sure I'm in a good spot to be able to defend the work that she is bringing forth and you guys are bringing. Also, to give you guys the space to do some work that is beyond what I sensed was your feeling of all we do is approve variances. I think that's always going to be a function of the board. I think the code leans into that unfortunately we probably going to be doing that a lot but are we comfortable with that? Do we do it the same are we consistent. Part 2 of that, how do we begin finding things in the code that we should affectively change. One of those that came up with the last variance on using the park model. That felt like a good place for us to kind of land, discuss and should we consider changing R3. The 2-family part in that code allows something down as small as 400 square feet, something below that or not change it. Really kind of decide if there is an opportunity there. I think that is where I would want to start. I want to set a better structure for you guys, especially for the chairman. We need to create a space for you to come in and understand which direction you want to go and be able to bring forth ideas or changes.

Member Hammer: This draft is an example of what other jurisdictions are doing.

City Manager Whitehead: Yes, that is off the New Mexico State code, it comes with the draft one because I didn't pay for it. That is the New Mexico statute specifically to tiny homes.

Member Hammer: This is kind of what we would do for the City of T or C for R3 by density only or are we looking at the other districts as well?

City Manager Whitehead: I think this is a blank canvas to say in my opinion tiny homes and the way they are built, how you have to build them, what the protections are on the building side feels like its set in law. You have to do it that way for it to be a tiny home. Our decision would be to say do we want to go down that path and do we want to open that door to say tiny

homes are now able to be built and then it's where we do it. Do we do it in R3, do we do it in every district. For example, I have a home in Las Cruces, and I did build a casita. I built a 700 square foot second house. We did it by the code. I'm thinking if I was in R1 and I wanted to build a secondary space and it met the lot size, accessory build, and it met all the requirements could it truly be a tiny home. In my mind you can take it to a lot of places. But it may not be in our best interests to open that box.

Member Hammer: It says that tiny house a dwelling that is 400 square feet or less on floor area, do we want a minimum? Do we want to say 200 to 400 or does it matter. Because tiny homes are under 400 square feet so if somebody wants to build 100 square feet, 10x10 building they can do that is what we are suggesting?

Manager Whitehead: My assessment when I read that code, when we were thinking of calling those park models tiny home and we said we are giving them a variance for a tiny home reading through it I thought we don't want to call them a tiny home because when you read through the state law that says this is what a tiny home is and how they have to build it your technically it could be as small as 100 square feet. I'm interested so I watch those shows on tiny home mansion and someone paid \$125,000 for 110 square feet.

Member Kent: Was it on wheels because that's the other problem. True tiny homes by definition can be towed.

Manager Whitehead: They were going to tow it to the parents. They had a good size ranch, and they were going to set it on a spot.

Vice-Chairman Buhler: A casita is different because that's not a primary residence. For instance, there is a home over on Riverside that is being sold as a home, and it is a shed. I don't know if it meets any other requirements for that area, whether it's in the flood plain or not. It is right by the river and it's basically a shed. I don't think it is legal. They didn't come before anyone or ask any one they just put it there. It has a small air conditioner. I'm surprised someone hasn't complained.

Member Hammer: There's also other names like an ADU (accessory dwelling unit).

Member Kent: That is when you have a primary home and a smaller dwelling unit.

Member Hammer: I guess part of the discussion would be is it an accessory dwelling to a larger dwelling already on the property or if somebody is buying an empty lot can they put 2 or 3 tiny

homes on the property? That is another whole discussion as well on how dense do we want that to be?

Member Kent: Also, what they are. If they are going to be stick build not just an RV which is what some of these are.

Member Hammer: Correct and I think we have enough RV in backwards in the city. It seems like we could propose a more elevated solution for aesthetics and property values. Also are these buildings going to be like extra bedrooms for someone to sleep in? Are they going to run Utilities if not is a shed? Are they going to have a bathroom, a kitchen? Is it a stand-alone living unit or is it just an extra bedroom for a guest to come stay with them? I don't have a strong opinion on that, but we might want to define that.

Vice-Chairman Buhler: If they are going to rent it that would make it different. You see homes that have airstream trailers next to them and we don't really know if people are using those to live in, have family members staying in or if they are renting them.

Member Kent: I think we would want at a minimum a bathroom and a kitchenette of some sort.

Vice-Chairman Buhler: Then it's a casita.

Member Kent: But you can live in it. You will have everything you need.

Vice-Chairman Buhler: I don't think it should be your primary residence. Unless it fits the size. I think these sizes are good.

Member Hammer: Do you mean the current building size or the tiny home proposal?

Member Kent: Right now, the current is at a minimum of 500 feet.

Member Hammer: So, it depends on the zoning?

Vice-chairman Buhler: Yes, so there is 800, 550 and 1,200.

Member Hammer: So that's another thing to consider, does every zone have a different tiny home requirement such as setbacks.

City Manager Whitehead: I would think not. If you go take a look at the accessory dwelling unit, your main residence has to be x and then on that square footage by a calculation you can put so many outbuildings and so you could technically build a casita. When I looked through the code, I didn't see a lot of definitions of casita, but Traci and I didn't really have time to really sit and look into it. I wanted to start here. I didn't see in the code where it talked about if you are in R1 you have to build it this size, here is what goes on the lot and then you can only build 30% of the remaining lot and you can make that a living unit. You could build a casita or anything that you wanted that had some living. You can still do that within the code. You could technically build a tiny home if it met the code, and you wanted to put a loft in it, there is nothing to stop you from doing that. The minute that you call it a tiny home though, it could be a different type of residence, and its sizing and structure is different. That is, I think the challenge we would have as I'm thinking about it. It's more defined.

