

MINUTES SEASIDE PLANNING COMMISSION
October 16, 2012

CALL TO ORDER: Chair Tom Horning called the regular meeting of the Seaside Planning Commission to order at 7:00 p.m.

PLEDGE OF ALLEGIANCE

ATTENDANCE: Commissioners present: Steve Winters, Virginia Dideum, Ray Romine, Tom Horning, Chris Hoth, Bill Carpenter, and Dick Ridout, Staff Present: Debbie Kenyon, Administrative Assistant, Kevin Cupples, Planning Director

OPENING REMARKS & CONFLICT OF INTEREST/EXPARTE CONTACT: Chair Horning asked if there was anyone present who felt the Commission lacked the authority to hear any of the items on the agenda. There was no response. Chair Horning then asked if any of the Commissioners wished to declare a conflict of interest or exparte contact. Commissioner Dideum stated that she has spoken with a few people but all the information was in the packet. Chair Horning had some people come to his home office and he sent them away and told them to come to the meeting tonight for any comments they may have.

APPROVAL OF MINUTES: Motion to approve the August 21, 2012 minutes;
Commissioner Carpenter made a motion to approve the minutes as submitted. Commissioner Dideum seconded the motion was carried unanimously.

PUBLIC HEARING REQUIREMENTS:

The following public hearing statements were read by Chair Horning:

1. The applicable substantive criteria for the hearing items are listed in the staff report(s) prepared for this hearing.
2. Testimony and evidence shall be directed toward the substantive criteria listed in the staff report(s) or other criteria in the plan or land use regulation, which you believe applies to the decision.
3. Failure to raise an issue accompanied by statements or evidence sufficient to afford the decision maker and the parties an opportunity to respond to the issue precludes appeal to the Land Use Board of Appeals on that issue.
4. The applicant will testify first, then any opposition will testify, and then the applicant will be given time for rebuttal.

PUBLIC HEARING:

A.) 12-033CU: A conditional use request by the Church of Jesus Christ of Latter Day Saints to expand their existing parking facilities and provide 70 additional spaces on the north side of their property. The property is located at 1403 N Wahanna Rd (T6 R10 22CD TL: 00800) and it is zoned Medium Density Residential (R-2).

Kevin Cupples, City Planning Director, presented a staff report, reviewing the request, decision criteria findings, conditions and conclusions.

Chair Horning asked if there was anyone who would like to offer testimony in favor of the request. Mark Cottle, PO Box 1124, Sherwood, OR 97140. The need for this additional parking is because the church has many of out of town members who like to come to this chapel. The church doesn't want the over fill to impact the streets, the parking is going from 70 spaces to 143. There will be an engineered brick wall around the parking lot and there will also be lighting but it will not flow into the wetland or in the surrounding area.

Matt McSwain is the architects 800 Bayshore Dr. Coos Bay. OR

The retaining wall goes from 0 to 8 ft in height and runs around 3 sides of the property. The property is drained and goes into a city maintained 12 inch line. It is 30 feet from the edge of Spruce and will be landscaped. They did a parking lot like this in Lincoln City that had a wall that was 24 ft high and was adjacent to a national wetlands' and they built from the inside of parking lot and did not disrupt the wetlands. As you can see this wall is only 8 feet high at it highest and they do not intend to do anything to the wetlands. The lighting will only be placed on pole next to building. Lights will be set on timers generally no later than 9:30 or 10:00pm. The Church takes care of its own landscaping. There will be new sidewalks and a handicap ramp. The trees that will be planted will match the local trees.

Chair Horning asked if there was anyone else who would like to offer testimony in favor of the request. There was no response.

Chair Horning asked if there was anyone who would like to offer testimony in opposition. Jason Smith 1587 Spruce Dr. Seaside OR, Mr. Smith has two primary concerns. One is the immediate aesthetic value of the neighboring properties and also the run off or drainage. Right now the area is a forested area and has some conifers that are over 50 years old, and they make the neighborhood look nice. On the plans it shows that some trees will remain. Maybe put in a bios wale to help filter the toxins that come from the autos that will be parked in the lot. Mr. Smith would like to see more conifers to create more of a buffer.

