

**MINUTES SEASIDE PLANNING COMMISSION**  
**August 3, 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**

**ATTENDANCE:** Commissioners present: 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 July 6, 2010 minutes; Commissioner Ridout had a correction to page 3, paragraph 5 to add the word "not" to the sentence. Commissioner Carpenter made a motion to approve July 6, 2010 minutes with the correction. Commissioner Ridout seconded and 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.) Reconsideration 10-023MP** 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. Although the Commission closed this public hearing during their last meeting, they did not make a final decision due to a tie vote; therefore, the Commission will reconsider the matter and may reopen the hearing in an effort to reach a final decision. The land division review is made in accordance with the criteria in Sections 18-25 of the Seaside Subdivision & Land Partition Ordinance #74-36 and the procedures in Article 10 of the Seaside Zoning Ordinance.

THIS AGENDA ITEM WAS NOT DISCUSSED.

**B.) 10-028LAR-** A landscape and access review requested by Ken Ulbricht. The request will allow the applicant to include the vacant lot, on the corner of Broadway and North Roosevelt (Highway 101), in the plans to improve a parking lot east of the existing building at 851 Broadway (Old City Hall). The subject property is zoned Central Commercial (C-4) and the individual lot is referenced as T6 R10 21AD TL 11301.

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. Ken Ulbricht, P.O. BOX 1161, Seaside, OR 97138. Mark Mead the engineer is here so if you have any questions you can also ask him. Originally the application was approved for two buildings on the

property. One was to renovate old city hall and the other was to build a new building. Now the plans have changed and we want to extend the parking lot out further to the highway still maintaining the set back requirements and any requirements that O.D.O.T or the City may have.

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

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. Commissioner Dideum had a question regarding the two power poles; one is by the bus stop and the other within 10 to 12 feet of the other pole with a stop sign on it. Are the poles going to be moved? Mr. Mead stated that the power poles will stay. Beside one of the power poles is the water line and some other utilities.

Commissioner Rees stated that this will be a vast improvement to the corner. Is beach grass going to be used because it will take less maintenance. Mr. Ulbricht said yes.

Commissioner Hoth asked about the easement. Mr. Cupples stated that with the other application ODOT was going have Mr. Ulbricht put in a right hand turn lane. But being as that project is not going forward Mr. Ulbricht will not have to do that. We still want to protect an easement area. ODOT wants the City to be in charge of the easement then some time in the future when a turn lane is needed we will already have the easement in place.

Commissioner Ridout stated that the traffic backing up on Broadway is getting worse every year. Is there still going to be a drive up window for the coffee shop? Mr. Ulbricht stated no, they will be putting planters and other landscaping in that area. Commissioner Ridout asked if cars will be able to drive down the alley and access Holladay. Mr. Ulbricht stated yes.

Commissioner Dideum asked about putting in a triangle so that cars can only turn right onto the highway. Mr. Mead stated that with ODOT standards a concrete triangle will not fit in that area. It is only a 10 foot alley. Commissioner Dideum asked if they need ODOT's approval. Mr. Cupples stated that he has been waiting for a letter from Mr. Casswell and still has not received it at this time. Mr. Mead stated that they have talked with ODOT and being as the alley is only 10 feet wide they don't have room for the wedge.

Commissioner Carpenter made a motion to accept this application. Commissioner Winters seconded the motion and the motion carried unanimously.

**C.) 10-029CU & 10-030V:** A conditional use request by Jennifer Maksimowicz to operate a preschool academy at 1775 S Roosevelt Unit C (6 10 21 TL: 2500). The subject property is zoned General Commercial (C-3) and schools require a conditional use permit. The applicant is also requesting a variance to the outdoor play area required under Article 6 based on the operational needs of the proposed use.

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. Mr. Cupples stated that we did get two letters in favor of the preschool academy and they have been provided to the planning commission. Jennifer Maksimowicz 325 Ave S, Seaside,

- Wants to start a kindergarten prep school. Had one before in Idaho before moving here.
- It is for 3, 4, and 5 year olds.
- Children wear uniforms.
- It is faith based.
- Strong academic background.
- Developed a curriculum.
- Believes strongly in quality education.
- When discussing this with the State of Oregon they said that Seaside is in need of a good childcare facility.

- The state agency that Jennifer spoke with said that because of the type of program it is and the children are there less than 4 hours they are exempt from state licensing, and they do not require an outside play structure.
- When Jennifer did this before the tuitions were \$500. - \$700. a month and with most people living here that work in the service industry can't afford that much. Jennifer will probably have two classes in the mornings to lower the tuitions to \$195. - \$295. per month.
- The state also told Jennifer could have as many students as she feels comfortable with. If she needs to have student teachers she will do that when the time comes.
- Will do background checks on all volunteers.