Chairman Sisney: You would have to connect all utilities.

City Manager Whitehead: That's right.

Vice-chairman Buhler: That's like the Pods I have been reading up on those and you have to purchase a certain kind of pod that is wired to be able to be permitted to live in. You see people showing these pods that they converted and can't just be a regular.

Member Kent: Do you mean Pod or a shipping container?

Vice-Chairman Buhler: A shipping container. They have to be a special kind. That's what I have read anyway. Do you know Traci?

Assistant City Manager Alvarez: I do not but I know our municipal code right now says you cannot use a shipping container as a dwelling unit.

Vice-Chairman Buhler: It will happen though.

Member Hammer: What are the restrictions? A yourt does that fall under an ADU?

Assistant City Manager Alvarez: I get a lot of people that call and ask about yourts, tiny homes and multiple tiny homes on a lot. In the R3 that is a multi-dwelling area. You can put a unit that is 450 square feet or multiple units of 450 square feet in R3 according to our code as long as the lot size is correct. That is in our code right now. I don't know if its cost related especially since covid or if it's just people that want to down size and minimize. I get a lot of calls on people

looking around the 250 to 400 square-foot housing. I haven't had anybody call me about smaller. A lot of your calls as well.

City Manager Whitehead: Back to the one that we approved the park model. That is a \$40,000 investment and I'm sorry, but they are nice. They are well built anyone that says it's a 1970 mobile home or an RV is incorrect. They are well built and well designed, so for less than \$100,000 if 1 or 2 people living in retirement and they set it up right its affordable housing. That is the challenge when we think about what we should do with those. It is really an affordable entry to living. By our code the last situation that we did with the variance the only thing we changed was that we went from 500 to 400 square feet. If they had found a 500 square foot park model mobile home and they would have said we are going to ground set it. They wouldn't have had to ask for a variance they could have gone through with it. It's not disallowed in the with in the code. I think a lot of people that are complaining about it think that we have completely changed the entire code.

Vice-Chairman Buhler: They are putting 2 of them there.

City Manager Whitehead: That is correct, and the code allows it. The code allows 2 family dwellings, each being 500 square feet as long as there were 3,000 square-foot and they had 6,000 square-feet. All the math equaled added up to where they could have put 2 500 square-foot units on that property.

Chairman Sisney: Was there complaints?

City Manager Whitehead: No, we had the one guy that came in and I have heard a couple say that we have changed. Nothing of any concern.

Chairman Sisney: Were you aware that the applicants are involved in the manufacturing of these homes?

City Manager Whitehead: I didn't.

Chairman Sisney: They have a company where they sell manufactured homes.

Member Kent: They said that in the meeting.

Member Hammer: On that specific variance was it 1 property or 2?

City Manager Whitehead: It was 1, remember properties are sold in lots. Most of the time a property would be 2 or 3 lots. It's 1 property with 2 lots. A lot would not be big enough to build anything on.

Member Hammer: So, we don't care where he puts the 2 units within the property as long as its adhering to the setbacks.

City Manager Whitehead: Correct so we do care.

Vice-Chairman Buhler: Also, for parking.

City Manager Whitehead: He has parking.

Vice-Chairman Buhler: He had a couple of examples of how they might do it.

Chairman Sisney: What does parking have to do with it?

Vice-Chairman Buhler: Because more people parking causes more density.

Chairman Sisney: But is there anything about parking in the street.

Member Hammer: Yes, it's in the planning and zoning commission code finding of facts for recommendations and decisions.

Member Kent: It's in the zoning, you are required to have so much off-street parking per dwelling.

Member Hammer: So, if everyone started doing tiny homes and they are parking on the street we might have an issue.

Member Kent: Well, they need to have off street parking.

Assistant City Manager Alvarez: Correct, they have to have off street parking, but they are allowed on street parking.

Member Kent: Which a lot of people do and that's why they don't realize you actually have to have off street parking.

Vice-Chairman Buhler: I want to bring up a case that we had. It was with the motor home. The man wanted to have it for his permanent residence and it didn't have any fire detectors, the wheels could not be removed because it is a driving vehicle. Where are we going with this?

Assistant City Manager Alvarez: I think in that case, the reason why it came to the board is because it had to do with the gentleman's handicap, he is blind. There was an issue a concern of his getting around and he didn't have the financial means to build something. That is why he requested to come in front of you guys and ultimately went to commission. Like I have told you guys in the past I don't have the authority to tell people yes you can take it to the commission or no you can't. City management may be able to override that. That has never been my ability. My ability is if somebody comes and says I want to do this and I tell them its not allowed by code and they ask to request a variance I let them know that they have to go to the Planning and Zoning Commission, it goes by public hearing, we notify all your all the neighbors then the Planning and Zoning Commission will make a recommendation to approve or deny. It then goes to the City Commission, and it is about a 60-to-90-day process. I don't make it sound easy to them but if somebody requests you guys with a variance, a vacate or anything. My position is to bring it to you, that is my directive.

Vice-Chairman Buhler: I don't think he has handicap ramps or anything.

Member Kent: He also has a driver's license.

Chairman Sisney: He's blind.

Member Kent: He is not blind he has a driver's license.

