

**MINUTES SEASIDE PLANNING COMMISSION**  
**April 2, 2013**

**CALL TO ORDER:** Chair Ray Romine 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, Bill Carpenter, and Dick Ridout, Staff Present: Debbie Kenyon, Administrative Assistant, Kevin Cupples, Planning Director, Absent: Chris Hoth

**OPENING REMARKS & CONFLICT OF INTEREST/EX PARTE CONTACT:** Chair Romine 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 Romine then asked if any of the Commissioners wished to declare a conflict of interest or ex parte contact. There was no response.

**APPROVAL OF MINUTES:** Motion to approve the March 5, 2013 minutes; Commissioner Carpenter made a motion to approve the minutes as submitted. Commissioner Horning seconded. The motion was carried unanimously.

**PUBLIC HEARING REQUIREMENTS:**

The following public hearing statements were read by Chair Romine:

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.) 13-005VRD** is a request by **The Sand Chateau I LLC** for a **four** (4) bedroom Vacation Rental Dwelling Permit within the Residential Medium Density (R-2) zone. The property is located at **1317 N Prom.**

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

Chair Romine asked if there was anyone who would like to offer testimony in favor of the request. Reynold Roeder stated that this home was previously a vacation rental with an occupancy of 12 and we will continue to use it as a vacation rental with an occupancy of 10. The city has done the inspection and it passed. There were a couple of corrections that were noted in the inspection but they have been taken care of. No neighbors have contacted him regarding this continuing to be a vacation rental.

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

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

Commissioner Ridout asked if the issue of 10 versus the 12 occupancy is that what the planning commission is going to start seeing on all the vacation rentals? Mr. Cupples stated, not necessarily because if someone chooses to put in a sprinkler system or the home has a sprinkler system then they can have an occupancy of more than 10.

Commissioner Ridout asked about the children under the age of three not counting in a vacation rental. He asked, how does this work with the fire code? Mr. Cupples stated that with the new way of counting heads there is a maximum occupancy of 10 people and children count as people, and that is specifically how the report was written.

Mr. Roeder stated that they have lost a couple of bookings because of the occupancy not being able to accommodate the 12 people with the new rules. Commissioner Carpenter asked if this is a new amendment to the public or is it something that we have chosen to enforce. Mr. Cupples stated that Bob the building official has taken over the inspections and knows all the codes and said that these need to be treated under the transient occupancy provisions. Commissioner Dideum asked when the 10 people came into effect? Mr. Cupples stated that it was when Bob Mitchell started doing the vacation rental inspections.

Commissioner Carpenter made a motion to approve the VRD under the guidelines that staff has presented.

Commissioner Ridout seconded and the motion was carried unanimously.

**ORDINANCE ADMINISTRATION: Lighting Ordinance Draft**

Mr. Cupples went over the draft ordinance that was discussed at the previous work session. One of the things brought up was the amount of lumens that should be allowed per light fixture.

The Federal Trade Commission's Lumen vs. Watts Chart

- 40-watt incandescent bulb = 450 lumens
- 60-watt incandescent bulb = 800 lumens
- 100-watt incandescent bulb = 1600 lumens

Commissioner Horning was saying that with 100 watt light bulbs you screen them in your home, in other words if your lamp has a 100 watt light bulb you usually have a shade over it.

Mr. Cupples stated that what you decide to bring to the council is what you need to figure out. How many lumens would be considered appropriate and allowable.

Chair Romine stated that he understands that this new ordinance would only be required with new construction but not a homeowner just needing to get a fixture fixed or replaced. He wouldn't need to get a permit or make this new or replacement fixture code complaint. Mr. Cupples stated that if you didn't get a permit for this new fixture, technically it would be an ordinance violation. If your yard light went out and you went down to the hardware store to get a new fixture, this new fixture must be code complaint. How are we going to find these new fixtures and make sure they are compliant, Mr. Cupples really isn't sure how that will work out at this time. Do people go get accessory buildings at home depot and put them 2 feet from the property? Yes, they do and we only find out about it from complaints or just driving by and noticing these things. Then at that point we can say you need to bring this accessory building compliant and move it to within 5 feet of the property line. So the same thing would probably happen with the lighting ordinance. But all new dwellings or commercial buildings would need to place these new lights on their buildings and be code compliant. If someone was to put a new yard light up and didn't get a permit or use the correct light for shielding we wouldn't know about it if we didn't get a complaint.

