

MINUTES SEASIDE PLANNING COMMISSION
May 5, 2015

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

PLEDGE OF ALLEGIANCE

ATTENDANCE: Commissioners present: Tom Horning , Steve Wright, Chris Hoth, Bill Carpenter, Robert Perkel, and Dick Ridout, Staff Present: Debbie Kenyon, Administrative Assistant, Kevin Cupples, Planning Director

Absent: Ray Romine

OPENING REMARKS & CONFLICT OF INTEREST/EX PARTE CONTACT: Vice Chair Carpenter 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. Vice Chair Carpenter then asked if any of the Commissioners wished to declare a conflict of interest or ex parte contact. Commissioner Perkel stated that when he was at 2341 S. Columbia he spoke with the neighbors regarding the parking and they are here tonight to testify regarding the VRD.

APPROVAL OF MINUTES: April 7, 2015 Minutes;

Commissioner Perkel made a motion to approve the minutes as submitted. Commissioner Wright seconded. The motion was carried unanimously.

AGENDA:

PUBLIC HEARING REQUIREMENTS:

The following public hearing statements were read by Vice Chair Carpenter:

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.) 15-013VRD is a request by **David & Candice Remer** for a **three** (3) bedroom Vacation Rental Dwelling Permit with a maximum occupancy of not more than **nine** (9) people over the age of three. The property is located at **2249 S Columbia** 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.

Vice Chair Carpenter asked if there was anyone who would like to offer testimony in favor of the request. Dana Weston. 33292 Surf Pines, Seaside, OR. Dana is the real estate agent the owners used when they purchased the property. The Remer's were not able to make it tonight.

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

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

Vice Chair Carpenter close the public comment and opened it for discussion.

Commissioner Ridout asked how this will be operated and if the property is contingent upon approval of the VRD. Dana stated the Remer's have already purchased the property and it is not contingent upon the sale and the property was a vacation rental before the Remer purchased it.

Commissioner Wright asked the last name of the person from Rogers Inn. Debbie stated that is Bobbie Murphy with Rogers Inn.

Commissioner Ridout asked if there were any complaints with the previous vacation rental. Mr. Cupples stated there were no complaints in the land use file.

Commissioner Horning stated when he went to the property there looked like there was enough room for parking. Commissioner Ridout stated that just because it looks like there is plenty of room for parking doesn't mean people will use it. Vice Chair Carpenter asked if Dana knew anything about Rogers Inn and how they manage the parking requirements. Dana stated she really didn't know but the requirements state that they have to have off street parking and a map showing where people could park on the property. As far as the enforcement of that goes Dana wasn't sure.

Commissioner Horning made a motion to approve the vacation rental under the guidelines that staff has presented. Commissioner Perkel seconded and the motion was carried unanimously.

B.) 15-014VRD is a request by **Bryce McCall** for a **two (2)** bedroom Vacation Rental Dwelling Permit with a maximum occupancy of not more than **six (6)** people over the age of three. The property is located at **2341 S Columbia** 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.

Vice Chair Carpenter asked if there was anyone who would like to offer testimony in favor of the request. Bryce McCall, 1475 5th St. Astoria. Bryce is partial owner of the property and will be the property manager.

Commissioner Hoth asked Bryce if he had any experience with property management. Bryce stated he works for a guy that has two vacation rentals now and he manages them.