Vice-Chairman Buhler: He drives around in a cart.

Member Kent: That is a thing of the past.

Vice-Chairman Buhler: But its important because going forward.

Member Kent: Yes, I think if we are going to reduce the square footage and say you can have 400 or whatever number we decide, I agree with what Member Hammer said it's important that we set a precedent of what that is. There not more RVs on wheels where you can hook it up to a vehicle and tow it off. They should be ground set, they should look permanent, they should look nice and that might be more the precedence than actual size because I get a lot of people want smaller homes. I downsized a lot from the house I used to have. If you want to live

in one and have another for family or guests that's ok. But not just a bunch of RVs backed in on a lot which people do.

Vice-Chairman Buhler: We are not the County but some of the county properties are close to us now. On A007 it has gotten bad people are living substandard RVs, junk everywhere and its bad.

City Manager Whitehead: We have a challenge we have somebody living on the street in Williamsburg that I need to deal with. I think the commission as I have talked with some of them about if we want to change zoning. Should we change the variance or any of those rules. I think they want to see a variance that no one in the neighborhood, the connecting neighbors have an issue with, then they want to say its ok. I think that's who they want to be. We all kind of know each other and just like that one where the neighbors next to him showed up and said they thought it would be great. It was an old property, and it would be better. I think that's what the commission wants but they have to have the courage when one person shows up and says I think an RV there is not in my best interest I have to have the courage to say no. Ultimately who ever sit int the City Manager chair not Traci's, we are asking Traci to do an administrative function to administer the code to the best. Whoever is sitting in the City Manager chair has to have the courage to say to the commissioners, for example Mr. and Mrs. Smith, who showed up and they protested it, I think it's not in our best interests.

Chairman Sisney: My attitude always has been I check that the city had checked off all the boxes and then the public hearing and if no one complains then I always want to recommend approving. If there is one person saying no, then to me that's no. That's how I would do if the City Commission couldn't decide what they wanted to do. That is how I have always approached it. If all your neighbors are saying fine, then that's ok. We had that one where all the neighbors said no, and the City Commission approved it anyway.

Vice-Chairman Buhler: Yes, the Riverside property and it was a small lot. All the neighbors where very upset about that. I personally didn't feel that it was right. By agreeing to recommend that to the City Commission was wrong because it does set a precedent and then you have other people who want to do it also.

Chairman Sisney: I though it was a divided vote.

Vice-Chairman Buhler: 2 of us voted against it. It didn't move forward from us. The commission approved it. I heard a lot of people came for the gentleman that bought the property. I heard

some of the Commissioners said he bought the land he should be able to do whatever he wants to do sometimes that's just not right.

Chairman Sisney: I thought they were supposed to be conducting the law of the city and for something like that I thought it was ridiculous that it was approved.

City Manager Whitehead: I think we would like some feedback at some point on whether we should consider changing R3 potentially to where you can build a 450 square foot apartment that's within the code. That number doesn't feel like a bad number, or should we go down to 400 in R3 where you could accommodate that smallest park model. So similar to what we just did a multi-family with 2 dwellings is 500 so potentially would we consider moving that to maybe 400. As Traci pointed out an apartment you would have to have 2,000 square feet, you could build 4 units that are 4,000 square feet. In thinking what is the smallest we can go any way and do we cover that in R3 and say that's the number that we want to be at.

Member Kent: What is it for a duplex?

City Manager Whitehead: It's called multifamily if it was attached, they could go as low as 450.

Vice-Chairman Buhler: That would be 100 less feet.

City Manager Whitehead: It would be 50 less square feet if they called it a multi and it was attached together.

Member Kent: I kind of look at it as a duplex but it doesn't touch it, it doesn't have an adjoining wall.

Vice-Chairman Buhler: It might they could make it that way.

Member Kent: Then they are just building a duplex. If they want to make these smaller homes and they are not attached, I think having a similar square footage requirement as a multi-family duplex seems reasonable. If they want space between the 2 buildings and have a yard in between that seems ok as long as there is parking, they are hooked up to utilities, being properly insulated and everything that is required.

Member Hammer: Duplex's they usually have an ABC with the address, are we also creating a new address and a post office box and any other utility and trash can. We have to think about the utilities for a lot like that.

Assistant City Manager Alvarez: It depends on a lot like that they may have a shared water, sewer, trash and maybe separate electricity. Sometimes they pay for 2 taps and separate all utilities. As far as the addressing goes the county for 911 purposes, we entered into an MOU a few years back with the county, so they have all the proper tools to do addressing.

Member Hammer: I live next to my mom. We have 2 houses on the same property. We have one utility, one trash can and one address. I don't think that's normal she should be 780 A. because they are separate dwellings. We bought the property that way.

Assistant City Manager Alvarez: We could very easily do that. You fill out an address request form and I send it over to the county and they take a look then they will potentially do what you said.

Member Hammer: Not that I need to do that. I was just thinking about these others.

City Manager Whitehead: I would encourage you guys to take a look at R3 and each one of you individually write a paper on how you think changing the code to go to a smaller unit size, is this the time. When a variance comes and someone presents something that is new, they never go away. Its not like its going to be something that we did that we may never see again, it's here its real lets fix it and fix it right so that the next time somebody comes and asks for a variance for 350 square feet we can say no because we did something we feel confident about it and as a committee we can go through the process and we are comfortable saying no. I have the comfort to say we examined it and this the space we feel. My encouragement would be for each one of you to write your position paper on how you think R3 should look and then we can take it and potentially off of that draft something that we could potentially recommend. I feel like that is the right tool for us to use versus us taking some feedback. I think we should use you in a manner that get to put your position, and we try to make sense of it.