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

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.

Commissioner Ridout asked about this preschool being faith based but non-denominational. Jennifer stated that Yes this is a non-denominational preschool and is straight out of the bible.

Commissioner Ridout asked why she doesn't run this preschool from a local church. Jennifer stated that she wouldn't have the control of who enters the building and who doesn't.

Commissioner Ridout asked if there would be parent volunteers. Jennifer stated that she would like to have internships when the time comes. Parents seem to be distracting to the children. Commissioner Ridout stated that he is concerned about the parking if parents are there and other teachers are there then the parking gets very limited. Jennifer stated that she will be the only teacher. If she gets more students then she may need another teacher, but she lives on Ave S and could be dropped off or park her car behind Mimi's flowers and no one is in the other two spaces at this time. She may expand into one of those if need be. But being as this is a preschool parents will be dropping the children off and then picking them up so the turn around time for parking is very quick. Parents do not stay at the school for very long. If the parents wish to talk about their children they set up an appointment and come back with out the children. Commissioner Ridout asked if there was a space along the street for them to park or do the parents need to pull into the parking lot. Jennifer stated that they will pull into the parking lot. The front two or three spots will be for dropping off students. But there is parking along the street.

Commissioner Hoth asked what state agency is she getting all the information from and relating to the statement that being as the classes will be less that 4 hours long the school is exempt from all standards from the state. Jennifer stated that they are exempt from state licensing. The state does require an outside playground. The agency that she spoke with is Childcare Services and Nancy Howse is the one that Jennifer has been contacting.

Commissioner Rees had a question regarding a faith based program versus a secular or state school district and the difference. When Jennifer is using the facilities who will be watching the children?

Jennifer stated that the bathroom is a handicapped bathroom and the students will go whenever they need to go and she will only go after class. There will be a security lock on the building. People can only exit and people cannot come in without the door being opened for them.

Commissioner Dideum asked what will be the hours of operation. Jennifer stated that the hours have not been completely defined at this time and needs to go to the schools and get their hours of operation.

So that people will be able to drop off their children either before they drop the other kids or after they drop off the kids. Commissioner Dideum asked if something were to happen to Jennifer, does she have an emergency plan of action. Jennifer stated that her husband will always be available. Commissioner Dideum stated that one of the reasons an outside play area would be nice is because if something were to happen inside the building then the children would have a place to go outside. What are you going to do if an emergency happens? Jennifer stated that in her other school they had a class leader every month and that child would go get help from the business next door, they try not to make a big deal out of it because they don't want the children to panic. They teach the children how to call 911 so if anything does happen they know what to do. Mr. Cupples asked if Jennifer went to the State Childcare division to get recorded. Jennifer stated that yes she did do that. Commissioner Hoth asked why is she going to all these different state agencies if they are exempt from state regulations. Jennifer stated that you have to go and speak with all the agencies because if you don't they can close the facility for not checking with them. They do require that you get recorded and they also require you to get background checks.

Commissioner Winters asked basically the reason you are doing all this is to cover your bases. Jennifer stated absolutely.

Commissioner Winters made a motion to approve the conditional use and the variance application. Commissioner Carpenter seconded the motion and the motion was carried unanimously.

**ORDINANCE ADMINISTRATION:** Commissioner Ridout asked why item A was not discussed. Mr. Cupples stated that he misunderstood what the City Attorney had stated previously in regards to a tie vote. Mr. Van Thiel stated that the planning commission didn't make a formal decision in making a tie vote. The action or tie vote was a motion failed, had there been further discussion which is what should have happened, didn't. Now the applicant can appeal. It was a de facto denial. The motion should have been discussed further until there was a decision, if possible. What you don't want to happen is to be put in the position of having a tie vote and then cutting off any further discussion and then if it gets appealed, not having full justification for the denial. If you look at the record and you see that the information there is very little to support a denial. If it gets appealed you need to have enough information to back up the denial. The city council has the option of saying we want to remand it, we're going to hear it based on the record or we are going to hear this as a de novo hearing.

Chair Horning stated that it would be a good thing to have a little red book on how to phrase motions and how to plan your strategies and know your options.

**COMMENTS FROM THE PUBLIC:**

**COMMENTS FROM COMMISSION/STAFF:**

**ADJOURNMENT:** Adjourned at 8:15 pm.

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Tom Horning, Chairperson

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Debbie Kenyon, Admin. Assistant