Commissioner Winters stated that something will be done even without a complaint. Let's say that someone has a wind chime outside their window and it sounds beautiful but my neighbor doesn't like the sound of it. I'm considered a bad neighbor because of noise pollution. We have this new thing called light pollution. The point is where does it stop? Because what this ordinance does is create problems for everybody in our community for the very few that it bothers. It is such a small minority of people that it bothers, it shouldn't even be registered on the scale. But if you spend 15 years chasing something that bothers you, then the city needs an ordinance for that? It just doesn't make sense. The example of the wind chimes is the same thing, it's up to the interpretation of the person that doesn't like what the neighbor is doing. Today its lights and it's going to cost money to change the lighting fixtures in my backyard. I like going out in my backyard and being able to see when I go outside. My neighbors don't complain. But if someone drives by and finds my backyard light offensive then he can do something about it and make me change my light. This is going to cost me money because he doesn't like it. Light pollution should not constitute being a bad neighbor. If I have a problem with my neighbors lighting I will go over and talk to them. I won't go over there and unscrew their light bulb like some people. When I talk to my neighbor and he wants me to fix it or make it not so bright I will do that. We don't need an ordinance to do this. Commissioner Winters just had a \$6500. trailer that was stolen that was parked in front of his house. He is going to put up new lighting so that it hopefully won't happen again. When the economy is as bad as it is and we start passing ordinances like this it just costs more money for the community.

Commissioner Romine asked if anyone else wanted to comment. Commissioner Ridout stated that he has looked at this ordinance, with all the "where as"s in the document, and he doesn't see any issues with the way things are. The benefit of living in a city is having lighting. If he wanted to live out in the country where there is no lighting then that's where he would live. But he likes living in the city where there is lighting so he can walk down the street and have it lit up. Commissioner Ridout stated this is just too much. How do you enforce something like this? Can we pass an ordinance that people will ignore and other people will say why do you have an ordinance that you're just going to ignore. Commissioner Ridout stated that he will be voting against sending this to the City Council. Commissioner Winters stated that this is an infringement on people's rights.

Commissioner Carpenter stated that if this existed today, it wouldn't impact anybody. You can't complain against somebody that has a light on that is existing today. Mr. Cupples stated that this ordinance clarifies the position that you can consider a light that is clearly shining on someone else's property, directed at their property, you can identify that as a public nuisance. You can actually do that today under the nuisance ordinance that says anything that you do that annoys or causes problems that is out of character could be identified as a nuisance. Commissioner Carpenter asked if he could complain about the lights on the Lanai right now. Mr. Cupples stated that yes, he could, under nuisance ordinance 96. The problem is that when you are dealing with a nuisance ordinance it's all very judgmental. That's why we have enumerated nuisances and un-enumerated nuisances. The enumerated nuisances are: you can do construction in a residential neighborhood after 6pm with permission from the City Manager, and then he can grant it for 10 days. There are other provisions listed in the nuisance ordinance. For example, you can't have a cesspool, and there is a list of things that can be considered a nuisance. Then at the end of the ordinance is a catch all that basically states that anything that annoys anyone can be declared a nuisance. For example your neighbor has a 600 watt spotlight shining in your window. That is annoying. Commissioner Carpenter stated that he understands the neighbor to neighbor situation, but what about the Lanai and the other hotels that have their lights shining down on the beach. Mr. Cupples stated that would be a judgment call to the council at that point. Commissioner Winters asked if that is a problem or a nuisance he could take that to council right now and we don't need this ordinance. Mr. Cupples stated that yes he could take it to council now.