Vice-Chairman Buhler: The R3 areas are which? There is a map but it's hard to read it.

City Manager Whitehead: That is the next piece that shocked me. I'll be honest I never imagined R3 was that much. This opened my eyes, R3 is 4th street all the way up to almost to the hospital area, it's over on Morgan Street, the lower downtown area is all R3, everything that we call the metal streets is R3, everything on Riverside except for the special riverside Zone. The next question. Is it time to potentially look, do we need to change some R3's to R2's. Maybe it is what it is, and we have to live with we are going to deal with a lot of variances in just letting people live and buy. As we think about places to expand, do we a better job there? I think that is a challenge Traci has probably had.

Member Kent: One thing I have thought about it the Hot Water District as preserving it as a historic hot water district one of the is allowing 2 story buildings in that district impedes on people's privacy in an area where people have hot springs in their yard. I have always looked at that area and though maybe we preserve that all little bit and allow it so that people can have their hot springs and not feel like someone is up on their balcony watching them soak. But then we also lose some of the ability for high density in that area.

Vice-Chairman Buhler: It's only 2 story now? What is the height they can build?

Member Kent: 35 feet. Which is 2 stories.

Member Hammer: Is that in the Hot Water District only?

City Manager Whitehead: That is in R3.

Member Hammer: To bring up a really good point. I would not want an ADU built next to me looking into my yard. What is the height restriction?

City Manager Whitehead: 35 feet.

Member Hammer: In any zone?

City Manager Whitehead: Except for R1. There is one in R2 a single family can only be 26 feet so it can be 2 stories. It looks like everything in R3 can be as high as 3 stories.

Assistant City Manager Alvarez: I think it's because apartments are allowed.

Member Hammer: It's just something to consider. I lived in San Francisco for a long time. They had very strict regulations because they are really dense, but you can't have a kitchen window looking into a bathroom window. You had to have some space. I don't know how detailed we want to get or restrictive. Again, I wouldn't want someone ADU looking into my bathroom window over the fence.

Member Kent: If you had a hot spring and you wanted to go out in the evening, and they are watching from that second story balcony. I would love to consider something like that for that area because it is sort of a special area, and it is something that makes T or C very unique.

Vice-Chairman Buhler: All the areas are special.

Member Kent: They are all special, but they don't all have hot water baths.

Vice-Chairman Buhler: Along the river. That is special also. If you get somebody that is going to build a huge building and all of a sudden people can't see the river anymore.

Assistant City Manager Alvarez: What you are talking about just keep in mind that right now those areas are R3. It would almost be redistricting or rezoning potentially.

City Manager Whitehead: Even if you went to R2 or any of the Rs in fairness you wouldn't really change a lot. It's almost like it needed to be a long time ago like the river which is River Residential 1 it almost needed to be historic district with and over lay and some of those rules out in but in fairness that ship has sailed.

Member Kent: Has it though?

City Manager Whitehead: It might have. It's a real challenge.

Member Kent: It's not like you go tell the people that did build a 2 story to tear it down.

Vice Chairman Buhler: Well, you have people that are grandfathered in. You can pose it that way but for new things you might want to have something.

City Manager Whitehead: That could be something you guys present, and we talk about. I have no opposition to pros or cons. I just want to make sure we are doing things that ultimately slow down everybody asking to change the rules and we have good structure in that. Maybe we never get away from it because it's an old process that's been around a long time and its kind a mess but maybe we can fix it.

Vice-Chairman Buhler: Is there any place in town where you can still have a septic tank?

Assistant City Manager Alvarez: With out totally reviewing the code, you can if we can not provide you sewer. There is something in our code that says if we can't, but it has to be permitted and approved not only at the state level, but the city also has to review and approve where it is being installed to ensure that it doesn't cross contaminate. It's been a long time since I looked at that section of the code.

City Manager Whitehead: I'm not opposed to looking at something. If we could make an overlay and it could change that historic code a little bit, it would be alright. The area down by the river on the other side of Carrie Tingley is M1, that's a nice spot. It's got the trail, and everyone wants to preserve that but it's also a beautiful area it could be a nice spot if we developed it right and created space for people to live and build there.

Vice-Chairman Buhler: I don't have any problem with having a trail and houses. We need places for people to live. We have a very big shortage of that.

Chairman Sisney: We have a shortage of places to live?

Vice-Chairman Buhler: Yes, rental places.

Member Kent: That's because of item C on the agenda. That is why there is a shortage of places for people to rent.

No Action Taken

b) Discussion/Action: Tiny Homes

City Manager Whitehead: As it relates to tiny homes again, take that document and give it some thought and maybe put it in writing on how you think we should do things. Should we leave it alone, do we open it downtown, do we create a space where tiny homes can be. I think there is a lot of opportunities to say we want it because if I'm far if someone will pay \$100,000 to build one and they are going to be good neighbors so be it. We have to be willing to think about it. I think it deserves your thoughts on it.

No Action Taken

c) Discussion/Action: AirBnB

City Manager Whitehead: This is just open dialog one person says we shouldn't have them we should ban them all together. I have my opinion on challenges for rentals and why this is no rentals. If I wanted something for business, I would consider doing AirBnB. I want to be fair to that.

