

MINUTES SEASIDE PLANNING COMMISSION
July 6, 2010

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: Steve Winters, Virginia Dideum, Dick Rees, 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. There was no response.

APPROVAL OF MINUTES: Motion to approve the June 1, 2010 minutes;
Commissioner Carpenter made a motion to approve June 1, 2010 minutes as submitted. Commissioner Ridout 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.) 10-023MAP A request by John Dunzer for a major partition at 2964 Keepsake Drive (T6-R10-28BC-TL#1900). The proposed partition will divide the property into two separate units of land (Parcel 1, 5,697sq. ft. & Parcel 2, 4,102 sq. ft.) so the guesthouse/garage can be converted into a separate dwelling. The subject property is zoned Medium Density Residential (R-2) and the proposed land division must conform to the zero lot line and density provision applicable in the zone.

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. John Dunzer, 2964 Keepsake, Seaside, OR 97138

- Has lived here for 6 years.
- Before purchasing the property he looked up the zoning information.
- Remodeled home once he purchased the home.
- The lot is pie shaped.
- The home is not situated properly on the lot.
- The neighbor has a home about the same size.
- The neighborhood has single family residences and duplexes.
- Some of the homes have the main house and then living quarters above the garages. This is really not an issue if the owner of the homes is there but when renters are left alone then it could become a problem.
- Last winter the neighbors rented out the unit above the garage and that became an issue. There are two different life styles. There were at least 2 people with 2 dogs and at least 2 cars there every night sometimes even more.
- This particular street already has some duplexes and single family homes with people renting the unit above the garage.

- Wants to move the garage over so he doesn't have to look into the neighbor's garage, because he leaves the garage door open all the time.
- Intent is to divide the property and put a 20 x 20 structure on the newly developed property.
- Most Oregon communities encourage people to infill within the Urban Growth Boundaries.
- Has the capability to create 2 very nice single family residences.
- This meets all the requirements of the City and the CC&R's.
- This is a tremendous plus for the community.
- Anticipating two very nice structures in that area.
- The CC&R's did put in height restrictions and this lot is not one of them.
- If you follow the requirements and do things that make sense then you would have a project that the city and the neighborhood would be proud of and that is the intent.
- It is not to change the density of the neighborhood over what it was intended for. The duplexes that are there show how they fit in the neighborhood.
- The sewer and water should be in by the end of the year, but have not drawn up the plans until this is approved.

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. Jim Casterline Attorney in Seaside.

- Representing several property owners in the Rose Creek Subdivision.
- This particular area was developed for larger lots and spacious homes.
- What is duplex? The city ordinance states that a duplex is a building designed or used exclusively for the occupancy of two families living independently of each other and having separate housekeeping facilities for each family.
- The current duplexes were designed as duplexes, not single family residences that were converted to duplexes.
- Mr. Gurian is the owner of one of the duplexes and these duplexes were built to code with the two hour firewall.
- Doesn't think that two buildings being put together constitutes a duplex. However the staff reports states that you can if you do a list of things first.
- This is a little premature to approve this without a plan.
- These plans seem to be ahead of the game and we are short of understanding what exactly is going on.
- When you look at the map you can see that there is only 25 feet in the front of the property and that will be a tight squeeze on maneuvering vehicles on the property.
- The parking that is proposed will have to be on both sides of the flagpole and that means that the lawn will need to go. Then the only landscaping on the property will be some small shrubbery along the front of the property.
- When you put it all on a table top it all looks fine but when you go to the site it doesn't look so nice.
- Infill is a great idea but that infill needs to have advanced planning not after the fact planning.
- There are CC&R's on the property and are in place until 2016 after which Mr. Dunzer can do whatever he wishes except the height restriction.
- One key restriction on the property is there must be garages per every dwelling. If this project goes through then the main house will not have a garage.
- Another key restriction is that each unit must have 1600 sq. ft. of living space. In order for Mr. Dunzer to do this it will be a dramatic alteration.
- In addition there is the issue of parked vehicles in the driveway and the neighbors have not been enforcing the camper restriction against Mr. Dunzer up to now. Once you take away the garage you are dealing with parked motorcycles and other vehicles.
- The next step will be litigation.

Chair Horning asked if there was anyone else who would like to offer testimony in opposition. Colleen Chandler 2955 Keepsake Dr, Seaside,

- Her house is next to one of the duplexes.
- John has had the house up for sale for over two years. He doesn't want to live here and hasn't wanted to live in Seaside since he bought the house.