Chair Horning asked if there was anyone else who would like to offer testimony in opposition. There was no response.

Chair Horning stated that the applicant now has the opportunity for rebuttal. Mr. Cottle stated that those were very good points. The zoning criteria that the city has is a balance between what the city would like to maintain for itself and what it will allow the citizens to build or develop. While the trees are great addition, the city has chosen not to protect those trees or that piece of ground. They have tried to do a good job with the plans. We could try to go around the trees but that would be very difficult.

Mr. McSwain stated that they are adding 22 new trees to the area. The bios wale is an underground media filter water quality treatment box and will be working with the city engineer. They elected not to put in a bios wale because it would impede on the 30 foot buffer around the parking lot and they didn't want to do that. During construction of the parking lot they will follow all the erosion control measures. Commissioner Dideum asked how the filtration system works. Mr. McSwain stated that all the run off from the site goes into a box and is filtered before it goes into the cities 12 inch main.

Chair Horning asked about other toxins going into the system. Mr. McSwain stated he wasn't sure how all that worked but it all has to meet DEQ standards.

Chair Horning asked about the trees and how many will stay. Mr. McSwain stated that they want to leave it as natural as possible and stay out of the wetland area.

Commissioner Winters stated that with the 22 new trees that are going in it will more or less cover what is being taken out and also the landscaped area will be an improvement to what is there now.

Chair Horning asked if there was anyone who would like to rebut any of the comments that Mr. McSwain stated.

Jason Smith stated that he would like to say he is very familiar with this site, if you go from east to west and on the north side the first 12 feet from the road is nothing. Then it turns into trees and those will be totally taken out. Also the bios wale doesn't have as much impact on the cities as far as maintenance. Commissioner Dideum asked where Mr. Smith lives in relation to this project. Mr. Smith stated that he lives on the immediate east boundary.

Chair Horning closed the public hearing and the issue was opened for Commission discussion.

Commissioner Hoth stated that his concerns have been addressed.

Commissioner Romine asked about the fence height above the wall. Mr. Cupples stated that the fence on top of the wall will be between 5 and 6 feet in height and will need to be site obscuring.

Chair Horning would like to impose one condition and that would be to half a dozen Sitka Spruce trees within that 30 foot boundary so they can fill in and turn it back into a forested area again.

Commissioner Romine asked about the installation of sidewalks. Mr. Cupples stated that Wahanna and Spruce will have sidewalks and Cooper will probably be deferred for awhile.

Chair Horning asked if there was a place on the property currently where the drainage goes. Mr. Cupples stated that goes into Coho Creek. Commissioner Winters says that every catch basin in town goes into the storm water system and ends up in the streams eventually.

Commissioner Winters made a motion to approve the conditional use under the guidelines that staff has presented. Chair Horning asked if Commissioner Winters wanted to make the motion without the additional requirements that Chair Horning made. Commissioner Winters said "correct".

Commissioner Ridout seconded and the motion was carried with a 6 to 1 vote. Chair Horning voting a no.

B.) APPEAL TO PLANNING COMMISSION –

12-026VRD- A conditional use by **Cynthia & Chuck Miner** that will allow the establishment of a Vacation Rental Dwelling (VRD) at **2335 S Edgewood (6-10-28BA-TL12600)**. The subject property is zoned **medium density residential (R2)** and the **applicants** are requesting a maximum occupancy of **nine (9)** within the existing **three** bedroom dwelling.

Kevin Cupples, City Planning Director, presented an appeal report by VACASA Vacation Rentals, which appealed the Planning director's decision. Mr. Cupples went over the request, decision criteria findings, conditions and conclusions.