Member Hammer: What is the topic of discussion specifically?

City Manager Whitehead: Anything. We need to understand first of all should we limit the number, is there a reasonable way to do that? Do we think they are a problem? Do we think they are an enhancement? Brief me on what you think about AirBnB's.

Member Hammer: This is separate from tiny homes, correct?

City Manager Whitehead: Yes.

Chairman Sisney: We are on item c now.

Member Hammer: I know but we are not talking about tiny homes as it pertains to AirBnB.

City Manager Whitehead: No, just AirBnB as a general discussion and short-term rentals.

Member Kent: I think I'm the one that started this topic a while back. I just want to start by saying I'm not saying shut down AirBnBs in any capacity and anyone who currently has one today if anything changed would not lose the ability to operate an AirBnB. I have lived in small towns, and I have watched excessive growth, and I have watched AirBnB really turn the local housing market upside down in the sense that there are no long-term rentals. There is nothing affordable anymore for people to purchase. If you go out there and start searching codes from different cities or talk to different people in many small towns and big cities, I'm focusing on small towns because that's what this is have had some growing pains with them that is all there is to it. My only intention was maybe we talked about this and put some guard rails in place for the future growth that is probably going to happen here so that it doesn't get so out of control that completely turns the market upside down. It's not to say only 50 people get to have an AirBnB and there are 100 so 50 people will lose the right to operate one, it wouldn't be anything like that. I might mean that as people sell their properties down the road it doesn't sell as an AirBnB things like that. Another thing that I know some towns have considered and this might be a little extreme here is how many are in different parts of town, so you don't end up with an entire corner of the hot springs district that is literally nothing but AirBnB and there are only people there on Friday and Saturday nights. But it is nice and disbursed and there are people that live long term rental and short-term rental. These are just things other cities and towns have done so they are just ideas. I think it's worth considering. There are hotels here. You need to have a balance of supply and demand. If we just have a pile of AirBnBs and then you have these hotels that can't fill up, nobody can live so nobody wants to open a new restaurant because they can't find employees, it's a cycle. That is why I have been pushing this one and wanted to start some conversation to see how people feel about it, get information from lodgers' tax about the occupancy rates and other information.

City Manager Whitehead: I plan to look at the lodger's tax because AirBnB does not break down, so we don't know which AirBnB is paying in we just get a big check once a month from AirBnB. They process it, they pay for it and then they let the AirBnB owner what they paid on their behalf. I do want to assess how much we are getting from the hotels and look at it as a percentage just a mathematical number that will tell me a lot. When I looked at the AirBnB site it doesn't appear to me that there is a lot. It's a lot but it's not. Some one spoke at public comment and said that we have over 100 AirBnBs in downtown. It doesn't appear to me to be that many. I think there is some missing information there but, in my opinion, we are hurting the long-term rentals more than we are hurting the hotels. That's the piece that is not available here is for someone to say I want to pay \$1,200 a month and I'm going to get a good 3-bedroom 2-bathroom house with a backyard, and I can bring my 3 kids and my wife, and I work and go to the school. That is a challenging space to fill that is my opinion that is affecting that market more.

Chairman Sisney: I don't think you can have both ways. I don't think you can live in a high-end town and keep it affordable for everyone else. You don't get both. I moved here from Boulder City. I spent 20 years there and I watched it happen. You go there now and its high end and there is nothing but high-end people there now and the people that grew up there can not afford to live there anymore. I remember thinking when the last crappy piece of real estate in that town sold and after that the prices just went up. They have a building ordinance where you can't build big projects. I have another point of view. When I moved here, I was a handy man for Coldwell Banker, and I use to take care of all of their rentals and what has changed was AirBnB. Before AirBnB people had all these properties and they hired a manager, and they let people live in them and to the unit I watched them all just turn into junk, and they are still out there. I fixed up another property and put it up for rent. I was contacted, I didn't know any better and they asked if I would take section 8. I agreed they told me it was great they pay you every month, if the people are bad, they kick them out. I didn't happen that way these people destroyed my property, and you can't do anything about it. That's 2 bad strikes for me. What has changed is before AirBnB people turn their houses over to housing authority where these people just destroy your house. They have an option now, it's AirBnB. The margin is slim with AirBnBs it's really hard to make money on them. I can't imagine if we have that many now that we are going to have that many in a couple of years. People are going to get tired of it. To think that housing is going to be affordable in this town. We are either going to be a dirt-poor town or we are going to be a fancy town. There is no down the middle. That is my opinion and my experience.

City Manager Whitehead: I have had that similar thought. This misunderstanding is if I had a house, and I did what you did twice and then I found here is this AirBnB and I can rent it maybe twice a month and get pretty close to my payment which I'm just saving my house cause I'm going to sell it down the road it's a no brainer. You just have to say I might as well do something or I'm going to just sell it, take the cash and somebody else is going to do that. I think there is a disparity between those that have it here and those that don't and that has affected it. Plus, the ability for the people to sell all those rentals. Our storage units my wife probably filled 10 or 12 where people said the landlord has decided to sell the property, I was renting it for 10 years and now I need to find a place to store my stuff as fast as I can. My wife can tell you at least 10 stories of people that where in that situation form like 2001 and 2002 when interest rates went down and the real estate doubled. There is a lot of conditions here that have led us to where it's hard to rent here.