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

Vice Chair Carpenter asked if there was anyone who would like to offer testimony in opposition. Bill Fitzpatrick, 2335 S Columbia. He purchased his property 8 years ago and has been living there fulltime, retired for the past 6 years. It was a quiet neighborhood until about two years ago. He and another neighbor wrote a letter at that time against the Vacation Rental. They listed the normal things like, traffic, noise and parking in front of his house. On the 4th of July he got a little excited when he found bottle rockets on his roof, but again vacation time so things are expected. The thing that is annoying is the parking. That particular property it stated that there are 3 parking spaces, one in the garage and two in the driveway and they would have to shuffle cars if they were going to do that. Now he can guarantee the commissioners that no one has ever parked in that garage. Even if they wanted to they couldn't park in the garage because there is a foosball table in there. Really there is only two parking spaces, so they park on the street. Then you get the sleeping bag crowd that John and Joe have rented and now has invited his friends over because they have lots of floor space. Now they park in the street in front of Mr. Fitzpatrick's home. Why should that bother him? Because now he if he wants to park on the street he has to go hunting for a spot. This house 2341 S Columbia has a driveway where you would have to stack the parking and the only way to do that is bumper to bumper. It's not going to happen they are going to park on the street. In the summer 1 out of 3 weekends there are cars parked in front of his house. Mr. Fitzpatrick is supposed to call the rental agency and say, that there are cars parked on the street. In the letter it says don't call the city, call the property manager. He feels he has nowhere to go. He really doesn't know who the car belongs to, they're not listed at being part of the lease. There should be six or nine people in the house but with the sleeping bag crowd there could be up to twelve to fifteen people in the house. When there is a vacation rental on both sides of him, how is he supposed to determine which property each car goes with. Now he is not going to have any peace. He didn't buy into that. He bought into a residential neighborhood. He paid a lot of money for a beach house and he would like it to be a beach house. He submitted photos of cars parked on the street. His cars are parked in the driveway. How does he know who these cars belong to? The right thing for the planning commission to do is say NO to anymore vacation rentals in this neighborhood.

Vice Chair Carpenter asked if there was anyone else who would like to offer testimony in opposition of the VRD request. Lois Fitzpatrick, 2335 S Columbia, Seaside. When they moved in, in 2009 it was a residential neighborhood, now it's a ghost town. Every other house is empty because it's a vacation rental. She is concerned about crime and the emptiness. She would like to see this returned to a residential neighborhood.

Vice Chair Carpenter asked if there was anyone else who would like to offer testimony in opposition of the VRD request. There was no response.

Vice Chair Carpenter asked if Bryce would like give a rebuttal to the Fitzpatrick's comments. Bryce stated that when he bought the home they measured the parking spaces. It did come up with the right

amount of parking. The city has come out and did the inspection and confirmed the parking. As far as he is concerned they meet the parking and all other requirements. They spent a lot of money on the home and pay taxes too. He cannot make promises that he will be there every thirty minutes but he will be there mowing the yard twice a week. This home is his baby and this is his job and will do everything he can to make sure it meets all the requirements. Vice Chair Carpenter asked what guidelines does Bryce have to ensure that guest park in the designated parking area? Bryce stated that it is one of the requirements to have a parking map posted inside the residence. Every time they have a renter he will show them the parking and let them know that he will stop by on occasion. On Hood to Coast and 4th of July there is really no way to know who is parking on the street.

Vice Chair Carpenter close the public comment on the vacation rental. Commissioner Perkel stated that he understands the parking situation in the area because he used to live at the Mirage Condo's. He also didn't realize that there were so many rentals in that area.