Chair Horning asked if there was anyone who would like to offer testimony in favor of the request. Brian Poulson 850 2nd Ave. Seaside OR, Mr. Poulson stated that one of the conditions that Mr. Cupples put on the vacation rental was that the local property manager must have 3 years local experience and on November 8th of this year it will be 3 years that VACASA has been in business (locally). This home was a VRD in 2007 and Erin Barker was the property manager at that time and there are no complaints on record. Emma Poulson is the Regional Manager for VACASA. One of the other restrictions that Mr. Cupples placed on the property was the occupancy can be no more the 6 people over the age of 3. This home is large and the bedrooms are huge. VACASA screens all tenants and make sure that all the information the people is true to the best of their knowledge. The party goes seem to go to Mt. Hood and not Seaside. The last restriction is no pets allowed. People like to bring their pets with them on vacation and there is no reason that pets shouldn't be allowed. Most people who rent these larger homes are two generation families and enjoy bringing there pets to the beach. Since VACASA has started they have hired 9 local people.

Chair Horning asked if there was anyone else who would like to offer testimony in favor of this project. Chuck Miner 2002 Maple, Seaside. Under section 7 of the justifications and findings it states that on August 3rd the home was rented before the home had a vacation rental license. On Friday Mr. Cupples called Mr. Miner to let him know that the city had a complaint that there was someone renting the home and they had a motor home and were asking the neighbors where to park it. Mr. Miner went over there immediately and when he got there the neighbors had already taken care of the issue. Mr. Miner then called Mr. Cupples to let him know that the motor home issue had been resolved and the people who were renting the home at that time had a 30 day rental contract. The Hanisch's who are the neighbors to the North asked the renters if they could come in and take a look at the place. Then Jerry Hanisch went across the street and started taking pictures of the guests. The statement that says that the occupancy has been reduced from 9 to 6 in an effort to reduce potential impact to the neighboring properties is frivolous. The common law neighbor has a limit of 9 people and pets are allowed in that one. Mr. Miner doesn't understand why 9 guests would not be allowed in this one. There is no code or regulation anywhere that states a property manager has to have three years of local experience. There are other properties that have a local contact that have no property management experience. Mr. Miner asked Mr. Cupples why he couldn't manage his own property and Mr. Cupples stated that he put it in the decision and that cannot be change without an appeal. Mr. Miner has not found anything that says a property owner cannot manage his own property. Mr. Miner gave photos of inside the home.

Chair Horning asked if there was anyone who would like to offer testimony in opposition. There was no response.

Chair Horning closed the public hearing and the issue was opened for Commission discussion.

Chair Horning noted that there are letters from the neighbors.

Commissioner Winters asked how many of the people who wrote letters live here all year long.

Mr. Cupples stated that in the some of the letters they say whether they are permanent residents or just part time residents.

Commissioner Carpenter asked why the local contact number has an area code of 425.

Emma Poulson stated that is her cell phone number.

Commissioner Hoth stated that in the previous approval it stated that the occupancy was for 6, is that because they asked for 6? Mr. Cupples stated that they had asked for 9 and the planning commission limited the occupancy to 6.

Commissioner Romine asked about lot coverage and the deck, is that considered lot coverage? Mr. Cupples stated that the deck has to be above 29 inches to be considered lot coverage.

Commissioner Romine asked about the complaint process, since we have received several letters from neighbors stating that this vacation rental will adversely affect their ability to live peacefully in the neighborhood but we haven't received any complaints, shouldn't we wait to put restrictions on until we

get a complaint. Mr. Cupples stated these letters are asking us to do something before anything happens.