Vice-Chairman Buhler: It is about \$900 for about 400 square foot that is what people are getting now.

City Manager Whitehead: For rentals?

Vice-Chairman Buhler: For a monthly rental.

Chairman Sisney: That's all included.

Vice-Chairman Buhler: It might include the utilities.

Chairman Sisney: They are steep.

Member Hammer: I'm an AirBnB owner, business owner and I also do long term, mid-term which is basically furnished for travelling professionals like nurses. I have been doing this for a number of years. I'm registered I'm a little behind on my occupancy taxes which is another topic I would like to talk to you about. The competition has increased in the last couple of years. I am not as full as I use to be. I'm not making as much money as I was not that I was making a lot of money. Like Chris said the margins are slim, it's a lot of work, a lot of turn over, a lot wear and tear. You are paying the utilities and to have them furnished. I did long term for a while I had a couple places completely trashed thousands of dollars' worth of damage and I will never do that again. As a business owner looking at my bottom line and my profit. I need to make money I need to pay my bills and maybe make a little extra while my real estate appreciates that's the hope right. I turned my target market to long term professionals, AirBnB and 3 to 6 months. I will do longer but it depends on the tenant and I have learned you have to screen;

you have to check things but even then, people can be messy and destroy stuff. That is my business moto. That's what I'm comfortable with because of the type of tenant that you might get. I would like to see as an AirBnB owner the City enforce the regulation in signing up. Making sure you are registered as an AirBnB owner. I think one of the obstacles that AirBnB owners are facing they don't want to sign up with the city. They don't want to pay it; they don't want to deal with the taxes its pain to collect those taxes and submit. This is off topic but I contacted the City of Albuquerque and I emailed you Gary I would love to meet with you. I spoke to their tressure and she gave me a ton of information including examples of their agreements. Their legal team sent an agreement to the legal team at AirBnB and VRBO and said if you are going to conduct business in our town you have to collect and submit all of these taxes. The 5% lodgers' tax and the 1% on everybody. Right now, I'm doing it but my neighbors aren't. I have friends here who haven't registered. I'm not going to say who they are but I'm doing all this work and making sure I'm being compliant and other people aren't which isn't fair to me as a business owner but also to the guest at the reservation they don't see those extra taxes on their reservation but they do on mine. That's not a level playing field either. Plus, the city is leaving money on the table, thousands of dollars you are leaving one the table. I would like to talk to you about that some other time because I finally made some progress on finding out how other jurisdictions in New Mexico are doing that.

City Manager Whitehead: Ill commit to that.

Member Hammer: Also, if we said that we are doing that as a City I think it would encourage people to come and register because they don't have to do that extra step of accounting. Its messy. If you are cleaning, doing your yard, doing your reservations, you are also doing your accounting it's just an extra step and it's a pain. If the city can just do it maybe you would encourage people to come forward and pay the \$25 for the business and I think its \$15 for the short- term rental fee. I would be easier access to be compliant and be registered with the city.

Vice-Chairman Buhler: Making it simpler.

Member Hammer: Making it simpler, and making it a level playing field for everybody.

City Manager Whitehead: Traci has a similar problem with people that apply for Zoning and building permits. We are not connected well. Through one of our software programs, we have the ability to build better forms and charge and do everything so you can get online and you can pay your business license and city fees. We hope that it helps the clerk's office because they have to collect so they could take a credit card. We can hopefully we can find capacity here real soon. We are going to try and get that going soon rather than later.

Vice-Chairman Buhler: There should be some type of a repercussion like if you get caught not following the rules, not registering your AirBnB you get out of the system for maybe 6 months.

Member Hammer: Incentive people to register and be above board and be compliant. Also, I think there was 140 the last time I looked in the county. There is AirBnB and then there is VRBO which is the other platform also which not everybody is on there but I have to collect the 5% and 1%. I'm seeing more people who had AirBnBs they are listing on Zillow for long term rentals because I think they are seeing that they are not making as much money as they thought they would with AirBnB. I think we are saturated basically. I definitely know we are over saturated. The market will drive demand or people to close.

Vice-Chairman Buhler: Well, know we are kind of in a slump also.

Member Hammer: The economy might impact it.

City Manager Whitehead: I would want to think that supply and demand would drive that market if there is 100 and nobody is renting but 20 you are going to rent that best 20, they are going to do the process right.

Member Hammer: As a business owner this is the way I'm making income. This is a really hard town to make income unless you are a hotel owner. There is no industry here. My background is supply chain and manufacturing. There is no supply chain and manufacturing jobs here. But I'm here and I have been here for 5 years and this is how I'm supplementing my income. This is how I'm existing here. I don't want to take that away from people either it's another way to make income.

Vice-Chairman Buhler: Is there any money for public housing? We haven't built any public housing I don't think in years.

City Manager Whitehead: I don't have an answer. Traci and I have talked a little bit about the affordable housing, our policy and those kinds of things but no one is knocking on her door saying that they want to build some apartments here. We do have the ones going in on Morgan Street, Mr. Root they are building those apartments but that is the only thing we have in apartments being built. I think we need to look at it.