Commissioner Hoth stated that we are dealing with two separate issues. One is the vacation rentals in the area and the other is enforcement. Unfortunately when the commission makes a decision on these vacation rentals they must use objective criteria and we can't say, "No, you can't have a vacation rental because there may be a problem." It's sort of like saying you can't have a driver's license because you might have an accident. Unfortunately, if he meets the criteria we have to approve unless we can come up with a good reason, like there is no management or they don't have the parking. The other problem is the enforcement because like Mr. Fitzpatrick said, how would you know whose car is parked on the street. We have pushed for having complaints sent to the commission so that we can review them and then maybe eventually revoke the vacation rental license. Mr. Cupples stated that, staff plans on contacting the property owner and the manager letting them know what has come to light regarding the parking issues and what measure are they going to put in place to make sure that issues gets corrected. If it doesn't get corrected, then we need to hear from the neighbors. Vice Chair Carpenter stated that there is a complaint form on the cities website that anyone can fill out and get back to the city as soon as possible so we can address the problem quickly. Mr. Cupples stated that we need to know immediately when there is a violation so that we can take care of it immediately and not try to go back months or sometimes even years. The problem is that when things wait for so long, we can't know if it is the owner staying at the property and they're causing a problem by having a wedding on the beach. The owners can park on the street and have as many cars as they want and we cannot regulate the property owners. Commissioner Wright stated that right now 25% of the homes within 100 feet of this property are vacation rentals. If this one is approved then would that make it 50%. Mr. Cupples stated that with this one it would be 30%. Commissioner Horning stated that being on the planning commission over the last 15 years, he has heard lots of stories and examples of people not being honest to the managers and the owners. There are people who fear the effect of change. Sometimes no matter how many times we ask for detailed information we get the response that everything is being properly taken care, but the complaints keep coming in. The best thing to do is to keep a diary of events and document everything for example dates and photos of the violations and turn it in. If it is not turned in how can staff take care of it. We have also got policies in place that say if you are west of the Necanicum River it is vacation rental territory and we don't generally try to stop it. If you have a home on the east side of Holladay we have a policy not to allow them there. The commission does not have the power to stop something. It gives them the opportunity to restrict them. Commissioner Horning stated that one of his neighbors had a vacation rental and the property manager would lie to them and say there was only going to be 6 people in the home but then it turned out to be 20 people in the home. After a while they just decided not to rent the property at all. Mr. Fitzpatrick ask if he could comment on that. He stated that none of the commissioners live by a vacation rental. Vice chair Carpenter and Commissioner Ridout stated that yes they do live next to vacation rentals and they know exactly what he's talking about. They stated that there are parking problems. Mr. Fitzpatrick stated that when he came here tonight he knew nothing would get done. The city collects a fee and then collects the taxes, so the city is getting something out of these vacation rentals. He is getting nothing from them. He thinks Bryce will do a good job with renting the property out, but then he's going to get bored with it and then hand it over to a rental company. So for a short duration it will be fine but once the other company starts managing it, policing of the property falls on him. The reason nobody gets back to the commission is because they don't expect anything to get done. That is the reason. Vice Chair Carpenter stated in order to deny an application, the commission needs justification. We don't have justification in this case. Mr. Fitzpatrick stated that he realizes what the commission is saying but he's not sure what justification would really be then. Vice Chair Carpenter stated it would be having no parking available, that would be justification. He also stated that sometimes the VRD will not pass through the planning department at the time of the proposal. Commissioner Horning stated that the town has been transforming with the absentee owners who are renting their homes out like little motels. It has caused the price of real estate to go up and now we have more than 350 vacation rentals in Seaside

and we are selling off the affordability issue. It may be good for investors but it's not good for neighborhoods and people who are trying to buy affordable housing. It's a double edged sword and this is a great example of how it's not working very well.

Vice Chair Carpenter asked for any further comments. There was no response.

Commissioner Wright made a motion to approve the vacation rental under the guidelines that staff has presented. Commissioner Hoth seconded and the motion was carried with a 4 to 2 vote in favor of the request. Commissioner Hoth voted yes with reservations, Commissioner Horning and Commissioner Perkel voting no.

ORDINANCE ADMINISTRATION: A development was being proposed within the industrial zone that would have allowed a grow site for medical marijuana. Currently the cities business license ordinance would not allow that use to occur. Just like it didn't allow for the medical marijuana distribution facilities. Under the zoning ordinance, Mr. Cupples was looking to see if that use would be allowed in the zone, and based on the language that is written in the ordinance you could say yes, a grow site is an industrial activity inside an enclosed building. It could be considered the manufacturing of drugs and under the M1 zone designation, you could make the argument it is an allowed use. That said, the City Council still has the provisions in the business license that would prohibit the growing. They currently have a pending ordinance that would deal with the dispensary sale of medical marijuana. If in fact that is going to be a use that can be allowed in the industrial zone, then it's going to be incumbent on the city council if in fact they are going to change the business license ordinance and create another licensing procedure for grow sites. Vice Chair Carpenter asked what other industrial areas does the city have besides the outlet mall? Mr. Cupples stated that the area along Avenue S and then before you get to the river it turns back into residential space. There is a little bit of a mixture and really no clean lines around that area. The city shops and the mill pond are zoned industrial. Manufacturing is a permitted use with in the industrial zone. Vice Chair Carpenter stated the only place then for a grow operation would be in the outlet mall and around the area of Avenue S. Mr. Cupples stated that was correct, but you could also have a grow operation in the EFU zone and we do have some of that within the city limits.