Commissioner Winters stated that with all this lighting stuff, what is the problem, really? Who is saying this is a problem, when did it become a problem? Commissioner Winters would challenge anybody. How many walks do you go on at night and say that's a problem, I'm not going there because there's too much lighting. I'm not going to drive down that street because that light bothers me. It just doesn't exist. Commissioner Horning stated a few months back he made a presentation at a joint work session between the City Council and the Planning Commission and the majority of the people agreed with him. That determination alone is the basis needed to put this forward to the City Council. Commissioner Winters stated that this should go to the people to vote on it. Mr. Cupples stated that when this gets Planning Commission approval it will go to the City Council for the public hearing.

Chair Romine asked if there were any other comments. Commissioner Horning stated that item J on the last page needs to be changed. Mr. Cupples made a suggestion to exempt fixtures with less than 1800 lumens which is the 100 watt light bulb. Commissioner Horning feels that a 100 watt light bulb on the front door 10 ft from the sidewalk is a little obnoxious. A 40 watt light bulb would be sufficient and/or shielding. Commissioner Winters asked where is the problem with what we have. Commissioner Horning stated that this was brought to a joint work session and the City Council has asked the Planning Commission to come up with something that they can look at, and that's what we're doing, giving the City Council something to look at. Commissioner Romine stated that we are here to discuss the lighting ordinance and what needs to be done. We have a nuisance ordinance that can take care of most of the issues here, and making another ordinance would make things more confusing to people. Commissioner Horning stated that the whole idea is not to go back and impose these changes on homeowners. This gives them the opportunity to keep what they currently have but when the current light fixtures rust away then they can put a new light with the new standards. This would also go with new homes, new commercial construction, and any new fixtures. We will be making our community more aesthetically pleasing.

Commissioner Carpenter stated that there are two things that we need to get taken care of, 1 is the text acceptable, 2 is do we want to move this on to council.

Commissioner Horning stated that the text is not acceptable, item J is bad it should be 40 watts or 450 lumens.

Commissioner Dideum stated that on the 2020 visioning commission 5 years ago and this was discussed and we have discussed this over the last two years. This has been a long time coming. Mr. Cupples has done a lot of research on this subject and has tried to find a middle ground. The City Council has asked the Planning Commission to bring something to them. It is at a time that we let the

citizens have their time for public comment. We are going to a more green society, we are trying to save energy and this is right in line with this type of thinking.

Commissioner Horning made a motion change item J from 100 watts or 1600 lumens to 40 watts or 450 lumens. Commissioner Dideum seconded the motion. The vote was three to three. Commissioner Winters, Commissioner Ridout, and Chair Romine voted no. Commissioner Horning, Commissioner Dideum and Commissioner Carpenter voted yes. There was a tie and the motion failed.

Commissioner Carpenter made a motion to forward the lighting ordinance to the City Council. Commissioner Dideum seconded the motion. The vote was three to three. Commissioner Winters, Commissioner Ridout, and Chair Romine voted no. Commissioner Horning, Commissioner Dideum and Commissioner Carpenter voted yes. There was a tie and the motion failed.

Mr. Cupples stated that he will notify City Council and let them know that action was taken, so that they know and can pick it up if they want to. But as far as having a document formally forwarded from the Planning Commission, that will not happen. Commissioner Dideum asked if this could be brought up at another time. Mr. Cupples stated yes, it could.

**COMMENTS FROM THE PUBLIC:** Erin Barker stated that from her background in Fine Arts, there are basically two types of lighting. One is to illuminate the action on stage and then the other is for broader lighting for safety issues. There has to be a happy medium and she feels that that can happen.

**COMMENTS FROM COMMISSION/STAFF:** Commissioner Horning would like to bring this up at the next planning commission meeting. Chair Romine stated that is what we will do.

**ADJOURNMENT:** Adjourned at 8:00 pm.

---

Ray Romine, Chairperson

---

Debbie Kenyon, Admin. Assistant