No Action Taken

d) Discussion/Action: Procedure to Variances

City Manager Whitehead: This is to support Traci. I know it's a frustrating process but it does feel in my conversations with the commission that their position is that they would rather see them and try and make decisions. If someone is asking, they would like to go through the process. I just want to remind you all it is a legal process that we are doing when you hold a hearing. Traci has a form that you guys have seen and its more about following those items to be able to say that you held court, you held trial. I just want to make sure we are doing that and maybe we do some training a little bit on that to help you guys make sure that those hearings are being conducted correctly. They are called batter shell hearings. I just wanted to bring that back up to everybody that it has a process to be in affect it's not really about do we like it do we not, do we know them. Its really these are the steps legally, did they answer all those. I think if the commission is really true to that where they are feeling like if the neighbors that are connected have concerns, are you answering that question as a group consistently. Hopefully we can try and make that work. No commitments on what the commission is going to do once they vote. They are elected but I think that's the way we would like to carry that forward. Any thoughts or questions?

Chairman Sisney: This is a fairly new group so we are coming along.

City Manager Whitehead: I think we want to try to be a little better. I want to help Traci she has been doing this project it's been hers but I think we need to get the policies and do it right. So, if we can give her the comfort and the space where I can support her and she and I are one the same page where are kind of doing similar things. She understands the things that are important to me and I think we are going to be really strong in that. She has done a great job at it. I'm not questioning that at all.

Assistant City Manager Alavarez: I know it's hard I come in and the applicant wants this and I'm not making a recommendation for you guys to approve or deny. As Gary said its and administrative duty that I'm doing.

Vice-Chairman Buhler: It's a process.

Member Hammer: I was reading over the planning and zoning commission and what are purpose is on the voting and the findings of facts and recommendations. Do we have a form

that we look at as a group when we are considering somebody that comes in front of us asking for a variance? Do we go through a list of questions?

Vice-Chairman Buhler: There is a check list.

Assistant City Manager Alvarez: I supply it at every meeting when we have.

Member Hammer: Ok so you do provide it.

Assistant City Manager Alvarez: Yes, when you have to have a public hearing that is part of your packet. I give you that sheet in the agenda packet. I believe you will have your first one next meeting.

Member Hammer: Ok, so we know we are covering all our bases from a legal stand point also.

City Manager Whitehead: The city has an engineer StanTec that we use for building and zoning questions. I'd like to have the opinion of the engineer in the front of the packet for you guys. It does feel a little bit like we are just coming to you guys and saying they have asked for a variance. I know Traci gives you what that is and what the rules are with in that. I would like to see Traci and the engineers really review the variance completely, have the engineer tell you this is what it can be so that you are then coming with an opinion that is outside of that's what Traci said. I want to try and give her that cover where that's the opinion of the people that we are looking to. We are paying them for advice; that's their opinion on the code and then you guys conduct your batter shell. You go through those questions. You conduct it in that legal matter and then you opinion is based in fact.

Chairman Sisney: That seems backwards to was has always gone on. First, they do the hearing and then they get all the information after we already approved the variance.

Vice-Chairman Buhler: Yes, the fire chief is after that. There is a lot of things that happen afterwards. I think this idea of having the engineer give us an opinion is a good idea.

Chairman Sisney: Wasn't that always the step later on down the line.

Assistant City Manager Alvarez: I'll meet with Gary. Right now, the engineer only reviews new building plans and occasionally summary plat. They haven't reviewed and variances or anything but that is something we can look into.

Vice-Chairman Buhler: I think it's a good idea. After the fact is usually after the fact. If we can get something before hand that would be good.

Chairman Sisney: The guy that wanted to build in that small lot. We didn't get any plans. He just said I have been building all my life. We are going to build something really nice. Can we see some plans, no they don't have to do that yet.

Member Hammer: What is their definition of nice?

Vice-Chairman Buhler: The neighbor has already built a 10-foot fence.

City Manager Whitehead: We have to be a little bit accepting of that because my nice and your nice are might be different.

Vice-Chairman Buhler: It should be what is right for that lot, what would look good for that lot, and what everybody could live with. That was bad I felt very bad for those people. They had thought of that as a drainage ditch property.

Chairman Sisney: I thought it was a piece of property that could never be built on.

Vice-Chairman Buhler: That also but the owner thought we though it was a drainage ditch and now there is going to be a tiny home going in there.

Chairman Sisney: It was an easement so that people that lived on the other side of the street can get to the river.

Assistant City Manager Alvarez: When you were talking about the Riverside on you said you did get any plans. They done building plans yet so you guys got a site plan showing where they wanted to place. The building itself the plans for that are with in the foot print of the site plan you guys received. I don't know that having the building plans would have been relevant. Remember I'm zoning, I only do zoning approval it just needs to meet our setbacks. If it is a new build that will go to engineer to make sure that they are meeting any topography, some of the more engineered portion of the zoning approval. The actual structure and how they are structing their house, how many bathrooms, that is not reviewed by myself nor our engineer. That is only reviewed at construction industry division.

Vice-Chairman Buhler: They will have to have a permit.

Assistant City Manager Alvarez: Yes.

City Manager Whitehead: We will work on the process, again we are just starting to developing this. I'll take Traci's knowledge and what she has done and we will find the right space that says we want to give you the right information. We want to give you decent information on what your options are. We expect you to be some what versed on the code as well. You have an obligation to deliver on that but then just make sure we following those process and we get a firm legal public hearing so that again when somebody potentially files a lawsuit on the backside, we have taken at least the steps we need to. Let me be fair lawsuits do not scare me I have no fear of then as long as we follow and we do the process to the best of our ability the out come at that end is going to be what it is. If we are arbitrary. If we are just granting stuff if Traci and I are just saying yes that sounds good don't worry about it well then, we deserve to be in trouble but we are not going to do that.