- No one complains about John moving his camper all over the neighborhood when he has an open house every weekend.
- Doesn't think that Mr. Dunzer is doing this for any green space it's just for resale. So when a potential buyer comes and wants to divide the property he will already have everything in motion.
- No one objected to the neighbors when they were renting out the unit above the garage and now wished they would have.
- John is trying to do exactly what he didn't like about what the neighboring property owner was doing.

Chair Horning stated that the applicant now has the opportunity for rebuttal. John Dunzer stated that he likes his neighborhood and his neighbors. The property behind their homes is zoned R-2 and hasn't changed in years. He has tried to buy the property and one day that property will be developed. With respect to the garage there will be a garage. Mr. Dunzer sees no reason to draw the plans and incur all these costs without approval to go ahead with the plans. Once he has approval he will bring in the plans at that time. Mr. Dunzer stated that he is not changing the character of the neighborhood he's adding to it.

Chair Horning closed the public hearing and the issue was opened for Commission discussion. Commissioner Hoth asked what is the difference between a two-family dwelling and a duplex. Mr. Cupples stated they are the same. A duplex is two units attached to each other or have a common wall. Mr. Dunzer has to start by creating a duplex, right now he has a guest house by definition that unit has no cooking facilities. If he runs separate utilities and puts in a kitchen he can establish a duplex. He must first build the unit then come in and apply for a zero lot line development. Some people have an existing duplex and want to put in the two hour fire wall separation necessary to meet code in order to separate it. Mr. Dunzer will have to bring in the plans for the duplex approved with a two hour firewall construction required along that same line. A condo is a division of boxes that are dwelling units by deed you are describing a box that is owned by an individual. Townhomes are basically the same except you own the land that the unit sits on. Commissioner Hoth asked about the 25 feet of street frontage for every lot. Mr. Cupples stated that is why Mr. Dunzer has applied for major partition in order for him to split off the other unit of land he has to have a private street; in this case it's a glorified access easement. Currently it is a guest house it is not a duplex. Mr. Dunzer would still have to meet all the requirements.

Chair Horning asked why is this a major partition? Mr. Cupples stated a major partition under the City of Seaside's ordinance is that you are creating access through a property to get to a property that does not have existing street frontage to create it. If this had 50 feet of lot frontage then he wouldn't have to do this.

Commissioner Hoth stated that review criteria one (1) talks about the road being a public street and why is that there? Mr. Cupples stated that as part of a major partition you have got to create access to get to one of the lots.

Commissioner Dideum stated that on of the plans it shows that he is going to eliminate one of the garages so there would be space for one car to park in front of the garage the other part would be parked on the private road? Mr. Cupples stated that Mr. Dunzer would not be able to do that unless he has enough set back for a car in front of the garage and still have space to access the public street. In one of the conditions it is stated that Mr. Dunzer will have to make sure he has adequate maneuvering area into the property through that access and still meet his off street parking requirements.

Commissioner Ridout mentioned that Mr. Dunzer stated that he was going to build a garage for the main house. Where would he put the garage? Mr. Dunzer stated that he will put in a garage but at this time he's not sure of the configuration of the garage.

Commissioner Rees asked about the property line being jogged. Mr. Cupples stated that as a condition of approval that line will need to be straightened out. The surveyor will need to find a way to maintain a straight line and still have adequate square footage over the 3750 which is required and still meeting lot coverage and accessing the other lot. Commissioner Rees stated that he can't really pinpoint it but there seems to be something that just doesn't look right. Looking at the front yard on parcel one with the car configuration and then go there and look at it, it doesn't look like it would work. I don't know how you could maneuver two cars in there.

Commissioner Carpenter asked Mr. Dunzer about the wall that is going to be dividing the zero lot line what type of room is that? Mr. Dunzer stated that it is a pantry, laundry and mud room. Commissioner Carpenter so if that wall was moved around it becomes a non-issue. Mr. Dunzer stated that if you do a straight line like Mr. Cupples stated in the staff report then it could be used as storage or what ever a person would want to use it for.

Commissioner Hoth asked about the private street being created without full compliance. Are we being asked to approve this as a street and it does not have to meet the street standards. Mr. Cupples stated that in this case you are taking a very short access distance across property to get to another unit of land.

Commissioner Dideum asked about the CC&R's and the city being involved in them. Mr. Cupples stated that is the neighborhood's condition not the Cities.