Commissioner Ridout asked if Mr. Cupples put this occupancy restriction on because it only had occupancy of 6 before. Mr. Cupples stated in part yes, but also the concerns of the neighbors. Commissioner Dideum has three concerns. One the pets, this has a back yard that is deck, the property to the south has a deck are they also restricted to no pets? Second question is restricting the number of occupants. Most of these letters are anticipating trouble. Are you going to restrict the people on Beach Drive or Holladay? Third is VACASA already has four rentals in Seaside, are they not going to have anymore rentals in Seaside. Is this something that the Planning Commission needs to look at in the future which is the anticipation of what may happen. Mr. Cupples stated that every conditional use request is a separate request and although the Planning Commission has agreed on a list of conditions of approval. The Planning Directors job is to look at the evidence and see if there are things that are unique to a particular situation or repeated in this from public comment that can be addressed through conditions of approval that may help make it compatible with the neighborhood. There is a neighbor who is concerned about the pets and the noise on the deck. He is also concerned about the occupancy was trying to keep more to a single family occupancy in the home. Mr. Cupples stated that he would like to apologize to Mr. Miner because he didn't intend to prevent him from managing his own home. Because Mr. Minor had already selected a property manager Mr. Cupples thought that it would be a very simple plan just to go from one property manager to another that had more experience.

Commissioner Carpenter stated that the 425 area code is a long distance number and we need a local telephone number.

Commissioner Ridout stated that the anticipation of a problem is why we put restrictions on a property. Commissioner Hoth stated that there are some things that we should anticipate. The house next door hasn't had any complaints and this has the same layout.

Commissioner Carpenter stated that he has lots of vacation rentals around his home and they were allowed even though there were concerns. Commissioner Carpenter also stated that there are areas in the city where CC&R's restrict vacation rentals. Mr. Cupples stated that they could apply for a vacation rental but we would inform them that their CC&R's restrict them and it would be denied on that basis.

Chair Horning stated that we have three items that need to be addressed:

- 1.) Vacasa being the local property manager.
- 2.) Reduction in occupancy from 9 to 6.
- 3.) Not allowing pets.

We could roll it into one or approve independently.

Commissioner Winters stated that it would be best to keep them all together.

Commissioner Hoth stated that the neighbor's letters carry weight and should be considered but they have to have a specific situation and has to have some unique qualities that would lead us to say yes that concern is reasonable and is probably going to happen, but he doesn't see that in this particular situation.

Commissioner Ridout stated that we should combine all three and asked if this is going to start a precedence for requirements on vacation rentals. As a property owner Commissioner Ridout doesn't allow pets in his rentals, but that's a choice as a property owner. He also stated that Mr. Cupples has put these three conditions on this property and he believes these conditions are reasonable in general and applied those in this specific case because those general things really fit for this vacation rental. If we turn our back to those three and say no we'll stick with our standard and if these issues bring a problem out then when there is problem it sends Mr. Cupples a message of not going further than what the general guidelines are.

Chair Horning stated that the Planning Commission are generally pretty fickle.

Commissioner Ridout stated he puts a lot of weight on Mr. Cupples judgment and that this is interesting. Many times Commissioner Ridout is in the same camp as Commissioner Winters where a property owner should be able to do what they want with their property.

Commissioner Carpenter asked if Mr. Cupples would like to say anything, Mr. Cupples stated that the decision is the Planning Commissioners.

Commissioner Romine stated that Mr. Cupples made a reasonable choice with all the letters that were received. But as you look at the ordinance we need to approve it as the ordinance describes and our standards that we have put on all other vacation rentals. The neighbors have the right to complain and the vacation rental can be revoked if this home becomes a problem.

Commissioner Winters made a motion to accept this application with the three changes,

- 1.) Vacasa will be able to be the local property manager.
- 2.) Occupancy will be 9.

3.) Pets will be allowed.

Commissioner Romine seconded the motion and the motion was carried unanimously.

ORDINANCE ADMINISTRATION:

COMMENTS FROM THE PUBLIC: Erin Barker with Beach House Vacation Rentals wanted clarification on who is suppose to contact the neighbors when the property manager changes. Mr. Cupples stated that it is the property owner.

COMMENTS FROM COMMISSION/STAFF: Commissioner Dideum asked what meetings will be held in November. Mr. Cupples stated that if something comes in then we will have something on the November docket but if nothing comes in then we will not be having a meeting.

ADJOURNMENT: Adjourned at 9:00 pm.

Tom Horning, Chairperson

Debbie Kenyon, Admin. Assistant