Member Kent: This is great that we talk about all this. At one point you said that we should write up our own, thoughts or opinions. How do we move forward form this or in 6 months we are going to be like remember that time we talked about these 4 items?

City Manager Whitehead: My sense again is let's stay focused on the R3 changing of that square footage. I would like to hear each of your opinions on should we reduce it to some number below what is in the code.

Vice-Chairman Buhler: It would have to depend on what they were going to do. That is the thing its always going to be a case-by-case thing.

City Manager Whitehead: That can be an opinion if you feel like the code is good and its restrictive enough and you would rather leave it to everyone asking for a variance and hearing it than I think that is ok also. There is nothing wrong with that but at the same time if we know that then we are comfortable saying ok we have no problem we are going to bring you all the information vote on it or don't. We certainly don't want to not change something in the code that we could have changed that would allow the right product to come in here do it correctly and nice and clean for the person that wants to come in and do it without having to go through a 90-day process to get that. That is all. Not changing is ok also.

Member Hammer: Chris since you are the chairman on this same topic should we email you what our opinion is and then you combine how do we communicate that?

Vice-Chairman Buhler: Well, there is the open meeting act. Is this separate from case. Would it be ok if we got together?

City Manager Whitehead: You guys can't get together without it being an open meeting. Its best if you don't communicate with emails back and forth that can create a chain. What would be best is for each of you to write the narrative that you can save as a word document or PDF potentially and then those can be presented to the chair and they can come back to Traci who is the conduit here. We would then bring those at the next meeting and let you know here is the 5 opinions that you had and it sounds like the consensus is this. If we can I would like to see how that goes did we receive it well. Then can we look at going to the commission and say the planning and zoning board would like to make this change to the code.

Member Kent: We each individually can send our thought to Chris?

City Manager Whitehead: That is correct.

Member Kent: And only Chris?

Vice-Chairman Buhler: You can talk to Chris. We just can't have 3 of us.

Member Hammer: I would like to see every one's opinion.

Chairman Sisney: We can do all that we just can't do it together.

Member Hammer: I know this is really technical but can we just reply all to our email address?

City Manager Whitehead: No, you cannot reply all.

Member Hammer: It has to be one on one. So, I can't read the others until we meet again.

City Manager Whitehead: No, I can get them to you beforehand.

Deputy Clerk Martinez: It can be done individually between you and each board member but it can not be all of you replying to the same email.

City Manager Whitehead: It just means that anything that we did if that became the policy it could be null and void. You have to make decisions in public. In your case its best just to follow the rules the best you can, don't rely all.

Vice-Chairman Buhler: Don't get a thread going.

City Manager Whitehead: Correct don't get a thread going that can become a different conversation on a different issue.

Member Hammer: I'm still not completely clear on how I would read everyone's opinion if we have to send them to Chris.

Member Kent: I can send them to each person individually.

City Manager Whitehead: Correct or if everyone sent them individually to me. I could then send you all of them. You can have all the documents its not about that. It's about the email ability to discuss back and forth and all of a sudden you are behind the scene making decisions.

Member Hammer: I respect everyone opinion here.

Member Kent: Do we want to have some thoughts put together on item A by May so we can continue?

Vice-Chairman Buhler: I think that is a good idea. We can put it on the agenda to discuss it.

City Manager Whitehead: Remember when we change the zoning it's an ordinance so hypothetically, I'm not going to change the ordinance for 1 issue. If this works and we get to some consensus and we like the process and we move forward with other issues it maybe us stacking 3 or 4 narratives that we want to affect so that when we change the ordinance we are picking up and cleaning up 3 or 4. Please if this good and you want to do this kind of stuff then lets continue to coordinate with the clerks office on the items you wan to add. Then we can discuss them 1 at a time and we get 6 or 7 things that we can change. It opens up a door when we go down and change an ordinance. I can see some commissioners saying we are just fine that is probably why we are just fine dealing with it and doing variances because changing the ordinance is a little bit of a task. I want to be as transparent as I can.

Molly Hammer: Would it be appropriate as a board member of the planning and zoning t reach out to another jurisdiction in New Mexico to their planning and zoning. I reached out to the tressure of Albuquerque for the tax collection to gather information I'm not making decisions I just wanted to know what others are doing and what works for them and what hasn't. what we are questions that we are not thinking of is that ok?

Member Kent: All the planning and zoning ordinances for most the cities are online for anyone to read. I have at least looked at that in many different places. I haven't necessarily contacted someone directly but I go look at other cities ordinances all the time to see what they are doing or what they have written in their code.

Member Hammer: I asked CHATGPT what other jurisdictions in New Mexico have tiny homes ordinance in it and it have me a whole list of them. I didn't go any furth than that.

City Manager Whitehead: If you go look at Socorro for example it looks exactly like ours. I have heard I haven't seen it but I heard Las Cruces eliminated their zoning in some fashion. I was going to look into that. I think sure spend time looking at others and come up with some ideas that might work.

No Action Taken

5. REPORTS FROM THE BOARD:

No Reports

6. REPORTS FROM STAFF:

No Reports

7. ADJOURNMENT:

Chairman Sisney adjourned the meeting at 4:45 p.m.

PASSED AND APPROVED ON THIS 13th DAY OF MAY, 2024.



Chris Sisney, Chairman
Planning & Zoning Board