Commissioner Rees asked about the height of the building being 47 feet. Mr. Cupples stated that the cities ordinance states that the height is based upon half the height of the highest gable.

Commissioner Ridout stated that if it's your property and you have the legal right to do something then you ought to be able to do it. The problem is that when you start dividing the property into smaller lots.

Commissioner Ridout doesn't like it when we start dividing the properties into smaller and smaller lots. Once we separate this it will be there forever.

Commissioner Carpenter asked if there was anything in the ordinance that states they can say no to this request. Mr. Cupples stated that he is looking for something in the ordinance, justifying a rejection based on access is going to be somewhat problematic because anytime you do a major partition that's either creating or backing off a full blown street, this development doesn't lend itself to the development of a full blown street otherwise they would be running a full street to some back unit of land. This is really just going a stone throw away from where the public street is now.

Commissioner Carpenter made a motion to approve this request under the guidelines that staff has presented based on the fact that they cannot reject it.

Commissioner Ridout seconded and the motion.

Commissioner Dideum stated that going back over the comp plan regarding keeping things conforming to the neighborhood. Dividing this property into a duplex just does not conform to the neighborhood feel. The duplexes that are in this neighborhood are on the corner and feels that is a common place for duplexes. But adding another unit in this area would cause more congestion in this neighborhood and doesn't feel that renters have any less vehicles than property owners. Quite frequently home owners have more vehicles than renters and there is no more room to park these vehicles off street if someone came to visit they could not park there. They would be forced to park on the street.

Commissioner Hoth stated that the duplexes that were built in the neighborhood were intended to be duplexes and built to meet all the requirements of a duplex. This home was not built on the intention of becoming a duplex so it is very hard to ok a duplex on this pie shaped lot. It doesn't mean it can't be but this looks like it was never intended to be a duplex.

Mr. Cupples stated that we are not here to see if this can be converted to a duplex we are here for a major partition.

Chair Horning asked for a vote. It was a three to three vote which brings it to a tie vote, Commissioner Rees, Commissioner Dideum and Commissioner Hoth voted no, Chair Horning, Commissioner Carpenter and Commissioner Ridout voted yes. Chair Horning stated that with a tie vote this agenda item is denied.

ORDINANCE ADMINISTRATION: Mr. Dunzer doesn't understand if he meets all the requirements why is this being rejected? Mr. Cupples stated that he will be getting a notification in the mail and will be able to appeal the decision.

Commissioner Hoth asked exactly what is ordinance administration. Mr. Cupples stated that it is any time that Mr. Cupples has any questions, clarifications or information that staff has to review with the Commissioners that is not a public hearing item.

COMMENTS FROM THE PUBLIC: Erin Barker asked about Mr. Dunzer's request sounded like he was requesting to get the approval for a line to be drawn to separate his property. Mr. Dunzer had met all the criteria required for this partition. Wouldn't Mr. Dunzer's next step be to submit a building plan for review. Then at that time he would have to meet all the building requirements, which seems to be the difficult part. Mr. Cupples stated that those were the conditions of approval this is a request for a land division. Not a building request.

COMMENTS FROM COMMISSION/STAFF: Commissioner Hoth asked about the photo's that Mr. Dunzer brought in with the neighbors garage it looked like the garage is not attached, and he's renting (the neighbor) is renting that out, it's not a duplex is that illegal. Mr. Cupples stated if he has built as an accessory building then it is not illegal because it is not a dwelling. Mr. Cupples stated that accessory buildings cannot have cooking facilities. You can have a guest house, usually a detached bedroom; as long as you do not put in a kitchen in it you may have a guest house.

Commissioner Ridout stated that if Mr. Dunzer wanted to build a duplex the planning commission would not even be looking at this. The only reason the planning commission is looking at this is because it's a

major partition. Mr. Cupples stated that Mr. Dunzer's recourse is, that he could come back in with a 25 by 25 ft roadway that would create a little tiny square and dedicate it, curb it and then it would have two driveway accesses coming through the curb, or he could appeal it. Commissioner Rees stated that this should have been platted as a duplex and it doesn't fit into the neighborhood.

Commissioner Ridout stated that he was not denied there was a tied vote. Mr. Cupples stated that we should have gone back through and asked if there was a motion to deny. But we didn't that so being as Commissioner Winters was absent we could continue this.

ADJOURNMENT: Adjourned at 9:00 pm.

Tom Horning, Chairperson

Debbie Kenyon, Admin. Assistant