Tom Butori, 925 Ave S, Seaside OR. The medical Marijuana designated by the State of Oregon, now are implementing rules that you use scrubbers to control the smell. The other thing, as far as growing medical marijuana, is that you cannot have any animals around. You have to have a sterile operation. You have to wear a grown in order to enter a grow room. Mr. Butori stated that in the industrial zone the fire code is very strict. You have to have a two hour fire wall. There is a limited amount of industrial zone within the city limits. Vice Chair Carpenter asked Mr. Cupples what does he need from the planning commission? Mr. Cupples stated that he just needed confirmation that he is not out in left field on the interpretation of the ordinance. The commissioners stated there was no other way to interpret it and that it is an outright permitted use in the industrial zone.

COMMENTS FROM THE PUBLIC:

Erin Barker, Beach House Vacation Rental asked if it was ok if she spoke about the parking issue. She is a property manager and manages vacation rentals and a full time rentals. She asked how many vacation rentals are there? Mr. Cupples stated that the last time he checked there were approximately 325. Erin stated that she asked that same question back in 2002 and 2003 and the amount was 300 to 310 and she doesn't think there is this big expansion of VRD's, it's just that they are changing hands. Back in that time is when the planning commission decided to zone off certain areas of town to keep the residential feel for certain neighborhoods. Erin used to live on S Downing and they had 3 cars and the neighbors had 3 cars plus a boat and a motorhome and the neighbors would park the motorhome on Erin's side of the street and not in front of their own home. The planning commission came up with the rule that if you were going to have a vacation rental then you had to have off street parking for that rental. Last summer, or the summer before, Erin went and passed out flyers to all the cars parked on Beach Drive between G and K. A policeman stopped her and asked her what she was doing and she said that she was putting flyers on cars that said if you are a vacation rental and parked on the street you are parked here illegally and you need to move your car and if you have a problem with it call the city. The policeman stated that she didn't have a permit to put the flyers on the cars and she had to stop. She spent the day asking people as they pulled up and asked them if they were visiting and she stated that some of the people stated that they were going to a wedding at Our Lady of Victory church. She asked why are you parking way down here and they would say it was the closest parking they could find. Other people would say they are going to the beach. None of the people that she spoke to

said that they were staying at a vacation rental. When people book a vacation home she asked them, how many people are there going to be, how many cars are you bringing? She also asked if they are bringing a boat please let them know because they may not be able to rent a certain house because it doesn't have the parking for a boat. People do ask. You can say take pictures and document it but you can't say that they are with that vacation rental unless you catch them going into a VRD. It's impossible to keep an eye on the parking 24/7. People who complain must let the property manager know while it's happening. Don't call after the fact, because at that point it's too late and then the problem can't be fixed. When it's happening it can. It's frustrating when people call after the fact. When owners use their homes or family members of the owners use the home then there seems to be a lot more attention to them because they don't have to abide by the parking rules and they usually do have a lot more cars than the renters. There is nothing that can be done about that. Erin has discovered vacation rentals that don't have a license and they don't follow the rules. Commissioner Ridout stated that different people have different tolerances and he puts up with a lot more than his wife would. He stated in his neighborhood the street just gets filled. Those people seem to go home at night, but there are those that don't and he knows they are vacation rentals but he's not sure what house they belong to. He asked about the different rules for different vacation rentals and if we are at the point now where the rule of parking on the property is applied to all of them or is there still some that are grandfathered in. Mr. Cupples stated that any of them that were done prior 10-10-10 are still under the old rules. One of the vacation rentals still has no off street parking but we haven't had any complaints either. There are 17 conditions placed on all new vacation rentals.

Commissioner Wright would like neighbors to address the complaints as soon as possible. Mr. Fitzpatrick stated that Seaside Vacation rentals has come and knocked on his door and let him know that they are trying to resolve the issue, but they don't know who the cars belongs to. Mr. Fitzpatrick stated that he would try harder to take care of things immediately. Erin stated the only way to really know who the car belongs to is to sit there and watch. Erin actually called the listing agent of one of the homes for sale and asked if she could sit in the house and watch the house across the street. She sat there all day and nothing happened.

COMMENTS FROM COMMISSION/STAFF: None

ADJOURNMENT: Adjourned at 8:27 pm.

Ray Romine, Chairperson

Debbie Kenyon, Admin. Assistant